# Protection of consumers: liability for defective products (amend. Directive 85/374/EEC)

1997/0244(COD) - 23/09/1998

A far-reaching Commission proposal aimed at extending producer liability to farms and fisheries was adopted by the Committee. The committee voted to amend the proposal aimed at including unprocessed primary agricultural products (ie products of the soil, stock-farming and fisheries) and game within the scope of the existing directive (85/374/EEC) governing compensation for damage caused by defective products. The proposal is the Commission's response to Parliament's demands in the wake of the BSE crisis. Hitherto, as far as agriculture is concerned, the directive has covered only processed products. The intention is that in future it should cover the entire food chain. The committee's rapporteur, Mrs Dagmar ROTH-BEHRENDT (PES, D), chaired the temporary committee set up to check that Parliament's recommendations on BSE were being implemented. The committee adopted a number of amendments - some of them by slender majorities. Thus, it voted: * (by 22 votes to 16 with 4 abstentions) to relieve the consumer, under certain circumstances, of some of the burden of proof. Under the directive as it stands, an injured person must provide proof of damage and defect and must prove that the defect caused the damage. The committee, decided, however, that where it can be inferred, on the basis of a typical course of events, that a defect exists or that the defect has caused damage, the injured person need only prove that the damage occurred. It is then up to the producer to provide evidence raising the distinct possibility that the damage had another cause; * (by 20 votes to 18 with 3 abstentions) to end producers' exemption from liability on the grounds that the defect could not be detected, because of the state of scientific and technical knowledge, when the product was put into circulation. However, against the rapporteur's wishes, by 20 votes to 18 with two abstentions, the committee voted to retain another part of the original directive referring to this exemption from liability which the committee had just voted to strike out; *to make the producer responsible for full compensation for damage caused by removing the present financial limitations, ie it voted to abolish the existing lower threshold of ECU 500 (whereby the first ECU 500 of damage must be borne by the consumer) and to end the possibility for Member States to cap the total amount of a producer's liability; * to remove the ten-year limit after which, at present, all rights to compensation are extinguished unless proceedings have already started; * to redefine damage resulting from a defective product to include mental illness as well as death, personal injury and material damage.