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WORKING PAPER

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NOTE

From:	Presidency
To:	Working Party on Consumer Protection and Information (Attachés)
Subject:	Directive on Representative Actions - Commission informal non-paper

Delegations will find attached a Commission informal non-paper aimed at facilitating the technical discussions between EP and Council. The objective of this document is to consolidate the proposals and positions of the co-legislators on the Representative Actions Directive. It covers all Articles 1 to 20, including a compilation of the provisional views of the co-legislators on allocation of costs, remuneration of lawyers, registries of representative actions and electronic database. The text does not address the Annex.

The attention of delegations is also drawn to the fact that this document does not express the Commission position on the provisions included in it.

Non-paper based on the EP report in first reading, the Council General Approach, discussions of 6 first technical meetings and the exchange of the written proposals between the Presidency and the Parliament

(The text streamlines the co-legislators' discussions within the written procedure and is intended to serve as technical support facilitating further technical discussions. References to the 4 column document are made "pour mémoire", numbering of the provisions still need to be adjusted).

Directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, repealing Directive 2009/22/EC and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation')

Chapter 1 Subject matter, scope and definitions

Article 1

Subject matter

1. This Directive sets out rules ensuring that representative actions aimed at the protection of the collective interests of consumers are available in all Member States, while providing appropriate safeguards to avoid abusive litigation. The measures adopted for the approximation of laws, regulations and administrative provisions of the Member States under this Directive have as their objective the better functioning of the internal market, and in particular a high level of consumer protection. *(COM, EP and Council GA line 60)*
2. This Directive shall not prevent Member States from adopting or maintaining in force procedural means for the protection of the collective interests of consumers at national level. However, Member States shall ensure that at least one representative action mechanism complies with this Directive. *(COM, EP and Council GA line 61)*
- 2a. The qualified entities are free to choose any procedure available under national or Union law ensuring a higher level of protection of the collective interests of consumers. *(EP line 87a, Council GA line 13a)*

Article 2

Scope

1. This Directive shall apply to representative actions brought against infringements by traders of provisions of the Union law listed in Annex I, also as transposed into national law, that harm or may harm the collective interests of consumers. This Directive is without prejudice to the Union law listed in Annex I. It shall apply to domestic and cross-border infringements, including where those infringements have ceased before the representative action has started or before the representative action has been concluded. *(COM, EP and Council GA line 63)*
2. This Directive shall not affect rules establishing contractual and non-contractual remedies available to consumers for infringements referred to in paragraph 1 under Union or national law. *(COM, EP and Council GA line 64)*
3. This Directive is without prejudice to the Union rules on private international law, in particular rules related to court jurisdiction, recognition and enforcement of judgments, and applicable law. *(COM, EP and Council GA line 65)*

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) ‘consumer’ means any natural person who is acting for purposes which are outside that person's trade, business, craft or profession; *(COM, EP and Council GA line 68)*
- (2) ‘trader’ means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in that person's name or on that person's behalf, for purposes relating to that person's trade, business, craft or profession; *(COM, EP and Council GA 69)*
- (3) ‘collective interests of consumers’ means the general interest of consumers and, in particular for the purpose of redress measures, the interests of a group of consumers; *(Council GA line 70)*
- (4) ‘representative action’ means an action for the protection of the collective interests of consumers to which the consumers concerned are not parties; *(COM and EP line 71)*
- (4a) ‘domestic representative action’ means a representative action brought by a qualified entity in the Member State in which the qualified entity is designated; *(Council GA line 71a)*
- (4b) ‘cross-border representative action’ means a representative action brought by a qualified entity in a Member State other than that in which the qualified entity is designated; *(Council GA line 71 b)*
- (5) ‘practice’ means any act or omission by a trader; *(COM, EP and Council GA line 72)*
- (6) ‘final decision’ means a decision by a Member State's court or administrative authority that cannot or can no longer be reviewed by ordinary means of appeal. *(COM, EP and Council GA line 73)*

Chapter 2

Representative actions

Article 4 Qualified entities

(Consolidated text reflecting, in addition to four columns document, drafting proposals by PRES and the EP)

1. Member States shall ensure that representative actions within the meaning of Article 3(4) of this Directive can be brought by qualified entities designated by the Member States for this purpose. *(COM, EP and Council GA line 76)*
2. Member States shall ensure that entities, in particular consumer organisations, including those representing members from more than one Member State, are eligible to be designated for the status of qualified entity for the purpose of bringing domestic representative actions or cross-border representative actions, or both. *(COM, EP line 83, Council new line 76a)*
3. Member States shall designate an entity, at its request, as a qualified entity for the purpose of bringing cross-border representative actions if it complies with all of the following criteria: *(COM, EP and Council new line 77)*
 - a) it is a legal person properly constituted according to the law of the Member State of its designation and can demonstrate 12 months of actual public activity in the protection of consumer interests prior to its designation request; *(COM, EP line 78 and Council new line 78)*
 - b) its statutory purpose demonstrates that it has a legitimate interest in protecting consumer interests as provided by Union law covered by this Directive; *(COM, EP line 79 and Council new line 79)*
 - c) it has a non-profit making character; *(COM, EP line 80 and Council new line 80)*
 - d) it has established procedures for preventing influence by persons, other than consumers, who have an economic interest in the bringing of any representative action, in particular by traders, including in case of funding by third parties, and preventing any conflict of interest between itself and its funders; *(COM line 19, EP lines 80a and 80c, Council new line 80c)*
 - e) it discloses publicly by any appropriate means, in particular on its website, in plain and intelligible language, information demonstrating compliance with the above listed criteria and information about the sources of its funding, its organizational and management structure, membership, objectives and activities. *(COM line 19, EP line 80 d and Council new line 80d)*
4. Member States may establish criteria for the designation of qualified entities for the purpose of bringing domestic representative actions, provided that these criteria do not hamper the effective functioning of representative actions as set out by this Directive *(Council new Art 4(4), EP line 76).*
5. Member States may decide that the criteria set out in paragraph 3 apply also to the designation of qualified entities for the purpose of bringing domestic representative actions. *(Council new Article 4(4))*
6. Member States may designate a qualified entity, at its own request, on an ad hoc basis for the purpose of bringing a particular domestic representative action, if it complies with the criteria for qualified entities as provided for in national law. *(COM line 82, Council new line 82)*

7. Notwithstanding paragraphs 3 and 4, Member States may designate public bodies as qualified entities for the purpose of bringing representative actions. Member States may provide that public bodies already designated as qualified entities in the meaning of Directive 2009/22/EC shall remain eligible as qualified entities (*COM, EP and Council new line 83*).

Article 4 a

Information and monitoring of qualified entities

(Consolidated text reflecting, in addition to 4 columns document, drafting proposals by PRES and the EP)

1. Member States shall communicate to the Commission a list of the qualified entities designated in advance for the purpose of bringing cross-border representative actions, including the name and purpose of those qualified entities no later than on... [one year after the date of transposition] and whenever there are changes to that list. Member States shall make that list publicly available. (*COM, EP line 141, Council new line 85-b*)

The Commission shall make a compiled list of these qualified entities publicly available. The list shall be updated whenever changes are communicated to the Commission. (*COM, EP line 141, Council new line 85-c*)
2. Member States shall ensure that information on qualified entities designated in advance for the purpose of bringing domestic representative actions is made available to the public. (*Council new line 85-d*)
3. Member States shall assess at least every five years whether qualified entities continue to comply with the criteria referred to in Article 4(3). Member States shall ensure that the qualified entity loses its status if it no longer complies with one or more of the criteria. (*COM, EP line 81, Council new line 85-e*)
4. If a Member State or the Commission raises concerns regarding the compliance by a qualified entity with the criteria laid down in Article 4(3), the Member State that designated that entity shall investigate the concerns and, where appropriate, revoke the designation if one or more of the criteria are not complied with. The defendant trader shall have the possibility to raise concerns regarding the compliance by a qualified entity with the criteria laid down in Article 4(3) at the start of a representative action. (*COM, EP line 142, Council new line 85-f*)
5. Member States shall designate national contact points for the purpose of paragraph 4 and communicate the name and contact details of those contact points to the Commission. The Commission shall compile a list of designated contact points and make that list available to the Member States (*Council new line 85-g*).
6. The communication between the Member States, their national contact points and the Commission for the purposes of paragraphs 1, 4 and 5 shall take place within the electronic database referred to in Article 9b.

Article 4b

Bringing of cross-border representative actions

(Consolidated text reflecting, in addition to 4 columns document, drafting proposals by PRES and the EP)

1. Member States shall ensure that cross-border representative actions can be brought in their courts or administrative authorities by qualified entities designated for the purpose of such representative actions in another Member State. *(COM, EP line 139, Council new line 85s)*
2. Member States shall ensure that where the alleged infringement affects or is likely to affect consumers from different Member States, the representative action may be brought to the competent court or administrative authority of a Member State by several qualified entities from different Member States, acting jointly, or represented by a single qualified entity, for the protection of the collective interest of consumers from different Member States. *(COM, EP line 140, Council new line 85t)*
3. The courts or administrative authorities shall accept the list referred to in Article 4a(1) as proof of the legal capacity of the qualified entity to bring a cross-border representative action, without prejudice to their right to examine whether the statutory purpose of the qualified entity justifies the action in a specific case. *(COM, EP line 139, Council new line 85u)*

Article 5

Representative actions for the protection of the collective interests of consumers

1. Member States shall ensure that representative actions in accordance with Article 2 can be brought by qualified entities before national courts or administrative authorities *(COM, EP and Council GA line 87)*.
 - 1a. Member States shall lay down rules for the coordination between representative actions set out by this Directive, individual actions initiated by individual consumers and any other actions aimed at the protection of individual and collective interests of consumers as provided under Union or national law. *(Council GA line 24g, EP line 87b)*
 - 1a. When bringing a representative action, the qualified entity shall provide to the court or to the administrative authority sufficient information on the consumers concerned by the action. *(COM, EP line 96, Council GA line 87c)*
 - 1b. The courts or administrative authorities before which the action is brought shall assess the admissibility of a specific representative action in accordance with national law. *(Council GA line 85y)*
 2. Member States shall ensure that qualified entities are entitled, as appropriate, at least the following measures:
 - (a) injunction measures;
 - (ba) redress measures.
- (COM, EP lines 88, 89, 92, Council GA lines 88, 89, 90a)*
4. Member States may enable qualified entities to seek, as appropriate, the measures referred to in paragraph 2 within a single representative action. Member States may provide that these measures are issued within a single decision. *(COM and Council GA line 93)*

- 4a. Member States shall ensure that, within representative actions, consumers' interests are represented by qualified entities and that the entities have the rights and obligations of a party to the proceedings. The consumers concerned by the action shall be entitled to benefit from the measures referred to in paragraph 2. *(Council GA line 93a)*

Article 5a
Injunction measures

1. The injunction measures referred to in Article 5(2)(a) are:
- (a) a provisional measure to cease or, where appropriate, to prohibit a practice deemed to constitute an infringement;
 - (b) a definitive measure to cease or, where appropriate, to prohibit a practice that constitutes an infringement.
- (COM, EP line 89, Council GA lines 93g, 93h, 93i)*
- 1a. A measure referred to in paragraph 1(b) may include, in accordance with national law:
- (a) a measure to establish that the practice constitutes an infringement;
 - (b) an obligation to publish the decision on the measure in full or in part, in such form as deemed adequate, or to publish a corrective statement.
- (COM and EP line 90, Council GA lines 93j, 93k, 93l)*
2. In order to seek an injunction measure, the qualified entity shall not have to prove the actual loss or damage on the part of individual consumers affected by an infringement nor the intention or negligence on the part of the trader. The consumers concerned by a representative action for an injunction measure shall not be required to participate in that representative action. *(COM, EP line 91, Council GA line 93m)*
3. Member States may introduce or maintain provisions of national law whereby a qualified entity is only able to seek the injunction measures provided in paragraph 1(b) after it has attempted to achieve the cessation of the infringement in consultation with the trader. If the trader, after receiving the request for consultation, does not cease the infringement within two weeks, the qualified entity may bring a representative action for such an injunction measure without any further delay. Member States shall notify to the Commission the relevant provisions of national law. The Commission shall ensure that this information is publicly accessible. *(Council GA line 93n)*

Article 6—**5b**
Redress measures

1. A redress measure shall oblige the trader to provide consumers concerned with the remedies such as compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate and as available under Union or national law. *(COM, EP line 95, Council GA line 93p)*
2. Member States shall establish rules on how and at which stage of the representative action for redress measures the individual consumers concerned by the action may explicitly or tacitly express their will within the appropriate time limits, after that action has been brought, to be or not to be represented by the qualified entity within the action and to be bound by the outcome of the action. *(Council GA line 93q, EP Art. 6(1) last sentence, line 95)*
3. Notwithstanding paragraph 2, Member States shall ensure that individual consumers, who are not habitually resident in the Member State of the court or administrative authority before which the representative action has been brought, have to explicitly express their will to be represented in that action in order to be bound by the outcome of the action. *(Council GA line 93r, EP lines 95a and 140a).*
- 3a. Consumers who have explicitly or tacitly expressed their will to be represented in a representative action cannot be represented in other representative actions nor bring an individual action with the same cause of action and against the same trader. *(Council GA line 93s, EP line 87b)*
4. If the redress measure does not specify individual consumers entitled to benefit from remedies provided by the measure, it shall at least describe the group of consumers entitled to benefit from those remedies. *(Council GA line 93t)*
5. Member States shall ensure that the redress measure entitles the consumers to seek recovery of the damages without the need to bring a separate action. *(Council GA line 93u)*
6. Member States shall lay down or maintain rules on time limits for individual consumers to benefit from the redress measures. *(Council GA line 93v)*. In case of unclaimed amount left from the compensation awarded to consumers, the court or administrative authority shall decide on the beneficiary of that amount. It shall not be awarded to the qualified representative entity or the trader. *(EP line 101a, close to initial COM proposal line 100)*
7. Member States shall ensure that qualified entities are able to bring representative actions for a redress measure without the condition of the prior establishment of an infringement by a court or an administrative authority through separate proceedings. *(Council GA line 93x, EP line 92)*
8. Member States shall ensure that punitive damages are not imposed on traders and that overcompensation is not awarded to consumers concerned by a representative action for redress. *(EP line 101b, PRES drafting proposal)*
9. The remedies provided by redress measures within a representative action shall be without prejudice to any additional remedies available to consumers under Union or national law which were not subject to that representative action. *(COM, EP line 101, Council GA line 93w)*

Article 7

Funding of representative actions for redress

(Consolidated text reflecting, in addition to four columns document, drafting proposals by PRES and the EP)

1. Member States shall ensure that, where a representative action for redress is funded by a third party, insofar as allowed in accordance with national law, conflicts of interests are prevented. *(COM, EP line 104 and Council new line 104)*
2. To that end, Member States shall in particular ensure that:
 - (a) the decisions of qualified entities in the context of a representative action, including on settlements, are not influenced by a third party in a way that would be detrimental to the collective interests of consumers concerned by the action; *(COM, EP line 105 and Council new line 105)*
 - (b) the representative action is not brought against a defendant who is a competitor of the fund provider or against a defendant on whom the fund provider is dependent. *(COM, EP line 106 and Council new line 106)*
3. Member States shall ensure that courts or administrative authorities are empowered to assess compliance with paragraphs 1 and 2 at the start of the action and at any later stage of the proceedings in case any justified doubts arise in that regard. To that end, qualified entities shall disclose to the court or administrative authority a financial overview listing all sources of funds used to support the action. *(COM and EP line 103, COM, EP and Council new line 107)*
4. Member States shall ensure that, when acting in accordance with paragraphs 1 and 2, courts or administrative authorities are empowered to take appropriate measures, namely requiring the qualified entity to refuse or change the relevant funding and, if necessary, rejecting the legal standing of the qualified entity in a specific action. If the legal standing of the qualified entity is rejected in a specific action, such a rejection shall not affect the rights of the consumers concerned by the action. *(COM line 107, EP drafting proposal and Council new line 107aa and new line 34)*

Article 8

Settlements on redress

2. Member States shall ensure that within a representative action for redress measures:
 - (a) the qualified entity and the trader may jointly propose to the court or administrative authority a settlement regarding redress for consumers; or
 - (b) the court or administrative authority may invite the qualified entity and the trader, after having consulted them, to reach a settlement regarding redress within a reasonable set time-limit.

(COM and EP lines 109 and 110, Council GA line 110, 110a, 110b)

4. The settlements referred to in paragraph 2 shall be subject to the scrutiny of the court or administrative authority. The court or administrative authority shall assess whether it must refuse to approve a settlement that is contrary to mandatory national law, or includes conditions which cannot be enforced, taking into consideration the rights and interests of all parties, and in particular those of the consumers concerned. Member States may set out rules allowing the court or administrative authority to refuse approval of a settlement on the basis of a settlement being unfair. *(COM, EP and Council GA line 112)*
5. If the settlement is not approved, the court or administrative authority shall continue to hear the representative action. *(COM, EP and Council GA line 113)*
6. Approved settlements shall be binding upon the consumers concerned and the trader. *(EP line 114)*

Member States may set out rules according to which individual consumers concerned by the action and by the subsequent settlement are given the possibility to accept or to refuse to be bound by settlements referred to in paragraph 2. *(COM line 114, Council GA 114)*
7. The remedies obtained through an approved settlement in accordance with paragraph 4 shall be without prejudice to any additional remedies available to the consumers concerned under Union or national law which were not subject to the representative action. *(COM, EP and Council GA line 114)*

Article 8a

Allocation of costs of the representative action for redress

(Consolidated text reflecting, in addition to four columns document, drafting proposals by PRES and the EP)

1. Member States shall ensure that the defeated party in a representative action for redress pays the costs of the proceedings borne by the successful party, in accordance with the conditions provided for in national law. *(PRES drafting proposal)* However, the court or administrative authority shall not order the defeated party to pay the costs to the extent that they were unnecessarily incurred or are disproportionate to the claim. *(EP lines 107b-107c)*
2. Individual consumers concerned by a representative action for redress shall bear neither the costs of the qualified entity nor those of the trader. *(Council GA line 93a)*
3. Notwithstanding paragraph 2, in exceptional circumstances, individual consumers concerned by a representative action for redress may be ordered to pay the costs that were deliberately or negligently caused by that individual consumer to the extent related to that consumer's conduct. *(Council GA line 93a)*

Article 8b

Remuneration of lawyers in representative actions for redress

(Consolidated text reflecting, in addition to four columns document, drafting proposals by PRES and the EP)

Member States shall ensure that the remuneration of lawyers regarding representative action for redress is governed by rules that do not create an incentive to abusive litigation. *(EP line 137b, PRES drafting proposal)* In particular, Member States in which contingency fees are allowed shall ensure that the amount of those fees is fair and proportionate to the value of the claim and respects the right of consumers to remedies as appropriate and as available under Union or national law. *(EP drafting proposal)*

Article 9

Information on representative actions

1. Member States shall set out rules ensuring that the consumers concerned by an infringement referred to in Article 2 are informed about a related representative action in order to enable them to exercise their rights in the context of the action. The information shall include, as relevant and appropriate, an explanation in intelligible language of the subject-matter and of the possible or actual legal consequences of the representative action, the description of the group of consumers concerned by the action, and the necessary steps to be taken by the consumers concerned in order to benefit from the measures referred to in Article 5 or settlements referred to in Article 8. It shall be adequate and proportional to the circumstances of the case, taking into account the right of the consumers to effective information as well as the reputational risks for the defendant trader and the right to business secrecy. *(COM and Council GA line 117, EP line 117b)*
2. Member States shall set out rules ensuring that the qualified entities provide, in particular on their websites, information on the representative actions they have decided to bring to the court or administrative authority, the state of play of the representative actions they already brought to the court or administrative authority and the outcomes of the actions. *(EP lines 115a- 115d)*
3. Member States shall ensure that the consumers concerned by a representative action for a redress measure are informed about the action in a timely manner and by appropriate means in order to enable them to express their will to be represented in the action pursuant to Article 5b(2). *(Council GA line 115a)*
4. Without prejudice to the information referred to in paragraphs 2 and 3 the court or administrative authority shall require the defeated trader or the defeated qualified entity to inform, at its expense, the consumers concerned by the representative action about the final decisions providing for measures referred to in Article 5 or the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, including, where appropriate, through notifying all consumers concerned individually. *(COM, EP and Council GA line 116)*
5. Member States shall ensure that if the representative action is successful, the qualified entity may recover from the defeated trader the cost related to the information it provided to consumers in the context of the representative action. *(COM and EP line 136, Council GA lines 116a-116b).*

Article 9a

Registries of representative actions

1. Member States shall endeavor to set up publicly available national electronic registries of representative actions.
2. The public registries referred to in paragraph 1 shall provide :
 - a) the information on the qualified entities designated in advance for the purpose of bringing domestic and cross-border actions;
 - b) the information on the ongoing and concluded representative actions, as referred to in Article 9 paragraph 1.
3. Member States shall indicate to the Commission the relevant national electronic registers and the information provided therein.

(EP lines 41a, 93b, 93c, 93d, 93e, 117a, 117b, 121, 142a-142 b)

Article 9b

Electronic database

1. The Commission shall establish and maintain an electronic database for the purposes of :
 - a) all communications between the Member States and the Commission referred to in Article 4a paragraphs 1, 4 and 5;
 - b) information shared by the Member States from their national registers referred to in Article 9a;
 - c) cooperation between the qualified entities referred to in Article 15 paragraph 3.
2. The electronic database referred to in paragraph 1 shall serve in particular for the exchange information on:
 - a) qualified entities designated by the Member States to bring cross-border representative actions;
 - b) concerns as regards the compliance by the qualified entities with the criteria set out by this Directive;
 - c) ongoing and concluded representative actions;
 - d) groups of consumers concerned by these actions.
3. All information sent by the means of the electronic database shall be stored and processed in that electronic database. That database shall be directly accessible, as relevant to the national contact points, competent courts and administrative authorities, qualified entities designated by the Member States for cross-border and domestic actions and the Commission.

The information shared by the Member States within the electronic database referred to in paragraph 1 letter b and paragraph 2 letter a shall be publicly available.

(EP lines 93e and 121, Council GA lines 85p and 85q).

Article 10
Effects of final decisions

Member States shall ensure that a final decision of a court or an administrative authority of any Member State establishing an infringement harming collective interests of consumers can be used at least as evidence of the existence of that infringement for the purposes of any other actions seeking redress before their national courts or administrative authorities against the same trader for the same infringement, in accordance with national law on evaluation of evidence. (*Council GA line 119, EP lines 119, 120, 121*).

Article 11
Limitation periods

In accordance with national law, Member States shall ensure that a pending representative action for an injunction measure as referred to in Article 5a has the effect of suspending or interrupting applicable limitation periods in respect of consumers concerned by the action so that those consumers are not prevented from subsequently bringing a redress action concerning the alleged infringement due to the expiry of limitation periods during the representative actions for those injunction measures. Member States shall also ensure that a pending representative action for a redress measure as referred to in Article 5b(1) has the effect of suspending or interrupting applicable limitation periods in respect of consumers concerned by that action. (*COM, EP and Council GA line 123*)

Article 12
Procedural expediency

1. Member States shall ensure that representative actions for injunction measures referred to in Articles 5a are treated with due expediency. (*Council GA line 125*)
2. Representative actions for provisional measures to cease or, where appropriate, to prohibit a practice deemed to constitute an infringement referred to in Article 5a(1)(a) shall, if appropriate, be treated by way of a summary procedure. (*Council GA line 126*)

Article 13
Disclosure of evidence

Member States shall ensure that, at the request of a qualified entity that has presented reasonably available evidence sufficient to support the representative action, and has indicated further evidence which lies in the control of the defendant or a third party, the court or administrative authority may order, in accordance with national procedural rules, that such evidence be presented by the defendant or the third party, subject to the applicable Union and national rules on confidentiality and proportionality. Member States shall ensure that a court or an administrative authority is able, upon request of the defendant, to equally order the qualified entity or a third party to disclose relevant evidence, in accordance with national procedural rules. (*COM, Council GA line 128, EP lines 128 and 128a*)]

Article 14

Penalties

1. Member States shall lay down the rules on penalties applicable to non-compliance with the final decisions issued within the representative action and shall take all necessary measures to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. *(COM and EP line 130)*
2. Member States shall ensure that penalties may take, inter alia, the form of fines. *(COM, Council GA and EP line 131)*
3. When deciding about the allocation of revenues from fines Member States shall take into account the collective interests of consumers. Member States may decide for such revenues to be allocated to financing representative actions. *(COM and EP line 132)*

Article 15

Assistance for qualified entities

(Consolidated text reflecting, in addition to four columns document, drafting proposals by PRES and the EP)

1. Member States shall take measures aiming to ensure that procedural costs related to representative actions do not prevent qualified entities from effectively exercising their right to seek the measures referred to in Article 5 *(COM line 135, PRES drafting proposal)*
- 1a. The measures referred to in paragraph 1 may take the form of public funding, including the structural support for the qualified entities, the limitation of applicable court or administrative fees, or access to legal aid. *(COM line 135 and EP line 135a)*
- 1a. Member States shall be able to maintain rules that allow qualified entities to require modest entry fees or similar participation charges from those consumers who have explicitly or tacitly expressed their will to be represented by a qualified entity within a particular representative action for redress measures. *(PRES drafting proposal)*
3. Member States and the Commission shall support and facilitate the cooperation of qualified entities and the exchange and dissemination of their best practices and experiences as regards the resolution of cross-border and domestic infringements. *(COM and EP line 137).*

Chapter 3

Final provisions

Article 17

Repeal

Directive 2009/22/EU is repealed as of [date of application of this Directive] without prejudice to Article 20(2). *(COM, EP and Council GA line 145)*

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex II. *(COM, EP and Council GA line 146)*

Article 17a

Internal Market Information System

The electronic database referred to in Article 9b shall be implemented by means of the Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012.

Article 17b

Amendment to Regulation (EU) No 1024/2012

In the Annex to Regulation (EU) No 1024/2012 the following points are added:

‘13. Directive (EU) XXXX/XXXX of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, repealing Directive 2009/22/EC and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’)

Article 18

Monitoring and evaluation

1. No sooner than 5 years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall be conducted according to the Commission's better regulation guidelines. In the report, the Commission shall in particular assess the scope of application of this Directive defined in Article 2 and Annex I and the functioning and effectiveness of this Directive in cross-border situations, including in terms of legal certainty. *(COM, EP and Council GA line 148)*
3. Member States shall provide the Commission on annual basis, for the first time at the latest 4 years after the date of application of this Directive, with the following information necessary for the preparation of the report referred to in paragraph 1: *(COM, EP and Council GA line 150)*
 - (a) the number and type of the ongoing and concluded representative actions brought pursuant to this Directive before courts and administrative authorities; *(COM and EP line 151)*
 - (b) the parties to the representative actions, the type of infringements and the economic sector concerned by the representative actions; *(COM, EP and Council line 153)*
 - (c) the length of the proceedings from initiating an action until the adoption of a the final decisions providing for measures referred to in Article 5, or the approved settlements referred to in Article 8; *(COM and EP line 154)*
 - (d) the outcomes of the representative actions. *(COM, EP and Council GA line 155)*

Article 19
Transposition

1. Member States shall adopt and publish, by [18 months from the date of entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions. *(COM and EP line 158)*

Member States shall apply those provisions from [6 months after the transposition deadline]. *(COM and EP line 159)*

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. *(COM, EP and Council GA line 160)*

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive. *(COM, EP and Council GA line 161)*

Article 20
Transitional provisions

1. Member States shall apply the laws, regulations and administrative provisions transposing this Directive to actions that are brought on or after [date of application of this Directive]. *(Council GA line 163)*
2. Member States shall apply the laws, regulations and administrative provisions transposing Directive 2009/22/EC to actions that are brought before [date of application of this Directive]. *(Council GA line 164)*
- 2a. Member States shall ensure that national laws, regulations or administrative provisions on suspension or interruption of limitation periods transposing Article 11 only apply to redress claims based on infringements that occurred on or after [date of application of this Directive]. This shall not preclude the application of national provisions on suspension or interruption of limitation periods which were already applicable prior to [date of application of this Directive] to redress claims based on infringements that occurred before that date. *(Council GA line 164a)*

Article 21
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. *(COM, EP and Council GA line 166)*

Article 22
Addressees

This Directive is addressed to the Member States. *(COM, EP and Council GA line 168)*

Done at Brussels,