



# INFO-C

INFORMATION FROM DG XXIV 'CONSUMER POLICY' OF THE EUROPEAN COMMISSION - VOL. V, No 5 - 1995

There have been no upheavals in the field of European consumer policy since the last issue of **INFO-C**. And because of our (customary) editorial, translation, printing and distribution deadlines, the news in this issue covers the summer months - a season not generally conducive to hectic activity!

However, you will find in these pages:

1. a large dossier on the integration of consumer policy into the other Community policies;
2. the results of the Commission's latest survey on car prices in the European Union;
3. all the necessary information pertaining to the 1996 edition of the world-famous European Young Consumer Competition;

4. articles on the new United Nations consumer protection guidelines, Emma Bonino's contribution to the Budapest Conference on Consumer Policy in the Countries of Central and Eastern Europe, the serious hazards associated with sunbathing and sunbeds, the poor quality of baby foods, a joint initiative of a Belgian consumer association and the Belgian Government to address the problems of consumer overindebtedness, barriers to the mobility of handicapped persons in Spain - and much more besides.

Have a good read!

## INFO-C

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### New INFO-C fax number and Email address

INFO-C's new fax number is:

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Although the old addresses will remain valid during a transitional period,  
we advise you to update your address books without delay.

Thanks in advance!

## Agenda of the 'Consumer Affairs' Council of 9 November 1995<sup>1</sup>

### For definitive adoption:

1. Proposal for a Directive amending the Directives on consumer protection in the indication of the prices of foodstuffs and non-food products.

Since Parliament has requested that the current transitional period for the indication of prices be extended for two years (instead of the four years initially proposed by the Commission), the proposal finally adopted should incorporate this amendment. All this of course pending the creation of the definitive system (cf. item 7).

2. Amended proposal for a Directive on consumer protection in respect of contracts negotiated at a distance (distance selling).
3. Proposal for a Directive amending Directive 79/112/EEC on the labelling, presentation and advertising of foodstuffs.

### For common position:

4. Amended proposal for a Directive on comparative advertising.
5. Proposal for a Directive on the codification of textile names.
6. Proposal for a Directive on the codification on certain methods for the quantitative analysis of binary textile fibre mixtures.

### For exploratory debate:

7. Proposal for a Directive on consumer protection in the indication of prices of products offered to consumers. This is

the simplified system to be introduced on expiry of the transitional period (cf. item 1), which, barring a few exceptions, provides for mandatory indication of unit prices.

8. Draft proposal for a Directive on the use of claims concerning foodstuffs.
9. Proposal for a Directive on the sale of consumer goods, guarantees and after-sales services.
10. Proposal for a Directive on consumer access to justice.

### Presentation by the Commission and possible Conclusions of the Council:

11. Communication from the Commission on an action programme in the field of consumer protection and information (1995-1999).
12. Presentation of the report on the operation of Directive 87/102/EEC on consumer credit.
13. Presentation of a report on the operation of Directive 90/98/EEC (consumer credit II) and a proposal for a Directive on a single Community formula for calculating the annual percentage rate of charge (APR).
14. Draft Conclusions of the Council on the regulation of advertising of products, goods, activities and services in respect of which health properties are claimed.
15. Draft Conclusions of the Council on consumer education.

<sup>1</sup> This is the agenda foreseen at the time of going to press. There may be later modifications - in particular, certain points may still be under examination by the Commission and/or Parliament.





## Transposed Community legislation is there to be enforced

On 3 May last the Commission sent the Council and European Parliament a ***Communication (...) on the role of penalties in implementing Community internal market legislation***<sup>1</sup>. Emphasising that in this domain it is no longer intense legislative activity that counts but rather the effective operation of the legislation already adopted, the Commission in this document points out its motives and intentions as to the impositions of sanctions linked to the enforcement (or rather non-enforcement) of legislation pertaining to the internal market.

The Commission is keen both to ensure fair competition under equitable conditions between the economic operators in the different Member States and to vouchsafe a high level of protection in regard to health, safety, environment and consumer rights. Let us recall that Article 5 of the Treaty establishing the European Community (Treaty of Rome) and the case law of the Court of Justice provide that to ensure application of the Community rules penalties must be foreseen *ab initio* or must be 'added' subsequently by the Member States. The Commission notes that resort to the second option, which is more or less the rule, often leads to considerable disparities in the penalties imposed by different countries, thus impeding the smooth functioning of the single market. One particularly striking example mentioned by the Commission is that of the enforcement of the Directives on public procurement. Here the means of redress and compensation available to firms which consider that they

have been treated unfairly differ greatly from one country to another. Curiously the Commission, which tries to assess the real extent of enforcement of the national texts transposing these directives, has encountered 'inexplicable difficulties' (in the words of its report) in eliciting the necessary data from the national authorities...

Hence, while confining Community action as regards penalties to what is strictly necessary in order for the internal market to function properly in each sector concerned, the Commission intends to:

- see to it that the applicable penalties will henceforth constitute measures whose notification is explicitly required by the Community rules. To this end it has prepared standard clauses for inclusion in future proposals for regulations and directives, obliging Member States to provide, in the event of infringements, penalties which are 'effective, proportionate and dissuasive', which must be duly notified to the Commission;
- require Member States to communicate all necessary information on penalties relating to existing legislation;
- take measures to remedy problems which may already have arisen, if necessary by proposing a common definition of penalties.

<sup>1</sup> COM(95) 162 final.

## Integration of consumers' economic interests into other Community policies

While some DG XXIV staff are working on proposals for legislation in the field of consumer policy, others are trying to integrate consumers' interests into *other* Community policies which might otherwise be too soft on consumer protection. The origin of this process goes back to 15 December 1986, when a Council Resolution approved a Commission proposal to submit a periodic progress report on the integration of consumer policy into other Community policies. Since then,

this has become a major task for the Consumer Policy Service, later to become DG XXIV.

In order to achieve this concretely, DG XXIV analyses the results of internal or external studies on a specific topic, consults with national and European consumers' associations, and works closely with Parliament, Council and other DGs/Services of the Commission, from the pre-draft of a Regulation or Directive until its final adoption.





This often represents a long and difficult negotiation process, as the interests of consumers do not always match those of the other parties, especially industry. Nevertheless, DG XXIV's efforts have borne fruit and its input is now largely welcomed at all stages of the decision-making process. Since 1990, DG XXIV has represented the consumers' economic interests in a wide range of legislative proposals concerning agriculture, health, public services, financial services, information superhighways, motor vehicles, textile and international trade. In the following pages, we will focus on integration in the fields of motor vehicles, information superhighways, postal services and telecommunications.

### 1. Exclusive and selective distribution of motor vehicles

After over a year of interservice consultations and cabinet-level discussions, the new Commission Regulation has finally been adopted<sup>1</sup>. DG XXIV was closely involved in the work. From the beginning it was in principle opposed to any renewal of the exemption. However, once the Commission opted for an extension, DG XXIV managed to secure the following key objectives,

- greater competition between makes and within individual makes by promoting multi-make policy and by granting concessionaries the freedom to advertise outside their territory,
- greater independence for concessionaries,
- greater freedom to purchase replacement parts,
- better consumer access to the single market in that certain obstacles to parallel imports are now expressly outlawed.

While DG XXIV managed to enshrine the principle of regular assessment of how the system works, notably as regards its incidence on car price differentials between Member States, it unfortunately failed to secure the creation of a genuine monitoring committee, in which it would have participated.

But on the whole the outcome is positive, particularly if the regime is not extended beyond the seven years foreseen in the new Regulation.

*Important consumer input can be found in the following Community legislation: Regulation 1475/95 (OJ No L 145, 29.6.1995) on the application of Article 85 (3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements.*

### 2. The Information Society

The European Union is adapting rapidly to the information society, which is likely to profoundly affect the way we function, be it at work or at home. Digital technology has already started to transform the telecommunications, information systems, and audio-visual industries. It will offer users an increasing choice of services and applications, and superior performance better suited to particular demands. This means the possibility of direct access to new services, including entertainment, which users will not only receive, but with which they will also interact.

In order to gain a better understanding of how European consumers will deal with the information society, DG XXIV has commissioned a study on 'The consumer in the information society'. Its aims are to evaluate key development areas in the leading telecommunications markets by making an inventory of the voice, data and multimedia services which will be offered to consumers within the next 10 years and analysing their applications, and to identify the potential needs for consumer protection. The results of this study will be used to ensure that future legislation takes account of consumers' needs (copies of the study should be available in February 1996). DG XXIV will also provide significant input into the Information Society Forum, set up by Commissioner Bangemann, at which it is represented.

### 3. Postal services

Subsequent to the publication of the Green Paper in 1992, the Commission adopted in July 1995 a proposal for a Directive (based on Article 100A) on the establishment of an internal market for postal services. This harmonisation proposal originates from DG XIII and is accompanied by a DG IV Notice on the application of the competition rules in the postal sector. The proposal has now been forwarded to the European Parliament and Council for adoption. As you know, DG XXIV is particularly interested in the subject of postal services and has participated very actively in the long and difficult discussion which preceded this proposal.

After consulting the five European members of the new Consumer Committee, and using as a basis two studies examining the quality of cross-border services (carried out in 1990 and 1994), DG XXIV developed a postal policy based on the following 7 key principles:





1. *Gradual and controlled liberalisation* of the sector should be achieved so that users can benefit from more choice, lower prices and improved service.
2. The *universal service provision* should be offered to residential consumers throughout the Union on a non-discriminatory basis, so that everybody can have access to good quality postal services at affordable prices.
3. The so-called '*reserved areas*'<sup>2</sup>, set up to ensure the financial viability of postal operators, should not be larger than needed to guarantee the long-term provision of the universal service.
4. High standards should be set at national as well as Community level for the quality of *cross-border services*. Failure to respect these standards should be sanctioned.
5. *Rates* should reflect real costs, but geographical averaging should be performed to ensure that rural users are not discriminated versus urban users.
6. The *operator* and the *regulator* should be clearly separated at national level. At European level, DG XXIV favours the establishment of a European Regulator who looks after the interest of European users.
7. *Technical standards*, especially those affecting the quality of service, should be harmonised.
8. *Consultation* with postal users should be made possible by the creation of an advisory committee.

DG XXIV managed to integrate these principles into DG XIII's draft proposal, but it did not succeed in introducing the sanctions for failure to respect the quality standards. The idea of creating a European Regulator was welcomed in general, but could not be accepted at this stage. Instead, the proposal now refers to a review body which will monitor the evaluation of the sector.

DG XXIV will follow the progress of this proposal in the European Parliament and Council. In the meantime, it will contribute to the current debate within the Institutions on universal service thanks to a new study on 'The consumer and the supply of postal services in rural areas', which should be available in December 1995. Having a complete picture of the services currently offered and a better understanding of the economic viability of these services in rural areas will allow DG XXIV to review the contribution of postal operators to the economic and social cohesion of the European Union.

*Important consumer input can be found in the following Community legislation:*

- *Green Paper on the development of the single market for postal services*, COM(91) 476,
- *Guidelines for the development of Community postal services*, COM(93) 247,
- *Proposal for a European Parliament and Council Directive of xxx on common rules for the development of Community postal services and the improvement of quality of service xx/xx/xx*<sup>3</sup>.

#### **4. Mobile telephony**

The mobile communications market is developing rapidly in Europe. In most countries, 2 to 8% of the population are currently using mobile phones, and these figures are likely to increase dramatically in the near future, despite the fact that due to the differences in development among the EU countries, there is still a long way to go before the benefits of a true common market in mobile telephony can be reaped. Nevertheless, given the high prospects for the number of future mobile phone users, the Commission is now establishing a regulatory framework that allows the market to grow in a controlled way.

A study on mobile phone services in the European Union commissioned by DG XXIV has shown that there is a need for a clear code of conduct for service providers in this sector. Such a code should specify: essential commitments regarding the availability and quality of services; consumer protection measures (contractual terms, pricing, theft and fraud are areas of particular concern); and how complaints will be dealt with. Owing to DG XXIV's input, the importance of such a code was eventually recognised by the Council Resolution on mobile telephony which followed the Green Paper on the same subject. At present, DG XXIV is assisting DG XIII in developing this code, which will govern the behaviour of all service providers in their dealings with both consumers and telephone operators. It should be ready in six months' time.

*Important consumer input can be found in the following Community legislation:*

- *Green Paper towards Mobile and Personal Communication*, COM(94) 492,
- *Council Resolution of 29.6.1995 on Mobile and Personal Communication*, 95/OJ No C 188/02.

#### **5. Voice telephony**

Since 1990, telecommunication regulation in the European Union has followed a policy which balances harmonisation and liberalisation. The harmonising policy is called Open





Network Provision (ONP) and applies to voice telephony, leased lines, packet switched data services (PSDS), integrated services digital networks (ISDN) and interconnection.

In August 1992, the Commission adopted a proposal for a Directive on ONP to Voice Telephony. This directive concerns the harmonisation of conditions for open and efficient access to the use of fixed public telephone networks and public telephony services, and the availability of a harmonised voice telephony service. For a number of years, DG XXIV has worked in close contact with DG XIII to include adequate consumer protection measures in this proposal. It played an important role in ensuring that a link be made with the Unfair Contract Terms directive, that quality standards be adopted and the right to redress and compensation established. On 10 July 1995, the Council adopted the second proposal for a Directive as the first proposal was rejected by the European Parliament in June 1994 as part of a co-decision procedure.

*Important consumer input can be found in the following Community legislation:*

*Proposal for a European Parliament and Council Directive on the application of open network provision to voice telephony (95/C 122/04), COM(94)689 - 95/020(COD), OJ No C 122, 18.5.1995, p.4 - Council common position adopted on 12.7.1995.*

### 6. Telecommunications

Besides voice and mobile telephony, DG XXIV works closely with DG XIII and DG IV on the changes needed to adapt the regulatory framework to the post-1998 situation. Through a number of liberalisation and harmonisation measures, the Commissions is taking the necessary steps to ensure that markets are fully open by the agreed deadline whilst putting in place some safeguards in those areas where market forces alone may not be enough to meet European policy goals (such as universal service, interoperability, etc.).

*Important consumer input can be found in the following Community legislation:*

- *Green papers I and II on the liberalization of telecommunications infrastructure and cable television networks, COM(94) 440 and COM(94) 682,*
- *Proposal for an EP and Council directive on Interconnection to public telecommunications networks and public telecommunications services in the context of Open Network Provision (ONP), COM(95) 379 of 19.7.1995,*
- *Draft proposal for a Directive adapting the ONP framework and ONP leased lines Directives to a competitive environment in telecommunications,*
- *Draft Commission Directive amending Directive 90/388/EEC regarding the implementation of full competition in telecommunications,*
- *Draft Commission Directive amending Directive 90/388/EEC regarding the abolition of restrictions on the use of cable television networks for the provision of telecommunications services,*
- *Draft communication on the future development of the market in directories and other telecommunications information services in a competitive environment,*
- *Draft proposal for a European Parliament and Council directive on a common framework for general authorizations and individual licenses in the field of telecommunications services.*

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<sup>1</sup> See the article entitled 'Distribution of automobiles: a victory for consumers' in the Consumer Protection section of **INFO-C**, August 1995.

<sup>2</sup> Areas which will be reserved for the state-owned part of the postal services and will therefore not be opened to competition.

<sup>3</sup> No precise references as yet.





## United Nations to expand its 'Guidelines for Consumer Protection'

Following intense lobbying by Consumers International, the **United Nations** (UN) has agreed to revise and update its landmark 'Guidelines for Consumer Protection' to include areas of consumer concern which have come to the forefront over the past decade.

The resolution, which was passed by the UN Economic and Social Council on 28 July, requests the Secretary-General to 'elaborate guidelines in the area of sustainable consumption patterns ... and to examine the extension of the guidelines into other areas'.

Although the Council has agreed to two other consumer protection resolutions since the adoption of the 'Guidelines' in 1985, this one is by far the most substantive and the only one to address concrete changes needed.

Indeed, much has changed in the past 10 years. 'New realities, such as the increasing globalisation of economies, the change in the role of governments - as evidenced by increased privatisation, deregulation and more market-based approaches to consumer protection - and heightened concerns for the environment, need to be reflected in the 'Guidelines', said María Elena Hurtado, director of Consumers International Global Policy and Campaigns Unit.

The resolution was sponsored by Chile and Egypt, and co-sponsored by 15 other countries, which represents the largest number of sponsoring countries on a consumer protection resolution.

Although not legally binding, the 'Guidelines', which cover such areas as consumer safety, product standards, education and information, provide an internationally recognised set of minimum objectives for consumer protection, which serves both as a framework and a benchmark for developing, implementing and monitoring consumer protection systems.

Consumers International believes the updated 'Guidelines' could cover the following areas.

- *Basic services* - Access to basic services such as health, water and electricity is being reduced as a result of privatisation or deregulation. The 'Guidelines' could address issues such as the continued provision of basic services, especially for the disadvantaged, as well as consumer representation in regulatory bodies.
- *Consumer representation* - There is a growing recognition of the necessity to involve civil society in matters of social and economic development. Consumer representation is essential to ensure that the public interest is taken into account in decisions relating, for example, to trade and safety standards, where industry interests tend to predominate. The case for having a guideline on consumer representation is strong.
- *Competition policy* - The growth in foreign direct investment and trade is increasing the scope for anti-competitive practices by companies, such as agreements between competitors, price fixing and market-sharing. Frameworks for competition are required at all levels to ensure that the gains from the globalisation and regional integration are shared by consumers.
- *Sustainable consumption* - The environment is an afterthought in the current 'Guidelines'. To rectify this omission, Government members of the UN Commission on Sustainable Development adopted at its April 1995 session a work plan on sustainable consumption patterns which calls for 'the 'UN Guidelines for Consumer Protection' [to] be expanded to contain guidelines for sustainable consumption patterns'. A new section of the 'Guidelines' on this issue could cover areas such as environmental labelling, testing, education and the control of misleading 'green' advertising.
- *Financial Services* - The growing importance of financial services such as banking and credit, private pensions and health insurance needs to be reflected adequately in the 'Guidelines'.
- *Information* - Information is crossing borders as never before. The 'Information Superhighways' and associated initiatives are providing new opportunities, including information access and electronic trading. But they also raise important issues such as data security, intellectual property rights, control of offensive material, cultural impact and consumer protection for shopping abroad. As the main document on international consumer protection, the 'Guidelines' could address the information revolution.
- *Access to Justice* - Around the world, governments are experimenting with new forms of small claims tribunals, alternative dispute resolution systems, ombudsman's schemes, procedural changes to laws to allow class





actions or multiple litigation. An expansion of the 'Guidelines' could reflect these new developments.

- *Regional integration* - The deepening of regional integration agreements raises the concern that consumer considerations may be subordinated to wider economic considerations. A guideline on this topic could, amongst other things, encourage basic regional norms on the highest safety standards prevailing among the partners.

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## Car prices

On 24 July the Commission published the results of its fifth study on price differentials for new cars in the Member States. Below we summarise the press release issued by the spokesman's service. Further information may be obtained from the Commission offices in the Member States and the European consumer information centres, or by consulting the 'Rapid' database.

A total of 23 European and Japanese carmakers communicated their retail prices on 1 May 1995 for their most popular models, duly adjusted for differences in standard equipment and expressed in national currencies and in ecus, exclusive and inclusive of taxes. Denmark, Greece and Finland were excluded from the survey because of their particular fiscal policies; on the other hand, Sweden and Austria are included for the first time.

Between 1 November 1994 and 1 May 1995, the study's beginning and ending dates, differentials skyrocketed. While the percentage of models in respect of which the gap was greater than 20% had in the past gradually declined from 24 to 18, it now exceeds 50 - 55 in the case of European manufacturers and 37 in the case of the Japanese!

The Commission believes this change has occurred for the following reasons.

First of all, currency fluctuations. The 13.5% devaluation of the Italian lira against the ecu means that Italy has become the cheapest country for 51 models. Secondly, manufacturers have further raised their prices in countries already at the top of the range, such as France, Germany, Belgium and Luxembourg. Finally, the study now includes Austria, where car prices have traditionally been very high. Thus it comes as no surprise that Austria holds the sorry record for costliness, with the highest prices for 33 models!

Consequently for certain models the price differentials have really peaked. This applies in particular to:

- Ford Fiesta (47.9% more expensive in the Netherlands than in Italy);
- Ford Scorpio (55% more expensive in Austria than in Italy);
- Rover 214 (50.8% more expensive in Germany than in Italy);
- Subaru Legacy (53.6% more expensive in Austria than in the Netherlands).

For many other models the differentials exceed 30%.

Hence it is no surprise that consumers are increasingly stampeding towards the countries where they can get the best deal, as the rules of the single market allow - something one should never forget. To help them, the Commission in its new regulation (EEC) 1475/95<sup>1</sup> provides for stiffer penalties on manufacturers and distributors who repeatedly and systematically prevent parallel imports. Hence, Article 6 foresees automatic withdrawal of the exemption by category (in plain language: the right to compartmentalise the European market by country) for such infringers<sup>2</sup>.

**ACEA** (the European carmakers' association) has reacted to the publication of the survey findings by emphasising how exchange rate fluctuations have disturbed the operation of the internal market in general and notably the car trade. The association points out that price discrepancies between countries with stable currencies (such as Belgium, the Netherlands, Luxembourg, France, Germany and Austria) do not exceed 6%. This, it argues, shows that in the long haul monetary stability makes for greater convergence of car prices. Hence it urges the Commission and the Member States to take whatever steps are needed to put an end to monetary instability.

Everyone happy?

Not quite everyone. After all, price convergence is one thing, while price *levels* are a different kettle of fish entirely. In other words, European consumers have no interest in converging car prices if this means paying the prices currently charged in the strong-currency countries - prices which, as we have just seen, are the highest in Europe! On the contrary. What people want is convergence - resulting from a long period of monetary stability - towards the prices charged in the weak currency countries.

Well, there's no law against dreaming ...

<sup>1</sup> OJ No L 145 of 29.6.1995. Officially this instrument entered into effect on 1 July and replaces Regulation (EEC) 123/85, but it will not in fact be applicable until 1 October. See also the article 'Distribution of automobiles - a victory for consumers' in the last issue of **INFO-C** (section 'Consumer protection').

<sup>2</sup> Consumers should therefore be encouraged to notify their associations of any suspect activities.



## Emma Bonino addresses conference on consumer protection policy in Central and Eastern Europe

On 7 and 8 July, Emma Bonino was in Budapest to take part in a conference on consumer rights in the eleven countries benefiting from the PHARE programme, viz. Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, organised by the European Commission (DGs IA and XXIV), the Hungarian Ministry of Industry, Trade and Consumer Superintendence, and the Centre for Consumer Law at the University of Louvain-la-Neuve. Government ministers and high ranking officials, as well as representatives from consumer organizations and the academic world were present.

Here are the highlights of Emma Bonino's speech.

She set out by declaring that two messages should stem from the conference:

- the implementation of a consumer protection policy in the associated countries should be considered as one of the priorities in the pre-accession plan;
- the assistance provided by the Community and the Member States to facilitate the implementation of this objective should be continued.

She recalled that in 1994, within the framework of the PHARE programme for technical assistance, the Commission agreed to finance a first programme in the field of consumer protection - the so called Consumer Institutions and Consumer Policy Programme (CICPP). Legislative assistance was given on particular topics, including product labelling, misleading advertising, product safety and product liability, as well as on comprehensive consumer protection acts and institutional arrangements.

But the fact that there remained serious legislative lacunae and problems of enforcement in most countries demonstrated to all the participants that there is still scope for a great deal of assistance if the Central and East European countries are to reach comparable levels of consumer protection to those which exist within the European Union. Therefore, the Commission has extended the CICPP for the period 1995 - 1996.

The beneficiaries of the programme remain government and judicial institutions, non-governmental organizations and academics responsible for consumer protection in the PHARE countries. The management of the programme has been entrusted to the European Research Centre on Consumer Policy at the University of Louvain-la-Neuve.

Emma Bonino then went on to ride her hobby horse. She once again expressed her conviction that if one wants to build a successful consumer policy, one should not only legislate, but also inform consumers of their rights and train them to defend them, as well as educate public administrators, lawyers, magistrates and representatives of consumer organizations so that they themselves know and understand the laws they are called on to apply.

Consequently, information campaigns should be developed. To take just one example: associated countries have an obligation to introduce competition rules. This is the basis for a market economy. But one must not forget to inform consumers and help them understand what true competition means in concrete terms for them. On the bright side, they are given the possibility to compare and choose between products and services of wider price and quality ranges; on the dark side, they face all sorts of booby traps planted by unscrupulous suppliers. Surely this educational approach takes time, but consumerism is not innate.

With a view to helping with this education work, the Commission will continue to support national initiatives according to the situation in each country. As an illustration, Emma Bonino praised the initiatives of certain Dutch and German organizations, of inviting heads of Central and East European organizations to come and visit them on study trips. Another way of supporting Central and East European organizations is to help them acquire the material they need to inform consumers and assist them in solving their disputes.

Emma Bonino concluded by thanking all participants for their presence at this first high level meeting for consumer policy in the PHARE countries, and said she hoped to see them again next year in order to review the progress which will have been made on the different aspects of the existing programme and draw up a new programme for the benefit of all citizen-consumers.

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## Ban on psoralen-based sun blockers

On 4 May **BEUC** wrote to Emma Bonino lauding the Scientific Committee of the European Union's recommendation to the Commission in favour of a ban on all cosmetic products containing concentrations of psoralen - a carcinogen - in excess of 1 ppm (1 mg/kg). BEUC urged the Commission to ban the sale of all psoralen-containing sunscreen products before the summer.

As it turns out, the French firm Bergaderm is the only manufacturer whose products (with the brandname Bergasol) exceed this limit, except in the United Kingdom where the 1 ppm threshold is already mandatory under domestic law. This was enough to spark off a furious row between this firm and the Commission. Bergaderm charged the Commission with trying to put it out of business, hence kowtowing to the large multinational cosmetics and pharmaceutical lobbies, which allegedly could not tolerate the presence of a small national laboratory on their own turf.

In early July, Emma Bonino said that Bergaderm's allegations were so much nonsense, pointing out that the Commission decision to amend for the 18th time the Directive on cosmetic products was based on the unanimous opinions of the Scientific Committee on Cosmetology, consisting of 20 eminent scientists - two of whom are French

- and the Committee for Adaptation to Technical Progress. She also emphasised that the decision in question was taken solely in the interests of consumer safety, that there was clearly no question of victimising one particular firm, and that anyway the manufacturer had until 30 June 1997 to clean up his act.

This time it was BEUC which was outraged at this two-year period of grace. BEUC accused the Commission of failing in its duty, enshrined in the Maastricht Treaty, to ensure a high level of consumer protection - all the more so since the manufacturer does not even have to indicate on the packaging of existing stocks the potential hazards involved. BEUC said two things had to be done: consumer associations should warn the public about using products which fell foul of the new legislation, and in future a far shorter deadline should be imposed for the withdrawal of harmful products from the market.

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## Safety belts in coaches and minibuses!

The day after the tragic accident in France involving a coach travelling from the Netherlands to Spain on the night of 9 July (many deaths and serious injuries), **BEUC** reiterated its call for European legislation mandating seat belts in vehicles of this type. It pointing out that for years the European Commission has been working in this direction, but ran up against opposition from certain Member States. In particular, BEUC indicted France, Italy, Spain and Germany of yielding to intense pressure from industry by rejecting three-point safety belt anchorages in favour of two-point anchorages, although expert accident reports have shown that the latter can lead to frightful abdominal injuries and spinal trauma in the case of frontal collisions. In conclusion, BEUC voiced its fear that the introduction of legislation essential for passenger safety may be postponed to the Greek calends or

that the legislation ultimately adopted will not correspond to optimal safety standards.

Then on 26 July came sensational news: the Commission announced that it was going to propose at the October meeting of the Committee for Adaptation to Technical Progress the adoption of legislation mandating three-point safety belt anchorages, thus forcing each Member State to face its responsibilities. More to follow...

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## What measures to protect consumers from furniture flammability?

In a press release issued on 27 June, **BEUC** called for Europe-wide legislation on furniture flammability. It said that the findings of the Commission-funded study on the Combustion Behaviour of Upholstered Furniture (CBUF) which was published the same day, show that fire behaviour of upholstered furniture can be measured, the contributions of the various components to the development of fire can be identified, and that ways can be found to control and limit the speed at which a fire becomes unmanageable.

In a letter dated 26 July responding to BEUC's press release, Martin Bangemann, the Industry Commissioner, declared that the results of the Commission's research 'should be exploited as much as possible', adding that 'it appears opportune, *without calling for a legislative EU provision*', to provide the consumer with the possibility of assuring his safety in case of upholstered furniture fire, in full knowledge of the risks and

without constraints'. Consequently, he proposed a system consisting in informing the consumer of the fire safety of upholstered furniture by appropriate labelling based on different categories defined by various tests and standards. He concluded by saying that '[the Commission's] policy will, at the right time, consist in asking Member States having a national legislation to replace it by the application of the European standards.'

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<sup>1</sup> **INFO-C's** italics.

## Sunbeds: beware!

The Belgian **Association contre le cancer** (Belgian cancer association) warns that people who use sunbeds run a greater risk of contracting malignant melanoma. This applies even to small doses, as 10 hours on the sunbed - even if spread over a number of years - multiply the melanoma risk three-fold! If exposure has involved 'sunstroke', the risk may be greater by a factor of up to seven! Moreover, contrary to what some

people believe, sunbeds in no way prepare the skin for sunbathing. Finally, since the sunbed craze did not really take off until 1990 (in 1995 one-third of Belgium's 18 to 25 year-olds were using sunbeds regularly), and since 10 to 20 years may elapse between exposure to a carcinogen and the onset of the disease, the Association foresees an explosion of melanoma cancers at the start of the next millennium...

## Sun: beware!

The sun itself (or rather, the fact that certain people get too much of it) is also in the dock. The number of young Belgian adults suffering from malignant melanomas has doubled over the past ten years (five to seven cases per 100,000 inhabitants annually, approximately 200 fatalities each year)<sup>1</sup>. Since it is too early for this increase to be due to the use of sunbeds (see above), the only explanation is excessive exposure to the sun, particularly during childhood. This analysis is underpinned by studies conducted in sun-drenched Australia; showing that persons who emigrated there before the age of 15 are four

times more likely to develop malignant melanoma than persons who emigrated there after the age of 15.

A brochure published by the Association entitled **Le soleil en questions** (Questions about the sun) provides useful information on the risks of excessive exposure to sun and on what people can do to protect themselves.

The Association can also provide you with particulars on the sun information campaign it conducted in Belgian schools,



on its 'Le soleil et la vie' (Sun and Life) exhibition held last May, and on the round-table of photo-dermatologists from all over Belgium it organised.

**Contact:**

Association contre le cancer  
place du Samedi 13  
B - 1000 Brussels  
Tel.: +32 2 219 19 20  
Fax: +32 2 218 53 27

<sup>1</sup> The incidence of skin cancer is increasing by 7% annually in Europe.

## Consumers International delivers statement before the Codex Alimentarius Commission

In our August issue, we mentioned a study by **Consumers International** which shows that many consumer organizations feel that their input into the decisions made by the Codex Alimentarius Commission (the international food standards-setting body) is too limited<sup>1</sup>.

At the end of the Twenty-First Session of the Codex Alimentarius Commission on 3-8 July in Rome, Consumers International formally expressed its disappointment that its document *CAC 21/INF-2 on Consumer Involvement in Codex* had not received the consideration it deserved. So, once again, Consumers International drew attention to the recommendations it contained, especially:

- governments must establish National Codex Committees as a matter of priority, and hold regular consultations with consumer groups;
- National Codex Contact Points should be appointed to take on the responsibility for disseminating Codex documents and other educational material;
- Codex must establish improved systems for the timely distribution of papers;
- Consumers International should be given observer status at the Codex Executive Committee and be invited to nominate experts to attend meetings of JECFA (committee on food additives) and JMPR (committee on pesticide residues) and other meetings.

In addition, Consumers International declared that it felt that the Codex Alimentarius Commission relied excessively on

science when setting food standards and did not give enough consideration to the precautionary principle favoured by consumers. In particular, a decision of paramount importance was taken by secret ballot<sup>2</sup>.

To conclude, Consumers International demanded that *CAC 21/INF-2* be discussed at a subsequent meeting.

As a result of this, the Codex Alimentarius Commission agreed to discuss *CAC 21/INF-2* at the next meeting of the Codex Committee on General Principles in November 1996 in Paris and at the 1997 session of the Codex Alimentarius Commission itself. It also agreed that consumer representatives should be able to apply for membership of the expert committees mentioned above.

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<sup>1</sup> Article entitled 'More consumer involvement needed in setting food safety standards' in the 'Euro-Infos' section.

<sup>2</sup> See following article.



## Consumers International protests decision on hormone injected meat

Over protests from representatives from **Consumers International**, other consumer groups, the European Commission and several Member States, meat injected with growth-promoting hormones may soon be sold in Europe following a secret ballot vote on 6 July by the Codex Alimentarius Commission.

At the recent Codex meeting in Rome, delegates voted 33 to 29 by secret ballot to accept the standard which would clear the way for hormone use.

The use of hormones, such as testosterone and progesterone, speeds up animal growth and can dramatically increase farmers' profits. Although the expert committee that advises Codex on veterinary drug residues has concluded that these hormones are safe, consumers are not convinced there is enough data to support this conclusion and have questioned the long-term consequences of their use and consumption. 'When there is not enough scientific evidence to make a

clear-cut decision about the use of a veterinary drug such as testosterone, governments should always put safety first and err on the side of public health', said Sharon Dee of Consumers International.

Consumers International representatives at the Codex meeting were further concerned about the way in which the decision to accept growth promoting hormones was made - in secret and without any input from public interest groups. Therefore, it is calling for greater public scrutiny of the way such decisions are made.

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## Is baby food a bit hard to swallow?

According to a survey by **The Food Commission** published on 17 July 1995<sup>1</sup>, the majority of commercial baby foods are ignoring the recommendations of the Department of Health's expert committee on weaning foods<sup>2</sup>. The Food Commission claims that manufacturers, including all the market leaders Heinz, Cow & Gate, Boots and supermarket own-brands, are selling products which:

- for 69% of them, are intended for babies under four months: this is explicitly condemned by government nutrition experts, as this is an age when the immature gut can be damaged by premature weaning;
- for 56% of them, contain unnecessary sugars and fruit concentrates: this is condemned as putting emerging teeth at risk;
- for 26% of them, contain glutens: this is condemned as being likely to trigger coeliac disease;
- for 64% of them, contain low-nutrient starches and other bulking agents.

'Many commercial baby foods are tinned pastes and polyfillers', said Tim Lobstein, the report's author. 'The purpose of weaning is to introduce a baby to real food, not start a habit of eating sweet, over-processed pap.'

Consequently, The Food Commission is calling for companies to reformulate their products in line with government health recommendations, and label them so as to show how much real food they contain.

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Tel.: +44 171 628 77 74  
Fax: +44 171 628 08 17

<sup>1</sup> *Tinned Paste and Polyfiller? Baby food in the 1990s*, Tim Lobstein et al.

<sup>2</sup> *Weaning and the Weaning Diet*, The COMA Working Group on the Weaning Diet, Department of Health, 1994.



## Self-regulating advertisers denounce ads for 'life-saving red wine pill'

The **European Advertising Standards Alliance**, a pan-European association of national bodies created by the advertising industry to regulate its own activities by means of an ethical code of practice, regularly denounces ads likely to harm ill-informed consumers. Among the dozens of cases that they have dug up in the past few months, ranging from diet plans guaranteeing rapid weight loss, to clairvoyant services claiming the ability to predict lottery numbers, to package holidays in Spain promising drunkenness and sexual promiscuity, was the health pill 'French Paradox FP-7' supposedly encapsulating the life-saving benefits of red wine...

In this case, the European Advertising Standards Alliance was requested by the Advertising Standards Authority (ASA) of the UK to coordinate an investigation regarding Euro Marketing (the company marketing FP-7) with the self-regulatory bodies Istituto dell'Autodisciplina Pubblicitaria (IAP) in Italy and Stichting Reclame Code (SRC) in the Netherlands (Euro Marketing was based in Italy, but used a Dutch mailing house to distribute its product to customers in the UK...). Since none of these Alliance members were able to obtain from Euro Marketing any satisfactory evidence in support of the advertising claims it made for FP-7 (viz. 'FP-7 can lower your risk of heart attack - and possibly even

prevent cancer!'), the Alliance issued a Euro-ad alert to its members, asking them to exercise vigilance concerning any activity by Euro Marketing in their respective countries.

The Alliance follows a similar course of action for all justified complaints that are brought to its attention. Moreover, in those cases where victims of the deceptive ads (or any other unfair marketing practices, or even involuntary mistakes) are identified, the Alliance or one of the national self-regulatory bodies contacts the company directly and pushes for an amiable settlement.

For more information, or to obtain the address of your local self-regulatory body<sup>1</sup>, please contact:

Oliver Gray  
Director General  
European Advertising Standards Alliance  
rue de la Pépinière 10a  
B - 1000 Brussels  
Tel.: +32 2 513 78 06  
Fax: +32 2 513 28 61

<sup>1</sup> The Alliance recently expanded into Central and Eastern Europe with the approval of the applications for membership by the Czech, Slovak and Slovenian self-regulatory bodies.



## Germany under fire for breach of fundamental Treaty obligation

In a report on the application of the subsidiarity principle in 1994 (*Bericht über den Stand der Anwendung des Subsidiaritätsprinzips 1994*) which it sent to the Commission earlier this summer, the German justice ministry said it had asked the two German Commissioners Martin Bangemann and Monika Wulf-Mathies to vote against a Commission proposal for a directive on EU-wide after-sales guarantees - giving consumers the same minimum guarantees for consumer goods wherever they are bought in the EU - which the German government opposes<sup>1</sup>.

In so doing, Germany breached its obligation under Article 157 § 2 of the Treaty of Rome which states that 'Each Member State undertakes [...] not to seek to influence the Members of the Commission in the performance of their tasks', and that 'The Members of the Commission shall, in the general interest of the Community, be completely independent in the performance of their duties. [...] they shall neither seek nor take instructions from any government [...].'

BEUC castigated the German government's displaced initiative. Its Director Jim Murray wrote to both the German justice ministry - to remind it of the fundamental Treaty obligations incumbent upon Member States - and Jacques Santer - to urge him to publicly denounce such attempts at improper influence.

Jacques Santer subsequently wrote to the German government pointing out the independence of the Commissioners and the articles of the Treaty that make it clear.

<sup>1</sup> The report argued that matters such as consumer guarantees should be left for Member States to legislate on.





## UNITED KINGDOM • SEX-LINE SCANDAL

What do a retired couple celebrating their granddaughter's birth, a local city-councillor and a vicar have in common?

They have all received telephone bills, some for hundreds of pounds, from BT, for calls to foreign-based sex lines they claim they have never made!

There are two possible explanations. One promoted by BT, is that the customers or someone having access to their phones, really made the calls. The other is that someone gained access to the telephone lines between the customers' phones and the exchange. Now when the customers can actually prove that they were away from home when the calls were made, the latter can obviously not be easily discounted - the more so as last June, a 17-year old pleaded

guilty after making £50,000-worth of illegal calls to a sex-line number in Guyana by hacking into BT...

In the August 1995 issue of its magazine **Which**, which recounts the story, **Consumers' Association** encourages BT customers to take action. In addition to asking BT for a refund, they should send copies of the bills containing international calls to numbers they know they have not dialled to:

*Which?*

Dept MT  
2 Marylebone Road  
UK - London NW1 4DF  
Tel.: +44 171 486 55 44  
Fax: +44 171 830 62 20

## • HOLIDAY FUND NEARING BANKRUPTCY?

The **Air Travel Trust**, which is administered by the Civil Aviation Authority (CAA), is a fund that compensates customers of failed holiday companies. Tour operators provide a bond which is used by the CAA to reimburse holiday-makers if a tour operator collapses. If the amount of the bond is insufficient to cover the cost, the fund meets the shortfall.

In the Air Travel Trust's annual report covering the year to 31 March 1995 published on 6 July 1995, the Trustees noted that due to the collapse of three big tour operators in the past year, the fund's assets had been severely depleted and that it seemed almost inevitable that they would be exhausted within the next two years. Indeed, at the time the report was prepared, prospects for the 1995 holiday season appeared gloomy, with bookings generally failing to respond to early discount offers.

Possible solutions for the Air Travel Trust include borrowing commercially and - pending the introduction of the relevant legislation - imposing a levy on each holiday sold by tour operators. The Trustees believe that it is important for the system's credibility to avoid borrowing if at all possible, and therefore call for legislation to allow levy powers to be put in place.

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### Reference:

*Air Travel Trust Reports and Accounts 31 March 1995.*

## • WHAT'S IN STORE FOR THE DEFENCE OF NORTHERN IRELAND'S CONSUMERS?

The **General Consumer Council for Northern Ireland** recently presented its **Corporate Plan 1995-98**. In this document, it essentially identifies seven strategic areas for action, sets out how it will pursue them, and establishes some indicators by which it will measure the results obtained.

### 1. Change policies and practices

The Council intends to work to change policies and practices by carrying out research into consumer protection issues;

assessing the provision and delivery of services to determine whether they are in the consumer's interest; investigating matters which raise competition issues; improving redress and complaints systems; monitoring prices and ensuring a fair deal; and responding to Government consultation documents especially to those dealing with the priority sectors (i.e the mandatory areas of energy, food and transport, but also other areas including health, credit and debt, consumer education and advice services, etc.).



## 2. Representing consumers

The Council will speak up on behalf of consumers and draw their interests to the attention of Government, business and other appropriate organizations in the private and public sectors. It will do so by continuing to develop and implement a proactive media strategy of consumer issues and the Council's work; promoting adequate safety standards for goods and services; advocating better practice in relation to consultation, representation, standard setting, and information and advice; and revising its own corporate image.

## 3. Awareness of rights

The Council will work to increase consumers' awareness of their rights by providing clear and reliable information on those rights and drawing the attention of other organizations to the necessity to do the same; continuing to support the provision of a comprehensive network of adequately funded advice and information agencies; and paying special attention to the information needs of schools, colleges and other organizations involved with young people.

## 4. Relationships with other organizations

The Council will develop such relationships by fostering alliances with appropriate organizations on matters of mutual concern; actively seeking out organizations with specialist expertise and influence; networking with statutory and other bodies; building stronger links with other Northern Ireland consumer organizations; and co-operating with the Charter Advisory Unit and other organizations to help consumers benefit from the Charter initiative.

## 5. Customer satisfaction

The Council will stay in touch with the expectations of consumers and deliver its services in accordance with the Citizen's Charter principles by assessing the level of consumer (dis)satisfaction with goods and services; improving the responsiveness of its services to consumers; and extending the openness and accountability of its own operations.

## 6. Other statutory activities

The Council will discharge its specific functions by dealing with individual road or railway passenger transport complaints; considering and making recommendations on any disputed road service licence applications referred by the Department of the Environment; reporting on consumer issues arising from the marketing schemes of agricultural products; and reporting to a Civil service department on any matter relating to consumer affairs which it refers to the Council.

## 7. Organizational effectiveness

The Council is committed to continuing to manage its affairs with probity and within official guidelines.

The Council has also published a leaflet entitled **10 Years Serving Consumers**, which is divided into six sections: Energy, Food, Transport, Consumer Education, Legal, and Consumer Protection Generally, and highlights its main activities in the first ten years of its existence (1985-95). These have included making clear the impact the imposition of VAT on fuel would have in Northern Ireland; surveying the quality of drinking water; producing a video that shows the dangers posed by the 'three for two' rule that applies to children on buses; advising the education authorities on the inclusion of Economic Awareness as a cross-curriculum theme; investigating the operation of the Small Claims Court and recommending improvements to remove delays and raise awareness; and carrying out a cross-border price survey together with the Consumers' Association of Ireland.

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## FRANCE • RAILWAY PASSENGER INFORMATION COSTS AS MUCH AS SEX PHONE LINES!

The RATP (Paris underground) and SNCF (French railways) are now providing the public with phone information services billed at FF 2.19 per minute<sup>1</sup>.

Just like those vulgar sex phone lines!

But while one can just about understand why Ulla or Jessica charge such fees to entertain callers on very private matters, it is hard to see why public transport companies should bill users just as much for essential passenger information. This is why the **Association des Voyageurs** (Passengers' Association) urges that '... public transport service providers should provide

passengers with the basic information they need free of charge - and this goes both for road, rail, maritime and air transport'.

### Contact:

Association des voyageurs  
c/o Confédération syndicale du cadre de vie  
15 place d'Aligre  
F - 75012 Paris  
Tel.: +33 1 43 47 41 95  
Fax: +33 1 43 41 40 06

<sup>1</sup> This initiative was deplored by the Association des voyageurs (Passengers' association) attached to the Confédération syndicale du cadre de vie (CSCV).

## • MAKING CO-OWNERSHIP WORK BETTER

On the occasion of the National Co-ownership Day held on 16 June, the **Association des Responsables de Copropriété** (ARC - Co-owners' Association) proposed improving the operation of co-ownerships in five domains.

### 1. The law

The co-ownership law dates from 1965 and badly needs revamping. For example, it does not apply to ASLs (Association Syndicales Libres - Free Syndicate Associations, i.e. co-ownerships that are not run by a professional manager); it does not specify the majority required for voting certain improvements (installation of individual water counters, change of fuel in the case of collective heating, etc.); it does not clearly spell out that any decision infringing the law is null and void; there are practically no penalties for dishonest managers; it is difficult for owners who believe they have suffered a setback of interest to take legal action; the law does not clearly define the status of the management boards; finally, it does not contain a list of illegal terms in co-ownership by-laws.

### 2. Management of co-ownerships and the profession of 'syndic'

The syndic's profession has recently been discredited by a spate of scandals now before the courts. The professional organisations' only response has been to propose woolly 'charters' or 'codes of conduct', all of which are mere window-dressing. But ARC and other consumer associations propose creating a **label** for syndics, which would only be granted to persons with a proven record of commitment to 29 criteria embracing all aspects of co-ownership management (monitored by licensed external bodies called 'certifying bodies').

### 3. Information and training of co-owners

ARC has worked hard in this domain by publishing guides, already publicised in **INFO-C**. With a view more specifically to training advisers, ARC has just published the first **Manuel du conseil syndical** (Management Board Manual) ever, chock-a-block with advice and tips concerning account-keeping, contracts, personnel, charges, legal and practical operation of the Board, etc. Indeed it also proposes setting up an official institute for training the various players involved as well as local training programmes in the municipalities.

### 4. Aid for co-ownerships in difficulty

The emphasis is on aid to co-owners in difficulty. Departmental Commissions to help victims of unpaid charges (as in the case of unpaid rents) could thus help certain co-owners resolve their problems. Again, court-appointed administrators responsible for managing co-ownerships in difficulties should be given real powers.

### 5. Settlement of disputes

Access to justice should be simplified, for example by allowing cases to be adjudicated by magistrate's courts rather than by district courts (as in the case of rental disputes). Finally, a 'dispute management commission' should be established, consisting of representatives of co-ownership associations and syndics, so that small disputes can be settled out of court.

### Contact:

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29 rue Joseph Python  
F - 75020 Paris  
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Fax: +33 1 40 30 12 63



## **BELGIUM • GOVERNMENT AND ASSOCIATIONS FACED WITH THE EXCESSIVE DEBT OF CONSUMERS**

On 31 August 1995, Jan Peeters, the Belgian Secretary of State for Social Integration, presented the *Guide méthodologique du traitement des dossiers de surendettement* (Methodological guide on how to deal with cases of excessive debt), published a few weeks earlier by the **Centre coopératif de la consommation** and the **Koöperatieve Verbruikersbeweging**. This work of approximately 170 pages, which is available in French and Dutch, is not intended directly for the general public, but rather for social workers in public social welfare centres (CPAS), who do what they can to find acceptable solutions to the problems of the excessive debts of the consumers who come to see them.

Overindebtedness is by no means rare. At the end of 1994, some 320,000 people in Belgium had defaulted on their consumer credit payments, out of a population of 10 million. What is more, overindebtedness affects all social groups. A recent study showed that, in most cases, it is the result of the purchase of a house, car or furniture, followed by unexpected insolvency due to unemployment, a road accident, illness, divorce, etc., which affect so many people nowadays. Finally, overindebtedness is an extremely complex problem to deal with. It is hard enough for lawyers to give firm advice to their clients about how to pick a path through the amicable negotiations with creditors, the less amicable confrontations with bailiffs and the even less amicable appearances in court, let alone for social workers who are not lawyers!

The Guide is therefore intended to be a highly practical tool for providing assistance in settling the specific cases dealt with by the CPAS. It comprises two parts.

The first deals with the **methodological aspects** of how to handle a case. Social workers who see people with problems will find valuable advice on how to conduct the first interview, in which they will have to clarify their field of responsibility and indicate the amount of help they can provide, while at the same time listening to the needs of the user. This part also shows them how to assess the budget of the overindebted person, how then to draw up a plan for paying off the debts and, lastly, how to negotiate this plan with the person's creditors, where possible.

The second part covers the **legal aspects**. When an overindebted person is going to and fro between creditors, bailiffs, lawyers and courts (not to mention the fact that the various types of debts are not covered by the same courts!), the social worker himself is overwhelmed by the complexity of the procedures involved. However, he will be greatly helped by studying the various chapters of this second part, which cover successively the definition of debt, the rules applicable to all debts, the rules applicable to the various types of debt and, lastly, the persons who may be involved in such a situation. The presentation is extremely practical and illustrates theoretical concepts with many examples, case studies and standard letters.

Finally, the Guide has an index, which enables readers to find answers quickly to the questions raised, and a list of useful addresses.

While praising this useful Guide, Jan Peeters stressed in his talk that the problem of overindebtedness should also be tackled through a general policy. He therefore undertook to make a number of proposals to his colleagues at the interministerial conference on combating poverty in the coming months. He intends to propose that measures to warn consumers against the dangers of credit be stepped up, that the suppliers of credit - who are sometimes too 'generous' - be made to recognise their responsibilities, that consumers be given better protection in the case of mail order purchases, that the 'risks centre' play a more positive role and, lastly, that the preparation of the draft law on mediation and remission of debt be brought to a successful conclusion.

The Guide is available for FB 800 (including postage) from:

Irène Caillaux  
Centre coopératif de la consommation / Koöperatieve  
Verbruikersbeweging  
rue Haute 28  
B - 1000 Brussels  
Tel.: +32 2 500 52 65  
Fax: +32 2 502 71 61



## LUXEMBOURG • TIME TO STOP THE BANKING RACKET!

On 21 July 1995 the **Union Luxembourgeoise des Consommateurs** (ULC - Luxembourg Consumers' Union) wrote to Jean-Claude Juncker, Luxembourg Prime Minister, Minister for State and Minister for Finance deploring the fact that certain banks in the country had again presented their clients with a *fait accompli* by announcing *a posteriori* - in the form of a mailshot - a considerable increase in the price of certain credit card and Eurocheque operations.

The ULC points out that this price hike is the latest in a long series of increases which the banks have already imposed on their clients, notably private individuals, and this despite comfortable profits.

To give an idea of the exorbitant fees applicable as of 1 June (although customers were not informed until the 15th!):

- increase of 40% in the annual subscription for Visa and Eurocard credit cards, way above the rate of increase of wages and the consumer price index;
- increase of 66.66% in commission on Eurocheques cashed abroad;
- not to mention the commission of 100 Lfrs for every withdrawal of banknotes in Luxembourg or abroad using Visa or Eurocard cards, plus 2% of the amount withdrawn!

In the face of these practices, the ULC asks whether the banks are perhaps opting to impose medieval ransoms on money flows in Europe. It also wonders whether the explanation lies in the bountiful sums that many banks grant in support of sport, culture, and similar activities. Hence the banks bask in the imperial glory of Borgia-style patronage, while their hapless clients shell out the sums needed to finance the gold, frankincense and myrrh showered on 'Luxembourg, European City of Culture 1995'. Finally, the ULC insists that these practices are possible only because there are no statutory rules governing the commissions and fees which banks may charge their clients. Hence it urges the Prime Minister to intervene as a matter of urgency with an eye to adopting appropriate provisions to put paid to these unfair and unethical practices.

### Reference:

*de Konsument* (issue 10/95 of 31.7.1995).

### Contact:

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L - 1274 Howald  
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Fax: +352 49 49 57

## ITALY • WHO IS ITALY'S INVISIBLE MAN?

The **Comitato Difesa Consumatori** (CDC - Consumers' Protection Committee) claims that it is the mediator (*Difensore civico*)!

In fact mediators - who were to be every citizen's 'guardian angel' - have been appointed in only 97 out of 8,104 municipalities, 8 out of 94 provinces and 16 out of 20 regions. There are simply far too few mediators given the nature of their task - namely to improve relations between the citizen and the public administration.

Mediation was established under Act No 142/1990 and its role enhanced by the recent Act No 163 of 12 May 1995, which enshrines the principle of Public Service Charters. The mediator's job is to intervene in disputes between citizens and public administrations - concerning such matters as poor-quality services, excessive delays (in obtaining a certificate or identity card), or again bureaucratic errors or

misunderstandings. Even if the mediator does not have binding powers, i.e. cannot enjoin any public administration to comply with his decisions, his activities are a stimulus to greater efficiency at local level. For example, the mediator supervises the fair allocation of subsidised housing.

Following its survey the CDC wrote to the Minister for the Public Service, Francò Frattini, proposing an amendment to Act No 142/90 with a view to rendering mandatory - and no longer merely optional - the nomination of mediators in the municipalities and provinces. The CDC also urges local administrations to be forward-looking and to fill these new posts as of now, not only in their own interests (by demonstrating their concern with the quality of their services) but also - and primarily - in the interests of the general public, who would thus enjoy the support of these 'guarantors of impartiality'.



## SPAIN • OCUC WIDENS ITS NET

Just a few months ago the **Organizació de Consumidors i Usuaris de Catalunya** (OCUC - Catalonia Consumers' and Users' Organization) opened a regional office in Lerida. As OCUC President Ricardo García-Nieto Conde points out, OCUC is doing its utmost to extend its reach to all major cities in Catalonia. Hence, over the past 20 months the number of outstations has risen from 2 to 8. In addition to its Barcelona headquarters, OCUC is now present at San Feliu de Llobregat, Mataró, Figueras, Gérone, Igualada, Vich, Tarragone and Lerida.

Its objectives remain unchanged:

- to remain close to its members;
- to be present in retail, service and tourist districts, etc.;
- to defend consumers wherever they may be and - above all - to let professionals know that it is present in their locality so as to discourage abuses;
- to reinforce its social base while remaining close to its members.

OCUC emphasises that many of its activities are of an altruistic nature and that its clout comes from the work of its members. It is thanks to their proposals, advice and support that OCUC has been able to conduct studies revealing persistent shortcomings in certain sectors, to establish an open dialogue with most firms to encourage them to improve their customer services, and to resolve a certain number of problems. This is why, to continue its work, OCUC needs an increasing number of activists!

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## • A COMPUTERISED SERVICE DEDICATED TO CONSUMER AFFAIRS

For several years now the firm **MAG - Estudios de Consumo** (MAG - Consumer studies) has been providing an on-line service called INFO CONSUMO BBS to a certain number of autonomous communities and municipalities in Spain (OMIC). With the aid of a modem, various public consumer protection organisations can thus access a BBS which offers the following services:

- a consumer affairs database comprising legal texts (Spanish and Community instruments), bibliographical data and information extracted from periodicals<sup>1</sup>. At writing it comprises 31,000 records with 500 to 700 new entries being added each month;
- other legislative information on 165 subjects, abstracted and commented, and broken down as follows:
  1. obligations of the manufacturer or provider of the good, product or service,
  2. recommendations for consumers,
  3. legislation in force, regularly updated;
- an Email service;
- a service for reproducing the documents catalogued in the BBS, with transmission by modem, fax or mail;
- information taken from specialised reviews or the popular press;

- text files on various consumer issues (legislation, articles);
- on-line consultation from 9 to 21 hrs;
- information on consumer education;
- design and realisation of brochures for specific campaigns organised throughout the year as well as consumer education projects for implementation in the schools.

Because of its widespread availability, speed of access (16,800 bps), and its wide range of custom services, INFO CONSUMO BBS is deemed to be the leading source of computerised information on consumer affairs in Spain.

MAG - Estudios de Consumo also provides its clients with a monthly information bulletin.

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<sup>1</sup> This data base also includes the information contained in **INFO-C**.



## • STILL TOO MANY BARRIERS TO THE MOBILITY OF HANDICAPPED PERSONS

On 14 March this year Catalonia adopted Decree 135/1995 fleshing out Act No 20/1991 on the 'removal of architectonic barriers' - i.e. all physical barriers to mobility. An 'accessibility code' will also take effect this autumn.

In tandem with these statutory developments, the **Unión de Consumidores de Catalunya** (Catalonia Consumers' Union), at the request of the **Institute Català del Consum** (Catalonia Consumer Institute), has conducted a survey of associations of physically handicapped persons on the state of barriers at present.

Over 90% of the respondents think that access to public thoroughfares and spaces - such as parks and gardens - is difficult. They suggest the construction of access ramps and passages for pedestrians, the repair of barriers which no longer open, and also that drivers be encouraged to park their vehicles so as not to obstruct passers-by.

Over 80% of the respondents consider access to public buildings difficult, while 75% think the same applies to

private buildings. Proposals include widening of doors, constructing access ramps, creating toilet facilities for handicapped persons, and systematically installing lifts in multi-storey car parks.

As regards public transport, half the respondents consider that access to subways and trains is difficult, while 75% say the same applies to buses.

Access to private transport is considered difficult by almost 60% of respondents in the case of taxis and by over 90% in the case of regular private bus services.

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## PORTUGAL • HOME AND LEISURE ACCIDENTS CAUSE MORE THAN 1,300 DEATHS AND 750,000 INJURIES EACH YEAR IN PORTUGAL!

And besides the pain and mental suffering, they cost 20 billion escudos, which is more than it takes to build a 600-bed hospital! This is one of the findings of three studies presented by the **Instituto do consumidor** (Consumer Institute) on 5 July, which also mentions that home and leisure accidents are responsible for approximately 30,000 deaths and 40 million injuries annually throughout the European Union.

Here are the titles of the three studies in question:

- **Aproximação aos custos dos acidentes domésticos e de lazer** (Evaluation of the costs of home and leisure accidents), by José Carlos Casimiro and Fernando Ferreira de Almeida;
- **A mortalidade por acidentes domésticos e de lazer em Portugal** (Mortality due to home and leisure accidents in Portugal) by Fernando Honório;
- **Sistema europeu de vigilância de acidentes domésticos e de lazer (Ehlass) - Portugal Relatório Anual 1994** (European home and leisure accident surveillance system - EHLASS - 1994 Annual Report on Portugal) by Fernando Honório and Jorge Martins.

Below we reproduce some of the main findings of these reports:

### 1. Costs

The estimate of the national cost of home and leisure accidents is based on a study of cases handled in 1992 by the Viseu district hospital, which is representative of Portuguese hospitals.

The data show that 11.7% of the cases treated in casualty units were directly caused by a home or leisure accident, and that each costs an average of 6,600 escudos when the patient is treated at hospital and 1,350 escudos in the case of health centres. If the victim has to stay in hospital, the average cost per accident is 184,700 escudos and can even total 330,000 escudos in the case of burnings (the most costly type of accident to treat).

A total of 6.3 billion escudos were spent in the hospitals, of which three billion went on casualty unit services and 3.3% on in-patient treatment.

Moreover, outpatient consultations cost 2 billion escudos, patients' own contributions 340 million, drugs 2 billion, transport 2.1 billion and days lost due to invalidity 3.2 billion.



## 2. Mortality

Between 1981 and 1991 there was a considerable downturn in mortality due to home and leisure accidents in all age brackets (even if this improvement is more pronounced in the 0 to 4 year-old age bracket than among 5 to 14 year-olds, where mortality rates remain very high). This improvement is due both to improved prevention and better living conditions. However, child mortality in Portugal is still well above the EU average, the main causes being poisoning, falls and asphyxiation.

Non-fatal home and leisure accidents requiring treatment have a toll of 750,000 victims each year, five times the figure for road accidents.

For 1994 the figures reveal:

- an increase in poisonings, mainly among children and young people, due to the ingestion of tainted foodstuffs, drugs and liquid cleaning products (mainly detergents);
- an increase in accidents at schools;
- fewer accidents involving burns.

## 3. EHLASS

The Instituto do consumidor is responsible for managing the EHLASS system in Portugal (EHLASS is a permanent system for the surveillance of home and leisure accidents, notably those caused by consumer goods). Thus, on the basis of its exhaustive knowledge of accidents, the circumstances in which they occur and the products in question, it organises preventive and monitoring measures in the context of detecting dangerous products, laying down safety standards, preparing the appropriate legislation and orchestrating consumer information campaigns.

Analysis of EHLASS results for recent years has prompted the Instituto do consumidor to identify four priority domains for intervention in regard to safety and prevention:

- *Accidents at school*: not only is there a large number of accidents each year (approximately 70,000 in 1994), but there is no sign that things are improving.
- *Accidents in kindergartens*: approximately 4,000 accidents each year, some of them quite serious, and which affect very young children. Swings, responsible for 70% of accidents, together with slides (21%) are the main culprits.
- *Accidents at fairs*: numbering approximately 800 cases annually, these accidents have hardly declined at all between 1991 and 1994. This means that safety conditions in amusement parks and similar establishments leave much to be desired. Dodgems are the main culprits!
- *Accidents in rivers, lakes, and by the seaside*: although no precise figures are yet available, accidents of this kind are on the increase. Notably, inland waterways and lakes have proved very attractive, but safety arrangements are virtually nil.

The Instituto do consumidor, concerned by this state of affairs, has already alerted the various authorities responsible, providing them with detailed information on how accidents happen in the above-mentioned locations, and has urged them to intervene. It is ready to provide them with any assistance they may require.

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## • SAY NO TO PRODUCTS WITHOUT A LABEL IN PORTUGUESE!

On 7 August, following a spate of complaints to the **Instituto do Consumidor** on the proliferation of products - mainly hygiene and cleaning articles - sold without a Portuguese translation of the information on the labels, the Instituto do Consumidor's President Lucas Estevão published a recommendation urging importers, distributors and retailers to comply scrupulously with the legal rules in force.

The recommendation points out that - for reasons of consumer safety - use of Portuguese is mandatory on the labels of these products, since consumers have the right to be informed about the nature and properties of goods sold in their own country along with the associated guarantees.

The recommendation also exhorts consumers to refrain from buying goods that infringe these rules in the interests of their own health and safety and that of third parties, above all children. It also points out that these infringements are punishable by law.

The text of the recommendation as well as details on these infringements may be had from:

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## • KEEPING AN EYE ON ADVERTISING

Since the adoption of the law amending the advertising code (Decree-Law No 6/95 of 17 January) the **Instituto do Consumidor** has instituted 109 proceedings, most of them concerning misleading advertising.

A quarter of these actions concern mail order firms and 10% concern infringements of the consumer credit act, notably failure to indicate the APR (annual percentage rate of charge).

The Instituto do Consumidor has also challenged four cases of television advertising. The disputed programmes are 'Parabéns' and 'Futebol Directo' on RTP1 and the games 'Quem Casa Quer Casa' on TV1 and 'Não se Esqueça da

Escova de Dentes' on SIC. In each case advertising was inserted without interrupting the programmes, which is illegal.

The Instituto do Consumidor also points out that the competent authorities recently imposed fines (totalling over three million escudos) on four firms on grounds of misleading advertising.

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## DENMARK • DANGEROUS TOYS AT SØSTRENE GRENE

In a press release dated 5 July, the **Forbrugerstyrelsen** (Danish Consumer Institute) deplored the attitude of the Søstrene Grene chain of stores which, despite repeated warnings from the Forbrugerstyrelsen, persisted in selling dangerous toys.

On numerous occasions it emerged that toys on sale at Søstrene Grene stores infringed the statutory safety standards.

After an initial inspection in September last year, the Market Inspection Service (Markedskontrollen) warned Søstrene Grene that it would take additional samples. After the second sampling, Søstrene Grene was informed on 25 January that they risked criminal indictment for selling toys which did not comply with the safety standards.

Yet the Market Inspection Service, just three weeks later, discovered in a recently-opened store in Lyngby toys so small that infants could swallow them and suffocate. These toys should have borne a warning indicating their unsuitability for children aged under three years.

Again, during last year's Christmas period, a small metal police car was found with sharp edges liable to cause injury,

and hence illegal. Søstrene Grene claimed that these cars were decorative collector's items, and sold as such in other European countries. But the Forbrugerstyrelsen argues that the car is in fact a toy because it is clearly designed as a plaything for children aged under 14.

This toy had been imported from Shanghai. It is the importer who is responsible for the toy's conformity with safety and labelling standards. In this case Søstrene Grene Import had not bothered to check whether the toy could be used safely by children.

Let us hope that by the time you read this article Søstrene Grene will have managed to put its shelves in order. For more information contact:

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**SWEDEN • STOP THE SALE OF DANGEROUS RATTLES!**

'Klockbitring' rattles by Baby Björn AB and 'Hello Baby' rattles by Brio AB, which are hazardous for infants, are sold in their thousands. In an announcement on 23 August, the **Konsumentverket** (KO - Swedish association for the defence of consumer interests) called on the companies concerned to recall the rattles and alert parents who had bought them.

Laboratory tests carried out by the Konsumentverket have shown that these rattles do not comply with requirements laid down by the European toy safety standard. The Baby Björn 'Klockbitring' rattle consists of two wooden clocks strung on a cloth ribbon. If a child strikes the rattle against a table or other hard surface, the clocks may break, and the child risks being injured or choking if any parts are swallowed. The Brio 'Hello Baby' rattle also fails to meet the required safety standards as regards shock resistance. Made of hard plastic, it consists of five bears threaded onto elastic and separated by three small balls. It is designed to be hung inside a pram. Tests carried out by the Konsumentverket have shown that the small hollow plastic figures can be

easily broken, with plastic fragments thereby becoming detached. The elastic thread does not come up to standard either, since it can be stretched far too much, giving rise to a risk of strangulation.

Baby Björn AB has questioned the risk assessment conducted by the Konsumentverket, whereas Brio AB has decided to recall stocks of its rattles from distributors and retailers. The Konsumentverket is, however, not satisfied with this, and is now considering asking the consumer affairs tribunal to compel the two companies to place advertisements in national daily newspapers to alert parents.

For the very latest information on this matter, contact:

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**AUSTRIA • HOW DO AUSTRIAN CONSUMERS STAND?**

Austria's **Federal Ministry of Health and Consumer Protection** has published a *Report on the Situation of Consumers (1994) - A Survey of Current Problems in Consumer Protection* authored by the **Verein für Konsumenteninformation** (VKI - Consumer Information Association).

The report's underlying philosophy is that consumer policy can only be successful if decision-makers know enough about consumer problems, so that they can realistically gauge and identify the necessary measures at various levels - both in business, administration, government and Parliament. In preparing it, the VKI conducted extensive surveys and market analyses. More than 27,000 ongoing complaints and counselling events were evaluated and processed on the basis of market research data, drawing on the expert knowledge of VKI staff.

The report is divided into three main parts.

The first part focuses on traditional problems endemic to specific branches. These include furniture sales, doorstep selling of magazine subscriptions, mail order sales, and also

services such as travel, telecommunications, public utilities as well as insurance and personal finance - with doorstep selling now a growing problem in the last two sectors. This part also casts light on consumer housing market problems, notably involving estate agents.

The second part concerns horizontal legal issues. It discusses problems connected with the legal guarantee, damages, late delivery, doorstep selling and advertising. It shows that the legal guarantee still heads the problem list, accounting for approximately one third of all queries put to the VKI. The main snag is that the burden of proof falls on consumers and that many are unaware of the distinction between the commercial guarantee and their statutory rights as such. The report also highlights the prohibitive costs consumers risk incurring when they take legal action. The problem of late deliveries, in particular of furniture, comes a close second. The report shows that as the law stands firms can simply fob off their customers from deadline to deadline with impunity.

The final part focuses on the socio-demographic aspects of consumer problems. What is the role of the consumer's social





status? Is age an important factor? Are young or elderly people more likely to be the victims of sharp practices?

Annexed to the report are rulings handed down in recent court cases initiated by the VKI - notably by invoking its right to challenge unfair terms in standard contracts under the Consumer Protection Act. This is essential reading for those who want to know more about how consumer rights work in practice.

The Federal Ministry of Health and Consumer Protection has already reacted to important reforms called for in the report and is currently putting them into practice. The report has also been submitted to Parliament.

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## — European Union —

# Member States may prohibit cold calling for financial services

An EU Member State rule that prohibits soliciting of custom by telephone without the client's prior consent falls foul of the rules of the internal market, but may be acceptable in the case of financial services, said the European Court of Justice on 10 May 1995<sup>1</sup>.

A Netherlands court had sought a preliminary ruling on an action brought by Alpine Investments BV, a company established under Netherlands law, contesting a ban by the Netherlands authorities on the firm's practice of telephone soliciting of financial services within the Netherlands and from the Netherlands to other EU Member States.

The financial services in question are commodities futures and Alpine Investments practice was to contact potential clients by telephone without obtaining their prior written consent, a selling technique known as 'cold calling'.

The Court ruled that the Netherlands authorities were in contravention of Article 59 of the Maastricht Treaty on the free movement of services by prohibiting Alpine Investments from contacting clients established in Member States other than the Netherlands.

But in the specific case of financial services and commodities futures the ban on cold calling could be justified 'in order to protect investor confidence in the national financial markets', in the Court's words.

In the context of consumer protection regarding contracts negotiated at a distance, the EU Ministers responsible for consumer affairs agreed on 30 March last to make it incumbent on companies that solicit custom by telephone or fax to seek in advance the consent of their potential clients in writing.

**Reference:**

*de Konsument* (Issue 10/95 of 31 July 1995)  
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<sup>1</sup> C-384/93: *Alpine Investments BV v Minister van Financiën*.





## — European Union / Greece —

# Greek prohibition of marketing of processed milk for infants other than by pharmacies is legal

Following a complaint brought in 1988 by the Greek Association of Infant Formulae, the Commission of the European Communities took the view that the Greek legislation requiring that processed milk for infants should be sold exclusively by pharmacies had equivalent effect to a restriction on imports (thus violating Article 30 of the EEC Treaty) and exceeded what was necessary to achieve the aims of protecting the health of infants and promoting breast feeding (thus violating Article 36). The Greek government retorted that the measure did not affect importation of the product from other Member States and that it was necessary and appropriate to protect the health of infants. As a result, by application lodged on 6 November 1992, the Commission brought an action against the Hellenic Republic under Article 169 of the EEC Treaty.

The Commission argued that the measure violated Article 30, if only indirectly, by making the importation of the product from the other Member States more difficult and more onerous: if the product could be sold in large stores, its price would drop, which would lead to an increase in demand and therefore in the volume of imports<sup>1</sup>.

The Greek government countered the Commission's arguments by saying that the only effect of the measure was to restrict the commercial freedom of traders and fulfilled the conditions which the Court in *Keck and Mithouard*<sup>2</sup> stated as necessary for a measure to fall outside the scope of Article 30. It pointed out, moreover, that the measure had entailed neither a fall in consumption of the product during the year in which it was introduced by comparison with the preceding year, nor an increase in price, nor problems of supply.

The Court considered that the Greek measure, since it applies to all products, domestic or foreign, and therefore does not impede access to the market of foreign products more than it does that of domestic ones, falls outside the scope of Article 30. Consequently, it dismissed the Commission's application.

[Case C-391/92, judgment delivered on 29 June 1995].

In so doing, it did not follow the Opinion of Advocate General Lenz, which found that the Greek measure did in fact violate Article 30, thus confirming its recent tendency to give

Member States more power when it comes to regulating trade on their territory. Lenz' Opinion had given hope to those who consider that national monopolies on the sale of certain products - such as tobacco or alcohol - in several Member States, violate the principle of free movement of goods and should therefore be slashed by the EC Court of Justice.

In **Spain**, however, things will be very different in future thanks to a recent court ruling authorising the sale of processed milk for infants in supermarkets<sup>3</sup>.

Granja Castelló, producer of cow's milk 'El Castillo' and infant milks 'Nadó 1' and 'Nadó 2' may again market its products in supermarkets, after revocation of the interim withdrawal order following the complaint lodged last May by the Asociación Nacional de Dietética Infantil (ANDI). The purpose of the complaint was to outlaw the sale of infant milks in establishments other than pharmacies.

Falling prices resulting from competition will be the most obvious consequence of this decision from the consumer's viewpoint.

This ruling should trigger a liberalisation process in Spain (up to now hampered solely by sectoral interests) on the lines of trends in the other EU Member States (with the exception of Greece, as we have seen).

### Reference:

INFO CONSUMO BBS

(Monthly information bulletin of MAG (Estudios de Consumo) - No 19 September 1995)

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<sup>1</sup> May we add here that the situation would benefit not only foreign manufacturers, but also *Greek consumers*, of the product...

<sup>2</sup> Joint Cases C-267/91 and C-268/91 *Keck and Mithouard* [1993] ECR I-6097. In this landmark case judged on 24 November 1993, the Court ruled that Member States may impose certain selling arrangements - and prohibit others - so long as the provisions apply equally to domestic and foreign products.

<sup>3</sup> Judgment of the Barcelona Court of First Instance No 13 of 9 August 1995.





## — European Union / Germany —

# Same Article 30 leads to different ruling on Mars bars' '+10%' promotional campaign

Mars GmbH, the German subsidiary of the American group Mars, Inc., the manufacturer of the Mars, Snickers, Bounty and Milky Way chocolate bars, was selling in Germany ice-cream bars presented in wrappers marked '+10%'. The bars were imported from France, where they were lawfully produced and packaged in a uniform presentation for distribution throughout Europe. The '+10%' presentation was part of a short publicity campaign, covering the whole of Europe, during which the quantity of each product was increased by 10%.

A German association combatting unfair competition (Verein gegen Unwesen in Handel und Gewerbe Köln eV) brought proceedings against the campaign before the Regional Court of Cologne (Landgericht Köln) on two grounds. Firstly, the retailer, in order not to mislead the consumer, was bound to maintain the final price previously charged. This constituted a breach of Paragraph 15 of the German Law on Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen), which stipulates that to restrict the freedom of one of the parties to a contract to set prices is illegal. Secondly, the '+10%' marking was incorporated in a coloured part covering considerably more than 10 percent of the surface of the wrapping of the bar. This, in the plaintiff's view, was misleading information and therefore contrary to Paragraph 3 of the German Law on Unfair Competition (Gesetz gegen unlauteren Wettbewerb).

The Regional Court of Cologne referred to the European Court of Justice the question whether the prohibition of the sale of the products in Germany, while they were being legally produced and marketed in another Member State, was compatible with Article 30 of the EEC Treaty.

The European Court of Justice answered that such a prohibition fell within the scope of Article 30, as it would be

likely to hinder intra-Community trade. It would compel the firm to adjust the presentation of its products according to the place where they are to be marketed, and would therefore impose on it additional packaging and advertising costs.

But could the prohibition be justified on the grounds that it was at the same time necessary, in order to satisfy overriding requirements relating to consumer protection and fair trading, and proportionate to the objective pursued?

No, said the Court, ruling on the two grounds upon which the consumer protection association had based its action.

Firstly, the fact that the manufacturers or retailers *might* deceive consumers by increasing their prices during such a campaign (which, in this case, they had not), was not sufficient to justify a general prohibition which may hinder intra-Community trade. Similarly, the constraint imposed on retailers not to raise their prices, which indeed violated Paragraph 15 of the Law on Restraints of Competition, could certainly not be used against them since, in this case, it was in fact favourable to the consumer! In any case, the Court said, the objective of guaranteeing price competition at retail level may not justify measures hindering intra-Community trade.

Secondly, one could expect 'reasonably circumspect' consumers to realise that there is not necessarily a link between the size of a publicity marking relating to an increase in a product's quantity and the size of that increase.

Consequently, the Court, following the opinion of Advocate General Léger, ruled that in this case Article 30 precluded a national measure from prohibiting the importation and marketing of the products.

[Case C-470/93, judgment delivered on 6 July 1995].





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## — European Union / Belgium —

### Is the pharmacists' monopoly on the sale of sterile articles legal?

The Liège Court of First Instance has referred a case to the European Court of Justice for a preliminary ruling on the legality of the monopoly Belgian pharmacists enjoy on the sale of sterile articles (compresses, etc.). The Royal Decrees

of 6 June 1960 and 10 November 1967 establishing this monopoly may indeed contravene the principle of the free movement of goods.

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## — European Union / France —

### Are vehicle year-of-manufacture rules legal?

In France, any car bought after 1 July is registered as manufactured the following year. The Metz Appeal Court has just requested the European Court of Justice for a preliminary ruling on the legality of this rule, seeking clarification as to whether it contravenes the principle of the free movement of goods because it makes purchasing cars in another Member State less attractive: any car (French or foreign) bought in France after 1 July is registered in the following year whereas the same (French or foreign) car bought outside France and then imported into France is registered in the current year.

The consumer issue at stake here is the 'parallel import' of vehicles. Recall that on 15 March last Peugeot was convicted by the Paris District Court for having put up advertising hoardings near the Belgian border featuring two cars separated by a customs barrier and the text: 'Only one metre separates these two new Peugeots, but they are one year apart'. The words '1993 model' featured beneath the car on the Belgian side and '1994 model' on the French side<sup>1</sup>.

<sup>1</sup> Cf. 'Peugeot sentenced for false advertising' in the 'Case law' section of the August 1995 issue of **INFO-C**.





## — Austria —

# Illegal exemption clauses in parking garage contracts - clarification following Austrian Supreme Court ruling

The **Verein für Konsumenteninformation** (VKI - Austrian Consumer Information Association) has brought a representative action challenging illegal exemption clauses in the small print on multi-storey parking garage tickets. The OGH (Austrian Supreme Court) broadly followed the VKI's line of reasoning and also clarified the legal status of parking garage contracts in this connection.

At issue were three clauses often encountered in the small print of parking garage contracts, basically designed to limit the operator's liability.

The term 'The parking garage accepts liability for damages only insofar as such damages are proven to have been caused by its staff...' is unacceptable, the OGH ruled, firstly because liability is restricted to the operator's own staff while excluding independent firms working on contract for the garage owner (such as cleaning firms), and secondly because the burden of proof is on the customer. It is up to the operator to prove that he is not liable for causing the damage.

Likewise illegal is any clause which makes recognition of the right to compensation contingent on the claim's being submitted before leaving the garage (by presenting the parking coupon or voucher). This limits the time during which the client can file a claim and this is impermissible. In principle, the client may file a claim after leaving the garage, even up to three years later. However, clients are advised to claim promptly, as otherwise they will have difficulty in proving that the damage occurred in the garage.

However, the clause 'No liability is accepted for damage caused by third parties' was deemed to be legal. The OGH has now clarified that a short-term parking contract in a parking garage is a pure contract for hire and hence the owner - unlike innkeepers, who are held strictly liable in equivalent circumstances - bears no liability for damage caused by third parties entering and leaving the premises (the so-called 'open-house risk'). However, the owner must take all reasonable precautions. This would include regular monitoring of vehicles entering and leaving the garage, occasional patrols and similar measures in the interests of safety. If the owner has not taken the appropriate measures and if the vehicle is damaged or stolen, he is then liable both for his own (organisational) negligence and for any misconduct on the part of his employees.

The relevant trade association attached to the Chamber of Commerce has already agreed to recommend that its members rapidly adapt their standard form contracts in the light of this landmark judgment.

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## — United Kingdom —

# Sexually harassed holiday-makers win suit based on EU package travel Directive!

In a case similar to those which are currently making the delight of US litigation attorneys, two British holiday-makers - a 33-year-old woman and her 21-year-old niece - who had been sexually harassed by waiters at a Tunisian hotel in February 1993, recently won damages from the tour operator, the *Guardian* reports in its 2 August issue. Their lawyers, from the Manchester-based firm Linder Myers, used a clause in the Directive which allows holiday-makers to sue

for personal injury. They convinced the judge that their clients had suffered psychological trauma. The aunt was awarded £2,200, while the niece received £900<sup>1</sup>.

Whether this landmark case is the first of many, or will stand by itself in the legal Hall of Fame for eternity, remains to be seen.

Others, however, were not so lucky...

## Mugged holiday-makers lose suit against tour operator

In June 1993, Mr and Mrs Beales told Airtours that they intended to spend a holiday in the Algarve (Portugal) and left Airtours free to select a part of the Algarve for them. Airtours found them an apartment in Vilamoura. Alas, at about a quarter to ten on the evening of 20 June, Mrs Beales' handbag was snatched by robbers driving by in a car as she was walking in the street!

After returning to Britain, Mr Beales blamed Airtours for the catastrophe, claiming that since Airtours had sent himself and his wife to such a jungle without even warning them of the dangers, Airtours was in breach of their legal duty to take reasonable care of them, and therefore were responsible for the cost of the mugging.

Alas again, neither Airtours, nor the District Court, nor the County Court, were keen to lend Mr Beales' arguments a favourable ear... To add insult to injury, the County Court even refused him leave to appeal to the Court of Appeal! But Mr Beales' wrathful determination was not going to be cut short by a silly little judge. Off he went to the Court of Appeal to appeal the denial of his right to appeal to the Court of Appeal.

On 16 November 1994, Lord Justices Saville and Nourse ruled that since it was Mr and Mrs Beales themselves who had

chosen the Algarve for their holidays, no blame could be placed on Airtours for sending them there. In order for Airtours to be held responsible, Mr and Mrs Beales would have to demonstrate that Vilamoura, *as opposed to other cities of the Algarve where Airtours could have sent them*, was of such particular danger to holiday-makers that it was incumbent upon the tour operator either to avoid it or to give its customers special warnings. However, there was no evidence that such was the case, since criminality is widespread all over the region. Therefore, since Mr Beales could not establish the factual premise upon which his claim must depend, his request for leave to appeal the denial of his right to appeal to the Court of Appeal was denied. To add injury to insult, costs were awarded against him.

### Reference:

Transcript of the Court of Appeal, Royal Courts of Justice, Strand, UK - London WC2. Case LTA 94/6028/C.

### Acknowledgements to:

*Consumer Law Today*, April 1995.

<sup>1</sup> Unfortunately for them, on this side of the Atlantic, damages in such cases are rarely likely to fetch several million dollars.





Last July the **Organisation for Economic Cooperation and Development** (OECD) published a report entitled ***A Global Market Place for Consumers*** summarising the highlights of a conference bearing the same name organised by the OECD's Committee on Consumer Policy on 1 and 2 June 1994 in Paris.

This event was attended by over 150 participants from the following sectors: distance selling, direct marketing, financial services, parcel transport and delivery, telecommunications, media, advertising and consumer protection. Its objective was to determine how distance cross-border marketing of consumer goods and services could be encouraged, so as to give all consumers the opportunity to shop on the international market as well as at home. The attraction for the consumer - who ideally should be able to access from his living room the American, European, Asian and Oceanian markets - would of course be the availability of an almost unlimited choice of products at more competitive prices.

The discussions helped identify the profusion of existing barriers to the direct purchase of consumer goods worldwide and also to enumerate possible solutions. The four major obstacles were defined as follows.

The first obstacle is the plethora of direct and indirect customs barriers, such as custom duties and import quotas, or again countervailing and anti-dumping duties. Moreover, national technical standards and procedures - including health, safety and environmental legislation - are often invoked under false pretences in order to raise barriers to trade. Possible solutions include reducing customs tariffs (already initiated under GATT and likely to be continued in the context of the World Trade Organisation) and harmonisation or at least mutual recognition of national standards<sup>1</sup>.

The second obstacle is the high cost of transactions in the case of international distance selling, both as regards the cost of ordering goods by phone and delivery charges. Keener competition in postal and telecommunications services is one way forward. Great hopes are also placed in the rapid growth of international freephone numbers. Just to give an idea of the largely untapped potential in the cross-border context: the United States boasts 1.3 million national toll-free numbers (so-called 1-800 numbers) providing access to over 600,000 firms; 49% of the AT&T's customers use a freephone service to place their orders, 21% for enquiries<sup>2</sup>, 90% in inter-

company applications and 11% to lodge complaints; indeed over 40% of all calls on the AT&T network are toll-free calls! And the cost to business is minimal, since the average cost of a 1-800 sale is 7 dollars, while the average price of the goods purchased is 223 dollars.

The third obstacle is the lack of consumer confidence regarding the settlement of possible disputes. An international solution might draw inspiration from the American practice whereby in the event of a dispute with the supplier the consumer may simply refuse to honour his payment by credit card, leaving it to the supplier and the bank to sort it out between themselves. This so-called 'chargeback' procedure has given a big fillip to consumer confidence in distance selling and also costs very little - not more than 0.3% of total sales. Another solution is to develop an international code of good conduct for distance selling professionals.

The fourth obstacle is the risk of an epidemic of false advertising, which national legislators try to address by imposing rules - rules which in turn become so many obstacles to international trade. Solutions aired include drafting a code of good conduct for advertisers as well as devoting more resources to combating international infringements of national advertising laws.

The report concludes with a proposal for a four-point action plan suggesting methods by which the OECD Committee on Consumer Policy can contribute to promoting international distance selling:

1. help professionals in the sector develop a code of conduct;
2. draft recommendations with a view to improving the remedies offered to consumers who believe they have been harmed;
3. contribute to developing a computer network for pooling data between the bodies responsible for combating fraud in the context of cross-border transactions;
4. propose to governments a raft of political options designed to reduce administrative and regulatory obstacles to these transactions.

The report can be obtained in French and English from the distributors of OECD publications. A list of these distributors can be had from:





OCDE  
 Division de la Presse  
 2 rue André Pascal  
 F - 75775 Paris Cedex 16  
 Tel.: +33 1 45 24 80 88  
 +33 1 45 24 80 89  
 Fax: +33 1 45 24 80 03

<sup>1</sup> Here we are referring to a totally multilateral context. It is obvious that *within* different *regions* of the world, such as the European Union or Nafta, to mention but two examples, this type of barrier is - at long last - disappearing.

<sup>2</sup> A marvellous lesson in customer service which certain European firms 'might take to heart... Cf. the article entitled 'Railway passenger information costs as much as sex phone lines!' in the 'Countries - France' section.

Kluwer Law International has published three books of particular value for all those working (or studying) in the field of consumer protection:

- The 320-page ***Guide to Product Liability in Europe - The New Strict Product Liability Laws, Pre-Existing Remedies, Procedures and Costs in the European Union and the European Free Trade Association***, by W.C. Hoffman and S. Hill-Arning, aims at filling a need for an easy-to-use, thorough treatment of product liability in all Western European countries that have enacted strict product liability laws since the Council of 25 July 1985. It includes the English translation of the legislation of the various countries.
- 529-page ***Federalism and Responsibility - A Study on Product Safety Law and Practice in the European Community***, edited by Hans W. Micklitz, Thomas Roethe and Stephen Weatherill, examines, from both a legal and sociological viewpoint, the impact of market integration on the procedures for dealing with emergencies arising as a result of the appearance of unsafe products on the markets of five EU Member States - Germany, the UK, the Netherlands, Spain and Portugal.

The study forms part of a major series of research activities undertaken by the Centre for European Law and Policy at the University of Bremen and funded by the European Commission. It explores the regulation of emergencies at national level and discusses national law and practice, with specific reference to different case studies.

The core of the study comprises five national reports on law and practice in emergency situations, including the case studies. The remainder of the book analyses the legal background and sociological implications, assessing and comparing how the responsible authorities in the countries concerned deal with emergency situations in the field of consumer goods and foodstuffs. Analysing this in the context of on-going European integration, the authors consider the possibility of developing patterns of emergency management and suggest that some sort of federalist structure may be necessary to sustain the EU in such matters.

- ***International Consumer Protection*** has been written by leading academics and practitioners in Europe, North America and the Far East, and edited by Dennis Campbell, Director of the Centre for International Legal Studies in Salzburg. It is published in loose-leaf format for convenient semi-annual updating. Thus, it will in time build into an invaluable comprehensive, accurate and up-to-date reference resource. The countries covered currently include: Australia, Austria, Belgium, Canada, Finland, Mexico, Spain, The Netherlands, the UK and the US. The subjects covered for each country are:

- Private Law, Administrative Law and Self-Regulation,
- Consumer Product and Service Standards,
- Testing,
- Advertising Claims,
- Unfair Contract Terms,
- Reasonable Pricing and Price Controls,
- Consumer Credit,
- Trade Descriptions and Occupational Licensing,
- Merchandise Classes as Applied to Bulk Products,
- Implementing Consumer Rights.

It should be greatly appreciated by commercial and in-house lawyers, whom it will enable to keep abreast of developments in consumer legislation in countries throughout the world.

**From the US and Canada, contact:**

Order Department  
 Kluwer Law International  
 675 Massachusetts Avenue  
 USA - Cambridge, MA 02139  
 Tel.: +1 617 354 01 40  
 Fax: +1 617 354 85 95  
 Email: kli@world.std.com





### From rest of world, contact:

Customer Service Department  
Kluwer Law International  
PO Box 85889  
NL - 2508 CN, The Hague  
Tel.: +31 70 308 15 60  
Fax: +31 70 308 15 15

The latest volume in the 'Consumer law - Consumer policy' series from **Austria's Federal Ministry of Health and Consumer Protection** has just been published by the Austrian State Press. The title is **Reiserecht in Österreich - Rechtslage nach Umsetzung der EG-Pauschalreise-richtlinie** (Travel law in Austria - The situation after transposal of the EC package travel directive) and the author is Wolfgang Graziani-Weiss.

The first part explains and critically scrutinises the package travel directive. The second part contains a thorough survey of Austrian travel law and describes the directive's impact. The author examines to what extent holiday-makers' legal rights have been strengthened.

Both in his discussion of the civil law rules in the Consumer Protection Act and in his examination of the transposal of the travel organizer's duty under commercial law to inform clients and to provide security in the event of insolvency, Graziani-Weiss takes a critical look at how and to what extent the directive has been implemented in Austrian law.

He also discusses customers' rights to denied-boarding compensation in scheduled air transport and the impact of force majeure on travel law.

Thus, taking legislation on package travel as an example, the volume highlights the legal complexities of transforming EC directives into national law.

### Contact:

Österreichische Staatsdruckerei  
Edition juristische Literatur  
Rennweg 12a  
A - 1037 Vienna  
Order by fax: +43 1 797 89 455

INFO-C has read with great interest sample copies of the excellent **Consumer Law Today - The Fair Trading Monitor**, which describes itself as 'The Monthly Advisory

Service on Consumer Protection, Safety, Fair Trading Practices, Consumer Credit and Relevant EC Developments'.

As such, it examines the latest legislation and changes that affect competition, product liability, consumer safety, contract terms, labelling, consumer credit, service guarantees, etc. It also looks ahead at the legal requirements in the pipeline, and reminds its readers of approaching deadlines set by past legislation.

What's more, this no fuss, no frills publication, deliberately informal in style, distils all its information in layman's language.

A supplement called **In Focus** is also included with each issue of *Consumer Law Today*. *In Focus* distances itself from the rapid, to-the-point style of *Consumer Law Today* to take a more measured stance on topics requiring more detailed study. For example, the March 1995 issue of *In Focus* provided an in depth analysis of the 'implementation of the EU unfair terms Directive'.

### Contact:

Rebecca Smith  
Marketing Assistant  
Monitor Press  
Rectory Road  
Great Waldingfield  
UK - Sudbury, Suffolk CO10 0TL  
Tel.: +44 1787 37 86 07  
Fax: +44 1787 88 02 01

**Children's Food: the Good, the Bad & the Useless, Fast Food Facts - Your Complete Guide** and **Food Adulteration & How to Beat It**, can all be ordered from **The Food Commission**.

Also, in order to celebrate its 10th anniversary of campaigning for the right to safe food, the British non-profit-making organization recently re-launched its quarterly investigative journal entitled **The Food Magazine**.

All these publications aim at bringing you up to date on subjects such as misleading advertising, additives, irradiation, genetic engineering, cruel farming practices, pesticides, etc.

### Contact:

The Food Commission  
3rd floor, 5/11 Worship Street  
UK - London EC2A 2BH  
Tel.: +44 171 628 77 74  
Fax: +44 171 628 08 17





Last July the **Belgian Ministry for Public Health** published a brochure entitled *Perdre du poids ou perdre la santé?* (Lose weight or lose your health?).

Firstly we should remember that if most diets end in tears the reason is because our weight depends not just on what we eat but also on a host of complex factors such as heredity, childhood eating patterns, sex (women have more fatty tissue than men - alas!), medical history, past and current drugs consumption, and finally psychological problems. So what happens when we submit our body to a draconian diet? Initially, our body will obviously deflate, but it will always struggle to regain what it considers to be its 'natural weight'. So it is soon going to make us jettison our work colleague's sure-thing diet of '15 grapefruits a day and nothing else'. Finally, our body will catch up by frogmarching us into Häagen Dasz and forcing us to down three litres of Macadamia nuts-caramel-chocolate-nougat-sundae. And the real tragedy is that this is not due to our lack of will power but is simply the manifestation of a real 'medical' need!

And at least grapefruits are not expensive. But if our colleague suggests we buy some miracle product, even if sold in pharmacies or health food shops, we should be doubly wary, because as the brochure says '... the excessively high prices of these products are often commensurate with their ineffectiveness'. Or in other words our wallets will slim faster that we do.

Ultimately a good diet is one that little by little enables the body to adopt another 'natural weight'. It must be based on a programme prepared and managed by a doctor and/or dietician, provide for moderate but all-round nourishment, be accompanied by physical exercise, and lead to a monthly weight loss to be defined individually by the specialist (generally two to three kilos).

**Contact:**

Cabinet du Ministre fédéral de la Santé publique  
boulevard Bischoffsheim 33  
B - 1000 Brussels  
Tel.: +32 2 220 20 11  
Fax: +32 2 220 20 67

'Soya steaks can replace meat', 'Deep-frozen vegetables have fewer vitamins than fresh vegetables', 'Bread, pastry and potatoes make you fat', 'Calcium in yoghurt is easier to absorb than calcium in milk', 'Barbecued food is not a health hazard', etc. etc.

TRUE or FALSE?

A brochure published by the Belgian **Association contre le cancer** (Cancer association) entitled *Alimentation: 100 vrai ou faux* (Nutrition - 100 true or false statements) looks at approximately 100 nutritional health claims in nine chapters: Fish and Meat, Milk and Dairy Products, Fruit and Vegetables, Cereals, Fat, Drinks, Slimming Diets, Cooking Techniques, Additives and Vitamins. The Association estimates that one third of all cancers and a large proportion of cardiovascular diseases could be avoided if people adopted healthy eating habits. This work, authored by leading nutrition experts, shows the way forward.

**Contact:**

Association contre le cancer  
place du Samedi 13  
B - 1000 Brussels  
Tel.: +32 2 219 19 20  
Fax: +32 2 218 53 27

The Belgian **Centre coopératif de la consommation** has published four brochures on consumer credit.

- **Qui ne rêve d'acheter sa maison?** (Purchasing a home - everybody's dream) provides basic information for intending house buyers who want to take out a mortgage.
- **Crédit sans risque** (Risk-free credit) shows people who wish to buy consumer goods on credit how to prepare their budget and compare different types of credit and credit providers.
- **Comment réaliser vos projets?** (How to realise your plans) shows consumers how to manage their monthly and annual accounts in a no-nonsense manner.
- **Trop de dettes: que faire?** (Too many debts: what can one do?) provides some tips on how to get out of a difficult situation.

For further information, dial in Belgium the freephone number **0800 19 01** to access the Ministry of the Wallonia Region's 'Information and Advice on Overindebtedness' services.

You can also contact the Centre coopératif de la consommation at the following address:

rue Haute 28  
B - 1000 Brussels  
Tel.: +32 2 500 52 12  
Fax: +32 2 502 71 61





The **Centre Régional de la Consommation** of the Nord - Pas-de-Calais Region has sent us its recent study entitled **Coût de la garde d'enfants de moins de 3 ans** (Cost of childcare for the under-threes) designed to answer two important questions: what options do families have, and what formula is best tailored to their income?

The first chapter presents the different types of financial aid available to families with children, with a useful distinction between means-tested and non-means-tested benefits.

The second chapter describes the different types of care available, with a very detailed presentation of how they work and the associated costs. For example, readers are shown how to prepare a pay slip for a 'maternal assistant'<sup>1</sup>.

Finally, a third chapter focuses on the different parameters that affect childcare costs (family income, benefits enjoyed and price of the selected formula), enabling readers to calculate the 'threshold' above which a different formula becomes more interesting. Almost 600 different cases are visualised in numerous graphs and tables.

#### Contact:

Christiane Dhainaut  
Centre Régional de la Consommation  
47 bis, rue Barthélémy Delespaul  
F - 59000 Lille  
Tel.: +33 20 60 69 12  
Fax: +33 20 42 09 31  
Minitel: 3615 CRC

<sup>1</sup> 'Nanny', in plain English.

Co-ownership, which for some time has been making the headlines in **INFO-C**, is now the subject of four publications by the **Confédération Syndicale du Cadre de Vie** (CSCV)<sup>1</sup>.

- The **Guide pour bien négocier un contrat de syndic de copropriété** (How to negotiate a good co-ownership management contract) by Michel Calone, gives a clear and concise answer to five basic questions: What are the real needs of a co-owner? What legislation obtains in this domain? How should you organise an invitation to tender? How to select the best tender? How can you cancel or extend a co-ownership management contract? It also contains several references to case law and extracts from acts and decrees governing this domain, and discusses a number of unfair or at least dubious terms which mar several management contracts.

- The **Guide pratique pour bien gérer sa copropriété** (Practical guide for the good management of co-ownerships), by Michel Calone, enables co-owners to choose the form of management that suits them best (direct or professional management), in full knowledge of the facts. Whatever formula is adopted, the chapters of this guide, devoted to practical aspects of co-ownership management (charges, insurance, personnel, bank accounts, organisation of general meetings, etc.), with their plentiful graphics and tables, will help co-owners manage their property properly.
- **Comment contrôler les dépenses et les charges de sa copropriété** (How to monitor outgoings and charges), by Christian Jouin and Yves Rouquet, helps co-owners to assess their 'charges' budget properly. The concierge's wages, maintenance of common facilities, collective heating, lifts... these items will no longer hold any secrets for you. This volume also shows you how to challenge payments or the allocation of charges.
- The **Guide pratique et juridique de la copropriété - Une année de fonctionnement de copropriété** (Practical and legal aspects of co-ownership - a guide throughout the year) by Yves Rouquet, also casts light on the rich legislative framework (from 1804 onwards!) and the various players involved. It will help you prepare a general meeting and participate effectively, and contains explanations on voting rules, election of the management board, approval of the accounts, final discharge, keeping records, etc. It also discusses possible means of redress in the event of a dispute: amicable settlements, legal action, how to seek aid from a consumer association, etc.

#### Contact:

Yves Rouquet  
Responsable du Secteur Habitat  
Confédération Syndicale du Cadre de Vie  
15 place d'Aligre  
F - 75012 Paris  
Tel.: +33 1 53 17 17 15  
Fax: +33 1 43 41 40 06  
Minitel: 3615 ABITA

<sup>1</sup> The CSCV has created a specialised federation for the protection of co-owners: FEDECO-CSCV.





The first issue of *Europa Journal*, a twice-monthly publication of Community information in German, came out on 16 May 1995. It is based on a simple formula: eight pages of articles, each no more than 15 lines long, which are very clearly indexed and cover all areas of current affairs in Europe, such as energy, research, education, the environment, the economy and tourism, not to mention consumer protection. The editorial staff aim to provide their readership with a regular supply of information that is specific but not too 'heavy' or detailed. Readers can then supplement this by consulting other more specialised publications in a given area<sup>1</sup>. Anyone who has seen the quality of *Europa Journal* for himself will not be surprised by the praise it has received from Commissioners Franz Fischler and Martin Bangemann. The former said that 'this publication will help to improve the quality of discussions both in Brussels and in Austria', while the latter stated that it was 'an excellent information service covering everything that is happening in the European institutions'.

Subscription information can be obtained from:

### In Belgium:

*Europa Journal*  
Box 70  
B - 1040 Brussels 42  
Tel.: +32 2 285 01 70  
Fax: +32 2 285 01 75

### In Germany:

Pressbüro Ute von Buch  
*Europa Journal*  
Hans-Böcklerstr. 278  
D - 46242 Bottrop  
Tel.: +49 204 151 318  
Fax: +49 204 157 471

### In Austria:

Ulrike Lahodinsky-Sommer  
*Europa Journal*  
Hießberggasse 13  
A - 3002 Purkersdorf  
Tel. / Fax: +43 223 151 98

<sup>1</sup> One example, taken at random, would be **INFO-C** for consumer policy...

The **Consumer Council of Fiji** has brought to our attention the publication of its quarterly bulletin entitled *The Consumer Wheel*. In the June issue, for instance, there are articles on a declaration of the President of the Republic of Fiji on Consumer Rights Day, a national workshop on how to organise and run consumer education programmes within the local communities, the bad condition of fast food restaurants and take-away outlets on the islands, growing complaints over warranties, and the rights and responsibilities of consumers.

*The Consumer Wheel* can be obtained free of charge from:

Consumer Council of Fiji  
Private Mail Bag  
GPO, Suva, Fiji Islands  
Tel.: +679 30 01 15  
Fax: +679 30 07 92

A new computer program, entitled *Styr på pengene* (Money manager), launched by the **Forbrugerstyrelsen** (Danish Consumer Institute) on 1 September 1995, is designed to enable the user to draw up his or her budget, do the accounts and calculate taxes or the cost of a loan.

The central element of this new product is the existing *Familiebudget* (Family budget) program, which provides data on all the expenditure which families often find difficult to evaluate precisely: food, drink, clothing, health, hygiene, etc. The figures given by the program relate both to a family which makes most of its purchases in shops selling at normal prices and to a family which tends to shop in discount stores. Thus, each family can have its own tailor-made budget, taking into account the number, age and sex of its members. The user has to enter information in the income and expenditure sections once only; the program will then itself seek out the figures it needs. As a result, the family can see whether its consumption tallies with its budget, since the actual and 'ideal' figures are shown side by side on the screen.

Moreover, with the aid of the program developed by Kommunedata, *Styr på pengene* is able to calculate the taxes of all Danish taxpayers. At any time in the year, the user can see whether he or she is ahead of or behind with payments. Where appropriate, the program enables the user to fill in a preliminary declaration for deduction of tax at source and to formulate a request to the local authority for amendment of earlier data.





The program can also give information on the cost of a loan from a bank or credit institution.

The program requires an IBM-compatible PC with, as a minimum, a 386 processor with 33 MHz and 8 Mb RAM (but the Forbrugerstyrelsen recommends a 486 processor with 8 Mb RAM) and 10 to 12 Mb of free space on the hard disk. Microsoft Windows 3.1, or a later version, must be installed on the hard disk.

The version of the *Styr på pengene* program intended for households, including the first update scheduled for the end of 1995, costs Dkr 500. It is available from the Forbrugerstyrelsen. A demonstration diskette is also on sale, at the price of Dkr 10, from FDB (The Danish Co-operative Union) outlets. Besides the version aimed at households, there is a version of *Styr på pengene* intended for professionals and another for the education sector.

#### Contact:

Bent Bagge  
Forbrugerstyrelsen  
Amagerfaelledvej 56  
DK - 2300 Copenhagen S  
Tel.: +45 32 96 06 32  
Fax: +45 32 96 02 32

In order to help young people who are about to leave, or who have just left, home the **Forbrugerstyrelsen** has put together a *Flyttepakke* (Leaving Home Package) consisting of a range of brochures on topics such as money, housekeeping and how to solve many small every-day problems.

*Når du flytter hjemmefra* (Leaving home) is a thought-provoking story about a young man and the problems he faces when he decides to leave the nest.

*Overlev på SU* (Surviving on a grant) gives starving students hints on how to spend their money wisely.

*Sund mad i en fart* (Healthy food at a stroke), *God mad i små portioner* (Good food in small quantities) and *Nyt og nemt med kartofler* (Potato dishes made easy) offer good advice and good recipes to busy people who still want to eat healthy food.

*Gør rigtigt rent* (Make sure it's clean), *Vask* (Washing), *Pletter* (Stains) et *Rent bord i køkkenet* (Hygiene in the kitchen) teach how to do the cleaning quickly and effectively.

*På vej mod en bæredygtig husholdning* (Towards a sustainable household) gives advice on how to save electricity and water and dispose of waste in an environmentally friendly way.

The *Flyttepakke* costs DKR 50, plus postage. It can be ordered by ringing +45 32 96 07 11 (24-hour service). For further details, please call Inge Norus, nutrition and household economics expert, on +45 32 96 06 32 ♪ 319.

Forbrugerstyrelsen  
Amagerfaelledvej 56  
DK - 2300 Copenhagen  
Tel.: +45 32 96 07 11  
Fax: +45 32 96 02 32

A growing number of consumers receive letters inviting them to collect free holiday vouchers at cocktail parties - events during which they are in fact importuned by hard-sell timeshare vendors. To help those who have experienced this misfortune and others at risk, the **Agence Européenne d'Information sur la Consommation** (AEIC) has just published a brochure entitled *Le 'timeshare': l'achat d'un appartement en temps partagé* (Buying a timeshare flat). This ten-page brochure explains what timeshares are and describes the rights and obligations of buyers and sellers in a domain where the utmost confusion reigns as to the applicable rules of law and the courts having jurisdiction in the event of a dispute. This is because - although a European directive on timeshares was adopted on 26 October 1994<sup>1</sup> - the Member States have until 30 April 1997 to transpose it. And at the time the brochure was written, Spain - where most timeshares are located - had not yet transposed the directive<sup>2</sup>. The brochure points out that the AEIC and other consumer associations are there to provide consumers with whatever advice they may require.

#### Contact:

Agence Européenne d'Information sur la Consommation  
Centre régional de la consommation  
47 bis rue Barthélémy Delespaul  
F - 59000 Lille  
Tel.: +33 20 60 69 13  
Fax: +33 20 60 69 97  
Minitel: 3615 AEIC

<sup>1</sup> See the article 'Timeshares - final approval of the directive' in the 'Consumer protection' section of the December 1994 issue of **INFO-C**.

<sup>2</sup> A bill will however be voted on in the near future.





## 30 November - 20 December 1995

### 'Consumer access to the law'

From 30 November to 2 December 1995, the **Europäische Rechtsakademie Trier** (European Law Academy in Trier) is holding a symposium on the subject of '**Consumer access to the law**', with the aim of bringing together the various interest groups involved to present and debate their views on this topic. The latest Commission measures (Green paper, forthcoming proposal for a Directive) will form the basis for discussion. Leading experts from the Commission, the European Parliament, national ministries, consumer associations and industry will present and discuss the following subjects:

- collective actions,
- problems with enforcing consumer protection/Brussels Convention,
- harmonisation or approximation of procedural law in Europe in the area of consumer protection,

- small claims,
- costs (court and lawyers' fees, legal aid, legal expenses insurance),
- obligation to be represented by a lawyer in various courts.

The symposium will be held in the three working languages of the European Law Academy - German, French and English - with simultaneous interpretation.

**Contact:**

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Dasbachst. 10  
D - 54292 Trier  
Tel.: +49 651 147 100  
Fax: +49 651 147 10 20

## 1996

### 'The impact of consumer behaviour on the environment'

Following the resounding success of the second **European Young Consumer Competition**, the third in the series has now been launched. Once again this event will allow thousands of 12 to 14 year-olds **from the 15 countries of the European Union** to reflect on consumer issues throughout the 1995-96 school year and present a team effort. For the 1996 Competition they will have to prepare an information package targeted at young people of their own age on the following subject:

#### 'THE IMPACT OF CONSUMER BEHAVIOUR ON THE ENVIRONMENT'

As in the past this Competition - which is a great way to sensitize and educate young people on consumer issues - will be organised by the European Interregional Institute

for Consumer Affairs with the financial backing of the European Commission. The closing date for entries is **17 January 1996**.

For further information contact:

Richard Delpierre  
IEIC  
79 rue Gantois  
F - 59000 Lille  
Tel.: +33 20 21 92 55  
Fax: +33 20 54 18 45

or the national coordinator in your country:



**Belgium**

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B - 1050 Bruxelles  
Tel.: +32 2 547 06 11  
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Theo Wolsing  
Verbraucher-Zentrale  
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Martin-José Iturriria Goñi  
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c/Adriano VI, 14-16  
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