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THE MARKETPLACE IN TRANSITION: CHANGING ROLES FOR CONSUMERS, BUSINESS AND GOVERNMENTS?



Consumer and
Corporate Affairs Canada

Consommation et
Affaires commerciales Canada

Canada

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Ministre
de la Consommation et
des Affaires commerciales



Minister
of Consumer
and Corporate Affairs

April 1992

Dear Reader,

We all know that whenever we take a long voyage we must stop from time to time to get our bearings, evaluate the distance covered and the effort put in, and check our position before aiming for a new destination.

Consumer and Corporate Affairs Canada was born twenty-five years ago. The department of the marketplace actually saw the light of day in December of Canada's centennial year.

Since that time, many changes have taken place, and the challenges presented on the economic front continue to increase. Looking at the emergence of new economies, fresh business relationships and the globalization of the marketplace, there are many new scenarios developing. In other words, we are no longer travelling the same route nor under the same conditions.

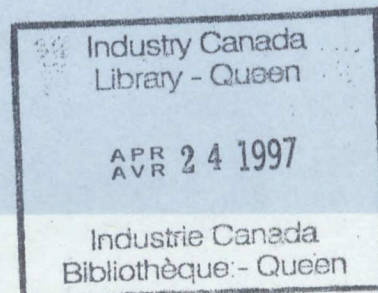
The time has come to review the road we have travelled, to evaluate our accomplishments and to take a new look at the future.

That is why, as Minister of Consumer and Corporate Affairs, it gives me great pleasure to share the results of a study undertaken by a group of qualified and dedicated people. They agreed to devote several months of their careers to developing this consumer policy framework and I would like to thank them publicly.

Far from being the end-point, the document that you have in your hands is just the beginning of discussions between all marketplace participants and will ensure that each has a say in the development of our future policy. Backed by in-depth research, background studies and the opinions of the principal actors in the marketplace, this document is a balance-sheet, a portrait of the Canadian marketplace, highlighting the demand side of the economic equation.

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If you are looking here for policy statements or announcements of major changes, you are on the wrong track: we do not imagine we have all the answers. We first of all want to share and discuss this picture of the marketplace that has been given to us in the course of our research. Then everyone will have an opportunity to contribute to the development of our policy.

Following this exercise I will be pleased to submit a proposal which will be modelled on a real picture of the Canadian marketplace and which will, I hope, satisfy the expectations that have been expressed to us.

A handwritten signature in cursive script, reading "Pierre Blais". The signature is written in dark ink and is positioned above the printed name.

Pierre Blais

THE MARKETPLACE IN TRANSITION:

**Changing Roles for Consumers,
Business and Governments?**

Consumer Policy Branch

Consumer Bureau

Consumer and Corporate Affairs Canada



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1. Introduction

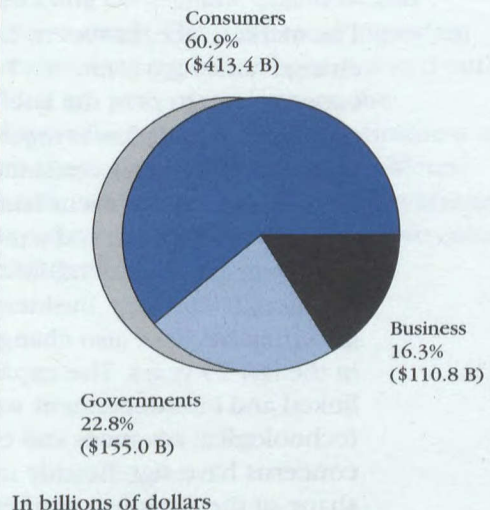
1.1 IS THE CANADIAN CONSUMER INVISIBLE?

Each day, millions of ordinary Canadians step into the national marketplace from St. John's to Victoria to choose from a sophisticated array of goods and services. Individually, consumers may feel that their purchase decisions have little impact on the businesses that serve them, but collectively their decisions have an enormous impact in shaping both the details of Canada's national economy and its ability to sustain itself against increasing competition.

The role of consumers in the marketplace should not be underestimated. They spent over \$410 billion on goods and services in 1991, more than 60% of our Gross Domestic Product, whereas business and government accounted for only 20% each. Consumers are therefore the largest economic unit in the country. The most successful firms recognize this, and have emphasized a consumer orientation in their mission statements and company policies. They know that demanding consumers can push businesses to improve their products and services and, therefore, boost Canadian economic competitiveness. They also know that dissatisfied consumers can take their business elsewhere or choose another product, thereby exercising enormous influence on which businesses or products survive. The lack of "consumer confidence" in the marketplace during the recent economic downturn, and the phenomenon of cross-border shopping demonstrate the collective economic clout of consumers.

The purpose of this discussion paper is to begin an examination of the role of consumers in today's rapidly changing marketplace, to examine the pressures on the systems of consumer protection across Canada, and to encourage discussion of the most appropriate role for the federal government, in partnership with other levels of government, with business and consumers, in protecting the consumer interest in the changing marketplace. Readers' views are requested on these issues.

Consumers: Important Economic Agents
Gross Domestic Product, 1991
Expenditure based



Source: Statistics Canada, National Income and Expenditure Accounts, March 1992

1.2 THE DEPARTMENT OF THE MARKETPLACE

In 1967, the federal government created the Department of Consumer and Corporate Affairs—the “department of the marketplace”. At that time, the government’s aim was to protect consumers by establishing a fair and efficient marketplace through measures designed to reduce inequality between seller and buyer, and to provide personal and economic safety by regulating marketplace deception, unfair trade practices and unsafe products. Provincial governments complemented these measures with new or stronger legislation covering consumer protection, business practices and the sale of goods.

The marketplace, however, has seen many changes since governments became active in consumer matters in the late 1960s. The consumer population is much different today: there are more older consumers, more two-income and single-parent families, a high consumer debt load, and a more pronounced set of consumer vulnerabilities (e.g., functional illiteracy). Businesses and governments have also changed considerably in the last 25 years. The expansion of inter-linked and interdependent world markets, technological advances and environmental concerns have significantly influenced the shape of the Canadian marketplace.

All of these trends make the marketplace of the 1990s quite different from that of 25 years ago. While most stakeholders agree that the marketplace functions reasonably well, there are some issues that may require examination and possibly new solutions.

For example, when existing consumer protection regulations were created in the 1970s, they focused on **the sale of goods**. However, “**services**” now account for 50% of personal consumer expenditures. As well, many consumers feel they have little say in the design and shaping of **government-provided or regulated services** such as telecommunications, public utilities and postal services.

The growing complexity of products and the proliferation of marketing techniques in the face of emerging technologies has resulted in a need for more accurate, and more useful, product and service information. However, such information is not always available or easy to understand. Anyone who has had to decipher VCR instructions or sign a financial services contract has experienced this problem. Conversely, in this information age, businesses collect and sell extensive information profiles about individual consumers which many perceive as an invasion of privacy.

The *ad hoc* system of federal and provincial marketplace policies which has developed over the years to assist consumers may not be sufficiently responsive to new marketplace realities. Furthermore, the “system” is under pressure. Governments are being forced to rethink their approach to governance in the face of budgetary restraints, constitutional processes, demands for new or improved services, and the need for greater efficiency in government operations.

Finally, since 1967, no formal review has evaluated the federal government’s overall approach to consumer policy in the Canadian marketplace. Federal economic measures since 1984 have been targeted largely at the role of business and government in the “supply” or the producer side of the marketplace. To foster a fair, balanced and strengthened marketplace, what may now

be required is **an examination of the “demand” or consumption side of the marketplace**, centred on the role of the consumer, and how government can enable all consumers to participate confidently in Canada’s national marketplace.

1.3 MAINTAINING PROSPERITY WHILE IMPROVING COMPETITIVENESS

As Canadians debate how to maintain Canada’s high standard of living and how to improve our economic competitiveness, some might be tempted to suggest that the federal government, indeed all governments, should withdraw consumer protection measures. Their argument would be that regulations impose costs on businesses and hamper a competitive market economy. An effective system of consumer policies and programs, however, does not just assist and protect consumers—it is an essential component in making the entire market system function fairly and efficiently to ensure prosperity for all Canadians. Consumers expect a safe market, adequate choice, reasonable prices, and certain standards of market behaviour. Effective consumer-oriented policies provide a set of marketplace ground rules that ensure a minimum level of safety and security for Canadians, and “marketplace integrity” at the least cost to the economy as a whole. They enable consumers to participate with confidence in the marketplace.

Given this overall context, this paper is intended to serve as a basis for consultations with consumers and the other marketplace participants—business, and provincial and territorial governments. It is designed to stimulate discussion on the adequacy and costs of our Canadian system of consumer protection. It is also meant to encourage discussion about the most appropriate role for the federal government and the Department of Consumer and Corporate Affairs, as one of the key stakeholders — along with other levels of government, business and consumers — in protecting the consumer interest in a changing marketplace.

As you read this paper, ask yourself whether it has identified the right marketplace trends affecting consumers, business, and governments. Have the most important marketplace problems been pointed out? What are your own views on the responsibilities of consumers, business and government in solving these problems? Finally, remember too that any government implemented measures may impose costs on taxpayers.

2. Marketplace Changes

In assessing the adequacy of Canada's existing system of consumer protection, pressures on each of the three participants in the marketplace, consumers, business and governments, must be identified.

2.1 THE CONSUMER SECTOR

It is impossible to identify a typical Canadian consumer. Consumers are simply too different in their individual needs and tastes. However, an analysis of demographics and market trends makes it possible to get an overall view of important characteristics of consumers in the marketplace of the 1990s. Further, an examination of what they value and buy makes it even clearer that business and governments must now deal with a group of consumers much different from those of the 50s, 60s, 70s and 80s. In fact, recent trend analysis suggests that we are witnessing a permanent shift in consumer spending patterns. Gone is the era of conspicuous consumption and mass marketing, and in its place is a return to more traditional values, including dominant concerns about quality, durability and frugality. If such a trend is true, the implications for business and governments are significant, because it could lead to a permanent weakening of the level of aggregate demand in the domestic economy. The paper will now discuss how today's consumer is different.

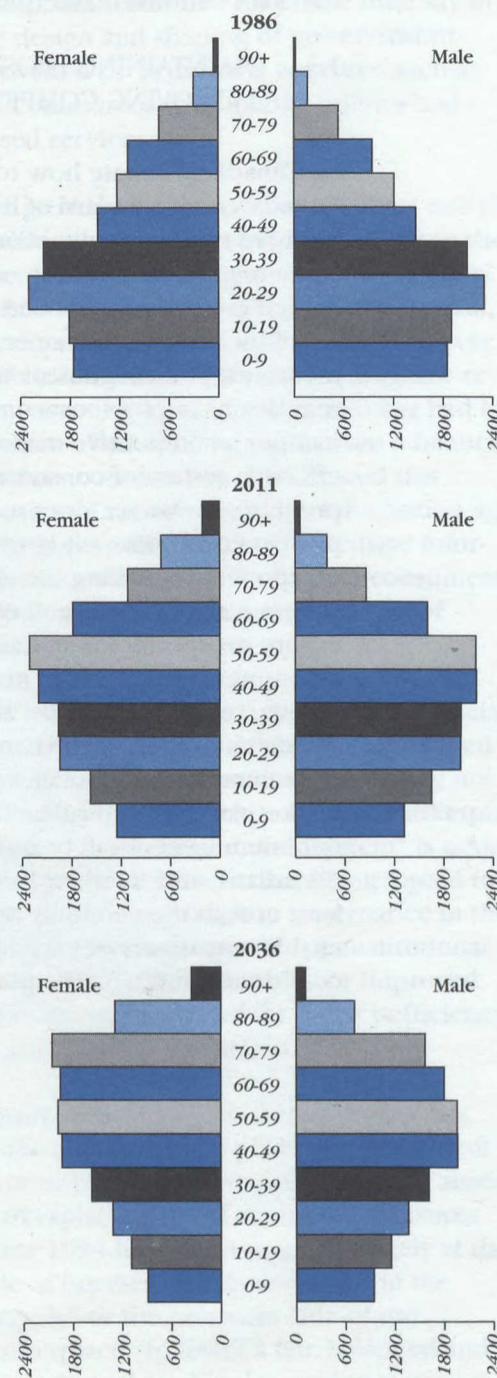
2.1.1 Who is today's consumer?

— *Consumers are getting older.*

Canada's population base is **inverting** itself. As a result of the end of the post-war baby boom, Canada now has a rapidly growing proportion of older consumers, and a declining proportion of younger consumers.

These trends are illustrated by the following diagrams.

Population by age group and sex, Canada, 1986, 2011 and 2036



Source: Statistics Canada

Demographic experts forecast a complete capsizing of the population pyramid within 50 years. This has important implications. Seniors are a rapidly growing group, with particular requirements in areas such as home maintenance, food services, travel and leisure activities, and health care. Also growing rapidly will be the middle-adult group (ages 45-64 years), which is under increasing pressure to save for retirement, and will likely require special services, such as financial planning and retirement packages. Conversely, a declining proportion of children may reduce the demand for family-oriented products.

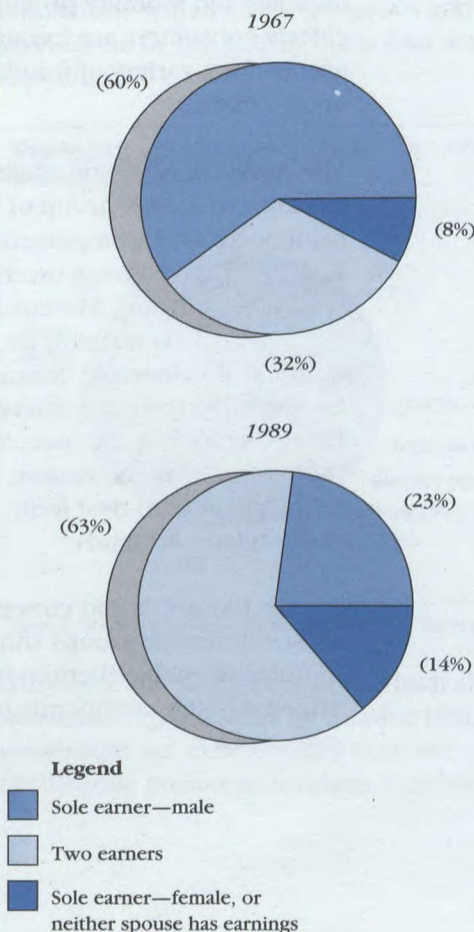
— *Canada's family make-up is changing.*

The definition of the typical family is changing. The number of single parent families has doubled. More and more women are working outside the home in full-time or part-time jobs. As the chart shows, more than 60% of husband and wife families now have two wage earners. These families, as well as single parent families, often have less time to spend making marketplace decisions. Working women in particular, as well as many Canadian families, will place a premium on time, and may turn to products and services in the marketplace which provide convenience and improve efficiency. As women continue to be responsible for the majority of household purchases, their greater participation in the workforce has contributed to a much better informed and a more demanding consumer population. In some market segments, however, particularly for those products and services purchased infrequently, many consumers feel they have less time available than in the past to consider the most appropriate choice for their needs.

— *There are many causes of consumer vulnerability.*

Most Canadian consumers have developed skills to cope with the increasing complexity of the marketplace. However, a large number of Canadians still have difficulty. In fact, almost 40% of Canadians aged 16-69 have trouble with common reading or numerical tasks. This leads to problems in reading or understanding written information and making numerical comparisons. But the problems are much deeper than this. A significant number of Canadians cannot read a product label, sign a cheque or understand product directions or warranties.

Changes in Family Earners



Source: Statistics Canada, Labour and Household Surveys Analysis Division

Similarly, new Canadians are growing in number. They come from countries with different languages, marketplace practices and customs. They often face problems that range from understanding product information, prices and methods of payments to knowing how to complain and get redress.

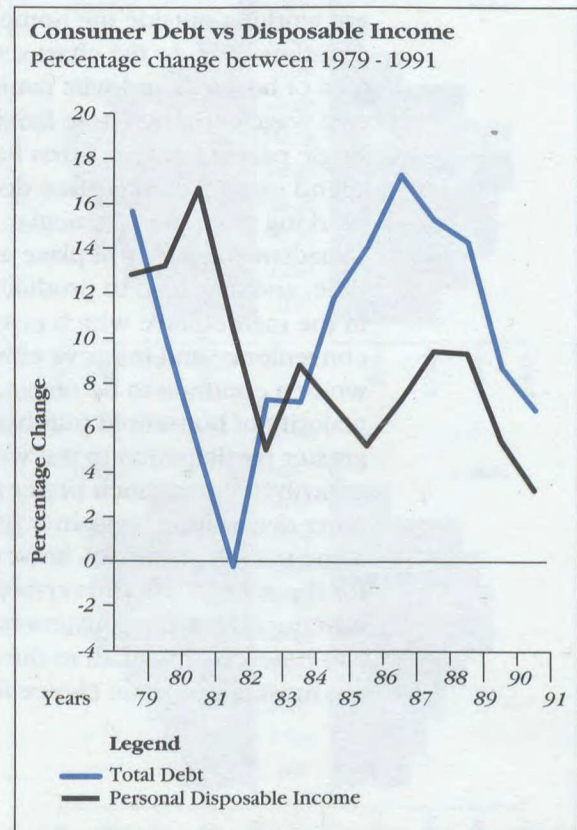
A number of consumers may be vulnerable because of their age. For instance, children and youth are subjected to significant amounts of advertising but may not yet be mature enough to be effective consumers, particularly in areas such as contracts and credit. They may also be especially vulnerable to safety problems with household and leisure products. A number of older consumers may be vulnerable due to fixed incomes and mobility problems. As well, elderly consumers are frequently target groups for a variety of frauds and door-to-door schemes.

The rapid introduction of new technologies has created a large group of people who feel inadequate with computerized equipment such as VCRs, banking machines and voice messaging systems. Moreover, marketplace complexity may not only be increasing the number of vulnerable consumers, it may also be widening the gap between those that have limited skills and resource constraints and those who have the money, time and access to information to deal more effectively with marketplace demands.

Ideally, the needs and concerns of each of these vulnerable groups should be addressed, in order to enable them to function effectively and confidently in the marketplace.

— Consumers have less purchasing power.

The purchasing power of many Canadians has declined slightly over the decade of the 1980s. As well, until recently, inflation has slightly outpaced wage increases. One effect already mentioned has been growth in the number of two-income families. Another effect has been rising debt levels, as consumers try to maintain their standard of living even as incomes fall. The following diagram indicates that, until the end of the recession of the early 1980s, our disposable income and debt load moved in parallel. Since then, however, debt load has increased without a proportional increase in disposable income, suggesting that Canadians were no longer willing to delay purchases until they could "afford" them.



Source: Bank of Canada Review July 1991, Mar. 1992 and National Income and Expenditure Accounts, June 1988, July 1991, Mar. 1992.

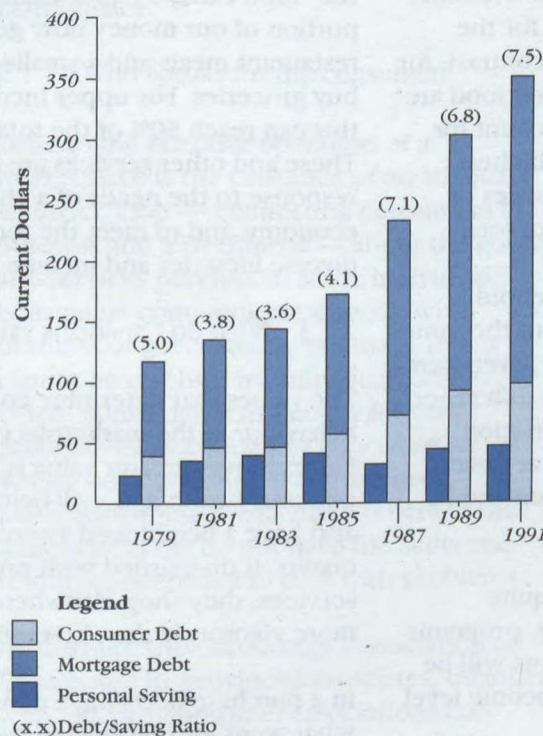
The diagram below illustrates the high debt load of Canadian consumers. During 1991, over-extended consumer debt resulted in over 62,000 personal bankruptcies, representing total liabilities of over \$3 billion. This has an impact on the overall competitiveness of the Canadian economy, and on other consumers, who pay for the losses through higher prices and/or increased lending rates. As the economy expands, some consumers may opt to reduce non-essential expenditures, in order to lower their total debt load. Collectively, this could have a significant dampening impact on economic recovery. In addition, the quality and durability of products may become important as consumers become more prudent. Finally, there may be a need for more information

and action about credit use and money management for consumers who wish to manage their debt more carefully.

2.1.2 What do Canadians consume?

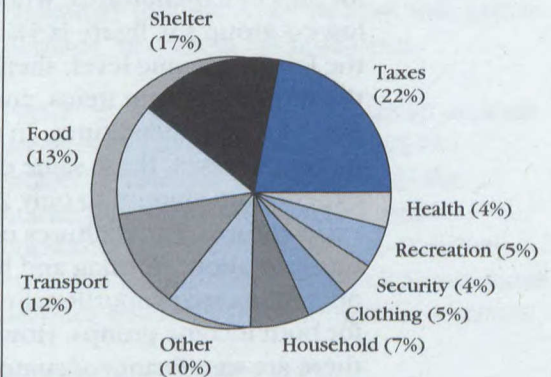
Statistics Canada's Family Expenditure Survey classifies Canadians' consumption spending in nine distinct categories: **food, shelter, home expenditures, clothing, transportation, health, taxes, security and miscellaneous** (see the chart below). This chart shows that the average consumer spends almost two-thirds of income on taxes (22%), shelter (17%), food (13%) and transportation (12%). As a result, the average consumer will be particularly sensitive to changes in government policies and regulations which affect the goods and services he or she gets in these four areas of expenditure.

Consumer Debt vs Personal Saving
1979 - 1991 (Billions of Dollars)



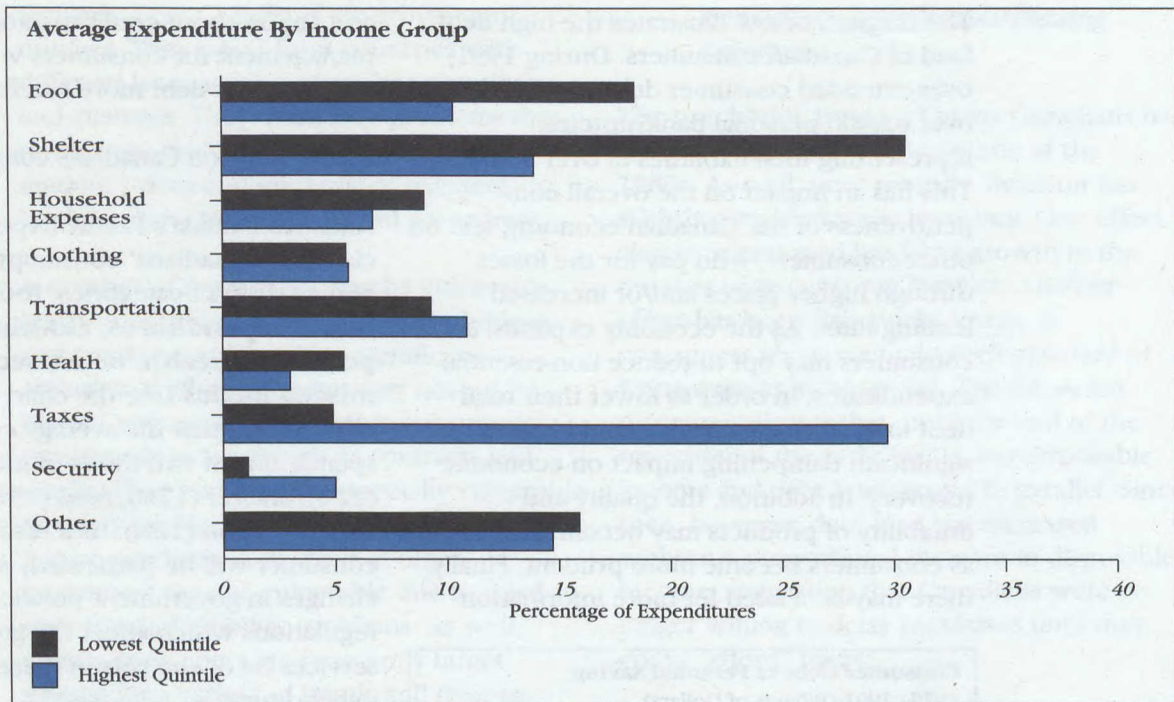
Source : Bank of Canada Review July 1991, Mar. 1992
and National Income and Expenditure Accounts,
June 1988, July 1991, Mar. 1992

Expenditures on Goods and Services - 1990
Average Consumer



Source: Statistics Canada, Family Expenditure Survey, 1992

Analysis of the diagram below, which shows consumer expenditures by income bracket, reveals that tax expenditures become significantly greater as incomes increase.



Statistics Canada - 1992

In the highest income group, taxes account for 30% of expenditures, whereas for the lowest group the figure is 5%. By contrast, for the lowest income level, shelter and food are the most significant items, and account for 53% of total expenditures. In the highest income bracket, these same categories of expenditure amount to only 24% of total expenditures. Expenditures on transportation, clothing and household operations are proportionally about the same for both income groups. However, even here there are significant consumption differences. For higher income levels, transportation expenditures are for private cars; at lower income levels, transportation means public transportation.

As a result, consumers will react quite differently to government policies, programs and regulations, and these reactions will be determined to a high degree by income level.

Finally, one noteworthy trend in consumer expenditures is the growing importance of the service sector in our everyday lives. In

the "food category", for example, a larger portion of our money now goes to buy restaurant meals and a smaller proportion to buy groceries. For upper income Canadians this can reach 50% of the total food budget. These and other services are evolving in response to the needs of a changing economy, and to meet the requirements of diverse lifestyles and income groups.

2.1.3 What do Canadians value?

The values that determine consumer behaviour in the marketplace are changing. For example, greater value is being placed on personal health and well-being. Individuals also have a heightened awareness of product quality. If dissatisfied with products or services, they shop elsewhere or complain more vigorously than heretofore.

In a purchase decision, a consumer considers what went into producing the product, the process by which it was created, and its packaging, use, servicing and disposal. In short, consumers are concerned about the

“life-cycle” costs of their purchases. These new values contrast sharply with the consumption patterns of the last decade. Witness the demand for more environmentally responsible goods, and boycotts of goods from firms not having a socially acceptable corporate image.

Growing immigration has also affected the marketplace. New immigrants bring with them different tastes, preferences, values, and methods of interacting in the marketplace. This will have an impact on general tastes and preferences, as more Canadians are exposed to new or different products and services.

In future, consumers will likely demand more extensive and accessible product and service information. For example, comprehensive information about the impact of a product on health, the environment and broader social issues will become of increasing concern to consumers, and affect their behaviour in the marketplace.

2.1.4 Who speaks for the consumer?

Basic to the effective operation of a marketplace is the existence of an adequate feedback loop — connecting consumers to business and government — about the goods and services purchased. Some individual consumers communicate directly with business or government, but many issues cannot be resolved by individuals alone. Often, consumers can neither forecast problems early enough to take effective action, nor determine whether their particular problem will affect others in the same way. Many do not have the skills and resources necessary to deal with problems.

Historically, the Consumers' Association of Canada and its provincial associates, together with Quebec consumer associations and other provincial consumer organizations,

have presented consumer concerns to Canadian governments and business. Frequently, other organizations with more narrowly focused objectives have also acted on consumers' behalf. These public interest groups usually comprise a small team of experts and volunteers who identify and analyze marketplace problems and their impact on consumers, and advocate the consumer interest to decision makers in business and government.

In public policy development, there is an increasing tendency for governments, business and consumer groups to work together to solve marketplace problems. Many feel that the resulting policies are more effective and efficient for the marketplace as a whole since all stakeholders have a voice at the table. Consumers and their associations, however, have significant limitations on their capacity to effectively influence outcomes, because their financial and human resources are frequently limited. Representing the consumer interest is not an easy task, and is, perhaps, becoming more difficult.

Finally, as government continues to provide services to the public directly, while indirectly establishing the rules of the marketplace for both business and consumers, it will likely have to improve efforts to gather direct feedback about those services and rules from the public it serves.

2.2 THE BUSINESS SECTOR

The 1990s will continue to be a time of significant change and adjustment for Canada's business sector. In today's dynamic environment, businesses are developing strategies to respond to the pressures of unrelenting global competition, rapid developments in technology and more demanding consumers.

2.2.1 Global competition

Globalization refers to the growing interdependence of national economies, and involves consumers, producers, suppliers and governments in different countries. Barriers to imports and foreign investment are being eliminated. Boundaries between domestic and international markets are becoming less relevant as businesses expand their activities. Rapid growth in international trade flows, foreign investment, technology and communications means a swiftly changing and more complex Canadian marketplace.

In response, Canadian businesses are adjusting. The corporate sector is becoming more outward-looking and increasingly trying to become more competitive. Many Canadian firms are growing, and others are finding places within the global framework of the world's leading firms and targeting their policies to the global customer. To gain a competitive advantage both domestically and abroad, Canadian firms will consider mergers, acquisitions, strategic alliances and joint ventures. Many entrepreneurs are responding to these competitive pressures with a more sophisticated approach to niche marketing, better pricing and better services. Others will focus on producing higher quality, "value-added" goods and services. Global competitive strategies will be based on the experience gained in a strong domestic marketplace.

Canada's comprehensive product standards may be called into question in the context of a global economy. The expanded role of transnational companies is generating considerable pressure on international organizations to develop international standards. Traditionally, standards protect consumers, and also have benefits for business. For example, if a leading company's product specifications can set the

standard for an industry, that company can gain a competitive advantage. Internationally, even though our standards system is world renowned, we may often be "takers" of other countries' standards in international trade negotiations. This brings into question whether and how our set of "Canadian standards" will be affected by increasing harmonization or the adoption of international standards.

The ability to enforce mandatory Canadian standards on imported goods is of growing concern in Canada. The volume of imports currently available in Canada makes it virtually impossible for enforcement officers to ensure that all goods meet Canadian standards. This is an immediate problem for consumers who experience problems with foreign goods, and indirectly may generate pressure to reconsider some Canadian standards. For its part, the Canadian business community feels that it is put at a competitive disadvantage by having to comply with Canadian standards that its competition does not always meet.

Global competition is expected to result in more choice for consumers, and lower prices. However, it is possible that multinationals operating in Canada may face higher production costs than if they operated in larger markets, such as the U.S. The result may be higher prices for some goods in Canada, and possibly a demand for less government intervention in the marketplace. The business community frequently argues that it is competitively disadvantaged by the combination of federal, provincial, territorial and municipal taxes and government regulation. A subset of this issue is the need to **determine the total burden on business of regulations and programs designed to assist or protect Canadian consumers**. How much do these things cost? Since these costs are likely passed on to consumers, **how much protection can we afford to pay as**

consumers and taxpayers? Conversely, would costs (economic, health, safety) simply be shifted to other marketplace participants if this burden were to be reduced for business?

2.2.2 Technology

The technological changes of the last ten years have had an impact on all aspects of doing business. This trend is expected to accelerate over the next decade in such sectors as computer applications, communications, health, food, environmental protection and energy. Technology's impact on production benefits consumers, as manufacturers **lower costs, improve quality, provide better and faster service or increase choice.**

There have already been broad applications of new technology. For example, in financial markets these include automatic banking machines, networking arrangements, telephone bill payment systems and debit cards. In the future, forecasters see the use of "smart cards" which would contain our financial profile, and personal "money cards" which would be used for point-of-purchase transactions. Technology also brings a broad range of services to remote markets. To increase the availability of new products, business is exploring new technologies in production, packaging, marketing and distribution. Consumer demand for time efficiency also has expanded the market for high technology products. In 1990, 66% of Canadian households owned VCRs, compared with only 6% in 1983; 66% of households owned microwaves in 1989, compared with 8% in 1983.

However, it is important to note that technological advances will not affect all consumers equally. In spite of its benefits, a "high-tech" marketplace can create confusion. For example, while advances in computer technology have moved computers

into homes and offices, and made them integral to many business transactions, the move to computerization has not been an easy transition for many Canadian consumers. Some problems may be resolved with time; others may require creative solutions by consumers, business and government.

Some consumers feel that technological innovation outstrips consumer protection. For example, statutes regarding financial transactions were designed with paper-based payments in mind, and do not necessarily reflect the realities of electronic banking. Direct marketing by telephone has become significantly easier for firms, but leaves many consumers annoyed at a perceived invasion of privacy, and feeling that they have little protection or ability to obtain appropriate redress when a product is defective. By contrast, many firms have taken advantage of newer technologies to establish closer and faster links with their customers.

In the future, technology will continue to provide advantages and disadvantages for consumers. While enabling them to do more things more efficiently, it may also create information problems for those who do not have a suitable level of technical literacy. There is a danger that the proliferation of technological change may continue to widen the gap between those consumers able to cope in the marketplace and more vulnerable consumers. This heightens the need for better education and improved information about the use of new technology in the marketplace.

2.2.3 Consumers and business

The evidence suggests that many businesses are increasingly trying to improve their accessibility to consumers. Simple provision of goods and services is no longer enough to attract and keep clients, and a new priority is being placed on customer service, product warranties and better product information.

Some firms actively seek out complaints about unsatisfactory products, in an effort to increase overall quality and stimulate demand for their products. Business practices are changing in direct response to changing consumer values. This is exemplified by recent business efforts to produce environmentally friendly products, use environmentally responsible production methods and environmentally safe packaging, and provide better information about the nutritional value of food products. Similarly, some businesses or associations, in an attempt to be more responsive to individual needs, have asked consumers to sit on advisory boards and help develop codes of conduct, marketing approaches or review new product offerings.

More businesses are focusing on acting in conformity with ethical business practices, recognizing that a reputation for having a social conscience is important in establishing and maintaining a competitive edge. Many industries have been "put under the microscope" by more demanding consumers, the growth of single-issue interest groups, and the increased popularity of investigative reporting. Recent public concern about such issues as the environment, banking and finance, privacy, and exports to countries with human rights violations all show the need for business to be responsive to the public. The growth of public affairs departments in big business indicates the value placed on a company's reputation. However, business leaders recognize that making business decisions which balance the interests of many groups of stakeholders is not simple.

The business community has frequently complained in the past of consumer policies which imposed what they considered to be unnecessary costs. These policies, however, can also provide benefits, such as enhanced market competitiveness stemming from required improvements to product quality or safety.

2.3 GOVERNMENTS

The third major marketplace player — Canadian governments, both federal and provincial/territorial — are in the midst of responding to three important trends. Each of these trends will have significant impact on how consumers are assisted and protected in the marketplace.

2.3.1 International trends

As discussed earlier, the move towards globalization involves growth in international trade flows, reductions in tariffs, creation of global firms and alliances, and round-the-clock capital markets. Trading blocs emerging in Europe, Asia and North America, and trade agreements such as the General Agreement on Tariffs and Trade, and the potential North American Free Trade Agreement currently under discussion, demonstrate the growing interdependence of economies in the world. These events limit the ability of national governments to make domestic policy in relative isolation. **Now, governments must look beyond national boundaries as they make domestic marketplace rules.**

The growth of regional trading systems presents both opportunities and dangers. Regional agreements can serve to advance liberalization in new areas such as services and investments and, through improved market access, increase economies of scale and the competitiveness of companies. While current regional agreements are largely complementary to the open international trading system of the GATT, the danger of "managed" trade among the major economic players — Europe, Japan, and the USA — nevertheless exists.

Globalization puts pressure on governments to create a marketplace environment which attracts economic activity and reflects international developments. This is essential to enhance Canadian competitiveness and ensure future prosperity. It also affects all policy-making, including consumer policy. There is no clear view of the effects on individual consumers. Some argue that a "borderless" marketplace benefits consumers by increasing choice, others that consumers are at risk through the reduced scope for creating national policy. In part, governments' response to international trends will require an assessment of the trade-offs between **the benefits of harmonization and the possible limitations placed on domestic rule-making capability.**

2.3.2 Jurisdictional directions

Jurisdiction in consumer policy is shared by the federal, provincial and territorial governments. Consumers and business are encouraging governments to harmonize the ground rules for the marketplace in a way that recognizes both national policies and regional responsiveness. Achieving that balance is not an easy task. Effective consumer policy will therefore require more cooperation than ever before to **ensure appropriate coordination or harmonization of federal and provincial policies, programs and enforcement activities.**

For the consumer, the issue of which level of government strengthens confidence in the marketplace is not of concern. As a result, governments must continue to work together to clarify and strengthen marketplace rules in order to maintain consumer confidence and trust in the operation of the marketplace.

In the past, governments sometimes acted as a buffer for consumers in dealings with the business sector. However, this role may no longer be required to the same extent as businesses accelerate their efforts, in response to competitive pressures, to resolve consumer problems before any outside intervention is needed.

2.3.3 New approaches to policy development and implementation

Governments' traditional response to consumer protection has been marketplace regulation. Consumers expect a basic level of protection. However, they and their governments are faced with the reality of growing deficits, higher taxes, and pressures for deregulation. More creative means to implement policies are being sought. In the last few years, there have been several positive efforts to bring together consumer and business representatives to work with governments to develop acceptable solutions to marketplace problems. Participants felt that not only were the solutions fair but were able to achieve cost effective results. These exercises suggest that there is a **greater likelihood that consumer/business partnerships may be effective in designing voluntary solutions to marketplace problems.**

In addition, polls, newspapers and the growing number of people who belong to advocacy groups indicate increasing public demand for more "responsive governments".

In general, there is more opportunity for individual consumers to feel involved in decision-making on issues that affect their daily lives. Governments are receiving strong messages to allow all stakeholders access to the decision-making process, but have difficulty sometimes in knowing **who to approach for "the consumer view".**

3. What is the System of Policies and Programs Affecting Consumers in the Marketplace?

Traditionally, when people speak about governments and their role in protecting consumers, discussions have focused on **only those measures directly targeted at consumers**. Our analysis, however, suggests that **a broader vision is required**. Given the interdependence of consumers and other marketplace participants, if the Canadian economy is to be competitive, governments need to consider the impact of all policies and programs affecting the consumer. This section will provide an overview of the legal basis for future government action as derived from the Canadian Constitution and the Charter of Rights and Freedoms, as well as a description of the existing system of measures in place which affect the marketplace.

3.1 THE LEGAL BASIS FOR ACTION

The constitutional basis under which the two levels of government are given authority to pass laws has remained basically unchanged since the beginning of Confederation. There have, however, been shifts in jurisprudential interpretation from time to time, and these have given certain responsibilities to one level of government or another.

In the current constitutional debate, many basic features of the legal/institutional structure of the country are being called into question. It is recognized that the outcome of the debate may have an impact on the division of marketplace responsibilities between the levels of government.

3.1.1 Constitutional basis for action

The Canadian constitution as interpreted by the courts is the source of the legal powers of the federal government and the provinces.

No specific provision assigns "consumer affairs" to either the federal or provincial governments. The federal government has express legislative jurisdiction over trade and commerce — a very broad area. Less extensive, though more precise federal jurisdiction exists for weights and measures, currency, and banking. Relevant provincial legislative powers extend to property and civil rights in the province, to local undertakings, and the administration of justice. A natural and persistent tension between the federal power over trade and commerce and the provincial power over property and civil rights makes for an element of complexity regarding the protection of the consumer interest in the marketplace.

In practical terms, this division of powers has meant that direct federal involvement in consumer affairs has focused on establishing marketplace rules, setting national standards for safety and information to protect consumers, and prohibiting fraudulent practices. The result has been, for example, laws affecting competition in the marketplace, the use of standard weights and measures, safety regulations for consumer products, information requirements on labels, and misleading advertising prohibitions. More specific responsibilities, such as for banking and bankruptcy, also create a federal presence in the consumer field.

Provincial governments also establish certain marketplace rules and standards. They have been involved significantly in regulating individual marketplace transactions, through laws specifically designed to protect consumers such as those prohibiting unconscionable transactions and those regulating specific sectors such as door-to-door sales, warranties, trades, professions and other service providers. Examples include provincial Sale of Goods Acts, Consumer Protection Acts, Business Practices Acts, Real Estate Acts and Motor Vehicle Acts. These laws generally set the rules of the "deal", or the exchange between buyer and seller. Provinces are also responsible for the administration of the courts and the shaping of some redress mechanisms.

3.1.2 The Charter of Rights and Freedoms

The Charter of Rights and Freedoms appears to have recognized and validated the existing "individual rights" of Canadians.

The most important single effect of the Charter, in the realm of consumer affairs, is its impact on the way governments make decisions. The Charter provides broad guidelines requiring that governments treat individuals equally and that governmental procedures be fundamentally just.

Governments have a legal obligation to use procedures that reflect equal application of the law or, conversely, do not discriminate. The Charter requirement that Canadians be treated equally "before and under the law" has raised questions regarding the consistency of compliance policies across the country.

The extent to which these broad guidelines will affect government behaviour and policies and regulations made in the future is difficult to assess at this time. One thing is certain: the recognition in the Charter of individual rights, and the ongoing struggle of the legal system to define those rights, may require new approaches to consumer issues in the future.

3.2 THE ROLES OF GOVERNMENTS

Governments assume one or more of six separate roles in discharging their obligations to safeguard the interests of Canadian consumers and maintain a high level of confidence in the marketplace.

1. Rule Maker

Traditionally, governments have been rule makers. They have developed laws and regulations that set standards, established marketplace rules, and imposed requirements on both manufacturers and buyers; requirements that may be enforced by the courts.

2. Referee

Necessary adjuncts to the rule-maker role include ensuring compliance with rules and providing means for redress where they are broken. How the rules are enforced, however, may vary with the type of law, the characteristics of the clientele and the resources available.

3. Advocate

Most governments have established departments or sub-departments to assist and protect the consumer interest. This advocacy role is exercised with all marketplace participants, including other government departments and other levels of government, other national governments, or national and international institutions and businesses.

4. Information Broker

Governments, because of their access to a wide range of information from both domestic and international sources, increasingly package and disseminate this information to consumers, business, and other levels of government. This information-broker role of government could widen as trade expands, borders open up, and international negotiations affect the domestic marketplace. In short, Canadians will need more information if the marketplace is to remain competitive and fair.

5. Facilitator

Facilitators assist other marketplace participants to resolve problems cooperatively. Governments have acted as facilitators more frequently in recent years as they look for more cost-effective solutions to marketplace problems.

6. Service Provider

Governments provide a wide range of services such as transportation, health care, education, passports, unemployment insurance, etc., to citizens. Frequently, consumers do not know the extent of the services provided by governments, yet many of these are considered essential to the smooth functioning of the marketplace.

These six roles are not static, and are used in various combinations as circumstances, warrant and the marketplace demands. How these roles have served to date to affect the consumer interest is examined below.

3.3 HOW DOES GOVERNMENT POLICY AFFECT CONSUMERS?

Government policy can affect consumers in three broad ways, as follows:

- i) **Direct consumer policies** include consumer **protection** measures such as product safety laws; consumer **information**, such as labelling laws; consumer **standards** that business and government adhere to for efficiency, uniformity and safety reasons; and **incentive programs**. Examples of these four types of direct consumer policies include legislated bans on hazardous consumer products, safety standards for hockey helmets, labels which provide nutritional information or symbols indicating textile care, general labelling guidelines, and energy conservation grants.
- ii) **Marketplace policies** frequently have an impact on consumers. Agricultural stabilization programs; marketing boards with supply management powers; structural rules such as those related to currency, interest rates, and the rules of the consumer "deal" (general contract law); and competition policy all affect the marketplace and consequently affect consumers. International trade policy (trade agreements, import quotas and tariffs, bilateral and multilateral treaties) and environmental policy also have an increasing relevance to, and impact on, the marketplace and consumers.
- iii) **General socio-economic policies** affect consumers as well. Fiscal and monetary policies and employment policies affect consumer's disposable income, as do laws regulating hours of work and benefits. Justice policy and administration of the courts affect the ability of consumers to seek redress and to resolve disputes with vendors.

All levels of government enact measures affecting how the marketplace functions. Currently, there are an estimated 1,000 or more such federal/provincial/territorial statutes and programs. Table 1, based on the Family Expenditure Survey categories first seen in Section 2.1.2, illustrates the extent of government involvement in the marketplace.

Table 1

Examples of Federal, Provincial and Territorial Regulations and Programs that Affect the Marketplace

Expenditure Category	Federal Measures	Provincial Measures	International
1. Food	Weights and Measures Food and Drugs Act Canadian Agricultural Products Act Supply management boards	Supply management boards Restaurant regulations Public Health Acts	CODEX Alimentarius Multilateral trade agreements
2. Housing	National Housing Act CMHC programs	Real Estate Administration Acts Landlord-tenant Acts Building standards Non-profit housing	
3. Transportation	Safety of air, water and rail Infrastructure — port, rail and air Motor vehicle and tire safety	Highway infrastructure and regulations Motor vehicle dealers and automobile repairers Local public transportation Intraprovincial busing	International safety standards Air travel agreements Import quotas on cars
4. Household Operations	Energy efficiency and conservation Hazardous Products Act Telecommunications policy	Public utilities Sale of Goods Acts Consumer protection legislation	International standards International telephone service
5. Clothing	Textile fibre content Care labelling Canada standard sizing	Dry cleaners Laundromats	International standards Import quotas
6. Security	Financial services regulations Deposit insurance	Stock exchanges	
7. Health	Canada Health Act Participation program Food and Drugs Act	Regulations re physicians, dentists, eye care goods and services, hospitals and other health care services	
8. Education and Leisure	Cultural programs Federal parks Museums / art galleries	Cultural and educational programs Provincial parks Museums / art galleries Travel industry regulations Travel insurance	
9. Taxes	Income tax Goods and Services Tax Excise tax	Sales taxes Tobacco and fuel taxes	

For consumers, taxation policy has a dual impact. Taxation affects both the level of discretionary income available to consumers and the relative prices of goods and services. At the same time, tax revenues permit governments to provide consumers with a host of services such as accessible health care, schooling and transportation systems. Although Canadians pay somewhat higher taxes than Americans, it is acknowledged that Canadians also receive more government services.

Many measures and services fundamental to the fair and efficient operation of the marketplace are taken for granted by consumers. Such measures, however, ensure confidence and consistency in the marketplace while minimizing the need to call every transaction into question.

What is important to realize is that **there is an extensive system of laws and programs in Canada affecting consumers in the marketplace that go well beyond those measures that are the responsibility of federal and provincial consumer affairs departments.** Table 1 illustrates this. In some areas of family expenditure such as health and transportation, federal and provincial departments of consumer affairs have very little direct responsibility. The specific role of Consumer and Corporate Affairs Canada will now be considered.

3.4 CCAC ROLE IN CONSUMER AFFAIRS

Within the federal government, CCAC has the primary responsibility for consumer affairs, including a responsibility to reflect the perspectives of consumers in public policy development. The department's Act identifies five specific duties in respect of consumers:

- 1) **implementation** of programs designed to promote the interests of consumers;
- 2) **coordination** of government programs promoting the consumer interest;
- 3) **promotion** of practices or conduct that better protect consumers;
- 4) **development** of programs that assist consumers to be more fully informed about goods and services; and,
- 5) **provision** of inspection services for the protection of consumers.

The role of CCAC in consumer affairs has been mainly that of "**rule maker**". In this capacity, the department has developed laws and regulations that establish a safety net or minimal level of protection for many consumer activities in the marketplace. The principal framework laws and the sector specific laws that are administered by CCAC and which have the greatest impact on consumers are explained in Table 2. The interaction of these many laws is illustrated by the diagram "Consumer Protection in Your Home", which is printed on page 22 of this discussion paper.

Table 2

CCAC Legislation Affecting Consumers

Multi-sector Legislation:

- **Hazardous Products Act**: protects the health and safety of consumers by prohibiting or regulating the sale, advertisement and importation of products considered to be dangerous to the public.
- **Consumer Packaging and Labelling Act**: specifies what product information must be made available to consumers on prepackaged products, and how it must be displayed.
- **Weights and Measures Act**: sets national standards for fair measure in trade for most measured commodities.
- **Competition Act**: encourages competition in the marketplace and benefits consumers by reducing upward pressure on prices, rewarding innovation and initiative, increasing choice and quality of goods offered and preventing abuses of market power by ensuring that firms compete with each other on a fair basis.
- **Bankruptcy Act**, intellectual property laws (e.g. Copyright Act, Trade-marks Act, Patents Act and Industrial Design Act), the **National Trade Mark and True Labelling Act** and the **Canada Business Corporations Act**: make rules for the marketplace that impact on consumers.

Product or Sector Specific Legislation:

- **Electricity and Gas Inspection Act**: provides national uniform standards for the measurement of electricity and gas.
- **Food and Drugs Act**: (partly administered by Health and Welfare Canada), protects consumers from hazards to health, and from fraud or misleading representations associated with the sale of foods.
- **Textile Labelling Act**: requires that information on fibre content and dealer identity be provided on the labels of consumer textile articles.
- **Precious Metals Marking Act**: protects consumers from false claims for articles containing adulterated or substandard precious metals.
- **Tax Rebate Discounting Act**: protects consumers who use tax discounting services.

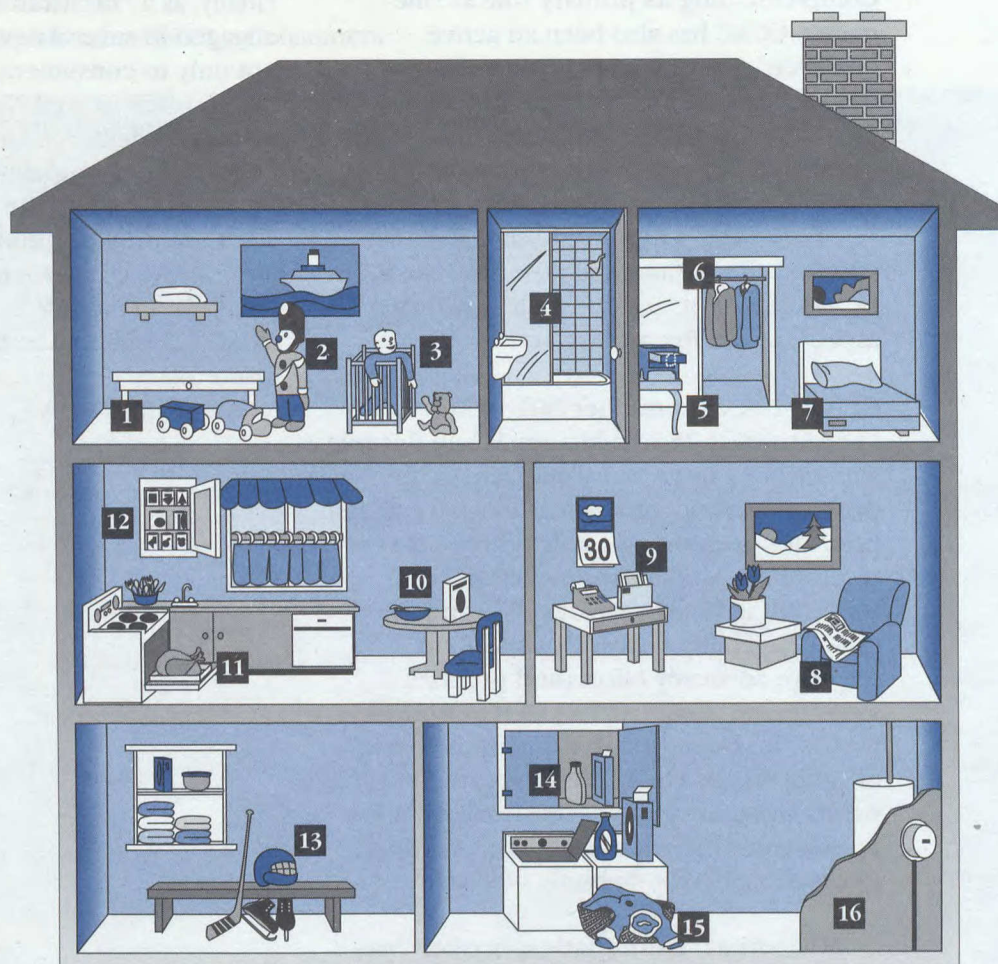
Complementing its primary role as rule maker, CCAC has also been an active “**referee**”. Considerable resources are devoted to enforcing CCAC statutes, and CCAC “**referees**” other statutes as well that guard against economic fraud and misrepresentation: the **Canada Agricultural Products Act**, which establishes national standards for agricultural products, the **Fish Inspection Act**, and the food advertising aspects of the **Broadcast Act**.

CCAC’s role as consumer “**advocate**” has varied over its 25-year history. While this role was stronger in the early mandate of the department, budgetary pressures have shifted priorities to enforcement activities. One result of this shift, however, has been a reduction in the knowledge base and the policy capability necessary to support selective advocacy efforts and program innovations, as alternatives to regulation. Finally, the Department, through the Bureau of Competition Policy, has advocated lower prices and more competitive markets before boards and tribunals such as the Canadian International Trade Tribunal.

CCAC’s role as “**information broker**” has been increasing in many areas such as child safety and food labelling. There is considerable need and scope for this role to be expanded because it may be more cost-effective than the alternative of more enforcement programs.

Finally, as a “**facilitator**”, CCAC has been engaged in several new projects of benefit not only to consumers but to the overall marketplace as well. The establishment of voluntary measures for care labelling, the publication of guidelines for use of the phrase “Made in Canada”, the development of the KidsCare program, and the establishment of guidelines for environmental claims about products all provide examples of cases where CCAC has played a lead role in bringing marketplace players together to find solutions to mutual problems.

Consumer Protection in Your Home



Some Federal Statutes Protecting Consumers

- 1** The Hazardous Products Act bans unsafe toys with sharp edges, toxic stuffings, etc.
- 2** The Hazardous Products Act regulates flammability of children's sleepwear.
- 3** The Hazardous Products Act regulates safety of cribs and other children's products.
- 4** The Hazardous Products Act specifies standards for safety glass in doors.
- 5** The Precious Metals Marking Act requires accurate marking of gold and silver.
- 6** The Textile Labelling Act regulates labelling of fibre content.
- 7** The flammability of mattresses is regulated by the Hazardous Products Act.
- 8** The Competition Act benefits consumers by preventing firms from abusing their market power, increasing product choice and quality, and reducing upward pressure on prices.
- 9** The Tax Rebate Discounting Act protects consumers from abuses by tax rebate discounters.
- 10** The Food and Drugs Act requires the declaration of the ingredients of prepackaged food products in descending order of proportion.
- 11** The Weights and Measures Act requires that products be weighed and measured accurately.
- 12** The Consumer Packaging and Labelling Act specifies what information must be shown on prepackaged products eg., net contents.
- 13** The Hazardous Products Act requires hockey helmets to comply with safety standards.
- 14** The Hazardous Products Act requires warning labels on hazardous household chemicals.
- 15** The Canadian Care Labelling Program uses colour coded symbols to provide guidance for the care of textiles.
- 16** The Electricity and Gas Inspection Act requires that electricity and gas meters measure accurately.

4. The Key Problems for Consumers in Tomorrow's Marketplace

This section will present a brief discussion of the types of problems consumers experience in the marketplace. It then targets four key areas that will pose particular problems for consumers in the future.

4.1 WHAT ARE OUR CONCERNS AS CONSUMERS?

For the ordinary Canadian who shops at the supermarket or hardware store on Saturday morning, there are **six** basic types of consumer problems that are encountered when purchasing goods and services: **price, quality, availability, safety, information and redress.**

1. **Pricing** problems usually relate to whether the price of the product or service is reasonable. For many repeated, low cost purchases such as food, books and magazines, consumers build up an awareness of whether the asking price is reasonable. **Uncertainty** over whether prices are reasonable or not increases as the **complexity** of the good or service increases, and as the **frequency** of the purchase declines. The greater the price sensitivity of the transaction for the individual, the greater the incentive to do some comparison shopping. Prices, of course, can also vary significantly from region to region across Canada. The degree of competition in the marketplace has a direct impact on the price structure in that market. Consumers are increasingly expressing a need for information on the total life cycle costs of products, particularly for major purchases of durable goods.

2. **Quality** entails a value judgment about whether a product or service meets the requirements for which it is purchased. While some quality standards can be judged at the time of purchase, the quality of many goods and services can only be realistically evaluated **after purchase and often only after consumption.** For example, a peach or tomato purchased in the off season may have an attractive colour and shape, and may be free from blemishes, but taste and texture cannot be evaluated until the first bite. Durable goods such as appliances, furniture and cars have life expectations of many years, and these cannot be evaluated at the time of transaction. Many consumers, therefore, **seek out information** regarding a seller's or supplier's reputation for quality and service, in an attempt to reduce the risk of purchase. As Canadian markets become more competitive, the quality of goods and services is likely to increase, and consumers are likely to become more demanding in these areas.
3. **Availability** concerns relate to the degree of choice in the marketplace. Is there sufficient choice in terms of both price and quality, as well as variety of merchandise? Most consumers in large urban centres have sufficient choice within the community at large, but may not feel that there is sufficient accessible choice within their particular neighbourhood. People on **low incomes** and those with **mobility limitations** may find that availability is limited. Canadians in rural and remote areas have availability problems simply because the local economy is not large enough to support effective competition.

4. **Safety** and security concerns relate to product performance and the impact of services. Canadians have come to expect a reasonably high level of safety in terms of product performance. Canada is acknowledged worldwide as having an excellent standards system for goods. Many services available from virtual monopoly industries in this country are required by government regulations to meet a specified level of safety and security. **New product developments** obviously create some uncertainty about safety. **New technologies**, where there is no historical experience by which to evaluate impact, may cause additional safety concerns for consumers. Finally, the further opening of Canadian domestic markets, as trade barriers are reduced, may give rise to increased concern over the health and safety of foreign goods.
5. **Information** problems arise when there is insufficient, inaccurate or untimely data available for the product or service being acquired. For many Canadians, demands on time limit their ability to seek out information and to question its completeness or accuracy. Frequently, there is too much information available, and it becomes difficult to sort out and apply that information which is useful. Firms are increasingly looking at ways to get meaningful information to consumers at the point of sale, but many consumers feel that a constant bombardment of direct and indirect messages about products and their supposed lifestyle attributes may override other concerns about price and quality. Finally, the fundamental problem in many marketplace

transactions will remain that manufacturers and sellers will have much more information than buyers about the product or service being sold.

6. **Redress** problems arise after the transaction for a product or service has been completed, and consumers find that a product or service is defective or deficient. Access to redress when necessary is therefore an important component of a consumer transaction. Redress mechanisms for consumer disputes involving a relatively small monetary amount are generally considered satisfactory. However, with higher priced goods and many services, there is a disparity in knowledge between producer and consumer about the product and the process for resolving the dispute, and consumers often face organizations with **greater resources**. The big question for consumers, then, is not merely how to pursue redress, but **whether to pursue it at all**. For consumers, pursuing redress might involve major investments of **time** and **money**, with no certainty of obtaining commensurate benefits. Recently, some industry associations have developed innovative ways to resolve consumer complaints, recognizing that a satisfied customer is in their best interest.

4.2 EMERGING PROBLEMS

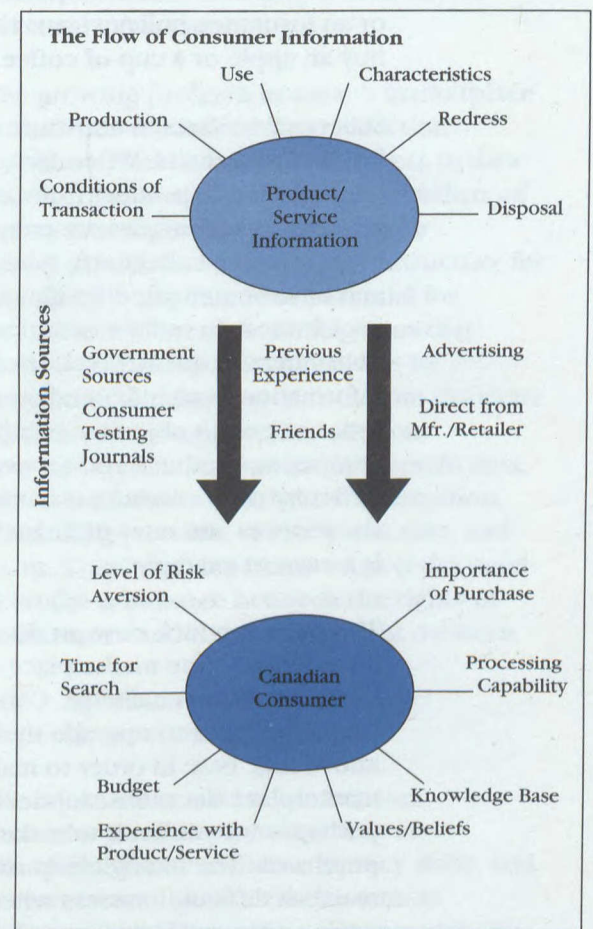
An assessment of the trends identified in Section 2 leads to the conclusion that tomorrow's marketplace will present consumers with challenges in four key areas: *information*, *services*, *redress*, and problems related to *the representation* of consumers' views. The following section discusses some specific examples of problems that are arising within these areas.

4.2.1 Problems related to information

Consumers need timely, accurate and useful information to function adequately in the marketplace. Information problems must be viewed from the context of the time pressures facing a significant number of consumers these days, for example in two-income families, families headed by lone parents and single person households. These households place a premium on time, which may result in a less thorough search for information on the optimum combination of price and quality, or with regard to other characteristics. Time constraints could also lead to a demand for more functional information about goods and services, such as durability and performance. While some customers feel that it is difficult to get information when needed and in a useful format, many firms spend considerable resources attempting to get the "right" amount of information to consumers at the appropriate time in the decision-making cycle. Firms are also trying various means to meet consumers' needs for individualized information.

The following table highlights some of the particular information problems faced by consumers. The circle on the top represents the type of product or service information being sought—from information about the **use of the product**, to information about **how it was produced**, to information about **how it will be disposed** of. The arrows joining the circles indicate various sources of information about products or services. For example, information may come from

advertising, friends or from **government**. The circle on the bottom denotes the fact that each consumer requires different information depending upon such factors as his or her **knowledge base, values, or budget**, etc. This "information model" provides a framework for understanding the complexity facing any consumer in obtaining and processing information about a product or service.



— *Information, Partial Information and Competing Information.*

Sellers have always had an information advantage in individual transactions. The potential gap in information between buyers and sellers increases if the product or service is costly and if it is an infrequent purchase. The need for information in these circumstances also increases. Compare the amount of information required to buy a car or an insurance policy versus that needed to buy an apple or a cup of coffee.

Sellers select facts to convince consumers to buy their products. When facts alone fail to distinguish one product from another, advertising techniques are employed to create an image. Recently, healthy lifestyle and environmentally friendly claims have proliferated. In today's complex marketplace, consumers frequently feel a need for information from independent sources, in order to permit objective comparison of competing products and services. The difficulty most consumers have in comparing the services and rates of financial institutions is a current example.

The pace at which new products are introduced to the marketplace compounds the information challenge. Consumers frequently have to upgrade their personal knowledge base in order to make good marketplace decisions. Service purchases are perhaps more difficult to make than goods purchases. The intangible quality of services makes it difficult to assess whether one is paying a reasonable price and obtaining reasonable quality in return.

A final aspect of information imbalance problems stems from the jargon used in a number of areas. Contracts frequently use language that is difficult for many to understand, yet contracts are important in most consumers' lives. Contracts are used for car rentals, to arrange a loan or mortgage, and to buy life insurance. Even government regulations, designed to protect the consumer, are often difficult to understand. There is a need for greater use of "plain language" communication by both business and government.

— *Information Relevance.*

A lack of relevant information is frequently the result of shifts in consumer values. As consumers make purchases based on their values, there will be more demand for different types of information. Many Canadians have become increasingly concerned about their **personal well-being and health**. For many consumers, this has meant a move away from the use of any drugs, chemicals or additives in their diet and overall lifestyle. In the marketplace, this is reflected by the proliferation of "health" products available to consumers. Consumers want to be in good health, but often it is difficult to understand what is "good" and what is not. Nutritional labelling is often confusing to consumers, and information to clear up ambiguities is often not made available. For example, if a product is "low fat", does that mean it is also low in calories? And if so, how can the consumer know?

The same can be said for **environmental products**. Environmentally friendly products are purchased because people fear harming the environment and ultimately, themselves. Much more difficult to discern is which products harm the environment, and which do not. For example, if a product is in an

environmentally friendly package, does that mean that the product itself is environmentally friendly? And if a detergent is now phosphate-free, can it be determined that whatever replaced the phosphate is environmentally friendly? Although guidelines exist for manufacturers with regard to packaging and labelling, the consumer is not necessarily able to figure out what product claims actually mean.

Another major area for consumer concern is **food safety**. Recent concerns in the food sector have focused on pesticides and produce, and the safety of irradiated food. Currently, labelling laws do not require that produce that has been cultivated using pesticides, be labelled as such. This has raised questions of safety in the minds of many consumers. How does one know if fresh fruit has been treated, and with what? Is special care required to wash or peel vegetables? Many consumers who are concerned about the safety of the foods they digest are considering organically grown or produced foods as a healthier alternative. As personal health and safety concerns increase, more consumers will look to government to ensure that guidelines for the production, labelling and packaging of food products are enforced.

In future, consumers will likely demand more functional information about goods and services, as well as demand information in a form that is better tailored to their individualized needs.

— *Information and Privacy Concerns.*

There is a growing problem with regard to the amount and use of personal information. Technology has helped to make information itself a product that is increasingly marketed and consumed. Mail order firms, telemarketers, financial services, real estate

services, and credit bureaux all **trade in information**. There is a proliferation of public and private databanks containing **personal information**, and these are being used for the benefit of the collector or purchaser of data. Such information is currently being used to speed up transaction time, to control expenses, and to **target consumers** for marketing. While some of these uses provide advantages to consumers, others can abuse the ready availability of personal information.

The growing problem in today's marketplace arises from centralized data collection combined with decentralized access to data. This has the potential to create **invasion of privacy** and **accuracy** problems for consumers. As the technical infrastructure for data transfer expands, the potential for problems will increase. Linkages among databases create privacy problems by permitting the merging of data from disparate sources into composite data files on consumers: financial data, employment data, education information, health information, purchasing patterns, subscription data, and so on. These developments suggest the need to **strike a balance** between the rights of **consumers** and the rights of **data owners**.

— *Information and Vulnerable Consumers.*

The information age we are in poses particular problems for a number of Canadians. Those with low literacy skills, and many new immigrants, can have more difficulty than others when dealing with the quantity and sophistication of information available in today's marketplace. Visually and hearing impaired people have significant difficulties getting adequate information. Young Canadians frequently lack the training necessary to use available information effectively when making purchases. People living in rural communities have much less access to information than persons in urban

centres. Those who are less comfortable with new technologies are vulnerable in the marketplace. For example, adults often complain that they cannot use their VCRs because their young children are the only ones who can understand how the new technology functions. Reaching such people to help them to maintain or improve their capability in the marketplace will require special efforts by businesses, governments or special interest groups.

— *Adequacy of Current Laws and Programs on Consumer Information.*

Canada's consumer protection system does not fully address existing information inadequacies, such as partially available information, the usefulness of information and conflicting information. These problems are particularly acute for consumers in areas such as transportation (automobile purchasing and repairs), food, finance, and in advanced technology transactions. In addition, few government consumer policies adequately address the special problems of vulnerable consumers. Dealing with information difficulties will be particularly challenging because of the **growing volume** of information and the **variety** of information sources.

Consumer and Corporate Affairs Canada, as a regulator and enforcer, has policies governing certain aspects of information provision, such as laws prohibiting fraud and misrepresentation and requirements for information disclosure in certain areas (labelling, investor disclosures). Recent work on environmental labelling and the protection

of personal data are areas where the facilitator role is being used to increase the level of usable information. However, consumer demands for information are likely to increase, particularly in areas of health and safety. Finally, there is a growing need for useful consumer information packages **at the point of purchase**.

4.2.2 Problems related to services

The second problem area identified by consumers relates to the growing service sector and the fact that services now comprise an extremely large proportion of consumer expenditures. What is it that makes services a problem area for consumers? The difference between the type of information needed to purchase services, and that needed to purchase goods, makes consumer decision-making more difficult. This difference has several dimensions. Consumer **services** differ from consumer **goods** in that they are not concrete and cannot be measured before purchase. While consumers can test ride a car or squeeze a grapefruit, the same is not possible for a dentist appointment or a vacation package. Further, services **cannot be owned, returned or stored**. This "intangibility" of services makes it difficult to assess the performance and quality of purchases.

The fact that a service is performed as it is consumed, for example, is intrinsic to the services of professionals—lawyers, accountants, doctors, architects, etc. Services are often inseparable from the seller, and the service provider and receiver often interact together very closely. When purchasing services, there are **often no clear cut standards** which permit a comparison of quality among sellers, and the consumer is relatively powerless as a result of being less knowledgeable than the service provider.

This is generally dealt with through requirements for high standards by practitioners. However, as the importance of services increases, sectors will likely be identified where the lack of such standards poses difficulties for the consumer. Table 3 provides a list of standard services purchased by many consumers.

In the event of a problem, normal redress channels are frequently not relevant. Consider the difference between a contract for the purchase of house cleaning services and the purchase of a lawn mower. In some instances, such as vacation packages, redress funds are set aside by government and the industry concerned. In others, there is no recourse. In some sectors these problems are addressed, but in general, the solution will involve the consumer's heightened awareness of the fact that a buyer beware attitude is more important when purchasing services. In part, rebalancing producer and consumer interests in service purchases will involve redress measures; this will be discussed in greater detail in section 4.2.3.

Many problems for consumers in the service area appear to be associated with those **services provided by governments, regulated industries, and the financial sector**. These are discussed below.

— *Government Services.*

The level of direct and indirect consumer expenditures for government services is substantial. Frequently, people are not aware of — nor do they care — which level of government provides the service as long as expectations are met. Many of us take for granted government services such as police protection, education, health, and transportation infrastructure (roads, ports, railroads and airports).

Many consumers, affected by so many government policies and programs, feel they have frequently become the “neglected stakeholders”, and that the supply side (or “producer” side) of the marketplace has dominated economic thinking and programs. While formal processes such as the Citizen's Code of Regulatory Fairness exist, governments tend to consult primarily with groups directly affected by policy. As the consumer interest tends to be very diffuse in nature, the consumer, while affected, is not perceived as a client.

Many businesses have changed their organization, processes and attitudes in the past 10 years, to become more consumer-oriented and client-centered. However, it may be that governments have not responded as quickly to the needs of consumers for improved government services, and for a greater role in shaping the design of those services. For example, the February 1992 budget highlighted several measures to improve services to Canadians, these included provisions designed to make service standards more client-oriented. The recent initiative of the **UK government in publishing service standards and a public accountability framework for all government services** may be a useful model to consider.

Table 3

The Structure of the Service Sector*

Dynamic Services

Transportation, communications, and utilities
 Air, rail, and water transport
 Ground transportation
 Pipelines
 Storage and warehousing
 Broadcasting — radio, television, cable
 Telephone systems
 Postal and courier services
 Utilities — electricity, gas, water, and
 sewage systems
 Wholesale trade
 Finance, insurance, and real estate

Banks and trust companies
 Credit unions and mortgage companies
 Insurance companies
 Investment dealers
 Real estate operators
 Business services
 Employment agencies
 Advertising services
 Architectural, scientific,
 engineering, and computing services
 Legal services
 Management consulting

Traditional Services

Retail trade
 Food stores
 Drug stores and liquor stores
 Shoe and clothing stores
 Furniture, appliance, furnishings,
 and stereo stores
 Car dealers, gas stations, and auto repair shops
 Department stores
 Jewellery stores and photographic stores
 Personal services
 Hotels
 Restaurants and bars

Film, audio, and video production
 and distribution
 Movie houses and theatres
 Barber and beauty shops
 Laundries and cleaners
 Funeral services
 Machinery and car rental companies
 Photographers
 Repair shops (excluding auto)
 Building security services
 Travel agencies

Nonmarket Services

Education services
 Schools, colleges, and universities
 Libraries, museums, and archives
 Health services
 Hospitals
 Nursing homes
 Doctors and dentists

Medical laboratories
 Social services
 Daycare, meal services, and crisis centres
 Psychologists and social workers
 Religious organizations
 Public administration

* For data-related reasons, this classification scheme has been organized within the framework of Statistics Canada's Standard Industrial Classification.

Source: Economic Council of Canada, *Good Jobs, Bad Jobs*, 1990

— *Regulated Industries.*

Governments have a great impact on daily life, as evidenced by the number of regulated industries whose services are consumed.

Some of the most common are energy, cable television, postal services, telephones and electricity and water. While Canadians would consider most of these services essential, **consumers have limited ability to directly influence rates and services.**

Although some successes have been achieved by consumer groups, most organizations have limited resources, which constrain their ability to be on top of all rate reviews and to fully advocate the consumers' perspective. Hence, new means to promote the consumer viewpoint, including stronger advocacy within government, may be needed.

— *Financial Services.*

In recent years, the financial services sector has gained importance in everyday life, at a time when technology has considerably altered the way that financial transactions are conducted. Expenditures on financial services are of concern because they can greatly affect the lifestyles of consumers, particularly as more individuals take on their own retirement planning. Several markets for financial services exist, each with its own characteristics. In the investment area, for example, there is a potential problem regarding the disclosure of information about the riskiness of investments. In the financial advice industry, there are similar information disclosure problems related to the qualifications of some professionals, and to potential conflicts of interest. In the insurance industry, potential problems arise because of the complexity of contract terms and the wide variety of insurance products available.

Technology has dramatically altered methods of payment, and affected virtually all financial transactions. In the last twenty years there has been explosive growth in credit card use, and the development of instruments such as pre-authorized payments, automated teller machines and debit cards, smart cards and money cards. Other related developments are shopping-by-phone, telemarketing and computer shopping. While these have increased the convenience of transactions for consumers, they have also raised concerns. For example, does the proliferation of credit cards encourage credit buying, and possibly lead to an increase in the number of personal bankruptcies? Do debit cards put consumers at greater risk, in both a legal liability sense and also by making it more difficult to stick to a budget?

4.2.3 Problems related to redress

In the course of thousands of transactions, a consumer is bound to encounter problems and deficiencies in the goods and services that are purchased. Whether it is a **defective appliance**, an **unsatisfactory cleaning service** or **disappointment with an automobile**, at some time a consumer will inevitably want compensation for an injury or injustice suffered. In fact, it is estimated that one in six consumer transactions results in some justifiable complaint. **With so much that can go wrong, consumers must have the opportunity to make things right.**

— *The Cost of Redress.*

The major problem with redress for a consumer is that the personal costs, time and risks needed to obtain financial compensation are usually greater than the value of any potential benefit. These all lessen the likelihood of complaints. Some contributing factors in this regard may be due to the fact that consumers do not know enough about the alternatives available when they want to complain, and that producers/suppliers are

considered to have greater resources available to protect their interests than the individual has to complain. In some instances, there are gaps in the Canadian redress framework.

It is estimated that 60% of consumers who perceive a problem with a product take no action, and that only 1.2% complain to a third party such as the Better Business Bureau or an arbitration program, or commence legal action in the courts. This typical consumer response is termed "avoidance", and is regrettable, because some studies show that 70% of consumers who do complain to the product or service supplier **ultimately receive satisfaction**. Many problems with goods and services thus remain hidden to producers. Small individual amounts of money can in total have considerable impact on the marketplace. Enlightened businesses should, and many do, welcome consumer feedback, because solving the small problems can improve their products and services and improve their overall competitiveness.

Consumer complaints involving expensive claims have traditionally been resolved in the courts, given that consumers' rights to compensation are founded in contract law. Small claims courts have been established to relieve consumers and others of the burden of costly legal representation, and to reduce the lengthy waiting period usually associated with the deliberation of issues in the higher court system. There are, however, problems with using the small claims court system. Some are perceptual in nature, as when individuals are intimidated by the necessity of appearing in court. Others are procedural, as the costs in terms of time and/or money can still be prohibitive.

Some jurisdictions are modifying approaches to permit easier access to small claims courts, and to the processing of higher value disputes as well. Efforts are also being made to establish other less costly redress mechanisms. For example, alternative redress mechanisms provided by third parties, whether they deliver **mediation**, **negotiation** or **adjudication** of a solution, are designed to avoid the problems of the court system. Some business sectors have established industry mechanisms to resolve consumer problems when discussions between the consumer and the product/service provider are inconclusive. The Ontario Motor Vehicle Arbitration Program is one such example. In addition, producers and suppliers increasingly provide more information to consumers, so that direct contact can resolve conflicts. Consumer action panels, the use of 1-800 numbers, improved warranties, and better guarantees and return/replacement policies also offer similar relief, and are playing a more significant role than heretofore.

Some consumer groups are pressing the provinces to permit wider use of class action suits. This could significantly reduce the cost to an individual of pursuing legal redress in situations where many other consumers experience identical losses.

— *Adequacy of Current Laws and Programs Affecting Consumer Redress.*

The provinces' direct authority over the administration of justice has, to a certain extent, limited federal involvement in the area of consumer redress. However, in light of international trends in trade liberalization and the harmonization of standards, the issue of redress will become more important and may require greater co-ordination with provinces.

With regard to private prosecutions, legislation and rules of procedure could be examined to minimize disincentives and to possibly award court-directed compensation and legal costs to private intervenors, where appropriate. This could be done in such a way as to minimize government intervention in the marketplace.

Redress, however, need not be restricted to the legal system: indeed, recent advancements in non-legal dispute resolution mechanisms (alternative dispute resolution or ADR) may prove fruitful. In addition, the activities of federal boards and tribunals as they relate to consumer issues, might be better brought to the attention of consumers, and access to their processes promoted. Further, the low propensity of consumers to complain is also an issue that has not been considered adequately. Consequently, it might now be appropriate for all marketplace participants to explore the encouragement of less expensive, faster, and more informal dispute settlement procedures that go beyond the strict legal sense of redress.

— *Services and Redress.*

Redress is a special challenge in the growing services sector. It is difficult to undo the harm of a service rendered unsatisfactorily. Badly installed plumbing or a botched lawsuit may be expensive to correct and may lead to even more serious problems. When an intangible service has been rendered, how are damages quantified after the fact? How, for example, can a court rectify a badly catered special event, or poor health care delivery? Errors can also be caused by technology. Are consumers, for example, always able to review bank statements or telephone bills with accuracy?

While warranties and redress mechanisms may be readily available for consumer goods, this is not always the case for services. Granted, there are professional and trade associations to which a consumer can appeal, but the processes of self-regulatory professions can be just as intimidating to individuals as the court system. Provincial laws are often restricted to specific sectors such as prepaid services; for example, for fitness packages, dance lessons or door-to-door sales. A consumer with a loss or injury in other non-regulated sectors may find no redress mechanism or specific consumer law to use in pursuing compensation.

— *Mail Order and Telemarketing Redress Problems.*

With the growth in telephone marketing and mail order catalogue sales, consumers cannot always turn to local merchants or the Better Business Bureau with their complaints. With increasing frequency, consumer transactions now originate in other provinces or even outside Canada. The legal system, as an avenue for redress, must function within certain jurisdictions—monetary as well as geographic. Although reciprocal arrangements exist within Canada, it is frequently difficult and costly to resolve problems with foreign suppliers, even if such problems are of relatively low monetary value.

4.2.4 A growing need for consumers to be heard in the policy process

As noted in Section 2.1.4 individual consumers face a challenge in being heard by government. It is difficult and frequently impossible for individuals to have sufficient advance knowledge about government intentions, as well as the expertise necessary, to be able to influence the shape of initiatives

in the increasingly complex areas in which governments act. Thus, individuals organize themselves into interest groups or consumer advocacy groups to represent their concerns.

Consumer interest groups differ in their dynamics. Logistically, it is much easier to organize a relatively few seriously concerned individuals (or businesses) than to organize large numbers of very much less concerned consumers. Hence, only a very small percentage of consumers ever join consumer interest groups. They expect others to do the job. Governments, which must listen to many interest groups, each making its own demands, cannot always focus on a diffuse group of consumers, whose concerns, as a result, may get overpowered by larger and more professional organizations.

In Section 2, it was noted that consumers want governments to be more accountable. In the past, programs and policies were frequently developed in consultation with the stakeholder group directly affected. In recognition of the broader impact of policies on other marketplace players, greater emphasis is now being placed by many government bodies on broadening the base for consultations in program and policy development. Consumers, business and governments are working together more frequently to solve marketplace problems. Existing consumer organizations, however, are under-resourced and must rely on volunteers who may lack the time or expertise necessary to fully present the consumer perspective. Additional means to facilitate consumer participation in policy development must be explored.

Although governments currently try to help by funding various consumer groups, the problem needs more than money. A challenge for governments is to understand and respond to citizens in their economic role as the ultimate purchasers of all private and public goods and services produced for the Canadian marketplace. This should lead to a higher degree of fairness in the operation of the marketplace and a **better balance** between the interests of producers and consumers when government intervention affects them both.

5. What Solutions are Possible?

What solutions are possible to protect the consumer interest in the more competitive marketplace of the 1990s? One theme of this paper has been the interdependence of the three marketplace participants: consumers, business and government, and their shared responsibility for the operation of the marketplace. In developing ideas about what action the federal government could take, and in particular what future role CCAC should have in maintaining and protecting the consumer interest, it must be recognized that any proposed changes would have an impact on the **other** marketplace participants, and should take into account the shared responsibilities of all marketplace stakeholders. Further it must also be recognized that while there is much that some might wish to be done, governments increasingly operate under severe financial constraints.

As a result, the principal challenge for the federal government is whether its role should be altered to address emerging consumer problems in the areas of **information, services, redress and access to decision making**. However, because of budgetary limits, any **new action** in response to these problems will also have implications for **existing** protection measures, possibly leading to a realignment of some types of services. For example, if CCAC were to expand its trader education programs for business organizations, the resulting shift in resource allocation might mean a cut in the number of retail inspectors investigating marketplace fraud.

5.1 MANAGING DIFFERENTLY

Existing protection measures have an important place in establishing and maintaining consumer and business confidence in the marketplace. However, if resources were to be taken from existing programs to address emerging consumer problems, one would have to consider whether, where and how CCAC should manage differently to avoid creating disruptions in existing marketplace protection.

Two maxims underlie the approach which CCAC would recommend regarding current consumer protection measures:

1. **The federal government has a shared responsibility (with provincial and territorial governments, and with business and consumer groups) to maintain a basic level of protection for consumers in the marketplace.**

Defining "basic" or "minimum" level of protection is difficult. Levels of protection could vary by sector of activity, region of the country or socio-income group. The concept of "basic level of protection" stems from the reality that individual consumers often lack the resources or the capability to ensure their own personal health and safety, and it would not be cost effective nor acceptable to society to impose this burden on them. Consumers expect government to provide a framework that provides **a minimum level of safety for products and services in the marketplace**. Consumers also want the best quality and widest choice of products and services. Finally, they expect some means of resolving any problems which result from transactions.

It would therefore be recommended that in principle CCAC should continue to **maintain the laws, programs and enforcement activities** within its mandate that promote a fair, safe and efficient marketplace. In addition, however, the following initiatives could be considered:

- A review of its legislative, regulatory, and voluntary programs to see if there is a need to modernize them in order to keep pace with marketplace developments;
- A review with other federal departments, provincial and territorial governments, consumers and the private sector to **identify areas of excessive regulation and, as appropriate, to coordinate efforts to reduce regulation;**
- The development of clear, national compliance policies to clarify what consumers and the producing sector can expect regarding enforcement;
- The investigation of opportunities for **accreditation and certification of certain industry groups/sectors** to self-police or self-referee;
- A concentration of efforts on programs that have a **national impact;** and
- The development of a comprehensive **federal standards policy** to provide a solid understanding of the role of standards in the marketplace, and to identify where consensus standards could supplement and/or replace legislated requirements.

2. Measures to protect consumers must also be assessed in relation to their overall impact on the marketplace and their contribution to national competitiveness and prosperity.

From the federal government's perspective, any solutions to existing problems should **not create demands for additional resources**, should **not raise expectations** that government measures will supplant individual responsibilities, and should **not add unnecessarily to the regulatory burden** in Canada. A tall order, but nevertheless responsive to the current realities.

This may mean that the federal government should minimize its intervention in the marketplace and, where it must act, the impact on those regulated must be assessed, as well as the benefit to the public.

Government actions have to be paid for by consumers in either taxes or higher prices, or both. Producers accept that many marketplace measures benefit ethical businesses by establishing norms of behaviour. They too, however, want to minimize costs. They look to all levels of government for prudent, cost-effective measures, which reflect the fact that too much

government can affect the competitiveness of the producing sector. Many elements of the existing system of consumer protection measures have, in fact, been put into place at the insistence of the business community.

As a result, CCAC could work with all marketplace stakeholders to:

- Search for consensual solutions to consumer problems that are fair and efficient for **the marketplace as a whole**;
- Promote a more competitive marketplace by building upon the federal government's regulatory policy to ensure that new or revised regulations assess the **direct** and **indirect** costs to the marketplace as a whole, including the **final impact on the public in its role as consumer**.
- In the development of future regulatory initiatives, assess the advantages and disadvantages of **harmonizing rules** with those of other nations. This type of assessment will become increasingly important as trade is liberalized.

5.2 OPPORTUNITIES TO ADDRESS EMERGING PROBLEMS

There may be areas where efforts by all marketplace participants need to be augmented to address the specific emerging problems identified in Section 4. **Below are possible measures that CCAC could examine in partnership with business and consumers in each of the areas of information, services, redress, and access to decision-making.**

These measures are presented as a basis for discussion with other stakeholder groups. Perhaps other marketplace participants have more effective means of addressing the problem, or could suggest more effective measures for the federal government to adopt. Of course, for the federal government, a number of these measures would require resources and, therefore, some trade-offs with existing programs would be necessary.

5.2.1 Information

All marketplace stakeholders should be committed to improving the availability of accurate, objective, and usable marketplace information to consumers. For its part, CCAC could consider the following initiatives:

- a) **working with business, consumer groups and the provinces and territories to develop a means of getting consumer information to "vulnerable" populations, such as those with low literacy and numeracy skills and new Canadians.**

Several measures have been identified to aid more vulnerable consumers. Labelling practices may need review to ensure that the information being provided is meaningful and understandable. Governments should pursue efforts to use **plain language** in legislation affecting consumers in the marketplace, as well as in government publications. CCAC could encourage private sector organizations, as appropriate, to consider whether and how improvements could be made in **contracts, warranties and point of sale information**. With an aging population, consideration needs to be given to providing more information in larger print. Special measures may be required to assist the integration into

our national marketplace of the significant number of immigrants from countries where Canada's official languages and marketplace policies are unknown.

- b) **working with business to provide more information on product safety issues.**

The public does not generally appreciate that not all products are tested before coming on the market. An information program may therefore be required to alert consumers that they have a responsibility to understand the extent and limits of government programs about product safety. Special safety programs for more vulnerable groups such as children and the elderly could be expanded and broadened to include greater private sector participation.

- c) **encouraging industry, provinces and territories to provide more information regarding services to consumers.**

Of particular concern in today's marketplace is the financial services industry. Existing initiatives such as the provision of information on the cost of credit, and the establishment of acceptable practises for electronic funds transfers could be used as models. In cooperation with the provinces, it may be useful to develop standards for personal services provided by financial and investment advisors and paralegals.

- d) **amending the Competition Act or changing the implementation of its marketing practices provisions.**

The misleading advertising provisions of the Competition Act depend on the criminal court system when enforcement measures require prosecution. One alternative, in view of lengthy court processes, is to assess the costs and benefits of using civil law as the ultimate deterrent. The misleading

advertising provisions may require stronger penalties to achieve better and more immediate compliance results. Particular attention may need to be paid to the misleading use of "green" claims in advertising.

- e) **exploring with other marketplace stakeholders the idea of a centralized consumer resource centre to disseminate information to consumers.**

A central resource centre for product and service information would eliminate the need for consumers to search through multiple sources. Industry, too, could benefit by having such a centralized information source. A possible model is the U.S. Consumer Information Center which provides consumers with a single distribution point for a wide variety of government and industry information, on a cost recovery basis.

- f) **working with the provinces and territories to continue developing a marketplace education curriculum, which would improve the ability of consumers to understand how the marketplace works, and how to make choices. This is fully consistent with the federal government's broader concerns with regard to improving Canadians' ability to contribute more effectively to a competitive marketplace, as outlined in the Discussion Paper, Learning Well...Living Well.**

This initiative could build on the excellent work already being done by the provinces and territories to extend consumer education programs into the primary school and adult education curricula.

5.2.2 Services

All marketplace stakeholders should work together to address emerging issues caused by the growing importance of services to consumers. Such work might focus on:

- a) **co-ordinating the development of policies to deal with new services which are national in scope.**

CCAC would encourage all stakeholders to consider alternatives to legislative and regulatory protection when problems in the service sector need to be addressed. For example, potential problems with **electronic funds transfers** have resulted in a voluntary code which was developed in consultation with provinces and territories, business and consumer groups. This approach could also be applied to issues such as **telemarketing** and **credit card** use. Since service providers, i.e., trades and professions, are regulated primarily at the provincial level, the federal role would be that of assisting in co-ordination to ensure that consumers are protected evenly across the country.

- b) **working with business and other levels of government to encourage the development of informational packages (print, audio, visual) to give tips on how to engage a service provider, where such information is not readily available.**

For example, the provision of better information about how to choose such things as a bank, a credit card, a financial planner, home repair and cleaning services, or a doctor or lawyer may help consumers cope with the expanding service sector. Packages should also explain what to do when a service is less than satisfactory, i.e., how to complain.

- c) **monitoring the expansion of the service industry in Canada and maintaining a permanent and regular dialogue with the provinces and territories to ensure that consumer problems with services do not fall between jurisdictional cracks.**

This would involve monitoring developments in service industries and sharing information with other stakeholders. When problems are identified, CCAC would work with other marketplace stakeholders to identify the most appropriate response.

- d) **exploring alternatives to legislative/regulatory protection to address emerging consumer problems in the service sector.**

This might be particularly relevant for those services involving new technologies, and for environmental initiatives linked to consumption. How can voluntary standards and guidelines, codes of conduct and moral suasion be used?

- e) **examining the potential for developing standards for those service providers who are not regulated but from whom consumers may need protection.**
- f) **co-ordinating efforts to ensure that consumers are provided with a comprehensive listing of the public services they receive, with guidance on how to use them, what to expect, and how to complain.**

The UK Government has recently adopted such an approach with the implementation of its Citizen's Code. The recent federal budget has also suggested several measures to improve the "client-centred" aspects of federal services.

5.2.3 Redress

There should be a cost effective consumer redress system in Canada that is accessible to all Canadians.

For its part, CCAC could contribute to this objective by:

- a) **working with other stakeholders to provide consumers and their organizations with information about current redress systems;**

As many consumers are not aware of the redress measures currently available, the provision of information—possibly through brochures, television and radio spots or newspapers and magazines—may enable more consumers to take action when they have complaints. Greater use of plain language by both government and business may make it clearer to consumers what their rights and responsibilities are at the beginning of a transaction, and therefore reduce the incidence of problems. This could benefit Canadian business and make it more competitive.

- b) **examining with other marketplace participants the costs and benefits of a legal framework for compliance policies that would make private prosecutions by intervenors, including consumers, easier;**

In the development of new compliance policies, or when existing compliance policies are reviewed, governments could consider the encouragement of legal procedures to make private prosecutions easier. This could have the effect of reducing the costs of public intervention in the marketplace.

- c) **exploring with other stakeholders the potential for alternative dispute resolution mechanisms, and for procedural changes to the small claims courts system;**

This would require a review of the legal and administrative processes available to consumers when claims require third party intervention. It would also require the assessment of measures adopted by other jurisdictions in their attempts to improve access and responsiveness of legal and administrative processes for consumers.

- d) **facilitating the development of improved interprovincial and international redress systems;**

Recent court decisions have provided an opportunity for improving interprovincial and international redress systems. CCAC could co-ordinate work with marketplace stakeholders to identify the gaps in the Canadian redress infrastructure and to assess their significance.

- e) **facilitating opportunities for interventions by consumers and consumer groups in federal legal and administrative proceedings.**

Governments could examine the adequacy of measures to ensure that consumer groups have an equitable opportunity to participate in legal and administrative proceedings when measures affecting consumers are being considered or decided.

- f) **acting as an information broker and working cooperatively with other stakeholders to encourage firms to establish effective complaint handling responsibility centres.**

This could be accomplished by developing a complaint inventory, and also by advertising the success stories of companies which have established cost-effective systems that not only satisfy consumers who complain, but also improve the firm's competitive position. Many firms are discovering that consumer complaint programs are now profit centres within their organizations.

5.2.4 Access to decision-making

Consumers and their representatives should have the opportunity for fair access to the processes of designing and developing policy in matters affecting the provision of **both** public and private goods and services in the marketplace.

All marketplace stakeholders should contribute towards this objective. For its part, CCAC could consider:

- a) **ensuring that consumers and their representatives are consulted in the development of CCAC legislation/regulations.**

CCAC would endeavour to strengthen its links with consumer organizations, to obtain as many different views as possible regarding the consumer interest in a particular marketplace issue. Although it is rarely possible for a policy to fully satisfy all interests, CCAC would be able to better gauge the consumer interest, and develop policies and programs accordingly.

- b) **supporting the work of consumer organizations and informing them of major public initiatives under review.**

This would include the evaluation of current funding programs to ensure that they continue to assist in maintaining effective and credible consumer groups. A more regular linkage could be established with consumer groups to exchange views on key marketplace priorities.

- c) **encouraging the consideration of a marketplace perspective in appropriate policy-making processes.**

CCAC would make increased efforts to share marketplace expertise, information and analysis with other federal departments.

- d) **preparing an annual report on the health of the marketplace from the consumer's perspective.**

The report could include such information as: the latest consumer trends, consumer spending patterns, current marketplace issues, and the most frequent consumer complaints or concerns. Such a report would broaden the visibility of consumer issues and help to ensure that all marketplace stakeholders are aware of the consumer interest in particular marketplace problems.

5.3 COSTS AND BENEFITS OF IMPROVED PROGRAMS AND POLICIES

The apparent benefits for consumers begin with a better knowledge of rights and an improved ability to exercise them. Product and service information would be better and more accessible. There would be a stronger consumer voice in the government-business-consumer triangle. Greater attention would be paid to providing better programs for the vulnerable consumer. Faster, simpler dispute mechanisms would be available as alternatives to courts, and access to the courts for smaller issues might be facilitated.

The business sector would also benefit from more accurate information about consumers. It could become more actively involved in the development of cost-effective voluntary solutions to marketplace problems before one or several government jurisdictions begin to implement regulations. Rules for ethical behaviour in new business sectors could be advantageous. Finally, a more competitive and demanding consumer in the marketplace should benefit the private sector.

For the provincial, territorial and the federal governments, a harmonized approach to problem solving would spread the burden of policy development costs, spread the liability for marketplace failure, and also spread the responsibility for achieving solutions to marketplace conflicts. There might also be a reduction in the number of future marketplace queries and complaints which otherwise might require new government services or market intervention.

However, in providing advice on what role the federal government should adopt in helping consumers participate more effectively and with confidence in the marketplace of the next decade, individuals will need to consider the costs and benefits of any new governmental role. Can consumers (taxpayers) afford such a new role? What are the trade-offs?

The fiscal pressures on government are such that the expectation of new resources for new programs are unrealistic. Therefore, any new initiatives would have to be financed by a reallocation from existing consumer programs and activities. Do marketplace participants agree on the lowest priority consumer programs and activities? This question will be central to the federal government as it considers suggestions from other marketplace participants.

6. Consultations: Give us Your Views on how the Federal Government can Change to Better Assist and Protect Consumers

Consumer and Corporate Affairs Canada is rethinking the best role for the federal government to take in assisting and protecting consumers as we enter the twenty-first century. CCAC wants your reactions and your views regarding **the analysis and the suggestions** outlined in this paper. You might wish to begin thinking about your position by considering some or all of the following questions:

1. What new products, new services or new technologies are creating problems for you as a consumer?
2. Are you getting the information you need about products and services in the marketplace?
3. Are today's products and services safe enough for you and your family?
4. Do you have an adequate variety of products and services to choose from in your community?
5. If a product or service you use does not work well, do you get a satisfactory response to your complaints?
6. Are the quality of today's products and services adequate for your needs?
7. Are you satisfied with the information you have about government services provided to you?

8. How should the interests of consumers be adequately incorporated into the development of new public policies?
9. How should responsibility for the operation of a fair and efficient marketplace be shared among consumers, business and governments?
10. Should the resources for any proposed new measures be found from a reduction in existing consumer programs? Which ones?

Please provide your comments to:

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In addition, CCAC will be consulting with interested individuals and groups on a regional basis beginning in May 1992. If you are interested in participating, please contact the above number or the regional office nearest you.

If you require additional copies of this paper,
please contact the nearest regional office of
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