
THE GLOBAL REGULATORY DEVELOPMENTS JOURNAL

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UK Government Signals Expansion of Consumer Class Action Regime

Jeremy Andrews, Patrick H. Reilly, James Wagner, and Emily J A Evans*

In this article, the authors discuss the trend in the United Kingdom toward bringing its consumer protection rules more into line with those of the European Union.

The landscape for collective actions in England and Wales is in a state of flux. A number of government-initiated reviews suggests further reform is on the horizon. The future is uncertain, but this article identifies a number of elements at play, which, taken together, may herald a far broader “class action” regime than currently exists in the jurisdiction.

Current Opt-Out Regime

The current regime for opt-out collective actions in the United Kingdom was introduced by the Consumer Rights Act 2015, which itself resulted from a government consultation on proposed reforms to competition litigation. The Act allowed opt-out claims to be brought in the Competition Appeal Tribunal (CAT) only.

The ten years since the Act came into force have seen claimant law firms increasingly seeking to “shoehorn” claims into the CAT with a view to taking advantage of the opt-out regime. In one well-publicised example—the “boundary fares” case¹—when rejecting the class representative’s claims, the CAT stated that “competition law is not a general law of consumer protection.” As well as giving rise to a degree of artificiality, the rise in actions being brought before the CAT has placed strain on its resources.

The UK government is now considering several potential reforms in this area.

Litigation Funding Review

Third-party litigation funding is integral to the viability of mass claims, particularly opt-out class actions. The viability of funding models was threatened by the Supreme Court of the United Kingdom's *PACCAR*² decision, which held that third-party litigation funding agreements which provided for the funder's fee to be based on and determined by reference to a percentage of the proceeds from a claim are damages-based agreements, and unenforceable against the recipient of funding unless they comply with certain rules.

The wide-reaching impact of this decision led the UK government to commission the Civil Justice Council (CJC) to carry out a review of litigation funding in England and Wales. The CJC's final report was published in June 2025. It highlighted the potential link between litigation funding and the spiralling costs seen in mass litigation, going on to recommend (among other things) the regulation of such funding and the introduction of legislation to reverse the decision in *PACCAR*.

Opt-Out Regime Review

Close on the heels of the CJC report, in August 2025 the Department for Business and Trade (DBT) launched a review of the operation and impact of the CAT's opt-out regime a decade on from its introduction via the Act. The original call for evidence recognised that the expansive use of the CAT's opt-out litigation procedure was placing significant burdens on businesses operating in the United Kingdom. The DBT's review seeks recommendations on potential improvements to the opt-out regime and the ability of consumers to hold businesses accountable in a way that is "accessible, efficient, and proportionate." A key focus of the review is the scope of the existing opt-out regime and establishing certainty for businesses around the certification process for claims brought in the CAT. The DBT's review is to take account of existing work relevant to the regime, including the CJC's report and stakeholders' responses to specific questions raised.

The call for evidence is now closed, and the UK government's response and proposals are awaited. These will be the subject of a separate consultation.

Consumer Class Actions Review

In parallel with the DBT review of the opt-out regime in the CAT, the UK government has asked the Law Commission of England and Wales to assess whether the enforcement of consumer laws in the United Kingdom could be strengthened via a dedicated consumer class actions regime, to operate outside the CAT. With an initial scoping questionnaire having been published in April 2026, the Law Commission's project aims to:

- Identify the benefits and risks of introducing a consumer class action regime, considering alternatives such as public enforcement and alternative dispute resolution;
- Recommend the design of such a regime, including whether claims should be opt-in and/or opt-out, and how classes and proceedings should be managed;
- Improve access to redress for consumers, ensuring efficient litigation at proportionate cost and effective distribution of damages; and
- Address concerns around litigation culture, the effectiveness of current opt-out regimes, and potential exploitation.

The review will also consider the conclusions of the DBT's review of the CAT's opt-out regime. The Law Commission expects to start work on the project in the autumn, and responses to the scoping questionnaire are due by 30 October 2026.

In Summary

- Third-party litigation funding is integral to the viability of mass claims, particularly opt-out class actions. The viability of funding models was threatened by the Supreme Court of the United Kingdom's *PACCAR* decision.
- The CJC carried out a review and recommended the regulation of litigation funding and the introduction of legislation to reverse the decision in *PACCAR*.
- The DBT launched a review of the operation and impact of the CAT's opt-out regime. The UK government's response and proposals are awaited.
- The UK government has asked the Law Commission of England and Wales to assess whether the enforcement of

consumer laws in the United Kingdom could be strengthened via a dedicated consumer class actions regime, to operate outside the CAT.

- The DBT's reviews into the CAT's opt-out regime and the introduction of a consumer class action regime reflect a policy trend toward modernising the UK consumer protection landscape to bring it more into line with EU jurisdictions.

A Shift Toward EU Standards of Consumer Protection?

When viewed alongside the UK government's overhaul of the product safety regime, the DBT's reviews into the CAT's opt-out regime and the introduction of a consumer class action regime reflect a policy trend toward modernising the UK consumer protection landscape to bring it more into line with EU jurisdictions. It is not yet clear if any of the regulations that are ultimately implemented will be as stringent as the EU Representative Actions Directive, the EU General Product Safety Regulation, or the EU Product Liability Directive. However, the direction of travel for the introduction of a more full-throated class action regime and revamped product safety framework seems to demonstrate the UK's commitment to maintaining some level of equivalence with its European neighbours.

It is to be hoped that an equilibrium is achieved between the protection of consumers on the one hand and that of business on the other.

Notes

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1. *Justin Gutmann v. First MTR South Western Trains Limited, London & South Eastern Railway Limited, Govia Thameslink Railway Limited & Others* [2025] CAT 64.

2. *R (on the application of PACCAR Inc and others) v. Competition Appeal Tribunal* [2023] UKSC 28.