



# **Damages Actions for Breach of Articles 81 and 82 EC**

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# General objectives



- To ensure full compensation for the victims of competition law infringements as primary objective
- To create an effective legal framework for victims to exercise their rights already now guaranteed by Community law
- Based on balanced measures that are rooted in European legal cultures and traditions
- Complementary to the strong public enforcement

# Proposed measures



- Codifying the *acquis communautaire* (Courage 2001, Manfredi 2006)
- To issue non-binding guidance on the calculation of damages

# Standing: indirect purchasers and collective redress



**Objective:** To ensure compensation for all categories of victims (Manfredi: “Any individual can claim compensation for the harm suffered where there is a causal relationship between that harm and agreement or practice prohibited under Art. 81 EC”)

- Including in particular:
  - victims with scattered and relatively low value damages (e.g. small businesses; consumers)
  - victims further down the distribution chain (indirect purchasers)

**A clear need for a mechanisms allowing aggregation of the individual claims – collective redress**

# Collective redress



1. **Representative actions** brought by qualified entities (e.g. consumer associations, state bodies, trade associations)
  2. **Opt-in collective actions** in which victims expressly decide to combine their individual claims into one single action
- + Relationship with other Commission initiatives in the field of collective redress (2008 DG Health and Consumers paper on collective law enforcement procedures)

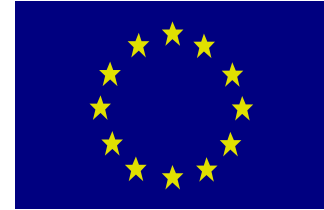
# Effect of decisions



## *Acquis communautaire*

- Article 16(1) Reg. 1/2003:  
=> Commission decisions finding a breach of Article 81 or 82 EC are sufficient legal proof of this infringement by the addressee(s) of the decision
- => A rule for NCA / review court decisions similar to Article 16 Reg. 1/2003

# Interaction with leniency programmes



## Objective

- Creating an effective private pillar of enforcement while at the same time maintaining a strong public enforcement system
- Maintaining the attractiveness of leniency programmes

# State of Play



- 2005 Green Paper on Damages Actions
- April 2008 White Paper
- April – June 2008 Public Consultation (170 comments)
- October 2008 – March 2009 WP to be discussed at the EP (ECON, IMCO, JURI)
- The Commission will thereafter decide whether it is appropriate to submit a legislative proposal – Spring 2009
- Autumn 2009 – non-binding guidance on the calculation of antitrust damages