

The European Community and consumers



European File

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Rue de la Loi 200 – B-1049 Brussels

12/87
June-July 1987

At one time the consumer shopped in a small local market and was often personally acquainted with the suppliers. Today he or she lives in a mass market where producers and suppliers are relatively faceless, often very powerful due to amalgamation of businesses and better placed than the consumer to control market conditions. Consumers therefore worry about the quality and safety of products and seek objective information so as to be able to choose wisely according to their needs and their budget. They also want an improved right of redress if goods or services purchased do not match up to their expectations.¹

For these reasons, consumers have formed associations to protect their interests. The growing influence of such organizations has led governments to create specialized public services for consumers and to introduce new laws to protect them.

Stages in the development of Community consumer policy

Although there is no specific reference to a general consumer protection policy in the Treaties which set up the European Community, those Treaties do speak of 'constant improvement' of living and working conditions and the promotion of 'a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living'. In the event, the creation of the European Community has had a rapid and unquestionable impact on the daily lives of consumers:

- A common market has been established between European countries. The abolition of customs barriers has widened the choice of goods and services. This choice will be further enlarged with the elimination of other obstacles (fiscal, normative, etc.) and the completion of the European internal market, which is to be achieved by 1992.
- The common agricultural policy is supposed, under the Treaty of Rome, to ensure the security of food supplies and reasonable prices for consumers.
- European competition law forbids unfair trading practices which can force up consumer prices.
- Finally, the Community is to a large extent open to the world market. The Common Customs Tariff has been lowered, free trade agreements concluded with other countries in Western Europe and cooperation agreements signed with Mediterranean, African, Caribbean and Pacific countries. All this has meant an even wider choice of goods and services.

At their meeting in Paris in October 1972 the Community Heads of State or Government declared that economic development must mean in the first place an

¹ This file updates and replaces our No 12/85.

improvement in the quality of life. This gave the green light for a European consumer policy, the importance of which was also repeatedly underlined by the European Parliament. This policy took shape by means of:

- The creation within the European Commission of a service and then a directorate-general for the environment and consumer protection.
- The creation by the Commission of a Consumers' Consultative Committee, in which the consumer associations can cooperate among themselves and engage in dialogue with the Community institutions. The Committee has 33 members, of whom nine are experts and the others consist of six representatives each from the four big European-level consumer organizations: BEUC, the European Bureau of Consumers' Unions; Coface, the Committee of Family Organizations in the European Communities; Eurocoop, the European Community of Consumer Cooperatives; ETUC, the European Trade Union Confederation. The CCC has issued nearly 140 opinions since it was set up; it is consulted by the Commission at the start of work on matters of interest to consumers and can also issue opinions on its own initiative.
- The adoption by the Council of Ministers in April 1975 of a first Community programme for consumers. Five basic rights were proclaimed: the right to safeguards for health and safety, the right to protection of consumers' economic interests, the right to redress of damages, the right to information and education and the right to representation.
- The adoption of a second programme in May 1981. This confirmed the aims of the first, but stressed the importance for consumers of value for money, as well as problems in relation to services and the need to promote dialogue between consumer representatives and decision-makers in the public and private sectors.
- The organization, beginning in 1983, of the first meetings of the Council of Ministers devoted exclusively to consumer protection and information. These meetings brought together national ministers with responsibility for consumers' problems.

Despite these developments, the progress of Community policy has been less rapid than was hoped for. Among the reasons for the slowness is the fact that the economic crisis has in many cases caused governments and industrialists to consider certain regulations too costly. That assessment is wrong on two counts: firstly, the slowdown in income growth has caused the consumer to be more and more concerned with obtaining value for money; secondly, it is the quality of goods and services and the satisfaction they give to consumers that enables them to command European and world markets and thus to contribute to economic growth and employment. The protection of consumers is therefore not just a 'gimmick' for times of plenty: on the contrary, as a factor in the welfare of citizens and the efficiency of production it is one of the top priorities for action, as the Community sets out to make a reality of the People's Europe and to establish by 1992 a real area without frontiers, in which persons, merchandise, services and capital can circulate without hindrance.

That is why the Community has decided to give new impetus to its consumer protection policy, on the basis of a Communication from the Commission approved by the Council of Ministers in May 1986. The following is a brief account of that policy and the main prospects for its future.

Consumer health and safety

Free circulation of products within the Community broadens competition, thus enlarging the choice available to the consumer and exercising a moderating effect on prices. It still gives rise to problems. On the one hand, goods and services offered for sale should pose no danger under normal use; consumers particularly want protection against risks from certain imported products. On the other hand, the proliferation of different technical regulations and standards at national level often obstructs the free circulation of products. The European Commission has long done its best to try to harmonize these regulations, but has to cope with unwieldy procedures (unanimity in the Council of Ministers, etc.) and has repeatedly seen its efforts overtaken: in the time it took to harmonize one standard at European level a hundred new national ones were created.

The situation was changed for the better by a judgment of the European Court of Justice in 1979, in the *Cassis de Dijon* case. On that occasion the Court affirmed that every product legally made and marketed in one Community country should, in principle, be admitted to the market of every other Member State. That meant that national regulations could not obstruct trade unless they were necessary for overriding reasons, such as protection of public health or consumers' interests, which could take precedence over the free circulation of merchandise.

On that basis the Community has been able to draw up a new approach to technical regulation problems, one of which is founded on the principle of mutual recognition of national regulations in force:

- Since 1984, every new proposal for a national technical regulation or standard must be communicated before adoption to the Commission, which informs the other Member States. If necessary, the application of the new national rule can be suspended, to allow the preparation of measures to prevent the formation of new barriers to trade.
- The Community directives still required to ensure free circulation can now be confined to the definition of essential health and safety conditions for products and groups of products. Under the Single Act, which amends the European Treaties and comes into force in 1987, the Council of Ministers is to adopt these measures no longer by unanimous agreement, but by qualified majority vote. Detailed specification of product characteristics will be delegated to European professional standardization bodies. Until these common standards are adopted, national standards conforming to the essential health and safety requirements are to be recognized at European level, so that products complying with those standards can circulate freely throughout the Community. It may be added that, after certain

excesses of regulation, it is now recognized to be superfluous to impose any uniformity on products of a particular kind destined for a local market. The Community will intervene only when free circulation of products or health and safety are at stake; in those circumstances, it is obliged by the Single Act to ensure a high level of protection for consumers.

Many Community directives have already been adopted to protect consumers while encouraging free movement:

- Food products: European lists of permitted substances and purity criteria have been established for certain foodstuff additives such as colourings, antioxidants, preservatives, emulsifiers, stabilizers and gelling agents. Pesticide residues in fruit and vegetables and the presence of erucic acid in oils and fats for human consumption have been limited to maximum levels. Regulations also govern the composition, manufacture and naming of honeys, fruit juices, tinned milk, cocoa and chocolate products, coffee and chicory extracts, mineral waters; jams and marmalades and chestnut purée. Another directive deals with specialized foodstuffs, such as products for special diets. Yet another lays down rules for the presentation and labelling of foodstuffs (ingredients, 'use by' date, quantity, etc.). Rules also exist on price labelling. A number of directives deal with the problem of substances that come into contact with foodstuffs. These apply in particular to ways of preventing dangerous substances in packaging materials from mingling with the foodstuffs they contain. Quality standards have been applied for trade in fresh meat. The use in food of incubated eggs has been banned, as has the use of hormones for promoting livestock growth.
- Cosmetics: a Community directive regulates the contents, labelling and packaging of cosmetics. It also forbids the use of certain substances and places others, such as colouring agents and preservatives, under strict conditions and restrictions.
- Textiles: European directives deal with the classification of textiles and the labelling of their composition as well as ways of checking the composition of mixed-fibre products. The use of TRIS, a fireproof substance dangerous to health, has also been forbidden for certain types of clothes.
- Dangerous substances: Community directives govern the classification, testing, marketing, labelling and use of many toxic substances such as pesticides, solvents, paints, varnishes, printers' ink, glues and asbestos.
- Pharmaceuticals: Community directives in this area are essentially concerned with testing, assessment and marketing authorization (as well as the suspension and withdrawal of authorization). They also deal with the labelling of proprietary medicinal products and the rights of inventors.
- Manufactured goods; the Community has adopted a number of directives to improve the safety of cars and tractors.

As part of its programme for completing the European internal market, the Community is to adopt by 1992 a number of new measures to extend existing law or

bring it up to date, so as better to ensure the safety of these various groups of products. The possibility is also being examined of creating a procedure for ordering the withdrawal of dangerous products from the entire Community market; at the same time manufacturers could be bound by a general obligation to make and market products that are safe. The Commission is equally concerned to increase the safety of sports equipment and of objects, toys and equipment for children; safety standards are intended in that regard, as well as a ban on the manufacture of objects that could be mistaken for foodstuffs.

Rules and regulations are often necessary for the achievement of political aims, but they are not enough. To bolster the above measures:

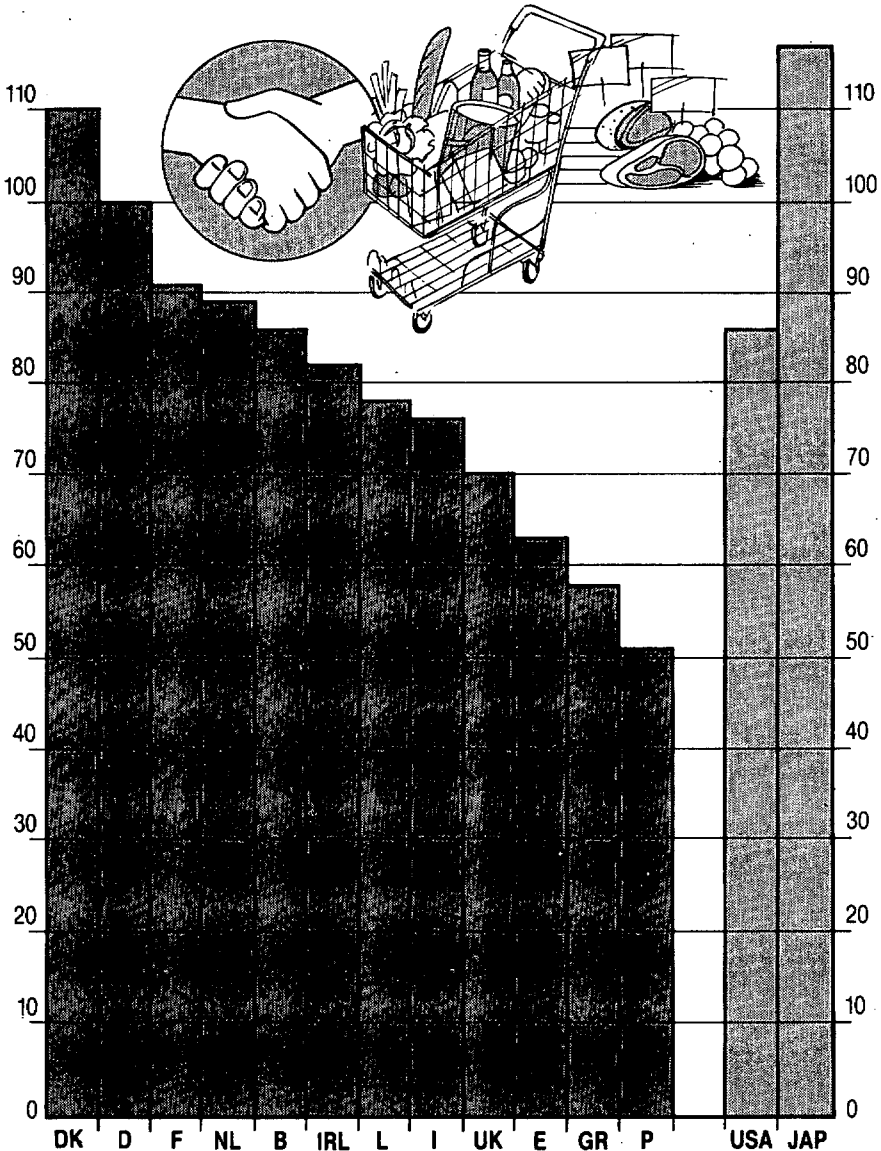
- The European Commission intends closer administrative and technical cooperation with those responsible at national level for the application of Community and national rules. This cooperation has already been started by a first Community conference: it could improve exchange of information, methods of surveillance and training of staff for enforcement duties.
- Community information systems have been set up. Since 1984 there is an early-warning system that enables national authorities to inform the Commission and other Member States of any serious incident resulting from the use of consumer products and possibly requiring urgent measures to protect the health and safety of consumers. In 1986 it was decided to complement these arrangements with a system of information on accidents caused by consumer products. The aim is to organize the collection and analysis of data on a European scale, so as to improve the prevention of such accidents, which cause more injuries than accidents on the roads or at work.
- The European Commission is planning a number of coordinated activities in 1988 to make people more aware of the danger from defective or improperly used products. Specific initiatives are envisaged to improve the safety of children, such as publication of a guide to accident prevention, examination of the possibility of stricter standards for safety lids and danger symbols on chemicals and pharmaceuticals.

The economic interests of consumers

Consumers must be protected against dishonest or improper trading practices on the part of some suppliers of goods and services. Such protection requires measures at Community level: this is another area in which disparity between the legislation of the Member States, in regard to advertising for example, can create a barrier to trade. Also, consumers must not be penalized for trying to take full advantage of the common market by buying in a Member State where prices are lower. The necessary measures must apply to services as well as goods. The services sector is acquiring increasing economic importance; it must be taken fully into account and the realization of a Europe without frontiers must embrace transport, tourism and banking services, insurance and investments in stocks and shares. The free movement of goods is often affected by that of services: the consumer who wishes to buy a car in another Member State will be concerned about conditions for credit, guarantee, etc.

Index of prices for private consumption (January 1987)

For the same 'basket' of goods and services, representative of private consumption, expenditure measured (in the same currency or its exchange equivalent) at 100 in Germany corresponds to expenditure of 110 in Denmark, 91 in France etc. These are, of course, averages: price differences for a specific product will often be greater.



Source: Eurostat.

For better protection of the economic interests of consumers, a number of measures are clearly required:

- After long years of discussion, the Council of Ministers of the Community has recently adopted four directives on misleading advertising (in force since September 1986), door-to-door sales (to be enforced by January 1988 at the latest), manufacturer's responsibility for damage caused by a defective product (enforceable by August 1988) and consumer credit (by January 1990). The consumers of all Community countries, when they make purchases in any Member State, can now avail of a minimum set of Community guarantees: the right to file a complaint against an advertiser, with the onus on that advertiser to prove the accuracy of his claims; a period of at least seven days for reflection and cancellation following the signature of a contract off the vendor's premises; the right to compensation for damage caused by a defective product, even when the vendor is not at fault; the right to trustworthy information on credit terms and to a number of guarantees in regard to advertising, prior repayments, repossession of goods sold and the redress available to the borrower. In addition, the Council of Ministers has just approved a regulation enabling the importation of counterfeit products to be curbed.

- For the future the European Commission's priorities are:
 - Standardization of the way in which charges for credit are expressed, so as to make it easier to compare competing credit offers.
 - Protection of the consumer from improper clauses in standard-form contracts and from dishonest advertising, as well as regulation of comparative advertising.
 - The functioning of after-sales services, so that guarantees are honoured in the country of residence, wherever the product may have been bought.
 - The effects of new technology: regulation of advertising via television satellites, protection of the consumer in the electronic transfer of money and in the ordering of products offered for sale by videotex, protection of privacy and of personal data held on computers.
 - Protection of tourists' interests: harmonization of laws on package holidays, more equitable structuring of air fares, etc.
 - The quality and efficiency of public services and the account they take of consumers' interests.
 - The establishment of general procedures for advice and redress to enable consumers to avail of their rights rapidly and cheaply in the event of minor litigation. The Commission is already supporting pilot projects in this regard.

- Promotion of a wider dialogue between representatives of consumers and of producers and traders. Community legislation could in many cases be usefully complemented by European codes of commercial practice drawn up by voluntary cooperation.

Consumer information and education

- Information: as already mentioned, the European Commission aims to make the public more aware of the dangers involved in the use of certain products. There are already a number of directives dealing with the labelling of foodstuffs and of certain dangerous substances. Other European legislation is concerned with economic information and provides for household electrical equipment to be marked with its energy consumption and for foodstuffs to be marked with unit prices (by the kilo or litre). The Commission would also like to see harmonization of price-marking for goods other than foodstuffs and for services, and is planning to publish a guide to the rights of consumers when purchasing a product in another member country. It is intended to supplement this guide by regularly distributing information on price differences among Member States for the principal goods and services.
- Education: in 1986 the Ministers for Education of the Twelve undertook to include consumer problems in the range of subjects studied during obligatory schooling. In 1979 the European Commission launched a Community network of experimental schools, which tested various methods of educating young consumers. The Commission is planning to support further projects and exchanges of experience in the training of teachers and the preparation of teaching material. It will also do its best to promote the study of consumer problems in higher education.

Taking more account of consumers' interests

The protection of consumers cannot be confined to a programme with that explicit objective. As we pointed out at the start of this file, Community decisions in such policy areas as agriculture, competition or trade have an important impact on consumers. The same is true in regard to environmental policy, transport, regional and social policy, information and communications. In the end the building of a People's Europe and the completion of the internal market are of direct interest to the Community's 322 million consumers.

In October 1986 the Council of Ministers recognized the need to involve consumers more closely in all the decisions that concern them and to take fuller account of their interest in Community policy as a whole. This meant there should be more consumers' representatives on the Economic and Social Committee of the Community; consumers should also be more closely associated with the work of national and Community standardization bodies. For its part the Commission will intensify its contacts with the Consumers' Consultative Committee and with the European

Bureau of Consumers Unions, particularly in such fields as transport and the environment. It will also take care to evaluate the effect of its various proposals on prices and on the quality of goods and services, as well as on competition and on the range of choice available to consumers ■

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