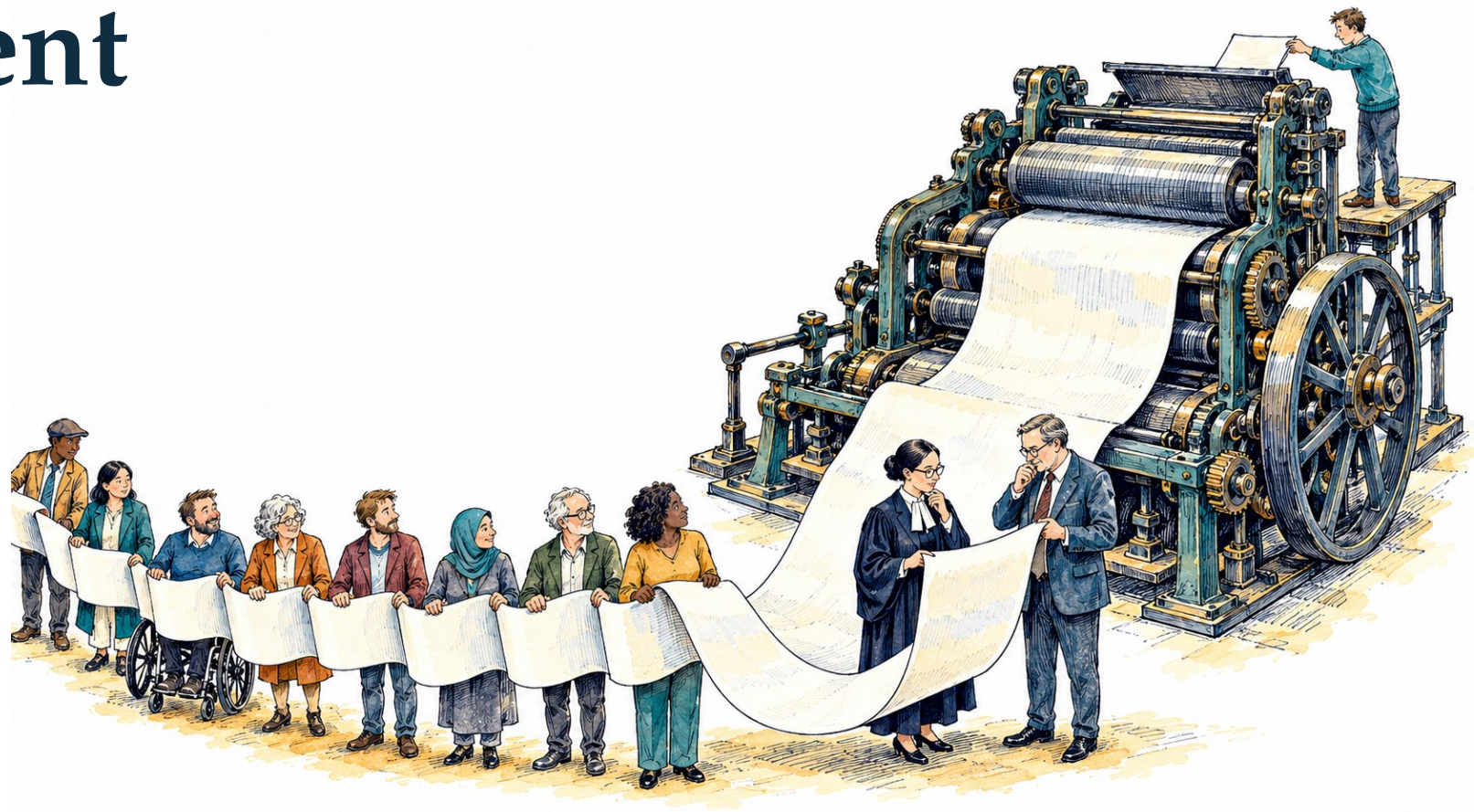
Collective Redress Changes the Economics of Enforcement



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The Individual Enforcement Gap

A right can be difficult to exercise

People may lack the information, expertise or resources to challenge opaque processing.

Representation pools costs and evidence. It can make a systemic practice contestable.



Public enforcement does not generally provide individual compensation.

A Small Claim Can Become a Large Dispute

€12 × **2 million**

compensable damage per person

people with that damage

€24 million

Illustration assumes infringement, damage and causation for each person. Participation, limitation and differences within the group can change recovery.

One Practice Can Face Several Proceedings

Public enforcement

Systemic compliance and corrective measures.

Private proceedings

Representation, damage where relevant and the remedy sought.



C-132/21 requires national coordination that protects rights and consistent application.

The Routes Overlap

GDPR Article 80

Mandated representation. Compensation under Article 80(1) depends on national provision.

Member States may permit specified actions without a mandate under Article 80(2).

Representative Actions Directive

Qualified entities seek consumer injunctions and redress. Annex I includes the GDPR.

Consumer protection also covers unfair commercial practices and unfair terms.

One digital journey can raise overlapping claims. Standing, proof and national procedure remain decisive.

The Remedy Determines the Proof

Article 82 compensation

Infringement + Damage + Causation

All three are required. There is no minimum seriousness threshold for damage.

An injunction can change the practice

Under the Directive, individual damage and the trader's intent or negligence need not be proved for an injunction.

Doctrine Becomes Geography

EU rights operate through national procedures. Those conditions shape whether a collective claim is viable.

Standing

Participation

Funding

Costs

Evidence of harm

Admissibility

— **Viable claim**

Jurisdiction and applicable law constrain forum choice. Aggregation still requires coherent interests and evidence.

Funding Changes Claim Viability

Access

Funding helps a group afford technical evidence and legal work.

Independence

Article 10 addresses funding conflicts and improper influence.



Commercial return alone does not establish abuse.

AI Scales Initiation

Initiation becomes cheaper

Tools can help people compare notices, exercise rights and organise a claim.

Assessment still needs evidence

Facts and legal scrutiny remain costly. Volume or templates alone do not establish abuse.



Lower barriers to access need assessment capacity that keeps pace.

Accountability Enters the Courtroom

ICCL v Microsoft Ireland Operations Ltd 25 September 2026

Claimant's foundation

Establish controller status, personal data processing and circumstances engaging the relevant duties.

Controller's compliance

Where compliance is in issue, demonstrate it. Articles 5(2) and 24(1) place the ultimate legal and evidential burdens on the controller.

Preliminary ruling in an injunction action. The court has not decided infringement or compensation.

What Does a Decision Settle

What remains open?

Different people, periods, evidence or remedies can justify a later proceeding.

Article 15 gives final decisions on infringements harming collective consumer interests an evidential role for the same trader and practice.



Effective access and meaningful finality belong in the same system.

Could You Reconstruct the Practice Tomorrow

Decision and implementation

Why was this practice chosen? Which version actually ran, and when did it change?

People and consequences

Who encountered it? What evidence supports compliance, harm and a workable remedy?



Correct the practice while preserving lawful evidence of what happened.

Harm Procedure Remedy

Harm
Procedure
Remedy

CIPL's calibration agenda

Clear damage evidence

Connected proceedings

Credible representation

Reasoned sequencing

Substantiation safeguards

Collective redress needs effective access and meaningful finality.

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From Individual Rights to Industrial Litigation

The Transformation of GDPR Enforcement

Read the CIPL report

