



ARCHITECTS' COUNCIL OF EUROPE
CONSEIL DES ARCHITECTES D'EUROPE

Adopted by the ACE Assembly, November 2003

ACE CONSUMER POLICY OCTOBER 2003

At the last ACE General Assembly the discussion paper "AG1/03/MA Consumer Policy" was agreed and the following proposals were accepted:

- The assembly voted to, approve the on going Policy and to give further guidance to the work under way, in particular with regard to the intended ACE Consumer Protection Policy Paper.
- Give input on the national level for developing an active Consumer Policy for Member Organisations

1. Introduction

The Workgroup recognises that it is not the function of the ACE to direct the policy of its Member Organisations as, for example, in the area of Consumer Protection Policy, but encouragement is given by the fact that those who responded to the survey (14 Member Organisations), already had substantial measures of consumer protection in place, although these were not specifically branded or identified as such.

The objective of this paper is to present the views of the Workgroup on:

An implementation framework for Member Organisations. If there is an agreement in principle to the general proposals put forward in this paper then:

- 1) Member Organisations would be recommended to develop consumer protection policies based on the framework set out in this paper.
- 2) The Executive Board would be mandated to develop a Consumer Policy for the ACE.

2. The Political Context – The Commission

The Workgroup is aware of the Commission's commitment to consumers and citizens in its consumer policy strategy for 2002-2006, which has following three objectives:

- 1) A common level of consumer protection
- 2) Effective enforcement of consumer protection rules
- 3) Involvement of consumer organisations in the EU policies

The IAS Study of the liberal professions, on behalf of the Competition DG of the European Commission, was part of this continuing process; Commissioner Monti's various statements indicate a particular direction. The comments in the 2002 Annual Report of DG Competition on liberal professions in section 91/198 give a clear insight into Commission policy as follows:

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“198 The Commission’s policies with respect to the liberal professions is to fully apply the competition rules to this sector, whilst recognising specificities, such as asymmetry of information between architect and service provider. The policy does not question the existence of professional bodies as such, but requires, for example, that professional bodies must use their self regulatory powers to benefit consumers, and not only in the interest of their own members. The overall goal is to improve the welfare of consumers of professional services.”

It is understood that the Commission will hold a consultation with professional bodies on competition issues in late November 2003 and that Commissioner Monti will make a public statement on competition and the IHS study on 9 December 2003. The Commission is also holding a conference on the liberal professions on 28 October 2003 at which ACE will be represented by the president, Ms. Katarina Nilsson.

2.1 The Political Context – Member Organisations

The developing and increasing interest of the Commission in consumer policy is obvious and if Member Organisations do not develop such policies it may well be that architectural organisations and registration bodies maybe forced to do so.

The development of an effective consumer policy protection would be a key element in preserving the independence of the liberal professions and their organisations. For this reason consumer protection should be an integral element of professional ethics and codes of conduct.

It should also be realised that all Member Organisations the ACE are responsible for the fundamental task in consumer protection i.e. the maintenance of appropriate standards of qualification so as to provide a guarantee to the consumer.

3. Consumer Protection

The Workgroup acknowledges that architects are participants in services **markets** which, in the case of architects, is determined, not only by the interest of clients and consumers seeking independent service and advice, but also by an understanding of these services and the price the client and consumer is willing to accept. For several reasons which have to do with possible market failures (i.e. the selection function), restrictions in the free market are required to protect the consumers interest and to generate fair trade conditions.

Member Organisations each have a range of consumer protection measures but the ACE believes it is important that these should work to a common framework.

ACE considers that consumers are entitled to expect:

- A high standard of qualifications preferably linked to a regulatory system
- Competent performance by architects
- A defined role for representative organisations in the maintenance of standards.
- Neutral advice from representative organisations
- A Responsive Complaints procedures
- Mediation/Conciliation services
- Standard forms of client services/architect agreement
- A “neutral” position of the architect

4. General Implementation Framework

The Workgroup recognises the differing roles of various Member Organisations and suggests that implementation could best be achieved by a two tier approach the first being a policy statement having

regard for the particular role of each Member Organisation, and the second being a more developed and detailed framework.

ACE member organisations have a range of consumer protection measures but these are usually not set in the context of formal Consumer Protection Policies. The Workgroup suggests that Member Organisations should develop a general policy and use the Implementation Framework, set out below, in defining the relationship between architects and clients/consumers.

At the first level Member Organisations could be asked to subscribe to what would be, in effect, a general description of the basic measures of consumer protection as follows:

- Member Organisations should ensure that architects have high standards of qualifications to carry out the range of tasks as set out in article 11(f) of the Architect's Directive. Member Organisations should draw on these standards for the development of Codes of Conduct and professional profile in the consumer interest, linked to continuing professional development so as to ensure adequate and competent performance standards in the interest of the consumer.

All Member Organisations surveyed by the Workgroup had a Code of Conduct but not all Member Organisations have provisions dealing with the competent service of architects. The Workgroup considers that it is fundamental to consumer protection that Codes of Conduct should make reference to such standards while recognising the distinction between negligence and unacceptable or inadequate performance.

The second level would incorporate the above general policy and would set these out in a Detailed Implementation Framework.

5. Detailed Implementation Framework

Based on the general policy of each member organisation the following would be the main elements of an Implementation Framework

1) High Standards of Qualification

Member Organisations, as an integrating element in the definition of standards in architectural services, including consumers, schools of architecture and Government, working with ACE, and the relevant Directive, should ensure that the level of qualifications are such as to provide a guarantee to the consumer of an adequate range of knowledge and experience, so as to assure effective performance of the architects duties.

2) Continuing Professional Development

The Workgroup recommends that defined CPD requirements should be part of a consumer protection policy. Member Organisations are ideally placed to identify and respond to market demands and the definition of the professional profile.

3) Practice Behaviour and Codes of Conduct

Member Organisations should define reasonable levels of practice and behaviour and should have procedures to deal with failure by an architect to meet such standards (*incompetence and misconduct*).

4) Information on Architects Services and Costs

Consumers and clients should be able to get neutral advice on architect's services from architectural organisations, related to standards of practice and behaviour. Such advice should also include information on client/architect contracts and charges.

Information as to the architect's duties should be available for clients in straightforward non-technical language and it should also set out the services to be provided for a particular range of charges.

Information to consumers should recognise the problem of asymmetrical information and a lack of service and pricing transparency in the area of architectural services.

5) Professional Indemnity

The Workgroup recommends, that professional indemnity insurance should be a standard element in consumer protections policies, while recognising that issues such as standards of qualification, CPD, information services etc, should have priority over liability.

6) Redress

Adequate and appropriate mechanisms to deal with redress should be developed by the member organisations

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