

COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT

PRESS RELEASE

7459/92 (Presse 131)

1594th Council meeting
- CONSUMER PROTECTION -
Luxembourg, 29 June 1992

President: Mr Carlos BORREGO,

Minister for the Environment
and Natural Resources
of the Portuguese Republic

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

Belgium:

Mr Melchior WATHELET Deputy Prime Minister,
Minister for Economic Affairs

Denmark:

Mr Niels Henrik SLIBEN Deputy Permanent
Representative

Germany:

Mr Johan EEKHOF State Secretary for Economic
Affairs

Greece:

Mr Jean CORANTIS Deputy Permanent
Representative

Spain:

Mr José Antonio GRIÑAN Minister for Health and
Consumer Affairs

France:

Mrs Véronique NEIERTZ State Secretary for Consumer
Affairs, Ministry of Economic
and Financial Affairs and the
Budget

Ireland:

Mrs Mary O'ROURKE Minister of State at the
Department of Industry and
Commerce with special
responsibility for Trade and
Marketing

Italy:

Mr Rocco A. CANGELOSI

Deputy Permanent
Representative

Luxembourg:

Mr Fernand BODEN

Minister for the Family,
Small and Medium-sized
Businesses and Tourism

Netherlands:

Mr Ate OOSTRA

Deputy Permanent
Representative

Portugal:

Mr Carlos BORREGO

Minister for the Environment
and Natural Resources

Mrs Teresa GOUVEIA

State Secretary for the
Environment and Natural
Resources

United Kingdom:

Baroness DENTON OF WAKEFIELD

Parliamentary Under-Secretary
of State, Department of Trade
and Industry (Consumer
Affairs)

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Commission:

Mr Karel VAN MIERT

Member

GENERAL PRODUCT SAFETY

At the close of the co-operation procedure with the European Parliament the Council definitively adopted the Directive on general product safety.

The aim of the Directive is to ensure that products placed on the market are safe, in particular by introducing a general obligation at Community level to produce and market only safe products. Member States have a maximum period of 24 months in which to comply with the Directive (see Press Release 8530/91 Presse 165 of 15.X.91).

UNFAIR TERMS IN CONTRACTS

The Council registered its agreement in principle ⁽¹⁾ on a common position on the Directive on unfair terms in consumer contracts.

The Council instructed the Permanent Representatives Committee to finalize the text, in particular the indicative list of terms which may be regarded as unfair, with a view to formal adoption of the common position at a forthcoming Council meeting.

(1) One delegation made its agreement conditional upon completion of its internal consultation procedures.

This text should contribute to the establishment of the Single Market, insofar as it represents an important stage in the improvement of consumer protection by providing for the approximation, by 31 December 1994 at the latest, of the laws, regulations and administrative provisions of the Member States relating to unfair "non-negotiated" terms in contracts concluded between a consumer and a seller or supplier acting for purposes relating to his occupation, whether in the public or private sector. (1)

The text states that a term which has not been negotiated shall be regarded as unfair if, contrary to the requirements of good faith, it causes to the detriment of the consumer a significant imbalance in the parties' rights and obligations arising under the contract. In particular, the Directive gives consumers' organizations the opportunity to represent consumers before the courts in cases where terms which may be unfair are to be for general use.

The Directive adopts a minimalist approach, leaving open the possibility for Member States, with due regard for the Treaty, to ensure a higher level of protection for the consumer by means of more stringent provisions.

(1) Contractual terms reflecting binding statutory provisions or regulations and provisions or principles of international agreements ratified by the Member States or the Community, particularly in the transport sector, will not be subject to this Directive.

COMPARATIVE ADVERTISING

The Council discussed the proposal for a Directive concerning comparative advertising and amending Directive 84/450 on misleading advertising.

After the discussion, which dealt mainly with the question of the advisability of Community legislation on the subject, the Council instructed the Permanent Representatives Committee to look into the proposal in greater detail, particularly in the light of the European Parliament's Opinion.

LIABILITY OF SUPPLIERS OF SERVICES

The Council discussed the proposal for a Directive on the liability of suppliers of services.

After its discussions, the Council took note of progress and instructed the Permanent Representatives Committee to continue to examine the proposal, particularly in the light of the European Parliament's Opinion.

FUTURE PRIORITIES FOR DEVELOPING CONSUMER PROTECTION AND INFORMATION POLICY

The Council agreed to the Resolution in the Annex. ⁽¹⁾

(1) Two delegations entered provisional reservations on linguistic grounds.

EHLASS

The Council noted the Commission's intention shortly to submit a report on the EHLASS demonstration project (Community system of information on accidents involving consumer products) and a proposal to prolong the system for a fixed period.

CONTRACTS NEGOTIATED AT A DISTANCE

The Council heard a statement from Mr VAN MIERT, Member of the Commission, in which he introduced the proposal for a Directive on the protection of consumers in respect of contracts negotiated at a distance.

The purpose of the proposal is to approximate the laws, regulations and administrative provisions of the Member States concerning contracts negotiated at a distance between consumers and suppliers and the soliciting of custom and preparatory acts with a view to such contracts and to establish a minimum basis for the protection of consumers in respect of contracts negotiated at a distance.

The Council instructed the Permanent Representatives Committee to examine the proposal, particularly in the light of the European Parliament's Opinion.

CONTRACTS RELATING TO TIME-SHARE REAL ESTATE

The Council heard a statement from Mr VAN MIERT on the draft Directive, which lays down minimum standards for consumer protection in relation to contracts on the use of time-share real estate.

The Council instructed the Permanent Representatives Committee to examine the proposal, particularly in the light of the European Parliament's Opinion.

SWEETENERS FOR USE IN FOODSTUFFS

The Council noted that there was not the necessary unanimity for this matter to be approved and decided to terminate the procedure.

It should be noted that the Commission has just submitted a new proposal on the subject, which will be examined by the Council as soon as possible.

MISCELLANEOUS DECISIONS

Co-operation Agreements on research and technological development programmes in the field of renewable raw materials

The Council adopted Decisions concerning the conclusion of Co-operation Agreements between

- the EEC and Finland on a research and technological development programme in the field of renewable raw materials: forestry and wood products (including cork) (FOREST)
- the EEC and Sweden on a research and technological development programme in the field of renewable raw materials: forestry and wood products (including cork) (FOREST) and the recycling of waste (REWARD).

Agriculture

The Council adopted the common position with a view to the adoption of a Directive amending for the first time Directive 88/344/EEC on the approximation of the laws of the Member States relating to extraction solvents used in the production of foodstuffs and food ingredients.

It should be noted that Community legislation on this subject is designed, generally speaking, to harmonize national laws relating to extraction solvents in order to facilitate free movement of foodstuffs, while safeguarding health.

The purpose of the amendment is, firstly, to regulate certain substances hitherto governed by national law and, secondly, to revise the existing provisions, in particular Annex II of the 1988 Directive.

Permissible sound level and exhaust system of motor vehicles

The Council adopted the common position with a view to the adoption of a Directive amending Directive 70/157/EEC on the approximation of the laws of the Member States relating to the permissible sound level and the exhaust system of motor vehicles.

EEC-Yemen Co-operation Agreement

The Council authorized the Commission to negotiate an exchange of letters to extend the scope of the Co-operation Agreement to the whole of the territory of the new Republic of Yemen.

ECSC

The Representatives of the Governments of the Member States of the ECSC, meeting within the Council, adopted the Decision on certain measures to be applied, in respect of Central and Eastern European countries, to trade in iron and steel products covered by the ECSC Treaty.

This Decision concerns in particular import possibilities in 1992 for Germany, Italy and Benelux of steel products from the ex-USSR, Bulgaria and Romania.

COUNCIL RESOLUTION

of

on future priorities for the development
of consumer protection policy

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community,

Whereas the improvement of the quality of life implies, inter alia,
protecting the health, safety and economic interests of consumers
and informing and educating them;

Whereas measures taken under Article 100a of the Treaty must provide,
for a high level of consumer protection, particularly in the case of
consumer health and safety;

Whereas, in addition, the Maastricht European Council considered that consumer protection should be included among the Community's policies;

Whereas a Resolution of the European Parliament on the need to enhance consumer and public health protection for the realization of the internal market was adopted on 11 March 1992;

Whereas the Council Resolution of 9 November 1989 set out future priorities for a relaunch of consumer protection policy which continue to be valid;

Whereas the Three Year Action Plan (1990-1992) of the Commission has been progressively implemented but not yet fully realized;

Whereas the Commission should be asked to draw up a further plan to address consumer protection policy issues in the years ahead taking account of the priority measures in the previous plans which have not yet been carried out, technological and socio-economic changes and the need to develop the European Community;

Whereas the goods and services supplied to consumers must not endanger or put at risk consumer health and safety;

Whereas the consumer's freedom to choose from a diverse range of goods and services should be assured by improved information;

Whereas consumers' capacity to choose should be enhanced by fostering education programmes at the appropriate levels;

Whereas further measures to secure consumer confidence in the operation of the single market are required particularly in the areas of transparency, information, guarantees and warranties;

Whereas it is important to promote consumer redress within the meaning of the Resolution of 25 June 1987 on consumer redress ⁽¹⁾ and the Resolution of 9 November 1989 on future priorities for relaunching consumer protection policy ⁽²⁾;

Whereas it is important to ensure enforcement of Community legislation and constant monitoring of its effect on consumers;

Whereas the implementation of the single market will require greater attention to be paid to the quality of services and goods, in particular as regards foodstuffs;

Whereas it is necessary to take consumers' interests into account in the other Community policies and to have a thorough knowledge of the impact of the internal market on consumers;

(1) OJ No C 176, 4. 7.1987, p. 2.

(2) OJ No C 294, 22.11.1989, p. 1.

Whereas consumers' capacity to defend their interests should be strengthened, in particular so as to settle transfrontier consumer disputes, including by the development of Transfrontier Information Centres;

Whereas consumers' capacity to benefit from the various possibilities of the single market should be enhanced by fostering the development of consumer associations;

INVITES the Commission to propose as soon as possible measures to create consumer confidence in the single market, in particular as regards greater transparency, information, health and safety and protection of the economic interests of consumers; also invites the Commission to look further into the question of unfair advertising with a view to submitting a relevant proposal to it;

INVITES the Commission, having regard to these priorities and those listed in the Annex to this Resolution, to present by 31 December 1992 at the latest a report assessing the current plan of action and, on that basis, a proposal for a further plan of action covering the period 1993-1997 designed to develop the consumer protection policy and to achieve these objectives;

AGREES to encourage the Commission to submit to it proposals to improve consumer information;

INVITES the Member States also to promote consumer information and education campaigns;

NOTES the Commission's intention of examining the feasibility of a "European Year of the Consumer".



Annex to the ANNEX

PRIORITIES FOR THE POLICY OF CONSUMER PROTECTION PROMOTION OF
CONSUMERS' INTERESTS

1. Integration into other common policies of the policy of consumer protection and promotion of consumers' interests

- Completion of the comprehensive study of the consequences of the realization of the internal market for consumers;
- Preparation of an appropriate impact assessment for proposals particularly sensitive for consumers;
- Stepping up the taking into account of consumer interests in standard-setting and certification procedures;
- Protection of consumer interests, particularly as regards food, financial services and payment systems.

2. Consumer information and education

- Consumer information and education on the single market, designed to safeguard consumers' interests and rights;
- Better information on services to consumers, particularly by developing transfrontier information centres;

- Improving price transparency of services, particularly of the professions and financial services;
- Consumer information on programmes of recycling, rational use of natural resources and use of ecological labelling.

3. Legal redress

Without prejudice to national provisions on the matter, encouragement of Member States to facilitate legal redress.

- Simplification of procedures for settling consumer disputes;
- Legal aid for consumers in respect of cases brought before the European courts;
- Access for consumer organizations having, under national law, a legitimate interest in the matter to courts in the Member States according to the lex fori of the court to which the case is referred.

4. Safety and health

- Development of any necessary harmonized systems to ensure that safety and health legislation is being effectively applied;
- Fostering the levelling up of scientific know-how and practices of consumer product inspectors in the Member States;

- Further harmonization of the packaging, labelling and classification of products.

5. Representation of consumers

- Stronger representation of consumers at all levels in order to improve dialogue between the various economic operators;
- Fostering the development of consumer associations.

6. Economic interests

- Improvement of application of Community consumer legislation;
- Assessment of the usefulness and advisability of approximating guarantee arrangements and of improving after-sales service for goods and services in the internal market;
- Improvement of the quality and transparency of payment systems;
- Examination of the question of excessive consumer indebtedness;
- Taking into account the consumer's interests in promoting conditions favouring free competition in the internal market;
- Development of comparative trials.

