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CONSUMER POLICY AND CONSUMER HEALTH PROTECTION

Adviser to the Director-General

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**CONSUMER POLICY  
IN THE UNITED KINGDOM**

***AS COMPARED WITH THE OTHER MEMBER STATES  
THE EUROPEAN UNION***

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ANNEX

## Introduction

The Amsterdam Treaty was signed on 2 October 1997. Article 153 (ex article 129A) states that:

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Community shall contribute to protecting the health, safety and economic interests of consumers as well as to promoting their right to information, education and to organise themselves to safeguard their interests.
2. Consumer protection requirements shall be taken into account in defining and implementing other Community policies and actions.
3. The Community shall contribute to the attainment of the objectives referred to in paragraph 1 by:
  - a) measures adopted pursuant to Article 95 ( ex article 100a) in the context of the completion of the internal market;
  - b) measures which support, supplement and monitor the policy pursued by the Member States”.

Article 153 (§5) prescribes that these “measures ... shall not prevent any Member State from maintaining or introducing more stringent protective measures. such measures must be compatible with this Treaty. The Commission shall be notified of them.”

In 1989 the European Community's determination to implement consumer policy in Europe motivated the Commission to create the Consumer Policy Service (CPS)<sup>1</sup>. One of its tasks has been to keep tabs on Member States' legal instruments in this field.

The Maastricht Treaty on European Union, which took effect on 1 November 1993, made incumbent on the CPS to subject this legislation to closer scrutiny, in order to get a clearer picture of the Member States' strategy and organisation and hence determine what specific actions could be undertaken at Community level to support and supplement their policies.

To this end the Commission prepared a questionnaire and sent it in 1994 to the 12 Member States at the time. The scope of the survey was later extended to include the three new Member States. All the Member States have sent in their replies, the last being received on 2 February 1996.

The replies sent in by the 15 Member States that participated in the survey were analysed. A summary report<sup>2</sup> on consumer policy was then drafted, highlighting the main

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<sup>1</sup> The CPS became the DG XXIV on 1 April 1997 with the denomination: “Directorate-General for Consumer Policy and Consumer Health Protection”

<sup>2</sup> “Consumer Policy of the Member States of the European Union” - Doc. XXIV (97) 1.0

similarities and differences between the Member States in this area, and providing an overview of the situation at Union level.

On the basis of this overall report, a separate report has been drawn up for each Member State comparing the Member State's situation with that of the other EU Member States.

*This report relates to the United Kingdom. It is based on the answers given by the British authorities to the questionnaire of the Commission, actualised in 1998.*

<b>PART 1: THE GENERAL SITUATION</b>
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**1. GENERAL****1.1 Broad outline of official policies in the Member States with regard to consumers**

The Member States' responses reveal a common concern to protect consumers. All the Member States except Italy have an official consumer policy covering most of the domains mentioned in Article 129a of the Treaty (as amended by the Amsterdam Treaty), notably the determination to attain a high level of consumer protection, to protect the health, safety and economic interests of consumers, and to provide adequate information to consumers.

Although this is not necessarily a distinctive factor, several Member States also say they want improvements in regard to:

- legislation with a view to creating a genuine corpus of consumer law
- legal protection
- the quality of goods and services
- education
- consumer representation, etc.

Member States are also keen to promote competition and consumer choice.

Depending on the country, consumer policy may take the form of voluntary codes, regulations or statutes, or indeed may even be enshrined in the Constitution (E)<sup>3</sup>, and of transposition into domestic law of Community and international law.

Hence we have a common end – the consumer's interests – articulated in different ways that reflect different local contingencies and priorities.

*In the United Kingdom the organisation responsible for consumer protection is the Department of Trade and Industry. It has two main objectives:*

- *expanding consumer choice and stimulating business by encouraging competition and privatisation;*
- *maintaining confidence in the market and protecting consumers through fair, appropriate and effective rules, while trying to reduce the regulatory and administrative constraints on firms.*

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<sup>3</sup> The proposals, comments or descriptions provided by the national authorities mentioned in this report will sometimes be followed by the country abbreviations (A, B, DK, D, E, etc.) to enable the reader to determine their source.

## 1.2 Medium-term action programme

Most of the Member States have programmes that define priorities in the field of consumer policy. The programmes cover periods of varying length (DK, E, F, P, UK). In some countries the programmes last for the life of a parliament (A, IRL, S). In others, the programmes are adopted on an annual basis (D- L - NL).

The main thrust of these programmes is to reinforce the physical and legal protection of consumers and to provide them with better information and training.

As mentioned by Belgium, these programmes are also designed to carry through and flesh out existing consumer policy. They also focus on policing compliance with legislation already adopted.

*In the United Kingdom a medium-term action programme exists only in the field of public health.*

*In July 1992 the British government presented a White Paper entitled "The Health of the Nation", in which it presented its strategy for promoting public health. The main areas are:*

- cardiovascular diseases and myocardial infarction;
- cancer;
- mental illness;
- AIDS/HIV and sexually transmissible diseases;
- accidents.

*This document also indicates the objectives for the year 2000 for each of these fields as well as the associated risk factors.*

## 1.3 Main administrative structure responsible for implementing this programme

Often attached to the **Ministry of the Economy** (B, D, F, L, NL) or the **Ministry of Trade and Industry** (DK, FIN, GR, I, UK), the administrative organisation of the sector varies considerably from country to country both in regard to its structure and the parent ministry.

In many countries, several ministries are jointly responsible for consumer policy in the sectors coming within their remit (A, B, D, GR, I, L, UK).

There are a lot of drawbacks in this set-up. For example, it is not conducive to co-operation between Member States in drawing up a Community-level consumer policy.

Note that no Member State has a Ministry or State Secretariat responsible specifically for consumer affairs, as was the case in France until 1993.

*In the United Kingdom the body responsible for consumer policy is mainly the Department of Trade and Industry.*

*Note also the **Office of Fair Trading**, which is responsible for protecting consumers and regulating commercial practice; it is a non-ministerial government service whose main objectives are to promote and protect consumers' economic interests. It manages a very large part of competition law and consumer protection law.*

*The Director-General of the OFT is responsible for policing the market for goods and services in the United Kingdom with a view to identifying possible practices or approaches which adversely affect consumer interests and to put an end to them either directly or by issuing recommendations to the other departments with a view to changing the law. The Director-General advises and informs consumers via publications.*

*There are also **other non-ministerial governmental services** that deal with the privatised services. These are the Office of Water Services (OFWAT), the Office of Gas Supply (OFGAS) and the Office of Electricity Regulations (OFFER).*

*Certain aspects of consumer protection policy also concern other government services, notably the Ministry of Agriculture, Fisheries and Food and the Department of Health.*

*At the Consumer Affairs Council on 23 April 1998 in Brussels, the United Kingdom was represented by **Mr Griffiths**<sup>4</sup>, Parliamentary Under-Secretary of State, Department of Trade and Industry.*

*And at the meeting of high civil servants in consumer protection on 13 January 1998, the United Kingdom was represented by Mrs. Denise Love, Mr. Geoff Horton, Mr. David Gladwell, Mr. Paul Salvidge and Mr. B.Coates<sup>5</sup>.*

#### **1.4 Consumer interests in the context of other government policies**

In all Member States consumer interests are to a greater or lesser extent taken into account in preparing other policies, through the medium of interministerial co-ordination (A, B, D, F, I, IRL, L, S, UK), consultation with consumer organisations (DK, E, GR, I, P, UK) and/or consumer institutes (E, P).

*In the United Kingdom consumer interests are taken into account in other policies in the form of standard consultation procedures between government departments with a view to drafting new inter-departmental policies. There are also public consultation procedures on draft legislation.*

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4 Annex 1: List of representatives of the governments of the member states and of the commission at the *Council of ministers of consumers of the European Union*

5 Annex 2: List of participants in the meeting of senior officials for consumer policy on



## 2. CONSUMER ORGANISATIONS

### 2.1 Consumer organisations at national or regional level

In each Member State consumer organisations exist at national and regional levels.

At **national level**, the number of such organisations varies greatly from one Member State to another, ranging from a single national organisation (IRL - L - NL) to 15 (B, I) or even 20 (F). In these circumstances, their powers and thus their influence also vary greatly. On the whole, consumer organisations have relatively little clout. Apart from *United Kingdom*, where the consumer organisations are funded by the government (except for “Consumers association” who is independent of the government), and some subsidies granted by certain Member States, the organisations’ own resources consist only of membership fees and the voluntary work performed by their members in addition to the resources they obtain through the measures they carry out themselves or in response to invitations to tender from national or local bodies or the European Commission.

*In its reply to the Commission’s questionnaire the British administration mentioned that the main consumer organisations in the United Kingdom are:*

- *the National Consumer Council*
- *the Scottish Consumer Council*
- *the Welsh Consumer Council*
- *the Consumers in Europe Group.*

*These organisations are funded by the government as to provide consumers with independent representative bodies. The General Council for Northern Ireland plays a similar role in Northern Ireland.*

*The British reply also mentions<sup>6</sup>, a number of government-funded consumer protection committees that are responsible for various sectors, such as the Gas Consumers Council and the Post Office Users’ National Council. In the water distribution sector there are ten regional Ofwat committees specialised in customer service that handle complaints from clients and more generally represent users at political level. Such consumer protection systems also exist in the electricity, rail, telecommunications and other sectors.*

*The independent Community Health Councils (CHCs) represent the interests of users of the National Health Service (NHS). They monitor planning and the provision of services and handle complaints. They are funded by the government via the regional health structure.*

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<sup>6</sup> see Annex 3

*Finally the reply mentions the Consumers' Association, a private organisation, independent of the government, representing individual consumers.*

*One may estimate that it is convenient to add the National Association of Citizens Advice Bureaux (NACAB) to this list.*

## **2.2 Are they involved in implementing policy and/or measures adopted by the public authorities?**

Yes, except for Ireland, Sweden and *the United Kingdom*.

## **2.3 If so, how?**

Consultation between the government and consumer associations is conducted:

- *in the context of the consumer councils (B, E, F, L) (see section 3 below)*  
*or*
- *through direct concertation (A, DK, D, NL) or indirect concertation (NL, P) with the ministries concerned.*

## **2.4 If not, why?**

In Ireland: probably because of lack of resources.

In Sweden: because of their relative lack of importance.

*In the United Kingdom: because implementing government policy does not come within the remit of these bodies.*

## **2.5 Are consumer associations affiliated at national level?**

Confederations exist in ten Member States (B - DK - D - FIN - IRL - IT - L - NL - S - UK), such as :

- B: The "Groupement des organisations de consommateurs" is an informal co-ordination and concertation structure embracing all organisations at the Consumer Council (except for Test-achats).
- D: The Union of Consumers' Associations (AgV) has 36 affiliates, i.e. most German consumer organisations.
- in Sweden, the two leading organisations are umbrella bodies representing 14 and 16 organisations respectively.
- in Italy, the most important associations belong to the National Conference of consumers and Users or meet on occasions to conclude agreements with operators in certain sectors, sometimes under the aegis of the competent ministries.

*In the United Kingdom there are no national-wide confederations representing all the consumer associations. However there is the **Consumer Congress** and the **National Federation of Consumer Groups**. The latter represents the local voluntary consumer associations and conducts surveys and organises campaigns on themes of direct interest to consumers. It supports and promotes the local associations and ensures co-ordination and presentation of their viewpoints to the government, manufacturers and traders. **The NFCG is part-funded by the government.***

*The CEG, already mentioned in 2.1, is an UK umbrella body, for 34 UK statutory, professional and voluntary organisations, concerned with the effects of European Union policies and proposals on UK consumers.*

*Note also that the Community Health Councils in England and Wales may belong to the Association of Community Health Councils for England and Wales – ACHCEW).*

### 3. CONSUMER COUNCIL

**Does your country have one or more organisations at national level representing groups concerned by consumer affairs (government, consumer affairs, industry, trade, etc.)?**

Yes, most Member State have a Consumer Council except for Germany and Finland (where the consumer committees do not correspond exactly to the concept of a consumer council), Ireland (where statutes are in the pipeline), Sweden and Italy.

The Consumer Council is generally a consultative body attached to the ministry responsible for consumer affairs (B, DK, F, GR, L, UK). The Council may also be attached to (E) or be equivalent to (P) the national Consumer Institute.

Generally the Council is made up of almost equal numbers of representatives of consumer organisations and:

- representatives of industry (B, F, GR, NL) or
- representatives of the ministries that are also involved (L, P)

as well as experts in consumer affairs.

*In the United Kingdom there exist:*

- *the National Consumer Council*
- *the Scottish Consumer Council*
- *the Welsh Consumer Council*
- *the Consumers in Europe Group*
- *the General Council for Northern Ireland.*

*The Community Health Councils (CHCs) in England and Wales may belong to the Association of Community Health Councils for England and Wales – ACHCEW).*

#### 4. MONITORING OF CONSUMPTION

Each Member State has bodies which conduct studies and surveys on a more or less regular basis to monitor national trends in consumption.

These organisations are generally the government departments referred to in section 1.3 above (A, DK, E, F, IRL, L, P, S, UK) or are attached to such departments (B, L).

However, it seems that only in France (DGCCRF) and the *United Kingdom (Office of Fair Trading)* is there a dedicated consumer affairs structure responsible for permanent monitoring of all products and services.

It seems that no Member State has an organisation or independent structure which could be defined as a "consumer affairs observatory"<sup>7</sup>.

*In the United Kingdom the Office of Fair Trading (OFT) manages and analyses data on consumer problems collected by the local authorities' standardisation services and the Citizens' Advice Bureaux.*

*The Community Health Councils play a similar role in the health sector.*

#### 5. INTERNATIONAL COOPERATION

International co-operation in the field of consumer affairs is quite advanced both from the ministerial services and the consumer organisations. But in two member states, it is mainly (L) or almost (NL) carried out by the consumers organisations (ULC and Consumentenbond).

Member States participate actively in co-operation measures organised **in the context of the European Union**, and above all in regard to:

- safety: rapid exchange of information system; exchange of information in the context of the general product safety directive;
- cross-border co-operation: Euroguichets;
- co-ordination at the level of the permanent representations;

There is also co-operation **at international level**:

- OECD International Marketing Supervision Network, created in 1992
- OECD Consumer Policy Committee
- monitoring of the safety of consumer products, PROSAFE, ECOSA
- regional co-operation: Nordic (DK, S), Central Europe (A), EFTA until 1994
- Codex alimentarius
- CNUCED.

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<sup>7</sup> See definition in Annex 4

There are also some more informal co-operation measures **between certain "sister" organisations** in a number of Member States, such as the consumer institutes (INC-E, INC-F, ADICONSUM-I, IC-P) in the context of comparative tests and studies of market analyses in the framework of the European co-operation programme (D, E, F, I, P).

Finally, most of the Member States are involved on a more or less formalised basis in intensive and ongoing **bilateral co-operation** with certain Member States and/or third countries:

- Latin America (E), Central and Eastern European Countries (F), EFTA (F), Africa (P)
- market surveillance: convention signed between the General Economic Inspectorate (B) and DGCCRF (F)
- information on accidents and risks associated with consumer products (E), etc.

At the level of the **consumer organisations**, close co-operation exists in the Community and international context, in particular in the "Consumers International" (CI, ex IOCU). At **community** level there are five European consumer organisations, viz. BEUC (the European Bureau of Consumer Unions) Euro-coop (the European Community of Consumer Cooperatives), COFACE (Confederation of Family Organisations in the European Community), ETUC (European Trade Union Confederation) and the EIICA (European Interregional Institute for Consumer Affairs) based in Lille. At institutional level the Consumer Committee created in 1995 by the European Commission has undertaken to represent all Community, national and regional consumer organisations.

*The United Kingdom is a member of the OECD Committee and belongs to the International Marketing Supervision Network.*

## 6. COMPLETION OF THE INTERNAL MARKET

### 6.1 What measures have been taken at national or regional level to inform consumers about the completion of the internal market and how they can benefit from it?

All Member States, including the new ones (A - S), have tried to put across the message. In some countries the effort has been relatively limited<sup>8</sup>, or has even been left to the initiative of the media (GR, IRL), while other countries, (A, B, D, F, S, UK) have been quite active, notably via the media, in informing the public about what they stand to gain from the internal market.

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<sup>8</sup> Publication of a booklet and articles in E and GR, conference in 1990 and annual publication of a booklet in DK.

*In the United Kingdom, various brochures on the **internal market** have been published. Moreover there are also telephone helplines on the single market and databases.*

## **6.2 What actions should/could the Commission propose to support these measures?**

Apart from Germany (no reply to this question), the United Kingdom (which considers that these measures are not necessarily the Commission's business), and the Netherlands, the other Member States think the Commission might be able to do something in this domain, i.e. organise information and training campaigns to increase consumer awareness as to how to make the most of the single market:

- either directly (A, E, GR, IRL, L, P)
- or possibly involving the European Parliament (B)
- or by the provision of financial support (A, DK) to the Member States (F) or to consumer organisations (A, L).

*In the United Kingdom direct intervention by the European Commission is not considered necessary because these measures concern the national governments, the regional authorities or private organisations.*

## **7. SPECIFIC MEASURES**

### **7.1 In the context of Article 153 ( ex 129a) of the Treaty, what are the specific measures which the European Commission could/should propose to support and, where relevant, supplement Member State policy in favour of consumers?**

One Member State is silent (*UK*) and two others (*D, NL*) see no need for new specific measures in favour of consumers.

The other countries accept the principle and propose strengthening or fleshing out Commission measures in the context of Article 153 and notably in regard to information (*B, E, F, GR, L, P, S*) and the EHLASS programme (*DK, E, F, P*).

*In the United Kingdom, no other specific measure is considered necessary.*

### **7.2 Other specific measures: should specific measures be envisaged in domains other than those mentioned in Article 153 (ex 129-A) of the Treaty?**

If yes, which ones?

Two Member States did not answer this question (*GR, IRL*) and many others are opposed to the Commission's involvement in domains not enumerated in Article 129a of the Treaty (*D, E, F, L, NL, UK*).

Only five Member States (*A, B, DK, P, S*) accept the idea in principle, but did not propose measures outside the domains the covered by the Treaty.

*The United Kingdom is against the Commission's involvement in areas, which are not enumerated in Article 129a of the Treaty.*

**PART 2: QUESTIONS CONCERNING THE ACTIVITIES MENTIONED  
IN ARTICLE 153 OF THE TREATY ( EX ARTICLE 129-A)**

**1 PROTECTION OF CONSUMER HEALTH AND SAFETY<sup>9</sup>**

**1-1 Administrative structure**

Except perhaps in Austria and Ireland, all Member States have administrative structures responsible for consumer health and safety. These structures are usually (B, DK, F, GR, P) departments answerable to the ministry responsible for consumer policy<sup>10</sup>, but sometimes also to certain consumer organisations (L);

For food and medicare products, such a structure also exists in most Member States but is generally attached (DK - GR - IRL - UK) to the Ministry of Health.

Depending on the circumstances, these structures are empowered to hear consumer complaints, to deliver opinions and to organise prevention and education campaigns. These structures are sometimes supplemented at local level by services attached to the municipalities (S).

*In the United Kingdom the replies given by the authorities do not provide a very clear picture of the administrative structure responsible for protecting consumer health and safety. They cite numerous bodies without indicating whether there are links between them.*

- *The Trading Standards Authorities are responsible for handling consumer complaints concerning the safety of consumer products.*
- *The Environmental Health Officers and the Trading Standards Authorities are responsible for food products.*
- *The Health and Safety Commission and Executive (HSC/E) is responsible for the safety of services.*
- *The National Health Service has its own procedure for handling complaints concerning medical care. Finally, as regards medical prescriptions, the Medicines Control Agency (MCA) is responsible for*

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<sup>9</sup> I and NL have not replied to this part of the questionnaire.

<sup>10</sup> See Part 1, section 1.3.



*scientific controls of the safety of prescription drugs. However the MCA is not responsible for drawing up prescriptions. The MCA pronounces on a given product's safety and then informs the professionals of its decision.*

- *LACOTS (Local Authorities Coordinating Body on Food and Trading Standards) delivers opinions on the interpretation of food law.*
- *The government departments, in collaboration with the Health Education Authority, organise information campaigns on how to address consumer concerns.*
- *Finally, as regards prevention and education campaigns in the field of safety, the HSC/E issues guidelines on health and safety at work and on health and safety for the general public.*

*As regards medicines supplied without medical prescription, there is no specific administrative structure responsible for organising prevention and education campaigns. This is a matter for the pharmaceutical industry, which regulates advertising of over-the-counter drugs.*

**1-2 Are the resources allocated to monitoring of the safety of products provided on a sectoral basis?**

Only Spain and the *United Kingdom* take a sectoral approach in this area.

Most Member States (B, DK, D, F, IRL, P, S) allocate resources for monitoring product safety on a global basis, individual sectors being funded only in second place when the need arises. While not calling this approach into question, some Member States nevertheless have special rules governing foodstuffs (B, D, E), electrical appliances and toys (B) and also tobacco, cosmetics, essential foodstuffs (D) and health products (E, GR).

*In the United Kingdom it is not possible to provide a breakdown by sector because resources are not allocated on a sectoral basis.*

**1-3 How is the participation of organisations representing consumer interests provided for with respect to the safety of goods and services?**

In all Member States except Ireland and Sweden, consumer organisations are involved directly or indirectly through the bodies on which they are represented<sup>11</sup> in drawing up national legislation, and in transposing and implementing EU directives.

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<sup>11</sup> Consumer councils, working parties, ad hoc groups, institutes, etc.

These organisations are also involved in standardisation work carried out by national organisations specialised in the safety of goods and services (A, B, E, F, GR).

*In the United Kingdom, consumer organisations are consulted on proposals for new legislation. Consumers are also represented on various committees responsible for examining food safety problems.*

**1-4 Are there methods of collecting information other than those provided for in the Community system relating to home and leisure accidents?**

In the case of five Member States (A, B, D, IRL, L), the answer is no.

Six other Member States (E, F, GR, P, S, UK) report methods of collecting information which are different from or complement the Community's EHLASS system.

**Portugal**, for example, has a safety information system, which directly records three types of information in Lisbon and in the country as a whole.

**France** also has an internal network for monitoring accidents caused by defective products or services. This network draws on the services of the authorities at department level, which in turn draw on a monitoring network at local level made up of the public services which have to deal with accidents (hospitals, fire-brigade, police, poison centres, etc).

Although all Member States are probably involved in such schemes, only **Denmark** and **Spain** mention their involvement in the warning and notification networks of the OECD, the EU and, in the case of Denmark, the Nordic countries.

*In the United Kingdom, the Home Accident Surveillance Scheme resembles the EHLASS programme but its scope is wider, including for example statistics on fatalities. The method of collecting information is the same as the one used for the EHLASS programme.*

**1-5 Safety of services**

**1-5-1 What national measures are there to ensure the safety of services, notably as regards:**

- **sport and leisure events?**
- **leisure centres, playgrounds and amusement parks?**

In most Member States, these problems are addressed at national level as part of general consumer policy (E), but also in the form of legislation (L, UK), standard regulations on the construction and operation of places of assembly (D, IRL, P), standardisation (A, DK, D, E, UK), codes of good practice (IRL) and even the civil code (GR).

Implementation measures and other specific provisions are then decided on at the appropriate level which may, depending on the Member States and areas of activity concerned, be national (A, B, F, IRL), regional (A, B, D, E, F) or local (B, E, L). In Belgium, for example, the Minister of the Interior issued a memo advising local authorities not to allow bungee-jumping.

Depending on the Member States concerned, the competent ministries are those responsible for consumer matters (A, F) or for the area of activity concerned (B, L).

Thus, in a number of countries, special measures have been taken to ensure safety of services and equipment in the following areas in particular:

- sport and leisure events: F, IRL<sup>12</sup>, UK
- leisure centres, playgrounds and amusement parks: D, E, GR, L, UK
- "temporary" structures: D<sup>13</sup>
- village halls : E

whilst in other Member States only general regulations apply.

*In the United Kingdom the Health and Safety at Work Act 1974 lays down general health and safety standards governing leisure activities. The Health and Safety Commission Executive issues guidelines on the risks associated with certain leisure activities, for example in the case of fairgrounds and amusement parks.*

**1-5-2 Are there national measures to stimulate standardisation of safety rules and know-how in the field of services?**

- In Austria, Belgium, Denmark, and Ireland: No.
- Measures have been provided for in other countries (D, E, F, L, P) with respect to a number of sectors:
  - stock exchange and securities: D
  - transport and entertainment: E
  - schools, public buildings, construction sites: L
  - car repairs, electrical household appliances, domestic heating, swimming pools, etc.: P

*The United Kingdom did not answer this question.*

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<sup>12</sup> Pop concerts and open-air musical performances.

<sup>13</sup> Equipment that is regularly assembled, used and then dismantled at various locations, such as merry-go-rounds at funfairs.

## 2 PROTECTING CONSUMERS' ECONOMIC INTERESTS

### 2-1 How is market surveillance organised in connection with consumers' economic interests?

Each Member State has **special ministerial departments** to monitor the implementation of laws and regulations designed to protect the economic interests of consumers.

Depending on their given areas of responsibility, a distinction is made between:

- departments with general responsibility:
  - at national or federal level (B, DK, E, F, GR, IRL, I, L, P, UK)
  - at regional or local level (A, E, S)
- departments with responsibility for a specific sector:
  - at national or federal level (A, B, DK, D, E, F, GR, P)
  - at regional or local level (DK, D)

In some Member States (A, D, I), consumer organisations also take part in market surveillance. Others (F, L) are trying to involve consumer organisations and even the consumers themselves in these monitoring activities.

*In the United Kingdom the Office of Fair Trading, whose main objective is to promote and protect consumers' economic interests, manages and analyses the data collected by the Citizens' Advice Bureaux and the departments responsible for consumer affairs and combating fraud.*

### 2-2 The Green Paper on access of consumers to justice and the settlement of consumer disputes in the single market

As regards measures to be taken at Community level, the replies received generally welcomed the Green Paper (A, B, DK, D, E, F, I, NL, P) although in some cases reservations were expressed (L, UK) or certain proposals were even opposed (DK, D). Some Member States, on the other hand, regretted that the proposed measures were not sufficiently binding (F) or thought they were too limited in scope (I).

### 2-3 In which domains is there a need for action at Community level?

Whilst Germany, Luxembourg and the *United Kingdom* do not see any reason for Community-level action other than that which has already been decided on, the other Member States have put forward a number of proposals for action while reiterating (DK) the importance they attach to the principle of subsidiarity.

**2-4 How do you ensure the protection of consumers' economic interests in particular in the field of transport, postal services, telecommunications, energy, etc.?**

In spite of the important developments in 1994, about more particularly the public sector (post and telecommunication ), in most Member States, the fields referred to are within the public sector and constitute monopolies run by state-owned enterprises in accordance with the relevant statutory provisions. Generally speaking, charges and conditions of use are laid down by the enterprises themselves while taking account of operating conditions, regulations issued by the public authorities, the interests of consumers, etc., but without the pressure of competition.

Only when some or all of these sectors are in free competition can the laws of the market operate properly (DK, IRL).

Depending on the circumstances, consumers' interests are safeguarded by:

- laws or regulations (B, DK, E, GR, L, NL) setting out the basic conditions for defending the interests of consumers,
- mediation services (B), councils (DK: bus), arbitration committees (NL) and other monitoring and approval (DK) procedures generally provided for by law,
- consumer organisations or councils (P, UK),
- recourse to the law (GR, NL),
- self-regulation (GR), self-restraint on the part of banks as regards advertising aimed at young people (A),
- the supervisory ministry (F, NL, P).

*In the United Kingdom, several of the sectors mentioned are managed by an independent body. The National Consumer Council represents consumers' interests at government level. Moreover, there is an independent body responsible for water distribution and waste water disposal.*

### **3 ENSURING ADEQUATE CONSUMER INFORMATION AND EDUCATION**

**3-1 What service is responsible at national (and/or regional) level for consumer information and consumer education?**

In each Member State, several services are responsible for consumer information and education. As regards consumer education, the services are mainly answerable to the ministry responsible for general consumer policy. Consumer education, on the other hand, is normally carried out through the education system and/or by services responsible to the ministry of education.

Among the Member States, these powers are exercised at national level (B, DK, E, F, GR, IRL, L, P, UK), on a federal basis (B, D) and/or at local level (E, S, UK).

*In the United Kingdom the OFT and other government departments are responsible for consumer information and education. Sometimes consumer information is provided by the local OFT branches. Moreover, consumer education is provided in large measure by the private sector (consumer associations, radio and television, local and national press).*

*In the health field, there is an exhaustive and effective information service. The local health authorities, who are responsible for the health information services, provide information on patients' legal rights, on how to file complaints, on waiting lists, on certain specific situations and diseases, on services provided by the local health department and voluntary self-help associations. This information service provides a freephone helpline for patients.*

**3-2 What other organisations are involved in implementing measures to educate and inform consumers?**

Apart from consumer organisations, most of which are involved in these two areas of activity, and the media (radio, TV, press, etc.), each Member State has specialised organisations dealing with these two areas.

*In the United Kingdom the Citizens Advice Bureaux participate in implementing consumer information campaigns. In the case of food the Ministry of Agriculture, Food and Fisheries and the Department of Health encourage industry to organise consumer information and education measures. In the field of health there is close collaboration between the Health Education Authority and the local authorities, who in turn work together with the local authorities, the schools and universities.*

**3-3 What are the current priorities in these two sectors?**

The replies to this question revealed two things.

Firstly, the extent to which those responsible for consumer policy in the Member States regard consumer education and information as a priority area (A, F, IRL, L, P, S, UK).

Secondly, the freedom of action enjoyed by the services responsible for laying down current priority objectives in these two areas (D, F, UK).

*In the United Kingdom one of the main objectives of the Office of Fair Trading is to provide correct and clear information to young consumers whose experience in this area is limited. In general, since this field is mainly a matter for the local authorities, priority depends on local circumstances.*

**3-4 In 1991-1994, what measures have been taken?**

Although the survey does not allow an assessment of the relative importance of measures carried out in and by the Member States with respect to consumer information and education, it does demonstrate that substantial

measures have been carried out in both areas either by the "relevant ministry" or by other ministries or bodies concerned with consumer affairs.

The measures taken include:

- publications: booklets, factfiles, specialised publications, press notices,
- audio-visual media: telephone, radio, TV
- seminars, conferences, congresses, trade fairs, exhibitions, awareness-raising campaigns, specialised courses,
- studies, surveys, databases,
- information centres : agencies, associations, Euroguichet.

*During 1991-1994, the Health Education Authority has focused on young consumers regarding AIDS/HIV prevention, sexually transmissible diseases, skin cancer, cardiovascular diseases, and has been involved in promoting health and safety at work.*

*The OFT organised a telephone survey in collaboration with the BBC during the national consumer week.*

### **3-5 In 1994-1998, what measures are envisaged or have been decided on?**

Six other Member States consider that they will continue (B, D, F, L) or intensify (E, IRL) the measures taken in the last three years, with the necessary funds being provided (D).

The other Member States are planning to take new measures in the following areas:

- training and information (GR, NL, P),
- environment (DK),
- foodstuffs (DK),
- product safety (DK),
- the media (GR),
- health (UK),
- etc.

*During 1994-1998 the Health Education Authority will base its strategy on the government's White Paper "The Health of the Nation" in which it presents its strategy for improving public health.*

### **3-6 With reference to the issues set out in Annex 5, which ones do you think should be treated in the context of consumer information and what order of priority do you propose?**

The general impression created by the replies received is that most, if not all, of the subjects set out in Annex 5 are important and therefore, in a way, have priority (A, B, DK, D, GR, P); however, the degree of priority is difficult to establish since this depends on the competencies of the various departments/ministries involved and in some cases on the extent to which they can act on their own authority.

Of the subjects mentioned, the **priorities** are as follows (in descending order of importance):

- consumer safety, including food safety (*UK*) and more specifically:
  - general product safety (DK, GR, IRL, L),
  - the EHLASS information systems on home and leisure accidents (A, DK, E),
- financial services: payments systems, insurance, banking, etc. (DK, F, GR, IRL, L),
- legislation relating to foodstuffs (DK, D, GR, P),
- package holidays (F, GR, L),
- labelling of shoes, energy, ecological label, quality label (DK, F, GR).

The other subjects are mentioned less frequently, which does not necessarily mean that they have lower priority ( see 1<sup>st</sup> paragraph)

Some Member States even give top priority to these other subjects:

- safety of specific products (P), particularly toys (F) or pharmaceutical products (GR).

*In the United Kingdom the priorities are:*

1. *consumer safety including food safety*
2. *financial services*
3. *travel and tourism*
4. *water supply and the water environment.*

Other Member States mentioned as priority areas certain additional subjects:

- cars, especially second-hand vehicles (A),
- estate agents (A),
- investment consultants (A),
- mail order (A),
- the new directives (B),
- general information on consumer rights and on structures to assist consumers (E),
- new products (E),
- guarantees (L).



### 3-7 Television and consumer information

The situation varies a great deal between Member States:

In most Member States (A, B, D, E, GR, IRL, L, UK), there are no regular television broadcasts aimed at providing information to consumers and emanating from the public authorities or consumer organisations,

However if a particular issue makes the headlines the TV channels may provide information on a subject-specific and occasional basis in collaboration with the public authorities or certain organisations (B, E).

Sometimes, if a particular issue is considered important enough, regular programmes may be broadcast on the topic (B, DK, D<sup>14</sup>, UK).

There are only three Member States in which consumer information is regularly broadcast on TV.

*In the United Kingdom the government services do not produce television programmes, but they may on occasion produce short informative films on particular subjects such as fireworks or road safety. There are a certain number of radio and television programmes that deal with consumer protection but their dissemination depends on the BBC and the private television networks.*

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<sup>14</sup> "Health" information

## ANNEX 1

### List of representatives of the governments of the member states and of the commission at the “Consumers Council” of the European Union on 23/04/98:

#### Belgium:

Mr. Jean Louis SIX Deputy Permanent Representative

#### Denmark

Mrs. Pia GJELLERUP Minister of Trade and Industry

#### Germany

Mr. Lorenz SCHOMERUS State Secretary at the Fédéral Ministry of Economics Affairs

#### Greece

Mr. Michalis CHRYSOCHOÏDIS State Secretary for Development

#### Spain

Mr. Miguel Angel NAVARRO Deputy Permanent Representative

#### France

Mrs Marilyse LEBRANCHU State Secretary at the Ministry of the Economy, finance and Industry

#### Ireland

Mr. Tom KIT Deputy Minister at the Department of Industry, Trade and Employment

#### Italy

Mr. Roberto ROSSI Deputy Permanent Representative

#### Luxembourg

Mrs Marie-Josée JACOBS Minister of the Family

#### Netherlands

Mrs Anneke VAN DOK VAN WEELE State Secretary for Economics Affairs

#### Austria

Mrs Barabara PRAMMER Federal Minister for Women’s Affairs and Consumer Protection

#### Portugal

Mr. Joao De VALLERA Deputy Permanent Representative

Finland

Mr. Antti KALLIOMÄKI

Minister for Trade and Industry

Sweden

Mr. Mickel SJÖBERG

State Secretary to the Minister for  
Immigrants, Consumers Youth and Sport

United Kingdom

Mr. Nigel GRIFFITHS

*Parlementary Under-Secretary of State,  
Departement of Trade and Industry*

ANNEX 2Participants in the meeting of senior officials for consumer policy on 13.1.1998Belgium

M. L. Van Boxstael, Directeur Général; M. Allardin and Mme Lemaigre  
Ministère des Affaires économiques  
Administration de la politique commerciale  
North Gate III  
Blvd Em. Jacqmain 154  
B - 1000 Bruxelles

Germany

Dr. Jürg Ter-Nedden  
Unterabteilungsleiter  
Bundesministerium für Wirtschaft  
Abteilung II  
D - 53107 Bonn

Austria

M. G. Mayer  
Bundeskanzleramt  
VII/B  
Radetzkystraße 2  
A - 1030 Wien

Mme R. Delerue  
Permanent Representation  
avenue de Cortenberg 30  
B-1040 Bruxelles  
Belgique/België

Denmark

Mrs Bente Saltorp  
Deputy Director General  
National Consumer Agency of Denmark  
Amagerfaelledvej 56  
DK - 2300 Copenhagen

Mr. Kenneth Skov Jensen  
National Consumer Agency of Denmark  
Amagerfaelledvej 56  
DK - 2300 Copenhagen

**Spain**

D. Ismael Díaz Yubero  
Vice presidente del Instituto Nacional del Consumo  
Principe de Vergas 54  
E-28006 Madrid

D. Oscar López Santos  
Subdirector General de Ordenación del Consumo  
Instituto Nacional del Consumo  
Principe de Vergas 54  
E-28006 Madrid

**Finland**

Mrs Marita Wilska  
Director General  
National Consumer Administration  
Haapaniemenkatu 4A  
PL 5  
FIN - 00531 Helsinki

Mr. Erik Mickwitz  
Consumer Ombudsman  
Office of Consumer Ombudsman  
Kaikukatu 3  
PL 306  
FIN - 00531 Helsinki

Mr. Mikko Könkkölä  
Director of legislation  
Ministry of Justice  
PL 1  
FIN - 00131 Helsinki

Mr. Kristian Tammivuori  
Government Counsellor  
Ministry of Trade and Industry  
Aleksanterinkatu 4  
FIN - 00170 Helsinki

**France**

M. J. Gallot  
Directeur Général de la Concurrence, de la  
Consommation et de la Répression des Fraudes  
Ministère de l'Economie et des Finances  
59, Bld Vincent Auriel  
F – 75703 Paris Cedex 13

M. Ch. Bacquart  
Permanent Representation  
place de Louvain 14  
B-1000 Bruxelles

**Greece**

M. Georgios Gad  
Ministère du Développement  
Place Cannigos  
GR - 10181 Athènes

Mme C. Tsoni  
Permanent Representation  
rue Montoyer 25  
B-1000 Bruxelles  
Belgique/België

Mme Ekaterini Papalouka  
Ministère du Développement  
Place Cannigos  
GR - 10181 Athènes

**Ireland**

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Director of Consumer Affairs  
4/5 Harcourt Road  
IRL - Dublin 2

**Italy**

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Direttore Generale per l'Armonizzazione e la Tutela del Mercato  
Ministero dell'Industria  
P.le dell'Industria 20  
I-00100 Roma

Dr. Attilio Mambelli  
Ministero dell'Industria  
Via Molise 2  
I - 00187 Roma

Dr.ssa Antonella Valery  
Ministero dell'Industria  
Via Molise 2  
I - 00187 Roma

Dr. Giuseppe Porcelli  
Dirigente  
Dipartimento Veterinario e Alimentare  
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P.le dell'Industria 20  
I-00100 Roma

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#### **Luxembourg**

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Ministère de la Famille  
12-14 Ave E. Reuter  
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M. Bob Schmitz  
Ministère de la Famille  
Consultant à Bruxelles

#### **Netherlands**

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Ministerie van Economische Zaken  
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Postbus 20101  
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De Heer Formsma  
Ministerie van Economische Zaken  
Bezuidenhoutseweg 30  
Postbus 20101  
NL - 2500 EC Den Haag

De heer Van Eck  
Ministerie van Volksgezondheid, Welzijn en Sport  
Postbus 5406  
NL - 2280 HK Rijswijk

De heer Hecker  
Ministerie van Landbouw, Natuurbeheer en Visserij  
Postbus 20401  
NL - 2500 EK Den Haag

### **Portugal**

Dr. Lucas Estevão  
Presidente do Instituto Nacional de Defesa do Consumidor  
Pç Saldanha 31  
P-1000 Lisboa

Dra Ana Castro  
Ministerio da Agricultura  
Rua Padre António Vieira 7  
P - 1000 Lisboa

### **Sweden**

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Fredsgatan 8  
S - 103 33 Stockholm

Marianne Abyhammar  
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Rosenlundsg. 9  
PA 118 87  
S- Stockholm

Stuart Slorach  
National Food Administration  
Deputy Director General  
Hannespl. 5  
PA Box 622  
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**United Kingdom**

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Office of Fair Trading  
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Lord Chancellor's Department  
Selborne House  
54-60 Victoria Street  
UK - SW1E6QW London

Mrs Denise Love  
MAFF  
Ergon House  
17 Smith Square  
UK - SW1P3JR London

Paul Salvidge  
Director, Consumer Affairs and Competition Policy  
Department of Trade and Industry  
1 Victoria Street  
UK - London SW1H OET

M. B. Coates  
Permanent Representation  
Avenue d'Auderghem 10  
B-1040 Bruxelles  
Belgique/België

ANNEX 3**Consumer organisations in the United Kingdom****horizontal:**

- \* National Consumer Council  
20 Grosvenor Gardens  
London SW1W 0DH
- \* Scottish Consumer Council  
Royal Exchange House  
100 Queen Street  
Glasgow G1 3DN
- \* Welsh Consumer Council  
Castle Buildings  
Womanby Street  
Cardiff CF1 2BN
- \* General Consumer Council for Northern Ireland  
Elizabeth House  
116 Holywood Road  
Belfast BT4 1NY
- \* Consumers in Europe Group  
20 Grosvenor Gardens  
London SW1W 0DH
- \* Consumers' Association  
2 Marylebone Road  
London NW1 4DF
- \* National Federation of Consumer Groups  
13 Robby Lea Drive  
Kendal Cumbria LA9 7QR
- \* National Association of Citizens Advice Bureaux  
Myddleton House  
115-123 Pentoville Road  
London N1 9LZ

**regulatory bodies for the privatised companies:**

- \* Office of Electricity Regulation (OFFER)  
Hagley House  
Hagley Road  
Birmingham B16 8QG
- \* Office of Electricity Regulation, Northern Ireland (OFFER NI)  
Brookmount Buildings  
42 Fountain Street  
Belfast BT1 5EE
- \* Office of Gas Supply (OFGAS)  
Stockley House  
130 Wilton Road  
London SW1V 1LQ
- \* Office of Telecommunications (OFTEL)  
50 Ludgate Hill  
London EC4M 7JJ
- \* Office of Water Services (OFWAT)  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA

**public sector consumer organisations:**

- \* Post Office Users' National Council (POUNC)  
6 Hercules Road  
London SE1 7DN
- \* Post Office Users' Council for Scotland  
2 Greenside Lane  
Edinburgh EH1 3AH
- \* Post Office Users' Council for Wales  
First Floor  
Caradog House  
St Andrews Place  
Cardiff CF1 3BE
- \* Post Office Users' Council for Northern Ireland  
Chamber of Commerce House  
22 Great Victoria Street  
Belfast BT2 7PU

**other branch organisations representing consumer interests:**

- \* Advisory Committee on Telecommunications for England  
50 Ludgate Hill  
London EC4M 7JJ
- \* Advisory Committee on Telecommunications for Northern Ireland  
Chamber of Commerce House  
22 Great Victoria Street  
Belfast BT2 7QA
- \* Advisory Committee on Telecommunications for Scotland  
2 Greenside Lane  
Edinburgh EH1 3AM
- \* Advisory Committee on Telecommunications for Wales  
First Floor  
Caradog House  
St. Andrews Place  
Cardiff CF1 3BE
- \* Advisory Committee on Telecommunications for Disabled and Elderly People  
50 Ludgate Hill  
London EC4M 7JJ
- \* Air Transport Users Committee  
Kingsway House  
103 Kingsway  
London WC2B 6QX
- \* Association of Community Health Council for England and Wales (ACHCEW)  
30 Drayton Park  
London N5 1PB
- \* Central Rail Users' Consultative Committee  
Clements House  
14-18 Cresham Street  
London EC2V 7NL
- \* Gas Consumers Council  
6th Floor  
Abford House  
15 Wilton Road  
London SW1V 1LT

- \* Heathrow Airport - London - Consultative Committee  
Building 219  
Rooms 11&12  
Epsom Square  
Heathrow Airport  
Hounslow TW6 1JN
- \* London Regional Passenger Committee  
Clements House  
14-18 Cresham Street  
London EC2V 7PR
- \* The Patients Association  
PO BOX 935  
Marrow  
Middt HA1 3YJ
- \* Securities and Investment Board  
Gavrelle House  
2-14 Bunhill Row  
London EC1Y 8RA

**ombudsman and other mediators:**

- \* Banking Ombudam Office  
70 Gray's Inn Road  
London WC1X 8NB
- \* Broadcasting Standards Commission  
7 The Sanctuary  
London SW1P 3JS
- \* Building Societies Ombudsman, Office of the  
Millbank Tower  
London SW1P 4XS
- \* Estate Agents, Ombudsman for  
Beckett House  
4 Bridge street  
Salisbury SP1 2LX
- \* Health Service Commissioner (Ombudsman) for England  
11th floor  
Millbank Tower  
London SW1P 4QP

- \* Health Service Commissioner (Ombudsman) for Scotland  
28 Thistle Street  
11 Melville Crescent  
Edinburgh EH2 1EN
- \* Health Service Commissioner (Ombudsman) for Wales  
4th Floor  
Pearl Assurance House  
Greyfriars Road  
Cardiff CF1 3AG
- \* Insurance Ombudsman Bureau  
City Gate One  
135 Park Street  
London SE1 9EA
- \* Investment Ombudsman, Office of  
6 Frederick's Place  
London EC2R 8BT
- \* Lay Observer for Northern Ireland  
Clarendon House (Room 409)  
Adelaide Street  
Belfast BT2 8ND
- \* Legal Services Ombudsman, Office of  
22 Oxford Court  
Oxford Street  
Manchester M2 3WQ
- \* Pensions Ombudsman  
11 Belgrave Road  
London SW1V 1RB
- \* Ombudsman Bureau  
Personal Investment Authority  
Hertsmere House  
Hertsmere Road  
London E14 4AB
- \* Scottish Legal Service Ombudsman  
2 Greenside Lane  
Edinburgh EH1 3AH
- \* Solicitors Complaints Bureau  
Victoria Court  
8 Dormer Place  
Leamington Spa CV32 5AE

ANNEX 4**Consumer affairs observatory (Article 4)**

Definition: A “consumer affairs observatory” is a permanent structure whose task, in liaison with government and other public or private bodies concerned, is to cast light on consumer affairs through the provision of relevant information, notably on the hazards to which consumers are exposed, derived from systematic surveys and studies. This “structure” may take different forms depending on the country in question, i.e. it may be a relatively rigid structure, such as a research institute, or a relatively flexible one such as a database network.

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\* Depending on the country, the term used is “consumer observatory” or “permanent consumer monitoring structure”.

ANNEX 5**Themes of Community interest**

- Safety of products and services
  - general product safety\*
  - product liability
  - system of information on home and leisure accidents (EHLASS)\*
  - rapid alert system
  - safety of services
- Safety in regard to certain specific products
  - textiles
  - cosmetics
  - toys
  - pharmaceutical products
  - water (including the environment)
- Food law\*: mainly concerns labelling, price indication, quality control, novel and/or particular products, hygiene and additives.
- Economic and financial matters
  - consumer credit
  - financial services (payment systems, insurance, banking)\*
  - VAT
- Travel and tourism
  - package holidays\*
  - booking systems
  - overbooking
- Other
  - labelling (footwear, energy, ecological label, quality label)\*
  - misleading advertising
  - unfair terms in consumer contracts

\* topics most frequently cited as having priority

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\* Themes most frequently cited as priority.