

European Commission
Directorate General Health and Consumer Protection
Rue de la Loi 200
1049 Brussels
Sanco-consumer-collective-redress@ec.europa.eu

Brussels, 26 February 2009

Re: Eurofinas response to EC Green Paper on Consumer Collective Redress

Dear Sir/Madam,

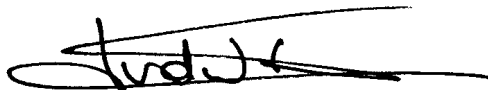
Please find below Eurofinas response to the European Commission's Green Paper on Consumer Collective Redress.

Eurofinas opposes the proposal for a judicial collective redress procedure and sees the development of alternative dispute resolution schemes as a viable alternative to judicial mass claims.

As for the establishment of collective alternative dispute resolution schemes, we would only support it subject to the practicality of such schemes being demonstrated and a conclusive cost/benefit analysis being carried out *ex ante*.

I stay at your disposal to answer any question you may have on our comments below; alternatively feel free to contact my colleague Alexandre Giraud (a.giraud@eurofinas.org - tel: 02 778 0564)

Yours sincerely,



Tanguy van de Werve
Director General

About Eurofinas

Eurofinas, the European Federation of Finance House Associations, is the main voice of the specialised consumer credit industry at European level. It currently represents 16 Member Associations, in turn bringing together more than 1,000 finance houses, captive companies, specialised and universal banks. Together, these consumer credit providers financed over 400 billion euros worth of new loans during 2007, with outstandings reaching 713 billion euros at the end of the year. Companies represented through Eurofinas employ some 90 000 individuals.

Consumer credit providers may be of several natures and our members' members can be grouped into the categories below. Around 90% of the companies represented through Eurofinas are specialised lenders, falling into the first three categories:

- Finance houses: specialised consumer credit providers without a banking licence;
- Captive companies: parent companies of these companies are manufacturers (e.g. car manufacturers). Captives may or may not have a banking licence;
- Specialised banks : institutions with a banking licence but an activity focused on consumer credit or/and mortgage lending; and
- Universal banks: banks providing all kinds of products retail, corporate, etc., including consumer credit.

Eurofinas, the voice of specialised consumer credit providers at European level welcomes the opportunity to respond to the European Commission’s Green Paper on Consumer Collective Redress.

1. Eurofinas believes that, at this stage, EU’s principal role should be to ensure a consistent implementation of the existing European legislation. As the Commission acknowledges, several legal instruments already exist or are soon to be implemented in Member States. These are the Mediation Directive and the European Small Claims Regulation. **It is therefore paramount to assess the impact of these instruments on mass claims before proposing any further measures.**
2. **Eurofinas therefore opposes the proposal for a judicial collective redress procedure.**
3. **This in line with the Commission’s better regulation principles** according to which “new regulatory initiatives should only be pursued where there is a need to do so, in a manner which is as straightforward as possible, based on dialogue with stakeholders, and in a way that keeps burdens on businesses and citizens to the minimum necessary”¹. This is indeed not a time to succumb to political pressure. European Businesses simply cannot afford it. Better Regulation is more important than ever.
4. Eurofinas is of the opinion that a particular attention should be provided to the follow-up of the Commission’s 1998 Recommendation *on the principles applicable to the bodies responsible for the out-of-court settlements of consumer disputes* and 2001 Recommendation *on the principles for out-of court bodies involved in the consensual resolution of consumer*.
5. **Eurofinas sees the development of alternative dispute resolution schemes as a viable alternative to judicial mass claims.**
6. **Eurofinas therefore strongly supports the introduction and the promotion of out-of-court settlement mechanisms that comply with the principles of impartiality, transparency, effectiveness and fairness.** The nature of out-of-court bodies involved in the resolution of consumer disputes (private, public bodies) and funding methods are irrelevant as long as these bodies comply with the above-mentioned principles.

¹ See COM(2009)15, *Communication from the Commission on the third strategic review of Better Regulation in the European Union*

7. **The Commission should make sure that all consumers have access to individual alternative dispute resolution mechanisms and that all types of sectors are covered.** Member States should remain free to assess whether such schemes should be promoted on a self-regulatory or statutory basis.
8. Finally, Eurofinas is not opposed to a wider discussion on the potential establishment of collective alternative dispute resolution schemes. The practicality of such a system should however be demonstrated and a proper cost-benefit analysis carried-out before any initiative is taken in that field.