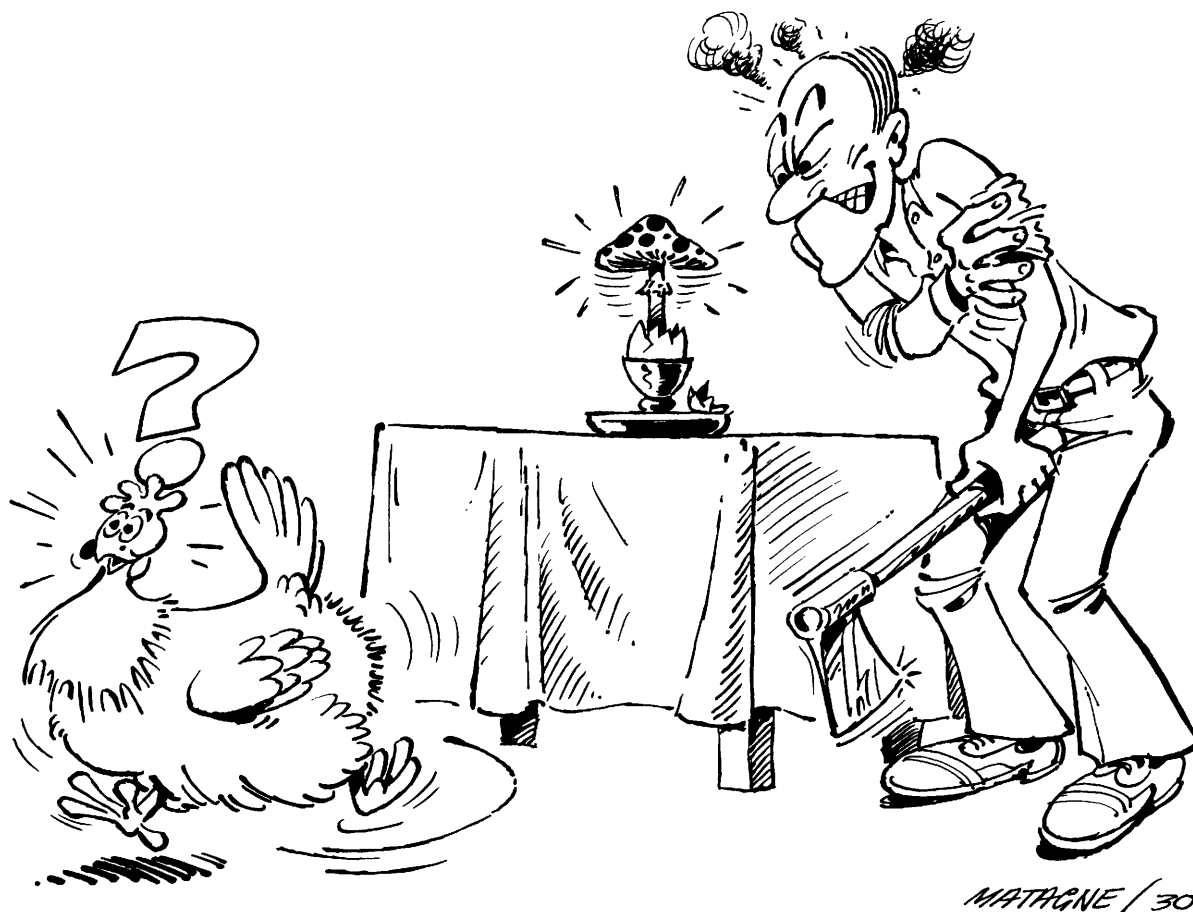


Brussels, 14 September 1976

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"The producer of an article shall be liable for damage caused by a defect in the article, whether or not he knew or could have known of the defect." (Article 1 of the proposal for a directive concerning liability for defective products, which has been submitted to the Council by the Commission of the European Communities).

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**** PROTECTING EUROPEAN CONSUMERS AGAINST DEFECTIVE PRODUCTS**

The Commission has just submitted to the Council a document on liability for defective products which is revolutionary.

In ANNEX 1 Euroforum tells you how the document goes about the difficult task of protecting consumers without upsetting the financial equilibrium of producers.

**** THE EUROPEAN SOCIAL FUND AND VOCATIONAL TRAINING**

The European Commission has just approved the grant of one hundred million units of account (1 u.a. = approx. US \$1.1) in the form of non-repayable aid for vocational training activities in Member States.

ANNEX 2 gives details of how the money is to be allocated and of the problems it should help resolve.

**** CONSUMER PRICE INDEX**

According to the most recent figures published by the Statistical Office of the European Communities, the consumer price index stood as follows at the end of July 1976: (1970 = 100)

	July 1976	June 1976	Change between June and July 1976	Change between July 1975 and July 1976
Belgium	163.7	162.4	+0.8%	+ 9.2%
Denmark	169.1	169.0	+0.1%	+ 7.4%
France	167.2	165.6	+1.0%	+ 9.4%
Germany	140.9	141.5	-0.4%	+ 4.1%
Ireland	219.1 (15 May 1976)		+6.3% ¹	+16.2% ²
Italy	199.6	198.6	+0.5%	+16.5%
Luxembourg	156.1	154.9	+0.8%	+ 9.7%
Netherlands	164.5	165.2	-0.4%	+ 8.4%
United Kingdom	213.9	213.3	+0.3%	+12.9%

¹Change between 15 February 1976 and 15 May 1976.

²Change between 15 May 1975 and 15 May 1976.

**** FARMING IN THE UNITED STATES AND THE EUROPEAN COMMUNITY**

In the "frank and constructive" debate - as diplomats are fond of describing their disagreements - on farm policy which is going on between the United States and the European Community, a few elementary facts and figures must be borne in mind.

The European Community is not yet 20 years old. It began progressively to introduce the free movement of goods some 17 years ago, whereas the United States is celebrating its 200th birthday as an independent federal state. While Europe was entangled in wars of supremacy, the United States was able to set up production structures which competed throughout a huge economic area. The effects of this time-lag of close on two centuries are still visible today.

Comparisons reveal that there are at present 2.8 million farms in the United States against 5.2 million in the Community. The size of the average US farm is approximately 200 hectares, that of the European farm 18 hectares. The manpower-land ratio is 1 : 10 in Europe, 1 : 136 in the USA. In the Community 9.1 million or about 9% of the active

population farm some 90 million hectares to supply 80% of the food requirements of 260 million people. In the United States some four million farmers or 3% of the active population farm less than 500 million hectares to feed 220 million Americans, to whom must be added an additional 40 to 60 million people enjoying an American standard of life in other parts of the world.

The US farmer feeds about 52 people, the EEC farmer about 25; and while there are scarcely any acreage reserves in the Community, a considerable margin still exists in the USA.

**** COMMUNITY AID FOR YOUNG RESEARCH WORKERS**

Between 1973 and 1976 more than two hundred scholarships for doctoral theses, specialized studies and intensive post-graduate research were awarded by the European Commission under the Community's scientific and technical teaching and training programme. During the same period the Commission also organized about two hundred training courses for students, not to mention seminars and advanced study trips.

The proposal for the next Community programme, covering the period 1977-80 and providing for a total expenditure of five million units of account (1 u.a. = approx. US \$1.1), has just been adopted by the Commission. This is first and foremost a research programme, its aim being to encourage contact between young research workers, interest them in Community research and indirectly give the Community the benefit of their special skills.

All the programmes of this type, which date back to 1958, have been geared towards nuclear research, but the next one is to be broader in scope, and will include non-nuclear research into subjects such as non-nuclear energy, solar energy, geothermal energy, environmental research and so on.

**** THE LEAD WE BREATHE**

Lead emitted by motor vehicle exhausts accounts for only some of the lead introduced into the atmosphere from natural and other sources. Research is currently in progress under the Community's environmental research programme to determine the incidence of lead emissions from motor vehicles on environmental and human contamination levels. Under the same programme, a very thorough study is also being made of the effects of lead on health.

Meanwhile, the European Commission has already presented two draft directives to the Council of Ministers, one relating to biological standards for lead and the other to air quality standards for the same pollutant. An earlier draft directive forwarded to the Council on 7 December 1973 provides for a two-phase reduction of the lead content in petrol.

In the production and use of petrol, there is a complex relationship between the consumption of crude oil, lead content, octane rating and engine efficiency. To adjust the octane rating without adding lead compounds could mean the release of other pollutants, not to mention the increased energy requirements and subsequent rise in costs.

A project is also under way to investigate the relationship between the lead content of petrol and the emission of other pollutants.

In the proposed directive on the lead content of petrol, the European Commission undertakes to report to the Council every two years on developments in the situation, and to propose an overall solution to this problem, based on the results of the latest research.

**** THE FOOTWEAR INDUSTRY IN THE EUROPEAN COMMUNITY**

Is the footwear industry the Cinderella of the European economy? With an annual production of up to 1 000 million pairs of shoes (944 million to be exact), or a third of world production, it certainly merits greater recognition. 360 000 persons are employed, mostly

women, not to mention some 150 000 workers in allied industries such as tanning, textiles, mechanical engineering and the plastics and chemical industries. Also to its credit is the fact that it processes animal skins, one of the few raw materials in plentiful supply in the European Community.

But over the last few years the storm clouds have been gathering, and the Community footwear industry is now threatened by the appearance of new competitors on the world market and by official protective measures introduced in some countries (Australia and Sweden) or applied for in others (United States). As the industry is predominantly export-oriented, the fight promises to be fast and furious. This is why the European Commission recently proposed to the Council of Ministers that the Community part-finance a technological research programme for the footwear sector. The research effort will be concentrated on shoe uppers - an important part of the finished product - with particular reference to the rational use of materials and the rationalization of upper-making.

** "YES" TO PORK BUT "NO" TO TRICHINAE

Trichinae are parasitic worms, found in the fresh meat of swine, which readily transfer to the human organism - a sufficient justification for the decision taken by the Member States of the European Community to introduce detection measures for pigmeat imported from non-member countries. As the regulations governing such detection vary from one Community country to another, the European Commission has just presented a proposal to the Council of Ministers for a directive spelling out the conditions under which examination must be effected, and describing the methods to be used. The Commission proposal also provides for the possibility of dispensing with examination in certain special cases, treating the meat instead in such a way as to destroy undesirable trichinae.

** AID FOR URANIUM PROSPECTING

If you have uranium in your garden, make the fact known. You might be entitled to benefit from the draft regulation recently approved by the European Commission providing aid for uranium prospecting in the territories of Member States. This is part of the Community policy to develop energy resources for which the sum of one million units of account (1 u.a. = approx. US \$1.1) has been earmarked under the 1976 budget.

The regulation provides for aid in the form of a non-repayable contribution to the financing of such projects, gives details of how to apply and includes a specimen contract. Recipients will be required to report to the Commission on the progress of their work, and Commission representatives will have authority to carry out any checks considered necessary.

When it comes to publishing the findings, both the European Commission and the contracting party will have the right to use the information obtained, and to circulate the final report.

** ENVIRONMENTAL PROTECTION AND THE ECONOMIC AND SOCIAL COMMITTEE

The European Communities' Economic and Social Committee Section for Protection of the Environment, Public Health and Consumer Affairs is preparing an Opinion on the continuation and implementation of a European Community action programme on the environment. In the light of the first action programme, the Section will call for a radical overhaul of traditional methods of measuring economic growth. The draftsman, Mr Merli Brandini, rejects material wealth as the sole yardstick for GNP and economic growth. A more accurate balance sheet would reflect not only the credit side, the increase in GNP, but the debit side too, the destruction and contamination of natural resources (air, water, soil) occasioned by material growth, or the cost of making good the damage caused.

** ARMAGNAC: TAP AGAIN OPEN

In response to a complaint by a German armagnac importer, the Commission has come out against a ban imposed by the Bureau national interprofessionnel de l'Armagnac (BNIA), France, on sales of armagnac of certain age grades.

BNIA represents the interests of armagnac producers and dealers and, by Government Decree, has legal personality. BNIA claimed that it had decided to ban supplies temporarily, in the public interest: the measure was necessary to improve quality control and ensure that false indications of quality would cease to be the everyday occurrence they had become.

The Commission did not accept this argument. On the contrary, it held the BNIA supply ban to be a private collective measure which had nothing to do with quality control, and it was unable to tolerate the restriction of competition involved.

PROTECTING EUROPEAN CONSUMERS AGAINST DEFECTIVE PRODUCTS

The Commission has just submitted to the Council a document on liability for defective products which is revolutionary. It performs the difficult feat of reconciling two contradictory requirements: protecting consumers and maintaining the financial equilibrium of producers.

The problem

Defective products can lead to extensive personal injuries to, or even the death of, anyone using or consuming them. They may cause damage to property such as will seriously harm the consumer's business interests. The legal position of the injured person is far from being the same in all Community states. While some laws provide for compensation in that they impose liability on the person who produced the defective product, even where no fault exists or can be proved, others require the injured person to prove fault on the part of the producer. It is difficult, and sometimes impossible, to provide such proof. In this case it is the injured party who has to bear the consequences alone.

Liable without being at fault

"The producer of an article shall be liable for damage caused by a defect in the article, whether or not he knew or could have known of the defect.

"The producer shall be liable even if the article could not have been regarded as defective in the light of the scientific and technological development at the time when he put the article into circulation."
(Article 1 of the proposed directive)

Thus, in the Commission view, the producer should be held liable, even if he is not at fault. No other definition of liability can provide adequate protection for the consumer, who would not need to prove that the producer was at fault, or fear having to bear the damage alone, because the producer can prove there was no fault.

Liability, irrespective of fault, does not impose any unreasonable burden on the producer. Normally he can distribute the cost of the damage he has to make good between all the users or consumers of defect-free products from the same range, or from his output as a whole, by including the expense incurred (payment of damages or of insurance premiums) in his general production costs, and in the pricing of his goods.

The producer's liability extends to anyone who suffers damage from the defective product. It is immaterial whether or not the injured person was the owner of the object. It is even irrelevant whether or not the injured party was using the product when the damage arose, or merely happened to be standing near the user.

Dealers have not been included among those persons against whom claims may be brought. The directive proposed by the Commission proceeds from the presumption that the defect must have arisen in the producer's production process. Thus, if only to protect the good name of his product, the producer will do everything he can to prevent defects occurring. If the dealer were made liable, he would pass on the liability to his supplier, who would pass it on in turn to the producer. The Commission therefore felt it better to hold the manufacturer alone responsible.

Claims, but against whom?

" 'Producer' means the producer of the finished article, the producer of any material or component, and any person who, by putting his name, trademark, or other distinguishing feature on the article, represents himself as its producer.

"Where the producer of the article cannot be identified, each supplier of the article shall be treated as its producer unless he informs the injured person, within a reasonable time, of the identity of the producer, or of the person who supplied him with the article.

"Any person who imports into the European Community an article for resale or similar purpose shall be treated as its producer."
(Article 2 of the proposed directive)

The Commission did not think it appropriate to concentrate liability in the producer of the final product as used by the consumer. The term "producer" covers all persons who were involved on their own responsibility in the process of producing the article. Such joint liability strengthens consumer protection. This is particularly true where the producer of the final product is a small firm, but the supplier of the defective component happens to be a large undertaking.

Some wholesalers are powerful enough to be able to sell products under their own trademark, even if they had nothing to do with their production. As a result they will be directly liable, although they are in fact dealers.

In what court?

The European Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters of 27 September 1968 enables an injured person to sue the producer in the court in whose jurisdiction the tortious act occurred, frequently the court of the place where the injured person resides. A judgment in his favour can be enforced in the country in which the producer is established.

What is a defect?

"A product is defective when it does not provide for persons or property the safety which a person is entitled to expect."
(Article 4)

Whether a product is defective in the sense that it cannot be used for its intended purpose is irrelevant. This view of defectiveness comes under the law of sale. Liability can be based only on the absence of safety. It follows that there can be no question of drawing a distinction between persons and property, and of applying in the case of damage to property a different concept of defectiveness from that applied in the case of personal injury. There is a perfectly legitimate interest on the part of the user or consumer of a product that it should not cause damage to his personal property, i.e., that it should also be safe in relation to such property. To restrict the concept of safety to the integrity of the person would be too narrow a view.

An article does not become defective merely because it wears out through use. Anyone using a worn product usually runs a higher risk than a person using a brand new product. The former is not entitled to expect the same degree of safety as the latter.

Two exceptions

"The producer shall not be liable if he proves that he did not put the article into circulation or that it was not defective when he put it into circulation."
(Article 5)

One of the conditions for producer liability is that the defect in the article should arise in the producer's production process. Another is that the producer should have put the product into circulation of his own free will. Liability is therefore excluded where the defect arose only afterwards, or if the article was placed in circulation against the will of the producer, through theft, for instance.

Nevertheless the presumption is that these two conditions, establishing liability, do exist. The producer is free to prove the contrary.

What constitutes damage?

"For the purpose of Article 1 "damage" means

- (a) death or personal injuries;
- (b) damage to or destruction of any item of property other than the defective article itself, where the item of property
 - (i) is of a type ordinarily acquired for private use or consumption; and
 - (ii) was not acquired or used by the injured party for the purpose of his trade, business or profession."

(Article 6)

One thing a number of recent tragedies have taught us. The possibility of death resulting cannot unfortunately be ruled out. The directive proposed by the Commission is therefore intended to cover both the injured person's rights to compensation in the period between the event giving rise to injury and his death, and the rights to compensation of those who had rights against the deceased. These will mainly be commitments to maintain a spouse, or close relatives.

Restricting compensation to the economic consequences of death, and to personal injury, is not possible, since it would not meet the aim of adequate consumer protection. The express purpose of the "Community Programme for a Consumer Protection and Information Policy" is to protect the economic interests of consumers as well as their health. The directive therefore also includes damage to property, insofar as this is necessary to protect the private interests of consumers. It does not extend to damage to economic interests in the commercial sphere.

A maximum amount?

The idea that the producer should be liable without being at fault is already revolutionary enough. It would not do to make the risk to the producer literally incalculable. For this reason the proposed directive limits the producer's liability for "all personal injuries caused by identical articles having the same defect" to 25 million units of account (1 u.a. = approx. US \$1.1). This is an amount which makes it possible to cover to the utmost mass damages affecting some hundreds of people. Damage exceeding these limits should be classed as major disasters, for which the assistance of the general public might be forthcoming.

The producer's liability proposed by the Commission for material damage is restricted to 15 000 units of account per person for damage to movable property and to 50 000 units of account for immovable property. The difference between these figures takes account of the fact that in all Community countries, in most cases, immovable property is insured by the owner against destruction or damage, so that, in general, adequate protection is ensured, whereas this is not the case - at least not to the same extent - with movable property.

These amounts will be reviewed every three years, to take account of economic and monetary trends in the European Community.

Limitation periods

The period of limitation laid down in the directive is three years. However: "The limitation period shall begin to run on the day the injured person became aware, or should reasonably have become aware of the damage, the defect and the identity of the producer" (Article 8). Thus, the vital date is not only the day when the accident occurred but also the day when the injured person acquired all the information on which his legal action against the producer is based.

As for the producer, his liability "shall be extinguished upon the expiry of ten years from the end of the calendar year in which the defective article was put into circulation by the producer" (Article 9).

If the proposed directive is accepted, the liability defined by the Commission will be obligatory. It cannot be restricted or excluded by an agreement between the producer and the consumer. Article 10 of the draft drawn up by the Commission states: "Liability as provided for in this directive may not be excluded or limited". This wording excludes any assertion by the producer that the consumer, by using a product, has voluntarily assumed the risks which might arise from its defectiveness.

An enormous step forward

The proposal for a directive on liability for defective products submitted to the Council is a giant step forward in protecting consumers in the European Community.

THE EUROPEAN SOCIAL FUND AND VOCATIONAL TRAINING

The European Commission has just approved the grant of one hundred million units of account (1 u.a. = approx. US \$1.1) in the form of non-repayable aid for vocational training activities in the Member States. This is the second series of applications for assistance from the European Social Fund. The total budget for 1976 is 440 million units of account, of which 38 million u.a. were granted when the first series was approved last May.

Under the rules of the Social Fund the European Commission can reimburse 50% of the cost of retraining schemes financed by a public authority. In the case of schemes carried out by private bodies, the Commission grant will equal that made by the public authorities.

Categories and sectors in difficulty

Under the heading "Actions in favour of categories and sectors" the European Social Fund can assist in the retraining of persons leaving agriculture, persons leaving the textile industry or acquiring new skills in textiles, migrant workers, handicapped workers and young people under twenty-five years of age and unemployed or in search of their first job.

The total sum earmarked for this heading in the 1976 budget is 198.9 million u.a. 13.9 million u.a. was granted in May for the first series of applications, while the applications just approved will receive a total of 70 million u.a.

The amounts received by the individual Community countries are as follows:

	<u>First series</u>	<u>Second series</u>
Belgium	Bfrs 44.4 million	Bfrs 66.4 million
Denmark	Dkr -	Dkr 1.8 million
France	FF 7.2 million	FF 142.4 million
Germany	DM 18.5 million	DM 54 million
Ireland	£ 0.3 million	£ 0.7 million
Italy	Lit 3 087 million	Lit 9 319 million
Luxembourg	Lfrs -	Lfrs 0.9 million
Netherlands	Fl 2.1 million	Fl 3.2 million
United Kingdom	£ 0.2 million	£ 4.8 million

Young people

Approximately 40 million u.a. have been granted to assist "first priority" schemes for the training of young people who have been unable to find a job since leaving school.

In Belgium the Office National de l'Emploi has organized training courses for about 2 000 young people in search of a first job.

In Germany the Bundesanstalt für Arbeit has launched vocational preparation courses designed to ensure a smooth transition between school and work for the more vulnerable groups of young unemployed. About 5 600 persons are involved.

In France the scheme organized by the Secrétariat Général de la Formation Professionnelle, called "50 000 jeunes", aims at helping those in the sixteen to twenty year age bracket who are insufficiently trained to get a job. The training courses, which are spread through the country, last ten months and about 22 700 persons are involved.

In Ireland about 1 000 young persons will be able to attend special training courses organized by ANCO, the Industrial Training Authority.

In Italy the Ministero del Lavoro is gradually adapting its training courses in the Centre-North regions to make them better suited to the economic development of the eleven regions concerned. The Social Fund aid will help finance courses for about 37 000 young persons. In Tuscany a similar scheme will benefit about 1 500 young persons.

In the United Kingdom the Training Services Agency has organized "intensive courses" to meet the needs of young people under nineteen who have no reasonable prospects of employment. About 3 000 young unemployed will benefit from these courses.

Handicapped

About 10 million u.a. have been allotted to aid short-term demonstration schemes and schemes for training staff involved in rehabilitation work. The schemes assisted by the fund are in Germany, Belgium, France, Ireland, Luxembourg and the United Kingdom.

Migrants

About 4 million u.a. have been allotted to programmes aimed at integrating migrant workers and their families into the economic and social life of the host countries, in this case Germany, France and Italy.

Regions and industries in difficulty

The Social Fund can grant financial assistance for retraining schemes in favour of workers who are threatened with unemployment in the poorer regions of the Community or affected by technical progress or by problems in groups of undertakings.

241 million u.a. have been set aside for this heading under the 1976 budget; 24 million have already been granted in the first series together with a further 29 million in the second series.

The breakdown within the Community is as follows:

	<u>First series</u>	<u>Second series</u>
Denmark	Dkr 13 million	Dkr 2.5 million
France	FF 19.1 million	FF 76.1 million
Ireland	£ 4.2 million	£ 0.9 million
Italy	Lit 5 134 million	Lit 5 712 million
United Kingdom	£ 0.3 million	£ 1.4 million

The regional applications classified as "first priority" are for Ireland, Italy (Abruzzo, Puglia, Basilicata, Mezzogiorno, Campania, Sicily, Molise, Lazio), the United Kingdom (assisted areas, viz. Scotland, Wales, the North-West, the North, the South-West, the North Midlands and Northern Ireland) and France (Limousin, Corsica, Languedoc, Roussillon, Midi-Pyrenees, Brittany, Poitou, Charentes, Basse-Normandie, Auvergne, Vendée-Loire Atlantique and Aquitaine).

The schemes referred to above have all been classed as "first priority". Other training schemes submitted for Social Fund aid have been classed as "second priority", which means that assistance from the Fund will depend on the resources available at the end of the year.