

The European Community and consumer protection

November 1990
14/90

Indices of prices for private consumption (January 1990)



Thus, for the same basket of goods and services, representative of private consumption, an outlay calculated (in a single currency or its exchange value at 100 in Belgium corresponds to expenditure of 137 in Denmark, 112 in Germany, 96 in Ireland, etc.

Source: Eurostat.

As part of the work towards completion of the large European internal market, the European Commission has just launched a three-year action plan (1990-92) for a Community consumer policy.

Completion of the internal market offers great advantages for producers and for the growth of employment in Europe, but it should also be of huge benefit to consumers: the elimination of a range of barriers to trade will mean wider choice and lower prices. However, if Europeans are to avail fully of the new possibilities they must be enabled to do so with confidence. To have free access to all the goods and services on offer throughout the European Community, consumers must know that anywhere in the enlarged market they have the same level of protection as they enjoy in their own national market, whether in regard to product safety or regulations for contracts or for consumer information or representation. The confidence of European consumers is the key to the success of the large market. To ensure that confidence, Community action must be stepped up in the field of consumer policy.¹

Milestones in Community policy

The Community's efforts on behalf of consumers go back many years. Although the European Treaties make no explicit mention of consumer policy, they give the Community the task of ensuring 'the constant improvement of living and working conditions' of the peoples of the Member States, as well as of promoting 'a harmonious development of economic activities'. In practice, the creation of the Community had a rapid impact on consumers' daily lives.

- The common market gave shoppers a greater choice of goods and services, thanks to the ending of customs barriers.
- The common agricultural policy must, under the Treaty of Rome, ensure security of food supplies at reasonable prices.
- Community competition rules prohibit unfair practices which can affect prices.
- The Community's policy of openness to the rest of the world has brought about a lowering of the Common Customs Tariff, the signing of free trade agreements with other European countries and of cooperation agreements with many Third World States including those of the Mediterranean and African, Caribbean and Pacific countries. This has brought even greater diversification of consumer choice.

¹ This file replaces our No 12/87. Manuscript completed in July 1990.

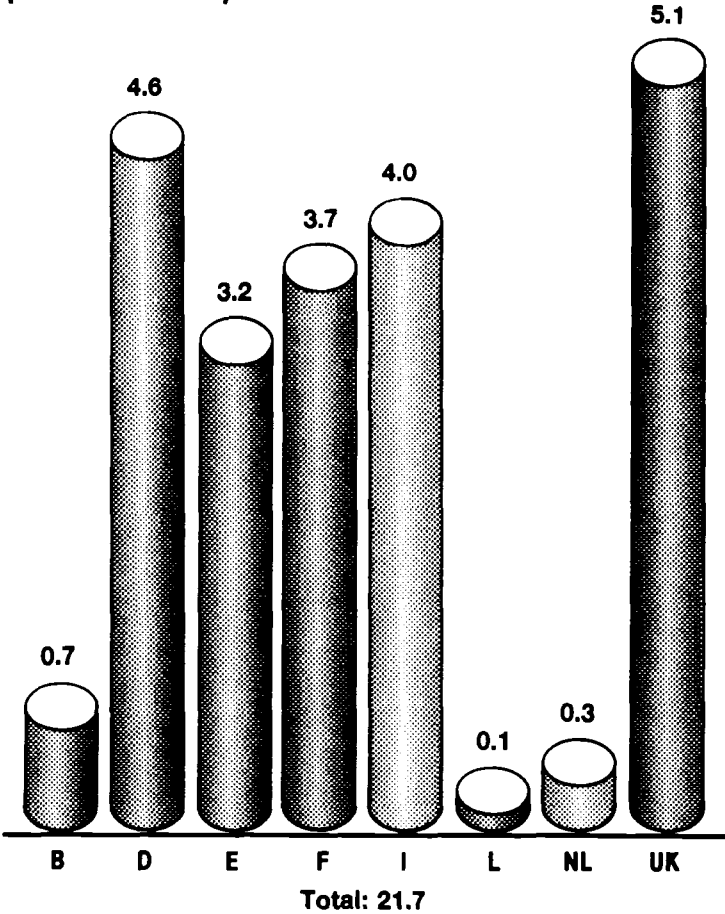
The need to give the Community a 'human face' was recognized by the Community authorities in 1961. The following year saw the creation of a contact committee comprised of representatives of trades unions and consumer organizations. The real beginning came 10 years later, however: at a meeting in Paris in 1972, the Heads of State or Government of the Community gave the go-ahead for a consumer policy, proclaiming that economic development must be translated into improvement in the quality of life. This policy was developed through:

- the setting-up of a consumer policy service in the European Commission;
- the constitution of a Consumers' Consultative Committee (CCC), comprised of experts and of members of four European organizations representing consumers' interests: the European Bureau of Consumers' Unions (BEUC); the Committee of Family Organizations in the European Communities (Coface); the European Community of Consumer Cooperatives (Eurocoop); the European Trade Union Confederation (ETUC). To make it more representative and more effective, the CCC was transformed in December 1989 into a 'Consumers' Consultative Council', with 39 members, including representatives of national consumer organizations;
- the adoption in April 1975 of a first programme for consumer protection and information. On that occasion the Community's Council of Ministers emphasized five fundamental rights: the right to safety and health, the right to redress, the right to protection of economic interests, the right to representation and the right to information and education;
- the adoption in May 1981 of a second programme, which reaffirmed the five rights and underlined the need to take account of consumer interests in the various policies of the Community;
- the organization, from 1983, of the first meetings of the Council of Ministers devoted exclusively to consumer problems.

The results of the action programmes fell short of the declared aims, so the European Commission decided in 1985 to give consumer policy a new impetus. In the following year, the adoption of the Single Act revising the European Treaties opened the way for the completion of the large market. The Single Act provides for the elimination of the last obstacles to trade in goods and services between the countries of the Community. This means a further increase in the range of choices available to consumers, as well as substantial savings due to lower production costs and wider competition. The Act also provides, where necessary, for protective measures to be taken based on a high level of consumer protection.

In preparation for the large market, the European Parliament and the Council of Ministers of the Community in 1989 pronounced themselves in favour of fresh progress in consumer policy, in resolutions which inspired the new three-year plan for 1990-92.

**A single European market in the credit and insurance sectors:
cost advantages for the consumer
(ECU 1 000 million)**



NB: Data not available for Denmark, Greece, Ireland and Portugal.

Source: Cecchini report on the cost of 'non-Europe', 1988.

Before outlining the plan, let us review the Community's main achievements in the fields of health and safety of consumers, consumers' economic and legal interests, and consumers' right to information and education.

Health and safety of consumers

Under normal conditions of use, goods and services offered for sale should not present an unacceptable risk. The consumer particularly wants to be protected against risks from certain products. Also, the proliferation of national rules and standards hinders free circulation of products. The European Commission has done its utmost for a long time to try and harmonize these rules, but it has been overtaken time and again: a hundred new standards are created at national level in the time it takes to harmonize a single one at European level.

The situation was fortunately changed following the judgment of the European Court of Justice in 1979, in the *Cassis de Dijon* case. On that occasion the Court confirmed that any product which has been legally manufactured and marketed in a Community country must, in principle, be admitted to the market of the other Member States. National regulations must not therefore create barriers to trade unless they are necessary in order to satisfy mandatory requirements, particularly in regard to consumer protection and public health. This has enabled the Community to develop a new approach to regulation problems, an approach based on the principle of mutual recognition of the national rules in force. In consequence:

- Since 1984, every proposal for a new national regulation or standard must be communicated before adoption to the Commission, which then informs the other Member States. If necessary the adoption of a rule can be suspended, to allow time for Community measures to be drawn up in order to prevent the formation of new barriers to trade;
- Community directives from now on need only define the essential health and safety requirements to be met by products or groups of products. National standards which comply with these essential requirements are then recognized at European level, so that products conforming to the standards can circulate freely throughout the Community.

Over the years numerous Community directives have been adopted to protect consumers while promoting free trade.

- Food products: one measure lays down rules for presentation and labelling (ingredients used, durability date, quantity, etc.) There are also measures in relation to price labelling. Several directives deal with the problem of materials (packaging etc.) coming into contact with foodstuffs. Others cover dietetic products and the prohibition of dangerous imitations. Quality rules have also been laid down for trade in fresh meat. The use in food of eggs hatched in incubators has been banned, as has the use of hormones for

fattening livestock. Community lists of permitted substances and purity criteria have been established for certain additives: colourings, preservatives, emulsifiers, etc. Maximum levels have been imposed for pesticide residues. There are rules covering the composition, manufacture and description of fruit juices, preserved milk, cocoa and chocolate products, coffee and chicory extracts, mineral waters, jam, honey, etc.¹

- Cosmetics: a Community directive, modified and supplemented several times in recent years, regulates the composition, labelling and packaging of cosmetic products, sun lotions, etc. It prohibits the use of a certain number of substances and makes the use of some others (colourings, etc.) subject to certain conditions and restrictions.
- Textiles: Community directives regulate the naming of these products, their labelling in regard to content and certain methods of quantitative analysis to check the composition of products composed of mixed textile fibres. The use of TRIS, a fireproofing agent dangerous to health, has been banned for certain categories of clothing.
- Dangerous substances: there are directives governing classification, testing, marking, labelling and use of substances such as pesticides, solvents, paints, glues, etc.
- Pharmaceuticals: the measures adopted relate essentially to clinical trials, conditions for marketing, protection against imitation, labelling of proprietary medicinal products and inventors' rights. One directive is concerned with transparency in pricing and in social security refunds for medicines. Another extends the rules for quality, safety and effectiveness of medicines to cover vaccines, blood derivatives and exports to the Third World.
- Manufactured products: the Community has adopted many measures designed to improve the safety of cars and tractors. In addition, a recent directive lays down the essential safety requirements which must be met by all toys manufactured in the Community or imported from third countries; this will make for the production and free circulation of quality toys which present no danger to the 65 million children under 14 years old in the Community.
- General product safety: long overdue, this proposed directive has as its basic principle the obligation of manufacturers and distributors to market only goods that are safe, together with the duty of Member States to ensure the obligation is respected, by supervising the market and, if necessary, restricting sale and withdrawing dangerous products.

In addition to these measures, procedures for the exchange of information have recently been instituted. The Community has established an information system

¹ For further details, see *Green Europe*, No 1/90, 'From agriculture to consumers'.

which enables national authorities to make the Commission and other member countries aware of any serious incidents resulting from the use of consumer products. This makes it possible for urgent measures to be taken to protect consumers. The Community is also endeavouring to develop an information system on accidents which occur in the home or in the course of leisure activities.

Economic and legal interests of consumers

Consumers must be protected against unfair or dishonest business practices on the part of certain suppliers. For this measures are required on a European scale: disparities between national legal provisions — in regard to advertising, for example — can actually create barriers to trade. Moreover, consumers should not be penalized when they try to take full advantage of the common market by acquiring goods or services in a member country where prices are lower. The fact that the services sector is growing in economic importance makes it all the more necessary that the measures required extend to services.

- After many years of discussion, the Community has succeeded in adopting directives on misleading advertising, doorstep sales, manufacturers' responsibility where damage is caused by a defective product, and consumer credit. These measures provide a solid basis of European guarantees regardless of the member country in which the consumer acquired goods or services: the right to make a complaint against an advertiser (on whom rests the onus of proof that his claims are accurate); a 'cooling-off' period of at least seven days during which a contract signed away from the vendor's premises may be cancelled by the purchaser; the right to compensation for damages caused by a defective product, even if the vendor is not at fault; the right to dependable information on credit conditions and to certain guarantees in regard to advertising, prior repayment, possible repossession of goods sold and borrower's right of appeal.
- A new directive, adopted in 1990, covers package holidays. It increases the responsibilities of those who organize and sell holidays, and imposes a number of rules in such matters as informing and, where necessary, compensating the consumer.
- The Commission has recently made a recommendation in regard to payment systems, particularly the relationship between the holders and issuers of cards. It urges banking institutions to limit the responsibility of the client in case of loss, theft or forgery.
- The Community attaches great importance to consumers' access to justice. As long as consumers have no proper means of exercising or defending their existing rights, any new rights proclaimed may be illusory, relying on traditional legal procedures which are unsuitable or weighed down with a slowness and formality which discourages those in search of redress. The

Council of Ministers has adopted a resolution in this regard and the Commission is supporting pilot projects organized on a local basis, with the aim of finding procedures more suitable to people's needs.

Information and education of consumers

- Information: the Commission is endeavouring to give consumers more opportunities for making comparisons and to make the public aware of the dangers involved in using certain products. There are already several measures relating to the labelling of foodstuffs and of certain dangerous substances. Another relates to giving details of the energy consumption of household electrical appliances, while two 1989 directives cover price labelling for foodstuffs and non-food produce. The Commission also carries out surveys on prices in cross-border regions and within Member States, so as to give consumers better information on price differences.
- Education: in 1979 the European Commission launched a European network of pilot schools, which tested different methods of educating young consumers. Since 1986 the Commission has supported exchanges of experience in the training of teachers and preparation of teaching material. In particular, it has drawn up an original safety education text, called 'Safety pack'.

The action plan 1990-92

To give full effect to the rights of the consumer in the Europe without borders of 1993, the European Commission published in March 1990 a three-year action plan (1990-92) aimed at bringing the initiatives already taken to complete and substantial fruition. Four priority concerns have been identified this time: consumer representation, information, security and transactions.

- The voice of consumers must be better heard; they must be represented more effectively. To that end, the Commission intends to:
 - develop the role of the Consumers' Consultative Committee, in particular for the systematic exchange of information and experience regarding consumer policy in the member countries;
 - promote consumer organizations; particularly in the least prosperous regions of the Community, by providing technical and financial assistance for their projects and activities;
 - encourage dialogue and cooperation between producers and consumers.
- It is by means of good distribution of the right information that consumers will be assured of the advantages of a well-operating internal market. The Commission is preparing a communication on consumer information. It intends also to develop:

- **Information services.** Local initiatives will be encouraged, as well as certain pilot projects on information of consumers, the creation of consultation centres for border regions, exchanges of material between consumer organizations and schools, etc.
 - **A transparency policy.** Whenever necessary the Commission will propose legal measures to help the consumer choose with a better awareness of what is involved. Particular attention will be given to the banking and insurance sector; the Commission will do its best to make for greater transparency in international transfers and payments, to rationalize the rules in regard to labelling and to develop the concept of quality labelling to support the best products.
 - **Better comparison possibilities:** dissemination of the results of comparative studies carried out by consumer organizations stimulates competition and helps to get product quality recognized. Awareness of this information is still insufficiently widespread and the data do not often enough cover the whole Community. The Commission intends to promote, not only this comparative testing, but also comparative advertising, which is still forbidden in certain Member States.
- **Consumer safety must be more widely guaranteed:**
- Most harmonization of laws in the Community has been carried out sector by sector. The sectors for which there are still no specific harmonization measures ought to be covered as well; account should be taken of developments in technology and know-how; effective reaction to emergencies should be facilitated.
 - In addition the Commission would like to make responsibility for physical damage apply also in the services sector; it wishes to modify the legislation in regard to cosmetics, establish a list of products requiring special attention by consumers, and develop its system of rapid exchange of information.
- **Thanks to the European internal market, people will be able to widen the range of choices available to them by buying goods and services throughout the Community. Consumer purchases in other countries will be stimulated by progress in the free circulation of persons, the abolition of frontier barriers to trade, and development of cross-border sales, electronic sales and shopping by mail. It will therefore be necessary to:**
- simplify and harmonize cross-border contracts, guarantees and after-sales service;
 - protect the consumer from improper clauses in certain contracts as well as from the negative consequences of contracts negotiated at a distance;

- improve consumers' access to justice and to compensation for damages. Such access remains mediocre in many countries because of the cost, complexities and delays involved.

Step by step with progress in the elimination of barriers to free circulation of persons, goods, services and capital, the emergence of a market without frontiers is stimulating the drafting and adoption of Community measures on certain aspects of consumer protection — measures which respond to problems arising at Community level. The Commission has deliberately limited its three-year plan to situations in which intervention at Community level is essential, providing a more effective and more rational response than could be achieved by the necessarily fragmented efforts of national or local administrations.

Much remains to be done to improve, in the various member countries, the implementation of Community directives as well as the administration and control procedures which they require. The three-year plan insists on the need for progress in this respect.

The building of a Europe without frontiers — which must also be a people's Europe and a consumers' Europe — directly involves more than 340 million Europeans. Completion of the large market should bring them numerous advantages, particularly as regards prices and choice of products and services. The Community intends to help consumers to make better use of all the opportunities on offer ■



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Office for Official Publications
of the European Communities
L - 2985 Luxembourg

ISSN 0379-3133

Catalogue number: CC-AD-90-014-EN-C

