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**CONSUMER POLICY  
IN GERMANY**

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

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## **ANNEX**

## **Introduction**

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

1. “[i]n 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 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, meant that the CPS had 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 similarities and differences between the Member States in this area, and providing an overview of the situation at Union level.

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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

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 Germany. It is based on the answers given by the German authorities to the questionnaire of the Commission, brought up to date 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. Most of the areas mentioned in Article 153 (ex-art. 129a) of the 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 Germany, consumer policy is an essential part of the Federal Government's economic policy, because consumers, as the purchasers of goods placed on the market, have a key role to play in the social market economy.*

*A whole range of effective methods are available to strengthen the position of consumers, which are closely linked to competition policy. These include - besides State promotion of consumer protection provided independently of suppliers - assistance in defending consumers' interests provided by the organisations that coordinate consumer measures, and statutory provisions to safeguard and improve the legal protection of the consumer.*

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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.

*However, the Federal Government is opposed to excessive regulation and red tape.*

## **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 Germany, there is no "action programme" as such, but objectives have been laid down for consumer policy, which is treated as an integral part of general economic policy. In its annual economic report, the Federal Government defines the broad outlines of the policy it intends to implement in this area.*

*Moreover, in a medium-term perspective, the Federal Government's report on safeguarding Germany's locational advantages (Bericht zur Zukunftsicherung des Standortes Deutschland) recommends eliminating anti-market regulations. Some consumers' associations doubt that such a freeing from regulations is the final goal of the German authorities.*

*Recently the focus has been on creating consumer organisations in the new Länder (funding, organisational assistance, supplementary training) and general information of these consumers on the rights and opportunities offered by the market economy.*

## **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.

Annexed please find the list of Member States representatives who attended the last Consumer Affairs Council held on 23 April 1998 in Brussels. *The German*

*representative was Mr Lorenz Schomerus, Secretary of State at the Federal Ministry of the Economy.*

*In Germany, the administrative structure mainly responsible for consumer policy is the Federal Ministry of the Economy (Bundesministerium für Wirtschaft), at the last meeting of high-level civil servants on 13 January 1998, Germany was represented by Dr. Jürg Ter-Nedden from this ministry. At Länder level, it is also the economics ministries that are generally responsible for consumer policy. The more specific aspects - judicial policy, social and family policy, environmental policy, food and health policy - are dealt with by the competent ministries. The Federal Government and the Länder regularly discuss consumer affairs at the Federation/Länder Committee which meets approximately twice a year, with participation of the new Länder since 1991.*

#### **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 Germany, consumer interests are taken into account in other policies through consultation mechanisms and, where necessary, special meetings of the Interministerial Committee for Consumer Affairs.*

## **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. With the exception of the United Kingdom, where consumer associations are funded by the government (except the Consumers' Association which is independent), and apart from a number of subsidies granted by certain Member States, the organisations' own resources consist only of membership fees and the voluntary work performed their members as well as 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 Germany, there are two consumer organisations at national level:*

- *Arbeitsgemeinschaft der Verbraucherverbände e. V. - AgV (Union of Consumer Associations)*
- *Verbraucherschutzverein e. V. (Consumer Protection Association),*



*The Union of Consumer Associations (Arbeitsgemeinschaft der Verbraucherverbände e.V. - AgV) is responsible for:*

- *representing the interests and rights of consumers to the general public and to legislators, administrations, courts, suppliers and economic organisations at national, European and international levels, in particular regarding the protection of consumers economic interests, the protection of their health and of the environment, as well as ensuring that this self-help is supported and promoted by consumer information, consumer advice and consumer training in relation to the social market economy*
- *informing consumers and supporting and coordinating the activities of the consumer advice organisations and institutions.*

*The Consumer Protection Association (Verbraucherschutzverein e.V.), which was created by the AgV and the Consumer Centres, has the mission of combating unfair commercial practices and misleading advertising, as well as unfair contract terms.*

*Additional to these two institutions there are*

- *the Stiftung Warentest (the foundation for testing of goods)*
- *the Stiftung Verbraucherinstitut (the consumers' institute foundation) and*
- *Die Verbraucher Initiative (the consumers' initiative)*

*as well as several organisations at regional level<sup>4</sup>*

*It should be noted that the German consumer associations have approximately 300 consumer advice centres.*

*Concerning funding, note that the regional consumer centres, the Union of Consumer Associations and the consumers institute foundation are mainly financed by the state.*

## **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.

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<sup>4</sup> See Annex 3

## 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).
- 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 Germany, the Union of Consumer Associations (AgV) has 36 affiliates, i.e. most German consumer organisations. Besides the associations which are fully devoted to consumer protection, such as the 16 consumer centres at Länder level, AgV also includes associations with a social mission such as the housewives' associations, the largest tenants' rights association - the Deutscher Mieterbund - and also some scientific institutions.*

## 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:

either representatives of industry (B, F, GR, NL) or  
or representatives of the ministries that are also involved (L, P)  
as well as experts in consumer affairs.

*In the case of Germany, five bodies broadly meet the criteria for a Consumer Council. These are:*

- I. Consumer Consultative Committee at the Federal Ministry of the Economy<sup>5</sup>:** *its mission is to represent consumer opinion, to deliver opinions and to table suggestions to the Federal Government on basic consumer policy issues. It was created by decree of the Federal Minister for the Economy but is not attached to any administrative structure. Its members are personally appointed by the Minister and selected for their knowledge of the present situation in consumer protection (representatives of consumers associations, trade unions journalists etc.).*
- II. Consumer Council at the German Standards Institute (DIN)<sup>6</sup>:** *advises and assists the Institute's management and working groups in questions concerning non-industrial final consumers. It is responsible for defending the interests of these consumers in international, regional and national standardisation, within the DIN. It fulfils this mission by collaborating in technical work, challenging draft standards, and mounting conciliation and arbitration procedures. It does not develop standards and is not attached to any administrative structure.*
- III. Consumer Committee at the Federal Ministry for Food, Agriculture and Forestry (BML)<sup>7</sup>:** *consists of 16 consumer affairs experts. It advises the Ministry for Food, Agriculture and Forestry in food and agricultural policy matters which concern consumers and their general interests.*
- IV. Technical Equipment Committee<sup>8</sup>:** *deals with the safety of technical equipment, sport and leisure installations, toys, and household appliances. This Committee consists of representatives of the competent authorities at Länder level, accident insurance bodies, consumer associations, the German Standardisation Institute, and employers' and trade union organisations.*
- V. German Food Code Commission<sup>9</sup>:** *consists of representatives of the scientific community, food inspection services, consumer associations and food producers. It prepares guidelines on food manufacture and quality of other key*

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<sup>5</sup> Verbraucherbeirat beim Bundesministerium für Wirtschaft.

<sup>6</sup> Verbraucherrat des Deutschen Instituts für Normung.

<sup>7</sup> Verbraucherausschuß beim Bundesministerium für Ernährung, Landwirtschaft und Forsten

<sup>8</sup> Ausschuß für technische Arbeitsmittel.

<sup>9</sup> Deutsche Lebensmittelbuchkommission.

*characteristics of food. This Commission is managed by the Federal Health Ministry in conjunction with the Federal Ministry of Food, Agriculture and Forestry and the Ministry of the Economy.*

*Note that there is as well a Dangerous Materials Committee: it advises the Minister for Employment and social affairs in questions of a scientific, technical and medical nature relating to health and safety at work and the categorisation and marking of dangerous working materials.*

#### **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, D, 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>10</sup>.

*In Germany, several organisations serve the aim of monitoring consumption:*

- *the Federal Statistical Office in Wiesbaden*
- *the Federal Cartel Office in the field of competition*
- *in the field of post and telecommunication the competent authorities have since January 1998 been the relevant Government departments*
- *control of foodstuff placed on the market is the responsibility of the foodstuff inspection offices*
- *in cases of unfair competition, action is taken mainly by consumers' associations*

#### **5. INTERNATIONAL COOPERATION**

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

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<sup>10</sup> See definition in Annex 2

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 in the context of the general product safety directive;
- cross-border co-operation: Euroguichets;
- coordination 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.

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.

*International cooperation is also very prominent in Germany. As regards non-food consumer goods, one may mention:*

- a) exchanges of information on notifications concerning dangerous products (Directive on general product safety)*
- b) transmission of information on particularly dangerous products.*

*As regards food, international cooperation is conspicuous in the framework of the Codex Alimentarius.*

*There is also cooperation in the OECD context, in the framework of the OECD's Committee on Consumer Policy and its working groups.*

*Some consumer associations have developed various contacts, not only on a European but on a worldwide level. Amongst others, there are international working groups and meetings, as well as more specific projects especially with the central- and eastern European states and third world countries.*

## **6. COMPLETION OF THE INTERNAL MARKET<sup>11</sup>**

### **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>12</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.

*In Germany the Federal Government has taken a large number of measures to inform consumers on the single market and its benefits.*

*Publicity campaigns on consumers in Europe have been mounted in the national dailies, as well as informative commercials on regional radio.*

*The Federal Ministry of the Economy has installed a "Eurotelephone" where consumers can get free information on the single market and learn more about Community rules in relation to their specific problems. There is a wide range of*

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<sup>11</sup> The single market was realised as from 1 January 1993 in conformity with the Single European Act (signed on 17 February 1986) and "comprises an area without internal frontiers in which goods, persons, services and capital move freely".

<sup>12</sup> Publication of a booklet and articles in E and GR, conference in 1990 and annual publication of a booklet in DK.

*information literature, in particular 24 folders which were disseminated by the Ministry of the Economy.*

*Likewise funds have been granted to consumer organisations for the production of TV commercials, organising training seminars and publishing brochures.*

*The Press and Information Office of the Federal Government, the Federal Ministry of Health and the Federal Ministry of Food, Agriculture and Forestry published a joint brochure in early 1994 titled "Gedeckter Tisch Europa, Informationen zum EG-Lebensmittelrecht" (At the table in Europe: information on Community food law").*

*Despite those efforts, some consumers organisations consider, that the European Union remains an unknown creature for most Germans with a rather negative image. Often, the measures taken by the Commission on the behalf of consumers are simply unknown and only very rarely can the consumer directly enjoy the effects of those regulations.*

## **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).

*Germany did not answer this question.*

## **7. SPECIFIC MEASURES**

### **7.1 In the context of Article 153 (ex-art. 129a) of the Treaty (as amended by the Treaty of Amsterdam), 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?**

Three Member States did not suggest any measures or see any need for new specific measures in favour of consumers (D, NL, UK).

The other countries accept the principle and propose strengthening or fleshing out Commission measures in the context of Article 153 (ex-art. 129a) and notably in regard to information (B, E, F, GR, L, P, S) and the EHLASS programme (DK, E, F, P).

*In Germany, no 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-art. 129a) of the Treaty? If yes, which ones?**

Most of the Member States did not answer this question (GR, IRL) or are opposed to the Commission's involvement in areas not enumerated in Article 153 (ex-art. 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.

*Germany is against the Commission's involvement in domains which are not enumerated in Article 153 (ex-art. 129a) of the Treaty.*



<b>PART 2: QUESTIONS CONCERNING THE ACTIVITIES MENTIONED IN ARTICLE 153 (EX-ART. 129A) OF THE TREATY</b>
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**1. PROTECTION OF CONSUMER HEALTH AND SAFETY<sup>13</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>14</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 Germany the chemical research offices and institutes and the veterinary offices are responsible for the official testing of food. These and the public health and safety monitoring services are responsible for hearing consumer complaints. All of these institutions are public services.*

*The safety of services is the responsibility of the Federal Insurance Surveillance Office<sup>15</sup> and the Federal Securities Surveillance Office<sup>16</sup> whose powers are set out in the law on the development of the financial market<sup>17</sup>.*

*These authorities also deliver opinions. Moreover, prevention and education campaigns are mounted in the field of safety. For example, in the food sector the Federal Health Education Centre promotes education on healthy nutrition and consumer education. This Centre is attached to the Federal Health Ministry.*

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<sup>13</sup> I and NL have not replied to this part of the questionnaire.

<sup>14</sup> See Part 1, section 1.3.

<sup>15</sup> Bundesaufsichtsamt für das Versicherungswesen - BAV.

<sup>16</sup> Bundesaufsichtsamt für den Wertpapierhandel - BAWE.

<sup>17</sup> Finanzmarktförderungsgesetz.

**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 Germany, the authorities for the official control of foodstuffs are in principle responsible for products falling within the remit of the Food and Consumer Goods Act, including tobacco and cosmetics. Otherwise there is no sectoral approach*

**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, either directly, or indirectly through the bodies on which they are represented<sup>18</sup>, in preparing national legislation, and in transposing and implementing EU directives.

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 Germany, representatives of specialist circles and consumer associations may be kept abreast of draft laws and may be invited to submit documents; they may also pronounce on the proposed legislation.*

*Note that the Food and Consumer Goods Act<sup>19</sup> stipulates that, before promulgation of a regulation in application of this Act, a select group of experts representing the scientific community, consumer organisations and the producers concerned must be consulted.*

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<sup>18</sup> Consumer councils, working parties, ad hoc groups, institutes, etc.

<sup>19</sup> Lebensmittel- und Bedarfsgegenstände-Gesetz

#### 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 Germany, there are no arrangements for collecting information other than those put in place by the Community home and leisure accidents information system.*

#### 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>20</sup>, UK
- leisure centres, playgrounds and amusement parks: D, E, GR, L, UK
- "temporary" structures: D<sup>21</sup>
- village halls : E

whilst in other Member States only general regulations apply.

*In Germany, the legal basis for the safety of sports and leisure events is the Regulation on the construction and management of places of assembly (Versammlungsstättenverordnung). This Regulation lays down various measures to ensure the safety of assemblies, such as emergency exits, fire prevention measures, the mandatory attendance, training and tasks of supervisory officials, rules governing halls and stadiums, and organisational measures before, during and after the events.*

*Specific provisions apply to "mobile constructions", i.e. installations which are regularly assembled, used and dismantled in different places.*

*As regards children's playgrounds, there is a specific standard for design and safe use criteria (DIN 18 034 "Spielplatz und Freiflächen zum Spielen"). It is similar to the standard on Rules governing the safety of playground devices (DIN 79 26).*

*Note that, as regards the civil liability for services, it is often necessary to exempt benevolent associations - such as voluntary medical services, veterinary services, and voluntary helpers in general. Charitable bodies simply cannot be subject to a virtually automatic strict liability regime, with reversal of the burden of proof, because otherwise they could not survive.*

### **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 trade in shares: D
- transport and entertainment: E
- schools, public buildings, construction sites: L
- car repairs, electrical household appliances, domestic heating, swimming pools, etc.: P

*In Germany, standardisation takes the form of a wide range of provisions to protect investors in connection with the bourses and trade in securities.*

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<sup>20</sup> Pop concerts and open-air musical performances.

<sup>21</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 Germany, case law on the ground rules governing consumer protection has had a big influence on the market. Consumer associations have the right to sue (by mounting actions for injunctions).*

*Consumer protection bodies operate both at local level (Consumer Advice Centres)<sup>22</sup>, at Länder level (Consumer Centres of the 16 Federal Länder)<sup>23</sup> and at Federal level (Union of Consumer Associations)<sup>24</sup>. Warnings are issued to manufacturers and traders and actions for injunctions are mounted by a joint body of the consumer centres<sup>25</sup>.*

*As regards insurance and financial services, bodies exist at Federal level, namely the Federal Office for Surveillance of the Insurance Sector and Credit Institutions<sup>26</sup>, responsible for monitoring companies in this sector.*

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<sup>22</sup> Verbraucherberatungsstellen.

<sup>23</sup> Verbraucherzentralen der 16 Bundesländer.

<sup>24</sup> Arbeitsgemeinschaft der Verbraucherverbände e.V.

<sup>25</sup> Verbraucherschutzverein e.V., Berlin.

<sup>26</sup> Bundesaufsichtsamt für das Versicherungswesen und für das Kreditwesen, also in Berlin.

*In the banking sector, the Federal Association of German Banks<sup>27</sup> has put in place an ombudsman responsible for hearing consumer complaints and has also established a special conciliation procedure to settle disputes.*

*In the field of securities, investment funds and price marking, the market is monitored with an eye to protecting the economic interests of consumers.*

## **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 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),

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<sup>27</sup> Bundesverband Deutscher Banken.

- self-regulation (GR), self-restraint on the part of banks as regards advertising aimed at young people (A),
- the supervisory ministry (F, NL, P).

*No further information is available concerning Germany, except the knowledge of the existence of a special body for post and telecommunications, that deals amongst other areas with questions of consumer protection.*

### **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).

*Information: insofar as it comes within their remit, the Federal Ministries and the Länder Ministries inform consumers in the context of their public relations work or through the intermediary of subordinated services. However, most information is provided by non-State bodies such as the Union of Consumer Associations (Arbeitsgemeinschaft der Verbraucherverbände e.V. - AgV), the foundation for testing of goods (Stiftung Warentest), the consumers initiative (die Verbraucherinitiative) and the consumer centres in the Länder (Verbraucherzentralen).*

*Education: the Länder Ministries of Culture are responsible for consumer education in the schools. At regional level, education is the responsibility of the Länder Ministries, while at national level consumer education is provided either by the Ministry, the Federal Health Education Centre or the Federal Health Office.*

#### **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.

*The Union of Consumer Associations (AgV), the Länder consumer centres and the Stiftung Warentest are responsible for consumer education in general. Consumer information is the paramount mission of these institutions. Their activity is not confined to "participating" in "executing measures".*

Besides this there is:

- *the Stiftung Verbraucherinstitut (founded jointly by the AgV and Stiftung Warentest), whose mission is to develop models and principles for consumer information and education and to organise supplementary training*
- *the Verbraucherinitiative (the consumers initiative) particularly active in the field of ecological, social and health-related aspects of consumer protection.*
- *the Deutsche Gesellschaft für Ernährung (German Nutrition Association) is active in the field of nutrition.*

*Note that the Deutsche Gesellschaft für Produktinformation - DGPI (German Product Information Association) that was particularly active in the field of product labelling does not exist anymore having been dissolved in 1997.*

### 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 Germany, independence of consumer information is a centrepiece of consumer policy. Following reunification, the emphasis was put on informing consumers in the new Länder as to their rights and opportunities in the market economy and on creating consumer centres and consumer advice centres in the new Länder. As the process of unification is becoming ever deeper, the differences between the Länder are gradually disappearing.*

*For many years, consumer associations have published information concerning various subjects such as food and nutrition, pharmaceuticals, questions concerning travelling law, financial services, new media, environment, hints for buying and renovating houses and many other issues.*

### 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.

*In Germany the Federal Government has earmarked supplementary funds in the field of information.*

*The Federal Ministry of the Economy provides information on the internal market and on energy saving, mainly in the form of literature. It has also put in place a "Eurotelephone" with information on the internal market and a road show on energy saving.*

*In the field of nutrition, the focus over the past three years has been on information concerning a healthy diet, provided in the form of training programmes, brochures and exhibitions. The Ministry has also opened a special information hotline.*

*The Federal Ministry of Health keeps public opinion abreast of developments in the harmonisation of Community law.*

### **3.5 In 1994-1998, what measures were envisaged or had been decided on?**

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

The other Member States were 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.

*In Germany, the emphasis was supposed to be still on issues concerning the new Länder and Community developments, in the framework of the ministries' responsibilities. Funds were also being made available to independent organisations for consumer information purposes.*

**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?**

**3.6.1** 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 competences of the various departments/ministries involved and in some cases on the extent to which they can act on their own authority.

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

- consumer safety, and more specifically:
  - food safety (UK)
  - 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 comments in section 3.6.1 above).

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

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

*In Germany, the State does not impose priorities on the independent bodies, which are free to set their own.*

*For the Health Ministry, the priority themes are those that come within its remit. However, it is not possible to rank priorities from a more general perspective.*

For the Federal Ministry of Food, Agriculture and Forestry, food law is the top priority.

**3.6.3 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>28</sup>, UK).

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

*In Germany, the Federal Health Education Centre (Bundeszentrale für gesundheitliche Aufklärung) participates in the production of films and series which are broadcast during entertainment programmes, mainly concerning health education in general or such topics as drug addiction and AIDS prevention. It has also produced a series of short films on health, some of which concern consumer protection. These shorts have been put on the air during the afternoon or early evening, although there are plans to broadcast them during evening hours in the future.*

*The subordinate ministries and departments do not broadcast TV programmes.*

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<sup>28</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  
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ANNEX 3**Consumer organisations in Germany****at national level:**

- \* **Arbeitsgemeinschaft der Verbraucherverbände e. V. (AgV)**  
Heilsbachstraße 20  
53123 Bonn
  
- \* **Verbraucherschutzverein e. V.**  
Bayreuther Str. 41  
10787 Berlin
  
- \* **Stiftung Warentest**  
Lützowplatz 11-13  
10785 Berlin
  
- \* **Stiftung Verbraucherinstitut**  
Carnotstr. 5  
10587 Berlin
  
- \* **Die Verbraucher Initiative**  
Breite Strasse 51  
53111 Bonn

at regional level:

- |                                                                                                     |                                                                                                     |
|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| <p>* Verbraucherzentrale<br/>Baden-Württemberg e. V.<br/>Paulinenstraße 47<br/>70178 Stuttgart</p>  | <p>* Verbraucherzentrale<br/>Nordrhein-Westfalen e. V.<br/>Mintropstr. 27<br/>40215 Düsseldorf</p>  |
| <p>* Verbraucherzentrale<br/>Bayern e. V.<br/>Mozartstraße 9<br/>80336 München</p>                  | <p>* Verbraucherzentrale<br/>Rheinland-Pfalz e. V.<br/>Große Langgasse 16<br/>55116 Mainz</p>       |
| <p>* Verbraucherzentrale<br/>Berlin e. V.<br/>Bayreuther Str. 40<br/>10787 Berlin</p>               | <p>* Verbraucherzentrale<br/>des Saarlandes e. V.<br/>Hohenzollernstr. 11<br/>66117 Saarbrücken</p> |
| <p>* Verbraucherzentrale<br/>Brandenburg e. V.<br/>Templiner Str. 21<br/>14473 Potsdam</p>          | <p>* Verbraucherzentrale<br/>Sachsen e.V.<br/>Bernhardstraße 7<br/>04315 Leipzig</p>                |
| <p>* Verbraucherzentrale<br/>des Landes Bremen e. V.<br/>Altenweg 4<br/>28195 Bremen</p>            | <p>* Verbraucherzentrale<br/>Sachsen-Anhalt e.V.<br/>Steinbocksgasse 1<br/>06108 Halle</p>          |
| <p>* Verbraucherzentrale<br/>Hamburg e. V.<br/>Kirchenallee 22<br/>20099 Hamburg</p>                | <p>* Verbraucherzentrale<br/>Schleswig-Holstein e. V.<br/>Bergstraße 24<br/>24103 Kiel</p>          |
| <p>* Verbraucherzentrale<br/>Hessen e. V.<br/>Reuterweg 51-53<br/>60323 Frankfurt/Main</p>          | <p>* Verbraucherzentrale<br/>Thüringen e. V.<br/>Eugen-Richter-Str. 44<br/>99085 Erfurt</p>         |
| <p>* Verbraucherzentrale<br/>Mecklenburg-Vorpommern e. V.<br/>Strandstraße 98<br/>18055 Rostock</p> |                                                                                                     |
| <p>* Verbraucherzentrale<br/>Niedersachsen e. V.<br/>Herrenstraße 14<br/>30159 Hannover</p>         |                                                                                                     |

## ANNEX 4

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

Definition: A “consumer affairs observatory”<sup>\*</sup> 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.

