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*(Information)*

## COUNCIL

## COUNCIL RESOLUTION

of 19 January 1999

on the Consumer Dimension of the Information Society

(1999/C 23/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Council conclusions of 19 May 1998 <sup>(1)</sup>,

Having regard to the Communication from the Commission concerning priorities for consumer policy 1996 to 1998,

Having regard to the OECD Ministerial Declaration on Consumer Protection in the context of Electronic Commerce <sup>(2)</sup>,

- (1) Whereas the continuing development of new technologies for the transmission and storage of information is leading to organisational, commercial, technical and legal innovations that are having a profound impact on society in general;
- (2) Whereas the new communications technologies will have a substantial impact on the daily lives of all citizens whether they take an active, or a passive, approach to these developments;
- (3) Whereas the new information and communications technologies and the associated development of the information society offer many potential advantages to consumers but also create new commercial situations which are unfamiliar to them and where their interests may be put at risk;
- (4) Whereas consumers are particularly concerned by the issues related to:
  - (a) accessibility and affordability;
  - (b) consumer friendliness of equipment and applications and the skills necessary to use them;
  - (c) transparency including the quantity and quality of information;
  - (d) fair marketing practices, offers and contract terms;
  - (e) protection of children against unsuitable content;
  - (f) security of payment systems, including electronic signature;
  - (g) which legal rules are applicable to consumer transactions in the new environment as regards both the choice of law and practicability of existing provisions;
  - (h) the apportionment of responsibility and liability;
  - (i) privacy and the protection of personal data;
  - (j) access to efficient systems of redress and dispute resolution;
  - (k) information technology as a tool for information and education;
- (5) Whereas the establishment of consumer confidence and trust are a prerequisite for consumer acceptance of, and participation in, the information society;
- (6) Whereas a necessary condition for establishing such confidence and trust is the provision of an equivalent level of protection regarding the new technologies as is available in traditional consumer transactions by the application of existing principles of consumer policy to the new products and

<sup>(1)</sup> Conclusions adopted by the Telecommunications Council on 19 May 1998 and endorsed by the Ecofin Council on 5 June 1998.

<sup>(2)</sup> Made by OECD Ministers on 8 October 1998 at the Ottawa Ministerial Conference on a 'Borderless world: realising the potential of global electronic commerce'.

- services available in the information society, especially:
- (a) transparency and the right to receive sufficient and reliable information before and, where appropriate, after the transaction including, in particular, the authenticated identity of the supplier and the provision of information necessary to prove the authenticity of each element of a transaction;
  - (b) non-discrimination in the access to products and services and consideration of the needs of vulnerable consumers;
  - (c) the protection of consumers from unsolicited, misleading and unfair marketing practices, including advertising, and the support for the provision of reliable means to enable the consumer to filter the content in communication systems;
  - (d) the protection of a consumer's economic interests taking account of a fair distribution of risk and liability that reflects in particular the responsibility of the supplier in choosing electronic means of trading and including, in particular, the conditions necessary for the consumer to take well-considered decisions;
  - (e) the protection of a consumer's health, safety and privacy, including protection against the misuse of personal information;
  - (f) information and education of consumers to enable them to develop the appropriate skills;
  - (g) consultation of consumers when developing new policies or regulatory mechanisms;
  - (h) representation of consumers interests in relevant monitoring and supervisory bodies;
- (7) Whereas the Council is of the opinion that, at the level of the European Community, the principal means of ensuring that the interests of consumers are fully taken into account in the information society must be to integrate the consumer dimension and, in particular, the above mentioned principles of consumer policy, into all relevant Community policy initiatives;
- (8) Whereas existing relevant Community legislation and national implementing laws are applicable to consumer transactions in the new environment of the information society;
  - (9) Whereas in particular Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts<sup>(1)</sup> already provides, *inter alia*, for protection in the area of electronic commerce;
  - (10) Whereas, in the case of transborder transactions effected by means of information technology, consumers should, within the framework of Community law and of the Brussels and Rome Conventions, be able to benefit from the protection afforded by the legislation of their country of habitual residence and to have easy access to redress procedures, in particular within their country of habitual residence; noting that the Commission has proposed a Directive concerning the distance marketing of consumer financial services, and has indicated that it is giving consideration to other possible initiatives for harmonising legislation in this area;
  - (11) Whereas Community policy in this domain should take due account of the multi lingual and multi-cultural nature of the Community;
  - (12) Whereas there is an important role for consumer organisations and appropriate public bodies to play in the protection of consumer interests in the new environment as well as in the provision of information services and content, in particular through coordinated action; whereas companies can also play an important role through, in particular, codes of conduct;
  - (13) Whereas the Community should play an active role at international level to ensure that its accepted standards of consumer protection are secured when developing the global information society,
- I. INVITES THE COMMISSION:
- 1. to examine existing Community consumer-related legislation in the new circumstances arising from the information society, to identify possible

<sup>(1)</sup> OJ L 144, 4.6.1997, p. 19.

- loopholes in this legislation concerning specific problems in the context of the information society and to identify possible areas where additional regulatory action may be necessary;
2. to take all necessary steps to ensure that consumer interests are given full consideration in any current and future policy proposals concerning the information society presented by the Commission;
  3. to take all possible steps in conformity with Community law and with the Community's international obligations to ensure that consumers can rely on the relevant rights already provided by the Brussels and Rome Conventions, *inter alia*, those concerning the applicability of the legislation of the country of residence and concerning easy access to national jurisdiction, and, where appropriate, to strengthen those rights;
  4. to encourage consumer organisations to develop the use of the new technologies as a means of extending their services to consumers, and to

examine the possibilities of developing common action in this domain;

5. to submit a report to the European Parliament and the Council on the actions taken to meet the above objectives, accompanied, if necessary, by proposals for relevant action.

## II. HEREBY AGREES:

1. to prepare common or coordinated positions of Member States with regard to discussions and negotiations on information-society issues taking place within international forums, and in particular the development of OECD guidelines on consumer protection in the context of electronic commerce, drawing on the guidelines set out in this Resolution;
  2. to reexamine on a regular basis the development of the role of the consumers and of the risks and opportunities facing them in the information society.
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