



The Secretary General

Mrs. Neelie Kroes
Member of the European Commission
European Commission
200, rue de la Loi
B-1049 Brussels

15 July 2008

Commission's White paper on damages actions for EC Anti-trust rules

Dear Commissioner,

We have the pleasure of enclosing Orgalime's position on the above White Paper.

Orgalime, the European Engineering Industries Association, speaks for 35 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.9 million people in the EU and in 2007 accounted for some €1,813 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.

In our position we stress that the European Engineering Industries have always been in favour of developing and sustaining a competitive commercial environment in the EU and, in general, agree with the Commission that the recognition that the public and private enforcement of antitrust rules is fundamental for creating and sustaining such an environment.


Orgalime welcomes that the Commission has ruled out some elements which European businesses always disliked in the US litigation system, such as the opt-out collective actions. Orgalime nevertheless feels that the White Paper questions the existing system of enforcing Community rights and that it still entails the risk of introducing certain US-style litigation elements in Europe: for example, we reject the Commission proposal to make the winning defendant bear the costs of antitrust damages actions. We are also concerned that forms of collective redress inappropriate for our legal systems in the EU might emerge from the White Paper and subsequent policy measures.

Orgalime is also surprised that the Commission seems to assume that the position of claimants is very weak under national procedural rules. We fully agree with the Commission view that victims of cartels should have a right to full compensation for damages suffered, including loss of profit and interest: we however believe this is already today the case and that national procedural rules are adequate and function well in the member states.

We hope that the Commission will take due account of our position.

A similar letter has been sent your colleague Commissioner Verheugen.

Yours sincerely,


Adrian Harris

Cc DG Competition: Mr Lowe, Messrs Paulis, Musil, Mrs Dalheimer, comp-damages-actions@ec.europa.eu.
Cc Cabinet: Messrs Whelan, Monod de Froideville.

The European Engineering Industries Association