



Department  
for Business  
Innovation & Skills

## COMPETITION POLICY

Consultation: Implementing the  
EU Directive on damages for  
breaches of competition law

JANUARY 2016

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# Damages Directive Consultation

## 1. Introduction

- 1.1 The Damages Directive is designed to make it easier for businesses and individuals to claim for compensation when they have been victims of a breach of European competition law. The UK has until 27 December 2016 to implement the Directive and this document sets out how the Government intends to do so.
- 1.2 The UK Government believes that a strong competition regime is good for businesses, consumers and growth. Effective redress for breaches of competition law is an important factor in both compensating victims and in deterring future breaches.
- 1.3 Access to damages for breaches of European competition law is currently fragmented across the EU with easier access to redress in some Member States than others. The purpose of the Damages Directive is to try to bring a more standardised approach to redress and to make it easier for victims of anti-competitive behaviour to claim compensation by improving the interaction between private damages claims and public enforcement. The Directive will give victims, across Member States, easier access to the evidence they need to prove the damage suffered and more time to make their claims.
- 1.4 The UK already has a well-developed mechanism for allowing claims for breaches of both European and domestic competition law. During the negotiation of the Damages Directive, the UK successfully ensured that it was based closely on the UK model. As such, many of the requirements of the Directive are already part of UK law and implementation will require relatively small changes to the substantive law. For example, the implementation of private actions for damages in competition law which came into force on 1 October 2015 (as part of the Consumer Rights Act) saw further enhancements to the rules for seeking damages for breaches of competition law.
- 1.5 Directive 2014/104/EU of the European Parliament and of the European Council 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 (Damages Directive) was published in the Official Journal on 5 December 2014.

## 2. Aims of this consultation

- 2.1 This document sets out the UK Government's proposed approach to the relatively minor changes required to implement the Directive in the UK. Where relevant it sets out options for implementation and also explains where we feel that no action is needed. We have also undertaken an assessment of the impact on UK businesses of the changes required by the Directive; an Impact Assessment can be found online at <https://www.gov.uk/government/consultations/damages-for-breaches-of-competition-law-implementing-the-eu-directive>.
- 2.2 In the first section of this document we set out the current competition regime, our approach to implementation and the consultation process.
- 2.3 In the second section we set out the changes which are required and the policy options which we believe will enable us to meet our obligation. We are seeking your views on our overall approach and the policy options for implementation of the Directive.
- 2.4 The policy options on which we are seeking views are:
  - a. whether to implement a separate regime for breaches of European competition law (including where European competition law is applied in parallel with UK competition law) to sit alongside the regime for cases under UK competition law ("dual regime"); or whether to apply the changes required by the Directive to cases brought as a result of breaches of either European or UK law (or both) ("single regime");
  - b. how to handle the Directive's provisions on limitation periods for bringing claims for damages; and
  - c. whether we should aim to implement the changes on the October 2016 Common Commencement Date or delay implementing the changes until 27 December 2016.
- 2.5 This consultation will run from 28 January 2016 until 9 March 2016.

### 3. How to respond

- 3.1 When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.
- 3.2 You can reply to this consultation online at <https://bisgovuk.citizenspace.com/ccp/damages-directive-implementation>.
- 3.3 The consultation response form is available electronically on the consultation page: <https://www.gov.uk/government/consultations/damages-for-breaches-of-competition-law-implementing-the-eu-directive> (until the consultation closes).
- 3.4 The form can be submitted online/by email or by letter or fax to:
- Peter Durrant  
Competition Team  
Department for Business, Innovation and Skills  
Third floor, 1 Victoria Street, London, SW1H 0ET  
020 7215 8223  
[competition@bis.gsi.gov.uk](mailto:competition@bis.gsi.gov.uk)
- 3.5 A list of those organisations and individuals consulted is in Annex B. We would welcome suggestions of others who may wish to be involved in this consultation process.
- 3.6 You may make printed copies of this document without seeking permission.
- 3.7 BIS consultations are digital by default but, if required, printed copies of the consultation document can be obtained from:
- BIS Publications Orderline  
ADMAIL 528  
London SW1W 8YT  
Tel: 0845-015 0010  
Fax: 0845-015 0020  
Minicom: 0845-015 0030  
<https://www.gov.uk/government/publications?departments%5B%5D=department-for-business-innovation-skills>
- 3.8 Other versions of the document in Braille, other languages or audio-cassette are available on request.

## 4. Confidentiality & Data Protection

- 4.1 Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide, to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 4.2 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

## 5. Help with queries

- 5.1 Questions about the policy issues raised in the document can be addressed to:

Peter Durrant  
Competition Team  
Department for Business, Innovation and Skills  
Third floor, 1 Victoria Street, London, SW1H 0ET  
020 7215 8223  
[competition@bis.gsi.gov.uk](mailto:competition@bis.gsi.gov.uk)

The consultation principles are in Annex A.

## 6. Background to the proposals

### The competition regime

- 6.1 The UK has a long-established and well-developed competition regime, consisting of robust competition laws, a trusted judicial system and a world-leading competition authority.
- 6.2 Effective competition, enforced through a strong competition regime, provides an environment in which businesses can compete fairly. This encourages growth, improves productivity and creates positive outcomes for consumers and businesses.
- 6.3 Competition law does not aim to stop companies growing or becoming dominant in their field. Rather, it aims to ensure that dominant companies use their power responsibly and are open to challenge and market disruption. It also seeks to encourage vibrant, competitive markets by outlawing anti-competitive agreements between companies which harm other companies or consumers.
- 6.4 Some of the behaviours which competition law aims to tackle are:
  - Cartels, including price-fixing – where businesses agree on a specific price which would typically be above a competitive market rate;
  - bid-rigging – businesses sharing out contracts by agreeing bidding prices together in order that they win subsequent contracts; and
  - exclusivity arrangements.
- 6.5 Competition law provides the protections for businesses and consumers which are necessary to help them operate effectively. However breaches of competition law can result in businesses and/or consumers suffering a detriment. The aim of the measures described in this consultation document is to ensure that the businesses and consumers harmed by those breaches can get access to redress.

### UK and EU competition law

- 6.6 In the UK, both domestic and EU law can apply to competition cases. The Competition Act 1998 (CA98) is applied to cases which have an impact within the UK. Chapter 1 of CA98 deals with agreements (for example, cartel and market-sharing arrangements) and Chapter 2 deals with abuse of a dominant position.
- 6.7 Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) mirror the issues covered by Chapters 1 and 2 of the CA98 and apply to cases brought in UK courts which also have an impact on other EU Member States.
- 6.8 While CA98 and the competition provisions of TFEU are largely similar, they differ in some respects and different procedures may be applied depending on whether UK or EU law takes effect. For example, the European Commission has no jurisdiction over purely UK competition law and certain agreements can be exempt from purely UK competition law under section 9 of the CA98.

## Enforcement of Competition Law and Claims for Damages

- 6.9 Competition enforcement and redress involves two distinct processes which may or may not be linked. The first process (public enforcement) involves a case being taken by a competition authority or regulator with concurrent powers. These cases are brought where there is evidence of a breach of competition law and may result in civil sanctions (including structural or behavioural remedies or fines). Fines levied as a result of this process are paid to the Exchequer. Additionally, certain serious UK cartel activity may result in criminal prosecution.
- 6.10 The second process (private enforcement) is where a case is brought by an individual or business and involves a claim for damages. There are two routes for these cases to be brought:
- follow-on cases for damages are brought after a competition authority has made a decision on a breach of competition law; and
  - standalone cases are brought where there has been no decision by a competition authority about a possible breach of competition law.
- 6.11 The following courts in the UK have jurisdiction to hear claims for damages resulting from breaches of competition law:
- the High Court of England and Wales;
  - the Court of Session and Sheriff Court in Scotland;
  - the High Court of Northern Ireland; and
  - the Competition Appeal Tribunal (CAT).

### Follow-on cases

- 6.12 A follow-on claim for damages can be made where a competition authority has already made a decision that competition law has been breached.
- 6.13 In these cases a claimant can bring a claim for damages before the ordinary courts or the CAT.
- 6.14 As the competition authority will have already proved that competition law has been breached, the claimant can rely on the decision as proof of a breach. Under the current law, this only applies to decisions of the UK's competition authorities (i.e. the CMA and the concurrent regulators) or those made the European Commission. Following implementation of the Directive, decisions taken by other EU Member States will constitute prima facie evidence of a breach of competition law rather than being binding on UK courts.
- 6.15 The courts will also be required to make a decision as to whether the claimant has suffered a loss, and, if so, may award damages accordingly.

### Standalone cases



6.16 A claim for damages can be made without requiring a decision by a competition authority.

6.17 To bring a standalone case, the claimant will need to prove that a breach of competition law has occurred as well as the loss suffered in order to pursue damages through the courts.

### **Changes brought in by private actions/ Consumer Rights Act (CRA)**

6.18 On 1 October 2015 the Consumer Rights Act (CRA) came into force. Section 81 and Schedule 8 of the CRA made changes to the process for bringing private actions for damages as a result of breaches of competition law.

6.19 These changes included:

- establishing the CAT as a major venue for competition actions in the UK. The CAT will now be able to hear standalone cases (as well as follow-on cases, which it already hears) as part of its extended remit;
- bringing the limitation periods applied in CAT cases in line with England, Wales and Northern Ireland. Previously a 2-year limitation period was applied to CAT follow-on cases. Now a 6-year limitation period will be applied to competition cases (including standalone and follow-on) at the CAT; and
- allowing disclosure in private actions, including pre-action disclosure, to be permitted where the CAT determines that it is proportionate and in the interests of justice. This will include situations where the CAT judges disclosure could facilitate the fair disposal of proceedings, potentially assist the dispute to be resolved without proceedings, or save costs.

6.20 Some of the above changes pre-empt some of the provisions of the Damages Directive, for example the extension of the limitation period and ensuring the availability of disclosure in private actions.

## Implementation of the Directive

6.21 Many of the requirements set out by the Damages Directive already exist in domestic law (including the changes introduced by the Consumer Rights Act). Implementing the Directive will result in changes to a number of pieces of existing legislation, although these will result in only relatively minor changes to substantive law and procedures.

### **An overview of the Damages Directive requirements**

6.22 The purpose of the Directive is to enable claimants of competition law breaches to claim compensation more easily and in full.

6.23 This will be achieved by introducing legislation to improve a claimant's access to evidence with which to bring their claims, and to allow more time to make claims.

6.24 The Directive seeks to harmonise the rules governing damages across Member States in order that, in particular, small businesses and private individuals will have a more realistic option to claim damages for competition law breaches.

6.25 The Directive sets out the following requirements:

- disclosure of evidence – national courts can order companies to disclose evidence when victims claim compensation;
- limitation periods – to be at least 5 years, with rules around their starting point and ability to be suspended;
- joint and several liability – full compensation can be sought by the claimant from any of the infringing companies, as against seeking compensation in part from each company;
- the passing-on of overcharges – where an infringement has caused price increases which have been passed along a distribution chain, those who suffered the harm in the end can claim compensation; and
- Consensual Dispute Resolution – claimants must have access to consensual dispute resolution in order to help claimants receive their compensation without having to go to court.

6.26 Many of the requirements set out by the Directive already exist in our domestic law.

6.27 For example the Directive requires that the minimum limitation period prescribed by Member States is at least 5 years. In England, Northern Ireland and Wales this has already been met and is, in fact, 6 years. In Scotland claimants have a prescriptive period (the equivalent of the limitation period) of 5 years.

6.28 See the latter part of this chapter for further information.

## **Legislative changes required to implement the Directive**

6.29 In order to implement the Directive, amendments will be required to primary legislation and secondary legislation, including changes to the Competition Act 1998, The Civil Procedure Rules, other relevant rules of court and the Competition Appeal Tribunal (CAT) Rules.

## **Impact on the Devolved Administrations**

6.30 Legislative changes required to implement the Directive will have an impact in the Devolved Administrations. In particular, changes may be needed to the Scottish rules of court and Northern Ireland rules of court and to related legislation. The Government will work with the Devolved Administrations and relevant other bodies during implementation.

## **Implementation timetable**

6.31 The UK Government has until 27 December 2016 to implement the Directive.

6.32 After the public consultation taking place this winter the Government will then analyse the responses and publish a response in spring 2016.

6.33 Legislative changes will then be prepared in order to implement the Directive in late 2016 (either October or December).

## 7. Proposed changes to domestic competition law

### Dual or Single Regime

- 7.1 The Damages Directive only applies to cases where EU law is applied (i.e. in instances where either EU, or both EU and domestic law are applied) and not when only domestic law applies.**
- 7.2 As explained in section 1, there are two bases for competition law protections in the UK. Cases for breaches of competition law may rely on the provisions of domestic law (laws of England and Wales, Scotland and Northern Ireland) or European law (EU law). In some cases, both domestic and EU law may be applied.
- 7.3 Whether domestic law or EU law applies is determined by where the impact of the anti-competitive activity is felt – solely within the UK or in one or more other Member State of the EU.
- 7.4 In practice, UK competition authorities often apply UK and EU competition law simultaneously. As explained above, they are very similar in nature. Section 60 of the Competition Act 1998 requires domestic law to be applied in a manner which, as far as possible, is consistent with EU law. However, there are circumstances where only one or other regime applies.

An example of where only UK competition law applies would be if two roofing contractors in Borsetshire agree to rig bids for a local authority contract to fix a leaky roof on a council building in Borsetshire.

In contrast, EU competition law would apply if several German tile manufacturers with a large market share agree with several UK tile manufacturers who also have a large market share to fix the prices for tiles supplied all over Europe.

- 7.5 In practice it can be difficult to determine whether anti-competitive behaviour only affects trade within the UK or whether it also affects trade between Member States.
- 7.6 The Government's usual approach to the implementation of Directives is to copy them out as far as possible. If we apply full "copy out" of the Damages Directive it will result in a two-tier system – with one procedure for cases involving EU competition law and one for cases brought under solely UK competition law.

- 7.7 The Government believes that creating a system where there are two sets of procedures will lead to uncertainty and confusion for business, as well as higher familiarisation costs for businesses. The two systems would be largely similar but would differ in certain key respects, for example the point at which limitation periods start. We believe that this two-tier system will make it difficult for businesses and consumers to understand which regime applies to them and could result in an increase in satellite litigation, where parties contest which regime applies. While a single system will go somewhat beyond the requirements of the Directive, this would provide certainty for businesses and consumers.
- 7.8 In order to minimise the uncertainty that would result from a dual regime the Government believes that it should implement the directive as a single regime, i.e. one set of procedures which would apply whether UK law, EU law or both is applied.

**Q 1. Do you agree that implementing the Directive as a single regime would be the right approach?**

## Limitation Periods

- 7.9 One of the key areas where the Directive looks to harmonise the rules across member states relates to limitation periods.**
- 7.10 A limitation period (prescriptive period in Scotland) is the time limit for which a claimant can make a claim for an alleged breach of competition law. It is designed to provide sufficient time for a claimant to bring a claim and certainty for a defendant that they will not face claims after the expiry of the limitation period.
- 7.11 The Directive requires that limitation periods:
- shall only start when the breach of competition law has stopped and the claimant knows or can be reasonably be expected to know of the behaviour and the fact it constitutes an infringement of competition law, the fact the infringement caused harm and the identity of the infringer;
  - shall be at least 5 years; and
  - can be suspended in various circumstances, including in order to allow a competition authority to investigate the breach of competition law.
- 7.12 Changes brought about on 1st October 2015 by the Consumer Rights Act 2015 (CRA) have already implemented the requirement in the Directive that claimants should have at least 5 years during which to bring a claim. In England, Wales and Northern Ireland the limitation period is 6 years and 5 years in Scotland. As such, the Government believes that there is no need for further change to the length of limitation periods for cases brought at either the CAT or the High Court (or the Court of Session in Scotland).
- 7.13 We do not, therefore, propose making any changes to the current length in years of the limitation periods.

**Q 2. Do you agree that the current limitation period of 6 years in England, Wales and Northern Ireland and 5 years in Scotland should remain? If not, what period (it must be at least 5 years) should there be?**

- 7.14 Where we do propose change is in relation to the starting point for the limitation period and the circumstances under which limitation periods are suspended, so that they mirror the requirement of the Directive.
- 7.15 At present, the limitation periods do not explicitly provide for the claimant to have all of the required knowledge as set out in the Directive, or explicitly provide for suspension of limitation in the circumstances provided in the Directive.
- 7.16 Whilst there may be some debate as to the extent to which pre-existing limitation law could be interpreted in a manner which is compatible with the Directive, to put the matter beyond doubt we plan to copy-out the provisions of the Directive as to when limitation begins, to provide certainty to claimants and businesses.

**Q 3. Do you agree that there is a need for a new trigger point for limitation periods in order to implement the Directive fully?**

- 7.17 The Directive provides at Article 22 that Member States should not apply substantive provisions of the Directive in a manner which is retrospective.
- 7.18 The Government believes that the start of the limitation period is substantive. As such, the Government intends to transpose the Directive so that the new limitation requirements apply from the commencement of the transposition instrument i.e. October 2016 or 27 December 2016

**Q 4. Do you agree that the start of the limitation period provided for in the Directive should only apply from commencement of the implementation instrument?**

### Implementation Date

- 7.19 The UK is required to transpose the Damages Directive by 27 December 2016 (the transposition date).
- 7.20 The Government does not usually implement Directives earlier than necessary. However, the Government believes that there are advantages for business in implementing the Directive on the nearest Common Commencement Date (CCD) to the transposition date in October 2016 which would be earlier than required.

**Q 5. Do you agree that the benefits of implementing the Directive on the October 2016 Common Commencement Date outweigh the costs of early implementation?**

## Government's proposed approach to the remaining provisions

- 7.21 In this consultation document we have set out the Government's intended approach to implementing the Damages Directive, adopting an approach that we believe is best for business and consumers. In the first part of this chapter (7.1 to 7.20) we have set out the changes which we expect to carry out. In this section we set out areas where we intend to take no action or to copy out the Directive.
- 7.22 We would be keen to hear your thoughts on the Impact Assessment which is online at <https://www.gov.uk/government/consultations/damages-for-breaches-of-competition-law-implementing-the-eu-directive>.

### Existing UK law which meet the requirements of the Directive

- 7.23 As explained in the Introduction, the Government believes that many of the provisions of the Directive are already provided for in the UK. However, we plan to apply copy-out so that existing UK legislation contains all the relevant provisions of the Directive; this will necessitate changes to the Competition Act 1998 and rules of court.

### Disclosure and penalties

- 7.24 The Directive sets out strict new rules on disclosure, which require that courts have the power to order the disclosure of relevant evidence by the defendant, claimant or third parties.
- 7.25 National courts can order companies to disclose evidence when victims claim compensation. The courts will ensure that disclosure orders are proportionate and that confidential information is protected.
- 7.26 Disclosure is a well-established concept in the UK. The primary change here will be to provide for statutory protection for leniency documents, and is likely to require amending the Civil Procedure Rules.

### Passing on defence

- 7.27 The Directive sets out the principle that, if an infringement has caused price increases which have been passed along a distribution chain, those who suffered the harm in the end can claim compensation. This means that claimants may be several steps removed from the infringing company which is ultimately responsible for paying damages. In addition, it provides a defence for defendants against the claimants who have passed on the whole or part of the overcharge resulting from the infringement.
- 7.28 While it is a matter of debate as to whether the courts would identify the existence of a passing on defence in the UK, based on general principles of tort, to put the matter beyond doubt, the Government plans to explicitly provide for a passing on defence. This would require legislative amendments to the Competition Act.

## Quantification of damages

- 7.29 Article 17 of the Directive provides the national courts can estimate the amount of harm suffered by a claimant, so as to ensure it is not too difficult for a claimant to bring a claim.
- 7.30 Whilst in the UK, we would expect courts and the CAT to use the appropriate methodology for calculating the harm caused, we will explicitly provide that they may estimate the amount of harm caused. We do not propose to provide for a figure as to what harm has been estimated to have been caused; we will leave this to the courts and the CAT. These changes will require the publication of guidance for the courts and the CAT.

## Joint and several liability

- 7.31 The Directive states that the parties to anti-competitive behaviour are jointly and severally liable for damages caused. In practice, this means that a claimant does not need to bring separate claims from multiple companies, each of which is responsible for a portion of the damages. Instead, a claimant can seek full compensation from any of the infringing companies. It is then up to that infringing company to claim compensation from the other companies in order to try to recover the portion of the damages for which that company was not responsible.
- 7.32 In the UK, it is well accepted that a claimant may be jointly and severally liable.
- 7.33 However, this principle is based on case law. To ensure the Directive is properly transposed we will explicitly provide for joint and several liability, as well as introduce the required exemptions to this principle in the case of SMEs and those who have received immunity under a leniency programme. These changes will require amendments to the Competition Act.

## Consensual Dispute Resolution

- 7.34 Finally, the Directive requires that claimants must have access to consensual dispute resolution in order to help claimants receive their compensation without having to go to court. New provisions introduced by the CRA make voluntary redress schemes available to claimants and defendants.
- 7.35 This is designed to ensure that both parties can save time and money by reaching an out-of-court agreement on the level of compensation.
- 7.36 The Directive also requires the explicit suspension of limitation in circumstances where consensual dispute resolution is undertaken. We will explicitly provide for this. This will require changes to the Competition Act.

**Q 6. Do you have any comments on the Government's proposed approach to ensure effective transposition of the Directive, through ensuring that rights conferred by the Directive are transposed explicitly?**



## 8. What happens next?

- 8.1 The consultation runs until 9 March 2016. Following the close of the consultation period, the Government will publish all of the responses received, unless specifically notified otherwise (see data protection section above for full details).
- 8.2 The Government will, within 3 months of the close of the consultation, publish the consultation response. This response will take the form of decisions made in light of the consultation, a summary of the views expressed and reasons given for decisions finally taken. This document will be published on the BIS website with paper copies available on request.

## Annex A: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

### Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Angela Rabess  
BIS Consultation Co-ordinator,  
1 Victoria Street,  
London  
SW1H 0ET

Telephone Angela on 020 7215 1661  
or e-mail to: [angela.rabess@bis.gsi.gov.uk](mailto:angela.rabess@bis.gsi.gov.uk)

However if you wish to comment on the specific policy proposals you should contact the policy lead (see section 5).

## Annex B: List of Individuals/Organisations consulted

We shall be contacting as wide as possible range of organisations during the consultation period, including:

(Please note that we shall be expanding this list ahead of consultation, and at this time the list below is purely to give an idea of those we intend to contact.)

Ashurst LLP  
Baker and MacKenzie  
Bar Council of England and Wales  
Brick Court Chambers  
British Chambers of Commerce  
British Institute of International and Comparative Law  
British Private Equity and Venture Capital Association  
Charles River Associates  
Citizens Advice  
Citizens Advice Scotland  
City of London Law Society  
Civil Aviation Authority  
Clifford Chance  
Competition Appeal Tribunal  
Competition Law Association  
Competition Law Forum  
Competition and Markets Authority  
Confederation of British Industry  
Consumer Council for Northern Ireland  
DLA Piper  
Edwards Wildman Palmer UK LLP  
ESRC Centre for Competition Policy  
European Commission  
Federation of Small Businesses  
Financial Conduct Authority  
Financial Services Consumer Panel  
Forum for Private Business  
Freshfields Burckhaus Deringer LLP  
Hausfeld & Co. LLP  
Herbert Smith Freehills LLP  
Hogan Lovells International LLP  
Industrial Communities Alliance  
Institute of Directors  
King's College London  
The Law Society  
The Law Society of Scotland  
Law Society of Northern Ireland  
Linklaters  
Local Government Association  
London School of Economics  
Matrix

Monckton Chambers  
Monitor  
National Council for Voluntary Organisations  
Norton Rose Fulbright  
Office of Communications (Ofcom)  
Office of Gas and Electricity Markets (Ofgem)  
Office of Rail and Road (ORR)  
Oxera  
Payment Systems Regulator  
Senior European Experts Group  
Slaughter and May  
Solicitor's Regulation Authority  
Trades Union Congress  
UK Competitive Telecommunications Association  
UK State Aid Law Association  
University of East Anglia  
University of Strathclyde  
Utility Regulator for Northern Ireland (NIAUR)  
Water Services Regulation Authority (Ofwat)  
Which?  
39 Essex  
6KBW College Hill

## Annex C: Damages Directive response form

A copy of this consultation can be found at:

<https://www.gov.uk/government/consultations/damages-for-breaches-of-competition-law-implementing-the-eu-directive>

You can also complete your response online through:

<https://bisgovuk.citizenspace.com/ccp/damages-directive-implementation>

Alternatively you can email or post the completed response to:

Peter Durrant  
Competition Team  
Department for Business Innovation and Skills  
3<sup>rd</sup> Floor, 1 Victoria Street, London SW1H 0ET  
020 7215 8223  
[competition@bis.gsi.gov.uk](mailto:competition@bis.gsi.gov.uk)

The closing date for this consultation is 9 March 2016

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see page 6 for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential

Comments: [Click here to enter text.](#)

Your details:

Name:

Organisation (if applicable):

Job title (if applicable):

Address:

Telephone number:

Please tick the box from the list that best describes you, your company or your organisation:

	<b>Respondent type</b>
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

### Question 1

**Do you agree that implementing the Directive as a single regime would be the right approach?**

Yes       No       Not sure

Comments:

### Question 2

**Do you agree that the current limitation period of 6 years in England, Wales and Northern Ireland and 5 years in Scotland should remain? If not, what period (it must be at least 5 years) should there be?**

Yes       No       Not sure

Comments:

### Question 3

**Do you agree that there is a need for a new trigger point for limitation periods in order to implement the Directive fully?**

Yes       No       Not sure

Comments:

#### Question 4

**Do you agree that the new limitation requirements should only apply from commencement of the implementation instrument?**

Yes       No       Not sure

Comments:

#### Question 5

**Do you agree that the benefits of implementing the Directive on the October 2016 Common Commencement Date outweigh the costs of early implementation?**

Yes       No       Not sure

Comments:

#### Question 6

**Do you agree that the provisions in paragraphs 7.1 to 7.36 implement effectively the relevant Articles of the Directive? If you do not agree, please explain where you feel UK legislation does not implement the requirements of the Directive.**

Yes       No       Not sure

Comments:



**Do you have any other comments that might aid the consultation process as a whole?**

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No



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**BIS/16/6**