Christian Kleinschmidt

Comparative Consumer Product Testing in Germany

The introduction of comparative product testing in Germany reflected the rise of a mass consumer society within a rapidly changing market economy. The first proposal to establish a federally supported institute for product testing was made in 1957. Proponents wished to reduce the asymmetries of power and information between producers and consumers. Producers' initial opposition was overcome once federal legislation was passed and they recognized that the institute's work gave them an opportunity to use the test results in their corporate marketing and advertising strategies. By integrating state-regulated consumer protection into the social-market economy, the Stiftung Warentest, Germany's independent product-testing foundation, became an expression of both the emerging modern consumer society and the German corporatist model.

In the mid-1950s, organizations dedicated to consumer protection were established in many states in Western Europe and in Japan. These were often modeled on similar organizations in the United States, whose tradition of consumer protection reached back to the late nineteenth century. In the American case, the state's involvement had been discernible early, as in, for example, the passage of the Pure Food and Drug Act in 1906. The United States also pioneered product testing, as exemplified by its establishment of the Food and Drug Administration, in 1927, within the U.S. Department of Agriculture. As early as the 1920s, Consumers' Research, Inc., a private company, was conducting product tests. Consumers Union, an independent, nonprofit organization, followed in 1936, and by the 1960s it had 850,000 members. In

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addition to private initiatives, the state advanced consumerism, which blossomed during the 1950s and 1960s. In 1962, for example, President John F. Kennedy delivered to Congress a speech entitled "Special Message on Protecting the Consumer Interest." In response to the president's appeal, the Consumer Advisory Council implemented a program that focused on four basic consumer rights: the right to product safety, the right to obtain information about products, the right to gain access to products and services, and the right to be heard. In other words, the capitalistic democracy of the United States promoted a form of consumer protection in which both private and state organizations performed crucial roles. Social scientist Gunnar Trumbull summed up the situation this way: "Consumer protection regimes did not replicate national production regimes."[1]

The concept of consumer protection developed haphazardly in the industrial countries of the West. Just as there were "varieties of capitalism," so there were also "national varieties of consumerism," although the two categories did not necessarily correspond. Again according to Trumbull, unlike in the United States, production regimes corresponded to patterns of national consumption in France, Great Britain, and Scandinavia. Sweden, for one, showed a high degree of commitment to product safety in 1951, when it established the Committee for Product Labeling. A few years later, in 1957, the Swedish government supported the fusion of Aktiv Hushallning, the state information agency, with Hemmens forskningsinstitut, the private home-economics research institute, and oversaw the transformation of a formerly private domestic-arts association into the Institute for Consumer Issues.[2] Business, private-sector organizations, and trade unions also participated in this corporatist enterprise.

Britain's approach to consumer protection is more difficult to categorize than Sweden's. The Molony Committee on Consumer Protection, founded in 1959, the Consumers' Association, and other nonprofit, corporate, and government organizations contained elements of a pluralistic, corporatist, and centralized "consumer-protection regime."[3] Britain passed a Consumer Protection Act in 1961. The situation in France was similar. In contrast to the largely state-centered world of French politics, consumer interests were characterized by institutional pluralism and diversity. The Union fédérale des consommateurs (UFC) was formed in

[1] Gunnar Trumbull, "National Varieties of Consumerism," *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook* 1 (2006): 77–93, 92.

[2] Iselin Theien, "From Information to Protection: Consumer Politics in Norway and Sweden in the 1960s and 1970s," *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook* 1 (2006): 29–43, 30, 34.

[3] Matthew Hilton, "Consumer Protection in the United Kingdom," *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook* 1 (2006): 45–60, 58.

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1951 and, in 1962, began to publish *Que Choisir*, a magazine that provided consumers with product information. The UFC was set up by the French ministries of finance and trade following the return from the United States of a study group that had been recruited to investigate the American consumer movement. In 1959, the trade unions set up the Organisation générale des consommateurs (ORGECO) as a nongovernment organization with its own product-testing publication. Finally, the Institut national de la consommation, founded in 1966, also performed comparative product testing that was commissioned by both public and private organizations.[4]

The Federal Republic of Germany did not have a long tradition of consumer protection in either private business or government bureaucracies. Trumbull points out that the national consumption and production regimes in West Germany operated separately, beginning in the early 1960s.[5] Unlike the United States, in the postwar period West Germany had little experience of consumer protection in the form of either grassroots movements or state and private institutions, which made it difficult for the country to establish effective consumer protection and comparative product testing. Although a broad social consensus in favor of consumer protection existed after 1945, opposition from industry delayed the development of independent product testing, preventing it from becoming standard practice for another two decades. The first attempts to establish a private organization for product testing in the 1950s failed, but, by 1964, state funding and administrative support facilitated the permanent establishment of a national institute for product testing in West Germany. Important positions within this new institute were held not only by consumer advocates (some nominated by trade unions), but also by representatives from trade and industry, cooperatives, and the credit industry. In this way, consumer information and protection in Germany followed the German corporatist model.

For both consumers and industry, consumption entails learning that is dictated by changes in institutional constellations and in the economic, political, and social frameworks. On the consumer side, learning requires access to information. Yet West German manufacturers kept information in short supply. A wide range of new products was available to the nation's consumers, but, in contrast to American customers, they had only a few channels for obtaining unbiased evaluations of these items. A modern approach to consumer protection had not yet evolved

[4] Gunnar Trumbull, *Consumer Capitalism: Politics, Product Markets, and Firm Strategy in France and Germany* (Ithaca, 2006), 49–52; Stefan Mitropoulos, *Verbraucherpolitik in der Marktwirtschaft. Konzeptionen udn internationale Erfahrungen* (Berlin, 1997), 216, 229–33.

[5] Trumbull, "National Varieties of Consumerism," 92.

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to replace the traditional, paternalistic, inadequate form of protection once provided by the state. It therefore became imperative to create an independent authority that could supply sophisticated consumers with reliable information about the new products that were flooding the West German market. The German government first proposed establishing an institute for comparative product testing in 1957, but producers feared that such an operation would distort market competition. Many manufacturers initially objected to the creation of an independent test institute, and they filed lawsuits that generated lengthy debates and heated arguments among those involved: consumers, manufacturers, the state, and the courts. These exchanges not only delayed the emergence of an institute for comparative product testing; they also enabled manufacturers to learn how to handle institutions that provided consumer information. The manufacturers came to terms with the legal verdict on the practice of comparative product testing, and even exploited testing to their own advantage. In this essay, I will examine the process by which comparative product testing became standard practice in the Federal Republic and will trace the reactions of the consumer-goods industry to this development.

Product Testing, Consumers, and Consumer Society

Recent research has determined that a modern mass-consumer society did not become evident in Germany until the second half of the 1950s. Historian John Brewer lists six characteristics that define such a society:

1. Availability of a broad range of products.
2. Communication systems that attach meaningful images to certain goods.
3. A shared recognition of commodities as conveyors of meaning.
4. An emphasis on leisure.
5. The emergence of consumers as economic players.
6. Ambivalence of citizens toward the phenomenon of consumption.[6]

[6] John Brewer, "Was können wir aus der Geschichte der frühen Neuzeit für die moderne Konsumgesellschaft lernen?" in *Europäische Konsumgeschichte: Zur Gesellschafts- und Kulturgeschichte des Konsums (18. bis 20. Jahrhundert)*, ed. Hannes Siegrist, Hartmut Kaelble, and Jürgen Kocka (Frankfurt, 1997), 52–56. On the history of consumption, see also John Brewer and Roy Porter, eds., *Consumption and the World of Goods* (London, 1993); Neil McKendrick, John Brewer, and J. H. Plumb, *The Birth of a Consumer Society: The Commercialisation of Eighteenth-Century England* (London, 1982). For the German case after 1945, see David F. Crew, *Consuming Germany in the Cold War* (Oxford, 2004); Arne Andersen, *Der Traum vom guten Leben: Alltags- und Konsumgeschichte vom Wirtschaftswunder bis heute* (Frankfurt, 1997).

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Michael Wildt concurs with Brewer's analysis in his study of the low, but growing, level of affluence and increasing availability of household consumer goods in the early Federal Republic.[7] He notes that access to durable consumer goods, such as electric appliances for domestic use, is an important factor in the evolution of a consumer society. Although there were isolated references to the use of household appliances in historical records of imperial Germany, the Weimar Republic, and the Third Reich, it would be misleading to describe Germany as a consumer society prior to the mid-twentieth century—especially in contrast to the United States, which had developed a mass market by then. In Germany, the 1920s and the interwar years constituted an introductory market phase, serving as a foundation for the later spread of household appliances throughout the Federal Republic.[8] However, the historian Wolfgang König points out that the National Socialists' failure to create a consumer society became apparent when the discrepancy between their propaganda and the actual number of appliances in German homes became apparent in the 1930s.[9] A wave of consumer buying first emerged in the Federal Republic after World War II, and a second—larger—surge, the "household-appliance wave," occurred in the mid-fifties.[10] In the latter period, there was a shift in household expenditures from basic necessities to durable consumer goods, particularly in wealthier households, which participated in mass-market consumerism ten to fifteen years before households whose incomes were lower.[11] A closer look reveals that, by 1960, only about every third household possessed an electric oven or a refrigerator. Not until the late 1960s, or even the early 1970s, were these and other basic household appliances found in more than 50 percent of German households.

The second half of the 1950s nevertheless marks the acceleration of consumer society, or what could be described as the "industrialization" of Western European households. Of course, there were differences between countries in the speed at which refrigerators, electric ovens, washing machines, and cars became commonplace in Europe, but, as a

[7] Michael Wildt, *Vom kleinen Wohlstand: Eine Konsumgeschichte der fünfziger Jahre* (Frankfurt, 1996).

[8] Martina Heßler, "Die Einführung elektrischer Haushaltsgeräte in der Zwischenkriegszeit—Der Angebotspush der Produzenten und die Reaktion der Konsumenten," *Technikgeschichte* 65 (1998): 297–311, 308.

[9] Wolfgang König, *Volkswagen, Volksempfänger, Volksgemeinschaft: 'Volksprodukte' im Dritten Reich: Vom Scheitern einer nationalsozialistischen Konsumgesellschaft* (Paderborn, 2004).

[10] On the topic of "consumer waves," see Andersen, *Der Traum vom guten Leben*, 91–125.

[11] Alfred Reckendrees, "Konsummuster im Wandel. Haushaltsbudgets und privater Verbrauch in der Bundesrepublik, 1952–1998," *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook* 2 (2007): 29–61.

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Table 1
Percentages of Appliances in the FRG per 100 households, 1953–1960

Type	*1953*	*1955*	*1957*	*1959*	*1960*
Electric ovens	18	23	28	35	36
Refrigerators	2	7	13	23	32
Washing machines	9	12	16	22	25
Small electric heating appliances	—	4	9	14	15
Hot-water heaters	33	40	47	54	61
Large electric heating appliances	3	4	6	9	11
Room heaters	19	21	23	27	27

Source: Wolfgang Zängl, *Deutschlands Strom: Die Politik der Elektrifizierung von 1866 bis heute* (Frankfurt and New York, 1989), 247.

general observation, it is fair to say that mass consumer society emerged on the continent and in Great Britain during the late 1950s or early 1960s. (See Table 1.)

During this period of expansion, a broad range of "household machinery" was installed in German homes.[12] Increasingly, private households were becoming sites of production, information, and household-appliance technology. By making decisions about consumer items, they even behaved in a somewhat entrepreneurial manner.[13] But they were operating in an environment in which they were equipped with incomplete knowledge, which created a strong desire for relevant, reliable information. The rules of a mass-market economy, especially those applying to consumer goods, had to be learned during this initial phase. (See Table 2.)

Sociological research has called into question assumptions that consumers do not have to understand technology in order to use it, or else that they will eventually incorporate it into their everyday lives after repeated use. The idea that technology will be treated as an ordinary matter in daily life or that designs will become foolproof has also been questioned.[14] Equally dubious, however, is the assumption that consumers will reject new technologies that are challenging or that require them to develop new skills.[15]

More recent research shows that the purchase of household tech-

[12] Ingo Braun, *Technik-Spiralen: Vergleichende Studien zur Technik im Alltag* (Berlin, 1993), 15.

[13] Berndt Tschammer-Osten, *Haushaltswissenschaft. Einführung in die Betriebswirtschaftslehre des privaten Haushalts* (Stuttgart, 1979).

[14] Weingart, *Differenzierung der Technik*, 151; Hörning, *Technik im Alltag*, 85.

[15] Joerges, *Gerätetechnik und Alltagshandeln*, 25.

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Table 2
Refrigerators and Washing Machines in the FRG per 100 households, 1950–1960

	1950		1955		1960	
Country	*Refrig-erator*	*Washing Machine*	*Refrig-erator*	*Washing Machine*	*Refrig-erator*	*Washing Machine*
Germany	—	—	10	11	41	29
France	4	3	11	11	27	26
Great Britain	4	—	9	20	24	41
United States	—	—	94	84	98	95

Source: Sabine Haustein, *Vom Mangel zum Massenkonsum: Deutschland, Frankreich und Großbritannien im Vergleich 1945–1970* (Frankfurt, 2007), 98.

nology has always required an investment of both time and money. Consumers of "experience goods"—the full value of which becomes clear only after use—must therefore apply a trial-and-error method to such goods and learn through their experience in the marketplace.[16] After the mid-fifties, households no longer limited themselves to new washing machines or vacuum cleaners, but began to purchase a wide range of machinery: cars, sewing machines, hot-water heaters, televisions, toasters, hand mixers, blenders, and power tools, to name only a few household items.

At the same time, retail structures and financial tools for purchasing consumer goods were changing. Self-service stores and supermarkets began to appear in the Federal Republic during the 1950s and were soon followed by American-style "cash-and-carry" stores and shopping centers that introduced German consumers to American marketing strategies and advertising methods.[17] In this period, there was also an increase in credit and installment plans that encouraged consumption and broadened consumer options.[18] In sum, these phenomena led to a flood of rapidly changing data on products, prices, quality, conditions, and supply sources, all relevant to consumer choice and reinforcing of a new learning process. Studies of consumers' behavior in the 1970s

[16] Kuhlmann, *Verbraucherpolitik*, 48.

[17] Christian Kleinschmidt, *Der produktive Blick: Wahrnehmung amerikanischer und japanischer management- und Produktionsmethoden durch deutsche Unternehmer 1950–1985* (Berlin, 2002), 221–59.

[18] Karl-Peter Ellerbrock, "Konsumentenkredit und Soziale Marktwirtschaft: Zum Wandel des Sparkassenbildes und des geschäftspolitischen Denkens in der Sparkassenorganisation zwischen Währungsreform und dem Beginn der 'Marketing-Ära' in den 1970er Jahren," in *Marketing: Historische Aspekte der Wettbewerbs- und Absatzpolitik*, ed. Christian Kleinschmidt and Florian Triebel (Essen, 2004), 105–33.

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showed that, in certain market situations, a surfeit of details on multiple brands of varying prices, quality, and design hindered the ability of consumers to make purchasing decisions. In one study, subjects presented with up to seventy-two units of information found it difficult to remember more than twenty-four. Researchers ascribed this effect to the limitations of short-term memory.[19]

Being presented with both too little and too much information makes it difficult for consumers to make decisions. In the 1950s, even when it was available, there was not enough information about how to use the new mass consumer goods safely and efficiently. Lack of information was also a problem for producers. Because the field of market research had not yet been established, producers had few ways to recognize, anticipate, or discern patterns in consumer behavior.[20] In addition, price-fixing on many products prevented consumers from using their "entrepreneurial skills" when shopping for goods.[21]

Thus, the average consumer had few options and not enough information to make informed decisions.[22] The national government tackled this deficit by creating a new institution for product testing: the Stiftung Warentest (the Product-Testing Foundation). The idea, first proposed in 1957, reflected the emergence of a mass consumer society in both the Federal Republic and throughout Europe. Similar institutions were established in other European states: the Consumers' Association of Great Britain (1957); the Swedish organizations Aktiv Hushallning and the Hemmens forskningsinstitut (both in 1957); and France's Comité national de la consommation (1960). In West Germany, however, setting up an institute for comparative product testing was so controversial that its establishment was delayed until 1964. Since the state and the courts encouraged the project by providing development aid, it was not the particular form of West German consumer society that blocked the creation of an institution for consumer protection or an independent agency for product testing. Rather, the process was stalled by competing political agendas and resistance from manufacturers.

Product Testing and the State

By the early 1950s, a proposal to institutionalize consumer protection and to improve consumer information was already circulating within

[19] Franz-Josef Albrecht, *Konsumerismus und Konsumenteninformation* (Zurich, 1979), 151.

[20] Hermann van Bömmel, *Konsumentensouveränität* (Marburg, 2003), 72.

[21] Josef Reindl, *Wachstum und Wettbewerb in den Wirtschaftswunderjahren: Die elektrotechnische Industrie in der Bundesrepublik Deutschland und in Großbritannien 1945–1967* (Paderborn, 2001), 228–30; Schröter, *Konsumpolitik*, 124.

[22] See Albrecht, *Konsumerismus und Konsumenteninformation*, 149–52.

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the Ministry of Trade and Commerce under the permanent secretary, Alfred Müller-Armack. In 1952, Müller-Armack had recommended the introduction of a consumer quality label, but he faced opposition from manufacturers. Another five years passed before concrete plans for the Stiftung Warentest were formulated, and another seven went by before the plans were implemented, in 1964.[23]

The practice of comparative product testing was not itself new. The German Agricultural Society (Deutsche Landwirtschaftsgesellschaft e.V., or DLG) had begun product testing in 1887 and can thus be described as "the oldest test institution in the Federal Republic."[24] The authors of the first Michelin travel guides, launched before World War I, also qualified as early product testers by making recommendations based on comparative testing of hotels and restaurants. Other private clubs and associations adopted this model: the Test Institute for Home Economics within the German Women's Association, established in 1925, tested household appliances; the German Automobile Club (ADAC) began testing cars in 1926; and two magazines written for motorbike and car enthusiasts, *Das Motorrad* and *Das Auto*, started publishing test results that were neither objective nor independent in 1934 and 1946, respectively.

In 1961, the Union of Consumer Associations (Arbeitsgemeinschaft der Verbraucherverbände, or AgV), which included organizations for housewives, tenants, and workers' welfare, among others, published the results of the first comparative product tests of laundry detergent and household appliances. With financial support from the federal union of middle-sized and large companies (Bundesarbeitsgemeinschaft der Mittel- und Großbetriebe), a center was set up that conducted eight categories of tests. By mid-1963, these tests were being applied to 155 different brands. Opposition came from the Union of Brands (Markenverband) and from business representatives, who doubted the institute's neutrality. Since funding for future tests was uncertain and the public response was minimal, subsequent efforts were not pursued. In addition, by the time they were published, the test results were already technically out-of-date, a factor that provoked a barrage of criticism from industry.

The first German magazine on product testing, *DM*, was published in 1961 and soon had a circulation of seven hundred thousand copies. While it adopted a format similar to that of the American magazine *Consumer Reports*, the *DM* testers used questionable methods and issued

[23] Hans-Dieter Lösenbeck, *Stiftung Warentest im Rückblick* (Berlin, 2002), 6.

[24] Peter Ditgen, *Der vergleichende Warentest als Instrument der Verbraucherinformation* (PhD diss., Cologne, 1966), 66–68; Hartwig Piepenbrock, "Einführung," in *Vergleichender Warentest. Testpraxis, Testwerbung, Rechtsprechung*, ed. Norbert Horn and Hartwig Piepenbrock (Landsberg, 1986), 11.

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their reports in a sensational, sometimes polemical, style. Moreover, the magazine's reliance on advertising revenues cast doubt on its independence. Industry leaders criticized this as a conflict of interest and aggressively objected to the *DM* tests. Following a court battle with the Volkswagen group, the magazine was sold by the publisher, Waldemar Schweizer.[25]

When private groups were unable to sustain these initiatives, the government began to discuss the idea of setting up a federally supported institute for product testing. The year 1957 represented a number of turning points for Germany in socioeconomic terms: the reform of state pensions; the formation of the European Economic Community (EEC); the shock caused by the U.S.S.R.'s launch of Sputnik, which led to a debate about technology and education; the establishment of a scientific council and the launch of the first German nuclear program, and the formation of the European Atomic Energy Community (Euratom). Joachim Radkau has argued that 1957 was a decisive year for technological progress in Germany, as it heralded a new era in which "technical innovation attracted growing attention."[26] The year was also critical in economic terms, as it saw legislation introduced against restraints on trade (the Gesetz gegen Wettbewerbsbeschränkungen, or GWB). Thus, 1957 was a year in which economic and technological policies were shaped in a manner that had long-term consequences for the economic order of the Federal Republic.

Seven years after these pivotal developments, the Stiftung Warentest was formally established. Ludwig Erhard, then minister for trade and commerce, charged the secretary of consumer affairs with exploring the legal framework that would be required for an independent product-testing institute. Erhard did not personally favor national product testing, nor did he back a sharply defined consumer policy. Instead, he advocated a "social market economy" that would provide "as much freedom as possible, as little regulation as necessary," one in which the chief regulating factors were supply and demand. However, opinions on consumer protection and product testing were not always consistent within the Christian Democratic Union (CDU), which was the governing party at the time. While the minister of finance, Rolf Dahlgrün, believed that such testing was as yet neither effective nor valuable, the new minister for economic affairs, Kurt Schmücker, and the trade and commerce minister, Müller-Armack, both endorsed the cre-

[25] Günter Silberer, *Warentest, Informationsmarketing, Verbraucherverhalten* (Berlin, 1977), 62; Piepenbrock, *Einführung*, 10; Lösenbeck, *Stiftung Warentest*, 11; Trumbull, *Consumer Capitalism*, 104–5.

[26] Joachim Radkau, *Technik in Deutschland: Vom 18. Jahrhundert bis zur Gegenwart* (Frankfurt, 1989), 314.

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ation of an institute for product testing. Even though the opposition Social Democratic Party demanded a different legal form for the institute and asked that financial support for it be earmarked in the federal budget, they were generally in favor of such an institution, which could thus count on the support of a "big coalition."[27]

Customer protection had by then come to be viewed as a political responsibility. This shift in perspective may not seem as spectacular as the foundation of the EEC, the introduction of antitrust laws, or the regulation of nuclear technology, but, as an indication of the emergence of a consumer society and of the transition from a seller's to a buyer's market, in its own way it marked the beginning of a new era. Nor was it a coincidence that efforts to establish a state agency for product testing accompanied legislation on competition. On the contrary, state-sponsored customer protection represented a complementary policy on economic affairs and technology, and it became a cornerstone of the "social market economy." Although modest in financial terms, the influence of consumer-protection laws on the behavior of customers and manufacturers was considerable.

Industrial representatives were skeptical about the value of a national institute for product testing, preferring to emphasize advertising and the establishment of norms and standards as proper means of ensuring quality and protecting customers. For their part, government officials were cautious about agreeing to defend such an institute against possible legal challenges, as they questioned whether its activities might conflict with existing laws against unfair trading practices or other national legislation or whether it represented interference with current business activity. These legal considerations and parliamentary deliberations delayed matters until 1962, when the government finally announced that the institute would be established. Another two years would pass before the Bundestag launched the Stiftung Warentest as a private foundation in December 1964. Its legal status was a consequence of the failure of earlier private testing agencies, and statutory provision was made for various regulatory controls. A five-member honorary board headed by a managing director was appointed to oversee its activities, alongside an advisory committee comprising fifteen to twenty manufacturers, producers, and representatives from trade unions, the credit industry, and consumer groups. A fifteen-member committee, which was formed to handle economic and consumer questions, also had an advisory function and was composed of representatives from both industry and consumer-advocacy groups. The Warentest's complicated

[27] Ditgen, *Warentest*, 68; Harm Schröter, "Konsumpolitik und 'Soziale Marktwirtschaft,'" in *Konsumpolitik*, ed. Hartmut Berghoff (Gottingen, 1999), 113, 128; Lösenbeck, *Stiftung Warentest*, 10.

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organizational structure, which was simplified a few years later, reflected its corporate nature as a body set up by the state yet reliant on the cooperation of various interest groups.

The testing procedure was correspondingly lengthy and complicated. The board presented the committee with a choice of possible investigative methods and a list of products to be tested. Next, a schedule was drawn up, followed by market analysis and a roster of manufacturers selected according to set criteria. Then the testing program and technical procedures were finalized. Finally, the manufacturers of the products slated for testing were given an opportunity to comment on the procedure before testing commenced.

The road map for product testing represented a corporatist model of consumer information that took into account the state, industry, unions, and associations. Unlike their counterparts in Sweden, German trade unions paid little attention to the cause of consumer protection, preferring to concentrate on improving their members' wages and working conditions.[28]

Initially, the Bundestag allocated 400,000 DM to the Stiftung Warentest during fiscal year 1964, and then authorized grants of 2 million DM and later 4 million DM after 1965. The intent of this support was to make the foundation financially independent. After the 1960s, however, public funding increased, and, by the end of the 1980s, it had risen to 13 million DM.[29] Although, as a private foundation, the Stiftung Warentest was never meant to be a government agency for product testing, the allocation of public funds ensured that its relations with the state remained close.[30]

Product Testing and the Courts

The courts played a crucial role in the founding of the Stiftung Warentest. During the exploratory phase, before the institute was established, the government had addressed the legal questions raised by its proposal in order to confront and eliminate industry's opposition. Manufacturers had already initiated legal proceedings against the product testing commissioned by *DM*, but three pioneering court verdicts upheld the legitimacy of comparative product testing, thereby substantially broadening the field of consumer protection.[31]

[28] Konstantin Simitis, *Verbraucherschutz—Schlagwort oder Rechtsprinzip?* (Baden-Baden, 1976), 146; Kuhlmann, *Verbraucherpolitik*, 349.

[29] Lösenbeck, *Stiftung Warentest*, 26, 149, 197.

[30] Ibid., 14.

[31] For details of important court cases, see Norbert Horn, "'Der vergleichende Warentest im Spiegel der Rechtsprechung,'" 67–90; and Norbert Horn and Carola Staudenmeyer, "Rechtsprechungsübersicht," 91–169, in *Vergleichender Warentest*, ed. Horn and Piepenbrock.

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The problem, in simple terms, was that comparative product testing had no legal standing in the Federal Republic. Bearing on the situation were statutory regulations in civil law on the liability for wrongful acts (torts) and laws against unfair trade practices ("Gesetz gegen den unlauteren Wettbewerb," or UWG), which were applied in the context of constitutional guarantees of freedom of the press and of opinion.

In 1962, the district court in Dusseldorf ruled that comparative product tests performed for the magazine *DM* were legal as long as the testers were qualified and impartial and their methods were objective. Moreover, it ruled that criticism of products and services in print was permissible, despite any negative consequences it might have for producers. This verdict was remarkable, insofar as it marked a reversal of earlier rulings that had uniformly denied the legitimacy of comparative product testing. It thus cleared the way for the government to continue its efforts to set up a product-testing institute. But even though, in theory, the organizational structure of the institute was designed to encourage cooperation, in reality, individual manufacturers or dealers—especially when faced with negative test results—were not prevented from mounting challenges to the institute in court and contesting the publication of particular results. In practice, problems cropped up with comparative testing procedures, as they still do. The difficulties could involve the choice of products to be tested or the exclusion of particular brands. The rate at which certain products were developed meant that test results were already out-of-date by the time they were published. The weighting of test criteria was also frequently criticized.

Small and medium-sized companies often felt that product testing put them at a disadvantage vis-à-vis larger firms. One of the earliest lawsuits filed against the institute was brought by the owner of a small butcher shop in 1966. The butcher disputed the right of the Stiftung Warentest to test meat products and questioned its methods. A leading German manufacturer of ski equipment also fought against the publication of test results. Producers of all kinds—large, medium, and small, domestic and foreign—turned to the courts. They cast doubt on the testers' neutrality and made accusations about faulty methodologies, unsatisfactory test conditions, distortion of results, and unqualified personnel.[32] Between 1964, the year of the Stiftung Warentest's founding, and the end of the twentieth century, manufacturers took legal action in about one hundred cases. Some of the cases were referred to the Federal Supreme Court. The main points of conflict entailed rights defined in article five of the basic constitutional law regarding freedom of the press, freedom of opinion, and the right to conduct business.

[32] Horn and Staudenmeyer, "Rechtsprechungsübersicht," in *Vergleichender Warentest*, ed. Horn and Piepenbrock, 91–169.

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The first ruling on product testing was on the "liver-sausage" case brought in 1966 by the butcher, mentioned above, whose liver sausage had been classified as "not recommended." The butcher sought to prevent the magazine that had published this negative rating from performing future tests on his sausages and other products. The Federal Supreme Court ruled decisively that publication of comparative product testing complied with the basic right to freedom of opinion and freedom of the press. The Court held that "commercial traders must also accept a critical evaluation of services when based on the published results of comparative product testing. Such criticism is not an illegal limitation of business just because it is negative and detrimental to the person concerned."[33]

The most important legal case for the Stiftung Warentest during these early years began in 1969 and involved a test on ski safety bindings manufactured by the Marker Company. The case culminated in a spectacular Federal Supreme Court ruling in 1975. Today, this ruling still represents the legal rationale for the work of the Stiftung Warentest. The Marker Company criticized what it considered an unjustified negative evaluation of its products and questioned the criteria used by the Stiftung Warentest. The Court rejected the company's charge and upheld the right to obtain information as a form of consumer protection, citing the right to freedom of opinion and freedom of the press as the basis of its judgment. These freedoms were deemed essential to achieving market transparency, making the case one that concerned not only consumer protection but also economic interest. Nevertheless, the Court emphasized the foundation's statutory rules, which held that all testing must be neutral, that is to say, it must be insulated from the influence of the manufacturers involved and protected from interference by outside competitors. Moreover, the justices pronounced that testing was to be carried out in an objective manner and that the results were to be accurately recorded and published.[34] During the first two decades of its existence, the Stiftung Warentest did not lose a single court case, nor was it compelled to pay compensation in any of approximately fifty legal battles.[35]

The record of these rulings reveals the legal system's strong support for consumer protection in the early 1960s. For their part, producers had to contend not only with economic competition but also with public opinion, which could sharply fluctuate. "Commercial operators

[33] Quoted from Horn and Staudenmeyer, "Rechtsprechungsübersicht," in *Vergleichender Warentest*, ed. Horn and Piepenbrock, 91; also see Lösenbeck, *Stiftung Warentest*, 113.

[34] Piepenbrock, *Einführung*, 10–12; Lösenbeck, *Stiftung Warentest*, 112–17.

[35] Roland Hüttenrauch, "Einige Einflüsse der Rechtsprechung auf die Arbeitsmethodik der Stiftung Warentest," in *Vergleichender Warentest*, ed. Horn and Piepenbrock, 25.

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offering consumers their products for sale must all accept a critical assessment of their quality and value. . . . If products or services are found to be severely lacking, then criticism may be harsh or blunt."[36] The jurist Norbert Horn commented as follows: "Oversensitive traders are superfluous in the fight over public opinion. They need nerves of steel (or must be thick-skinned) given that even (otherwise prohibited) abusive criticism is in some circumstances permissible as the free expression of opinion."[37] In case of doubt, these rulings made it clear that the freedom of the press and of opinion overrode traders' right to conduct business—a right that is not always clearly defined.

Standard product testing at the Stiftung focused on certain areas: textiles, household appliances, audio and video devices, and photographic equipment. Notably, the Stiftung did not carry out testing itself, because the maintenance of laboratories was considered too costly. Instead, specialist institutes in the Federal Republic of Germany and abroad were commissioned to perform product tests, a network that, over time, has come to include more than one hundred laboratories.[38] Gradually, the focus of testing shifted. During the 1970s, the number of personal-hygiene products that were tested increased; in 1974, service testing began and, after 1978, tests related to environmental protection and energy were performed as well.

After 1966, the institute published its test results in the monthly magazine *DER test*. Despite initial success, sales of the magazine dropped before being reenergized in the early 1970s as a result of an intensive advertising campaign in the press and on radio and television. In 1970, the magazine had 100,000 subscribers; five years later, it had three times as many and sold more than 200,000 individual copies in addition. Test results on items like refrigerators, portable radios, and washing machines reached an estimated ten million consumers.[39]

The higher a person's income and educational level, the more likely he or she was to be a reader of *DER test*: 21 percent of university or graduates were readers, compared with only 3 percent of those with an elementary school education and no professional training. In terms of income, only 4 percent of people whose monthly pay was below 1,000 deutschmarks read the publication, compared with 16 percent of readers who earned at least 3,000 deutschmarks per month. In other words, the least affluent consumers, who, on the basis of their limited

[36] Referring to the Federal Supreme Court verdict GruR 57, 360, 363 quoted from Horn, *Der vergleichende Warentest*, 69.

[37] Horn, *Der vergleichende Warentest*, 69.

[38] Lösenbeck, *Stiftung Warentest*, 41.

[39] Stiftung Warentest, *Ein Rückblick*, 18–23; Silberer, *Warentest, Informationsmarketing, Verbraucherverhalten*, 100, table 9.

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purchasing power might be expected to be most concerned with quality and price, were the least likely to seek out information about products.[40]

As test results began to be publicized through other media channels, such as radio and television, the imbalance in use of information among social groups leveled out to a degree, with the result that people with lower incomes and limited education gained more access to the Stiftung Warentest test results.[41]

Product Testing and Industry

How did the business world respond to the success of the Stiftung Warentest, to court rulings, and thus to the restrictions imposed on both corporate affairs and competition as consumer protection gained more of a foothold? Predictably, most companies were hostile to the institution during the first years of its existence, and they resented the new limitations. At the same time, they favored the long tradition of voluntary regulation and the policy of producers themselves supplying product information.

As well as criticizing testing methods and taking legal action against them, manufacturers promulgated the view that consumers were in the best position to obtain reliable product information. The German Federation of Industry (Bundesverband der Deutschen Industrie, or BDI) also believed that consumers "were sufficiently informed through advertising."[42] In the 1960s, however, distrust of advertising grew as the public appeared increasingly unwilling to view it as an instrument of consumer information. Consequently, as the decade wore on, manufacturers turned more often to a form of voluntary self-regulation, which was expressed in product standards and in a reference system of "product information," such as the quality certificates issued by the National Committee for Delivery Conditions (Reichsausschuß für Lieferbedingungen, or RAL).

The long tradition of issuing product standards in German industry can be traced back to the nineteenth century, when large business associations, such as the National Association of Engineers (Verein Deutscher Ingenieure, or VDI) and the National Association of Ironworkers (Verein Deutscher Eisenhüttenleute, or VDEh), responded to industrialization and mass production by adopting voluntary technical rules and safety standards in order to improve relations with consumers.

[40] Albrecht, *Konsumerismus und Konsumenteninformation*, 120, 122.

[41] Günter Silberer and Hans Raffée, eds., *Warentest und Konsument: Nutzung, Wirkungen und Beurteilung des vergleichenden Warentests im Konsumentenbereich* (Frankfurt, 1984), 37.

[42] Stiftung Warentest, *Ein Rückblick*, 9.

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The Committee for Standards in German Industry (called the Normenausschuß der deutschen Industrie from the time of its founding until 1926, when it became the Deutscher Normenausschuß, or DNA) was established in 1917 and, with it, the Deutsche Industrie Norm (or DIN). As historian Wilgart Schuchardt argues, from 1964 onward, "the development of product standards in Germany focused increasingly on extra-technical aspects that would eventually include safety, product quality/consumer protection, and ecological impact. Significantly, during the process of reorientation, these social aspects came to be no longer regarded as secondary and separate from fundamental technical factors, but began to be considered essential in their own right."[43] In Schuchardt's opinion, new legislation and heightened public awareness were important elements of this shift in outlook, in which the growing influence of the Stiftung Warentest had clearly played a part.

Voluntary regulation entailed developing not only quality standards but also standardized product information. Manufacturers agreed that product labels would contain information on size, weight, materials, and proper use, with the aim of "establishing standard, objectively tested and monitored product characteristics and thus [making] comparative product assessment possible."[44] RAL quality certificates were first awarded by the DNA's National Committee for Delivery in 1964. The abbreviation "RAL" can be traced to 1925, when the National Committee for Delivery Conditions (or Reichsausschuß für Lieferbedingungen) was formed and began to cooperate closely with the DNA. RAL's activities represented another example of the strong connection between product standards and consumer orientation. The committee, however, did not offer an alternative to product testing, but instead provided product information and classification and united advocacy groups, government ministries, and test institutes in a kind of voluntary commitment to inform the consumer.[45]

Consumers, however, considered the independent product testing carried out by the Stiftung Warentest far more reliable. Manufacturers also had to face the fact that it was not enough simply to question product-testing methods or to rely on the individual consumers' ability to make rational decisions: instead, they were confronted with the challenge of incorporating comparative product testing into their own marketing strategies in a constructive way. This realization, too, was an indication of a learning process.

[43] Wilgart Schuchardt, "Außertechnische Zielsetzungen und Wertbezüge in der Entwicklung des deutschen technischen Regelwerks" *Technikgeschichte* 46 (1979): 227–44, 236.

[44] Kuhlmann, *Verbraucherpolitik*, 154.

[45] Ibid., 155; Adrian Weser, *Warenkennzeichnung—ein Mittel der Verbraucherinformation* (Göttingen, 1976), 28–29, 117.

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Table 3
Effects of Product Testing on Turnover in Trade and Industry

Effect	*Products Tested*		
	By Manufacturer	*By Specialty Retailers*	*By Department Stores and Bulk Distributors*
Increase in turnover attributed to positive test results (%)	66	46	91
Average duration of increase (in months)	6	4	3
Average increase (%)	23	18	69
Decrease in turnover attributed to negative test results (%)	71	27	82
Average duration of decrease (in months)	7	3	3
Average decrease (%)	35	14	21

Source: Fritz Raffée, "Wettbewerbs- und verbraucherpolitische Konsequenzen vergleichender Warentests," in Norbert Horn and Hartwig Piepenbrock, eds., *Vergleichender Warentest* (Landsberg, 1986), 44.

Companies used product testing in a variety of ways. Research conducted in the 1980s shows that almost 80 percent of producers evaluated the Stiftung Warentest's test results. Over 50 percent incorporated the results into product development, and 78 percent of companies with products selected for testing subsequently used the test results in their advertising and marketing in order to promote sales. Some companies even carried out additional tests themselves. Company size was an important factor: big companies took greater advantage of test results in their product development and marketing, whereas small firms could not afford to mount large advertising and marketing campaigns.[46]

Following publication of positive test results for their products, 66 percent of manufacturers saw an upswing in turnover that lasted an average of six months and represented a sales increase of roughly 23 percent. The increase was even higher for large department stores and bulk distributors. Admittedly, the opposite trend also occurred: products that received negative ratings experienced a drop in turnover. (See Table 3.)

As a result, many producers integrated positive test results into their advertising and marketing strategies, exploiting this proof of quality for their own benefit. Some manufacturers violated fair-trade practices by including only selected or outdated results in their ads or by omitting other significant information, thereby misrepresenting the test

[46] Silberer and Raffée, eds., *Warentest und Unternehmen*, 76, 81, 170.

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results.[47] These distortions undermined truthful consumer information and were countered by a strategy that became known as *social marketing* or *information marketing*, which were American terms coined in the 1970s. The aim of social marketing was to combat the equivocations and distortions of traditional micromarketing by defining an alternative information model, one that would educate customers and reflect contemporary ideas of social responsibility.[48] Producers' selective citing of test recommendations represented the neutralization of reliable consumer information by traditional corporate marketing. In the 1970s, the Stiftung Warentest addressed this problem by publishing *Recommendations on Advertising with Test Results*, in which it offered advertisers guidelines for using test results appropriately.[49]

The Stiftung urged advertisers to publish the entire text of the testing results and advised against publishing excerpts. It also indicated that the most recent test results were to be used, if they were not identical to earlier outcomes. Published test results had to carry the date of the test, and, finally, the quality of the rating had to be recognizable within the distribution of results across the group of tested products. Thus, although manufacturers originally harshly criticized comparative product testing, some resorted to misleading uses of test results in advertising that not only undermined the primary mission of Stiftung Warentest but also provoked the issuance of new measures. This cycle of action, reaction, and renewed action reflects a process of mutual learning that eventually expanded the information available to consumers and increased their freedom of choice. This positive trend was also advanced by the decision of some companies to set up their own consumer-protection departments, which provided opportunities for direct dialogue with the consumer, for corporate product surveys, and for service evaluations. These departments created the option of solving potential conflicts early on, thus serving as a kind of early-warning system.[50] Many channels of information exchange and communication have still not been fully exploited, however. The World Wide Web, for example, which has transformed the fields of marketing and advertising since the 1990s, offers a new channel for reducing information asymmetries between consumers, producers, and the state.

[47] Lösenbeck, *Stiftung Warentest*, 121.

[48] Ursula Hansen and Matthias Bode, *Marketing & Konsum: Theorie und Praxis von der Industrialisierungbis ins 21—Jahrhundert* (Munich, 1999), 137–38; Roland Bubik, *Geschichte der Marketing-Theorie: Historische Einführung in die Marketing-Lehre* (Frankfurt, 1996), 179.

[49] Lösenbeck, *Stiftung Warentest*, 121; Kuhlmann, *Verbraucherpolitik*, 365.

[50] Ursula Hansen, *Verbraucherabteilungen als Frühwarnsysteme*, in *Verbraucherabteilungen in private und öffentlichen Unternehmen*, ed. Ursula Hansen and Ingo Schoenheit (Frankfurt, 1985), 109–31.

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Conclusion

Consumption in the modern era has been and continues to be a learning process—for both consumers and producers. State participation in this process and court rulings on the legality of comparative product testing in Germany have also been critical. The Stiftung Warentest that was set up in 1964 was an institution that united consumer advocates, industry representatives, and state officials. In this way, consumer information and protection in Germany followed the German corporatist model.

The second half of the 1950s marked the acceleration of a consumer society in Germany, or what could be described as the beginning of household "industrialization." Household members began to operate in an environment defined by incomplete knowledge and "bounded rationality," thus becoming dependent on information to build on existing knowledge. But as German consumers began to experience information overload in the 1950s and 1960s, their decisions about what to consume and what represented a good value inevitably deteriorated. The German government tackled this problem by creating the Stiftung Warentest, a federally supported institution for product testing.

Despite the participation of industry and manufacturers in the new institute, producers continued to insist that consumers were in the best position to obtain reliable product information. Individual producers denied the legitimacy of comparative product testing and turned to the courts, while manufacturers chose a form of voluntary self-regulation, developing their own product standards and a system of "product information" with its own quality labels.

However, the rulings of Germany's Federal Supreme Court reflected strong support for consumer protection during the early 1960s and thereafter. Producers had to face not only economic competition but also rapidly changing public opinion. Most producers adapted to this new situation and chose to include independent test results in their advertising and marketing strategies. Nearly fifty years after its founding, the Stiftung Warentest is no longer controversial, but has become a broadly accepted institution that enjoys a high degree of recognition and trust among both consumers and producers.

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