

## AUSTRIA

### Annual Reports on Consumer Policy Developments 2000

#### 1) Institutional Developments

Government has agreed on the amendment of the national legislation on competition in accordance with European developments which means that the institutional framework will change by introducing a Cartel Counsel within the federal Ministry of Justice and a Competition Authority within the Ministry of Labour and Commerce in charge of investigating cases and seizing the Cartel Court.

#### 2) Protection of the Consumers' Legal Rights and/or Economic Interests

The European Directive on Injunctions (98/27) has been implemented by the Distant Selling Act amending among others the Consumer Protection Law which enables qualified Austrian and European (Union's) entities to seize courts. The Act is in force since January 1.

The draft of the e-commerce law transposing the European Directive (2000/31) will be sent to Parliament in autumn in order to come into force in January 2002.

The law implementing the European Directive on the Sale of Goods and Associated Guarantees (1999/44) has been adopted in March and will enter into force on January 2002. Consumers will be granted much more rights than at present if the product or the service delivered does not comply with the contract. Furthermore it includes services and applies to B2B and C2C businesses.

From October on most businesses are obliged by law to indicate prices in Euro and the national currency at the same time in order to facilitate the transition for consumers and to control prices.

The amended Electricity Market Law will among others enable consumers to choose their provider from October on.

Furthermore a regulation has been issued based on the Price Indication Law which regulates the price indication for services. It is especially welcome that fees for money change must be indicated.

A regulation on piercing is being negotiated which sets up rules for training and practice.

Negotiations are going on aiming at increasing the transparency of contracts concluded when entering a home for the elderly.

In autumn a quality sign may be assigned to non-profit, charitable and religious organisations receiving donations and fulfilling detailed criteria (especially concerning their relationship with consumers with respect to their rights of withdrawal and unsolicited advertising).

#### 3) Consumer Information and Education

The Consumer Protection Directorate General of the Ministry of Justice has issued one brochure on child safety and a Euro-folder and will soon publish further brochures on travelling and housing (rent and property) besides its quarterly. It is also participating in the Euro-information campaign of the government.

In March our office has organised a forum on unit price to discuss it with business and interested organisations.

#### **4) Redress and Complaint procedures**

The cases (flexible interest rates on credits, illness in tourist club) with which the courts have been seized in the framework of the new form of collective action (see last report) are still pending.

The Consumer Protection Association (VKI) will take over the tasks of the clearing house as laid down in the relevant European resolution from October on.

#### **3) Case Law**

Court Actions taken by consumer protection associations against banks with regards to flexible interest rates on credits (collective action see above) and unfair contract terms are going on. The court has furthermore been seized in a case of unfair rounding off methods for credits with variable interests. Finally the High Court has decided in favour of consumers upon illegal and dishonest contract terms in connection with bank account conditions especially changing costs, time limit for complaints, data protection and bank secrecy. This decision could have great consequences for pending cases.

Legal Action has been taken against an enterprise sending unsolicited SMS-advertisements and the decision forces it to stop with it.

The courts have also been seized in the case of the methods used by a slimming enterprise: in one case in which the consumer had signed a contract for several treatments for a quite high amount of money and wanted to stop the treatment after health problems had occurred the court decided that the treatment did neither fulfil its purpose nor avoid misleading the consumer. In the other case action against the same company has been taken for misleading advertising.

In October the European Court of Justice will have its hearing about a case put forward by the Austrian courts concerning jurisdiction in case of claims in connection with cross-border misleading profit games (on the basis of §5 of the Consumer Protection Law winnings may be claimed since 1.10.99).

An enterprise is challenging a regulation of the Telecommunication Law referring to an opting in clause for advertising by telephone, fax and e-mail before the Constitutional Court.

#### **4) Relation between Consumer Policy and other aspects of governmental policy**

According to the European Directive on Injunction the Consumer Protection Association (VKI) may also claim for injunction in the field of misleading advertising (§14 of the Unfair Competition Law) since January 1, 2001.

#### **5) Other Matters of Interest**

##### **Internet Ombudsman and Internet Quality Label**

The Internet Ombudsman (see last reports) delivers a label since the beginning of 2001 on the basis of criteria orientated to the OECD-guidelines.

A study will shortly be published on the problems arising in connection with **value-added services**.

