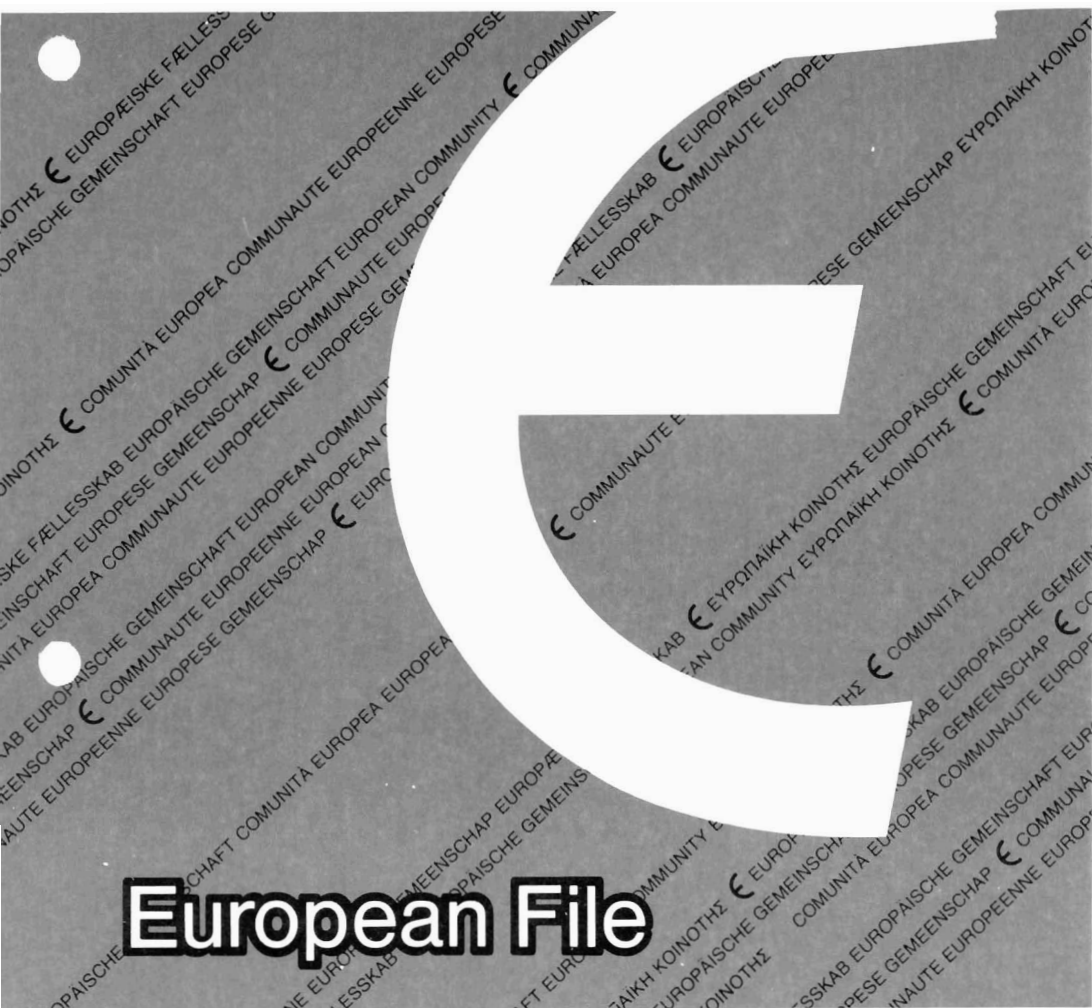


The European Community and consumers



European File

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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 or she often knew the suppliers personally. Nowadays the consumer faces a mass market where producers and retailers are relatively faceless, have gained considerable power through the process of mergers and are better placed 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.¹

For these reasons, consumers have formed associations to protect their interests. The growing strength of such organizations forced governments to create specialized public services for consumers and to 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 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:

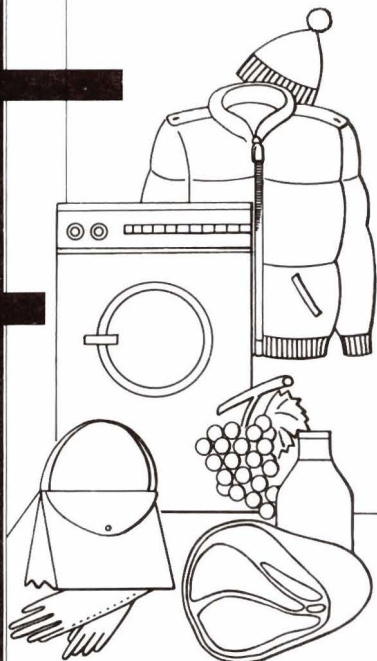
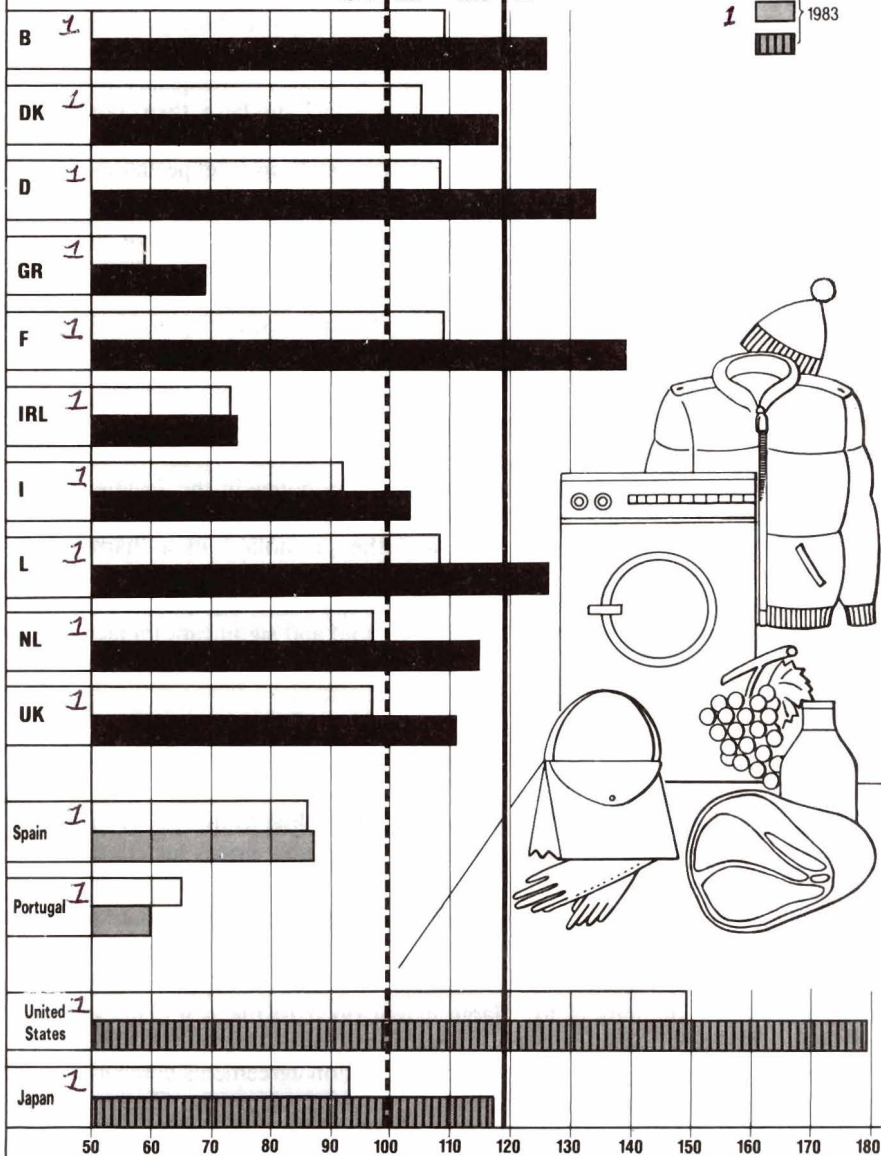
- A common market has been established between European countries. The abolition of customs barriers has widened the choice of goods and services.
- The common agricultural policy is supposed, according to the Treaty of Rome, to ensure the security of food supplies and 'reasonable prices for consumers'.
- 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 concluded with Mediterranean countries and developing States in Africa, the Caribbean and Pacific. All this has meant an even wider choice of goods and services.

¹ This file updates and replaces our No 15/83.

Household consumption*

Community

1974 100 1983 119



* Volume per head with constant prices and purchase power parities. 100 - EEC average 1974. Source: Eurostat.

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 the green light for a European consumer policy. The first steps were:

- The creation of a service and then a directorate general for environment and consumer protection within the European Commission;
- The creation 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 years 1983 and 1984 saw the first meetings of the European Council of Ministers devoted entirely to consumer protection and information. National ministers with responsibility for consumer problems were gathered together for the first time. In future it should therefore be possible to make more rapid progress in the development of consumer policy, something which the European Parliament has recommended as a matter of urgency.

European consumer policy has been based on the principle that free movement of goods can 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 through 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 the 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. The vagaries of the world economic situation have also 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 and unemployment increasing, consumers were more than ever determined to get the maximum benefit from their available cash, in other words 'value for money'. Consumer policy had to pay increasing attention to two issues: the cost of goods and services on which

the Community had a direct impact, notably through the agricultural and competition policies; 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 influence on what he buys, uses or how he lives. Such a policy would deepen the understanding in the consumer movement of the problems of producers, distributors and public and private providers of services in current economic and social circumstances. It would also continue 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 brought a resurgence of protectionism. The battle against this trend, which undermines 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 others. The judgment found 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 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 current European consumer policy in implementing the basic rights set out 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: European lists of permitted substances and purity standards have been established for certain foodstuff additives, such as colourings, anti-oxygen agents, preservatives, emulsifiers, stabilizers 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 purée. 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 ways of preventing dangerous substances in packaging materials from mingling with the foodstuffs they contain. Quality standards have been applied for trade in fresh meat. A ban has been placed on the use of animal growth-promoters which contain 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, sweeteners, substances for treating the surface of fruits, vegetables and cheeses, baby foods, frozen food and shellfish. 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 Community 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 shop shelf. The Commission is assisted in this area by a scientific committee on cosmetics.
- Textiles: European 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: Community directives control the classification, marketing and labelling as well as the use of many toxic substances, such as pesticides, solvents, paints, varnishes, printers' ink, glues and asbestos. Action is also planned to control other dangerous products (especially household items) which can create problems of safety or 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: European 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: the Community has adopted a number of directives to ensure the safety of motor cars. The Commission has proposed directives to control the safety of toys.

Alongside these European requirements, there are many national standards and technical regulations. A Community directive adopted in 1983 obliges Member States to notify them to the Commission, at the planning stage, for detailed examination. The aim is to prevent the creation of new barriers to the free movement of goods and services and therefore ensure that consumers have the widest possible choice at attractive prices. At the same time, the Commission ensures that national measures respect a certain standard of product safety.

Finally, the Community is trying to improve the amount of information available on dangers and accidents produced by consumer goods. In March 1984 the Council of Ministers set up a Community system for rapid exchange of information on dangerous products. This warning system will allow the authorities of one Member State rapidly to draw the attention of all the others, through the intermediary of the Commission, to serious incidents and allow action to be taken to protect the health and safety of consumers. In addition, a Commission-run pilot project has led to plans for a Community information system, operating in close partnership with national authorities, to gather and analyse facts on accidents caused by consumer goods, other than in factories and on the roads. The facts assembled in this way will be used to reduce or possibly prevent accidents of this type, which cause more injuries than road or work accidents.

The economic interests of consumers and the remedy of damages

Consumers must be protected against unfair trading practices on the part of suppliers of goods and services. This consumer 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 proposed a number of measures which would apply throughout the Community. Proposals put to the Council of Ministers cover:

- The responsibility of a manufacturer for injury or damage caused by defective goods. Even in the absence of a wrong in legal terms, a manufacturer would be liable to compensate a consumer who has suffered through a defect in a product. This would establish a system of strict liability instead of a situation where the

consumer has to prove negligence to obtain compensation, which may be no easy task.

- Door-to-door sales: to protect consumers against hard-selling techniques, this proposal would allow the buyer time to think over a purchase. Consumers would be able to cancel a contract signed in their own homes under pressure from a salesman.
- Misleading advertising: consumers can now complain to the courts or to administrative authorities about such advertisements. The advertiser would then have to prove the accuracy of the disputed claim if the court so directs.
- Consumer credit: the terms offered to the creditor would have to be fair and easy to understand. All credit agreements would have to be made in writing and clearly indicate the real interest rate charged. This proposal extends the protection of the consumer to many types of credit which are unregulated in some Member States at present.

At the end of May 1985 only one of these proposals, the one dealing with misleading advertising, had been adopted. An agreement in principle has just been agreed for the responsibility of the manufacturer.

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 the improvement of commercial services, whether linked to goods (guarantees, after-sales services, estimates) or where no such connection exists (insurance, tourism, etc.). Action in the field of package holidays is also planned. So is further work on unfair terms in contracts and relations between consumers and public services.

Finally, the Commission is looking at legal redress for consumers. It has organized legal conferences and published a discussion paper on this subject, outlining the various forms of redress already available to consumers in the Member States. It is also subsidizing a number of experiments on the handling of small claims to devise procedures 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 forced electrical household equipment to be marked with their estimated energy consumption and foodstuffs to be marked with unit prices (by the kilo or by the litre). Measures are also proposed on the price-marking of goods other than food. The European Commission wants to see much more information provided, both on the labels and in manufacturers' instructions. This information should cover not only the price but also give some indication of value for money. The Com-

mission would, at the same time, like to promote a wider awareness of the results of comparative tests on consumer goods, better cooperation between the testing organizations and more information for consumers on the action taken by the Community on their behalf. Developments in Community policy are, from time to time, discussed at conferences hosted by the Commission which are open to representatives of European and national consumer groups, producers, distributors and the relevant national authorities. Subjects featured since 1977 include: the education and information of consumers, the consumer as a user of services, the impact of technology on consumer interests, information on product safety.

- Education: the European Commission is looking into ways of improving consumer education, in other words making consumers more aware of their rights and duties. To this end, it set up between 1979 and 1984 a European network of experimental schools which tried out ways of improving the knowledge of young consumers. The Commission is planning further experiments, this time in the training of teachers. Subsidies have also been given to national consumer groups to support local consumer information programmes.

The representation of consumers

The Consumers Consultative Committee (CCC) set up by the European Commission allows representative organizations to discuss problems amongst themselves and with the institutions of the Community. The 33 committee members are nominated by the Commission. Apart from nine experts they comprise 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 CCC, which has drafted about 130 opinions, is consulted from the outset on any Commission work in 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 promote the mutual understanding of groups with widely differing interests.

To sum up, the European Commission wants to strengthen the influence of consumers on economic and social decisions which affect them. There are two reasons for doing so. Firstly, concertation between interested parties is a basic principle of a democratic society. Secondly, since an individual consumer has little hope of influencing the mass market, consumer groups can 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, enhance the international competitiveness of the Community, promote the growth of industry and generate more jobs ■

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