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**Consumer Dispute Resolution in the Financial Services Sector**

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# Consumer Dispute Resolution in the Financial Services Sector

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UNCTAD Research Partnership Platform, July 2017

# Structure

- 1. Introduction**
- 2. Access to justice in the financial services sector**
- 3. International and European framework**
- 4. Barriers to consumer redress**
- 5. Mass action example in the UK**
- 6. Conclusions**

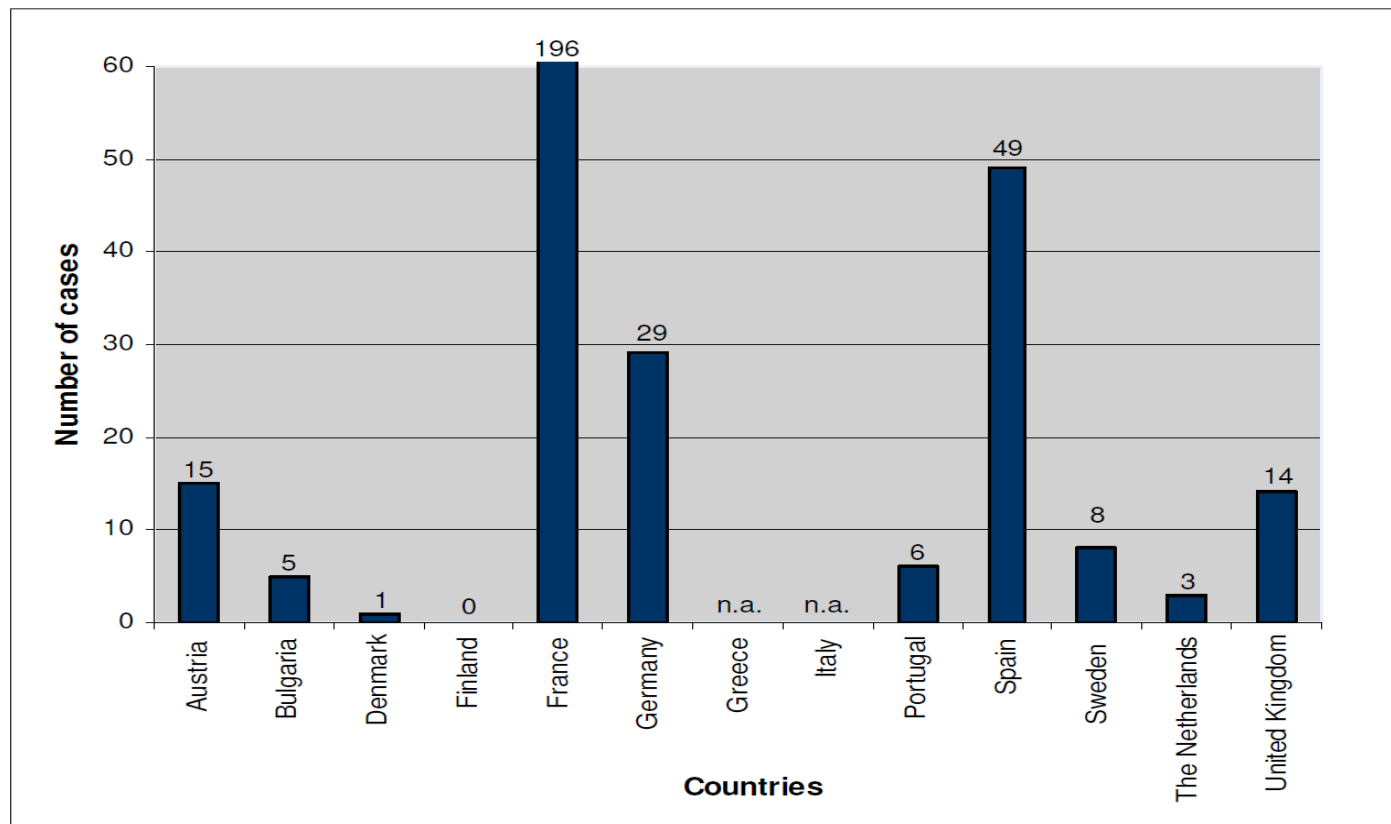
# Introduction

- Context
- Different means of redress
- High number of collective actions claims
- EU Study and data

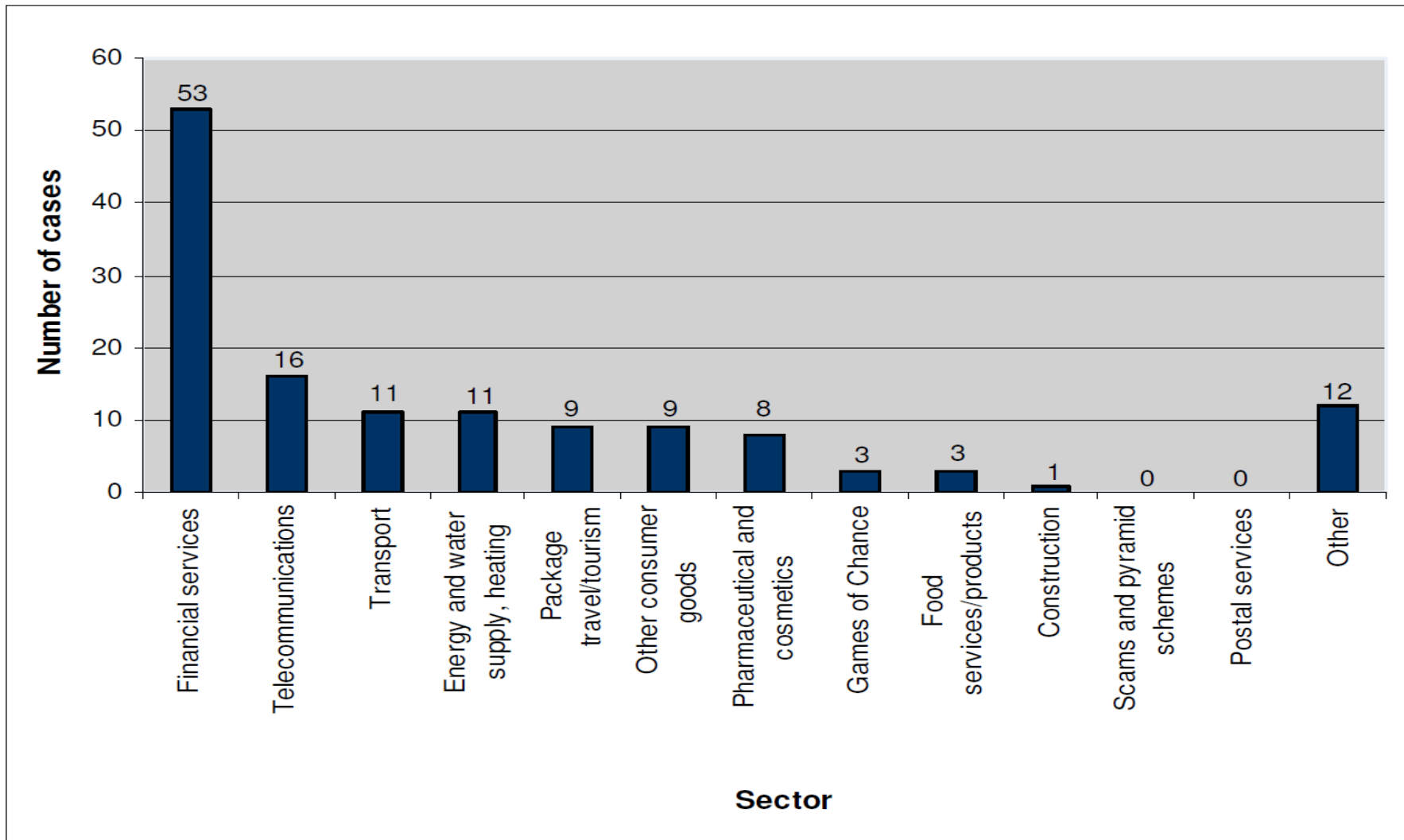
# EU study (2008) Oxford Economics

- Highest numbers of cases per country including financial services

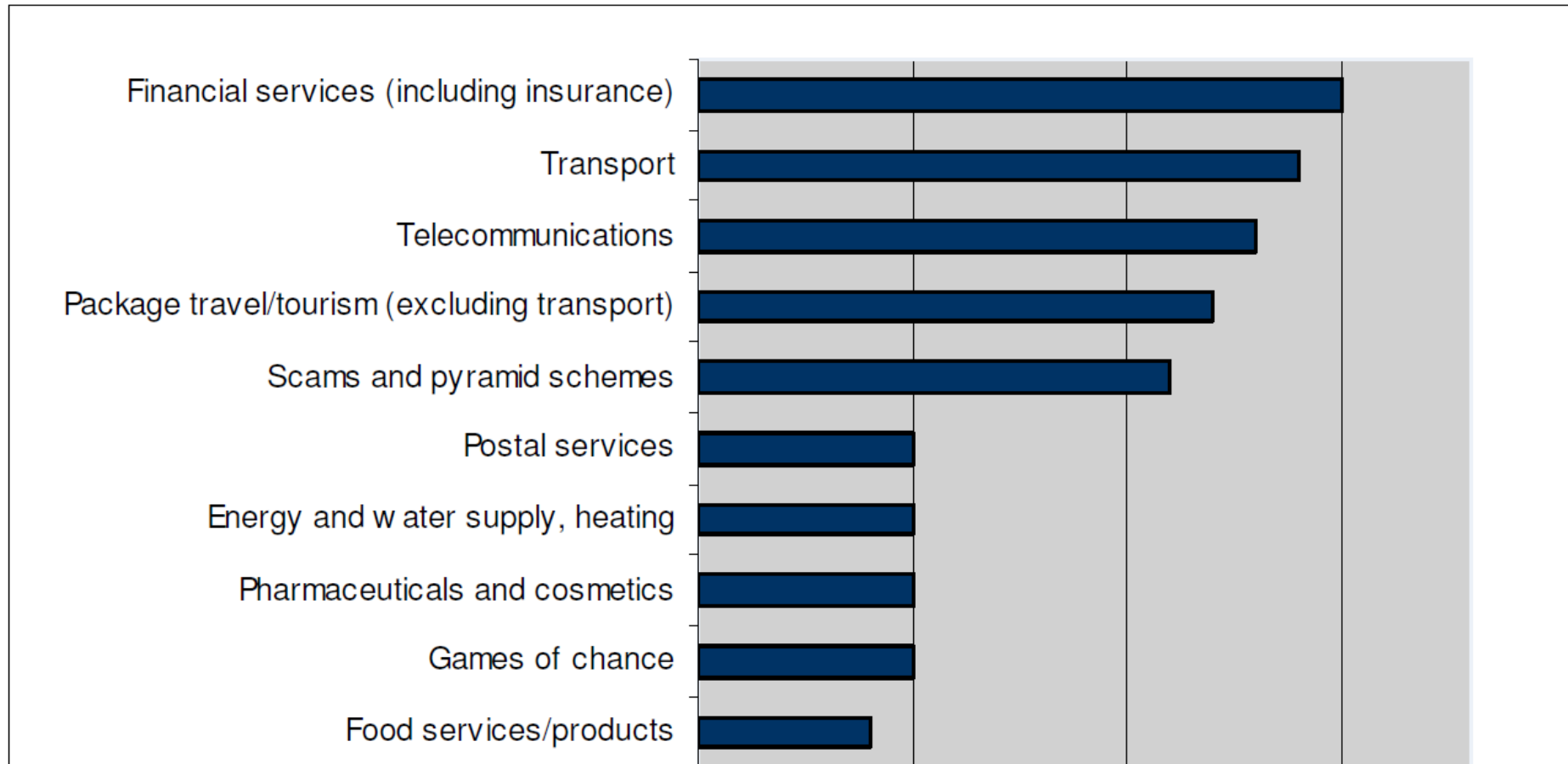
Figure 1: Collective redress cases per country



# Number of cases by economic sector



# Sectors in which it is most difficult to obtain redress (non-business stakeholder opinion) (source Civic Consulting)



# International recommendations

- World Bank best practices on financial consumer protection
- UN Guidelines for Consumer Protection
- OECD Recommendation on Consumer Dispute Resolution
- Commission Recommendation on collective redress mechanisms





# EU approach (2013): Recommendation on Collective Redress



- Member States should introduce collective redress mechanisms
- Sets out a **number of common European principles** for such mechanisms
  - Procedures should be **fair, equitable, timely** and **not prohibitively expensive**
  - Collective redress systems should be based on the "**opt-in**" principle
  - **Procedural safeguards** to avoid abuse of collective redress systems (e.g. MS should **not permit contingency fees** risks)
  - **Alternative Dispute Resolution**

# EU Initiative on Consumer ADR (2013)

- **EU ADR Directive**

- MS have to make ADR schemes available to consumers (2015)
- Sets consistent standards for all ADR providers
- The UK has introduced new legislation, obliging traders to inform consumers whether they are willing to use an ADR scheme and which one they will use

- **Regulation on Online Dispute Resolution (ODR)**

- EU-wide online dispute resolution platform for disputes arising from online transactions
- The platform links national ADR entities, operates in EU languages, is free of charge
- Consumers are able to submit a complaint through the ODR platform, which notifies the trader

# Obstacles to redress in financial services

- **Key obstacles** (Civic Consulting study):
  - Cost of litigation
  - Length of judicial proceedings
  - Lack of awareness among consumers and lack of experience by judges
  - Limited resources of consumer organisations to bring claims
  - No collective redress mechanisms
  - No relevant/adequate ADR scheme available for mass issues

# Key areas of infringement

- Overcharges collected by banks
- Unfair terms in contracts, imposing extra costs or giving companies strong rights and little liability
- Misleading information and fraud
- Fees for unsolicited financial services

# Example of a major mass claim: Payment Protection Insurance (PPI)



- PPI mis-selling in several EU countries, leading to consumer detriment and complaints (e.g. UK, France, Spain, Netherlands, Ireland).
- PPI: insurance products providing coverage to buyers of financial products (loans and mortgages), covering for inability to make payment. The risks covered by the policy usually are accidents, sickness and unemployment.
- Consumers received misleading information (on *cover*, *cost* and *necessity* of the policy) distorting their choice.

# The resolution of PPI cases in the UK

- Individual redress and collective redress
- Financial Services Ombudsman (FOS): complaints and mass settlement
- The Financial Services Authority conducted enforcement cases and imposed fines on companies.
- Firms paid out compensation to consumers on miss-sold policies.

# Conclusions

- Consumers face barriers to enforce their rights in courts
- Difficulties to enforce small claims and cross-border CR claims
- Efficient and cost-effective collective redress and ADR schemes
- Binding and independent ADR schemes