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1. Consumer protection institutions

1.1. MINISTRY RESPONSIBLE FOR CONSUMER POLICY

The Federal Ministry of Food, Agriculture and Consumer Protection (BMELV) is responsible in Germany for consumer policy, consumer protection and general consumer information matters.

Specifically, its responsibilities include:

- Consumer health protection in relation to food, feedstuffs, cosmetic products, tattoo products, consumer articles and tobacco products, including labelling law and fraud prevention;
- General matters relating to the safety of consumer products and services (in particular under the EU Product Safety Directive);
- Food and nutrition policy, in particular food and nutrition education;
- Protecting consumers’ economic interests, including fundamental consumer information issues.

With regard to economic consumer protection policy, the Federal Ministry of Food, Agriculture and Consumer Protection is notably responsible for the Consumer Information Act (VIG) and cooperation in cross-border consumer protection. Most consumer rights and
information and labelling requirements for producers and sellers, on the other hand, are set out in legislation under the departmental responsibility of other federal ministries. The Federal Ministry of Food, Agriculture and Consumer Protection represents consumer protection interests in consultation on such legislation as part of its cross-cutting consumer policy mandate.

Examples of legislation on which consumer policy measures and consumer rights are based include the following:

- Provisions of civil law (such as contract law) and mercantile and commercial law (e.g. the Act Against Unfair Competition (UWG), the Copyright Act (UrhG), and insurance policy law), which come under the **Federal Ministry of Justice**;
- Provisions of transport law (rights of ferry and bus passengers, rights of air passengers with disabilities and with reduced mobility), which come under the **Federal Ministry of Transport, Building and Urban Development**
- Provisions governing the rights of air and rail passengers coming under the joint responsibility of the Federal Ministry of Justice and the Federal Ministry of Transport, Building and Urban Development
- Provisions and measures relating to competition and price policy, telecommunications policy and energy policy, which come under the **Federal Ministry of Economics and Technology**
- The Product Safety Act (ProdSG), which comes under the **Federal Ministry of Labour and Social Affairs**
- Provisions of financial and capital market law, which come under the **Federal Ministry of Finance**
- Provisions of medical and social security law relating to health and nursing care, which come under the **Federal Ministry of Health**
- Provisions of environmental and radiation protection law, which come under the **Federal Ministry of the Environment, Nature Conservation and Nuclear Safety**.

### 1.2. **Government Agencies**

Germany is a federal state, and the constitutional allocation of responsibilities is such that consumer protection legislation is generally enacted at federal level. Enforcement of that legislation, however, is the responsibility of the 16 Länder, hence Germany does not have a central supervisory agency for consumer protection. Alongside government agencies, (state-funded) non-governmental organisations are also prominent in the field of consumer protection.

In economic consumer protection, the pursuit of civil claims, e.g. with regard to defects in purchased products, is essentially the responsibility of consumers themselves, where necessary with recourse to courts of law. There is not a government agency to enforce such claims on their behalf.

In some sectors, however, government agencies do act to protect **consumers’ economic interests**. Specifically, the following federal institutions are involved in this connection:
• The Bundeskartellamt (Federal Cartel Office) supervises compliance with antitrust and competition law. The Bundeskartellamt is an autonomous higher federal authority under the Federal Ministry of Economics and Technology.

• The Federal Financial Supervisory Authority (BaFin) is a government agency that supervises all credit and financial services institutions licensed in Germany together with insurers and securities trading. It provides consumers with a wide range of information on financial topics and on arbitration arrangements. It is an autonomous public-law institution under the legal and technical oversight of the Federal Ministry of Finance.

• The Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway monitors compliance with, among other things, consumer protection provisions in legislation such as the Telecommunications Act (TKG) and the Postal Services Ordinance (PDLV) and takes action as necessary. The Federal Network Agency is an autonomous higher federal authority under the German Federal Ministry of Economics and Technology.

• The Federal Office of Consumer Protection and Food Safety (BVL), on the basis of Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, is part of a network of European authorities for the combating of cross-border violations of consumer rights. The BVL is an autonomous higher federal authority under the Federal Ministry of Food, Agriculture and Consumer Protection.

• The Federal Aviation Office (LBA) is the national enforcement and complaints authority both under Regulation (EC) No 261/2004 for the rights of passengers in the event of cancellation, long delay or denied boarding and under Regulation (EC) No 1107/2006 for the rights of passengers with disabilities or reduced mobility. The LBA also monitors compliance with the stipulations of Regulation (EC) No 1008/2008 on the final price of flight tickets, under which taxes, airport charges, other charges, surcharges and fees must be indicated in addition to air fares. In this capacity, the LBA accepts reports of apparent breaches of the regulations referred to and if a complaint is upheld can file proceedings for an administrative offence. The LBA is a higher federal authority under the Federal Ministry of Transport, Building and Urban Development.

• The Federal Railway Authority, the supervisory and licensing authority primarily for federal railways, monitors compliance with the law with regard to passenger rights and is the national body responsible for enforcement of Regulation (EC) No 1371/2007 on rail passengers’ rights and obligations. The EBA is a higher federal authority under the Federal Ministry of Transport, Building and Urban Development.

Enforcement of consumer safety and health protection with regard, for example, to foods, cosmetics, toys and household appliances or to tools, machinery and equipment is likewise generally the responsibility of government agencies. In practice, the supervisory authorities that monitor compliance with the law on food, feedstuff and product safety come under Länder governments and not the federal government. The supervisory authorities coordinate their work in various bodies. In certain areas, they use a web-based information and communication system for their work (ICSMS: http://www.icsms.org/).
With regard to **consumer health protection** and fraud prevention, reference is made to the Germany country profile at [http://ec.europa.eu/food/fvo/country_profiles/CP_germany.pdf](http://ec.europa.eu/food/fvo/country_profiles/CP_germany.pdf). In particular, the following federal agencies serve this area:

- **The Federal Institute for Risk Assessment** is Germany’s independent scientific institute responsible for preparing expert reports and opinions on the safety of foods and consumer articles (including toys) and providing information on potential risks. It is a public-law institution under the Federal Ministry of Food, Agriculture and Consumer Protection.

- **The Federal Office of Consumer Protection and Food Safety** notably carries out official tasks in the field of risk management and licensing in connection with substances and products that may pose health risks and are directly or indirectly connected with food safety. For example, the BVL is the national contact point for the European Rapid Alert System for Food and Feed, provides coordination for nationally uniform enforcement of food monitoring, and has official tasks in the approval of plant protection products, veterinary medicines and genetically modified organisms. The BVL is an autonomous higher federal authority under the Federal Ministry of Food, Agriculture and Consumer Protection.

- **The Federal Institute for Occupational Safety and Health** (BAuA) is a public-law institution without separate legal capacity under the Federal Ministry of Labour and Social Affairs. Under its statutory responsibilities set out in the Product Safety Act (ProdSG), the BAuA has the task of supporting Länder agencies responsible for market supervision. The BAuA keeps accident statistics and maintains the national reporting system for dangerous products. As the national contact point for the European Rapid Alert System for Non-food Consumer Products (RAPEX), it centrally forwards reports on dangerous products from German market supervision authorities to the European Commission and the EU Member States and publishes official announcements of bans on sale (prohibitions). It is also in charge of ensuring that similar information from other EU Member States is communicated to the Länder. Further official publications include lists of standards which, if applied, mean that product designers can assume legal safety and health requirements to be fulfilled (‘presumption of conformity’), and lists of test centres which confirm that products conform with such requirements and issue them with the GS mark. The BAuA publishes all product recalls and all products reported under the RAPEX system that come under the Product Safety Act and pose a serious risk in Germany. As part of its research tasks, the BAuA investigates individual questions of product safety, identifies and preventively assesses safety and health risks in the use of products at work, and compiles risk reduction proposals in consultation with market supervisory authorities.

- **The Federal Institute for Drugs and Medical Devices** is responsible for drug licensing, registration of homeopathic drugs, risk assessment of drugs and medicinal products (such as pacemakers, CT scanners and implants) and supervision of the legal trade in narcotic drugs and precursors. The BfArM is an autonomous higher federal authority under the Federal Ministry of Health.

- **The Paul Ehrlich Institute – the Federal Institute for Vaccines and Biomedicines** – is responsible for biomedicines and in particular risk-benefit assessment of biomedicines before (in licensing and approval) or after they reach the market (pharmacovigilance), for the approval of clinical trials and for batch testing of specific biomedicines. The substances assessed by the PEI include human and animal vaccines and sera, allergen preparations, monoclonal antibodies, blood preparations, advanced therapy medicinal
products (somatic cell therapy products, gene therapy products and tissue-engineered products), and tissue preparations. The PEI is an autonomous higher federal authority under the Federal Ministry of Health.

- The **Federal Office for Radiation Protection** (BfS) works for the safety and protection of human health and the environment against damage due to ionising and non-ionising radiation. With regard to ionising radiation, this covers X-ray diagnostics in medicine, safety in the handling of radioactive substances in nuclear technology and protection from enhanced natural radioactivity. Protection from non-ionising radiation embraces ultraviolet radiation, the effects of mobile radiation and 50 Hz fields associated with electricity supply. The Federal Office for Radiation Protection is an organisationally autonomous scientific and technical federal higher authority under the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety.

- The **Federal Environment Agency** (UBA) examines, describes and assesses the state of the environment in order to identify adverse impacts on human health and the environment as early as possible. It also addresses issues relating to drinking water hygiene. The UBA has responsibilities among other things under the Biocide Act (Biozidgesetz) and chemicals legislation and in the implementation of the Washing and Cleaning Agents Act (WRMG). It informs the public about the causes of environmental problems and about practical options for addressing them and serves among other things as secretariat for the Blue Angel eco-label.

1.3. **NATIONAL CONSUMER ORGANISATIONS**

There is not an official list of all consumer organisations at national or Länder level in Germany and no official definition of what constitutes a consumer organisation. Consumer organisations do not need approval or a state license to operate in Germany. In project funding, the criterion generally applied is that a consumer organisation is a non-governmental, not-for-profit organisation that pursues consumer policy goals in accordance with its founding statutes.

Alongside three federally funded consumer organisations that operate nationally—the Federation of German Consumer Organisations (VZBV), the Stiftung Warentest product testing and comparison organisation and the DIN Consumer Council—consumer organisations or consumer policy associations are considered at minimum to include the 41 VZBV members. There are also other consumer organisations such as the Verbraucherinitiative e. V. consumer initiative.

The Federation of German Consumer Organisations (VZBV), which receives at least 90 percent of its annual budget in the form of federal institutional grants, is a non-governmental organisation serving as the umbrella organisation for the 16 Länder consumer centres and 25 further consumer policy associations. The VZBW lobbies for consumer interests in the public arena and towards policymakers, government, business, industry and society at national, European and international level. Its responsibilities include collective enforcement of interests in the courts through representative actions, developing standards for consumer advice, and professional further education and training for member organisations.
The 16 Länder consumer centres and the VZBW together make up an integrated system of advice, information, legal advocacy and lobbying. Consumer advice is provided through a network of some 190 consumer advice centres which deal in total with some four million individual consumer cases each year. All consumer advice centres have access to a counselling database with model answers for typical problems. Compilation of the model answers is coordinated by the VZBW and is subject to uniform quality management. In parallel, individual cases are recorded in a central database. This provides a basis for systematic action against recurring infringements and for precise empirical analysis of the consumer problems that occur. The VZBW can then use this information in its lobbying activities.

Individual consumer advice is organised on a regional basis and is mostly provided by the 16 Länder consumer centres, which receive public funding from the respective Länder. The organisations that undertake consumer policy lobbying and personal (legal) counselling for consumers with individual problems in Germany are institutionally separate from the organisations that perform testing of products and services.

Stiftung Warentest is a civil-law foundation created in 1964 to inform the public about the quality and environmental acceptability of products and services on the basis of tests. Another aim is to provide general information about good household management and about healthy and environmentally responsible behaviour. Stiftung Warentest obtains about 90 percent of its annual earnings from sales of publications such as the ‘test’ and ‘Finanztest’ magazines. It additionally receives an annual federal grant, largely in compensation for forgoing advertising revenue in its publications in order to remain producer-independent.

1.4. NATIONAL CONSUMER COUNCILS AND OTHER LOBBIES

The Consumer Council (Verbraucherrat/VR) established in 1974 by the German Institute for Standardisation (DIN) as a permanent committee of the DIN Presidial Board represents the interests of ‘non-commercial end consumers’ in the international, European and national standardisation work of DIN committees. The VR consists of five independent unpaid members recruited from consumer organisations and consumer-oriented testing and research bodies. It works in collaboration with DIN standardisation committees and is supported in its activities by its offices, which currently have a permanent staff of nine and are supported in turn by over 60 voluntary consumer representatives nominated by the VR for specific projects.

1.5. EUROPEAN CONSUMER CENTRE

The European Consumer Centre Germany, with offices in Kehl and Kiel, is a member of the European Consumer Centres Network (ECC-Net) established in 2005.

ECC-Net is an amalgamation of two previous networks: The Euroguichets network created in the early 1990s to provide consumers with information, advice and legal representation in the Internal Market, and EEJ-Net, a network for the extra-judicial settlement of cross-border consumer disputes in the EU established in 2001.
Since 2005, consumers in Germany have been able to turn to the European Consumer Centre Germany for information and advice on the European internal market and assistance in the out-of-court settlement of cross-border disputes.

1.6. SELF-REGULATORY BODIES

The Centre for Protection against Unfair Competition (Wettbewerbszentrale) is an industry self-regulatory body for enforcement of the law on unfair competition both in the national and in the cross-border context. The basis of its activities is its right as an association to take representative action under section 8 (3) of the Act against Unfair Competition (UWG) and section 33 (2) of the Act against Restraints of Competition (GWB). The Centre is not a consumer organisation but safeguards compliance with consumer protection law in the interests of industry.

The German Advertising Standards Council (Deutscher Werberat) was established as a self-regulatory body by the German Advertising Federation (ZAW) in 1972 and works to mediate in conflicts between complainants from the general public and advertising business enterprises.

As an industry body, the Council’s self-regulatory work is restricted to business enterprises. The mechanism therefore does not cover advertising in other sectors, for example by political parties, arms of government, churches, unions or social welfare bodies.

1.7. LEGAL REDRESS: COURTS AND ARBITRATION BODIES

Germany has over 200 public and private alternative dispute resolution (ADR) schemes. These aim to settle disputes out of court quickly and at low cost to the consumer by making an arbitration proposal. They are organised in most cases by professional or industry associations or trade guilds. Some have only local jurisdiction (e.g. Ombudsstelle Nahverkehr Bayern, the Bavarian public transport ombuds centre), while others are national (e.g. the Federal Network Agency, BNetzA). Consumers can enforce claims in court without first having to go through alternative dispute resolution.
2. Consumer policy

2.1. Consumer information and media

Alongside protecting consumer health, safety and economic interests and promoting sustainable consumption, a further fundamental goal of consumer policy is to ensure that consumers are able to obtain balanced and independent information. The focus here is on services that enable consumers to gain a better overview and make comparisons and that facilitate the search for information.

Consumer education follows the subsidiarity principle. Tasks that do not necessary have to be carried out by the state should be left to private-sector organisations. The state also has the task of preventing fraudulent practices harmful to consumers by legislating or taking official action as appropriate.

To ensure independent representation of consumer interests and consumer education, the Federal Government allocates federal funding to support establishments and institutions that provide general consumer education nationwide. The Federal Government also supports nationwide education campaigns on focus issues on a project basis. Here, too, consumer organisations retain their independence from the state with regard to the substance of their work.

The Länder and local governments ensure that consumer information and advice is available on an independent, individual and regional basis within their jurisdictions.

Consumer magazines such as Stiftung Warentest’s ‘test’ and ‘Finanztest’ and other publications such as ‘Öko-Test’ and ‘Guter Rat’ also provide information for consumers. Consumer information is also found in various sections of many regional and national newspapers and magazines.

Both public-service and private television and radio stations broadcast a range of political and economic magazine programmes addressing consumer problems.

2.2. Enforcement of legal rights

Most alternative dispute resolution (ADR) proceedings using arbitration in Germany result in the dispute being settled in 30 to 90 days. In an average of 81 percent of cases, the decision reached in such proceedings is adhered to. If an arbitration proposal is unfavourable to them, consumers can still go on to enforce their claims in court. Consumers can also enforce claims in court without first having to go through alternative dispute resolution.

For small claims where the amount in dispute is less than €600, German law provides that courts can adopt simplified proceedings in the interests of the parties. The Länder can legislate to lay down that courts may only accept a case if an attempt has been made to reach an out-of-court settlement with a recognised arbitration body first. An appeal is not possible in such cases except in special circumstances.
For most cross-border civil and commercial matters where the value of a claim does not exceed €2,000, Regulation (EC) No 861/2007 provides for a simplified procedure. Cases that come under the Regulation are heard in Germany in a Local Court (Amtsgericht).

Qualifying consumer organisations are permitted to file for a cease-and-desist order with regard to practices in breach of consumer protection law. A court can order publication of the judgement at the cost of the losing party. Before a case is filed, an arbitration body can be asked to pronounce on the case.

In legal disputes relating to the capital markets, questions of facts and law affecting a large number of cases can be decided in a model case. The decision in the model case must be then taken as the basis for decisions in individual cases. This opt-in procedure aims to help aggrieved investors to enforce damages claims, for example by lowering the financial risk. The procedure was introduced in 2005 and thoroughly overhauled in 2012. Its application provisionally expires on 1 November 2020.

Individual consumers are also able to assign their claims to a consumer organisation, which they then instruct to enforce their claims in court. This mechanism can be used either in a model case (by selecting a single aggrieved party or a small group) or in a class action where individual claims are combined and the awarded damages distributed among the individual claimants. In no circumstances, however, is a judgement obtained in this way binding on individuals who are not party as claimants to the model case or class action.

Germany also has a procedure for the recovery of ill-gotten gains in connection with breaches of competition law in cases filed among other things by consumer organisations. Such cases can result in an order to remit ill-gotten gains from an international breach of competition law to the public purse.

2.3. RESEARCH

The Scientific Advisory Board on Consumer and Food Policies at the Federal Ministry of Food, Agriculture and Consumer Protection was first appointed in September 2002. The appointment period is three years. The 12-member board has an interdisciplinary composition and aims to support the onward development of consumer policies. The independent board works in an honorary capacity and compiles scientific reports and opinions for the advice of the Ministry.

The Consumer Research Network (Netzwerk Verbraucherforschung) brings together researchers from various disciplines including sociologists, economists and jurists to carry out cross-disciplinary consumer research. The researchers’ focus is on consumers and the research issues are oriented towards consumer interests and needs. The network’s research outcomes are intended to provide an independent scientific basis for consumer policy at the Federal Ministry of Food, Agriculture and Consumer Protection. The secretariat is based at the Federal Office of Consumer Protection and Food Safety.

For further decision making assistance, the Federal Ministry of Food, Agriculture and Consumer Protection funds additional research projects on current consumer policy issues.
3. Consumer protection in selected markets

3.1. ENERGY MARKET

Germany’s citizens expect gas and electricity to be available at any time of day or night, in any quantity, and at affordable prices. The guiding principles of consumer protection in energy policy are affordability, cost-efficiency, security of supply, fair rules, transparency and effective enforcement of consumer rights.

The energy market in Germany was not opened to competition until the 1990s. 2005 brought the entry into force of the new Energy Industry Act (EnWG) which among other things created a regulatory framework for energy supply grids. The Federal Network Agency (BNetzA) was established as the regulatory authority at federal level.

Under the Federal Government’s Energy Concept (2010) and resolutions to accelerate the greening of Germany’s energy supplies (2011), 80 percent of electricity is to be generated from renewables by 2050. Nuclear power is additionally to be phased out by 2022.

These changes require a major transformation of the entire energy system, including in renewable energy sources, grids, power stations, energy efficiency and energy research.

Primary responsibility for energy policy lies with the Federal Ministry of Economics and Technology (BMWi) (grids, power stations, energy efficiency and energy research), the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) (renewable energy sources and nuclear safety), the Federal Ministry of Transport, Building and Urban Development (BMVBS) (building, housing and transportation) and the Federal Ministry of Food, Agriculture and Consumer Protection (bioenergy and consumer policy).

A focus of energy efficiency policy is the buildings sector. Heating buildings and providing hot water account for about a third of Germany’s overall energy consumption. The construction and refurbishment of housing to energy-efficiency standards is in part mandatory; this is complemented by subsidies to mobilise private investment.

Retail electricity prices are not regulated and are set by the market. The grid usage fees that form part of the cost included in retail electricity prices are, however, regulated by the Federal Network Agency and the competent authorities at Länder level.

Other important provisions are contained in the Renewable Energy Act (EEG). Electricity generation from renewables is so far largely shielded from competition. Fixed feed-in tariffs are laid down to promote the use of renewable energy sources. The cost is passed on to consumers, although exceptions are provided for, primarily for energy-intensive industries and rail transport. Consumers will pay roughly €20 billion for this in 2013. To halt the steep rise in costs to consumers, the Federal Government has presented a fast action plan that is to be coordinated with the Länder and brought before parliament in April 2013. The Federal Government plans a major reform of the EEG in the medium term.

Taxes and duties accounted for about 45 percent of the retail price of electricity in 2012. This is set to rise to about 50 percent in 2013.
To safeguard affordability despite rising electricity prices, the Federal Government supports measures to save energy and improve energy efficiency. Through consumer centres and other organisations, the Federal Government thus supports energy advice and energy checks; these are free of charge to low-income households.

Competition has increased consumer choice with regard to energy supply. This makes transparency and fair rules increasingly important and means that disputes between suppliers and consumers must be resolved quickly with minimum red tape.

Switching electricity and gas providers has therefore been made quicker and easier. A range of online information portals help consumers learn about the choices on offer.

Energy supply contracts and billing statements must also contain plain-language information for consumers about terms, conditions and customer rights, for example with clear information on termination rights and the possibility of changing provider free of charge in the event of a price increase. Consumers have a right to a billing statement within six weeks. Providers must also state where consumers can turn if they have a complaint.

Energy utilities and meter operators must answer consumer complaints within four weeks. If a complaint is not remedied, consumers can turn to a civil-law arbitration body, Energie e. V., which settles disputes free of charge for consumers.

### 3.2. E-COMMERCE, SOCIAL NETWORKS, THE DIGITAL WORLD AND CUSTOMER DATA PROTECTION

Increasingly widespread global use of the Internet has brought about fundamental changes in consumer behaviour. The Internet is used for buying and selling, for finding information on any conceivable subject and, through the use of social networks, for social communication.

At national level, consumer protection rights in relation to e-commerce and the new media are governed by various laws. These include the Civil Code (BGB), the Telemedia Act (TMG), the Federal Data Protection Act (BDSG) and the Act against Unfair Competition (UWG). In this legislation, Germany has transposed European directives into national law, notably Directive 95/46/EC (the Data Protection Directive), 2000/31/EC (the Electronic Commerce Directive), 97/7/EC (the Distance Selling Directive), Directive 2002/65/EC (the Distance Marketing of Consumer Financial Services Directive), and 2002/58/EC (the E-Privacy Directive).

Under the Telemedia Act, telemedia service providers must make their name and address easily, directly and permanently accessible. Further information such as an email address must be made available in the case of commercial services. Failure to comply is an administrative offence subject to a fine of up to €50,000.

Commercial communication must be clearly identifiable as such; the natural or legal person in whose name commercial communication is made must be clearly identifiable; promotional offers (such as discounts, premiums and gifts) must be clearly identifiable and the conditions to be met in order to qualify for them must be easily accessible. The same applies for prizes...
and games of an advertising nature. Here, too, the conditions of participation must be easily accessible and presented clearly and unambiguously.

Telemedia service providers must also inform users in generally understandable form at the beginning of a session about the nature, scope and purpose of the collection and use of personal data and about the processing of such data in countries outside of the EU. Service providers may only collect and use personal data if it is needed for the establishment, content or amendment of a contractual relationship between the service provider and the user or for enabling and billing the use of telemedia. Noncompliance with these obligations is likewise subject to a fine.

Telemedia service providers must inform users in generally understandable form at the beginning of a session about the nature, scope and purpose of the collection and use of personal data. The content of this information must be accessible to users at any time. Such data can only be collected and used if this is permitted by law or the affected party consents to its use. The data must be deleted when no longer needed. Service providers may also collect and use inventory data such as name, address and bank details without consent if needed for the establishment, content or amendment of a contractual relationship for the use of the telemedia. The same applies for usage data if they are needed for enabling and billing the use of the service (section 14 of the Telemedia Act). The telemedia-specific provisions of the Telemedia Act are supplemented by general stipulations of the Federal Data Protection Act (BDSG) providing for rights of information, notification and objection for data subjects.

Consumers enjoy special protection in distance selling and in particular in electronic commerce. To make up for the structural deficits of distance contracts for consumers, wide-ranging obligations to provide information were imposed on suppliers when the Distance Selling Directive and the Distance Marketing of Consumer Financial Services Directive were transposed into national law. Suppliers must provide consumers, before the latter make a contract declaration, with clear and comprehensible information on contract-relevant details such as the main characteristics of the goods or services and the total price (section 312 (1) of the Civil Code (BGB) read in conjunction with Article 246 (1) and (2) of the Introductory Act to the Civil Code (EGBGB)). This information must also be provided to the consumer together with the terms of the contract, including the supplier’s standard business terms, at the latest before the contract is fulfilled in its entirety. The information obligations are supplemented with a far-reaching, unconditional right of revocation for products purchased in distance selling (section 312 BGB). In contracts for the supply of goods, consumers may be given a right of return in place of the right of revocation (section 312d (1) BGB, second sentence). Only specific types of contract are not subject to the provisions on distance selling as a whole (section 312b (3) BGB) or to the consumer’s right of revocation (section 312d (4) BGB).

German lawmakers have also opted for a ‘button’ solution in electronic commerce (section 312g (2) to (4) BGB). This came into effect on 1 August 2012. If an order under an electronic commerce contract is placed by clicking a button, the button must clearly indicate the obligation to pay. A contract only comes into being if the consumer expressly accepts the obligation to pay and the button is labelled as described.

In the event of noncompliance with this legislation, entities qualified to bring action – which include consumer associations – can file for a cease-and-desist order.
In the case of cross-border contracts, Regulation (EC) No 593/2008 on the law applicable to contractual obligations (the Rome I Regulation) lays down that a contract between a professional and a consumer is generally governed by the law of the country where the consumer has his or her habitual residence, provided that the professional’s activities are directed to that country. A different choice of law is permitted, but the Rome I Regulation stipulates that mandatory consumer protection provisions in the consumer’s national legal order then remain applicable to the benefit of the consumer (Article 6 (1) and (2) of the Rome I Regulation).

Concerning which courts consumers can sue and be sued in with regard to disputes under cross-border consumer contracts, Regulation (EC) No 44/2001 (the Brussels I Regulation) stipulates as follows for matters within its scope: A consumer can sue the other party to the contract either in the courts of the member state in which that party is domiciled or in the courts for the place where the consumer is domiciled; proceedings may be brought against a consumer by the other party to the contract, however, only in the courts of the member state in which the consumer is domiciled (Article 16 (1) and (2) of the Brussels I Regulation).

3.3. FINANCIAL SERVICES

Consumers should be able to make the decision to take out a loan on an informed basis. The German Civil Code therefore provides that pre-contractual information must be made available and the main features of the contract explained to the consumer before signing. The key figure for comparisons is the effective annual interest rate, which includes not only the interest itself, but essentially all costs to be paid by the consumer in connection with the loan. If interest rates are stated for loans in advertising, a representative example must be included that is likely to apply to two-thirds of the loans granted. Consumers can cancel a loan within two weeks without stating reasons.

Intermediaries who market securities, investment fund units and other investment products to private investors have a number of information obligations. These are laid down for banks in securities trading legislation and for commercial intermediaries in the Industrial Code (GewO). Most banks and commercial intermediaries also provide investment advice for retail investors and in doing so must only recommend investment products that are suited to the retail investor’s investment objectives, financial situation and knowledge. Before signing, private investors must also be provided with a fact sheet of no more than three pages setting out the main features of the investment product in a clear and easily understandable form. Anyone providing investment advice must meet specific criteria, which include possessing the necessary professional knowledge. The Federal Government has also presented draft legislation to introduce a protected designation for investment advisors who only receive remuneration from customers and not from third parties (fee-only investment advisors or fee-only financial advisors).

Under the law relating to insurance policies, insurers and insurance intermediaries must advise customers on insurance and document the provision of advice. Customers may only waive the right to advice and documentation if they are explicitly informed that waiving the right may have a unfavourable effect on potential claims for damages. Before signing, consumers must be provided with the terms of contract and the insurer’s general terms together with a product information sheet setting out information of particular relevance to the
inception and performance of the insurance policy. A customer can revoke an insurance policy within two weeks, or in the case of life insurance 30 days, of receiving the full policy documents and the notice regarding revocation.

3.4. SUSTAINABLE CONSUMPTION

At the Johannesburg World Summit on Sustainable Development (WSSD) in September 2002, a resolution was adopted to develop a 10 Year Framework of Programmes (10YFP) on Sustainable Consumption and Production (SCP). The 10YFP was elaborated in the multi-stakeholder Marrakech Process and was adopted at the Rio de Janeiro World Summit on Sustainable Development in 2012 (Rio+20).

The 10YFP aims to accelerate the shift towards SCP worldwide. To this end, it is to initiate and support activities at global, regional and national level. For implementation of the 10YFP at national level, a national focal point is established in each country.

The substantive work of the 10YFP will be carried out in thematic programmes established for the purpose. The Rio+20 adopted text includes five initial programmes covering consumer information, sustainable buildings and construction, sustainable public procurement (SPP), sustainable tourism, and sustainable lifestyles and education. Additional programmes, e.g. agri-food, may follow. Each programme is intended to include a wide range of activities and projects in the relevant thematic area and to ensure consistency and mutual support. The programmes are intended to involve all stakeholder groups and their activities.

Promoting sustainable consumption is an important element of environmental and consumer policy in Germany. A wide variety of activities have been launched in the last ten years within – and beyond – the scope of the National Sustainability Strategy. An overview of selected Federal Government activities is provided in the country’s national reporting to CSD-18 (annex; URL: http://sustainabledevelopment.un.org/index.php?page=view&type=6&nr=21&menu=172).

Product-related requirements are laid down at European level among other things in the Ecodesign Directive and with regard to the EU energy label. The Ecodesign Directive provides for the establishment of minimum efficiency requirements for different groups of products. This leads to particularly inefficient appliances being gradually excluded from the EU internal market and aids the attainment of national and European climate targets. The Directive also allows minimum efficiency standards to be adopted as voluntary industry agreements. Mandatory EU-wide product labelling with regard to use-phase energy and resource consumption additionally allows consumers when purchasing learn about the energy and resource consumption of products, compare with other products and make their purchase decisions accordingly. The labelling also gives manufacturers an ongoing incentive to improve their products. The result is greater market penetration for products that are especially efficient.

Over and above this, the Federal Government promotes eco-friendly products by standard setting and with voluntary and mandatory labelling such as the Blue Angel labelling system (http://www.bmu.de/themen/wirtschaft-produkte-ressourcen/produkte-und-umwelt/umweltzeichen/blauer-engel/; http://www.blauer-engel.de/; for an overview of labels in Germany, see http://www.label-online.de). The use of green products is promoted among
other things by targeted requirements in public procurement and information on environment-friendly procurement (http://www.beschaffung-info.de). The Federal Government’s policy toolbox likewise includes targeted consumer information and education on key consumption sectors and support for industry and community initiatives, for example to boost demand for eco-friendly product alternatives and to pilot sustainable consumption arrangements (e.g. car sharing).