

Minister of Justice

**Minister of Economic
and Business Affairs**

**Minister for Family
and Consumer Affairs**

European Commission
Commissioner Charlie McCreevy
1049 Bruxelles
Belgium

Date: Property Law Division
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Dear Commissioner.

The Danish Government hereby approaches the Commission on the occasion of the judgment passed by the European Court of Justice on 10 January 2006 in Case C-402/03 *Skov Æg* and the consequences of this judgment for the Product Liability Directive, as the Government finds that the judgment prevents the original objective of the Directive to be realised to its full extent.

As is well-known, the judgment established that Member States are allowed to introduce or maintain a national rule under which the intermediary, including the retailer, is answerable for the producer's fault-based liability, but that intermediaries may not be answerable for the no-fault liability which the Directive establishes and imposes on the producer.

Hence, the judgment implies not only a restriction of the consumers' possibilities of claiming compensation from intermediaries. The judgment can also be expected to give rise to both a higher number of and more complex legal disputes than today. The enclosed memorandum gives a detailed account of the consequences of the judgment.

In this light, the Danish Government urges the Commission to propose an amendment of the Product Liability Directive that will allow the liability of intermediaries to be based on the same ground as the liability system in the Directive concerning liability of producers. The Government would be pleased to discuss the consequences of the judgment with the Commission and to provide the Commission with information on the Danish experience with the intermediary being answerable for the no-fault liability of the producer.

Yours sincerely,

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Minister of Justice

Bendt Bendtsen
Minister of Economic
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Minister for Family and
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