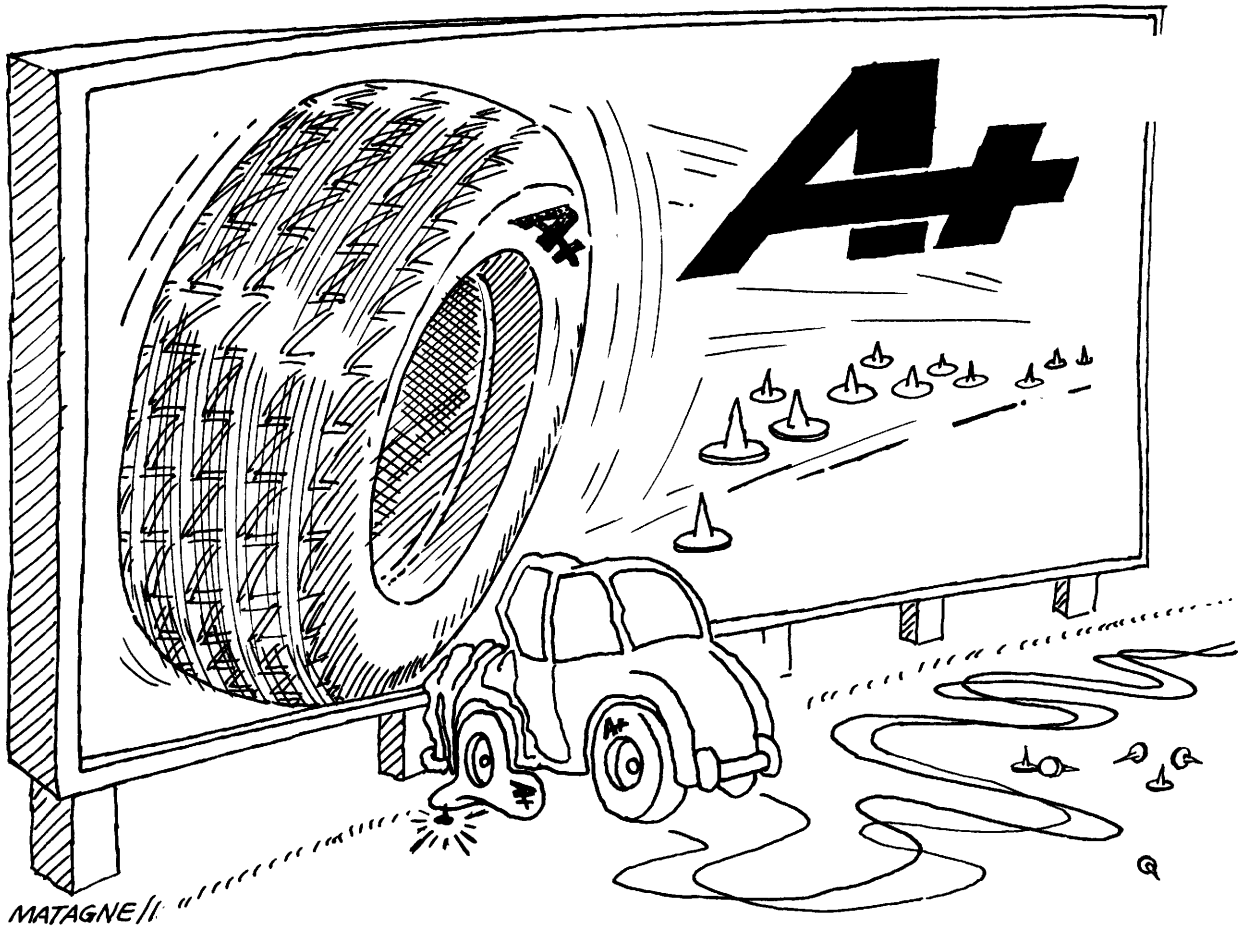


Brussels, 7 March 1978

N° 9/78



Consumers need a minimum standard of protection from adverts which mislead (see page 3).

X/112/78

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Commission of the European Communities
Directorate General of Information
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++ ADVERTISING : ACTION AGAINST UNFAIR PRACTICES

Advertising is of undoubted benefit to the economy as long as it does not mislead and harm the interests of consumers or industrial competitors. To increase the effectiveness of national measures to combat misleading or unfair advertising, standards need to be tightened and legislation harmonised.

In Annex 1, Euroforum outlines the European Commission's proposal to ensure a minimum standard of consumer protection from advertising.

++ CROSS-FRONTIER ARTISTS

It is said that art knows no frontiers but artists in the European Community are certainly aware of the difficulties they face in getting themselves and their works of art across national boundaries. "Cultural workers" such as artists should also have the same rights and benefit from the Community principles of free trade and free movement as other workers.

A report on the measures that need to be taken has been drawn up by the European Commission and is discussed in Annex 2.

++ CONSUMER AND ENVIRONMENTAL FILMS AND SLIDES

The European Commission's Consumer Information Service has been involved in helping environmental protection and consumer organisations produce audio-visual material on European topics.

In Annex 3, Euroforum presents a selection of these programmes together with the films and slide-shows which are available on loan from the Commission itself.

++ MEASURES AGAINST YOUTH UNEMPLOYMENT

Youth unemployment in the Community was estimated at 2 million in the summer of last year, equivalent to 10% increase on 1976. These young people now represent 37% of the total jobless.

At the end of 1977, the European Commission advised the Council of Ministers to take the following measures:

- introduce a Community job creation premium for industry;
- to have the Community participate in the job programmes in sectors of public interest;
- increase Community work in post-school training of young people;

- to give technical support to public training and employment services in Community countries.

The Commission is currently drawing up detailed proposals covering each of these sectors.

++ COMMUNITY BUDGET

The general budget of the European Community for 1978 amounts to 12.4 billion European units of account (1 EUA = ± 1.2 US dollars). This is equivalent to 0.8% of the Community's gross domestic product and about 2.5% of the combined national budgets of the Nine.

Though in absolute terms the Community budget is not small, in relative terms it is somewhat diminutive and is not in fact large enough even to enable the Community to conduct the policies it wishes to develop at the Community level, particularly since three quarters of the budget is spent on one single sector, agricultural policy.

The Commission has been making its views known on the direction which the budget should take for the coming years and in particular the 1979 budget. In the Commission's opinion, next year's budget should have large allocations in the following sectors:

- industrial sector, to organise necessary sectoral changes (developing growth sectors and restructuring and converting troubled sectors);
- social sector, to strengthen action against unemployment and make industrial restructuring in certain sectors more acceptable;
- regional development which should become the centre-piece of Community action in the years to come (the Commission currently spends little more on the regional fund than it does for storing and trading the Community's surplus butter!);
- energy sector where the Community's own resources have to be developed.

++ AT THE C.C.C.

Mr. Richard Burke, European Commissioner responsible for consumer affairs, took part in the meeting of the Community Consumer Consultative Committee (C.C.C.) February 24th. He announced that during 1978 the Commission will try and complete its work in the fields of:

- toy safety
- accidents in the home
- abusive contract clauses
- selling with free gifts
- informative labelling of textiles
- unit-pricing of non-foodstuffs

In discussing the Common Agricultural Policy, which has already been criticised by the C.C.C., Mr. Burke recalled that the Commission's proposals, particularly with regard to prices, tend to provide a better balance between consumer and producer interests.

The C.C.C. was able to compare its own programme with the policy of the Commission. It has renewed the appointment of its President Mr. Dary (COFACE), and its three Vice Presidents Mr. Dumont (BEUC), Mr. Meis (ETUC) and Mr. Spallone (EURO-COOP).

++ LOME AND HUMAN RIGHTS

The Lome Convention which was concluded between the Community and 53 African, Caribbean and Pacific countries (ACP countries) is composed of various forms of cooperation : commercial, industrial, financial and technical. In addition, it provides virtual social security protection for nations through its system of stabilising the export earnings received by ACP countries from 19 basic products. Finally, the "sugar protocol" is a major innovation composed of a reciprocal agreement which guarantees a minimum price to producers and a specific tonnage to buyers. The Convention enabled Community imports from ACP states to increase 14% in value between 1975 and '76.

The arrangement which came into force April 1st, 1976, is due to expire in March 1980 and negotiations for a second Convention will begin before summer. The European Commission will once again negotiate for the Community and a preliminary report on the subject has been drawn up.

In discussing the report with the press, Mr. Claude Cheysson, European Commissioner responsible for development policy, insisted on the need to respect human rights - a concern which he would like to see written into the preamble of the Convention : "We have made a mistake in not indicating more clearly in the present Convention that the prime aim of all cooperation is to serve mankind. This implies that a man's right to live and be respected as a person has to be recognised as the prime concern".

Discussions on this point will be delicate since the ACP partners should not interpret the move as a revival of the colonial spirit.

What would happen, however, if violations of human rights did take place? On this point, Mr. Cheysson insisted on the complexity of the problem : any judgement of a government's actions should be based on the interest of the population. Very flexible formulas would have to be devised.

In addition, Mr. Cheysson listed several arrangements which might consolidate the current situation. For example, by making concertation of certain industrial sectors compulsory, so as to facilitate the free access of ACP countries to the Community. And also to include various provisions to enable ACP countries to encourage private investment when they so wish (c.f. Euroforum 7.2.78).

++ EURO PASSPORT AND LANGUAGE

The European Commission deplors the lack of flexibility displayed by Member States concerning the European passport on two questions of secondary importance - the use of languages and the presentation of the cover - which are preventing the implementation of a political decision taken by their governmental leaders three years ago.

This problem has been stressed in the general report on the activity of the European Community in 1977. This eleventh annual report is available from the Office for Official Publications, PO Box 1003, Luxembourg, price BF 200 or equivalent.

++ UNEP - EEC COOPERATION

Mr. Mustapha Tolba, Executive Director of the United Nations Environment Programme (UNEP) made an official visit to the European Commission, March 7th. Discussions between Mr. Tolba and the Commission aimed at strengthening the cooperation between the Community and the UNEP environmental programmes, particularly concerning the Mediterranean and chemical pollution.

++ REFINERY CRISIS PLAN

Over capacity and declining profitability are the two basic structural problems facing the Community oil refinery industry. The industry, which employs 100,000 people has had to take 82 million tonnes of capacity out of service, and this is still not enough. An additional reduction of 60 million will also be required.

case in front of the courts would involve expensive laboratory tests and numerous analyses which would be more than likely beyond his means even if he could recover his costs at a later date by winning his case.

Under the provisions of the Commission's proposal, the manufacturer of the yoghurt will be obliged to prove in court that its chemically coloured yoghurt is in fact pure fruit.

Experience has shown that an individual, isolated, consumer is basically afraid of engaging in a court case, particularly in the frequent case where the advertising has not actually caused him any physical harm. The right of appeal has been extended to consumer and professional organisations who can take up an individual case and use their resources and expertise to see the case through.

Legal teeth

The courts will be empowered to order an advert or advertising campaign to be stopped, whether the advertiser has committed an offence or not. It will be judged provisionally on the effect of the advertising message on the public and on competitors.

In a proven case of misleading advertising, the courts may oblige the offender to publish their decision or place a corrective advertisement. This provision in itself is expected to dissuade advertisers from taking any risks with potentially misleading or unfair statements.

Finally, Member States will be permitted to introduce, when the case demands, stronger measures to protect their consumers against certain abuses. If tobacco consumption, for instance, were to reach alarming levels, it might require strong government dissuasion and restrictions on advertising.

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This proposal drawn up by the European Commission, has still to be discussed in the Council by the Ministers of the Nine. If it is adopted, Member States will have eighteen months to make the necessary changes to their legislation.

CROSS FRONTIER ARTISTS

Dürer went to Italy, Rubens went to the English court, van Gogh worked in France, and these are just a few of the long list of artists who have transported their creativity far from their place of birth. Europe has greatly benefited over the years from the mobility of our greatest creators, but artists today who try to do the same come up against a number of difficulties and quickly learn the expensive way that frontiers in the Community have not yet been abolished. A Danish artist for example, would be subjected to extremely complex administrative procedures if he were to take himself and his canvasses to a gallery in Milan. So complex in fact that he might be forced to hire the services of an agent or intermediary. Such needless expense does evidently not benefit the growth and expansion of culture in the Community and the European Commission has been looking at ways in which these types of hinderances can be reduced.

Culture and European identity

The Nine's "cultural life" is not limited to a few artists, a few art lovers and a few art patrons (the State for one). The cultural sector should be viewed more as a social and economic entity composed of people and enterprises engaged in the production and distribution of cultural works and services. This definition, though lacking a certain amount of artistic finesse, does at least relate to the real world of the creation, sale and appreciation of modern works of art. In drawing up this definition, the European Commission has made a bold attempt to identify the areas where the Community could usefully intervene without infringing on artistic freedom and creativity.

The protection of European culture has frequently been stressed by Europe's leaders who have repeatedly emphasised that Europe's culture is a fundamental element of its identity.

The Commission takes the view that the mounting economic and social problems facing "cultural workers" in these difficult times have to be dealt with. On the initiative of Dr. Guido Brunner, European Commissioner responsible for education and culture, a report detailing possible measures to be taken has been sent to the Council of Ministers. The basic intention is to provide the cultural sector with all the benefits and advantages of the European Economic Community : free trade, free movement and establishment, harmonisation of tax and law and in particular royalties. There is no shortage of legal teeth for such action in the Treaty of Rome.

Culture knows no frontiers

In the Commission's view, all customs formalities should be dispensed with for artists who transport their works from one Community country to another and, generally speaking, all formalities concerning trade in cultural works within the Nine should be greatly simplified to dispense with the need for agents and intermediaries.

"Cultural workers" also fall into the same category as wage earning and self-employed people in the Community with regard to free movement and establishment. There are practical difficulties however. Artists who wish to seek inspiration outside their own national frontiers do not have a great deal of information on work opportunities in other countries at their disposal. Artists, as other workers, should soon be able to use the "SEDOC" (European system of information distribution on the supply and demand of jobs) which is shortly to become operational. This will spare them from having to place blind confidence in agents and impresarios.

Exploited artists

Another cultural problem is royalty payments which are becoming increasingly complex with the development of technology. The increasing use of photocopying machines, tape recorders, and video equipment prevents writers, painters as well as performers from receiving all the royalties to which they are entitled. The basic problem is how to ensure that through extending culture to the general public by way of such inexpensive recording devices, the artists themselves do not lose out.

As a solution, the Commission has proposed the inclusion of a certain sum on the price of the reproduction material used (photocopying paper, magnetic tapes etc.) as an indirect royalty payment. The money collected from this levy would be distributed by appropriate organisations (performing rights society etc.) to authors and interpreters.

Transfer royalties

The Commission also wishes national legislation on "the right of pursuit" to be harmonised. These particular royalty payments enable artists or their successors to take a percentage of the price each time one of their works changes ownership. In this way artists who are forced to sell their early works for derisory amounts can benefit financially from the rise in value of these works as their success increases.

Such transfer royalties only exist legally and are currently used in six Community countries : France, Italy, Denmark, Luxembourg, Germany and Belgium (where they only apply to sales at auctions). The remaining three Community countries do not apply this right.

The net effect of such differences within the Nine amount to an unacceptable social inequality for artists on the one hand and a distortion in trading conditions on the other. The risk of both is that they will stifle artistic talent.

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The European Commission may not be Maecenas the patron saint of artists, but it does wish to ensure, like him, that talent can be given the opportunity to flourish. It is not unlikely that the Nine's ministers of culture will meet in the near future to decide on measures that need to be taken.

CONSUMER AND ENVIRONMENTAL FILMS AND SLIDES

The Commission's Consumer Information Service has been involved in helping a number of consumer and environment protection bodies produce audiovisual material on European topics.

A selection of these programmes, as well as films and slide shows which have been produced by the Commission for loan to these organisations, are presented below.

1. EUROPEAN COMMISSION PRODUCTIONS FOR NON-COMMERCIAL DISTRIBUTION

A. FILMS DEALING DIRECTLY WITH ENVIRONMENT AND THE PROMOTION OF CONSUMER INTERESTS

- INDUSTRY AND SOCIETY

Cartoon - 16mm colour - 9 minutes - dubbed
English, French, German, Italian, Danish, Dutch versions

This film deals with the consumer protection role of the Commission in setting up the Consumer Consultative Committee, and discusses the five basic consumer rights : right to protection of health and safety, right to protection of economic interests, right to redress, right to information and education, right to representation.

- TECHNICAL BARRIERS AND CONSUMERS

Colour cartoon - 8 minutes - sound on magnetic track
French version only

This is a field where the European Community could be of concrete use to the consumer since it involves the removal of technical barriers to the free movement of goods within the Common Market. The film illustrates the work being undertaken to harmonise product standards and to increase the choice of products coming from different parts of the Community.

- DOLLARD : NATURAL BIRD SANCTUARY IN HOLLAND

The Dollard is a deep inlet in the Ems estuary on the North Sea coast. Thousands of birds live there and many frequent the place during migration. The Dutch authorities however decided to drive a canal across the land but met with resistance from the Dutch friends of the earth who eventually forced a change of plan. The European Parliament also requested the Commission to discuss the matter with the Dutch authorities. Water, sea and air pollution can no longer be a purely national affair.

B. GENERAL FILMS ON THE WORKINGS OF THE EUROPEAN INSTITUTIONS AND ON EUROPEAN INTEGRATION

- EUROBUS

16mm colour - 14 mins - dubbed
French version
English, German, Italian, Danish and Dutch versions
in preparation

The workings of the European Institutions and the decision making process in the Community may appear complex. This cartoon explains these processes and defines the specific roles of the Institutions.

- EUROPEAN STEREOTYPES

16mm colour - 34 minutes - dubbed
English, French, German and Dutch language versions

In a humouristic way, this film illustrates the cliches and prejudices which determine the stereotyped view of our Community partners.

- EQUALITY AT WORK

16mm colour - 24 minutes - dubbed
French version
English, German, Dutch, Danish, Italian in preparation

A survey undertaken of the reality of equality at work between men and women throughout the Community is discussed, together with the Community's contribution to the solution, particularly regarding equal pay, equal access to work and the development of vocational training.

2. OTHER PRODUCTIONS

A. FILMS

- FIGHT FOR THE SEA

16mm - 25 mins
Commentary in French (English version in preparation)
and interviews are in Dutch, Italian, French and English

Documentary film dealing with sea pollution from wastes from the production of titanium dioxide.
Available from : DUPUIS FILMS, 233 ch. de Vleurgat,
B-1050 Brussels - Tel : (02) 647.42.66.

A plan put forward by Dr. Guido Brunner, European Commissioner responsible for energy, has just been adopted by the Commission. It proposes that no new distillation plant be created until at least 1980/81 (except in special circumstances) and that distillation capacity be reduced from now on. The Commission's plan gives industry the responsibility for carrying out the plan. If they do not assume this responsibility, stricter measures will be introduced.

++ SHORTAGES ON THE HORIZON?

How soon until our resources run out and we are faced with poverty and hunger? A new book just published entitled "La penurie n'est pas pour demain" (No scarcity tomorrow) gives an optimistic answer to these questions. Written by Gilbert Castelain, a co-founder of the European Bureau of Consumer Organisations, (BEUC) and a former President of the organisation, the book is published by Editions Vie Ouvrière (Brussels).

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ADVERTISING : ACTION AGAINST UNFAIR PRACTICES

"Skin, fresh as Swedish air"..... this appealing slogan, which evokes the sparkling freshness of fjords and snow, and the legendary attractiveness of Scandinavian blondes, was used by a perfume manufacturer to launch a new brand of beauty products.

The effectiveness of this sort of imagery is now probably waning and through consumer education, consumer associations have certainly made things more difficult for this type of approach. Other manufacturers however have preferred to use more scientific or pseudo-scientific arguments in attacking the cosmetics market : "Our beauty aids are so natural they are hypo-allergic. Even if your skin is sensitive to allergies, you can have confidence in them". The consumer is thereby subtly persuaded that the manufacturer would not have invented such a claim. Hypo-allergic gives the impression that the ingredients have been laboratory tested and are safe.

Things, however, are not always as evident as they seem and the European Bureau of Consumer Organisations (BENC) chose this particular example to illustrate the point. Subject to laboratory tests, the beauty aids in question revealed that eight of the fifteen ingredients were certainly skin irritants, two more were potentially so. The word hypo-allergic has only minimal scientific worth.

Legal maze

All Community countries, fortunately, have made misleading and unfair advertising illegal with a view to protecting the interests of consumers. The approaches employed, however, vary widely. Some laws relate to commercial practices, some to competition, some have advertising codes of practice, and there are a variety of regulations. This disparity in approaches does not work to the advantage of the consumer who needs to be protected by well coordinated regulations. Nor does it work to the advantage of advertisers themselves who are confronted with a wide variety of problems when they try to extend their advertising campaigns to other Community countries. With radio and to a certain extent T.V., (countries such as Belgium pick up broadcasts from Germany, the U.K., France, Luxembourg and Holland) advertising can ignore national boundaries. This does fortunately encourage the free movement of goods and services, but if advertising and consumer interests are to be reconciled, the rules of practice governing such advertising should not differ between countries.

With this in mind, the European Commission has drawn up a proposed directive to try and reconcile these interests by reducing the disparities between the laws and controls in individual countries and harmonising the legal provisions.

This is intended to give consumers greater protection and ensure their basic "civil rights" with regard to advertising.

The first problem to be tackled is to define precisely what constitutes misleading and unfair advertising. It will then be up to the national authorities to take action against these two forms of advertising chicanery.

Advertising tricks

Misleading advertising is defined as advertising which is totally, or in part, false, and causes or risks causing the person it reaches to make a mistake. Unfair advertising concerns all sorts of publicity which gives a boost to one product by discrediting its rival products. It is also "unfair" to employ publicity which plays on people's fears, particularly regarding race discrimination or religion, or publicity which blatantly ignores the principle of social, economic and cultural equality between the sexes. Advertising which exploits the gullability or inexperience of consumers is also unfair.

Small print

Omissions can also be misleading, as can the small print on adverts, when for example it announces that the litre bottle only contains 0.7 of a litre, or that the announced one year guarantee is only valid under certain circumstances. In conclusion, omissions are as punishable as claims which cannot be met by the advertiser.

The same rules apply to comparative advertising which should only compare essential and verifiable elements and thereby be a source of valuable information for the consumer. It should never be misleading or unfair. This does not concern, however, the comparative tests undertaken by consumer associations who are, naturally enough, not engaged in advertising.

Frying pan into the fire?

What if the advertisers ignore the law? How can the consumer, with his limited resources and expertise, produce the necessary scientific evidence of proof for the case and start an expensive court action? This legitimate consumer concern has been answered in the directive proposed by the European Commission. The responsibility for providing proof in a case of alleged misleading or unfair advertising has been reversed and the accused advertiser would have to prove his innocence of the charge.

Pure fruit

If for instance someone were to find that the strawberry yoghourts he had been buying for years contained only strawberry colouring and no strawberries, for him to prove his

B. SLIDE SHOWS

- EUROPEAN CONSUMER AND COMMON AGRICULTURAL POLICY

160 slides - cassette sound - recorded cues - 22 mins
English, French, German (Danish in preparation)

Subject matter : Opinion of consumer organisations
on the C.A.P.

Producer : European Bureau of Consumer Organisations
(BEUC)
rue Royale, 29
B-1000 Brussels
Tel : (02) 219.13.30 or 219.13.39

- FOOD AND SAFETY

64 slides - cassette sound - recorded cues - 20 mins
French version only

Subject matter : - quantity and quality of food
- food in its natural state
- processed food
- regulations on physical protection
- nutritional education
- purchasing education
- consumer protection bodies

Producer : NATIONAL CONSUMER INSTITUTE (I.N.C)
rue du Sevres, 98
F-75326 Paris Cedex 07
Tel : 566.84.01

- CONSUMER PROTECTION

96 slides - cassette sound - recorded cues - 28 mins
Italian version only

Subject matter : - consumer/seller relationship
- foodstuffs
- advertising
- consumer action by European Community

Producer : ORGANIZZAZIONE PER LA PREPARAZIONE PRO-
FESSIONALE DEGLI INSEGNANTI (OPPI)
via Orseolo 1
I-20144 Milan
Tel : 835.09.05

- CONSUMER FAMILIES IN EUROPE

44 slides - cassette sound - recorded cues - 18 minutes
English, French, German versions

Subject matter : - consumer families
- common concerns
- family budget
- information
- action of COFACE

Producer : THE COMMITTEE OF FAMILY ORGANISATIONS IN
THE EUROPEAN COMMUNITIES (COFACE)
rue du Trône, 125
B-1050 Brussels
Tel : (02) 513.91.70

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PRESS AND INFORMATION OFFICES OF THE EUROPEAN COMMUNITIES

BELGIUM

1049 BRUSSELS
Rue Archimède 73
Tel. 735 00 40/735 80 40

DENMARK

1045 COPENHAGEN K
4 Gammeltorv
Postbox 144
Tel. 14 41 40

FRANCE

75782 PARIS CEDEX 16
61, rue des Belles-Feuilles
Tel. 553 53 26

GERMANY

53 BONN
Zitelmannstrasse 22
Tel. 23 80 41

1 BERLIN 31
Kurfürstendamm 102
Tel. 8 92 40 28

IRELAND

DUBLIN 2
29 Merrion Square
Tel. 76 03 53

ITALY

00187 ROME
Via Poli, 29
Tel. 68 97 22 à 26

LUXEMBOURG

LUXEMBOURG
Bâtiment Jean Monnet B/O
Rue Alcide de Gasperi
Luxembourg-Kirchberg
Tél. 43011

NETHERLANDS

THE HAGUE
29, Lange Voorhout
Tel. 070-46 93 26

UNITED KINGDOM

LONDON W8 4QQ
20, Kensington Palace Gardens
Tel. 727 8090

CARDIFF CH1 9SG
4 Cathedral Road
Tel. 371631

EDINBURGH EH2 4PH
7, Alva Street
Tel. (031) 225.2058

CANADA

OTTAWA, Ont. K1R 7S8
350 Sparks St.
Suite 1110
Tel. 238 64 64

CHILE

SANTIAGO 9
Avenida Ricardo Lyon 1177
Casilla 10093
Tel. 25 05 55

GREECE

ATHENS 134
Vassilisis Sofias 2
T.K. 1602
Tel. 743 982/83/84

JAPAN

102 TOKYO
Kowa 25 Building
8-7 Sanbancho
Chiyoda-Ku
Tel. 239-0441

SWITZERLAND

1202 GENEVA
37-39, rue de Vermont
Tel. 34 97 50

TURKEY

ANKARA
Kavaklidere
13, Bogaz Sokak
Tel. 27 61 45/46

UNITED STATES

WASHINGTON, D.C. 20037
2100 M Street, N.W.
Suite 707
Tel. (202) 872-8350

NEW YORK, N.Y. 10017
245 East 47th Street
1 Dag Hammarskjöld Plaza
Tel. (212) 3713804