

Legal Alert

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Edward Bekeschenko
+7 495 7872717
ed.bekeschenko
@bakermckenzie.com

Vladimir Khvalei
+7 495 7872724
Vladimir.Khvalei
@bakermckenzie.com

Anton Maltsev
+7 495 7879764
Vladimir.Khvalei
@bakermckenzie.com

Maxim Kalinin
+7 812 303 90 00
maxim.kalinin
@bakermckenzie.com

www.bakermckenzie.com
Baker & McKenzie —
CIS, Limited

White Gardens, 10th floor
9 Lesnaya street
Moscow 125196 Russia
Tel.: +7 495 787 27 00

BolloevCenter, 2nd floor
pereulok Gritsova, 4A
Saint Petersburg 190000, Russia
Tel: +7 812 303 90 00

Businesses await product liability class actions

From 1 October 2019, Russian consumers will be able to sue businesses by way of group (class) actions uniting people with identical claims to a defendant.¹

For a long time, many small claims, predominantly from consumers, did not make it to the courthouse. It was too difficult for the claimant to bring a case to court, and too costly to pass the case on to lawyers. Now, small claims can be combined in a large pool handled by a professional (e.g., a consumer protection association).

Combining the claimants in a group allows them to share costs and, by doing so, seriously save on legal representation. For respondents, group actions could be dangerous primarily due to so-called fines for failing to settle the consumer claim amicably. Under Russia's current laws, such a fine amounts to 50% of the compensation awarded by the court to the claimant consumer.

As the overall claim amount in a group action can be significant, the 50% fines can also be quite large in value.

This development could lead to a growth in the number and size of lawsuits against businesses, particularly in the area of consumer goods (FMCG): food, clothes, cosmetics, perfumes, consumer electronics, cars, motorcycles, etc.

Group actions will fall under the exclusive jurisdiction of civil courts at the location of the defendant. This should prevent forum shopping, that is, the movement of such cases to jurisdictions convenient to claimants, including distant Russian regions.

A lawsuit is considered to be a group action if it is brought by at least 20 individuals. New claimants can join existing groups of claimants. However, new claimants may also launch parallel individual cases against the same respondent and on the same subject matter, whether in the same court or in a different court determined under procedural rules currently in effect. At the same time, should such an individual case be initiated, its consideration by the court must be halted until a judgment is issued in the group action.

Taking into account the added risk of money claims, businesses are advised to avoid a buildup of identical consumer claims (including small claims) relating to the same goods or services and take precautions to reduce the overall number of such claims.

This LEGAL ALERT is issued to inform Baker McKenzie clients and other interested parties of legal developments that may affect or otherwise be of interest to them. The comments above do not constitute legal or other advice and should not be regarded as a substitute for specific advice in individual cases.

¹ As a result of adoption of Federal Law No. 191-FZ "On the Introduction of Amendments into Certain Legislative Acts of the Russian Federation" of 18 July 2019.
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