



COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT



5012/93 (Presse 25)
PRESS RELEASE

1644th Council meeting
- Consumer protection and information -
Brussels, 2 March 1993

President: Mr Jan TRØJBORG,
Minister for Industry of the
Kingdom of Denmark

The Governments of the Member States and the Commission of the European Communities were represented as follows:

<u>Belgium:</u> Mr Melchior WATHELET	Minister for Economic Affairs
<u>Denmark:</u> Mr Jan TRØJBORG Mr Christopher BO BRAMSEN	Ministry for Industry State Secretary for Industry
<u>Germany:</u> Mr Johan EEKHOFF	State Secretary for Economic Affairs
<u>Greece:</u> Mr Michalis LIAPIS	State Secretary for Trade
<u>Spain:</u> Ms Maria ANGELES AMADOR	Deputy State Secretary for Health
<u>France:</u> Ms Véronique NEIERTZ	State Secretary for Consumer Affairs
<u>Ireland:</u> Ms Mary O'ROURKE	Minister of State at the Department of Industry and Commerce with special responsibility for Trade and Marketing
<u>Italy:</u> Mr Luigi FARACE	State Secretary for Industry
<u>Luxembourg:</u> Mr Jean-Marc HOSCHEIT	Deputy Permanent Representative
<u>Netherlands:</u> Mr Ate OOSTRA	Deputy Permanent Representative
<u>Portugal:</u> Mr Carlos BORREGO	Minister for the Environment and Natural Resources
<u>United Kingdom:</u> Baroness DENTON OF WAKEFIELD	Parliamentary Under-Secretary of State, Department of Trade and Industry (Consumer Affairs)
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<u>Commission</u> Ms Christiane SCRIVENER	Member

UNFAIR TERMS IN CONSUMER CONTRACTS

Further to the common position adopted on 22 September 1992, under the co-operation procedure with the European Parliament, the Council adopted in substance the Directive on unfair terms in consumer contracts. It will be formally adopted at a forthcoming meeting after the texts have been finalized.

The Directive is aimed at approximating the laws of the Member States on unfair terms in contracts between consumers and professionals acting in the course of a public or private activity, in order to provide consumers with a high level of protection throughout the Community. The purpose of the Directive is to preclude unfair terms and, in any event, to prevent consumers from being bound by such terms.

According to the text, a non-negotiated clause is to be regarded as unfair where, in spite of the requirements of good faith, it creates a significant imbalance, to the detriment of the consumer, between the rights and obligations of the parties under the contract. An indicative, non-exhaustive list of terms which may be declared unfair is given in the Annex to the Directive.

The Directive gives consumer associations the right to ask the courts or the relevant administrative bodies to remove from contracts unfair terms drawn up for general use or recommended by trade associations.

The Directive will contribute to the establishment of the single market inasmuch as it will enable consumers to avail themselves of the new opportunities offered by completion of the internal market, e.g. purchasing goods and services at more advantageous prices in a Member State other than that of residence. By 31 December 1994, the deadline for transposing the Directive, consumers will be able to have greater trust in contractual clauses; as it will not be possible to rely on standardized unfair terms against them.

It should be emphasized that, in order to avoid excessively affecting certain basic aspects of contract law in the various Member States, the Directive lays down minimum rules concerning only "standard" or non-negotiated terms and entrusting the specific treatment of the harmonization of guarantees to an individual Directive. It goes without saying that each Member State is at liberty to offer greater protection than that provided in the Directive.

PROTECTION OF PURCHASERS OF TIMESHARE PROPERTIES

Pending receipt of the European Parliament's first-reading Opinion, the Council held a policy debate on the proposal for a Directive concerning the protection of purchasers in contracts relating to the utilization of immovable property on a timeshare basis. Previous discussions in the Consumer Affairs Council on 3 November 1992 had shown most delegations' interest in such legislation.

The purpose of the proposal is to provide, within the framework of completion of the single market, greater protection for consumers who wish to conclude timeshare contracts.

The proposal is directed towards increasing consumer protection through:

- improved information to be provided on the terms (rights and obligations) of a contract;
- "withdrawal" procedures which have to be incorporated in the contract and which the purchaser has the right to invoke within periods specified in the Directive;
- guarantees to be provided by the vendor,

while authorizing the Member States to adopt or maintain more stringent measures to protect purchasers.

The Council discussed four key issues:

- **guarantees and penalties**, in particular the extent to which the Directive should regulate, for instance, the guarantees to be provided by the vendor as to completion of the construction of the immovable property, the right of the purchaser to use certain services or facilities, the reimbursement of advance payments and the penalties to be imposed on the vendor, should he fail to provide the information prescribed by the Directive in time;
- **advance payments**, in particular to ensure that the purchaser is not penalized for exercising his right to withdraw and that he is charged only for certain clearly defined costs;
- **right to cancel a loan agreement**, in particular arrangements so that the purchaser is able to cancel a loan agreement or agreements when he exercises his right of withdrawal;
- **legal protection of the consumer**, in particular whether the choice of the law applicable to timeshare contracts should be addressed and regulated by this Directive and whether the protection provided by the Directive could be extended to cover contracts relating to property in third countries.

Following discussions, the Council instructed the Permanent Representatives Committee to continue proceedings in the light of the outcome, with the aim of reaching agreement in the near future.

FUTURE ACTION ON LABELLING

On the basis of a draft submitted by the Presidency on 12 January 1993, the Council agreed to a Resolution on action on the labelling of products in the interest of the consumer, the text of which is set out below:

"THE COUNCIL OF THE EUROPEAN COMMUNITIES,

- 1. Having regard to the Treaty establishing the European Economic Community,**
- 2. Whereas it is necessary for the effective working of the internal market, established since 1 January 1993, that all involved parties including individual consumers have confidence in the operation of that market and fully benefit from it;**
- 3. Whereas in its Resolution of 9 November 1989 on future priorities for relaunching consumer protection policy ⁽¹⁾ the Council, in line with its Resolutions of 14 April 1975 and 19 May 1981, set as a priority inter alia seeking a Community framework for providing information on products by means of labelling;**
- 4. Whereas the Council Resolution of 13 July 1992 on future priorities for the development of consumer protection policy ⁽²⁾ underlines the need to secure consumer confidence in the operation of the single market and to ensure the consumer's freedom to choose from a diverse range of goods and services by improved information and transparency; whereas that Resolution calls for further measures in the areas of transparency and information inter alia with regard to further harmonization of labelling;**
- 5. Whereas various recent studies show that consumers set a high value on information by labelling and a large majority consider it necessary that the same kind of information on specific products be provided in all Member States;**
- 6. Whereas legislation already adopted by Council has established detailed**

⁽¹⁾ OJ No C 294, 22.11.1989.

⁽²⁾ OJ No C 186, 23. 7.1992.

labelling requirements for certain products while for other products requirements are insufficient or even lacking;

7. Whereas disparity of existing national legislation on labelling risks creating barriers to trade within the Community and thereby impeding the operation of the internal market,

REAFFIRMS that labelling is one important means to achieve better information and transparency for the consumer and to ensure the smooth operation of the internal market.

INVITES the Commission in consultation with Member States and with the interested parties (consumers, industry and trade organizations) to examine the need for and merits of a Community-wide solution and, on that basis, to study the possibility of establishing a Community framework for labelling requirements.

NOTES that the Commission intends to take account of the result of its recent consumer surveys, existing Community legislation and the current discussion on Commission proposals, the objective of harmonization, the principles of subsidiarity and proportionality, and self-regulatory systems between consumers, industry and trade organizations in the Member States.

INVITES the Commission to address the issues listed in the Annex, to present its conclusions to Council as quickly as possible and to present appropriate proposals at the latest by June 1994. In the meantime, the Commission should keep the Council regularly informed of the progress of its study.

ISSUES TO BE ADDRESSED BY THE COMMISSION

1. The Commission should give consideration to the fact that labelling ought in particular to be:
 - comprehensible, i.e. legible and easy for the consumer to understand;
 - distinctive, i.e. make the necessary distinction between product labelling, on the one hand, and other information and advertising given on the product, on the other;
 - relevant, i.e. not be misleading and contain sufficient information enabling consumers to make purchasing decisions based on the information they find important regarding a particular product;
 - transparent, i.e. enabling consumers to compare different products within the same group of products in relation to quality and price;
 - verifiable, i.e. subject to appropriate supervision according to national legislation or practices, in order to ensure that the labelling complies with the agreed requirements;
 - practical, i.e. easy for manufacturers, supervisory bodies and retailers to use.
2. The Commission should examine labelling requirements for all consumer products, taking due account of products already covered by Community legislation and taking advantage of the experience gained from that legislation. In this context the Commission should also examine the role of standardization at Community level.

The Commission should also consider the need to include guarantees and after-sales service.

3. The Commission should examine whether Community labelling requirements:
 - should follow a horizontal, vertical or combined horizontal and vertical approach;
 - should aim at minimum provisions only or provide for full harmonization;
 - would be more appropriate and efficient as compulsory or as a voluntary scheme;
 - should be based on a modular, integrated system."

COMMUNITY SYSTEM OF INFORMATION ON HOME AND LEISURE ACCIDENTS (EHLASS)

The Council held a policy debate on the basis of a Commission communication and a proposal for a Decision introducing a Community system of information on home and leisure accidents.

It will be recalled that Decision 86/138/EEC, as amended by Decision 90/534/EEC, established until 1 December 1991 a demonstration project relating to a system for the collection of information on home and leisure accidents (EHLASS). Following an evaluation of the second stage of that demonstration project, the Commission communication concludes that a Community system of information on home and leisure accidents would be useful, chiefly for the Member States, and that Community support should be provided.

At the close of the discussion, during which a large majority of delegations spoke in favour of extending the system for five years, the Council instructed the Permanent Representatives Committee to continue proceedings, particularly in the light of the European Parliament's Opinion, with the aim of reaching agreement rapidly.

COMMUNITY SYSTEM FOR THE EXCHANGE OF INFORMATION IN RESPECT OF CERTAIN PRODUCTS WHICH MAY JEOPARDIZE CONSUMERS' HEALTH OR SAFETY

Pending receipt of the European Parliament's Opinion, the Council held a policy debate on the proposal for a Decision concerning the institution of a Community system for the exchange of information in respect of certain products which may jeopardize consumers' health or safety.

The proposal is concerned with the exchange of information on products which do not comply with the Community or national legislation applicable to them and which may jeopardize consumers' health or safety, albeit not presenting a serious and immediate risk. Measures taken by the Member States in respect of products which do present a serious and immediate risk are covered by the system for the rapid exchange of information set up under Directive 89/45/EEC.

The proposal, which comes within the context of the internal market, was designed to bring forward in part the implementation of the exchange-of-information aspect referred to in Article 7 of Directive 92/59/EEC on general product safety, as the provisions of that Directive are not applicable until 29 June 1994.

Discussions showed there to be a favourable inclination towards the Decision in principle.

The Council therefore instructed the Permanent Representatives Committee to press ahead with preparation of the text, in the light of the European Parliament's Opinion in particular.

ACTION PLAN OF CONSUMER POLICY (1990-1992)

The Council took note of a Commission oral statement on the implementation of the action plan of consumer policy (1990-1992) and on future priorities.

COMPARATIVE ADVERTISING

The Commission reported on progress with re-examination, under the principle of subsidiarity, of the proposal for a Directive concerning comparative advertising and amending Directive 84/450/EEC on misleading advertising.

MISCELLANEOUS DECISIONS

EEC-Baltic Republics Fisheries Agreements

The Council adopted the Regulations on the conclusion of the Fisheries Agreements between the Community and the Baltic Republics of Lithuania, Latvia and Estonia.

The Agreements provide essentially for the exchange of quotas and reciprocal access to the Contracting Parties' fishing zones in the Baltic Sea.

In this connection the Parties undertake to co-operate with one another and within the appropriate international fora, in particular within the International Baltic Sea Fishery Commission, to ensure the conservation and rational management of the fish stocks in question.

The Agreements also make provision for possible financial contributions to certain training schemes or to promote the formation of joint ventures between partners from the Baltic Republics and from the Community.

The texts of the Agreements, concluded for an initial ten-year period, correspond to those initialled by the Commission with the Republic of Lithuania on 14 July 1992, with the Republic of Latvia on 16 July 1992 and with the Republic of Estonia on 17 July 1992 in accordance with the Council's negotiating directives of 7 June 1992.

The European Parliament delivered its Opinions on 12 February 1993.

Appointments

The Council appointed as members of the Economic and Social Committee:

- Mr Georgios RAFTOPOULOS, in place of Mr Lambros KANELLOPOULOS,
 - Mr Jean GAUTIER, in place of Mr François CEYRAC,
- for the remainder of the terms of office, which run until 20 September 1994.



Bruxelles, le 1er mars 1993,

NOTE BIO(93) 46 AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

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PREPARATION CONSEIL CONSOMMATEURS DU 2 MARS 1993 (Viviane d'Udekem)

Le Conseil entamera ses travaux à Bruxelles à partir de 10h sous la Présidence du Ministre danois de l'Industrie, M. Jan TROJBORG.

Cette réunion du Conseil Consommateurs sera la première à laquelle la Commission sera représentée par Madame Christiane SCRIVENER depuis que la politique des consommateurs lui a été confiée, en plus de ses attributions dans les domaines de la fiscalité et des douanes.

1. Madame SCRIVENER saisira cette occasion pour faire aux Douze un bilan de l'action réalisée dans le cadre du Plan triennal 1990-1992 et pour leur donner un aperçu de ses priorités en matière de protection des consommateurs pour les années à venir.

2. Après deux années et demi de discussions, le Conseil devrait adopter la proposition de directive concernant les clauses abusives dans les contrats conclus avec les consommateurs.

Cette directive vise à renforcer la protection des consommateurs en leur assurant une plus grande sécurité juridique dans l'ensemble de la Communauté pour les contrats qu'ils concluent avec des professionnels. A cet effet, elle établit non seulement le principe selon lequel les consommateurs ne sont pas liés par les clauses abusives présentes dans les contrats qu'il concluent à titre individuel, mais impose également aux Etats membres l'obligation de mettre en oeuvre des moyens adéquats et efficaces pour faire cesser l'utilisation de pareilles clauses.

3. Les Douze devraient adopter une résolution proposée par la Présidence danoise et soutenue par la Commission, concernant les mesures futures à adopter en matière d'étiquetage des produits.

Considérant que l'étiquetage est un moyen important d'assurer une meilleure information et une transparence accrue pour les consommateurs et que les disparités entre législations nationales dans ce domaine risquent d'entraver le fonctionnement du Marché intérieur, le Conseil invite par cette résolution la Commission à examiner s'il est nécessaire de créer un cadre communautaire pour les exigences en matière d'étiquetage. Les conclusions et, le cas échéant, de nouvelles propositions de la Commission, devraient être présentées au Conseil avant le mois de juin 1994.

4. Le Conseil débattera également de la proposition de la Commission visant à établir un système communautaire d'échange d'informations pour certains produits qui risquent de compromettre la santé ou la sécurité des consommateurs, sans pour autant représenter un danger grave et immédiat.

Madame SCRIVENER insistera sur l'urgence de l'adoption de cette proposition. L'objectif de celle-ci est en effet d'assurer, suite à la suppression des contrôles techniques aux frontières intérieures, qu'il n'y ait pas de lacune dans le dispositif communautaire d'information sur les dangers que peut représenter l'utilisation de produits non conformes à une réglementation relative à la sécurité des produits. Pour ce faire, il s'agit d'anticiper l'aspect "échange d'informations" prévu dans la directive sur la sécurité générale des produits qui n'entrera en application que le 29 juin 1994.

5. Le Conseil tentera de dégager un accord politique sur la proposition de décision concernant l'institution d'un système communautaire d'information (EHLASS) sur un domaine important pour la protection des consommateurs : les accidents domestiques et de loisirs. Seule une délégation a émis une réserve de fond sur la proposition.

Le système EHLASS consiste en une collecte d'informations effectuée principalement par des services d'urgence hospitaliers, qui enregistrent les accidents selon un schéma homogène. EHLASS servira d'indicateur pour les orientations à déterminer en matière de politiques de sécurité des produits. D'une durée de 5 ans, il serait doté d'une enveloppe financière de 2,5 MECU pour 1993, et ferait l'objet d'une révision au bout de deux ans.

6. Le Conseil aura également un débat d'orientation sur la proposition de directive concernant la protection des acquéreurs dans les contrats portant sur l'utilisation d'objets immobiliers en régime de jouissance à temps partagé, plus connue sous les termes de "timeshare" ou de "multipropriété".


Démocratisant l'acquisition d'une résidence de vacances, les contrats de timeshare ont connu un succès considérable ces dernières années dans la Communauté. La complexité des régimes de timeshare, l'absence de législation efficace (seuls le Portugal, la Grèce et la France en ont actuellement), et la caractère largement transfrontalier (les acquisitions sont en règle générale situées dans un autre Etat membre que celui du propriétaire) de cette nouvelle formule ont conduit à de nombreux abus.

Madame SCRIVENER soulignera l'amélioration que représente cette directive pour la protection des consommateurs souhaitant conclure de tels contrats, ceci principalement par une meilleure information concernant le contrat et par l'octroi d'un délai de réflexion pour l'acquéreur avant la conclusion définitive du contrat (procédure de rétractation).

7. Enfin, Madame SCRIVENER informera les Douze de l'état d'avancement du réexamen par la Commission de la proposition de directive relative à la publicité comparative, examen conduit à la lumière de l'avis du Parlement européen et conformément aux conclusions d'Edimbourg.

Amitiés,

Xavier Prats

A handwritten signature in black ink, appearing to be 'Xavier Prats', written in a cursive style. The signature starts with a long, sweeping downward stroke on the left, followed by several smaller, connected loops and a final upward stroke on the right.

Bruxelles, le 2 mars 1993

NOTE BIO(93) 46(suite 1) AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

CONSEIL CONSOMMATEURS DU 2 MARS 1993 (V. d'Udekem)

D'importants progrès ont été réalisés lors de cette première réunion du Conseil Consommateurs depuis l'ouverture du marché unique.

Comme l'a souligné Madame SCRIVENER lors de la conférence de presse de clôture, "la priorité des deux prochaines années, c'est de mettre réellement et concrètement le grand marché au service des consommateurs européens dans leur vie quotidienne. De ce point de vue, le Conseil d'aujourd'hui a répondu aux attentes qu'on pouvait placer en lui."

Plus précisément, c'est à l'unanimité que le Conseil a adopté la directive concernant les clauses abusives dans les contrats conclus avec les consommateurs (voir note IP(93)150).

Le Conseil a également adopté à l'unanimité la résolution mise sur la table par la Présidence danoise sur les mesures futures à adopter en matière d'étiquetage des produits.

Les Douze ont par ailleurs réussi à dégager un accord politique sur la proposition de la Commission visant à l'instauration d'un système communautaire d'échange d'informations pour certains produits risquant de compromettre la santé ou la sécurité des consommateurs, sans pour autant représenter un danger grave et immédiat. Cette proposition pourra être adoptée définitivement par les Douze comme point A lors d'une prochaine réunion du Conseil, après que le Parlement aura rendu son avis.

Madame Christiane SCRIVENER, s'est félicitée de cet accord, estimant que la mise en place de ce mécanisme simple et léger d'information des Etats membres sur les produits à risque les mettra en mesure, si nécessaire, de prendre rapidement des mesures de prévention au bénéfice des consommateurs.

Des progrès importants ont en outre été réalisés et un accueil généralement très favorable a été réservé par les délégations aux propositions relatives, d'une part, à la propriété en jouissance partagée (timesharing) et, d'autre part, à la prévention des accidents domestiques et de loisirs (EHLASS). Les travaux sur ces textes se poursuivront au COREPER, l'objectif de la Commission étant d'aboutir le plus rapidement possible à leur adoption.

Madame SCRIVENER a par ailleurs présenté aux Ministres un bilan du Plan d'action 1990-1992 et leur a donné un premier aperçu de ses priorités pour les deux années à venir.

Ainsi, pour Madame SCRIVENER, l'objectif, c'est celui, confirmé par le traité de Maastricht, d'un niveau élevé de protection des consommateurs.

Il s'agira ainsi prioritairement :

- . de consolider l'acquis législatif et de s'assurer de sa mise en oeuvre effective dans chaque Etat membre;
- . de développer une politique d'information systématique vis-à-vis des consommateurs qui doivent être mieux informés sur les produits et services qui leur sont proposés et sur leurs droits en tant que consommateurs européens; à cet effet le développement des agences européennes d'information des consommateurs dans les zones frontalières sera poursuivi et la publication d'un guide du consommateur européen dans le grand marché sera lancé;
- . de trouver des moyens efficaces facilitant l'accès à la justice des citoyens ayant des litiges transfrontaliers en matière de consommation et de réaliser un véritable marché unique pour les consommateurs dans le domaine des services financiers et notamment bancaires, en particulier pour les paiements transfrontaliers;
- . de préparer un livre vert sur les garanties et le service après vente.

Pour réaliser cet ambitieux programme, il faudra, pour Christiane SCRIVENER, renforcer la concertation avec les associations de consommateurs et le dialogue avec l'industrie. Il faudra également diversifier les moyens d'action au niveau communautaire et davantage intégrer dans chaque politique communautaire les préoccupations des consommateurs.

Enfin, s'agissant de la publicité comparative, Madame SCRIVENER a indiqué que la Commission poursuit son examen de la proposition actuelle au regard du principe de subsidiarité. Cet examen sera achevé d'ici la fin du mois de mars.

Amitiés,

Xavier Prats

