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AT 26/11
WJH

HOUSE OF LORDS,
SW1A 0PW

26 November 1984

REVIEW OF LEGISLATION ON FALSE
AND MISLEADING PRICE INFORMATION

My dear Ken,

In view of tomorrow's meeting of E(A) Committee, which, though in theory restricted to discussion of proposals on the safety of goods, may well touch on wider aspects of consumer law, I am writing to answer some of the points which you took in your letter of 19th November to Michael Lucas. You had reservations about a number of the proposals in my letter to him of 9th November on ways in which the law could more effectively safeguard the interests of consumers.

I accept that the criminal law has an important part to play in consumer protection arrangements, but my concern is that it should not be our only weapon against suppliers or traders who consistently fail to meet required standards. Furthermore, I believe it would be undesirable in practice to place additional burdens on the Crown Court. Even if only a small proportion of defendants elect for trial on indictment, this will significantly increase the workload of the Crown Court, inevitably resulting in an increase in the number of persons remanded in custody, and in the length of time for which they await trial for totally different offences.

In order to protect the consumer more effectively, and in particular to prevent a recurrence of objectionable trading practices, I envisage the criminal law as having a limited application. Breach of the relevant duty, properly defined, would give rise to a summary offence, and responsibility for the prosecution of those offences would remain with local authorities. I have no reason to believe

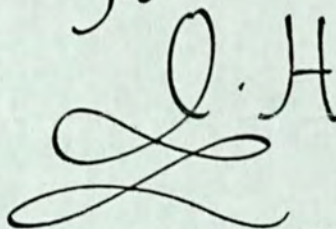
The Right Honourable
The Lord Cameron of Lochbroom, Q.C.,
Lord Advocate's Department,
Fielden House,
Great College Street, S.W.1.

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that the powers of magistrates' courts to award criminal compensation would be insufficient to provide an adequate measure of redress in the great majority of cases involving complaints by consumers. Nor, in the generality of cases, do I believe that the sanctions available to magistrates, at least in the first instance, are insufficient to penalise defendants.

However, to deal with consistent and repeated offences the criminal law should be backed up by the injunctive relief available to the civil courts. The detailed operation of such a scheme would obviously be a matter for careful consideration. I entirely take your point that relator actions would not be appropriate in Scotland, but that is a matter of detail rather than of principle. So long as you agreed with the principle, it would I presume be possible to find in each of the law districts an individual who could protect the public by applying for civil relief. Indeed, as I mentioned in my earlier letter ^(both of us) we already have such an individual in the shape of the Director General of Fair Trading, who already has considerable power under Part III of the Fair Trading Act 1973, which extends to the whole of the United Kingdom.

I am copying this letter to colleagues on H and E(A) Committees, Michael Havers and to Sir Robert Armstrong.

Yrs:


From: THE RT. HON. LORD HAILSHAM
OF ST. MARYLEBONE, CH, FRS, DCL.

6 NOV 1984

