Fixing the damages
– expected effects of the application of the Damage Directive –

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OVERVIEW

1. Increasing awareness of claimants’ right to compensation

2. NCA’s support and assistance in quantifying harm in competition cases
Increasing awareness of claimants’ right to compensation

- Increasing chances to claim and obtain compensation
  - Consumers, small / medium enterprises
    - weaker class action system (compared to US)
  - Public administration
    - bid rigging and pharmaceutical markets
  - Binding effect
  - Increasing available information
    - on administrative and jurisdictional proceedings
(2)
NCA’s support and assistance in quantifying harm in competition cases

- **Previous models of cooperation** (art. 15 Reg. 1/2003)
  - Requests by the Courts to the Commission (par. 1)
  - Amicus curiae intervention (par. 3)
    - … *largely under-used*

- **Assistance in damage quantification**
  - Is this mechanism really capable of working?
    - *largely depend upon Courts’ / national system*
    - NCA cannot work as a technical advisor
(2) NCA’s support and assistance in quantifying harm in competition cases

- **Two possible scenarios:**

  1. Follow-on cases
     - *NCA is not a third-party*
     - *NCA could clarify certain aspects of its decision*

  2. Stand-alone cases
     - *not appropriate (ex. proceedings ongoing, complaints dismissed for lack of priority/no ground for action)*
     - *NCA could provide for similar cases relevant for the quantification of the damages*
Greater attention to:

- economic analysis
- effects of the infringement in ‘by object’ case
  - support the decision before the Court
  - legal value of effects’ demonstration