

# The European Community and consumers

## European File

The variety and complexity of the goods and services available to consumers often cause confusion and frustration. Over the years, as prosperity has increased, marketing conditions have been transformed and the traditional relationship between supplier and consumer has been overturned. At one time the consumer shopped locally in a limited market where he often knew the suppliers personally. Nowadays the consumer faces a mass market where producers and retailers are more or less faceless, have gained considerable power through the process of mergers and are in a better position than the shopper to control market conditions. For this reason, consumers are becoming increasingly conscious of the quality and safety of goods. They crave objective information on which to base their purchases, according to their needs and financial means. They also want an improved right of redress if the goods or services purchased do not match up to expectations.<sup>1</sup>

For these reasons, consumers have formed associations to protect their interests. The growing strength of such organizations in the 1960s forced governments to create public services for consumers and introduce new laws to protect them. The European Community has not been immune to this process.

### **When the Community and consumers meet . . .**

There is no specific reference to consumer protection policy in the treaties which set up the European Community. But these treaties do speak of 'constant improvement of living and

<sup>1</sup> This file updates and replaces our Nos 13/79 and 13/81.

working conditions' and the promotion of 'a harmonious development of economic activities, a continuous and balanced expansion, an increased stability, an accelerated raising of the standard of living'. In the event, the creation of the European Community has had a rapid and significant impact on the daily lives of consumers:

- A common market has been established between European countries. The abolition of customs barriers has widened the choice of goods and services.
- The common agriculture policy is supposed, according to the Treaty of Rome, to ensure the security of food supplies and 'reasonable prices for consumers'.
- European competition law forbids unfair trading practices which could force up consumer prices.
- Finally, the Community is to a large extent open to the world market. The common customs tariff has been lowered, free trade agreements signed with other countries in Western Europe and cooperation agreements with Mediterranean countries and developing States in Africa, the Caribbean and the Pacific. All this has meant an even wider choice of goods and services.

At their meeting in Paris in 1972 the Community Heads of State or Government insisted that economic development must mean an improvement in the quality of life. This gave a green light for a European consumer policy. The first steps were:

- The establishment of a service and then a directorate general for environment and consumer protection in the European Commission;
- The establishment of a consumers consultative committee;
- The adoption by the Council of Ministers in April 1975 of a first consumer information and protection programme. Five basic consumer rights were proclaimed: the right to safeguards for health and safety, the right to economic justice, the right to redress of damages, the right to information and education and the right to consultation. These rights were to be implemented by concrete measures and also taken into account in other Community policies, such as agriculture, the economy, social affairs and the environment.

The new European consumer policy was based on the principle that free movement of goods could cause problems for the consumer, as well as benefits. How was the consumer to be protected from harmful imports from other Member States? The Community replied to this question with an array of directives which sought simultaneously to abolish non-tariff barriers to trade and guarantee the highest degree of safety and health protection for consumers. These directives harmonize national legislation and therefore reduce disparities in the competitive positions of producers and distributors. Without imposing spurious standardization on traditional produce destined essentially for local consumption, directives of this kind allow mass production, with reduced cost margins, of goods which satisfy consumer requirements in all Member States.

Since 1975 a variety of steps have been taken to implement the consumer rights outlined in this programme. But, at the same time, the deepening of the world recession has forced a number of new departures. A new European consumer protection programme approved by the Council of Ministers in April 1981 confirmed the guidelines and objectives of 1975 and focused on a number of new factors:

- With real wages falling or rising only slowly, increased unemployment and Europe's dependence on imported energy, consumers were more than ever determined to get the full value for their available cash, in other words 'value for money'. Action to defend consumer interests must pay increasing attention to two issues: the cost of goods and services on which the Community can have a direct impact, notably through the common agriculture policy and competition policy; the quality of public and private services, which take an increasing share of household expenditure.
  
- A many-faceted approach to consumer protection was needed. New regulations would continue to be necessary, whether at national or Community level. But defensive action of this kind must be supported by positive action. The intention must be to allow the consumer to influence important economic decisions which have an enormous bearing on him as purchaser or user and greatly affect his living conditions. Such a policy would mean that the consumer movement would improve its understanding of the interests of producers, distributors and public and private providers of services, in the light of current economic and social conditions, while continuing to provide a platform for the expression of consumer interests. Such a dialogue between producer and consumer could lead, without the need for a forest of regulations, to the creation of specific agreements on such things as after-sales services and professional ethics.

The fact remains that, since the adoption of the 1981 action programme, the economic crisis has promoted the resurgence of protectionist practices. The battle against such practices, which undermine the very concept of a common market, is one of the top priorities of the Community. In the long term, protectionism destroys more jobs than it saves. It reduces the range of products on the market and restricts consumer choice. It also limits competition and allows prices to rise and the quality of goods to deteriorate. A 1979 judgment by the European Court of Justice reaffirmed the principle that all goods legally manufactured and marketed in one member country must be allowed into the others. The judgment said that national technical regulations, even if applied equally to domestic and imported goods, must not be allowed to create a barrier to trade except for overriding reasons such as the protection of public health or consumer interests. The court laid down that an 'overriding reason' must be something which, by its very nature, takes precedence over the free movement of goods. This judgment, made in the 'Cassis de Dijon' case, is of prime importance for consumer interests. It should not, however, be taken to undermine the need for the harmonization of a range of technical standards in the Community. Consumer protection is often best served by substituting a European standard for a less than rigorous national one.

Given these parameters, what are the achievements and aims of the European consumer policy in implementing the basic rights set down in 1975?

## The health and safety of consumers

Goods and services should present no risk to the consumer in normal conditions of use. This is the principle on which a series of European directives have been introduced to harmonize national legislation and permit, simultaneously, better protection for consumer health and safety and the free movement of goods. These directives apply to:

- Foodstuffs:** lists of permitted substances and purity x standards have been established for certain foodstuff additives, such as colourings, anti-oxygen agents, preservatives, emulsifiers, stabilisers and gelifiers. Pesticide residues in fruit and vegetables, and the presence of erucic acid in oils and fats for human consumption have been limited to maximum levels. Regulations also govern the composition, method of manufacture and naming of products such as honey, fruit juice, tinned milk, cocoa and chocolate, coffee and chicory extracts, mineral waters, jams and marmalades and chestnut puree. Another directive deals with specialized foodstuffs, such as products for special diets. Yet another lays down rules for the presentation and labelling of foodstuffs. These must include ingredients, quantity and a 'use by' date. Rules also exist on price labelling. A number of directives deal with the problem of substances which come into contact with foodstuffs. These apply, in particular, to dangerous substances which might contaminate foodstuffs if they are included in the packaging. Quality standards have been applied for intra- and extra-Community trade in fresh meat. A recent decision banned the use for fattening animals of certain substances with hormonal or thyrostatic effects. Work is under way on measures to control the use of anabolic substances. Other measures under consideration would affect aromatic materials, substances for treating the surface of fruits, vegetables and cheeses, baby foods, frozen products and shell-fish. To carry out this work, the European Commission calls on the assistance of high-level expert committees. These include the scientific committee on human foodstuffs, the scientific committee on animal foodstuffs, the standing veterinary committee, the scientific committee on pesticides and the consultative committee on foodstuffs.
- Cosmetics:** a European directive regulates the contents, labelling and packaging of cosmetics. It also forbids the use of certain substances and places others, such as colouring agents and preservatives, under strict conditions and restrictions. Directives also cover the adaptation of the substances involved to technical developments and the inspection of the composition of products before they reach the market. The Commission is assisted in this area by a scientific committee on cosmetics.
- Textiles:** directives deal with the classification of textiles and the labelling of their contents as well as ways of checking the relative contents of mixed fibre products. The Commission is also planning investigations into the inflammability of textiles and the use of substances which could present a hazard to health. The use of one fireproof substance, TRIS, has already been forbidden in certain types of clothes. The Commission takes part in the work of international standards organizations.
- Dangerous substances:** directives control the classification, marketing, labelling and use of many toxic substances, such as pesticides, solvents, paints, varnishes, printers'

inks, glues and asbestos. Action is also planned to control other dangerous products (especially household items), which can create problems of safety and improper use when widely marketed. Community measures are expected to include provisions for recognition by touch (to help the blind) and safety catches (to protect children).

- Pharmaceuticals:** directives exist which authorize the marketing of pharmaceuticals (and permit this authorization to be suspended or withdrawn). They also control the labelling of pharmaceuticals and the tests which they have to undergo.
- Manufactured goods:** a number of directives have been introduced to ensure the safety of motor cars. The Commission has also proposed directives to control the safety of toys.
- Accident information:** a pilot programme has been started, with the close cooperation of national authorities and the Commission, to test the feasibility of a Community information bank on the numerous accidents which happen in the home. At the same time, the Commission has called for a system of speedy information exchange in the Community on dangers posed by consumer goods.

### **The economic interests of consumers and the remedy of damages**

Consumers must be protected against abuses by producers and faulty goods. This fundamental right is sometimes resented by industry which regards it as a potential extra cost which is hard to bear at a time of recession. The European Commission has nevertheless suggested a number of steps which are needed to fill loopholes and bolster the protection found in national legislation. Proposals, put to the Council of Ministers long ago, cover:

- The responsibilities of a manufacturer for damages caused by faulty goods:** even if no wrong has been committed in strictly legal terms, and even if the development of technology at the time of the marketing of the product in question made it impossible to foresee a fault, a manufacturer would be liable to compensate a consumer who has suffered through the faultiness of the product (for instance, an injury caused by the explosion of a television).
- Door-to-door marketing:** to prevent abuses, salesmen would be obliged to offer a written contract and allow the customer time to think over the purchase. In this way, the consumer would be able to cancel a contract signed under psychological pressure from the salesman.
- Misleading and dishonest advertising:** consumers who fall victim to such advertisements would have the right of legal redress. The advertiser would have to prove the accuracy of the claim complained of.
- Hire purchase:** the terms offered to the creditor would have to be fair and easy to understand. All hire purchase contracts would have to be made in writing and clearly indicate the real interest rate charged.

Other proposals are planned in this field, notably a Community standard for the calculation of interest rates on loans. The Commission also envisages action in the important sector of services. It proposes to encourage, through agreements or legal measures, the improvement of commercial services, whether linked to sales (guarantees, after-sales services, estimates) or services proper (insurance, tourism, etc.). Action in the cheap travel field is planned. So are studies on abusive clauses in contracts and the relations between consumers and public services. Finally, the Commission is looking at national measures which allow legal redress to consumers. It has organized legal conferences and published reports of their proceedings. It is also subsidising a number of local experiments in settlement of small claims, better adapted to consumer problems than traditional methods.

### **Consumer information and education**

- Information: as already mentioned, a number of European directives control the labelling of foodstuffs and dangerous substances. Others have led to the marking of energy consumption on electrical household equipment and unit prices (by the kilo or litre) on foodstuffs. Measures are also proposed on the price marking of goods other than food. The European Commission wants to see much more information provided, both by labels and manufacturers' instructions. This information should concern not only the price but also give some indication of value for money. The Commission would, at the same time, like to promote a more widespread awareness of comparative tests of consumer goods, better cooperation between the organizations which carry out such tests and more information to European consumers on the actions taken by the Community on their behalf. Developments in Community policy are, from time to time, discussed at conferences hosted by the Commission and open to representatives of European and national consumer organizations, producers, distributors and the relevant national authorities. Subjects dealt with in 1977, 1980 and 1981 were the education and information of consumers, the use of services by consumers and the impact of technology on consumer interests.
- Education: the European Commission is looking into ways of improving consumer education, in other words making consumers more aware of their rights and duties. It has set up a European network of experimental schools for young consumers. A report on this programme is expected in 1984. The Commission has also subsidized a number of pilot schemes in the education of adult consumers.

### **The representation of consumers**

The Consumers Consultative Committee (CCC) set up by the European Commission allows consumer organizations to discuss problems amongst themselves and with the institutions of the Community. The 33 committee members are nominated by the Commission. They include six representatives of each of the four major European consumer organizations (the European consumer bureau, BEUC, the Committee of European Community family organizations, Coface, the European Community Consumer Cooperatives, Eurocoop, and the European Trades Union Congress, ETUC). The

committee also has nine experts. The CCC, which has given more than 100 opinions since it was created, is consulted from the very beginning of the Commission's work in all areas which touch on consumer interests. It can also give opinions on its own initiative. The Commission gives annual grants to the bodies represented on the CCC and tries to improve their contact with the European organizations representing manufacturers, distributors and advertising agencies. The aim is to improve the mutual understanding of organizations with widely differing interests.

To sum up, the European Commission wants to strengthen the role of consumers in the making of economic and social decisions related to their special interests. There are two reasons for this. Firstly, concertation between interested parties is a basic principle of a democratic society. Secondly, since the individual consumer has little prospect of influencing the mass market, consumer organizations help to redress the balance. Far from damaging the interests of manufacturers and distributors, this process opens the way to a dialogue which can help improve the quality and trustworthiness of European goods, improve the international competitiveness of the Community and help the growth of industry and increase the number of jobs ■



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