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CONSUMER PRODUCTS
COMPLIANCE EVALUATION



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**CONSUMER PRODUCTS
COMPLIANCE EVALUATION**

Program Evaluation Division
Bureau of Policy Coordination
Consumer and Corporate Affairs Canada

August 1986

CONSUMER PRODUCTS COMPLIANCE EVALUATION

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CONSUMER PRODUCTS COMPLIANCE EVALUATION

EXECUTIVE SUMMARY

Purpose:

The purpose of this report is to provide practical management advice to improve the effectiveness and efficiency of compliance activities in the Consumer Products subactivity. Given the current climate of financial restraint, the emphasis in this study has been placed on improvements which would allow the subactivity to increase its impact given current resource levels or to maintain its impact if there are further cuts in resource levels. In developing the recommendations of the report, emphasis has been placed on improvements which would increase the value-for-money in the subactivity's work.

Evaluation Findings:

In general, the study found that the subactivity is doing a good job in implementing current compliance plans and strategies, given the resources made available to it. It is having a positive, measurable effect on compliance rates. An assortment of compliance activities are employed by subactivity personnel. Detailed information on compliance activities and on compliance rates are generated through field inspections, and a system has been adopted to improve program effectiveness and efficiency by allocating inspection resources through a priority tiering system.

However, the study also disclosed that current compliance plans and strategies could be realigned to improved results achieved by the subactivity's inspection activities. Adjustments to strategic objectives of the subactivity, to its compliance data gathering arrangements, and to its compliance activities could result in more cost-effective program delivery and in improved compliance. This type of change would be particularly beneficial to the subactivity. It seems inevitable that it will encounter increasing difficulty in coping with the conflicting demands of government financial restraint on the one hand, and increased workload and complexity of its regulatory mission, on the other.

The study determined that improvement in compliance rates should result from a general shift in the subactivity from remedial compliance activities to preventative compliance activities. It also demonstrated that what occurs during an inspection, rather than the fact of an inspection itself, is usually the most important factor in determining compliance levels. Moreover, the greatest beneficial impact on

compliance rates came from the use of less severe enforcement actions during inspections. Trader Education and Trader Commitment were particularly effective in this regard.

Compliance was also enhanced significantly through responding to complaints and referrals. Since this type of directed inspection activity also has important benefits from a value-for-money perspective; it represents an important area of potential cost-effectiveness gains for the subactivity.

In the area of resource allocation and planning for the subactivity inspection activities, the study concluded that the "flagship store" concept held great promise for high leverage and cost-effectiveness gains. The review of the subactivity's resource allocation and planning system revealed significant inadequacies in the "dollars at risk" formula now being used by the subactivity as the basis for establishing priorities for inspection tiering. The study concluded that, for a variety of reasons linked to the adequacy of raw data, and the components of the formula itself, the dollars at risk measure would generate compliance statistics that were "biased", in the statistical sense. The study did not determine the direction of that bias (ie. consistently over-estimating compliance levels, or consistently under-estimating compliance levels). It did, however, conclude that more valid estimates of overall compliance levels could be generated at lower cost through the user of fewer programmed inspections based on a random sample of establishments.

During the course of the study it became evident that the approach taken by the regions toward programming of inspection activity did not conform with the overall priority-setting approach taken by subactivity headquarters. At headquarters, the dollars at risk formula is used to establish priorities by product classification. In the field, however, planning and execution of programmed inspection activities is largely done on the basis of establishment compliance records.

Recommendations:

Based on these findings, the study recommends nine changes to the subactivity compliance system and resource allocation arrangements. In summary, these recommendations are as follows:

1. Adjustment of the second strategic objective for the subactivity, which is concerned with enhancing consumers' abilities to choose, to make it more understandable and meaningful in an operational sense.
2. Addition of a third strategic objective, recognizing the effect of the subactivity's areas of regulatory responsibility on competition in the marketplace.
3. Continued emphasis on general preventative compliance techniques such as trader education and negotiating activities during inspections.
4. Greater emphasis during inspections on compliance activities known to be especially effective in reducing non-compliance.
5. Additional emphasis, to the extent possible, on responding to complaints and referrals.
6. Greater use of the "flagship store" concept in rationalizing directed inspections.
7. Using a discrete program of random inspections to generate better data for estimating compliance rates.
8. Modification of the "dollars at risk" formula to improve its usefulness.
9. Development of an "establishment risk index" for use by the regions as the primary method for inspection resource allocation and planning.

1. INTRODUCTION

1.1 Purpose of Report

The purpose of this report is to provide practical management advice to improve the effectiveness and efficiency of compliance activities in the Consumer Products subactivity. Given the current climate of financial restraint, the emphasis in this study has been placed on improvements which would allow the subactivity to increase its impact given current resource levels or to maintain its impact if there are further cuts in resource levels. In developing the recommendations of the report, emphasis has been placed on improvements which would increase the value-for-money in the subactivity's work.

1.2 Program Description

The Consumer Products subactivity encompasses a variety of activities aimed at protecting against product misrepresentation and providing accurate information to consumers.

The subactivity is responsible for the development and administration of the Consumer Packaging and Labelling Act, the Textile Labelling Act, the Precious Metals Marking Act, and the National Trade Mark and True Labelling Act. It is responsible for administration at the retail level of the Canada Agricultural Products Standards Act and the Fish Inspection Act, as well as provisions relating to economic fraud in the Food and Drugs Act. The Consumer Products subactivity is also responsible for several voluntary programs such as the Canada Standard Sizing Program and the Care Labelling Program. Approximately 300 products and 40,000 brands, with an estimated annual consumption value of \$50 billion per year are covered by the subactivity.

The subactivity has a staff of 273 and a budget of approximately \$11 million (estimates for 1986/87). A headquarters staff of 34 is responsible for program development and design, monitoring, evaluation, regulatory review, consultation with interested groups, and the provision of functional and technical advice to field personnel. Headquarters staff also have responsibility for approving food advertisements for radio and television and for examining labels in relation to regulatory requirements.

In the field, program activities are carried out by a staff of 239, plans and implements a compliance strategy directed to non-complying products found at the manufacturing,

import, wholesale, and retail trade levels. Compliance activities include inspection and enforcement, trader education, consumer information, and complaints and enquiries.

A more complete description of the subactivity is provided in **Appendix A**.

2. METHODOLOGY

2.1 Overview

Five evaluation studies were drawn on for the preparation of this Report. (Summaries of these studies are provided in Appendix B).

The first study assessed the Compliance Objectives and Indicators for the subactivity. More specifically, it examined the rationale for the current compliance activities, assessed their merits and limitations, and identified possible improvements.

The second study assessed the relative effectiveness of the different compliance activities undertaken by the Consumer Products subactivity. Data on inspection-related activities and on compliance rates was gathered from the Toronto Office, and was analyzed using statistical modelling techniques. Emphasis in this work was placed on identifying the most effective activities to assist in the development of recommendations aimed at making the subactivity more cost effective.

The third study examined the relative effectiveness of the compliance activities undertaken by the subactivity on food establishments. The basic approach employed was the same as for the second study.

The fourth study focused on evaluating the efficiency and effectiveness of inspection services in four subactivities within the Consumer Products Branch, one of which was the Consumer Products subactivity. This module identified a variety of initiatives that held potential for further improvements in productivity or cost reduction.

The fifth study reviewed the literature dealing with the effectiveness of regulatory enforcement. Although the review determined that this was a complex and relatively poorly researched field, a few key themes are emerging consistently in the literature. Among these are the difficulty in developing models for measuring enforcement effectiveness, the dynamic nature of the optimum compliance activity mix by industry and over time, and the shift from legal sanctions to alternative compliance techniques such as civil redress, self-regulation, negotiation, and remedial action.

Finally, the evaluation drew on work respecting compliance systems, carried out by the Federal Statutes Compliance Project of the Department of Justice. This project has as its mandate, the development of new evaluation methods

specifically aimed at assessing the adequacy of compliance (regulatory) systems and the specification of alternate compliance techniques for use in these systems.

2.2 Limitations

The evaluations' conclusions regarding the relative effectiveness of the subactivity's compliance activities were based largely on the statistical modelling study carried out on establishment file information from the Toronto District, the evaluation of inspections outlined as study four above, and extensive discussions with program staff at headquarters and in the field offices. Consideration was given to the idea of replicating the statistical study on a national basis but, in view of the current climate of restraint and the fact that the findings regarding relative effectiveness of compliance techniques closely paralleled those from the Federal Statutes Compliance Project, it was felt that this additional work was neither necessary nor justifiable at this time.

3. FINDINGS

The key findings of the study are summarized in Exhibit 1 and discussed in detail below. These findings, and the recommendations that flow from them, are expected to remain valid and relevant regardless of any changes, reorganizations or restructuring that might be made to the Consumer Products subactivity or related subactivities in the department as a consequence of decisions taken by the Ministerial Task Force on Program Review.

GENERAL

3.1 Subactivity is doing a good job in implementing current compliance strategies/plans but there is scope for better focussing the work to increase value-for-money

The evaluation study has demonstrated that the subactivity is having a positive, measurable effect on compliance. An assortment of compliance techniques (activities) are employed by subactivity personnel. Detailed information on compliance activities and on compliance rates are generated through field inspections.

Despite these positive findings, the study identified, with the help of subactivity staff, a number of problem areas which may be reducing subactivity effectiveness and efficiency. These problems are discussed below with a view to recommending means of improving subactivity performance, in large part through a better focussing of resources.

3.2 Role of subactivity is becoming more complex, resources more limited

The Consumer Products subactivity is caught in a double-bind situation. On the one hand, the number of products that fall under legislation is increasing and their nature is becoming more complex. In order to fulfill its legislative mandate, the subactivity must adopt more complicated compliance procedures and use more sophisticated testing equipment.

On the other hand, the resources available to do the job have remained static while the workload has increased. The Government's objectives of deficit reduction, downsizing of the public service, and regulatory reform make it inevitable that the resource squeeze will continue and that the subactivity will have to redouble its efforts to do more with less. Adjustments to its compliance techniques generally, and to its inspection activities in particular, will allow

EXHIBIT 1

KEY FINDINGS AND CONCLUSIONS

GENERAL

- . The subactivity is doing a good job in implementing current compliance plans/strategies but there is scope for better focussing the work.
- . The role of the subactivity is becoming more complex, resources more limited.

WITH RESPECT TO STRATEGIC OBJECTIVES

- . Strategic objectives for the subactivity are incomplete and not fully understood.

WITH RESPECT TO COMPLIANCE ACTIVITIES

- . Current emphasis on preventive compliance activities is justified.
- . Compliance can be improved by greater use of more effective activities during inspections.
- . Compliance can be improved by increased use of complaint/referrals for detection and deterrance.

WITH RESPECT TO PROGRAMMED INSPECTION ACTIVITIES

- . Value for money can be improved through adoption of a more focused inspection strategy.
- . Value for money can be improved by greater use of the "flagship store" concept.
- . Programming of inspection activities by the regions does not conform with headquarters' operational planning approach.
- . The "dollars at risk" formula is inadequate for the resource allocation needs of the subactivity.

it to get better value for money. A more focused strategy, which improves targetting on high impact activities, will help the subactivity cope with its changing environment so that it can continue to achieve its objectives.

WITH RESPECT TO STRATEGIC OBJECTIVES

3.3 Strategic objectives incomplete and not fully understood

The subactivity currently has two strategic objectives:

- (1) to protect consumers against product misrepresentation through detection, control and prevention; and
- (2) to enhance the ability of the consumer to differentiate among product choices.

The evaluation study disclosed that the first objective (protection against product misrepresentation) is clearly articulated, realistic, and well understood by Consumer Products subactivity personnel. No changes to this objective are recommended.

The second objective (enhanced ability to choose), however, is not meaningful, not measurable, and not well understood. The study could not demonstrate that any of the subactivity's work elements specifically address the issue of enhancing consumers' ability to choose. Program activities relating to labelling information are intended to prevent misrepresentation and ensure that required information is provided and accurate. However, the ability of consumers to differentiate among product choices is dependent on additional factors as well. Furthermore, the objective, as currently stated, implies a responsibility to assist consumers in using and interpreting relevant information. Although the subactivity does provide useful aids to consumers such as care labelling charts and brochures in various areas, the scope and intensity of this work is not adequate to ensure successful achievement of the second strategic objective.

In addition to the two stated objectives which are consumer-oriented, it is clear that the subactivity has a third, distinct effect on the marketplace. Its activities have an impact on both competition and exchange transactions among manufacturers, importers, wholesalers, and retailers of the regulated products. Firms at lower trade levels are protected against product misrepresentation at the upper levels. Regulations administered by the subactivity promote

equity and fair competition in the marketplace by protecting firms from competitors who might gain a cost-price advantage through non-compliance with the law. This is an additional consequence of the Consumer Products regulatory program -- one that is clearly recognized by subactivity personnel. It is not, however, reflected in the existing strategic objectives.

WITH RESPECT TO COMPLIANCE ACTIVITIES

3.4 Current emphasis on preventive compliance activities is justified

The study found that preventive compliance activities carried out during inspections (ie. education and negotiating activities such as trader commitment and written warnings) have high impact on compliance rates (see **Appendix C** for definition of enforcement actions). By contrast, remedial compliance techniques (such as seizure and detention) have relatively low impact. This finding confirms that the current emphasis of the subactivity on preventive compliance is justified. The operational policy of having inspectors use seizure and detention as last resort enforcement actions when everything else fails is a sensible one.

3.5 Can improve compliance by greater use of more effective activities during inspections

The evaluation study demonstrated, perhaps for the first time, that it was possible to determine, through statistical modelling techniques, the relative effectiveness of different compliance activities. Based on the data compiled from Consumer Products subactivity establishment files in the Toronto office, the study concluded that some types of compliance activities were significantly more effective than others:

- . In general, the less severe enforcement actions during inspections such as trader education and trader correction are most effective in obtaining high levels of compliance.
- . Trader education, written warnings, and trader commitment as part of subactivity inspections are all effective in bringing about increases in labelling compliance.

- . Trader commitment is the one subactivity compliance technique that is effective in increasing quality compliance.
- . Both trader education and trader commitment as part of inspections are effective in bringing about an increase in mean compliance for all regulatory areas of the subactivity.

It is clear that what occurs during an inspection, rather than the fact of an inspection itself, is usually the most important factor in determining compliance levels.¹ These findings are largely consistent with those obtained through private sector surveys and trader focus groups, conducted by the Federal Statutes Compliance Project to determine what factors influence compliant behaviour.

3.6 Can improve compliance by increased use of complaints/referrals for detection and deterrence

The analysis of inspection data clearly indicated that when a complaint or referral (from another regional office) was the reason for a directed inspection, there was a greater chance of finding non-compliance. This means that responding to referrals and complaints is a relatively cost-effective way of detecting non-compliance. The study also revealed that when a complaint or referral was the reason for an inspection, there was an increase in compliance in subsequent inspections. This means that responding to referrals and complaints is a relatively effective way of deterring future non-compliance.

WITH RESPECT TO PROGRAMMED INSPECTION ACTIVITIES

3.7 Can improve value for money by greater use of "flagship store" concept

Based on experience gained in some regions, it now seems clear that the "flagship store" concept promises high leverage and potential cost-effectiveness gains for sub-activity inspection activities. This concept takes advan-

1. The one expectation to this finding was in the area of quantity compliance. Here, the study found that the time between inspections was an important factor in determining compliance rates. The greater the time between inspections, the lower the quarterly compliance rate in subsequent inspections.

tage of the centralized structure of much of Canadian merchandising by focusing inspection activities on a store in each major merchandising organization which carries all items sold by the company. The region in which the flagship store is located is responsible for inspections.

3.8 Can improve value for money through a more focused inspection strategy

At present, data that is used to estimate general compliance levels is gathered by inspectors who must complete detailed inspection report forms for every inspection they perform. The evaluation study identified several factors which could bias that data (See discussion of dollars at risk formula below). More accurate estimates of compliance rates for product categories, types of non-compliance, level of trade, or size of organization could be obtained at lower cost through the use of fewer programmed inspections based on a random sample of establishments.

3.9 "Dollars at risk" formula inadequate for resource allocation needs of subactivity

The Consumer Products subactivity currently uses the dollars at risk measure both as an indicator for prioritizing compliance activities and as an indicator of program effectiveness. It is intended to provide a measure of the value of non-compliant goods in the marketplace. For each of 34 product groups, it is calculated as follows:

Dollars at risk = (% non-compliant products) X (\$ consumption) X ("seriousness factor")

The percentage of non-compliant goods is obtained from the MIS data which is compiled through field inspections. The value of the product consumed is obtained from Statistics Canada daily expenditure surveys. The "seriousness factor" is intended to reflect the relative seriousness to consumers of a particular type of violation (eg. quantity, quality, labelling). These weightings were derived from a consumer survey conducted in 1982.

The dollars at risk formula is used by headquarters to rank the 34 product classes (see Appendix D) nationally. For purposes of allocating resources to specific compliance activities such as inspections, this ranking is then supposed to be used at the regional and district levels of

the subactivity, along with information on concentration of industry by level, complaints and enquiries, and knowledge of the local marketplace.

Unfortunately, the usefulness of the dollars at risk formula as a measure of program effectiveness and as a guide for resource allocation is questionable. Its validity is dependent on the integrity of each of the three factors on which it is based -- non-compliance rate, consumption data, and seriousness weighting -- and on the computation formula used to combine these factors. The evaluation study disclosed problems with each of these.

With regard to the non-compliance rate, the study concluded that product compliance rates derived from subactivity MIS data may be statistically biased, ie. systematically different from the true or real level of compliance.² The key source of potential bias is that most inspections carried out by the subactivity are "directed" in that the choice of products or establishments for inspection may be based on referrals from other regions, complaints, repeat inspections of non-compliance establishments, or prioritization of products through use of the dollars at risk formula. Because of this targetting of inspection activities to identified problem areas, noncompliance rates obtained through MIS data may be higher than actual noncompliance rates.

Data for the second factor, consumption value, is based on Statistics Canada survey data which is sometimes several years out of date, does not necessarily reflect current levels of product consumption, and is susceptible to "shocks". This is especially true of products that may have shown large recent changes in consumption (eg. entertainment articles such as VCRs). Further, the arbitrary classification and size of product categories, which are based on classes defined by Statistics Canada, also have a major impact on the ranking within the 34 product group list.

Finally, there are problems with the "seriousness factor". These weightings are based on a 1982 survey of consumers

-
2. "Bias", in this context, does not imply "bad faith", manipulation of data, or any form of normative judgment concerning the conduct of Subactivity personnel or program performance. It simply means that the statistical technique employed to measure compliance may vary in a systematic and predictable way from the non-compliance rate that would be determined if every product in every establishment were inspected.

which has not been updated. Perhaps more importantly, because of the methodology employed in the 1982 study, there is very limited variation between weightings for different products and types of violations (ie. quality, quantity, and labelling). As a consequence, the factor contributes little to the differentiation of areas for priority allocation of program resources.

3.10 Programming of inspection activities by regions does not conform with headquarters operational planning approach

In addition to the technical deficiencies with the dollars at risk formula, the evaluation study revealed that it was not being used in a consistent manner throughout the Consumer Products subactivity. Operational Planning by subactivity headquarters, relies heavily on the dollars at risk formula and product categories for determining priorities for resource allocation and planning. In the field, national priorities are considered by regional managers in their planning activities, but planning and execution of programmed inspection activities is largely done on the basis of such factors as problem areas identified by the field, the nature and mix of local economic activity and establishment compliance records. In practice, therefore, "dollars at risk" does not seem to be a major factor for actual inspection targetting and resource allocation.

4. RECOMMENDATIONS

4.1 With respect to strategic objectives

As indicated above, the second strategic objective of the Consumer Products subactivity is not well understood or operational. Consequently, it is recommended that:

1. The second strategic objective of the Consumer Products subactivity should be amended to read:

"to assist consumers in making effective product choices through ensuring the provision of factual product information."

The regulatory activities of the subactivity have an effect on competition in the marketplace. This impact is not, however, reflected in the strategic objectives. Accordingly, it is recommended that:

2. A third strategic objective should be established for the Consumer Products subactivity, as follows:

"to promote and ensure equity and fair competition in the marketplace through detection, control, and prevention of product misrepresentation."

4.2 With respect to compliance activities

As was indicated above, the evaluation study results make it clear that preventative compliance techniques have a comparatively high impact on compliance rates. Therefore, it is recommended that:

3. The Consumer Products subactivity should continue to emphasize the use of preventative compliance techniques such as trader education and negotiating activities during inspections.

The evaluation study concluded that what occurs during an inspection is usually the most important factor in determining compliance levels. Compliance activities that were most likely to have a beneficial effect on compliance were identified for various types of violations. It is recommended that:

4. The Consumer Products subactivity should, during inspections, place greater reliance on compliance activities such as trader commitment known to be especially effective in reducing levels of non-compliance.

Responding to referrals and complaints is a relatively cost-effective way of detecting and deterring non-compliance. Consequently, it is recommended that:

5. The Consumer Products subactivity should review the resources devoted to responding to complaints and referrals to ensure that they are at optimum levels, and, to the extent that there is unexploited potential, should increase its reliance on these compliance activities.

4.3 With respect to programmed inspection activities

In view of the high leverage and potential cost-effectiveness gains available through the "Flagship Store" concept, it is recommended that:

6. The Consumer Products subactivity should make greater use of the flagship store concept for rationalizing directed inspections.

The evaluation study concluded that compliance rate data now compiled by the Consumer Products subactivity may, for a variety of reasons, be biased and not give a true indication of compliance levels. Although the data presently collected is useful, it is not what is required for statistical purposes and it is recommended that:

7. If Consumer Products continues to place heavy emphasis on the dollars at risk measure for planning purposes, data for estimating compliance rates should be gathered by the Consumer Products subactivity through a discrete program of random inspections.

The evaluation study determined that the dollars at risk formula is deficient in that it places too much emphasis on consumption value, is subject to "shocks" through changes in consumption patterns, uses inadequate "seriousness weights", and relies on potentially statistically biased non-compliance data gathered through the Consumer Products subactivity MIS. Accordingly, it is recommended that:

8. The Consumer Products subactivity should, as an immediate step, modify the dollars at risk formula, so as to provide a weighted average compliance rate based on relative consumption ratings. In the longer term, Consumer Products should consider incorporating new seriousness weights developed through focus groups comprised of subactivity inspectors and consumers.

As indicated by the study, enforcement activities in the regions are targetted on the basis of such factors as problems identified in the field, the nature and mix of local economic activity and establishment compliance performance. This practice has not been adequately rationalized with the Consumer Products subactivity Headquarters principle of setting national priorities on the basis of dollars at risk criteria. To rationalize the two approaches and establish a uniform basis for resource allocation within the subactivity, it is recommended that:

9. The Consumer Products subactivity should develop and use an "establishment risk index" as the primary method for resource planning and allocation in the field. This new index would include such factors as relative establishment size, the seriousness of the violation, and the historical compliance rate for the establishment.

If this recommendation is adopted, the need for improving the dollars at risk measure as indicated in recommendations 8 and 9 would be substantially reduced.³

-
3. As an initial step, a simple indicator based on existing data on firm size (small, medium, large) and compliance performance (good, indifferent, poor) could be readily developed. This indicator would then be used to determine the frequency of inspection for various establishments within a district.

APPENDIX A

PROGRAM PROFILE

The Consumer Products Branch is part of the Consumer Affairs Bureau, one of the four operational bureaux of the Department of Consumer and Corporate Affairs. The responsibilities of the Consumer Products Branch include:

- . The administration of a wide range of Acts and regulations in whole or in part. These are the:
 - Consumer Packaging and Labelling Act
 - Precious Metals Act
 - Textile Labelling Act
 - National Trade Mark and True Labelling Act.
- . In an advisory and consultative role, the development of standards and regulations under Acts whose responsibility lie under other federal departments. These acts are:
 - Food and Drugs Act
 - Canada Agricultural Products Standards Act
 - Fish Inspection Act.
- . The administration of two voluntary programs:
 - Care Labelling Program
 - Canada Standard Size Program.
- . The monitoring (under the Traded Goods Component) of developments in the market and the preparation of recommendations for legislative/regulatory changes in consultation with consumer/trade associations, other departments and levels of government and international standard writing associations.

The Consumer Products compliance activities comprise its inspection and enforcement, trader education and consumer information, complaints and enquiries and program development, implementation and evaluation activities. Compliance activities relate to the enforcement of the standards and regulations overseeing the quantity, quality, labelling and other disclosure of information for a wide variety of traded goods identified under the relevant Acts and regulations (specified above). The activities are aimed at protecting against product misrepresentation through detection, control and deterrence and enhancing the ability of the consumer to differentiate among products choices.

The structure of the Consumer Products Compliance Activities is shown in the logic diagram, appended as Exhibit 2. For each work element, the relevant activities and outputs are shown. The outputs, in turn, are linked to their objectives and impact and effects.

The key operational work elements comprising the Consumer Products subactivity are described below.

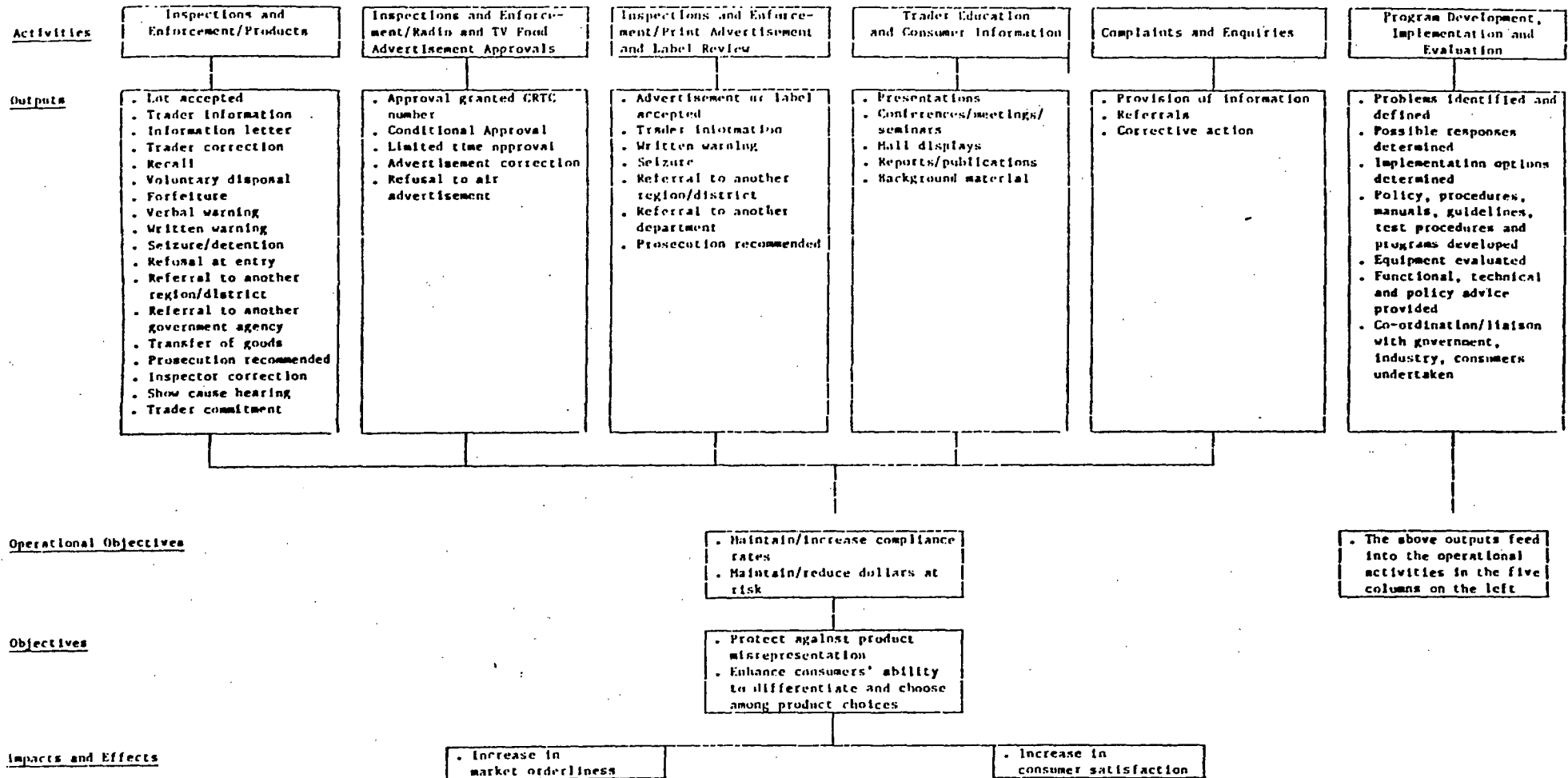
Inspections and Enforcement

Inspections are undertaken to ensure that a high degree of compliance is maintained at the trade levels of manufacturing, import/wholesale and retail in predefined products classes (food, textile, precious metals and non-food). The district office staff of the Consumer Products subactivity have responsibility for undertaking these inspections and enforcement activities.

A visit to an establishment, other than one which is scheduled or planned, may be initiated for a number of reasons, including a complaint, a referral from another region or government agency, a follow-up to a previous visit, a sample pick-up or a problem-products blitz. The activities which may form part of an inspection are:

- . Inspection of products for compliance with quality, quantity and/or labelling regulatory areas. Inspections in the quality area deal with product composition, performance and claims. Advertising and packaging claims are included in inspections or product labelling.
- . Enforcement actions such as providing trader education, giving oral warning and seizing and detaining products. Other actions performed on the part of the trader include, returning the goods to the supplier, correcting the problem, disposing voluntarily of the non-compliant products or providing a commitment to correct the problem. Some enforcement actions, such as sending an information letter on a written warning, are noted in an establishment report for later in-office activities.
- . Completion of an establishment report. The report includes the reason for the visit or inspection and the reinspection date. Also included in this report is a summary, by product of:

EXHIBIT II - CONSUMER PRODUCTS COMPLIANCE ACTIVITIES
LOGIC CHART*



* Taken from the Evaluation Assessment Study of Consumer Products Compliance Activities

- the number marginal (applicable for quantity only)
- the number defective
- the problem found
- enforcement actions (up to a maximum of three).

Another enforcement action which is not performed in an inspection or through trade education is a visit to an establishment where not establishment report is completed. This occurs for release of seizures, sample pick-up, or non-inspection walk-throughs carried out to maintain an inspection presence. In-office enforcement activities may involve product evaluations or label reviews, advertising reviews, writing letters (for information and warning purposes) and referrals to other regions or government agencies.

Complaints and Enquiries

The Branch handles complaints and enquiries received from consumers, industry, other government agencies and the media concerning departmental activities, services and legislation. The complaints and enquiries activity is a useful tool for isolating problems and trends in the marketplace, identifying the need for new regulations, clarifying policy, changing inspection emphasis, etc. This activity is also beneficial in that it may result in timely corrective action being taken in an important product area.

Trader Education and Consumer Information

The subactivity is responsible for the preparation and delivery of seminars, media interviews, meeting and materials for traders, trade organization, consumers and consumer organizations. The purpose of this activity is to develop a higher level of consumer and trade awareness and understanding of legislative requirements. These information activities are performed as an alternative to direct inspection for achieving marketplace compliance.

APPENDIX B

SYNOPSIS OF EVALUATION STUDIES

1. COMPLIANCE OBJECTIVES AND INDICATORS

The objectives of this study were to:

- examine the rationale for current compliance activities;
- assess the merits and limitations of current compliance objectives; and
- identify improvements to indicators.

Information was collected through the review of literature and program documents, and through interviews with personnel at national headquarters, regional offices and district offices.

Major findings concerning each area were:

Rationale

- There is clear rationale for current program work elements. The rationale and program model are well understood by program staff.

Compliance Objectives

- The first strategic objective, to protect consumers against product misrepresentation through detection control and prevention, is clearly articulated, well understood and realistic. More precision could be given to this objective, however, by indicating that consumers are the group being protected.
- The second strategic objective of the program, to enhance the ability of the consumer to differentiate among product choices, is not well understood. This objective requires clarification.
- Although the program focuses on consumer protection and service, concerns of business and industry are also addressed. This is not currently reflected in the program objectives.

Compliance Indicators

- . Current compliance rates are subject to potential biases in measurement and may not reflect the true level of compliance in the marketplace.
- . The dollars at risk measure utilizes potentially biased compliance rates, and seriousness weightings which show little variation and do not appear to reflect the seriousness for consumers of infractions.
- . Sudden changes in the measured consumption level of products due to inflation and the interval of several years between Statistics Canada surveys may result in increases in dollars at risk in spite of greatly improved compliance.

Recommendations

With respect to objectives, the study recommend that:

- . the first objective be reworded to refer specifically to consumers;
- . the second objective be reworded as "to assist consumers in making effective product choices through ensuring the provisions of factual product information"; and
- . a third objective be defined, which would be "to promote and ensure equity and fair competition in the marketplace through the detection, control and prevention of product misrepresentation."

With regard to compliance rates, the study noted that several approaches may be taken to improve the accuracy of information on compliance levels. More consistent and/or improved monitoring of the inspection process, increased training, and the identification of areas where compliance cannot be accurately measured was suggested. The study also commented on the need to either adjust for or modify the directed selection method currently used to identify establishments and products for inspection if compliance rate data is to be representative. It concluded that any modifications to the inspection plan must ensure the maximization of impacts of inspection activities while permitting the unbiased measurement of compliance.

The study observed that the dollars at risk measure could be improved by using more accurate compliance rates, more timely dollars consumption data, and improved seriousness weightings for the calculations. Two new indicators were proposed to assist in applying dollars at risk at the regional level to target activities. These new indicators were industry concentration by regional and volume of imports by region.

In order to more adequately measure program effectiveness, a modification of the dollars at risk indicator was recommended -- a weighted average compliance rate. This indicator would use the proportion of consumption dollars at risk as opposed to absolute dollars at risk, and would not be subject to sudden increases due to inflation or time delays between Statistics Canada surveys. The study determined that such an indicator would more adequately reflect compliance obtained and effectiveness of targeting of activities.

2. COMPLIANCE ACTIVITIES EFFECTIVENESS

Objectives

This study had two objectives. The first objective was to determine the feasibility of measuring the effectiveness of different compliance activities undertaken by the Consumer Products subactivity. Given that such measurement was feasible, the second objective was to determine the effectiveness of these compliance activities. The study was also intended to make recommendations regarding the feasibility of extending the pilot to other parts of Canada and to other program areas.

In dealing with the Consumer Products compliance activities, the study was concerned with the effectiveness of activities relating to the enforcement of the standards and regulations overseeing the quality, quantity and labelling disclosure of information for a wide variety of traded goods. These activities include actions associated with inspection and enforcement as well as complaints and enquiries. It was also interested in determining the effectiveness of trader education compliance activities; however the study looked at trader education performed on a regular basis, as part of inspection and enforcement, and not at the delivery of formal trader education, such as seminars, media interviews, etc. Thus, in examining the relative effectiveness of the different compliance activities, the study investigated, whether, for example, trader education and warning letters had a relatively greater impact on an establishment's compliance than did an information letter or an oral warning.

Methodology and Data Collection Approach

The Toronto office was selected as the pilot site for the study. As a preliminary step, the establishment files and MIS reporting format were examined in order to determine the type of information retained on the various compliance activities. The study determined that data on compliance activities and about particular establishments were available in the establishment files and in the MIS.

The next step in the study was the development of an analytic design. The design used was a historical design with differing levels/types of treatments. Since compliance activities are performed on establishments at different points in time and encompass different actions, it was felt the use of such a design coupled with a statistical modelling approach would allow the effects of varying treatments (actions) on compliance to be determined.

A random sample of 898 establishments was selected from a list of establishments available at the pilot site. The sampling strategy ensured that establishments in all trade levels and product classes were selected. Data on the history of compliance were extracted from the establishment files. Information extracted from the establishment files was recorded as data items for inclusion into a database, and statistical models were based on these items.

Study Results

Feasibility

The study was able to confirm that a pilot study aimed at determining the effectiveness of different compliance activities was feasible to undertake. Appropriate and useful data on compliance activities are collected, both in hardcopy files and in the MIS. Establishment lists kept by the pilot site were used as a frame for sample selection. Using the analytic methodology developed for the study, it was possible to determine the effects of varying activities on compliance.

Effectiveness of Compliance Activities

The study developed basic models which related increases in percentage compliance between consecutive inspections to a number of explanatory factors. The major findings which deal with program effectiveness are described below:

- Trader education, written warnings and trader commitment as part of inspections are all effective instruments in bringing about increases in labelling compliance.
- The one enforcement action which is effective in bringing about an increase in quality compliance is trader commitment.
- Both trader education and trader commitment as part of inspections are effective in bringing about an increase in mean compliance for all regulatory areas.

These results indicated that what occurs in an inspection, rather than the fact of an inspection itself, is usually the most important factor in determining increases in compliance. In relation to the area of quantity compliance, however, the study found that the time between inspections was an important factor in determining increases in compliance. The positive effects of an inspection in quantity compliance were less if the time between inspections was large.

Enforcement actions such as trader education, written warnings and/or trader commitment all have incremental effects on compliance. Other mechanisms, such as oral warnings and trader corrections, were not seen to have significant impacts.

The study also developed models which looked at differences in the probability of an action occurring in the current versus the previous inspection. These different models were created for actions in which all lots or items were found acceptable, or in which either seizure and detention or a written warning occurred. Models were developed to describe the effect of various program intervention variables (i.e., previous actions, time between inspection and number of past inspections) on each of the three specific actions. These models demonstrate the relationship among enforcement actions, as highlighted below:

- The program intervention variables which are effective in increasing the probability of having an inspection with all lots acceptable (in all regulatory areas) tend to be enforcement actions which are not too severe, such as trader education and trader correction.

- . A written or oral warning indication that more severe action should be taken if a violation is repeated, is effective in decreasing the probability of products being seized and detained in a subsequent inspection.
- . The two main enforcement actions which are effective in decreasing the probability of a written warning are an information letter and a seizure and detention.

The analysis also showed that complaints and referrals have an effect on mean percentage compliance (i.e., compliance in all or any regulatory area). Inspections that occurred as a result of complaints or referrals tended to have a lower percentage compliance than inspections undertaken for other reasons. The study concluded, therefore, that referrals and complaints are aiding inspectors in identifying problems. When a complaint or referral was the reason for a previous inspections the study found there was an increase in compliance in the current inspection, indicating a positive effect on subsequent compliance.

Implications of the Findings

The findings of this study provided the first quantification of the effect that compliance activities are having on compliance levels. They indicated that the subactivity's inspection function was having an incremental impact on compliance levels and that certain actions were substantially more effective than others in achieving increased compliance. The findings implied that the inspection function has significance and valuable results from the perspective of the subactivity objective of protecting against product misrepresentation through detection, deterrence and control (monitoring).

The study results clearly indicated that less stringent activities (such as trader education) and negotiating activities (such as trader commitment and written warning) were having a greater impact on compliance levels than other, more stringent activities. The study concluded, therefore, that some shift to education and negotiation activities from more stringent compliance activities might actually reduce risk. It was noted that, assuming these activities are less costly as well, the overall cost-effectiveness of compliance activities would be greatly increased.

Detection

The inspection function serves as a means of identifying or detecting the level of marketplace non-compliance. The subactivity already uses two mechanisms (the dollars at risk and a tiered priority system) to determine how best (cost-effectively) to allocate resources toward the detection objective.

Another mechanism of resource allocation for the purposes of detection brought forth in this module, was the use of complaints and referrals. The study findings clearly showed that when an inspection was the result of a complaint or referral, there was an increased tendency for non-compliance to be detected. As well, when a subsequent inspection was carried out, compliance levels tended to improve (a deterrence effect).

Summary of Implications

In summary, the results of the study pointed to several strategies which could be used for improved cost-effectiveness of subactivity inspection functions:

- expansion of known effective, less costly inspection actions for purposes of deterrence
- expansion of the use of complaints and referrals as priority setting and resource allocation mechanisms for purposes of detection
- use of a risk index in combination with random sampling as priority setting and resource allocation mechanisms for the purposes of detection, monitoring and deterrence.

3. FOOD COMPLIANCE EFFECTIVENESS

Objective

This study had two objectives. The first objective was to determine the relative effectiveness of the compliance activities undertaken by the Consumer Products Sub-activity on food establishments. The second objective was to compare the effectiveness results of food establishments with those of all types of establishments. The latter results were derived from an earlier evaluation summarized above. The reason for looking at food establishments, in particular, is that they do not comply with the regulations to the same extent as establishments of other product classes.

Food establishments also have a lower percentage compliance in all regulatory areas, but the largest difference is found in the labelling area.

Methodology

The database and the analytical methodology used in the earlier evaluation were also used in this study. The database consists of compliance activity information on 898 establishments. The establishments were selected at random from the Toronto District Office files. Of these 898 establishments, 237 deal in food products and were the focus of our analyses. In the analyses developed statistical models were developed which looked at the change or increase in percentage compliance in all regulatory areas and for mean compliance. These models related the increase in compliance to a number explanatory factors.

Findings

The study showed that what happens in an inspection, rather than the occurrence of an inspection, is the most important factor in determining increases in compliance. Trader commitment is effective in increasing compliance in the regulatory areas of labelling and quality, as well as in the mean. Trader education appears as an important factor in determining increases in compliance in the regulatory area of labelling and in the mean of all regulatory areas. The time between inspections is the most important factor influencing quantity compliance.

In comparing the major program effectiveness findings of this study and of earlier study, it was found that there was no difference in terms of which inspection/enforcement actions are effective, but that there was a difference in the magnitude of effectiveness. The difference in the magnitude of the increase was found in the effectiveness of trader commitment on both quality and mean compliance. Trader commitment is more substantially more effective in increasing quality and mean compliance in food establishments than it is in establishments of all product classes.

It was also found that complaints and referrals have almost the same effect on food establishments as they did on establishments of all product classes. That is, when an inspection is the result of a complaint or referral, there is an increased tendency for non-compliance to be detected. When a subsequent inspection is carried out, compliance levels tend to improve. In the former case, the effect on food establishments is slightly greater than it is on establishments of all types.

Implications of the Findings

The results of this study are very similar to those found in the earlier study. The implications of the foregoing results, therefore, reflect much of what was discussed in that earlier study. Most important is the fact that less stringent or negotiating activities, again, have been found to be effective in improving compliance levels. What this means is that some shift from the more stringent activities (such as a seizure and detention) to the use of less stringent measures could be made without a great risk to compliance levels. Moreover, should these less stringent measures also prove to be less costly, the cost-effectiveness of carrying out these measures would be greatly increased.

Finally, the use of complaints and referrals as one tool for prioritizing inspections appears to be as important in food establishments as it does in establishments of all product classes. The selection of complaints and referrals to be acted upon would, of course, require some assessment of the factors which would truly warrant the expenditure of resources on an inspection.

4. EVALUATION OF INSPECTIONS

In February 1985, the Minister of Consumer and Corporate Affairs directed that a study be undertaken of inspection services within the Department. The terms of reference for this study included the following subject, purpose and scope.

subject - the evaluation study would examine inspections in the context of strategies to achieve compliance;

purpose - the purpose of the evaluation study was:

- to examine in a practical and balanced manner, potentially promising areas for improving productivity or reducing costs while still maintaining benefits; and
- to review achievements and current initiatives in this area;

scope - the scope of the evaluation study was to include the following sub-activities:

- . Legal Metrology - Weights and Measures
- . Legal Metrology - Electricity and Gas
- . Consumer Products
- . Product Safety

The study examined the nature and role of inspections in each of the four relevant sub-activities; identified major types of productivity-increasing or cost-reducing measures examined or implemented within the Bureau of Consumer Affairs or in other jurisdictions; and identified specific areas for productivity improvement or cost reduction for each of the four sub-activities. The primary sources of information were program documents, relevant academic literature and interviews with program managers and staff in the Bureau of Consumer Affairs and other jurisdictions.

Cost Effectiveness and Productivity Measures in Place

The study concluded that all four subactivities have put in place measures to improve cost effectiveness and improve productivity of inspections. In general, these measures involve:

- . setting priorities for inspections via tiering;
- . extending intervals between inspections where technically warranted;
- . implementing management systems which allow a dynamic assignment of priorities as new information comes to light;
- . assignment resources toward trader education programs to prevent non-compliance;
- . enhancing the ability of the buying public to detect non-compliance and shop wisely;
- . moving the inspection point as far up in the trade channels as possible;
- . developing joint inter-regional programs (flagship store concept);
- . negotiating agreements with other departments to delineate inspection responsibilities.

The study concluded that these efforts were commendable and should be continued. However, it noted that these productivity enhancements had not led to noticeable cost reduction, at least in the area of manpower costs. Any improvements in efficiency had led primarily to increases in the degree and scope of surveillance and/or compliance rates, but inspection staffing levels had remained essentially level over time. The study determined that it was unlikely that the Consumer Protection Bureau would be able to achieve the economies that would normally accrue from the implementation of various efficiency measures unless a target setting mechanism was put in place in the planning/budgeting system.

Possibilities for Additional Cost Effectiveness and Productivity Improving Measures

The study concluded that, notwithstanding the good work that had already been done to improve cost effectiveness and productivity, not all possibilities had been exhausted. Possible actions for further productivity improvement or cost savings were identified.

Possible Actions for Productivity Improvement and/or Cost Savings

Strategies

The study identified a wide range of possible strategies for productivity improvement and/or cost reduction. Although those strategies covered a range of possibilities, the study identified and discussed the following common elements:

- . preventive compliance
- . cost recovery
- . self-regulation and self-inspection
- . privatization of compliance administration
- . tiering and priority setting
- . optimizing inspection plans
- . work methods and standards
- . trade-off analysis

5. LITERATURE REVIEW

This module reviewed the literature with bearing on the evaluation issues proposed for the evaluation project on the deceptive marketing practices (DMP) component, and secondarily, the traded goods component. The purpose of the review was to summarize major theoretical themes on the effectiveness of regulatory enforcement; identify empirical research and assess its reliability in terms of methods;

determine its continued relevance if dated, or its relevance in Canada if foreign; and summarize differences between various jurisdictions in their approach to enforcement or deterrence, be it legal or administrative.

On the basis of this review, it was evident that the effectiveness of regulatory enforcement and self-regulation of industry is a complex, poorly researched field. The literature is extremely short in methodologically sound, replicable work on effects of regulatory activity.

Global measures of regulatory effectiveness such as the economic loss prevented have been proposed but never implemented. The review noted that there are views in key pieces of writing to the effect that such single goal variables cannot be reliably measured, in fact should not be maintained. Such sources favour an institutional or organizational approach, addressing the actual conduct of the field organization.

The literature has not accumulated empirical knowledge through studies that replicate and build upon each other. Speculative economic and legal literature is rich, but mostly in opinions and various assumptions. Sources used in the review emphasized that to assess the effectiveness of regulation, an in-depth understanding of the industry in question is more important than a theoretical model.

The review identified the following themes or directions for current writing and analysis on regulatory reform: increased use of civil redress at the expense of penalties without restitution; broader use of implied warranties of performance of goods as intended; systematic search for self-regulating mechanisms; and encouragement of regulatory staff to settle short of legal sanction. All sources surveyed in the review agreed, however, that residual enforcement and fines, possibly of significant magnitude, should stay in place to deter and set the moral tone in an industry.

APPENDIX C

GLOSSARY OF ENFORCEMENT ACTIONS

Trader Education - Guidance and/or direction regarding the use of the Act, Regulations or departmental guideline. Used where no other action is taken.

Trader Correction - The correction of violative product prior to resale by the trader. (includes in-store advertising, - e.g., sale of product not permitted until correction made - see Trader Commitment.)

Oral Warning - A verbal notice to a dealer which specifies the nature of the violation in question, the specific legislation and sections violated, and explicitly advises the trader that more stringent action may be considered if the situation is repeated or is not rectified.

Written Warning - A formal written notice to a dealer which specifies the nature of the violation in question, the specific legislation and sections violated, and explicitly advises the trader that more stringent action may be considered if the situation is repeated or is not rectified.

Seizure and Detention - Action taken to ensure control of the product and/or where alternative actions have failed to maintain control.

Referral to Another Region/District - the act of forwarding information regarding the goods and noted violations to some other region, district or within a district/zone for their notification and possible follow-up action.

Referral to Another Government Agency - The act of forwarding information regarding goods and the noted violations to another government agency for notification and possible follow-up.

Inspector Correction - The act by the inspector of correcting noted violations with or without trader assistance (e.g., as in grading shell eggs found to be undergrade).

Trader Commitment - Agreement by a dealer to eventual correction of all future productions or shipment of goods, based on a mutually agreed period of time. This includes next label printing, next importation or any other period of time agreed upon with the inspector, including newspaper and magazine ads, while allowing continued sale of existing product, (i.e., sale of products is permitted to continue without corrections made - see Trader Correction).



APPENDIX D

CONSUMER PRODUCTS PRIORIZATION BY DOLLARS AT RISK (1984/85)*

Rank	Product Class	Dollars at Risk (\$000's)
1	Women's wear	\$ 212,473
2	Dairy products	206,486
3	Grain and bakery products	195,642
4	Fresh fruits and vegetables	167,535
5	Non-alcoholic beverages	150,859
6	Alcoholic beverages	134,751
7	Entertainment articles	132,385
8	Fresh and frozen meats	130,312
9	Canned, frozen, dehydrated fruits and vegetables, honey and maple products	129,396
10	Men's wear	125,835
11	Major household textiles	116,509
12	Cosmetics and personal care supplies	65,970
13	Household furnishings and equipment	58,846
14	Canned, processed meat and poultry	54,009
15	Smokers' products	53,259
16	Freshwater and marine foods	52,931
17	Clothing accessories	49,756
18	Household cleaning supplies	33,229
19	Precious metal articles	32,075
20	Party foods	30,988
21	Fur garments	30,544
22	Home improvement	28,274
23	Puddings, gelatin desserts, spices and flavourings	23,007
24	Paper and plastic products	19,355
25	Fats and oils	14,945
26	Fresh, frozen, BBQ, poultry	14,170
27	Piece goods and notions	12,326
28	Infant's and children's wear	11,455
29	Pet supplies	11,127
30	Automotive products	9,818
31	Eggs and egg products	5,919
32	Minor household textiles	5,832
33	Specialty foods	553
34	Fur trimmed articles	-
		<u>\$ 2,319,571</u>
	Food	1,311,503
	Textiles	533,186
	Precious metals	62,619
	Non-food	412,263
		<u>\$ 2,319,571</u>

* Obtained from Consumer Products Sub-Activity.

