

MEMORANDUM

Re.: France – Outline of the class-action procedures

The Consumer Act of March 17, 2014 introduced *l'action de groupe* (class action) into the French legal system, which entered into force on October 1, 2014 in the consumer and anti-competitive practices fields. Eight class actions have been introduced so far: one resulted in a settlement agreement for almost two million euros, another was dismissed on the merits by the Civil Court of Paris on January 27, 2016 and the others are pending. These class actions targeted professionals from the real estate, insurance, telecom, hotel, motorbike and bank sectors.

Several features of the French class-action procedure could explain the relatively low number of class actions introduced thus far, in particular the limited standing to act in this matter (granted to only fifteen consumer associations), the exclusion of non-economic losses and the opt-in system. However we anticipate that there will be an increasing number of consumer class actions that will be initiated in France in the coming years and that they will mainly spread to the areas where professionals use standard agreements.

Optional paragraphs:

The main purpose of the class-action procedure is to make it easier and almost costless for consumers to obtain compensation for damage to property sustained as a result of breaches by one or more professionals of their contractual or legal obligations. Under the class-action procedure, the relevant civil court will adjudicate in one ruling, on the admissibility of the class action initiated by an approved nationally representative association, on the professional's liability and on the rules applicable to the compensation, including publicity measures. Then, after the constitution of the group of consumers, the principle is that the professional shall compensate individually the customers according to the conditions and within the limits set by the judgment.

The following lessons may be drawn from the first class actions introduced in France:

- Several consumer associations have carried out an effective media strategy when they introduced their class actions. This led to an important media coverage, which had an immediate impact on the image of the professionals concerned;
- In order to maximize the impact of their announcements, the consumer associations assessed broadly, in their press releases, the total amount of the alleged damages incurred by the future group of consumers;
- The associations also based their class actions on a precedent, *i.e.*, a previous judgment rendered in a dispute between an individual and the professional at stake (or a professional having the same activity).



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Benoît Javaux assists French and foreign corporations in their pre-litigation strategy and in their disputes before civil and commercial courts. He works on a daily basis on cases involving contractual breaches, unfair competition, revocation of corporate directors and liability for defective products. Benoît Javaux has also developed a specific expertise in ADR, enforcement proceedings and lobbying. For the last 10 years, he has been closely following the various initiatives taken by the Government and Parliament to introduce class actions into French law.

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