



INFO-C

INFORMATION FROM DG XXIV 'CONSUMER POLICY' OF THE EUROPEAN COMMISSION - VOL. VI, No 2 - 1996

... thanks to two instruments designed to facilitate dispute resolution which the Commission recently adopted as a concrete follow-up to the consultations organized around its Green Paper on access to justice, in line with the expectations of consumers and their representatives. For details consult our 'Consumer Protection' section.

More accessible justice...

This issue of **INFO-C** also contains particulars on the findings of the Commission's latest survey on car prices, BEUC's stand on the deregulation of telephone services and Euro C's position on the deregulation of postal services, the credit education campaign for young people organized in Belgium by the Centre coopératif de la consommation, the reactions of French consumers' and bank users' associations to the Banque Nationale de Paris' decision to invoice from now on certain withdrawals from ATMs, the condemnation by Spain's foundation

Ciudadano and Britain's Office of Fair Trading of fraudulent miracle cures for baldness (proof that scoundrels from all countries often find inspiration in the same source), and much more besides.

Finally, let us remind readers that 15 March saw the celebration of Consumer Day through-

out the world... an occasion for everyone, including DG XXIV, to take stock of progress and to look at what remains to be done. Again, on 9 May (coming soon), Europe will celebrate Robert Schuman's declaration on 9 May 1950 on the creation of a European Coal and Steel Community, the first endeavour to fuse national policies at European level. The link between this event and the implementation of a common consumer policy may be a tenuous one, but it certainly exists. Food for thought indeed!

INFO-C

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Summary

Consumer Protection	3
Euro-Infos	6
Countries	10
Case Law	25
Publications	27
Diary	38

To our Brussels readers

If your postal code has changed since 1 March 1996,
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Easier access to justice

First there was the Commission's Green Paper on 'Access of consumers to justice and the settlement of consumer disputes in the single market'¹. Then came consultations on the proposals it contained², which merely confirmed the urgent need for a Community initiative in this field. Finally, and recently, came the adoption by the **Commission** of two texts intended to facilitate consumers' access to justice.

1. Cases in the public interest

With the aim of facilitating the stamping out of illegal practices *in Community law* which originate in a Member State but have an effect in other Member States, the Commission adopted on 24 January a **'Proposal for a European Parliament and Council Directive relating to injunctions for the protection of consumers' interests**³, or in other words a draft European law to provide consumers with access to justice through their representatives. Once the proposal has been approved by the Council and Parliament, as the Commission hopes, justice may be obtained through the introduction before a Member State's courts of applications by consumer associations (or authorities acting in the public interest⁴) for injunctions against illegal practices. The intended areas are those to which European Directives already apply, namely misleading advertising, consumer credit, unfair terms, doorstep selling, package holidays and timeshare, or are probably shortly to apply, for example broadcasting⁵ or contracts negotiated at a distance. Each Member State will be responsible for authorizing bodies to go to law in the other Member States in accordance with procedures which will still fall within national competence.

2. Individual cases

In order to overcome the difficulties faced by European consumers wishing to exercise their rights to compensation in connection with cross-border transactions, the Commission also adopted on 14 February an **'Action plan on consumer access to justice and the settlement of consumer disputes in the internal market'**⁶, intended to promote out-of-court settlement of such cases. Firstly, the action plan contains a structure intended to encourage the voluntary introduction of effective, transparent and impartial extra-judicial procedures for dealing with intra-Community complaints. This will soon be the subject of a Commission recommendation, the impact of which will be assessed after

a three-year observation period. Secondly, the action plan provides for the introduction of a harmonized European form, available in the eleven official languages of the Union⁷, which will facilitate dialogue between the parties involved in the case. Furthermore, should an out-of-court settlement prove impossible, the form will act as a passport for the injured party, providing access to the competent legal authorities in the supplier's Member State. It will be tested initially for three years in a small number of cross-border regions before coming into general use. Thirdly, the Commission is to send its *Guide to legal aid in the European Union* to consumer information points; already available on the Internet, it contains a great deal of information on national legal aid systems.

The provisional timetable for implementing this action plan is as follows:

Promotion of out-of-court procedures:

- Consultation of interested parties concerning the working outline (March - September 1996);
- Adoption of the recommendation (end of 1996);
- Observation period (December 1996 - November 1999);
- Preparation and presentation of an assessment report on the operation of the system (December 1999 - May 2000).

Access to court procedures:

- Consultation of interested parties (Member States, European Association of Judges, Council of the Bars and Law Societies of the European Community, representative trade and consumer associations) on the draft form (March - September 1996);
- Definition of the working outline concerning the procedures for using the form and the selection of the border regions in which it will be tested, implying a new round of consultation with the Member States (October - December 1996);
- Nomination of the members of the group of experts responsible for following up the initiative (March - April 1997);
- Trial period (June - May 2000);
- Recommendations of the group of experts on the follow-up to the trial period (June - September 2000).

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¹ COM(93) 576, 16 November 1993.

² See article entitled 'First European Consumer Forum' under 'Euro-Infos' in the December 1994 issue of **INFO-C**.

³ COM(95) 712 final, 24 January 1996.

⁴ For example, the Office of Fair Trading in the United Kingdom.

⁵ A Directive known as 'Television without frontiers' already exists in this field, but is currently being amended.

⁶ COM(96) 13 final, 14 February 1996.

⁷ Along the lines of the well-known European vehicle insurance report form and form E111 for access to health care.

The Economic and Social Committee and the indication of unit prices

On 20 December 1995 the **Economic and Social Committee** (ESC) adopted an *Opinion on the proposal for a European Parliament and Council Directive on consumer protection in the indication of the prices of products offered to consumers*^{1,2}. While welcoming the fact that this proposal at long last enshrines the indication of unit prices as the universal benchmark for comparison, independently of how the products are packaged (as the law stands, the 'standardized' packaging of products is a substitute for the indication of unit prices), the ESC still wants certain modifications:

- the way the dual indication of prices is implemented in practice should be tailored to the constraints that apply to each type of store. Hence retailers should be free to choose between placing the marking on the products themselves, on the shelves, or on prominently displayed notices;
- the Member States should be obliged - and not just invited - to lay down, on the basis of the Community nomenclature (NIMEXE) a list of non-food products in respect of which the unit price has to be indicated;
- the Commission should launch an information campaign targeted at small retailers designed not to conceal but to de-dramatize the concrete problems they may have to face and to propose appropriate solutions;

- the Commission should see to it that the time limit granted to operators for compliance with the new Directive be two years dating from the date of *publication* of the Directive and not from 7 June 1995 (the date on which it was decided to extend the old system);
- the Member States should be obliged to transpose the new Directive within a period of six months;
- the Commission should present *three* reports on the application of the new directive's provisions, prepared in close collaboration with the ESC, to be published one, two and four years after publication of the Directive.

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¹ Reference to the proposal for a Directive: COM(95) 276 final - 95/0148 COD.

² Reference to the ESC opinion: CES 1454/95.



The Consumer Committee takes form

The **Consumer Committee** was instituted by Commission Decision 95/260/CE of 13 June 1995 to replace the late Consumer Consultative Council. By a decision taken on 24 January 1996, the Commission appointed the following as members and alternates of the Committee for a period of two years as from 1 February 1996:

Members

Ms C. Marquet (B)
Ms M. Reissmann (DK)
Mr D. Klasen (D)
Ms S. Tzimou (GR)
Mr F.J. Angelina (E)
Mr G. Montant (F)
Ms B. Twist (IRL)
Mr V. Dona (I)
Mr A. Schmitz (L)
Ms A. Koopman (NL)
Mr H. Spitalsky (AT)
Ms E. Ramos Damião (P)
Ms L. Simonen (FI)
Ms T. Ström (SE)
Ms A. Daltrop (UK)

Alternates

Mr E. Stevens (B)
Mr P. Nedergaard (DK)
Mr G. Abel (D)
Ms M. Frangiskou (GR)
Ms C. Braña Pino (E)
Ms V. Crespel (F)
Ms C. Gill (IRL)
Mr B. Praderi (I)
Mr E. Krings (L)
Mr W. Koole (NL)
Mr M. Prohaska (AT)
Ms I. Mendes Cabeçadas (P)
Ms G. Väyrynen (FI)
Mr B. Ingerstam (SE)
Ms S. Knox (UK)

Ms C. Kerstiēns (NL)

BEUC

Ms V. Thompson (UK)

Ms L. Petré (B)

COFACE

Ms M.-B. Vignon (F)

Ms C. Naett (F)

EURO COOP

Mr P. Dejemeppe (B)

Mr W. Buschak (D)

ETUC

Ms A. Meunier (B)

Ms C. Baker (I)

EIICA

Ms I. Segura i Roda (E)

Car prices

On 15 February, the **Commission** published the findings of its sixth survey of disparities in sales prices of new cars in 12 Member States. We have summarized for you the statement made by the Spokesman. Further information can be obtained from the Commission Offices in the Member States, from the European Consumer Information Centres and via the 'Rapid' database.

Some 23 European and Japanese car-makers provided details of their retail prices, as at 1 November 1995, for 77 of the best-selling models; the prices were adjusted for differences in features and fittings and expressed in national currency and in ECU, including and excluding tax. Denmark, Greece and Finland were once again not included in the survey because of their fiscal policies.

The previous survey revealed that the prices of more than 50% of the models varied by more than 20% between different Member States of the EU. This figure has since fallen to 27% (29% for European producers and 21% for the Japanese).

Prices remained lowest in Italy (for 30 of the 77 models), followed by Portugal, Spain and the United Kingdom. Sweden lost its place among the countries with the lowest prices because of the considerable appreciation of its currency (+10,2% against the ECU). Prices remained highest in Austria, Germany and France (which together accounted for the highest prices of 60 of the 77 models!).

To sum up: 1) the most expensive countries remain the most expensive and the cheapest remain the cheapest, but 2) the range of price disparities seems nevertheless to be getting smaller.

The Commission's explanation for the second point is a combination of two factors. Firstly, the gap between European currencies decreased in the period from 1 May to 1 November 1995, with the strong currencies losing value a little in relation to the ECU whilst the weak currencies gained against it. Secondly, it appears that the increasing number of parallel imports is starting to bring down the highest prices. A particular case in point is Austria, where car-makers have decided to lower their prices in an attempt to stave off an avalanche of parallel imports from Italy.

Unfortunately, this movement in prices is still at an early stage, and a situation in which European consumers in all EU Member states can enjoy prices as low as they would be on a market with perfect competition is not going to come about in a hurry. In addition, this development is in some cases hampered by unscrupulous individuals whose practices are totally illegal and should be reported to the European Commission's DG IV 'Competition' whenever they come to light.

Telephone liberalization: it's all very well, but...

Telephone tariffs were restructured at the beginning of 1996 in Germany. Deutsche Telekom raised the price of local telephone calls in order to reduce the price of long-distance calls. In France, a similar move was made by France Telecom just a couple of years ago. And in Italy, a decree which would lead to an overall increase in telephone bills is ready for adoption (although it has so far been obstructed by the strong opposition from consumer associations).

In each of these cases, the telecom operators say they need to change their tariffs in order to prepare for more competition in the telecommunications sector, which will inevitably affect long-distance calls first.

But according to **BEUC**, this simply means that consumers have to pay higher telephone charges *now* in the hope of reaping the benefits of liberalization... in several years, if ever.

Therefore, BEUC has called on the European Commission to protect consumers from unjustified price increases in the transitional period before the telecommunications sector is liberalized, and in particular the voice telephony sector, which is due to be liberalized in 1998. In letters to Commissioners Van Miert, Bangemann and Bonino, BEUC has urged the Commission to investigate the recent rises in local telephone tariffs in Germany and the planned increases

in Italy, suspecting abuse of dominant position by the telecom monopolies, and to take action to ensure that consumers do not suffer in the run-up to liberalization.

Consumers theoretically stand to gain in the long run from a liberalized telephone sector. BEUC therefore welcomes the introduction of competition in this sector, but does not accept that consumers should have to start paying higher charges now, years before they are likely to see any benefits. An example of what ought to be done comes from the UK, where caps were put on price increases in the run-up to liberalization to ensure that consumers were adequately protected during the transitional period. BEUC wants to see similar action taken by the EU.

Finally, BEUC urges the Commission to look beyond this transitional period by studying the question of how the whole liberalization process might affect prices in the long term, in order to ensure that it will benefit not only the industry, but also the residential consumer.

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Euro C's position: complete deregulation of postal services is not in the interest of consumers

During the consultation organized by the European Parliament on 20 February on the organization of postal services in Europe, **Euro C**, the European Trade Union Confederation's Consumer Unit, drew attention to the following points:

- public services in general and postal services in particular are fundamental factors of social integration, economic development and regional planning;
- the consumer has a right, throughout the territory of the Union, to universal quality service, accessible to all, at a reasonable price (based on the 'single unitary tariff');
- certain services should be 'reserved', *i.e.* not open to competition, in order to guarantee the long-term economic viability of the universal service;
- there must be a system for simple and rapid compensation of the consumer in the event of loss, theft, deterioration in the mail or failure to respect quality standards.

Euro C has also highlighted the harmful effects for consumers resulting from uncontrolled deregulation of the postal services, citing the following examples:

- in Spain, the urban mail, which has been deregulated, has been the subject of massive creaming off¹ and following a survey conducted by the European Direct Marketing Federation, consumers are particularly unhappy with the services offered;
- in Finland, deregulation has led to the closure of two out of three post offices (946 post offices in 1995 as opposed to 3 000 in 1992);
- in Sweden, prices rocketed by 28% from 1992 to 1995, one in three post offices has closed down and parcels are no longer systematically distributed to homes - with disastrous consequences for people living in rural areas and the elderly;
- private operators, following a classical creaming off strategy, do not cover the entire territory. Moreover, their prices are up to 80 times higher than those of the public operators²!

Hence Euro C considers that European consumers' interest notably lies with:

- gradual and controlled deregulation of postal services in Europe, accompanied by the establishment of quality objectives applicable to all operators;
- granting to operators of a sufficient adaptation period (4-5 years) after entry into effect of the Directive in question³, so that they would have time to modernise and adapt themselves to competition;
- publication, on completion of this adaptation period, of a general report by the Commission on the situation of postal services in Europe and the way the quality objectives have been achieved throughout the territory of the Union (including rural areas, mountain regions and islands) both by public and private operators.

In conclusion:

- Euro C cannot approve the uncontrolled opening to competition of the postal services market;
- all decisions following the adaptation to competition period should be based on an in-depth examination of the above-mentioned report;
- the European Parliament - the ideal forum for democratic debate and for taking into account the general interest - should play a central role in this decision-making process, with appropriate consultation of all the parties concerned, including the postal authorities themselves, the social partners and consumers;
- Euro C considers that the Commission Notice on the application of competition rules for the postal services sector diverges greatly from its proposal for a Directive and is quite inopportune.

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¹ *i.e.* when the supplier of products or services opts for the most profitable areas to the detriment of the others.

² Brussels to London, Frankfurt or Paris for a letter of up to 20 g: price charged by the Belgian post office: ECU 0,4, price charged by UPS: ECU 32,6. The private operator is 81 times more expensive than the Belgian post.

³ COM(95) 227 final; OJ No C 322/22, 2.12.1995.

Are the Canary Islands in Europe?

The December 1995 issue of *Budget & Droits* (budget and rights), published by the Belgian consumer protection organization **Test-Achats**, contains an edifying contribution on an interesting misfortune which befell a member of Test-Achats.

Last summer, while holidaying in Tenerife, our man had his belongings stolen from his hotel room. Sure enough, he contacted his insurer, Royale Belge, seeking compensation. Alas! To his great surprise he was told that his policy, which covered him in the event of theft throughout Europe to the exclusion of all other places, did not apply in this case because... Tenerife does not belong to Europe!

'But' our man argued, 'the Canary Islands are part of Spain, which itself is part of Europe, isn't it?'

In dealing with the case, Test-Achats held that an insurance company was quite justified in insisting on a particular

interpretation of the term 'Europe'. Here, for example, Royale Belge interpreted the word 'Europe' in a geographical sense, and not in a political or economic sense, with the result that the Canary Islands were not covered by the policy. But beware: in such a case the contract must clearly spell out the definition chosen, and the absence of a definition cannot be used as a defence against the policy holder! To do otherwise would run counter to the principle of good faith in the performance of contracts.

Royale Belge eventually acknowledged that it was wrong on this point and agreed to compensate its client.

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FRANCE • MICRO-ORGANISMS AND BRANDED GOODS

At the end of 1994, the **Centre Régional de la Consommation** (CRC) of the Nord - Pas-de-Calais Region published the results of a survey carried out during the summer of 1994 on the microbiological quality of 'lowest-price' food products sold in the region's discount stores and supermarkets¹.

On 23 February 1996, the CRC again published a report, running to nearly 100 pages, entitled **Produits de marque et qualité dans la grande distribution** (branded goods and quality in supermarkets), containing the results of a similar survey carried out in April and August 1995 in four hypermarkets² and four supermarkets³, but this time relating to widely-known branded goods⁴.

Ten products well known for their susceptibility⁵ were put under the magnifying glass (or rather microscope) by the Institut Pasteur in Lille. A total of 160 samples were examined (10 products * 8 stores * 2 visits).

The results were disturbing. While 103 samples (64,4%) were 'satisfactory', 29 (18,1%) were merely 'acceptable' and 28 (17,5%) were 'unsatisfactory', with 7 of those (4,4%) quite simply 'rancid'. The particularly serious cases were pastries (with only one-third of results 'satisfactory'), ham, beefburgers, smoked salmon and raw milk camembert.

The problem clearly lies in a failure to respect the cold chain, either when leaving the manufacturer or during transport (in which case the store is not at fault) or during unloading, stocking or storage on the shelf (in which case the store is fully to blame). With regard to the latter point, it should be noted that stores are obliged by law to keep 'highly perishable' foodstuffs at a maximum temperature of +4°C. To quote only the most striking examples, the pastry counter at Match was at 11°; at Cora, the camembert shelf was at 12°; at Carrefour, smoked salmon was stored at 12°, while at Intermarché, the pastries were simmering at 11°, the camembert was nicely runny at 12° and the cooked meats were taking a sauna at no less than 17°!

As the CRC rightly points out, however, old or badly adjusted refrigerating equipment is only one cause of the problem. Staff who sometimes have a poor sense of responsibility and/or are badly trained (particularly in the case of trainees,

replacements and other temporary staff taken on mainly during the summer months, *i.e.* when it is hottest) and a shortage of quality control posts within the stores themselves are also part of the problem which supermarkets must eradicate as a matter of urgency. How? By recruiting and training motivated and responsible staff even (and especially) for maintenance, the establishment of quality 'inspector' posts to carry out random checks in stores, the building of refrigerated unloading bays, the use of thermal coverings when transporting pallets from bays to shelves, the installation of fridges and freezers in good working order, etc. It also goes without saying that these improvements cannot just be made to one or two 'showpiece' stores, with all investment concentrated on them solely for the purpose of good public relations, but must be applied generally throughout each chain.

Finally, it should be noted, as we already have in **INFO-C**⁶, that the use of time temperature indicators⁷ is the only thing that enables *both the distributor and the consumer* to identify immediately products which have suffered from interruptions to the cold chain and therefore to remove them from sale. When are they going to be used on a general basis throughout the retailing sector?

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¹ **INFO-C** reported on this in its February 1995 issue (article entitled: 'Lowest prices can bring unpleasant surprises').

² Cora at Vendin-le-Vieil, Auchan at Grande-Synthe, Carrefour at Lomme and Continent at Aulnoye-les-Valenciennes.

³ Match at Lille, Champion at Dunkirk, Intermarché at Valenciennes, Cedico at Lens.

⁴ Fleury Michon, Herta, Lanquetot, Narvik, Labeyrie, Findus, etc.

⁵ Smoked bacon, paté, cooked ham, smoked salmon, frozen beefburgers, frozen pizzas, raw milk camembert, vanilla ice cream and pastries with cream or chantilly cream.

⁶ See article entitled 'Fresh products: guarantees *could* and *should* be given to consumers' under 'Euro-Infos' in our December 1995 issue.

⁷ Freshness indicators which, when attached to the product packaging, change colour irreversibly when the product has been subjected to inadvertent reheating.

- **DOWN WITH LOW PRICES!**

The French Government recently decided to do something about price-slashing practices in superstores, tabling a bill on 'fair and balanced commercial relations'. The proposal, adopted on 26 February by the Council of Ministers, aims at setting about reforming the competition law.

Put very crudely, the bill says that henceforth any newly opened commercial outlet of more than 300 m² must have administrative authorization; manufacturers may refuse to sell their products to distributors who set unreasonably harsh conditions (particularly in price terms); and the price of any product on sale must be at least equivalent to the cost of manufacture plus distribution. There are three objectives behind this move: to curb the number of superstores mushrooming around the edges of towns and cities and, it is claimed, squeezing the life out of town-centre shops; to prevent superstores and their all-powerful buyers from subjecting suppliers to a form of blackmail to get their goods stocked by the store (which undoubtedly enables stores to buy in at the lowest possible prices, but which some people feel leads to job-shedding in industry and farming); and to protect consumers from loss-leader practices (*e.g.* baguettes for 50 centimes).

But what do the consumers think of these proposals? Not much, according to a press statement issued by the **Union Fédérale des Consommateurs** (UFC - French consumers' union) on 27 February.

For one thing, authorizing manufacturers to refuse to sell to certain distributors would mean giving well-known brand

names - the kind that any superstore has to stock - the power to impose their own price conditions. It would also work in favour of 'selective distribution', particularly in sectors like toiletries and drug stores, one of whose primary aims is to impose prices which are higher than the going market rate.

On the other hand, imposing a ban on 'abnormally low' prices would be tantamount to reintroducing price-control mechanisms, which would not be conducive to healthy competition. After all, what is more scandalous: for a superstore to sell a baguette for 50 centimes, or for all bakers to agree on a fixed price of 4 francs?

The UFC's conclusion is that the 1986 rules on retail price freedom need no revision. They already feature a full range of the necessary controls and sanctions to enable the authorities to keep a fair balance between suppliers and distributors and to deal with any abuse of power on the part of the buyers with the greatest clout. To ask a nasty question: might it not be that some people are currying favour (especially among small traders, who after all are also voters) and showing remorse for the over-generous way they doled out planning permission for superstores in the past?

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- **STIMULATING CONSUMER SPENDING BY HELPING CONSUMERS**

It is well known that, among other ailments, the French economy is currently suffering a slowdown in consumer spending. Accordingly, at the end of January, Alain Juppé's government proposed a series of stimulatory measures. Some days previously, on 18 January, the national education federation's association for consumer education and information **Adéic-fen** published a list of bold proposals intended to remove some of the obstacles to consumer spending.

At a time when purchasing power is stagnating, Adéic-fen begins by calling for an end to the constant increase in 'mandatory or administrative consumption' (two examples: the regular increase, well in excess of inflation, in the price of water and the increasing number of mandatory repairs arising from technical inspection of motor vehicles). To assist with this, an indicator for the rate of households' mandatory expenditure would be required, in order to monitor trends and limit increases.

To enable consumers to take out new loans (property or personal loans), penalties for early repayment of existing loans should be abolished.

In the case of property loans, insurance covering borrowers in the event of unemployment or a significant decrease in salary contains highly restrictive clauses, dissuading a significant number of those wishing to buy property. The regulations governing insurance should therefore be amended in order to remedy this state of affairs.

When moving into new accommodation, a tenant must put down a deposit, even though he has not yet received reimbursement of the deposit held by his former landlord. For the landlord, on the other hand, this immoral system is an absolute windfall, since he can hold both the incoming and outgoing tenant's deposits for several months. In order to correct this injustice, Adécif-fen suggests that a national guarantee fund be established to hold and repay deposits, so that tenants would no longer have the burden, even

temporarily, of two deposits. In addition, the money collected by this fund could be used to finance low-cost housing, another sector in stagnation.

Finally, it would be desirable to create a new financial product: a sort of savings account enabling those who, over a set period of time, prove their ability to pay in regularly (and thus to repay any loan) to receive personal loans at favourable rates.

This would be a very useful way of enhancing the Government's recovery plan!

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• **HOLD-UP AT THE BNP!**

First a few words of explanation for our non-French readers. In France, the banking system is based on the 'interbank principle', meaning that all account holders may use their Visa or Mastercard to withdraw cash *free of charge* from automated teller machines *from any bank they like*, their own or a competitor's. When a client withdraws cash from the ATM of a bank other than his own, his bank simply pays a commission to the other bank. For once, the consumer benefits¹.

But at the start of the year the BNP (Banque Nationale de Paris) felt that it was high time to put an end to this scandal and to transform, once again, the hapless consumer into a goose for laying golden eggs: if a consumer makes more than seven withdrawals from competing banks, each further withdrawal will from now on cost FF 5.

This decision was immediately castigated by the consumers' and bank users' organisations². Their arguments:

- it is true that each withdrawal by a bank A customer from a bank B teller machine costs bank A money... but remember that when the situation is the other way round it is bank A that gains;
- certainly, withdrawals used to be free of charge... but bank cards as such were never free of charge and indeed their prices have rocketed in recent years;

- this measure is illegal because it constitutes a unilateral alteration of the contract between the bank and its customer. And if the contract in question contains a term allowing the bank to alter the terms without the customer's consent it is very likely that the courts would hold it to be unconscionable;
- finally, billing of cash withdrawals can only encourage the proliferation of small cheques, a practice which will cost the banks even more... but which they have also long been dreaming of charging to their clients! Is this the next move?

So victims are urged to contact the consumer associations immediately, who will be able to advise them on how to go about getting refunds for the amounts unfairly debited from their accounts.

¹ And we insist on the expression 'for once'... See the article entitled 'Your bank manager isn't Mother Theresa' in the section 'Countries - France' of our last issue.

² Including **Association française des usagers de banque** (AFUB), **Institut National de la Consommation** (INC), **Union Fédérale des Consommateurs** (UFC - Que choisir), **Asséco-CFDT**, **Adécif-fen** and **Association Force Ouvrière Consommateurs** (AFOC).

**• CELESTIN COMES TO CHILDREN'S RESCUE**

The five-year-old Lucas together with his dog Woofy get into all the dangers lurking about the house. But, thank goodness, his guardian angel Célestin, a likeable little ghost, rescues him at the last moment each time by himself suffering the accident that threatened the boy.

This is the basic scenario in the 50 two-minute episodes of the *Célestin* series, which has since 24 February been broadcast by France 3 every day at 8.05 a.m. in the 'Bonjour Babar' programme.

The series is produced jointly by France 3 and Julianne Films with the support of the European Commission and came about as a result of the wish to teach children to avoid the dangers lurking in every corner of the home and garden: taking medicines for sweets, putting plastic bags over one's head, leaning out of windows, climbing onto shelves, teasing dogs, climbing trees, playing with matches, etc. etc. The authors' main inspiration was the report from EHLASS, the Community observatory for home and leisure accidents.

It is to be hoped that the impact of the *Célestin* series will be great enough to reduce the number of accidents in the home,

in which some 18 000 people - mainly children and old people - die each year in France, a figure twice as high as that for road accidents.

Proposals for measures to complement the *Célestin* broadcasts on France 3 have been tabled within the Commission's Directorate-General XXIV and relate to:

- back-up videos for use in schools;
- re-broadcast of the series on the Cinquième, the educational channel for children;
- broadcast of the series (in dubbed versions) in other Member States;
- re-use of the Célestin character in other series on consumer matters suitable for a child audience (food, advertising, environment-friendly consumption, etc.).

Contact:

Chrystel Poncet
Press Officer
Julianne Films
15 rue du Louvre
F - 75001 Paris
Tel.: +33 1 44 88 20 00
Fax: +33 1 44 88 20 02

PORTUGAL • FINES IMPOSED ON MAIL ORDER FIRMS

The Commission for imposing fines in the field of advertising has sentenced the firms IBERMAILING (which markets Lar Postal) and VPC Portugal (which markets Vitrine Magique) to pay fines in the amount of 1 million and 3,5 million escudos respectively for misleading advertising.

The Commission held that the advertising messages inserted in the firms' mailshots were deliberately designed to mislead consumers, because they *guaranteed* that recipients had won a valuable prize (ranging from a pair of earrings to a river of diamonds, and including household appliances, motor cars, and enormous sums of money) simply by virtue of having received the messages in question.

The Commission ruled that this is misleading advertising within the meaning of Article 11 of the Advertising Code.

The **Instituto do Consumidor** takes this opportunity to remind advertisers in general - and notably mail order firms - that, pursuant to Advertising Code, they must ensure that:

- advertising messages are clear, complete and worded in such a way as not to mislead readers as to the nature, characteristics, price or terms of payment of the goods or services offered;
- advertising offers should not mislead consumers by letting them believe that they have won valuable prizes and that they are entitled to the prizes simply by virtue of having received the message.

Contact:

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Praça Duque de Saldanha 31-2°
P - 1000 Lisbon
Tel.: +351 1 54 40 25
Fax: +351 1 52 24 10



SPAIN • EUROPE AND LATIN AMERICA INTEND TO COOPERATE IN THE FIELD OF CONSUMER AFFAIRS

The first International Congress on Consumer Affairs in Europe and Latin America - organized by the **Confederación Estatal de Consumidores y Usuarios** (CECU - national confederation of consumers and users) was held in Madrid in November 1995¹.

In the context of this forum, attended by over 100 consumer representatives from 13 countries in Latin America, Portugal, Spain and from various European organizations, four major themes were addressed: the notion of consumer and basic legislation governing consumer protection in Europe and Latin America, particular types of selling (in particular distance selling) and advertising, foodstuffs, and finally the role of the consumer vis-à-vis the media and other sources of information.

We won't go into the details here, since interested readers can easily obtain the proceedings from the CECU, but wish to focus on the major repercussion of this meeting - namely the strengthening of cooperation between Europe and Latin America in the field of consumer protection.

Maria Rodriguez, President of the CECU, said that she hoped another congress could be organized within the next few years, given the number of interesting topics still to be examined, and urged that the links between the European and American continents should be strengthened without delay.

No sooner said than done. In the aftermath of the Congress the CECU signed cooperation agreements with the consumer associations of Cuba, Ecuador, Peru, Bolivia, Chili and Uruguay. The keynotes of the agreements are as follows:

1. ensure an ongoing exchange of information on the activities of the two organizations in their respective countries;
2. define a framework for technical cooperation in order to ensure optimum development of these activities and to maximise the resulting benefits;
3. promote measures involving the European Commission, the autonomous Communities of the Spanish State and other public bodies and private non-profit institutions, in order to obtain subsidies for specific cooperation programmes to be implemented by the two organizations;
4. encourage active multilateral collaboration between all consumer organizations in Spain and Latin America.

Contact:

Confederación Estatal de Consumidores y Usuarios
C/Cava Baja No 30
E - 28005 Madrid
Tel.: +34 1 364 02 76
Fax: +34 1 366 90 00

¹ We hope the organizers and participants will forgive our delay in communicating the information!

• **BEWARE THE STEALTHY APPROACH OF ADVERTISING!**

In 1995, under the patronage of the Instituto Nacional del Consumo (national consumer institute), the **Confederación Estatal de Consumidores y Usuarios** (CECU) finalised a 'programme for monitoring advertising', in which it looked at advertising techniques used in the media (cinema, TV, press and radio). In connection with these activities, the CECU has published a booklet entitled **La Publicidad: Nuevas técnicas para incitar al consumo** (advertising: new techniques for inducing consumer purchases), exposing these techniques, most of which are illegal.

Consumers are becoming increasingly critical of the empty promises made in advertising and are suspicious of the purely persuasive techniques used. In addition, legislation intended to regulate and monitor advertising has increased in the last few years. This has led advertisers to use cunning in order to prevent consumers from seeing how advertising messages try to win them over, and even from discovering the very existence of these messages. This is done in the following ways.

1. Surreptitious advertising infiltrates film productions

The 1980s saw the emergence in the United States of numerous agencies specialising in 'product placement'. These agencies seek or create, in a given scenario, situations in which their clients' products can appear. Clearly, the aim is for the viewer's liking for or admiration of the film-star concerned or the character he/she is portraying to be transferred subconsciously to the product appearing in the film.

In the 1990s, similar agencies sprang up in Spain - so much so that there is an increasing number of surreptitious advertising messages being used in Spanish films. The activities of these agencies are not subject to any form of supervision, despite the fact that Article 11 of the general law on advertising requires that advertising and other messages be separated, and that advertisers must 'clearly reveal the promotional nature of their adverts'.

What is even worse is that the health of the youngest members of society is at stake: in 23 out of the 100 films viewed by the CECU, various brands of cigarettes were seen (with Marlboro accounting for more than half of these instances), and alcoholic drinks in 20 of them¹.

2. Surreptitious advertising infiltrates serials and series on TV

The dwindling effectiveness of traditional advertising spots as a result of market saturation and zapping has led advertisers to transfer to television the surreptitious-advertising methods used in the cinema.

Their main vehicle is serials and series because these have the highest viewing figures. It is therefore not surprising that the CECU detected more than 60 separate products in the programmes of this kind broadcast between 28 November and 5 December 1995. *And the winners are: Pepa y Pepe* with 14 product placements on Monday, 5 December on TVE1; *Los mejores años* with 12 placements on Friday, 1 December on Antena 3; *Los ladrones van a la Oficina* with 11 placements on Wednesday, 29 November on Antena 3; *Farmacia de guardia* with 10 placements on Thursday, 30 November on Antena 3; and finally *Médico de familia* with 9 placements on Tuesday, 28 November on Tele 5!

3. Surreptitious advertising infiltrates shows

As with films, TV serials and other series, the makes of products being paraded on the screen form an integral part of the programmes you are watching. Since you can't zap between channels in the way you can with 'traditional' advertising, you can no longer ignore what make of car, detergents, shoes, etc., is the programme presenter's favourite. A survey of programmes on all TV channels carried out by the CECU between 11 and 17 December 1995 revealed that the programme which made most use of surreptitious advertising was *Telemaratón* on Antena 3 (broadcast on 17 December to raise funds for three associations to fight cancer, drug-addiction and AIDS respectively), in which donations from some 28 firms were used as a pretext for advertising; most of these firms shamelessly used their inclusion in the programme to promote their products. The CECU also singled out other programmes: *Su media naranja* broadcast on 13 December on Tele 5 with 17 product placements²; *Club Megatrix* on 12 December on Antena 3, in which a bogus competition for children was used as a pretext for advertising by Pizza Hut, Vtech, Chavitos records and Megabrileta de la Caixa; *Pasa la vida* on 12 December on TVE1, in which María Teresa Campos presented a product called Calvichoc and stated that the fact it was only available from chemists 'was a guarantee of quality'; and finally *Qué*

me dices! on 12 December on Tele 5, in which Belinda Washington presented a product by the name of Farmatint and assured viewers that it had 'all the benefits of products available from chemists' shops'. In these last two cases, the CECU considers that the advertising was not only surreptitious but also misleading.

4. Advertising dresses up as information in the press and on the radio

In the press, many advertisements are set out in the same way as news items or take the form of supplements with the same typography and form of presentation as the normal pages of the newspaper, and the reader is not given any indication that the material concerned is an advertisement.

In addition, the fact that the promotional nature of an item is obscured may be severely detrimental to consumer protection because, if the advertising concerned is misleading, firms can claim that the item is informative and not promotional.

Advertising spots on the radio also take the form of predetermined conversations between presenters and representatives of firms during which the latter 'explain' the qualities of their products. Another technique is to use the presenter's voice for advertising so that listeners do not gain the impression that the advert is not part of the broadcast. Many well-known radio personalities readily promote products, and the credibility they enjoy among listeners is thereby imparted to the product concerned.

• CURES FOR BALDNESS: BEWARE OF CHARLATANS!

The Academia Española de Dermatología y Venereología (the Spanish dermatology and venerology academy) has recently issued a warning - relayed by the **Ciudadano** (citizen) Foundation - against hair treatment centres that have been trumpeting the message that baldness is a thing of the past thanks to artificial hair implants, laser therapies, mesotherapy, massages and miracle lotions.

In fact in most cases artificial hair implants are doomed to failure because of the serious complications - sometimes irreversible - suffered by patients. And indeed many hair implant centres are now being hauled before the courts. As to the other techniques, even if they do not have serious consequences, they are all so much snake oil. They have no scientific foundation and are just money down the drain as far as the consumer is concerned¹.

At the moment the only reliable hair regrowth techniques are anti-androgen based treatments, Minoxidil, and autografts

To sum up, the CECU recommends that consumers remain vigilant in order to uncover all these sharp practices.

It also calls on the competent bodies, including the Ministry of Public Works which is responsible for the monitoring of TV advertising, to enforce the provisions of the general law on advertising (No 25/1994), which transposes the EC Directive known as the 'Television without frontiers' Directive.

It is all right to entice consumers, but not to misuse them!

Contact:

Rubén Sánchez
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E - 28005 Madrid
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Fax: +34 1 366 90 00

¹ Only the mean-spirited will regard this as a deliberate attempt to get round the legislation restricting tobacco or alcoholic-drinks advertising.

² It should be mentioned that Tele 5 is the only channel which sometimes points to advertising in its broadcasts, albeit in a rather minimalist form, using inserts which appear briefly at the bottom of the screen and labelled *Telepromoción* ('advertisement'). However, the fact that it is the presenters on this channel who show the products means that there is no real distinction between these broadcasts and advertising spots.

(i.e. transplantation of the patient's hair to the area affected by baldness). But here again no miracles should be expected...

At any rate, it is always better to consult a dermatologist, the only professional who can prescribe an adequate and reliable course of treatment, and to steer clear of these hair treatment centres which misleadingly present themselves as clinics!

Contact:

Ciudadano
Calle Atocha 26, 3º/izda
E - 28012 Madrid
Tel.: +34 1 369 12 85
Fax: +34 1 369 08 27

¹ A perfect example of a scam of this kind is contained in the article titled 'To restore hair growth, stand on your head!', later on in this issue.

• A 'MOBILE OFFICE' FOR CONSUMERS IN THE CANARY ISLANDS

On 1 October 1995 the **Union de Consumidores de Santa Cruz de Tenerife** (Canary Islands) launched a 'mobile office' (called 'ucemovil'). This 'office' will tour the municipalities of the territory of the Autonomous Community of the Canary Islands, where 1 500 000 people live spread over a total of seven islands. Managed by a two-person team and equipped with computer equipment and mobile phones, this roadshow will follow pre-scheduled routes calculated to ensure that consumers have the least possible distance to travel, including those from the most remote areas. Its activities are manifold and include informing individual consumers about their rights and advising them how to

handle disputes, disseminating information on consumer issues in schools, and assisting tourists (over 7 500 000 holidaymakers visit the islands each year!) in the event of problems, etc.

Contact:

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Secretary General
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Fax: +34 22 29 19 28

ITALY • TELECOM ITALIA'S FRUSTRATED CUSTOMERS

At the time of writing, Telecom Italia seems to have caved in under public pressure and given up the idea of making changes to its system of charges, the main effect of which would have been to increase the price of local calls (principally at the expense of private subscribers) and reduce that of long-distance calls (which would mainly benefit companies).

But unpopular measures can always be reintroduced by the back door, so Italian consumers would be well advised to remain vigilant. It is therefore worthwhile repeating some of the points made by the **Comitato Difesa Consumatori** (CDC - consumers' protection committee) when the battle was still raging.

Firstly, the frequently repeated assertion that the price increases and changes planned by Telecom are dictated by the European Community is totally false. The only obligation imposed on Italy by the Community is the rapid introduction of competition in basic and mobile telephony services to replace the present monopoly and enable users to benefit from the advantages of a free market. Moreover, according to the CDC, the Italian anti-monopoly authority recently called for this to be done.

The CDC also denounces the practice of comparing the current Italian charges with those of other European countries without considering the quality of the services provided (such as the time taken to have a phone installed).

Accordingly, the CDC is calling for the following:

- the telecommunications watchdog required by law should be set up and start work immediately;
- competition should be introduced into the basic telephony service before the end of the year through the adoption in Parliament of the decree-law liberalizing the telecommunications sector;
- *until the above-mentioned supervisory body begins operating and the basic telephony system is liberalized, the Government should put on hold any decision on charges for the monopoly services currently provided;*
- to assess the real effect of any changes in call rates, the Ministry of Posts and Telecommunications, to which Telecom Italia has to report, should immediately set up a department for collecting data on a sample of 2 000 households so as to produce statistics on the number of phone calls made, the breakdown between local and national calls, and the time at which calls are made.

In the CDC's view, the real problem of the telecommunications sector in Italy concerns the provision by a monopoly of a service whose quality, as revealed by the disastrous results of a survey² on the state of public phone boxes, leaves a great deal to be desired. Consequently, talking about price changes before liberalization of the telephone service and adoption of the telecommunications law is farcical in the extreme.

Contact:

Comitato Difesa Consumatori
Viale della Liberazione 18
I - 20124 Milan

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+39 2 66 72 03 30 (Lucia Canzi)

Fax: +39 2 67 06 380

• USURY SOON TO BE OUTLAWED?

For a number of years, **Adiconsum** (association for the protection of consumers and the environment) has been supporting victims of usury. The problem has recently grown to such a scale, however, that this organization, with the assistance of other associations active in the sector, has set up a body devoted exclusively to combating this scourge: the 'Cartello contro l'usura' (cartel against usury).

The aim is to convince public opinion and the authorities of the need for legislation in Italy to lay down a maximum interest rate.

On 29 February, in the midst of a rather delicate political situation, with the Chambers having been dissolved, the Government granted the Committee on Justice of the Chamber of Deputies the legislative power to enable it to approve this draft law.

This is a first step towards ending the torment facing many Italian families and which gives rise to tragedies such as the

¹ See article 'Telephone liberalization: it's all very well, but...' in the 'Euro-Infos' section.

² Reported in the February issue of **Altroconsumo**.

To summarise, 768 public phone boxes were tested in 20 Italian cities:

- in Turin and Bari one quarter of the phones were out of order; in Florence, the proportion was one third;
- in Savona, only 18% of the boxes inspected were acceptable in terms of hygiene and safety; in Bergamo, only 20%; and in Palermo, only 24%;
- only half of the phones that were out of order were repaired on the same day, while over 20% still had not been repaired a week later;
- and, believe it or not, in 13 towns out of 20 national calls cost more than they should have according to the length of the call!

case of a family which resorted to collective suicide in order to escape the violence of their usurers.

Adiconsum's fight continues, however, because the following are now required:

- the establishment of a unit to monitor the phenomena of usury and overindebtedness in Italy;
- an organic law bringing together all existing texts in this field;
- an information and education policy in schools, businesses, etc., aimed at preventing overindebtedness;
- new regulations governing, among other things, disputes over and recovery of debts.

Contact:

Adiconsum
via Lancisi 25
I - 00161 Roma

Tel.: +39 6 441 70 21

Fax: +39 6 441 702 30

BELGIUM • REFORMING CONSUMER LAW

A multiplicity of economic agents and no end to the possible types of interaction between them... the result: a maze of sometimes inconsistent rules. It was this that prompted the Belgian government in 1987 to commission the **Commission d'étude pour la réforme du droit de la consommation** (CERDC - study committee for the reform of consumer law), chaired by Thierry Bourgoignie, professor at the Catholic University of Louvain and Director of the University's Consumer Law Centre, to come up with proposals for coordinating and codifying the legal and regulatory corpus of consumer law. The Committee is made up of university professors, judges, lawyers and government officials and is attached to the Ministry of Economic Affairs. In addition to this assignment of a technical nature came another, normative one: with an eye to reforming consumer law, examine how certain existing provisions might be repealed or revised, while also considering what new provisions might be adopted in order to eliminate existing inadequacies.

The CERDC's findings are contained in a recently published report of almost 500 pages, titled **Propositions pour une loi générale sur la protection des consommateurs** (proposals for a general consumer protection law) which not only brings together in a single text the 304 instruments

pertaining to consumer law but also sets out a multitude of proposals designed to reinforce consumer protection in such varied fields as advertising, promotions, price marking, credit, contracts, product safety, dispute resolution, access to justice and penalties, to mention but a few.

This report is now on the desk of Elio Di Rupo, the Minister responsible for consumer affairs. He has announced that the report's proposals will shortly be submitted for opinion to his administration and to the Consumer Council. And he makes it quite clear that numerous lobbies will be very eager to get a word in... so let's keep our fingers crossed that the politicians will be mindful of the consistency of this general law when or if it is adopted - for, as Thierry Bourgoignie puts it 'It would be harmful to pick one chapter and not another'.

To obtain this report, which is available both in French and Dutch, contact:

Ministère des Affaires économiques
Administration de l'Information économique
rue de l'Industrie 6
B - 1040 Bruxelles
Tel: +32 2 506 62 02
Fax: +32 2 513 46 57

• YOUNG PEOPLE AND CREDIT

To heighten awareness among adolescents about the merits and demerits of credit, the **Centre coopératif de la consommation** has launched a campaign targeted at 15- to 18-year-olds titled '**Vous avez dit crédit?**' (credit, you said?). This neutral title was preferred over alarmist titles on the lines of 'credit traps (or hazards)', because the idea is to awaken young people's critical spirit, not to impose a straitjacket of moralism or paternalism. Thus the keynote is not 'beware of credit' but 'if you decide to take out a loan, know what to do'.

To drive the message home, two specific tools have been designed for class use: a 13-minute video titled **Le crédit d'Alice** (Alice's credit) which presents two young people seeking credit, and a 100-page teacher's book titled **Les jeunes, l'argent et le crédit** (young people, money and credit). The latter is indispensable if the teacher wants to

discuss the problems raised by the video. It is divided into four sections: 'The consumer society', 'Young people and money', 'Savings and budget management' and 'Credit'. Each section clearly spells out the learning goals to be achieved and contains useful theoretical data for the teacher, suggestions for exercises, a list of supplementary working tools (films, books, videos, brochures, etc.), a factsheet for photocopying and distribution to the pupils, and a bibliography. This dossier, which is a kind of economics mini-guide, intelligently situates the problem of credit in its micro- and macro-economic context.

Moreover, two information tools have been created for use not only in schools but also by the general public. One is a small brochure titled **Vous avez dit crédit?** (credit, you said?) and the other a **Guide du crédit à l'usage des consommateurs** (consumer credit guide). The guide



discusses consumer credit and mortgage loans under different headings - the legal framework, advertising and promotions, cost, payment difficulties, credit lists and taxation (in the case of mortgages).

Contact:

Centre coopératif de la consommation
rue Haute 28
B - 1000 Brussels
Tel.: +32 2 500 52 12
Fax: +32 2 502 71 61

AUSTRIA • VKI ON THE INTERNET

The **Verein für Konsumenteninformation** (VKI - consumer information organization) can now be reached on the Internet, with a homepage. A quick overview of advisory services and events is provided along with information on the most important publications and tests. The Internet

address is:

<http://www.vki.or.at>
or
<http://www.konsument.or.at>

• GOOD HONEY IS THE ONE MADE RIGHT ON YOUR DOORSTEP!

Just how natural is honey? The December 1995 issue of **Konsument**, the magazine of the **Verein für Konsumenteninformation** (VKI), examined this question, putting 21 Austrian and foreign blossom honeys to a thorough test.

The result: one out of three had been overheated and/or incorrectly stored. Heating is supposed to prevent the honey from crystallizing; this is only necessary, however, if the honey is no longer fresh. This was predominantly the case with products from abroad, coming, without exception, from major manufacturers and/or distributors.

Hence VKI's advice: those who appreciate untreated honey should obtain it directly from a small beekeeper, as cheap honey from distant countries has, almost of necessity, to be

heated. However, honey from neighbouring countries (Hungary, Slovakia) can be a good second choice, as it is generally both cheap and of good quality.

To conclude on a brighter note, the tests for harmful substances yielded encouraging results. There was very little contamination by toxic heavy metals such as lead and cadmium. Pesticide traces were found in some of the samples, but they were well below hazardous levels.

Contact:

Konsument
Verein für Konsumenteninformation
Mariahilferstr. 81
A - 1060 Vienna
Tel.: +43 1 588 77 232
Fax: +43 1 587 85 65

GERMANY • DIRECT BANKING AND 'FREE' HOLIDAYS: TAKE A SECOND LOOK!

In the January/February 1996 issue of its information bulletin *Die Verbraucherzeitung* (the consumer journal), the **Verbraucherzentrale Baden-Württemberg** (Baden-Württemberg consumer office) warns consumers against:

- 'direct banks', in other words banks which have no public offices but serve their clients via telephone lines that are open around the clock¹. Admittedly these institutions allow consumers to save time and money because the client can stay put and because the absence of office staff leads to savings, some of which at least are passed on to the client. However, the lack of personal advice, notably as regards investments, the fees - sometimes enormous - for keeping an account and availing of the bank's services² as well as the potential abuses associated with phone-based transactions, mean that the net gains from flirting with direct banking are in actual fact quite modest;
- the trips which certain firms allow potential clients to 'win'³. Prizes of this kind are often so many Greek gifts! For example, the 'winner' may either have to pay a supplement for a single room or have to travel with a person of his choice, who will naturally pay the full price... and/or in order to obtain his ticket the 'winner' will have to attend a solemn reception, this being nothing

other than a sales party for flogging products or services, notably timeshares... and/or the trip itself will be an occasion for non-stop harassment of the happy 'winners' by a commando of psychologically versed salesmen. Finally, in certain cases, promises as regards the quality of the trip may well be honoured in the breach, the Hilton transmogrifying into a kip. The Verbraucherzentrale wants to put paid to these scams and in the most flagrant cases has been hauling the transgressors before the courts. At any rate the Verbraucherzentrale urges consumers to refuse the prizes they have 'won'. And consumers who have already accepted prizes, but who have reservations, are urged to contact the Verbraucherzentrale.

Contact:

Verbraucherzentrale Baden-Württemberg
 Paulinenstr. 47
 D - 70178 Stuttgart
 Tel.: +49 7 11 66 91 0
 Fax: +49 7 11 66 91 50

¹ Article titled 'Günstige Angebote Tag und Nacht?' (special offers day and night?).

² Attention in particular to the billing of telephone calls!

³ Article titled: 'Dubiose Reisegewinne' (dubious holiday prizes).

UNITED KINGDOM • OFT GIVES WARNING ON EXTENDED WARRANTIES

'The considerable reluctance of many retailers to display prices of extended warranties in any consistent way suggests that they recognise that most of the five million that they sell each year represent poor value for money', John Bridgeman declared on 30 January.

Indeed, a survey published on that day by the OFT shows that:

- only about a third of retail outlets display the prices of extended warranties;
- only around 40 percent have take-away leaflets with price information;
- the prices of most policies are two, three or even four times the estimated average repair cost of the equipment over the period!

The following improvements are recommended by the OFT:

- price information about extended warranties should be displayed in all stores on boards or posters;
- take-away leaflets, all containing detailed price information, should be present in all stores in full view of customers;
- sales staff should be trained to be more familiar with the specifics of extended warranties.

Retailers have been given until May to comply voluntarily, failing which they face the possibility of being *forced* to display prices through a price marking order¹.



Contact:

Office of Fair Trading
Field House
Breems Buildings
UK - London EC4A 1PR
Tel.: +44 171 242 2858
Fax: +44 171 269 8961

¹ A price marking order can be made under Section 4 of the Prices Act 1974, or Section 26 of the Consumer Protection Act 1987. It determines the way in which prices must be displayed in retail outlets. Breach of it is a criminal offence.

• **TO RESTORE HAIR GROWTH, STAND ON YOUR HEAD!**

On 16 January, John Bridgeman, Director General of the **Office of Fair Trading** (OFT), was granted a court order to stop a London company - Quest Hair Research Ltd - and its director - Derek Tubb - from publishing mail order advertisements for the book *Natural Cure to Baldness* and a hair restoring formula called 'Restore'.

The 'cure' outlined in the book amounted to standing on one's head for a few minutes each day.

The Director General sought the injunction after receiving complaints from the Advertising Standards Authority (ASA)¹ that Quest Hair Research Ltd had continued to publish misleading advertisements after giving the ASA assurances that only agreed copy would be used.

John Bridgeman declared: 'This was a particularly blatant and persistent attempt to mislead consumers and frustrate the

efforts of the ASA to impose self-regulation. Companies should be in no doubt that the OFT will take firm action in such circumstances.'

This action was taken under the Control of Misleading Advertisements Regulations 1988.

Contact:

Office of Fair Trading
Field House
Breems Buildings
UK - London EC4A 1PR
Tel.: +44 171 242 2858
Fax: +44 171 269 8961

² The British advertising industry's self-regulatory body.

DENMARK • DO-IT-YOURSELF - BUT GIVE A THOUGHT TO THE ENVIRONMENT

For anyone who goes along to their local DIY centre, it can be difficult to tell what paints, fillers and other building materials they should choose if, at the same time, they would like their homes to be environmentally friendly.

The **Forbrugerstyrelsen** (Danish consumer institute) has come up with a new leaflet: *På vej mod en bæredygtig bolig* (the way to a home on a solid basis), intended to serve as a shopping guide for men and women interested in DIY and to initiate a debate on how we can care for the environment in our own homes as well as in the community at large.

The leaflet provides six tips for a solid basis for your home:

1. Think long-term. How will you eventually dispose of the materials you are buying now?
2. Think comprehensively. Assess the product on the basis of a life-cycle analysis (cradle to grave).

3. Try to use an old, environmentally friendly method instead of a pungent chemical solution.
4. Bear in mind that the work you are doing should be intended to last. Repair things instead of replacing them, and recycle materials wherever possible.
5. Read labels, such as paint-codes on paint-tins. The lower the number, the better.
6. Protect yourself. Use goggles, masks and other safety equipment.

For detailed technical information on each of these points, please order *På vej mod en bæredygtig bolig* from:

Forbrugerstyrelsen
Amagerfaelledvej, 56
DK - 2300 Copenhagen

and/or call Inge Norus at +45 32 96 06 32 🎵 319
(Fax: +45 32 96 02 32).

CENTRAL AND EASTERN EUROPE • CONSUMER COOPERATIVES IN FULL BLOOM

In the 11 January 1996 issue of *Družstevné Noviny* (cooperatives' journal), the newsletter of the Cooperative Union of the Slovak Republic, appeared the first issue of a supplement entitled *Spotrebné družstvá strednej a východnej Európy Bulletin*¹, in which the Cooperative Union of the Slovak Republic, and each of its partners² in the agreement aimed at bolstering the consumer cooperative movement in Central and Eastern Europe which they signed with the European Community within the framework of the Phare and Tacis programmes, present basic information about themselves as well as the consumer cooperative movement in general and consumer policy in their countries.

To give just a few examples, we learn that in the Czech Republic, although the number of cooperatives has decreased in the past few years, there is a very positive tendency towards the modernization of existing stores and the construction of bigger, more rational units: in 1994 alone, 22 new cooperative supermarkets with an average surface of 650 square metres were opened. In Bulgaria, cooperatives are in fact 'universal' cooperatives, in that they are also the producers of the goods they sell - something which makes it difficult for them to adapt to the market economy. In

Hungary, cooperatives support educational, cultural and sports activities. In Lithuania, cooperatives strive to maintain their presence in rural areas, where they are the most needed. In the Slovak Republic, cooperatives suffered a decrease in number even more dramatic than that of their Czech counterparts (from 12 000 units and a 29% share of the retail market in 1990 down to 3 700 units and 5,4% of the retail market in 1994), but they are fighting back, and have recently regained some of the lost ground thanks to the centralization of purchasing, which enables them to sell better quality goods at lower prices, the modernization and standardization of stores, the organization of workshops on consumer protection in schools that train future store employees, the use of a unified logo to increase public awareness of their existence, etc. Last but not least, the Cooperative Union of the Slovak Republic publishes the above-mentioned *Družstevné Noviny*, which releases results of tests and enquiries and provides information on the activities of cooperatives, best buys, consumer rights, procedures for consumer complaints, new legislation, etc.

The publishers of the supplement *Spotrebné družstvá strednej a východnej Európy Bulletin* hope that the



information it contains - which we have summarised but very perfunctorily - will be of interest to all the proponents of the consumer cooperative cause, whether they live in Central, Eastern, or Western Europe. More issues, focusing on various aspects of consumer policy and the challenges faced by consumer cooperatives in Central and Eastern Europe, should follow.

Spotrebné družstvá strednej a východnej Európy Bulletin (available in Slovak, English, and also in the various partners' languages), as well as *Družstevné Noviny* (available only in Slovak), can be had from:

Cooperative Union of the Slovak Republic
Bajkalská 25
SK - 827 18 Bratislava
Tel.: +42 7 521 33 08
Fax: +42 7 521 49 66

¹ Title of the English version: *Consumer Cooperatives in Central and East Europe Bulletin*.

² EURO COOP, Cooperative Union Ltd of the UK, the Central Cooperative Union of Bulgaria, the Union of Czech and Moravian Cooperatives, Coop Hungary, and the Lithuanian Consumers' Cooperative Societies Union.



— France —

Mail order firms in the high court

The Cour de Cassation (Supreme Court) in its judgment of 30 October 1995¹ confirmed in all points the sentence passed by the Cour d'Appel de Paris on 12 September 1994 on the Director General of the Damart mail order firm, ordering him to pay a fine of FF 100 000 plus FF 30 000 damages to the consumer organization UFC - Que Choisir, on the grounds of misleading advertising and infringement of Article L121-36 of the Consumer Code.

France's highest courts have thus consecrated the principle that participation coupons for all types of advertising lotteries² must always be separate from order forms for goods or services.

Hence, although mail order firms will still be entitled to send the order form and the lottery participation coupon in the same envelope, the confirmation that the two documents

must always be *physically distinct* will help dispel the confusion in the consumer's mind - which certain parties knowingly fostered up to now - between the order and the likelihood of winning a prize.

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¹ Ref.: 594-84.640 PF.

² And not only lotteries that provide as many prizes as there are participants, as alleged by certain mail order firms.

Travel agents: get your brochures sorted out!

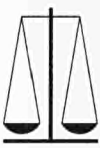
The summer 1992 brochure from Nouvelles Frontières advertised holidays at the Flora Hotel in Bodrum, Turkey. Potential customers were invited to bask in the atmosphere of this three-star hotel at the edge of a 'small beach with amenities', situated '1,5 km from the harbour town of Bodrum' and 'with a poolside barbecue'. And what if they got fed up with lying on the beach or swimming in the pool? No problem: they could go on an excursion to Rhodes.

They were in for a nasty surprise, however. The hotel was in fact 5 km from Bodrum, there was no poolside barbecue, and no excursion to Rhodes was planned to allow holiday-makers to get away from the beach, which was covered with refuse and was host to a sewer outlet.

One holiday-maker returning from a stay in this hotel in September 1992 notified the Union Fédérale des Consommateurs (UFC) and lodged a complaint. Legal proceedings against Nouvelles Frontières followed.

Nouvelles Frontières argued that, despite strict monitoring procedures, it was difficult for it to get reliable information in Turkey, that the barbecue facilities and the excursions to Rhodes had not been provided in September owing to an insufficient number of holiday-makers, that the Flora Hotel had been removed from the editions of its brochure published since this incident, and that it had, after the complaint had been lodged, reimbursed the dissatisfied customer without having been legally forced to do so.

The court of first instance in Paris, however, ruled that Nouvelles Frontières was guilty of advertising that was misleading or likely to mislead, and stated that 'any advertiser must verify the accuracy of its advertising claims'. The court fined the defendant and ordered it to pay damages plus token interest to the UFC, which had brought the action¹.



The UFC lodged an appeal to obtain more damages and also to secure the publication of the judgment in the *Nouvelles Frontières* brochure. The court of appeal in Paris ruled in favour of the first of these applications, but dismissed the second².

The basic aim of the legal action had nevertheless been achieved: the courts confirmed that the contents of travel agents' brochures form part of their contractual obligations.

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¹ Judgment of 17 May 1995, Case No 9420202070.

² Judgment of 11 December 1995, Case No 95/04540.

Bankruptcy: the consumer doesn't always have to foot the bill!

In December 1988 a French consumer bought a TV set on hire purchase. Some days later he was indeed supplied with a TV set... but not the one he had ordered. He returned it to the shop and insisted on getting 'his' set. Two months later, having had no response, he wrote to the seller cancelling his order. Alas, in the meantime the seller had gone into liquidation!

To add insult to injury, the credit institution had already paid for the TV set. Consequently, it took out a court payment order against our friend who, however, immediately opposed it on the grounds that pursuant to the applicable statute¹ the contract of sale and the credit contract are linked operations and the consumer does not have to begin payment until the product has been delivered. Sure enough, the court of first instance of Béthune ruled in March 1991 that the contract was null and void.

But the credit firm appealed the judgment to the Cour d'appel of Douai, which found for the appellant in May 1992. The appeal court argued that pursuant to Article 10 of the above-mentioned law (Article L311-22 of the Consumer Code) the only option open to the consumer was to sue the seller, *while reimbursing his credit*.

With the support of the Centre Régional de la Consommation and the Confédération Syndicale des Familles, our frustrated viewer appealed the case to the Cour de Cassation.

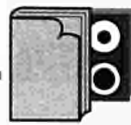
In early 1995 the Cour de Cassation overruled the judgment of the appeal court, ruling that the credit institution was to blame for having paid the money to the seller too early: 'The financed product never having been delivered, because of the seller's fault, the borrower's obligations vis-à-vis the lender are not effective'.

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CRC Consommation
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¹ Law of 10 January 1978, Article 9 (Article L311-20 and L311-21 of the Consumer Code).



Income redistribution, the stimulation of growth and market regulation are the three main forms of state intervention in the economy. Historically the countries of Europe have predominantly opted for the first two forms, hence giving birth to the 'welfare state'.

In ***The European Community: a regulatory state***, Giandomenico Majone shows that by way of contrast the European Community - mainly because of its tight budget - has always played a minor role in redistribution and macroeconomic management, while devoting the great bulk of its efforts to regulation.

The **first and second chapters** describe and analyse the place and role of the regulatory authorities, with a very interesting comparison of the initially diverging and later converging paths followed on both sides of the Atlantic. In Europe, both at Community and Member State level, the (de)regulatory authorities have gradually acquired, if not almost total independence on American lines¹, at least a certain autonomy vis-à-vis the political powers. These two chapters also put paid to the prejudice that privatization and/or deregulation (in the sense of opening a sector of activity to competition) weakens a state's or a group of states' capacities to remedy 'market deficiencies', in other words... to regulate. Indeed, if anything, privatization and deregulation make it both possible and necessary to introduce a whole battery of new rules designed to protect both new entrants and consumers against the introduction of anti-competitive practices which would bring things back to square one.

The **third chapter** focuses on the growth of *Community* regulation in such various domains as the environment², financial services, consumer protection and, naturally, competition. It attempts to explain why the Commission has put forward so much legislation and why the Member States have not only accepted such legislation but, in most cases, even demanded it³.

The **fourth chapter** addresses social welfare law, which the Community has implemented in various ways, for example by enshrining in the Treaty the principle of equal pay for men and women and the rights of migrant workers to social security, adopting the Social Charter, issuing Directives on

health and safety at work, etc. The author argues that the adoption of Community social regulation has been a kind of substitute for the establishment of a European welfare state, which has always been impossible because of the modest amount of resources transferred to Brussels and because of the multiplicity of types of welfare state that exist in Europe.

But, as we all know, for a number of years there have been increasing complaints about the extent of the Community's regulatory activity and growing clamour to guillotine it or at least put a damper on it. And although the debate heated up when the Maastricht Treaty was ratified, it began well before. The proof is that the Treaty negotiators already included a certain number of poison pills, such as the subsidiarity and proportionality principles. In the **fifth chapter**, Majone reviews all these new obstacles to common legislative activity, addresses the question as to whether the Community has erred on the side of overregulation, describes the new style of regulation introduced by the Commission in 1985 to reduce the heaviness and complexity of European regulatory activity⁴, while emphasizing the limits of this option, and finally advances a number of proposals designed to correct one of the most serious defects in the Community administrative process, viz. the lack of coordination of regulatory programmes between different Directorate Generals in the Commission.

The **sixth and final chapter** opens with the following claim: day by day we are witnesses to growing dissatisfaction with the (real or imagined) democratic deficit of the Community. Moreover, at Member State level itself, the workings of the institutions are the target of similar criticisms. In this context, to whom should the Member States or groups of Member States delegate their regulatory functions? Majone argues in favour of administrative authorities which, on the same lines as the Courts, would be independent of the political powers, but nevertheless subject to indirect control on their part, hence constituting what some have called the 'fourth branch of government'.

All of which presages a lively institutional and indeed constitutional debate!

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- ¹ Majone recalls that the break up of AT&T took place *despite the opposition of President Reagan*.
- ² Almost 200 'environmental' Directives were enacted between 1967 and 1987, *i.e.* at a time when the Community authority in this domain was not even recognized by the Treaty of Rome! it was in fact the functional need to integrate the market that lay at the basis of these decisions.
- ³ Another prejudice, that of the 'regulatory mania' of the Commission alone, is hence put paid to. No, the Commission does not *legislate*, all it does is *propose* texts and, in most cases, does so at the request of the Member States.
- ⁴ Via the mutual recognition of national regulations and standards and the delegation of quasi-legislative powers to European standardization bodies.

La Cour de justice des Communautés européennes (the ECJ), by Renaud Dehousse, takes stock of more than four decades of activity of the Court of Justice of the European Communities in around 160 pages. Noting that it has placed itself at the forefront of the development of Community law by taking advantage of the ponderousness of the Community decision-making system to 'constitutionalize' the Community's legal order and exercise considerable influence on its policies, the author describes the Court as the 'driving force' of Europe. This role, not at all typical of an international legal body, raises a large number of questions, of which we shall mention just two. Firstly, how has the Court succeeded in imposing itself in this way when Europe, if we believe in its political and philosophical tradition, should be completely opposed to the idea of government by judges? Secondly, what will be the consequences for the Court of the relaunching of European integration?

Part 1 looks at the privileged position, matched by no other international legal body, held by the Court within the European institutional order.

Part 2 considers the 'constitutionalization of the Community legal order', or the transformation of the Treaty of Rome, which could never have become anything but an ordinary international treaty, into a 'constitutional charter' (the Court's own words in its judgment 294/83 *Les Verts*). It reviews the four factors in this development: the doctrine of direct effect, the primacy of Community law, case-law relating to the powers of the Community and case-law relating to fundamental rights.

Part 3 describes how the Court has exercised growing influence over the political process of Community integration. On many occasions it has had to make up for the shortcomings of the legislator (the Council) by imposing its own interpretation of Community legislation, particularly after the 'Luxembourg compromise', which ended the institutional crisis of 1965-66 but led to the adoption by the Council of incredibly vague legislative texts, owing to the fact that *de facto* if not *de jure* unanimity on the part of the Member States was now required.

In this context, the author makes the point that the Court has not hesitated to go beyond the traditional remit of judicial organs, whether national constitutional courts or, *a fortiori*, international legal bodies, which is to hear cases rather than make the law. How have things come to this? How is it that even its boldest interpretations have hardly ever met with resistance from governments, parliaments and national courts, let alone individual citizens? **Part 4** replies to these questions.

Part 5 presents the repercussions of adoption of the Single European Act and the Maastricht Treaty on the work of the Court, which now has to rule upon a growing number of infringement procedures and inter-institutional disputes relating to the legal basis of legislation adopted¹. It also seems that the cases referred to it increasingly include a socio-political dimension which generally prevails over the economic dimension (obvious instances being the recent *'Kalanke'* and *'Bosman'* judgments).

28



In his somewhat pessimistic conclusion, the author emphasises the principal danger now facing the Court, which is the possibility of confrontation with political power and public opinion which are less favourably disposed towards European integration.

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¹ On this second point, one cannot but admire the almost sado-masochistic perversity of the Maastricht Treaty. Not content with establishing the principle of subsidiarity (a veritable legal Pandora's box), it has multiplied, seemingly for the sake of it, the number of procedures for the adoption of legislation which can be used *in the same field*. For example, regarding the environment or research, no less than four procedures are possible, depending on the type of measure proposed. A complexity which is the delight of lawyers, enabling them to go to the Court to contest not only the measure adopted, but also the legal basis for its adoption!

An 'explanatory brochure' on the new Commission Regulation 1475/95 on the distribution of motor vehicles (OJ No L 145 of 29.6.95) has been published by DG IV 'Competition'. Thanks to its 40 questions-and-answers format in non-technical language, it aims at promoting a better understanding of the new rules by all interested parties. In particular, it has been designed to provide consumers with practical information on how the Regulation guarantees their freedom to buy a car anywhere in the EU.

The brochure is available in all the official languages of the EU and can be had by sending a letter or fax to:

European Commission
DG IV-F-2
rue de la Loi 200
B - 1049 Brussels
Fax: +32 2 296 98 00

29

The objective of the new-look **Single Market News** published by the European Commission's **DG XV 'Internal Market and Financial Services'** is to provide a regular and attractively presented survey of everything to do with the completion of the single market, such as the preparation, proposal and adoption of specific instruments; Court judgments; infringement procedures brought by the Commission against Member States; information measures targeted at European citizens; etc. Thus, topics addressed in issue No 1 of November 1995 included the information campaign 'Citizens First' whose purpose is to inform European citizens about their rights and which will be launched in mid-1996; the adoption by the Council of directives on the protection of intellectual and industrial property, the prudential control of financial services¹ and the protection of personal data; the adoption by the Commission of a Green Paper on the protection of intellectual property in the information society; the free movement of persons in the

internal market; and the ECJ ruling against Germany in a case concerning the incorrect transposal of directives on public tenders - to mention but a few.

The articles are in English or French, with a summary in French or English and German.

To subscribe to *Single Market News*, contact by fax or mail:

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rue de la Loi 200
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¹ The so-called 'post-BCCI' Directive.



Insurance is one of the sectors which gives consumer associations most cause for complaint. Hence the publication by the **Institut Català del Consum** (ICC - Catalan consumer institute) of a report titled **Los seguros privados/Les assegurances privades** (private insurance) and penned by Ignaci Farrando, Professor of Commercial Law at the University of Gerone and recognised expert both in the private insurance market and in consumer protection.

The report defines the notion of insurance, sets out the obligations of insurers and policyholder, analyses 'life' and 'non-life' insurance and, finally, explains how policyholders can best tackle disputes. Regarding disputes, the author

points out that the policyholder's first line of defence - among many - is to appeal to the Dirección General de Seguros del Ministerio de Economía y Finanzas (director general for insurance at the ministry of the economy and finance).

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The **Departamento de Comercio, Consumo y Turismo del País Vasco** (the Basque department of trade, consumer affairs and tourism) has decided that consumers should be informed about their rights and obligations so that disputes can be prevented rather than having to be settled once they have occurred.

For this purpose, it has published a free 96-page **Guía del consumidor del País Vasco** (consumer guide for the Basque Country) of which 500 000 copies have been circulated. Every home in the Basque Country can now therefore consult the guide as the need arises.

The guide looks at the following areas:

- Food. How can food best be preserved? What to do in the event of a dispute with a supplier?
- Business establishments. What are their obligations as regards opening hours, prices, advertising and customer information? What constraints are they subject to regarding special situations such as price-reductions, discounts-sales, closing-down sales, sales promotion, automated sales, non-shop selling (street trading, door-to-door selling, distance selling, occasional selling)?
- Basic services. How to make sense of water, gas, electricity and telephone bills? How to understand contracts for the supply of these services?
- Transport. What are the rights and obligations of transport undertakings and their passengers? What are the most advantageous means of transport? What to do in the event of a dispute concerning lost or damaged luggage, delays, etc.?

- Travel agencies. What are the different types of contract offered? When can a contract be transferred or cancelled or the price be altered? When may a travel agency make changes to arrangements? Is overbooking legal?
- Cars. How to go about buying a new or second-hand car, hiring a vehicle or having it repaired?
- Repair of household appliances. What information should repairers provide?
- Dry-cleaners. To what extent are they responsible for the clothes entrusted to them?
- Housing. When buying a home or renting accommodation, what are the tax regulations to be borne in mind? What precautions should be taken regarding mortgage registration? What provisions should a purchase, sale or lease contract contain? What are the different types of lease available? How is the rent fixed? What regulations are rent deposits subject to? Who is responsible for carrying out what work?
- Banking services. What is meant by basic terms such as mortgage loan, nominal interest and equivalent annual rate, novation and subrogation, personal loans, bank account, fixed-term deposits, investment funds, pension savings plan? What are the differences between the various payment cards?
- Insurance. What are the different types of policy available? Who are the parties entitled to receive payment under a policy? What obligations is each of these subject to? What is the procedure in the event of a dispute?



- Consumption and the environment. How to reduce consumption and re-use and recycle products? How to dispose of used motor-oil? How to combat noise pollution? What is organic farming? Can one have confidence in eco-labels?
- Asserting one's rights. What does an official complaint involve? How does the system of arbitration work? What role can consumer associations play? How to go to court? What procedure is to be followed for what value in dispute?

This information is followed by a list of useful addresses.

Contact:

Dirección de Consumo
C/ Adriano VI 14-16
E - 01008 Vitoria-Gasteiz
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Fax: +34 45 18 99 31

The **Guide pour mieux acheter à crédit** (the better credit-buyer's guide) by Reine-Claude Mader from the **Confédération Syndicale du Cadre de Vie** (CSCV - trade union confederation on the quality of life) addresses the following topics:

- various forms of consumer credit;
- how borrowers can assess their ability to repay;
- the legal framework pertaining to credit operations;
- the elements that make up the cost of a loan;
- insurance measures which the borrower should take, either because they are mandatory or out of prudence;
- fees and guarantees;
- negative credit reports.

The author then summarises in two pages the essential points borrowers must bear in mind before signing a credit contract,

at the time of signature and during performance of the contract.

Finally, there are two annexes containing the articles of the Consumer Code relating to credit and the provisions common to the consumer credit and mortgage loan acts.

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15 place d'Aligre
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The CSCV's SOS CONSOMMATEURS hotline is open Tuesdays, Thursdays and Fridays from 9 to 11.30 a.m. on +33 1 53 17 17 16.

The brochure titled **Les commissions de surendettement** (the overindebtedness commissions), published in December 1995 by the **Centre Régional de la Consommation** of the Nord - Pas-de-Calais Region, describes the new procedure which must be followed by persons with debting problems who wish to come to an amicable agreement with their creditors. Such arrangements have in fact been possible under French law since 1989. However, in 1995 the procedure was amended in several important respects. In brief, the powers of the overindebtedness commissions have been strengthened because it is now to them alone that unfortunate debtors must turn for a solution to their problems, the courts being brought in only as a last resort. Formerly, the courts and the commissions worked in parallel throughout the procedure. One symbol of the commissions'

added clout are the 'recommendations' they may deliver at the debtor's request if he cannot come to an amicable settlement with his creditors. These measures, which are sometimes more favourable to the debtor than those foreseen in the original plan - because they are no longer the outcome of negotiations with the creditors - are communicated to the court, whose job is simply to enforce them... unless they are contested by the creditor or debtor. It is only when the recommendation is challenged that the court itself will draw up a rescheduling plan. In a nutshell: the commissions, which now have quasi-judiciary powers, call the shots. Hence it is essential for persons with debting problems to know how to present their case and to be familiar with the various stages of the procedure. Reading this brochure will help.



Les commissions de surendettement can be had from:

Centre Régional de la Consommation
47 bis rue Barthélémy Delespaul
F - 59000 Lille
Tel: +33 20 60 69 12
Fax: +33 20 42 09 31

In 1992 and 1993 Veronique Neiertz, at the time Minister with responsibility for Consumer Affairs in the French Government, was the driving force behind the law creating a Consumer Code, *i.e.* bringing together all the separate texts under a single cover¹. This Code was introduced because the diversity of consumer law instruments made the law difficult to understand both for consumers and their representatives and professionals.

However, the Code as it stood was still unsuited for mass consumption because it did not include regulatory texts and court rulings and there were no commentaries and analyses so as to make it easier to understand and apply. This gap has now been filled by the **Association Force Ouvrière Consommateurs** (AFOC) with its publication **Code de la consommation - Edition commentée** (Consumer Code, with commentary - Editions Prat).

This work consists of two major parts; a **legislative part** which comprises the five 'Books' that make up the text of the

Code itself (Book I: Consumer information and contracts, Book II: Conformity of products and services, Book III: Debting, Book IV: Consumer associations and Book V: Institutions), and the **annexes**, consisting of five large companion chapters that include all the texts, laws, decrees, etc. which have not yet been codified but which nevertheless determine the conditions under which the Code is applied.

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¹ Somewhat like the recent Belgian initiative to prepare a bill establishing a 'general consumer protection law' (*cf.* the article titled 'Reforming consumer law' in the 'Countries - Belgium' section).

The **Centre Régional de la Consommation** of the Nord - Pas-de-Calais region has designed a new teaching aid intended for consumer information relays called **JACHETE** (I purchase). This is a small briefcase containing five pockets packed with information brochures, exercise sheets and activity suggestions for training sessions which will enable home economics counsellors to help consumers acquire the knowledge they need to shop wisely. So, without even noticing it, these lucky individuals will assimilate the essence of the Consumer Code and learn to defend themselves in the event of a dispute.

The pockets address five topics:

- place of purchase and buyer behaviour;
- selling methods and techniques;

- the labelling of consumer products;
- the contract of sale;
- advertising.

JACHETE costs FF 1 000, a price which also covers shipment and a 12-hour training course on how to use it.

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The most recent publication of the **Welsh Consumer Council** (WCC), *The Consumer and Local Government*, reports on the Conference 'Where Have All the Powers Gone? Consumers and Local Government', held by the WCC in Cardiff on 12 July 1995. The Conference was timed to coincide with the restructuring of local government in Wales¹. This period of transformation was seen by the WCC as an appropriate time to consider how to make local government more consumer/citizen² orientated and to try to bear on the policies of the new authorities.

The objectives of the reorganization of the local government system, as defined by the Government, are to promote local democracy by increasing the accountability of local authorities to the communities they serve; reduce the administrative costs inherent in duplication of central management at county and district level; and improve coordination, quality and cost-effectiveness in the delivery of local services.

While the WCC agrees with these objectives, it is not convinced that the reforms under way will permit to attain them. In particular, it doubts whether the often very down-to-earth problems faced by citizens in their position as consumers of local services can be solved by large scale institutional reforms addressing such nebulous questions as the structure of government.

That is why the papers presented in *The Consumer and Local Government* seek to deal from the viewpoint of citizens/consumers with the issue of how local authorities can best bring concrete responses to their demands. Following a foreword by Beata Brookes, the Chairman of the WCC, and an introduction by Nich Pearson, the Director of the WCC, George Jones of the London School of Economics looks for the answers to the current problems of local government in Wales in its history and evolution since the nineteenth century; William Hague, the Secretary of State for Wales, while arguing that the current reorganization of local government will be of direct benefit to citizens/consumers,

examines how local authorities will use their new powers; Sheila McKechnie, the Director of Consumers' Association, puts forward the view that local government should function more democratically by consulting citizens/consumers on their opinions concerning local services; Kathy Kerswell, of Leicester City Council, tackles the issues of service delivery, public consultation and accountability based on the radical approach taken by Leicester City Council; and Denis Balsom of the University of Wales scrutinizes the impact of the reorganization of local government from a threefold perspective, as he gives attention to the individual as a consumer of local services, a citizen and voter and, where applicable, an employee of local government. Finally, Chris Llewelyn, of the WCC, reviews the contributions, expressing the WCC's opinion on them, and provides some reflections on the Conference as a whole.

Copies of *The Consumer and Local Government* and other WCC reports published in 1995³, as well as additional information, can be had from:

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Email: tim@gwybod.demon.co.uk

¹ As a consequence of the Local Government Act (Wales) 1994, the existing two-tier system of local government - eight County Councils and 37 District Councils - is being replaced by 22 new 'unitary' authorities.

² The report insists that no difference should be made between the two, as the citizen's most direct experience of local authorities is one of 'consumer' of their services - leisure centres, sports facilities, libraries, schools, parks, public transport, museums, theatres, etc.

³ • *Step by Step - A Guide to Producing Information for Users of Social and Community Care Services*;
• *They're Digging a Hole - Again! The Consumer and Street Working*;
• *Consumer Expectations. Satisfaction and Complaints in the NHS in Wales*.



Responsabilité et Accidents Médicaux (liability for medical accidents) is the title of the proceedings of an inter-university symposium held in Belgium on 14 February.

Patients, medical practitioners and insurers alike are dissatisfied with the current state of liability law. The patients are unhappy because it is difficult to obtain legal remedy (on the one hand the burden of proof lies entirely with them; on the other, trying to prove medical malpractice is like embarking on a combat assault course) and because the procedures are protracted, complex and costly; the medical practitioners are unhappy because they fear litigation and are having to pay higher and higher insurance premiums; the insurers are unhappy because they stand to make enormous losses.

The solution (proposed by an independent inter-university working party of law professors) might be to introduce no-fault objective civil liability for such accidents to take the place of the current fault-based liability system.

The point of the symposium was to present this idea to all interested parties: doctors' and patients' organisations, consumer bodies, insurers and the public authorities (Elio Di Rupo, the Deputy Prime Minister responsible for economic and consumer affairs, attended and gave his opinion on the proposals). *Responsabilité et Accidents Médicaux* records the various reactions and reviews alternative reform proposals presented by some of the participants.

The organisers hope that the symposium and its follow-up will generate tangible results.

Copies of *Responsabilité et Accidents Médicaux* (part in French, part in Dutch) may be obtained, along with any further information, from:

Nadine Fraselle
Centre de Droit de la Consommation
Université Catholique de Louvain
place des Doyens 1
B - 1348 Louvain-la-Neuve
Tel.: +32 10 47 85 31
Fax: +32 10 47 85 32

The following booklets have been published by the **Verein für Konsumenteninformation** (VKI - Austria's consumer information organization):

- **Ihre Rechte als Konsument, Volume 1 - Alles im Griff** (your rights as a consumer, volume 1 - everything under control). A standard work setting out the main legal problems facing consumers and explaining by means of practical examples how they can be solved. (Paperback, 192 pages, price: ÖS 158).
- **Wohnen und Mietrecht in Österreich** (tenancy law in Austria). A standard work on tenancy law and a guide to the main problems concerning the landlord-tenant relationship. (Paperback, 180 pages, price: ÖS 158).

- **Kauf einer Eigentumswohnung** (buying your own flat). A standard work on ownership of freehold flats and a guide to the main problems facing those interested in buying an apartment. (Paperback, 110 pages, price: ÖS 158).

They can be had from:

Verein für Konsumenteninformation
Mariahilferstr. 81
A - 1060 Wien
Tel.: +43 1 587 28 07
Fax: +43 1 587 93 00
Email: <http://www.vki.or.at>
<http://www.konsument.or.at>



The **Verbraucherzentrale Baden-Württemberg** (Baden-Württemberg consumer office) has announced the following publications:

- a new edition of the brochure **Baufinanzierung** (home financing), taking into account the tax aids available since 1 January 1996. *Baufinanzierung* helps people who are considering purchasing or building a home to navigate the maze of financing options and to calculate their money needs and the acceptable financial burden. The brochure also compares and explains in simple language the ins and outs of formulas for savings with building societies, mortgages and the associated life-insurance policies;
- a new folder titled **Getränke 2000** (drinks 2000), which casts light on the juicy market for new drinks. Those of us who have observed the recent proliferation of brews with such exotic and dynamic names as 'Performance Drinks',

'Wellness Drinks', 'Iso-Fitness', 'Energy Drinks', etc. - all elegantly packaged in ultra-chic containers - may have wondered whether their added value is proportional to their price... The answer, according to the analyses conducted by the Verbraucherzentrale, is a resounding no: none of these so-called specialities meet the composition criteria laid down by sports medicine. Hence, at a price of over DM 10 per litre, the Sunday athlete will in one case be drinking nothing other than a... fish oil substitute and in another case... aromatic water!

Baufinanzierung and *Getränke 2000* can be had from:

Verbraucherzentrale Baden-Württemberg
Paulinenstr. 47
D - 70178 Stuttgart
Tel.: +49 7 11 66 910
Fax: +49 7 11 66 91 50

More and more Germans are buying homes on the Dutch side of the border, with Dutch citizens doing the same the other way round.

Acquiring property, though, is a complicated matter requiring much thought and a sound knowledge of complex rules and regulations. In addition, things are more difficult where the property is on the other side of a border, given that different countries have different laws and rules regarding property rights, ownership transfer procedures, tax advantages and financing arrangements.

But they have now been made easier by the publication - by the **EUREGIO Grenzüberschreitende Verbraucherberatung/EUREGIO Grensoverschrijdende Consumentenadviesing** (Germany/Netherlands consumer information centre) - of two guides for people thinking of acquiring property in the Netherlands or Germany: **Immobilienkauf in den Niederlanden** in German and **Een huis kopen in Duitsland** in Dutch. Both may be had from:

EUREGIO Grenzüberschreitende Verbraucherberatung
Postfach 11 80
D - 48572 Gronau
Tel.: +49 256 270 217
Fax: +49 256 216 39

EUREGIO Grensoverschrijdende Consumentenadviesing
Postbus 6008
NL - 7503 GA Enschede
Tel.: +31 53 61 56 15
Fax: +49 256 216 39

Further information may be obtained from:

EUREGIO
Enschederstr. 362
D - 48599 Gronau
Tel.: +49 256 270 217
+49 256 270 229
Fax: +49 256 216 39



Konsument in Europa is an information bulletin in German and Dutch from **EUREGIO**. It is targeted not only at inhabitants of the border regions but at all 'mobile' consumers. For example, the January issue reported on the problems encountered by a consumer from Hessen in his dealings with a shady operator specialised in Dutch driving licences and on chain letter scams that promise fortunes to all players on both sides of the border. Other topics addressed

included: 'Dual pricing for products in future?' '+10% is legal', 'Third party insurance still shackled' and 'Moving house - confusion concerning driving licenses'. As always, the bulletin provided useful tips and references in the 'In Brief' section.

To subscribe to *Konsument in Europa*, dial + 49 25 62 70 20 (Germany) or + 31 52 461 56 15 (the Netherlands).

The 1996 edition of **Koll på pengerna?** (wanna take charge of your money?), the great evergreen of **Konsumentverket** (Sweden's consumer board) is now available on the Internet at:

<http://www.kov.se/>

The main purpose of *Koll på pengerna?* is to help households budget their expenditure. But young people (and their parents) will also find detailed information on the difference between the cost of living at home and having a

place of one's own, while 'green' consumers will find tips galore on how to save both their money and the environment.

For those who don't have access to the Internet, the brochure *Koll på pengerna?* can be ordered from:

Konsumentverket
Box 503
S - 162 15 Vällingby
Tel.: +46 8 759 8300
Fax: +46 8 382 215

The publication titled **Marknadsföringslagen i praxis** (marketing law in practice) from **Konsumentverket** - intended both for industry and consumers - contains particulars on the nine new provisions governing marketing practices in Sweden.

To order this publication, contact:

Konsumentverket
Press Office
Box 503
S - 162 15 Vällingby
Tel.: +46 8 759 8300
Fax: +46 8 890 839



Well, those rattling sounds did not stop you buying the used car that was to be your passport to freedom and independence, without upsetting your budget. Alas, some days later, the cookie crumbles. As Murphy's law would have, you are on your way to work and already 10 minutes late for a crucial career interview when your lemon gives up the ghost and refuses to budge.

Does that mean the beginning of your downfall and a radiant future for your dealer?

Not necessarily, provided you follow the tips proffered by the **Forbrugerstyrelsen** (Danish consumer institute) in its

brochure titled **Kort og Godt - om mangler ved brugte biler** (a few words on defects in used cars), which spells out the seller's obligations vis-à-vis the purchaser. In certain cases it is up to him - and not you - to foot the bill for repairs!

To learn more, read the brochure (which you can order on + 45 32 96 07 11) and/or contact:

Tina Morell Nielsen
Forbrugerstyrelsen
Amagerfaelledvej, 56
DK - 2300 Copenhagen
Tel.: + 45 32 96 06 32
Fax: + 45 32 96 02 32

India's **Consumer Coordination Council** (CCC) - created at the initiative of the Friedrich-Naumann-Stiftung (Friedrich-Naumann foundation) and still supported by the Delhi bureau of this non-profit German institution dedicated to helping the world develop in a democratic and pluralist way - serves as a 'common platform' from which consumer organizations can obtain all kinds of regularly updated information and education materials. Its objectives include highlighting the problems faced by Indian consumers, influencing public policies with a view to making them more favourable to consumers, and providing consumer organizations with professional help.

It also publishes a quarterly bulletin titled **Consumer Network**. The December 1995 issue comprised articles on private and public advocacy as a way of promoting public good and bringing about social justice, the trials and

tribulations of telephone users, a Supreme Court ruling on the responsibility of medical practitioners in malpractice cases, how to settle disputes out of court, the new rules governing the Consumer Welfare Fund, etc.

A very well documented and useful publication indeed!

Consumer Network, as well as additional information on the CCC, can be obtained from:

Consumer Coordination Council
62 Qutab View Apartments
Shaheed Jitsingh Marg
New Delhi - 110 016
India
Tel.: +91 11 686 2229
Fax: +91 11 696 0545

Eurohealth is a new quarterly journal on European health policy development published by LSE Health of the **London School of Economics** and the **European Health Policy Research Network**. It contains articles from leading EU and national policy-makers as well as international experts and academics working in the health sector.

The March edition included an interview with Mr Božidar Voljč the Slovenian Minister of Health, and articles by Dr André Prost (WHO Representative to the EU), Mr George Gouvras (Head of the Health Policy Unit in the European Commission, DG V), and Mr Hugh Kerr, MEP.

For subscription details and a sample copy, please write to:

Paul Belcher
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LSE Health
London School of Economics and Political Science
Houghton Street
UK - London WC2A 2AE
Fax: +44 171 955 6803



The **Academy of European Law Trier** wishes to inform our readers about the following colloquiums:

- 16-17 May 1996: **'The new rights of workers in multinational firms'**. Venue: Milan. Languages: Italian, French, English.
- 20-23 May 1996: **'The free movement of workers and human rights in Europe - a Franco-German analysis'**. Venue: Strasbourg. Languages: French, German.
- 30-31 May 1996: **'Deregulation and regulation in air transport'**. Venue: Trier. Languages: German, French, English.

- 30-31 May 1996: **'The status of magistrates in Europe'**. Venue: Paris. Languages: French, German, English.

Contact:

Academy of European Law Trier
Dasbachstr. 10
D - 54292 Trier
Tel.: +49 651 147 100
Fax: +49 651 147 10 20



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