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CONSUMER POLICY IN AUSTRIA

AS COMPARED WITH THE OTHER MEMBER STATES OF THE EUROPEAN UNION

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ANNEXES

Introduction

The Treaty of Amsterdam 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 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)¹. 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 report² on consumer policy was then drafted, highlighting the main

¹ On 1 April 1977 the CPS became DG XXIV, the Directorate-General for Consumer Policy and Consumer Health Protection

² "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 or is under preparation for each Member State, comparing the Member State's situation with that of the other EU countries.

This report concerns Austria. It was drawn up on the basis of information provided by the Austrian authorities in 1996 and updated in 1998.

Part 1: The general situation

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 in question, consumer policy may take the form of voluntary codes, regulations or statutes, or indeed may even be enshrined in the Constitution (E)³, 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 Austria, the general governmental agreement is drawn up for four years at the beginning of each parliamentary term (cf. 1.2). In this context it should also be pointed out that, under federal constitutional law, consumer policy is not a separate area of responsibility - rather, powers in this area are shared by a number of federal ministries; the ministry at which the consumer protection services are established is responsible only for policy coordination (cf 1.3).

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,

³ 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.

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**.

In Austria, the government's work programme is set out in a four-year governmental agreement.

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 1992.

Austria's accession to the European Union on 1 January 1995 meant that Austrian legislation had to be brought into line with Community law; however, very few changes were made to the structures responsible for consumer policy

*The responsible authority is the **Federal Ministry of the Feminine Condition⁴ and Consumer Protection**. It comprises five consumer protection services. However, the main responsibility for various aspects of consumer policy is spread between different ministries: the Federal Ministry of Justice, the Federal Ministry of Economic Affairs, and the Federal Ministry of the Environment, Youth and the Family.*

*At the last Consumer Affairs Council on 23 April 1998, Austria was represented by **Mrs Barbara Prammer⁵**, Minister of the Feminine Condition and Consumer Protection, while at the meeting of Senior Consumer Affairs Officials of 13*

⁴ Bundesministerium für Frauenangelegenheiten und Verbraucherschutz im Bundeskanzleramt

⁵ Annex 1: List of representatives of the governments of the Member States and the European Commission at the *Consumer Affairs Council* of 23 April 1998

January 1998, Austria was represented by **Mr Mayer**⁶ from the Federal Chancellery (Bundeskanzleramt).

The three main **non-governmental organisations** are:

- the Consumer Information Association (Verein zur Konsumenteninformation, VKI, see Section 2.1 and 3)
- the Federal Chamber of Labour (Bundesarbeitskammer, BAK, see Section 2.1)
- the Consumer Council at the Austrian Standardisation Institute (Verbraucherrat, see Section 3).

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 Austria, consumer interests are meant to be taken into account in the other sectors, the Federal Ministry of the Feminine Condition and Consumer Protection being responsible for coordination. In fact, the extent to which these interests are taken into account in different government departments varies greatly.

2. CONSUMER ORGANISATIONS

2.1 Consumer organisations at national and regional level⁷

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** (though not the “Consumers’ Association”) and **Germany**, where consumer associations are funded by the government, 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 by their members as well as

⁶ Annex 2: List of participants at the meeting of High Consumer Affairs Officials of 13 January 1998

⁷ In certain countries (E,I), these are also called “organisations or associations for the protection of the interests of consumers and users”

the resources they obtain through the measures they carry out themselves or in response to invitations to tender from national, local or European associations.

As regards consumer organisations, the Austrian situation is somewhat unique. Because of their institutional character and their structure and composition, the two organisations indicated by the Austrian authorities as representing consumer interest at the Ministry do not correspond to the traditional model of consumer organisations in Europe. These associations are:

- *the Federal Chamber of Labour (Bundesarbeitskammer), represented in each of the nine Länder by a regional chamber, has consumer policy responsibilities. The chambers of labour are legally responsible for representing employees (skilled and unskilled), who must belong to these chambers. Other categories of workers (farmers, civil servants, the self-employed, etc.), and hence a considerable proportion of consumers, are not represented by the chambers of labour.*

*(Bundesarbeitskammer
Prinz Eugen-Straße 20-22
1040 Vienna)*

- *the Consumer Information Association (VKI). This organisation seems to correspond to the concept of the Consumer Council (see Section 3)*

*Verein für Konsumenteninformation (VKI)
Mariahilfer Straße 81
1040 Vienna)*

However, as in other Member States, there are also a variety of consumer organisations in Austria that focus on particular problems, notably advisory services for persons with debt problems, environmental information services and tenants' organisations.

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 takes place:

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

In Austria, the Federal Chamber of Labour (BAK) participates in the drafting of all laws and receives full information on Austrian participation in the EU legislative procedure.

The Consumer Information Association (VKI) participates in negotiations on regulatory and legislative texts. It is also involved in the consultation procedure concerning draft regulatory and legislative texts and may therefore deliver opinions.

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 the 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 Germany, the Union of Consumer Associations (AgV) has 36 member organisations, i.e. the bulk of German consumer associations.
- In Sweden, the two leading organisations are umbrella bodies representing 14 and 16 organisations respectively.

In Austria, the Federal Chamber of Labour (BAK) coordinates the chambers of labour at national level.

The Consumer Information Association is based in Vienna and has branches in four other Länder.

3. CONSUMER COUNCIL

Does your country have a national-level body representing groups concerned by consumer affairs (government, consumer affairs, industry, trade, etc.)?

Yes, almost all Member States 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.

In the United Kingdom there are four such councils - one each for England, Scotland, Northern Ireland and Wales.

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 roughly equal numbers of representatives of consumer organisations and:

- representatives of the business community (B, F, GR, NL) or
- representatives of the ministries responsible (L, P)

as well as experts in consumer affairs.

In Austria, the Consumer Information Association (VKI) seems to be the body that most closely resembles the concept of the Consumer Council. It is a private-law association, whose members include the social partners (Federal Chamber of Labour, Austrian Chamber of the Economy, Austrian Trade Union Confederation, Conference of the Presidents of the Chambers of Agriculture) and the Republic of Austria, as represented by the Federal Ministry of the Feminine Condition and Consumer Protection. Consumers may not belong to the association. However, some 100 000 consumers subscribe to the magazine "Konsument" published by the Association.

On the other hand the Verbraucherrat, which literally translates as "Consumer Council" does not correspond to this concept. The Verbraucherrat was created in 1995 and is financed by the Ministry of the Feminine Condition and Consumer Protection. It is a special committee of the Austria Standardisation Institute, its mandate being to ensure consumer participation in technical standardisation.

Besides, a Consultative Committee was created at the Ministry during the 70s, with the task of advising the Ministry on consumer policy issues. The initial objective was to approximate the interests of consumers and the business community and to negotiate, where appropriate, standard contacts for certain sectors. The composition of the Consultative Committee and its future function are currently under discussion, since these tasks have since been allocated to other bodies.

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 France (DGCCRF) and the United Kingdom (Office of Fair Trading) have 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"⁸.

*In Austria, no specific body has particular responsibility for monitoring consumption. However, the **Central Statistical Office** regularly monitors consumer prices and conducts consumer surveys. The chambers of labour also conduct such surveys.*

*The Federal Ministry of the Feminine Condition and Consumer Protection has been calling for some time for the **establishment of a research institute** devoted to these issues. Although it has not yet proved possible to put this idea into practice, the consumer protection services of the Federal Ministry of the Feminine Condition and Consumer Protection are seeking to fulfil this role to a certain degree. A survey on a number of topics is carried out every year in the shape of a study. The questions mainly relate to information needs, consumer familiarity with advice bureaux, the frequency of complaints about products and services, the success of claims, the frequency of use of the services offered by services and the use of the various products, etc.*

*In addition, since 1993 the Consumer Information Association has drawn up, at the request of the Ministry of Health, a **report** on the situation of consumers, which describes the experience gained in the context of the information and market surveillance services.*

5. INTERNATIONAL COOPERATION

International cooperation in consumer affairs is relatively well developed both on the part of government services and consumer organisations. However, in two Member States it is mainly (L) or almost exclusively (NL) confined to consumer organisations (ULC and Consumentenbond respectively).

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

⁸ See definition in Annex 2

- 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 certain 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) – CEEC (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, mainly within 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 represents all Community, national and regional consumer organisations.

Austria also takes part in the meetings of PROSAFE, whose members include the EU and EFTA countries.

It has been working together with the committees of the OECD since this organisation started to take an interest in consumer policy. It has also been involved in the "network" for monitoring unfair trading practices since it was set up in 1992. Besides, in December 1995 it took over the presidency and organised the annual conference in Vienna.

Bilateral contacts have been established with Slovenia, Slovakia, the Czech Republic and Hungary, mainly for the purposes of exchanging information.

In addition, the VKI is an associate member of BEUC, Consumer International and ANEC.

6. COMPLETION OF THE INTERNAL MARKET⁹

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 limited¹⁰, 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 Austria, information has been provided in the form of booklets and in the context of numerous discussions and talks.

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).

Austria believes that the European Commission should extend the "Coline" project to all the Member States and guarantee its funding. It should also support research in certain areas of interest to consumers by commissioning studies from suitable organisations or individuals. There is a particular need for studies on the enforceability of consumer rights (for example the CLAB database of unfair terms). These market surveillance studies could be used as the basis for adopting measures.

⁹ 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".

¹⁰ Publication of a booklet and articles in E and GR, conference in 1990 and annual publication of a booklet in DK.

*It would be very helpful if the Commission could provide **financial assistance** for the training and further training of consumer advisers.*

*A vast network of **advice bureaux** would also be very useful in helping consumers to make the most of the internal market.*

7. SPECIFIC MEASURES

7.1 In the context of Article 153 (ex-Article 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 (ex Article 129a), notably in regard to information (B, E, F, GR, L, P, S) and the EHLASS programme (DK, E, F, P).

*Austria is keen to promote the establishment and extension of **research institutes** in order to enhance the quality of consumer research.*

"Legal provisions designed to improve the situation of consumers should be envisaged, notably in the field of the information society, in particular as regards access, costs, protection of minors and liability. Besides, more must be done to enforce consumer rights (notably by amending the Brussels-Lugano conventions and the Rome Convention on the law applicable to contractual obligations). The same goes for flanking measures in the framework of the liberalisation of public services".

*The Commission should ensure that **market surveillance** is improved in the Member States so as to achieve a comparable and high level of consumer protection throughout the Community.*

7.2 Other specific measures: should specific measures be envisaged in domains other than those mentioned in Article 153 (ex-Article 129a) 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 153 (ex Article 129a) of the Treaty (D, E, F, L, NL, UK).

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

Austria believes that safety policy should be supplemented by quality policy, though with the former having priority.

Besides, targeted measures should be taken in the field of "access to justice" in order to improve the enforceability of consumer rights.

Part 2: Questions concerning the activities mentioned in Article 153 (ex-Article 129a) of the Treaty

1. PROTECTION OF CONSUMER HEALTH AND SAFETY¹¹

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 policy¹², 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 Austria there is no central authority responsible for observing the market as a whole. Surveillance in the different sectors is generally carried out at regional level by the district authorities (Bezirksverwaltungsbehörden), acting on behalf of the provincial heads of government, who must in turn comply with the instructions issued by the competent ministries. However, certain ministries are directly responsible (for example the Ministry of the Economy is responsible for electrotechnical safety). The same goes for the Ministry of the Feminine Condition and Consumer Protection as regards the notification of dangerous products.

1.2 Are the resources allocated to monitoring of product safety provided on a sectoral basis?

Only Spain, Italy 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, I), electrical appliances and toys (B) and also tobacco, cosmetics, essential foodstuffs (D) and health products (E, GR, I).

In Austria, the district administrative authorities are responsible for monitoring product safety. A new law on product safety took effect in February 1995.

¹¹ I and NL have not replied to this part of the questionnaire.

¹² See Part 1, section 1.3.

1.3 Participation of consumer organisations

In all Member States except Ireland, Sweden and the United Kingdom, consumer organisations are involved, either directly, or indirectly through the bodies on which they are represented¹³, 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 Austria, the **Federal Chamber of Labour**¹⁴ (BKA) is involved in preparing legislation and is consulted in order to ensure that the interests of consumers are taken into account. In the area of technical **standardisation**, a special committee called the "Consumer Council", funded by the Ministry of the Feminine Condition and Consumer Protection, has been set up at the Austrian Standardisation Institute.*

As regards the enforcement of product safety legislation, the Minister is advised and assisted by the Product Safety Advisory Council¹⁵.

0 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.

Eight other Member States (DK, E, F, GR, I, 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 departmental directorates, 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.

¹³ Consumer councils, working parties, ad hoc groups, institutes, etc.

¹⁴ Bundesarbeitskammer

¹⁵ Produktsicherheitsbeirat

In Austria, the EHLASS system basically follows the method set out in the EU Council Decision, in other words the collection of hospital data. The programme covers four hospitals in the course of the year.

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, DK, 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, IRL¹⁶, UK
- leisure centres, playgrounds and amusement parks: DK, D, E, GR, L, UK
- "temporary" structures: D¹⁷
- village halls: E

whilst in other Member States only general regulations apply.

In Austria, the "Sicher Leben" Institute that was set up under the Advisory Committee on Road Safety occasionally conducts studies in domains in which accidents are frequent.

¹⁶ Pop concerts and open-air musical performances.

¹⁷ Equipment that is regularly assembled, used and then dismantled at various locations, such as merry-go-rounds at funfairs.

An accident prevention plan has also been drawn up. There are booklets for various groups of consumers (children, the elderly, home workers).

The Consumer Council set up at the Standardisation Institute takes part in Austrian and European standardisation work. The Ministry of the Feminine Condition and Consumer Protection is involved in drawing up draft decrees regulating the provision of certain services.

Safety provisions have also been included in the laws of the Länder and provide for the imposition of requirements and for authorisation procedures in various sectors.

1.5.2 Are there national measures to encourage 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, I, L, P) with respect to a number of sectors:

- transport and entertainment: E
- bourse and securities: D
- schools, public buildings, construction sites: L
- car repairs, electrical household appliances, domestic heating, swimming pools, etc.: P

In Austria, qualifications are required in order to practise many professions.

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.

*Austria has no central market surveillance authority. Compliance with the regulations in force is mostly monitored at regional level by the district administrative authorities (e.g. price marking). These authorities often fail to monitor all sectors thoroughly, as a rule because of the lack of suitably trained staff for certain fields (for example product safety). As a result, the frequency and quality of the monitoring vary considerably. The **Office for Consumer Affairs**¹⁸ at the Ministry of the Feminine Condition and Consumer Protection has been organising training courses for the agencies responsible for product safety since 1995.*

In the field of civil law, for example doorstep selling legislation, consumers may exercise their rights by appealing (after the event) to the Ministry of the Feminine Condition and Consumer Protection or the Consumer Information Association (VKI), which pays court and legal costs. Where administrative law mechanisms exist, as in the case of package holidays, the Ministry of the Economy checks in particular that there is an adequate guarantee in the event of insolvency and monitors the travel agencies to this end.

*The Consumer Information Association may take legal action in the public interest to terminate **unfair contractual terms**. In this area the Ministry of the Feminine Condition and Consumer Protection cooperates closely with the consumer organisations. The social partners (Federal Chamber of Labour, Trade Union Confederation, Chamber of the Economy, Conference of Presidents of the Chambers of Agriculture) and the Consumer Information Association are **entitled to initiate legal proceedings**. However, in the area of **competition law** (misleading advertising), only the social partners have this right.*

2.2 Consumer access 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, thought that the proposed measures were not stringent enough (F) or that they were too limited in scope (I).

Austria supports the Commission's efforts to achieve mutual recognition of the right of associations to initiate legal proceedings.

¹⁸ Buero fuer Konsumentenfragen

2.3 How do you ensure the protection of consumers' economic interests?

Despite major developments since 1994, mainly in the public sector (post and telecommunications), in most Member States, the industries in question are still publicly owned 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), notably self-restraint on the part of banks as regards advertising aimed at young people (A),
- the supervisory ministry (F, NL, P).

2.4 In which domains is there a need for action at Community level?

While 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, while reiterating (DK) the importance they attach to the principle of subsidiarity.

In Austria no liberalisation is envisaged in regard to the directives concerning operations involving fixed tangible assets, (in particular on the grey market in capital), insurance agents, value-added services, and advertising practices (especially those concerning health and/or young people, lotteries, etc.). In the banking sector, the banks have decided to exercise self-restraint in their advertising targeted at young people.

3. ENSURING ADEQUATE CONSUMER INFORMATION AND EDUCATION

3.1 Services responsible

In each Member State, **several services** are responsible for consumer information and education. As regards information, the services are mainly answerable to the

ministry responsible for general consumer policy. Consumer education, on the other hand, is normally provided via the education system and/or services attached to the ministry of education.

Depending on the Member State in question, 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 Austria, responsibility for consumer policy is shared by several ministries. In this connection the Ministry of the Feminine Condition and Consumer Protection publishes numerous specialised booklets, leaflets and publications in the series "consumer policy".

The Federal Ministry of Education and the Arts is in charge of the school system and is therefore partly responsible for the consumer education of young people.

3.2 Other organisations involved

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 Austria, the Federal Chamber of Labour and the Consumer Information Association publish booklets and factfiles.

3.3 Priority objectives 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).

Given the lack of human and financial resources in Austria, the best solution would appear to be to inform and educate multipliers.

3.4 Priority themes¹⁹

3.4.1 The general impression created by the replies received is that most, if not all, of the subjects set out in Annex 2 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.

¹⁹ See Annex 4

*In Austria, consumers are meant to be informed about **all the sectors** mentioned in Annex 2 of the questionnaire. As regards the EHLASS and RAPEX systems, it should be pointed out that consumers should be informed of the results, rather than the particulars of the system.*

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

- consumer safety and notably
 - food safety (A, UK)
 - general product safety (A, DK, GR, IRL, L),
 - the EHLASS information systems on home and leisure accidents (A, DK, E),
- financial services:
 - payments systems, insurance, banking, etc. (A, DK, F, GR, IRL, L),
- food law (A, DK, D, GR, P),
- package holidays (A, F, GR, L),
- labelling of footwear, energy label, 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 3.4.1 above). Some Member States even give top priority to these other subjects:

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

3.4.3 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).

In Austria, the annual multi-theme survey reveals that certain sectors present particular problems for consumers; hence information would seem to be particularly important in the following sectors

- cars, (mainly second hand cars)
- estate agents
- investment consultants
- retail mail order trade

3.5 Television and consumer information

The situation **varies greatly** from country to country:

In most Member States (A, B, D, E, GR, IRL, L, UK), no regular TV consumer information programmes are broadcast by the authorities or consumer organisations.

However in the case of topical consumer issues, the TV channels may provide information on an occasional basis, sometimes in collaboration with the public authorities or certain organisations (B, E). Sometimes, if the issue is considered important enough, the TV channels may prepare a special programme dedicated to the topic (B, DK, D²⁰, UK).

Only four Member States (DK- F -I -P) broadcast TV consumer affairs programmes on a regular basis.

"The law on private radio stations entered into effect in 1996. Austrian radio and television thus lost its monopoly, but it retains a dominant position. Topical consumer issues are addressed in the daily programme "Welcome Austria" broadcast from 5 to 7pm and in the regional reports at 7pm. However, there is no TV programme exclusively devoted to consumer affairs. The weekly radio programme Help-Konsumentenmagazin" (Consumer Magazine) also provides information on consumers issues".

20 "Health" information

ANNEX 1

The representatives of the governments of the Member States and the European Commission at the Consumer Affairs Council of 23 April 1998:

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Mr Lorenz SCHOMERUS

Secretary of State at the Federal Ministry of the Economy

Austria

Mrs Barabara PRAMMER

Federal Minister for the Feminine Condition and Consumer Protection

Belgium

Mr Jean Louis SIX

Deputy Permanent Representative

Denmark

Mrs Pia GJELLERUP

Minister for Trade and Industry

Spain

Mr Miguel Angel NAVARRO

Permanent Representative

Finland

Mr Antti KALLIOMÄKI

Minister for Trade and Industry

France

Mrs Marilyse LEBRANCHU

Secretary of State at the Ministry of Economics, Finance and Industry

Greece

Mr Michalis CHRYSOCHOÏDIS

Secretary of State for Development

Ireland

Mr Tom KIT

Deputy Minister at the Ministry of Trade, Trade and Employment

Italy

Mr Roberto ROSSI

Deputy Permanent Representative

Luxembourg

Mrs Marie-Josée JACOBS,

Minister for the Family

Netherlands

Mrs Anneke VAN DOK VAN WEELE

Secretary of State for Economic Affairs

Portugal

Mr Joa de VALLERA

Permanent Representative

United Kingdom

Nigel GRIFFITHS

Secretary of State at the Department of Trade and Industry

Sweden
Mr Mickel SJÖBERG

Secretary of State at the Ministry of
Immigrants, Consumers, Youth and Sport

ANNEX 2

**Participants at the meeting of Senior Consumer Affairs Officials of
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ANNEX 3

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.

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

ANNEX 4

Themes of Community interest

Safety of products and services

- general product safety*
 - product liability
 - home and leisure accidents information system (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*

* Themes most frequently cited as priority.

- booking systems
- overbooking

- Other
 - labelling (footwear, energy, ecological label, quality label)*
 - misleading advertising
 - unfair terms in consumer contracts

ANNEX 5

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