

SKETCHES
ON
CONSUMER PROTECTION
IN
MALTESE LAW

DAVID FABRI LL.D.

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1. A BRIEF REVIEW

2. CHRONOLOGY

3. SKETCHES

- Too Many Laws
- The Licence Requirement
- The Individual Initiative
- The Molony Report
- Consolidation

A BRIEF REVIEW

1. CIVIL CODE

A. LAW OF SALE

Title VI

When an object purchased proves defective the consumer can ask to have either the sale cancelled with a full refund of the price or to have part of the price returned to him. The purchaser would have to prove:

- (a) that the object has a defect;
- (b) that the defect is serious;
- (c) that the defect is hidden;
- (d) that the defect existing at the time of the sale;

The action needs to be instituted within one month from when the purchaser could have discovered the defect. The period increases to one year in the case of immovable property.

The consumer has no remedy at law where the defect is small or is visible; nor can he demand a replacement or ask that the object be repaired. Such remedies may arise by private agreement: the so called 'guarantees' often attached to sales often give rise to such remedies. Guarantees may increase but may also reduce a consumer's rights at law.

Recent court cases have restricted effect of the 'tale quale' clause. The one-month forfeiture period is considered too short while exclusion clauses should be considered invalid where object being sold is brand new.

When an object purchased is not of the quality promised or agreed upon, the purchaser has the same rights as above i.e. refund or rejection.

The period of prescription is two years

B. SUPPLY OF SERVICES

Title 1X Subtitle 11

A supplier of services guarantees his workmanship. A consumer is obliged to pay the full price only if the agreed job is executed satisfactorily. No price is payable for a bad job. Consumer is often confronted with exclusion of liability clauses, abuse of deposits paid, late execution of works, and lack of price control. Most of the protection to the consumer derives not from the legal principles contained in the Civil Code but from judicial practice and interpretation.

C. LAW OF CONTRACT

Title 1V

Error: a purchaser may ask to have a sale cancelled if he can prove that he contracted in error about an important aspect of the object purchased.

Fraud: a purchaser may ask to have a sale cancelled if he can prove that he was induced to buy by fraudulent means. Seller is not however prohibited from 'puffing' or over-praising his goods within a reasonable limit.

Standard Form Contracts

Purchaser is often confronted with a standard 'take it or leave it' situation, with terms and conditions imposed by the seller in his own interest. A consumer often encounters difficulties and abuse arising in connection with hire purchase agreements, the use of bills of exchange, excessive interests and unjustified extra charges, coupled with frequent lack of spare parts. Insurance contracts are a part of this general problem.

D. PRODUCT LIABILITY

Where an object purchased causes damage, whether physical, economical or both, to a consumer, there are two possible remedies, both of which present great difficulties.

- (i) The actual purchaser has an action under the law of sale, where apart from (a) to (d) as above (under A), he would also have to prove that the hidden defect and nothing else caused the damage and furthermore that the seller was in bad faith at the time of the sale.
- (ii) Users who did not actually purchase the object themselves, have an action in tort, i.e. they can sue the seller or manufacturer for negligence in selling or producing a defective product that has caused damages. Actual cases have demonstrated that the ordinary consumer has little chance to institute successfully either action, particularly where the defendant is a foreign company or firm.

General

The consumer as such finds no recognition in our Civil Code, of late nineteenth century origins, which is more concerned with promoting freedom of trade and contract, than with the emerging figure of the consumer. The Civil Code has not kept abreast of developments in the market; despite its various undisputed merits, many provisions are now antiquated and obsolete.

2. SPECIAL LAWS

A. CRIMINAL CODE

Articles 298 - 307 punish various deceptive practices that dishonest traders may exercise against the consumers. Among a list of offences known collectively as 'commercial fraud',

we find that relating to the use of a false trade description on goods. There is no evidence that any determined use has ever been made of these sections. When the Trade Descriptions Act was being enacted, these provisions must have escaped the legislator's attention.

B. QUALITY

The Malta Board of Standards Act 1965 envisages the formulation of optional standards which a local producer must comply with if he wants to use the Flower Mark, which is intended to be an indication of high quality.

The Quality Control Act 1971 empowers the Malta Board of Standards to formulate obligatory product standards for non-food items. It would be an offence to market products not in compliance with the prescribed standards.

Quality Control over particular items:

- The Tomato Paste and Sale of Tomatoes for Processing Purposes (Control) Regulation 1957 deal with the production of the 1969.
- The Wine Act 1969 deals with the production of local wines.
- The Goldsmiths and Silversmiths Ordinance 1920 is concerned with the quality of gold and silver articles for which it establishes standards and prohibits the sale of filigree articles made other than by hand.

C. PROTECTION OF CONSUMER'S HEALTH

The Food, Drugs and Drinking Water Act 1972 prohibits the sale of food unfit for human consumption, the adulteration of milk etc. Regulations made under this Act lay down hygiene requirements for food shops, restaurants, slaughter-houses and

others. The Act also sets up a Food Standards Board empowering it to formulate minimum standards for food items.

The Medical and Kindred Professions Ordinance 1901 governs the sale of medical substances and enables the Minister of Health to regulate the manufacture, sale, labelling and advertising of any drug or chemical product 'in the public interest'. This law makes it an offence for an apothecary to sell deteriorated substances or drugs whose date has expired.

D. CONTROL OVER PRICES AND TARIFFS

Issued under the Supplies and Services Act 1947, the Sale of Commodities Regulations 1972 and the Agricultural Produce Marketing Regulations 1952 provide for the fixing of maximum prices of all commodities and protect the shopper from unreasonable refusals to sell, overcharging, hoarding and similar abuses.

The Regulations enacted in virtue of the Hotels and Catering Establishments Act 1967 prescribe maximum permissible rates for hotel accommodation and prices of food and drinks offered in bars, restaurants and hotels, on the basis of the classification awarded to the establishment.

Tariffs issued in terms of the Code of Police Laws (Chapter 10) fix maximum charges for several services, such as the hiring of cars, boats, karozzini, funeral-hearses. It makes it an offence to refuse, without a reasonable cause, to provide a service to a consumer who requests it.

The Motor Vehicle Regulations issued under the Traffic Regulation Ordinance 1931, impose on taxi-drivers the obligation to fit in their car a proper taxi-meter, which must be tested by the Police Examiner before it can be used, and the display of tariffs for the information and guidance of the passengers.

Scattered here and there, one also discovers price control on Zurrieq boat trips, building stone, doctor's fees, lawyers' tariffs, architects' charges, cinema and football stadium entrance fees, etc.

E. WEIGHTS AND MEASURES

The Weights and Measures Ordinance 1910 protects the shopper from being given short weight and short measure. Every weighing or measuring instrument must be verified and stamped by the Inspector appointed under this Ordinance. The Ordinance establishes uniformity of weights and measures.

F. TRAVEL

Laws and regulations passed during the past twenty five years reflect Malta's growth as a tourist resort. The Hotels and Catering Establishment Act 1965 was the first of a few important statutes which sought to ensure the good quality of facilities for the in-coming tourist. The Travel Agencies and Hotel Services Act 1976 protects both the out-going local traveller and the tourist.

CHRONOLOGY

LAW	NATURE OF PROTECTION (actual or potential)	ADMINISTERING AUTHORITY
Auctioneers Law 1832 Chapter 4	Imposes a licence requirement and fixed tariffs	Prime Minister
Code of Police Laws 1854 Chapter 10	Imposes various licence requirements; prescribes minimum standards of upkeep of hotels and shops; prohibits passage boat keepers from refusing a reasonable request for service; provides for the fixing of a fixed tariff for passage- boats and porters; prohibits use by shopkeepers of unjust or unstamped scales and weights and measures. The Code attempts to regulate a variety of matters. Substantial segments are clearly inappropriate to our times. Some sections have been superseded, often duplicated, by later statutory enactments.	Minister responsible for Police; Commissioner of Police
Medical and Kindred Professions Ordinance 1901 Chapter 31	Imposes a licence requirement. Provides for the fixing of fees for medical and ancillary services. Medical Practitioners not to have any interest in any dispensary. Prohibits apothecaries from retaining deteriorated substances and expired medical substances. Provides for regulations to control manufacture, sale, labelling and marking of drugs and chemical products.	Medical Council; Minister responsible for Health; Superintendent of Public Health
Weights and Measures Ordinance 1910 Chapter 39	Prescribes uniform weights and measures. Provides for Inspector to verify correctness of weights and measures used by traders.	Minister responsible for the Police; and Commissioner of Police

<p>Goldsmiths and Silversmiths Ordinance 1920 Chapter 46</p>	<p>Imposes licence requirement. All gold and silver articles are to bear artificer's mark, Government stamp indicating standard of fineness, and a label indicating local or foreign manufacture. Prohibits manufacture and sale of imitation filigree works</p>	<p>Comptroller of Customs; Consul for Goldsmiths and Silversmiths; Minister responsible for Finance</p>
<p>The Motor Vehicles Regulations -enacted under the Traffic Regulation Ordinance 1931 Chapter 65</p>	<p>Imposes construction, safety, cleanliness and other requirements on public buses. Prescribes rules for taxis incorporating cleanliness and safety, constructional requirements, display of tariffs mandatory installation and sealing of taxi meters approved by Police authorities.</p>	<p>Commissioner of Police</p>
<p>Public Lotto Ordinance 1932 Chapter 70</p>	<p>Imposes licence requirement for all public lotteries/tombolas. Director can impose conditions. No apparent action is taken to prevent or punish abusive practices in lotteries and prize schemes. More concerned with the raising of revenue.</p>	<p>Director of Public Lotto</p>
<p>Supplies and Services Act 1947 Chapter 117</p>	<p>Authorises a very wide range of regulations governing sale of commodities generally.</p>	<p>Minister responsible for Trade; Prime Minister</p>
<p>Broadcasting Ordinance 1961 Chapter 165</p>	<p>Provides for control over advertising on the broadcasting media, but no memorable initiatives have followed.</p>	<p>Broadcasting Authority; Prime Minister; The President of Malta</p>
<p>Trading Stamps Schemes (Restriction) Act 1964 Chapter 182</p>	<p>Restricts trading stamps schemes and similar promotions, permitting some prohibiting others</p>	<p>The Commissioner of Police</p>

Malta Board of Standards Act 1965 Chapter 187	Establishes the Malta Board of Standards and a quality standard mark for local goods.	Minister responsible for Industry
Tourist Guide Services Act 1965 Chapter 190	Imposes licence requirement. Prescribes tariffs, prohibiting charging less or more. Prohibits acts to the detriment of tourists.	Minister responsible for Tourism
Hotels and Catering Establishment Act 1967 Chapter 197	Establishes the Hotels and Catering Establishments Board and regulates classification and licensing of hotels and catering establishments after ensuring premises have satisfactory structure and hygiene. Punishes vaunting by licensee of a higher classification. Board may fix minimum and maximum rates for hotels and catering establishments, regulate publicity material, appoint inspectors. Prices to be exhibited outside premises. Board serves as a watchdog and a standards board.	Minister for Tourism
Wine Act 1969 Chapter 211	Regulates production, quality, labelling and advertising of local and imported wine. Prohibits artificial wine.	Minister responsible for Agriculture.
Banking Act 1970 Chapter 215	Imposes licence and minimum financial requirements, provides for appointment of bank inspectors. Bank licence can be withdrawn if it acts in a manner detrimental to depositors. There is no other reference to depositors or the other ordinary users of Banking services.	Central Bank of Malta; Minister responsible for Finance.
Quality Control (Exports, Imports and Local Goods) Act 1971 Chapter 225	Empowers the Malta Board of Standards to prescribe minimum quality standards for imported, exported and local goods, as well as labelling requirements and codes of practice on design, safety, quality control etc.	Minister responsible for Trade and Industry

Food, Drugs and
Drinking Water Act
1972
Chapter 231

Controls marketing of food and drugs. Prohibits sale of drugs and food unfit for human consumption. Establishes a Food Standards Board and provides for control by health inspectors. Empowers Minister to regulate importation, quality, preparation, sale, advertising of food articles. Prohibits adulteration of milk. Requires inspection of animal prior to slaughtering for consumption. Act and regulations lay down stringent hygiene requirements for the handling of food, the premises where food is served, the equipment used, delivery vans, production of ice cream etc. Important Food Hygiene Regulations were enacted in 1969.

Minister of Health

Travel Agencies
and Hotel Services
Act 1976

Establishes licence and bank guarantee requirements on travel agents; provides for regulations to govern their professional conduct and for cancellation of licence in cases of unfitness, breach of ethics etc. Cannot refuse a bona fide request for services and cannot impose unreasonable conditions. Prohibits overbooking by hotel and other holiday premises keepers, imposing duty to provide equivalent alternative accommodation.

Minister responsible
for Tourism,
Chairman of the
N.T.O.M.

Insurance
Business Act 1981

Imposes licence and minimum financial requirements of insurance companies. Such licence can be withdrawn for inability to meet obligations. Imposes authorisation requirement for insurance brokers and salesmen which can be withdrawn for misrepresentation of policy conditions. The Minister is empowered to make regulations on code of conduct, insurance policies, obligations of insurance companies, brokers and salesmen. However, the individual policy holder finds no mention or rights in this Act.

Minister responsible
for Finance.

Consumers
Protection Act
1981

Provides for the official
recognition of consumer organisa-
tions granting them 'inter alia'
immunity from liability for bona
fide publications or other
communications to the public.

Minister responsibl
for Trade

Trade Descriptions
Act 1986

Prohibits false and misleading
descriptions and advertisements
of goods for sale, services,
accommodation and facilities
offered to the public.

Minister responsibl
for Trade

Door-to-Door
Salesmen Act
1987

Imposes licence requirements.
Controls doorstep contracts.
Prescribes a 15-day cooling
off period.

Minister responsibl
for Trade.

TOO MANY LAWS

It is a truism that enacting goods laws is good but not good enough ; an effort has to be made to secure compliance with the law and to punish law breakers. This is true of consumer protection legislation as it is of any other branch of the law.

Where a law is forgotten or ignored by the enforcing authorities, the public will feel justified to do the same, with the result that not only that particular law will fall into disrepute, but also the notion and significance of law itself. One should not enact laws which cannot be enforced, or which one does not then ensure compliance with. A reasonable standard of conduct should be expected not only of traders but also of the authorities engaged and empowered to oversee their activity.

Equal efforts have to be exerted to create good laws and to enforce them continuously and consistently. You cannot have one without the other. Valuable hours of Parliamentary time are spent on earnest debating, arguing and enacting detailed statutes, which are then forgotten as soon as the ink on the Presidential assent has dried up.

In the sphere of local consumer protection, too many laws and regulations have been forgotten or ignored. Too many useful regulations remain unknown to the general public; some e.g. those dealing with the contents and production of cosmetic products require expert technical know-how and facilities for their effective interpretation and enforcement. Unknown and unfamiliar to the public they are serving only to embellish the statute book and to foster an illusion that something concrete has been done to safeguard the consumers' interest.

As the Budget for 1990 acknowledges, more action should be taken for the protection of consumers' rights. One may disagree. Not 'more' should be done, but 'better'. An excess of laws and regulations promoting consumer protection, one duplicating the other, one more detailed than the other, can be counter productive. It may confuse the consumer, rendering it impossible for him to look up his rights, understand them and take action to exercise them.

THE LICENCE REQUIREMENT

1. The relevance of requiring a licence for certain classes of tradesmen, shopkeepers, professionals is that an established authority would (at least in theory) be able
 - (i) to ensure that only fit persons carry on the particular trade or profession ;
 - (ii) to impose conditions that would ensure a better service to the consumers;
 - (iii) to withdraw such licence in the event of proven abuse or poor service.

However, in practice licence conditions and administration devote little attention to consumer considerations.

THE SUNDAY TIMES, FEBRUARY 4, 1990

AFTER-SALES SERVICE

SIR, — Precaution is better than cure. I say this from experience. A few months after purchasing a video and a monitor from someone I thought was the agent the monitor's sound and vision went completely dead. When this happened I went to my assumed agent. He told me that as it was late he could not contact the agents but would do so the following morning. On hearing this I asked him why he was referring the fault to someone else when he was the agent. To my surprise the reply was that he was not the actual agent but that he acted as a sales representative.

Early the following morning I received a phone call from a person who said he was the technician. He called within the hour and after examining the monitor he told me that the transformer had burned out and that he would report to the agents and ask for a new transformer.

I asked how long the job would take and he replied that it would be done as soon as he was provided with a new transformer.

I started to see that probably I was in for a long wait. In the evening the technician rang up again to say that the agents had no transformers available, but were expecting supplies to arrive any day. I am writing six weeks after I

was given this information and I am still waiting.

As the monitor is still under a year's guarantee, I have tried both the sales representative and the actual agents to obtain a replacement, but to no avail. I also suggested that at least I should be given on loan something I could use to have some form of vision. Nothing doing.

I also suggested that a transformer be taken out of a monitor in stock to be fitted into mine. This, I was told, was also impossible because they had none in stock, but supplies were due to arrive any day, date of arrival unknown. Moreover, I was told that when the supplies do arrive the agents require eleven transformers as replacements in other customers' monitors.

I have been a number of times at the agents' establishment, but I have only been able to see one of the two directors and the etiquette used was far short of desirable. Not only was I not invited to discuss the matter confidentially, if he did not want other potential buyers, who may happen to be in the show-room to hear what we were discussing, but I was slowly walked out on to the pavement to discuss the matter there.

I also told a very close friend of mine to use his good offices with the agents whom he happens to know personally. Unfortunately he was given the same story about supplies expected any day from the makers.

I would tell all purchasers, whoever they may be, to beware before rushing to buy anything, whatever its value may be, and to

Letters to the Editor

make sure that what is promised about after-sales service does not turn out to be anything but promises without any real effect.

The Minister responsible for trade should see that businessmen and agents with a licence to operate any kind of business should uphold their responsibilities, not just doing their utmost to sell their wares but by providing the purchasing public with a proper after-sales service.

Yours truly,
Balzan. _____ W.M.L.

THE INDIVIDUAL INITIATIVE

Despite the many laws which to some or less extent provide a measure of security for consumers, the individual is often deprived of any personalised remedy. There is no system of encouraging individuals to take the initiative in favour of upholding particular laws against unfair trade practices, and even less of rewarding such initiative. Our legal system is suspicious of the individual; it distrusts him and permits him no role in promoting compliance with the law.

A new approach to consumer law should tackle these historical limitations and turn them upside down establishing the consumer initiative as the new point of departure in line with modern thinking on participatory democracy.

Other principles may be considered:

- (i) a consumer whose rights have been violated should have a right to obtain moral damages to make up for any mental distress and discomfort he may have suffered as a consequence;
- (ii) a court could be empowered in the appropriate cases to award punitive damages against a defaulting trader;
- (iii) one court should be able to deal concurrently with the criminal and civil aspects of consumer claims.

THE MOLONY REPORT

In April 1962 the Molony Committee presented its excellent Final Report on Consumer Protection to the U.K. Parliament. (Cmnd 1781). The Committee had been appointed in July 1959 to consider and propose "what changes if any in the law and what other measures, if any, are desirable for the further protection of the consuming public".

Covering the excess of three hundred pages, the Report reviews the whole of U.K. law affecting the consumer, discussing, criticizing, proposing.

Chapter 20 is reserved for proposals for the creation of a Consumer Council. The Committee's view was "that the system of consumer protection we were called upon to devise would be deficient without such a cornerstone as a Consumer Council alone could provide". It is instructive to note that the Report argued against involving the proposed Council in certain activities, namely:

- (a) in comparative testing of consumer goods. The Committee did not think that "the consumer would relish being told what to buy by any official body";
- (b) in receiving and dealing with shoppers' individual complaints. Such a task would require a great deal of time and expense.
- (c) in civil or criminal proceedings. The Committee preferred to detach it from "the acrimony with trade which particular cases might engender". The Committee also remarked that in any case local authorities were equipped to do a better job;
- (d) in law-making. The Committee felt that any authority to issue regulations should be exercised by Ministerial action.

Reproduced hereunder are two interesting extracts from the Molony Report. The first is a brave attempt at a form of definition of the subject, while the second* confronts a fundamental point.

"'Consumer Protection' is an amorphous conception that cannot be defined. It consists of those instances where the law intervenes to impose safeguards in favour of purchasers and hire-purchasers, together with the activities of a number of organisations, variously inspired, the object or effect of which is to procure fair and satisfying treatment for the domestic buyer. From another viewpoint 'Consumer Protection' may be regarded as those measures which contribute, directly or indirectly, to the consumer's assurance that he will buy goods of suitable quality appropriate to his purpose; that they will give him reasonable use, and that if he has just complaint there will be a means of redress"

(Para. 21)

"We have not overlooked the consideration that it is the least intelligent and discerning shopper who is the one most likely to be victimised; and that such a person may not be capable of making effective complaint in any direction. We further recognised that the welfare impulse of modern society requires intervention in aid of those least able to protect themselves as soon as the threat of exploitation becomes active".

(Para 15)

CONSOLIDATION

The Consumers Protection Act 1981 is not what it may sound to be. It is not a comprehensive law regulating all the various situations where a consumer is deemed to require protection. Adopted by the Maltese Legislature shortly before the 1981 general elections, it consists of seven short sections. A more appropriate, less ambitious title, could have been given to it, such as "Consumer Societies Act".

When reviewing foreign law, one should here too seek not to be misled by the title of some statutes. The U.K. Consumer Protection Act 1987 is admittedly much more important and extensive than its Maltese counterpart. However, it is by no means a codification or consolidation of all or of a large part of the consumer protection law of the United Kingdom. This 1987 statute regulates just a few selected areas which were deemed to merit new and further legislative action, these being consumer product liability and misleading price descriptions. Despite its general title, it does not purport to be either a consolidation nor a code of consumer law.

We have heard of a need to have a Code of Tourism and a Code of Family Law; we were also promised a Code on Environment Law. Would it be worthwhile to talk of consolidating or codifying our laws governing the protection of the consumer?

The Budget Speech for 1990 refers to an intention to

- (a) "draft a comprehensive law" that would cover a broad range of instances where consumer protection is considered necessary;
- (b) create new rights in favour of the consumer;
- (c) to rectify the position to date where consumer protection was given little attention.

Consolidation presupposes the existence of various laws already dealing with the same subject, collecting and presenting the various pre-existing laws and regulations into a coherent and logical whole, effecting only such amendments and adjustments as appear necessary for this primary objective. Consequently, if the present consumer protection law situation is inadequate, one cannot really consider consolidation.

The idea of a consolidation has of course its attractions. It would give a new impetus to the subject, arousing a fresh and welcome interest. It might encourage the restating of old and outmoded concepts in a modern, familiar language. Advantages of clarity, cohesion and accessibility should also follow in its wake.

However, if one intends to create new law, new approaches, new remedies, new rights, then it would be incorrect to refer to the exercise as one of 'consolidation'. To speak of 'consolidation' may also have the effect of minimising one's endeavours to break new ground.

A true all-inclusive consolidated law on consumer protection cannot be effectively realized owing to the character of the various relevant laws and regulations. Some pertain to private law and govern relations between private persons. Others belong to the sphere of public law and provide remedies solely of a criminal nature. Some protect the consumer directly; others create indirect protection, having a primary aim of preventing a degeneration of market practices in the interest of trade and traders in general. Consumer Protection law, therefore, comes in various shapes and forms. It is difficult to conceive a method of reducing all of them into one clear, workable, logical, consistent whole.

An added problem is the different authorities involved. Some laws are enforced by Police action, some are administered by the Department of Trade, others by the Minister of Tourism, and so on. There is no one single authority which acts as the centre and channel of consumer protection law and practice, as there is in our offshore business legislation.

The difficulty is complicated when much specific and effective consumer protection is not contained in the actual laws themselves, but in regulations made thereunder. The Supplies and Services Act 1947 is an example of an enabling law of absurd proportions, under which a wide variety of unconnected regulations have been adopted.

Finally, one should bear in mind that a consolidation should not be seen or pursued as an end in itself. Like the scattered laws and regulations it would seek to consolidate, it remains only a vehicle, a means to be used by the authorities and the general public to achieve the desired goal of promoting fair trading that would guarantee for the consumer good value for his money.

LL.D. COURSE FIRST YEAR 1996/97 -
COMMERCIAL LAW ELECTIVE UNIT (ONE CREDIT)
LECTURER - DAVID FABRI LL.D.

CONSUMER PROTECTION AND CONSUMER LEGISLATION

“SKETCHES ON CONSUMER PROTECTION IN MALTESE LAW”
(APRIL 1990)

In view of the absence of local literature on the subject of consumer protection legislation, I thought it would be useful to give each one of you a copy of a set of sketches on the local situation which I had compiled in 1990. This exercise, originally undertaken in April of that year and not intended as a formal report, had two principal objectives:

1. to take stock, perhaps for the first time, of the full situation regarding consumer-related legislation in Malta, with particular consideration given to identifying all the relevant legal statutes that had been enacted during the previous 150 years, as well as listing the various different government departments and authorities involved in the administration and enforcement of these laws;
2. to serve as preparatory material to assist in the formulation of a comprehensive consumer policy and the subsequent preparation of a comprehensive draft consumer law. (Eventually, a long-term legislative policy programme was published a year and a half later, in the form of an official White Paper, *Rights for the Consumer* (August, 1991). A draft Consumer Affairs Act, first published in November, 1993, was passed by Parliament in November, 1994.)

The report consisted of three parts:

PART 1 - the first part had two objectives: it represented an attempt to divide the material into a number of clearly defined categories, while at the same time presenting an overview and commentary on the substantive aspects of the various regulations. The identified categories are:

1. *civil code provisions*
 - * *law of sale*
 - * *supply of services*
 - * *general contract law*
 - * *standard form contracts*
 - * *product liability*

- 2.(A) *criminal code*
- (B) *quality*
- (C) *health*
- (D) *price control*
- (E) *weights and measures*
- (F) *travel*

PART 2 - this part traced the chronological development of consumer- related law in Malta, starting with the Auctioneers Law of 1832 and ending with the Door-to-Door Salesmen Act of 1987. Besides giving the title and year of enactment of each of the various laws, this extensive survey highlighted their scope and significance, and indicated the Government Department or other authority entrusted with their administration.

PART 3 - this final part consisted in a series of individual sketches, only loosely inter-related within the general themes which the report was seeking to develop.

A WORD OF CAUTION

Since April 1990, a number of developments have occurred which are directly relevant to our subject. This obviously means that some of the considerations made and the material contained in the attached *Sketches* may certainly have to be revised or reconsidered. Significant events which have occurred since then and which one would now need to take into account include the following:

- > **1990** - adoption by Parliament of the Auctioneers Act, which repealed the 1832 Auctioneers Law;
- > **1991** - adoption by Parliament of the Broadcasting Act, which defines the role of the Broadcasting Authority as the regulatory body over sound and television broadcasting in Malta;
- > **1991** - publication of a White Paper "*Rights for the Consumer*";

- > 1992 - the setting up of a Government Department exclusively dedicated to consumer affairs, and the appointment of a Director of Consumer Affairs;
- > 1993 - publication of a White Paper "*Fair Trading.....the next step forward*";
- > 1994 - adoption by Parliament of the Consumer Affairs Act and the Competition Act;
- > 1996 - coming into force of the Consumer Affairs Act, setting up the Consumer Affairs Council and the Consumer Claims Tribunal, repealing the Consumers Protection Act, 1981, and extending the period of forfeiture for the civil law of sale remedy against latent defects from one to six months;
- > 1996 - adoption by Parliament of the Malta Board of Standards (Amendment) Act, which replaced the Malta Board of Standards and the Food Standards Board by a Malta Standardisation Authority, also assigned responsibility to administer the law regulating weights and measures; *came into force LN 202 - 18/12/96*
- > 1996 - new agenda for consumer affairs incorporated in electoral manifesto of new Labour government, including the proposal for setting up a new autonomous authority to oversee and administer both competition and consumer affairs, and a consumer ombudsman reporting to Parliament.

reports/chronogy

DAVID FABRI LL.D.
LECTURER
10TH DECEMBER, 1996