

# COMMISSION OF THE EUROPEAN COMMUNITIES

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THREE YEAR ACTION PLAN OF CONSUMER POLICY IN THE EEC  
(1990 1992)

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CONSUMER POLICY IN THE COMMUNITY

The Treaty of Rome in its preamble affirmed the essential objective of the Treaty as being the constant improvement of the living and working conditions of the people.

The Single European Act additionally in Article 100 A.3. added a conscious dimension with the words "The Commission in its proposals concerning health, safety, environmental protection and consumer protection will take as a base a high level of protection".

Since 1961, when Sicco Mansholt, the Agriculture Commissioner, convened consumer representatives for the first time, the Community has attempted to develop consumer policy. However, it was on the occasion of enlargement in 1972 that the policy got its first serious attention when the heads of state and government of the six founder states called for a major effort to address the practical day to day problems of citizens. As a result in 1973, the Commission established a specialised service to deal with environment and consumer protection and created a Consumer Consultative Committee.

In April 1975, a first consumer programme was adopted, but it was not until 1981 with the adoption of a second programme, at the behest of the Council of Ministers, that the policy began to develop visibly.

The first Consumer Council took place in 1983 and since then they have become a regular feature of Community business.

In 1985 a programme was launched to give a new impetus to consumer policy. This coincided with the publication of the White Paper on the Internal Market and increased consciousness of the importance of addressing consumer concerns in the concentrated preparations for the Internal Market. Many of the measures which the Community has taken in recent years have addressed consumer interests. However, with the imminence of 1992, pressure has been applied by the Council of Ministers on November 9, 1989 for a further effort to intensify activity addressed to the consumer.

The Commission recognised the importance of consumer policy in its report on progress towards the internal market (COM(88) 650 of 17th November 1988).

That report stated "Consumer protection provides an example of a policy area which will take on an enhanced importance in the completed internal market. Consumers will need to be reassured that their interests are properly represented, that considerations of physical and economic safety have been properly taken into account and that access to information and justice is assured."

In February 1989 the Commission decided to establish the Consumer Policy Service. Expectations of greater attention to consumer policy were raised accordingly in the European Parliament, in the Member States and the consumer organisations.

The Council, on its own initiative, unanimously adopted, on 9th November 1989, a Resolution on future priorities for a relaunch of consumer policy (89/C 294/01).

The construction of the internal market is expected to be greatly to the advantage of the consumer. To gain the benefits, it is necessary that consumers be sufficiently confident to use the opportunities provided. Significant progress has been made in providing the basis for confidence in industry and commerce and they have been responding accordingly to the challenge. In parallel it is important to pay

attention to consumer interests', not only for their own sakes, but also for the benefits of producers, distributors and enterprise in general.

This could be done in a limited way by specific Community consumer actions but the interests of consumers should also be reflected in the establishment of other Community policies (i.e. environment, industrial, agriculture, transport and social policy).

This action plan concentrates on the more specific actions which have been identified.

#### Subsidiarity Principle

Consumer policy in the Member States has developed over many years, but only limited aspects of consumer protection have been addressed at Community level. With the imminence of 1992 there is pressure for accelerated activity on consumer issues. In preparing this action plan therefore, the Commission has restricted its proposals to those areas where its involvement is essential to the success of the Internal Market.

A limited number of legislative actions are proposed where common harmonised approaches are crucial to the proper functioning of the market.

Other actions are proposed in the Representation and Information sectors. Finally, some actions are proposed in order to assist in the development of activities and where stimulation is needed to speed up developments throughout the Community. In those instances it is not envisaged that Commission support would continue indefinitely, but that either the authorities in Member States or the eventual self sustaining capacity of independent organisations would ensure continuity.

Practical consumer policy must be effectively managed in the Member States on an ongoing basis with the management and control of safety, information and redress being adapted in each instance to local needs. It would be unrealistic to undertake such tasks continuously at a Community level.

## A. CONSOLIDATION OF PROGRESS

### a) Situation of consumers in 1990

The programme adopted to open up the internal market included many measures which were important from the consumers' viewpoint.

Sector by sector legislation in many products and services has removed barriers to trade which limit availability to consumers, as well as addressing safety. A global approach to certification and testing of products has been accepted.

In addition, specific measures have been adopted particularly tailored to consumers safety and economic needs (product liability, misleading advertising, rapid exchange of information system, etc.).

### b) Implementation

The Commission will seek to reinforce the efforts to secure implementation of the directives already adopted, as well as to develop and operate the related management and control procedures.

Many Community directives have a consumer effect, especially environment, agriculture, transport, but particularly important are those regulating food, medicines and financial services, such as the banking and insurance.

The work of CEN/CENELEC in providing the necessary standards to support Community legislation is a vital component which also needs to be finalised on time.

On a more specific basis the Commission recognises that, from a consumer perspective, the implementation of the Product Liability Directive 85/374, the Misleading Advertising Directive 84/540, the Credit Directive 87/102, the Door Step Selling Directive 85/577, the Food Labelling Directive 79/112 and the first of the new approach directive that on Toy Safety 88/378, are of critical importance. For that reason it will emphasize to the authorities in the Member States the necessity to transpose these directives into their national legislation as quickly as possible.

The Commission also attaches great importance to the rapid adoption of its draft directive for general product safety.

## **B. THREE YEAR ACTION PLAN**

The Commission in responding to the resolution on the development of consumer policy adopted by the Council on November 9th, 1989 puts forward this action plan for the three years ending on 31st December 1992.

Four main areas of focus are identified because of their importance in building the consumer confidence necessary to support the implementation of the internal market.

- (1) Consumer Representation
- (2) Consumer Information
- (3) Consumer Safety
- (4) Consumer Transactions.

### **1. CONSUMER REPRESENTATION**

To achieve the economic and social benefits of the internal market it is necessary that consumers participate actively in many functions.

- (i) Consumer representation is required at policy levels in the Community as well as in each Member State, in order to match the influence achieved by producers and suppliers and assist in the adoption of balanced decisions. Some Member States have achieved a balance between producer/consumer representation. The Commission should seek to encourage the development of an equivalent balance where it has not been fully achieved.
- (ii) The decision of the Commission to establish a new Consumer Consultative Council gives a lead in consumer representation and affords a better and more effective system of involving

consumer representatives in the various policies and procedures being established at Community level. The systematic exchange of information and experience of consumer policy in the Member States will be an important function of this Council.

- (iii) It must be recognised that the differences between the degree of organisation, culture and capacity of consumer organisations varies greatly between Member States, some of which have acute deficiencies. Efforts to improve this situation must be continued and reinforced while respecting the different needs.
- (iv) Public trust in many of the agencies which manage safety and quality, which set standards, which certify conformity of goods or services, which authorise products or which arbitrate on disputes can be strengthened if there is more effective participation of consumer representatives in their operation. With consideration being given to new agencies in the Community, it is important that this aspect be taken into account from the beginning.
- (v) Supporting the development of consumer organisations is therefore essential in all parts of the Community so as to provide the "corps" of representation necessary.

The development of consumer organisations will also lead to increased provision of services required by consumers themselves in the fields of information, advice and legal services. The success of some organisations in conducting and distributing comparative testing results of goods and services has tended to foster competition and assist in consumer choice.

- (vi) This development of consumer organisations requires funding and practical assistance if it is to succeed. The benefits which will accrue from such investment will far outweigh the costs involved by reducing the need for public provision of many services. Care

however must be taken to preserve the independent character of consumer organisations if their credibility with consumers is to be maintained. Every effort must be made to reduce the need for public funding from the Community budget by encouraging local financing and self sufficiency among consumer groups.

(vii) The development of effective, confident and more representative consumer structures is required, if successful producer/consumer dialogue and negotiation is to have its natural role in the market. The inability of Consumers to fund such work at a Community level is a big inhibiting factor. The relative weakness of developments in this activity deprives the market of a means of addressing consumer problems without the need for additional legislation. Through the new Consumers Consultative Council, the Commission will seek to realise consumer representation willing and able to negotiate with suppliers.

Action representation :

1. Complete the establishment and development of the Consumer Consultative Council and if necessary help promote the development of similar approaches in Member States.
2. Assist in the development of consumer organisations particularly in Southern Europe and Ireland by providing technical and/or financial assistance for projects and actions, as well as the exchange of information and experience.
3. Encouragement of greater producer/consumer concertation.

2. CONSUMER INFORMATION

Consumer confidence to achieve the benefits from the operation of the single market can be obtained through the availability of adequate information. There are many facets to information provision :

- (a) Information services
- (b) Policy commitment to transparency
- (c) Comparative testing and advertising



(a) Information services

- i) The necessary provision of adequate information flows to meet consumers' needs will depend on the development and stimulation of a response from a variety of economic and social actors. This extends far beyond the public service sectors in the Community to include consumer organisations, private sector organisations, professional advisors, and the communications industry. Sales promotion information is not of itself a sufficient basis for decision making for significant purchases. Consumers need access to factual information and advice right across the range of supply.
  
- ii) The volume and concentration of changes in legislation, standards and control procedures, arising in order to open up the single market, creates information needs for consumers just as it has for industry and which has led to the establishment of Euroguides and other actions already. Add to that a somewhat wider range of products and a veritable transformation in the availability of services and it becomes clear that a major focus on information provision is needed by consumers.
  
- iii) While there is a close link between using information properly and education, the reality is that many citizens emerge from the school system ill prepared for their role as adults in a consumer society.

Action information services:

1. Communication to the Council on consumer information (strategy and actions).
2. Support local initiatives of three pilot projects of European consumer information and advice centers for frontier regions in 1991 and 1992 using the experience gained by Commission services in related activities already.
3. The promotion of cooperation between consumer organisations and the education systems in exchanging materials to improve teaching.

4. Collaboration with the youth information and awareness programmes.

(b) Transparency policy

- i) Consumer policy must endeavour to secure the greatest possible degree of relevant disclosure or transparency which can be achieved.

The need for maximum transparency in the presentation and supply of goods and services is increasingly recognised. Much of the existing legislation regulating the market sectors, does not ensure adequate transparency. Particular attention must be given to banking, insurance and other financial services because of their importance in the internal market.

Even where requirements are established in product sectors such as foodstuffs, sufficient disclosure of ingredients, processes, and food values in a manner which allows consumers to discriminate is not achieved. Disclosure can confuse as well as inform.

- ii) It must also be recognised that transparency requirements change and evolve. The recent focus on ecological and health concerns illustrates this. There are emerging concerns arising from the development of biotechnology which will also require examination.

There is a need therefore to review transparency requirements already in place with the aim of rationalising, as well as ensuring that new regulations take account of this aspect.

- iii) The development of labelling legislation, inevitably in piecemeal fashion, needs to be examined to ensure that confusions are corrected or eliminated and that anticipated consumer requirements are met.

iv) Labelling provisions must also be developed to facilitate recognition of product qualities and to cope with emerging concepts such as organic farming ecological or biological products. Without making provision it will be extremely difficult for producers to assure consumers of the existence of real qualities. While care must be taken to avoid resorting to recipe law to specify exactly how products must be made, the emphasis should be put on recognition of quality production sought by producers themselves, by the development of identifying marks or seals as appropriate.

Action transparency:

1. Seek maximum transparency, particularly for banking and insurance, through Community legislation, if necessary, to assist consumer choice.
2. Proposals to assure transparency in cross frontier financial transfers and payments.
3. Analysis of existing labelling directives with a view to its rationalisation and improvement taking account of changing needs.
  - . amendments of the food labelling directive 79/112
  - . proposal for directive on general product labelling.
4. Develop the concept of labelling to support quality products.

(c) Comparative testing

- i) The first need recognised by many consumer organisations to assist consumer choice has been that of comparative testing of goods and services. The most successful independent consumer organisations fund their operation by successfully selling the results of comparative testing studies to consumers. This activity stimulates competition and helps recognition and evaluation of quality provided that it is conducted according to the recognised criteria and basic conditions of testing.
- ii) The penetration of this information however is limited and the facilities organised to achieve it are not adequate.

- iii) The focus of comparative testing has to be directed more and more from existing national markets to a situation where the information covers the whole internal market. Special attention must be paid to this task.
  
- iv) Consumer choice would be facilitated if accurate advertising comparing prices and quality were available. This is particularly so when transfrontier transactions increase. In some Member States comparative advertising is still prohibited because unfair competition and trade mark laws forbid an advertiser from identifying competitors and their goods or services by name. The Commission intends to bring forward an amendment to the Misleading Advertising Directive to remedy this situation, on conditions which will strike a fair balance between the interests of consumers and suppliers.

Action comparative testing:

1. Stimulation of comparative testing to meet market needs, taking account of the Commission memorandum COM 89/209.
2. Proposal of directive to encourage comparative advertising (amendment of directive 84/540).
  
3. CONSUMER SAFETY

Much harmonisation of legislation in the Community has been proposed and adopted already on a sector by sector basis. The safety aspects of this legislation will go a substantial way towards ensuring that reasonable controls are exercised.

- i) The need to cover sectors not addressed by specific legislation, take account of developments in technology and knowledge, cover consumer safety emergency situations at Community level in an efficient way and streamline how public authorities in the Member States manage and interface with safety issues, remains as a significant step required to build consumer and product users confidence in the operation of the internal market. The draft Product Safety Directive

proposed by the Commission should be adopted speedily, so that it will be effectively implemented in time for the completion of the internal market.

- ii) In addition, the strategy of using legislation dealing with civil liability for defective products adopted by the Council in 1985 in Directive 85/374 will be examined by the Commission with a view to a proposal of measures to deal with civil liability for physical damage arising from the supply of services.
- iii) The completion of the sectoral legislation programme of the White Paper, particularly those on food, pharmaceuticals and cosmetics, combined with the global approach of (i) and (ii) above will enable the Community to address consumers in the knowledge that their health and safety interests are adequately protected and that they can confidently choose between a wide range of goods and services without undue risk.
- iv) Rather than spread consumer vigilance over the whole range of production, it is necessary to attempt to identify the particular goods and services which are of concern and interest to consumers. By identifying such a priority list, it would be possible to secure priority attention in standards setting, information provision or other such activity.
- v) The extent to which the Community might best use the Commission or other agencies to supplement the efforts of Member States in fields such as "premarketing authorisation" of medicines, coping with serious emergencies, compliance or quality certification is an issue being carefully considered at present. The Product Safety Draft Directive seeks to permit a small but constructive role in emergency management by the Commission. Such developments will require for

success, the maximum input of consumer and public health interests if they are to make an adequate contribution to the effectiveness of the Community.

- vi) a) Standards setting by CEN/CENELEC is taking longer than envisaged, yet those standards are needed by Community legislation. Reinforcement of that work, together with the adoption of priorities is an absolute necessity. Greater consumer participation in standards setting will build confidence in the adequacy of the safety or quality levels adopted. Every effort must be made to achieve this goal in line with the Council Resolution of 4.11.1988
- b) Certification of compliance with essential requirements of Community legislation is of great importance. In order to ensure consistency of such procedures throughout the Community to build confidence in the safety of mutual recognition, the Commission has presented a memorandum COM 89/209 final of 4.7.1989 and the Council on 21.12.1989 adopted a resolution.
- c) As proposed in the draft directive on general product safety the temporary Rapid Exchange of Information System for emergency safety problems must be put on a permanent and improved basis so that not only are decisions notified by Member States but that also serious concerns which might lead to decisions are included.
- d) Information gathering and surveillance systems appropriate to the management of safety must be developed.

Action safety:

1. Proposal for Council decision to extend the Rapid Exchange of Information System.

2. Examination of the need for a proposal on liability for physical damage in services.
3. Cosmetics directive amendment.
4. Prepare listing of products requiring priority attention of consumers in standards setting and information.

N.B.: . Complete implementation of the Product Liability Directive 85/374.

- . . Adoption of the draft directive on product safety.

#### 4. CONSUMER TRANSACTIONS IN THE MARKET

To achieve full benefit from the internal market, it is necessary that its citizens be prepared to use that market by purchasing goods and services available anywhere in it.

Cross frontier selling by electronic means using television and new communications technology, in addition to existing mail order business, will stimulate demand for cross frontier purchasing. In addition the free movement of people achieved under the Community's programme, enabling citizens to travel, work and reside where they wish, will increase consumer mobility. It is therefore necessary to take the steps required to enable consumers to exercise their purchasing potential throughout the Community.

- i) The differences in conditions of sale in contracts across the twelve Member States are such as to inhibit consumers from purchasing significant items or services away from his or her place of residence. The risks involved in so doing, without hiring a lawyer to guide and advise on the purchase, will be formidable. Most prudent consumers will not take such risks. With each Member State having a different legal system, complicated additionally by nine Community languages, the inability of citizens to confidently cope with such complexities will inhibit purchasing across frontiers.

- ii) It is necessary to identify the elements in the existing contract laws of Member States which are likely to inhibit consumer purchasing and as far as possible eliminate them. Problems could arise from differences existing which allow for unbalanced and potentially damaging contract terms in the small print of contracts and which are often not expected by consumers.
- iii) In addition to modifying existing law, consideration must be given to whether, in the internal market, it might not be helpful to both producers and consumers alike to construct a model set of contract conditions (i.e. a sale of goods act) as part of the appraisal of civil law in the Community. This would include guarantees and warranties which should be available uniformly across the whole market. Even on an optional basis, such a measure could simplify consumer sales procedures.
- iv) Access to justice and redress is already inadequate in many Member States because of the cost, complexity and time required and there are problems in relation to transfrontier operations. This will also inhibit consumer purchasing. If the proposals in (ii) and (iii) above, together with those on product and service liability, are successfully implemented, then the pressure and scale of proposal required in this field will be greatly reduced. Comprehensive studies of what might be undertaken are being conducted at present. Particular attention is being paid to possibly allowing for group actions for consumer redress.
- v) New selling techniques such as television selling to consumers or the selling of timeshare holiday homes are growing rapidly. Because these often occur away from the normal business situation, they raise concerns about undue sales pressure on consumers. Similar issues were successfully



addressed in the Door Step Selling Directive 85/577 by providing for a "cooling off" period to allow for cancellation of a purchase order after reflection.

Action transaction:

1. Proposal of directive on unfair contract terms.
2. Examination of possible initiatives to simplify cross frontier consumer contracts, guarantees and after sales service.
3. Consideration of means of improving consumer access to justice and redress.
4. Proposal for a directive on distance selling.

### 3 YEAR ACTION PLAN

#### Implementation Action

1. Sustained efforts to secure implementation of directives of importance to consumers.

#### Representation

1. Complete the establishment and development of the Consumer Consultative Council and help promote the development of similar approaches in Member States.
2. Assist the development of consumer organisations particularly in Southern Europe and Ireland by providing financial assistance for projects and actions as well as the exchange of information and experience.
3. The encouragement of greater producer/consumer concertation.

#### Consumer information

1. Communication to the Council on consumer information (strategy and actions) (1990).
2. Support local initiatives of three pilot projects of European consumer information and advice centers for frontier regions in 1991 and 1992 using the experience gained by Commission services in related activities already.
3. The promotion of cooperation between consumer organisations and the education systems in exchanging materials to improve teaching.
4. Collaboration with the youth information and awareness programmes.

Transparency

1. Seek maximum transparency, particularly for banking and insurance, through Community legislation, if necessary, to assist consumer choice.
2. Proposals to assure transparency in cross frontier financial transfers and payments (1991).
3. Analysis of existing labelling directives with a view to its rationalisation and improvement taking account of changing needs.
  - . amendments of the food labelling directive 79/112 (1990)
  - . proposal for directive on general product labelling (1991).
4. Develop the concept of labelling to support quality products (1990/1).

Comparative testing

1. Stimulation of comparative testing to meet market needs taking account of the Commission memorandum COM 89/209 (1991/2).
2. Proposal of directive to encourage comparative advertising (amendment of directive 84/540). (1990)

Safety

1. Proposal for Council decision to extend the Rapid Exchange of Information System (1990).
2. Examination of the need for a proposal on liability for physical damage in services.
3. Cosmetics directive amendment (1990).
4. Prepare listing of products requiring priority attention of consumers in standards setting and information (1991).

N.B.: . Complete implementation of the Product Liability Directive 85/374.

- . Adoption of the draft directive on General Product Safety.

Consumer transaction

1. Proposal of directive on unfair contract terms (1990).
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4. Proposal for a directive on distance selling. (1990)