EMPOWERING CONSUMERS THROUGH COMPETITION: A STUDY ON THE CREATION OF A EUROPEAN ANTITRUST CLAIMS MARKET

Antonio Davola

Abstract: *Moving from the current debate on the interactions between competition and consumers' law, the paper aims at investigating the creation and development of a market for antitrust small claims – i.e. a market in which the right to propose claims is exchangeable for money – in order to empower both consumers and competition in the EU by overcoming the deficiencies that collective actions and individual claims actions currently present.*

1. INTRODUCTION: THE CURRENT FRAMEWORK OF THE PRIVATE ENFORCEMENT REMEDIES AGAINST ANTITRUST INFRINGEMENTS

The enactment of the new Directive 2014/104/EU *on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union* is currently the most recent step towards the creation of an integrated and organic *private enforcement system* to deal with anti-competitive behaviour in the market that is likely to result in a direct detriment for individual consumers.

This intervention has further encouraged the debate on the interaction between competition law and consumer law, with regard to potential overlaps of their respective purposes,[1] since the Directive aims to define a cohe-

1 Monti, 2007: 295-314.

rent remedial system for breaches of Arts 101 and 102 TFEU, as well as to grant consumers protection against such infringements in accordance with the socially distributive purposes that – besides the allocative aims – have gradually become a core component of EU competition law.[2]

Judicial trends – since the *Courage* and *Manfredi* cases[3] – and normative initiatives[4] nowadays suggest that consumers are covered by *direct* protection in the EU, particularly against anticompetitive practices, and are entitled to individual rights, on the basis of their nature as market operators.

In order to obtain effective reparation for antitrust infringements, consumers currently have at their disposal two main types of remedy: individual claims and collective actions such as the *class action* remedy.

Apart from this bedrock, though, there is still a great need for research: despite significant efforts, the current framework of remedies enjoyed by consumers still appears to be insufficient, since it is unable to produce appropriate results in three main areas: adequacy of compensation, accessibility to justice and welfare consequences.[5]

Such conclusions are valid – although for different reasons – for both collective actions and individual claims.

With regard to individual claims, consumers face difficulties, primarily with reference to the determination of the *quantum debeatur* and the fulfilment of the burden of proof of demonstrating the causal link between the anticompetitive behaviour of an enterprise and the direct damage suffered by the consumer, and this hurdle exists in *stand alone* claims as well as in *follow on* ones:[6] despite the undoubted benefits of Directive 104/2014 – the possibility that national judges can authorize access to documents of national granting authorities, as well as the definitive recognition of the binding effect of decisions made by national granting authorities in terms of probative relevance – for *follow on* claims, too many aspects of individual protection remain, in fact, uncertain.[7]

2 Everton & Joerges, 2006; Cafaggi & Micklitz, 2009.

3 ECJ, C-453/99; ECJ, C-295/04.

4 *Inter alia*, European Commission, 2008.

5 Eger & Weise, 2010.

6 Van den Bergh, 2013: 12.

7 Rott, 2007: 305-321.

Furthermore, the choice of leaving the regulation of individual claims to national law causes a significant heterogeneity, and the procedural law of the different Member States will determine the concrete effect of the Directive.

Lastly, the entirety of the intervention seems unable to overcome the rational apathy of individual consumers: consumers will, in fact, pursue compensation for antitrust damage only if their expected private benefit of doing so (in terms of expected compensation accorded in court) is higher than the private costs – in terms of resources needed to carry on the proceeding – they are likely to bear; since the aforementioned obstacles critically dimidiate the concrete chance to obtain compensation, there are currently not enough incentives for individual consumers to actively file claims for antitrust damages.[8]

Collective claims seem to be equally unsatisfying. Under EU legislation, collective actions – and, in particular, class actions – are devoid of a uniform European regulation, and the enactment of mere recommendations[9] does not seem sufficient to achieve the consumer protection that is intended, operating – on the contrary – as a source of normative heterogeneity and *"forum shopping"* phenomenon.[10] In particular, each Member State has enhanced its own model of representative collective actions: the French and Italian governments have introduced *opt-in* class actions,[11] while the UK, on the other hand, is introducing an *opt-out* class action for antitrust infringements;[12] a similar *opt-out* regime can be found with regards to the Portuguese *ação popular*, although such remedy stands out for its original solutions on the aspects of active legitimation to proceed in court and extent of the *res judicata* on involved parties.[13] Eventually, other different scenarios for bundling antitrust damage claims can be found in the Netherlands, Germany, Austria and Finland.[14]

Furthermore, it is uncertain whether the enforcement of such instruments might actually lead to a determination of benefits for individuals. Indeed, because of the great difficulty of calculating adequate reparation for each

8 Van den Bergh, 2013.

9 European Commission, 2013.

10 Corapi, 2014.

11 Respectively, Art. L423 *Code de la consommation* and Art. 140-*bis Codice del consumo*.

12 UK Government, 2013.

13 On the peculiar aspects of this remedy see Rossi & Sousa Ferro, 2013: 51-54. The potential impact of such a solution in the EU context is also addressed in Sousa Ferro, 2015: 1.

14 Schreiber & Smith, 2014: 23-26.

claimant in collective actions, judges tend to award compensation on a lump-sum basis, overlooking individual interests in favour of collective deterrence. As a consequence, it is arguable whether the enforcement of collective remedies actually constitutes enforcement for the benefit of individual consumers rather than an indirect protection for the general allocative efficiency of the market.[15]

The overall picture seems, as a consequence, extremely blurred, and the heterogeneity of remedies obstructs the realization of the desired uniform protection in the Common Market.[16]

There have undoubtedly been significant developments in this field: the new Directive 2014/104 is a pivotal step, and European case law, from the early *Courage* and *Manfredi* judgments until the most recent *Pfeiderer* case[17] and the *Donau Chemie* judgment[18], has greatly enhanced the protection of individual consumers. Despite these efforts, though, the aforementioned problems have still not been overcome.

These evaluations seem to be confirmed by the analysis conducted by EU institutions:[19] in the period between 2006 and 2012, just 25% of antitrust violations found by the European Commission were followed by national actions for damages, and the overall damage suffered by consumers as a result of antitrust infringements amounted to 23 billion euros just in the year 2012.

Currently, it seems uncertain whether this situation can be solved without further acts by European institutions, particularly when one considers that – after the decision of the European Court of Justice in the *Kone* case[20] – the recognition of a right to compensation for so-called "*umbrella damages*" will further expand the number of potential claimants after an antitrust violation. It goes without saying that the absence of an effective instrument with which consumers may enforce their rights will operate entirely in favour of the infringers.

15 Van Den Bergh & Visscher, 2008: 5-30.

16 Rott, 2007: 305-321.

17 ECJ, C-360/09.

18 ECJ, C-536/11.

19 European Commission, 2007.

20 ECJ, C-557/12. See also Lombardi, 2014: 707.

2. PROPOSAL FOR A DIFFERENT SOLUTION: CREATION OF AN ANTITRUST CLAIMS MARKET

Since sector-specific remedies are unsatisfactory, different solutions could be sought by investigating theoretical approaches developed in other areas of torts. In particular, in order to use an original solution to overcome the *impasse*, it must be kept in mind that any potential remedy must address the interests of both the individual *and* the market, since these two elements are equally important in the development of consumer and competition law.[21]

In particular, the idea from which we decided to start originates from the American literature which, since the early 1980s, has suggested the introduction of a claims market,[22] that is, a market in which individuals are free to trade their right to pursue a claim for money, for personal injury tort claims.

These theories, though, have encountered difficulties in obtaining a consensus on the ethical dimension and in terms of legal feasibility: it has been noted[23] that victims of personal injury deserve compensation for both pecuniary and non-pecuniary losses, and that the separation between the victim and the actual plaintiff in court that would result from a sale of the claim would deprive the compensation for non-pecuniary damages of its "personal" essence. Other critics have taken an ethical point of view, arguing that damage claims should be considered as an ontologically non-disposable right of individuals.

In our opinion, such difficulties do not exist in the field of antitrust claims, since the individual prejudice for victims of anticompetitive behaviour is substantially financial in nature: consequently, it is possible to consider the application of such a solution to competition law.

With regards to the "ethical" aspects that might be involved in the trade in damages claims, in some national jurisdictions – for example, in some decisions of the Italian Court of Cassation – the lawfulness of the assignment of credits deriving from compensation has already been stated.[24]

This result is, in fact, just a minor realization of what American legal scholars have suggested: instead of the assignment of an already existing claim,

---

21 See: Pera, 2009: 342 et ss.; Armstrong, 2008: 96 et ss.; Pautler, 2008: 91 et ss.

22 *Ex multis*, Shukaitis, 1987; Cooter, 1989; Choharis, 1995; Sebok, 2011.

23 Abramowicz, 2005.

24 See: Italian Court of Cassation, 2012; Italian Court of Cassation, 2013.

they were discussing the lawfulness of individuals trading their right to pursue claims in court – and their consequent right to eventual compensation. Such a solution appears to be necessary – with regards to antitrust claims – if we accept that the main barrier to the effective exercise of claims is currently the lack of incentives for consumers: as a consequence, it will be necessary to create a system that gives an incentive for the pursuit of damages claims. In our opinion this could be obtained through the introduction of an antitrust claims market, and we will discuss the particular details of this argument further.

3. *CARTEL DAMAGE CLAIMS*: A FIRST STEP FROM WHICH WE CAN MOVE ON

In order to investigate the legal feasibility of an antitrust claims market in the EU context, we can observe that there is currently no express provision that forbids the sale of an individual's right to pursue a claim in court, or that deems such a right to be non-transferable; on the contrary, the European Commission explicitly stated that such activities might be possible in the European Union[25] and that the transfer of antitrust claims to third parties might represent a useful legal instrument in order to overcome the problem of lack of participation by injured parties in antitrust proceedings.[26]

Furthermore, Directive 2014/104/EU recently confirmed the standing of entities purchasing damage claims by stating that "«actions for damages» means an action […] brought before a national court by an alleged injured party, or *by someone acting on behalf of one or more alleged injured parties*",[27] and by circumscribing, as entities entitled to use evidence obtained through access to the files of national competition authorities, the person who suffered the damage due to the anticompetitive behaviour or "a natural or legal person that succeeded to that person's rights, including a person that acquired that person's claim".[28]

In the light of these elements, it will therefore be necessary to evaluate the legitimacy of an antitrust claims market with regards to the procedural law of the Member States.

On this aspect, we might obtain some relevant information from recent case law involving the Belgian company *Cartel Damage Claims* (CDC). CDC

25 European Commission, 2008.

26 European Commission, 2012: 37.

27 Directive 2014/104/EU, Art. 2(4).

28 *Ibidem,* Art. 7(3).

operates in the field of the private enforcement of competition law, by acquiring the right to pursue claims in court by *follow on* victims of antitrust infringements by enterprises, and then exercising these rights on behalf of the victims before the national court.[29]

Some national courts have, through legal proceedings, recognized the *locus standi* of CDC: in particular, a decision rendered by the District Court of The Hague in December 2014 stated that the assignment of a damages claim can be considered lawful under Dutch national law.[30] This position was shared by the Regional Court of Dusseldorf, in February 2015: despite a rejection of the CDC's claim, the court confirmed that a claim for antitrust damages can be transferred from the party who suffered harm to a third party, as long as this operation is conducted in compliance with national law, that is by the registration of the acquisition in the *Recthsdienstleistungsgesetz* and the concomitant provision of security in order to protect against the potential insolvency of the acquirer.[31]

In January 2015, the General Court of the European Union permitted the intervention of CDC as an interested third party in proceedings against *Azko Nobel NV*: the interest of the acquirer of a claim was deemed to allow participation in the proceedings.[32] Furthermore, in his opinion in the preliminary ruling concerning the *Hydrogen Peroxide* cartel,[33] Advocate General Jäaskinen underlined that "the emergence of players […] whose aim it is to combine assets based on claims for damages resulting from infringements of EU competition law seems to me to show that, in the case of the more complex barriers to competition, it is not reasonable for the persons adversely affected themselves individually to sue those responsible for a barrier of that type".

On this basis, it is our opinion that the creation of a market system for antitrust claims could be legally enforced under the EU framework and, ultimately, in individual Member States.

29 Schild & Brakin, 2007; Schreiber, 2012: 268; Geradin & Grelier, 2013.

30 District Court of The Hague, 2013.

31 Oberlandesgerich Düsseldorf, 2015.

32 GCEU, T-345-12.

33 ECJ, C-352/13.

4. POTENTIAL BENEFITS OF INTRODUCING AN ANTITRUST CLAIMS MARKET

After our verification of the absence of barriers to the introduction of an antitrust claims market in the EU framework, we must question whether or not such a solution might prove effective in order to increase both the protection of consumers and the efficiency of the market; in our opinion, the introduction of a market in claims in tort for antitrust harm might – alongside current remedies – overcome the current deficiencies in the protection of consumers and, at the same time, lead to a general enhancement in the condition of the market.

This conclusion can be supported by several arguments.

One effect of a market in claims would be that compensation would be granted more quickly and easily to consumers who had suffered harm. Tort victims would, in fact, be compensated instantly upon the sale of their claims. Furthermore, the demanding burden of proof that characterizes *stand alone* and *follow on* antitrust actions would be lifted from them: their sole burden would be to prove – ultimately on the basis of a decision by the national competition authority – the existence of their right to pursue a claim for antitrust harm.

It is reasonable to believe that, in view of these advantages, consumers might sacrifice part of their compensation in exchange for the immediate availability of a refund, depending on their timing preferences; furthermore, the risk (and the costs) of pursuing a claim in court would be shifted from risk-adverse individuals to competent and risk-neutral operators, with a general enhancement of the efficiency of the markets.[34]

On the other hand, the introduction of a claims market would also lead to significant benefits for those who might be interested in acquiring antitrust damage claims: claim-buyers would, in fact, profit from the gap between the amount that a consumer accepted for an immediate refund and the compensation awarded in court (which would remain of a compensatory nature). This profit margin might be further increased through a regular activity of bundling up claims, diversification of the risk through portfolio analysis and, in general, leveraging economies of scale in order to reduce litigation costs.[35]

Another indirect effect would be the reduction of the disparity of power between plaintiffs and respondents, since damages actions would be pursued

34 Marcushamer, 2005: 4.

35 Cfr. Renda, 2007: 269; Scott, 2009.

by experienced institutions with minor costs, and more information, expertise and resources.[36]

Buyers would, consequently, be given an incentive to operate in this field and, as a result, we could expect a growth in antitrust claims.

Such an increase would add to the monitoring of markets, with a general deterrence effect: the risk to a firm of facing demanding litigation as a result of anticompetitive behaviour would not be as remote as it is now.

In summary, we believe that the introduction of an antitrust claims market might create those incentives that consumers do not currently have to exercise their rights to compensation, and overcome the probative obstacles.

We therefore have an alignment between the interests of individual consumers and those of the markets. This is, in our opinion, a pivotal aspect to be taken into account: the interests of consumers and the efficiency of the markets are not mutually exclusive concepts, and legal research must try to make these two aspects coexist.

5. FURTHER ASPECTS OF THE ANALYSIS AND PERSPECTIVES FOR FUTURE RESEARCH

The introduction of an antitrust claims market would grant consumers effective protection and access to justice through immediate access to compensation, while at the same time creating a competitive market for claim-buyers through the potential profitability of the claims commerce business, thus overcoming the lack of incentives that currently constitutes the main weakness in private enforcement.

In this work, we discussed the main benefits that might result from such a solution, and the main normative points that should be kept in mind on the path towards this solution.

Nevertheless, much more research seems to be needed in order for an antitrust claims market to be implemented successfully.

The first aspect that demands further analysis concerns the identification of the most desirable legal regime under which the claims market could operate properly: in this sense, the relevant issues to be investigated concern the definition of the parties that should be entitled to operate and promote claims bundling and buying, as well as the possible establishment of a dedicated supervisory authority. The definition of the requirements for evaluating the

36 Guerrero, 2009; Schreiber & Seegers, 2015: 5.

reliability of claims-buyers will also be pivotal, in order to avoid the risk of them promoting non-meritorious litigation to maximize their profits.

A second regulatory aspect concerns the strategies for the implementation of the antitrust claims market in the European framework: it will be necessary to analyse whether EU institutions should implement a tort claims market through a horizontal regulatory initiative of binding harmonization or by means of a more flexible approach (e.g. a Directive), in order to allow Member States to shape the discipline according to their internal legislation.

A third aspect of the antitrust claims market that will require further study concerns the investigation of its potential scope, in both the geographic and the quantitative dimensions: in order to consider the efficacy of this system, it will be necessary to consider the threshold volume of claims that we might expect, and their ability to generate a profitable market. It must be noted that since this volume – the potential demand – is strictly dependent on the expected chance of success of a claim, the efficacy of those remedies that are offered by private and public enforcement will represent an essential condition for the existence of a claims market. Therefore, it will be necessary to examine the interactions between the claims sale market and the remedial tools that are currently available to individual consumers, paying particular attention to the *class action* system.

Some relevant issues for further analysis then arise from a comparative analysis perspective.

In particular, it will be pivotal to understand how the introduction of an antitrust claims market might interact with the heterogeneity of remedies available to consumers in the various Member States, and how such a market would interact with the current *forum shopping* phenomenon that can be seen in cross-border operations.[37]

Departing from a purely European perspective, an overview of the current US debate on third party litigation would also be of significant interest.

In the US, the use of litigation as a regulatory device has traditionally been limited and complemented by administrative regulation;[38] nevertheless, significant attention has been devoted in recent years to the need for an enlarged scope of mass litigation procedures and to the possible openings for a third

37 Krauskopf & Tkacikova, 2011.

38 Cafaggi & Micklitz, 2009.

party litigation phenomenon.[39] Also, in order to implement safeguards for consumers within the framework of private remedies, the necessity of overcoming the *contingency fees* system and identifying alternative forms of claims funding – while still maintaining incentives for attorneys – has been recognized as pivotal.[40]

A consideration of current US developments, and an analysis of the differences between the US and Europe, will be fundamental to understanding the extent to which the introduction of a claims market might have an impact on international consumer litigation processes.

The proposal for the introduction of a market in which a consumer's right to pursue a claim in order to obtain compensation for an antitrust violation is voluntarily exchangeable for money remains – at the current time – merely theoretical, and it needs studied more deeply in its specific characteristics as well as in its potential interplay with other normative disciplines in the European and global context.

Indeed, in the light of the various precedents we recalled in this work, we might observe that a primigenial experience of antitrust claims market already exists and operates in some Member States, even though it is currently limited to few cases involving firms; therefore, the real issue for the future will be to further incentivize and develop current existing claims bundling phenomena, and to foster its extension to individual consumers in order to enhance their framework of remedies against anticompetitive behaviours and, subsequently, the development of the integrated market.

39 Geradin & Grelier, 2009.

40 McGovern, 2010.

BIBLIOGRAPHY

Abramowicz

2005 "On the Alienability of Legal Claims", in *Yale Law Journal*, 114.

Armstrong

2008 "Interactions between competition and consumer policy", in *Competition Policy International*, 4(1).

Cafaggi & Micklitz

2009 *New frontiers of consumer protection: The interplay between private and public enforcement*, Intersentia.

Choharis

1995 "Creating a Market for Tort Claims", in *Yale Journal on Regulation*, 4.

Cooter

1989 "Towards a Market in Unmatured Tort Claims", in *Virginia Law Review*, 75.

Corapi

2014 *Danni antitrust e consumatore. Analisi comparatistica della normativa europea in Italia, Francia e Gran Bretagna*, in www.comparazionedirittocivile.it.

District Court of the Hague

2013 Case CDC Project 14 v. Shell Petroleum, n. C/09/414499/HA ZA 12.293, available at http://barentskrans.nl/uploads/Paraffin%20Wax%20judgment.pdf.

Eger & Weise

2010 "Some limits to the private enforcement of antitrust law: A grumbler's view on harm and damages in hardcore price cartel cases", in *Global Competition Litigation Review*, Issue 4, available at http://ssrn.com/abstract=2162461.

European Commission

2007 Report, Making antitrust damages actions more effective in the EU: welfare impact and potential scenarios, available at http://ec.europa.eu/competition/antitrust/actionsdamages/files_white_paper/impact_study.pdf.

2008 White Paper on Damages Actions for Breach of the EC antitrust rules (COM(2008) 165).

2012 Collective Redress in Antitrust, DG Internal Policies study for the European Parliament, IP/A/ECON/ST/2011-19, available at www.europarl.europa.eu/committees/en/studiesdownload.html?languageDocument=EN&file=74351.

2013 Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms.

European Court of Justice

C-453/99 Case C-453/99 Bernard Crehan v Courage Ltd and Others [2001] ECR I-6297.

C-295/04 joined Cases C-295/04 to 298/04 Vincenzo Manfredi and Others v. Lloyd Adriatico Assicurazioni SpA and Others [2006] ECR I-6619.

C-360/09 Case C-360/09, Pfleiderer AG v Bundeskartellamt [2011], ECR I-5161.

C-536/11 Case C-536/11, Donau Chemie, [2013], ECR I-0000.

C-352/13 Case C-352/13, Cartel Damage Claims (CDC) Hydrogen Peroxide SA v. Akzo Nobel NV et al., EU:C:2015:335.

C-557/12 Judgment of 5 June, 2014, Case C-557/12 Kone AG et al. v. OBB-Infrastruktur AG.

Everton & Joerges

2006 "Consumer citizenship in postnational constellations?", in *EUI Working Paper LAW* No. 2006/47.

GCEU – General Court of the European Union

T-345/12 28 January 2015, case T-345-12, Commission v. Azko Nobel et al.

Geradin & Grelier

2009 Cartel damages claims in the European Union: Have we only seen the tip of the iceberg?, available at http://ssrn.com/abstract=2362386.

Guerrero

2009 "Re-evaluating proposals for tort claims markets in a world of mass tort litigation", in *The University of Texas School of Law Review of Litigation*, 32.

Italian Court of Cassation

2012 10 Jan. 2012, nn. 51-52, in Foro it., I, 2012, 429.

2013 Cass., 3 Oct. 2013, n. 22601, in Resp. civ., 2014, 539.

Krauskopf & Tkacikova

2011 "Competition law violations and private enforcement: Forum shopping strategies", in *Global Competition Litigation Review.*

Lombardi

2014 "E piovve anche sotto l'ombrello, umbrella effects e nesso di causalità in ambito antitrust secondo la Corte di Giustizia", in *Danno e responsabiltà*, 7.

Marcushamer

2005 Selling your torts: Creating a market for tort claims and liability, in *Hofstra Law Review*, 33, 4.

Mcgovern et al

2010 "Third-party litigation funding and claim transfer: Trends and implications for the civil justice system", *Rand*.

Monti
2007 "The revision of the consumer acquis from a competition law perspective", in *European Review of Contract Law*, 3.
Oberlandesgerich Düsseldorf
2015 18 February 2015, n. 37 O 200/09, available at http://www.carteldamageclaims.com/wordpress/wp-content/uploads/2015/03/OLG_Beschluss-v-18.02.2015pdf.
Pautler
2008 "Consumer protection policies, economics, and interactions with competition policy", in *Competition Policy International*, 4(1).
Pera
2009 "Tutela della concorrenza e protezione del consumatore: quali complementarietà?" in AA. VV., *Antitrust between EC law and national law. Antitrust fra diritto nazionale e diritto comunitario*, Milano: Bruylant.
Renda (coord.)
2007 *Making antitrust damages actions more effective in the EU: welfare impact and potential scenarios, Final Report for the European Commission*, available at http://ec.europa.eu/competition/antitrust/actionsdamages/files_white_paper/impact_study.pdf.
Rossi & Sousa Ferro
2013 "Private enforcement of competition Law in Portugal (II): Actio Popularis – Facts, fictions and dreams", in 13 *Revista de Concorrência e Regulação* 35.
Rott
2007 "Effective enforcement and different enforcement cultures in Europe", in AA. VV., *Private Law and the Many Cultures of Europe*, Kluwer.
Schild & Brakin
2007 "Cartel damages actions in Germany and England: the case law experience to date", in *Finnish Competition Law Yearbook*.
Schreiber
2012 A short analysis of the judgment of the General Court in the Case CDC HP v. Commission, in *Journal of European Competition Law & Practice*, 3.
Schreiber & Seegers
2015 "The EU Directive on Antitrust Damage Actions and the Role of Bundling Claims by Assignment", in *CPI Antitrust Chronicle*, 2.
Schreiber & Smith
2014 "The case for bundling antitrust damage claims by assignment", in *Concurrences, Revue des droits de la concurrence*, no. 3.

Scott
2009 "A new model for private damages", in *GCR Global Competition Review*, 12.
Sebok
2011 The Inauthentic Claim, in *Vanderbilt Law Review*, 64.
Shukaitis
1987 "A market in personal injury tort claims", in *Chicago Journal of Legal Studies*, 16(2).
Sousa Ferro
2015 "Collective Redress: Will Portugal Show the way?", in *Journal of European Competition Law & Practice*, doi:10.1093/jeclap/lpv031
Uk Government
2013 Private actions in competition law: A consultation on options for reform – Government response.
Van Den Bergh
2013 "Private enforcement of European competition law and the persisting collective action problem", in *Maastricht Journal of European and Comparative Law*, 1, 12.
Van Den Bergh & Visscher
2008 The preventive function of collective actions for damages in consumer law, in *Erasmus Law Review*, Vol. 1.