



Consumers International

Improving utilities: consumer organisations, policy and representation

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Introduction

Consumers International is a global federation of 260 consumer organisations, mostly independent, some governmental (about 15%) in almost 120 countries. Our Head Office is in London and our regional offices are in London, (Office for the Developed & Transitional Economies) Santiago de Chile (Latin America and the Caribbean), Harare (Africa) and Kuala Lumpur (Asia Pacific). We are a very small organisation smaller in fact than many of our member organisations and much of our work is dependent on project finance. CI serves its members who also support it through their subscriptions and through other means such as policy input. This relationship is important for bodies like the World Bank to understand. CI cannot command its members, it can advise, assist and coordinate at international level. But, providing members respect the rules of membership on independence from business and political parties, they are free to decide their own activities and to reach their own policies at national level and these of course will vary from country to country.

Functions of consumer organisations

The functions of non-governmental consumer associations that are most appropriate to this discussion are:

- Product/service evaluation
- Consumer information/education and advice
- Policy formulation
- Representation

Although there are exceptions, which I discuss later, independent consumer associations are not usually involved in regulatory and enforcement bodies. (Some of our government members are so involved.) However, many of them do lobby for greater or lesser regulation and enforcement by the proper authorities.

Public utilities

Public utilities were somewhat neglected in the early years of the development of consumer associations (CAs) which emanated mainly from

the OECD countries and concentrated on consumer goods bought in the open market place. What raised their profile in the work of CI (previously known as the International Organisations of Consumer Unions) was the development of privatisation programmes, and the accession to our membership of consumer organisations from developing countries. CAs in the US were for many years involved in public rate hearings, and the privatisation/liberalisation programmes in the EU starting with the UK, led CAs to develop a body of knowledge and experience which they soon transmitted to their colleagues in Eastern Europe, Latin America and subsequently Africa, and soon we hope, Asia. The spread of this experience was made possible by financial assistance from programmes such as those of the EU and the World Bank and national funding bodies such as DFID (UK), GTZ (Germany), DGIS (Netherlands) and their North American counterparts.

Going through our list of functions set out above, here, in greater detail, are some of the activities of our members in this domain. The key point to make is that our policy stances have arisen from the experiences of real consumers as far as possible. This means that at times our concerns may be rather practical and some may even appear banal. But even the grandest of visions needs to have a practical application. The first such function is a good example of this.

Product/service evaluation:

This is the kind of analysis carried out by our comparative testing organisations (usually the larger organisations) in many countries, such as Consumers Union here in the US. For example a group of our members in the Eurozone (the *Conseur* group) have carried out price comparisons in the single currency in **Spain Portugal, Belgium, Italy** across all the utilities, and these comparative analyses have been used for discussions with the respective national regulators. Unfortunately it is difficult to carry out such analysis in countries with differing currencies as what is being measured in nominal terms is often currency fluctuations rather than underlying price trends.

Elsewhere, it is rather tariff analysis through time which has been done in single countries such as my own, **Brazil**, where IDEC has carried out time sequence analyses of electricity tariff levels for example. In the **UK** such analyses were pioneered by our members in the early '90s following privatisation. At the same time, some of our larger members with access to sophisticated product testing laboratories (eg Consumers Union in **US**, *Test Achats* in **Belgium**, IDEC in **Brazil**) were able to carry out micro-biological tests of water supplies, often demonstrating that municipal supplies were rather better than bottled water on some criteria.

But of course, the piped systems are only a part of the picture in countries where there are large numbers (sometimes majorities) who are not connected to the fixed systems. In those cases our members in **Kenya, Peru, Dominican Republic**, and other Latin American countries have carried out street level surveys on vendor distributed water. These surveys developed in the late '90s and the nature of the results will be familiar to the World Bank, namely the

most extreme expression of the syndrome which we describe as “The Poor Pay More”. But the Poor Pay More syndrome is not restricted to the poor countries, it also appears in affluent countries too, and not restricted to water. Our **UK** colleagues the National Consumer Council have recently published evidence that price levels vary significantly according to payment methods, with users of direct bank debit (the better off) paying far less per unit than those using methods such as pre-payment (the poor). At what point do such trends become examples of the ‘undue discrimination’ which is often forbidden in national legislation?

Consumer information/education and advice:

Many of our members run advice services for the general public or for their own members. This service is provided by a wide range of our members from small voluntary organisations to large consumer advice services such as the **German** consumer advice agencies. One of the funding problems which this service raises is that advice is often given to the general public while our members only receive income from their individual members, a much smaller number. This may be resolved by government financial support for general advice.

Some associations issue direct guides to consumers on their rights as individuals and collectively; for example the *Union Federale des Consommateurs* in **France** has issued a guide which covers individual water rights, and collective representation, they have also issued a guide to water quality on bathing beaches throughout France. Our members in **Colombia** (who started up in response to public campaigns on water) have carried out ‘investment mapping’ of the ownership of all types of utility in South America, where foreign ownership is so prevalent, and yet not very clear.

So individual advice becomes collective information and also consumer education. Many of our member organisations have started off as associations of home economists and so have a long tradition of consumer education. This field is no exception and so our publications frequently make the case for conservation for environmental and economic reasons and in the case of water, for hygiene reasons too. So there have been handwashing campaigns and campaigns on the ‘rational use of water’ (recently in **Malaysia** and **Fiji** to take two examples). And recently in **Slovakia**, one of our two member organisations there recently introduced environmental calculations into the national mathematics curriculum textbooks to help children to understand the mechanics of pollution and the need for conservation.

Consumer participation

Moving down the list of functions I will deal last with policy matters. That mirrors the difficulties faced by some of our members. For they are asked by governments or regulators or even industry to give a ‘consumer view’ when they have not yet acquired the knowledge and expertise to make such a view comprehensive or ‘expert’. So frequently consumers are having to learn their

policy as they go along. Nevertheless we would rather be presented with this problem than not be consulted at all.

Our Consumer Congress in Lisbon in October of last year adopted the following as part of our general statement:

“There should be consumer participation and representation in the regulatory process and the monitoring of those industries” (referring to the public utilities).

This wording was very carefully drafted, the intention being to promote consumer participation in policy debate and indeed in plans for service development, rather than direct membership of the regulatory bodies. Being on the regulatory board can lead to conflicts of interest and cause consumer representatives to be bound by confidentiality. But it is difficult for us to be too categorical about this; some judgement has to be used to advance representation.

Consumer representation- collective

Here are some examples of the formal involvement of our members in the regulatory process, in utilities in general including water. They range across a spectrum from full participation in the regulatory body to consultation with consumer associations in the same way as with any member of the general public, and indeed to no consultation at all. I start with the most ‘official’

Africa. In **Burundi**, a representative of the *Association Burundaise des Consommateurs* has been appointed to the National Commission on Water & Energy, an oversight body composed of ministerial appointments. The **Consumers Association of Ghana** represents consumers on Ghana’s public utility regulatory board. The **Zambian** Consumer Association is working with the National Water Supply and Sanitation Council to establish consumer watch groups in 72 districts nationwide to deal with complaints about water services. In **Senegal**, our member, the *Association de Defense des Usagers de l’Eau* (and other utilities), sits on the water regulatory council and also on the board of the national water holding company. This is an unusual pattern which we will study with great interest

France has an elaborate structure of consumer representation for water involving, since 1992, *les commissions consultatives locales du service public* at communal level and, with a more executive planning function, the *commissions locales de l’eau* established by the local prefects. Our French members have been disappointed by the slow rate of progress in the establishment of the consultative committees and the difficulty of recruiting members willing to serve on the second, rather technical committees. Great interest now surrounds the establishment of the River Basin Parliaments in which our members *Confederation Logement et Cadre de Vie* and *Union Federale des Consommateurs* participate. These are not regulatory bodies but assemblies of ‘stakeholders’ to exchange viewpoints between the different protagonists in terms of the management of the river basins, as interlocutors with the

Autorites des bassins. They are likely to be emulated elsewhere in the context of the EC Water Framework Directive with its emphasis on river basin management.

North America. In the **US** and **Canada**, although practice varies by state and province, it is common for price alterations to be approved through a process of 'rate hearings'. Such hearings conducted by the regulators on judicial lines, allow providers and consumers to present evidence, require disclosure of documentary evidence and cross examine fellow protagonists. As the costs of the hearings are passed on to consumers by the providers then it is also permitted for consumer association's costs to be paid by the tribunal. This system tends to be used more for energy than for water.

In some countries consumer bodies are formally consulted but the decision making remains strictly restricted to the regulator's office. In **Argentina** our members participate in the tripartite commission ETOSS. In **Kenya** our member Consumers Information Network is regularly consulted on policy and has been appointed as a member of a government civil society consultative committee in charge of developing a strategy for the poor in the planned Integrated Water Management Policy.

In the **United Kingdom** there are 10 offices belonging to the regulator OFWAT corresponding with the 10 major water and sewerage companies. Each such regional office includes a customer service committee (CSC) for that region and they in turn form a National Customer Council for the water industry known as Watervoice.

Our UK members take the view that the consumer representative bodies should be outside the regulator's office, but handling complaints as the CSC's do. For the pattern of complaints can inform policy debate. Fortunately, this has indeed been proposed by the legislation currently passing through Parliament, and by April 2005, there should be an autonomous Watervoice outside the regulators office, and appointed by the Minister of the Environment and not by the regulator. This move towards greater independence is a positive step in the view of our UK members but one which is rather different from the increasingly official role for our members in Africa.

Public hearings on utilities are virtually unknown in Europe, East or West although legislation has just been passed in **Ukraine**, and such mechanisms existed but fell into disuse in **ex-Yugoslavia**.

In **Western Europe** some of the consultations between regulators and consumer bodies are about the fine detail of consumer rights. So **Dutch** consumer organisations are consulted about contract terms in public utilities before they are 'set in stone', and informal arrangement which works rather well. Likewise our **UK** members have participated in discussions of the Guaranteed Standards scheme which sets standards of service and delivers

compensation for when such standards are not met. This is detailed and unspectacular work but important for the everyday needs of consumers.

In **Latin America**, the World Bank conference in Lima last August 21, hosted by SUNASS the Peruvian water *superintendencia* (and in which CI participated) made clear that there is huge progress being made in consultation processes, the clearest examples being **Colombia** and **Costa Rica**. This marks something of a breakthrough but perhaps we should pay attention to the need to ensure quality as well as quantity. We have drawn up a set of principles which we see as framing consumer representation.

Principles for Representation

There are two dimensions to representation. They are the individual: complaints, mediation of disputes etc and the collective: pricing policy, scrutiny of standards. Our experience is mixed. The messages to be drawn from our experience are that:

- 1) the structure of consumer representation should shadow the structure of the industry as it impinges on the consumer, in this case national and indeed international.
- 2) the body representing consumers should also deal with complaints so that the complaints work can inform the policy representation function.
- 3) consumer representative bodies should be outside the regulator's office,

So, what are the criteria for effective consumer representation?

We suggest the following:

1. Terms of reference:

- a) Domestic consumers (perhaps including small businesses)
- b) Price, including participation in price reviews.
- c) Quality
- d) Complaints

2 Geographical structure corresponding to industry structure as it relates to the final consumer.

3. Independence from regulators and from industry and government. This should be underpinned by rules on conflicts of interest to apply to the members. Members should not have any financial interest in the company.

4. Research capacity

5. Freedom of information, both access to information and its disclosure to others.

6. Right of appeal against decisions of the regulator

7. Resources for all of the above with safeguards for independence.

Clearly there are potential conflicts between the criteria. Independence is potentially in conflict with resources, if the only realistic source of money is government or industry. But both sources are compatible with independence if there is a sufficiently 'arm's length' relationship.

One must not be too rigid about these matters; opportunities may arise that may seem to violate the above guidelines. An element of pragmatism is inevitable for this is an evolving field.

Representation – Judicial actions

Many consumer activists come from a legal background and so it is not surprising that recourse to legal action is frequent. Some consumer court action in water has been spectacular, such as the action by our members in **Chile**, for protection of consumers from disconnection following price rises and in **El Salvador** where our member went to the Supreme Court to enforce reconnection after an earthquake. In **Georgia** our members have been involved in preventing arbitrary disconnections and in **Sofia, Bulgaria** they entered into dispute with the municipality for not obliging the water concession holder to honour obligations. In **India** there are cases where on matters of principle, consumer associations have pushed cases involving a few rupees to the higher courts from the specialised consumer courts. One of the problems that our members face is that of *locus standi*, that is, judicial recognition that the CA has competence and standing to bring a case. In **France** this has been specifically granted to our members through an *agrement*, or specific recognition. Not everyone receives such recognition. Even if it is granted, such cases require expertise and cost. What about these more mundane cases?

Quasi-judicial actions

Taking into consideration how some forms of redress do not work, some consumer organisations have adopted novel approaches. One such example is CI's member in **Indonesia**, Yayasan Lembaga Konsumen Indonesia (YLKI) – which provides direct assistance for consumers, concerning particular complaints. (YLKI is also actively involved in the legal reform and drafting of laws and regulations concerning consumer protection).

YLKI collects complaints from consumers over a period of time – ideally two to three months. YLKI also publicises the fact that they are taking in complaints – via newspaper advertisements, brochures and radio jingles. Once they have a large enough number of complaints, they would then organise and host a meeting between themselves, the complainants, regulators/service providers and the media.

YLKI has received a large number of complaints in telecommunications and on electricity. With the large number of complainants in the same room with the regulators / service providers, similar problems can be solved once and

for all. The consumer organisations (in this case YLKI and its smaller member organisations) act as the mediator.

This potential mediation role could be built on. For one major problem across the utilities is that the amounts of money involved (either in arrears or in disputed bills) are important to consumers but too small to justify court action. A system of tribunals, formal or informal, could be developed where the industry and consumers are both represented with independent chairmen. CI members tried to set up such a system with our colleagues in **Macedonia**, without success as yet. There is an interesting such system operating successfully in **France** in the credit sector, where settlements are agreed, without recourse to court action. The use of the system far exceeded expectations. These involved cases of consumer arrears, while in the case of utilities it may equally be that the company is at fault for over-billing or failure to supply. Some might worry that consumer representatives might be irresponsible and always take the part of the consumer, regardless of the merits of the case. I do not believe that, as consumer representatives will want to safeguard fairness between different consumers and not to favour those who choose irresponsibly not to pay what is due. In our experience consumers are often as rigorous as companies in that respect.

Sometimes a mediation service could be built into the networks of consumer advice centres which already exist with public support such as the network of 65 centres that deal with energy complaints in **Bolivia**. A further model is the Ombudsman which is now spreading into public utilities.

Latin America is leading the way in the development of public utility ombudsmen, the *Defensores de los pueblos*. The *defensores* exist in **Peru** and **Argentina** and in **El Salvador**, and are under way I believe in **Brazil**. They originally developed in Latin America as defenders of human rights in political and civil terms. The responsibility for public utilities came later in response to public demand and they are highly regarded by our members in the region. One European country where the Ombudsman has such jurisdiction is the ex-Yugoslav republic of **Macedonia**, and we are currently working with our members in Eastern Europe, (most recently **Bosnia-Herzegovina**) to see whether the model can be spread further. In Macedonia, the Ombudsman has ruled against the practice of collective cut offs which is endemic in Eastern Europe because of the indirect system of billing which makes it difficult to identify non-payers. This is a ruling of potentially great significance.

So, in the fields of collective and individual representation our members are making strides in particular in the collective sense. Rather more contentious is the process of policy formulation and development.

Policy development – processes

The consumer movement has arrived at policies at national level, regionally and globally. Examples vary from national programmes of seminars

involving a wide range of stakeholders such as have been conducted in **Russia** and by my own organisation IDEC in **Brazil** to the multi-country programmes in Central/Eastern Europe, Africa and Latin America which have been run by CI regional offices with our national members. Moving up each level from national to global, the process becomes more difficult for the perfectly understandable reason that different geographies and histories, let alone different political traditions, lead to different conclusions or at least different predispositions on the part of our members. The clearest illustrations of this are the different views about privatisation held by our members in **Latin America** (generally against) and the **Former Soviet Union** (generally in favour). Other controversies surround cost recovery, water metering, and in the future we can anticipate controversy over electricity industry structure and issues of the limits to competition in electricity supply.

Nevertheless, some general points of agreement can be reached. I attach as an Annex the recently developed CI policy statement. Here are its principal headings:

Consumer principles

- 1. Consumer rights** Water is a basic need and access to it is therefore specifically recognised in the first of the eight internationally accepted consumer rights. Access to sufficient safe water is essential for life itself, as a vital contributor to public health, and for personal dignity and fulfilment. Water is not just a commercial product like any other and it is a primary obligation on responsible government to make the right to water a reality.
- 2. A public good** Water itself is a public good and must remain so. Rights to extract water from sources such as natural reservoirs, rivers and aquifers should be controlled by public authorities, with due regard for the needs of producers, consumers and the environment.
- 3. Shared resources** Natural water resources are shared between states and cross their boundaries along river basins. Access to water for all consumers must be the overriding objective in reaching equitable agreements about water use across geographical and political boundaries.
- 4. Regulation** Whether provided by public institutions, the private sector, or a combination of the two, water treatment and distribution systems should be subject to effective state regulation to promote and protect the public interest. Regulation should cover access - including as necessary, pricing policy, safety, and service quality (cut-offs, pressure maintenance, billing, for example). Regulation should also cover small scale vendors where relevant.
- 5. Consumer involvement** Consumers should be involved in the regulatory process, including in both establishing and implementing of these regulations. Stakeholder involvement should start with the assessment of needs and objectives and the analysis of possible utility management models to meet these. The provision of full and timely information is essential for effective stakeholder involvement at all stages.

- 6. Pricing** Water pricing, and the use of any subsidies, should be transparent and also equitable between groups of users in similar circumstances. Poverty should never be a barrier to access to a basic supply of clean water and to effective sanitation.
 - 7. Payment and subsidies** Paying for the water supply should be properly costed and the means to pay for it identified and planned. This includes both capital and operating costs. But recovery of full costs from charges to users should not be the only approach. Public interest objectives such as improving public health and enabling communities to escape from the unproductive drudgery of time-consuming water collection, should be taken into account and if necessary supported by subsidies.
 - 8. Avoiding waste** Water is a scarce resource and making it available to all, especially the poor, is a challenge for all countries and communities. Consumers have an obligation to respect the wider public interest by avoiding wasteful use, ensuring that they do not contaminate the supply, and paying their due share of the costs of supply.
 - 9. Private sector obligations** Private companies providing water services have an obligation to respect and support effective regulation, to play a responsible part in delivering social objectives and, where they operate internationally, to apply good safety and service quality standards in all countries.
 - 10. Polluter pays** The polluter pays principle, covering both preventive measure and clean-up costs, should apply to natural water resources and to water distribution and sanitation systems.
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Many of these will be familiar to you, and the best way to illustrate our policy development process will be to give examples of how local experiences have been transposed to policy making.

1. Policy on equitable access

One greatly under-debated issue in utilities, overshadowed by debates on ownership and cost recovery, is that of equitable access to services when it is clear that continuous services are not likely to be in place for some time. Our members have dealt with this issue in locations as diverse as the **Dominican Republic** and **Georgia**, and the problem is an issue throughout the developing world and the **Former Soviet Union**. (FSU) Both water and power are often only available for a few hours a day and that may be at inconvenient times especially in the poor districts (in **Tbilisi** during the night for example).

Such problems put consumer bodies in a difficult position when arguing for better standards. It is hard for our members to 'recognise' or be reconciled to the inevitability of service interruptions in such vital services for the foreseeable future. Surely they should simply not happen? And yet were such interruptions equitably distributed, then improvements could be made to the lives of the poor, with rapid effect. We have therefore argued in our participation in ISO Technical Committee 224 on water and sanitation services that 'rota cuts' be managed in an equitable manner. The work of the committee is still in progress but so far, this principle has been accepted in the

draft. Our members in the above countries have argued the same policy at national level.

2. Cost recovery-what do consumers get in return?

Russia. Having lived with virtually free water and power for most of the twentieth century, and seen the water system deteriorate to the point of collapse, our colleagues at the Russian Confederation of Consumer Organisations (KONFOP) have developed a somewhat sceptical view of subsidies, much of which goes to privileged occupations such as members of the armed forces, and covers 40% of the total population. Nevertheless the process of moving to cost recovery is proving to be very painful. In November 2001 in a conference in Ekaterinburg attended by consumer representatives from all over Russia, KONFOP adopted a manifesto which accepted the need for cost recovery but made their support conditional on a programme of transparent regulation, contractual rights for individual consumers, special provision for the poor, and compensation for service interruptions. As many countries of the FSU move to more autonomous financing for their utilities, this policy debate will be replicated in many locations. Standards of published accounts need reform for such discussions to take place. Basic elements such as depreciation are not being entered into accounts in some places, or where they do exist, depreciation funds are being diverted.

As we say in our Policy Statement on water, we believe that services should be carefully costed, whatever happens. To what extent they should be paid for by taxes or by charges is a matter for local political decision.

It is likely that many of our members would take a stronger stance against full cost recovery than do our Russian colleagues. In some ways this debate is more important than that on ownership for it is universal. Despite the differing positions there is little evidence that consumers want 'something for nothing', people know that the service has to be paid for. The kind of participatory budgeting which takes place in the **Porto Alegre** water service in **Brazil** indicates that questions of cost can be dealt with responsibly by consumers if they are treated as responsible citizens.

3.Freedom of information

Central Europe. This region is seeing utility contracts awarded to multinational companies for the first time. We have been very critical that in major cities like **Berlin, Bucharest** and **Budapest**, such water contracts have not been published and requests by our German and Romanian member to see the Berlin and Bucharest contracts were refused. (A similar refusal was given to our members in **Argentina**). When contract terms were published in **Sofia**, our Bulgarian colleagues took legal action against the city when they considered that the terms of the contract had not been respected by the concession holder International Water. However, the position in Sofia subsequent to the sale of the system is that its ownership is unclear. Such examples are unacceptable.

In seminars in **Latin America** in particular, during the projects referred to above, CI members have discussed and even prepared rough model concession agreements for proposed privatisations. The model concessions covered such items as: universal service agreements, continuity of supply, quality of service, connection charges, individual metering and the right to challenge estimates, consumer participation in the pricing panels. The list will vary between countries and sectors. We believe that design of contracts should involve a wider public than has been the case until now. Consumers have a direct and legitimate interest in matters which at first sight seem to be technical and remote. In order to develop our ability to participate, we need to prepare guides to 'model terms' identifying decision points at which consumers should be able to intervene. I discuss this further below in the global context.

In this respect, a significant offer was made to our members in **Slovakia** in the energy sector, when they were asked to participate in the process of tender selection. Transparency International have also been invited to participate in the tendering supervision process in Central Europe. The World Bank now has many local studies setting out consultation with users in design of services. We welcome such moves with a note of caution, in as much as the final decision has to be taken by the proper governmental authorities.

Commercial confidentiality

The question of commercial confidentiality is a major problem in this area and can be made worse by privatisation, where it involves 'chains' of contracts. We take the view that in a natural monopoly there is no justification for commercial confidentiality during the life of a contract and we are not entirely convinced that it is necessary even during a period of competitive tender, which is the justification usually presented. Why not have competitive open tenders? They may be less open to collusion than open ones.

At the very least we believe the case for confidentiality has been overstated, and simply breeds suspicion, suspicion which may sometimes be justified. If applied in the private sector, confidentiality may also be used to justify continued secrecy in public sector services too which we also oppose. It is often said that consumers are not interested in the details of contracts and accounts and so there is no need to publish. Of course on an everyday basis this may be true. But when it comes to key decisions, the public have every right to know what is being contracted and publication is one of the prerequisites for fighting corruption.

So we were very pleased when in 2002 we were told informally that the World Bank were considering a policy that all public utility contracts should be published. We were happy to give this policy our full support, and awaited its publication. Some twelve months later, we heard that the Bank had still not gone public on this policy, and indeed that it was known in-house as the 'secret policy on transparency'. For our part we now feel guilty for not having stated publicly that we were supporting the new World Bank

policy! This paradox has gone on for long enough. We have to be transparent about transparency.

4. Water and taxation/cross subsidy.

The CI/WSP report on Africa gives the two contrasting examples of **Burkina Faso** and **Chad**. In **BF**, the government introduced Value Added Tax on water but exempted arms and racehorses among other items, from the tax. The consumer organisation protested, lobbied successfully and rapidly gained a change in policy. Under the new policy, a volume threshold was established which had the effect of exempting most domestic water consumption from VAT.

In **Chad**, the consumer organisation initially also lobbied against VAT on water, but in due course amended its position in the light of the fact that only the better-off minority had access to the water service. The Association for the Defence of Consumers lobbied therefore for the proceeds of the VAT to be used to extend the network. In this sense then existing users would pay a 'hypothecated tax' for the benefit of future users. In practice, this is not unlike the solidarity taxes that have been applied in electricity sector in **Bolivia** and in water in **Colombia**. Success is not guaranteed with such a policy, if citizens are to be asked to carry cross –subsidies, there needs to be trust that the money will be well spent. In **Argentina** there was resistance to this policy from existing consumers.

In some ways we were slow to tackle the issue of differentials between prices paid for services by the connected and the non-connected, which goes to the heart of the Millennium Development goals for water and sanitation and is a vital issue in energy policy too. But our members are now thoroughly engaged in this discussion. In some cases the solution will be rapid service extension, which will often require some element of cross subsidy, or at least redistribution away from the existing better off beneficiaries. In others a more short term solution will be required, making the best of the existing unsatisfactory situation.

That is why we attach great importance to the work of our members in **Kenya** who are working on the regulation of water vendor prices. What we have argued in the ISO committee on water is that standards of service need to be developed not just for connected services, but also for other sorts of distribution such as delivery by truck, publicly organised water points, and 'third party contracts' for the informal sector. Although many of the professionals in the ISO committee found this idea of standards for a non-networked public service rather challenging, it has been accepted as the basis for the new standard. Our position therefore is that an across-the-board approach is needed covering all sectors, rather than focussing only on the integrated networks.

Regional initiatives

The greater part of our members' activities obviously take place at national level. As for CI, its programmes are mainly coordinated at regional level, as I have indicated. Here are some activities that we are considering for future regional programmes.

Model laws: Following the **EU/Latin America Consumer Dialogue** we are interested in pursuing a model law for consumer protection in the utilities area, for the benefit of countries with the same or similar languages and legal traditions and borrow off each other. 'Classical' consumer protection law tends to ignore public utilities, so such a project could fill this gap. The same idea has been mooted for **Francophone Africa**, and the **Arab** countries. We are starting work with some of our Arab colleagues at the World Bank conference in Marrakesh later this month.

Former Soviet Union: One of the most neglected geographical regions is **Central Asia**, and one of the most neglected services is District Heating, also known as Central Heating. The neglect of this service by international funding agencies is in part due to its relative rarity in Western countries. For example, it is not covered by the EU *acquis* partly because District Heating systems were relatively rare inside the EU territory until the incorporation of East Germany and the accession of Sweden and Finland. And yet our work with consumer organisations throughout the **FSU**, most recently just a few months ago, indicates that there are massive problems associated with such systems, including the practice of collective cut offs. We are being asked by colleagues in Central Asia, most recently in **Tajikistan**, for help in this respect.

Water - ongoing global activities

I have already mentioned some of our global activities, such as the World Consumer Rights day pack on water and the Policy Statement.

ISO:

I have already touched on our participation in the **ISO Technical Committee 224**. So far we have successfully argued for the development and application of standards for non-connected services and intermediate, non-integrated technology. One other position which we have advanced in that discussion, with success so far, is that of 'implicit contracts', not dependent on a written document agreed between consumer and provider. The draft standard covers public consultation including the possibility of public rate hearings, and its introduction also makes reference to access to water and sanitation as a human right.

General Agreement on Public Services

As part of our trade programmes in 16 countries we are also covering trade in services, among which utilities will be prominent. As part of that programme we are exploring the idea of a General Agreement on Public Services as a counterpoint to the General Agreement on Trade in Services (GATS) which

we see as poorly drafted and ignoring consumers. But we are very much in favour in principle of multilateral codification of good practice in international investment in utilities.

As the World Bank has pointed out, private sector investment in water and power has been declining since about 1996. This suggests that it is less and less attractive for the private sector as does the withdrawal of some of the companies from their contracts, (or their renegotiation). And yet many of our members have been extremely critical of the activities of multinational companies and feel that they have had terms which have either been too lucrative or too easy for them to avoid their obligations. Our members in **Argentina** for example, has asked for one contract at least, to be discontinued. There needs to be a balance between the need to raise investment capital on the one hand and the needs of consumers on the other, including especially those who are not yet connected to a service.

We hope that we will be able to draw upon the work done by others to develop a set of consumer rights which can be more or less generally applied. We are starting work on a GAPS and we have already commented on the draft code recently prepared by **Swiss Re** in cooperation with the Swiss Development agency. While we had some criticisms of the specific points we support the idea of such a code even if limited to a kind of self regulation. Such multilateral agreements are needed if we are to avoid what we describe as the 'false liberalisations' of the past. These were characterised by under-regulated foreign owned monopolies replacing under-performing state monopolies.

Global Water Scoping Process

We are members of the small Steering Committee of the Scoping Process on Private Sector Participation in water funded by the **German development agency GTZ** and which has just released its report. The Steering Committee, although small, included members from a wide range of stakeholders including providers, (private and public), trade unions, environment and consumers, and from five continents. The Scoping Process was essentially a preliminary review to see if there was a case for a full review. Its report supports the idea of a full review of PSP in water, although not necessarily in quite the same format as earlier reviews such as the World Commission on Dams. The initial reaction of the Bank to a full review seemed to be that it would rerun old arguments. There is some truth in that but the old arguments are being rerun anyway, whether we like it or not, and for many consumers they are not that old. Indeed the scoping exercise found that the closer to the actual operational level the stronger the view was held that a Review would be useful. So one could equally see a Review as paving the way for new ideas. There will be a conference in Berlin in June to decide further action and possible funding.

More generally, the Bank seems to have adapted its position on PSP judging from Jamal Saghir's comments at the World Water week here in Washington

in February, where he made clear that the Bank did not have a prejudice against public sector provision *per se*. We welcome this. In our World Consumer Rights Day pack we explained for our members that the whole spectrum of PSP ranges from the relatively rare transfer of assets through concession and lease contracts to 'traditional' contracts in municipal sectors. The public perception is far more black and white. For example it comes as a surprise to many of our members to learn that municipal companies have extensive PSP operations within them, accounting for example for 73% of turnover in Stockholm, and the greater part of the revenue in Porto Alegre to take but two well known municipal models. Many Northern consumer bodies are unaware that much water in the South is provided by private micro-operators, the vendors. So there is still considerable need for information in public debate on these issues. In our forthcoming work, we hope to examine the case for new models of ownership for countries as diverse as **Kenya, Wales** and **Finland**, such as mutual ownership, public-public partnerships, as well as variants of PSP which are currently being so extensively studied by the Bank.

We have one further observation on the Bank's policy. It is reported to us that the open minded approach to ownership which the Bank has expressed recently, is not matched by its negotiations in national situations. We are not party to the detail of these discussions of course but the issue is doubtless bound up with the difficult question of conditionality. We recognise that any lending institution will require conditions to ensure that the loan can be repaid. This raises serious questions pertaining to cost recovery for which there is not a fixed answer. But our position should be that, providing that guarantees of repayment can be given through whatever mix of taxpayer and consumer payment, then the question of ownership is one for national governments. In other words we believe that there are limits to conditionality, and it should be applied in a fashion which is neutral regarding ownership. As our policy statement makes clear we do not have a fixed view of ownership, and we have encountered positive and negative experiences across the spectrum.

Doubtless these discussion will continue as our Council in January voted for water as one of its major campaigning priorities. The pressure for this priority commitment came from our membership, so we have no doubt about the importance of this subject in the consciousness of consumers world wide.

Energy

Most of this discussion has revolved around water rather than energy as it does among our members with the possible exception of the FSU. Our work on energy is still at the level of either national case studies or very general principles on public utilities. The same is probably true of public debate if only because energy tends to raise much more difficult technical issues due to the particular properties of electricity. There is a need for synthesis if this vital subject is not to be neglected.

Consumer analysis in electricity so far has tended to follow a classical consumer analysis which consists of separating the competitive parts from the non-competitive. So the 'unbundling' advocated by the European Commission has held sway not only in Europe but in many other countries where European companies operate. Our European members, while critical of particular aspects of these reforms have nevertheless seen the price reductions that have followed and been generally supportive.

Yet where competition has been introduced there has in due course been a swing back to consolidation and vertical re-integration such as is now taking place in **Britain** and **Germany**. Meanwhile foreign investors in developing countries are walking away from their involvements such as has happened in **Brazil** and **South Africa**. Indeed there would have been further withdrawals from Brazil were it not for the involvement of the National Development Bank in December 2003. As in water, global private investment is going down. As an example of the poor fortunes of international investment, the only one of a large number of overseas holdings that returned a profit in 2002 to *Electricite de France*, the world's largest electricity company, was London Electricity. So crude market incentives do not seem to be working to attract new investment. The major need in the developing world is for more investment, not from acquisition of existing assets but from 'new build'. Such new investment can be obtained on a contractual basis without having to turn over the whole sector to private ownership.

Apart from the issue of public or private ownership, the question of policy that we wish to put is: Is unbundling actually realistic, does electricity move inexorably back towards vertical integration? Indeed should we be reconciled to this as a means of ensuring that the generators have some commitment to the final consumer? At the moment there seems to be emerging a conflict between short run price competition and longer term security of supply.

We believe that given these uncertainties, the need for regulation will continue due to the particular characteristics of electricity. Transmission and local distribution are natural monopolies anyway, while in generation, the non-storability of the product maximises opportunities for abuse of market power. We do not belong then to the school of thought that envisages treating electricity like any other consumer product, and subjecting it only to fair trading legislation. A more hands on approach is needed.