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CONSUMER RESEARCH REPORT NO: 1

DEFINING THE CONSUMER INTEREST

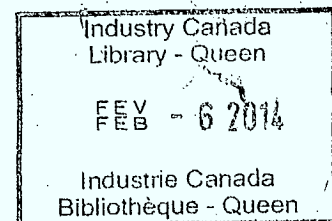
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Abdul Wahab
J.D. Forbes
S.M. Oberg

Faculty of Commerce and Business Administration
University of British Columbia, Vancouver, B.C.

The views presented in this paper are those of the author and do not necessarily reflect the view of positions of the Department of C.C.A.

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FOREWORD

Over the past five years we have attempted and have experienced difficulty in delineating the unique significance and the scope of the rising tide of consumer consciousness and political activity. In any specific instance the reason for consumer concern about a given problem, be it individually activated problems in the marketplace or the general concern of a consumer advocacy group, is easy to understand. Fitting this concern into the scope of political and economic activity which occur in as outspoken and activist and politically active a society as Canada is more difficult. This is particularly so at the margin where we have perceived the consumer interest being in fact the public interest.

Consumer activist groups appear to have a difficult problem in defining what their role in the advocacy process should be and the range of activity which they should pursue. In Canada it appears to be an ad hoc approach to legislation which has as its objective the protection of the consumer interest.

The seeds of this study are contained in Chapter III of the report on Consumer Interest in Marketing Boards, published in Ottawa by Consumer and Corporate Affairs in 1974, where we had to define the consumer interest in order to evaluate the effects of a specific regulatory activity on that interest.

In the research for that project and in our readings subsequent to its publication we have been looking for a more precise definition of the consumer interest but have not found one. To date this is the first concerted attack we have found on the problem.

We are not satisfied with the present paper, not because of what is in the paper but because of the disservice we will do by excluding some important work on the subject, especially in the fields of the law, economics and political science. In the time available we covered a wide range of literature, especially that concerned with marketing and marketers and the literature on consumerism. We know there are gaps in the three areas listed above and we know we must rewrite and revise the present paper. We plan to correct these deficiencies in the next year but we want this working paper to be available to interest people. We want the benefit of their criticism and suggestions for making it more complete.

We want to thank Dr. John Evans, Director of the Consumer Research Branch at Consumer and Corporate Affairs for supporting the production of this report. He contributed in more than just a monetary sense, especially by allowing us to look in breadth at the problem. The division of labour in the project started with Mr. Wahab, a doctoral candidate at the University of British Columbia, spending the summer months of 1976 performing

the literature review and writing up the result of this activity in September. We took this basic document, did some restructuring, rewriting, added some research (especially in social choice decisions), and came up with this draft report. The final report will be produced within the year.

J. D. Forbes

S. M. Oberg
Faculty of Commerce and
Business Administration
University of British Columbia

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TOWARDS DEFINING THE CONSUMER INTEREST

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TOWARDS DEFINING THE CONSUMER INTEREST

PART I

INTRODUCTION

In today's increasingly pluralistic society, in what appears to be a more formal and structured balancing of the interests of competing groups in social, political and economic decisions, consumers and consumer action groups are pressing to have the "consumer interest" recognized and protected.

The range of situations in which at least some consumers believe they have interests which need consideration vary from the desire to have prices and ingredients prominently displayed on a can of string beans to debates on the environmental impact of a supersonic jet airplane on their quality of life. The plethora of situations which have fallen under the aegis of "consumer interest" in the past and which may be so classified in the future may be infinite. Because this interest appears to be so broad many people, politicians, government officials, business persons, even consumers and consumer advocates, have problems in differentiating the "consumer interest" and the equally ill-defined but commonly used "public interest".

Purpose

The purpose of this paper is to attempt, through a survey of the literature, to provide a definition of the "consumer interest". The task is not as trivial as it may first appear,

especially to those who, as consumer activists or advocates or as business persons or as representatives of government, have had to delineate the difference between the "consumer" and the "public" interest. The consumer activists are sure that there is a difference. There is sufficient awareness that there is a "consumer" interest that all the provinces and the federal government have departments who are charged to represent these interests.

A second purpose of the report is to define the consumer interest in such a way as to provide operational direction for persons who have to represent and protect that interest.

Background

As early as 1941 Dorothy Jacobson used the term "consumer interest" in her book Our Interests as Consumers.¹ The first doctoral dissertation that used the term was written in 1943 at the University of Chicago.² Another book entitled in part The Consumer Interest appeared in 1949.³

The consumer movement of the mid-1960's made the term more popular and, in 1964, President Johnson established a coordinating group known as the President's Committee on Consumer Interests. In the same period a national organization known as the American Council of Consumer Interests was formed. Several articles and books were written using the term "consumer interest" and

conferences on the subject were held.⁴

The term now is used frequently by government officials, law-makers, consumer advocates, business representatives, and politicians. The chairman of the Federal Power Commission, while speaking in a U. S. Senate Hearing, said: "Among Congress chief concerns was the provision of meaningful protection of the interests of the ultimate consumer. The predominant concern of the Federal Power Commission, therefore, is the protection of the consumer interest....."⁵ Senator Ribicoff in his opening statement remarked, "The interests of consumers are not adequately represented in these proceedings."⁶ Ralph Nader while testifying before the Senate observed, "The jurisdiction (of the Agency for Consumer Advocacy) deals with consumer interests arising out of marketplace transactions."⁷ John A. Stuart, representing the National Association of Manufacturers said, "(The proposed agency is) a special interest agency employing federal funds, to advocate laws and regulations in behalf of a consumer interest..."⁸

THE MEANING OF CONSUMER INTEREST

A. Problems in Defining Consumer Interest

The increasing use of the term "consumer interest" has not meant that its meaning and implications are clear in the


minds of all its users. Campbell Persia, realizing the problem, remarks "...we have to recognize that great difficulty presents itself in any attempt made to apply such general criteria to the particular issues that are continuously emerging from a complex economic system, particularly one so dynamic as our own. For instance, where does the consumer interest lie with respect to proposals for the repeal of the Taft-Hartley Labor Act, or for the St. Lawrence Waterway, or for guaranteed minimum profits on large-scale rental housing, all of which might have a noticeable effect on the average level of consumption, or that of particular groups."⁹

1. Diffusion

An important difficulty in defining consumer interest is its diffusion. "The consumer interest is the objective interest of the entire public."¹⁰ A member of the public is a consumer at the dinner table but he is a producer, a farmer, a worker or a business person during the other hours of the day before dinner.¹¹

An interesting elaboration of the diffusion was given by Loyns and Pursage. "Everyone must consume in order to survive... since all people are consumers, consumer interest must be reflected in all public decision-making. However, contemporary consumption decisions are made in an environment characterized by divergent

pressures. Consumers face an almost endless array of goods and services... most individuals must be gainfully employed and work in order to accumulate sufficient resources to finance their consumption, implying that most people are also producers. As a result there is no single, well-defined pattern of actions which uniquely and universally determines consumption behaviour. Therefore while everyone is a consumer, it is also true that no one is solely a consumer."¹²



2. Intensity

A second important difficulty in defining consumer interest is the variable intensity of the interest. All people are consumers, but their self awareness as consumers is generally lower than their awareness of their other roles. Consequently, their interests as consumers are at a lower intensity than their other interests. This makes consumer interests an issue that most people do not care very much about.¹³

3. Lack of Organization

Another problem in defining consumer interest is that people as consumers are not as well nor as effectively organized as are the specialized groups (business, labour) about theirs. The common interests that result in forming groups and organizing are less compelling than for the more specialized

interest groups.

B. Conflict of Interest

Conflict refers to a situation in which a person is motivated to engage in two or more mutually exclusive activities.¹⁴

A conflict emerges whenever two or more persons (or groups) seek to possess the same objects, occupy the same space or the same exclusive position, play incompatible roles, maintain incompatible goals, or undertake mutually incompatible means for achieving their purposes.¹⁵

Man is both producer and consumer, his interest as producer is immediate and obvious, but as mentioned earlier, his interest as consumer is distant and diffuse. As a result, the two often come into conflict.¹⁶ The point is well illustrated by Senator Bob Dole in his testimony before the U.S. Senate. "In my home state of Kansas, we are especially sensitive to the dilemma of conflict in consumer interests. In the area of farm commodities, many consumer advocates have worked for lower farm prices with the goal of maintaining lower food prices for consumers.....when the market signals a surplus through low prices, farmers are forced to cut back production, which increases the prices."¹⁷

Everyone in his role as a consumer wants more variety, lower prices, and better quality while at the same time every-

one is a producer of goods or services. In his role as a producer, everyone wants a larger share of the national income through higher prices. The benefits of lower prices for a product or service are diffused over the whole buying population. The benefits of higher prices, wages or rates of return accrue in large measure to the producer, wage earner or owner of capital.

There is no simple solution of the conflict between producers and consumers. The matter of who should get preference, the consumer or the producer, is highly controversial. Milton Moore thinks that "The interests of the citizens as consumers should be put ahead of the citizen as producer because, if this were done, there should be a net improvement to many even if those who gained had to compensate those who lost. We must give priority to the consumer's interests because that priority is a necessary condition for efficiency and an increasing real income per capita."¹⁸ This may not seem very convincing to the extent that if the producers get less, their real income may go down and they may have less for consumption and investment which may affect the real income of consumers.

Adam Smith favours the consumers because "consumption is the sole end purpose of all production, and the interest of the producer ought to be attended to, only so far as it may

be necessary for promoting that of the consumer. The maxim is so perfectly self-evident, that it would be absurd to attempt to prove it. But in the mercentile system, the interest of the consumer is almost constantly sacrificed to that of the producer, and it seems to consider production, and not consumption, as the ultimate end object of all industry and commerce...."¹⁹

He blamed producers for neglecting the interests of the consumers. "It cannot be very difficult to determine who have been the contrivers of this whole system; not the consumer, we may believe whose interest has been entirely neglected, but the producers, whose interest has been so carefully attended to; and among this latter class our merchants and manufacturers have been by far the principal architects."²⁰

In thinking about conflict of interest, two extreme solutions can be visualized: the first has total conflict of interest and the second has no conflict of interest. The kind of situation that has total conflict of interest is an interaction in which whatever one participant wins the other must lose. Interactions of this type are called two-person zero-sum games. They have no room for cooperation and have complete conflict of interest. In the opposite kind of situation, which can be called a partnership game, both participants can attain their most preferred outcome at the same time. Partnership games have no conflict

of interest because there is no reason for the participants not to cooperate fully with each other.²¹ The nature of conflict in the area of consumer interest will be discussed in the later part of the paper.

C. Public Interest vs. Consumer Interest

1. The Confusion

The discussion of conflict in the area of consumer interest leads us to the conflict between consumer interest and public interest. The term "public interest" itself needs clarification because frequently it is used without specifying the exact meaning and some writers use it interchangeably with consumer interest. A well known marketing expert, John A. Howard, entitled his report written for the Federal Trade Commission as Advertising and Public Interest.²² In the first paragraph of the preface Howard wrote, "C.W. Cook, the lead-off speaker for the advertising industry, predicted that when the record of the Federal Trade Commission's hearings was complete, we would be closer to a definition of advertising and public interest."²³ Unfortunately, the authors forgot to define public interest in their report.

Nadel treats consumer interest as public interest or at least part of it. "...the consumer interest is a collective or a public interest. Since every person is a consumer, policy which benefits the consumption pattern of citizens and protects

them from untoward effects of their consumption is a policy which benefits all citizens. Given this benefit, it is a policy in which all citizens - the public - have an interest. It is therefore a public interest or part of the larger public interest."²⁴

In view of the flexibility inherent in the concept of public interest the representatives of manufacturers advocate the use of public interest over consumer interest. "Behind all of these objections is our unshaken belief in the public interest as the basis for law and public policy. If you wish to grasp clearly the fallacy of this special purpose agency (Consumer Advocacy Agency), we invite you simply to trace through the bill before you, and in each place where the word "consumer interest" or "the consumer" appears, substitute the word "public interest" or "the public". If you do this, you will find that you have simply defined the purpose of government itself, as the protector of consumers and all other citizens in all their interests. The concept of public interest is a precious one which we hope you will not lightly change for a new catch phrase (consumer interest), however popular at that moment."²⁵ While the National Association of Manufacturers believed the public interest is equated with the consumer interest we do not.

2. The Meaning of Public Interest²⁶

The significance of the public interest concept is nor-

mative rather than analytical. It can be viewed as the objective of the duly authorized organs of government or as the expression of majority rule. In policy terms, the public interest may be envisaged as embracing those activities necessary to the safety of the state and the welfare of the community. It is aggregative, it focuses on the interests of the body politic rather than on the interests of the individual members of the "public". The public interest has no a priori content waiting to be revealed. Public responsibilities regarded as being in the public interest in one setting may not be so regarded in a different context.

The fact that the concept is elastic and relative rather than fixed and absolute makes it of greater utility in the quest for a supporting consensus as social changes occur and efforts at accommodation are made. The public interest then seems to remind the parties immediately concerned that there are considerations extending beyond their own goals or their particular rivalries or negotiations. As an aim to be articulated or an ideal to be enunciated the public interest stands for the broad versus the narrow, the more inclusive versus the limited. The existence of a common interest is an implicit assumption, although its more specific manifestation cannot always be readily agreed upon.

The public interest can be visualized as a continuum that

represents the value, aspirations, and objectives of the community or polity. There are values that are clearly central, such as health and there are objectives that are controversial, such as flouridation of water or discouragement of cigarette smoking. It is impossible to state with precision where any given item belongs on the continuum, yet there is general acceptance that a range of activities and goals exist above irrational or selfish individual interests.

The public interest cannot be thought of as a compromise struck between the desires of dope addicts and moralists or between hoodlums and the police. The public interest is clearly more than the sum of competing interests. It is an insistent reminder that morality must have a central place in any society that respects the freedom of its members. The concept of public interest holds the ultimate ethical justification for the demands that the state makes on the individual. The high value placed upon freedom and justice calls for the readiness of the citizen to make sacrifices if necessary and to share responsibility for sustaining the values of the polity.

The concept of public interest is broad and elastic. The confusion about its use as an equivalent word for consumer interest will perhaps persist. The legal profession particularly prefers the use of public interest. The practical problems is using this

concept and the criteria for selecting public policies will be discussed under the "legal approach" part of the report.

3. The Meaning of Consumer Interest

The Webster's New International Dictionary defines interest as a right, title, share or participation in a thing or concern or the state of being concerned. The definition of interest in the Encyclopedia of Social Science is much more elaborate. When a number of men unite for the defense, maintenance, or enhancement of any more or less enduring position or advantage which they possess alike or common, the term interest is applied both to the group so united and to the cause which unites them.²⁷ This definition assumes an active role on the part of the participants. This may not be true in the case of consumer interest because of its diffusion.

A booklet of the Organization for Economic Cooperation and Development (OECD) classifies all consumer interests into physical interests and economic interests.²⁸ The physical interests include health hazards and safety. Protection against fraud and deception by unscrupulous traders are included under economic interests. The classification is simple, but it is too simplistic.

The meaning of consumer interest needs a more elaborate and precise definition if it is to have any operational usefulness and if such a definition is to be used as a guide to ensuring

that such interest is identified and protected. This report was designed to provide a greater definition of that interest.

D. Structure of the Report

The approximately two hundred publications which were reviewed in the search to define the consumer interest are classified into six categories which, with the final summary and conclusions chapter form the structure of this report. The six categories are the Marketing Concept, the Economic, the Consumerism, the Information, the Law and the Social Approaches to Consumer Interest.

It is interesting to note the range of writings where we found the concept of consumer interest used and yet we encountered no precise nor detailed specification of this interest.

E. Summary and Conclusions

Increased activity in the field of consumerism has highlighted the need to specify the dimension of the consumer interest to provide an operational aid to representing and protecting it. That interest is characterized by its diffused nature over all activities which affect consumers, its relatively low intensity and the conflict between the diffused nature of the consumer interest and the intensity of the special interests in one's job, one's political interests or one's social affiliations. A further confusion of the broad public interest and a more specific con-

sumer interest complicates the problem of identifying and protecting the consumer interest.

The six chapters which analyze the two hundred publications surveyed for this report and a summary and conclusions chapter have as their purpose the operational definition of the consumer interest and a pointing of the way for future investigators in this area.

FOOTNOTES

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- ³Persia Campbell, The Consumer Interest: A Study in Consumer Economics (New York: Harper and Brothers, 1949).
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- ¹⁰Mark V. Nadel, The Politics of Consumer Interest (Indianapolis: The Bobbs-Merrill Company, Inc., 1971), p. 235.
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- ¹²R.M.A. Loyns and Alex J.W. Pursaga, Economic Dimensions of Consumer Interest, Unpublished Research Paper Submitted to the Canadian Consumer Council (Manitoba: Department of Agricultural Economics, University of Manitoba, 1973), p.5.

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- 23 Ibid.
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- 25 John A. Stuart, Representative of National Association of Manufacturers, Hearings Before the Committee on Government Operations, United States Senate Ninety-Fourth Congress, op.cit., p. 220.
- 26 See Pendleton Herring, "Public Interest," in International Encyclopedia of Social Sciences, op.cit., pp. 170-174.
- 27 R.M. MacIver, "Interests", in Edwin R. A. Saligman, editor-in-chief (New York: The Macmillan Company, 1959), p. 144.
- 28 O.E.C.D. Consumer Policy in Member Countries (Paris: O.E.C.D., 1972), pp. 6-7.

PART II

THE ECONOMIC APPROACH AND THE CONSUMER INTEREST

Economics was the first of the social sciences to analyze the propensity of people to consume and the behavior of firms responding to that demand. Economics, therefore, is the logical place to start an investigation of the consumer interest. Economic theory does not provide a useful definition or specification of the consumer interest although it is implicit in indifference curve analysis and the individual utility function. Welfare economics subsumes the consumer interest in aggregative concepts such as the demand curve and the consumption function.

The possibility of a more thoroughgoing study of the economic role of interest groups as such is suggested by the work of economists like Sombart and Veblen.¹ Veblen was not particularly interested in consumer interests, but he did analyze the motives of businessmen and the interests of common men as consumers.

Assumptions of Economic Theory

Broadly speaking, economics is concerned with the production and distribution of scarce resources for the satisfaction of unlimited consumer wants (consumption).² In a free enterprise system, the commonly accepted assumptions are: the consumer guides production; consumption is the end and purpose

of production; competition is an adequate safeguard of the consumer; retailers and other businessmen protect consumers; consumers are rational and awake and alive to their own interests.³

These assumptions were considered as built-in safeguards of consumer interest, whatsoever they were. These assumptions implied that the economic system will satisfy the needs of consumers in a manner which will be "fair" to both the producer and the consumers.

The Failure of the Economic Model

The economic system, in practice, unfortunately did not work as anticipated by Adam Smith and others. The "Invisible Hand" of "Self-interest" did not serve the needs of consumers in a manner fair to the consumer. The results it produced showed that the system was more favourable to producers than to consumers.

According to Paul Samuelson, "While Smith did recognize some of the realistic limitations on this doctrine, it was not until later that economists discovered this truth. The virtues claimed for free enterprise are fully realized only when the complete checks and balances of perfect competition are present.... Historians quarrel over whether there ever was a golden age of

free competition. And certainly, competition is not now perfect in the economist's sense. We do not even know whether, because of the fundamental nature of large scale production and technology, consumers' tastes, and business organization, competition is becoming less or more intense."⁴

The same authors point out other weaknesses of the system by saying "Firms do not know when consumer tastes will change, therefore they may overproduce in one field and underproduce in another. By the time they are ready to learn from experience, the situation may have changed again. Also, in a competitive system many producers simply do not know the methods of other producers, and costs do not fall to a minimum. In the competitive struggle one can sometimes succeed as much by keeping knowledge scarce as by keeping production high."⁵ They go on to discuss the limitations of the system by introducing monopoly.

The dissatisfaction with the free enterprise system was manifested from time to time in a number of books which quickly became best sellers. In 1905, Sinclair's book The Jungle gave a graphic description of unsatisfactory conditions in meat processing plants in Chicago. These were shocking and nauseated many Americans:

The rats were nuisances, and the packers would put poisoned bread out for them and they would die, and then rats, bread and meat would go into the hoppers

together.....Men who worked in the tank rooms full of steam...fell into the vats, and when they were fished out, there was never enough of them to be worth exhibiting - sometimes they would be overlooked for days, till all but the bones of them had gone out to the world as Durham's Pure Leaf Lard!"⁶

By 1946, Sinclair's book had been translated into twenty-seven languages.

Chase and Schlink's book Your Money's Worth, published in 1928, gave information on the testing of goods for the armed services and government departments by the National Bureau of Standards, and detailed the savings in government expenditure that resulted from the tests. Many of these were consumer goods. The authors argued that consumers should have the benefit of tests similar to those carried out by the Bureau of Standards. The book resulted in the formation of Consumers' Research, Inc. in the United States.⁷

Schlink teamed up with Arthur Kallet to write a second book, 100,000,000 Guinea Pigs which highlighted the dangers in everyday foods, drugs, and cosmetics faced by 100 million Americans in 1933. The book became so popular that by 1939, the book had its thirty-fourth printing! "That big, juicy apple you have at lunch --- is coated with arsenic, one of the deadliest of poisons --- A tube of Pebecco Toothpaste --- contains enough poison to kill three persons --- the food and drug

industries have been systematically bombarding us with falsehoods about the purity, healthfulness, and safety of their products, while they have been making profits by experimenting on us with poisons, irritants, harmful chemical preservatives and dangerous drugs.⁸

The Causes of the Failure of the Market System to Protect the Consumer Interest

A number of factors were considered responsible for the failure of the free enterprise system to safeguard the interests of consumers. Robert S. Lynd charged the system with creating administered markets and commercially controlled standards of living. "Paradoxically, the consumer has never been so free to choose as he is today and at the same time so little free, so completely bound as he is upon the wheel of an administered market and a commercially controlled standard of living. The consumer is free to take or leave under a system in which free competition is becoming increasingly unreal."⁹

Kenneth Dameron blames lack of knowledge on the part of consumers and the separation of manufacturers and consumers, "----the consumer's choice is greatly handicapped by the fact that he knows so little about the products he uses that he is unable to make an intelligent choice. Furthermore, the economic processes have limited the consumer's relation with production

until now he meets it only at the point of final or ultimate sale".¹⁰

Numerous other factors were responsible for the failure of the economic system to serve consumer interests. "The developments have profoundly affected the climate of the market, causing economic theory to lag behind the facts it explains. It is often said - although usually, it must be admitted, by those with a commercial interest in a quiet life - that consumers need no special protection, all can be safely left to the market. But the perfect market is an economist's dream and consumer sovereignty a myth. In real life products are complex and of great variety, and consumers (and retailers) have imperfect knowledge. Suppliers may often have a dominant buying position. As a consequence, bargaining power in the market is weighted against the consumer."¹¹

The competitive model which is the foundation of welfare economics depends upon a number of structural assumptions.

1. The consumer has access to a large number of substitutes. In perfect competition there would be a large number of perfect substitutes - a set of standardized products.
2. The supply of products on the market is provided by a large number of competing firms.
3. Both consumers and suppliers have access to all the information required to make rationally optimal decisions.

4. There is complete mobility of firms. Entry and exit is uninhibited. All firms, both actual and potential, have access to the resources required - land, labour, and capital - for production.

Clearly these assumptions are not satisfied in the real world. It is assumed, however, by proponents of the competitive model that the benefits of the model can be achieved as long as the assumptions are substantially satisfied. That is, there is a concept of workable competition that should be our objective. If the structure of the system can approximate the ideal model prices will be determined by competitive forces, social welfare defined in material terms as a high standard of living will be possible, efficient firms will be rewarded with profits, and the resources of society will be used to produce the products and services wanted by society.

Unfortunately there are a number of weaknesses in the workable competition argument.

1. If the assumptions of the ideal model are not satisfied there is no theoretical basis for deducing that the objectives of the ideal system will be achieved in the real world by a partial satisficing of the assumptions.
2. The competitive system appears to generate a small number of differentiated products rather than a large number of standardized products.
3. Technological developments favor the large firm. Concentration, merger, integration, and conglomerates seem to be more the natural order of things than the small, independent, single product firm of the ideal model.

4. Information is not freely available nor is it easily accessible. Consumers are at a severe disadvantage in their ability to make wise choices. As product sophistication and complexity increases the choice process becomes increasingly difficult.
5. The barriers to entry and exit are significant. Access to resources is limited in a variety of ways.

In the over-simplified world of the economic model rational consumers allocate their buying power according to their perceived satisfactions. They maximize their personal utility by moving it to the highest achievable set of indifference curves. The result is optimal because rational suppliers react to the demand curves that represent the aggregate of consumer desires and the forces of competition ensure that the results are achieved with the most efficient use of society's resources. The consumer's interest is satisfied in a perfectly rational and systematic way.

The structure of the real world differs markedly from the ideal model. Much of the legislation in the area of monopolies and mergers attempt to move the economy towards the structure of the ideal model. However, other legislation such as laws respecting unions, professions, and agricultural marketing boards run counter to the philosophy of price and open competition.

Economic Efficiency

The consumer interest cannot be equated to lowest possible prices, the highest possible standard of living, or economic efficiency. However, such economic objectives must be central to any appraisal of the consumer interest. The consumer must be better off if society's resources are put to their highest and best use. The economic theory of exchange can demonstrate that wider conditions of pure competition prices will be optimal in the sense that the market will be cleared. If there are imperfections in the market, however, such as monopoly power, the consumer must be affected. Prices may be stable without an optimal use of resources. Prices may remain high in a period of over-supply so that the market will not be cleared.

An important social question is how much is aggregate economic welfare reduced by the misallocation of resources that results from market imperfections. The welfare loss, measured in terms of percentage reduction in the national product, is minimal, probably less than one percent.¹² The loss of national income, however, is not the only cost. "Managerial slack" is the potential for protected managerial inefficiency that may exist because of market imperfections. The economic concept "managerial slack" identifies a significant source of social cost. It is likely that this source of inefficiency may be

many times as important as allocative efficiency. It is clearly in the consumer interest to ensure that industry operates at the minimum level of costs, that is, at maximum efficiency.

An important further consequence of managerial slack is that there will be a redistribution of income away from the consumer to the producer. Such a redistribution is not, in itself, a loss to society but a transfer of buying power.

The income transfer effects of inefficiencies due to managerial slack are not necessarily socially undesirable. The question of "who should get what" and the question of the redistribution of consumer surplus are ethical questions. They are political issues but they are an aspect of the consumer interest.

Dynamic efficiency in industry is a complex phenomenon. In imperfect markets signals from the marketplace to change the amount produced often are not clear. Products, manufacturing and distribution methods, and business practices that may have been appropriate at one point in time should be discarded when they are no longer optimal. Unfortunately, when monopoly power exists it provides a protected umbrella which permits inefficiencies to be ignored or to become entrenched as traditional practices. This secondary cost of dynamic inefficiency is impossible to measure but runs counter to the consumer interest. Innovation in new products and new methods

and in the improvement of existing products will occur only if there is an incentive to experiment and to change. The possession of substantial market power will at worst stifle innovation and at least will not provide an economic incentive for the development of imaginative new ideas.

Contributions of Economics to Define the Consumer Interest

Economists have provided some tools for analyzing the consumer interest even though the foregoing description of occurrences in the market economy are rather conclusive indications that the interests of consumers are not protected by market forces. In addition, that interest has been assumed and not specified.

The contributions of the economic literature has been mainly in the area of indifference curve analysis and the extensions of this analysis by modern theoreticians such as Arrow¹³ and Little¹⁴ when describing social welfare functions. Jeremy Beutham¹⁵ and J.S. Mill¹⁶ in the 1800's and Rawls¹⁷ in the 1960's form a progression of works on social and economic justice. But none of these writers have directly addressed the problem of individual rights and their ability to be represented in social choice decisions.

The work of the economists in this area is tantalizingly

close to attacking directly the problems and prospects of being able to define consumer interests. Extensions of the work in this area of social welfare economics appears to be one of the most potentially fruitful avenues for future work in defining and explaining the consumer interest and its relationship(s) to other interests in society.

Summary and Conclusions

The consumer interest has either been subsumed under the aggregate demand curve or honored in the breach in examinations of the economic literature on the consumer interest. There is suprisingly little direct reference to the consumer interest in the economic literature. The closest research to the problem is in the social welfare literature on social choice decisions. It is in this area where future research appears most fruitful.

FOOTNOTES

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- ³Kenneth Dameron, "The Consumer Movement", Harvard Business Review, Vol. 18, No. 3 (January 1939), pp. 272-273.
- ⁴Paul A. Samuelson and Anthony Scott, Economics, Third Canadian Edition (Toronto: McGraw-Hill Company of Canada, 1971), pp. 55-56.
- ⁵Ibid, p. 59.
- ⁶Upton Sinclair, The Jungle (New York: The Viking Press, 1946), pp. 98-99.
- ⁷Stuart Chase and F.J. Schlink, Your Money's Worth (New York: The Macmillan Company, 1940).
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- ⁹Robert S. Lynd, "Democracy's Third Estate: The Consumer", Political Science Quarterly (December 1936), pp. 481-515.
- ¹⁰Kenneth Dameron, op.cit., p. 74.
- ¹¹John Martin and George W. Smith, op.cit., p. 6.
- ¹²See, for example, a summary of studies in H. Leibenstein, "Allocative Efficiency vs. X-Efficiency", American Economic Review, June 1966, pp. 392-415.
- ¹³R.J. Arrow, "The Utilitarian Approach to the Concept of Equity in Public Expenditure", Quarterly Journal of Economics, 1971 as reproduced in E.S. Phelps, ed., Economic Justice, Penguin Education, Baltimore, 1973.
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¹⁵J. Bentham, Principals of Morals and Legislation, 1789,
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PART III

THE MARKETING CONCEPT APPROACH TO CONSUMER INTEREST

A logical extension of the concept that forces in the market place will control its operation is the widely heralded "marketing concept." The inability of the free enterprise system to protect the interests of consumers, shown in the previous chapter, leads one naturally to look at the treatment of consumer interests in the marketing concept and consumer sovereignty as a business philosophy. The marketing concept deals with a normative approach to the behaviour of the firm in which as a consequence the consumer interest is served.

The Meaning of the Marketing Concept

The emergence of the marketing concept was an evolutionary development. The concept might reasonably be dated from the publication of R.C. Davis' The Fundamentals of Top Management in 1951¹ but the philosophy embodied in the concept can be traced to a much earlier date. W.H. Hutt, in his book Economists and the Politics published in 1937, coined the term "consumer sovereignty."

The essence of the marketing concept is a "customer orientation back by integrated marketing aimed at generalizing customer satisfaction as the key to attaining long-run profit volume."² Similar views are, "The marketing concept point-of-view is all

the activities of the company should be directed to satisfy customers at a profit."³ Lazer introduces the idea of customer satisfaction through efficiency. ".....marketing management fulfills the greater part of its responsibility by providing products and services to satisfy consumer needs profitably and efficiently. Those adopting the view believe that as a natural consequence of its efficiency, customers are satisfied, firms prosper, and the well-being of society follows automatically."⁴ In concept this is not unlike Adam Smith's "guiding hand."

According to the philosophy, the consumer is the king or sovereign in the market place. Not only the marketing programme of a business firm, but all business operations are determined by his needs and desires. "...The marketing concept is defined as a managerial philosophy concerned with mobilization, utilization and control of total corporate effort for the purpose of helping customers solve selected problems....."⁵

The idea of consumer sovereignty is very close to democracy and freedom. "This view(consumer sovereignty) I find very close to the idea of democracy or freedom - the idea of normally letting each member of society decide what is good for himself, rather than have someone else play a paternal role. It is also very closely related to the idea of efficiency - efficiency in the use of resources for the greatest possible satisfaction of the needs and desires of people. It is understandable why the full

achievement of consumer sovereignty has been called ideal output."⁶

The marketing concept became so popular, at least in theory if not in practice, that a past president of the American Marketing Association had to say that "admitting that one's company does not have the marketing concept has become, in some quarters, like admitting that one doesn't have a modern computer it's almost un-American."⁷

The reason for this popularity was pragmatic rather than ethical. "The key idea of the marketing concept is that the firm should organize itself so as to meet consumers' needs as well as possible. In so far as a firm succeeds in doing this, it is assumed that its operations will be financially successful. Implicit in the marketing concept is the belief that the consumer should be well served. This belief seems to be justified on pragmatic grounds rather than ethical ones - serving the consumer is good business, not necessarily his inherent right."⁸

Consumer Satisfaction as Consumer Interest

Although the marketing concept did not provide any elaboration of the consumer interest, it can be said that according to this concept the satisfaction of the needs of consumers was equivalent to serving the interests of consumers. The task of identifying consumer interests (needs) was entrusted to the business firms. "... the principal task of the marketing function

...is not so much to be skillful in making the customer do what suits the interests of the business as to be skillful in conceiving and then making the business do what suits the interests of the customer."⁹

Kotler considers "the marketing concept a great step forward in meshing the actions of business with the interests of consumers. It meant that consumer wants and needs became the starting point for product and market planning. It meant that business profits were tied to how well the company succeeded in pleasing and satisfying the customer."¹⁰

The following major assumptions could easily be identified under the marketing concept:

1. The consumers are well aware of their needs, wants, desires, likes, and dislikes etc.
2. The consumers dominate the business firms as the voter in a free society retains ultimate control over the political process.¹¹
3. The consumers have enough ability to make a free and intelligent choice out of the marketing programmes (products, prices, promotion, and channels of distribution) of business firms.
4. The business firms are capable of identifying the needs of consumers.
5. Production is based on anticipation of consumer needs.

6. The needs originate within the consumer.¹²

7. Firms make a profit while satisfying consumer needs.

It is not at all obvious that the assumptions underlying the marketing concept are met on anything like a regular basis. The assumptions described above are quite strong and as a consequence it is not obvious that the marketing concept provides sufficient protection for the consumer interest.

The Criteria of Success in Serving Consumer Interest

Purchases, particularly repeat purchases, of a product or service are considered a real proof of serving the interests of consumers. ".....I interviewed hundreds of business executives and listened to countless assurances that we must be satisfying consumers: after all, we're still in business, aren't we? The dollar sign always seems to be the standard reference point for business decisions. If sales and profits are good, then businessmen figure that someone must be doing something right."¹³

The President of Grocery Manufacturers of America thinks that "Business becomes responsible for protecting its customers the minute it puts a consumer product in the market... The very existence of any business depends upon customers who are not only protected but pleased."¹⁴ The Chairman of Unilever uses profit as a criterion for successful serving consumer interests. The blunt fact is that if we do not provide what the housewife wants, our failure will soon be reflected in our profit figures, and you,

I am sure, will not be slow to visit your displeasure upon your Board, and quite rightly."¹⁵

Martin and Smith while discussing the argument of high rate of product failures as proof of the fact that consumer interests are being served say; "The high rate of product failure is cited as evidence that consumer sovereignty is by no means a dead letter. The American Ford Motor Company spent \$260 million on developing its Edsel car, every possible contingency was covered, but it was an abject failure. No amount of promotion or sales ingenuity could make the public buy it."¹⁶

The same authors also point out that there is a fallacy in this argument about product failures. It assumes that products fail because the public recognizes their intrinsic inferiority. This is not necessarily so because the effect of advertising and promotion can lead consumers to reject a product purely for capricious reasons and not necessarily because it is inferior in any functional sense.... The truth is that modern marketing techniques have imposed their own criteria of success and failure. If the public fails to buy a product which is carefully designed for a specific market this can be due as much to defects in the marketing strategy as to defects in the product."¹⁷ Betty Furness, Special Assistant to late President Johnson rightly had the same feelings. "We all know, that deceptive products have been marketed well and good products have been marketed deceptively."¹⁸

There is another fallacy in the argument that if consumers are repeat purchasers of products the consumer interest is being served. If there are no alternatives to products in the marketplace consumers will continue to buy what is available. This situation can occur due to market concentration which excludes from the distribution system alternative products, a lack of creativity by firms in developing better alternatives or for any number of other reasons.

Without a complete economic collapse the fact that consumers make repeat purchases of a product is not a proveable or disprovable hypothesis in itself, especially without a definition of the meaning of the consumer interest. This is a main weakness in the marketing concept.

The Weaknesses in the Marketing Concept

The marketing concept has some inherent weaknesses in serving the consumer interest. Its major weaknesses are that it does not begin with a clear cut definition of the consumer interest and it is contradictory. "The main problem that is coming to light rests on the ambiguity of the term customer satisfaction. Most businessmen take this to mean that consumer desires should be the orienting focus of product and market planning. The company should produce what the customers want. But the problem is that in efficiently serving customers' desires, it is possible to hurt their long-run interests."¹⁹

Kotler gives examples of products which may please the consumers, but may not be in their basic or long-term interests.

"Large, expensive automobiles please their owners but increase the pollution in the air, the congestion of traffic, and the difficulty of parking, and therefore reduce the owners' long-run satisfaction. The food industry is oriented toward producing new products which have high taste appeals. Nutrition has tended to be a secondary consideration. Many young people are raised on a diet largely of potato chips, hot dogs, and sweets which satisfy their tastes but harm their long-run health.

"The packing industry has produced many new convenience features for the American consumer such as nonreusable containers, but the same consumers ultimately pay for this convenience in the form of solid waste pollution. Cigarettes and alcohol are classic products which obviously satisfy consumers but which ultimately hurt them if consumed in any excessive amount."²⁰

Kotler suggests broadening of the original marketing concept to include a societal marketing concept which calls for a customer orientation backed by integrated marketing aimed at customer satisfaction and long-run consumer welfare as the keys to attaining long-run profitable volume.

Jerome Rothenberg questions the very idea of consumer sovereignty. "My conclusion is that consumers' sovereignty is incomplete and ambiguous. In order to make it operational, a series of highly

controversial, partly normative decisions have to be made. Further, the extent to which consumers can be truly sovereign is questionable. In view of this, the concept loses attractiveness."²¹

According to the same author, the principle of consumer sovereignty as presently employed is a value judgement which stipulates that we should take the degree of fulfillment of consumers' wants - or the degree to which performance accords with consumers' tastes - as a criterion for evaluating the social desirability of different social situations and, through these, the desirability of the various public policies or institutional structures which give rise to them. The form such criterion should take is not obvious. For one thing, the central fact of scarcity means that no combination of social structure and public policy can lead to a satiation of all wants.

The possible is limited by available resources and state of technological knowledge. Our criterion therefore becomes: how good is performance relative to the best it might conceivably be? Optimality consists in maximizing consumers' utilities subject to the constraints of available resources and techniques.

The criterion must be able to compare situations in which the well-being of a large number of individuals is involved. What does it mean to satisfy the potentially differing tastes of a numerous group? Does the principle itself determine a unique

function of these tastes which is to be maximized. The answer is not clear. Indeed, even its epistemological status is not clear.

The principle surely requires at least that the first partial derivative of social welfare with respect to the welfare of any one individual be positive, that is, that any one person's improvement, everyone else's well-being unchanged, is a sufficient condition for a social welfare improvement. Consumers' sovereignty has been thought to imply the Pareto optimality criterion. The reason for this belief is that largely because in its early treatments it was deemed equivalent to allowing consumers to trade freely on purely competitive markets, pure competition being taken as the institutional structure which permits the freest expression of tastes.

The Manipulation of Wants

One of the implied assumptions of both the marketing concept and pure competition is that the consumer knows his needs and wants. Slitcher questioned this as early as 1931. "The consumer often does not know his or her own desires with sufficient definiteness to describe them to another person. Frequently he does not know what his wishes are until he has seen them for sale."²² The credulity of the consumer makes it possible for him to be deceived as to quality, quantity, price, size, and many factors involved in buying.

Galbraith goes further and charges the businessmen with manipulation of consumer wants. He calls it "the management of scientific demand."²³ Galbraith views social outcomes as the result of the direct power of those who control large productive organizations, and partly as the result of consumer choices manipulated by those who control production. He replaces consumer sovereignty with producer sovereignty. In neoclassical theory, consumer preferences are exogeneously given. In Galbraith's schema, preferences are determined by the psychic manipulation of consumers by corporate technostuctures. In theory, consumer preferences are generated through the day-to-day experiences of individuals in their social activity.²⁴

Lazer calls marketers taste counsellors. "Since the American economy is a materialistic, acquisitive, thing-minded, abundant market economy, marketing becomes one of the cores of understanding and influencing life styles, and marketers assume the role of taste counsellors. Since American tastes are being emulated in other parts of the world such as Europe, Japan, and Latin America, the impact of our values and norms reverberate through a broad international community."²⁵

Toynbee classifies wants into needs, wants and "bogus wants" which make for unwanted demand in excess of genuine wants. Needs for necessities of life are primary, but genuine wants are also acceptable. These are the wants that we become aware of spontaneously, without having to be told by Madison Avenue that we want

something that we would never have thought of wanting if we had been left in peace to find out our wants for ourselves. The third category, the unwanted goods, are of course easy to give up. We have merely to stop listening to Madison Avenue.²⁶

Katona, not agreeing with the charge of manipulating wants, says, "The consumer was never sovereign in the sense of being wholly autonomous, and he is not sovereign today. However, the assertion that his sovereignty has diminished during the last twenty or fifty years is most questionable. But even if it had, the consumer is still neither a puppet nor a pawn. For a while some consumers may be stimulated into buying something that is useless or wasteful, but they do eventually learn better. A study of empirical evidence will show that most consumers, though they are not ideal rational men, are circumspect and sensible."²⁷

The Need for a Social Concept

The marketing concept is criticized for not serving the interests of consumers. Rathmell suggests a consumer concept or a social concept. "Broaden the marketing concept to look at the total needs, desires, sensitivities, and feeling of people who buy your goods. The marketing concept may be outdated. Possibly the consumer concept or social concept may be more appropriate. Short-term sacrifices could result, but so

can long-term gains. Marketing people should be concerned with increasing the productivity of consumption."²⁸

Lazer goes further and recommends a reorientation of the entire marketing concept. "...an emerging view (of the Marketing concept) is one that does not take issue with the ends of customer satisfaction, the profit focus, the marketing economy, and economic growth. Rather its premises seems to be that the tasks of marketing and its concomitant responsibilities are much wider than purely economic concerns. It views the market process as one of the controlling elements of the world's social and economic growth. Because marketing is a social instrument through which a standard of living is transmitted to society, as a discipline it is a social one with commensurate social responsibilities that cannot merely be the exclusive concern of companies and consumers."²⁹

Lerner ridicules the idea of a social concept by saying, "Among the current deprecations of concern with consumer sovereignty is its rejection on the grounds that it concentrates on the individual instead of considering society as an organized whole with its higher purposes to which narrow interests of the individual should be subservient. Sometimes this is adduced in the name of all humanity, sometimes in the name of an even wider world spirit or collective mind. More often it is found in the narrower context of the interests of a race or class or nation."³⁰

Drucker thinks that there was nothing wrong with the marketing concept. The major cause of dissatisfaction was that it was not practiced. "We have asked ourselves where in the marketing concept consumerism fits or belongs. I have come to the conclusion that, so far, the only way one can really define it within the total marketing concept is as the shame of the total marketing concept... Marketing has been defined as looking at the world from the seller's end - and that's one way of looking at it. And that is the way we have been practicing it. But there is another definition of marketing, which is to look at the business from the buyer's end. And that is consumerism and we haven't practiced it."³¹

Summary and Conclusions

If consumerism is to look at the business from the buyer's end, one must investigate the treatment of consumer interest in that forceful movement since it is apparent that the idea that the individual interest should be subservient to "society as an organized whole" again approached the idea of public interest. The marketing concept approach does not define the consumer interest because the concept is a surrogate decision rule which in effect provides the business firm with a way to analyze their marketing task to direct the application of the firm's resources to satisfy a consumer need at a profit.

FOOTNOTES

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PART IV

CONSUMERISM AND CONSUMER INTEREST

A host of articles and books, mainly from journalistic and consumer advocacy and protection sources, have been written which have been grouped under the heading of "Consumerism and Consumer Interest" for this section of the report.

In addition to searching for the consumer interest this chapter provides the opportunity to trace the development of the consumer movement since concepts of the consumer interest have evolved with the growth of the movement. Not surprisingly, the consumerism movement grew as journalistic investigators pointed out the failures of the market system to serve the consumer.

The Failure of Marketing Systems to Serve Consumer Interests

The litany of most marketers, as mentioned earlier, is that their strategies are consumer oriented, i.e. the firm is supposed to take its marching order from the market. Yet the happenings in the marketplace would belie this conclusion. Many consumers believe that firms are guided more by avaricious, rapacious, and exploitative self-interest than by consumer interest.¹ Hence has evolved the consumerism movement.

Kallet and Schlink, the authors of 100,000,000 Guinea Pigs,² criticized the system as early as 1933. "Using the feeble and

ineffective pure food and drug laws as a smoke-screen, the food and drug industries have been systematically bombarding us with falsehoods about purity, healthfulness, and safety of their products, while they have been making profits by experimenting on us with poisons, irritants, harmful chemical preservations, and dangerous drugs." Another author, Fuller, writing on the same subject in 1972 said, "Today, nearly forty years later, the situation is worse, not better. Every new advance seems to have brought with it a more than equal share of danger. New hazards are more subtle, more sophisticated, more deadly than those of the less regulated days of the early thirties.... It is 1933 all over again - multiplied by logarithms."³

Ralph Nader referring to the 1970 Hearings of the National Commission on Product Safety wrote "The Commission estimates that manufacture of hazardous products costs our society over \$5.5 billion each year. Each year as a result of incidents connected with household products, 20 million Americans are injured seriously enough to require medical treatment or be disabled for a day or more. This includes 585,000 hospitalized, 110,000 permanently disabled and 30,000 who are killed."⁴

Roseman, a Canadian author, has the same story to tell. "Every day, Canadians buy shirts that shrink, toys that injure and roofs that leak. We sign contracts we don't understand for magazine subscriptions, home repairs and correspondence

courses we don't really want. We answer ads for "first quality" carpets that are actually substandard, "12,000 mile" used cars with odometers that the dealers have rolled back, washing machines "reduced from \$350" that never sold anywhere near that price at all.... Instead of the kings of the marketplace we're supposed to be, we usually feel much more like its pawns."⁵

The Causes of Consumer Dissatisfaction

The factors that resulted in consumer dissatisfaction are numerous. The analysis may begin from what Veblen said in 1920 about the motives of businessmen: "The businessman's place in the economy of nature is to make money, not to produce goods. The production of goods is a mechanical process, incidental to the making of money; whereas the making of money is a pecuniary operation, carried on by bargain and sale, not by mechanical appliances and powers."⁶

Failure of competition, proliferation of products, and impersonal buying are mentioned as other causes of consumer dissatisfaction. "Since the productive process was so prolific, goods poured into the marketplace in a torrent in which the most competitive aspects of marketing were spawned. However, out of the by-ways of competition also crept fraud, deception, shoddy goods, shabby practices. Deceit, usury, and guile were not new in the world; they had simply been enhanced with factors of trans-

portation, advertising, technological complexity, and financial hocus pocus. Where once the buyers and sellers could stand face to face on equal terms, now the transaction had become impersonal, complicated, and heavily weighted on the side of the professional sellers. ...the consumer still buys in isolation, does not speak with an organized voice, and writes off his losses, disappointments, or even physical damage as tuition in the hard school of experience."⁷

The same author gives numerous examples of product proliferation. "...there was a bonanza of all the things we had done without: tires, flatirons, refrigerators, etc. Moreover, there was a great burst of goods we'd never seen before: detergents, nylons, T.Vs, plastics and frozen foods."⁸

Koch also mentions loss of personal contact and proliferation of products as two important reasons for consumer dissatisfaction: "Today the responsibility of business for protecting the consumer is broadening, because the American marketplace is undergoing basic changes. Consumers and producers, and even consumers and retailers, are more and more remote from each other. In the past decade there has been an astonishing expansion in the array of products, price ranges and sizes from which consumers may choose. Today consumers must make buying decisions on new and often extremely complex products such as stereo components for record players and aerosol-can cheese spreads which need no

refrigeration some of which were unknown as recently as a year ago."⁹

A report prepared for the Organization for Economic Cooperation and Development (OECD) mentions the growth of mass production, acceleration of technical progress, the increase in purchasing power, and the widening of markets as four important reasons creating difficulties for consumers in decision making.

The report says, "While these developments have brought benefits to the consumer, he has in the process been confronted by a vastly greater range of goods, more complex and designed to meet a great variety of specific uses, produced in anticipation of demand rather than in response to it, promoted by more vigorous and sophisticated selling techniques, and bringing into play a more elaborate range of services. In such conditions it has become increasingly difficult for the consumer to identify dangers which may arise from the goods on offer, to recognize deceptive practices before they have induced him to buy, to choose the goods most suited to his particular needs, and to ensure that his wishes are adequately conveyed to and reflected by the supplier."¹⁰

Broffman while speaking of the imbalance between producer and consumer says: "The current consumer movement asserts that there is a growing imbalance between producer and consumer, that a few hundred companies dominate society, and they are unresponsive to

the needs of the consumer. Instead, they use their power - aided by massive advertising - to manage the market; that is, to persuade the consumer to buy whatever products they choose to put on the market."¹¹ Although, being a businessman he does not agree with this extreme view, he considers it foolish to deny realities like lack of attention to health and safety.

The giants of the industry are equally blamed for the happenings in the marketplace. "The fly by night operator, whose sole purpose is to cheat the consumer, operates outside the law. Through painful experience the American consumer knows his style and does his best to shun his persuasive patches. The American businessman is no less offended by the operations of the shyster, and has created such organizations as the Better Business Bureau to help keep them out of the marketplace. But within the past decade, the disturbing realization has slowly come to the American consumer that unethical, antisocial, and amoral business practices are not confined to the fringes of the marketplace: they also exist at the core of the American economic system, daily practiced by the same respected giants of industry who made this nation the most powerful and affluent on earth."¹²

Another important factor contributing to the dissatisfaction of the consumer is the expectation of perfection from technology. "....society has been thoroughly conditioned to expect perfection from its technology. Moon landings, miracle drugs, organ trans-

plantations, and jet transportation make the house-wife wonder why zipper manufacturers cannot make one that will not jam."¹³

Robert C. Wells, calls it "a revolt of rising expectancy".

"...the public is staging a revolt arising from frustration.

Customers today expect products to perform satisfactorily, to provide dependable functional performance and to be safe. This threshold of acceptable performance is steadily rising."¹⁴

Broffman, President of John Morrell and Company while speaking before the American Meat Institute in 1971 said, "Things may also seem worse to some consumers today because they expect a great deal from American Technology. People exclaim: We did land on the moon. Why can't this meat be fresh?"¹⁵

Some businessmen think that consumerism is an invention of politicians. "A good many of my friends in business have been telling me over the years that consumerism is an invention of the politicians, and that there is no support for it in the marketplace. And I am willing to believe that up to a point. But I've been around long enough to know that politicians don't flog dead horses - they can't afford to. They are in a much more competitive business than we are, and if there is no support for something they go elsewhere very fast."¹⁶

Markin thinks that the modern complexities reduce consumers ability to make intelligent decisions. "The consumers' dilemma is that he wants goods. He needs goods. But the fact is that

technology is spawning such a torrent of new and improved goods, marketing is creating such complicated packages and deals, and advertising is so misleading, uninformative, and so riddled with half-truths, that it is difficult for the consumer to choose wisely and to be an effective decision maker."¹⁷

The History of Consumerism

To locate the exact or even an approximate date of any movement is a very difficult task. So it is with the origins of the consumer movement. Martin and Smith think that any history of organized action by consumers in Britain would have been essentially a history of the consumer co-operative movement. According to them, when the first consumer co-operative was formed in the back streets of Rochdale in 1844, the weak bargaining position of poor unorganized consumers in relation to all powerful suppliers was to be seen in an acute form: payment in kind by employers, chronic indebtedness, adulteration of food, wide variations in quality and monopoly pricing.¹⁸

The beginning of the consumer movement in North America can be dated from the formation of Consumers' League in New York City in 1891. In 1898, local groups joined in a national federation, the National Consumers' League and by 1903 the national organization had grown to 64 branches in 20 states.¹⁹

Both Herrmann and Kotler divide the consumer movement into

three eras: the early 1900's, the mid 1930's and the mid 1960's.

The First Consumerism Era "The Early 1900's"

The first consumer era was fueled by such factors as rising prices, Upton Sinclair's "The Jungle", and drug scandals. The gain to consumers was the passage of the Pure Food and Drug Act of 1906, the Meat Inspection Act of 1906 and the creation of the Federal Trade Commission.

The Second Consumerism Era "The mid 1930's"

The second era of consumerism in the 1930's was started by such factors as an upturn in consumer prices in the midst of the depression, the sulfanilamide scandal, the widely imitated Detroit housewives strike, the publication of Chase and Schlink's best selling book 100,000,000 Guinea Pigs which inspired even Franklin D. Roosevelt. These factors resulted in the strengthening of the Pure Food and Drug Act and the granting of more powers to the Federal Trade Commission to regulate unfair or deceptive acts and practices.

The Third Consumerism Era "The mid 1960's"

The tempo of activity of consumerism might have gotten more momentum in the late 1930's but the Second World War diverted all attention to the problem of national survival. During the 1950's Vance Packard's "The Hidden Persuaders" created considerable interest in consumerism but the beginning of the third era is usually dated from John F. Kennedy's Consumer Message to the Congress

in Spring 1962. President Kennedy presented his well known Consumer Bill of Rights which highlighted the right to safety, the right to be informed, the right to choose, and the right to be heard.

In Canada, the Federal Government set up its Consumer and Corporate Affairs Department in late 1967. The provinces started drafting consumer legislation in the late sixties and had consumer departments in all provinces in the 1970's.

The major events of the third era of consumerism in the United States were the birth of thalidomide babies, President Johnson's creation of a new White House post in 1964, Special Assistant for Consumer Affairs, in 1964 the appointment of Esther Peterson on the post, the publication in 1965 of Ralph Nader's best selling book "Unsafe at any Speed", the high rate of inflation during the middle sixties, the publication of "The Poor Pay More" in 1963 by David Caplovitz, the passing of a number of acts including the Highway Safety Act of 1966, the Truth in Packaging Bill of 1966, the Truth in Lending Bill of 1968, etc.

The Meaning of Consumerism

Vance Packard was one of the earliest adopters of the term "consumerism". His usage of the word linked the word with strategies for persuading consumers to quickly expand their needs and wants by making them "voracious, wasteful, compulsive."²¹

Day and Aaker used the term for the most common understanding of consumerism in reference to the widening range of activities of government, business, and independent organizations that are designed to protect individuals from practices (of both business and government) that infringe upon their rights as consumers."²² According to their interpretation, this view of consumerism emphasizes the direct relationship between the individual consumer and the business firm. The specific rights and how these rights come about is not really addressed in any significant way.

Kotler treats consumerism as "a social movement seeking to augment the rights and powers of buyers in relation to sellers."²³ Cravens and Hills offer a similar definition of consumerism as "a social force within the environment designed to aid and protect the consumer by exerting legal, moral, and economic pressure on business."²⁴

Peter Drucker thinks that "consumerism means that the consumer looks upon the manufacturer as somebody who is interested but who really does not know what the consumer's realities are. He regards the manufacturer as somebody who has not made the effort to find out, who does not understand the world in which the consumer lives, and who expects the consumer to be able to make distinctions which the consumer is neither willing nor able to make."²⁵

Buskirk and Rothe use consumerism for "The organized efforts of consumers seeking redress, restitution and remedy for dissatisfaction they have accumulated in the acquisition of their standard of living."²⁶

Mrs. Virginia H. Knauer, Special Assistant to the President for Consumer Affairs considers consumerism to be "the watchdog for the new militant mood among consumers whose real spirit is 'let the sellers beware' in comparison to the age-old caveat emptor or 'let the buyer beware'".²⁷

The Assumption of a Consumer Antagonist

To understand the treatment of consumer interests in consumerism it is useful to state the assumptions of a consumerism antagonist or an apologist for some of the failures of the marketplace. Note that this list was first published in a house organ of a major advertising agency in Montreal only four years ago.

1. A major assumption presupposed antagonist roles of buyer and seller. The interdependence of the two is not considered, the significance of the marketing concept is discounted; and the efforts of marketing research to ascertain consumer wants are either unknown to - or ignored by the critic.
2. It is assumed that the seller deliberately obfuscates that he is sophisticated in this art, and that confusion somehow results in patronage.
3. It is taken for granted that the seller has the financial resources to impose his ideas in the marketplace; competition is assumed away; and regulation is adjudged ineffective.
4. The maximization of short-term profit is asserted to be the only goal of the seller. The seller - unlike other people in our society - is said to be completely insensitive to social needs; no connection whatever is seen between profit and consumer satisfaction.

5. If anything goes wrong in the marketplace, it is automatically presumed that the business firm its management, and explicitly, its marketing operation, are at fault. The accountant, the engineer, the controller, and especially the blue-collar workman and his union are looked upon as uninvolved.
6. The buyer is categorized as a moron; incompetent to make sound purchasing judgements. Critics acknowledge that he was never better informed, better educated, or more skeptical. Yet somehow, they believe he loses his senses in the marketplace.
7. Yet another assumption holds that certain individuals and groups have been endowed with a supernatural ability to discern what is best for the rest of us.
8. It is assumed that acceding to demands of consumers is either cost-less or cost-absorbable by the seller. Further, that any costs not only can be but should be borne by the seller. Or conversely, that the buyer will willingly pay a premium for products that are better for him - low-lead gasoline, for example.²⁸

Some Statements of Consumer Interests

President Kennedy's Special Message on protecting consumer interests sent to the Congress on March 15, 1962 is perhaps the most quoted statement on consumer interests. In this message, the first ever delivered by a President on this topic, President Kennedy took note of the important role played by consumers in the American economy and the challenging problems that confront them.²⁹

The Kennedy Statement

In the message President Kennedy included the following as

as consumer interests:

1. The right to safety - to be protected against the marketing of goods which are hazardous to health of life.
2. The right to be informed - to be protected against fraudulent, deceitful or grossly misleading information, advertising, labeling or other practices, and to be given the facts he needs to make an informed choice.
3. The right to choose - to be assured, wherever possible, access to a variety of products and services at competitive prices, and in those industries in which competition is not workable and government regulation is substituted, an assurance of satisfactory quality and service at fair prices.
4. The right to be heard - to be assured that consumer interests will receive full and sympathetic consideration in the formulation of Government policy, and fair and expeditious treatment in its administrative tribunals.

These four rights of consumers, although broad, are useful guiding principles.

The Day and Aaker Statement

Day and Aaker consider the following three as major consumer interests:

1. Protection against clear cut abuses. This encompasses outright fraud and deceit that are a part of the "dark side of the marketplace", as well as dangers to health and safety from voluntary use of a product. There is substantial agreement in principle between business and consumer spokesmen that such abuses must be prevented, but there is often a wide divergence of opinion on the extent of the problem. As a result the government has taken the initiative in this area, usually

after the divulgence of a sensational abuse... This has been the case with much of the legislation dealing with drug, tire, auto, and pipeline safety and meat and fish inspection. Even so, this is the least controversial and oldest aspect of consumerism.

2. Provision of adequate information. The concern here is with the economic interests of the consumer. The question is whether the right to information goes beyond the right not to be deceived, to include the provision of performance information that will ensure a wise purchase. Much of the controversy and confusion over consumerism revolved around this basic issue. The two polar positions identified by Bauer and Greyser are the business view that the buyer should be guided by his judgment of the manufacturer's reputation and the quality of the brand, versus the view of the consumer spokesmen that information should be provided by impartial sources and reveal performance characteristics.
3. The protection of consumers against themselves and other consumers. Some of the thrust behind consumerism comes from the growing acceptance of the position that paternalism is a legitimate policy. Thus, the National Traffic and Motor Vehicle Safety Act of 1966 is not concerned with the possibility that the buyer has an expressed but unsatisfied need for safety, and emphasizes instead that carelessness may have undesirable consequences for innocent participants. There is a sound basis in economic theory for such intervention whenever the action of a buyer serves only his own best interest and fails to take into account the effects on others. However, this principle is being extended to situations of "implied consumer interest" where the individual is deemed unable to even identify his own best interest (e.g., the mandatory installation of seat belts and the provision for a "cooling off" period after a door-to-door sale). This is a strong justification for the protection of inexperienced, poorly educated, and generally disadvantaged consumers. More controversial by far

is the extension of this notion to all consumers on the grounds that manipulated preferences may be disregarded when the consumer is not acting in his best interest."³⁰

The Nader Statement

Ralph Nader may have overstated the problem but when he was questioned on how to pick and choose from among the many so-called conflicting consumer interests, he replied that they would be picked "on the basis of criteria as to how many people are harmed, how serious is the harm, whether it is health, safety or economics, to what extent is the Agency to be intervened against getting its head in the sand and is not doing anything at all about it, and to what extent the time factor requires imminent action. There are so many major gross abuses of the consumer's rights in the country that the Agency for Consumer Advocacy will be very busy on the hard, crude edges of consumer abuse. They are going to be dealing with the big abuses. It is hardly anticipated that they are going to have time to deal with the areas of gray or the relatively small sectors of consumer abuse. They are going to be dealing with multi-billion-dollar energy prices, they are going to be dealing with harm from adverse drug effects to perhaps hundreds of thousands of people, they are going to be dealing with food contamination problems, they are going to be dealing with radiation exposure by consumer products, they are going to be dealing with recall policies, meat and poultry in-

spection practices and the like.

"I do not think they are going to have a very difficult time finding a consumer consensus."

"I might add, Senator Ribicoff, that it will be much easier for the ACA to ascertain the consumer interest than it has been for the U.S. Department of Agriculture to ascertain the farmer's interest preferring, as it has over the years, big agribusiness over small farmers and sharecroppers or the U.S. Department of Commerce, which has tended to prefer big business interests over the needs, when they are competing, of small business interests."³¹

An important problem of consumer interests in consumerism is their scope. The O.E.C.D. Committee on Consumer Policy identifies consumer interests either as physical or economic. The consumer interests in the physical sense include safety and health. These two consumer interests are considered so important in O.E.C.D. countries that "at the present time, even Member countries which do not have a general consumer protection policy do have a fairly full range of measures whose purpose is to safeguard consumers' health and safety."³²

The protection of consumers economic interests includes "fraud and deception by unscrupulous traders...control of aggressive sales methods, banning of deceptive or misleading sales techniques, and inaccurate or misleading advertising, and measures for controlling consumer credit."³³

A Statement of Consumer Interests

A synthesis of consumer interests which has been derived from the literature review for this chapter has been classified under the following heads:

1. Safety and Health
2. Economic
3. Ecology

The Furuhashi and McCarthy exposition was most useful in this synthesis, their work being a synthesis of existing materials.

1. Consumer Interests - Safety and Health

The discussion of safety and health hazards is not as simple a task in all cases as it appears on the surface. A number of value judgements are involved. Freedom of choice is also involved in these decisions. Furuhashi and McCarthy while talking of the 1971 U.S. ban on cigarettes advertising on television and radio say, "Such restrictive measures pose a threat not only to those who earn their livelihood through the manufacture and distribution of restricted products, but also to consumers who enjoy these products. Some people argue that in a free society individuals should be able to make a free choice as to what they want to buy, even if it may be harmful to them."³⁴

The question of consumer freedom was raised by a tobacco grower in a hearing in U.S. Senate on cigarette advertising and labeling. "We people who grow tobacco and our predecessors for many generations have believed that we were in an honorable business. We have believed that in important respects tobacco

was beneficial to the user. There seems to be no doubt that the use of tobacco in its various forms is relaxing, is enjoyable and is conducive to a measure of contentment.

"Today is a day of tensions as never before.... Who has tried to measure the relief from present day tensions which may be credited to tobacco? Who can predict what would be the explosion of tense people if there were no relaxing agents or avenues?..... For more than three centuries men and women have enjoyed the relaxation, the mental contentment and the pleasure that they have found in smoking....

"The decision to smoke or not to smoke, the decision as to how much to smoke, are decisions for each individual adult. Each must and does balance the considerations for and against smoking."³⁵

Interesting figures were quoted from a report prepared by the Ford Foundation in November 1963. "The average life expectancy is now 70 years, compared with 63 in 1943 and 57 in 1923. For the first time, the figure is over the generally accepted retiring age of 65. Never before have old people comprised such a high proportion - 1/10 - of the nation's total population."³⁶ This happened despite pollution and a lack of purity and healthfulness. The presence of poisons, irritants, harmful chemical preservatives, and dangerous drugs did not reduce the average

life expectancy.

The question of where to draw a line when safety is involved is difficult to answer. Numerous examples of free choice and safety such as wearing of safety belts by motorists and motor cycle helmets can be given. When Ford tried to sell safety belts as an optional automobile equipment in the 1950's, buyers did not respond. Many who had them in their cars did not use them.

An interesting case of limiting the freedom of consumer choice was Prohibition in the United States. Over fifty-seven years ago (in 1919) the U.S. Government decided that it was in the public interest to prohibit, or restrict the importation, manufacture, sale and consumption of alcoholic beverages. The freedom of choice of consumers was legally eliminated. Thousands of persons were convicted yearly and fined and sent to jail for violation of the Volstead Act. The noble experiment did not work and ultimately the public interest was redefined and the Volstead Act repealed.³⁷

Furuhashi and McCarthy raise an important question in this regard. "The basic issue, here, therefore, is whether a market directed system will safeguard the consumers' interests. Implicit in the arguments of some critics is the notion that consumers' purchase decisions in the marketplace do not necessarily reflect their best interests. If this is the question,

perhaps we need some legislation. But who is to decide what is in the public interest in regard to product quality, and how are they to decide? These are not just academic questions, because any regulations or legislation must provide some guidelines for action. Such guidelines are also necessary for meaningful discussion about product warranties and guarantees."³⁸

In reply to all these questions it can be said that product safety and health hazards are not individual problems. It is the society who ultimately bears the cost of lost-working days, medicare, police and court time, insurance, and unemployment and welfare payments. Thus society has a right to restrict consumers' freedom of choice. But every one may not necessarily agree to this kind of reasoning.

2. Consumers' Economic Interests

Economic interests relate to monetary loss to consumers due to poor products or deceptive marketing practices. An interesting example given by Ralph Nader was that of automobile bumpers "those chrome, ornamental eyebrows - are designed today, and for the past several years, to maximize repair costs, and knowingly so....bumpers cannot protect the vehicle in collisions exceeding 2 miles per hour and some bumpers fail even that standard. Recently, a Michigan insurance executive released a study that indicated an annual loss to motorists of 1 billion due to or-

namental bumpers... The auto executives know this but they go on looting the public by design. A billion dollars is diverted from other purchases such as food, furniture, medicine and clothes."³⁹

Another example given by the author is that of price fixing. "Price fixing keeps prices higher for customers than they would be if competition prevailed. The electric price-fixing conspiracy involving GE, Westinghouse, Allis-Chalmers, and other companies was prosecuted in 1960-61.. It cost consumers over a billion dollars. It cost GE, Westinghouse, that is, about \$500 million in punitive damage settlements and this sum was promptly written off as ordinary and necessary business expense."⁴⁰ It was perhaps because of these facts that "Pricing issues were associated with consumerism by over 80% of the women and by approximately 60% of the students and businessmen."⁴¹

Consumerism's literature is full of example of poor products and deceptive marketing practices. "The Jungle, 100,000,000 Guinea Pigs, Your Money's Worth, The Waste Makers and Unsafe at Any Speed were mentioned previously."⁴² Even new products have defects. Senator Hart concluded from his hearings that, "New automobiles are a frequent source of consumer complaints. Knobs, handles and switches fall off. Windows and doors leak profusely. Hydraulic accessories seldom work."⁴³

Products are not what their names say they are. Lemon cream pies contain neither lemon nor cream. They are just pies. The Great American Dream Machine, a T.V. show of a few years ago, satirized a familiar brand of lemon cream pie: "It's made of good old monosodium phosphate - the same as used in laxatives and cleaners - plenty of fresh whey solids, guaranteed gum from the Texas grasslands. But you will note, no lemon, no cream, no eggs, just pie."⁴⁴

The economic interests of Canadian consumers are not served in any way that can be called better compared to other developed countries. "While bank robbers steal only a few million dollars a year, dishonest auto-repair shops can steal several hundred million. Because cars are so complex it's easy to get victimized. The Canadian Broadcasting Corporation proved it in 1970 by taking a vehicle that had been pre-tested and certified "fault-free" by a highly trained mechanic in two diagnostic centres. The first said the car needed \$70 worth of repairs. The second gave a clean bill of health to the components the first clinic said were faulty, but decided that others needed replacing at an estimated cost of \$103."⁴⁵

The consumer economic interest is in being able to have effective power to exercise their rights in the marketplace. The statements of misuse of market power presented above, while not uncommon, are cited as indications of the difficulties of

consumers in exercising their rights in the marketplace as equals with sellers. How a system to assure redress on both sides of the question (abuse of rights by either consumers or sellers) is a critical one but one which is not the subject of this research.

3. Consumer Interest in Ecology

The consumerists are showing increasing interest in ecology, that is in the consumption of the environment. In one survey, 85% of the respondents considered pollution to be America's number one problem, and three out of four thought it is industry's responsibility to clean up the environment.⁴⁶ The feelings about ecology are growing to the extent that a California banker has suggested that top executives of companies that pollute the environment be sent to jail for up to five years.⁴⁷

Day and Aaker feel the same way. "Today, consumerism is becoming increasingly concerned with the quality of physical environment and the impact of marketing practices and technology on the ecology. Ecology is the systematic approach to nature, the study of how living organisms and the non-living environment function together as a whole or an ecosystem. Such an understanding gives meaning to the idea that one man's goods are somebody else's garbage, that there are no such things as no-return containers - they do return somewhere. It is a recognition which has finally emerged from our long standing concern

with built-in obsolescence, and all the attendant problems which contribute to pollution in a "disposable society" and a "throw-away culture".⁴⁸

Air, water, and noise pollution have become an important part of consumer interests. "More recently, consumerism has become identified with the widespread concern with the quality of the physical environment. The problem of air, water, and noise pollution have become increasingly salient as the tolerance of the public for these abuses has decreased."⁴⁹

Lerner, an economist, feels that "we are discovering ecology - that the rivers are not infinite sources of clean water, that the ocean itself is not an infinite receptacle for our garbage, and that the air is exhaustible too."⁵⁰

Kotler thinks that the pollution of the environment reminded the consumers of the Malthusian specter. "...the environment was progressively exploited in the interests of abundance. Observers began to see that an abundance of cars and conveniences would produce a shortage of clean air and water. The Malthusian specter of man running out of sufficient resources to maintain himself became a growing concern."⁵¹

Ralph Nader also has pointed out the hazards of pollution. He quoted Dr. Arlie Havargen-Smit for discovering a definite link between automobile exhausts and smog conditions in Los Angeles.

"This pollution contains the most serious toxic contaminants which are associated with a significantly higher incidence of morbidity and mortality from emphysema, chronic bronchitis, lung cancer, and heart disease. In property damage due to air pollution, the United States Public Health Service estimates a loss of roughly sixty-five dollars per capita each year, or over eleven billion dollars altogether.

"Pollution corrodes metals, deteriorates rubber products, erodes concrete and building stone, soils a great variety of materials, and deposits dust and soot on highly sensitive machinery and instruments."⁵²

Automobiles are not the only pollutants. Besides the business firms, the consumers themselves are a big source of pollution. The role of personal consumption in the deterioration of our environment is of growing concern. Individuals in North America create as much solid waste as manufacturing does. Numerous consumer products, such as automobiles, laundry detergents, glass and aluminum containers, pesticides and fertilizers, have been identified as significant contributors to environmental deterioration."⁵³

Consumerism is concerned not only with today's consumer interests, but also with the impact of consumption on the coming tomorrows. Any increase in population loads the landscape with more and more beer cans, junked autos and other garbage. The result of mass

marketing is massive filth.⁵⁴

The issue of pollution is not a black or white type of thing. There are grey areas also. Consumer's interests clash with those of other consumers as well as those of manufacturers. Furuhashi and McCarthy illustrate the nature of this conflict with the help of a case involving pollution of a lake by several manufacturers.

"Individual firms have located around the shores of a particular lake to make use of the nearby raw materials, water and labor. In a microsense, the manufacturers are doing 'good' - providing employment to workers, profits to their shareholders, and products for the benefit of interested consumers.

"Through the normal production process, however, the various companies may pollute the lake and thereby diminish its usefulness to all other users, including some of the people who have jobs in the factory. Hence, logically there may be a conflict between the workers' interests (micro), as employers of the factory, as well as the consumers of paper products, and their interests (macro), as 'consumers' of the local environment - that is, clean water for swimming, boating, or fishing.

"If laws are passed to limit the freedom of individual firms, the firms may have to raise their prices, thereby affecting some consumers because rising costs usually must be passed on to consumers. Alternately, the firms may have to close their doors and

fire all the workers. The lake will return to its original beauty, but the society must do without the paper products. Former employees may not be able to find other work, and will have to be supported by those still working within the macro-system. And the resources invested in the plants will be wasted."⁵⁵

Acceptance of a legitimate consumer interest in the environment they consume is relatively easy. What is difficult is the determination of the limits on these interests and when the collective interest of society takes precedence over the individual interest of a consumer.

The above discussion of consumer interest in consumerism shows that under this approach consumer interests are relatively well defined, but consumerism does not provide solutions to all the conflicts that arise in determining the preference that should be given to consumers or producers interests. As mentioned earlier, all issues are not black or white. Despite the difficulties in resolving the conflicts, the Jeremiahs of consumerism will go on saying to the producers: "I am a human being; do not fold, bend, mutilate, violate or pollute me!"⁵⁶

Summary and Conclusions

A review of the consumerism literature has provided much greater insight and definition of the consumer interest than

have the economic or the market concept literature.

Consumer rights were defined as the right to choice, safety, information and to be heard or variants of these rights. We have summarized and synthesized these rights into interests in safety, economics, and ecology. Our review of the literature has failed up to this point, however, to help much in limiting the bounds of the consumer interest if such bounds are delimitable. As with any social choice decision the consumer interest decision is not black or white in all cases.

Several more bodies of literature may help cast more light on the limits of the consumer interest.

FOOTNOTES

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- ¹⁰ OECD Committee on Consumer Policy, Consumer Policy in Member Countries, op.cit., p. 5.
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- ¹⁴ Robert C. Wells, quoted in James Bishop and Henry W. Hubbard, Let the Seller Beware (Washington, D.C.: The National Press 1969), p. 14.
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- ²² George S. Day and David A. Aaker, "A Guide to Consumerism", Journal of Marketing, Vol. 34, No. 3, (July 1970) p. 13.
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- ⁵²Ralph Nader, Unsafe at Any Speed, (New York: Pocket Books Special, 1966), pp. 112-113.
- ⁵³Thomas C. Kinnear, James R. Taylor, and Sadruddin A. Ahmed, "Ecologically Concerned Consumers: Who are They?" Journal of Marketing, Vol. 38 (April, 1974), p. 20.
- ⁵⁴"The Leisurely War on Filth", The New Republic, Vol. 162, No. 8. (August 1969), p. 9-10.
- ⁵⁵Y. Hugh Furuhashi and E. Jerome McCarthy, Social Issues of Marketing in the American Economy, op. cit., pp. 7-8.
- ⁵⁶Markin, op.cit., p. 16.

PART V

THE INFORMATION APPROACH TO CONSUMER INTEREST

There has been a group of writers who have attributed many of the problems which consumers experience in the market place to a lack of information. The assumption of this group is that provision of adequate and timely information will go a long way towards solving the major problems faced by consumers.

While we may not, in fact do not, agree with this view it is a useful perspective to use in our search for a definition of the consumer interest. The reader will see that some of the authors included under this heading have gone to great pains to point out that the problem is not the provision of information, important as this may be, but it is the ability to use the information which is critical to the consumer being able to exercise his or her rights.

A. The Need for Information

The "right to be informed" is a very important area of consumer interest. Norman Kangun while discussing the need for information says, "Informed consumers are essential to the fair and efficient functioning of a free-market economy.

....Technology has spawned a torrent of new and improved products that make it exceedingly difficult, if not impossible, for consumers to keep fully informed about them. Can shoppers

be expected to differentiate between the performance characteristics of canister and upright vacuum cleaners, the qualities of rayon blend and acrylic blankets, the relative merits of disk and drum brakes on automobiles, ...the cleaning power of phosphate versus phosphate-free detergents?¹

Stern considers information essential for the allocation of resources toward the achievement of social goals. "Our economic system is based on the belief that free and intelligent decisions in the marketplace, rather than by government fiat, will produce the most efficient allocation of resources toward the achievement of private and social goals. To exercise free and intelligent choices in the marketplace, consumers must have access to terms of sale and product information."² Despite this importance of information to consumers, he laments, "...it is likely that the loss of personal relationships in the marketplace has reduced both the availability and the reliability of product information."³

"Technological changes make obsolete whatever information consumers have. Technological change is so rapid that the consumer who bothers to learn about a commodity or a service soon finds his knowledge obsolete."⁴

With the increase in the number of goods ignorance also increases. "With economic development, the variety of goods increases so that ignorance per good probably increases. The

marginal cost of complete information is greater than the marginal benefit of complete information, so that some ignorance per good is justified. This problem of growing ignorance is highlighted when one contrasts the simple budget of our forefathers in colonial days with the budget of the family today, or when one contrasts the simple world of the consumer in Guatemala with that of the consumer in the United States. In Guatemala the family is poor, the number of goods is low, and ignorance per good is low."⁷

Assumptions in the Information Approach

When information is said to be an important area of consumer interest, certain assumptions are implied for consumers as decision-makers. While discussing the quality and quantity of information available to the consumer Brown says, "In all of these discussions and in writings that have appeared in numerous journals is an underlying assumption that the consumer is a rational decision maker. Moreover, the assumption that the consumer needs and wants information and is capable of its analysis is also implied."⁶

The question of consumer rationality is highly debatable. The consumer reacts to information not only with his intelligence, but also with his habits, traits, attitudes, and feelings. In the theoretical framework, the consumer is seen as optimizing

his performance in a given "task environment" by processing the available information as effectively as possible. Effectiveness is constrained by such processing limitations as a short-term memory capacity of only five to seven items.⁷

It is not clear from the available evidence that information has a significant impact on behavior. "A curious feature of the growing demand for more information is the paucity of concrete evidence that past disclosures have made significant differences in consumer or market behaviour. ...The lack of evidence on the behavioral effects of information disclosures is due to the relative newness of most requirements and the inherent difficulties of designing and implementing the appropriate evaluation research. The factors are compounded by a lack of conceptual basis for understanding how buyers use information and confusion as to the objectives to be served by providing additional information."⁸

Richard H. Holton, former Assistant Secretary of Commerce, made a valid point about the capability of consumers to make rational decisions. "The point here is that the consumer is a part-time amateur buyer facing in the marketplace, eyeball to eyeball, a whole series of full-time professional sellers. Given the wonderful breadth and depth of selection of goods and services which our economy generates, the time required

to be a rational consumer of everything would surely be unreasonably large. In short, it may be irrational to be a rational consumer of everything; yet at least some consumers want to be able to make wise choices easily."⁹

Eric Schnapper points out another weakness of the assumption of information approach. He hypothesized that information disclosure requirements have the least effect on those buyers who have the greatest need for protection of their interests. "Information disclosure requirements have been described as protection or assistance in making more informed choices, are more likely to lack the characteristics that will allow them to take advantage of the information because:

1. Low income consumers are often unaware of the benefits of comparative shopping.
2. They lack the education and knowledge necessary to choose the best buy, even if it were available.
3. They often lack the freedom to go outside their local community to engage in comparative shopping.
4. Nothing in their experience has reinforced the benefits of seeking better value for their money; consequently the low-income buyers lack the motivation to make improvements in their situation."¹⁰

Mrs. Virginia H. Knaur, Special Assistant to the President on Consumer Affairs, goes further by saying, "Consumers in all income levels are among the victims of unfair and deceptive practices, including those of us who may consider ourselves sophisticated in the marketplace."¹¹

After fifteen years things considerably changed. Another economist, Hirshleifer, said, "As the 'knowledge industry' booms in the world of affairs... the economics of information has been blooming with striking and novel ideas in the intellectual realm."¹²

The Role of Information in Serving Consumer Interest

Despite the limitations of information in serving the consumer interest the fact remains that information does play an important role in improving the decision making ability of consumers. Perhaps Stigler had this in mind when he wrote "Ignorance is like subzero weather: by a sufficient expenditure its effects upon people can be kept within tolerable or even comfortable bounds, but it would be wholly uneconomic entirely to eliminate all its effects. And, just as an analysis of man's shelter and apparel would be somewhat incomplete if cold weather is ignored, so also our understanding of economic life will be incomplete if we do not systematically take account of the cold winds of ignorance."¹³

The same author in 1961 complaining about the neglect of information wrote, "One should hardly have to tell academicians that information is a valuable resource. Knowledge is power. And yet it occupies a slum dwelling in the town of economics. Mostly it is ignored. The best technology is assumed to be

known, the relationship of commodities to consumer preferences is a datum."¹⁴

According to Hirshleifer, the micro-economics of information in a narrow sense

is an outgrowth of the economic theory of uncertainty. Uncertainty is summarized by the dispersion of individuals' subjective probability (or belief) distributions over possible states of the world. Information consists of events tending to change these probability distributions. A rather different concept of "information" is employed in communications and statistical theory, according to which a dispersed probability distribution is called less "informative" than a concentrated one. This latter concept uses the term "information" merely as a negative measure of uncertainty. But it is changes in belief distributions - a process, not a condition - that constitute here the essence of information. Note that the economics of information is active where the economics of uncertainty is passive. Mere adaptation to a given state of ignorance via optional "terminal" action is still in the realm of the economics of uncertainty, in going beyond this to consider the alternative of gathering more evidence prior to terminal action,¹⁵ we enter the domain of the economics of information.

One of the major considerations in minimizing uncertainty through the collection of information is the cost of search. This cost need not be equal for all consumers, of course: aside from differences in tastes, time will be more valuable to a person with a larger income. If the cost of search is equated to its expected marginal return, the optimum amount of search will be found.¹⁶

Similar views are expressed by Cravens and Hills: "If we assume that the consumer allocated his income to maximize his

satisfaction, can we further assume that this objective is achieved in the same way by all people? Obviously not....The informational needs and desires of consumers vary from person to person. For some, the economic and/or psychological costs of additional information may be exorbitant when related to the 'returns'. For example, a person who values his time highly and finds the shopping process annoying will be unlikely to incur these 'costs' to obtain information that would help him make a slightly better purchase decision. A shopper who enjoys the process (no costs) may desire and seek such information."¹⁷

The Sources of Information for Consumers.

The information available to serve the consumer interest can be classified in a number of ways. Hirshleifer while talking of possessors and seekers of economically valuable information in a market context says that the information seekers might correspondingly find it advantageous to produce socially "new" information by direct inquiry of Nature (research) or to purchase "secondhand" information in the market. The possessor may find it preferable to give away this valuable commodity, to disseminate it without compensation.¹⁸

Cravens and Hills classify the information in a slightly different manner. "The primary information flows to consumers include promotional efforts of business (as well as varying

responses to the consumerism movement), activities of government officials as reported by the news media, communication and interaction among consumers and their 'representatives' (both interpersonal and the media), and the availability of published consumer product ratings. These flows provide the basis for consumers' evaluation of products, as well as for their reassessment of the consumerism movement and indicates the crucial need for effective information flows to and from the consumer."¹⁹

In brief, one can say that the consumers have the following three major sources of information on products and terms of sales:

1. Experience - Personal as well as the experiences of others.
2. Business - This includes all forms of communication from business to consumers, e.g. advertising, sales promotion, personal selling and publicity.
3. Organizations other than Business - This includes information provided by consumers union, consumers research, government departments and consumer movement groups.

1. Experience and Consumer Interest

Experience is the basic source of information for consumers.

Information about products and terms of sale might come from a consumer's own experience or from the experiences of friends, relations, colleagues, neighbours, etc. through word-of-mouth.

The classical argument for experience is that the consumer is quite adequately protected because if they find the product

of any particular seller unsatisfactory, that seller cannot survive in the marketplace. The consumer may gain quite satisfactory information from his own experience in the case of those items which he buys frequently, whose quality and performance characteristics are apparent either before he buys or after he has used the item once, and which exhibit a rate of technological change which is slow relative to the frequency of purchase.

Several of the items normally found in the supermarket might meet all three conditions for a particular consumer. But at the other end of the spectrum are a substantial number of goods and services which fail to meet one or more of these criteria. Automobiles, electric appliances, and clothing are clear cases in point. Their frequency of purchase for many persons is low, the quality is not apparent, and the rate of technological/design change is fast relative to the frequency of purchase. Other examples of this kind are life insurance, casualty insurance, medical care, appliance and automobile repair, and home maintenance services. Funeral services can also be mentioned as an especially interesting case.

In these cases where the three conditions are met, the process of learning can be rapid and quite complete. When the conditions are not met, the learning process may never be complete in a very satisfactory sense. The rate of technological

change can so alter the body of information to be acquired by the prospective buyer that past information (experience) already learned will be obsolete.²⁰

Holton highlights another important problem of the buyers. "....the consumer typically buys such a large number of individual items over the course of a year, let us say, that he simply does not have time to become an expert buyer of everything. He faces an allocation problem, namely the allocation of his time. He must decide how to divide his time between the buying search and the many other ways in which he might spend his time. Within the time he allots for buying search, he must decide how to allocate time among the alternative goods and services. He might be able to become an expert consumer of a few things, but for many goods and services he will be quite amateurish, and understandably so."²¹

Distortions and personal preferences make experience a source of information which cannot be or should not be used as an objective measure.

2. Business as a Source of Information

Business firms have always been an important source of information for consumers. Business firms in North America (U.S. and Canada) spend about 2 percent of the gross national product on communicating with the consumers through advertising.

This amounts to about 25 billion dollars yearly. Business provides information to consumers in the following forms:

1. Advertising
2. Personal Selling
3. Sales Promotion
4. Publicity
5. Labelling and packaging
 - a) Ingredients including additives
 - b) Life/Perishability through open dating
 - c) Warnings/Clarifications e.g. cigarette health hazards, Flamability.
6. Unit pricing
7. Truth in lending

The largest share of the expenditure for providing information to consumers goes to advertising. Advertising is charged with deception, puffery, falsehood, misrepresentation, etc. These charges are not new. In Sinclair's Your Money's Worth the consumer is pictured as an Alice in a Wonderland of "conflicting claims, bright promises, fancy packages, soaring words, and almost impenetrable ignorance." In place of facts about the merchandise the consumer was showered with meaningless phrases and victimized by the manipulation of demand through the channels of advertising, salesmanship, and sales promotion. Although we all are aware of much useful information which is provided by advertising, we know that many of the charges are justified.

Peter F. Drucker, while tracing the origin of distrust of business, blames advertising. "When I look at advertising, I

know perfectly well why the consumer doesn't trust us. Not because we scream so much, but because we are talking about things that are meaningless to the consumer.....We have not realized that the very abundance, and very multiplicity of choices creates very real problems of information and understanding for the consumer. We have not looked at our business from his, the consumer's, point of view."²²

Buskirk and Rothe think that in advertising the emphasis is on imagery rather than information. "The ... problem is not fraudulent or deceptive practices for the most part, rather, the problem is improper or nonexistent communication. This seems to be incongruous since communication efforts - primarily advertising - exist in great abundance. However, communications between the firm and the consumer emphasize imagery at the expense of information."²³

Samm Sinclair Baker, himself an adman, calls advertising 'permissible lies'. "Why does the tag on nationally advertised Mary Jane Dresses read: 'NO IRONING'! NO FOOLING! For just one reason - because so many advertisers who originally promised 'no ironing' were indeed fooling. When 'permanent press' came along, women were wary because they had been fooled so often in the past. Advertisers like Bloomingdale's department store had to reach for a bigger-than-before lure: 'Now TRULY no-iron'.

"During my years in advertising I fooled myself. I was

aware of fakery, of course. But I didn't realize consciously the vast amount of 'fraud' perpetrated in ads, including many of my own efforts. The adman becomes so accustomed to using the permissible lie that it becomes his natural approach in creating an ad and selling a product..... Give an advertiser an inch and he'll drive through a yard of 'iffy' promises."²⁴

Despite the defense of advertising on grounds that it is "symbolic communication", "advertising is the art of wrapping the truth in imagination" and "that an advertisement is an ad, not a factual story",²⁵ the fact remains that advertising could not provide the consumer with the unbiased information needed for rational decision making. The same charges can be laid against sales promotion and publicity. Senator Warren G. Magnuson has discussed in detail the use (or misuse) of personal selling, particularly door-to-door selling.²⁶ "Corrective advertising" is being used as a device for safeguarding consumer interests.²⁷

Packaging and labelling is also criticized for lack of adequate information necessary for decision making. The impact of legislation in the area of packages is showing signs of improvements.²⁸ The lack of information confuses the consumer in the selection of supermarket products.²⁹ Unit pricing may be an answer of providing the necessary information for serving consumer interest, but the main problem is lack of promotional

efforts on the part of distributors to publicize the concept of unit pricing. Numerous surveys have shown lack of awareness regarding unit pricing on the part of consumers.³⁰

Awareness of the potential for misleading and untrue information transmitted by some business firms lead to enactment and enforcement of laws against these practices. Consumers in Canada especially can have greater faith in information provided by businesses because of diligent enforcement of these laws by both federal and more recently provincial governments.

Consumer rights to truth in business originated information have not been perfectly defined although courts are finding it easier to approach limits which satisfy even outspoken critics. Perhaps in this case the courts are where the answer lies, even though the conservatism of the courts may not satisfy some consumers in this matter.

3. Comparative Information

Comparative information provided by organizations such as Consumers Union, Consumers Associations and Consumer Councils is an important source of information for serving consumer interests. The argument underlying the supply of such information is that consumers do not necessarily have the time and/or skills to obtain, understand, and use all the information that they may get about a product, therefore, some impartial agencies must be

established which can perform these tasks with the requisite economies of scale.

The origins of consumer information activity date back to 1927 when Stuart Chase, and F.J. Schlink, a mechanical engineer from the American Standards Association, founded a comparative-testing organization called Consumers' Research. The formation of a consumers' association resulted from a book by Chase and Schlink called Your Money's Worth, published in 1928, in which the authors gave information on the testing of goods for the armed services and government departments by the National Bureau of Standards and detailed the savings in government expenditure that resulted from the tests. Many of the goods tested were consumer goods and Chase and Schlink argued that consumers should have the benefit of tests similar to those carried out by the Bureau of Standards.

The public response to the book, and to a club set up by the authors, was so great that Schlink set up an association to provide information on goods and services for a yearly membership subscription. In 1929, the association had grown sufficiently for Schlink to give up his job with the American Standards Association. Consumers' Research set up its own laboratory facilities, increased the range and quality of services it offered to members, and prospered. In 1935, the staff and board of Consumers' Research split up as the result of

personal disagreements resulting ostensibly from the issue of trade-union recognition. Some members of the board and part of the staff formed a separate organization called Consumers Union with the same aims and objects of the parent body. Consumers Union became the more successful of the two organizations, but Consumers' Research is still in existence.³¹

The number of subscribers and readers of the publications of these organizations is on the increase, but compared to the needs and numbers of consumers their usefulness is limited to a relatively small segment of consumers. Colston E. Warne, President, Consumer Union of the United States in 1974 gives some useful information about the characteristics of such consumers. "According to our latest count, the median income of our subscribers is \$14,336; the median age is 40; 63 percent are in a professional or managerial occupation and 79 percent attended college."³²

Hans B. Thorelli, who did original research on the characteristics of the users of such information found the following as important characteristics:

1. He forms an education and income elite. He has higher income and education than his neighbours in the matched sample, much higher than the populace as a whole. The higher his income and education, the more likely he is to use Consumer Report information. He also tends to have a higher social status than his immediate neighbours and is slightly older and more likely to be married;

2. He is information-sensitive in general and product and consumer information sensitive in particular.

He reads more newspapers, subscribes to and reads more magazines, and is generally more sensitive to the problem of information availability and more critical of advertising than average consumers. He is, however, somewhat less likely to expose himself to radio and T.V.; he is particularly attracted to media with content directed to consumer and product activities and information, and has great interest in increased product testing and labeling;

3. He is a curious blend of liberal-conservative.

In a general way he expresses belief in the integrity of the individual and the honesty and efficiency of business. Yet in a more specific context he is less amenable to such government activities as welfare and government "control" over business, but more favorable toward government involvement in almost all consumer related activities - obviously to some extent at the expense of business;

4. He is a "rational" buyer in the traditional sense.

He plans more and is cautious at accepting new products (though envisioning himself as rather influential over others in this regard). He uses more utilitarian, performance-related choice criteria in shopping, and finds price particularly important in buying the more expensive autos, despite his clear edge in income. He has less interest in criteria more generally involved with esthetics, status and convenience. He sets great stock in outside, "rational" information sources (particularly Consumer Reports) and is less likely to rely upon his own judgement as formulated either from past experience or personal observation;

5. He is committed to Consumer Reports. He reads it

far more regularly than any other magazine to which he subscribes; he sees himself as using it quite frequently and buying the brands it recommends (most often in the purchase of durable goods, least in convenience). He expresses satisfaction with its performance on all counts and

would like to see more activity in the product testing area overall;

6. He has high standards as a buyer. He is more critical in all types of buying situations, not only with regard to products themselves and availability of information about them, but also about his own efforts at shopping;
7. He reduces his mistakes in purchase as a result of using Consumer Reports ratings. When he uses the ratings, he is better satisfied with the products he purchases. He is also better satisfied with information available in the purchase situation when Consumer Reports is involved, and better satisfied with his own shopping efforts;
8. He is a consumer "activist". He supports increases in a broad range of consumer policy activities, giving the most confidence to product testing and least to consumer education. He is generally favorable to government involvement in these areas, particularly in product testing and information labelling but expresses no confidence in tests run solely by the government. After Consumers Union style consumer organizations, he would favor government-consumer combines then government-business combines for testing activities." He calls them "The Information Seekers".

The organizations providing comparative information are concentrating on those products where consumers need most help. "From the beginning, one of the central interests of Consumers Unions' membership has been the motorcar, an interest which has been well sustained over time. This interest has been so pervasive that few of our monthly issues fail to include some auto test. The second leading interest has been in the field of household equipment - the standard package of the refrigerator, washing machine, and vacuum cleaner, followed by the deep freeze,

air conditioner, clothes dryer, and dishwasher. A consistently high level of interest is also felt in Consumers Union's article, on health and medicine. Another most popular feature deals with articles on economic and social policies as these affect the consumer."³⁴ One can find information on most of the brands which command a significant place in the national market or have a significant strength in a regional market.

Major problems in serving consumer interest through comparative information include: the instability of brands, the time lag between planning of a project and its final execution in the form of an article, the representativeness of samples picked up from the market, the likelihood of lowering the quality of a product after it was recommended favourably by the tests, the temptation to manufacturers to increase the price of a product whose test results were favourable, and the validity of durability forecast. Despite these limitations, it can be said that comparative information is the type of information consumers need to safeguard their interests.

A final but important finding from the information approach to consumer interest is that those least in need of help in serving their interests as consumers, the well-off middle and upper class, are those who take the greatest advantage of comparative information. The logical outcome of this fact is that if the interests of all consumers is to be protected, ways of

getting information transmitted to and used by lower income consumers is needed. This need should weigh especially heavily in activities by governmental bodies to provide consumers with comparative information.

Summary and Conclusions

The information approach was not very fruitful in defining the consumer interest even though the literature search unearthed some interesting problems in protecting that interest. The need for information for rational decision making in a marketplace with the wide variety of technically sophisticated products available to North America is patently obvious. Less obvious but probably more important is the ability of consumers to properly evaluate information and to act rationally when making decisions.

Information gleaned from personal experience, from business through advertising and other promotional activities and from consumer supported or governmental organizations are all used in the consumption process. Those consumers most ably equipped to use information from all sources, the middle and upper income groups, are those who need it least. The logical extension of this fact is the need to find ways of getting information to lower income consumers so that they can better protect their interests in the market place.

While the literature reviewed in this chapter did not help in more precisely defining and limiting the concept of the consumer interest it did highlight the importance of information in exercising that interest in the market place.

FOOTNOTES

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- ³Ibid, p. 49.
- ⁴Consumer Issues '66, A Report Prepared by the Consumer Advisory Council (Washington, D.C.: U.S. Government Printing Office, 1966), p. 1, quoted in Dorothy Cohen, "The Federal Trade Commission and the Regulation of Advertising in Consumer Interest", Journal of Marketing, Vol. 33, No. 1 (January 1969), p. 41.
- ⁵Myron H. Ross and Donald Stiles, "An Exception to the Law of Demand", The Journal of Consumer Affairs, Vol. 7, No. 1 (Summer 1973), p. 124.
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- ⁹Richard H. Holton, "A Management Response to the Consumer Furore", in Stephen W. Brown, "Consumer Information: Toward an Approach for Effective Knowledge Dissemination", op.cit., p. 57.
- ¹⁰Eric Schnapper, "Consumer Legislation and the Poor", Yale Law Journal Vol 76 (1967), pp. 745-768.
- ¹¹U.S. Senate, Committee on Commerce, Report No. 91-1124, Report on Censure Protection Act, 91st Congress, 2nd Session, 1970,, p. 2.
- ¹²J. Hirshleifer, "Where are we in the Theory of Information?" The American Economic Review, Vol. LXIII, No. 2 (May 1973), p. 31.

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- ¹⁴Ibid, p. 213.
- ¹⁵Ibid, p. 31.
- ¹⁶Stigler, op.cit., p. 216.
- ¹⁷David W. Cravens and Gerald H. Hills, "Consumerism: A Perspective for Business", op.cit., p. 26.
- ¹⁸J. Hirshleifer, "Where are We in the Theory of Information", The American Economic Review, Vol. LXIII, No. 2 (May 1973), p. 32.
- ¹⁹Craven and Hills, op.cit., p. 26.
- ²⁰See Richard H. Holton, "Government - Consumer Interest: Conflicts and Prospects (The University Point of View)", op.cit., p. 16.
- ²¹Ibid.
- ²²Peter F. Drucker, "The Shame of Marketing", op.cit., p. 61.
- ²³Richard H. Buskirk, and James T. Rothe, "Consumerism - An Interpretation", op.cit., p. 64.
- ²⁴Samm Sinclair Baker, "Is Advertising Truth, Half Truth - or Less?" in Norman Kangun, Society and Marketing, op.cit., p. 101.
- ²⁵See Theodore Levitt, "The Morality(?) of Advertising" in Norman Kangun, op.cit., pp. 109-122.
- ²⁶See Senator Warren G. Magnusson and Jean Carper, The Dark Side of the Marketplace, op.cit.,
- ²⁷See Robert F. Dyer and Philip G. Keuhl, "The Corrective Advertising Remedy for the F.T.C.: An Experimental Evaluation", Journal of Marketing, Vol. 38, No. 1 (January 1974), pp. 48-54.
- ²⁸See Dick Warren Twedt, "What Effect Will the Fair Packaging and Labeling Act have on Marketing Practices?" Journal of Marketing, Vol. 3., No. 2 (April 1967), pp. 58-59.

- ²⁹ See Monroe Peter Friedman, "Consumer Confusion in the Selection of Supermarket Products", in Norman Kangun, op.cit., pp. 140-149. See also David M. Gardiner, "The Package, Legislation, and the Shopper", in Kangun, pp. 150-157.
- ³⁰ See J. Edward Russo, Gene Krieser and Sally Miyashita, "An Effective Display of Unit Price Information", Journal of Marketing, Vol. 39, No. 2 (April 1975), pp. 11-19.
- ³¹ John Martin and George W. Smith, The Consumer Interest, op.cit., p. 242. See also Colston E. Warne, "Consumer Action Programs of the Consumers Union of United States", in Loys L. Mather, Economics of Consumer Protection, op.cit., pp. 61-72.
- ³² Colston E. Warne, "Consumer Action Programs of the Consumers Union of United States", op.cit., p. 64.
- ³³ Hans B. Thorelli, Helmut Becker, and Jack Engledow, The Information Seekers: An International Study of Consumer Information and Advertising Image (Cambridge, Mass.: Bellinger Publishing Company, 1975), pp. 91-93.
- ³⁴ Warne, op.cit., p. 64.

The law is an obvious place to search for help in defining the consumer interest. Law is the most structured and formalized of institutions in our culture specifically designed to adjudicate between the interests of parties to a dispute. Members of the law profession have been in the forefront of many developments in the consumerism movement both in using remedies in the consumer law to redress consumer inequities in the market place as well as in designing new legislation to cover areas where the consumer law is lacking.

This chapter investigates the theory of law with respect to interests in general and consumer interest in specific and the laws which have been passed to aid consumer redress to discover how well defined the consumer interest is in the law.

Interests in the Theory of Law¹

In the theory of law, interests have generally been considered as sources of conflict requiring readjustment through social agencies. From this point of view judicial decisions and the law behind them constitute a specially sanctioned process for the peaceful settlement of conflicts of interest. Law is on this ground contrasted with customary and other non-legal modes of determination of the range of interests, and

the development of law is attributed to the inadequacy of these modes as interests have grown in variety and in complexity. Under such conditions custom develops too slowly to keep pace with social changes and leaves too many areas of discretion which are productive of social disturbance.

Voluntary agencies of adjustment although they play an important part are also quite inadequate, lacking sufficient authority and often, when effective, tending to disregard the interests of members of society other than those who are directly involved in the dispute. John Dickinson has said: "No fact is more important for an understanding of social processes or of the development of agencies of social control than that a conscious adjustment of interests between numerous parties cannot shape itself initially through the spontaneous action of all the interested parties, but most ordinarily result from the special efforts of some external agency.....charged with the task of surveying the situation as a whole and devising a plan."² Such an agency not only is authoritative but also can adapt its determinations to the requirements of each changing situation.

Some writers on the theory of law have given a greater reality and concreteness to the old conception of legal rights by translating them into legally protected interests. Rights,

in other words, become a particular species of social interests, selected for recognition and confirmation by legislation and judicial decision. This idea has in turn led to the concept of the state as essentially an organization for the determination and adjustment of the interests operative within a society.

Krabbe, for example, conceives the state as a regulatory power over interests, in consideration of the necessity for the continuous adjustment of these interests for the sake of practical harmony. The State, in his view, should be regarded not as the "possessor of public interests" but as a complex of agencies which administer a series of public services which generally bring into a workable system the various conflicting interests of the community. This process Krabbe speaks of as "an evaluation of interests",³ although in interpreting this statement one should bear in mind Korkunov's statement that "law is the determination, morality the evaluation of interests".

Consumer Interests in the Law of Contract⁴

Central to the righting of wrongs between suppliers and consumers is the law of contract. The relationship in law between a buyer and a seller is a contractual one, and this has been historically important for consumers for two reasons. First, the courts long regarded contracts as being freely

entered into and thus irrevocable. Second, they tended to ignore factors affecting the circumstances in which contracts are entered into. In particular, they rejected the possibility of inequalities in bargaining power of the parties to the contract. These attitudes reflected the prevailing philosophy of laissez-faire of the nineteenth century. It was held that, provided he were free to promote his own self-interest, no man would become more powerful than another. If a customer does not like the terms offered by one supplier, he will not contract with him but with another. Law based on these principles was ill-adapted to the concentration of industrial power in large firms, monopolies and trade unions that has taken place since these principles were conceived. Today, one party to a contract for the supply of goods and services may be a corporate body whose legal experts have drawn up the contracts in their own favour. The individual consumer who is the other party may be ignorant of the rights he is signing away, or he may feel he has no choice but to sign away if he wants the goods or services in question, since they come from only one supplier.

The courts, in U.K. for example, have had to cope with the manifestation in contracts of unequal bargaining power, notably the exclusion clause. Exclusion clauses attempt to undermine

the whole principle of a contract by taking away some, or all, of the liabilities in law owed by one party to the other. Such clauses have been a persistent feature of standard contracts, such as booking forms for travel and dockets for cleaners. By semantic acrobatics, the courts in recent years have nullified the effect of exclusion clauses or rendered them superfluous by developing the concept of a fundamental breach of contract. Instead of determining the object of particular clauses, they have looked at the purpose of the contract as a whole and have attempted to judge whether it has been carried out in the spirit as well as the letter. For example, judges have held that the purpose of a contract for the sale of a new car has not been fulfilled when the car supplied had tires with retreads, a resprayed body, an engine which had done 50,000 miles and unreliable brakes. Yet this more equitable approach produces many border-line cases because the determination of a fundamental breach of contract depends on a combination of factors and the weight attached to each of these by a particular court.

Consumer Interests in the Sale of Goods Act

In Canada, each province has its own sale of goods act. The acts differ in some details but basically they are similar. A sale of goods act makes explicit the various conditions

attached to contracts between buyers and sellers of goods, whether written down or purely verbal. According to these acts, two fundamental conditions of a contract of sale are implied: fitness of the goods for their purpose when this is clear at the time of sale, and merchantable quality of goods sold by description.

The consumer interests implied in the sale of goods acts were very basic and fulfilled the needs of the late nineteenth century. The development of mass production, advertising, and branding of almost all consumer goods has meant that, for most goods on sale, the buyer relies on the brand name and reputation of the manufacturer rather than the skill of the seller.

Fitness for purpose and merchantable quality are the foundations of consumer interests against the seller of goods. Consumer interests are safeguarded under these acts only if the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgement. The goods are supposed to be of merchantable quality, but if the buyer has examined the goods there is no implied condition as regards defects which such examination ought to have revealed.

Because of these limitations in determination of consumer interests in traditional laws, new legislation was necessary to specify consumer interests by taking into consideration the complexities of the modern life.

Consumer Interests in the New Legislation

1. Assumptions in Consumer Interest Legislation

The following assumptions can be clearly seen in the new legislation enacted after 1965:

- (a) A change of philosophy from "caveat emptor" or "let the buyer beware" to "caveat venditor" or "let the seller beware".
- (b) Competition, without strict regulation, cannot protect consumer interests.
- (c) Consumers are a weaker party compared to giant corporations. Hence they must have the support of law.
- (d) Consumers know (or ought to know) the laws and they can (or should) use them.
- (e) The consumers may not know the harmful effects of using certain products, therefore, they should be protected.
- (f) The consumers are interested and can understand the information provided by the manufacturers as a legal requirement.

Some of these assumptions are debatable and are based on further assumptions about the behaviour of consumers in the marketplace.

William H. Cunningham and Isabella C.M. Cunningham⁵ tried to test the assumption about consumers knowledge of laws concerning their interests. The ten areas of law included in research were: false or deceptive advertising, false or deceptive retail advertising, credit regulations, credit reporting, door-to-door selling, automobile sales, credit cards, labelling, truth in lending, and deceptive retail practices.

The consumer respondents were divided into six income segments to determine if their knowledge of consumer protection law differed according to income level. This was done because Caplovitz and Sturdivant have both indicated that lower-income segments of the society are vulnerable to abuses by the distribution system partially because they have virtually no understanding of their rights. The second half of the study consisted of asking a sample of lawyers the same questions that were administered to the consumers.

There were no significant differences in the amount of knowledge shown by the different consumer groups. The only exception was truth-in-lending legislation where the respondents in the lower income groups appeared to be somewhat less familiar with the law than did those individuals in the higher-income families. The differences between the lawyer and the consumer samples in their knowledge of each area of the consumer

protection law were statistically significant, although the magnitude of the differences in responses was not as large as might have been anticipated.

Similar tests can be used to throw more light on the assumptions made to protect the consumers interests through legislation.

2. Consumer Interests

The laws passed since 1965 to protect consumers in the United States imply the following four consumer interests:

<u>Interests</u>	<u>Examples of Laws</u>
1. Safety	Child Protection and Toy Safety Act Flammable Fabrics Act Radiation Control Act Natural Gas Pipeline Safety Act Fire Research and Safety Act National Traffic and Motor Vehicles Safety Act
2. Health	Wholesome Poultry Act Wholesome Meat Act The Meat Inspection Act
3. Information	Fair Packaging and Labeling Act Truth in Packaging Act Truth-in-Lending Act
4. Economic Interests	Interstate Land Sales Act Consumer Credit Protection Act

In Canada the Combines Investigation Act and the provincial consumer protection acts and trade practices acts define consumer interests more or less in the same way as it is done in

the above acts.

The Bill S.200 presented in the ninety-fourth Congress to establish an independent consumer agency to represent their interests lists consumer interests as:

1. Safety, quality, purity, potency, healthfulness, durability, performance, repairability, effectiveness, dependability, availability, and cost of any real or personal property or tangible or intangible goods, services, or credit;
2. Preservation of consumer choice and a competitive market;
3. Prevention of unfair or deceptive trade practices;
4. Maintenance of truthfulness and fairness in the advertising, promotion, and sale by a producer, distributor, lender, retailer, or other supplier of such property, goods, services, and credit;
5. Furnishing of full, accurate and clear instructions, warnings, and other information by any such supplier concerning such property, goods, services, and credit; and
6. Protection⁶ of the legal rights and remedies of consumers.

A recent court ruling in B.C. has made a precedent for safeguarding the interests of consumers. In June 1976, British Columbia Supreme Court judgement supported consumers in the following decision: "B.C.'s Trade Practices Act gives rights to consumers that overrule even signed contracts stipulating there are no guarantees of warranties, a Supreme Court judge has order in a precedent making decision.

Judge J.G. Ruttan awarded \$1,000 plus costs to a Chilliwack couple whose car broke down only five days after it was sold to them on as "as is - where is" basis. The Findlays bought the 1968 model car Dec. 6, 1974, saying they needed reliable transport for daily trips on the freeway. Five days later the engine blew up and had to be replaced. They had signed a sales contract that said, "this vehicle is sold on an as is - where is basis, with no guarantees or warranties of any kind."

Judge Ruttan heard an appeal by Mr. and Mrs. Andrew Findlay and Michael Hanson, Director of Trade Practices, against Baywood Motors, 2264 Kingsway. Under the act Hanson can take part in proceedings on behalf of a consumer. The Findlay's original small claims action had been dismissed.

In a written decision Judge Ruttan said Findlay could not possibly have contributed to the engine's disintegration. The sale, during which Findlay was assured the car was in good running order, appeared "a clear case of breach of the seller's fundamental obligation to deliver an article reasonably fit for the buyer's disclosed purposes."

He said the Findlays had intended to have the car checked by their own mechanic but were dissuaded because they were told the firm's mechanic had given the car a compression test and passed the motor as Al.

"Were there no representations at all there would be no evidence of deception", the judge ruled.

Consumer Services Deputy Minister Bill Neilson whose department administers the act, said the decision will help consumers. "It illustrates the Trade Practices Act gives rights to consumers independent of any contract that may appear to bind them.... The ruling says the as is - where is clause does not stop a consumer from getting relief under the act."

Neilson said the act allows a consumer to tell the court what the seller said "even if the contract says he can't.... The legislation is going to be enforced, there's no doubt about it."⁷

Each year in Canada a number of cases are investigated and cases are prepared, if substantial evidence is available, by the Trade Practices Branch of the Director of Investigation and Research, Department of Consumer and Corporate Affairs.⁸

Consumer Legislation and Public Interest

The concept of public interest was discussed in the early part of this paper. It was realized that the legal professional prefers the use of 'public interest' as compared to 'consumer interest'. It is in law that the authorities face practical problems in determining the criteria for calling an issue of

public interest.

Colin Barret, the editor of the monthly, Transportation and Distribution Management while disagreeing with the Nader groups stand that public interest refers exclusively to the general public, not to the individual consumer, highlights the traditional concept of public interest. "The traditional view of the public interest is that it represents an amalgam of all the diverse private interests involved in any given situation. This includes, of course, the interests of the individual consumer insofar as they may appear - but it also includes the interests of corporate shippers (large and small)"⁹ This view, as discussed earlier, is not necessarily the most acceptable interpretation of the public interest.

Government institutions concerned with the protection of consumer interests often face the practical problems of determining the criteria to use in calling an issue of public interest. The U.S. Federal Trade Commission is such an institution. It has used the following as criteria¹⁰ for terming an issue of public interest:

1. Actual or Potential Impact on Public

The FTC's fight against consumer deception is directed at gyp schemes that have an actual or potential impact on the

public, as distinguished from actions to settle private controversies. Senator Stevens, one of the FTC bill's floor managers, even more clearly delineated this criterion. "With this jurisdictional qualification carefully stated in the bill, the Commission has no authority to act unless the methods of unfair competition shall injuriously affect the public interest. That must be the basis of its action and jurisdiction. In that way the Commission will be freed from private quarrels and controversies."¹¹

Despite the "actual or potential impact criterion" any term so subject to interpretation as "public interest" could hardly be expected to operate as an exact limitation, and consequently this jurisdictional requirement has experienced myriad applications and abberations. This criterion does not clearly identify the elements of the public interest. A lot was left to administrative discretion. However, in establishing a public interest requirement the drafters sought to prevent the FTC from becoming involved in private business disputes between competitors. In fact, some effect on the consuming public in addition to any injury to a competitor was the essence of the public interest requirement.

2. Injury to a Substantial Number of Consumers

Justice Brandies, who himself had been instrumental in

the formation of FTC, sought to establish some kind of a quantitative norm. He justified the finding of public interest in FTC v. Winsted Hosiery Company on the ground that a substantial part of the purchasing public was injuriously affected.

3. Serious Wide Spread Aggregate Loss

This criterion was also laid by Justice Brandies. The loss to each individual may be insufficient to justify calling an issue of public interest. But if the cumulative loss to all individuals is substantial, the issue may be called of public interest.

4. Flagrant Oppression of the Weak by the Strong

This criterion originally was laid down in reference to small vs. big business, but later on it was used for consumers also.

5. Deception and Misrepresentation

The presence of deception and misrepresentation in a case was deemed to satisfy almost automatically the public interest requirement. Since the presence of deception was viewed as sufficient to invoke the Commission's jurisdiction it was consequently held that a product to qualify for action need not be harmful to the public, or inferior in any way, so long as

some misrepresentation was connected with sale. No economic injury to the public was necessary.

6. Violation of Public Policy

Cases referring to a violation of public policy have principally involved "gaming" as a sales technique in the candy industry. Through a variety of methods a candy buyer was offered the opportunity of either winning additional candy or his money back when he made a purchase. In *National Candy Co. v FTC* it was concluded that the use of gaming was a method of competition contrary to the "established public policy of the United States." It followed to the court that it was in the public interest to prevent such practices. In *FTC v. Martoccio Co.* while the candy in question was found to be of good quality and similar in portion to candy sold without the gaming device the court found "the public view and public policy against gambling and games of chance..." sufficient to support the action of the Commission. Here again the courts have relied upon the nature of the question practice and supposed evil rather than a scope of effect analysis to satisfy the public interest test. While this inquiry is certainly relevant to whether unfairness or deception is involved in the practice it adds nothing to analyze FTC jurisdiction in terms

of public policy. Obviously, if particular practice is deceptive or unfair within the meaning of the act, it will violate the "policy" behind the act. If antagonism to that kind of public policy is sufficient to support jurisdiction, the sole inquiry becomes whether or not a practice is deceptive or unfair, and the jurisdictional issue turns absolutely on the determination on the merits.¹²

7. Exploitation of Weaker Groups of Consumers

This criterion of public policy applies to the children, the poor, and the disadvantaged such as newly arrived immigrants. Such groups are so weak that they cannot protect themselves. The criterion of "flagrant oppression of the weak by the strong" also applies here.

8. Injury to Competition Creating a Tendency Toward Monopoly

This is an important criterion used to declare an issue of public interest because monopoly ultimately harms consumers. This requirement was also needed because the preservation of free enterprise is considered a prime public interest.

The elements of the public interest developed above suffer both from considerable confusion with the merits of prosecutions and overemphasis of the doctrinaire distinction between public and private rights. They fail to emphasize sufficiently the

primary reason behind the imposition of a public interest requirement - the avoidance of wasted Commission assets and energies on trivial matters. The analysis which best serves this function considers the impact on the public in a variety of quantitative terms which more or less can be accurately determined. It would, therefore, be useful to identify these quantitative factors from the line of cases taking that approach and to determine the scope of impact necessary to support a public interest finding.

One important factor is the size of the consumer group involved. Courts have looked to both the actual number of buyers from a particular respondent and to the scope of the market for the item in question. Where the item is one for general consumption such as flour, the requirement is rather easily satisfied, yet the need for assessing the scope of the particular objectionable practice still remains as attention only to the size of the market would automatically satisfy the public interest requirement in every case. Where the market is a rather limited one a substantial number of actual purchasers would probably be sufficient to support jurisdiction. The number of customers actually solicited by a respondent, regardless of whether they purchased, has also been considered a significant factor. An objectionable solicitation addressed

to only five prospects has been held insufficient to support commission action while sales campaigns of more general circulation have justified FTC orders.

The nature of the "public" affected by a practice would also seem relevant. Deceptions addressed to or affecting only limited classes of persons, however, have been found sufficient to satisfy the public interest pre-requisite. The court expressly noted in *Perloff v. FTC* that "the jurisdiction of the Commission in cases of unfair trading recognized regardless of whether it is the public in general, or a particular class... whose interest demands suppression of the practices complained of. It would seem that effects upon a limited and perhaps sophisticated segment of the public should be substantial before the public interest is found to be involved. Clearly the relationship of the group affected to the general public should also be included in the formula.

Another quantitative element often investigated is the "size of the business". Both the size of the particular respondent's business and the overall size of the industry are considered. More specifically geographic distribution, annual income, the number of competitors and the quality of merchandise are analyzed in the size inquiry. Even small operations within limited industries, however, have been found to present issues

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of public interest. In *Branch v. FTC*, although the court recognized that only a few businesses operated in the Latin American correspondence school market, the potential for growth in the industry contributed to the public interest finding.¹³

In Canada, Bill C-23 which amended the Combines Investigation Act and other acts includes under "Protection of Public Interest in Competition" services in addition to products, prohibition of bid-rigging, extraterritoriality relating to U.S. firms in Canada, and abuse of intellectual property concerning patents etc.¹⁴

Business Response to Consumer Legislation

The response of business to consumer legislation, generally speaking, has been negative. The basic reply from business might be capsulized as "The present law is sufficient, and any new legislation would mean undue government interference with the free enterprise system. Some consumer bills are denounced as too costly.

Despite the negative reaction, many business managers have abdicated their decision-making responsibility by falling back and relying entirely on legal advice. That is, in the highly sensitive area of consumer interest, when the sales

and marketing decisions get tough, the decision makers may defer to the legal department for the last word. In questions of package design, labeling, advertising claims, and so forth, when a certain marketing decision is in possible conflict with a regulation, the final arbiter will frequently be the legal department.¹⁵

Summary and Conclusions

The function of a given law is usually to prevent conflict, to resolve conflict or to restrain conflict within agreed-upon limits. The interests of consumers have been defined relatively precisely in some areas of the law. However, such areas of old and well established law such as the law of contract have changed significantly in recent years. The principle of the spirit rather than the letter of the contract has widened the concept of consumer interest in the law.

Legislation in the area of trade practices as well as the structural issues of competition and monopoly has and continues to expand as the courts' concepts of the consumer interest expand. Rather than providing limits on the bounds of a definition of the consumer interest the law is expanding its concept of what these interests area. It is gratifying to see that the law really is responsive to changing societal values even though

many will argue not as responsive as it should be.

The tendency of the law to use the term "public interest" in their definitions and judgements further complicates the definitional problem for consumer interest. The lists of the components of the "public interest" presented in the chapter are curiously similar to definitions of consumer interest found in the literature presented in previous chapters. It will be the task of the last chapter in this study to bring these concepts together and look at such similarity and differences.

Before that, however, the next chapter looks to the social science literature for help in defining the consumer interest.

FOOTNOTES

- ¹See R.M. MacIver, "Interest", In Edwin R.A. Seligman, editor-in-chief, Encyclopedia of the Social Sciences, op.cit., pp. 144-148.
- ²John Dickinson, "Social Order and Political Authority", American Political Science Review, Vol. XXIII (1929), pp. 293-328.
- ³See Hugo Krabbe, De moderne staatsidee (The Hague 1915) translated by G.H. Sabine and W.J. Shepard (New York: 1922).
- ⁴See John Martin and George W. Smith, The Consumer Interest op.cit., pp. 139-140.
- ⁵William H. Cunningham and Isabella C.M. Cunningham, "Consumer Protection: More Information or More Regulation?" Journal of Marketing, Vol. 40, No. 2 (April 1976), pp. 63-68.
- ⁶U.S. Senate, Hearings before the Committee on Government Operations, Ninety-Fourth Congress, First session on S.200 (Washington, D.C.: U.S. Government Printing Office, 1975), p. 9.
- ⁷The Province, Vancouver, June 17, 1976.
- ⁸Annual Reports of the Director of Investigation and Research, Combines Investigation Act, Department of Consumer and Corporate Affairs. See also Dorothy Cohen, "Remedies for Consumer Protection: Prevention, Restitution, or Punishment", Journal of Marketing, Vol. 39, No. 4 (October 1975), pp. 24-31.
- ⁹Collin Barret, "A Difference in Philosophy", Transportation and Distribution Management (May 1970) p. 38.
- ¹⁰See James J. Seeley, "The FTC's Public Interest Requirement: An Anamoly in Consumer Protection", The Journal of Consumer Affairs, Vol. 6, No. 1 (Summer 1972), pp. 12-34.
- ¹¹Ibid, pp. 14-15.
- ¹²Ibid, pp. 19-20.
- ¹³Ibid, pp. 23-25.

¹⁴ Department of Consumer and Corporate Affairs, Proposals for a New Competition Policy for Canada, (November 1973), pp. 18-53.

¹⁵ Hopkins, op.cit., p. 98.

PART VII

THE SOCIAL APPROACH TO CONSUMER INTEREST

The final body of literature reviewed to help in defining the consumer interest is that of the social sciences of sociology and political science. The idea of interests and interest groups is treated by these sciences and it is not unreasonable to expect that research in these fields can shed light on some dimensions of the consumer interest.

Interests in Sociology and Social Psychology¹

In the field of sociology and social psychology the term interests has had considerable vogue. From the beginnings of modern systematic sociology writers have sought to distinguish and classify the various aims or strivings of human beings which give rise to the varieties of social phenomena and especially of group behavior. Herbert Spender dealt with what he called the "internal factors of social phenomena", and Lester Ward sought to classify "social forces". Ratzenhofer employed instead the term "interests", being chiefly concerned to show how variant or antagonistic interests of individuals and groups explain or illustrate his theory of social conflict. This usage was adopted by Albion Small although for a different purpose and was popularized by him among American sociologists.

Small offered his own classification of interests; and various other writers, such as Ross, Ellwood and Hayes, engaged in the same task. Their definitions of the term were essentially psychological. Thus Small said that "an interest is an unsatisfied capacity corresponding to an unrealized condition, and it is predisposition to such rearrangement as would tend to realize the indicated condition". His own list reduced itself to the following: health, wealth, sociability, knowledge, beauty and rightness. The crudity of this list is obvious; and, while it was improved upon by the other writers referred to, the difficulty of finding a basis for classification remained. Nor was the attempt to explain social phenomena as expressions or embodiments of specific interests particularly successful. Moreover a fundamental difficulty lay in the confused application of the term at once to the subjective phenomena of motivations or desires and to objective phenomena, such as economic wealth. For this reason, MacIver has proposed that a clear distinction should be drawn between attitudes or states of consciousness, on the one hand, and interests, or the objects toward which these states are directed, on the other. The confusions and difficulties of the interest concept have led various sociological writers to reject the term altogether and to substitute such terms as values and wishes.

If the term interests is used with this objective significance as the correlative of attitudes, the concept becomes particularly useful in the explanation of the growth and change of social organization. Under more simple conditions of society the social expression of interests was mainly through caste or class groups, age groups, kin groups, neighborhood groups and other unorganized or loosely organized solidarities. The coherence of these groups was fostered by appropriate traditions - established interpretations, as it were, of the interests or values which the groups embodied.

In an industrialized society with its division of labor and its opportunity for widened contacts every interest of any proportions establishes an organization for its promotion. Many quite limited and selective interests are enabled to draw their scattered adherents into personal or impersonal relations over greater areas, while the more universal extend correspondingly the range and the size of their organization. Thus the most marked structural distinction between a primitive and a civilized society is the paucity of specific associations in the one and their multiplicity in the other.

This definite organization of interests reacts upon the character of the interests as well as on the modes in which they are pursued. A broad distinction may be drawn here between

like and common interests. Persons have like interests in so far, for example, as each seeks a livelihood for himself. They have common interests in the degree in which they participate in a cause as the welfare of a city or country, which indivisibly embraces them all. The two types of interest are inextricably combined in their attachment to associations. Thus the like interests which lead to economic association are reenforced by the sense of membership in a corporate unity on the success of which the attainment of these like or distributive interests depends. Moreover the association gives a greater stability to the interests which it promotes. An organized interest, especially if it assumes the form of incorporation, achieves a certain continuity in spite of the fluctuating devotion and the changing composition of the membership.

With the increase of organization the conflict of interests takes new forms, and the problem of establishing some harmony between them thrusts new tasks upon the state. There are some interests which remain localized and others which have special local aspects. But on the whole the attribution of interests to localities, the principle on which the system of representative government has been built, has diminishing significance.

These findings are not at variance with the concept in the United States (and in Canada though not so specifically stated)

that the proposed governmentally funded consumer lobby group was a special interest lobby for consumers. When consumer groups are examined such is not far from the facts.

Interest Group Theories²

Interaction between the polity and organized interests has taken place in all periods of history. Estates, guilds, trading companies, and the like are the more immediate antecedents of the modern interest group, which may be defined as a voluntary association of individuals who band together for the defense of an "interest". The definition of an interest as a "conscious desire to have public policy, or the authoritative allocation of values, move in a particular general or specific direction" (LaPalombara 1964, p. 16) may be controversial, but it usefully limits the concept by excluding the numerous groups whose members share certain attitudes but are not concerned with public policy. Once it is determined that only those organizations which have a stake in the political process belong to the interest group universe, the term may be used interchangeably with "pressure groups", "organized interests", "lobbies", "political groups" or "power groups".

Groups represent the interest of the sections into which a society divides; with advanced specialization groups will

be more numerous and specialized. Invariably management, labor, and agriculture will appear as federated organizations in areas where their interests are at stake. They are not only recognized by international organizations but occasionally form groupings across national borders, for example, the International Confederation of Free Trade Unions or the Council of European Federations of Industry. Within almost every country there is also a web of more specialized trade associations, trade unions, and farmers' organizations extending in a vertical as well as a horizontal direction. In Western societies the organizations of the professions, such as medicine or law, are among the oldest interest groups.

In addition to sectional interests, the promotion of causes also gives rise to the formation of political interest groups. The Anti-Corn Law League, the Anti-Saloon League, societies devoted to the purification of air or of manners, movements for penal reform or for civil liberties, peacemongers or warmongers - in every society there is an inexhaustible supply of causes which find their spokesmen, who form organizations and mount campaigns.

To manage the flow of influence between government and the governed is the main function of interest groups in a wide variety of contemporary political systems. The mere fact that

groups participate in the political competition of a given system and seek to obtain and maintain power does not distinguish them from other social structures such as parties. In the past the dividing line between parties and interest groups was often drawn by pointing to a difference in functions. Groups were expected to convey to the political apparatus the total claims of a supposedly homogeneous clientele, while parties were to select, aggregate, and thereby transform the raw demands of an electorate. This is no longer true. Most modern interest groups, and especially the elaborate structures which many of them form for effective action, are so complex that they are compelled to sift claims and establish preferences. Indeed, the legitimization of their activities may depend on it.

This does not mean that all differences between parties and groups have disappeared. Except in extraordinary circumstances interest groups do not seek responsibility for direct management of government. When their officers or members win elective office (which is considered improper only in some countries), the formal responsibility of the groups to which they belong is not involved. On the other hand, if the role of groups in recruiting decision makers for the system is less conspicuous than that of parties, their influence in the selection process is often considerable and can be decisive.

What is most distinctive about a great many interest groups is the place which they hold in society. The interests which they represent link their membership with community values. Hence, groups are likely to reflect more accurately than do other bodies the concern of the society in which they operate. In fully developed as well as in developing countries, certain critical conflicts will, for a variety of reasons, never enter the party - political realm. Yet any conflict that has been taken into the public domain will invariably affect group activities. Where the formal system of representation proves inadequate interest groups represent community values more realistically than do parties.

In the nexus between economic, social and political power (Neumann 1957) interest groups translate economic power into social power and share with parties the function of transforming social power into political decisions. Groups which defend non-economic interests play a similar role in the broad context of social and cultural change.

Historically it has been the task of organized interests in many systems to function as agents of innovation. In the modern state, however, where public authorities - possibly in conjunction with political parties - have become an important source of innovation, interest groups are more likely to

defend the status quo and an established position, as the producers have been doing in response to consumerism. The struggle over values in which groups engage and the claims they lay to scarce resources sometimes prevent, sometimes promote, change. They may destroy an existing consensus as well as prepare for a new one. Their part in providing a balance between stability and change within a governmental system remains important.

Representation of Consumer Interests

Mark V. Nadel has a different view on consumers as an interest group. His views on the diffusion and intensity of consumer interest were discussed in the early part of the report. "All people are consumers", he says, "but their self awareness as consumers is generally lower than their awareness of their other roles."³

The low intensity of the interest gives added importance to symbolic and psychological factors. As a subject becomes more important to a person he is less likely to be swayed by extraneous and ephemeral considerations. The relatively unimportant choice between makes of cars can be influenced by various kinds of emotional appeals. The much more important choice of a house is more generally grounded in rational factors. Similarly, in consumer protection a citizen is likely to be

misled by "the symbolic uses of politics". As the interest is less intense, the citizen is more likely to assume contentedly that the government must be doing something about it. But this cuts the other way also. In the meat inspection controversy, the stripping away of the symbolic assurance that all meat was inspected led to a greatly increased intensity in consumer concern about the issue. The issue's generally low intensity magnifies the importance of the press as an aid to those representing the consumer interest. Low intensity is another way of saying low visibility and this gives the press a major role in increasing visibility and hence intensity.

After discussing the problem inherent in defining consumer interests, Nadel says, "...ultimately it is the government that defines the consumer interest. The interests of special groups such as the American Trucking Association are always articulated by themselves and pressed upon the government by the firm in which they are articulated. The resulting governmental policy may be at variance with the group's definition of its own interests, but few doubt that the self-interest of the group's members has been originally defined by the group itself. On the other hand, a variety of governmental and non-governmental consumer activists may attempt to define the consumer interest, but the difficulty of definition of a

diffuse interest of this type gives other governmental actors equal claim on positing a definition while the authority and visibility of the government gives legitimacy to its own definition. Thus, in his first consumer message, President Kennedy stated the "Rights of Consumers". In doing so he did not reflect previously demanded rights. As the chief representative of the federal government he defined those rights himself."⁴

The representation of non-intense diffuse interests is a theme in recent political theory. A useful theory in this context is that of Charles Lindblom.⁵ His statement of the pluralist theory defines consumer interests as widely shared values, or in some cases, collective values. These values are synonymous with most conceptions of the public interest. Then the question becomes, "Is the public interest given weight in the policy process?" Lindblom answers in the affirmative in the following way: He conceives of the total decision-making process as one of "partisan mutual adjustment" in which each participant pursues only his own immediate goals without considering all the consequences of his demands and without unilaterally changing demands in response to some notion of the "public interest". He argues, nonetheless, that the public interest (widely shared values) is not neglected in such

a system. First, there are powerful incentives toward agreement in partisan mutual adjustment. These incentives lead to the mutual acceptance of shared values. Second, those participants who have as their responsibility the pursuit of widely shared values have special authority and powers. Finally, some important participants seek shared values as their principal goal.

There are several problems with this interpretation of the representation of widely shared values. First is the problem of definition demonstrated earlier. A value may be defined so broadly that agreement on it is meaningless since controversy centers around narrower grounds. In the present case, all participants agree that the consumer should be protected. The producers contend that protection rests in the marketplace with a minimum of tampering from the government. The consumer activists seek to make formal public policy the prime protector of consumer interests. The widely shared value that the consumer should be protected is thus almost meaningless. Industry would not act differently even if it did not espouse this widely shared value.

Nadel quotes Mancur Olson's theory of groups in support of the problems faced in representing consumer interests. Olson, an economist, presents a theory of groups which is at

odds with pluralist thinking.⁶ He maintains that there is a qualitative as well as a quantitative difference between large and small groups. In a large group seeking benefits for a large number of members, it is in every member's interest for everyone to contribute resources to the organization to obtain collective benefits. However, there are so many members that any voluntary contribution by the member will likely be greater than the benefit he might gain. Furthermore, there are so many other members it is unlikely that his contribution will make any difference. Thus there is no rational incentive for the individual to contribute voluntarily. He cannot affect the outcome any more than an individual firm in a perfectly competitive market can affect the total profit of any industry by restricting its own output. In each case, the individual actor loses more than he gains. However, the situation differs in small groups. Just as in the case of oligopoly, such a group is small enough for an individual effort to affect the total outcome. An individual's contribution might well be less than the collective benefits which result from his effort. In such a case it is rational for him to make the effort even if no one else contributes.

In a similar perspective, Anthony Downs demonstrates the irrationality (and hence improbability) of consumer influence.⁷

Influence requires costs, particularly information costs. People will only incur those costs when the return is likely to offset the cost. Since people consume in many areas, but produce in only one, they will concentrate their influence in the area of their production (as businessmen, laborers, professors, etc) rather than in their many areas as consumers. Therefore, producers will have more influence than consumers.

The ingenious analysis of Olson and Downs has been disproved by fact in that consumer protection legislation has been passed, albeit in limited form. Nevertheless, their theory would seem to allow no possibility of even limited success. In short, while Lindblom may be accused of being too optimistic about the success of widely shared values, the economists appear to be unduly pessimistic.

The contrast between the theories and their apparent inconsistency with empirical observation may be resolved if we look at the policy-making process in consumer protection in terms of "professional consumers".⁸

"Quality of Life" as a Consumer Interest

The growing social criticism of materialism, i.e. the desire to possess more and better material goods, highlights another interest of the consumer. The most commonly expressed

charge is that modern technology of the economic system has delivered an over-abundance of goods, but in so doing have not necessarily improved the quality of peoples' lives. Such critics feel that we have placed an undue emphasis on economic growth, on acquiring material goods for their own sake, but we have made relatively little progress toward elevating the quality of human life, individual security and happiness.⁹

Mary Gardiner Jones, US Federal Trade Commissioner, expresses her concern about human values. "What is new today about consumerism is the fact that consumers' concerns today are much more directly focussed on the human values and environmental considerations involved in today's economic decisions than they are on the more strictly 'economic' problems of obtaining the highest quality goods at the lowest possible price."¹⁰ Vance Packard dedicated his book The Waste Makers to his mother and father, "who had never confused the possession of goods with good life".

David P. Eastburn sees all this as a conflict between "economic man" and "social man". Rom J. Markin, while quoting Eastburn, says "Much of the businessman's dilemma can be traced to the conflict between economic and social man - a confrontation which stems from the marketer's concern with making a living on the one hand, and living with his fellows on the other. Or,

in short, the problems which surround the paradox of "making a living" versus "making a life". Those who are primarily economically oriented see life differently from those who are socially oriented. Those with a more balanced view are likely to be torn by conflicting beliefs.

It is easy to overdraw a generalization, including the contrast between economic and social values. But the following is a fairly adequate shorthand definition:

<u>Economic Man</u>	<u>Social Man</u>
Production	Distribution
Quantity	Quality
Goods and Services	People
Money Values	Human Values
Work and Discipline	Self-Realization
Competition	Cooperation
Laissez-faire	Involvement
Inflation	Unemployment

Source: David P. Eastburn, "Economic Man Vs. Social Man", Business Review, Federal Reserve Bank of Philadelphia (October 1970), p. 4. C. 1970, The New York Times Company.

As can be seen, marketers and businessmen are often too deeply steeped in the values of economic man to appreciate

the values of social man as reflected in consumerism and the consumer movement. Economic man often is the mirrored reflection of the "establishment". His value system runs to production, mass marketing, the outpouring of goods, and the regulation of industry by competition alone or laissez faire economic principles."¹¹ It does not seem unreasonable to draw the conclusion that the reason the consumerism movement and the search for the consumer interest goes forward, in spite of predictions by Olson and Downs to the contrary, is that those who carry it forward do so with more than just economic interests as motivation. While not provable in this literature review empirical observations by the authors of those active in the consumer movement support the hypothesis that economic benefit is not the sole motivating force of the consumerism movement.

Summary and Conclusions

A review of the sociology and political science literature has been fruitful in providing a theoretical background and modus operandi of the consumerism movement. In addition it has provided some insight into the potential limits or bounds of consumer interest. The latter may not be particularly helpful since it is not difficult to draw the conclusion that there is no bound if one agrees with the premise that it is

legitimate that the consumer interest includes the generally accepted economic concerns in the market place as well as the "quality of life" and its consumption.

The consumer interest may be reflected in a lobby group whose interests need representation and fostering along with other interest groups in society. The explanation of why it is difficult to have consumer interests represented (they consume in many areas but produce in one and hence a large dilution of consumers' potential economic benefit from any particular activity in improving consumption) is shown to belie the facts that these interests are being forwarded.

We conclude that while the irrationality of consumerism on totally economic benefit grounds may be true that in fact it is only a constraint on consumer interest representation since considerations of the "quality of life" and the "social man" are additional motivating forces for advocates of consumer rights.

FOOTNOTES

- ¹ See R.M. MacIver, "Interests", in Encyclopedia of Social Sciences, Vol. 8, op.cit., pp. 146-147.
- ² See Henry W. Ehrmann, "Interest Groups", in David L. Sills, editor, International Encyclopedia of Social Sciences, op.cit., pp. 486-492.
- ³ Nadel, The Politics of Consumer Protection, op.cit., p. 235.
- ⁴ Ibid, p. 238.
- ⁵ Charles Lindblom, The Intelligence of Democracy (New York: The Free Press, 1965).
- ⁶ Mancur Olson, The Logic of Collective Action, (Cambridge, Mass: Harvard University Press, 1965).
- ⁷ Anthony Downs, An Economic Theory of Democracy (New York: Harper and Ross, 1961), pp. 233-256.
- ⁸ Nadel, op.cit., pp. 233-244.
- ⁹ Furuhashi and McCarthy, op.cit., pp. 1-2.
- ¹⁰ Mary Gardiner Jones, "Address before the Manufacturing Chemists Association, New York, November 25, 1969" in Louis L. Stern, "Consumer Protection Via Self-Regulation", op.cit., p. 47.
- ¹¹ Markin, op.cit., pp. 15-16.

PART VIII

TOWARDS A DEFINITION OF THE CONSUMER INTEREST

The review of the literature on consumer interests has ranged over the fields of economics, marketing, consumerism, law, and sociology. In each case the perspective employed reflects a particular model of society and social behavior. Each perspective, in its own way, helps to clarify the issues and to define the meaning of the consumer interest. Nowhere is the consumer interest given precise meaning. In part this is because the scope of the concerns that are seen as part of the consumer interest is expanding.

Consumer interests apparently are no longer confined merely to economic issues. Equal interest is being shown on the quality of life, pollution, and the indiscriminate use of limited resources. Consumerism now reflects the concern of critics of a materialistic, hedonistic culture which equates quality of life with the possession of goods.

This summary and conclusions chapter brings together each of the areas covered in the literature review to provide a working definition of the consumer interest. It provides a focus for the evaluation of that interest and points out areas where ambiguities remain in the elusive concept of the consumer interest.

Economics

The economist assumes that consumers behave rationally and make their decisions in such a way as to maximize their personal utility functions given the resources available to them. By the additional assumption of a perfectly competitive system, it can be shown that a Pareto optimal equilibrium can be achieved and maintained.

However, subsumed by the general assumptions are two specific sets of assumptions that should be made explicit because of their relevance to the concept of "the consumer interest."

1. The assumption of equal shares and equal marginal utility.
2. The initial distribution is in accordance with a generally accepted concept of equity, that is, with a social value system.

The assessment of the consumer interest in economics is deduced from a purely theoretical system. If the initial postulates are granted it can be shown that no consumer can be made better off without reducing the welfare of another. The claims of consumers on the economic system are therefore satisfied.

The rational consumer of the economic model does not exist anymore than does the perfectly competitive economic system.

Having said this we may still consider whether the economic model provides criteria for a definition of the consumer interest. Certainly the demand curve which arises from the utility maximizing decisions of consumers is a central determinant of economic activity.

Critics of the economic system would not accept the proposition that the consumer interest is protected by the forces of the market place. There are too many imperfections in the system. It is not at all clear that business decisions even approximate the predictions of the economic model. It is all very well to conceptualize the demand curve but no one has ever been able to derive one empirically. Production functions often can be developed but in most markets the imperfections are such that there is no assurance that economic decisions will be socially optimum.

Furthermore there is a philosophical question which is seldom addressed in the literature of welfare economics. The utility function of economic theory is narrowly constrained.. It is not at all clear that it conforms in a useful way to the developing concept of the consumer interest and more broadly defined consumer rights.

The Marketing Concept

Although the marketing concept dwells on the sovereignty

of the consumer in the marketplace it does not provide a definition of the consumer interest. It is not demonstrated that the consumer is sovereign nor that industry responds in a direct and predictable way to consumer wants. It is not at all clear that the consumer interest is a dominant force even where firms operate according to the marketing concept which, briefly stated, says that all the firms decisions should be made with the final consumer in mind and in addition that the firm makes profits in the long run.

This is not to say that business does not respond to consumer wants. Consumer research is a major industry devoted to discovering understanding, and predicting consumer wants and buying behavior. It is used extensively by consumer goods manufacturers to plan their marketing campaigns, the objective which is the profitable exploitation of the marketplace.

Applying the marketing concept, a firm will provide a service or a product that is in the consumer interest if this can be done at a profit. However, it is not certain that services or products not in the long-term interest of consumers will not produce a profit. Nor is it certain that firms will choose the marketing policy which will best serve the consumer interest when a decision must be made. Even if a product is good (from the point of view of the consumer interest) it is

not certain that the methods of pricing, promotion and distribution will be in the consumer interest. It would be naive to assume that actions which maximize profits also will maximize consumer well-being.

The marketing concept may be an appropriate basis for manufacturers of consumer products to maximize profits. It does not provide a useable definition of the consumer interest. Nor does it assure that the consumer interest, whatever that is, necessarily will be served. And certainly, it does provide any assurance that the responsibility for protecting the consumers interest can safely be left in the hands of business, however enlightened it may be.

A definition of the consumer interest cannot be derived from the marketing concept. The concept assumes that whatever the interests of consumers are they are to be decided by the consumer. It is further assumed that consumers will act rationally and make decisions in their own best interests. Presumably both short-term and long-term considerations enter into the decisions made.

Even if we were to accept the heroic assumption that consumers can and will make the multitude of buying decisions that have to be made day after day according to rational decision rules that will maximize their short-term and long-

term best interests there is no assurance that industry will respond as the marketing concept supposes. There are two basic fallacies that should concern us.

1. A Decision Rule

The marketing concept is a decision rule for the profitable exploitation of consumer wants. It is not a philosophy for ensuring that consumer wants are satisfied. It certainly is not a philosophy for ensuring that consumer interests are protected. Consumer rights and consumer interests are not part of the philosophy. There is no assurance that the consumer interest will be served if business plans its product and marketing strategies in terms of maximizing the profitable sales response of consumers.

Bennett Bidwell, vice-president, sales group, Ford Motor Co., is reported to have said "In the marketplace the ultimate wisdom belongs to the consumer. I stress the qualifying adjective 'ultimate' - not 'interim!'. In the interim all kinds of aberrations are possible, indeed, are inevitable. Long term, the consumer's wisdom will prevail."¹ A cynic might observe that the aberrations may be serious, indeed critical. Moreover, in a dynamic market the aberrations may change but they are the rule. By the time the consumer's wisdom has a change to prevail changes in the marketplace introduce new aberrations.

This means that in a complex and dynamic industry the consumer's wisdom never will prevail. To some extent the firms in an industry are at the mercy of aberrations or externalities that cause disturbances in the marketplace. The skyrocketing demand for small cars following the OPEC oil embargo and oil price escalation in November, 1973 is a dramatic illustration of this point.

2. The Lowest Common Denominator?

Industry must design products and marketing programs to satisfy and influence as many of the appropriate target markets as possible. The objective is to maximize the number of potential buyers, not to maximize consumer satisfaction. It is comparable to the dilemma of the idealistic politician who finds he must appeal to as many of the electorate as possible if he is to be elected. There is a real possibility that his idealism, of necessity, will degenerate to a lowest common denominator.

Consumerism

Whereas economics draws its inferences from a deductive, theoretical model, consumerism draws its conclusions inductively from empirical evidence. The consumer movement is concerned with protecting the rights of consumers. It is understood that consumers are not always rational. In any case, they seldom have enough information to make rational decisions even if

they have the desire and the ability to do so. Of course, not even the most naive theoretical economist would claim that the "rational man" assumption of the perfectly competitive model describes the behavior of the typical buyer.

Because of the imperfections in the economic system, the economic model cannot be relied upon to protect the consumer interest. The essential and fundamental problems are assumed away. Instead of showing how to protect the consumer interest, the model postulates conditions, unrelated to the real world, in which consumer protection is not necessary.

The consumer movement postulates a set of rights or fundamental values inherent in the role of consumer. It is the responsibility of society to ensure that these rights are protected. It is assumed that, as a consequence, the economic, and perhaps the social welfare of everyone will be maximized.

Consumerism is a social movement not a theoretical construct. It is empirical in its assessment of the economic system but idealistic in its social objectives. The consumer is viewed as the object of exploitation. Although the consumer has rights as a member of society, these rights must be protected because they are subject to erosion. An important concern is that other interests are represented through lobbying and other forms of political pressure in the political and

legislative system. The consumer interest lacks political representation. Therefore, when there is a conflict of interest it is the consumer interest that suffers.

The empirical perspective of the consumer movement has a number of consequences.

1. There is a lack of a conceptual definition of the consumer interest.

2. The undefined scope has lead to an extension into areas of social concern that are only indirectly related to consumer interest. Examples of this broadening domain are pollution of the environment, waste of limited resources, the energy crisis, and violence on television.

3. The "solutions" of the consumer movement tend to be in the form of a type of "crisis management". Each perceived problem tends to generate a recommendation for a corrective response. Moreover, the proposed actions tend to focus on particular types of behavior of firms which are perceived to be socially undesirable. Our ad hoc, and ineffective, approach to the control of the sale of alcoholic beverages, misleading advertising, the distribution of pornography, or violence on television illustrate the difficulty.

The consumer interest in the consumerism movement becomes

confused with changing social values and issues of social morality (in particular, the perception of a degeneration of morality). The theme of fundamental, irrevocable consumer rights may provide a practicable basis for systematizing the concerns of the consumer movement.

Law

Only in law has the word "interest" been given definition. In the most general sense it means the "right to have the advantage accruing from anything."² It acquires more specific meaning when it is applied to property, insurance, contracts, bequests, etc.

In the consumerism movement the consumer interest is a set of rights inherent in the role of consumer. They are not rights that are acquired by contract, bestowed by government, or transferrable to others. Like "human rights" they are fundamental and irrevocable.

Much of the law affects, impinges upon, or attempts to protect the rights or interests of individuals. A very large body of law deals with the rights of parties in contractual arrangements of a variety of kinds. The substantial body of law of contract and agency in the common law and statutes such as sale of goods acts operate in this area. Some of the more recent legislation which we would class as consumer law attempts to protect individuals from the enforcement of contracts which for some reason are deemed socially undesirable, even though the contracts may have been entered into voluntarily. Legislation affecting contracts signed in door-to-door selling is illustrative of

this form of law. Another class of law, best illustrated by the Competition Act and legislation in the area of fraud, defines certain acts affecting buyers as criminal acts. Finally there is increasing acceptance of the need for legislation that outlaws certain kinds of behavior in the marketplace which is considered socially undesirable. Laws regarding misleading advertising are examples of this area. The total range of legislation which refers to activities in the marketplace and affects consumer rights is voluminous and far-reaching.

Any systematic examination of the consumer interest will require an extensive study of existing legislation and the developing philosophical posture of consumer protection in law. An interesting approach to the definition of the consumer interest would be to deduce from the usage in law what society has determined to be the consumer interest. If law is a reflection of social values is this not where society's views on the consumer interest will be most clearly and realistically expressed? If this is not the case, should we not compare the legal perceptions of the consumer interest with a more acceptable definition to find gaps and discrepancies in the law which purports to protect the consumers' interest?

Social Approach

The use of the term "interest" in the sociological literature is confusing. At times it appears to mean a claim or inherent right. At other times it appears to be the basis

for group formation or group solidarity. Groups are defined to be clusters of individuals with a common concern or like interests. This meaning is sometimes extended to equate the word "interest" to widely shared values. It is not surprising that some sociologists avoid the term in favor of other words which have a more precise meaning and fewer disturbing connotations.

The social approach should be able to make a significant contribution to the investigation of the consumer interest. How groups form and how group action evolves clearly is of central concern. The factors influencing the formation of groups, the determinants of group action, and the more general problem of mechanisms for effective social choice are not well understood. One would expect a joining together of the empiricism of the consumer movement and the theoretical constructs of the social sciences to provide some important insights. However, the literature in this area does not provide a definition of the consumer interest.

Consumer Rights and Consumer Interest

We have reached the point where no useful definition of the consumer interest has been found. However, there has been enough sparring in the area that a definition can be made which

may satisfy most and will at least provide the basis for future discussion and refinement of the problem.

The empiricist "consumer rights" statement helps clarify the definitional problem.

1. The right to safety

The economic model leaves it to the consumer to decide how much safety is worth as compared to other benefits. If consumer's choose to buy fashionable but unsafe products that is their business. The economic model assumes that rational consumers, with adequate performance data, will decide whether a safe or an unsafe product will be purchased. The inability of Ford in the late sixties to attract automobile buyers with an appeal to safety illustrates the dilemma.

There is a moral question whether the state has the responsibility to protect individual consumers from their own weaknesses, their emotional approach to buying decisions, their inability to judge what is in their best interest, or their inability to understand the information available to them. Our confused approach to violence on television, pornography, and television for children is a result of a conflict in values.

Even if the moral issue is ignored the economic model is unsatisfactory. The model assumes that consumers are able to make rational decisions. It is clear that we cannot accept

that assumption. There are too many products to choose from; information is not readily available; for many products consumers do not have the technical knowledge to use the information available; performance characteristics often cannot be judged from a detailed examination of the product or the information available.

The consumerism model takes a very straight forward, empirical approach. There are products on the market that are unsafe or dangerous. They should be banned. There should be legislation which will ensure that unsafe products are kept off the market.

The specification of the meaning of unsafe, the way in which unsafe products are identified, the procedures for inspection and control, and role of government and industry are all difficult questions. This, is obviously a very complex legal question. It is also a complex problem of social choice and societal decision processes.

2. The right to be informed

The economist avoids the issue by assuming that information is available and is used. In fact, as the information approach demonstrates very clearly, this simplistic assumption is totally unrealistic and, in fact, dangerously misleading. The effective

dissemination of meaningful information should promote consumer welfare. The evidence suggests that the information that exists often is not used. Certainly there is no assurance that there will be a balanced and factual presentation of information to consumers.

3. The right to choose

Fundamental to an open market system is the freedom to choose from a variety of goods and services. The economist and the consumer advocate would agree that the consumer should have access to alternatives and to products that are acceptable substitutes. Much of the law in combines, competition, and trade practices attempts to ensure that there will be choice. The concept of competitive prices is important because consumers not only should be able to choose but the choices should be available at the lowest possible prices.

The system breaks down if there are few choices, if there are barriers to the entry of firms that wish to compete in an industry, or there are structural inefficiencies that allow prices to be higher than they ought to be.

Where competition cannot be depended upon to provide adequate choice at low prices it is necessary for society to intrude. Government is then expected to monitor and control so

that consumers can be assured of satisfactory quality, reasonable choice, at "fair" prices. The definition of a "fair" price is, of course, as difficult as a definition of the consumer interest.

4. The right to be heard

It is because the competitive system does not work as effectively nor as efficiently as the economic model predicts that there is a cry for consumer representation in the formulation of social policy. As has been pointed out several times in this report, individuals have many interests depending upon their many roles. Often their interests as consumers are less demanding than their specific and selfish interests as producers, union members, etc. The political process encourages political pressure and lobbying by special interest groups. The need for political representation of the distinctive problems of the consumer interest is a consequence of the way in which the political system works.

The rights listed are not controversial. Few would argue against them in principle. On the other hand, the proper processes for protecting these rights is a highly controversial and politically sensitive question.

A perspective of consumer rights as a basis for examining

the consumer interest can be very productive. Such an examination will lead to an elaboration of the above rights and to an expansion of this list.

The concept of a consumer interest is being extended into a range of areas of social concern. In the process the meaning of the consumer interest is becoming confused. It is apparent that each perspective on the consumer interest contributes to an understanding of the issues but not to a definition. The most promising perspective appears to be a concept of fundamental rights. The statement by President Kennedy has been used to provide a foundation for developing a theme of consumer rights. What is needed now is a clarification, an extension, and a development in depth of this theme. It would appear important to maintain a distinction between the consumer interest and the public interest as well as a specification of the effective domain of the former. The theoretical foundation for a conceptual development will be eclectic, drawing from economics, marketing, law, sociology, and political science.

One thing is certain. Canadian consumers, like their counterparts elsewhere in the world, can agree a large percentage of the time on when their interests have and have not been protected. This report has gone a long way towards collecting and defining the dimensions of the consumer interest.

FOOTNOTES

¹Bennett E. Bidwell, "Marketing Proposes, Government Interposes, but Consumer Disposes," Marketing News, Dec. 3, 1976, p. 1.

²Black's Law Dictionary (West Publishing Co., 1968), p. 950.

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