

Consumer Protection and Information Policy

Third Report

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FOREWORD

The two years under review in this Report correspond to the second half of the four year period envisaged for completion of the preliminary programme for a consumer protection and information policy adopted by the Council on 14 April 1975. It has therefore been a time for careful appraisal of the results achieved in the operation of that programme, with a view to drafting its successor which is intended to cover activities in the first half of the next decade.

Although the economic circumstances of the middle and late seventies in the Community have not favoured their full realisation, the areas for priority action set out in the preliminary programme have for the most part, been the subject of practical initiatives leading in many instances to the adoption by the Commission of proposals for legislation in the consumer interest. Some of these proposals have already received Council approval and others are at an advanced stage of discussion.

The passage of legislation, however, is by no means the only important index of progress in consumer welfare. On the contrary, the most powerful instrument consumers have for the protection of their interests is their own active participation either in the exercise of judgment and choice prerogatives as individuals in the market place or in joint action through their representative associations. The law is at best a poor protector of the unwary, ill-informed or disorganised consumer at any level. For that reason, the Commission's activities in the field of information, education and representation of consumer interests are of special significance and have received much attention in the execution of the preliminary programme, within the necessary constraints of available resources.

I believe that the most important outcome of the preliminary programme has been the growing influence of consumer interests on the wider development of Community policies in other areas, including food production, manufacturing industry and services such as transport and distribution. In retrospect, this seems a natural consequence of their consumers' status as a market partner at Community as well as at national or local levels, but this is also a viewpoint of relatively recent emergence and is in large part attributable to the persistent efforts of consumer interests at Community level and their support, where appropriate, by the Commission.

Therefore in making my proposals for a second programme to the Commission, which adopted them in June 1979, I laid particular stress on participation, on dialogue, on mutual recognition by producer and consumer of the interdependence, never more evident than in the present conjuncture of economic difficulties. My perception of the promotion of consumer welfare has been in those terms ever since I assumed responsibility in that area of Community policy. The translation of these terms into credible and practicable working arrangements and the judicious blending of legal and voluntary measures resulting from enlightened and realistic negotiations by all interests concerned, both public and private, will be the tasks for accomplishment in the next five years. They will not be easy ones but they cannot be relinquished on any side. Like the policy they will seek to realise, they are an inherent part of the challenge facing the Community on all fronts to seek consensus and not conflict. If they are recognised in those fundamental terms, I am confident that these tasks will be accomplished.

Richard BURKE
Commissioner

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CHAPTER I CURRENT PERSPECTIVES IN CONSUMER POLICY

Economic Background

The economic difficulties of the Community which characterised the middle seventies persisted through the two closing years of the decade which are the subject of this Report. The dominant influence of uncertainties in energy supplies and their associated price increases continued to be felt directly and indirectly in consumer purchases, which were subject to inflation contents of 7.1 and 9.0 per cent in 1978 and 1979 respectively. The corresponding annual growth of private consumption expenditure in real terms in these years at 3.7 and 3.3 per cent was, however, somewhat higher than the 1977 level of 2.1 per cent, reflecting growth in gross domestic product of generally similar proportions in each case. Very similar increases in real disposable income, of 3.9 in 1978 and 3.3 in 1979, were recorded over the same period, so that savings remained approximately constant at about 17 per cent of this income, as compared with 19.4 per cent in 1975.

These relatively conservative trends in private consumer expenditure were associated with persistent intractability in unemployment rates which continued on a slow upward trend from 5.3 per cent in 1977 to 5.6 per cent in 1979. The aggravation in unemployment accentuated the need for incentives to enterprise in order to stimulate job creation, and the parallel requirement to direct resources towards investment rather than current consumption, whether on the private or the public plane.

New Policy Orientations

The evolution of policy for the protection and information of the consumer at national as well as at Community level must be viewed against this problematical background. The difficulties of the seventies have brought into sharper focus the increasingly transnational character of economic organisations and the mutual dependence of member states in this sphere. This concept of interdependence also translates itself into the relationship of interest groups within the economy, notably in the present context, in the complementarity of production and consumption functions. It was this latter consideration which led the Commission to emphasise the role of the consumer as market partner when drafting its second programme with regard to consumers, which it adopted on 20 June 1979 and sent to the Council.¹

¹ OJ C 218 of 30.8.1979

In essence, the second programme retains, in their entirety, the basic rights and the principles governing their implementation as enunciated in the first programme of 1975¹ as being invariant elements in the policy structure of consumer protection. It lays stress, however, on the importance of the dialogue between producer and consumer interests which should be carried out in full mutual recognition of their functions as partners in the operation of the Common Market. As counterpart to the acknowledgement of that role by consumer representatives the draft programme takes the positive attitude of promotion of consumer interests and not merely their protection. This would be realised, in practical terms, by the encouragement and facilitation of producer/consumer dialogue, leading in certain instances to specific agreements between their representatives on matters of common concern. This dialogue process is seen as complementary to legislative action which will continue to be necessary at Community as well as at national level. It would be matched by an affirmative recognition by the Community Institutions of the consumer dimension in many other areas of Community policy, such as agriculture, competition and industrial manufacture. Due weight would also be given to consumer protection in the provision of services, as distinct from goods, because of their growing share of total consumption of resources, in public as well as in private sectors of the economy.

The second programme also points to the need for sensitivity to consumer prices in the application of Community policies, as well as for greater exploitation than hitherto of the results of enquiries made by the Commission into price structures and disparities. The tendency in 1979 to return to higher annual levels of inflation of about 10 per cent serves to emphasise continuing consumer concern about price rises which outstrip, in some instances, increases in disposable income or at least precede such increases by substantial periods.

Reflections on consumer policy and more generally on the role and management of consumption in the context of public and private priorities for the satisfaction of needs, together with the reconciliation of these priorities in the overall interests of an interdependent society have not only influenced the evolution of consumer policy in Community circles but also at national level. In this latter regard, a significant contribution to the debate on these issues was made by the Dutch Ministry of Economic Affairs in a memorandum published towards the end of 1979 and entitled

¹ OJ C 92 of 25.4.1975

"Consumer and Consumption - a field reconnaissance". This document is intended to stimulate discussion and point the way to further research. It deals in four parts with the following topics.

- (1) Relations between needs, satisfaction of needs and consumption, and with the objectives, the nature and the limits of consumption policy.
- (2) Consumption problems in relation to the mechanisms of the market and the collective sector.
- (3) The distribution of consumption and consumption patterns as major influences or the opportunities to satisfy needs through consumption.
- (4) Consumption policy as related to policy aimed at selective growth, culminating in a sketch of consumption policy within a socio-economic context.

Legislation in the Consumer Interest

The establishment of Community law in the interests of consumer protection relates to one or other of two distinct areas, namely those of health and safety, on one hand and of economic and legal interests on the other. In justification of the legislative measures it proposes to take, the Commission associates these interests with others involved in the establishment and operation of the Common Market. Thus, Community provisions for consumer health and safety are associated with the removal of technical barriers to trade in the products concerned, caused by divergent provisions in this regard at Member State level. Similarly, the economic and legal interests of consumers are associated with the establishment of common standards of business practice throughout the Community in the interests of promoting development in, or removing obstacles to, trade in goods or services between the Member States.

The great majority of such laws, as adopted by the Council or by the Commission in 1978 and 1979, and listed in Annexe I, relate, as in previous years, to health and safety issues. They cover a wide variety of goods, most notably food and agricultural produce, textiles, toiletries and pharmaceuticals, and motorvehicles. Their very diversity brings into question the extent to which similar measures can be taken at Community level in respect of the full range of consumer products for which divergence of national regulations

for health and safety can give rise to restrictions in their circulation. Apart from the problem of time taken in drafting and negotiating vertical measures of legislation, often of great technical complexity, there is also the need for management of a growing body of laws already adopted by the Community, in terms of ensuring their translation into national law by the Member States and their adaptation to technical progress accordingly as new materials and new processes of manufacture or control are developed, or new hazards discovered in the use of particular products.

Over the period under review in this report, the Commission has been giving careful examination to this question and has begun to evolve certain lines of policy to cope with the problems posed. These envisage:

- (a) greater preliminary consultation between Member States on programme planning for the establishment of national standards for manufactured products so as to remove potential causes of further technical barriers to trade;
- (b) the establishment of priorities for the preparation of product standards at European level through the European standards organizations, CEN/CENELEC, as a preliminary to using such standards as the basis of Community regulations for the products concerned.

Over the same period, the broader question has arisen, through decisions of the Court of Justice on cases relating to technical barriers to trade (see Chapter V), as to the extent to which Member States may exercise powers to restrict the free circulation of particular goods on the basis of national regulations, in cases where no Community provisions exist. The Court of Justice in its decision on Case 120/78 has explicitly mentioned consumer protection as being one of the grounds on which such restrictions may be imposed, provided the circumstances are such that restrictions are essential to the achievement of imperative objectives, that the measures taken are wholly appropriate to such objectives and are not excessive. Otherwise, the restrictions concerned would not be admissible, even if they applied indiscriminately to home produced and imported products. The Commission is examining the implications of the principles enunciated by the Court in the

context of this decision which could have far-reaching effects on the future orientation of its activities in regard to the elimination of technical barriers to trade.

In accordance with the 1975 Community action programme, the Commission also drew up in the 1978/79 period a limited number of proposals for directives to protect the economic and legal interests of consumers in broad areas of commercial activity, namely those of advertising and of the provision of consumer credit. In the course of discussion of these measures in the other Community Institutes and with the business interests concerned, it has been necessary to emphasise the promotional potential of such measures for the wider establishment of the common market, serving thereby the interests of freedom of competition and the expansion of business as well as those of protecting the consumer. This positive promotional approach, which accentuates the mutually beneficial effects for producers and consumers of market practices conforming to high ethical standards, requires the increasing recognition and acquiescence of all interests as a prerequisite to progress on the lines of the Commission's proposals for a second programme, as enunciated in July 1979, particularly where the encouragement of dialogue and the establishment of voluntary producer/consumer agreements is concerned.

CHAPTER II THE INSTITUTIONAL AND ADMINISTRATIVE CONTEXT

The decision made by the present Commission, at the beginning of its mandate, to expand the personnel resources in the Consumer Protection Service was brought into effect in the first half of 1978, when the Directorate for the Promotion of Consumer Interests assumed its functions, being composed of three administrative units, namely those for physical protection, for economic and legal interests and for consumer information and education. However, the inevitable adjustments involved in the completion and adaptation of staff within the new structure imposed some transitional restraints on the full realisation of its benefits.

The Commission Decision at the end of 1977 to establish a Scientific Committee for Cosmetology¹ was implemented with the appointment of its first members in September 1978 for a period of three years. Two other new Scientific Committees, whose activities are of particular interest in consumer terms, were established in 1978. These were the Scientific Committees for Pesticides² and for Toxicity and Ecotoxicity of Chemical Compounds.³

Due to problems in the structure of representation of business interests at Community level, two consultative committees also incorporating consumer representation, met only infrequently in 1979, namely those for Foodstuffs and for Veterinary matters. Earlier, the statute of the Advisory Committee for Foodstuffs had been modified to permit the attendance of observers at Committee meetings.

The European Parliament, which had been elected for the first time by universal suffrage in June 1979, appointed, from amongst its members, a Committee for the Environment, Public Health and Consumer Protection under the chairmanship of Mr Kenneth Collins (Socialist - UK).

The Economic and Social Committee (ECOSOC) had its membership renewed for four years by Council Decision of 19 September 1978. All four of the organisations represented in the Consumers Consultative Committee (European Bureau of Consumers Unions - BEUC, Council of Family Associations of

¹ OJ L 13 of 17.1.78

² OJ L 124 of 12.5.1978

³ OJ L 198 of 22.7.1978

the European Communities - COFACE, European Trades Union Council - ETUC, European Organisation of Cooperative Organisations - EUROCOOP) have representatives in ECOSOC, whose origins collectively cover most of the Member States. The chairmanship of the Section for the Protection of the Environment, Public Health and Consumer Affairs has been assigned to Miss Eirlys Roberts of Consumers' Associations - UK, former Director of BEUC.

At Council level, there were no meetings of Ministers responsible for Consumer Affairs in 1978 or 1979. Ministers for Health met in December 1977 and again in November 1978, devoting attention particularly to the injurious effects of tobacco and to questions of nutrition. In particular they invited the Commission to make a comparative study of campaigns for health education in the Member States.

A number of Member States have made changes, in the 1978/79 period, in their organisational structures for the administration of consumer affairs. Thus, in Belgium, an Inspectorate General for Consumer Policy was established, at the end of 1978, within the Ministry of Economic Affairs and was given the coordination function for this area of activity. Following the national elections in Spring 1978, France suppressed the post of State Secretary for Consumer Policy and replaced it in June 1978 with a Directorate within the Ministry for Economic Affairs. In Ireland, a Director for Consumer Affairs was appointed in June 1978, in accordance with the provisions of the Consumer Information Act, 1978, his responsibilities being to implement the provisions of the Act dealing with advertising and with the supply of information to consumers. The Netherlands, at the beginning of 1978, assigned matters of consumer interest to the responsibilities of a Secretary of State at the Ministry of Economic Affairs. Following the general election of 1979, the new UK Government abolished the Department of Prices and Consumer Protection, and transferred responsibility for consumer questions to the Department of Trade.

Two consumer research bodies were instituted at the end of 1978, one in the German Federal Republic, the other in the Netherlands. The German Institute, located in Berlin, is primarily concerned with the promotion of consumer information and education, while that in the Netherlands has

a general remit in the area of consumer policy. Both institutions were set up by private consumer organisations, but with financial support from the public authorities.

France established, in 1978, a permanent commission to counteract the use of unfair clauses in contracts. A number of study commissions were assigned to ad hoc groups for examination and have published their reports. These include the control of advertising, separately studied in France and UK, and the durability of consumer products in France.

Legislative reform needs in the field of sales law were the subject of examination by expert committees in Denmark, where a new law was adopted in 1979, and in the Netherlands, where the matter is still under study.

CHAPTER III CONSUMER HEALTH AND SAFETY

Action in the sphere of consumer health and safety took two main directions:

- A. the development of activities in the legislative field, mainly through the adoption at Community level of Directives covering a very wide range of products and, in general, pursuing the dual goal of minimizing consumer health and safety hazards and eliminating technical barriers to trade. In the Member States, various laws were passed, notably with a view to implementing Community Directives;
- B. the launching or preparation of specific measures designed to provide a better knowledge of the dangers associated with the use of consumer goods and, consequently, an objective basis for determining the most appropriate steps for improving product safety.

A. LEGISLATIVE ACTIVITY

In 1978 and 1979, a considerable number of Council and Commission Directives were adopted, of which the most important are mentioned below, together with the principal laws passed by the Member States. A list of Directives of interest to the consumer is given in the Annex.

1. Foodstuffs

The Directive concerning the labelling, presentation and advertising of foodstuffs was adopted by the Council¹; it provides the consumer with information regarding various characteristics of the foodstuffs, for example, the name under which the product is sold, the list of ingredients, the net quantity and the date of minimum durability; in its present form, the Directive provides for some derogations (as regards, for example,

¹ OJ L 33 of 8.2.1979

the dating or listing of ingredients) and postpones the introduction of rules on certain aspects of labelling (such as the indication of the ingredients and alcoholic strength of certain alcoholic beverages, and claims by manufacturers).

Other Directives relating to some foodstuffs such as fruit jams, jellies, marmalades and chestnut purée¹ and cocoa and chocolate products² were adopted or amended; various additives such as colouring matters, preservatives, antioxidants, emulsifiers and methods of analysing certain products are dealt with in other Directives. Lastly, the Commission Recommendation to the Member States³ drawing attention to the problems linked with the consumption of saccharin and recommending a number of measures should be noted.

At national level, the work of adapting the legislation of the Member States to take account of Community Directives continued, notably in the field of food additives. In France, various decrees and orders were issued in areas such as fruit juices and similar products, oils intended for human consumption and the terms of sale of foodstuffs, products and drinks intended for human consumption. France and Ireland passed legislation regarding the erucic acid content of colza oil. In the Federal Republic of Germany, a law was passed amending the existing legislation on the nutritional labelling of foodstuffs. In Belgium, decrees relating to preserved milk for human consumption, bread and other bakery products and to hygiene in the manufacture and sale of foodstuffs have entered into force.

2. Agricultural products

With regard to agricultural products, Directives and Regulations were adopted or amended concerning health matters relating to trade in animals, additives in animal feed and the marketing of animal feedingstuffs.

¹ OJ L 205 of 13.8.1979

² OJ L 291 of 17.10.1978

³ OJ L 107 of 15.4.1978

In the Federal Republic of Germany, legislation was passed on:

- the presence of plant protection products (pesticides, preservatives) in or on foodstuffs of animal or plant origin (including tobacco);
- various provisions concerning import control and meat inspection;
- the presence of pharmaceutical products in foodstuffs of animal origin;
- maximum levels of certain environmental pollutants (Pb, Cd, Hg) in foodstuffs.

As regards tobacco products, France issued three decrees, covering anti-fraud measures, substances which must be listed on packaging and the rules for determining the presence of these substances, and the anti-smoking campaign. In Ireland, the Tobacco Products Act 1978 authorized the Government to lay down strict rules applicable to advertising.

3. Cosmetics

Directive 76/768/EEC¹ was amended to extend the deadline for implementation in certain cases pending a Council Decision on a proposed amendment² on, notably, substances and colouring agents provisionally allowed and on an initial positive list of preservatives.

Several Member States report that they are adapting their legislation so as to conform to Directive 76/768/EEC.

4. Dangerous substances and pharmaceutical products

A Directive relating to the classification, packaging and labelling of dangerous preparations (pesticides)³, amendments to the Directives dealing with dangerous substances⁴ and a Directive on the prohibition of

¹ OJ L 262 of 27.9.1976

² OJ C 165 of 2.7.1979

³ OJ L 206 of 29.7.1978

⁴ OJ L 88 of 7.4.1979 and L 259 of 15.10.1979

the placing on the market and use of plant protection products containing certain active substances were adopted. Lastly, Directive 79/663/EEC¹ restricting the marketing and use of certain dangerous substances and preparations was amended by a Directive² aimed at prohibiting the use of tris for the fire-proofing of certain textiles and the use of liquids listed in Annex I of Directive 76/548/EEC in objects such as ornamental lamps.

Prior to the adoption of the above Directive, several Member States had already taken the necessary measures regarding the use of these products. Moreover, the use of toxic substances in various applications prompted several Member States to ban the marketing of certain products: containers of tear gas (UK), use of benzene in toy balloons (UK) and the use in sneezing powders of dimethoxy - 3.3 benzidine or of O-dianisidine and its salts (F).

In the Federal Republic of Germany, strict regulations apply to the use of PVC in contact with foodstuffs or in the manufacture of articles raised to the mouth; in Luxembourg, the Directive on materials and objects containing vinyl chloride monomer is given effect in a regulation.

So as to provide greater protection for children, the Federal Republic of Germany has adopted a standard for safety seals on containers intended for the storage of dangerous products which are so designed that they cannot be opened by children but can be opened by adults and, in particular, by elderly people. In the United Kingdom, the "medicines (fluted bottle) Regulations 1978" make it compulsory for medicinal preparations for external use and toxic products to be kept in specially shaped bottles.

More generally, it should be noted that:

- Denmark has passed a Chemical Substances and Products Act to ward off dangers to health and the environment.

¹ OJ L 262 of 27.9.1976

² OJ L 197 of 3.8.1979

- In Ireland, the "Misuse of Drugs Act 1977" will replace the existing law; it contains provisions designed to combat problems of the abuse of medicinal products;
- In the United Kingdom, Part III of the Medicines Act 1968 entered into force on 1 February 1968 and supersedes previous legislation; it contains provisions regarding the sale of pharmaceutical products; the Medicines Regulations 1978 deal with the labelling, presentation and advertising of pharmaceutical products. The Packaging and Labelling of Dangerous Substances Regulations 1978 give effect to Directive 67/548 and its successive amendments.

5. Motor vehicles and various manufactured products

Work has continued in this field and has led to the adoption of Directives relating to various devices or features such as fuel tanks, rear protective devices, brakes, rear-view mirrors, lighting and luminous traffic indicators systems, external projections, interior fittings, heating systems, head restraints and wheel guards; in addition, some Directives which had already been adopted have been amended.

In France, a decree was issued making the application of standard NF F/72-302 (crash helmets) compulsory.

In Belgium, nine ministerial decrees were issued prohibiting the marketing of a range of products of specific brands, for safety reasons.

In Denmark, road traffic legislation has been amended to prohibit, in particular, the use of skateboards on public highways (including pavements, footpaths and car parks).

In the United Kingdom, provisions have been adopted for the safety of prams, babies' teats and oil-lamps.

Lastly, it should be mentioned that legal provision has been made in the Federal Republic of Germany for the sign "GS" (geprüfte Sicherheit) to be affixed to equipment which must provide a high level of safety in operation (e.g. equipment for use by invalids). This sign, to be issued by the Ministry of Labour, may be affixed only after the equipment has been examined at an approved test centre.

IMPROVING PRODUCT SAFETY

Scientific Committees

The Commission set up a number of scientific committees of highly qualified experts to provide authoritative and independent opinions. Such committees are at present operating in the fields of foodstuffs, animal feed, pesticides, cosmetics, waste products, toxicology and ecotoxicology. The recently established Scientific Committee on Cosmetology accordingly provided opinions on the use of chloroform in toothpaste and the use of boric acid in cosmetic products; opinions of this kind aid the Commission in its work in connection with the Directives in this field.

2. Systems for gathering data on accidents in the home

At Community level, the proposal for setting up a data-gathering system for accidents in the home, referred to in the previous report (1979) as being in preparation, has been transmitted to the Council and discussions are now well advanced. The proposal envisages the setting-up by each Member State of a network of centres to gather data on accidents in the home involving consumer products; these data-gathering centres could, for example, be attached to hospitals, clinics or poisons information and therapy centres. The data collected, presented in a form standardized at Community level, would be processed by the Community's specialized services. The analysis of this material would bring to light the dangers arising from the use of certain consumer products and, where necessary, enable appropriate steps to be taken to provide consumers with better information and improve the safety standards of the products in question.

In the United Kingdom, the Home Accident Surveillance System has now been operational for three years; reports have been published dealing inter alia with the analysis of data gathered in each year of operation and specific subjects such as accidents to children or accidents caused by skateboards. Intensive use has been made of the system by interested parties (Government, manufacturers, research teams, consumer organizations and organizations concerned with safety).

System for the rapid exchange of information on dangers arising from the use of consumer products

Consumer products can endanger health and safety in such a way that Member States may have to adopt emergency measures. Where similar products are marketed in other Member States of the Community, it is important that these measures be swiftly brought to the attention of those States and of the Commission. The proposal currently being transmitted to the Council is aimed at setting up a system for the rapid exchange of information on this type of danger, enabling the steps needed to withdraw the product in question to be taken quickly.

4. Various provisions adopted by the Member States

In the Member States, various provisions designed to increase consumer safety have been introduced: in the United Kingdom the Consumer Safety Act 1978 opens up possibilities for further legislation and, in particular, enables decisions to be made immediately regarding products considered to be dangerous. In France, the law of 10 January 1978 on consumer protection and information includes provisions on consumer health and safety; in particular, it sets up the Laboratoire National d'Essais (National testing laboratory), a public establishment for the provision of any technical assistance of use in consumer protection and information.

In Denmark, a "preventive council" has been set up to assess measures for preventing illness and improving health and make relevant proposals.

In the Netherlands, a permanent inter-ministerial working party on safety in the home has been set up. Its main objective is to draw up a list of topics falling within the scope of home safety policy and to promote activities concerning information and education on product safety and the related research; the working party will consider setting up a system for recording accidents.

Taken together, the activities of the Member States and the Commission show that the Community is gradually acquiring structures and provisions enabling it to pursue an increasingly effective policy as regards product safety and, consequently, consumer health and safety.

CHAPTER IV ECONOMIC AND LEGAL PROTECTION OF CONSUMERS

The economic protection of consumer interests covers commercial practices which may have an adverse effect on the consumer. Some such practices may be dealt with at Community level by other means. For example, restrictive business practices (cartels and abuse of a dominant position) are dealt with under Articles 85 and 86 of the EEC Treaty. In these cases the Commission intervenes to maintain competition in the common market, so as to permit the law of supply and demand to operate freely. The free play of market forces and a healthy market structure undoubtedly benefit consumers. However, the individual is often at a disadvantage in consumer transactions for reasons wholly outside the field of competition. The transaction may have taken place as a result of high-pressure salesmanship of an unfair kind or influenced by unfair or misleading advertising. Its terms may be contained in a standard form contract weighted against the consumer. The first EEC consumer policy programme identified a number of areas where the economic interests of consumers should be protected.

Two substantial contributions to the fulfilment of the first Consumer Programme were made in the period covered by this Report. In 1978 the Commission submitted to the Council a draft Directive on Misleading and Unfair Advertising.¹ This was followed in 1979 by a proposal for a draft Directive on Consumer Credit.² Both proposals were priorities under the first Programme and were adopted by the Commission after extensive consultation with government experts, consumer groups and commercial interests.

There would be little point in creating rights for consumers by EEC Directives, if the consumer cannot exercise or defend them. Hence the Commission's approach to consumer protection links economic interests and legal redress.

The progress of these Directives and of the other work of the Commission in the field of economic and legal protection of consumers is as follows.

¹ OJ C 79, 21.3.78

² OJ C 80, 27.3.79

MISLEADING AND UNFAIR ADVERTISING

In March 1978 the Commission submitted to the Council a draft Directive on Misleading and Unfair Advertising.¹ The Directive relates to the harmonization of laws of the Member States and is based on Article 100 of the EEC Treaty. Following the procedure laid down by Article 100, the proposed Directive was considered by the European Parliament and the Economic and Social Committee. The latter gave its Opinion in April 1979.² Parliament passed a Resolution on the proposal in the following month.³ Both were mainly favourable. The Commission then amended its proposal.⁴

The main features of the Directive include the definitions given to misleading and unfair advertising. It also proposes certain remedies, allowing the courts or an appropriate administrative authority to prohibit or order the termination of misleading or unfair advertising, under an accelerated procedure with an interim or final effect. The decision may be published and so may a corrective statement. Where an advertiser makes a factual claim the evidential burden of proof in civil and administrative proceedings is on him to substantiate it.

Another feature of the Directive is that it authorises comparative advertising, always provided that it compares material and verifiable details and is neither misleading nor unfair.

Discussion of the proposed Directive in the Council began in 1979.

In the Member States the main developments concerning misleading advertising occurred in Ireland and the Netherlands. The Irish Consumer Information Act 1978 provided for the appointment of a Director of Consumer Affairs whose responsibilities include the review of practices affecting advertising and information in relation to goods and services in order to ensure that it is not misleading. He has power to bring actions to court in the case of misleading or undesirable practices.

Under Article 20 of the Act the onus of proof of the truth of an advertisement relating to goods or services, including accommodation, is on the supplier.

In the Netherlands a draft amendment to the existing law on misleading advertising was put before Parliament in 1978. It provides for the reversal of the burden of proof (i.e. puts the responsibility on the advertiser) as to the correctness and completeness of the facts contained in the advertisement. It also gives consumer organisations the right to institute subsidized class actions in the field of advertising.

1. OJ C 70, 21.3.78

2. OJ C 171, 9.7.79

3. OJ C 140, 5.6.79

4. OJ C 194, 1.8.79

CONSUMER CREDIT

After extensive consultation with government experts and other interested parties the proposal for a Directive was submitted to the Council in March 1979¹. The proposal formulates minimum standards for consumer credit to apply throughout the Community, both in order to protect the consumer and assist in the establishment of a common market in credit. The experience of Member States has been that the regulation of only some forms of credit, for example, hire-purchase, has the tendency to distort the market by diverting the supply of credit into unregulated forms.

The proposal therefore adopts a series of rules applicable globally to consumer credit. It covers not only instalment sales, but also inter alia personal loans, credit cards, credit under running accounts and bank overdrafts. The proposal, however, provides for certain exceptions, such as credit agreements for the acquisition of land or buildings, short-term agreements and agreements for sums greater or less than certain limits. Special rules are provided for bank overdrafts.

In addition to certain basic requirements, such as the provision of an agreement in writing, the proposal has a number of other features for the protection of the consumer. It contains rules to ensure that the consumer is properly informed of the cost of credit under a credit agreement, by requiring disclosure of all the charges making up the total cost of credit. To enable comparisons to be made between competing sources of credit, the effective annual rate of interest must be disclosed in the credit agreement, in any advertisement in which costs of credit are mentioned, and at the business premises of the creditor. The effective rate is to include charges and costs relating to the credit as well as nominal interest payable.

Other aspects of consumer credit regulated by the Directive include repossession of goods under instalment sales contracts, early settlement, assignment of credit agreements, authorisation and supervision of credit suppliers.

Where the creditor cooperates with the supplier of goods or services he is made jointly and severally liable if the goods and services are not supplied, or do not otherwise conform to the agreement made with the consumer.

¹ OJ C 80 of 27.3.1979

The use of negotiable instruments in connection with credit agreements is prohibited in order to prevent avoidance of the rules of the Directive and to ensure that the consumer's only liability is that arising from the credit agreement.

The proposal seeks to establish a framework at Community level, within which the national laws of Member States may develop. Accordingly the proposal prescribes minimum standards leaving Member States free to adopt higher levels of consumer protection. Principal developments at Member State level were as follows.

In Denmark a government committee, called to examine consumer credit sales has proposed that the consumer be given information in writing of the cash price and cost of credit and has also proposed a prohibition on the use of bills of exchange and a reinforcement of the rights of the consumer in the event of repossession of the goods by the seller.

In France law No. 78-22 on consumer credit also requires creditors to inform consumers of the cost of credit, ties the loan contract to the contract of sale, and regulates the use of negotiable instruments. In addition the law provided for a seven day cooling-off period for all credit agreements.

PRODUCT LIABILITY

The draft Directive on Product Liability, which proposes strict liability for producers and - in certain circumstances - for distributors of defective products, dates from 1976, when it was submitted by the Commission to the Council. However, in 1979 the European Parliament and the Economic & Social Committee completed their work on the Directive. Both the Parliamentary Resolution and the Opinion of the Economic & Social Committee were in favour of strict liability, that is to say, liability irrespective of fault. Nevertheless, a number of reservations were expressed, notably on the question of whether there should be included within the scope of the Directive damage due to defects which the producer could not have known or have reasonably foreseen because such defects were generated by innovative development of the product - the so-called "development risks".

The Commission decided to maintain its original proposal of 1976¹ on development risks whereby these would also incur strict producers liability. However, it amended the proposed Directive in a number of other respects in line with suggestions emerging from the consultation procedure.² One such amendment excludes prime agricultural products and craft and artistic products from the scope of the Directive, unless they have been subject to industrial processes. Another involves writing into the directive the defence of contributory negligence. Parliament has also asked that pain and suffering, as well as non-marital damage should be specifically included. These last two amendments are really more a matter of clarification than a change of substance. The Directive in its original form did not exclude either of them.

¹ OJ C 241, 14.10.76

² OJ No C 271, 26.10.79

Although no amendments have been introduced to the provisions of the Directive dealing with persons liable, there has been a change to the wording of Article 3 which deals with the concept of joint and several liability. This has been amended to make it clear that, where two or more persons are liable in respect of the same damage, they may claim compensation inter se. The basis on which they do so will depend upon their relationship, as determined, for example, by the terms of any contract governing their dealings, and may be defined by national law.

The definition of when a product is defective, in Article 4, of the Directive has been amended. It now includes a qualification to the effect that a product is not to be regarded as defective when it is being used for purposes other than those for which it is apparently intended. Another amendment indicates that in considering whether a product is defective account shall be taken of all the circumstances, including the presentation of the product and the time at which it was put into circulation.

In the interests of clarity, Article 5 has been amended to indicate that there shall be no liability for a defective product, if it is neither made for commercial purposes nor distributed within the course of business activities.

In its revised form the Directive makes it possible for the Council of Ministers, acting on the proposal of the Commission, to decide on the amount of the upper limit of liability or even to suppress it. Subject to any such determination, the limit remains as originally stated in the Directive. There is also a provision to allow for inflation, requiring the Council to reconsider every 3 years the upper limits stated in the Directive.

CONTRACTS NEGOTIATED AWAY FROM BUSINESS PREMISES (DOORSTEP SALES)

In January 1978 the Commission submitted to the Council an amendment¹ to the draft Directive, the main points of which were to reduce the price level below which the Directive would not apply and to exclude regular deliveries of food or drink from the scope of the Directive. Discussion of the amended version continued in the Council.

In Denmark a law, effective from 1 January 1979, aims to protect the consumer with regard to doorstep sales, mail order contracts and excessively long service contracts. In the case of doorstep sales unsolicited visits are in general prohibited as are telephone calls with the same objective. In the case of long servicing contracts, doorstep book sales and mail-order sales, the law gives certain rights of cancellation to the customer.

¹ OJ C 127, 1.6.78

HOME STUDY COURSES

This proposal, based on a Parliamentary initiative, aims at establishing a system of accreditation for organisers of home study courses, so that consumers will be able to recognise their standing. It also contains provisions to protect students against unfair commercial practices in this field.

In March 1978 the Economic & Social Committee gave its Opinion¹. This was followed in May by the Parliament's Opinion². Both Opinions were mainly favourable but contained proposals for amendments, many of which were incorporated by the Commission in a revised version of the Directive³. In 1979 discussion of the proposal continued in the Council.

¹ OJ C 101, 26.4.78

² OJ C 131, 5.6.78

³ OJ C 200, 22.8.78

UNFAIR CONTRACT TERMS - DEVELOPMENTS IN MEMBER STATES

In France a decree of 24 March 1978 made under the law of 10 January 1978 (Law No. 23 on the protection and information of consumers of goods and services) prohibits the incorporation of terms not appearing in the written contract, clauses which limit the liability of the supplier in the event of a breach of contract and clauses which entitle the supplier unilaterally to vary the nature of goods or services supplied. (An exception is made for technical developments producing neither an increase in price nor a fall in quality.) All such clauses were deemed invalid from 1 September 1978. Moreover the decree obliges the supplier, on pain of a fine, to state clearly in the agreement that the purchaser is protected by a guarantee under the law irrespective of the terms of the contractual guarantee.

In 1979 the Commission on Unfair Clauses (Commission des Clauses Abusives) published recommendations on terms in guarantee agreements and on legal proceedings.

In Ireland the Sale of Goods and Supply of Services Bill intends to prohibit the issuing of statements that rights conferred by law are restricted or excluded. The Bill also provides that rights under a guarantee shall not exclude or limit the buyers statutory or common law rights.

In Luxembourg a draft law on the protection of consumers has been prepared which includes provisions on unfair contract terms. A draft reform of the law on certain unfair trading practices is also being undertaken.

In the Netherlands the consumer committee of the Socio-Economic Council (SER) has issued a recommendation on standard form contracts which is now being discussed within the government.

SERVICES

As a result of studies conducted since 1978 on services, the Commission has developed its activities in this vast field.

Services account for a growing proportion of economic activity in the Member States of the Community: they employ on average about half the working population and are a field where manpower often represents a high proportion of value added.

With a view especially to implementing the Second Community Programme for consumers in the services sector, the Commission considered it desirable to:

- study in detail the terms of after-sales service for consumer durables with a view to improving them;
- study the development of commercial services not connected with products and the way they are provided;
- encourage the consultation of consumers and users by representatives of public and quasi-public services with a view to improving these.

With this in mind, the Commission organized a colloquium on the consumer as user of services, held 11 and 12 October 1979; it was attended by representatives of the national consumer associations, the private sector service industry and representatives of the public services.

This colloquium indicated broad lines of action to the Commission, notably as regards tourism and after-sales service for cars and electric household appliances. The Commission will shortly publish a summary of this colloquium.

Among the Member States, the United Kingdom has made headway in drawing up new codes of conduct.

For example, the Office of Fair Trading has negotiated six new Codes of Practice, which are now in effect. They deal with mail order sales, furnishing, undertaking, photography and post and telecommunications services (two codes). In addition, four previous codes concerning the electrical sector have been revised.

Eighteen codes of conduct have therefore now been drawn up in the United Kingdom by the Office of Fair Trading.

As regards tourism, the Association of British Travel Agents accepted the Office of Fair Trading's suggestions for amending two points in its code of conduct concerning booking conditions for package tours. Wherever a travel agent reserves the right to increase prices in the event of unfavourable fluctuations in exchange rates, he must state what action he is committed to take if, conversely, these fluctuations are favourable. He must also clearly indicate the arrangements he intends to make in the event of a tour being cancelled or its programme changed. The Association has agreed to clarify the provisions in the code regarding the travel agent's responsibilities towards his customer where some features of the programme are altered; in addition, it has published directives aimed at helping travel agents to comply fully with the letter and the spirit of the Code and urging them to adopt a standard presentation for their booking conditions. The Association has also taken steps to shorten complaint and arbitration procedures.

In Denmark, the law of April 1979 provided for the establishment of a travel guarantee fund. The fund is administered by an independent private institution and is intended to provide protection for tourists travelling abroad, to the Faroe Islands and Greenland, in parties or individually, on tours organized by Danish travel agencies. Where, due to the fault of the firm which offered, prepared or sold a tour, the tour fails to take place, the customer may request the Fund to reimburse the deposit paid to the agency at the time of booking. If need be, the Fund can repatriate the tourist, compensate him if the services during the holiday are not provided as agreed and possibly remedy these failings. To obtain redress and compensation, the customer must submit his claims to the Fund by the end of the third month after the date on which the holiday was due to end according to the agreement.

In Italy it has been compulsory since the end of 1979 for hotels and restaurants to issue their customers with a bill setting out all the services provided and the prices actually paid for them. An extension of these provisions to other categories of services is envisaged.

In the Netherlands, the tourism department of the Ministry for Economic Affairs has been invited to take part in talks with the Ministry of Justice with a view to including a chapter on travel contracts in the new civil code.

Moreover, in May 1978 a new decree on the setting-up of travel agencies came into effect. It lays down standards regarding the qualifications and financial solvency of travel agents.

In the Federal Republic of Germany, the new law on tour operators came into force on 1 October 1979. It applies to package holidays arranged and offered by specialist agents. Under this law, the latter are no longer able (by maintaining that they act solely as intermediaries) to evade their obligation to provide the services which they offered under contract to their customers. Travel agents are now wholly responsible for the fulfilment of their obligations, even where they are not at fault. Where there is no fault, the customer is entitled to break his contract; moreover, he may be entitled to damages regardless of price adjustments and services from which he may have benefited.

ACCESS TO THE COURTS

On 9 October 1978 the representatives of the Governments of the Member States, meeting within the Council, signed the Convention on the accession of Denmark, Ireland and the United Kingdom to the 1968 Convention on the jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on its interpretation by the Court of Justice¹.

With the accession of these three Member States to the 1968 Convention, called the Brussels Convention, and to the Protocol on the interpretation of the latter by the Court of Justice, legislation of great importance for the citizen and the protection of his rights was adopted on the enlargement of the Community.

As early as 1972 negotiations were opened with a view to making the necessary amendments to the texts, taking account in particular of certain economic sectors important to the acceding States.

For this reason, provisions on jurisdiction over consumer contracts were introduced into the Convention. These provisions apply to insurance, the sale of goods on instalment credit terms, loans, repayable by instalments, or any other form of credit, made to finance the sale of goods, the supply of goods or services.

They provide that for these contracts, where the consumer enters into a contract with a party who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States, that party shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State. A consumer may bring proceedings against the other party to a contract either in the courts of the Contracting State in which that party is domiciled or in the courts of the Contracting State in which he is himself domiciled. Proceedings may be brought against a consumer by the other party to the contract only in the courts of the Contracting State in which the consumer is domiciled.

¹ OJ L 304/78 of 30.10.1978

ADVICE, ASSISTANCE AND THE RIGHT TO SEEK LEGAL REMEDY

The Commission continued its survey of the procedures and channels for obtaining legal remedy in the Member States, notably of the simplification of court procedures and the processing of individual petitions, the development of amicable settlement procedures and the protection of the various consumer interests in the courts.

Moreover, the Commission has encouraged national or local schemes facilitating consumers' access to the courts and the settlement of the more common or minor disputes. At the request of the Scottish Consumer Council, the Commission therefore helped to finance a scheme for settling disputes involving amounts of £500 or less (Dundee Voluntary Pilot Scheme). Similar schemes are being considered in other member countries.

In the Member States some progress has also been made in the field of consumer access to the courts.

In Denmark, the consumer ombudsman and the complaints office have been dealing with an ever-growing number of complaints lodged by individuals, consumer organizations and private arbitration offices, eight of which have been approved so far.

In Luxembourg, a draft law has been submitted aimed at facilitating the amicable settlement of disputes. In particular, this draft provides for voluntary conciliation officers to be attached to local government departments, as has been done in France.

A venture of a similar sort is envisaged in the Netherlands. However, it is not to be the subject of legislation.

CHAPTER V DEVELOPMENTS IN COMMUNITY LAW AFFECTING CONSUMERS

The price of goods and their availability throughout the common market are clearly matters of major concern to consumers. Within the Community prices of goods and their availability can be affected inter alia by the presence of obstacles to the free movement of goods, prohibited by Article 30 of the EEC Treaty, and restrictive practices prohibited by Articles 85 and 86 of the EEC Treaty.

Obstacles to the free movement of goods and their bearing on prices for the consumer were discussed by the Court of Justice in Case 82/77 'Minimum prices for gin'. In that case the Court was concerned with legislation in the Netherlands prescribing fixed minimum prices for gin sold in that country. The Court held that whilst national price-control rules applied without distinction to domestic products and imported products may not generally produce the effect of a quantitative restriction prohibited by Article 30, this effect may be brought about in certain specific cases. The case before the Court was such a specific case, because the fixing of a minimum price was capable of having an adverse effect on the marketing of lower cost imported spirits in so far as it prevented the lower cost being reflected in the retail selling price.

The Court also considered prices for consumer goods in the case of United Brands Co. v. Commission (Judgement of 14.2.78). The case came before the Court on appeal from a Commission decision finding that UBC had abused a dominant position in the common market in breach of Article 86 of the EEC Treaty. The case concerned the conditions under which UBC supplied bananas to the common market. It was found that UBC charged prices markedly different from one Member State to another - up to 138% - and prohibited its customers from reselling green bananas. This prohibition enabled UBC to limit sales outlets to the detriment of the consumer and sealed off national markets allowing the charging of higher prices in some Member States than in others. The Court also discussed the criteria whereby an undertaking in a dominant position could be found to have committed an abuse by charging unfair prices.

In case 13/78 'Designations of quality for spirits' the Court was concerned with a German law prescribing that the use of the terms 'Qualitätsbranntwein aus Wein' (high quality spirits made from wines) or 'Weinbrand' (brandy)

was applicable only to spirits made from German distilled distillates kept for at least six months in oak casks in Germany. The terms were held not to be indications of origin and the Court rejected the argument that they were justified as indications of quality. The Court held that indications of quality could only depend upon the intrinsic objective characteristics governing the quality of the product and not on the geographical locality where a particular production stage took place. The German requirements accordingly amounted to a measure having an effect equivalent to a quantitative restriction on trade within the common market, prohibited by Article 30 of the EEC Treaty.

The relationship between national measures fixing minimum standards for consumer goods and the free circulation of goods required by Article 30 was again discussed by the Court in Case 120/78 Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein. Under German regulations for the marketing of wine spirits, only fruit liqueurs having a minimum alcohol content of 25% could be sold in Germany. These regulations effectively prevented the import of a wine liqueur known as 'Cassis de Dijon' which had an alcohol content by volume of only 15% to 20%. It was argued for the German government that the regulations were necessary for the protection of public health and the protection of the consumer against unfair commercial practices. The arguments were rejected by the Court on the facts as being insufficient justification for a departure from the general principle of the free movement of goods required by Article 30. The argument advanced by the German government that the proliferation of beverages with a low alcoholic content might more easily induce a tolerance to alcohol than more highly alcoholic beverages was countered by the fact that a large proportion of beverages with a high alcohol content was generally consumed in a diluted form, whilst the Court did not agree that the mandatory fixing of minimum alcohol contents was an essential guarantee of the fairness of commercial transactions with the consumer since, 'it is a simple matter to ensure that suitable information is conveyed to the purchaser by requiring the display of an indication of origin and of the alcohol content on the packaging of products'.

The Court accordingly held that the minimum alcohol content requirements constituted obstacles to trade incompatible with Article 30 of the EEC Treaty. If the alcoholic beverages were lawfully produced and marketed in

one of the Member States, there was no valid reason why they could not be introduced into any other Member State.

In a similar case (no. 148/78 *Pubblico Ministero v. Ratti*) the Court decided that where a directive had been adopted by the Council, and the period for implementing the directive within the national legal system had expired, a Member State could not enforce its national law, prescribing rules inconsistent with the directive, on a person who has complied with the directive. The case concerned the conflicting requirements of Italian law and a Council Directive (73/173/EEC) on the classification, packaging and labelling of dangerous solvents. (Under Italian law the requirements to label the presence of toluene, xylene benzene were stricter than the rules of the Directive).

The Court ruled that since Directive 73/173 required that only solvents which complied with the Directive could be placed on the market Member States could not introduce more restrictive, more detailed or different rules from those in the Directive. The Court also stated that where a Community directive had been adopted under Article 100 of the EEC Treaty for the harmonisation of measures necessary to protect the health of humans and animals, Article 36 could no longer be used to justify an exception on those grounds to the general principle of the freedom of movement of goods required by Article 30.

The implications of these two judgments appear to be that national measures to regulate the quality, nature and safety of goods will not prevail against the principle of the free movement of goods embodied in Article 30, unless they fall within the exceptions permitted by Article 36. In the absence of harmonising measures, Member States would be bound to accept each others standards; however low those standards might be they would form the lowest common denominator within the Community. In addition, where a Community instrument has been adopted which relates to those matters enumerated in Article 36, for example the protection of health and life of humans and animals, it appears that it is no longer open to Member States to justify under Article 36 an exception from the principles of Article 30 in respect of the subject matter of the instrument. The unilateral adoption by a Member State for whatever purpose

of a higher or more restrictive standard for the marketing of goods runs the risk that the measure will be found to have in fact an equivalent effect to a quantitative restriction prohibited by Article 30.

This latter feature of the development of Community law was illustrated in the judgement of the Court in Case no. 16-20/79 *Openbaar Ministerie v. Danis and others* where price control measures adopted in Belgium were found to have an equivalent effect to a quantitative restriction. Although the legislation applied both to domestic producers and importers, the Court ruled that the measures were prohibited under Article 30 to the extent to which they made the marketing of products (in this case animal feeding stuffs) imported from another Member State either impossible or more difficult than that of national products or have the effect of favouring the marketing of national products to the detriment of imported products.

In Case no. 140/77 *Bertrand v. Ott* the Court of Justice was called upon to consider what class of persons was protected under the Brussels Convention¹ of 27 September 1968 in the case of an instalment credit sale from a seller in one Member State to a buyer in another. The Court decided that the requirement that an action be brought against a buyer only in the Member State in which he is domiciled applied only to 'private final consumers'. In the Court's words the 'jurisdictional advantage' given by the Convention was 'to buyers who are in need of protection, their economic position being one of weakness in comparison with sellers by reason of the fact that they are private final consumers and are not engaged, when buying the product acquired on instalment credit terms, in trade or professional activities'.

The Court of Justice has consistently emphasised that the EEC Treaty gives rights to individuals which national courts must uphold. The exercise of these rights in the field of competition law by a private consumer was illustrated in the proceedings taken by the Commission against Kawasaki culminating in the imposition of a fine against Kawasaki Motors (UK) for operating an export prohibition in breach of Article 85 of the EEC Treaty.

¹ On Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters.

This action was undertaken following a complaint from a private person living in Belgium who had noticed the large differences in price (as much as 50%) for Kawasaki motorcycles in the different Member States and has sought unsuccessfully to buy a machine where it was cheapest (then the United Kingdom). The proceedings served to re-emphasize a right which consumers have had since the passage in 1962 of Council Regulation 17/62, namely that of invoking action by the Commission to ensure that the competition rules of the EEC Treaty are observed.

CHAPTER VI CONSUMER INFORMATION AND EDUCATION

CONSUMER INFORMATION

Steps have been taken to improve consumer information at both Community and national level alike. In all the Member States - with the exception, however, of Ireland and Italy - consumers can improve their knowledge of products and services by reading reports of comparative tests. The results of these tests are initially published in specialist consumer magazines; however, in some Member States - particularly Germany and the Netherlands - the daily press and television reproduce their findings.

The Commission has undertaken a survey of comparative tests conducted in the Member States with a view to improving their comparability, especially in the case of products available Community-wide.

In most Member States, the public authorities and quasi-public and private organizations publish quantities of brochures, prospectuses and leaflets informing consumers of their rights, the dangers and hazards arising from the use of products, and about prices and of other matters. Radio and television programmes - in France sometimes produced by the Institut National de la Consommation (National Consumer Institute), and by journalists in other countries - also deal with consumer affairs. The Commission has organized several meetings for journalists specializing in consumer affairs. It is difficult to assess the effectiveness of all the steps taken to inform consumers: generally speaking, there is a tendency in the Member States to make greater efforts to provide consumer information at regional and local level. Specific action along these lines has been taken by France, where public reception offices have been set up in the départements, in the Netherlands, where - following a recommendation by the Commissie Consumentenangelegenheden CCA (commission for consumer affairs) - initial steps have been taken to provide information at regional level, and by Denmark, the United Kingdom and Germany.

France, Denmark and Germany have continued to work for better voluntary labelling of products, particularly where consumer durables are concerned. In Germany, efforts have been concentrated on electrical household appliances; the trade, in particular, has been reluctant to accept the scheme. The Association Française de l'Étiquetage Informatif (AFEI) - Association for Informative Labelling - was reorganized in 1978 to promote greater efficiency in planning and implementing this work.

Most of the Member States have made special efforts to provide better consumer information on energy-saving. In addition to conducting information campaigns, the United Kingdom and Germany have stepped up their efforts to enable consumers to consult experts at regional or local level on energy-saving. The same two Member States have initiated action on the labelling of the energy consumption of domestic appliances, to coincide with the adoption of Community Directives to this effect.¹

Denmark and Germany have launched information campaigns to improve canteen meals; the Netherlands have studied ways of preventing accidents to children; Denmark has tried to increase safety in the streets for children; Germany has launched a campaign against accidents in the home while passing leisure activities.

The Netherlands and the United Kingdom have adopted regulations aimed at improving price labelling and indication for goods and services and abolishing misleading price marking. In particular the Price Marking (Bargain Offer Claims) Order 1979 in the United Kingdom is worth noting.

At Community level, in June 1979 the Council adopted a Directive on the marking and display of the prices of foodstuffs, which is to become law in the Member States within two years.² The Directive provides that the selling price and the price per kilogram or per litre be shown, regardless of the form in which the product is offered for sale.

¹ OJ L 145 of 13.6.1979

² OJ L 158 of 26.6.1979

However, products which are prepackaged in predetermined quantities fall outside the scope of the Directive and, in addition, the Member States may grant exemptions, for practical reasons, to some small traders.

In October 1978, the Commission organized an international colloquium on "The European Consumer in a changing Society" to gather ideas and views from the various interest groups affected by Community consumer policy with a view to preparing Commission proposals for the second programme. In October 1979 the Commission organized a colloquium on the "Consumer as user of services", to which representatives of the national and European consumer organizations were invited, besides a number of representatives of trade interests supplying public and private services. In addition, mention should be made of the international consumer film competition, organized by the German consumer organization (AGV) in Berlin in January 1979 and several meetings on problems of consumers in the Community which took place during the electoral campaign for the European Parliament.

CONSUMER EDUCATION

Progress has been made in the teaching of consumer affairs in France; this subject has been introduced in the second year of secondary school, and in Ireland it is taught in business schools. In this latter Member State, a report was presented to the Ministry of Education by the Committee for Consumer Education.

Campaigns to arouse public awareness of the need to save energy were launched in several countries, notably the United Kingdom, the Federal Republic of Germany, Belgium and France. In addition, to mark the International Year of the Child, the United Kingdom set up a teaching programme on safety in the home.

At Community level, steps were taken based on the outcome of the symposium held in London in December 1977. A network of about twenty pilot schools was set up: the teachers' specific task in each pilot establishment is to continue - or introduce - tuition in consumer affairs, whether in the form of specific classes or as part of other subjects. In these classes the teachers will be able to try out teaching methods and aids used in their countries or devised by themselves.

The conclusions reached at the London symposium showed that the pilot experiments should be aimed as far as possible at pupils in the 10-12 age group, thus enabling a consumer education programme for young pupils to be drawn up and the stages of this training to be followed over a number of years.

In addition, a Working Party on the content of consumer education and the training of teachers was set up; it will endeavour, in particular, to collect all the documentation available in the Member States so as to build up a basic library including teaching material and information on teaching methods, teaching syllabuses and teacher training.

At a later date, the Working Party intends to organize experimental teacher training seminars with the cooperation of the appropriate authorities in the Member States.

CHAPTER VII ACTIVITIES OF THE OTHER COMMUNITY INSTITUTIONS AND OF
 THE CONSUMERS' CONSULTATIVE COMMITTEE

European Parliament

In the two years covered by this report, the European Parliament discussed specific aspects of consumer policy on several occasions. For instance, it adopted the following resolutions regarding the proposed Directives:

Misleading or unfair advertising: in its resolution¹, the Parliament welcomes the Commission's proposal, declares itself in favour of comparative advertising, of a reversal of the burden of proof and of the publication of corrective information and regrets that the Community's work on the advertising of pharmaceutical products, tobacco and alcoholic beverages and advertising aimed at children is not further advanced.

Accidents in the home: in its resolution², the European Parliament approves the Commission's proposal, invites it to undertake preliminary work with a view to drawing up Directives designed to reduce the number of accidents involving products and to make available to Community consumer organizations information obtained on accidents.

Home study courses: the Parliament is convinced of the need for this Directive and urges that an accreditation system be set up for the organizers of courses; the mutual recognition of diplomas is also called for. Furthermore, Parliament regrets that the Commission did not suggest drawing up a list of the various approved courses, which would have made their evaluation easier.³

Product liability: the European Parliament welcomed the principle of the Directive, namely the manufacturer's full liability for defective products.⁴ However, it wished to see a limitation on liability where development risks are involved, specific reference to contributory negligence and greater protection for the victim as regards ceilings on liability.

Unit prices: the Parliament approved the proposed Directive as presented by the Commission and merely suggested a number of improvements and clarifications.⁵ It stressed the importance of appropriate consumer information, particularly as regards prices.

¹ OJ C 140 of 5.6.1976

² OJ C 127 of 21.5.1979

³ OJ C 131 of 5.6.1978

⁴ OJ C 127 of 21.5.1978

⁵ OJ C 63 of 13.3.1978

Apart from specific texts, the European Parliament discussed the following:

Prices of foodstuffs

Parliament expressed its concern regarding inflation in the Member States and stressed the importance of a common agricultural policy ensuring reasonable prices for the consumer.¹

Fire protection in hotels

Parliament expressed its concern on this matter and requested that practical proposals be drawn up for harmonizing national provisions on protection against fire.²

¹ OJ C 39 of 12.2.1979

² OJ C 163 of 10.7.1978

Economic and Social Committee

In 1978 and 1979, the Economic and Social Committee delivered opinions on, inter alia, the following proposed Directives:

- home study courses;¹
- product liability;²
- misleading and unfair advertising;³
- accidents in the home.⁴

In general, the Economic and Social Committee approved the proposals but, on several occasions, suggested that the text be clarified or amended.

In January 1979 the Economic and Social Committee brought out a report on the legal and quasi-legal protection of the consumer in which it requested that a number of practical steps be taken at Community level. It pointed out that these measures could not be confined to a single Member State since products and services are becoming increasingly international.

Discussion of the Second Community programme for consumers provided the ESC with an opportunity to review its position on this matter. In its Opinion,⁵ the ESC describes the objective of consumer policy as being the creation of conditions likely to enhance the quality of life. Consumer policy should be seen as an integral part of general economic and social policy.

The ESC recognizes the need for, and approves the philosophy, of the second Community programme for consumers, but would prefer concrete action rather than the mere proclamation of good intentions.

¹ OJ C 101 of 26.4.1978

² OJ C 114 of 7.5.1979

³ OJ C 171 of 9.7.1979

⁴ OJ C 128 of 21.5.1979

⁵ OJ C 83 of 2.4.1980

Consumers' Consultative Committee (CCC)

The CCC continued its work under the chairmanship of Mr Dary (COFACE - France) in 1978 and Mr Cornerotte (ETUC - Belgium) in 1979.

In the last two years, the CCC has issued 11 opinions and 12 statements of position or resolutions. The opinions dealt with the following:

- the draft Directive on the advertising of proprietary medicinal products;
- the draft Directive on the indication by labelling of the energy consumption of household appliances;
- the communication on the general guidelines for a textile and clothing industry policy;
- certain agricultural problems;
- advertising in general;
- the second Community programme for consumers;
- the draft Directive on legal expenses insurance;
- draft Regulation on the Community trade mark;
- draft Directive on toy safety;
- draft Decision on the rapid exchange of information on hazards arising from the use of consumer products;
- prices of pharmaceutical products.

Ten of the twelve resolutions or statements of position were adopted in 1979; five of these ten resolutions were directly concerned with the Common Agricultural Policy, in particular the fixing of agricultural prices. All this shows evidence of a tendency to attempt to exert greater direct influence on policy decisions.

In 1978 and 1979, the Steering Committee of the CCC met Mr Jenkins, President of the Commission, Mr Tugendhat, Mr Gundelach and - on several occasions - Mr Burke, Member of the Commission responsible for consumer affairs.

The Commission has persisted in its policy of previous years, refusing to make public CCC opinions, principally on the grounds that the CCC is a Commission consultative committee and not a pressure group. On several occasions, the Commission has been obliged to answer parliamentary questions suggesting that the opinions and resolutions of the CCC should be published.

ANNEX I

COUNCIL OR COMMISSION DIRECTIVES OF INTEREST TO CONSUMERS ADOPTED DURING
THE PERIOD 1 JANUARY 1978 TO 1 JANUARY 1980

Foodstuffs

1. Colouring matters authorized for use in foodstuffs intended for human consumption. The Directive of 23 October 1962 (OJ No 115 of 1962, p. 2645, was amended by Directive 78/144/EEC of 30 January 1978, OJ No L 44 of 15 February 1978, p. 20).
2. Preservatives authorized for use in foodstuffs intended for human consumption. Directive 64/54/EEC of 5 November 1963, OJ No 12 of 27 January 1964, p. 161, was amended by Directives 78/145/EEC of 30 January 1978, OJ No L 44 of 15 February 1978, p. 23 and 79/40/EEC of 18 December 1978, OJ No L 13 of 19 January 1979, p. 50.
3. Antioxidants authorized for use in foodstuffs intended for human consumption. Directive 70/357/EEC of 13 July 1970, OJ No L 157 of 18 July 1970, p. 31, was modified by Directive 78/143/EEC of 30 January 1978, OJ No L 44 of 15 February 1978, p. 18.
4. Specific criteria of purity for antioxidants which may be used in foodstuffs intended for human consumption. Directive 78/664/EEC of 25 July 1978, OJ No L 223 of 14 August 1978, p. 30.
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79/697/EEC of 20 July 1979, OJ No L 207 of 15 August 1979, p. 19.
79/1011/EEC of 15 November 1979, OJ No L 310 of 6 December 1979, p. 24.

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Directive 77/101/EEC of 23 November 1977, OJ No L 32 of 3 February 1977, p. 1, amended by Directives 79/372/EEC of 2 April 1979, OJ No L 86 of 6 April 1979, p. 29, and 79/797/EEC of 10 August 1979, OJ No L 239 of 22 September 1979, p. 53.

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Opinion of 21.6.1978/20.10.1978 on:

- a proposal for a Council Directive introducing an informative labelling system on the energy consumption of domestic appliances;
- a proposal on the draft Council Directive applying to electric ovens, the informative labelling system on the energy consumption of domestic appliances.

Report of 20.10.1978 on certain aspects of consumer credit.

Opinion of 15.12.1978 on the Commission's Communication to the Council on general guidelines for a textiles and clothing industry policy.

Opinion of 15.12.1978 on certain agricultural problems.

Statement of 16.2.1979 on the draft programme for the use of the producer co-responsibility tax in the milk sector.

Statement of 16.2.1979 on the Commission's price proposals for 1979/80.

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Statement of 16.3.1979/24.4.1979 against protectionist measures upon the import of fresh fruit from the southern hemisphere.

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Opinion of 23.5.1979 on the draft directive on the co-ordination of provisions laid down by law, regulation and administrative action concerning legal expenses insurance.

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Opinion of 30.10.1979 on the consequences of the Council's agricultural price decisions for the 1979/80 campaign on the consumers.

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The third report on the activity of the Community in the area of consumer policy is based on the first consumer program of 14-4-1975 and on the proposal for a second program, which the Commission submitted to the Council in June 1979. The report covers Community and national activities which are of interest to consumers and which were undertaken in 1978 and 1979.

The report places these activities in their administrative and institutional contexts before describing, in subsequent chapters the following items: health and safety of consumers, protection of economic and legal interests of consumers, progress in Community law, information and education, activities of other Community institutions and of the Consumers' Consultative Committee.

The annexes enumerate the directives adopted in 1978/89, the opinions of the Consumers' Consultative Committee and the studies undertaken by the European consumer organisations.