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Studies Program
Research Report**

**Programme des études sur les
innovations techniques
Rapport de recherche**

Home as an Electronic Market Place:
The Consumer Protection & Public Policy Issues

by

Stanley J. Shapiro
Professor of Marketing
Simon Fraser University
June 1985

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The views and opinions expressed in this report are those of the authors and are not necessarily endorsed by the Department of Regional Industrial Expansion.

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Abstract

The nature and amount of "from home" shopping that will be done and paid for via videotex remains to be determined. However, certain aspects of the videotex scene are now far better understood than was the case just a few years ago. Recent developments suggest, for example, that the rate of acceptance of videotex systems will be somewhat slower than was previously expected and that "from home" shopping capability will not usually be the reason one subscribes to such a system. Also, microcomputers seem destined to play a far more important role in the development of videotex systems and dedicated but dumb terminals a much less significant one than was originally anticipated. But while such market and technology-related aspects of videotex have for some years received considerable attention, consumer protection and public policy dimensions have been relatively neglected. This paper is an attempt to help rectify that imbalance.

Thirty consumer protection and public policy issues related either to the use of videotex systems for promotion, purchasing and payment or to the management of such systems are identified. As the review proceeds, the author comments on the relative significance and possible methods of solving the problems so identified. The public policy issues related to videotex are considered far more difficult to resolve than their consumer protection counterparts. This follows from the fact that regulatory practices governing analogous consumer transactions can, with appropriate modification, be applied to promotion, purchasing and payment via videotex.

Recognizing consumer representatives as legitimate stakeholders in the

world of videotex is considered essential if problems similar to those surrounding the introduction of "prices off" scanning are to be avoided. Having all relevant stakeholder organizations affected by any of the previously identified social issues place their respective positions on the record is a necessary first step in finding solutions to those problems. Even when consensus can not be reached on such topics, knowing where the various players stand will still simplify the task of those who must ultimately legislate or regulate. Emerging areas of controversy related to videotex -- just as proved to be the case with "prices off" scanning -- will more often be resolved in a political rather than an economic market place.

Home as an Electronic Market Place:

The Consumer Protection and Public Policy Issues

THE COMMERCIAL CONTEXT

The impact of new electronic technologies -- generally on consumer life styles and more specifically on how goods and services will be promoted, purchased and paid for -- has recently become a subject of apparently endless investigation. Videotex, presumably because of the existence of a Canadian version (Telidon) of the generic product type, has been a topic of particular interest in Canada. But whether authored in Canada or elsewhere, most of the literature on videotex appearing in the late 1970's or early 1980's focused on such managerial and technological issues as the most likely hardware configuration, the best manner and method of data presentation and the expected rate of market penetration. The extent and kind of shopping that would be initiated electronically from home was also frequently discussed. The consumer protection and public policy dimensions of videotex have received much less attention.

The amount and the nature of from home shopping that will actually be done via videotex still remains to be determined as of the date (June, 1985) this report was written. However, other aspects of the videotex scene are far better understood than was the case just a few years ago.

Market tests over a period of years and a relatively recent spate of commercial videotex launches suggest that the initial rate of acceptance of Home Information Services (of which "from home" purchasing is but one aspect) may be slower and the eventual degree of market penetration may be considerably less than was anticipated just a few years ago. As had

previously proved to be the case in England, North American business applications of videotex systems have been more extensively developed than have consumer applications. Initial results also suggest that the graphics capability of videotex may not be as important as was originally anticipated. Most of the products being purchased can be promoted and the kinds of information being requested can be provided by less costly and far less technologically complex teletext systems of the type traditionally used by cable broadcasting systems.

Recent efforts at commercializing videotex also confirm what market tests and the survey work that preceded such testing had previously suggested. The ability to shop from home will rarely be the primary reason why consumers decide to subscribe to such a system. Marketing related activities are apparently viewed by most present or potential videotex system users as tangentially desirable add-on uses. Far greater consumer interest is expressed in home protection services (burglar, fire and medical), in access to up-to-date information on a myriad of topics, in the availability of games and entertainment and in the ability to bank from home.

Videotex technology continues to race ahead with a constant stream of new innovations being the order of the day. Particularly noteworthy is the very great likelihood that microcomputers with an improved capability for receiving graphics will replace dedicated (but dumb) videotex terminals as the device generally used both to seek and to receive information. This seems a most fortuitous development given the relatively widespread acceptance of microcomputers and the apparent inability of North American producers to make dedicated videotex terminals available at a price

attractive to consumers.

Constant change would appear to be one of the few constants in the world of videotex. What seems obvious today as regards the expected degree of market penetration, the characteristics of users and the most likely technological mix may no longer hold true even in the relatively near future. To keep abreast of videotex, one would be well advised to monitor the mass media, to read relevant trade publications such as Videotex World, to attend the appropriate trade shows, to subscribe to at least one industry newsletter and to purchase the special studies periodically offered by consulting firms. The cauldron of videotex activity bubbles over but whether commercial opportunities justify the risks involved is something each organization that would profit from videotex must decide for itself.

Our concern, however, is neither with the market potential nor the likely profitability of videotex systems. The remainder of this paper focuses on another, and still relatively neglected aspect of videotex -- the consumer and public policy issues associated with "from home" electronic shopping and the use of electronic funds transfer systems to pay for the items so purchased. A series of such issues will first be identified and some assessment then made of their relative complexity. Finally, procedures that would reduce the likelihood of such issues becoming areas of political and social controversy (as has proven to be the case with electronic scanning) will be discussed.

But before attention can be turned to the relevant consumer and public policy issues, two important points must be clarified. First, we must decide to what extent purchasing via videotex really is all that different.

Consumers have been using the most up-to-date communications technology available to them to order goods and services ever since the very early days of the telephone. As is true today with purchasing via videotex, these early transactions could be characterized as two way, interactive and, usually, consumer initiated. Subsequently, first radio and then also television were used to promote certain categories of goods in a manner designed to generate an immediate purchase response. Such a purchase, it is often suggested, can be made -- whatever the time of day or night -- by calling the advertiser's heavily promoted telephone number. Even more recently, one finds the recommended response is to a toll free 800 number. It is usually suggested, as well, that the customer save service or handling charges by using a VISA, Mastercharge, or American Express number to pay for the product at the time it is ordered.

Home purchasing via videotex is in many respects merely a further refinement of already existing purchasing practices. All things considered, the difference is one of degree, not of kind. However, the combination of a new ordering system and a substantial increase in the likely volume of "from home" shopping both reinforces the importance of previously identified social concerns and brings others to the fore. Both familiar consumer and public policy issues and those unique to videotex are discussed in the section that follows.

The appropriateness of drawing a distinction between consumer and public policy issues also deserves at least brief mention. Almost every dichotomous classification poses problems and this one is no exception. However, the fundamental distinction is between the type of problems associated with

individual consumer transactions and those policy issues of such a magnitude or nature that they threaten to affect significantly the welfare of the entire body-politic. Consumer and social issues would appear to be two distinct categories of concern. Indeed, one can readily cite illustrations (i.e. non-returnable containers and hard drugs) where the public interest and that of individual consumers may clash. However, no such conflict appear to exist in the videotex area. The difference in this case is in the level of aggregation (the number of individuals concerned) and the extent of the impact (the importance of the issue).

Both individual consumers, in their roles as citizens, and the organized consumer movement can be expected to take a position on major public policy issues. Indeed, the consumer movement now appears to be spending more time and energy on such concerns with less effort consequently being devoted to its traditional areas of interest. Nevertheless, distinguishing between consumer protection issues related to individual videotex transactions and broader public policy concerns still appears to make sense. Such a distinction is maintained in the section that follows in a way that also focuses attention on three distinct but obviously related marketing functions -- the transmission of promotional material over a videotex system, the use of such a system to make a purchase, and the subsequent process of payment via the electronic funds transfer component of that same system.

Categorizing Consumer Protection and Public Policy Issues

The central concern of this paper could have been approached in a number of different ways. This particular investigation involved, first of all, the careful examination of a body of literature that discussed various social dimensions of videotex. Such issues were also explored with a number of individuals believed to have relevant expertise. All things considered, it then seemed best to introduce an element of order by somehow synthesizing or summarizing the types of issues that had been identified. This was done by formulating some thirty questions which, collectively, highlight the major consumer protection and public policy dimensions of videotex. The questions so formulated were further categorized in terms of whether they were primarily related to a marketer's efforts at promotion, to the act of purchasing, to the transmission of payment or to the regulation of videotex delivery systems.

There is obviously nothing sacred or sacrosanct about the process described above. Others charged first with identifying the range of social issues associated with videotex and then appropriately categorizing those issues might well have done so using a very different procedure. However, the same videotex-related consumer protection and public policy issues seem likely to have been identified whatever the process actually employed. When this investigation first began, the author, perhaps somewhat naively, believed he would be able to do considerably more than merely identify and classify key social concerns. He was then of the opinion that it would also be possible to indicate the most appropriate manner of dealing with each of

the issues so identified. Unfortunately, this did not always prove to be the case. For many of the questions that have been raised, there is no obviously "right" answer. What is proposed as "the only appropriate action" all too often reflects the economic interests, the prejudices, the values and even the political beliefs of those making that particular policy prescription.

The above suggests that a more humble view need be taken about what the following categorization has accomplished. It will subsequently be argued that the debate over how videotex should be regulated would be greatly facilitated if every interest group (or stakeholder) were asked to formulate its suggested answer to each of the questions that has been raised. Were this done, the positions being advocated would be a matter of public record. This would be a necessary first step but only a first step in the process of dispute resolution. Political and economic realities would then interact, as they always do in a democratic society, to fashion either an agreed upon solution or an arbitrarily imposed governmental decision as to what will or will not be allowed.

All the above notwithstanding, the discussion that follows consists of something over and above a proposed typology calling for suggested responses. An attempt is made, when necessary, to elaborate on some key issues by highlighting the complexities of certain problems or concerns. Suggestions as to how some difficulties might be resolved are also made when the author believes it is possible to identify appropriate solutions.

Consumer Protection Issues Associated with Promotion via Videotex

In one sense, but a single question need be asked under this category. What type and degree of regulation is appropriate when goods and services are promoted via videotex? However, this omnibus question becomes somewhat easier to answer when it is broken down into its component parts. For example,

1. Should attempts be made to distinguish between information that is transmitted through videotex and videotex "advertising"? If so, how should this be done?
2. Should government preclearance be required of all videotex promotional material as is now the case with TV advertising? Alternately, should videotex advertising be considered more analogous to print advertising and be regulated accordingly?
3. Should and can existing patterns of advertising industry self-regulation be extended to the world of videotex?
4. To what extent should system managers be liable, along with page providers, for any false or deceptive advertising that appears on the system?
5. How necessary is it that, lest some controversy develop, a permanent record be kept of every videotex promotional page ever appearing on a given system?

Issues related to the regulation of promotion via videotex differ in degree but not in kind from issues associated with other kinds of advertising regulation. To the extent possible, it thus seems only appropriate that

prevailing public policies in the area of advertising regulation be extended into the domain of videotex. For example, promotional material appearing on videotex could be differentiated from videotex information by the use of an identifying designation. This is essentially what is now done when news-type stories furnished by advertisers appear in space paid for by those same advertisers.

Whether video system operators involved in the dissemination of false or deceptive advertising are liable should be decided along lines similar to what the courts in that same jurisdiction have ruled regarding the liability of media that publish advertising subsequently judged deceptive. Existing efforts at industry self-regulation would also appear to be relevant to the videotex scene. For example, the Canadian Code of Advertising Standards could be applied, as is or perhaps with minor modifications, to the way products and services are promoted on videotex.

Existing federal and provincial advertising regulation could be applied to promotional efforts via videotex. The form of transmission notwithstanding, such regulation might more appropriately be along lines similar to the after-the-fact regulation of print media advertising rather than the before-the-fact preclearance requirements that apply to Canadian electronic advertising. All things considered, videotex promotional material is appearing in an electronic newspaper. Finally, it seems desirable that no videotex promotional page ever be destroyed or altered without some record of the original being available for reference purposes. The storage demands of such a requirement should not pose undue difficulties in a world of microfiche and microdots.

Consumer Protection Issues Associated with Purchasing via Videotex

The following are the key questions in this category:

6. When videotex is used to make a purchase, what constitutes an accepted offer and a completed transaction?
7. How is the proper matching of goods purchased with goods received to be assured?
8. Whether payment be made immediately or at some later date, how can consumers be certain that the electronically promoted price is the price actually charged them?
9. Who should bear the responsibility when videotex purchases are made by unauthorized individuals?
10. Will videotex increase the amount of impulse purchasing? If so, should consumers be protected by some legislation from the increased tendency to make such purchases?

Questions 6 to 9 (all questions will be consecutively numbered throughout this section of the paper) pose important consumer protection issues. However, these kinds of issues are by no means unique to purchasing via videotex. They are similar in many respects to the kinds of problems encountered when products are purchased on the basis of description rather than inspection, when items without price markings are purchased via scanner or when those who have entered into agreements to purchase subsequently wish to cancel such agreements.

Since consumer protection issues related to videotex purchasing are not unique, the appropriate degree of regulation would be comparable to what

governs essentially similar transactions in the same jurisdiction. Such a guideline, of course, would pose its own problems were it applied indiscriminately. For example, consumers in British Columbia can cancel any sales agreement entered into at their place of residence for up to one week from the time such an agreement was signed. The legislation that makes this possible was passed to prevent disadvantaged consumers from being pressured into agreements they would later regret. Since consumers will have voluntarily initiated such purchases, it would seem entirely inappropriate to allow the same one week cancellation privilege for purchases made from home via videotex. Interested jurisdictions might be well advised to examine the legislative framework that has developed in those European countries where videotex purchasing has taken place for some time. In particular, the unauthorized purchase problem is obviously one that has had to be resolved wherever commercial systems already exist.

Whether or not consumer access to a videotex system increases the amount of impulse purchasing remains to be determined. But even if this proves to be the case, no additional legislative or regulatory action would appear to be in order. It is not always possible even to define an impulse purchase and there is no reason to assume that such purchases are always unnecessary or otherwise inappropriate. Also, the temptations associated with purchasing via videotex are insignificant when compared to the attractions of the modern shopping center. Since we do not regulate or restrict access to shopping centers, how can access by videotex to an electronic mall possibly be limited?

Public Policy Issues Associated with Promotion and Purchasing

11. Should all information providers who wish access to a videotex system be guaranteed space on that system?
12. Even if access is guaranteed, will small retailers have the resources necessary to compete via videotex?
13. Should all consumers be guaranteed an equal opportunity to make use of videotex information and transaction services?
14. If equality of access is not guaranteed, will videotex further stratify society by increasing the socioeconomic distance between the information rich and the information poor?
15. Will from home videotex purchasing significantly reduce employment opportunities in retailing?

The public policy issues identified above are both of a different order of magnitude and far more difficult to resolve than were the corresponding consumer protection issues. One could, for example, anticipate the establishment of videotex systems on which only one retailer per category and/or one manufacturer of each type of product is allowed to promote their wares. Should such systems be sanctioned or would the public interest be better served by treating a videotex data base as a low cost quasi public utility on which all interested parties are allowed to make their videotex pages available?

The proliferation of shopping centers is believed by many to have furthered the development of national chains at the expense of local retailers who were not considered as desirable a type of tenant by the developers of such centers. Limited supplier access to videotex systems

would encourage further concentration in the retailing sector. It seems far more desirable that videotex be used to broaden the range of choices open to consumers rather than to further restrict their choices. Equality of access on the supply side for all those promoting goods and services should be encouraged.

Videotex will not be able to broaden consumer choice, however, if a significant number of consumers do not have access to a system. This is the issue addressed by questions thirteen and fourteen. Phrased another way, have we already reached -- or are we close to reaching -- the stage in our progress toward an information society at which universal access to a home-information-service becomes each citizen's right? If a case can be made for assuring all interested suppliers access to a videotex system, can not as strong a case be made for guaranteeing universality of access on the demand side? Perhaps, but mandating ease of access on the supply side to increase the degree of competition in the market place is a policy that will gain widespread public acceptance. Our society, however, seems many years away from the point at which universality of access to information will be widely recognized as a social priority. If and when that time occurs, even then the inability to shop from home will probably be considered one of the less serious problems confronting an information starved proletariat.

As far as the reduction of employment in the retail sector is concerned (question 15), videotex would not appear to pose a major problem. Development over the years of a variety of forms of self-service retailing has already had a far more profound effect on the size of the retail labor force than videotex-based shopping could possibly have. Robotics and word

processors are all but certain to have far more of an impact in the future than will videotex. It seems highly unlikely that the amount and kinds of shopping done from home will significantly reduce employment at the retail level. Indeed, any jobs lost in the retailing sector because sales are made from home via videotex may be more than offset by an increase in the number of people who become involved in the delivery of the products so purchased.

Payment: Consumer Protection Issues Associated with an EFTS

Consumer protection questions in this category range from the very specific to the fairly general.

16. **How will errors in statements be corrected and other disputes be resolved?**
17. **What should be the extent of consumer liability in cases of unauthorized access and related forms of negligence?**
18. **Will consumers who use an EFTS be able to stop payment as can now be done with checks? Is such action possible when payment is instantaneous and electronic?**
19. **Will consumers lose control of their financial affairs if cancelled checks are no longer available?**
20. **In what ways and to what extent will consumers benefit from the economic efficiencies associated with electronic funds transfer?**

Questions sixteen and seventeen are obviously important ones. However, corrections, dispute resolution and the establishment of liability limits would not appear to pose insurmountable obstacles. Similar problems have long existed in a world of credit cards and computerized bank statements.

Errors are being corrected and disputes resolved in a manner that most consumers now find acceptable. Consumer representatives and spokesmen for financial institutions continue to debate how liability for unauthorized EFTS access should be apportioned. Eventually, however, one would expect the procedures adopted in this area to parallel those governing the unauthorized use of credit cards. It should also prove possible to develop some form of low cost insurance against unauthorized EFTS usage.

Question eighteen, whether and how payment could be stopped, appears to be far more difficult to answer. Should one be allowed to reverse a previously executed payment order because of second thoughts as to the wisdom of the purchase that was made? As was previously indicated in the discussion of purchasing, there must be rules governing when a transaction calling for a payment has in fact been finalized. Does this mean, however, that financial institutions should never agree to reverse a previously executed electronic transfer of funds? This question may well prove to be the most complex of all the consumer protection issues associated with an EFTS. Retailers, financial institutions and consumers have very different interests in this area and a substantial degree of conflict seems almost inevitable. Indeed, the degree of public controversy regarding the reversibility of payment which eventually materializes may well match that associated with "prices off" scanning.

The North American banking system is currently being overwhelmed by the ever increasing volume of paper it must process. Handling individual checks costs considerably more than banks apparently believe they can charge for this service. For such reasons the banking system -- rather than those

actually selling goods and services -- has been the great advocate of instant electronic payment. The fact that checks would no longer be available when an EFTS is used should not overly burden consumer record keeping. Those with interest bearing checking accounts often forfeit their access to returned checks. Millions have learned to live with this trade off without losing control of their financial affairs.

Past efforts to analyze the economic impact of electronic scanning suggests it is all but impossible to prove who benefits and to what extent from the cost savings associated with the introduction of technological change. But although one can never be certain, competitive conditions make it likely that some of the cost savings associated with an EFTS system will be passed on to consumers. This will probably take the form of bank service charges lower than those that would otherwise have had to be paid.

Payment: Public Policy Issues Associated with an EFT System

21. **Should all deposit taking institutions be guaranteed access to the electronic network used for from home banking?**
22. **Will consumers still be allowed a range of choice in the payment methods made available to them?**
23. **Should consumers have unquestioned access to the credit file on them that an EFT system will generate?**

24. **Will the financial records on each individual be kept secure from unauthorized access, fraud, etc.?**
25. **What limitations should exist on the dissemination of information on individual or household purchasing patterns?**

All interested suppliers of financial services should be able to gain access to available videotex networks. The widespread acceptance of from home shopping and the electronic transfer of funds seems likely to be hindered by the existence of competing systems, each one linked to a different financial institution. Though the majority of ATM's (automatic teller machines) are institution-specific, a certain degree of ATM sharing is already taking place. Such sharing must become the rule for videotex systems and not the exception if competition among financial institutions is to be encouraged and a reasonable degree of consumer choice is to be preserved.

The remaining questions raised in this section have already received a great deal of attention from those concerned with the social impact of EFT systems. These concerns are legitimate ones and must be resolved to the satisfaction of consumer representatives. The preservation of choice as regards the payment methods that can be used remains essential. Customers of the banking system should not be compelled -- either by direct or by indirect means -- to transfer funds electronically. Access to one's own credit file and the opportunity to have any inaccuracies therein immediately corrected is another indisputable consumer right. Similarly, one's own credit file and financial records should be kept safe from unauthorized access.

Information on individual brand choices and/or a household's overall purchasing patterns will be easily and routinely generated by videotex

systems. Should system operators be free to sell such information to interested marketing researchers? It would probably be agreed by all concerned that information on a single identified household (i.e. the Smith family of 28 Elm Street) should not be released without the written permission of those concerned. Should the same restrictions exist if information on a household's purchasing behaviour is released but without names and addresses also being furnished? Should the prior written permission of those monitored still be required if only aggregated information on a number of households is to be released? Privacy and confidentiality issues associated with videotex will continue to attract a great deal of attention for years to come. This being the case, those operating videotex systems would be well advised to minimize organized consumer movement resistance by taking such concerns into consideration before furnishing information on consumer purchasing patterns.

Public Policy Issues Associated with Videotex System Management

26. **To what extent and in what ways should videotex system operators be regulated?**
27. **How should cable and telephone companies performing essentially similar videotex carrier functions be regulated?**
28. **Must content be separated from carriage? Is it in the public interest to prevent firms performing the carrier function from also operating videotex service systems?**
29. **Do the Canadian content rules and regulations that govern broadcasting have any appropriate videotex applications?**

30. Should broadcast or print media organizations be prevented from branching out into the operation of videotex systems?

This last set of public policy questions related to videotex system management has no consumer protection counterpart. However, these questions do have parallels with the kinds of issues that have had to be resolved in the areas of telecommunications and broadcasting. Traditionally, both the providers of programming and organizations transmitting signals have been extensively regulated. That those who provided carriage should not also provide content was a fairly well honored Canadian precept, at least until the time when cable companies established local broadcasting facilities. Both concentration in the ownership of media and cross ownership (newspaper or magazine publishers owning television stations and vice-versa) have long been areas of public concern. Finally, the desire to encourage a distinct Canadian identity has resulted in the broadcast media being required to respect Canadian content regulations.

If universality of access on the supply side of videotex is to be guaranteed, some form of videotex system regulation obviously becomes necessary. But given the very extensive range of home-information services that can be provided via videotex, it would seem both entirely inappropriate and exceedingly difficult for government to set the prices to be charged consumers. Equity would also suggest that telephone companies and cable TV firms, organizations which provide the same videotex services but in different ways, be regulated -- in their role as system providers -- in an essentially similar fashion. That this now doesn't happen is due, of course, to the fact that telephone and cable delivery systems are primarily intended

to serve distinct markets with very different regulatory concerns. But whatever the eventual resolution of this complex issue, restrictions on the same organizations providing both content and carriage, restrictions that were originally developed to satisfy very different needs and requirements, have no place in the regulation of videotex systems.

Given the absence of programming with a cultural impact, it seems inappropriate that videotex be subject to broadcasting's Canadian content regulations. Experience elsewhere also suggests that the development of videotex will be facilitated if, cross ownership concerns notwithstanding, media involvement in videotex system ownership is allowed. Indeed, a degree of media ownership is a common characteristic of all videotex systems launched to date in the United States.

The very substantial investment required and the degree of risk involved in establishing videotex combine to suggest that the existence of directly competing systems might not be in the public interest. Economic realities subsequently necessitated the merger of the two major Canadian pay television organizations originally established as a direct reflection of the CRTC's commitment to competition. Though the evidence is far from conclusive, it seems unlikely that competing videotex systems would prosper. Also, universality of access on the supply side will become a more difficult objective to achieve if directly competing videotex systems are established.

Thirty Questions Later -- Where the Difficulty Really Lies

When this investigation was initiated, the author was primarily concerned with the consumer protection dimensions of videotex. The

investigation of broader based public policy issues was recognized as relevant but, all things considered, less important. The preceding discussion should make it clear, however, that public policy concerns eventually emerged as both the more difficult and the more complex class of problem. Why this is so has already been briefly indicated. The consumer protection issues associated with videotex generally differ in degree but not in kind from those affecting other types of consumer transactions. Whatever differences of opinion might exist regarding its adequacy, the body of regulation which exists in similar areas provides an obvious starting point for the fashioning of videotex-related regulations. The resolution of public policy disputes, in contrast, becomes far more complicated because of the very great differences in the values, the beliefs and even the ideological bent of those arguing different positions. But degrees of difficulty notwithstanding, resolving either the consumer protection or the public policy issues discussed above will not be a particularly easy task. The effort must be made, however, and one useful method of proceeding is outlined in the section that follows.

Towards a Solution: The Recognition of Stakeholder Interests

The development of the Universal Product Code and the introduction of electronic scanning was preceded by a lengthy period of cooperation between those manufacturing the products to be coded, the organizations which distributed such products and those firms proposing to supply scanning equipment. Only after the three groups concerned had reached agreement on

all important issues was UPC based electronic scanning introduced. On at least one point, however, there had been no controversy. The most obvious and most immediately achievable benefit of scanning was believed -- by all three parties to the original negotiations -- to be the elimination of the need to price mark individual packages and containers. Unfortunately, the original negotiators were not the only ones who thought they had a legitimate interest in the use of scanners and the elimination of item pricing. An organized consumer movement took up arms in defense of "prices on". Efforts in the political arena resulted in a number of states and provinces placing restrictions on the removal of price markings from products that traditionally had been so marked.

Those interested in videotex can learn an important lesson from the scanner experience. The groups which thought they were working out all the difficulties associated with scanning had failed to involve the organized consumer movement, obviously an important participant in any such set of discussions. The absence of consumer representatives allowed those with a different set of concerns -- primarily efficiency based concerns -- to focus only on what they considered to be important. The policies that emerged from industry discussions failed to gain acceptance in the political arena, that parallel center of activity toward which any group believing itself to be disadvantaged in an economic market place will inevitably turn.

Electronic scanning became a subject of controversy because the interests and concerns of a legitimate stakeholder in the process, in this case the organized consumer movement, had been overlooked. The stakeholder concept is by no means a new one. It has been discussed numerous times but, for present

purposes, Pierce's treatment of the subject seems especially appropriate.

Marketing conflicts of interest arise when individuals or groups who perceive themselves to have a stake in the behavior and performance of a marketing institution disagree on marketing policies, actions, or effects. For each marketing firm, there is a set of external groups who may be called stakeholders in that firm's activities and performance. These stakeholders may include customers (buyers and users of the product), employees, citizens in the area of production or use of the product, government officials, etc. The extent of the perceived stake is related to three considerations: (a) the amount of resources that group has provided the firm; (b) the degree to which the firm's activities and performance affect the ability of that group to attract and use the resources it needs, and (c) the extent to which change in the marketer's behavior furthers the goals of the interest group. The higher the perceived stake, the greater the incentive to exercise control or influence over that firm. The more the firm relies on the resources provided by a stakeholder group (directly or indirectly), the greater the incentive to please that group. The stakeholder may exercise leverage by withdrawing (directly or indirectly) resources from company use and/or by limiting the discretion of management to allocate resources.

These thoughts are not startlingly new; however, what is new are the dramatic increases in (a) the number of groups who perceive they have a stake in a marketer's activities, (b) the size of the stakes involved, and (c) the ability of stakeholders to exercise leverage vis-a-vis business firms. (Pierce, p.83.)

Pierce then discusses at some length how the marketing practitioner should perform when a turn of circumstances, usually entirely unexpected, makes that practitioner a participant in a political controversy. His approach makes interesting reading, especially those sections on how to diagram the relationships between all parties involved in a controversy and how to determine the relative importance of one's opponents. The range of strategies available to marketers who find themselves involved in such disputes is also discussed at some length. Pierce's excellent treatment could service as a "how to" primer for executives confronted with such difficulties. For present purposes, however, the key point made by Pierce is

the need to identify all relevant stakeholders and to be aware of the perceived interests of each such group (pp.84-93).

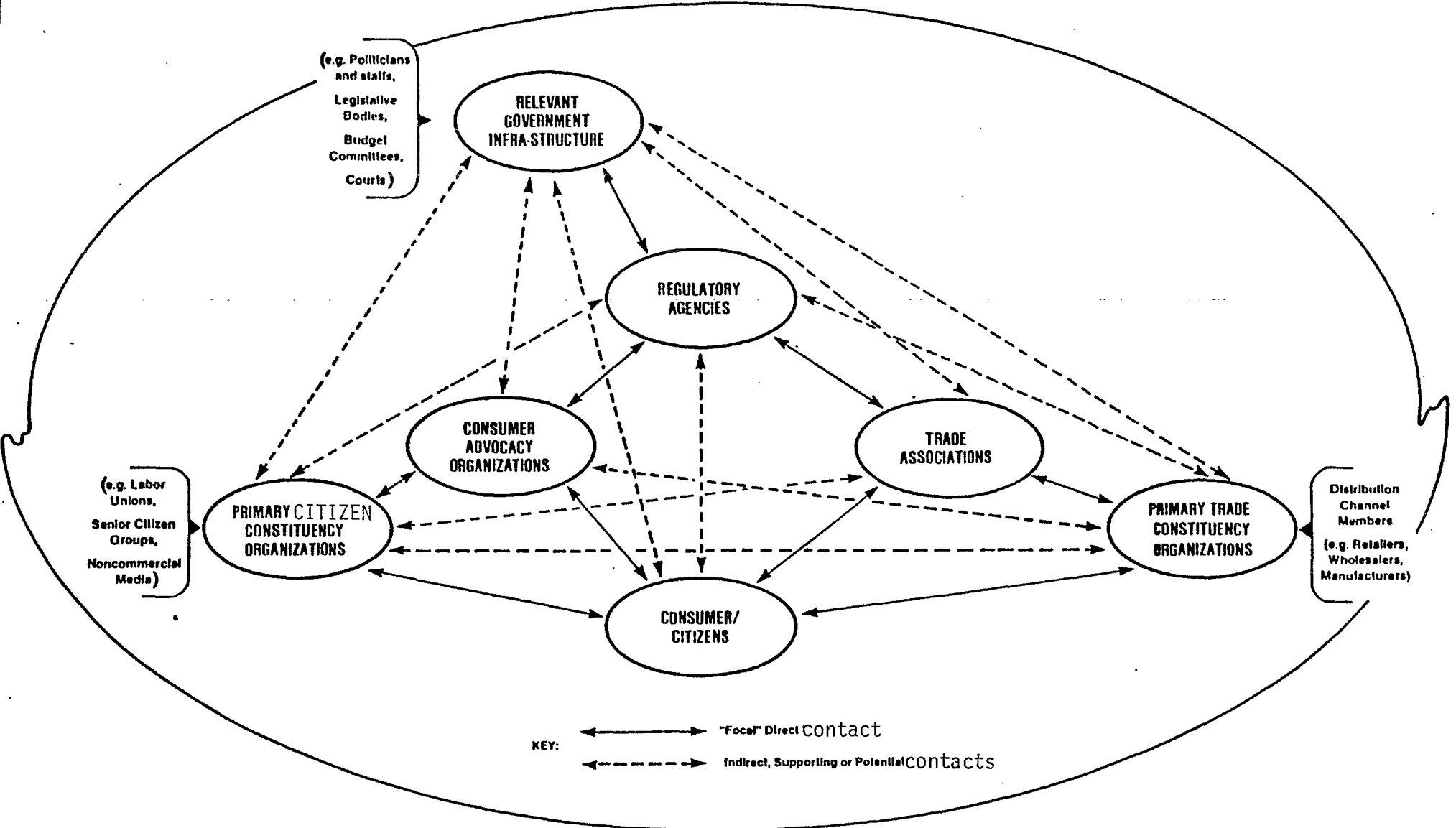
The Ash and Quelch study of videotex also discusses the interests of stakeholders (pp.21-29). Unfortunately, Ash and Quelch do not acknowledge the existence of consumer stakeholders. Given the aforementioned history of scanning, this would appear to be a rather significant error of omission.

Diagramming the Parallel Political Market Place

Figure 1 attempts to trace the complex set of relationships, interdependencies and allegiances that can develop when a marketing issue with sociopolitical overtones is debated. The arena of controversy on such occasions becomes what will be called the parallel political market place. That such a market place exists is a fact that can not be overemphasized. Most marketing texts treat legal and political concerns -- along with the nature of competition, the characteristics of the employing organization and the structure of distribution -- as environmental constraints impinging on the freedom of action of economically motivated decision makers. This conventional wisdom, however, does not appear to apply when one considers such issues as marketing boards, store closing hours and scanners. Does it not make far more sense -- in those cases and with videotex -- to think in terms of two market places, one economic but the other political. Consumer organizations are obviously inclined to compete in the latter market place where consumer voices are more likely to be heard and consumer votes to be heeded.

Figure 1 appears to be a complex diagram but such complexity has a firm basis in fact. A pluralistic society is, inevitably and by its very nature, a complex one. The primary combatants in the parallel political market place -- consumer advocacy organizations, trade associations and regulatory bodies -- interact among themselves while simultaneously relating to the broader constituencies they represent, in full or in part. The Consumers Association of Canada has repeatedly formed coalitions with labor unions and senior citizen groups when it had a specific objective in mind. This approach has been used, for example, whenever consumer representatives have sought legislative or regulatory prohibitions against item price removal. The evidence suggests that such a coalition only operates effectively when it is mobilized against some proposed corporate practice or in defense of some existing consumer right. The alliance becomes passive or even dormant during those periods when specific policies or practices are not being debated in the parallel political market place (Hutt et al, pp.1-6).

Figure 1.
A Network Framework for Analyzing the Parallel Political Marketplace



Source: Adapted from Hutt et al., "The Politics of Marketing: Analyzing the Parallel Political Marketplace"

Identifying Stakeholder Positions -- Necessary but not Sufficient

Once the stakeholder concept is accepted, the next useful step involves determining the nature and extent of the differences that exist on specific issues. For example, let us consider the positions taken in the scanner controversy by those advocating either "prices on" or "prices off". Both parties concerned can advance a number of strong arguments in support of their particular position. The following are but some of the arguments that have been so mobilized.

The Case for Prices-On

1. Consumer surveys reportedly demonstrate an overwhelming preference for "prices-on".
2. Consumers will not benefit in any appreciable way from the supermarket industry's scanner-related cost savings.
3. Removal of item prices helps to destroy price consciousness and makes comparisons between brands and over time impossible.
4. Legislation mandating item pricing is the only guarantee against scanner price abuses at some future time.
5. Removal of item prices creates real difficulty for the elderly, handicapped and new Canadians.

The Case for Prices-Off

1. That so many people shop in "prices-off" stores is proof of consumer acceptance.
2. Item price removal will reduce costs by about 1/2 to 3/5 of one percent. The resulting savings will be passed on to consumers either in the form of lower prices or improved service.
3. The combination of accurate unit shelf prices and detailed cash register receipts will contribute far more than item prices to intelligent shopping.
4. Legislation prohibiting any technological change and its associated cost savings is, always and inevitably, against the public interest.
5. No proof exists that any group of consumers has been disadvantaged when item prices have been removed as part of an intelligently introduced scanner system.

The "prices-on or prices-off" controversy is a complex multi-faceted one with numerous economic dimensions. Supermarket costs of operation, the financial practicality of scanner equipment and food price levels are all affected. The same issue has moral and philosophical overtones. Some proponents of item pricing argue with near religious fervor that a "prices-off" system which will reduce consumer price awareness is socially, ethically and morally unacceptable. Those on the other side argue with equal fervor that any intervention in the market place requiring item pricing would be an inappropriate legal or bureaucratic restriction on the right to manage in a way that benefits both the corporation and its customers. Above all else, the ultimate decision in every case must be a political one. On each occasion, the relevant governing body must decide whether the public interest is best served by its intervening in favour of item pricing or by a "hands-off" attitude. (Shapiro, pp. 13-14.)

The "prices on" versus "prices off" contrast is an approach to clarifying issues with obvious relevance to the videotex scene. The stakeholders affected, and it will not be the same group in every case, by the issue or concern raised in each of the thirty consumer protection or public policy questions must first be identified. The views of all interested stakeholders on each such issue should then be summarized. There are two ways this might be done. One could attempt to deduce, from the published submissions or public pronouncements of each stakeholder organization, where that organization stands on issues of importance to it. This procedure can be followed in those cases in which the published record is extensive and responses directly related to key concerns (i.e. "prices on" or "prices off") can be determined. However, interested parties may not always have previously expressed themselves in ways that indicate where they

stand on the full range of identified issues. In such cases, distributing the list of key questions to all affected stakeholders and letting them respond in words of their own choosing seems a far more desirable procedure.

Knowing where all interested parties stand on different issues is a necessary step in either reaching agreement or legislating a solution. Although being able to resolve disputed issues to everyone's satisfaction is clearly the more desirable turn of events, this will not always prove possible. But at the very least, the recommended approach guarantees that the positions taken by all relevant stakeholders will be known to those who must eventually decide on legislation or regulation.

Negotiating a solution to controversial problems becomes even more complicated when interest group negotiators are unable to bind those they represent. One trade association, for example, could not compel member organizations to respect policies and procedures regarding the introduction of scanners that association representatives had negotiated with their consumer counterparts. (Moyer, pp. 242-243.) More recently, the Consumers Association of Canada has restricted the degree of discretion allowed those representing its interests at EFTS meetings held with retailers and financial institutions. The CAC reserved for itself the right to take issue with EFTS policies and procedures that CAC participants in the aforementioned discussions might have found acceptable. But while the nature of trade associations and consumer organizations makes the reaching of consensus on controversial topics all the more difficult, it doesn't make such efforts any less necessary.

Canada's transition to an information society will not be a smooth one.

The problems associated with "from home" shopping via videotex and electronic funds transfer systems are important ones. In March of 1983, the Social Impacts Sub Committee of the Canadian Videotex Consultative Committee advocated the establishment of a national commission on Canada's transition to an information society. The task of such a commission would be twofold: a) to encourage public debate, dialogues and discussion; and b) to integrate, conduct research and make recommendations on major policy issues (SISC, 1983). The Sub-Committee's request for such a commission has apparently fallen on deaf ears. However, certain aspects of an information society such as the nature, extent and importance of technological unemployment are occasionally discussed or even debated. Social issues associated with videotex have not received even that degree of attention. Hopefully, this submission will help call attention to the videotex-related consumer protection and public policy questions that remain to be answered. Even more will have been accomplished if it is now clear that the operations of a second, parallel political market place must be considered whenever efforts are made to resolve such issues.

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