COUNCIL OF EUROPE COMMITTEE OF MINISTERS

RECOMMENDATION No. R (81) 2

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE LEGAL PROTECTION OF THE COLLECTIVE INTERESTS OF CONSUMERS BY CONSUMER AGENCIES

(Adopted by the Committee of Ministers on 23 January 1981, at the 328th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Noting that the necessity of protecting the collective interests of consumers extends over a broad field covering both the private and public sectors;

Reaffirming the usefulness of simplified procedures to reach speedy, efficient and economical settlements of consumer disputes before a judicial or other appropriate body as a means also of protecting the collective interests of consumers;

Recognising that the general interests of consumers, besides being advanced by individual consumers claiming their rights, in many cases must be promoted by collective action taken on their behalf;

Considering therefore that the setting up of consumer agencies and defining and strengthening their role as well as increasing their functions are important means of furthering the collective interests of consumers;

Seeking to identify general principles which might be taken into account for this purpose;

Recognising that owing particularly to the different types of consumer agencies and legal systems in member states the implementation of these principles by states may vary,

Recommends the governments of member states to take or reinforce as the case may be, all measures they consider appropriate with a view to the progressive implementation of the principles set out in the appendix to this recommendation.

Appendix to Recommendation No. R (81) 2

PRINCIPLES

Governments of member states should, in order to implement the following principles, take the necessary steps to strengthen the role of appropriate consumer agencies to enable them to further the collective interests of consumers, or to facilitate the establishment of such agencies where they do not exist or where their numbers or qualifications are insufficient.

- I. States should empower or encourage consumer agencies to carry out the functions set out in the following paragraphs:
- 1. Consumer agencies should, in particular by making use of the mass media, provide:
 - a. information for consumers on their rights and duties in general or in particular fields;
- b. warnings concerning defective or potentially dangerous products, especially where such warnings have not been given by the supplier himself;
- c. information or warnings concerning unfair practices of suppliers, in particular misleading or unfair advertising.
- 2. Consumer agencies should, in appropriate cases, encourage or, if given such powers, require suppliers:
 - a. to give consumers information of specific interest to them, in particular:
 - i. clear information as to their rights and duties;
 - ii. warnings as to the potential danger of the goods and services;
- b. to withdraw from the market or recall from consumers any goods which are dangerous because of a defect;
 - c. to refrain from unfair practices;
 - d. to rectify any unfair or misleading advertising.
- 3. Consumer agencies should, on the request of individual consumers, give them information on their rights and duties and, in case of conflict:
 - a. provide legal advice;
 - b. promote the amicable settlement of claims;
 - c. assist consumers in asserting their rights.
- 4. Consumer agencies should promote the setting up or assist in the functioning of systems for voluntary conciliation or arbitration.
- II. States should take the necessary measures to enable consumer agencies to participate, in matters of direct interest to consumers, in negotiations between public authorities and trade and industry and should encourage those agencies to initiate negotiations with trade and industry, in particular by concluding agreements or participating in the preparation of codes of practice.
- III. States should ensure that consumer agencies are consulted when legislation—including subordinate legislation—of direct interest to consumers is being prepared and encourage these agencies to propose new legislation or amendments to existing legislation in this field.
- IV. Consumer agencies should be able, by appropriate legal means, to obtain urgent relief to prevent or stop suppliers from acting in a way contrary to the law.
- V. Consumer agencies qualified by national law to do so should have the power to institute proceedings or take part in pending proceedings in order to promote or defend the collective interests of consumers.
- VI. Consumer agencies should be encouraged to co-operate with each other and co-ordinate their activities.