

FEDERAL
LEGISLATION
AND PROGRAMS
RELATING TO

Consumer
Protection

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Consumer and
Corporate Affairs

Consommation et
Corporations

The Hon. André Ouellet, Minister

Quebec
TX335
.C25
10.6
1975

Federal Legislation and Programs relating to Consumer Protection

Consumer Research Report No. 6
Department of Consumer
and Corporate Affairs
March 1973
The Honourable André Ouellet,
Minister

Because additions or changes to legislation or
regulations, sections of this publication
will be updated from time to time.

Revised, February 1975

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I. Introduction

Since 1967 there have been several new pieces of Canadian federal legislation dealing with consumer protection as well as amendments to existing legislation. The purpose of this booklet is to describe briefly both the new and the old legislation and other consumer programs. This booklet deals with major statutes and programs of direct interest to consumers but there are other statutes which make important indirect contributions to consumer

protection which have not been dealt with. For example, there is no discussion of certain parts of the Criminal Code of Canada, the Canada Agricultural Products Standards Act, the Patent Act and the Trade Marks Act on the grounds that these acts are not primarily consumer legislation. Apart from this, no attempt has been made to summarize the large number of provincial laws concerned with consumer protection.

II. Historical Note

Although consumer protection was not a new idea, there were developments in the summer of 1966 which were to have a profound impact on the course of federal activities in this field. Two events occurred in that period which were to prove important for the future.

The first was a government request to the Economic Council of Canada in July 1966 to undertake a number of special studies of particular relevance to consumers. The text of the reference was:

"In the light of the Government's long-term economic objectives, to study and advise regarding:

- (a) the interests of the consumer particularly as they relate to the functions of the Department of the Registrar General;
- (b) combines, mergers, monopolies and restraint of trade;
- (c) patents, trade marks, copyrights and registered industrial designs."

The second was the government decision to designate a parliamentary committee to investigate the increase in consumer prices. The terms of reference and membership of an existing committee were modified to undertake this work. It became known as the Special Joint Committee of the Senate and the House of Commons on Consumer Credit (Prices) and was jointly chaired by Senator David Croll and Ron Basford, M.P. This committee held hearings throughout the fall and winter of 1966-67 and published an Interim Report in December, 1966. In this report, the committee called attention to the need for consumer protection, for co-ordination of existing legislation and for the establishment of machinery to deal with consumer complaints. It went on to recommend the creation of a Department of Consumer Affairs. In a further report in April, 1967, the committee expanded on this proposal and recommended that such a

department should concentrate on three areas: (a) consumer standards; (b) consumer protection; (c) consumer information.

In the meantime, the Consumers' Association of Canada had been actively espousing the creation of a Department of Consumer Affairs in resolutions passed at annual meetings in 1965 and 1966.

A government decision was reached in the spring of 1967 that the responsibility for consumer affairs should be assigned to the Department of the Registrar General. This decision was reinforced in July, 1967 in the interim report of the Economic Council of Canada on its reference relating to consumer affairs and the Department of the Registrar General. In this report, the Economic Council proposed that the Department of the Registrar General assume responsibility for the co-ordination of existing programs in consumer affairs and for initiating new programs in this field. It also recommended the transfer of certain existing units to this department from other departments.

To give effect to some of the key elements of these recommendations, the Department of Consumer and Corporate Affairs Act was passed by Parliament in December, 1967. Under this legislation, the Department of the Registrar General was given the added responsibilities of consumer affairs and corporate securities and the name was changed to reflect more clearly the nature of its new assignment.

The act was a landmark in consumer protection in Canada. This act and a related reorganization of departmental responsibilities which occurred in 1968 brought together within one department a number of existing consumer protection laws and also provided the rationale, resources and authority for new programs. Section 6 of the Department of Consumer and Corporate Affairs Act lists four specific duties of the Minister in the area of consumer protection. These are:

1. To initiate, recommend or undertake programs designed to promote the interests of the Canadian consumer;
2. To co-ordinate programs of the Government of Canada that are designed to promote the interests of the Canadian consumer;
3. To promote and encourage the institution of practices or conduct tending to the better protection of the Canadian consumer and co-operate with provincial governments or agencies thereof, or any bodies, organizations or persons, in any program having similar object; and
4. To undertake, recommend or assist in programs to assist the Canadian consumer to be more fully informed about goods and services offered to the consumer.

To facilitate the implementation of his various

functions and duties, the Minister is authorized to conduct research into matters over which he has authority. He is also authorized to work with provincial governments, other federal departments or agencies or any organization or individual doing such research, and to publish or assist in the publication of any research project which is deemed appropriate and in the public interest. To ensure that independent research is carried out on matters of concern to consumers, and that these results are published, the Minister appointed the Consumer Research Council in April, 1974. Another part of the act of direct interest to consumers deals with the establishment of a "consumer advisory council" to advise or assist the Minister. This provision was fulfilled by the establishment of the Canadian Consumer Council in 1968.

III. Consumer Legislation and Regulations

Hazardous Products Act

The initiative for new hazardous products legislation came from the Department of National Health and Welfare, which had sponsored a bill dealing with hazardous substances in 1967. Poison Control Centres had compiled statistics which indicated that many small children were being poisoned by products used around the home. Some toys were being sold which could cause injury to children. Adult consumers were also suffering economic loss and injury from hazardous products. The original legislation provided for the regulation of certain categories of dangerous products. In 1968, responsibility for this draft legislation was transferred to the Department of Consumer and Corporate Affairs. The coverage of the draft bill was extended and finally, the Hazardous Products Act was passed in 1969.

The act divides hazardous products into two categories. The first category consists of those products which are so dangerous that they would subject the public to unacceptable hazards. These products are banned and are listed in Part I of the schedule to the act. Some examples are: jequirity beans, spectacle frames made from cellulose nitrate; carbon tetrachloride and 1,1,2,2-tetrachloroethane when packaged as consumer products; furniture, toys and other children's articles painted with coatings containing harmful amounts of lead and other chemical compounds; toys made from cellulose nitrate with the exception of ping pong balls; certain highly flammable textile products; baby teethers and pacifiers containing contaminated liquids; non-safety glass on shower doors, storm doors and bath-tub enclosures; hockey helmets which do not meet prescribed safety standards; vinyl chloride monomer.

Products listed in Part II of the schedule to the act may be imported, advertised and sold in Canada, but only under conditions stipulated in the regulations. For example, in 1970 the Hazardous Products (Hazardous Substances) Regulations were passed primarily in order to require clearer disclosure of the nature of the hazard inherent in various poisonous, flammable, explosive or corrosive chemical products in everyday household use. To achieve this objective, the regulations require the use of warning labels on a number of specified products. These warning labels include the use of a set of symbols which show both the nature and the degree of hazard in the product. The regulations further require that warning statements coupled with basic first aid information appear on the labels in both official languages. Some examples of products listed in Part II include: bleaches, cleansers and sanitizers containing chlorine; products containing petroleum distillates, antifreeze, turpentine, acids and alkalis and methyl hydrate; aerosol containers, toys; glazed ceramics; science education sets; children's car seats and matches; charcoal; electric kettles and pacifiers.

The Department of Consumer and Corporate Affairs, in conjunction with industry and consumer groups, is continuing its examination of products which may pose potential hazards to consumers. Some of the matters under study include lead pigments in interior paints, flame retardants for children's clothing, flotation jackets for sport and recreation, flammable carpets and drapery material, toxicity of aerosol sprays, furnace nozzles and children's furniture including cradles, cribs and crib extension rails.

Food and Drugs Act

Although there have been various food and drug laws in force since about the time of Confederation, the first Food and Drugs Act was passed in 1920. The rapid increase in the number of new drugs introduced in the period after the Second World War made it clear that a number of revisions would have to be made to improve the effectiveness of the act. A comprehensive review was undertaken and a new Food and Drugs Act was written to deal in a more logical and orderly manner with the problems of controlling food, drugs, cosmetics and medical devices. This act, passed in 1953, provides the legal authority for food and drug control in Canada at the present time. Stated in general terms, its purpose is to protect the public from possible risk to health, fraud and deception in relation to food, drugs, cosmetics and therapeutic devices. The act is one of the cornerstones of federal consumer protection legislation.

More specifically, the Food and Drugs Act prohibits the sale of a food which: contains any poisonous or harmful substances; is unfit for human consumption; consists in whole or in part of any filthy, rotten, putrid or decomposed substance; is adulterated; or was manufactured under unsanitary conditions. Food is defined in the broadest of terms to include any article manufactured, sold or represented for use as food or drink for man and any ingredient that may be mixed with food for any purpose. The act also states that no person shall sell or advertise a food in a manner which is misleading or deceptive in regard to its value, quantity, composition or safety. In a similar way, other sections of the act prohibit the sale of a drug which is adulterated or has been produced under unsanitary conditions, and the sale or advertising of a drug in a false or misleading manner in regard to its character, value, composition, merit or safety.

In the sections dealing with cosmetics the act makes it unlawful to sell any product which may

cause injury to the health of the consumer when used according to directions on the label. Therapeutic devices also must not cause injury to the health of the user and, as with foods and drugs, may not be advertised or sold in a false or deceptive manner. The act also prohibits the sale or advertising of foods, drugs, cosmetics or devices as treatment or cure for a number of specified conditions and illnesses such as cancer, diabetes and heart disease. Currently, the Cosmetic and Therapeutic Device regulations are being strengthened to require manufacturers to have evidence of safety and effectiveness for products and claims available for review by the Health Protection Branch of the Department of National Health and Welfare when requested prior to marketing.

The administration of the Food and Drugs Act and Regulations is currently divided between two departments of the federal government. The Health Protection Branch of the Department of National Health and Welfare is primarily concerned with matters which represent a potential hazard to the health of consumers and exercises various control procedures under the Act. These controls include food additive clearance and review; pesticide, chemical and microbiological hazard control; establishing standards of safety and purity for foods; research and testing of new drugs intended for Canadian distribution; and licensing of manufacturers of certain drug products. This branch is also responsible for economic fraud, packaging and labelling in regard to drugs, cosmetics and devices, and for inspection of food and drug processing plants which do not come within the jurisdiction of the Department of Agriculture or the Fisheries Service of the Department of the Environment. The other agency involved in the administration of this act is the Department of Consumer and Corporate Affairs. Its Consumer Affairs Bureau is responsible for economic fraud as it relates to food and ad-

ministers those provisions concerned with packaging and labelling and fraudulent practices or misleading advertising of foods.

The Food and Drugs Act is not the only federal statute dealing with food. Others include the Canada Agricultural Products Standards Act, the Meat Inspection Act, the Meat and Canned Foods Act, the Fish Inspection Act, the Canada Dairy Products Act and the Maple Products Industry Act. These various statutes deal with the regulation of several aspects of the production and marketing of food products.

The Health Protection Branch also administers two other statutes regulating drugs. The Proprietary or Patent Medicine Act provides controls over the registration, labelling and advertising of pharmaceutical remedies sold over-the-counter for household use and the Narcotics Control Act regulates the methods and channels of distribution for narcotic drugs and the Radiation Emitting Devices Act which permits standards to be set for the design, construction and functioning of radiation-emitting equipment.

Consumer Packaging and Labelling Act

This act has two main purposes. It seeks to provide a comprehensive set of rules for the packaging and labelling of all consumer products and thus enable consumers to make more informed choices in the marketplace. The act is designed to fulfill this second objective by ensuring that full and factual information on product labels is provided by the manufacturer, packer or distributor.

The act and the regulations require that all pre-packaged products bear a quantity declaration in French and English on the main panel in metric as well as traditional Canadian standard units of weight or measure, or in metric units of weight, volume or length as the case may be. In addition to the quantity declaration, the common or usual

name of the commodity must be prominently displayed in both official languages on the main panel of the package. The name and place of business of the manufacturer, packer or distributor must also be shown, but it may appear anywhere on the package except the bottom.

This legislation is also concerned with the prevention of fraud and deception in packaging and labelling such as non-functional slack fill and misleading descriptions, vignettes and illustrations. There is also provision in the act for the rationalization of package sizes and shapes where it is considered that there is undue proliferation which confuses and misleads consumers.

Weights and Measures Act

From the point of view of consumer protection the Weights and Measures Act and the Consumer Packaging and Labelling Act are complementary. The latter aims at improving the ability of consumers to make choices by requiring the disclosure of information on product labels while the new Weights and Measures Act of April, 1971 assures consumers that weighing and measuring devices actually used in Canada in trade are accurate and that these are used in such a way that just and honest measure of weight, volume, length, area or even time is ensured. This act, like the Consumer Packaging and Labelling Act, is administered by the Department of Consumer and Corporate Affairs.

The importance of the Weights and Measures Act for the protection of the consumer cannot be over-emphasized, for it defines and regulates the very basis of trade in tangible commodities and in some important services. A properly conceived and enforced system of weights and measures is absolutely essential to consumer protection. The revised Weights and Measures Act ensures this protection in several important respects.

It deals effectively with the metric system of weights and measures and with a number of devices which incorporate new measuring concepts

for the sale of goods or services to consumers, such as liquid products sold from coin-operated machines which show the quantity of the commodity being sold in terms of units of volume together with the price of that quantity.

An important function of the Weights and Measures Act is to define all units of measurement which are legal in Canada. Since government policy is to change eventually from Canadian units of measurement (foot, pound, gallon, etc.) to the metric system, it was necessary to provide a legal description of the units in this measuring system. The use of the metric system has been legally permitted in Canada since 1873 but it has been adopted in the commercial field in limited areas only. Under the new act, traditional Canadian units of measure will continue to be used, and provision is made for the simultaneous use of metric units. The use of the Metric system is not obligatory, with one important exception: as a means of acquainting the consumer with the Metric system, the Consumer Packaging and Labelling Act requires that all quantity declarations on pre-packaged goods be in either traditional Canadian units and metric units (dual labelling) or, under certain circumstances, in metric units alone.

**The Electricity Inspection Act and
the Gas Inspection Act**

The Weights and Measures Act does not cover the supply of electricity and gas and for nearly one hundred years there have been separate acts to regulate the sales of these commodities: the Electricity Inspection Act and the Gas Inspection Act. These acts are administered by the Department of Consumer and Corporate Affairs. The basic purpose of this legislation is to protect consumers by ensuring that the basis for billing gas or electricity used in homes has been determined from accurate

meters.

The acts require that all meter types must be approved before they are put into service and that verified meters shall carry a government seal. In case of a dispute between a consumer and a utility over the accuracy of a meter, the government inspector can be called in to make an independent test. Inspectors may also be called upon to make voltage or frequency tests of electricity.

Textile Labelling Act

The Textile Labelling Act, passed in 1970, deals with the labelling, sale, importation and advertising of consumer textile articles and is administered by the Department of Consumer and Corporate Affairs.

Years ago most textile articles were made from the easily identified and well-known natural fibres: wool, cotton, silk or linen. Over the years, these natural materials have been supplemented by the development of a large number of man-made fibres. Although there are relatively few generic classes of man-made fibres, they appear on the market under a wide variety of trade names. Consumers are usually not aware that several different trade names exist for the same synthetic fibre. The Textile Labelling Act is intended to eliminate the con-

fusion that has resulted from this situation by requiring that the correct generic description of component fibres be affixed to textile articles so that consumers can identify them easily. The percentage of each fibre comprising 5 per cent or more of the total fibre weight of the article must be listed on the label together with its generic name.

The act provides for the mandatory labelling of such textile articles as wearing apparel, fabrics sold by the piece and household textiles, and regulates the advertising, sale and importation of all consumer textile fibre products. The act also prohibits the use of any false, misleading or deceptive statements in the sale and advertising of such products.

Precious Metals Marking Act

This act regulates the quality marking of articles made wholly or partly of precious metals such as jewellery, silverware, optical products, watches, pens and pencils. Precious metals are defined as gold, silver, platinum, palladium or any alloys of these metals. The present act, which came into force in July, 1973, replaces 1952 legislation and applies to both domestic and imported goods.

The legislation stipulates the conditions with regard to the quality, quantity, fineness, weight, thickness, proportion or kind of precious metal in an

article that must be met before a quality mark may be applied. Quality marks include such descriptions as "10 K" or "14 K" to designate gold content, "silver" or "sterling" to indicate 92.5 per cent silver and the use of the word "platinum" or "plat" to indicate 95 per cent platinum. Certain restrictions are also placed on advertising claims which describe the quality of such articles. Detailed regulations covering a wide variety of articles manufactured of precious metals, including articles which are plated, have been developed and came into force in July, 1973.

National Trade Mark and True Labelling Act

This act, originally passed in 1949, is administered by the Department of Consumer and Corporate Affairs. The first part of the act designates the term "Canada Standard" or the initials "C.S." as a national trade mark. The Governor in Council is authorized to make regulations prescribing the kinds of commodities and the conditions under which the national trade mark can be applied. The national trade mark may be used only by those persons who have been authorized under the regulations.

From the point of view of consumers, the most widely known application of the term "Canada Standard" in this context occurs in connection with the children's garment sizing regulations of the act. These regulations are known as "The Canada Standard Size System" and are described in more detail in the section dealing with special consumer programs. The use of the national trade mark is also authorized for Babcock test bottles and pipettes used to determine the percentage of fat in milk and milk products and for measuring cups and spoons.

The second part of the act is designed to prevent deception in the labelling of commodities by authorizing the Governor in Council to make regulations concerning the way in which certain commodities may be marked, labelled or described in advertising for the purpose of indicating material content or quality.

Several regulations have been passed, dealing with the labelling of a variety of products including chamois, watch and clock jewels, turpentine and turpentine mixtures and substitutes, and fur garments. The fur garment regulations, for example, require that when a descriptive label is used on a fur garment, the label must bear, in addition to any trade name that may be used, the true name of the fur. The regulations also require that when the fur in a garment has been dyed, blended, tipped or pointed, or if the garment is made from fur pieces, this must be indicated. The regulations also prohibit any false indication of the place of origin of the fur.

Motor Vehicle Safety Act

Under this act, which became law in 1970, mandatory safety standards for motor vehicles were established. These standards apply to all new motor vehicles and motor vehicle components and cover both domestically manufactured and imported vehicles. They were first put into effect in 1971 and are administered by the Road and Motor Vehicle Traffic Safety Branch of the Ministry of Transport.

The safety regulations include standards relating to the design and performance of passenger cars, trucks, buses, motorcycles, snowmobiles and trailers. They are subject to continual review and

additions or revisions will be incorporated to keep pace with engineering or technical advances. Besides the issuance and enforcement of these safety standards, procedures for giving notice of defects in construction, design, or functioning which affect the safe operation of vehicles have been established. The act also requires that all Canadian motor vehicles manufacturers or distributors apply a National Safety Mark to every classified vehicle produced after the date of proclamation. The National Safety Mark must also be accompanied by a label certifying compliance with all applicable Federal Motor Vehicle Safety Standards.

Standards Council of Canada Act

This act, which received Royal Assent in October, 1970, establishes the Standards Council of Canada. This body will act as a national co-ordinating institution through which organizations concerned with voluntary standardization can co-operate in promoting industrial and consumer standards in Canada. The Department of Consumer and

Corporate Affairs is represented on the Standards Council as well as on its Advisory Committee on Consumer Standards. The development of voluntary standards for consumer products is one of the objectives of the Standards Council and should play a significant role in improving the quality of Canadian consumer goods.

Combines Investigation Act and Proposed Amendments

The federal government's efforts to ensure the full competitive potential of the Canadian economy are partly reflected by the current Combines Investigation Act. Some of the fundamental ideas of anti-combines legislation can be traced back to the Middle Ages when rules were laid down to prevent the cornering of markets or the withholding of supplies. The basic aim of these medieval laws was to protect consumers against abuses of market power which invariably led to higher prices. Although many changes have since occurred in market practices and consumption patterns, the purpose of competition policy is still to prevent distortions of the market economy and misallocation of resources. Thus competition policy constitutes an integral part of the whole machinery for consumer protection.

Several of the basic ideas of Canadian competition policy have been embodied in Canadian legislation since 1889. Since 1910 they have appeared in the Combines Investigation Act which has undergone periodic revision. They also appeared in the Criminal Code from 1890 to 1960, when legislation relating to competition policy was consolidated in the Combines Investigation Act. This act makes price fixing, price discrimination, resale price maintenance, mergers and monopolies illegal. Since 1967 the act has contained the prohibitions of false and misleading advertising which were formerly in section 306 of the Criminal Code. The Director of Investigation and Research under the Combines Investigation Act is responsible for the administration of the act. He reports to the Minister of Consumer and Corporate Affairs.

The present Combines Investigation Act has made a noteworthy contribution to economic efficiency in Canada. However, in recent years the adequacy of this legislation has been questioned by the business community, consumer groups and by legal and academic experts.

Accordingly, in 1966, there was a government request to the Economic Council of Canada to study the whole question of competition policy, with a view to the enactment of updated and improved legislation. The Council's "Interim Report on Competition Policy" was followed in June, 1971 by the introduction in Parliament of a bill dealing with new competition policy.

Although the government did not go ahead with second reading of this bill, all interested parties were invited to make representations about it. Partly on the basis of suggestions contained in the more than 300 briefs and submissions that were received, the Government decided to proceed with its legislation in two stages, the first stage being an Act to Amend the Combines Investigation Act, which was first introduced in Parliament in November 1973 and reintroduced in October, 1974.

The new bill provides for increased consumer protection against undesirable business practices by the use of the investigative and procedural machinery of the Combines Investigation Act. Many of the offences covered are extensions of present prohibitions. For example, several sections deal with deceptive trade practices which affect consumers directly, such as misleading advertising, spurious testimonials, bait and switch methods, pyramid selling, referral selling, double ticketing, and dishonest or deceptive promotional contests. Provision has been made to extend the application of anti-combines law to services generally as well as goods. Another important innovation of the proposed amendments is the shift from a total reliance on criminal law in proceedings to a greater emphasis on civil law. A second stage of competition legislation is also now in preparation and will be introduced following passage of the bill dealing with Stage I.

The Bankruptcy Act

Early legislation on bankruptcy and insolvency applied only to merchants and traders, but as other groups began to use credit, the scope of the legislation has been broadened. The 1949 Bankruptcy Act acknowledged the problems of consumer debtors by provisions designed to streamline the administration of low-asset estates, thereby bringing the relief of bankruptcy more within the reach of the average consumer. Later, in 1966, the act was amended to facilitate the orderly payment of debts in the case of an insolvent debtor not in business.

Despite the amendments of 1966, it became clear that there was a need for a completely revamped bankruptcy and insolvency system that would take into account the many fundamental changes that had taken place in Canada over the last decade or so. Accordingly, a Study Committee on Bankruptcy and Insolvency Legislation was established. Its task was to review existing bankruptcy and insolvency legislation with a view to recommending new approaches attuned to present day practices and conditions.

In 1970, the Report of the Study Committee on Bankruptcy and Insolvency Legislation was made public and one of the major recommendations of that Report dealt with the introduction of provisions for consumer arrangements. These arrangements, administered by a bankruptcy administrator, would be designed to promote the payment of debt while

providing maximum protection to the economic and social viability of the consumer debtor.

A major ingredient of this plan is the automatic stay of proceedings upon the filing by the debtor of a request for the reasonable solution to his problems free from the harassment of creditors. Unlike many of the present pieces of legislation dealing with consumer debts, the Report proposed that provisions be made for arrangements, not only by extension of time but also by composition, that is, the payment of less than the full amount of the debts owing the creditors.

In June 1972, the Department of Consumer and Corporate Affairs initiated a program to help low income persons who are deeply in debt. The program provides the services of a public bankruptcy trustee at nominal cost to individuals who cannot afford to pay for a private trustee, but who want to seek the relief available under the bankruptcy law. Employees of the federal government, trained and licensed to administer bankrupts' estates, operate the service. When funds exist in the estate, debtors are asked to pay a sum not exceeding the normal trustee's remuneration allowed under law. If, however, funds are not available, a minimum fee of \$50 is requested to cover out-of-pocket expenses incurred by the trustee, although in particularly pressing situations, even this \$50 fee may be waived.

Small Loans Act

Legislation dealing with small loans originated in a desire to protect needy borrowers from exploitation by money-lenders. Low income individuals needing money to meet an emergency were sometimes forced to turn to lenders who took advantage of the borrower's plight and his lack of bargaining power by charging exorbitant rates of interest.

The first federal attempt to control such practices, the Money-Lenders Act of 1906, proved ineffective and was superseded by the Small Loans Act of 1939. In general terms, the new act fixed interest ceilings on cash loans up to \$500. In order to ensure compliance, it provided for the supervision, inspection and licensing of lenders by the Minister of Finance and the Superintendent of Insurance.

When the 1939 Small Loans Act came into force, it applied to loans of \$500 or less and the

interest rate ceiling was set at two per cent per month. In 1956, the Act was amended by extending its scope to loans of \$1,500 and by providing for a graduated scale of permissible maximum interest charges. This new scale provided for a maximum charge of two per cent per month on the outstanding balance of the loan up to \$300, one per cent per month on the outstanding balance between \$300 and \$1,000 and one-half of one per cent per month on the balance between \$1,000 and \$1,500.

Since there have been significant changes in the use of consumer credit and in the general level of prices since 1956, there have been some pressures to modify certain features of the act. One change being contemplated is the transfer of responsibility for the administration of the act from the Department of Insurance to the Department of Consumer and Corporate Affairs.

Interest Act

As far back as 1777, there was legislation in Canada relating to "interest, usury and money lending." The British North America Act allocated to the Parliament of Canada the exclusive right to legislate on interest and it was under this authority that the Interest Act was passed in 1886. Even at that time, it represented the consolidation of several earlier statutes. The present Interest Act is divided into three parts, the first of which deals directly with "Rates of Interest." It sets no interest rate ceiling on contracts but does state that where interest is payable and no interest rate has been fixed the rate of interest is set at 5 per cent per annum.

During the 19th century, Canada was primarily rural in character. As there was not the multiplicity of major consumer durable goods available to consumers and as cash sales were the general rule, mortgages on real estate (notably for the purchase of farms) represented the commonest form of time purchase arrangements used by ordinary people. Abuses in the mortgage field developed and sometimes resulted in severe hardship on debtors.

To deal with these abuses, what is now the second part of the Interest Act concerning real estate mortgages was drawn in 1880. The sections of this part have the primary purpose of requiring a clear disclosure of interest rates in a way which the unsophisticated borrower could understand.

The third part of the act relates to judgment debts in all of Canada west of Ontario. (A judgment debt is one where the amount of money owed to one party by another has been established by a court of law in a civil proceeding.) The rate of interest on such debts was earlier set at 6 per cent but an amendment in 1900 reduced the rate to 5 per cent per annum. Except for a broadening of the geographical application of the judgment debt provisions, the Interest Act has not been amended since 1900. Because the areas of interest and credit are of great importance both to creditors and debtors, consideration is currently being given to the complete revision and modernization of the Interest Act, particularly to the strengthening of disclosure requirements.

The Bank Cost of Borrowing Regulations

Since the chartered banks are not subject to provincial disclosure legislation, it became necessary to issue regulations under the authority of the Bank Act to provide greater uniformity in disclosure requirements in the consumer credit field. The Bank Cost of Borrowing Regulations were issued under authority of the Bank Act and became effective in

October, 1967 and set out the disclosure rules governing the consumer credit transactions of the banks. These regulations require a bank to disclose the cost of a consumer loan to the borrower in terms of the nominal annual rate of interest and the absolute amount in dollars and cents.

Canada Co-operatives Associations Act

Many consumers benefit from membership in or patronage of co-operatives. This act, which was passed in December, 1970, will provide existing federally-incorporated co-operatives with a legal framework better suited to their nature and objectives. It will also facilitate the creation of new co-operatives operating in more than one province. Representatives of the co-operative movement have long felt that the lack of such legislation had hindered the development of co-operatives, ever since

the narrow defeat of similar legislation in 1906. Now, however, the development of the co-operative movement on a country-wide and co-ordinated basis will be greatly facilitated by permitting co-operatives or federations of co-operatives to be incorporated under an act tailored to their needs and conditions. Responsibility for administration of the act rests with the Department of Consumer and Corporate Affairs.

Act to Amend the Bills of Exchange Act

This amendment, which became effective on November 1, 1970, is an important piece of consumer protection legislation. It greatly strengthens the legal position of persons who sign promissory notes in connection with purchases made under an instalment sales contract or time payment plan. Instalment sales contracts are very widely used in the purchase of automobiles, radios, television sets, household appliances, furniture and other durable goods and in some cases consumers are required to sign a promissory note as additional security for the seller of the goods. Such promissory notes are frequently sold to third parties, usually financial institutions. Under some circumstances, these third

parties could legally collect the amount due from the consumer even if the original seller had not fulfilled his obligations under the instalment sales contract.

Since the coming into force of the amendment to the Bills of Exchange Act, the consumer has a legal defence if a financial institution sues him for non-payment and the original seller of the goods has defaulted on his obligations. The new legislation also requires that all promissory notes or cheques post-dated more than thirty days, when given in connection with the purchases of consumer goods, must be marked prominently and legibly with the words "consumer purchase."

Amendments to the Patent Act, the Trade Marks Act and the Food and Drugs Act (Legislation dealing with the Price of Prescription Drugs)

The high price of prescription drugs has been a continuing concern of the federal government. Two public enquiries, one by the Restrictive Trade Practices Commission (1963) and the other by the Special Committee of the House of Commons on Drug Costs and Prices (1966-67) concluded that a lack of competition at the manufacturing and retail levels was largely responsible for high drug prices and that an appropriate remedy lay in increasing competition at both these levels.

Accordingly, the federal government launched a multi-pronged attack intended to reduce manufacturers' prices to retail pharmacies by making the manufacturing sector more competitive. The federal sales tax on all drugs was abolished. Customs duties on drug imports were reduced and certain amendments were made to the anti-dumping regulations to facilitate the entry of drugs into Canada. The Patent Act was revised to provide for the issuance by the Commissioner of Patents of compulsory licences for the import and sale of patented drugs. (The Commissioner already had the power to issue compulsory licences for the manufacture of patented drugs in Canada.) The Trade Marks Act was revised to remove the liability of a Canadian firm to a suit for trademark infringement when importing a drug covered by a registered trademark owned by a foreign company related to one already doing business in Canada. A program of federal loans was provided to help develop independent Canadian drug producers who were especially interested in selling low-cost generic drugs. Amendments to the Food and Drugs Act provided for strengthened quality surveillance of drug imports. It was hoped that an increase in competi-

tion from both domestic and foreign sources would help to force down manufacturers' prices to retail pharmacies. The amendments to these acts were passed in June, 1969.

At the same time, steps were taken to improve competition at the retail level. It was realized that a key part of the whole program to reduce drug prices lay in persuading physicians to prescribe lower-priced equivalents of higher-priced preparations. To encourage this substitution the federal Department of National Health and Welfare initiated a Drug Quality Assessment Program (generally referred to as "QUAD") in May, 1971, whereby drug manufacturing facilities are inspected and drugs are subjected to chemical tests. Tests of bio-availability are performed on selected drugs only. Furthermore, QUAD is working with the provincial governments toward the objective of improving drug quality and lowering drug prices. Until recently, the resultant data on quality as well as on cost to the pharmacist for various preparations of the same drug were published in the monthly *Rx Bulletin*, a publication of the Department of National Health and Welfare. In 1973 the decision was made to restrict publication of the price data to an annual publication. All provincial governments, hospitals, physicians, dentists, pharmacists and veterinarians receive copies of these two publications. The public can purchase them through Information Canada bookstores at reasonable cost.

Discussions have also been held with the provincial representatives to encourage the provinces to take steps to stimulate competition in retail pharmacy, where the jurisdiction is largely provincial.

IV. Special Consumer Programs

Metriation

Metriation is a word coined in Britain to describe the process of changing to the metric system of weights and measures from the traditional system of pounds, feet and gallons. The drive for a coherent measurement system based on 10 developed in the 18th century and ultimately led to the adoption of the metric system in France. The virtues of the system were evident and it has since been adopted by almost all countries. At the present time, some 90 per cent of the world's populations live in metric countries which have an estimated 60 per cent of the world's gross national product. The non-metric countries including Britain, Canada and the United States, have moved rapidly in recent years towards the metric system. The necessity for a universal system has become more evident with the increasing ease of transportation and communication and the growing volume of world trade.

In addition to their role as producers and suppliers of goods in the international community, Canadians have a more personal interest in the advantages of the metric system. As consumers, Canadians are confronted daily with weights and measures of various sorts. From the point of view of both consumers and producers, a great deal of time and resources are wasted on conversion factors and non-standard components. The benefits of a universal system of measurement have become more apparent and the metric system offers the greatest opportunity to achieve this objective.

The White Paper on Metric Conversion in Canada, published by the federal government in January, 1970 stated as a basic policy objective that Canada should eventually adopt the metric system. With this in mind, the new Weights and Measures Act which was passed later in the same

year described the legally permissible metric units. Two of the basic units that will be used for measurements of mass and length are the kilogram (kg) and the metre (m). Other units likely to be important to consumers are the gram (g), the millimetre (mm), the centimetre (cm), the litre and the millilitre (ml).

In most cases, metriation will imply more than merely converting existing units to metric ones. For example, a prepackaged product presently sold in the "round" quantities of 1/2 lb. and 1 lb. could be converted to 227 g and 454 g; but it would clearly be preferable if firms would replace these quantities by 250 g and 500 g which are round metric equivalents. Metriation will provide industry with an opportunity to examine all their package sizes to see whether they are satisfactory for present-day marketing or whether a more rational progression of sizes would be desirable.

A properly co-ordinated plan to effect the transition at all levels of industry and commerce will, of course, be essential. While no decision has yet been made by the government on the timing of metric conversion, there is a legal requirement embodied in the 1971 Consumer Packaging and Labelling Act to the effect that retail packages must show statements of net contents, with certain exceptions, in either metric or in both metric and traditional Canadian units by March 1st, 1976.

A Metric Commission has been established to co-ordinate the changeover to the metric system in Canada. Although plans are being formulated on how the change should be implemented, it is clearly important that any concrete actions by Canada should be co-ordinated with the plans of the United States when a definite decision to convert to the metric system has been made in that country.

Package Proliferation

Many consumers have had cause to complain about the difficulty of making value comparisons within a specified product category because of the unduly large number of sizes offered by different manufacturers of the product or even the range of sizes put out by any given company. For instance, there are some 69 different quantities of biscuits and crackers available on the market, often involving fractional sizes such as 10³/₄ oz. Not only consumers, but also retailers, frequently deplore the number of package sizes offered to the public and have pleaded for action to reduce this proliferation.

The Consumer Packaging and Labelling Act provides one way of dealing with this problem. One section of this act gives the Governor in Council the power to issue regulations to limit the size and

shape of containers for prepackaged products where undue proliferation is likely to confuse or mislead consumers. The standardization of package sizes, like unit pricing, is a technique which will facilitate price comparisons between different sizes of the same product and between different products.

Since 1971, the Department has regulated toothpaste, shampoos, skin creams and lotions. Proposals have been or will soon be issued for aerosol deodorants, facial tissues, small cosmetics (such as perfumes) and for biscuits. All of these regulations are or will be in metric units and have brought some significant reductions in the number of sizes on the market and consequent benefits to those consumers wishing to make price comparisons.

Canada Standard Size System

One of the time-consuming and often perplexing problems which parents have had to face in the past has been that of choosing the appropriate size of garment for a child. The customary system of sizing according to the age of the child was clearly inadequate.

To remedy this situation, a sizing system has been developed which takes into account the variations in the body measurements of children. Firms that agree to manufacture according to the Canada Standard Size specifications are entitled to label their garments with the symbol "CSS" which is registered as a certification mark of the federal government. Firms may obtain licences to use this

symbol on garments manufactured to the Canada Standard Size specifications. These specifications are set out in the National Trade Mark Garment Sizing Regulations passed under authority of the National Trade Mark and True Labelling Act. When the national trade mark is applied to a garment, it must be placed on a label which also contains the appropriate size designation of the garment, the name of the country of manufacture and the licence number or other identification mark specified in the regulations. This system will make it easier to choose properly fitting garments for children. Work is underway to extend the system to certain items of women's clothing.

Textile Care Labelling Program

Garments and other textile products are made today from such a wide variety of natural and synthetic fibres or blends of two or more fibres that the consumer needs exact information on how to take care of each particular item in order to avoid damaging or destroying it through inappropriate cleaning, bleaching, or drying procedures. Although many textile manufacturers supply tags or labels bearing instructions for proper cleaning care, these are usually detachable and are frequently lost or discarded soon after the article is bought. Inappropriate care can lead to the damage or destruction of the item. It was realized that this problem would be less likely to occur if there was some convenient way of permanently attaching care instructions.

A voluntary care labelling program was intro-

duced in May, 1970 to meet this need. Under this program, manufacturers may avail themselves of a system of five basic symbols to indicate washing, bleaching, drying, ironing and dry cleaning. These are shown in the three colours employed for highway traffic signals. Red indicates that the procedure should not be used, amber indicates that it may be used with care, and green indicates that the procedure may be used without hesitation. The system includes additional symbols which indicate such things as water or iron temperatures and methods of drying. When used, these symbols appear on labels permanently attached to the textile product so that the consumer need never be in doubt regarding appropriate care methods.

Protection for Purchasers of Hearing Aids

Both elderly and other consumers with hearing deficiencies have for many years encountered difficulties in acquiring appropriate hearing aids. In some cases, the problems arise from unethical sales practices and in others from the high cost of such devices.

This problem was high on the list of consumer protection programs early in the life of the Department of Consumer and Corporate Affairs. A comprehensive study of selling practices in the hearing aid industry was subsequently carried out by a Sub-committee of the Interdepartmental Committee on Consumer Affairs. As a result of this study, a report entitled *Hearing Aids* was published by the Department of Consumer and Corporate Affairs as Consumer Research Report No. 1 in January, 1970. This report confirmed the fact that many buyers of hearing aids were charged excessively high prices, received inadequate servicing of the hearing aid after it was purchased or were sold devices that were useless in correcting a hearing deficiency. The report contained a number of recommendations to the federal and provincial governments and the hearing aid industry which were seen as partial solutions to many of the problems facing buyers of

hearing aids.

Since the report was published, several of the recommendations that were made have been acted upon. In the federal sphere, the Department of National Health and Welfare is discussing with industry representatives and professional groups proposals for regulations which would require each hearing aid sold in Canada to be accompanied by a statement of its performance characteristics.

Since the provinces have a recognized responsibility in the field of direct sales to consumers and in licensing sellers, the question of providing more stringent provincial controls over the activities of hearing aid dealers was discussed with provincial representatives at two federal-provincial conferences on consumer affairs held in Ottawa in June, 1970 and in May, 1971. Several of the provinces have looked into the hearing aid situation in their respective jurisdictions and two provinces, British Columbia and Manitoba, have since passed special legislation providing more direct controls over this industry. In some provinces, such as Ontario, the industry polices its own membership and assists consumers with their complaints about undesirable business practices in the province.

Informative Labelling

Because of the variety and complexity of the goods that are available on the market today, consumers often find it difficult to choose the particular item which best suits their needs. Informative labels, when attached to consumer durable products at the point of sale, provide consumers with essential information for identifying and comparing the features and performance characteristics of competing brands and models.

The Department of Consumer and Corporate

Affairs has work under way on the development and use of official CANTAG informative labels for durable and semi-durable consumer goods. The work is well advanced on labels for refrigerators and has been started for home entertainment amplifiers, air conditioners, rugs and carpets, and upholstery fabrics. Future work has been proposed for vacuum cleaners, electric blankets, mattresses and other consumer goods.

Consumer Help Offices

Many consumers remain unaware of the legislative protection available to them from the Department of Consumer and Corporate Affairs and other federal and provincial government departments. They may not know where to turn for advice and assistance with the wide range of marketplace problems they encounter. Many segments of the Canadian population for one reason or another are unlikely to contact federal or provincial government offices responsible for the handling of consumer complaints and enquiries.

To make consumer advice and assistance

more readily accessible, the Department is establishing neighbourhood-based Consumer Help Offices which, through a personalized approach, endeavour to promote direct and effective two-way communications with individuals on relevant consumer matters. In most cases, particularly in the larger urban centres, these offices will be operated as co-operative ventures with existing voluntary social service agencies, which are presently providing a range of needed social services to the neighbourhood.

Assistance for Consumers

The Department of Consumer and Corporate Affairs, through its Consumer Services Branch, provides direct assistance to the Canadian consumer so that maximum benefits are obtained from the marketplace.

The Consumer Services Branch performs this role through programs designed to provide information to assist the consumer before purchase and for the utilization and enjoyment of the purchase, as well as assistance to resolve particular problems that occur after purchase. The former, preventive programs, involve the use of all informational dissemination devices including the use of mass media, the production of printed material for various publics, the production of educational material for all levels of formal education including continuing education. The development of preventive programs relies heavily upon the Branch's coordination role of sources of information which include relevant information from other federal governments or agencies, from the agencies of other levels of government, from international governments and agencies, and from the private sector. The coordination role not only involves the synthesizing and publication of extant consumer related information but also involves the suasion of other agencies and organizations in the public and private sectors to publish relevant consumer information. Preventive measures include recommending changes in product or service policies to appropriate manufacturers and retail organizations.

Curative programs, the provision of assistance for the resolving of particular consumer problems, rely heavily upon the operation of Box 99. Box 99 is a simple mailing address where all Canadian consumers can direct their particular immediate consumer problems. Box 99 provides assistance

for the complaining or enquiring consumer by referring his complaint or enquiry to the appropriate body, either in the public or private sector, or by the performance of an individual-to-individual mediation function. The mediation function relies heavily upon cooperation and suasion.

In addition, the Consumer Services Branch provides direct financial assistance to non-governmental consumer agencies active in the consumer field, and coordinates the Consumer Help program, a network of consumer storefront offices across Canada serving local community needs. These activities ensure optimum dissemination of the Branch's programs, and conveyance of pertinent consumer information.

Specific examples of information material published by the Consumer Services Branch include brochures, pamphlets, fact sheets and film clips on subjects as diverse as consumer protection in the marketplace, product safety, textile and care labeling, product selection and care, metrication and consumer credit. Information kits, which are continually updated, have been distributed to most primary and secondary school libraries in Canada. Liaison is maintained with a non-profit organization which translates and distributes consumer information to ethnic newspapers and radio stations. The Branch also publishes, on a continuing basis, eleven times per year, *Consumer Contact*, a newsletter discussing subjects of consumers' interest ranging from automobiles, through food, housing, transportation, finance and recreation activities; *Consumer Contact* presently has a circulation of over 125,000. Two series of a consumer game show, "It's up To You", "C'est pas sorcier", mainly based on consumer problems directed to the Branch, have been produced.

**Department of Consumer
& Corporate Affairs
Regional Offices**

Pacific

Dept. of Consumer and Corporate Affairs
P.O. Box 10059, Pacific Centre Ltd.
700 West Georgia Street
Vancouver, B.C.
V7Y 1C9
(604) 666-6971

Prairie

Dept. of Consumer and Corporate Affairs
Canadian Grain Commission Bldg.
300 - 303 Main Street
Winnipeg, Manitoba
R3C 3G7
(204) 985-2654

Ontario

Dept. of Consumer and Corporate Affairs
706, Global House
480 University Avenue
Toronto, Ont.
M5G 1V2
(416) 362-7011

Quebec

Dept. of Consumer and Corporate Affairs
12th Floor
855 Ste. Catherine St. E.
Montreal, Quebec
H2L 4N4
(514) 283-5394

Atlantic

Dept. of Consumer and Corporate Affairs
6th Floor, Montreal Tower
5151 George St.
Halifax, Nova Scotia
B3J 1M5
(902) 426-6080

