



# PRIVATE LITIGATION GUIDE

THIRD EDITION

Editors  
Nicholas Heaton and Benjamin Holt

# Private Litigation Guide

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Third Edition

**Editors**

Nicholas Heaton and Benjamin Holt

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# Contents

Introduction .....	1
Nicholas Heaton and Benjamin Holt <i>Hogan Lovells</i>	

## PART 1: KEY ISSUES

1 Territorial Considerations: the EU and UK Perspective .....	7
Camilla Sanger and Olga Ladrowska <i>Slaughter and May</i>	
2 Collective or Class Actions and Claims Aggregation in the United States.....	23
Eva W Cole and Jeffrey J Amato <i>Winston &amp; Strawn LLP</i>	
3 Collective or Class Actions and Claims Aggregation in the EU: the Claimant's Perspective .....	41
Till Schreiber and Martin Seegers <i>SCDC Cartel Damage Claims Consulting SRL</i>	
4 Collective or Class Actions and Claims Aggregation in Germany .....	55
Borbála Dux-Wenzel, Anne Wegner and Florian Schulz <i>Luther Rechtsanwaltsgesellschaft mbH</i>	
5 Collective or Class Actions and Claims Aggregation in the Netherlands .....	67
Kees Schillemans, Emma Besselink, Eline Vancraybex and Hannelore Vanderveen <i>Allen &amp; Overy LLP</i>	

<b>6</b>	<b>Collective Actions and Claims Aggregation in Spain .....</b>	<b>82</b>
	María Pérez Carrillo, Esther de Felix Parrondo and Adrián Yuste Bonillo <i>Cuatrecasas</i>	
<b>7</b>	<b>Collective or Class Actions and Claims Aggregation in the United Kingdom.....</b>	<b>93</b>
	Kim Dietzel, Stephen Wisking, James White, Andrew North and Ruth Allen <i>Herbert Smith Freehills LLP</i>	
<b>8</b>	<b>US Monopolisation Cases.....</b>	<b>123</b>
	Dee Bansal, Jacqueline Grise, Julia Brinton, David Burns and Richard GS Lee <i>Cooley LLP</i>	
<b>9</b>	<b>Proving the Fix: Damages .....</b>	<b>143</b>
	Michelle M Burtis and Keler Marku <i>Charles River Associates</i>	
<b>10</b>	<b>Brexit and its Impact on Competition Litigation in the UK.....</b>	<b>160</b>
	Edward Coulson and Ben Blacklock <i>Bryan Cave Leighton Paisner LLP</i>	

## **PART 2: OVERVIEWS**

<b>11</b>	<b>Austria Q&amp;A.....</b>	<b>179</b>
	Guenter Bauer and Robert Wagner <i>Wolf Theiss</i>	
<b>12</b>	<b>China Overview.....</b>	<b>200</b>
	Jet Deng and Ken Dai <i>Dentons</i>	
<b>13</b>	<b>England &amp; Wales Q&amp;A.....</b>	<b>211</b>
	Nicholas Heaton and Paul Chaplin <i>Hogan Lovells</i>	

<b>14 Germany Q&amp;A</b> .....	<b>265</b>
Kim Lars Mehrbrey, Lisa Hofmeister and Sophia Jaeger <i>Hogan Lovells</i>	
<b>15 Japan Overview</b> .....	<b>289</b>
Madoka Shimada, Kazumaro Kobayashi and Atsushi Kono <i>Nishimura &amp; Asahi</i>	
<b>16 Netherlands Q&amp;A</b> .....	<b>302</b>
Klaas Bisschop <i>Hogan Lovells</i>	
<b>17 Portugal Q&amp;A</b> .....	<b>324</b>
Gonçalo Machado Borges <i>Morais Leitão, Galvão Teles, Soares da Silva &amp; Associados</i>	
<b>18 Spain Q&amp;A</b> .....	<b>346</b>
María Pérez Carrillo, Esther de Félix Parrondo and María Martínez Fuentes <i>Cuatrecasas</i>	
<b>19 Sweden Q&amp;A</b> .....	<b>365</b>
Andrew Bullion and Mikael Treijner, <i>Hausfeld</i> Johan Karlsson and Trine Osen Bergqvistu, <i>Advokatfirman Vinge</i>	
<b>20 United States Q&amp;A</b> .....	<b>387</b>
Benjamin Holt <i>Hogan Lovells</i>	
<b>About the Authors</b> .....	<b>403</b>
<b>Contributors' Contact Details</b> .....	<b>423</b>

# Introduction

**Nicholas Heaton and Benjamin Holt<sup>1</sup>**

We are delighted to edit a further edition of the GCR Private Litigation Guide. Part I of the Guide includes 10 chapters written by leading practitioners, exploring in depth the key themes raised in competition litigation across the globe, such as jurisdictional considerations, class actions and damages. These chapters explore different perspectives on key issues, including views from the standpoint of both claimant and defendant and from different parts of the world.

Part II of the Guide contains an invaluable summary of the position on a jurisdiction-by-jurisdiction basis to allow quick access to key information and a cross jurisdictional analysis. It takes the form of a series of questions covering the most critical private litigation issues. Experienced practitioners in eight countries have supplied digestible, targeted responses to these questions. The Guide presents these insights in an accessible manner that lets users focus on specific issues and compare them across jurisdictions.

This Guide reflects the remarkable growth of private competition litigation across the world. Indeed, litigating antitrust or competition claims has become a global matter, requiring coordination among jurisdictions, and requiring counsel and clients to understand the rules and procedures in many different countries and how the approaches of courts differ with regard to key issues.

The landscape is continuing to evolve at pace.

In Europe, three distinct trends are evident. First, the effect of the EU Directive on competition damages claims, implemented by Member States in 2016 and 2017, is now being felt. Some jurisdictions in which there had previously been little private competition litigation have seen a dramatic growth of claims, such as Spain. By requiring Member States to ensure that law and procedures meet minimum requirements, the Directive has no doubt gone a long way to meet

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<sup>1</sup> Nicholas Heaton and Benjamin Holt are partners at Hogan Lovells.

the objective of facilitating claims. Although those minimum requirements are now met in all EU jurisdictions, it would be a mistake to think this has resulted in a harmonised approach. In fact, there is variation in the way in which the Directive has been implemented and there remain significant differences between the regimes in Member States. Claimants, defendants and their lawyers need to be on top of these. However, just as a degree of harmonisation is achieved within the EU, the UK's departure from it as a result of Brexit will throw up fresh challenges in this area. The second trend is the expansion of different forms of class action in Member States. The opt-out regime in the UK is beginning to bite, with the first claim recently certified and many others waiting their turn, and 2020 saw the introduction of new regimes in the Netherlands and Italy. These promise to change the dynamic in the EU yet again. The third trend is the developing depth of experience and a lengthening track record of judicial decisions on important issues in those jurisdictions in which private competition litigation has been more common for some time, such as the UK, Germany and the Netherlands.

In the United States, where private damages procedures are well developed, competition litigation has become increasingly high-profile and complex, and courts continue to grapple with various procedural issues related to competition lawsuits. Many of these disputes make their way to federal appellate courts and the US Supreme Court, where every decision has the potential to dramatically affect the law. In recent years, for example, the Supreme Court has weighed in on the interpretation of long-standing precedent prohibiting indirect purchasers from suing for damages under US federal law and addressed the appropriate analysis of two-sided markets in antitrust litigation. In addition, standards applicable to class actions have been hotly contested in lower courts in recent years, and a new round of disputes about the circumstances under which antitrust plaintiffs may certify a class is emerging as a key issue before appellate courts.

In other parts of the world, the story is more complex. For example, in Asia, private competition litigation levels generally continue to rise in Japan but have fallen from a recent high in China. South America, Brazil and Mexico now have laws in place to facilitate private competition claims, but actual litigation is still nascent. Canada has also seen recent important developments regarding certification of competition class actions, but has yet to see an award of damages at trial in such a case. Nevertheless, it is increasingly apparent that these jurisdictions, and others covered in this Guide, cannot be ignored in any assessment of the threats and opportunities private competition litigation brings.

Antitrust and competition practitioners, as well as corporate counsel, often require a basic understanding of the key aspects of private antitrust litigation in many different countries. For example, how does one bring a claim in the first

instance? What are the standards for collective actions? Can indirect purchasers collect damages and is a passing-on defence available? Different countries and different jurisdictions take a divergent approach to these and many other questions.

GCR has created this book to address this daunting task and to provide a method of comparing and contrasting specific issues and topics across jurisdictions. The Guide was developed in conjunction with the competition litigation team at Hogan Lovells, which has extensive experience litigating antitrust and competition claims in many jurisdictions.

# Part 1

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## Key Issues

## CHAPTER 6

# Collective Actions and Claims Aggregation in Spain

María Pérez Carrillo, Esther de Felix Parrondo  
and Adrián Yuste Bonillo<sup>1</sup>

### Spanish Legal Framework On Collective Actions

The Spanish law does not establish a specific procedure for collective actions. Instead, the Code of Civil Procedure<sup>2</sup> (CCP) includes several specific rules that regulate some of the main procedural matters (e.g., standing, competence, publicity and *res judicata*).

In this sense, dispersed and isolated rules related to different aspects of consumer collective actions coexist, as it will be explained below. Aside from the above-mentioned rules in the CCP, the main legislation regarding consumer collective actions can be found in:

- the Consumer Protection Act;<sup>3</sup>
- the Act on General Terms and Contractual Conditions;<sup>4</sup> and
- the Spanish Unfair Competition Act.<sup>5</sup>

As in every Member State, collective actions are also shaped in Spain by European consumer protection legislation.<sup>6</sup> In fact, on 20 December 2020, the European Directive (EU) 2020/1828 of the European Parliament and of the Council of

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1 María Pérez Carrillo and Esther de Felix Parrondo are partners, and Adrián Yuste Bonillo is an associate at Cuatrecasas.

2 Code of Civil Procedure, adopted by Act 1/2000, of 7 January 2000.

3 Royal Decree Law 1/2007, of 16 November.

4 Act 7/1998, of 13 April.

5 Act 3/1991, of 10 January.

6 See [https://europa.eu/youreurope/citizens/consumers/index\\_en.htm](https://europa.eu/youreurope/citizens/consumers/index_en.htm).

25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC entered into force. Spain has not transposed the directive yet (the term to do so expires on 25 December 2022) but its content may, to some extent, affect the current regulation on collective actions, as will be explained below.

### Types of collective actions

The Act on General Terms and Contractual Conditions and the Consumer Protection Act regulate three types of class actions:<sup>7</sup>

- Cease-and-desist actions: these actions seek a judgment declaring that certain contractual general terms and conditions are null and should therefore not have been used. They also seek to avoid a future use of those terms and conditions. Claimants may also join cease and desist actions with claims for restitution or damages arising from the use of general contractual terms declared null.<sup>8</sup> Concerning these actions, the Directive 2020/1828 clarifies that cease-and-desist actions can also be filed with reference to behaviours that had already ceased by the time the action was filed, where there is risk that they could arise again.<sup>9</sup>
- Retraction actions: these actions seek a judgment ordering a defendant to retract from any recommendation made on the use of unlawful terms and conditions and to forbid to make any further recommendation in the future.
- Declaratory actions: these actions seek a judgment declaring that a given contractual term is a general condition and should be registered in the Spanish General Terms Registry, when necessary according to the applicable legislation.

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7 Article 12, Act on General Terms and Contractual Conditions and 53 et seq., Consumer Protection Act. Claimants could also rely on Article 33 of Act No. 3/1991 of 10 January on Unfair Competition and on Article 9.4 of Act 3/2004, of 29 December, establishing measures against commercial late payment.

8 Article 12.2, Act on General Terms and Contractual Conditions and 53 Consumer Protection Act.

9 In this sense, Article 2 Directive 2020/1828 merely clarifies an issue that Spanish case law had already resolved in repeated occasions.

In parallel, the Directive 2020/1828 defines in its Articles 8 and 9 the types of measures that can be adopted through a collective claim, while dividing them in two groups (cessation measures and redress measures). As indicated in Recital 43 of the Directive 2020/1828, it should not be possible to impose punitive damages on the defendant, in accordance with national law.

### Court jurisdiction

The Spanish court system does not foresee a specific jurisdiction for collective or consumer matters. These matters would normally be resolved by either first instance civil courts or commercial courts.

The general rule is that first instance civil courts are competent to deal with collective actions based on general contract law.<sup>10</sup> Commercial courts shall be competent when actions arise in the context of commercial matters (e.g., a claim seeking the declaration of an unfair situation from a competition perspective or an infringement of competition law or damages arising from those behaviours, among others), and on matters related to general terms and contractual conditions.<sup>11</sup>

Other less common jurisdiction scenarios may arise if the action is brought against the public administration, in which case contentious-administrative courts will be competent. Criminal courts could also have the authority to decide on a collective action, based on the legal grounds brought by the claimants, as was the case in the Colza Oil.

In this case, the second chamber of the Supreme Court (the criminal chamber) awarded in a judgment of 26 September 1997<sup>12</sup> more than €3 billion to consumers listed as affected by oil poisoning, even if they were not directly represented in the proceedings by the Spanish consumer organisation OCU. This judgment resulted from criminal proceedings related to the above-mentioned Colza oil poisoning, which caused serious personal injuries to and the deaths of a large number of people. The consumer organisation OCU represented the interests of more than 20,000 people seeking subsidiary civil liability and compensation for the damages caused by the oil poisoning.

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10 Article 45 CCP.

11 Article 86 *ter* of the Act 6/1985 on the Judicial Power Organization, dated 1 July.

12 Judgment of the Supreme Court of 26 September 1997, No. 895/1997.

## Legal standing (I)

### *Types of group interests protected through collective actions*

Pursuant to general principles of civil law, the consumer whose interests have been harmed' has legal standing to promote a legal claim aimed at repairing the consequences of the unlawful and harmful event (restitution, damages or any other suitable redress measure).

The Spanish legislator does not provide individual consumers with legal standing to promote claims defending supra-individual interests (i.e. ,those that go beyond their private sphere). In fact, the Directive 2020/1828 deliberately excludes them when addressing the entities qualified to file collective actions.

As per legally constituted associations of consumers and users, they are entitled to represent and defend the rights and interests of the members of the associations, as well as the general interests of consumers and users, in the terms hereunder described.<sup>13</sup>

Article 11 of the Code of Civil Procedure foresees the main regulation on the legal standing to represent and defend collective interests. A collective action may be brought when several consumers or end users have suffered a so-called 'harmful event'. There are two types of interests that are defended through collective claims and which, in turn, generate two different type of claims:<sup>14</sup>

- Collective interest claims: actions where all members of the harmed group are previously determined or identified, can be determined or may be easily determined.<sup>15</sup>
- Diffuse interest claims: actions where the members of the harmed group are undetermined or difficult to determine.<sup>16</sup>

Despite the apparently simple distinction provided by the CCP, in practice, how to categorise a class action is not always clear for courts and practitioners.

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13 Article 11.1 CCP and article 24 Act on General Terms and Contractual Conditions and 53 Consumer Protection Act.

14 Although it does not constitute per se a third type of collective action, cease-and-desist class actions aiming to obtain a judgment declaring that certain contractual general terms and conditions are null and should not have been used or should not be allowed to be used in the future also have several specific characteristics that differ from collective and diffuse actions.

15 Article 11.2 CCP.

16 Article 11.3 CCP.

Collective actions regulated in the CCP are, in principle, bound to defend and represent consumers' interests and rights. These actions normally seek collective redress against illegal conducts in areas affecting consumer protection. The Supreme Court clarified in a judgment of 21 November 2018<sup>17</sup> that, regarding financial services, a consumer association could not bring a collective action to court if that collective action represented the interests of non-professional investors whose financial products would not be considered as consumer goods.

## Legal standing (II)

### *Collective and diffuse interests legitimation*

In the case of collective interest actions, the Code of Civil Procedure and the Consumer Protection Act foresee the active legitimation for the following groups:

- Ad hoc groups of affected consumers (known as 'platforms' in Spain). To be able to bring a collective action, consumer platforms must prove that they constitute the majority of victims affected by the alleged harmful event.<sup>18</sup>
- National (or regional) consumer institutes.<sup>19</sup>
- Consumer and user associations as well as legally incorporated entities that have the defence or protecting of consumers and users as their object.<sup>20</sup> The Directive 2020/1828 includes several requisites that these entities need to comply with in order to be able to represent consumer and users' interests.<sup>21</sup>
- The Attorney General<sup>22</sup> as well as entities authorised pursuant to European Community Regulations.<sup>23</sup>

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17 Judgment of the Supreme Court of 21 November 2018, No. 656/2018.

18 Article 6.7 CCP.

19 Article 54.1.(a) Consumer Protection Act.

20 Article 11.2 CCP. These entities must be legally constituted according to the Organic Act 1/2002, and must meet the requirements laid down in Title II of the Consumer Protection Act, which include: being a non-profit organisation; being officially registered; and having a purpose that is for the defence of consumers' and users' interests. If these associations do not comply with these requirements, the action could be dismissed on the grounds of a lack of capacity to sue.

21 Article 4.3. Directive 2020/1828.

22 Article 11.5 CCP.

23 Article 6.1.8 CCP.

- In the case of diffuse interest actions, the CCP confers active legitimation exclusively to ‘representative’ consumer associations<sup>24</sup> (apart from the general legitimation of the Attorney General<sup>25</sup> and entities authorised pursuant to European Union Law).

### *Notice requirements and the right of consumers to participate in the proceedings*

Notice requirements vary depending on the type of action:

In collective interest actions, the CCP requires claimants before initiating them to inform each potentially affected consumer by the alleged harmful event about their intention to bring the action.<sup>26</sup> If necessary, and to be able to specifically determine the consumers potentially affected, claimants may seek pre-action discovery from defendants.<sup>27</sup> Should this requirement not be fulfilled, it may lead to the claim not being admitted or material grounds arising against the continuation of the procedure.

In the case of diffuse interest actions, such actions do not require claimants to inform each consumer potentially affected by the alleged harmful event of their intention to file it. However, after the action has been filed, the court clerk will suspend the proceedings for up to two months to inform potentially affected consumers (e.g., publication in a newspaper).<sup>28</sup> Claimants are initially responsible for publication costs, although they may be considered ‘costs of the proceedings’ that may be shifted to the defendant if the class action succeeds.<sup>29</sup>

Concerning cease-and-desist actions, the CCP does not require notice to consumers.

After receiving notice, a consumer may decide to become involved in the proceedings or individually defend his or her interests through new individual proceedings. However, in diffuse interests claims, if consumers have not joined the proceeding pursuant to the summoning of the court clerk, they would not be

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24 Article 11.3 CCP.

25 Article 11.5 CCP.

26 Article 15.2 CCP

27 Article 256.1.6<sup>o</sup> CCP. The Spanish Constitutional Court Judgment No. 96/2012, of 7 May 2012 interpreted this provision very strictly, stating that these disclosure requests would only be admissible to the extent they are ‘vital’ to initiate a specific collective proceeding (the context of this judgment was a banking case, where the disclosure request was aimed to have access to a bank providing a representative consumer association a list of all its clients in Spain that had contracted interest rate swaps).

28 Article 15.3 CCP

29 Article 241 CCP.

entitled to do it later on. This is without prejudice to the possibility that these consumers may rely on the collective action judgment, even if they were not involved in the proceedings, to seek direct enforcement of their rights if the class action is successful. In fact, the Directive 2020/1828 expressly compels Member States to ensure that consumers can benefit from redress measures granted through collective measures without the need to file additional individual claims.<sup>30</sup>

### Settlement of collective claims in Spanish law

Under the CCP, there is no specific procedure to settle collective actions. Moreover, there are no relevant judicial precedents nor scholar publications properly addressing this issue, which generates great uncertainty as to the real feasibility of settling collective claims in Spain.

In absence of a specific procedure, the general rule for settling individual claims would in principle apply. Under this procedure, parties must file the settlement agreement with the court so that it can be properly certified. Agreements are certified unless they are contrary to the law or they affect the rights of third parties. The collective action settlement would have the same effect as a collective action judgment, and hence, individuals who can qualify as beneficiaries of the settlement may file an application for execution before the competent court to seek their compensation in accordance with the terms of the settlement agreement.

The Directive 2020/1828 expressly recognises that collective claims can be settled. In fact, it conditions their validity to the authorisation by the court or administrative authority of the settlement. Otherwise, it will continue to hear the action promoted, as if no settlement was reached by the parties.

### Claims aggregation

In addition to collective actions, under Article 72 CCP there is a different procedural mechanism that allows claims from different parties to be grouped together, namely a joinder of claims. Even though the joinder of several individual claims would not constitute a collective action as such, if used, joinder of claims would allow several consumer or corporate claimants to file their claims in a single lawsuit.

The only requirement under Article 72 CCP for different parties to join claims is that the individual claims have a sufficient connection. Different claims are understood to have a sufficient connection when they are based on the same

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30 Article 9.6. Directive 2020/1828.

facts.<sup>31</sup> The interpretation of these provisions varies from court to court, and some 'bad' experience in the field of consumer banking litigation has led some courts to be reluctant to permit a broad use of joinder. However, in the context of the Trucks litigation, a number of courts have allowed some limited joinder of actions and there have been calls from some forums<sup>32</sup> for a greater ordering of claims to avoid inefficient repetition of very similar claims, excessive fragmentation and risks of contradictory judgments.

Apart from Article 72 CCP regulation on joinder of claims, Article 76 CCP specifically foresees the possibility to accumulate proceedings brought to protect collective or diffuse rights and interests granted by the law to consumers and users, provided that such joinder complies with the rules foreseen in the CCP concerning the requisites for the joinder of claims.

Finally, another mechanism for aggregating claims is the use of special purpose vehicles to whom claims can be assigned. This is yet to be explored to any significant degree in Spain to date. In this vein, it must be noted that the Directive 2020/1828 binds Member States to promote measures to avoid conflicts of interests when the filing of a collective claim is subject to third-party funding.<sup>33</sup>

### Judgments in collective actions proceedings

Judgments issued in proceedings brought by consumer associations have to determine individually the consumers who will be considered as benefiting from the judgment if a monetary sanction, or a sanction including doing or preventing from doing, or giving a specific or generic thing, has been sought.<sup>34</sup> Where it is not possible to determine these individual consumers, the judgment will establish the details, characteristics and requirements that consumers must meet to be considered beneficiaries of the class action judgment. Judgments also have to

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31 In the field of consumer banking litigation it is worth citing a judgment of the Supreme Court where not all the facts in the case were identical (judgment of 21 October 2015, appeal number 2671/2012: 'Although there are indeed some differences between the circumstances in the aggregated claims (amount of the investment, issuer of the purchased product, differences in the way of contracting, etc.), the alleged facts within the exercised claims show a coincidence which, together with the uniformity of the requests made by the plaintiffs and the fact that they are addressed to the same banking entity . . . leads to the conclusion that, although we are in a borderline case, there is a sufficient connection within the claim which justifies the subjective claims aggregation.'

32 See Perales, C.: 'Spanish truck litigation case numbers risk collapsing commercial court system', PaRR 18 August 2019.

33 Article 10.1 Directive 2020/1828.

34 Article 221.1.1<sup>o</sup> CCP.

determine whether the illicit behaviour has procedural effects beyond those who had been a party to the proceedings.<sup>35</sup> If the judge considers it appropriate, the judgment may also contain an order requiring the defendant to publish the judgment in a nationwide newspaper at its own expense.<sup>36</sup>

The most common grounds for bringing collective redress actions in Spain have taken place in the field of consumer and user rights (e.g., product liability, environmental law, unfair financial terms, wrongful billing, travel contracts).

For example, and regarding product liability, the above-mentioned Consumer Protection Act (Royal Decree Law 1/2007 of 16 November) consolidated Spanish rules on liability owing to defective products. Thus, if those products were sold to consumers or users, a collective action under the CCP as explained could be used to receive the relevant compensation. Environmental issues could fall in Spain under the mentioned definition of 'collective' or 'diffuse' interests of consumers and users, which means that also a collective action could be made use of to seek relief under the CCP.

As such, there is neither a minimum nor a maximum number of claimants required to file a collective action in Spain. If the action is filed by a group of consumers or users, that group will have to prove that it represents the majority of consumers or users affected by a specific conduct.

### Class enforcement and damages distribution

If defendants do not comply with collective actions judgments, they may be subject to enforcement proceedings and fines.<sup>37</sup> Enforcement proceedings may be individually initiated by consumers<sup>38</sup> or by the Attorney General or the consumer association that initiated the class action.

If the class action judgment has not determined each individual consumer that should benefit from it, any consumer allegedly affected by the harmful event could seek a declaration from the court to be considered a 'beneficiary'.<sup>39</sup> In that case, the party who was found liable by the judgment will also be heard by the court.<sup>40</sup> However, this declaration cannot be sought until the collective action

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35 Article 221.1.2° CCP.

36 Article 221.2 CCP.

37 Article 711.2 CCP.

38 The consumers who can initiate enforcement proceedings are those who have taken part in the proceedings and those that the court has considered a 'beneficiary', as explained in this section.

39 Article 519 CCP.

40 Article 519 CCP.

judgment is final and binding.<sup>41</sup> A court will recognise a consumer as a beneficiary when, on reviewing the evidence provided by the consumer, the court verifies that the consumer is within the scope of the class definition of its judgment.<sup>42</sup>

The CCP does not contain rules regulating the creation of a common fund or how any damages awarded should be distributed. It is up to the defendants to decide how to comply with the judgments deriving from collective actions.

### Precedents in competition law

Only one private enforcement collective action has to date and to our knowledge been brought in Spain, by the consumer association AUSBANC against Telefónica owing to an anticompetitive margin-squeeze conduct. This case was dismissed on procedural grounds (the claimant association lacked sufficient representative status because the association was not registered with the specific Associations Registry).<sup>43</sup> As such, there is no legal precedent regarding the distribution of damages or settlements.

In relation to consumer collective actions brought in other contexts, courts have awarded sample damages to a class of individuals, each of whom is then able to claim damages by filing an application for execution of the sample damages judgment before any competent court.

According to Article 64.3(c) of the Spanish Competition Act No. 15/2007, the Spanish Competition Authority (CNMC) may reduce the amount of an administrative fine imposed if an infringer has adopted measures to redress the

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41 See, among others, Judgment of the Appeals Court of Madrid Number 238/2006, of December 18 (ECLI: ES:APM:2006:14196A).

42 Article 519 CCP.

43 See Judgment of the Appeals Court of Madrid Number 139/2013, of 30 September 2013 (ECLI: ES:APM:2013:2461A). Spanish procedural law does not require any specific certification mechanism of the consumer association or organisation. When admitting the collective action, the court also decides at the same time on the standing of the claimant/s, as well as on the nature of the claim (whether the claim protects collective or diffuse interests). According to Article 6.1.8 of the LEC, if the claimant is a group of affected consumers or users, the court must examine whether the group represents the majority of the consumers affected by the specific conduct. As mentioned, according to Article 11.3 of the LEC, if the lawsuit is for the protection of diffuse interests, the court must verify that the claimant is a qualified consumer organisation, which is considered to be 'representative' (e.g., the OCU in Spain). Further, the Directive 2020/1828 requires Member States to promote preliminary mechanisms that allow courts or administrative authorities dealing with collective actions to dismiss them at the earliest possible moment of the proceeding according to national law if they consider them 'manifestly unfounded'.

harm caused. There are currently no proposals to change the relevant rules on collective actions in Spain (neither in connection with competition law actions nor in general for other actions).

The European Commission published a non-binding collective redress mechanism Recommendation in 2013, which has not affected the Spanish regulation of collective actions so far.<sup>44</sup>

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44 See the Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law, OJ L 201, 26.7.2013, p. 60–65.

## **APPENDIX 1**

# About the Authors

### **María Pérez Carrillo**

#### **Cuatrecasas**

María Pérez is specialist in damages actions for breach of competition law. She also handles the resolution of disputes arising from distribution and agency agreements, unfair competition, M&A transactions, energy and telecommunications. She also regularly advises on telecommunications law.

She has extensive experience in mass litigation with multi-jurisdictional implications. She has represented large multinationals in the automotive, distribution, audiovisual, infrastructure, energy and telecommunications sectors, resolving disputes of various kinds through litigation and arbitration. She currently focuses on civil damages actions for breach of competition law and is involved in leading cases, both at the international and national level, including the trucks, decennial insurance, and fruit and vegetable packaging cartels, among others.

She also provides pre-litigation advice in complex cases and in settlement negotiations. María Pérez has developed her career in the Cuatrecasas Litigation and Arbitration Practices, having completed a secondment at Hausfeld LLP.

She is a member of the Madrid Bar Association.

She is a member of the Private Enforcement Committee of the Spanish Association for Defence of Competition and of the Spanish Arbitration Club. She lectures in the Master for Admission to the Practice of Law at the Universidad de Navarra, gives courses at other institutions, and is a regular contributor to various specialized publications.

María Pérez Carrillo speaks Spanish, English, and Italian.

## **Esther de Félix Parrondo**

### **Cuatrecasas**

Esther de Félix is a litigation lawyer specialized in court and arbitration proceedings involving distribution, agency and franchise agreements. She also has extensive experience in claims arising from company sales, unfair competition and damages actions arising from competition law infringement.

Esther de Félix specializes in civil and commercial litigation and arbitration representing leading clients in the natural resources and energy, food and beverage, and retail and consumers sectors.

She has led proceedings before the International Chamber of Commerce (ICC), the Court of Arbitration of the Madrid Chamber of Commerce, the Arbitration Board of Barcelona and ad hoc arbitral proceedings as well as before the Spanish Supreme Court in competition damages cases.

She is a member of the Spanish Arbitration Club and of the Expert Committee (Legal Section) of the Spanish Association of Franchisors (AEF).

She is the author of articles published in specialized journals, including *Economist & Jurist*, *Revista de Derecho de la Competencia y la Distribución* (Competition law and Distribution Journal) and *Anuario Contencioso* (Litigation Yearbook) and a regular speaker at conferences and seminars, she also lectures on distribution and on damages arising from competition infringement in the Master in Legal Practice .

Esther has developed her long-standing career in the Cuatrecasas Litigation and Arbitration Practice.

Esther de Felix Parrondo speaks Spanish, English, and French.

## **Adrián Yuste Bonillo**

### **Cuatrecasas**

Adrián Yuste has developed his whole career in the Cuatrecasas Litigation and Arbitration Practice, participating in a wide variety of complex commercial disputes both in litigation and pre-litigation scenarios.

Throughout his career, he has been involved in numerous disputes involving collective actions. He also specializes in Construction and Insolvency Law litigation.

He is a member of the Madrid Bar Association.

Adrián Yuste speaks Spanish and English.

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Private competition litigation has spread across the globe, raising specific, complex questions in each jurisdiction. The implementation of the EU Damages Directive in the Member States has furthered the ability of victims of anticompetitive conduct to seek compensation, even as US courts tighten the standards for forming a class action.

The *Private Litigation Guide* – published by Global Competition Review – explores in depth key themes such as territoriality, causation and proof of damages that are common to competition litigation around the world with jurisdictional overviews and Q&As. Beyond the established sites such as the US, Canada, Germany, the Netherlands and the UK, experts lay out the scene for competition litigation in countries such as Austria, China and Japan.

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