



Consumers International

Balancing the Scales

Part 3: Consumer protection in Greece & Spain



The views expressed herein are those of the consultant and do not represent any official view of the Commission of the European Communities (CEC).

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Consumers International

Office for Developed and Transition Economies



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General Comments

Under the first European Union Phare Consumer Institutions & Consumer Policy Programme, Consumers International published part 1 and 2 of *Balancing the Scales*, which contained descriptions of the consumer protection systems in the United Kingdom, Sweden, Germany and the Netherlands. The aim was to provide ideas which might prove of interest to those who are developing new systems of consumer protection in the transitional countries of central and eastern Europe.

The aim was not to provide prescriptive models. The publications themselves made clear the great differences between the systems of consumer protection adopted in different western European countries – systems which had been shaped by different histories and varied political cultures. But it was hoped that they would be a fertile source of ideas.

The enthusiastic reception given to these first two publications encouraged us to produce the present third volume in the series, devoted to the consumer protection systems of two southern European countries, Greece and Spain.

We felt that these two countries might be of particular interest to people from the consumer movements in central and eastern Europe, because of certain common features in their histories. Firstly, both countries have experienced political transitions from authoritarian regimes to liberal democracies in the last two decades. Secondly, they have both undergone extensive liberalisation in the economic sphere, moving from relatively state-dominated to more deregulated and market-oriented economies – as well as seeing substantial increases in living standards, and thus a greater role – and new problems – for individual consumers. Thirdly, as newer members of the European Union, they have been through the processes of adaptation and harmonisation necessary for accession.

Of course, there are also many differences between the countries of central and eastern Europe, and, as before, the aim is to show the varied ways in which consumer protection can be achieved. We have looked at the contribution both of state institutions and of the non-governmental sector to consumer protection, and we hope that the information contained in these studies will be of interest and use to all those, at both governmental and non-governmental levels, working to create effective systems of consumer protection in their own countries.

Office for Developed and Transition Economies
Consumers International

Balancing the Scales

Greece

Greece

Introduction

In the years following World War II, when the market was not yet characterised by a plethora of goods, the state's interest focused mainly on securing the conditions for the smooth operation of the market. This meant primarily securing a sufficient supply of goods and countering illicit gain and unlawful competition. The Ministry of Commerce issued market inspection provisions, which regulated various issues regarding the relations of production, distribution and consumption, such as the conditions with which the goods should comply in order to circulate, maximum prices, etc. The relations between suppliers and consumers were characterised by directness, a fact which also functioned as an informal mechanism of market control.

The enlargement of the market, which took place as a result of technological development and international politico-economic co-operation, has radically changed the conditions of market operation. This enlargement has not only brought advantages to consumers, but also created important problems. These problems are related to the reduction of competition, the health-related dangers which are being created, threats to the security and financial interests of consumers from the circulation of unauthorised products, misinformation and the development of novel and aggressive types of marketing. The consumers do not, as a general rule, possess the knowledge which would enable them to check the properties of the goods or services on offer, or to check the danger of harmful effects on their health due to their use. In addition, they also face great difficulties in asserting their interests. Without knowledge and accessible legal support, they are not in a position to confront businesses, and as a consequence, they give up when faced with problems.

It did not take long to realise that, in Greece as elsewhere, a certain inequality had developed in the relations between suppliers and

consumers, which could not be concealed behind the conventional equality between them. In this context, it is increasingly being realised that consumers need protection and specific rights. The social welfare state recognises a commitment, in the context of a market economy, to take this reality into account and to aim at achieving a balance in these relations. But, on the other hand, consumers also realise, that in modern circumstances, with the plethora of the goods and services on offer, protection cannot just be a matter for the state apparatus, but also depends upon their own actions.

Thus, at the beginning of the 1970s, the first consumer organisation appeared, and, since the beginning of the 1980s, the subject of consumer protection has been a recognised field of state policies. In 1984, the Directorate for Protection of the Consumer was founded in the Ministry of Commerce, and, in the following years, efforts to construct a specific legal framework for consumer protection were initiated.

On-going market liberalisation made it obvious that the formation of an effective consumer protection system is not solely dependent on the intervention of the state alone, but that it presupposes the co-operation of consumers themselves. As a matter of fact, more organisations gradually appeared which aimed at the protection of consumer interests. In parallel, through European Community legislation, and particularly the directives for consumer protection which are being embodied in national legislation, the relevant legal framework was enriched. In 1989, the first Consumer Protection Act was presented in the Greek parliament. It was not passed however, because of a subsequent change of government. The first Consumer Protection Act, 1961/91, was passed in 1991. In 1994, this Act was replaced by Act 2251/94, which enlarged the provisions of the former Act and provided broader protection. In 1998, the first General Secretariat for Consumer Protection was constituted.

1 The Greek Consumer Protection System

Constitutional Protection

The Greek constitution does not include provisions which are directly related to consumer protection. However, it is accepted that many consumer rights are protected by the constitution through the indirect effect of other rights. That is to say that constitutional rights regarding negligence, supply or participation do not function as such only against the state, but they also indirectly regulate the relationships of private law, on condition that, in the latter relations, the element of possession exists. With regard to the holder of private power, the affected person has, according to the Constitution, particular rights. Thus, for example, on the basis of the constitutional provisions on equal treatment (Art.4, Para.1) and on the free development of personality (Art.5, Paras.1 & 3), an obligation of the companies providing goods essential to the consumer, such as electricity supply or telecommunication services, can be founded, relating to the contracting of services. The right of consumers to set up organisations, and to promote their interests through them, is considered to enjoy a specific constitutional protection.

Consumer protection provided by legislation can initially be divided into two categories: consumer protection based on private law and the state protection of the consumer, in its broadest sense.

Consumer Protection Provided by Private Law

Consumer protection based on private law is particularly important, as the activity of consumption is manifested par excellence in private legal relations and on the basis of the autonomy of the person. The rights of the contracting parties are regulated on this basis, and there are numerous related decrees. The foundation of all of these is the Civic Code. Here, however,

we refer only to those decrees that relate directly to Greek law on consumer protection. Act 2251/94 for consumer protection occupies an eminent position in this body of law. This Act strengthens the substantive rights of the consumer by creating a more favourable context for fair transactions. It contains in parallel important organisational and legal-procedural provisions, as this Act provides for the establishment of consumer organisations and provides them with rights which are essential for the guardianship of consumer interests.

The Definition of the “Consumer”

From the introductory provisions of Act 2251/94, the one which is remarkable in this context is the one defining the meaning of the “consumer”. According to Article 1, Paragraph 1, “a consumer is any natural or lawful person for whom products are destined or services are offered on the market, or the person who makes use of such products or services provided that this person is their final recipient.” It should be noted that this definition is broader than the one used in the European Community directives, as the capacity of the consumer is not necessarily connected to the non-exercise of professional activity, but to the requirement that he or she is the ultimate recipient of the product or the service. In this way it is possible even for professionals to enjoy consumer protection when they purchase certain products or use specific services exclusively for their place of work. For example, the purchase of a computer by a professional to use in his or her office or the use of telephone services are activities to which consumer protection can be applied. On the other hand, consumer protection cannot be applied in cases where a professional buys a product, which he or she intends to alter and distribute further in the market.

General Exchange Conditions

Before the introduction of Act 2251, the abuse of general provisions applying to transactions was dealt with mainly through clauses of the Civic Code. Act 2251, however, contains more specific provisions concerning the issue of general conditions of transactions, which are

based on European Community Directive 93/13/EU. Therefore, it is considered that general conditions of transactions do not bind the consumer if, during the formation of the contract, the consumer was, for no fault of his own, not aware of them, or if the supplier did not indicate to the consumer their existence or deprived the consumer of the opportunity to obtain real knowledge of their content.

As in the European Community directive, in this case as well we witness the establishment of a general clause concerning embezzlement and an indicative catalogue of abusive conditions. Based on the general clause, “the general conditions of transactions that result in an excessive disturbance of the balance of the rights and obligations of the contracting parties at the expense of the consumer are prohibited and consequently are invalid”. This indicative list is broader than that of the European Community directive, and in other aspects as well, Greek law recognises the minimalistic character of the European Community directive and goes on to make provisions which give the consumer greater protection.

Contracts Negotiated Away from the Business Premises and Distance Contracts

As regards contracts negotiated away from the business premises, the protection provided to the consumer is that provided by the relevant European Community directive. That is to say that it is initially stipulated that the contract is put down in writing and that it is obligatory that all aspects that concern the consumer are mentioned. In addition, the consumer’s right of cancellation is established by the contract; this right should be exercised within ten days from the receipt of the written contract and, in any case, from the receipt of the product. Before this deadline it is forbidden to make a payment, even in part.

Since 1994 Greek legislation contains extensive arrangements for consumer protection in distance contracts. These arrangements are based to a large degree on the drafts of the European Community directives of that period. They make provision that before the conclusion of the contract the consumer is informed not only about the identity of the

supplier but also about the characteristics, the price, the means of payment and delivery of goods, and also the duration of the validity of the proposition for concluding the contract and the right of cancellation. It is not allowed to send goods to the consumer if they have not been ordered previously, and if this happens the consumer may dispose of the goods according to his or her judgement.

The protection of privacy is provided for as far as the use of communication techniques is concerned. With regard to the right of cancellation, a minimum time-limit of ten working days is stipulated, and a relevant leaflet must be given to consumers so that they can exercise their rights. It is also established that the contract must mention all the above elements, but others as well, so as that clarity exists in the relation between the two parties. It should be also mentioned in this case, that the above arrangements are valid also for credit-finance services, since the Greek legislation does not provide a relevant exemption, as does the final text of the European Community directive.

After-Sale Service

Arrangements which concern the service given to the consumer after a sale are contained in the Civic Code, and are included in market inspection decrees which have been issued occasionally by the Minister for Commerce and in Act 2251/94. For example, suppliers are obliged to provide in writing in the Greek language, or in internationally established symbols, clear instructions for the safe use, maintenance, conservation and full exploitation of the product and information about any dangers during its use and maintenance.

In addition, the supplier is obliged to make the consumer aware of the possible duration of the product. In the case also of the supply of new goods, a written guarantee should be provided to the consumer. The duration of the guarantee should be reasonable in relation to the possible duration of the product. In particular, as far as high-technological goods are concerned, the extent of the

guarantee should be reasonable in relation to the time during which they are expected to remain modern from the point of view of technology. In any event, should any fault appear in the product during the period of validity of the guarantee, and the supplier refuses or delays to repair it, the consumer is authorised to ask for the product to be replaced with a new one or for the retraction of the sale. If the product is replaced, the guarantee is renewed.

Finally, the suppliers of goods of continuous consumption are obliged to ensure that consumers are provided with a continuous supply of technical services for their maintenance and repair for a period of time that equals their possible duration.

Responsibility of Producers for Defective Goods

In accordance with the provisions of the relevant European Community directive, the producer bears responsibility for all damage due to a defective product. The consumer in this case only has to prove the causal connection between the damage and the product. The producer, however, can be discharged if he proves that the defect did not exist when the product was put in circulation, that the defect in the product is due to its manufacturing according to compulsory regulations, or that when the product was put into circulation the level of technical or scientific knowledge did not allow the confirmation of the defect. The producer's responsibility for the damage is unlimited. It is remarkable that in this case these provisions are valid also for agriculture and fishery products, which are exempted according to the relevant European Community directive.

Responsibility of Service Providers

The law makes special provisions for the protection of the consumer in this area. The service provider is responsible for all damage caused during the granting of services either because of deceit or of serious or minor negligence. The consumer is obliged in this case only to ascertain the damage and the causal connection

between the provision of the service and the damage. The provider of services bears the burden of proof of his lack of responsibility for any damage.

Advertising

The consumer protection law contains a general provision according to which misleading advertisements are not allowed. In order to judge if an advertisement is deceptive, a series of its elements are taken into account, such as the characteristic features of the product or service, the price and the quality.

In addition, illicit advertisements are also forbidden by the law. An illicit advertisement is defined as one which offends virtuous morals. The law mentions, as an indication, groups of misleading and illicit advertisements. The law also regulates comparative advertisements, which are allowed only under defined conditions.

Finally, the law regulates direct advertisement, that is the transmission of advertising messages directly to the consumer through the telephone, telefax, electronic mail or any other electronic means of communication. Direct advertising, which has already grown immensely in the Greek market, is allowed only on condition that the consumer consents explicitly to it, and that the advertiser informs the consumer of the way he acquired the personal details of the consumer. The advertiser is obliged to terminate any form of direct advertising and to delete the personal details of the consumer, if the latter demands it. In any case, as the exploitation of personal data is not allowed and privacy is protected, the law provides that direct advertising is permitted only if suppliers makes use of evidence or private information about consumers, which they came to know from previous business relations with the consumer or from generally accessible sources.

Televised advertisements are regulated more specifically by Act 2328/95. This Act dictates the general principles under which advertisements are operated, such as their clear distinction from

the rest of the television programme, the prohibition of the use of techniques which are addressed to the subconscious, the provision of criteria to which the advertisement should comply in respect to the under-aged, or when the advertisement relates to alcoholic drinks. It is worth mentioning particularly, in this context, advertisements relating to services through telecommunication media (with the exemption of services of a sexual character, whose advertising is prohibited). Advertisements of such services should mention the charge per minute in the Greek language and in Greek drachmas, in such a way that they provide the consumer with the real opportunity to understand the charges for such services. In addition, the announcement of the charges should be consistent and at least at the same frequency, intensity, duration and form, whenever the telephone number of the line offering these services is announced.

Finally, of particular interest in the Greek legislation is the prohibition on television companies broadcasting advertisements of children's toys from 19.00 hours until 22.00 hours. The Greek legislators adopted this provision after persistent and successful lobbying by the consumer associations, and despite the objections of multinational companies that manufacture children's toys. These companies contested the legality of this provision by denouncing it to the European Commission, but it was finally considered lawful and in accordance with European Community legislation, since it constitutes, in a broader form, protection of the under-aged, a provision clearly permitted by European Community directive 89/552/EEC. Advertisements broadcast through radio and television are regulated by the Code of Ethical Conduct of the Union of Advertising Companies of Greece. This code, however, has not managed to become an up-to-date important means of self-regulation, as in other countries with a relevant tradition. Although self-regulation is considered by the various branches of suppliers in Greece as a modern institution, which is becoming popular and gaining ground, it has not operated effectively to the advantage of consumers, nor has it prevented the appearance of instances of illicit competition, which harm the reputation of professionals in every field.

Other Aspects of Consumer Protection Law

In addition to the above provisions relating to the general protection enjoyed by the consumer, protective arrangements occur in decrees referring to specific areas of the market. It is worth mentioning some of them as examples.

Time-Sharing Tenancies

With time-sharing the consumer purchases the right to use for one or more weeks a hotel-room or other tourist lodging. The Greek legislation follows the relevant European Community directive; moreover, it provides that the relevant contract signed by the consumer should be registered with a solicitor and also that it is subject to transfer of registration. The Greek Tourist Organisation (GTO) is responsible for the inspection of the hotels that participate in this scheme as well as for the regulation of the relations between lessor and tenant. The GTO may impose penalties in case of breach of the contractual obligations of the tenant, and also in case of violation of the legislation regulating hotels. The institution of time-sharing has not operated satisfactorily in Greece, mainly because of the intensive and aggressive marketing practices employed by companies, in combination with the fact that the Greek legislation has not yet embodied the relevant Directive 94/47 of the European Parliament, which provides the consumer with the right of cancellation within a period of ten days from the signing of the contract.

Private Insurance

In an effort to reinforce the balance between the relations of the insurance broker and the insured, a new Act on insurance contracts has been passed (Act 2496/97). This law gives particular weight to informing the interested consumer during the initial stage of the insurance contract, by providing the consumer with the opportunity to contest and cancel it, if the information is deficient or if the contract differs from the application he made. Although this law does not ensure that consumers are fully informed in the stage

before the conclusion of the contract, to enable them to exercise in practice the right of choice, the development of the right to contest in combination with the right to cancellation may contribute to the protection of the essential interests of the consumer. This law permits exemptions from insurance cover, but it puts them under certain conditions, and demands that they are recorded in the insurance policy. With regard to the questions put by the insurance broker to the insured during the submission of the application for insurance (e.g. on state of health, information about the insured property, etc.), the law deprives the insurance company of the opportunity to consider some answers inadequate, judging that the insurance broker should have asked for more specifications. Finally, it is worth mentioning the arrangement that obliges the insurance companies to pay directly to the insured that part of the compensation which is beyond dispute.

Finally, with the encouragement of the Ministry of Development, Codes of Conduct for the insurance are under development.

Bank Services

The status under which bank services are provided in Greece is governed by European Community banking law as well as, at a national level, by the decrees of the Governor of the Bank of Greece. Important among these decrees, are the obligation to inform consumers of commissions and charges, and the prohibition of commission charges in loans whose interest rate is defined freely by the credit organisations, etc.

In this case the Ministerial Act F1-983/91 is of special interest; it embodies in Greek legislation the European Community directives 87/102 and 90/88/EEC concerning consumer credit (e.g. consumer loans, credit cards, etc.) in Greek legislation. The provisions of this decree form an obligatory part of the contracts of consumer loans, and aim at the full and correct awareness of the consumer about the conditions of the loan and his or her rights and obligations towards the bank. For example, these contracts should mention the annual real interest rate, the prerequisites of its modification, the amount,

the frequency or date of instalments for the repayment of the loan, etc. It also regulates matters relating to informing consumers, transparency in prices, advertising, etc. In addition, recently, after an animated discussion, it was decreed that the minimum period of time for the bank to forecast a possibility of compound interest should be six months.

The Union of Greek Banks recently adopted a Code of Banking Conduct, although this focuses on the relations between banks, to promote healthy competition, rather than the relations between the banks and their customers; it is more of an informative and educational character. The Union of Greek Banks has also announced the operation of a Banking Ombudsman from 1999, whose precise jurisdiction has not yet been published.

The Protection of Free Competition

Free and healthy competition constitutes the basis of the economic system of Greece, as well as of other state-members of the European Union; the protection of competition constitutes the protection of public interest. The relevant Act (703/77) was compiled on the model of European Law a short time before Greece became a member of the then European Economic Community. Initially a regime was established to supervise the market and examine any infringements; also a collective body, the Committee for the Protection of Competition, was formed in order to judge with guaranteed impartiality and objectivity. In 1982 the decision-making competency of the Committee was transferred to the Minister for Commerce, and its role was limited to consultation.

The recent Act 2296/94 has already brought about radical changes in this system, forming the Competition Committee as an independent administrative authority with its own secretariat, while it established the preventive inspection of important concentration. This Committee is responsible for disciplining instances of misuse of a predominant market position; it considers injunctions in case of an emergency application, has broad authority to exercise inspections *ex officio* in the market, and imposes fines of

a considerable amount. It is also important that the members participating in this Committee represent social or economic groups; among others, consumers are represented by a representative appointed by the National Council of Consumers.

Public Utilities

Public utilities have been provided to consumers until now by public sector enterprises, which have a monopoly character. However, the liberalisation of these is now under way. A characteristic example of this is in telecommunication services. The Telecommunication Services Organisation, which until recently held a monopoly of all telecommunications services, at present and until 2001, will possess a monopoly only on voice services, while the provision of mobile telephone and Internet services has been liberalised. As far as electrical energy is concerned, until now only renewable sources of power have been opened up to competition, while the liberalisation of the production and distribution of electricity is imminent; by 2006, 30% of the national market for electric power market is expected to be opened up to competition. The public enterprises which provide public utilities have today the status of a limited company, and are governed by executive boards. They are, however, supervised by various ministries. More specifically, for the supervision of telecommunications, the National Committee of Telecommunications has been constituted, according to European regulations, as an independent administrative authority. It issues permits and approvals to individuals for supplying telecommunication services and also imposes fines.

The need for public utilities to take into account consumer interests was acknowledged for the first time by Act 2251/94, which provided for the operation of the Committee for the Protection of the Consumers of Public Companies and Organisations; this Committee formulates propositions and makes suggestions to the public companies for the improvement of their products and services. Participants in this Committee are: the General Secretary of the Consumer Secretariat, a representative of the Ministry of National Economy, two representatives of consumers, appointed by

the National Council of Consumers, and a representative of the Central Union of Local Authorities.

Moreover, in the context of the modernisation of the way public companies operate, and in accordance with Act 2414/96, it is provided that the public companies should compile Papers of Consumer Obligations, which will determine the conditions under which the public companies should provide their services to the consumers and the procedure for compensation to them in the case of breaches of their obligations. The Papers of Consumer Obligations are authorised by the Ministry of Development. Such Papers have already been adopted by the Public Electricity Company, The Greek Telecommunications Organisation, the Greek Post Office, and others.

Although an official record of consumer complaints does not exist, it is generally accepted in Greece that these public companies do not operate in a satisfactory way. The complaints, as recorded by consumer organisations which run advice bureaux, concern “inflated” bills (that is, those having been debited unjustifiably), delays in the provision of services and faulty services.

2 State Protection of the Consumer

The Price Inspection Code

State protection granted to the consumer is expressed mainly through the Price Inspection Code. This is a rather old corpus of ordinances, introduced by Decree 136/1946, when the state played a strong intervening role in market issues. Since then it has been modified more than twenty times to date, and although its structure is anachronistic, it has been adjusted, to an extent, to the needs of the modern market. The Minister of Development is granted the authority to issue market inspection provisions and to regulate market issues; this constitutes the basic means of implementing state policy concerning the regulation of the market. Thus today there exists a wide variety of market inspection provisions which take measures in order to avert the forgery of goods, misinformation and the deception of consumers.

The market inspection code includes a series of clauses which impose penalties for breaching the provisions that refer to the above issues. These sanctions are not only penal but administrative as well. For many decades these sanctions were mainly criminal, but in the process it was considered that they were not sufficiently effective and therefore more significance is being transferred to administrative sanctions.

The administrative penalties of the market inspection code are monetary. However, in cases where the violations endanger the health and safety of the consumers or concern the falsification of goods, it is possible that the operation of the company may be ordered to stop temporarily or permanently. For the area around the capital, the Minister of Development is authorised to impose administrative sanctions; the Minister can share this responsibility with other members of his staff in the Ministry. In the rest of the

country, these sanctions are imposed by committees made up of members appointed by the prefectures.

Administrative Sanctions of Consumer Protection Law

All violations of consumer protection law constitute administrative infringements and they provide the Minister of Development with the authority to impose a fine of up to 20 million drachmas; if this misconduct is repeated the maximum fine is doubled to 40 million drachmas. In this way the protection granted by private law to the consumer can become a public matter. The philosophy of the law, however, is that these sanctions should have a complementary character; that is, that they should be applied where the protection granted by private law proves to be time-consuming or inefficient, and the problem is of great urgency. Thus these provisions are only applied in exceptional circumstances.

The General Consumer Secretariat

The Trade Department of the Ministry of Development and specifically, since 1997, the General Consumer Secretariat, occupy a prominent position in the system of consumer protection. This Secretariat supervises the area of consumer protection and is concerned with monitoring the application of consumer protection. It is structured as follows:

- a) The Department of Consumer Policy, which is mainly responsible for informing and educating the consumer, for the observance of international consumer policies, the observance and harmonisation of legislation, the observation of market prices, and relations with consumer organisations.
- b) The Department of Consumer Protection, which is responsible for receiving, investigating, collecting, compiling and processing charges and imposing sanctions related to consumer goods and services, especially in relation to quality, quantity, price, conditions of sale, technical features, etc.

- c) The Department of Technical Inspection, which makes proposals for the regulation of the conditions of the distribution of consumer goods in the market, especially as far as safety, quality, packing and sealing are concerned; it is also responsible for the supervision of inspections, controls and sampling which are conducted by the prefecture authorities.

The Ministry of Development supervises other areas through its departments, while the Competition Committee is housed in the same premises.

The National Council of Consumers

The National Council of Consumers is an advisory body of the Ministry of Development, and expresses the views and positions of consumers; it also submits proposals to promote their interests and secure their rights. This Council has 19 members, nine of whom are representatives of consumer organisations and the rest represent other social partners such as industry, commerce, public administration, local authorities, employees, and also two specialist scientists.

Inspection of Products

The quality control of products is exercised mainly through the General Consumer Secretariat of the Ministry of Development, while some authority is granted to the General Secretariat of Tourism. The General Consumer Secretariat has a central co-ordinating role, while inspection and sampling are carried out by the 54 local prefecture inspection committees. In the case of sampling inspections, the samples are sent to the General State Chemistry Laboratory in order to ascertain if the mandatory specifications are being observed as far as composition and other prerequisites are concerned.

Products of Vegetal Origin

Products of animal and vegetal origin are inspected by the Ministry of Agriculture. As far as products of vegetal origin are concerned, the Ministry of Agriculture is authorised to carry out technological

inspections of the industrial and light manufacturing companies which process and pack fresh and modified agricultural products of vegetal origin; it also carries out hygiene and quality inspections at all levels of the production process, from the production of the raw materials to the final product, fresh or modified, which ultimately reaches the consumer.

Products of Animal Origin

The inspection of food of animal origin extends from the farming areas of the animals concerned (husbandry, poultry-farming, fishery, apiculture) to the installations where these products are processed, modified, conserved, traded and distributed to the consumer. The Ministry of Agriculture employs 1,000 veterinary doctors who work in 350 veterinary practices in the countryside, in 2 veterinary institutes and 15 district veterinary laboratories. Finally, the veterinary inspection police agency is responsible for the health and hygiene of animal products and their producers, their stamping according to current prescribed regulations, for keeping consumers informed, and for the supervision and observance of commercial transactions; this agency is part of the Ministry of Public Order.

The General State Chemistry Laboratory

This belongs administratively to the Ministry of Economics, is divided into central and district branches and has about 500 employees of various specialisations, such as chemists, chemical engineers, pharmacists, laboratory assistants, etc. It is authorised to conduct inspections of imported and exported foods, drinks, water, and chemical substances, to check on authenticity and attempts to deceive consumers, the protection of public health and compliance with the demands of international conventions. This laboratory assists other public services by providing assistance with experiments; it also contributes to applied research and development. It is the only authorised agency in Greece for the exchange of information with the European Union as far as the safety of food is concerned, the dispatch of data related to food inspection, etc. The Supreme Chemical Council is housed in the General State Chemistry

Laboratory and is of an advisory character, processing draft laws, suggesting schemes to harmonise Greek legislation with that of the European Community, and instituting the provisions which are embodied in the Code of Food and Drinks and which refer to the minimum requirements with which the products should comply.

Finally, the Ministry of Health is responsible for the study and definition of the hygienic conditions under which industry, light manufacturing enterprises and stores that distribute food and drink operate.

A Unified System of Food Inspection

As can be seen from the above, the public services are multi-structured with regard to food inspection. As a result many problems arise, such as overlapping and confusion within public services and the exercise of control by various ministerial agencies. This particular problem has been recognised by the state, and in June 1998 the Cabinet decided on the unification of all public services and organisations concerned with food. According to the communiqués that followed, this will involve all the responsibilities for food inspection; inspection in the areas of agriculture and animal husbandry is exempted, and will remain under the jurisdiction of the Ministry of Agriculture.

The National Organisation of Medicine (EOF)

EOF was founded in 1983 as a public office, which is governed by an executive body appointed by the Minister of Health and Providence, after a proposal by the relevant scientific bodies. EOF aims at the promotion of public health, especially in the pharmaceutical-related field (cosmetics, special nutritional products and food supplements, biological products, medical ancillary appliances). EOF authorises, after evaluation, the permits for these products to circulate, checks the lawful distribution of these products, the observance of the rules under which they have been approved (packaging, labelling, instruction leaflets) during the whole period of their circulation, inspects the

production area, storage rooms and their distribution, and takes immediate administrative measures when it foresees a public health hazard.

Standardisation and Certification

The promotion and application of standardisation in Greece is the responsibility since 1976 of a public legal corporation, the National Standardisation Organisation (ELOT). With the exception of agricultural goods, ELOT is solely responsible for the production of Greek models in products and services and for promoting their application. ELOT participates in international standardisation organisations (CEN, CENELEC, ETSI, ISO, IEC). ELOT also operates laboratories, for example for electrical domestic appliances, electric wires, children's toys, compliance control of computing goods, etc; these laboratories control and test the goods that circulate in the market, and they can issue certificates or warnings on compliance. For the products for which ELOT does not have relevant laboratories, it collaborates with private laboratories in Greece and abroad. Consumers are not represented on the executive board of ELOT, but in recent years, however, the relations between this body and consumer organisations have been close, as the latter send representatives to ad hoc committees. From 1999 consumer representatives will participate in the committees authorising certificates of operation to companies.

3 Consumer Organisations and Their Rights

Collective Protection of the Consumer – The Consumer Organisations

The social system of consumer protection is based on the assumption that consumer protection will only be effective if the consumers are active and organised and if they themselves facilitate the exercise of market regulation. Thus the 1994 Act for Consumer Protection encourages the formation of consumer organisations and grants essential powers to them. Thus consumer organisations are formed as associations which acquire legal status by being registered in the associated registers issued by each prefecture. An organisation should have at least 100 members in order to be recognised as an association of consumers. Another prerequisite is that the aims of the organisation should refer exclusively to issues of consumer protection. The organisations may have only individuals as their members, while the sources of their income are restricted by the law (members' fees, subscriptions to printed matter, subsidy by public organisations and the European Union and international organisations), so that they may develop and operate in an independent way, uninfluenced by private interests.

In Greece today many consumer organisations are active, although few of them have succeeded in developing substantial activities, because of the lack of financial support by the state. It is estimated that forty consumer organisations have been recognised, which are, in the majority, affiliated with two confederations. These are the Greek Bureau of Consumer Organisations, whose best known member is the Consumer Organisation "Quality of Life" (EKPIZO) and the General Confederation of Consumer Organisations (GOKE), whose most well known member is the Consumer Institute (INKA). EKPIZO and the Centre for the Protection of the Consumer (KEPKA) are both members of the European Bureau of Consumer

Unions (BEUC) and the international consumer federation, Consumers International

These consumer organisations have important powers. They are authorised to intervene with the administrative authorities, they represent consumers and have access to information that is of interest to consumers. It is also very important that they have the opportunity to appeal to the courts.

Representation of Consumers in their Individual Court Cases

In accordance with the Consumer Protection Act, consumer organisations are authorised to ask for legal protection for the rights of their members in court or through any relevant public authority. In this way they can instigate suits, apply for injunctions, appeal against administrative acts, or participate as the prosecution in court cases of a penal character. In addition, they may intervene in pending court cases between their members and suppliers. This possibility is important if we consider that individual consumers do not normally possess the knowledge or the time to claim their rights, which results in their making compromises when they face problems. But in order to fully exploit this opportunity, viable advice bureaux for legal protection need to develop, under the auspices of the consumer organisations. A legal protection bureau is operated by EKPIZO, but unfortunately, there is not sufficient financial support for developing an effective system of this type.

Collective Lawsuits

Consumer organisations which comply with the prerequisites demanded by law (inter alia, they should have at least 500 active members) may conduct any kind of lawsuit for the protection of the more general interests of consumers – the collective lawsuit. The collective lawsuit is an institution of fundamental importance, because it enables consumers to effectively contest the illegal practices of the suppliers. Consumer organisations may, in particular, ask for action against the illicit conduct of suppliers

(e.g. issues of embezzlement, damages, prohibited sales outside shops, distribution of defective goods which threaten the safety and health of the public, misleading advertising, etc.). However, with the collective lawsuit, the consumer organisation cannot ask for compensation for the damage suffered by consumers. It can only request that illegal conduct should be terminated.

However, the consumer organisations can appeal through a collective lawsuit for monetary damages, on the grounds of the moral injuries suffered by consumers, as a result of illicit practices. The amount of this monetary damage is defined on the basis of certain criteria which demonstrate that the law is interested not only in restitution, but also in the preventive guarantee of consumer interests. Thus, among others, criteria that are taken into account include the seriousness of the offence, and the necessity for special and general prevention; criteria, that is, which resemble sanctions and which confirm the peculiar conception of the illegal behaviour, not as representing a problem of a private character, but of the public interest instead. The monetary damages in these cases have, therefore, the character of sanctions. Thus, if the consumer organisation wins the case, a supplier is not only obliged to terminate his illegal conduct, but to pay a form of reparation. The collective lawsuit has been developed into an important way in which consumer organisations can counter the illicit practices of suppliers. For instance, the exercise of collective lawsuits against insurance companies, mobile telephone companies and banks has put on record a series of general practices in these sectors, which are distinguished as illegal. This has contributed considerably to the solution of disputes that individual consumers have had with these companies. In parallel, the negotiating power of the consumer organisations has been reinforced. Collective lawsuits have been exercised and proved successful in other areas as well, such as in distance contracts, advertising, and others.

Committees for the Amicable Settlement of Consumer Disputes

In the 54 prefectures, into which Greece is structured administra-

tively, there are offices for inspecting the products in circulation. The local authorities have been given by law the authority to provide services and advice to citizens on matters relating to consumer protection; such services, however, are still in an under-developed stage, in contrast to similar offices in other European countries.

In the prefectures, Act 2251/94 provides for the operation of Committees for the Amicable Settlement of Consumer Disputes. When consumers face a consumer-related problem, they can resort to these Committees, of which the participants are a lawyer appointed by the governing body of the local law society, a representative of the professional union of the supplier with whom there is a dispute, and a representative of the local consumer or organisation. The decisions of the Committees are not mandatory for the disputing parties; they can however be considered as evidence in court by the judicial authorities.

Epilogue

The system of consumer protection in Greece is based on two axes. One is the activation of the consumers themselves and their involvement in the regulation of the market. For this purpose, an institutional framework has been created, which gives important responsibilities to the consumer organisations. Government support for this activity is, however, deficient at both a material and practical level. The other axis concerns the traditional side of consumer protection, that is the regulation carried out by the state. However, the state institutions and bodies are in a state of readjustment to the new conditions of the free market, and this regulation is not yet sufficient or powerful enough.

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Balancing the Scales

Spain

Spain

Introduction

It is difficult for a society built upon the historical basis of an authoritarian government to achieve the rapid democratic growth necessary to establish a society built upon citizen participation which other countries in Western Europe experience. There is open antagonism to joining activist or political groups, resulting from the lack of participation and involvement of citizens during the long period of dictatorship.

This type of attitude carries over into the behaviour of the Spanish consumer. Recent information shows that 64% of the population had objective reasons for presenting a consumer claim, but did not do so. Lack of trust, that the problem will be resolved or in the institutions themselves, may lie behind this. There is a detachment from “everything that is public” and therefore a need to impress on citizens their right of ownership and therefore their right to intervene in the management of the public domain and public services.

Things are slowly changing, and the new generations are especially interested in joining NGOs. Proof of this can be seen in the student movement that arose in 1994 against the policies of the World Bank; there was opposition to the type of programmes that this institution was financing and an alternative forum developed protests and an initiative to donate 0.07% of tax for the development of poor countries around the world. What began as a few tents erected along Madrid’s main avenue, ended up being a month-long marathon, with hundreds of tents camping along Castellana and well-organised groups providing meals, care and information. It was a show of solidarity by young people. Since that time, the total number of NGOs in Spain has increased dramatically.

There are events which demonstrate the concern of the people for specific issues, but it does not yet carry over into policy. People in Spain are not accustomed to complain effectively, and generally, their discomfort does not lead them to make a written complaint.

The practices of the monopolistic companies have not helped and usually after a consumer complaint the issue remains unresolved, due to the entrenched power of these companies. Bureaucracy and the dispersion of competencies act to the detriment of the consumer.

Although Spanish consumers are widely represented within the government system, in practice the voice of the consumers is often not heard, due to the small weight their votes carry within the institutional framework. An added problem is the lack of time, people and resources, which forces consumer representatives to decline invitations to participate in working groups and committees. Although the regulations of many institutions require the participation of consumer associations in the consultation procedure, and although the consumer associations appoint a representative, often laws, reports, norms and opinions are published with the formal "approval of the consumers", while the consumers are in reality absent. This is most evident in fields where technical expertise is necessary, such as the standardisation of products, veterinary matters, etc.

Since the birth rate has steadily declined to a negative growth rate, Spain faces social and market changes. The lower number of young people between ages 15 and 24, the trend to marry at a higher age, and the larger number of elderly people will characterise the market and the needs and preferences of consumers in the future.

Also, the use of technology to acquire products and services is a growing market in Spain. Since it is not limited within the boundaries of the European Community, it will require vigilance to expose any needs for consumer information regarding rights and guarantees.

At present, public institutions are becoming more aware of the need to comply with consumer wishes, and companies are beginning to compete against each other using customer satisfaction as a marketing tool. Therefore, this is a good time for consumer associations to enhance consumer participation by using their influence within the media, labour and political organisations.

The alliance of some consumer organisations with other social organisations, such as trade unions, environmental groups and other NGOs, in support of a specific issue or campaign has opened new lines of communication and information. Also, it has provided an opportunity to impress on the collective mind the wide objectives of consumer organisations, objectives that are not limited to ensure that a consumer receives good products and services. They go further, and aim to ensure that consumers' quality of life is enhanced through the protection of their constitutional rights, their means of living and of the environment that surrounds them.

1 Background Information

Spain:	
Area:	504,783 km ²
Population:	39,100,000
Population density:	78/km ²
Type of government:	Constitutional monarchy
Seat of government:	Madrid
Coinage:	Peseta, converting to the Euro
Official languages:	There are four official languages: Basque, Catalan, Galician and Castilian

After the Spanish Civil War (1936-1939), a dictatorship was established in Spain, which lasted 36 years. In 1975, Juan Carlos I was crowned King of Spain and the period of transition to democracy started; this took only three years, and it was notable that legality was never broken. Democratic legislative elections took place in 1977, and the new regime conducted a change from the centralised system to an autonomous system, in response to the nationalist aspirations of a number of regions.

A new constitution was approved in the referendum of 6 December 1978. The electoral system is one of proportional representation (corrected using the Hont system), which distributes seats in proportion to the number of votes received by each party. The party with the largest number of representatives forms the government, and its leader becomes the President of the Government.

The political system is parliamentary. The Parliament consists of the Congress of Deputies and the Senate, exercises the legislative power of the state, approves budgets, and monitors governmental actions. The Congress of Deputies consists of a variable number of members, from 300 to 400; all are elected on the basis of universal suffrage, which is free, equal, direct and secret. The Senate consists of elected Senators, and Senators appointed by the Legislative

Assemblies of the Autonomous Regions. Senators are elected by universal suffrage, which is free, direct and secret. At present, the Senate is made up of 255 Senators, of whom 208 were elected by the constituencies and 47 were appointed by the Autonomous Regions.

Spain joined the European Community on 1 January 1986, after signing the Membership Treaty on 12 June 1985.

2 Consumer Protection Legislation

The Spanish Constitution

Article 51 of the Constitution deals with basic consumer law and defends consumer rights.

“The public authorities guarantee the defence of consumers and users, protecting by means of effective procedures their security, health, and legitimate economic interests”

“The public authorities will distribute information and provide education to consumers and users, will promote consumer organisations, and will consider their requirements within the framework of established Law”.

“Within the framework of the aforesaid, the law will regulate internal commerce and the commercial products authorisation system”.

Article 51 of the Constitution is complemented by other Articles which help define the framework of defence of the law:

Article 14 sanctions equality before the law.

Article 24.1 establishes that “all persons have the right to obtain effective guidance from the courts and from tribunals in exercising their legitimate rights and interests, such that defencelessness can never arise”

Article 43 recognises the right to protection of health, which is the responsibility of the public authorities to organise and to ward.

Article 105 establishes that the Law will “uphold the right of audience of citizens directly or by means of recognised

organisations and associations, and will also protect the citizens' right of access to administrative files and registers".

Article 106.2 establishes the right to indemnity for damage to a citizen's property or infraction of his or her rights.

Article 20 recognises the citizen's right to receive true information.

Article 22 recognises the right to association.

Article 23 recognises the citizen's right to take part in public affairs.

Article 27 recognises the right of all Spaniards to education.

The General Consumer and User Protection Law

A specific Consumer and User Protection Law was approved on 19 July 1984. This law enacted the constitutional mandate of the articles cited and in its Article 31 established the formation of an extra-judicial arbitration system.

The Law of Arbitrage

The Law of Arbitrage was approved on 5 December 1988; the First Additional Provision of this law defines the remit of the arbitrators to which the General Consumer and User Protection Law refers, and its Second Additional Provision repeats the government's mandate to regulate the Consumer Arbitration System.

Royal Decree 636/93

This Royal Decree, promulgated on 3 May 1993, regulates the Consumer Arbitration System.

3 Development of the Consumer Protection System

Although there were some beginnings to consumer protection in the last years of the dictatorship, and the Council for Internal Commerce was created, along with the National Consumer Institute and the first consumer associations, it was not until democracy was established that institutions and associations developed within the legal framework of consumer rights protection, a process which was consolidated by approval of the Spanish Constitution in 1978.

Consumer Protection Institutions: Central, Autonomous and Local Competencies

The principal unit of the Spanish administrative system is the Municipality (there are more than 800 in the country). These are run by town councils and are grouped into 50 Provinces (on the mainland and in the islands). The provinces form 17 Autonomous Regions, which are historic territories with councils whose legislative and executive powers are determined by the Constitution. The Spanish Constitution confers wide powers and responsibilities on the Autonomous Communities; therefore the competencies are not spread uniformly throughout the national territory.

The Public Defender

This is a type of public Ombudsman – the Public Defender intervenes on claims against the public administration as a provider of services; in this capacity it acts as advisor to the Spanish Parliament, but with no rights of enforcement.

As a High Commissioner of the Parliament, this is an

independent institution. Claims are placed before the Public Defender free of charge, do not require professional representation, and are strictly confidential. Complaints can be presented individually or as part of a group action, in person, by post, or by fax. There is a free 24-hour telephone information line. The Public Defender makes a compulsory annual report on its activities to the Parliament and publishes a summary of this information in which the questions which have been of particular interest to the citizens are listed.

The Public Defender adopts resolutions which recommend the competent public administration or legislative organ to pass or modify existing legal standards or to adopt new general measures. Thus, it presents appeals before the Constitutional Court if indicated in the resolution.

In 1997, the Public Defender received 18,138 complaints and initiated 121 actions; 6,256 of these complaints were presented by 24 groups or associations.

Municipal Consumer Information Offices (OMICs)

OMICs were created in 1983 and were established throughout the country. In 1994, there were 703 OMICs in operation, covering more than 70% of the population. OMICs can be part of a Municipality, a commonwealth of Municipalities, a Province, or an Autonomous Community. The proximity of the OMICs to the people makes this a better known and more widely used service than other administrative offices and services. These offices distribute general consumer information, advise consumers on specific products and services, and assist in the formal presentation of consumer complaints to guide them through the Consumer Arbitration system (see below).

The Consumer Arbitration System

The Consumer Arbitration System is an extra-judicial method, which is rapid, effective, and economic, allowing conflicts between buyers

or users (final destination of product or service, excluding professionals, associations, and traders) and sellers or service providers to be resolved in a voluntary manner. This consumer complaints system was started on an experimental basis in 1986, and its regulations were promulgated by Royal Decree on 3 May 1993.

The constitution of a Consumer Arbitration Board must be approved by the National Consumer Institute. Arbitration Boards may act in a Municipality, a commonwealth of Municipalities, Province, an Autonomous Region, or nationwide. The National Arbitration Board can be approached when cases are presented through consumer associations based in more than one Autonomous Community and when the dispute affects consumers or users in more than one Autonomous Community.

Matters for which a firm judicial decision has previously been taken and matters involving damage to health due to poisoning, injury, or death cannot be considered for consumer arbitration; nor can cases in which there is reasonable suspicion of criminal activity. There is no limit to the size of the claim, and the system is free for all parties, except for expert costs incurred in certain cases.

A request for arbitration is presented to the Consumer Arbitration Board in the consumer's area, either in person or through a consumer association. The Secretary of the Arbitration Board notifies the other party to start the process, if the defendant belongs to the arbitration system, or otherwise to formalise an Arbitration Agreement. An Arbitration College is then convened, consisting of three arbitrators: a representative of the consumers, a representative of the relevant business sector, and the President of the Arbitration College appointed by the administration responsible for the Arbitration Board. The arbitrators representing the parties are appointed by the organisations or businesses before the Arbitration Board. The hearing may take place in person or in writing and the presentation of expert evidence is agreed if necessary.

Complaints will be resolved in a maximum of four months after the appointment of the Arbitration Board, and are resolved by means of

a judgement or resolution of compulsory application. If adherence to the Arbitration Judgement is not achieved, its implementation can be sought before a judge of the lower courts. The Judgement precludes the possibility of recourse to the ordinary tribunals for the same case. Appeals against an Arbitration Judgement can only be made on formal grounds, and it is not possible to enter into debate regarding the object of the claim, as the Judgement has the same effect as a firm judicial decision.

The sectors most affected by claims in 1997 were:

Telecommunications	2,118	16.90%
Dry Cleaners	1,685	14.90%
Cars	1,670	13.38%
Housing	780	6.25%
Public Services	750	5.99%

In 1987, a total of 650 arbitration claims were presented, of which 617 (94.9%) were admitted for proceedings. In 1997, a total of 12,473 claims were made and 12,296 (98.5%) were accepted. Between 1988 and 1997, public bodies presented 6,865 claims, consumers presented 3,436 and consumer associations presented 1,522.

Consumer Safety Inspections

Consumer Inspections can investigate and penalise fraudulence in consumer affairs, both on their own initiative and in response to complaints presented to a Municipal Consumer Information Office (OMIC) or the appropriate Autonomous Consumer Inspectorate.

The Ministry of Health and Consumer Affairs

The Ministry of Health and Consumer Affairs is the central administrative state body, which executes the general government directives in health policy, planning and health assistance, and consumer affairs. The Ministry includes a Citizens' Administration and Affairs Information Office. It also has an Internet site with a

variety of information on its structure and services.

The Ministry of Health and Consumer Affairs has a 1998-2001 Strategic Plan for Consumer Protection, which sets standards for the development of consumer affairs; the Autonomous Communities were involved in producing the plan. The Plan is based on the political framework of the European Union, the Community System for Rapid Exchange of Information on Dangerous Products, the Community System for Information on Domestic and Leisure Accidents (EHLASS), and the Green Book on the General Principles of European Union Food Law.

The 1998-2001 Strategic Plan for Consumer Protection proclaims the need to empower the consumer associations, as legitimate representatives of consumers and users, as well as the need to facilitate actions by the consumer associations before the juridical bodies. It covers various questions, such as the provision by the consumer associations of free access to justice, and the introduction of reforms under which the associations do not have to deposit bonds when they represent general interests, thus increasing their legitimacy through their involvement in joint actions.

The Strategic Plan considers it necessary for the legal world to publicise and put into practice consumer protection law. Since few lawyers promote consumer protection law, and nor do judges and magistrates apply them routinely, this will require efforts to raise awareness directed specifically towards law professionals.

The Director General of Public Health, part of the Ministry of Health and Consumer Affairs, elaborates the proposals for regulation on the health control of foods and specific products in the Spanish Foodstuffs Code and the health risks of other products and services, and also manages the food alert network. Thus, its functions include managing illness prevention programmes, health education programmes, health at work programmes and programmes promoting healthy behaviour, especially those involving the development of initiatives adopted by the European Union. This organism also regulates the health control of water and radiation protection. Also, manages environmental

monitoring, and monitors health aspects of products used in agricultural and environmental activities.

The Autonomous Communities are responsible for consumer affairs and almost all have Consumer Statutes.

The National Consumer Institute (INC)

The National Consumer Institute (INC) traces its roots back to 1965, when the Consumer Guidance Cabinet was created under the auspices of the General Commissariat of Utilities and Transport. The INC was founded in 1975 and became an Autonomous Organisation in 1977. It is presently part of the Ministry of Health and Consumer Affairs and is responsible to the Under-secretary for Health and Consumer Affairs. The new INC is based on the enactment of Article 51 of the Constitution and of the General Law 26/84 for the Protection of Consumers and Users.

The remit of the INC includes responsibility for consumer affairs, provision of technical support for consumer inspection services under other public bodies, and thus for functions relating to the smooth operation of consumer protection in the market place and the management of the alert network for non-food consumer products.

The INC promotes and encourages consumer and user rights, carries out investigations and studies of consumer relevance, such as analyses and tests of the quality and safety of consumer and user goods and services, these being conducted in their own laboratories in the Centre for Quality Inspection and Control. The principal activity of the centre is to perform analyses and tests of samples collected by the Inspection Services of the Autonomous Communities as requested, with the final aim of evaluating whether they conform to the relevant Technical Health Regulations and Quality Standards.

Its functions also include informing, training and educating consumers, for which the INC has an Information and Documentation Centre, charged with collating and disseminating

information to consumers and consumer organisations and institutions. There is a database of information on consumer affairs containing information on legislation and jurisprudence, monographs and reviews. This information is free and can be obtained by telephone, post or fax.

The INC supervises the training and registration of consumer associations and supports the Consumer and User Council (see below), which meets at the INC headquarters and receives administrative support from the INC. The INC distributes funds provided by the Ministry to the consumer associations by subsidising projects and promoting the consumer associations. The INC is also responsible for setting up, developing and expanding the Consumer Arbitration System.

The Consumer and User Council (CCU)

At the end of 1991, the Consumer and User Council (CCU) consisted of four national consumer associations (CECU, UCE, CEACCU, and HISPACOOP), located in the offices of the National Consumer Institute (see above). The organisation was modified in 1996 and now consists of 11 associations plus one representative from each of the Consumer Councils of the Autonomous Communities. The consumer associations represented on the CCU are described in chapter 6.

The CCU has three bodies: the Plenum, the Permanent Commission, and the Special Commissions. The Special Commissions cover various sectors of consumer affairs: housing, standardisation and safety, food, health and medicines, economic and business affairs, public services, consumer information and education, environment, advertising and access to justice.

This Council elects consumer and user representatives to more than 40 national bodies. It drafts reports on Royal Decrees and draft laws prior to government approval, and produces reports which are published periodically.

4 Consumer Policy and Protection

Food

The Ministry of Agriculture, Fisheries and Food executes the general directives of the Government in agricultural, fishery and food policy; the Ministry of Health and Consumer Affairs, through its General Directorate of Health, has some powers in the area of food, producing and maintaining public health programmes, sanitary monitoring of water, foodstuffs and products listed in the Spanish Foodstuffs Code, as well as, the veterinary aspects of public health.

Under the auspices of the General Directorate of Public Health, the Inter-Ministerial Foodstuffs Commission (CIOA) is a consultative body, where all bills for new laws are discussed before ratification, as well as, the adoption of European Directives related to food safety, labelling, etc. Representatives of the central government, the National Consumer Institute and the industrial sector all take part in the Commission, as do a number of representatives of the Consumer and User Council.

A number of initiatives and programmes are in place for product quality assurance based on specific labels. Among these, the following stand out:

- The Institute for the Denominations of Origin that regulates the claims of origin for products such as wine, cheese, etc.
- The Registry of Protected Geographical Areas, which includes La Carne Gallega (Veal Meat), which has its own Regulatory Council for the Specific Denomination Gallega veal (Terñera veal).
- The program for “Carne libre de aditivos regulada y Avalada”

C.L.A.R.A. (Regulated and Guaranteed Meat Free of Additives) which is a voluntary initiative on the part of farmers, processors and butchers, offers the consumer additive-free beef from calves fed with natural foodstuffs.

- The “Consejo de Produccion Agraria Ecologica” C.O.P.A.E. (Council for Ecological Agricultural Production) is an initiative on the part of producers and guarantees that traditional agricultural methods will be used without employing chemical products.

Competition and Fair Trade

The Unfair Competition Law No. 3/1001 of 10 January, the Protection of Competition Law No. 17/1989 of 7 July and the Retail Trade Regulation Law No. 7/1996 of 15 January form the legislative framework for the free market in Spain.

The distribution of water and gas, postal services, distribution and sale of tobacco, distribution and sale of fuels, production and distribution of energy and telecommunications are in the hands of a small number of companies which until recently functioned as monopolies in Spain.

Public intervention is justified when the market fails to function appropriately, as when monopolies force contracts with a specific supplier (in transport, electric energy, gas, etc.) because there is no alternative. Article 13 of the Retail Trade Regulation Law permits the public administration to intervene in exceptional cases – primary need products, production by monopolies or administrative concessions – as a measure complementary to policies regulating production or subsidies in specific sectors where effective competition is lacking. Some forms of discriminatory behaviour are outlawed, although some restrictions are not justified, such as public intervention in points of sale of lotteries, etc.

Substantial reductions in competition in the market have negative consequences for consumers in terms of prices, though this is not

the only factor; other elements which have to be taken into account include the quality and variety of products. Franchising and selective distribution tend to produce price uniformity; competition increases outside the sector, while harm is done within the sector. There is presently a higher level of competition in the market and a greater contractual freedom which is guaranteed by the granting of the power to revoke.

Interests protected by the Unfair Competition Law are as much those of consumers as those of the general public; the nature of these interests is institutional (it neither regulates nor protects specific subject rights) just as much as functional (market function is also not regulated). The novelty of the Unfair Competition Law is precisely that it concerns the interest of consumers and the general public and abandons the previous model, in which businesses were protected.

Consumer interests are protected in terms of unfair competition by permitting the consumer associations prosecute criminal cases of unfair acts and cases, and rectify misleading information (Article 19.2b, Unfair Competition Law).

The Unfair Competition Law refers to a type of behaviour objectively opposed to good faith. The objective is competition based on efficiency in price, quality, and contractual conditions with reference to illicit acts against consumers (swindling, denigration, selling at a loss and other unspecified acts which may also take place, such as exploitation of advertising).

The Environment

The Ministry of the Environment is the body of the central government which proposes national legislation for the environment, and is thus the body charged with transposition of community directives.

In 1994, the then Ministry of Public Works, Housing and the Environment created the Advisory Council for the Environment

(CAMA), which was part of this Ministry until 1996, when the new government created the Ministry of the Environment. This consultative body was set up by a Legal Decree in which the number of councillors and their eligibility were specified. Councillors were from a variety of environmental organisations, social groups, and experts along with a number of representatives of the central government. Among these, it was specified that consumer representatives should be appointed, these being elected by the Consumer Council. During this period, the CAMA produced reports on policies relating to water, road and dam construction, the future of first-generation nuclear power stations, waste disposal, etc.

Since its establishment, the CAMA has had great press attention because of its criticism of government environmental policy, and the Ministry has had to confront serious problems. In 1996, the new government altered the composition of the Council by means of a Decree of Law, without warning the members of the Council or consulting with them, which led to a breakdown in relations with a number of the groups represented in the Council. Since then, the situation has continued to deteriorate because of the policies pursued by the Ministry (Council meetings have not been called, draft reports have not been presented, etc.). Therefore the Council no longer has a quorum and does not meet. Virtually all of the social organisations have left the Advisory Council for the Environment, and the Consumer Council has also withdrawn its delegates.

The Consumer and User Council also has a Committee for the Environment, which revises national legislation, preparing relevant declarations and producing reports on environmental topics, along with information and monographs.

The Autonomous Communities have powers in environmental matters, legislating in their communities especially on aspects in which the Ministry has transferred its powers. For example, the Packaging Waste Law was drafted by the Ministry, but its application is the responsibility of the Autonomous Communities, and local governments have responsibility for managing waste and for

protecting the environmental heritage. Sanctions for environmental offences are the responsibility of the jurisdictions in which damage occurs. Environmental offences are starting to have relevance in raising public awareness of conservation of the natural environment, but the dispersion of power sometimes makes enforcement of the laws difficult.

Standards

The National Accreditation Organisation (ENAC), which authorises organisations to perform standardisation and certification, is part of the Ministry of Industry.

The Asociación Española de Normalización y Certificación AENOR (Spanish Association of Standards and Certification) was given responsibility for standardisation and certification in 1986 and was the first accredited organisation in the country. Recent years have seen the registration of more certification organisations, though AENOR is still the best known, and consumers are represented in AENOR through the Consumer and User Council.

AENOR has almost 1,000 members, including 150 business organisations, individuals along with research centres and laboratories.

The main activities of AENOR focus on defining Spanish Technical Standards (UNE Standards), which is performed by 131 technical committees involving more than 2,000 experts. There are presently almost 14,000 UNE standards in all industrial sectors (defined by consensus among all interested parties: manufacturers, businesses, users, government, etc.).

In the area of certification, there are two sectors: product certification, with more than 33,000 products recognised in all industrial sectors, and certification of quality assurance systems, with more than 2,700 brand names of Registered Companies recognised. AENOR is accredited to certify quality systems in 33 sectors of activity.

AENOR has bestowed the AENOR Environmental Mark, which distinguishes products complying with ecological criteria as set down in the UNE standards, on 19 products. AENOR also certifies environmental management systems. It has thus far recognised 49 businesses in various industrial sectors with the AENOR Environmental Management Mark, defined according to the ISO 14001 standard for setting up environmental management systems.

Currently, the SGS (a certification organisation, which was accredited in 1997 to certify quality systems in accordance with the ISO 9000 standard,) is initiating a certification system for services in Spain. Certification is based on a code of client satisfaction which is specified for each sector by a committee in which consumers, providers, and the certification company are represented.

Certification and labelling systems are not sufficiently well known by consumers; the proliferation of marks, rather than helping the consumer, causes confusion. The Community Ecolabel has not been successful in Spain.

The experience of the consumer associations in the standardisation committees is not positive. Given the scarcity of economic resources and qualified personnel suffered by the associations, and also that the technical committees need specific personnel for each sector or product type, consumer involvement is centred on the committees of special interest and in the General Assemblies, where decisions are made on the basis of reports produced by the various committees. At the heart of the General Assemblies, the social organisations are at a clear disadvantage before businesses, which account for almost all the members.

Advertising

Advertising in Spain is regulated from the consumer viewpoint by two main Acts. The first is the General Consumer and User Protection Law, which expects offers, promotion and advertising of products, activities and services to conform with its nature, spirit, conditions, use or purpose; advertising content must adhere to

these principles even if this is not specified contractually. This law also provides for false or misleading offers, for fraudulent promotion and advertising to be prosecuted and punished, and empowers the consumer associations to initiate and participate in the administrative procedures aimed at stopping such practices.

On the other hand, General Advertising Law 34/1988 of 11 November up-dated Spanish advertising regulations through harmonisation with community standards (the previous advertising law dated back to 1964). This law, apart from defining illicit advertising, defines who are the principal subjects of advertising activity and the main parties to contracts, and establishes the procedural norms for punishing and curbing illicit advertising. In this sense, it also provides for the consumer associations to press for judicial proceedings aimed at stopping or rectifying advertising which could be considered misleading.

There is a commission, the Monitoring Commission for Toy Advertising on Television, which analyses toy advertisements in each Christmas campaign, and criticises manufacturers using advertising which fails to conform with the Ethical Code signed by a number of consumer associations and the Association of Toy Manufacturers.

There is also an association which includes many businesses in a variety of sectors, called the Advertising Self-Regulatory Association, which is very effective and publishes an information bulletin on developments in these sectors both in Spain and Europe.

Health

The Spanish National Health System traces its origins back to the Instituto Nacional de Prevision (National Institute for Prevention) founded in 1908. This system evolved through the following decades. In 1942 a compulsory health insurance system was created, and in 1963 a modern social security system was established, which included health care benefits for workers and their dependants.

The Spanish Constitution establishes the competencies of the central government and the Autonomous Regions with regard to health, and also establishes the need for a council to co-ordinate the different administrations. The General Health Law regulates the health system and the Prescription Drugs Law regulates pharmaceutical products.

The Ministry of Health and Consumer Affairs is responsible for all legislation relating to health and pharmaceutical drugs and the general co-ordination of the health system. The Instituto Nacional de la Salud "INSALUD" (National Health Institute) is the body responsible for providing health services to more than 14 million Spaniards. INSALUD provides health care to 10 Autonomous Communities and to the cities of Ceuta and Melilla, through a network of services.

The government plans to decentralise the health care services and transfer INSALUD's competencies to the Autonomous Communities. Already seven Autonomous Communities have competencies in public health, amounting to 62% of the total population. The Inter-Territorial Council of the National Health System ensures co-ordination between all the Autonomous Communities and the Central Government.

There are two levels of services: primary care and hospital/specialised services. Primary care includes the following services: family medicine, paediatrics, nursing care (both in health centres and at patients' homes), children's and emergency dental services, family planning and pre-natal care, mental health and physiotherapy. INSALUD owns 82 hospitals and operates a total of 95 outpatient clinics. Also, it contracts out some medical and surgical services to 99 hospitals, of which a third are public.

One of the problems facing consumers using state health facilities is the waiting list for specialist appointments and non-emergency surgical procedures. In 1997 the average waiting period for non-emergency surgery was 89 days.

INSALUD's budget for 1998 amounts to 1,454,724,000 pesetas (874,304.3 Euro), representing 4.7% of the national budget, and an important part of this budget is allocated to finance prescription drugs. The per capita consumption of pharmaceutical drugs in Spain is higher than the European average. In 1997 the consumption growth rate fell by 30%, after reducing the list of prescription drugs available for financing through the public system, a measure criticised by a large segment of the population. At present, patients are required to pay 40% of the total price of the prescribed medication, although pensioners, chronically ill patients and their dependants are exempt from payment.

Generic drugs are being slowly introduced into the Spanish market and are financed by the public system. Consumers may choose this type of drug instead of the brand of drug specified in the doctor's prescription and just tell the pharmacist prior to purchase. Since prices of generic drugs are lower, there are no problems about financing them; the problem at this point is the low number of generic drugs available.

INSALUD has Patient Help Offices, where users of the health system may file claims or make suggestions for improving the services.

Financial Services

The Bank of Spain, part of the Ministry of Economy and Finance, is the highest authority in financial affairs, and regulates the activities of all banks, savings banks and other financial institutions.

The banks are required to maintain on public display the prices of their services and have a Client Protection Department to which consumers can be referred if there is disagreement about one of their services. The Bank of Spain has a complaints service, to which the consumer can turn if not satisfied with the response of the original bank. The response of the Bank of Spain is not binding on the original bank, but is an important legal endorsement if the complaint progresses to a court of law.

Credit prices vary depending on the consumer's negotiating ability, as well as on the consumer's buying power previously established with the bank.

Insurance

The activities of insurers and pension fund providers are regulated by the General Directorate of Insurance, part of the Ministry of Economics and Finance.

If a consumer presents a complaint to an insurer and the result is not satisfactory, the consumer can appeal to the complaints service of the General Directorate of Insurance.

Some insurers have signed agreements with consumer associations to the effect that the latter can mediate in complaints made against the company by insurance purchasers. The post of Defender of the Insured has also been created; although this is part of the insurance company, its mission is to solve problems impartially. The Defender of the Insured is generally a person of recognised prestige.

Public Utilities

The Ministry of Public Works is the body of the central government which proposes and implements the government's policy directives in the area of infrastructure, transport systems (land, air and sea), housing, construction, urban development, architecture, postal and telegraphy services, telecommunications, and the functional monitoring of operators providing public telecommunication services under contract to the central government. The remaining competencies have been transferred to the Autonomous Communities.

Telecommunications

The Telecommunications Deregulation Law 12/97 of 24th April created the Telecommunications Market Commission, with the objective of safeguarding, for the benefit of the public, competitive

conditions in the telecommunications market and in audio-visual, data transmission and interactive services. It checks the correct pricing structures in the market and runs an arbitration body for conflicts in this sector.

This law modified the Telecommunications Regulation Law 31/87, of 18 October (itself reformed by Law 32/92, of 3 December) with the aim of creating conditions guaranteeing free competition in the market and equality of treatment of operators in this sector, with reference to end-user and carrier services. The Cable Telecommunications Law 42/95 of 25th December was modified to take account of the needs of the new frame for summons to grant applications for licences. Also, grants a licence to the Red Técnica Española de Televisión RETEVISION (Spanish Technical Television Network) for providing basic telephone services: urban, interurban and international telephone services, and providing the necessary carrier services.

Telefónica is the company that provides universal telephone services and manages the network. Voice telephone prices, unlike the universal telephone services (before market liberalisation Telefónica was the only provider) are regulated by the state through the National Telecommunications Council, in which the Consumer and User Council is represented. There is a free market for prices for all other services.

The Public Postal System

The Postal Administration is a body forming part of the central government, and has for many years coexisted with a wide variety of private enterprises providing postal services. Liberalisation has been under discussion in the Spanish parliament since the Postal Law was proposed. Three consumer associations and one trade union have formed the Postal Communications Social Council at national level, with the aim of promoting the necessary reforms to guarantee consumers a quality service with total and accessible coverage, safeguarding the jobs of the 65,000 employees currently providing services to 9000 municipalities, with an average distribution of 4,200 million postal items per year.

Energy

Energy generation is privatised; transmission is guaranteed by the state by means of the Red Española de Electricidad (Spanish Electricity Network), and distribution is private. The Comisión Nacional del Sistema Eléctrico C.N.S.E. (National Commission of the Electrical System) which includes representatives of the central government, the Autonomous Communities, a representative of the Consumer Council and representatives of all the operators, proposes tariffs and levels of remuneration for services in this sector. Each year, the C.N.S.E. sends a report to the Congress of Deputies and to the Senate.

A proportion of the taxes levied in the overall cost of energy is assigned to the “nuclear moratorium” to account for the non-use of a number of nuclear plants in which large amounts were invested; there are a number of nuclear plants which are active in the country, and some first-generation nuclear plants which should be dismantled in the future, although recently one of these had its license extended by the Nuclear Security Council for an additional 10 years, against the recommendations of many NGOs and consumer groups.

Liberalisation of this sector is in progress, and it is estimated that by 2008 the consumer will be able to choose which company to use for energy provision. Alternative sources of energy (wind, solar, biomass) are starting to be used with success, but, with some exceptions, they are not included in plans for the development of neighbourhoods, housing, etc.

Gas

There are two companies distributing gas in the country, though they do not distribute the same type of product. One distributes natural gas and the other distributes liquefied gases in cylinders. Although the market is liberalised, there is no choice and there is no competition in the market. Prices are presented to the Higher Council of Pricing for approval; the Consumer and User Council is represented in this body.

Transport

Public transport may be in the hands of public enterprises or state concessions can be granted. In either case, routes, timetables and prices, previously approved by the government, must be applied. There is a Transport Advisory Council, which includes a consumer representative.

Water

There is no fixed price for water, and distribution, piping maintenance, purification, infrastructure construction, etc. is charged according to the amount of water used.

There is no uniform national price, as prices are established according to improvements and services carried out in each community; the result is that the cost varies widely and one cubic metre of drinking water can be much cheaper in a region with a scarcity of water than in a region with abundant water, if the latter has made larger investments in purification or maintenance. In the cities, one of the problems affecting the fair sharing of cost is that not all consumers have meters installed in their houses – there is sometimes only one meter for a whole building – which makes appropriate cost sharing difficult and does not encourage economy with a natural resource as scarce and precious as water.

Fuels

The recently approved Hydrocarbons Law has deregulated this sector. Maintenance of pipelines currently falls to the state, though private companies may take this over in the future.

Housing

Apart from the general legislation (in Spain's case, the Civil Code), the consumer is protected by several laws. Thus, in the case of buildings under construction, there is a law promulgated in 1968, which regulates the guarantees and deposits, which must be

formalised by the constructor to secure the amounts which the purchaser pays during construction of the house. Despite being an ancient law needing some revision, this has played and still plays an important role in protecting the economic rights of consumers.

Along with this law, the Royal Decree 515/1989 of 21 April specifies the information which has to be provided to the purchaser of a house, such as the plans and the specifications of the quality of the materials used, etc.

In regards to rental property, Spanish legislation has recently been modified, and since 1 January 1995, when the Urban Letting Law was enforced, the situation in this area has been clarified, providing more stability to consumers.

The housing sector, especially the purchase of new houses, causes the largest number of consumer complaints, and some consumer organisations handle such issues as mediating with vendors, assisting with arbitration and, in some cases, initiating administrative and judicial procedures against particular builders who have broken the law.

Consumer Education

The first attempt to deal with the consumer education issue in Spain dates back to 1975, when a consumer association from the north organised some workshops for teachers. In 1978 a co-operative of consumers organised a series of Consumer Workshops for teachers on advertising, ecology and food in the Basque Country and Navarre. These were very successful and stimulated interest from different regions and from government. But, it was not until the mid-eighties that school programmes were specifically designed and taught. These consumer education programmes have been integrated within the regular structure of the formal educational courses, not as a special subject. Nowadays, the competencies for education are being decentralised, and therefore the responsibility for consumer education falls on the Autonomous Communities.

5 The Current Situation and the Balance Between State and Non-Governmental Institutions

Between 1978 (the year in which the constitution was adopted) and 1984 (the year in which the General Law for Consumer and User Protection was enacted), there was a painful episode which shook Spanish society: the large-scale poisoning of consumers, due to direct retail sale of colza oil, which resulted in the death and perm-anent disablement of hundreds of people. After this, discussion of consumer protection policy became much more widespread, and after this event took place the government roused itself to organise consumer affairs and its structures, with the aim of guaranteeing effective protection of the consumer.

When the first Municipal Consumer Information Offices (OMICs) were set up, the consumer associations had no real presence in the country. At that time, the Consumer and User Organization (OCU – see page 72) had an office in Madrid, and the Associations of House wives (see page 71), which came into being in the Franco era, were already established throughout the country, and were converted into consumer and user associations using the infrastructure and premises of the so-called “Women’s’ Section” (women’s educational, cultural, and social organisations). It was during this era that consumer associations appeared throughout Spain, some local in character and others regional.

This early period was a challenge in terms of co-ordinating messages and efforts, with various problems which were overcome with the passage of time. Without the involvement of the public

administration, it would have been impossible to develop an “active” policy for consumer protection, considering the weakness of the consumer associations of that time, their lack of structures and their lack of presence in civil society. The state strengthened consumer protection and provided an impulse for the growth of the consumer associations.

When the OMICs were created, wide powers were conferred upon them; these have developed over the years in coexistence with the consumer associations. However, the situation has changed: the consumer associations have evolved and are now more structured and are represented in almost the whole of the national territory. At present, the OMICs and the consumer associations duplicate their functions, except in two areas:

- the OMICs have no recourse to the law, while the associations do
- the OMICs can carry out consumer inspections and market control, while the associations cannot.

One of the most significant activities of consumer associations is that of advice-giving, both to members and non-members; this activity eats into the budget of the consumer associations, but it is considered essential to continue offering this service as part of their social contribution.

A citizen needing the services of a consumer organisation generally prefers to consult an OMIC because of the perception that the services which they offer are free, while consultation with a consumer association requires payment of a membership fee (though this perception is in fact incorrect, as the service is paid for by taxes, but this has less impact than the fact of having paid a fee). The consumer associations see this situation as an obstacle to their consolidation and growth, and it has in fact come to be regarded as “unfair competition” and a menace to the establishment of firm foundations for the consumer association movement.

Attempts are being made to change the situation, but it is not

expected that either national legislation nor Autonomous Community legislation will make the changes which are under discussion. The hopes of the associations are that the OMICs will limit their role to providing general consumer information, product monitoring and safety, and market inspections, leaving information, training, protection, and judicial guidance to the associations. Contracts along these lines, for the provision of services, have been signed between some consumer associations and the OMICs, so that the former take charge of judicial guidance, consumer training and information, and do so on the premises of the OMICs, and are paid for these services.

The situation is difficult, because there is a large infrastructure (more than 700 offices) and personnel employed for these purposes. The Spanish Federation of Municipalities is in favour of the changes proposed by the consumer associations and supports the change to promote consumer inspections, which are of extreme importance in a free market situation which gives plenty of space for undesirable situations to arise, this being aggravated by the present difficulty in carrying out inspections.

Access to Justice

Regarding extra-judicial access to justice, there is no doubt that the key element is the Consumer Arbitration System, mentioned above; this is regulated by law and works on the simple basis that the consumer presents his complaint to the committee responsible for a particular commercial sector. The committee, having accepted the respondent, ensures that the complaint will be submitted for arbitration. Three arbitrators resolve the claim and their decision has the force of a court judgement. It is important to emphasise that in Spain, the consumer associations are empowered to exercise judicial actions in defence of general interests, those of members, and those of the associations themselves.

According to Spanish legislation, all citizens have guaranteed access to justice, through a system called “free justice benefit” which makes it possible to conduct a lawsuit with lawyers and procurators

designated by the duty rota (the Bar Association designate professionals who provide assistance to citizens). Representation by these professionals is free to the consumer.

The procedures available for use by the consumer associations in defence of consumers' rights are of different types:

Administrative cases. The associations can initiate cases when consumers' rights are affected directly by the behaviour of the public administration.

Civil and penal cases. Although existing legislation requires some reform to adapt it to present conditions, some consumer associations have pleaded before tribunals on behalf of their members (for example, some of the accusations and claims made by consumer organisations include: an accusation presented by a group who were injured by food poisoning in a public establishment; a charge of fraud against a travel agency which ceased trading, having charged the whole costs of numerous holidays which they would never be able to provide; a claim against a builder for defects in the construction of more than 100 houses; an accusation against an investment company for breach of contract, etc.); and in defence of the general interests of the population (for example, a case of unfair competition brought against white goods manufacturers for combining guarantee contracts).

6 Consumer Associations

The consumer federations with the widest-ranging representation based in more than one Autonomous Community – or associations that have more than 7,500 individual members – form part of the *Consejo de los Consumidores* (Consumers and User Council – CCU – see page 50). These associations are:

Asociación General de Consumidores – ASGECO-UNCCUE (General Association of Consumers)

ASGECO-UNCCUE was founded in 1980 by co-operatives of consumers and users of several regions of Spain. Its headquarters are in Madrid and it has member associations in 15 autonomous regions. In 1993, the Asociación General de Consumidores joined the Unión Nacional de Cooperativas de Consumidores y Usuarios (National Union of Co-operatives and Users); their organisations maintain a different structure although they share the same objectives. These objectives are: representation, information and protection of consumers, protection of the environment, as well as promotion of the interests of consumers and members of their co-operatives.

ASGECO-UNCCUE is an executive member of AENOR (the national standards body – see page 55) and has representation in the Plastics and Packaging Technical Committee . It also represents consumers on the National Transport Council and participates in the National Arbitration System.

ASGECO-UNCCUE belongs to the foundation which publishes the consumer magazine *Ciudadano*. It also produces a monthly bulletin, *Ibercoop* which is distributed to its members. ASGECO-UNCCUE is an associate member of Consumers International

Confederación de Consumidores y Usuarios – CECU (Confederation of Consumers and Users)

A confederation of consumer associations, with headquarter in Madrid, CECU was founded in 1983 and has member organisations in 13 Autonomous Communities. The Confederation's main activity is representing consumers on various public bodies at national and international level.

At national level, CECU represents the Consumer and User Council in the Environmental Committee of AENOR (the standards body) and on the National Transport Council. The confederation has been monitoring and investigating misleading and fraudulent advertising on the Spanish television national channels for two consecutive years, and also plays its part in the area of new homes building, through initiating claims, mediation and judicial procedures against negligent builders. Other activities include legal advice to members and non-members, consumer information and education campaigns and the publication of a bimonthly consumer affairs magazine, *CECU Consumidores y Usuarios (CECU Consumers and Users)* – this includes sections with information from the member local associations. CECU also conducts joint campaigns with other NGOs, particularly those concerned with environmental issues.

At international level, CECU is a full member of Consumers International, of BEUC – The European Consumers Association – and of ANEC, the European Association for the Coordination of Consumer Representation in Standardisation. In the area of food policy and safety, CECU is a member of the Working Group of the EU Consumer Committee for the Reform of the Common Agricultural Policy, and is involved with Consumers International in working on the Codex Alimentarius. It is also a member of the CIOA (the inter-ministerial Foodstuffs Commission). Further a field, the confederation has organised two congresses dealing with Spanish and Latin American consumer issues – these have resulted in Collaboration Treaties, which form the basis for joint activities between Spanish and Latin American organisations.

Confederación de Consumidores y Vecinos del Estado Español – CAVE (Confederation of Consumers and Neighbours)

Originally a confederation of neighbourhood associations from different Autonomous Communities, in recent years CAVE has expanded its aims to the protection of consumers and the environment. The head office is in Madrid.

CAVE's main activities include: representation of consumers and neighbours in the national administration bodies, consumer education, training and legal advice. CAVE publishes consumer issues guides and booklets for its members.

Confederación Española de Organizaciones de Amas de Casa, Consumidores y Usuarios – CEACCU (Spanish Confederation of Organisations of Housewives, Consumers and Users)

This organisation was founded in 1968 as the National Federation of Housewives, and later changed its name to include consumers and users; its headquarters are in Madrid. CEACCU has members in all the Autonomous Communities and it is a member of COFACE (Confédération des Organisations Familiales de la Communauté Européenne – the EU confederation of family organisations).

CEACCU's main areas of interest are women and the protection of their rights. CEACCU has organised a world Congress of Women and Employment and has special programs to educate citizens against domestic violence.

CEACCU represents consumers at the Executive Committee for Health and participates in the National Arbitration System.

Federación Unión Cívica Nacional de Organizaciones de Amas de Casa, Consumidores y Usuarios – UNAE (National Federation of Civic Unions of Consumers and Housewives of Spain)

In 1979, three housewives associations from Barcelona, Leon and Madrid joined together to form an association, which became a

federation in 1985. UNAE's head office is in Madrid and it has delegations in 12 Autonomous Communities.

UNAE's main objective is the defence of the consumer with special consideration to the family unit and the housewives. Also, it bases its activities on the education of the family members, as nucleus of the society, covering all aspects of daily life, including consumer issues. UNAE has an a mutual society called "Mutualidad de Previsión Social para el Ama de Casa" which provides health, pension and death benefits for housewives. It publishes guides and information bulletins on specific issues for its members.

UNAE participates in the National Arbitration System and it is a member of COFACE (Confédération des Organisations Familiales de la Communauté Européenne).

Federación de Usuarios y Consumidores Independientes – FUCI (Federation of Independent Users and Consumers)

The Federation was founded in 1986 in Madrid where it has its headquarters; it is represented in 15 Autonomous Communities.

FUCI's objectives are: consumer education, complaints handling, consumer representation and policy formulation. FUCI publishes brochures and information bulletins for distribution among its members.

FUCI is an associate member of Consumers International and a member of the "Union Internationale des Organismes Familiaux " (UIOF).

Organización de Consumidores y Usuarios – OCU (Consumers and Users Organisation)

OCU is the oldest of the spanish consumer organisations, founded in 1975. Unlike the other consumer organisations represented on the CCU, it is not a confederation, but it has a unitary structure, with the headquarters in Madrid and with individual members

throughout the country. It consists of OCU itself, a not-for-profit organisation, and its publishing arm, called Edocusa (Ediciones OCU, SA). Its principal aim is consumer protection through information and advice based on independent research and comparative testing of products and services, the results of which are published in its magazines available on subscription to members – these number 220,000.

The organisation's flagship monthly magazine is entitled *OCU – Compra Maestra* (circulation 220,000), while *Dinero y Derechos* is a bi-monthly that covers financial, economic and legal issues. The smaller circulation *OCU Salud*, also bi-monthly focuses on health matters, while the two financial bulletins, *Dinero Quince* and *Dinero y Fondos* are aimed specifically at personal investors and money management. In addition Edocusa publishes various practical consumer guides and books. Finally OCU is developing a comprehensive website of its information, which includes interactive financial advice.

As well as its information and publishing activities, OCU provides legal advice to its members, participates in the National Arbitration System, and represents consumers at large through various advocacy and campaigning activities in – for example – the areas of food safety, pharmaceuticals, telecommunications, etc.

OCU's publishing company, Edocusa, is part of the European CONSEUR group, which includes sister independent consumer publishing houses in Belgium, Italy, Luxembourg, Portugal and France. It is a member of International Research and Testing (IT). OCU itself is a full member of Consumers International and of BEUC, the European Consumer Association.

Unión de Consumidores de España – UCE (Consumers Union of Spain)

Founded in 1985 in Madrid, UCE's objectives are consumer defense and representation, as well as information and legal advice to consumers. UCE participates in the National Arbitration System.

It provides a consumer issues database, Consumo y Calidad de Vida that is connected to the Ibertex system.

UCE is the majority holder of the foundation Ciudadano that publishes a monthly magazine under the same title. The magazine covers general consumer issues, comparative analysis and product testing. The following consumer associations are part of this foundation: ASGECO, AUC, CECU, FUCI, UCE and UNAE.

Other consumer related or sectoral associations

The consumer co-operatives are also regarded as consumer associations by the Spanish Law and therefore represented in the Consumer and User Council (CCU), which also includes associations that represent the banking and the communications sectors.

Confederación Española de Cooperativas de Consumidores y Usuarios – HISPACOOOP (Spanish Confederation of Co-operatives of Consumers and Users)

It was founded in 1990; its headquarters are in Barcelona. It is an organisation that defends the interests of the co-operatives of workers in their commercial activity and in their activities as consumers.

HISPACOOOP objectives are: the information and the education of consumers, representation of the co-operative members and their interests in the pertinent bodies at national and international level and the collaboration with the business sector.

The Confederation (of 135 co-operatives) plays a major roll in the Spanish food distribution sector, the “Mondragón Corporación Cooperativa “ (Mongr-agón Co-operative Corporation), has developed a large chain of food shops, super markets and commercial centres named “Eroski”, “Merced” and “Consum”. In 1999 the co-operative, which employs 20,750 people, opened 121 new supermarkets, investing 275.2 million Euro. In 1999, its benefits were 60.2 million Euro.

Within the Confederation there are co-operatives from the health sector (SCIAS-Hospital de Barcelona), cultural sector (Abacus) and the electricity distribution sector (Crevillente, the Federation of Electric Co-operatives of Valencia).

HISPACOOOP publishes a magazine , brochures and guides covering consumer issues, and also initiates campaigns on consumer information.

Asociación de Usuarios de la Comunicación – AUC (Association of Communications Users)

This association represents the interests of consumers in the communication sector and is established in Madrid. Its objectives are: the information and education of consumers through mass media.

Asociación de Defensa Impositores de Banco y Cajas de Ahorros – ADICAE (Association for the Protection of Bank and Savings Bank Account-Holders)

In the 1980s this association was part of UCE (Unión de Consumidores de España) but in 1994 became independent, representing users of banking and other financial services. The association is established in Zaragoza. Its main activities are: information, advice to members, education, training courses, conferences and representation of consumers.

ADICAE publishes a bi-monthly magazine *Impositores*, covering banking, insurance and investment issues; and publishes brochures and bulletins for its members.

ADICAE participates in the National Arbitration System and it is an associate member of Consumers International.

Conchy Martin Rey
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The Consumer Institutions and Consumer Policy Programme (CICPP) is intended to provide the various participants in the consumer policy-making process in central and East European countries and the New Independent States – Albania, Bulgaria, Bosnia-Herzegovina, Czech Republic, Estonia, Georgia, Hungary, Latvia, Lithuania, Macedonia, Poland, Romania, the Russian Federation, Slovakia, Slovenia, Ukraine – with technical assistance in adjusting to a market economy. It is funded by the Phare/Tacis programmes, and is under the supervision of DG Relex and DG Sanco of the European Commission.

CICPP falls into three segments:

- Technical assistance for legislative and institutional reform with regard to consumer law and policy;
- Training and education, study visits in EU countries and institutions, regional seminars and publications;
- Direct support to consumer institutions.

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The programme is implemented jointly by AgV, CDC and CI.

AgV is responsible for:

- Direct support for consumer organisations
- Training in all aspects for consumer organisations.

CDC is responsible for:

- Technical assistance for legislative/ institutional reforms
- Training in all legislative and institutional aspects
- Overall co-ordination and supervision of programme components.

CI is responsible for:

- Direct support to consumer organisations
- Training in all aspects for consumer organisations.

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About Consumers International

Founded in 1960, Consumers International (a non-profit organisation registered in The Netherlands as the International Organization of Consumers Unions, registration number S1 49999) is a federation of consumer organisations dedicated to the protection and promotion of consumer interests worldwide through institution building, education, research and lobbying of international decision-making bodies. An independent, non-profit foundation, Consumers International has over 230 members in more than 100 countries.

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