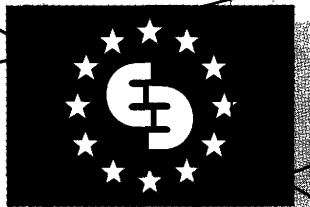


ECONOMIC AND SOCIAL  
CONSULTATIVE ASSEMBLY

1994



# Supplier-Consumer Dialogue

EUROPEAN  
COMMUNITIES

 ECONOMIC AND  
SOCIAL COMMITTEE

Brussels 1994

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CONSULTATIVE ASSEMBLY**

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## **PREFACE**

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## **P R E F A C E**

European Consumer policy is a relatively new field - in constant evolution - in which the Economic and Social Committee has considerable influence.

Of particular interest is the Committee's attitude towards dialogue between suppliers and consumers in connection with the use of codes of practice or self-regulation. Its most recent Opinion on this is timely.

The Treaty on European Union opens up new opportunities in many areas. One such area is that of consumer policy and the attendant decision-making and regulatory procedures. The possibility now exists to take steps towards implementing the ideas set out by the Committee.

For instance, the Committee proposes that the European Community draw up a basic legal instrument (a Directive or a Regulation) setting out the basic rules, to be followed by a Recommendation calling upon those concerned to work out detailed provisions.

The Committee proposes the establishment of a "Consumer Forum" to initiate and promote the dialogue. This "Forum" should be based at the Committee.

Susanne TIEMANN  
Chairman of the  
Economic and Social Committee

ENV/363  
SUPPLIER-CONSUMER  
DIALOGUE

Brussels, 25 November 1993

**OPINION**  
of the  
Economic and Social Committee  
on the  
**Supplier-Consumer Dialogue**

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Memorized text.

On 23 March 1993 the Economic and Social Committee, acting under the fourth paragraph of Article 20 of its Rules of Procedure, decided to draw up an own-initiative Opinion on the following subject:

*The supplier-consumer dialogue.*

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 9 November 1993. The Rapporteur was Mr HILKENS and the Co-Rapporteur was Mr PROUMENS.

At its 310th Plenary Session (meeting of 25 November 1993), the Economic and Social Committee adopted unanimously the following Opinion:

**1. Introductory Remarks**

1.1. In recent years attention has been drawn in various EC consumer programmes to the importance of having a dialogue between producers of goods and services and traders (supply side), on the one hand, and consumers (demand side), on the other hand.

In a social-market economy the parties which are involved in the wealth-creating process and which have opposing interests in some areas of this process will endeavour to find a mutually acceptable solution, by means of a dialogue, to any problems which may occur. The most well-known example - albeit in another context - is the negotiations between employers and employees, or their representatives, which also lead to the conclusion of agreements on the basis of dialogue.

1.2. The number of consumer problems has increased with economic development. The guiding principle when tackling these problems is usually the need to protect the consumer. Consumer policy is therefore primarily regarded as a policy of protection, an area of policy which is mainly considered to be the responsibility of the government. The view has, however, been gaining ground over the last few years that certain problems which arise between producers and consumers can be addressed and resolved by means of consultations or dialogue between representatives of the two sides. This is also the case in the EC Member States, although there are still divergencies in the approach being followed.

These divergencies are not only caused by the differences in the level of consumer organization in the Member States; a further factor which may have a bearing here is the differences in consumption habits in the various regions of the Community. A report appended to this Opinion provides a summary of the situation in this regard in the various EC Member States and a number of States applying to join the EC.

1.3. At EC level no significant progress has been made with regard to dialogue over consumer issues, despite the best endeavours of the European Commission. The Opinion issued by the Committee on this subject in 1984, in which the Committee called for a more solid foundation to be provided for such a dialogue, by issuing a framework Directive setting out a number of rules, also failed to provide the expected stimulus to the development of machinery for negotiations between producers and consumers in the EC.

1.3.1. The Committee would draw attention in this context to the discussions on the promotion of a dialogue between producers and consumers which took place over five years ago between representatives of the Consumers' Consultative Committee and UNICE. The aim of these discussions was to find solutions to common problems on the basis of either codes of practice or agreements.

1.3.2. This promising initiative was not, however, taken any further since, in addition to a degree of political opposition, no provision was made for the practical implementation of the dialogue. This would involve, setting out inter alia:

- an official structure, or, at least, a formal structure;
- working methods;
- a list of the subjects to be discussed;
- clear rules in respect of participation in the dialogue.

It is therefore important to draw attention to these shortcomings in the present Opinion in order to enable them to be avoided in the future. Significant progress has, however, been made in this field in a number of Member States.

1.4. It has become clear that a certain level of trust needs to exist between the parties before a meaningful dialogue can come into being. Fruitful consultations (dialogue) culminating in agreements<sup>1</sup> can only be established between the parties to the market after a gradual process of development. It is apparent from the abovementioned national survey appended to this Opinion that the pace of development in this field in the various EC Member States shows considerable divergence. In a number of Member States there is still scarcely any dialogue between suppliers and consumers, whilst in other Member States, on the other hand, a "mature" dialogue has already been established which has led to agreements between the parties. The product information system introduced in the Netherlands and the Danish labelling system are examples of such agreements.

1.5. Developments which are taking place as part of the European integration process point to the emergence of a more favourable climate for a dialogue-based approach, also in respect of consumer policy. The trend towards deregulation and application of the subsidiarity principle, in both

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<sup>1</sup> In the present Opinion the term "agreement" is used in a general sense to imply the result achieved from a dialogue.



the Member States and at EC level, plays a role in this respect. The principle that, wherever possible, the parties involved are to manage their own affairs on the basis of mutual consultations must also apply to consumer policy.

1.6. In a Council Resolution of 13 July 1992<sup>2</sup>, the subject of a dialogue was once again expressly referred to in a list of priorities for consumer policy, under the heading of "consumer representation". In the very recent Council Resolution of 5 April 1993<sup>3</sup> the Commission is expressly requested to examine the feasibility of developing, with respect to consumer information, a "self-regulatory system" as part of organized negotiations between the various parties (consumers, industry, services, trade organizations). One important reason advanced in favour of such a system is the fact that if the Internal Market established on 1 January 1993 is to operate effectively, it is necessary for all the parties involved, including the individual consumer, to have confidence in the functioning of the market and to benefit fully from it. The operation of the Internal Market, however, is being hampered by the trade barriers caused by the current divergencies, notably in national provisions regarding labelling.

1.7. The purpose of the Committee's initiative is to make a contribution, at the current stage of developments, to shaping opinion in this field. In addition to the issue of greater involvement of consumers in consultations on economic and social matters, consideration is also given to the question of whether "self-regulatory agreements"<sup>4</sup> can be concluded in the field of consumer policy, by means of a dialogue between the parties involved, and whether such agreements may take the place of formal legal provisions to protect consumers in the areas concerned. Attention is drawn to two Opinions issued recently by the Committee on consumer policy<sup>5</sup> which underline the importance of dialogue as an instrument of consumer policy.

## 2. General observations

2.1. Although the establishment of the Internal Market on 1 January 1993 created an open economic area with no frontier barriers, this does not mean that the consumer is able fully to benefit from the attendant advantages. The fragmentation of the market brought about by the existence of national frontiers clearly affects the consumer. EC laws introduced in a number of fields to improve the situation of the consumer in the Internal Market still fall short of ensuring proper protection for consumers throughout the EC. For the most part the purpose is only minimum harmonization, with the result that differences between the Member States remain. The principle of mutual recognition of

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<sup>2</sup> OJ No. C 186 of 23 July 1992.

<sup>3</sup> OJ No. C 110 of 20 April 1993.

<sup>4</sup> Cf. also point 2.5.2. below.

<sup>5</sup> OJ No. C 339 of 31 December 1991 and OJ No. C 19 of 25 January 1993.

the provisions applying in the Member States will also not help to bring about transparency as regards the position of consumers. In the final analysis there are too many omissions in EC legislation for the market to operate effectively to the benefit of the consumer. Examples of these omissions are provisions in respect of guarantees and after-sales service. As a result of this situation, consumers making cross-frontier purchases still have to contend with divergent legislation. From the consumer point of view, a fully effective "internal market" has yet to be established.

2.2. It clearly transpired from the debate in the Member States on the ratification of the Treaty of Maastricht, that the public in the Community wanted to see greater transparency in the decision-making process and wanted to be involved in the decision-making process. If consumer confidence in the process of European integration is to be regained, attention must be paid, in the context of both the establishment of the Internal Market and further progress towards European unification, to ensuring that the supply side and the demand side are treated equally in the economic process. It is only in this way that it may be possible to realize consumer's expectations of increased prosperity as a result of the establishment of the Internal Market, as defined a number of years ago. The recent Sutherland Report therefore rightly calls for attention to be paid to the position of consumers in the process of completing the Internal Market. The restoration of consumer confidence in the Internal Market is furthermore an extremely important factor in bringing about economic revival and giving a new impetus to employment.

2.3. Further progress towards completion of the Internal Market will require supplementary legal measures, particularly in respect of health and safety. There are, however, other areas in which there is a need to strengthen the position of the consumer in order to enable him or her to play an equal role in the market to that played by the producer. The question then arises as to whether it is desirable or necessary to regulate such fields entirely by legal measures or whether there are not other means of achieving the same objective.

2.4. In the Committee's view, consideration should be given to adopting a new approach to a number of areas of EC consumer policy. In those fields where regulatory measures are required to strengthen the position of the consumer, EC legislation should cover only fundamental requirements, and especially provisions which are essential to the effective operation of the market or for the health and safety of the consumer. In the case of the remaining aspects the parties concerned, suppliers and consumers, should be called upon to conclude agreements.

The standpoint outlined above is based on the observation that consumers in the Member States, and also at EC level, are increasingly being recognized as consultation partners with regard to consumer issues.

Given that the consumer in the Internal Market has to be in a position to carry out his market role, there is a need to examine whether and under which conditions dialogue between the supplier and the consumer should play a greater role in the development of a consumer policy.

## 2.5. Forms of dialogue

2.5.1. In contacts between social groups, including contacts between producers and consumers, many different forms of dialogue are possible and practised. These forms vary from informal consultations over problems which have arisen between individual consumers or their organizations, on the one hand, and enterprises or their organizations, on the other hand, to consultations leading to understandings embodied in formal agreements. The UK, in particular, has long practical experience in this field but this type of approach has also been adopted in other EC Member States. In between these two forms of dialogue there are a large number of other forms of consultation, such as participation by consumers in institutionalized consultation processes in the socio-economic field (advisory bodies).

2.5.2. At EC level, too, consumers are involved in institutionalized dialogue through their representatives on the Economic and Social Committee. Despite the relatively small number of consumer representatives on the Committee, their participation in the Committee's work makes it possible to take better account of the consumer's standpoint in the consultations. This Opinion will look more particularly at whether and how dialogue between the two parties at EC level can become an instrument of consumer policy. The aim of this dialogue must be to give the parties concerned the opportunity to reach appropriate agreements following proper consultation; these agreements would take the place of legal provisions or supplement them. The technical term used to describe this approach is "self-regulation", under which measures are formulated by the parties concerned, rather than being imposed by government. Self-regulation does, however, take a number of different forms. Three distinct types may be listed:

- (a) unilateral self-regulation, carried out by businessmen or their organizations;
- (b) unilateral self-regulation involving consultations with consumer organizations;
- (c) bilateral self-regulation leading to agreements between businessmen's organizations and consumers' organizations (possibly involving national or EC authorities).

As we are dealing here with self-regulation as an instrument of consumer policy, self-regulation will be taken to mean bilateral regulation by the parties involved.

## 2.6. The "new approach" to technical harmonization and standards may serve as an example

2.6.1. In a related field, namely that of technical regulations, a "new approach" has been followed in the EC since 1985. Under this approach only the essential safety requirements are laid down in EC Directives: the formulation of specifications in respect of products and services is entrusted to European non-governmental bodies. Although the abovementioned approach may be regarded as a form of self-regulation, the consumer input to the standards process is unsatisfactory as consumers are involved in only a very secondary way.

2.6.2. The new approach to technical harmonization and standards could provide an example of a method which could be adopted in certain areas of consumer policy. The first stage in these areas would be to draw up a basic EC legal instrument (Directive or Regulation) which would merely lay down the fundamental provisions. The second stage would then be to issue a Recommendation in which the Commission calls upon the parties involved to assume joint responsibility for fleshing out these fundamental provisions.

## 2.7. Proposals for the possible machinery of the supplier-consumer dialogue

2.7.1. In the absence of suitable machinery, the parties eligible to take part in such a dialogue might have difficulty in initiating dialogue without assistance. It is therefore proposed that a "forum" for coordination at EC level be set up. This forum would be responsible for ensuring proper representation of the parties involved in the various projects and might also be given responsibility for promoting dialogue between the parties concerned.

2.7.2. One possibility could be to include representatives of producers (both of goods and services) and traders alongside consumers' representatives on the existing Consumers' Consultative Council. The present Council should then be transformed into a Consultative Council for Consumer Affairs. In the Committee's view such an arrangement could not, however, be recommended at the present time as, were it to be introduced, the specific role of the existing Council could no longer be fulfilled.

2.7.3. A second possibility, which would undoubtedly be easier to put into effect, would be to establish a "Consumer Affairs Dialogue Board" which would act as a "forum". The Commission should take the initiative in establishing this Board.

The aim and role of the proposed Dialogue Board is considered in greater detail in Chapter 3 of this Opinion. The Committee would, however, point out at this juncture that if the dialogue is to be effective, it is absolutely essential that the fundamental conditions set out in Chapter 3 be observed.

The Commission should also come to a clear agreement with the parties concerned on issues such as the following:

- the role of the Consumer Affairs Dialogue Board;
- the Board's working methods;
- membership of the Board, bearing in mind that equal representation is a sine quo non;
- the budget;
- funding.

The Consumer Affairs Dialogue Board could use the facilities of the Economic and Social Committee.

### **3. Practical implementation of the proposals - the main elements**

3.1. Dialogue between the suppliers of goods and services and consumers provides the two sides with an opportunity to reach agreements on the policy to be pursued, taking account of their respective interests. Such a dialogue offers suppliers the advantage of not having laws imposed upon them by outside bodies in every possible field. The advantage for consumers is that they can contribute to the establishment of rules which provide them with appropriate protection.

3.2. An important element of this approach to consumer policy is the fact that the two sides are on an equal footing and recognize and respect each others' interests. They are, of course, free to choose whether or not they wish to take part in a dialogue leading to self-regulation. However, if it becomes apparent that some form of regulation is required in a particular area, parties should be willing to participate, if only out of respect for the other party. In the final analysis, in the absence of self-regulation the authorities will feel obliged to introduce legal provisions.

3.3. As regards the implementation of self-regulation, the Committee would make the following proposal (cf. point 2.6.2. above).

3.3.1. In the field in which the EC considers it desirable to lay down rules, the "essential elements", i.e. the provisions which are necessary for effective operation of the market or to protect the consumer, should be laid down in an EC legal instrument (Directive or Regulation). New measures should, of course, be based on the new Article 129a.

3.3.2. The Commission should issue a Recommendation on the other elements of such rules, defining the issues involved and calling upon the parties involved to enter into a dialogue with a view to dealing with these issues by self-regulation. The Recommendation would also set out the basic conditions to be met by the process of self-regulation.

3.3.3. The proposed "forum for dialogue" would take the initiative in bringing together the parties involved. A number of additional conditions also need to be met:

- equal representation of the parties, irrespective of the form taken by the proposed forum;
- the industrial sectors involved should be properly represented on the forum;
- the establishment of the "forum for dialogue" must not lead to the sidelining or abolition of existing specific consultative bodies (e.g. the Standing Committee for Foodstuffs and the Committee on Commerce and Distribution);
- participation by the various partners in the work of the forum must not result in loss of their autonomy and their specific identity; they must retain the option of engaging in formal and informal contacts with EC authorities and other EC bodies;

- the structure and the financial position of all the parties involved must be such as to enable them to participate in the dialogue on an equal footing.

3.3.4. In the Committee's view, the self-regulation system established as an instrument of consumer policy will have to respect a number of basic rules if the consultations are to achieve the desired objective, namely to conclude binding agreements by means of bilateral self-regulation. A number of basic requirements are listed below:

- the parties to the agreements or codes of practice, their qualities and terms of reference must all be clearly defined;
- the goods or services covered by self-regulation must be precisely described;
- the duration of the agreement must be stipulated;
- implementing provisions will have to be laid down, including:
  - . rules and deadlines in respect of possible interim assessments;
  - . remedies, such as complaints and arbitration procedures, in the event of failure to meet the terms of the agreement;
  - . the penalties to be applied in the event of failure to meet the terms of the agreement.

#### **4. Main areas for self-regulation**

4.1. The above model for a self-regulation dialogue between suppliers and consumers should in principle be regarded as being generally applicable in respect of the further development of consumer policy. However, the field of application of this form of dialogue should perhaps be limited for pragmatic reasons. The best approach would be to examine on a sector-by-sector basis which areas lend themselves to this approach. Some of the areas which qualify for such an approach are listed below.

#### **4.2. Outline list of the main areas for self-regulation**

The experience with the Single Market gained by consumers, traders and producers could provide the basis for initial proposals in respect of self-regulation. If the Consumer Affairs Dialogue Board were based at the Economic and Social Committee account could also be taken of the suggestions put forward by the Committee in the regular appraisals of the Single Market contained

in its Opinions (see the Opinion on the Sutherland Report<sup>6</sup>). From a consumer point of view, attention should also be paid to the areas listed below.

**4.2.1. Consumer information**

**4.2.2. Hotel classification**

**4.2.3. Guarantees and after-sales service**

**4.2.4. Arrangements with financial institutions with regard to conditions applicable to payment transactions and methods of making payments**

**4.2.5. Provisions in respect of advertising**

**4.2.6. Insurance sector**

**4.2.7. Medicinal products**

**4.2.8. Proposals for the establishment of arbitration boards**

**5. Concluding remarks**

The Committee urges the Commission to arrange a "hearing" of all the parties involved (at both national and EC level) in the near future in order to identify the areas of policy which readily lend themselves to the organization of a general dialogue between consumers and producers. In this context the EC Commission should also clarify the limits imposed by Article 85 of the EC Treaty on self-regulation by the parties to the market.

Done at Brussels, 25 November 1993.

The Chairman  
of the  
Economic and Social Committee

The Secretary-General  
of the  
Economic and Social Committee

Susanne TIEMANN

Simon-Pierre NOTHOMB

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<sup>6</sup> OJ No. C 304 of 10 November 1993.





**APPENDIX**  
to the  
**OPINION**  
of the  
Economic and Social Committee  
on the  
**Supplier-Consumer Dialogue**

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Dialogue in the EC Member States and the States applying for EC membership -  
Inventory of practices

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## BELGIUM

### 1. Institutional framework

#### 1.1. L'Inspection Générale de la Politique de la Consommation (General Inspectorate of Consumer Policy)

This is a non-independent body which works within the Trade Department of the Ministry of Economic Affairs. It has no legal powers of its own over producers or suppliers. Consumers may ask for information by telephone or letter, or request advice in disputes with traders.

#### 1.2. L'Inspection Générale Economique (IGE) (General Economic Inspectorate)

This is an independent body which works within the Ministry of Economic Affairs. It acts as a kind of policing body in general economic matters, rather than just problems concerning consumer affairs. It operates only on the basis of complaints referred to it, and very rarely on its own initiative. Most of the cases which it sends to court are not followed through. Its operations are regulated by the law of 14 July 1991.

#### 1.3. L'Inspection des Denrées Alimentaires (IDA) (Foodstuffs Inspectorate)

This is a non-independent body which is directly dependent on the Public Health Administrative Section of the Ministry of Public Health. It is not widely known amongst consumers and adopts a purely technical approach to cases.

#### 1.4. Le Conseil de la Consommation (Consumers' Council)

1.4.1. This is a consultative body operating under the aegis of the Ministry of Economic Affairs, and dependent on the Trade Administration Department. Its main task is to issue Opinions, on its own initiative or at the request of the executive or legislative authorities, on all problems which affect the interests of consumers.

1.4.2. The Consumers' Council is regulated by Royal Decree of 9 December 1992. Its membership represents the following sections: consumers, manufacturing industry, the distribution industry, small firms and traders and agriculture. The Council also comprises members selected from amongst leading figures with acknowledged competence in the field of consumer affairs, the environment and public health.

1.4.3. Consultation of the Consumers' Council is mandatory in respect of the implementation of the laws on commercial practices and consumer credit.

1.4.4. The law of 14 July 1991 on commercial practices makes provision for the establishment within the Consumers' Council of

- 1) a Committee on Unfair Clauses. The role of this Committee is to look into clauses and conditions in contracts concluded between sellers and consumers to issue recommendations and put forward proposals for amendments;

2) a Committee concerned with the environmental impact of goods and services and the formulation of a code of practice for ecological advertising.

1.5. A number of other special committees on which consumer organizations are represented also exist, covering such matters as price regulation, energy, insurance, distribution, foodstuffs and pharmaceuticals.

1.6. Also, under the law of 14 July 1991, the right to institute commercial court proceedings is made available to all associations recognized by the Minister for Economic Affairs.

1.7. The four sub-categories of organizations listed below have member organizations represented on the Consumers' Council:

**1.7.1. Consumers' union**

- Association des Consommateurs Test-Achats (Product-testing consumers' association).

**1.7.2. Family organizations, women's organizations and on-going education associations**

- 10 such organizations exist.

**1.7.3. Consumer cooperatives**

- Fédération Belge des Coopératives (FEBECOOP) (Belgian Federation of Cooperatives).

**1.7.4. Trade unions**

- Centrale Générale des Syndicats Libéraux de Belgique (CGSLB) (General Confederation of Liberal Trade Unions)

- Confédération des Syndicats Chrétiens de Belgique (CSC) (Confederation of Christian Trade Unions)

- Fédération Générale du Travail de Belgique (FGTB) (General Federation of Labour).

**1.8. CRIOC (Consumer Organizations' Research and Information Centre)**

1.8.1. CRIOC is a public body set up in 1975 by the abovementioned Belgian Consumers' organizations. It receives an annual subsidy from the Ministry of Economic Affairs.

1.8.2. It acts as a technical institution which serves consumer organizations in their work as socio-economic pressure groups and in socio-cultural training. Its role is to defend consumers, but it does not represent their political views.

1.8.3. CRIOC comprises three services: the Studies Service, the Information-Education Service and the Documentation Service.

## 2. Codes

Traditionally, Belgian consumers organizations are generally not in favour of voluntary codes, but strongly prefer actual legislation.

However, a number of variants exist which are set out below:

### 2.1. Consumer Disputes Committees exist in some sectors:

- the travel trade;
- the dry-cleaning industry;
- the furniture industry.

### 2.2. Ombudsmen have been introduced in certain other sectors, e.g. insurance (UPEA) and banking.

### 2.3. International Chamber of Commerce (ICC) codes, applied in Belgium by the Advertising Ethics Board (JEP), and covering the following subjects:

- fair advertising practices (ICC 1987);
- fair practice in the field of sales promotion (ICC 1987);
- sponsoring (ICC 1992);
- direct marketing (ICC 1992).

### 2.4. Miscellaneous codes of which the following should be noted:

- advertising of medicines and medical treatment;
- advertising of cosmetic and hygiene products;
- distance selling (mail order).

## 3. Enforcement and redress

3.1. In Belgium, only the sectors listed above have voluntary, private and joint (traders/consumers) or unilateral bodies which deal with consumers' complaints or decide in matters of conflict between traders and consumers.

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\* \*

## DENMARK

### 1. Institutional framework

1.1. **Forbrugerrådet** (the Consumer Council) is a consumer organization independent of the public authorities, business and the political parties. It was set up in 1947 and currently comprises 25 nation-wide organizations and 9 local consumer groups.

1.1.1. The Council's task is to defend consumer interests via a pro-active consumer policy. It does so by lobbying the authorities and business. It is also represented on a large number of councils, advisory boards and committees. The Council also deals with standardization and labelling. It is active in the field of consumer information, inter alia through its magazine "Tænk". It also cooperates with Scandinavian, European and international consumer organizations.

1.2. **Forbrugerstyrelsen** (the National Consumer Agency of Denmark) is a state body within the Ministry for Industry. In addition to its duties within the Ministry, it services the Consumer Ombudsman, the Consumers' Complaints Board and the National Council for Home Economics.

1.2.1. The Consumer Ombudsman's task is to monitor the observation of marketing legislation, while the Consumers' Complaints Board handles complaints about goods and services costing between 500 DKr and 24,000 DKr. The National Home Economics Board and the Consumer Directorate are active on the information front, inter alia through the Consumer Directorate's magazine "Råd og Resultater".

1.3. The **Dansk Varefakta Nævn** (the Danish Institute for Informative Labelling) deals with voluntary and informative labelling for consumer goods. The Board's members include manufacturers, retailers and consumers, including delegates from the Consumer Council.

1.4. **Local Consumer Groups** are also involved at local level with consumer information and complaints. Denmark has a total of 20 voluntary local groups.

### 2. Codes

2.1. Forbrugerrådet (Consumer Council) is somewhat reticent about voluntary codes. It takes the view that producers are more likely to introduce codes in the face of a threat to introduce legislation. The Council strives to pursue dialogue with industry and constantly cooperates with all sectors. For example, it produces educational material in conjunction with Danish industry; insurance companies have also drafted standard family insurance policies in conjunction with the Council.

2.2. Within a wide range of councils, boards and committees, the Consumer Council strives constantly, via cooperation and negotiations, to achieve results which take maximum account of consumers' interests.

2.3. The Consumers' Ombudsman cannot unilaterally issue binding rules, but he attempts to influence marketing practices through negotiations with industry and the Consumer Council. The Consumer Ombudsman has powers under the Marketing Practices Act to lay down guidelines for specific areas, such as sexist advertising, alcohol advertising and instructions on environmental marketing. The Consumer Ombudsman also administers the law on credit and charge cards.



### 3. Enforcement and redress

3.1. In the event of an unsuccessful complaint to the management of a business, the consumer can take his case to the Consumer Complaints Board (within the limits specified above), on which consumers and business interests are represented. The Consumer Complaints Board has also approved eight private complaints bodies to deal with specific sectors or areas. The Consumer Council represents consumers in all these private complaints bodies.

3.2. Decisions by one of these bodies do not have the same legal force as a Court judgement but experience shows that most of the rulings are obeyed. Consumers are referred to the Courts for cases involving goods and services which fall outside the competence of these complaints bodies.

3.3. Consumers, traders and the public authorities can all ask the Consumer Ombudsman to take up alleged infringements of marketing legislation.

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## GERMANY

### 1. Institutional framework

1.1. In Germany there are two main bodies concerned with the institutionalized dialogue between the consumer and the State : the Consumer Council (Verbraucherbeirat), attached to the Federal Ministry for Economic Affairs, and the Consumer Committee (Verbraucherausschuss), attached to the Federal Ministry for Food, Agriculture and Forestry.

1.1.1. The Consumer Council was set up in 1972 for the purpose of advising the Federal Government on fundamental aspects of consumer policy and submitting proposals to the Federal Government on its own initiative. Consumer organizations and associated bodies are represented in the Council.

1.1.2. The Consumer Committee, which is attached to the Federal Ministry for Food, Agriculture and Forestry, has a similar composition and similar duties.

1.1.3. There is a large number of advisory boards, on which representatives of consumer organizations sit together with representatives of other economic interest groups, attached to Federal Government Ministries and other Federal bodies. The following are examples :

- Advisory Council for Motor Vehicle Insurance Rates (Federal Ministry for Economic Affairs);
- Advisory Council on Tourism (Federal Ministry for Economic Affairs);
- Advisory Council on Insurance Matters (Federal Supervisory Office for the Insurance Industry);
- Food Industry Guidelines Commission (Federal Ministry for Health);
- Concerted action on health matters under the auspices of the Federal Ministry for Health;
- Committee on Dangerous Substances and the Committee on Technical Appliances used at the Workplace (Federal Ministry for Labour and Social Affairs);
- Shipping Committee attached to the Removal Industry Rates Commission (Federal Ministry for Transport).

1.1.4. In addition, Federal Ministries enter into informal contacts, by means of hearings, with economic interest groups, including consumer organizations, with regard to planned legislation and regulations.

### 1.2. Consumer organizations and institutions

1.2.1. The AGV is the principal consumer organization. It is a private consumer association which essentially comprises 16 consumer organizations and 22 other associations involved in consumer issues (e.g. women's organizations) and scientific institutes. The AGV speaks out for the interests of the consumer in the mass media and represents consumers in dealings with public bodies

at Federal, European and international level. It also provides information for consumers and promotes and coordinates the activities of consumers and its own members.

There are 16 consumer organizations, comprising a total of in excess of 250 consumer advice offices operating at Land (province) level in the Federal Republic.

A voluntary consumer-trader working party has been in existence for many years. This working party brings together representatives of the various trade associations and the AGV to discuss issues of interest to both parties; the working party thus constitutes a forum for dialogue.

### 1.2.2. **The Stiftung Warentest**

The Stiftung Warentest (Product Testing Foundation) was set up in 1964 as a foundation under private law.

The Board of Trustees of the Stiftung has 15 members - five consumer representatives, five suppliers' representatives and five independents. It advises the executive and the management committee of the Stiftung Warentest on all fundamental questions and makes proposals for test projects and their execution.

For each test project a committee of experts is set up by the Stiftung to advise on the aspects to be covered, the evaluation criteria and the test methods and the correct presentation of the test findings. The experts are nominated by the consumer organizations represented on the Board of Trustees and by Industry. So far over 1,000 committees of experts have rendered service.

## 2. **Codes**

2.1. The consumer-supplier dialogue is not, however, restricted to the abovementioned forms. It also takes place within the bodies listed below, leading to the establishment of codes of conduct.

### 2.1.1. **The Association for Product Information (Deutsche Gesellschaft für Produktinformation)**

The German Association for Product Information in which the DIN (German Standards Institute) and the RAL (German Institute for Quality Assurance and Marking) participate, has been in existence since 1977. The dialogue takes place in the Association's committee, which is a joint body and in specialist sub-committees, which are similarly composed.

### 2.1.2. **Standardization**

Consumers are involved in standardization through the DIN (German Standards Institute). There are consumer representatives on 400 standardization committees (or sub-committees).

Attached to the DIN is a consumer council with the task of supporting and coordinating consumer activities in the area of standards. There is a special committee on reliability in use to deal with basic questions concerning standardization.

The Federal Government provides financial support for consumer organizations taking part in the establishment of standards. The standards apply above all to the safety, serviceability and environmental-compatibility of consumer goods and services provided by public and private suppliers.

Quality assurance and the issue of quality marks are the responsibility of the RAL. The AGV is one of the bodies cooperating with the RAL, which comprises 128 quality mark bodies.

2.2. In the field of product information (PI), a voluntary product labelling agreement exists between the AGV and the Stiftung Warentest on the one hand and suppliers on the other to provide essential data obtained by testing. Products covered include domestic electrical appliances, photographic equipment, gas, oil and coal heating appliances, etc.

### 3. Enforcement and redress

3.1. The Law on the General Terms of business (AGBG) entitles consumer organizations to take action against firms which apply unlawful terms, and associations which recommend their members to do so.

3.2. In practice the mere threat of legal proceedings is frequently sufficient to bring the parties in dispute to the negotiating table, and to settle the dispute - at least as regards some of the clauses at issue - out of court. This is a form of ad hoc dialogue, which can still produce effective results, even if undertaken under duress.

3.3. Thus, as a result of the consumer organizations pressing for restrictions on cigarette advertising, the cigarette industry has agreed not to advertise on public transport, thereby forestalling the need for statutory measures.

3.4. There are also various types of arbitration boards in Germany, although not all of them provide for the participation of consumer organizations. Their objective is to settle disputes out of court, although if consumers are not satisfied, they can still take a dispute to a civil court.

These arbitration boards include :

- arbitration boards for consumer complaints, attached to the chambers of commerce;
- arbitration boards for complaints about laundry and cleaning services, set up between "Land" (provincial) associations and central consumer organizations;
- arbitration boards for the motor vehicle trade set up by the ADAC (German Automobile Association) and the Central Association of Motor Vehicle Dealers;
- an arbitration board for the electrical trade.

There are also other arbitration boards, which deal with quality and warranty matters. Consumer organizations are not represented on all of these.

3.5. In collaboration with the German Chamber of Commerce and Industry, the AGV has drawn up requirements in respect of price comparisons with a view to facilitating comparisons of prices on the market.

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## GREECE

### 1. Institutional framework

1.1. In Greece the Ministry of Trade has responsibility for consumer affairs which are regulated by Law 1961/1991 on Consumer Protection, as simplified and amended by Law 2000/91, Section D, on the same subject.

Despite the ambiguities, omissions and shortcomings of the law, it nevertheless constitutes a new departure in Greek legislation, and is a powerful weapon in the hands of the Consumers' Union.

1.2. Law 1961/1991 provides for the setting-up and operation of a National Consumer Council, a 9-member consultative body of the Ministry of Trade (with consumers, suppliers, higher education institutions and the Ministry itself represented). However, the National Consumer Council has not yet (1993) come into being.

1.3. It has recently been decided to set up a body to award an "environment-friendly" symbol to various products. This 11-member body will consist of representatives of the Ministries of the Environment, Trade, Industry and Agriculture, the central State Laboratory and the General Confederation of Greek Workers, together with one representative of the employers' sector (Greek industrialists' Union, Chambers of Commerce, associations, etc.), one from an environmental organization, and one from a consumer organization.

1.4. Consumer awareness, information and legal support is in practice provided by consumer organizations, who operate on their own initiative.

1.5. An important service is provided by the E.K.POI.ZO (Union for Consumer Affairs and the Quality of Life), which is a member of the BEUC and receives Community financial assistance. This organization has run wide-ranging information and action campaigns on key consumer issues.

1.6. Since 1989, E.K.POI.ZO has set up a number of "Legal Advice Centres". Four such Centres are already in operation in Athens, Kavala, Dráma and Iráklío (Crete). Their purpose is to provide information, legal advice and, above all, to help settle disputes between consumers and suppliers.

1.7. The efforts of the Centres' legal experts have proved largely successful: following discussions, most suppliers finally accede to their requests.

1.8. E.K.POI.ZO pursues the aim of a supplier-consumer dialogue and has advocated a joint approach and conciliation in areas such as advertising. It intends to step up its efforts in this direction.

1.9. Other work is also carried out on behalf of consumers by mainly regional organizations.

1.10. The Ministry of Trade, which is responsible for consumer protection, mostly limits itself to issuing statements, and very occasionally publishes reports aimed at increasing consumer awareness.

## 2. Codes

Only one code appears to exist in Greece: the Greek Advertising Code, drawn up in 1986 by the Union of Greek Advertising Agencies and endorsed by all the relevant parties.

## 3. Enforcement and redress

Satisfactory legal redress is not available to Greek consumers. It is almost impossible to take legal action against companies since Greek legislation gives no particular recognition to the Consumers' Unions, while the costly and time-consuming proceedings deter individuals from seeking compensation via the regular courts.

Law 1961/1991 referred to above provides for the establishment of Consumer Affairs Conciliation Bureaus in each prefecture.

Their function is to handle applications for outside arbitration in supplier-consumer disputes.

The law provides for an Opinion to be delivered by a three-member commission, consisting of:

- 1) the president of the Bar Association or his legal substitute;
- 2) a representative of the Chamber of Commerce, and
- 3) a representative of the local Consumers' Union.

However, these Conciliation Bureaus have not yet (1993) begun to operate.

However, Law 2000/91 provides for the bringing of collective actions by Consumers' Unions, but only against enterprises which by law exercise exclusive rights or enjoy specific prerogatives. This means State concerns or public utility bodies such as the Greek electricity, water and telecommunications corporations.

In spite of the legal obstacles raised, E.K.POI.ZO works to represent consumers in the courts.

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**SPAIN**

**1. Institutional framework**

**1.1. Public bodies**

**1.1.1. Ministry of Health and Consumer Affairs**

This is the most important public body; its objective is to ensure that the **General Law for the Defence of Consumers and Users (Law 16/1984 of 19 July)** is applied correctly.

The following public bodies come under its aegis

**1.1.2. Instituto Nacional de Consumo (National Consumer Institute)**

The National Consumer Institute, a public body forming part of the Ministry for Health and Consumer Affairs, was set up by the Council for Internal Trade and Consumers in accordance with Decree No. 2950/73 of 7 November 1975.

**1.1.3. Municipal Consumer Information Offices**

More than 500 municipalities in Spain have Municipal Consumer Information Offices (OMIC).

**1.1.4. Junta Arbitral de Consumo (Consumer Arbitration Board)**

(see para. 3 below)

**1.1.5. Directorates-General for Consumer Affairs of the Autonomous Communities**

There are 17 Autonomous Communities in Spain to which consumers may turn in defence of their interests.

**1.2. Private bodies**

**1.2.1. ASGECO - Asociación General de Consumidores (General Association of Consumers)**

ASGECO is a national association whose main objectives are:

- to defend the rights of consumers in general with all the means available to the association;
- to provide adequate information so that consumers are fully informed on the problems affecting them as consumers;
- to advise, through their specialized departments, on matters affecting consumers and users of goods and services;
- to promote consumer education through courses, conferences, seminars, publications, etc.

ASGECO is made up of Spanish consumer cooperatives which act as its local branches. Hence it is represented in 41 provinces by 354 cooperatives and has 137,462 members. The cooperatives are located in rural areas, which makes their work highly important as it is the only means of consumer defence.

Head Office: Plaza de Navafria, 3 Bajo, 28027-Madrid

#### **1.2.2. CECU - Confederación Estatal de Consumidores (National Confederation of Consumers)**

National organization comprising 45 organizations or associations from 14 Autonomous Communities and with a total of more than 80,000 members. Under the aegis of the Ministry for Internal Affairs and the National Consumer Institute; at international level a member of the IOCU (International Organization of Consumer Unions) and BEUC (European Bureau of Consumers' Unions). Its basic aim is the defence of consumer rights throughout Spain.

#### **1.2.3. FEACCU - Confederación Española de Asociaciones de Amas de Casa, Consumidores y Usuarios (Spanish Confederation of Associations of Housewives, Consumers and Users)**

This is a private, non-profitmaking body, composed primarily of housewives from all over Spain, grouped into regional, provincial and local organizations. Its objectives are consumer education, information, defence and representation. It also endeavours to improve the social and economic status of housewives by recognizing them as part of the working population.

#### **1.2.4. FUCI - Federación de Usuarios-Consumidores Independientes (Federation of Independent Users-Consumers)**

This organization, established in 1985, has 58 affiliated associations and 321 local branches. It provides consumers with information, advice, training and legal defence. FUCI has active participation in established platforms, namely:

- joint committee on hospitals,
- committee on social wellbeing,
- provincial committee on prices,
- arbitration boards.

This federation has an active presence in the media. It is co-editor of the Revista Ciudadano with other national associations, and has periodicals of its own; it publishes and distributes among its members, books, studies on matters of particular interest to citizens and various pamphlets.

#### **1.2.5. HISPACOOOP - Confederación de Cooperativas de Consumidores y Usuarios de España (Confederation of Spanish Consumers and Users Cooperatives)**

HISPACOOOP comprises the various federations and unions (Basque, Catalan, Andalusian, Valencian Federations and the National Union of Spanish Consumers and Users Cooperatives); its main aim is to unify the cooperative movement.

#### **1.2.6. OCU - Organización de Consumidores y Usuarios (Consumers and Users Organization)**

The OCU is an independent, non-profitmaking, private organization established in 1975 and dedicated to consumer defence, advice and information through its main publications. Its sole source of finance and main guarantee of independence are the more than 240,000 subscribers to



its publications, OCU-Compra Maestra and Dinero y Derechos. The OCU belongs to the international consumer organizations BEUC and IOCU.

#### 1.2.7. UCE - Unión de Consumidores de España (Union of Spanish Consumers)

The UCE is a national, non-profitmaking private association whose aim is to defend and promote the individual and collective rights and interests of Spanish consumers, to educate and inform them, to represent them, both in general and in respect of specific goods, services or activities.

The UCE was established in 1987 and has a federative structure with 60 centres throughout the country and more than 800 local branches, with an official membership of 211,236 (as at 31.12.1992).

Its services include providing information for its members through the magazine which it publishes with various consumer associations (UCE, UNAE, FUCI, CECU and ASGECO). Its principal tasks are to carry out and publish comparative tests which provide information on products and services available on the market, and to publish reports and articles on matters of general interest to the consumer.

#### 1.2.8. UNAE - Federación Unión Civica Nacional de Consumidores y Amas del Hogar de España (National Civic Union Federation of Spanish Consumers and Housewives)

The UNAE started up in 1979 with the Barcelona, León and Madrid Associations of Consumers and Housewives and expanded to cover the whole country, taking its present title in 1985. According to its statute its aim is to defend the interests of consumers of goods and users of services, with special reference to **family consumption and the housewife as manager of the household economy**.

Its objectives as a national, non-profitmaking, public-interest body are to unite the efforts of its members and affiliated associations, concentrating on **information, representation and defence of the legitimate interests of consumers and users**, and encouraging the growth of the consumer movement in Spain.

The UNAE is a national federation established in 11 Autonomous Communities, with 79 affiliated associations and local branches, and a total of 125,000 members.

## 2. Codes

The Consumers' Associations have their agreements with certain service sectors, concluded directly with the sectors themselves, or through the National Consumer Institute, or through membership of the National Arbitration Board. Agreements have already been signed with :

- Telecommunications corporation
- Posts and Telegraphy corporation
- RENFE (railways)
- ADAE
- Mail order sector
- National Association of Toy Manufacturers
- National Association of Dry Cleaners and Dyers

and with more than 50 firms in the following sectors :

- Foodstuffs
  - Estate Agents
  - Tourism
  - Informatics
  - Health
  - Cleaning
  - Transport
- etc.

When problems arise which cannot be solved under the existing agreement, they are dealt with under General Law 26/1984 on Consumer Protection (19 July 1984) or under the Royal Decree which regulates the relevant sector in practice.

### 3. Enforcement and redress

Junta Arbitral de Consumo  
(Consumer Arbitration Board)

Article 31 of the Law for the Defence of Consumers provides for an arbitration system for the rapid and binding resolution of consumer claims and complaints. It is a legal protection instrument which does not deprive consumers of the option of seeking legal redress.

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## FRANCE

### 1. Institutional framework

1.1. The main government department responsible for consumer affairs in France is the Directorate for Competition and Consumer Affairs and the Prevention of Fraud (DGCCRF), which comes under the responsibility of the Ministry for Consumer Affairs.

1.1.1. At the current time (July 1993), there is no specific ministry for consumer affairs; the Ministry for Economic Affairs has responsibility for this field.

1.1.2. A large number of departments and ministries do in fact play a part in consumer protection.

1.2. The Conseil national de la consommation (National Consumer Council) (CNC) is an advisory body presided over by the Minister with responsibility for consumer affairs. The CNC is a joint body comprising an equal number of representatives of recognized national consumer organizations and of professionals.

1.2.1. The aim of the CNC is to bring together representatives of consumers and users and representatives of the industries concerned, public services and public authorities and to enable consultations to take place between them. The CNC issues opinions on, inter alia, bills and draft regulations on consumer matters. It is also empowered to propose reforms.

1.2.2. The Institut national de la consommation (National Institute for Consumer Affairs) is a public body of an industrial and commercial nature. Its board comprises representatives of consumers' organizations. It carries out comparative tests, compiles analyses and other documentation and distributes information by, amongst other means, its publication entitled "50 Millions de Consommateurs" and through television broadcasts.

1.3. There are a number of other official bodies dealing with consumer issues. The main ones are listed below:

- Le Conseil de la Concurrence (Council for Competition),
- La Commission de Sécurité des Consommateurs (Consumer Safety Committee),
- La Commission des Clauses Abusives (Committee on Unfair Clauses),
- Les Comités Départementaux de la Consommation (Consumer Committees of the "Départements"),
- Comité des Usagers des Banques (Bank Users' Committee),
- Comité des Usagers des Assurances (Committee of Users of Insurance Services),
- Conseil supérieur des Pompes Funèbres (Council of Undertakers),
- Commission nationale de Concertation sur le Logement (National Committee for Consultation on Housing Issues),
- Conseil national de l'Alimentation (National Council for Food Products).

1.4. In addition to the public-sector bodies, there are some 20 other officially recognized consumer organizations in France. Many of these organizations specialize in defending the interests of families or trade union members.

1.5. One example of these private organizations is the Union Fédérale des Consommateurs (Federal Union of Consumers) which is best known for its publication entitled "Que Choisir" (The Right Choice).

1.6. Most of the large consumer organizations in France are decentralized, operating on a regional, departmental or local level. The Centres Techniques Régionaux de la Consommation (Regional Centres for Consumer Affairs) (CTRC) are umbrella groups for consumer organizations at regional level which organize regional television broadcasts.

## 2. Codes

2.1. In France, negotiations on codes, which are generally referred to as "collective agreements", take place between consumer organizations and professional bodies at either national or local level. Agreements have been concluded, for example, in respect of transactions involving secondhand cars, kitchen installations, dry cleaning and laundries.

2.2. The difficulty is that such collective agreements are regarded as optional; they are signed by only a minority of "professionals" or they are binding solely upon those who have individually put their signatures to the agreements. The agreements therefore only have a limited application and a limited value. There is however, growing interest amongst the parties concerned for this type of link between organizations and further developments can be expected.

2.3. The Consumer Code was adopted by the French Parliament in 1993. The Code brings together and codifies within a single instrument all the legislative and regulatory provisions governing relations between consumers and "professionals".

2.4. As far as advertising is concerned, a Bureau de Vérification de la Publicité (Advertising Inspection Board) (BVP) has been set up in France. This body brings together representatives of advertising agencies and advertisers and representatives of the media, who are voluntary members of the association. The BVP seeks to maintain ethical standards in advertising but it has no regulatory powers. At the present time it carries out a priori inspections of televised advertisements at the request of the advertising authorities. The BVP also puts forward recommendations in a number of different sectors. Separate advertising codes also exist for specific sectors, such as mail order and pharmaceutical products.

## 3. Enforcement and redress

3.1. The aggrieved consumer can seek redress through one of the officially recognized consumer protection organizations which are legally empowered to defend consumers' interests (under the Law of 27 December 1973, the "Royer Law"). Under the Law of 5 January 1988 these associations may also institute legal proceedings to ban unfair clauses and under the Law of 18 January 1992 they are further entitled to institute proceedings jointly.

3.2. The "boîte postale 5000" ("PO Box 5000") scheme introduced in each of the "départments" covers minor disputes.

- If the facts of the case, as set out in letters to PO Box 5000, indicate that the professional parties involved have behaved in a penally culpable manner, the administration regards the letter as constituting a complaint.

- In other cases, efforts are made to arrive at an amicable settlement. The cases are divided between the consumers' associations and professional organizations participating in the BP 5000 scheme. If the organization taking on the case is unable to secure an amicable settlement, the dispute is submitted to a conciliation committee.
- The underlying principle of the BP 5000 scheme has been challenged from the outset by a number of consumer associations who have refused to take part, holding the view that such disputes must be dealt with by the courts.

3.3. Irrespective of the procedures set out above, the normal form of redress open to consumer organizations and the individual consumer is to take action in the civil or criminal courts.

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## IRELAND

### 1. Institutional framework

1.1. At Government level responsibility for consumer matters lies with the Minister for Enterprise and Employment. Responsibility for Consumer Affairs has been allocated to a Minister of State within his Department. The Consumer Protection branch of the Department has responsibility for the drafting of legislation, attendance at EC meetings and other general consumer matters at Government level.

1.2. Responsibility for the enforcement of consumer legislation lies with the Director of Consumer Affairs. The Director is also responsible for advising consumers on their legal rights and for general interface with consumers and suppliers. The Director of Consumer Affairs, who is appointed under the Consumer Information Act of 1978, is independent in the performance of his duties but he is supplied with funds and staff by the Department of Enterprise and Employment.

1.3. Ireland does not have a joint consultative body for consumer and suppliers. A National Consumer Council was promised in the programme for Government early in 1993. It is likely that the Council, if and when it is established, will have a role similar to that of the former National Consumer Advisory Council which has been defunct for many years.

1.4. Ireland has a small number of voluntary consumer organizations. These include the Consumers Association of Ireland, the Irish Countrywoman's Association and the Automobile Association.

### 2. Codes

2.1. The Consumer Information Act 1978 provided for the encouragement of Codes of Practice by the Director of Consumer Affairs. Codes of Practice are now common place and most have had some involvement from the Director. The main examples are listed below:-

- Code of Advertising Standards of the Advertising Standards Authority of Ireland (ASAI);
- Various Insurance marketing codes of the Irish Insurance Federation (IIF) and the Irish Brokers Association (IBA);
- Code of Standards of Advertising Practice for Proprietary Home Medicine of the Federation of Irish Chemical Industries (FICI);
- Code of Practice of the Direct Selling Association (DSA);
- Code of Practice of the Irish Travel Agents Association (ITAA);
- Code of Practice of the Article Numbering Association of Ireland (ANAI) relating to the use of bar-coding scanners in retail outlets;
- Code of Practice of the Irish Bankers Federation (IBF) on the display of bank charges;
- Code of Society of the Irish Motor Industry (SIMI) relating to second hand motor vehicles.

2.2. A number of the abovementioned codes are in need of updating to bring them into line with EC Directives, e.g. on marketing of pharmaceuticals and package travel. The most successful code is probably the Code of Advertising Standards of the Advertising Standards Authority of Ireland. It is widely acknowledged as an example of self-regulation at its best. The Authority itself is a tripartite body consisting of representatives of the advertising industry, advertisers and the media. Complaints are dealt with by the complaints committee which has some independent members as well as four nominees of the Director of Consumer Affairs.

2.3. The direct role played by voluntary consumer organizations in code formulation is quite small. The Director of Consumer Affairs does, however, take into account the consumer view when considering the terms of new codes.

### 3. Enforcement and redress

3.1. Some Codes of Practice (e.g. the travel agents code) provide for arbitration procedures. These work reasonably well but may need some modification in the light of the Small Claims Procedure referred to below. The major development in the voluntary sector has been the introduction of Ombudsman schemes for Credit Institutions (Banks and Building Societies) in 1990 and Insurance Companies in 1992. The Credit Institutions scheme is now well established and seems to be working well. It is too early to say how successful the insurance scheme has been - it should be noted that the scheme applies only to insurance companies and not to intermediaries, e.g. brokers.

3.2. The introduction of a pilot Small Claims Procedure in the District Court in Dublin, Cork, Sligo and Swords in 1991 has been a major success. This scheme applies to consumers who claim up to a maximum value of IR£500. A feature of the scheme is the role of the Small Claims Registrar who is a Court official with a role to act as an intermediary between the supplier and the consumer and may thus bring about settlement of a claim. In practice about 60% of claims have been settled through this form of dialogue (albeit through an intermediary) avoiding the need to go before a Court.

3.3. On a more general basis, supplier-consumer dialogue in Ireland could be greatly improved by the establishment of the National Consumer Council referred to at 1.3. above.

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## ITALY

### 1. Institutional framework

1.1. Until recently the prospects for the supplier-consumer dialogue seemed to have been less promising in Italy than in most of the other Member States.

1.2. Unlike other countries, Italy does not have an appropriate joint supplier-consumer institution with government involvement at national level in which the two sides could exchange views. This is partly a reflection of the decentralized nature of the Italian administrative system.

1.3. Nevertheless there exists on the one hand a number of miscellaneous official or semi-official bodies concerned with aspects of consumer affairs, and on the other hand, a number of active consumer organizations, several of which operate at national level.

1.4. These two groups of organizations can in effect be said to engage in a form of dialogue, even if not as yet in a very integrated and formalized way.

1.5. In the same context legal provisions are being considered, at both national and regional level, to help consumers and their organizations. Final approval has yet to be given, however. The proposed provisions would recognize the role of consumer organizations and define the instruments to be used to defend consumer interests and promote dialogue.

1.6. The current practice is that consumers are represented on various consultative committees set up by individual ministries, quasi-governmental bodies, local government and the certification bodies.

1.7. A form of dialogue with the national government can take place through consumer representation on these committees and particularly 1) the National Foodstuffs Council; 2) the Italian Foodstuffs Codex Committee; 3) the Committee of Fair Advertising and 4) the Interdepartmental Prices Committees.

1.8. The Ministry of Industry, Commerce and Crafts has set up a consultative committee, on which consumers' organizations are represented, to monitor prices fixed by the State (e.g. the prices of petrol, diesel fuel, motor-vehicle insurance etc.). Ad hoc committees have also been set up by the Ministry to monitor the distribution of some products.

1.9. Various consultative committees, mainly responsible for overseeing product distribution, are attached to regional and local authorities. Some chambers of trade have joint R & D committees which look into the quantity and quality of goods marketed in Italy.

1.10. In Italy at present the following consumer organizations exist :

- CONFEDERAZIONE CONSUMATORI E UTENTI (Consumers and Users Confederation) (CCU), comprising the following organizations which hold the presidency by rotation :

- 1) Associazione Consumatori e Utenti Agrisalus ("Agrisalus" Consumers and Users Association)
- 2) Assoutenti
- 3) Comitato Difesa Consumatori (Consumers Protection Committee)



- 4) Movimento Consumatori (Consumers Movement)
- 5) Movimento Difesa del Cittadino (Citizen's Protection Movement)
- 6) Unione Nazionale Consumatori (National Consumers Union).

- ADICONSUM (CISL)
- ADOC (UIL)
- FEDERCONSUMATORI (CGIL).

1.11. Consumer organizations in Italy mainly act on their own with regard to information, consumer protection and legal proceedings. In addition to recourse to the ordinary courts, consumer organizations are able to call upon the services of public health offices for analyses and specialized university institutes for research work.

## 2. Codes

2.1. In order to reduce causes of disputes and to provide a framework for dealing with disputes between members of the public and producers of goods and services, the latter and consumer organizations are working together to set up joint bodies for resolving individual cases and agreeing codes of conduct.

2.2. In a general sense, the Italian consumer organizations are strongly in favour of codes of conduct. Until recently there had been no significant developments in this field but, with the rapid increase in awareness of this important issue, progress is being made in the dialogue between producers and consumers in the following sectors: (a) insurance (agreement on a standard form of policy, reached between representatives of the two parties involved); (b) public transport in towns and cities (establishment of a charter of transport users' rights and user participation in the running of transport undertakings); (c) SIP (Arbitration and Conciliation Committee); (d) FF.SS. (state railways); (e) distribution (Committee for associations or producers of goods not sold through shops); (f) undertakings operated by local authorities; (g) tourism.

2.3. Other areas considered by Italian consumer organizations to be of particular importance from the point of view of dialogue leading to codes are:

- after-sales services in the case of durable consumer goods (cars, electrical household appliances, etc.);
- advertising in its various forms and aspects;
- mail-order selling;
- public and social services provided by either public or private bodies (public transport mentioned above is an example).

## 3. Enforcement and redress

In 1984, laws governing the office of justice of the peace will come into force in Italy. This new office will provide a simple and rapid expedient for cases involving sums of up to Lit. 5 million, or up to Lit. 30 million for civil liability cases involving road and water traffic.

This procedure will resolve a considerable number of consumer complaints. With regard to administrative procedures, little use is made of normal arbitration due to high costs.

A specific form of arbitration has been applied to legal disputes over telecommunications services since 1989. Consumer complaints against the SIP (Italian telephone company) go through two distinct stages : conciliation and arbitration.

This year, a five-member national ombudsman committee began operation in the banking sector. It can be used free of charge by consumers who have not gained satisfaction through the claims procedures of individual banking institutions. A self-regulating complaints panel exists for advertising.

Consumer associations may take legal action in a number of fields, including misleading advertising and the abuse of a dominant position (but only before the Competition and Market Standards Authority).

Lastly, the Minister for the Civil Service very recently presented the Government with a Charter of citizens' rights vis-à-vis the public authorities. This initiative is intended to safeguard the public against inefficiency or malpractices by the public authorities and to guarantee the quality of the services that the State is required to provide.

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## LUXEMBOURG

### 1. Institutional framework

1.1. Consumer issues in Luxembourg are dealt with by the Ministry of the Economy and the Ministry of the Family.

1.2. Luxembourg possesses a solid body of consumer protection legislation. This has been strengthened with new regulations introduced in 1982-83 and 1986.

- The Regulation of 8 April 1986 coordinates a number of regulations on price display, the most important of which dates from 6 January 1972. This regulation governs, from example, the transparency of prices for services offered to final consumers;
- the Law of 7 July 1983 amends the earlier price legislation from 1961 and 1944; the existing Prices Office has now been supplemented with a Prices Commission comprising representatives of the public authorities, employers' organizations, the liberal professions, trade unions and consumers;
- the Law of 25 August 1983 on legal protection for consumers.

1.3. The Consumer Council was set up under Government auspices with the purpose of centralizing consumer body comments and forwarding them to the Minister of the Economy, offering suggestions concerning prices and product quality, fostering research and coordinating consumer information activities.

A Consumer Council working party is examining draft EC directives on consumer issues. In principle, the senior officials from the Ministries of the Economy, the Middle Classes and the Family who belong to this working party also represent Luxembourg on the Permanent Representatives' committees in Brussels.

1.4. The Luxembourg Consumers' Union (ULC) was set up with a view to safeguarding consumers' interests, promoting market transparency, representing consumers vis-à-vis the public authorities and taking legal action to defend their interests. It is the only organization representing consumers, and is made up of 16 associations ranging from trade unions to women's leagues and cooperative societies.

It is funded by members' subscriptions (more than 40,000 member-households) and government subsidy. The ULC provides general information on consumer issues, together with legal assistance for consumers. It also publishes a magazine, "De Konsument". It is also represented on the Consumer Council Working Party mentioned above. Its opinions are therefore communicated directly to the EC Commission's decision-making bodies.

### 2. Codes

2.1. The Law of 25 August 1983 on legal protection for consumers (see above) contains provisions covering four specific areas :

- mail order sales;

- doorstep canvassing;
- repairs;
- advertising.

2.2. Although they are not strictly codes, these provisions nevertheless constitute a body of rules applicable to the areas mentioned.

### 3. Enforcement and redress

3.1. The Law of 25 August 1983 on legal protection for consumers provided Luxembourg with comprehensive legislation governing contracts between the suppliers of consumer goods (durable or otherwise) and services and private final users.

3.2. The law specifies 20 different types of unfair clause against which consumers now have legal safeguards, and which also apply to suppliers outside the Grand Duchy for goods and services provided on its territory.

3.3. Recourse may be sought by individual consumers, professional bodies or consumer associations via regular legal procedures.

3.4. Legislation on unfair competition (text of 27 November 1986 and Law of 7 July 1983 on prices) also lays down that consumers shall have recourse via the ordinary channels.

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## NETHERLANDS

### 1. Institutional framework

1.1. The Ministry for Economic Affairs has primary responsibility for consumer policy at governmental level in the Netherlands. As the consumer is now increasingly being regarded as a fully-fledged market partner, the Ministry's involvement in this area of policy is being scaled down. At the same time, however, other Ministries, such as those with responsibility for the environment, agriculture and public health, are paying ever-increasing attention to the consumer aspect. The Government is encouraging the market partners to engage in self-regulation provided this does not clash with the operation of the market.

1.2. Of primary importance in the field of consumer affairs is the Commissie voor Consumentenaangelegenheden (Consumer Affairs Committee) (CCA), a constituent body of the Economic and Social Council (SER). The CCA comprises 11 members representing industry (nominated by the various national industrial associations), 9 members representing consumers (6 of whom are nominated by the Consumentenbond (a consumers' association) and 3 by Konsumenten Kontakt (a second consumers' association), together with 2 members representing trade-unions and 5 independent members. The CCA has acted as an advisory body to the Government since 1965, and since 1983 it has also promoted consultations between the organizations represented on the Committee on issues with an important bearing on the consumer and consumer spending. These bilateral consultations geared towards self-regulation have so far led to agreements with regard to the general conditions of sale (the "small print") and other product information attached to or accompanying non-food products.

### 2. Product information/Tests/Codes

2.1. The market partners represented on the CCA have reached agreement on the following criteria for improving product information attached to or accompanying products: sectoral organizations must be given a free choice as regards the consumer organizations with which they negotiate; agreements must cover a broad sector of the market (bearing in mind market regulation requirements); information must be comprehensive (covering all important aspects, including environmental aspects, where applicable); information must also be comparable (but not involve a comparison of products); and finally the information provided should not only apply to labels (brochures, for example, should also be covered - for this reason it is deemed preferable to avoid using the term "product labelling").

2.2. The consultation procedure has so far led to the introduction of product-information systems in three sectors: carpets, paints and household electrical appliances. With a view to broadening the range of products covered by such systems, the CCA set up an introductory project at the beginning of 1993; this also involves establishing an advisory bureau to assist the organizations concerned. The project draws a distinction between pilot sectors and sectors which are to be involved at a later stage, using the general model for product information which will be available by then. Sectors which have introduced systems which meet the requirements of the general model - which specifies only procedural requirements - will be authorized by the CCA to display an official recognition mark.

2.3. Consultations between industry and consumers take place outside the CCA on other forms of objective product information, comparative tests between products, and certification. Up

until 1993, industry and consumers both held an equal number of seats on an advisory body responsible for supervising comparative product testing subsidized by the Government (in addition to the unsubsidized comparative tests carried out by the Consumentenbond itself). As this distinction no longer applies, the consumer organizations are to introduce a code of practice covering all comparative testing of products and to have regular consultations with representatives of manufacturers and importers. Turning to certification, both industry and consumers are represented on the supervisory board of the Eco-labelling Foundation (Stichting Milieukeur) and both also have seats on the management board of the Certification Council (Raad voor de Certificatie). Under a privately organized cooperation scheme, the Certification Council inspects certification bodies, on request, to see if they conform to particular criteria and, if so, gives official recognition to the system used by the certification bodies in question. The two general consumer seals of approval used in the Netherlands (the green seal and the seal of quality) are both recognized by the Certification Council.

2.4. The technical criteria on which objective product information is based have always been established in the Netherlands on the basis of voluntary consultations between the parties involved, including industry and consumers, within the framework of the standardization process.

2.5. Advertising is also an area in which private cooperation between the market partners is a long established practice. Seven organizations involved in the formulation or dissemination of advertisements joined forces with the consumer organizations in 1964 to establish the Stichting Reclame Code (Advertising Standards Foundation). All these organizations have accepted the Netherlands' advertising standards which are designed to protect the public against misleading advertisements and to promote good taste in advertising. The Reclame Code Commissie (Advertising Standards Committee) and its appeals body are responsible for supervising observance of the advertising standards.

2.6. Dialogue between industry and consumers may take place at a variety of levels. For example the marketing process may be divided into three stages, the pre-purchase stage (the important factors here are the various forms of product information, advertising and price indication), the purchasing phase (the salient points here are the general conditions of sale and the breakdown of bills) and the post-purchasing stage (the important factors here are the procedure for settling disputes, the treatment of customers and after-sales services). The various phases cannot readily be distinguished in legal terms: the purchasing stage tends to overlap the other stages. A further subject for dialogue is where to draw the line between proper and improper trading practices.

2.7. There are also procedural differences. In addition to the abovementioned bilateral self-regulation, there are unilateral forms of self-regulation involving either internal self-regulation by one enterprise or external self-regulation covering a group of enterprises or one or more sectoral organizations. Unilateral self-regulation is not limited to industry: it is also a feature of professional associations. In addition to the statutory disciplinary rules which govern a number of professions - such as notaries and medicine - most professional codes of conduct also make provision for disciplinary proceedings.

### 3. Enforcement and redress

The dialogue being carried out under the auspices of the CCA with a view to introducing fair general conditions of sale brings together (a) the two consumer associations, the Consumentenbond and Konsumenten Kontakt, and (b), the sectoral organization concerned. The CCA provides an independent Chairman and has drawn up the rules for consultations, thereby fulfilling its role as an arbiter in the event of disputes. Agreement has been reached in this way with 18 sectoral

organizations. Consultations are frequently concluded by recourse to an arbitration board which comes under the umbrella of the Foundation for Arbitration in Consumer Affairs (Stichting geschillencommissies voor consumentenzaken). This Foundation currently embraces 17 such arbitration boards which are all recognized and subsidized by the Netherlands Government. Consumer representatives also sit on some of the arbitration boards operating outside the abovementioned Foundation.

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## PORTUGAL

### 1. Institutional framework

#### 1.1. Public bodies

##### 1.1.1. Consumer Institute (Instituto do Consumidor)

1.1.1.1. The Consumer Institute is a public body coming under the Ministry for the Environment and Natural Resources. The Institute's aim is to promote consumer protection policy and to coordinate and carry out measures to protect, inform and educate consumers and to support consumer organizations.

##### 1.1.2. General Inspectorate for Economic Activities (Inspeção-Geral das Actividades Económicas)

1.1.2.1. The General Inspectorate for Economic Activities is a national watchdog reporting to the Ministry for Trade and Tourism. Its task is to monitor compliance with laws, regulations, orders, official communications and other provisions governing economic activities.

1.1.3. Many other public bodies are active in the field of consumer protection, operating under the aegis of the relevant Ministries. Such bodies include the:

- Portuguese Quality Institute;
- Portuguese Insurance Institute;
- General Directorate for Pharmaceutical Matters;
- General Directorate for Competition and Prices;
- General Directorate for the Quality of the Environment;
- General Directorate for Tourism.

#### 1.2. Private bodies

##### 1.2.1. Portuguese Association for Consumer Protection - DECO (Associação Portuguesa para a Defesa do Consumidor)

1.2.1.1. DECO is a private association set up in 1974 and officially recognized in 1978 as an association serving the public interest. Its basic aims are to protect consumers' rights and legitimate interests by providing them with information, education and encouragement, notably through the media. It has sought to make the Portuguese authorities more aware of consumer issues and holds regular contacts with governing bodies with a view to securing legislative and administrative measures to protect consumers. It also lobbies both public authorities and businesses to respect consumers' rights and interests.

##### 1.2.2. Arbitration Centre for Consumer Disputes (Centro de Arbitragem de Conflitos de Consumo)

1.2.2.1. The Centre's job is to settle small-scale consumer disputes in the Lisbon area, handling complaints by means of information, mediation, conciliation and arbitration.



1.2.2.2. There is now also an arbitration centre for resolving small-scale consumer disputes in the Coimbra area.

### 1.2.3. UGT Consumers' Section (UGT-Consumidores)

1.2.3.1. The UGT Consumers' Section was set up at the end of 1986 as a department of the Portuguese General Workers' Union (UGT), in response to trade union concern about social issues related to the environment and consumer protection. In 1991 this department was accorded a separate juridical structure under the name UGT - União Geral de Consumidores (UGT - General Consumers Union).

### 1.2.4. New pioneers (Novos Pioneiros)

1.2.4.1. The New Pioneers Cooperative, set up in 1970, was the first initiative organized by consumers seeking to acquire a separate identity and improve their quality of life.

1.2.4.2. As a body with a social aim, the cooperative's main activity is to issue information and advice on the main problems facing the consumer in everyday life.

1.2.5. Other private bodies involved in consumer protection include the:

- International Association for Consumer Law;
- Automobile Club of Portugal;
- Lisbon Tenants' Association;
- CNAF (National Family Confederation).

## 2. Codes

2.1. Consumer organizations broadly welcome the adoption of codes of practice. The following are of particular importance in consumer protection terms:

- Code of Practice for Cleaning and Dying Services;
- Code of Practice for After-Sales Services for Electrical Household Appliances;
- Protocol of Cooperation between the Portuguese Consumers' Association (DECO) and the Lisbon Underground Railway Company;
- Protocol of Cooperation between the Portuguese Consumers' Association (DECO) and the Lisbon Public Transport Company (CARRIS);
- Code of Practice for the Motor Trade and its Consumers.

## 3. Enforcement and redress

3.1. Under Article 10 of the Consumer Protection Law No. 29 of 22 August 1981, a consumer seeking legal redress for losses or damage caused by a violation of this law, or of its implementing decisions, is exempted from the requirement to make a pre-payment of costs, provided that the sum involved does not exceed the jurisdiction of the court of first instance.

3.2. The Public Prosecutor may intervene in civil actions where the general interests of consumers are involved.

3.3. The consumer may always seek mediation via a consumer protection association before instigating legal proceedings to protect his or her rights.

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## UNITED KINGDOM

### 1. Institutional framework

1.1. The relevant government ministry in the UK with overall responsibility for consumer affairs is the Department of Trade and Industry.

1.1.1. The government has also set up and funded the National Consumer Council (NCC) as an independent body to restore a balance between the consumer and industrial interests. It does not deal with individual complaints, but represents consumer interests in discussions with industry and government, national and local. There are also Consumer Councils for Northern Ireland, Scotland and Wales.

1.2. The Office of Fair Trading (OFT) is an institution peculiar to the UK and is an independent agency established under the Fair Trading Act 1973. It is responsible for keeping under review, and taking action on, matters which may adversely affect the interests of consumers in a general sense, but does not deal with individual complaints.

1.2.1. The OFT has an obligation to promote codes of practice which are voluntary agreements arrived at as the result of negotiations (i.e. dialogue) between the office and trade associations in a particular field. This is dealt with in more detail below.

1.2.2. The OFT can also make proposals for legislation on consumer matters but such proposals must be examined by the CPAC (Consumer Protection Advisory Committee) which has representatives of industry, consumers and public authorities. No such proposals have been made since 1977.

1.3. The Nationalized Industry Consumer Councils are statutory bodies set up to protect the interests of nationalized industry consumers. The Chairman and members of these bodies are appointed by a Minister, the President of the Board of Trade.

1.3.1. Examples of these Councils are: the Domestic Coal Consumers' Council, the Post Office Users' National Council, the Central Transport Consultative Council and regional rail passenger bodies.

1.3.1.1. Since the privatization of various industries, the UK now has the Office of Gas Supply (OFGAS), the Office of Telecommunications (OFTEL), the Office of Water Services (OFWAT), and the Office of Electricity Regulation (OFFER).

1.3.1.2. There is in addition the Gas Consumers Council, set up under the 1986 Gas Act to work for the interests of the 18 million gas users in the UK; and the Air Transport Users' Committee (AUC) which makes recommendations to the Civil Aviation Authority and investigates passenger complaints. Separate arrangements exist in some cases for Scotland and Northern Ireland.

1.3.2. These bodies deal with inquiries and complaints from consumers and can, if appropriate, make representation on the consumer's behalf to the industries concerned and to the government.

1.4. The Consumer Policy Committee of BSI (British Standards Institution) coordinates and provides consumer representation on technical committees of BSI, influencing the development of technical standards for products of consumer interests. It advises the board of BSI on standards policy.

1.5. In the private sector the best known consumers protection body is the Consumers' Association (CA) an independent comparative testing organization which reports on goods and services in "Which?" magazine and other publications. CA also represents consumer interests in general in discussions with industry on comparative testing and codes of practice.

1.6. Also in the private sector is the National Federation of Consumer Groups with its supportive structure of local voluntary groups. The Federation represents the views of "grass roots" consumers on policy-making bodies, organizes and takes part in inquiries and investigations, and at a local level often deals with complaints.

1.7. The Consumers in the European Community Group (CECG), which acts as the umbrella organization for UK consumer bodies on EEC issues, holds regular meetings with trade associations.

## 2. Codes

2.1. As already stated, the Office of Fair Trading has the obligation to promote voluntary codes of practice. At present over 40 such codes exist covering inter alia the following subjects (several subjects mentioned have more than one code):

- domestic electrical appliances;
- the travel trade;
- the motor industry;
- footwear and shoe repairs;
- laundry and cleaning services;
- mail order;
- furniture;
- funerals;
- photographic equipment;
- postal services;
- telecommunications;
- direct sales and service;
- glass and glazing;

- antiques;
- credit;
- caravans;
- mechanical breakdown insurance;
- motorcycles.

2.2. The OFT backed codes have considerable moral authority, but are not strictly speaking legally enforceable, although proposals to make them legally binding have recently been suggested.

2.3. In some cases, other codes of practice such as self-regulatory codes have been introduced by a particular trade or industry without any consultations with consumer interests and hence without dialogue, although consumer organizations play an indirect part in their operation.

2.3.1. Probably the best known is the British Code of Advertising Practice which is promoted by the independent Advertising Standards Authority. Individuals associated with consumer organizations are members of the Authority. The OFT did not negotiate this code, but supports it.

2.3.1.1. TV and radio advertising are subject to a **statutory** broadcasting control/code of practice.

2.3.2. Other codes have been introduced without official OFT backing, such codes may or not involve dialogue with consumers. The most notable recent example, being in the insurance industry.

2.3.2.1. The Insurance Ombudsman Bureau (IOB) has been set up by a number of leading insurance companies, and consumer organizations were closely involved at the planning stage. The Ombudsman is appointed by, and reports to, an independent Council on which representatives of the insurance industry are in a minority. Several members of this Council are closely associated with consumer organizations.

2.3.3. In addition to the Insurance Ombudsman there is also the Banking Ombudsman, the Building Societies Ombudsman, the Pensions Ombudsman, the Investment Managers Regulatory Organization Ltd. (IMRO), and the Legal Services Ombudsman.

#### 2.3.4. **Local authority co-ordinating body on food and trading standards (LACOTS)**

2.3.4.1. Was established in 1978; its purpose is to coordinate the enforcement of food safety and trading standards laws; provide a uniform interpretation of legislation; be a centre for conciliation and exchange of information; promote good enforcement practice; maintain a register of overloading convictions; liaise with trade and consumer organizations; advise government and European Institutions and develop contacts with enforcement practitioners overseas.

**3. Enforcement and redress**

3.1. The Office of Fair Trading, apart from supervising the negotiations of voluntary codes, pursues traders who persistently commit offences and break their obligations to consumers.

3.2. Individual consumer complaints are taken up by the Trading Standards Officers who are employed by local authorities. They are empowered to take criminal proceedings in various areas of consumer protection. Citizens Advice Bureau (of which there are 900 locally based which, though voluntary bodies, are mostly funded by local authorities) do give advice to individuals.

3.3. In addition, some local authorities operate Consumer Advice Centres, and there are approximately 40 local voluntary consumer groups which can advise.

3.4. The Consumers' Association also handles individual complaints, through its Personal Service to which members subscribe.

3.5. Finally, the consumer can have recourse to the normal legal procedures, and since 1973 this has been simplified by the introduction of an informal procedure for small claims under which a County Court acts as arbitrator.

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## AUSTRIA

### 1. Institutional framework

1.1. The Federal Ministry of Health, Sports and Consumer Protection is the Ministry responsible for consumer affairs and specifically for:

- coordination of consumer policy
- handling of consumer complaints
- product safety.

1.2. The Consumer Policy Council is an advisory body to the Federal Minister, has no special financing but has representatives from each federal ministry. The Consumer Policy Council establishes **sub-committees** which all have specific tasks for example dealing with travel-agencies, insurance and banking. The aim of these bodies is mainly to elaborate guidelines for industry practice.

1.3. The Product Safety Council comes under the Federal Ministry of Health, Sports and Consumer Protection, and is also a body without any special financing. The goals of the Council are to raise safety standards, to reach agreements on voluntary improvements of potentially dangerous products etc.

1.4. The Consumer Information Association (der Verein für Konsumenteninformation) is a non-governmental organization, which is the overall Austrian Consumer Association. It finances its activities through membership fees (from the Federal Chamber of Commerce etc.) as well as through income from the sales of the consumer magazine **Konsument**.

1.5. Peculiar to Austria is the workers' organization known as the Chamber of Labour (Arbeiterkammer), which is concerned not only with the representation of the interests of the employees, but also with consumer protection. Within the Austrian system of "social partnership" the Chamber of Labour substantially influences consumer policy. It participates in the preparation of legislation and tries to achieve improvements in the legal position of the consumers in general.

1.5.1. It produces and publishes studies and analyses which are used as the basis for demands for political and legal reform. It also handles consumer education and offers its members legal advice and information like price surveys or comparisons of goods and services.

1.5.2. Finally, the Chamber of Labour is entitled by law to take legal action in respect of unfair contract terms and misleading advertising.

### 2. Product information/Tests/Codes

2.1. Within the framework of the "social partnership", referred to above, workers' and employers' organizations can cooperate in drawing up voluntary agreements which afford protection to consumers. In cases where these agreements do not work in practice, laws or regulations are adopted.

2.2. The abovementioned Association for Consumer Information has the main responsibility for tests and information. Its aims are also to provide surveys of goods and services, to handle complaints, to educate consumers, to provide expert opinion for public authorities etc. The

main focus nowadays seems to be on the service sector and on consumer information rather than on product-related issues.

### **3. Enforcement and redress**

3.1. Austria has substantial legislation on consumer affairs and specially the Consumer Protection Act, the Price Act, the Product Safety Act, the Foodstuffs Act, the Contract Law, the Product Liability Act and the Trade Act.

3.2. There is no specific court for consumer affairs and disputes are handled through normal court procedure. However, consumers involved in litigation can get support from the Association for Consumer Information and from the Arbeiterkammer.

3.3. In addition to this there is the Mediations Committee (Schlichtungsstellen), dealing with special consumer complaints in the field of dental services and services of travel agencies.

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## FINLAND

### 1. Institutional Framework

1.1. In Finland the **Ministry of Trade and Industry** is responsible for consumer protection in the Cabinet Office. The Ministry supervises the **Standing Advisory Council on Consumer Matters**. The aim of this latter body is to take initiatives for the development, coordination and organization of consumer policy. The members of this body represent a large number of interest groups and organizations, including consumer organizations.

Another standing body acting in conjunction with the Ministry of Trade and Industry is the **Advisory Council on Product Safety**, the members of which represent industry and commerce, consumers and various public authorities. There are also many other standing advisory councils and committees in Finland with consumer representation.

1.2. The **Ministry of Justice** is responsible for drafting legislation in the field of consumer protection, i.e. concerning product liability and the consumer protection act.

1.3. The **National Consumer Administration** promotes the health and the financial security of consumers. The main aims of this body are to supervise product safety and standardization, to produce material for consumer instruction and education and to supervise and train municipal consumer consultants.

It also makes comparative price surveys, supervises the solvency of travel agencies and, in the field of standards, acts in conjunction with the **Consumer Committee on Standardization**.

1.4. Finland has a **Consumer Ombudsman and Consumer Complaints Board** (see under "Enforcement and Redress").

1.5. In Finland a voluntary consumer movement is developing, which cooperates with the authorities to whom it can address initiatives and criticism. There are two consumer organizations in Finland: the **Finnish Consumers' Association** (Suomen Kuluttajaliitto ry) and the **Consumers' Association** (Kuluttajat - Konsumenterna). The two organizations are both members of the BEUC, have connections with IOCU, and have no political affiliations.

### 2. Codes/Tests/Information

2.1. Like Sweden, Finland has **General Guidelines**, which are the result of negotiations between the Consumer Ombudsman and industry, but in Finland the guidelines only concern marketing and contract terms.

2.2. In Finland marketing practices, consumer credit and contracts' terms are regulated by the **Consumer Protection Act**. A revised Consumer Protection Act has recently been passed by Parliament and will enter into force on 1 July 1994.

2.3. A revised Product Safety Act has also been passed and entered into force on 1 November 1993.

2.4. Price labelling is regulated by the **Consumer Goods Decree on Information**. There are also several ways of improving consumer information by, for example, "Environmental Labelling", i.e. symbols added to environmentally friendly products.

The National Consumer Administration has issued a decision regarding the obligation to indicate the unit prices of consumer products in marketing. The decision entered into force on 1 September 1993 in respect of foodstuffs and certain other consumer products. Those parts of the decision that concern non-food products will enter into force on 1 May 1994.

2.5. **The National Consumer Research Centre** operates and coordinates information and research services. Research is concentrated on current problems related to consumption, consumer status, household activities etc. The publications of this centre are also used in consumer guidance.

2.6. The Consumer Complaints Board and the Consumer Ombudsman publish a journal on consumer protection called: **Kuluttaja**. This journal is noted for the publication of comparative product tests and is available to consumers by subscription. The Board also issues press releases and publishes a black list of traders who have not followed the Board's recommendations.

2.7. The National Consumer Administration is the publisher of the magazine **Kuluttaja - Konsumenten**. This magazine also includes information from other authorities and various kinds of research reports and it is intended for households; the Finnish Consumers' Association produces a journal called: **Kuluttajan Tuntosarvi**, which is published quarterly and the Consumers' Association (different from the Finnish Consumers' Association) publishes a journal called **Kuluttajapuntari - Konsumentvägen**.

### 3. **Enforcement and Redress**

3.1. In Finland the National Consumer Administration, the county governments and the municipal health inspectors are the authorities in charge of the practical supervision of product safety. The National Consumer Administration may prohibit the sale of a consumer product by imposing a sales ban. If there are product-specific provisions issued on a lower level, a sales ban may also be imposed by a county government or by municipal control authorities.

3.2. From the beginning of 1992 the municipalities have been obliged to introduce **municipal consumer advice bureaus**. This service offers general consumer guidance and also assists consumers in conflicts between individual consumers and traders; consultation is free of charge. About 95% of all conflicts are settled at local level and the rest proceed to **the Consumer Complaints Board**.

3.3. This board issues recommendations for the settlement of complaints made by consumers concerning either the quality of consumer goods or performance by the supplier.

3.4. **The Consumer Ombudsman** supervises marketing and contract terms, consumer credit and price labelling. The Consumer Ombudsman can give legal assistance to a consumer if a trader fails to comply with the recommendations of the Consumer Complaints Board, or if the matter is of particular public interest.

3.5. **The Market Court** is a specialized court acting under the Ministry of Justice. The Consumer Ombudsman can bring matters related to marketing and terms of contract to this court.

## NORWAY

### 1. Institutional Framework

1.1. **The Ministry of Children and Family Affairs** (Barne- og familiedepartementet) is responsible for consumer policy and product safety and has a division dealing with these policy fields. The main aim of the consumer policy is, through the institutions and the legislation mentioned below, to strengthen the position of the consumer in relation to public and private suppliers of goods and services.

Other ministries, (e.g. the Ministry of Social Affairs and the Ministry of the Environment) also deal with specific consumer matters.

1.2. **The Consumer Council** (Forbrukerrådet), is by far the most important consumer organization in Norway, and was founded in 1953. Two thirds of its budget is state funded and the rest is provided through consumer magazine and booklet sales. In spite of the comparatively large share of state funding, and the fact that the chairman is appointed by the Government, the Consumer Council is considered to be autonomous and independent; for example it can criticize the government on policies that do not favour consumer interests. The Consumer Council, which has central as well as regional offices, has three main strategies:

- to influence authorities, governmental bodies and industry;
- to enable and qualify consumers to fill their role in the marketplace and to raise their consciousness of this role;
- to assist consumers with problems.

If the ability of consumers to influence the market is examined more closely, six main channels can be identified:

- formal representation on government committees and boards;
- public hearings to comment on government reports;
- contact and cooperation with the Ministry of Family and Consumer Affairs;
- contacts with trade and business, for example through local consumer offices;
- consumer publications, which have two main aims - to inform the consumer and to influence the market;
- use of mass media, often in combination with the channels mentioned above.

1.3. **The Consumer Ombudsman** (Forbrukerombudet) is financed by the state and has responsibility for the enforcement of the Marketing Control Act. This act includes provisions on the marketing of goods and services as well as a provision forbidding unfair contract terms. In recent years the Ombudsman has given priority to preventive work and to contacts with trade and industry.

This approach, which gives lower priority to the traditional handling of individual cases, has been successful.

## 2. Codes/Tests/Information

2.1. In Norway, as well as in the other Nordic countries, legislation exists both general and specific, regulating the duty to inform and secure the consumer.

2.2. In the category of general legislation, particular mention should be made of the **Marketing Control Act**, the **Product Safety Act**, the **Act Relating to Labelling of Consumer Goods** and the **Act on Competition**, while the **Credit Purchase Act** is an example of a law with a more specific character.

2.3. Nevertheless, there is also a lot of consumer information that is not regulated by law, for example, pre-purchase information on products.

2.4. In Norway the **State Institute for Consumer Research** (Statens institutt for forbruksforskning), which is mainly state financed, carries out consumer research on goods and services as well as in the socio-economic field.

2.5. The Ministry and the consumer organizations also use independent laboratories and research firms. The aim of the research is to furnish information to consumers, as well as knowledge that may provide a better basis for consumer policy measures in general.

2.6. The test results are usually published in the consumer magazine, **Forbrukerrapporten**, but sometimes also published in separate booklets and brochures.

2.7. Furthermore, brochures concerning the most important consumer protection legislation, are available to consumers free of charge in public institutions and shops.

## 3. Enforcement and Redress

3.1. In the event of a dispute between a consumer and a supplier the consumer should first refer his complaint to the local office of the Consumer Council, which will give him information on his rights and on how to handle the problem on his own.

3.2. The Consumer Council can act as a mediator between the consumer and the supplier; if such mediation fails the Council can help the consumer to bring his complaint before the **public-appointed Consumer Complaint Board** (Forbrukertvistutvalget), also known as the **Consumer Purchase Disputes Commission**, whose rulings are legally binding, but whose decisions can be appealed against before a court of law.

3.3. Alternatively, the consumer can refer his case to the **private consumer dispute committees** (de bransjevisse reklamasjonsnemndene), which operate within the framework of voluntary written agreements between the Consumer Council and specific industries.

3.4. The **Market Court** is a special tribunal that applies the general provisions of the Marketing Control Act. After a decision by the Market Court the case may also be tested in a regular law court according to the general rules for testing administrative decisions.

## SWEDEN

### 1. Institutional Framework

1.1. In Sweden the **Ministry of Public Administration** (Civildepartementet) is responsible for consumer issues in the Cabinet Office, but questions connected with consumer policy are also dealt with in other ministries, in the Ministry of Justice, in the Ministry of Agriculture and in the Ministry of Social Affairs.

1.2. **The National Board for Consumer Policies** (Konsumentverket) is the central administrative body that deals with consumer policy. The Swedish Government and Parliament have given this Board two main tasks: to support households in their efforts to utilize resources effectively and to strengthen the position of consumers in the market.

1.2.1. The Director-General of the National Board for Consumer Policies is also **Consumer Ombudsman** (Konsumentombudsman - KO). As early as 1971 Sweden appointed its first Consumer Ombudsman which means that Sweden was the first country in the world to introduce this kind of post. The Consumer Ombudsman plays an independent role, taking legal actions on his own or before the Market Court as to primarily matters of product safety, unfair marketing and contract terms in consumer relations.

1.3. 236 out of the 286 Swedish municipalities provide consumer advice services. But since these local activities, although voluntary are financed by the municipalities, any spending cuts mean reductions in activities. **The Local Consumer Advisors** do not only give advice - they also mediate in consumer complaints.

1.4. **The Swedish Consumers' Council** is a politically independent and non-profit-making organization and its purpose is to strengthen the Swedish consumers' national and international positions. It has 10 member organizations :

- the Workers Educational Association (ABF);
- the National Associations of Disabled;
- the Swedish Housewives Association - Home and Society;
- the Consumer Guilds Union;
- the Swedish Cooperative Union (KF);
- the Swedish Trade Union Confederation (LO);
- the Society for Nature Conservation;
- the National Organisation of Pensioners (PRO);
- the Swedish Association for Pensioners (SPF);
- the Swedish Confederation of Professional Employees (TCO).

1.5. In Sweden the responsibility for consumer foodstuffs is divided among a number of organizations, as follows:

- the National Board for Consumer Policies;
- the National Food Administration;
- the Consumer Committee on Food Policy (Konsumentberedningen).

## 2. Codes

2.1. Swedish Marketing Legislation has a "soft" character. This means that general clauses are supplemented by voluntary undertakings which are determined by the National Board for Consumer Policies and industry. These undertakings are called **General Guidelines of the National Board for Consumer Policies** (Konsumentverkets riktlinjer).

2.2. The General Guidelines have played an important role in Swedish consumer policy. They are published in the statute book of the National Board for Consumer Policies. The Guidelines are not legally binding and are sometimes based on one single case in the Market Court. If a company infringes a rule, the Board contacts the company and, if no remedial measures are taken, the Consumer Ombudsman may bring the matter for the Market Court.

2.3. Like the General Guidelines, **Voluntary Sectoral Agreements** (frivilliga branschöverenskommelser) are drawn up after negotiations between the National Board for Consumer Policies and a trade sector. These agreements are not legally binding or even formalized. Some trade sectors undertake voluntary selfregulation by themselves - sometimes after negotiations with the National Board for Consumer Policies.

2.4. In preparation for EC entry, the General Guidelines and Voluntary Sectoral Agreements are being gradually replaced by formal legislation.

2.5. The activities of the National Board for Consumer Policies/the Consumer Ombudsman are financed out of the national budget. The Consumer Ombudsman has the duty to ensure that the Marketing Act, the Consumer Contract Act, the Consumer Credit Act, the Toy Safety Act, the Package Travel Act, the Door-to-Door Sales Act and the Product Safety Act are respected. If voluntary agreements are not possible the Consumer Ombudsman may act as a "protector" in the Market Court on behalf of the consumer.

2.6. The National Board for Consumer Policies has a special test laboratory where different products are examined. These tests are not only made to inform consumers but also to influence companies to develop better products. Surveys, tests and information are published in factsheets, market surveys and reports. The Board also publishes two magazines: **Råd och Rön**, which is intended for consumers, and **Konsumentnytt**, which is addressed to companies and lawyers.

## 3. Enforcement and Redress

3.1. As in all the other EFTA countries specific attention is given to simplified and out-of-court dispute settlement systems for consumer complaints concerning goods and services.

3.2. In the first instance, the consumer is expected to try to settle the dispute with the producer. If that is not possible the consumer should turn to the **Local Consumer Adviser**. This adviser tries to mediate between consumers and retailers, but can never settle a dispute against the wishes of one of the parties.

3.3. If the parties cannot come to an agreement in consultations with the consumer advisor, the consumer should turn to the **National Board for Consumer Complaints** (Allmänna reklamationsnämnden). This Board handles consumer complaints on goods intended for private use. It also gives its opinion in minor disputes, when so requested by the law courts. In approximately

85% of all cases on which the Board has given its opinion, the manufacturer follows the decision of the Board. Otherwise the consumer must go to the Courts.

3.4. **The Market Court** is empowered to issue an injunction, enforceable with a fine, and there is no appeal against its decisions. The Market Court is a special tribunal headed by an impartial president with judicial experience. It also includes representatives of consumers, wage-earners and business organisations. This court only deals with cases that have influence on companies' future procedures, and can never settle a dispute between a consumer and a producer.

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