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# Advancing the Consumer Interest

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## **EDITORIAL POLICY STATEMENT**

*Advancing the Consumer Interest* is designed to appeal to professionals working in the consumer field. This includes teachers in higher and secondary education, researchers, extension specialists, consumer affairs professionals in business and government, lawyers, students in consumer science, and other practitioners in consumer affairs.

Manuscripts may address significant trends in consumer affairs, education, and law, innovative consumer education programs in the private and public sector, reasoned essays on consumer policy, and application of consumer research, theories, models, and concepts.

Suggested content may include but is not necessarily limited to:

1. Position papers on important issues in consumer affairs, education, and law.
2. Description and analysis of exemplary education, extension, community, and other consumer programs.
3. Research reported at a level of technical sophistication applicable to practitioners as well as researchers. The emphasis of this research should be on its implications and applications for consumer education, policy, law, etc. The primary question of the reported research should be, "What does this research mean for practitioners?"
4. Application of theories, models, concepts, and/or research findings to problem solutions for target audiences.
5. Articles summarizing research in a given area and expanding on its implications for the target audience.

The *Guidelines for Authors Submitting Articles* are printed inside the back cover.

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# Letter to the Editors

The forgotten presidential consumer right! People are well aware of President Kennedy's four consumer rights—the right to safety, information, choice, and representation at government levels; President Ford's right to consumer education; and then this past year President Clinton's right to service, but who issued the forgotten right?

In President Nixon's message to Congress on October 30, 1969, he stated in his consumer message to Congress that "The buyer has the right to register his dissatisfaction, and have his complaint heard and weighed, when his interests are badly served."

Let's remember the consumer's right to redress.

Stewart M. Lee  
*Geneva College*

# Call for Papers

The editors of *Advancing the Consumer Interest* are now soliciting manuscripts for inclusion in their spring 1997 special issue on:

Consumer Rights: From JFK to Clinton.

We welcome articles providing in-depth analyses of the development and policy implications of the concept "consumer rights," including studies of how the definition of "rights" has shifted from the 1960s to the present as well as the rhetorical, legislative, and administrative applications of consumer rights in the federal government and on the state level.

For consideration for this special issue, submit 4 copies of your manuscript by

September 1, 1996.

Guidelines for submission of manuscripts have been published in *Advancing the Consumer Interest*. Copies are available from the Editorial Office.

Send manuscript, head-note, \$10 processing fee, and cover letter to:

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# Editorial

We three assumed the editorship of *Advancing the Consumer Interest* over a year ago in the fall of 1994. It has been an exciting time for us—developing our vision of the journal and soliciting and reviewing articles. Along the way, we have had the opportunity to work with a number of people who have made our job much easier. First we would like to thank our editorial board members, upon whom we depend for manuscript reviews: John Burton, Brenda Cude, Janet Garkey, Tahira Hira, Robert Johnson, Irene Leech, Catherine Phillips Montalto, Norman Silber, and Richard Widdows.

A journal such as this draws additional reviewers from the general membership of ACCI and beyond. This year we have called upon the services of Jean Bowers, W. Keith Bryant, John Caskey, Sharon DeVaney, Karen Folk, E. Thomas Garman, Thesia Garner, Loren Geistfeld, Chere Gibson, Michael Greenfield, Sherman Hanna, Colien Hefferan, Jeanne Hogarth, Jutta Joesch, Robert Kerton, Robert Kroll, Mark Lino, Maurice MacDonald, Julia Marlowe, Robert Mayer, Kathleen

Morrow, Pamela Norum, Christine Olson, Claudia Peck, Roberta Riportella-Muller, Donna Selnick, Claudette Smith, Roger Swagler, Michael Walden, and Michael Waxman. We thank them each for their time and effort.

Though peer-review is the heart of a journal such as ours, reviewers alone do not make a journal. We gratefully acknowledge the continuing financial support of the University of Wisconsin Graduate School, the University of Wisconsin Law School, and the University of Wisconsin School of Family Resources and Consumer Sciences for their generosity in supporting our editorial assistants, graduate students Jessica Brownell and especially Paul Davis, whose work is so important in maintaining the journal.

One of our goals is to devote future issues of *Advancing the Consumer Interest* to particular themes or topics. Toward that end, we have included on page 4 of this issue a Call for Papers for the Spring 1997 special issue on “Consumer Rights: From JFK to Clinton.” We welcome manuscripts on this and other topics.

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# Problems in Reforming Welfare: The North Carolina Experience

Michael L. Walden  
North Carolina State University

*[D]ue to the fact that welfare benefits, including AFDC, food stamps, and housing assistance, are reduced when the recipient earns more money, a typical welfare recipient frequently nets less than 50 cents for every additional \$1 earned.*

Reforming the system of welfare programs in the U.S. is at the top of the “to do” list of most politicians, reflecting a skepticism on the part of many citizens that the current system is achieving its goals. Specifically, citizens worry that today’s welfare system is encouraging chronic dependence and discouraging work and self-sufficiency by recipients.

These concerns have been expressed in most states, including North Carolina. In the fall of 1994, the governor of North Carolina appointed a task force to recommend changes in the welfare system, and the author was a member of this group. This paper relates some of the key experiences, findings, and conclusions of the Governor’s Welfare Reform Task Force in North Carolina. Although the discussion is specific to North Carolina, the situation described is similar to that prevailing in most other states. If,

indeed, Congress turns over much of the responsibility for redesigning welfare programs to the states, then all states will eventually have to face the same issues confronted by North Carolina.

## **BACKGROUND**

Anyone who studies today’s welfare system quickly reaches a simple conclusion: The system is rife with incentives that encourage behaviors and outcomes society does *not* favor and with others that discourage behaviors and outcomes society *does* favor. In short, the system encourages dependence and fatherless families, and discourages work and saving.

Fatherless, or “broken” families are encouraged in two ways. First, the so-called “100 hour rule” eliminates cash (AFDC) benefits for two-parent families in which one parent works more than 100 hours per month, regardless of the earnings. Thus, a

family in which the father works at minimum wage can easily improve its economic status if the father leaves, so that the mother and children become eligible for cash benefits. Second, fatherless families are encouraged by the simple fact that poor single women with children are eligible for a wide range of benefits. For example, a young woman with no job who bears a child can automatically receive cash benefits (AFDC), food stamps, and Medicaid, and may also receive housing assistance. If the father has few income-earning options, there's not much economic necessity for his presence.

Most citizens favor a situation in which welfare recipients could move gradually toward economic self-sufficiency. The current welfare system, however, punishes and discourages such a transition in at least three ways. First, due to the fact that welfare benefits, including AFDC, food stamps, and housing assistance, are reduced when the recipient earns more money, a typical welfare recipient frequently nets less than 50 cents for every additional \$1 earned. (This is after taking into account the federal earned income tax credit, which rewards work by low-income citizens.)

Second, when a welfare recipient works and earns "too much," state assisted child care comes to an abrupt end after a short transition period. In North Carolina, "too much" earnings is \$8000 annually for a single mother with two children. In this case, the recipient may very well find she is better off without the extra work and income but with the state-assisted child care.

Third, adult Medicaid benefits, too, are abruptly lost after certain earnings levels are reached (in North Carolina, this level is \$12,000 for a single mother with two children). The current system does provide up to one year of transitional Medicaid, but after this period the benefits drop to zero. If the welfare recipient's job doesn't provide health insurance benefits, clearly the recipient is better off not working and continuing to receive Medicaid.

Saving is one way for low-income households to "lift themselves up by their bootstraps." Such households could save money

to finance further education or to start a small business. One would think therefore, that the welfare system would encourage saving by recipients. But—you guessed it—the current system doesn't do this. In North Carolina, a household is ineligible to receive cash assistance once its cash savings exceed \$1,000, or when equity in their car tops \$1,500. Not much of a business or education can be financed by these amounts.

### **CHALLENGES OF CHANGE: EASY ANSWERS**

Based on this background, it was easy for the North Carolina Welfare Reform Task Force to develop some recommendations which were non-controversial and quickly garnered widespread support.

First, to encourage intact families, the Task Force recommended the elimination of the 100-hour rule. Elimination of the rule would encourage fathers to remain with their families, even though the father's income would still be considered when determining the overall eligibility of the family for cash assistance.

The Task Force also recommended sanctions if the paternity of a child in a recipient family was not established within a certain period of time. The support of a child is obviously a shared responsibility of the mother and father. Being able to identify the absentee fathers of welfare children enables the state to enforce the collection of child support from those fathers.

In order to encourage saving by welfare recipients, the Task Force made two recommendations. First, asset limits for continued receipt of cash assistance were suggested to be raised to \$3,000 for cash savings and to be unlimited for one vehicle as long as it is used for work, education, or training. Second, Individual Development Accounts (IDAs) were recommended for welfare recipients. IDAs would allow recipients to accumulate savings in tax-free accounts as long as the funds were used for education, the start of a small business, medical expenses, or the purchase of a first home.

Finally, the Task Force made a series of recommendations dealing with personal responsibility and preparation for self-suffi-

*The training contract would put equal responsibility on the state and the recipient. The recipient would have the responsibility of participating, but the state would have the responsibility of providing the training.*

ciency. Welfare recipients would have to agree to have children immunized and stay in school. Minor parents receiving welfare support would agree to stay in school and live with parents or a guardian. Adult welfare recipients would agree to a contract with the state specifying the education and training the recipient would receive.

This last point deserves further discussion. The training contract would put equal responsibility on the state and the recipient. The recipient would have the responsibility of participating, but the state would have the responsibility of providing the training.

In receiving reports from a number of experts, the Task Force learned that all training is not equally successful. Training that simulates the workplace and gives the trainee a specific skill for a specific job has had the highest success rates.

#### **CHALLENGES FOR CHANGE: TOUGH ANSWERS**

There's an obvious way to increase the work incentives of welfare recipients. This is to reduce the implicit tax rates faced by welfare recipients when they increase their work effort. An implicit tax rate occurs when welfare program benefits are decreased and work and child-care expenses are increased as a result of the welfare recipient's working more.

These implicit tax rates can be quite significant. Based on an analysis for a single mother with two children in North Carolina, implicit tax rates associated with increased work are typically in the range of 30 to 76%, and can be as high as 110% when changes in housing assistance programs and Medicaid are also considered.<sup>1</sup> This means that for every dollar of additional labor income earned, a welfare household typically loses 30 to 76 cents in reduced program benefits and increased costs, and the loss can be as high as \$1.10.

There are several ways to reduce implicit tax rates faced by welfare recipients. First, the rate at which increases in earnings reduce benefits in each of the major welfare support programs (AFDC, food stamps, and housing assistance) can be reduced. Currently in North Carolina, AFDC cash benefits are

reduced 50 cents for each additional dollar of earnings, food stamps are reduced 30 cents, and housing benefits are reduced 30 cents. These rates could, for example, be cut in half.

Second, the "all or nothing" provision of Medicaid and child care assistance could be altered. Currently, both benefits end totally, after a short transition period, when the recipient's income reaches certain levels. This creates "spikes," or "cliffs" of very high implicit tax rates at those income levels. These "spikes" could be eliminated by the gradual phasing-out of both Medicaid and child care costs with increases in the recipient's earnings.

Third, the implicit tax rates inherent in the loss of Earned Income Tax Credit (EITC) could be lowered. The EITC is a federal program that encourages work by low-income households by providing them a federal tax credit when they earn more. In cases where the household owes no federal taxes, the EITC provides a cash payment. However, the credit is gradually phased out when household earnings reach a certain level (\$11,000 in 1996 for a three-person household). The phaseout is at the rate of 21 cents for each additional dollar earned. This phaseout rate is an implicit tax rate, and when it is added to the implicit tax rates of the other welfare programs, it adds to the disincentive to work. Ironically, when the EITC was last expanded by making more households eligible, the EITC implicit tax rate was raised from 14% to 21%.

Although each of these proposals appear to be reasonable, there's one big problem with them: They'll cost more money than the current system, at least in the short run. If implicit tax rates are lowered but benefit levels are maintained at the "starting point" (where recipients have no earnings), then short-run budgetary costs for the programs will increase. This is simply because, with lower implicit tax rates, benefit amounts will not fall as quickly when increases in income occur.

Budgetary costs can be maintained with lower implicit tax rates if benefit levels are lowered at the "starting point" (i.e., at the starting point of recipients with no earnings).



The analysis for the case in North Carolina showed that implicit tax rates could be lowered to a constant 50% if benefit levels were reduced by 42% for recipients with no earnings. Obviously, however, this action would reduce the standard of living of recipients.

Faced with these realities, the North Carolina Welfare Reform Task Force recommended lowering implicit tax rates, but, in order to constrain the increase in short-run expenditures, limited the reforms to certain households and put time limits on the receipt of benefits. Specifically, the task force recommended the following:

- (1) reducing implicit tax rates for AFDC benefits to zero for earnings up to the state's official "standard of need" (\$6,528 for a family of three);<sup>2</sup>
- (2) reducing implicit tax rates for food stamps to zero for households who are eligible for AFDC;
- (3) ending benefits for eligible households after two years; and
- (4) continuing benefits for an additional three years (beyond the two-year limit) to households who achieve full-time work by the end of two years, with all benefits, including child care and Medicaid benefits, based on a sliding scale with income of the recipient.

The recommendations reflected a compromise in improving work incentives. The first and second recommendations would dramatically reduce implicit tax rates for very low-income recipients, but maintain rates for higher-income recipients. The third and fourth recommendations would put great pressure on recipients to attain full-time work within two years. The sliding income scale for child care and Medicaid (which the Task Force did not determine) would end the "spikes" of very high implicit tax rates currently existing when this assistance abruptly ends. However, these recommendations would also end the guarantee to a certain standard of living for eligible households after a maximum of five years.

One financial downside of these recommendations is the necessary increase in state-paid child care for children of adult welfare recipients who are pushed to work full-time. State officials estimated that an additional \$300 million would

be required in such state paid child care. To avoid this expenditure, the four work incentive recommendations would initially apply only to households with school-age children.

## CONCLUDING COMMENTS

The experiences of the Governor's Welfare Reform Task Force in North Carolina demonstrate several issues in welfare reform. Problems in the current system are obvious. Disincentives to work abound so that generally recipients are not motivated to become self-reliant.

But reform won't be easy. One issue is money. Providing the needed incentives to work, including child care, transportation, and training, will dramatically increase program spending in the short run. Unfortunately, no one is exactly sure how high the price tag will be. North Carolina would avoid this issue by phasing in reforms, beginning initially with households requiring only minimal child care. However, this only postpones the costs.

Another issue is the amount and kind of work available to households now on welfare. Will adequate jobs exist for currently non-working welfare recipients, and will those jobs pay enough for an adequate standard of living? What kind of training should welfare recipients receive? Again, no one knows the answers to these questions; studies are desperately needed to address them.

A third issue is society's commitment to long-run support for households. In part to defray some of the higher costs of its welfare reform, North Carolina recommended a maximum of five years of support to an eligible household. This is a dramatic break with the past, since traditionally support has had no time limits. Such a limit assumes that households can bring themselves to adequate self-sufficiency within five years, and begs the question of what happens if they can't.

The current welfare system is an incredibly complex set of programs, each with its own requirements and eligibility. The North Carolina Task Force recommended coordination of programs and the establishment of "one-stop shopping" for recipients. Another possibility being considered would be the

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termination of the programs and the combination of all funds into one simple income-transfer program.

Welfare reform reflects a clash between citizen expectations and the reality of what may be needed for long-run success. For many citizens, welfare reform means saving money and putting recipients immediately to work. But to those who have studied the current system, it's obvious that reform means spending more in the short run in order to achieve taxpayer savings and self-sufficiency in the long run.

*[R]eform won't be easy. One issue is money. Providing the needed incentives to work, including child care, transportation, and training, will dramatically increase program spending in the short run.*

#### NOTES

1. For a detailed description of the calculation of implicit tax rates, see Michael Walden, "Implicit tax rates of the Expanded Earned Income Tax Credit for welfare recipients in North Carolina," forthcoming, *The Journal of Consumer Affairs*.

2. The "standard of need" is an estimate of the income needed for a household of a certain size to meet some minimal standard of living. The concept is used in most states for the establishment of AFDC benefits. The amounts are usually inadequate by almost any analysis because they are infrequently updated over time.

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# Lifelines in Cyberspace: Should Disadvantaged Consumers Obtain Subsidized Access to the Information Superhighway?

*Norman Silber*  
*Hofstra University Law School*

## **WHAT'S A LIFELINE, AND WHERE IS CYBERSPACE, ANYWAY?**

lifeline 1 a line to which persons may cling to save or protect their lives b a line attached to a diver's helmet by which he is lowered and raised c a rope for lowering a person to safety 2 something (as a trade route or means of communication) regarded as indispensable for the maintaining or protection of life.<sup>1</sup>

Cyberspace, the unbounded magnetic field where users of computer technologies connect with each other, looks limitless. In cyberspace there are public meetings and private exchanges. There are

card catalogs for researching and libraries. There are rock concerts and jazz trios. There are job training sessions and physical training sessions. There are books, magazines, clothes, pizzas, airline tickets, stocks and bonds, and even romantic escapades. There are tag sales and catalog sales and boat sails; in fact, on-screen retailing may be the dominant form of consumer behavior in the future (Buckley, 1995). The applications of cyberspace technology—computer, cable, telephone, and satellite communications systems—have expanded exponentially over a short time. As a whole they show no signs of diminishing in popularity.

What becomes of the consumers who never get “on line”? What happens to those

*In the 1970s, it became evident that rising energy costs were elevating heating expenses beyond the ability of poor consumers to pay for them, and lifeline energy contracts were formed. Advocacy by consumer groups helped to obtain subsidized telephone and heating services.*

who become lost in cyberspace or are locked out of it? Should these consumers be thrown a "lifeline" to allow them to make use of the "information infrastructure"? If so, who will throw the line and who will pay for its cost? The President (among others) has called for computer connections to the information superhighway to be installed in every classroom of every public school in America over the next several years. House Speaker Gingrich has urged placing notebook computers in the hands of ghetto youth. Several consumer advocates have argued for a lifeline on the grounds that access to cyberspace is emerging as a basic necessity of life. They ask Congress to embrace "universal service" as a policy objective, and they lobby for telecommunications laws and regulations to provide for "subsidies or some other form of public interest expression to accommodate the less fortunate among us" (Hemphill, 1994).

Are lifelines warranted? Are they adequate to address the possibility of a chronically disadvantaged strata of "information poor" consumers, increasingly deprived of access to social, political and consumer opportunities that are available to most others? (President Clinton, 1996). This essay explores several of the preliminary logical and empirical assumptions whose validity will establish or minimize the need for extending the lifeline concept into cyberspace.

### **LIFELINES IN CONTEXT**

The lifeline concept has its roots in the conception of public responsibility toward the unemployed, underemployed, and impoverished forged during the Great Depression of the 1930s and furthered in subsequent years. The policies of the Welfare State directed the choices and expenditures of government toward helping the poorest to obtain bare necessities for livelihood and a minimum level of participation in public discourse. The principle of "universal service," embodied in the 1934 Communications Act, compelled phone companies to require higher income customers to subsidize the cost of serving poor, rural, or other less profitable customers, and, similarly, required phone companies in more profitable districts to subsidize

those companies serving poorer areas. The Social Security Act, the Works Progress Administration, and other cornerstones of the New Deal were also, in significant respects, "lifeline" measures.

Publicly supported lifelines developed more recently have served to reduce utility and banking costs to the poor. In the 1970s, it became evident that rising energy costs were elevating heating expenses beyond the ability of poor consumers to pay for them, and lifeline energy contracts were formed. Advocacy by consumer groups helped to obtain subsidized telephone and heating services for people "who could not pay existing utility rates, but who stood in need of at least some level of these services" (Rubin, 1992).

After the partial deregulation of the banking industry in the 1980s, consumer advocates developed the idea of lifeline checking accounts. Consumer finance scholars and others argued that low-income consumers had gained little from the deregulation of savings accounts—that while they gained from the ability to receive interest on their small savings balances, they lost more because many new fees were now permitted to be charged (Rubin, 1992). Many consumers with low incomes, furthermore, did not have checking accounts and so found it difficult to conduct essential financial transactions such as cashing checks. More than a half dozen states required banks to offer lifeline checking accounts that provided low-income consumers certain limited services at below-market rates by the mid-1990s. At the federal level and in dozens of other states, "lifeline" checking received serious consideration.

Economic evaluations of lifeline services have not lavished unqualified praise on either the services provided or the costs being spread to others. Law and economics scholar Edward Rubin concludes that lifeline service requirements in banking, for example, have not provided economically efficient solutions to the problems of the poor. The services to the poor are often inferior—lifelines provide few incentives to financial institutions to improve them. In some cases, the expenses of subsidizing the poor are not paid by an appropriate class of subsidizers.

Nonetheless, Professor Rubin and others acknowledge that the problems that lifeline rules have addressed in these areas—the need to provide indispensable services at affordable costs to a significant number of poor consumers—are not mirages. In the lifeline telephone, heating, and banking instances, the real problems of poor consumers are not confronted without some kind of lifeline rules—regulatory incentives for providers to serve poor consumers, or subsidies that enable poor consumers to pay market prices for services they otherwise could not afford (Rubin, 1992).

Historical experience lends support to the view that in some circumstances lifelines may have great value. Indeed, the Telecommunications Act of 1996 contains provisions that affirm the principle of universal service and call for “specific, predictable, and sufficient federal and state mechanisms to preserve and advance [it]” (Telecommunications Act of 1996, Section 254). The question arises whether there is a logical and empirical basis to support the application of the lifeline concept to cyberspace.

### **THE WHOS AND WHYS OF BEING LEFT OUT**

To make the case for lifelines, the contours and profile of an emerging information underclass must be established. The alarm has been sounded already. “If we allow the information superhighway to bypass the less fortunate, even for an interim period of time,” Eileen Hemphill, consumer advocate, has stated, certain parts of America will be left out of the Information Age (Hemphill, 1994). She echoes the concerns of many when she observes that without “universal availability,” the implementation of an advanced information network based on access to cyberspace will result in a country of the “information poor” and the “information rich” (Hemphill, 1994).

As a matter of logic, it is quite plausible to believe that a substantial segment of society cannot afford to get onto the Internet or any other network in cyberspace because communicating and transacting business there is expensive. Initial outlays to buy necessary hardware, even in second-hand markets (the best of which are themselves in cyberspace) typically exceeds \$500. Leases generally run

in excess of that amount per year. Minimum recurring charges for access to the Internet now start at around \$20 per month before adding specific usage fees. The cost of obtaining basic computer literacy is significant and must be tacked to these costs. The resulting sum presents a barrier to millions of Americans. “The specter of information haves and have-nots,” *The Nation* observes, “is already upon us” (Shapiro, 1995).

Evidence is accumulating, furthermore, that telecommunications companies have business incentives selectively to avoid improving information “infrastructure”—especially in the high-speed cables and relay facilities necessary for sophisticated consumer technology uses—in low-income neighborhoods. Jeffrey Chester, executive director of the Center for Media Education in Washington, has concluded after examining the expansion plans of some companies that “low-income and minority neighborhoods are being systematically underrepresented” in projects to provide high-technology infrastructure (Bryant, 1995). In Chester’s view, “this is the civil rights issue of the 21st century.” Another study by a coalition of groups including the National Association for the Advancement of Colored People, the Consumer Federation of America, and the Center for Media Education suggests that poor and minority neighborhoods are already becoming victims of “electronic redlining” (Rose, 1994). Apart from minority and low-income communities, reports also have suggested that the varying information needs of school children, rural communities, and the elderly are not being met adequately (Senkevitch, 1994).

And yet these problems may, in the big picture, be minor ones. The cost of access has come down considerably over the past several years. Competition between service providers is in many respects intense. Some poor people have become sophisticated cyberspace residents. Barriers to entering many parts of cyberspace are few. The promulgation of a “video dial-tone standard” (a technological standard issued by the FCC) may help to convert televisions into ports of entry to cyberspace—and bring a minimal level of access to infor-

*Telecommunications Act of 1996 contains provisions that affirm the principle of universal service and call for “specific, predictable, and sufficient federal and state mechanisms to preserve and advance [it].”*

mation within the reach of all but a very few. Some number of those who could not afford to be part of the superhighway a year ago may be able to get there next year.

There is logical and anecdotal support for the presumption that an information underclass is emerging. But answers about its size, its numbers, its location, and its permanency are as yet less than satisfactory.

### **EVIDENCE OF DISADVANTAGE**

If it can be shown that a significant information underclass looms on the horizon, it needs further to be established that the consequences of "information impoverishment" are severe. Some corporate representatives have suggested that cost-based cyberspace deprivation is no more an impediment to economy and achievement than other high-priced goods in a market economy. "Today," it has been observed, "books aren't free, computers aren't free, subscriptions to on-line services aren't free. We already have a system of haves and have-nots" (Rose, 1994). The implication of such a comment is that the gap between the information rich and poor, the computer-familiar and computer-deprived, will be neither unusually large nor especially detrimental.

For the disadvantaged, however, the difficulties of reaching cyberspace promise to be more than an inconvenience, and much more troubling to society than the high cost of books or entertainment. The contention that limited access to new information technologies will be economically and culturally destructive has already been validated from different perspectives in several ways. One way to think about this is to consider the advantages already obtained through the use of cyberspace, in home banking, financial services, education, health care, and even public service. Electronic technologies serve the elderly living at home and in institutions by way of technologically facilitated "visits" with families and friends, interactive television, audiotext, electronic mail, remote machine-assisted medical treatment and evaluation, and distance learning.

Another way to document disadvantage

is to consider present services that will be discontinued or become far more expensive because of the newer forms of doing business. Certain government documents, for example, may not be published at all in paper form before long. They will be accessible only in cyberspace through private contractors. Checking accounts that return checks are in some states more expensive than accounts that make statements available on video displays. It has become difficult to deny that the presence or absence of access to cyberspace generates differences "in available resources, in facilities, in achievement, in health and safety, and in the pedagogy of the classrooms" (Senkevitch, 1994).

Furthermore, access appears to be related to learning and competence in educational settings. A project at Bell Communications Research asked a group of students to write an essay comparing three statistical concepts. Students who were using databases and other information available by computer access scored significantly higher than students who did not (Graumann, 1994). According to another study, students in poor school districts have even less access to computers (and CD-ROMs and modems) and receive less effective instruction than their counterparts in wealthier school districts (Graumann, 1994).

### **THE IMPACT OF COMPETITION AND PHILANTHROPY**

If information exclusion is widespread and has negative consequences, it may nonetheless be greatly diminished by market forces. There are free market scenarios that would predict that the information gap between rich and poor will diminish. Through competition and assuming the compatibility of new technologies with older ones, the problem may be as self-correcting as was access to television in the late 1940s, when prices dropped swiftly and millions, including the poor, became part of a huge electronic community in a very short time. Or it may be in the financial interest of telecommunications vendors to distribute technology free or at very low cost to entice low-income consumers to generate recurring fees and a greater market share.

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On the other hand, it is probable that many of the most important access routes will remain costly. Most notably, it will be necessary to upgrade residences with "broad band" cables to "pave the way for the information superhighway," and this is "an incredibly expensive undertaking" (Reilly, 1994). Because virtually all of the cost will be borne by the private sector, the chance is not good that impoverished or unprofitable areas will be adequately "paved" in the absence of some kind of order, subsidy, or regulatory incentive.

Apart from market correction, there is also a small chance that information exclusion is amenable to charitable amelioration. Several community organizations—churches and individuals in the Boston area, for example—have created computer learning centers, oriented toward teaching job and literacy skills, for the poor (Coleman, 1995). Perhaps it is also in the charitable spirit that large telecommunications enterprises have undertaken efforts to help poorer communities adjust to cyberspace. The Pacific Bell Company, for example, has promised to connect every public school and library in the state of California to the information superhighway at no cost to the public institutions (Graumann, 1994). Pacific Telesis and AT&T-McCaw have made commitments to community groups in California to ensure that the state's minority, low-income, inner-city, and disabled populations are wired for efficient travel through cyberspace. Bell Atlantic and TCI are connecting 26,000 elementary and secondary schools to the Information Superhighway for free (Light, 1994).

To many observers, however, including the reporters at *Business Week*, recent telecommunications industry charity "has the earmarks of clever PR meant to show they [providers] can deliver electronic altruism without government prodding [since] phone and cable companies worry about being burdened with universal service rules forcing them to subsidize Info Highway connections for low-income residents" (Light, 1994). The suggestion that market forces and/or philanthropic activity will be sufficient to open up cyberspace to the poor is an improbable but not an impossible proposition.

## PRACTICAL LIFELINE SOLUTIONS

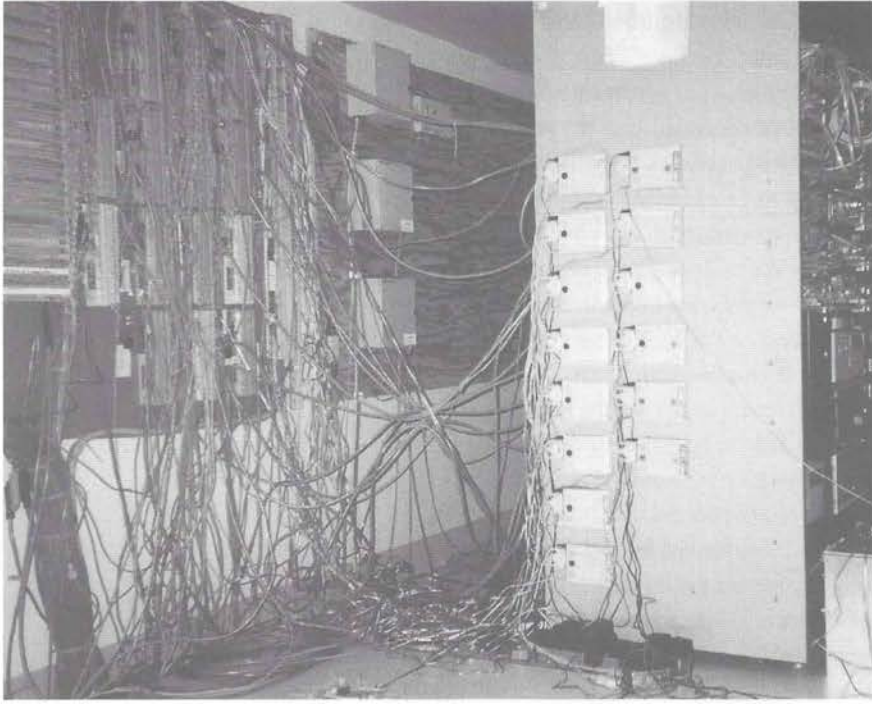
The gauntlet for those who advocate lifelines in cyberspace is considerable. After having demonstrated that the effects of exclusion are serious, permanent, and unlikely to be corrected without government intervention of some sort, lifeline proponents will need to generate solutions capable of effective implementation (Reinhardt, 1994). Doing so may pose the most difficult problem of all.

Various approaches have been suggested: state or federal subsidies to support public computer terminals in libraries and elsewhere; lower connection rates for low-income users funded by higher charges to other consumers or by general tax revenues; or even tax breaks for the purchase of laptops (Shapiro, 1995). Some writers argue that the types of support systems that work best seek to provide assistance to those particular companies or individuals that need it, rather than to general groups in the population. The FCC's Universal Service Fund for telephone service, for example, allocates costs of serving disadvantaged consumers to particular local telephone companies that operate in distressed areas.

It is beyond the scope of this essay to examine the advantages and disadvantages of each proposal. Certain characteristics of approaches that are likely to be successful, however, have emerged:

- Merely providing the right of access to cyberspace at an affordable price will not solve the problems of information inequity. A legitimate lifeline will reach out to those potential users who do not appreciate the dimensions of information impoverishment. "If you are information poor, you don't know what you don't know" (Rose, 1994). One suggestion made for reaching those who are ignorant of cyberspace is to take a lesson from the PBS series *Sesame Street*, which was "designed to narrow the gap between the haves and the have-nots by raising the knowledge floor for at-risk children" (Rockman, 1995).

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■ Successful lifeline proposals will not tie themselves exclusively to particular forms of technology. Engineers redesign technology much faster than regulators change regulations; it would be counterproductive to encourage obsolete appliances. The Telecommunications Act that emerged from Washington does not dictate which appliance will become the basic tool for consumer access to information, entertainment, and market transactions during the coming decades. Neither should a lifeline proposal (Pettit and McGuire, 1993; Andrews, 1996).

■ Proposals that create financial incentives to encourage telecommunications providers to make the information network universally available (to construct “broadband” capacity in poor or remote areas, for example) should place the burden of subsidy upon a wide base—preferably funding from general revenues—and not necessarily on service providers or affluent users alone. In many circumstances there will not be a sensible criterion for taxing only the information industry or only other users of the information highway in order to support use of cyberspace by low-income consumers.

## CONCLUSION

If the logical and empirical assumptions that are sketched above prove to support the lifeline concept, the best proposal may be for federal legislation to prevent the information gap from growing out of hand. Of course, beyond the difficulties presented here, political obstacles will arise to make the success of any such proposal problematic. There are those who will contest the objective need for *any* sort of help, by denying the moral claim that government has the communitarian obligation to throw any lifeline—even one “indispensable for the maintaining or protection of life.

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# The Computer-Based Patient Record and Confidentiality

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*Information bestows power, and making medical information more easily accessible is a way of empowering patients. In theory at least, the better-informed patient will be in a better position to consider various options in addressing a medical problem and to evaluate medical advice.*

In various ways computers can help people become more active participants in their own health care and that of family members, as emphasized earlier by Kassirer (1995). Computers can help people acquire medical information, interact with care givers, connect with support groups when illness strikes, and in some cases, carry out a treatment plan. Electronic linkage of patients and their families to support groups and medical libraries is well under way and is likely to increase in popularity as computers become standard equipment in the American home. Information bestows power, and making medical information more easily accessible is a way of empowering patients. In theory at least, the better-informed patient will be in a better position to consider various options in addressing a medical problem and to evaluate medical advice.

Most advocates of the use of the computer in medical care have different aims. They are more interested in the benefits of computer-based medicine to the health care industry and, not incidentally, to the computer industry. In 1991 the Institute of Medicine (IOM) released an influential report, *The Computer-Based Patient Record: An Essential Technology for Health Care*. It advocated the adoption of the computer-based patient record as standard medical practice in the

United States. As the report said, "CPRs [computer-based patient records] and CPR systems can respond to health care's need for a central nervous system to manage the complexities of modern medicine—from patient care to public health to health care policy" (Dick and Steen, 1991). The report described the computer-based patient record as a continuous chronologic history of a patient's medical care linked to various aids for users, such as reminders and alerts to clinicians, and clinical decision-making systems.

The IOM report led to the creation of the Computer-Based Patient Record Institute, an advocacy group that is supported by corporations in the health care, insurance, data-processing, and computer industries, as well as by some professional groups. Last year's proposals for health care reform and some bills currently before Congress include provisions for the establishment of a National Health Care Data Network. Such a network would contain records on every medical encounter in the United States. These measures at the federal level reflect the effectiveness of efforts to promote the computer-based patient record.

In spite of the computer's obvious usefulness, its use in medical care is replete with problems. The greatest concern is the threat to confidentiality. Even before the introduction of the computer, confidentiality deteriorated

as care provided by large groups became more common. But computerized records, particularly if embedded in large networks designed to collect comprehensive lifelong data, can rapidly accelerate that trend. As Gostin (1995) has acknowledged, the difficulty of controlling the behavior of large groups limits the value of security measures, such as passwords and encryption, in any system in which large numbers of people are given access to data.

Other issues arise with respect to changes in the character of the medical record. The computerized record is envisioned as a newly designed, multipurpose document with a standardized format and nomenclature (Dick and Steen, 1991). This reconstruction of the record raises serious methodologic questions. The frequent claim, for example, that the computer-based patient record will be complete and accurate reflects naiveté about the inherent problems with standardized formats and record keeping: The suitability of a single record for many purposes—business, clinical, research, and public health—is also questionable.

These problems, and others, need to be recognized and addressed by the medical profession and the public before we forge ahead with a commitment to paperless records. In this article, I focus only on the effect of the computer-based patient record on medical confidentiality and some possible consequences.

In the setting of private practice, medical information that identifies a patient is supposed to be transferred from physician to physician only with the written informed consent of the patient. In an institutional setting, information is generally passed around without obtaining consent from the patient, as considered necessary on the basis of a “need to know” (Annas, 1989). The current restructuring of medical care is rapidly reducing the ranks of those who obtain their medical care in the more protected environment of a private physician’s office. In the context of the newly merged health care networks and integrated delivery systems, computers and computer-based patient records are to be used as tools to link geographically separate facilities. As

outpatient care is increasingly given within such networks, traditional standards of confidentiality will be diminished unless patients are given new forms of control over access to their records.

### **GROWING CLAIMS OF A NEED TO KNOW**

The number of people authorized to read medical records has increased dramatically in the past two decades because of the growing reliance on insurance to pay medical bills and the growth of oversight activities. In the words of one legal scholar, “A widening audience of outside observers now watch the performance of doctors, nurses, and patients” (Schwartz, 1995, p. 301). Anticipation of the availability of computerized patient records appears to be generating even more extensive claims of a need to know. The authors of the IOM report stated that the number of parties with a potential need to know was so large that they would not even attempt to provide a complete list. The author nevertheless listed many parties not directly involved in patient care (Dick and Steen, 1991).

The computer-based patient record not only will be seen by more parties than the traditional record but also will contain a wider array of data. For example, a 1994 report sponsored by the IOM suggests that the record should contain assessments of the patient’s physical functioning, mental and emotional well-being, cognitive functioning, social and role functioning, and perceptions of health (Donaldson and Lohr). Various techniques may be used to gather information for business, research, or other purposes without the patient’s understanding why the information is being sought or how it will be used.

At the same time that claims of a need to know are expanding, there is an increase in the number of parties with a desire to know the contents of medical records. Medical information is considered valuable by many commercial enterprises (including health maintenance organizations [HMOs] and various kinds of health care networks, insurers, pharmaceutical firms, medical-equipment firms, and research enterprises), as well as by employers, detectives and information brokers,

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political campaign managers, and others. Parties with a desire to know the contents of medical records use various strategies, some them illegal or of borderline legality, to obtain information from those who have access to the records on the basis of a need to know.

### **EASY ACCESS, IMPROPER DISCLOSURE**

At present, most hospitals and health care networks do not restrict access to computerized information about a patient to the personnel directly involved in providing services to that patient. The advocates of unrestricted access justify it on the grounds that it facilitates the efficient provision of health care services. But the disadvantages are clear. Insiders (employees and affiliated personnel), who may number in the thousands in some health care networks and hospitals, become a tempting target for the growing number of people outside the hospital who wish to have access to medical records. Among the many insiders with access, some will be willing to sell information, to share a password, or to subvert the system in some other manner.

The recent indictment of 24 people in Maryland in connection with a scheme in which clerks sold information about identified individual patients, obtained from the state's Medicaid data base, to four HMOs is a case in point (Valentine, 1995). In a different context, the ease with which private investigators have acquired information in the National Crime Information Center's computerized files shows that presumably restricted information is available from insiders when there are buyers for it (Ekstrand, 1993).

Easy access by insiders also facilitates record browsing. Documented cases of browsing by insiders in large computer networks indicate that the behavior is not uncommon, even when officially prohibited (Hershey, 1994), and that it may be carried out for such diverse reasons as curiosity (e.g., about friends, neighbors, relatives, or celebrities), perversity (e.g., sexual interests), anger (e.g., on the part of an employee who is about to be or has recently been dismissed), or a desire for financial or political gain.

The effects of particular violations of the

confidentiality of patient records will be as multifarious as the motives for the violations. Past cases of improper viewing of patients' medical records and improper disclosure of their contents have led to detrimental publicity, ostracism by family members, mistreatment by coworkers or schoolmates, and blackmail. In a recent case, convicted child rapist, who obtained a job at a Boston-area hospital and gained access to nearly a thousand patient records with an improperly acquired password, made repeated telephone calls to young children and their families over a period of several months (Brelis, 1995). In the current social climate, one might also worry about adverse consequences for women with a medical history of abortion if this information became more easily accessible

As the Maryland HMO case demonstrates, improper disclosure can also lead to improprieties in business practices and in the solicitation of business. The linkage of medical data bases with other data bases, which will be quite easy with some record-numbering systems, will create further opportunities for inflicting harm (Szolovits and Kohane, 1994). An example is the case of the Maryland banker who cross-referenced a list of patients with cancer against a list of people who had outstanding loans at his bank and then called in the loans (Bartlett, 1993).

Unauthorized viewing is not the only potential source of harm to patients. One can also anticipate harmful consequences from the increased numbers of authorized viewers. Many patients would no be reassured, for example, by the Computer-Based Patient Record Institute's inclusion of employers among those who may "require access to data for reasons not directly related to treatment of the patient" (1994, p. 2). Given past practices, patients have reason to worry about whether medical, lifestyle, and genetic information will be used by employers, insurers, bankers, school administrators, and others in a discriminatory fashion, even if such discrimination is illegal.

### **SEMIPUBLIC RECORDS**

In fact, corporations, whether in the role of employers or investors, are increasingly acting

as the managers of our health care system and of the information it generates. It is the plans of these corporations, and of some government agencies, to conduct widespread investigations in the name of oversight and cost control that make it so difficult to solve the problem of limiting access to computerized medical records. In this context the computer is being viewed not as a technical device to make an essentially private record quickly available to physicians (and, in exceptional circumstances, to other parties), but instead as a device to transform the medical record into a semipublic record used routinely for a wide range of investigations. Many of these investigations are more likely to be of benefit to their corporate sponsors than to either patients or physicians. At present, there is virtually no legislation that sharply restricts the use of medical records by corporations.

Two years ago, in an article on the privacy of personal information in a new health care system, Gostin and his colleagues (1993) wrote, "Individuals have the right to expect, and the health care system has the obligation to provide, assurances . . . that records will be confidential and maintained in a secure system." But more recently, Gostin seems to have concluded otherwise. Although he now acknowledges the conflict between privacy and extensive data collection, Gostin opts for data collection: "A health care system supported by data on almost any relevant subject, accessible to a diverse and significant number of users, is an integral part of the vision for health care reform" (1995, p.515). Some statisticians and physicians have questioned the reliability of the kinds of studies that are proposed (Kassirer, 1993; Kolata, 1994), but Gostin is convinced that high-quality information can be obtained by collecting huge volumes of uniform data in electronic form and that the benefits of such data collection are worth the price in loss of privacy: "A complex modern society cannot elevate each person's interest in privacy above other societal interests"

### WHY NOT PRIVACY?

Generally, claims that are meant to protect the individual against the collective weight of society or government are couched in the



language of rights. But even if we limit ourselves to the language of interests, a case can and should be made for the interest that society has in protecting privacy. In the medical arena it is easy to rationalize data gathering as an activity undertaken for the sake of the individual and society. But information may be used for many purposes that are not benevolent, and the collection of medical data can easily turn into medical surveillance. Such surveillance, in turn, can lead to unprecedented forms of supervision of personal life. Already, a representative of a large employer group has stated that attention is going to be paid to "the psychology of patient behavior" and that "what happens between doctor visits will become just as actively attended to and managed as what happens during doctors' visits and hospital stays" (Noble, 1995, p. A1).

Such developments will affect the actions of consumers. If they perceive their records as semipublic and the use of health care services as a threat to personal autonomy, then decisions about when and how to obtain these services will be affected. Some patients may forgo them entirely. Others may choose to pay for their care out of pocket and to avoid

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networks and hospitals with computer systems (to the extent possible). Alternative (unconventional) forms of health care will probably be sought more often. And what patients say in the health care setting will almost certainly be influenced by the knowledge that others may be reading the record. One can also anticipate more frequent attempts by patients to disguise their identities. These defensive measures, in turn, will affect research based on computerized medical records.

A more general approach to the protection of privacy requires legislative action. Unfortunately, the bills currently before Congress that pertain to medical information contain numerous provisions that are inimical to privacy. Strong legislation would require concerted action by organizations representing both physicians and consumers and by leaders of the medical profession.

Stuart Horner, chairman of the British Medical Association's Ethics Committee, has provided an example of this kind of leadership. At the association's annual meeting in July, he urged that doctors in Britain boycott a computer network that the government wishes to set up, unless stringent legal and technical protections for patients are established (Mihill, 1995). In this country, the Privacy Committee of the American Civil Liberties Union of Massachusetts is advocating legislation that would give the patient control over decisions about which personal medical information goes into a computer network and which information does not. The committee maintains that entering data into a computer network is a form of publication and, like any other publication of personal medical information, should require the patient's consent.

#### NOTE

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Wesley J. Smith (1994), *The Smart Consumer: A Legal Guide to Your Rights in the Marketplace*. Washington, DC: HALT, \$10.00 (paper; plus \$2.00 p & h).

How often have you felt helpless in the consumer marketplace, feeling that you paid more for a product or service than you should have and then wondering what your rights were? Perhaps you find yourself questioning the best way to get your money back by way of further transactions, by returning damaged merchandise, writing an effective complaint letter, or, when you are most vulnerable, retaining an attorney or doctor to assist you. Author Wesley J. Smith realizes that such concerns are all too frequent and has written a self-help manual that is intended to enhance power and consumer effectiveness by serving as a primer on consumer rights. Subtitled "A Legal Guide to Your Rights in the Marketplace," the book is a well-written reference guide for readers wishing to uncover the information necessary for full protection both in and out of court.

The book is divided into four main sections and six extremely useful appendices. The material is written in a comprehensible, plain style that will be particularly appreciated by those without a legal background. While the text is readable cover to cover, it has been designed primarily as a reference source and will likely be used as a resource tool in time of need. In fact, though less than 250 pages long, it provides a helpful review of the most common legal questions and concerns likely to face today's consumer.

Setting forth the books' overriding theme that "knowledge is power," Smith devotes the first section of the book to instructing the reader on how to avoid trouble in the first place by making informed and rational buying choices and to identifying the resources required when you have to fight for your rights. Included is material that deals with protecting yourself from predatory practices

in the marketplace, information on how the legal system works, administrative remedies available for your assistance and information on the increasingly popular alternative dispute resolution programs. Particularly helpful are sample complaint and settlement letters that appear designed to get results.

Understanding that the average consumers' largest single purchases will likely be their automobile and home, Smith devotes the second section of the book to detailed information on how to make informed purchases of these goods. The suggestions for negotiating the best deal on the purchase of an automobile are invaluable, though, given their increasing popularity, more time might have been devoted to lease negotiations. The information on buying a home is a must for anyone considering the sale or purchase of residential real estate.

The book's third section sets forth important details particularly useful to any consumer considering obtaining various consumer services, specifically, getting your car repaired, hiring a home contractor and dealing with attorneys, physicians, and insurance agents. A careful review of this material before it becomes clearly necessary will likely save any consumer a great deal of money and confusion. One can't help but think, however, that there is so much useful advice incorporated throughout the book to keep from one from falling into trouble, the need to obtain the services of an attorney has been greatly lessened!

The final section of the book is devoted to the law of credit and how to deal with debt. As is typical throughout Smith's work, the essential information is well laid out and presented in a clear and accessible style.

The reference appendices in the back of the book are helpful but one noticeable omission of this section is the failure to include the names, addresses, and telephone numbers of local, state, and federal consumer protection agencies and enforcement offices. While self-help is always to be preferred, there are times (as Smith argues in the book) when referral to one of these governmental agencies is an essential step in the successful resolution of a consumer problem.

Wesley J. Smith has written a comprehensive and insightful book that arms readers with the knowledge they need if they wish to shop smart and get the edge on buying essential goods and services. It should be a required reference tool for all consumers who want to save money, protect their rights, and turn knowledge into consumer power and effectiveness.

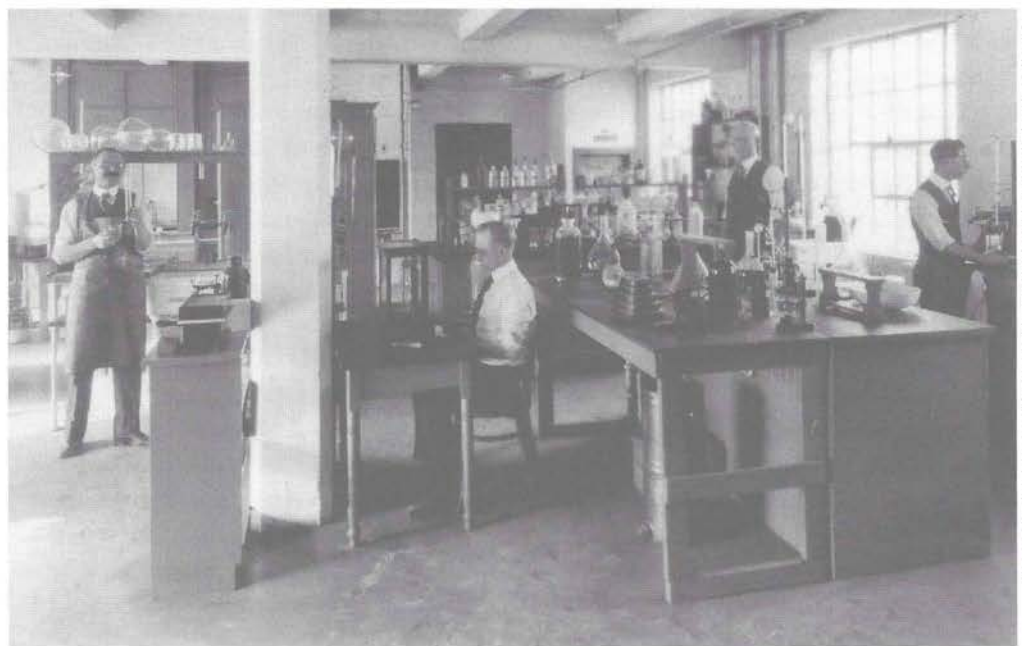
Christopher L. Irving, *attorney*  
*Publishers Clearing House*  
*formerly Consumer Advocate for the City of New York*

Lisa Ruby Basara and Michael Montagne (1994), *Searching for Magic Bullets: Orphan Drugs, Consumer Activism, and Pharmaceutical Development*. Binghamton, NY: Haworth Press, \$39.95.

Basara and Montagne's book undertakes several somewhat incompatible projects: a brief history of drug development processes, an explanation of the problems of researching and providing drugs for unusual diseases, and a description of these two fields within a context of consumer activism and the growth of the American pharmaceutical industry. The authors clearly see their audience as health-care professionals and consumers in need of "how-to" guides for obtaining pharmaceuticals and understanding the complexities of the U.S. Food and Drug Administration's (FDA) drug approval process. This is a lot to ask of one book, and the results are mixed: a partially successful guide book, a quirky historical tour, and a somewhat watered-down textbook on pharmaceutical development.

In the first one hundred pages the reader gets a tour of drug creation, marketing difficulties, biomedical ethical concerns, drug testing, medicalization, and the FDA. The result is somewhat unsatisfying and exceedingly uneven. The logic of the order of certain

New Research Laboratory—  
Hynson, Westcott, and  
Dunning (circa 1920)



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forms of analysis is not apparent. Critiques of the FDA approval process, for example, appear before a basic description of how the process works. Problems with animal research are noted two pages after the critical, but insufficiently developed, issue of drug-company funding of most drug research.

The opening chapters read almost like a textbook, with all the weaknesses and strengths of this genre. For those who know the history of the FDA and drug development, the analysis will be too limited and jumbled. For those who do not, some of the facts may be helpful, and the suggested readings will serve as an adequate guide, but neither the survey nor the suggested readings are complete. In addition, the evenhandedness of the textbook genre results in a somewhat boring and jumpy writing style.

The book is more successful in its second half, when it gets to its real topic: the problem of orphan drug development and what consumers and their health care providers can do about it. Here the straightforward factual tone is helpful and the analytic focus clearer. The authors define what they mean by "orphan drug": a drug "that appears or is proven effective in the treatment of a rare or orphan disease, but that is not usually profitable to its sponsor" (p.128). The basic information on the history of the problem, the federal legislation for dealing with it, and suggestions for safe ways for consumers and providers to manage the problems are provided. The book also has useful charts, definitions of the key terms, and lists of disease-specific consumer groups, including addresses and phone numbers that should prove valuable.

This is a book that might be used to find some basic information on specific diseases and their drugs, and to begin a preliminary understanding of the problems with drug research in this country. For a fuller historical understanding of why we are in this kind of dilemma, and what has and might be done, consumers will have to look elsewhere.

Susan M. Reverby, *Wellesley College*  
*Consumer Representative, OB-GYN Devices*  
*Panel, U.S. FDA*

Elizabeth J. Hitch and June Pierce Youatt (1995), *Communicating Family and Consumer Sciences*. South Holland, IL: The Goodheart-Willcox Company, \$33.00.

Sally R. Campbell (1995), *The Confident Consumer*. South Holland, IL: The Goodheart-Willcox Company, \$40.00.

What unites fellow professionals in the postmodern era of family and consumer sciences? In the opening chapter of their book, Hitch and Youatt make a valiant attempt to answer this question in a way that would be adequate for a student enrolled in a "Department of Family and Consumer Sciences, a College of Human Ecology, or in a School or Department of Human Services."

The authors' initial answer is that we share a common heritage in home economics. They proceed by explaining how a trend toward specialization within the field developed in the 1950s, and by the 1990s had led some of our fellow professionals into "new disciplines and subject matter areas beyond the traditional ones."

Enter "the professional organization," which changed its name from "home economics" to "family and consumer sciences," thereby affirming "an integrative approach to the study of the relationships among individuals, families, and communities and the environments in which they function."

Not all of us might recognize this integrative approach even if we saw it. However, Hitch and Youatt give us, in the purpose and content of their book, perhaps a more practical answer to the opening question. What unites us as fellow professionals is the responsibility of communicating family and consumer sciences content information. Hitch and Youatt present communication as a part of the third component of the Kieran, Vaines, and Badir (1984) model of the home economics profession. Judging from the rest of the model, communication may well be the thread that is holding the profession together at this time.

This opening discussion, however, is only

there to set the stage for a "skills-based guidebook that will assist students and professionals in designing, delivering, and evaluating family and consumer sciences instruction." The aim of the text as stated in the introduction is to make us all better communicators of family and consumer sciences content.

Thus, after the opening chapter, we are introduced to our audience, here termed "The Learner." In four chapters we are asked to appreciate the diversity of the learner and to consider how best to respond to diversity in a sensitive and ethical manner. The authors draw on several well-known conceptual models of learners and the learning process to help them in their task. Chapter 5, on learning styles, is particularly nicely done.

Having met the learner, it is time to communicate. The authors devote the next eight chapters to how-to material covering what and how to communicate. This part of the book culminates in an attempt to describe some of the more recent technological developments that may be of use in the communication effort.

The final two chapters of the book deal with evaluation of the communication effort, by considering both learner outcomes and evaluation programs. The latter is of particular interest to the profession, in that we all face the problem of justifying what we are doing. The authors offer suggestions for asking the right kinds of questions and so obtaining the data that might help in program evaluation. They stop short, however, of offering a more "bottom line" oriented framework that might help us in dealing with administrators. They do not provide a cost-benefit analysis, for example.

Like the profession it describes in its opening chapter, this book has clear roots in traditional home economics, but it attempts, in the spirit of the new profession, to be integrative. The acknowledgments page confirms the tradition: The leading names in Home Economics Education in higher education are all there. The integrative approach is reflected in the attempt to talk to communicators "in school classrooms, human service agencies, community outreach programs, and in business

settings." This book offers something useful for all such persons, and we could all become better communicators for reading it.

When dealing with appropriateness of material to an audience, Hitch and Youatt state that "instructors need to review the materials in light of who will use them. Factors to be considered include age, reading level, and size of audience." This quote provides a good transition to the second book being reviewed here, Campbell's *The Confident Consumer*.

Although Campbell does not specify her target audience, a clue on the inside front cover in the form of a stamp states that the book is the property of X school and that it is issued to Y. An application of Hitch and Youatt's method for identifying an audience by the reading level of the material confirms, then, that this book is aimed at a secondary school audience. In fact the school teachers in our profession will recognize this as the fifth edition of a popular text.

The text is identified in the Library of Congress Data Base first as a personal finance text, and second as one of consumer education. It comprises six units, covering economics, decision making, routine spending, big spending, finance, and citizenship (primarily taxation and the environment).

The text is well written and appropriate for its audience. Each chapter is enhanced by color photographs, case-study inserts, and a series of exercises at the close of the chapter that both review and discuss the material, and have interesting "to do" tasks. In the first chapter, for example, the learner is asked to make an appointment to visit a local government official and find out about local taxes and expenditures.

Because it is written for the secondary school level, the text is not something I would use with my undergraduate class. It is, however, certainly something I wish my own children had been exposed to when they were in high school. They would have learned a lot about the world they were about to enter as young adults and would have had some useful tools to help them function in that world. I particularly liked the way actual forms or

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labels were used to instruct the learner.

It is interesting to note that although both books are about communicating with today's family and consumer sciences audience, both are traditional in the way they do it. So far as I could tell, neither offers back-up teaching aids such as sets of slides, software, or test banks.

The need for us to communicate as a profession if we are to survive has been spelled out in the pages of *ACI* many times in the past. These two books are contemporary artifacts concerned with how to communicate and what to communicate. They are rooted in the traditions of the profession and yet are also trying to come to grips with the ways in which it has changed. I came away from reading both not so much with renewed hope for the profession as perhaps a feeling that, if we are confident in how and what we communicate, we may be able to hold things together a little longer. As for the future—maybe the way we communicate will lead us forward. To use Hitch and Youatt's summary on technology: "Whether computers, video technology, or any of the other technologies described are used, the ability to individualize communication and reach distant learners or clients immediately will revolutionize the instruction professionals can provide." Maybe, then, this is our brave new future.

Richard Widdows, *Purdue University*

# Consumer Law Cases of Note From Around the Country

## FEDERAL PREEMPTION OF STATE CONSUMER PROTECTION LAWS

*Spellman et al. v. Meridian Bank (Delaware) et al.*,  
No. 94-3203 (3d Cir. 1995)

A group of Pennsylvania consumers alleged that they were being charged excessive and impermissible fees and interest on their credit cards and that the charges violated Pennsylvania's consumer protection laws. The fees involved included percentage-based finance charges on outstanding balances, annual fees, over-credit limit charges, late charges, returned check charges, and cash advance fees. The case was originally brought in Pennsylvania state court and then removed to federal court by the defen-

dants. The case raises the important issue of how to resolve conflicts between state consumer protection law and federal banking law.

The federal district court had dismissed the case on the grounds that the challenged fees constituted "interest" under federal law and therefore preempted the plaintiffs' state law claims. This is important because Pennsylvania's consumer protection laws place more restrictions on bank fees and interest than does federal banking law.

The Court of Appeals for the Third Circuit applied a two-pronged analysis to determine whether the National Banking Act (the major federal banking statute) preempted the plaintiffs' state law claims. The first prong concerned whether the federal law's

enforcement provisions address the same issues raised by the plaintiffs' in their lawsuit. The court held that the defendant banks met this part of the test because the interests the cardholders sought to vindicate through the lawsuit (i.e., relief from excessive and impermissible fees and interest) were identical to those protected by federal law. In support of this part of its holding, the court noted that the recovery of impermissible fees is "precisely" the interest protected by the National Banking Act and the Depository Institutions Deregulation and Monetary Control Act.

The second prong of the court's analysis concerned whether Congress intended the federal law to preempt state statutes on this issue. The district court had relied on a recent case from the 8th Circuit Court of Appeals (*M. Habas & Co. v. First National Bank*, 930 F.2d 608 [8th Cir. 1991]), which held that the National Banking Act was "an exclusive federal remedy, created by Congress over 100 years ago to prevent the application of overly-punitive state law usury penalties against national banks."

The appeals court in this case disagreed, holding that there is no indication that Congress intended to preempt completely the regulation of national banks or federally insured state lending institutions. In reaching this conclusion, the Court relied on the U.S. Supreme Court's narrow application of complete preemption of state law, noting that the Supreme Court had found such preemption only rarely. The court noted that there is nothing in the legislative history of the National Banking Act indicating the kind of clear congressional desire for complete preemption of state law that the Supreme Court would require. Indeed, the National Banking Act was passed in 1864, prior to the Supreme Court's com-

plete preemption doctrine ("congressional intent to permit removal based on complete preemption would be difficult to divine from the legislative history of the National Banking Act, because the Act was passed in 1864, pre-dating federal question jurisdiction, the well-pleaded complaint rule, and the doctrine of complete preemption").

## UNFAIR DEBT COLLECTION PRACTICES

*Russell v. Equifax, et al.*, No. 48 (2d Cir. 1996)

Russell owed a debt of \$1,367.36 to J.C. Penney's department store. He received two collection notices regarding the debt from Equifax, one of the largest credit bureaus in the country. The first notice, dated February 26, 1992, was captioned "IMMEDIATE COLLECTION NOTICE" and stated in relevant part:

YOUR ACCOUNT, AS INDICATED BELOW, HAS BEEN PLACED WITH OUR COMPANY FOR IMMEDIATE COLLECTION. IT IS OUR PRACTICE TO POST UNPAID COLLECTIONS IN THE AMOUNT OF \$25 OR MORE TO INDIVIDUAL CREDIT RECORDS. IF YOU DO NOT DISPUTE THIS CLAIM (SEE REVERSE SIDE) AND WISH TO PAY IT WITHIN THE NEXT 10 DAYS WE WILL NOT POST THIS COLLECTION TO YOUR FILE . . . . SEE IMPORTANT INFORMATION ON REVERSE SIDE.

The back of the notice included information required by the Fair Debt Collection Practices Act (FDCPA):

UNLESS YOU NOTIFY US WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE

THE VALIDITY OF THE DEBT, OR ANY PORTION THEREOF, WE SHALL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY US IN WRITING WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE: (1) THAT THIS DEBT OR ANY PORTION THEREOF, IS DISPUTED, OR (2) THAT YOU REQUEST THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, WE WILL OBTAIN VERIFICATION OF THIS DEBT, A COPY OF ANY JUDGMENT (IF A JUDGMENT IS INVOLVED), OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR, AND MAIL A COPY AND/OR PROVIDE THE NAME OF THE CREDITOR TO YOU.

Equifax sent a second notice to Russell dated March 17, 1992. It was captioned "CONTACT THIS OFFICE AT ONCE" and stated:

FURTHER DELAY ON YOUR PART COULD BE COSTLY. AT THIS POINT ONLY YOUR ACTION WILL DETERMINE FUTURE HANDLING. WE URGE YOUR COOPERATION FOR YOUR OWN SAKE. PAYMENT IN FULL WITHIN 5 DAYS IS NOW DEMANDED. WHAT WILL YOUR ANSWER BE?

Russell sued Equifax in federal court, alleging that the two notices violated two provisions of the FDCPA: She alleged that the notices' contradictory language violated §1692g of the FDCPA, which governs the contents of a notice of debt. She also alleged that Equifax made false representations in violation of §1692e(10) of the FDCPA, which prohibits the use of any false representation or deceptive means

to collect or attempt to collect a debt.

The district court held that Equifax had not violated either section of the statute. The court of appeals reversed as to both violations. First, the court reviewed the proper standard for analysis of claims under the FDCPA. It noted that the standard is objective, and is measured by how the "least sophisticated consumer" would interpret the notice received from a debt collector. According to the court, this standard best effectuates the FDCPA's purpose of limiting the "suffering and anguish" often inflicted by debt collectors.

Applying this standard, the court held that Equifax's February message contained a contradictory message. While the back of the notice informed Russell of her right to contest the alleged debt within 30 days, the front of the notice confusingly and contradictingly informed Russell that if she did not dispute the debt and wished to pay it within 10 days, Equifax would not post the collection in her file. The notice thus contained two inconsistent and conflicting statements. The court held that the "least sophisticated consumer" could readily believe that were she to do anything but pay Equifax within 10 days, it would permanently affect her credit record. Although Equifax had argued that the 10-day statement in the notice did not threaten Russell's credit rating, the court disagreed, noting that at oral argument on this case Equifax's attorney could not explain what the phrase "posting to your file" meant.

The court also stated that when a notice contains language that "overshadows or contradicts" other language informing a consumer of her rights, it violates the Act. A notice is overshadowing or contradictory, the court continued, if it would make the least sophisticated consumer uncertain as to her rights; it need not be threatening,

as Equifax argued. In this case, the language on the front of the notice overshadowed and contradicted the validation information on the back, thus violating the FDCPA.

As for the second notice, the court held that it violated §1692e(10) of the FDCPA because by demanding payment within 5 days, Equifax gave Russell only 25 days from the date of the first notice to decide whether to challenge the alleged debt, while the time period for such a challenge under the FDCPA is 30 days. The court held that no consumer, much less the least sophisticated one, can be expected to know that the language on the back of the first notice takes precedence over the second notice. The court also held that the second notice, like the first, violated §1692e(10) of the FDCPA because it is open to an inaccurate yet reasonable interpretation by the consumer, and is thus deceptive. Finally, the court ruled that consumers need not prove that a debt collector's violation of the FDCPA was intentional in order to collect damages under that statute.

*Carroll v. Wolpoff & Abramson*, 53 F.3d 626 (4th Cir. 1995)

A department store retained Wolpoff & Abramson, a law firm, to recover a debt from Susan Carroll. The law firm sent Carroll several collection letters. In May 1991, Carroll filed suit against Wolpoff & Abramson, alleging that one of the collection letters sent to her violated the Fair Debt Collection Practices Act (FDCPA) in several respects. First, the collection letter failed to provide a disclosure that the debt collector (Wolpoff & Abramson) was attempting to collect a debt and that any information obtained would be used for that purpose, as required under 15 U.S.C. §1692e(11) of the Act.

Carroll also argued that the letter was an attempt to collect a debt by false or deceptive means, in violation of §1692e(10). Finally, Carroll maintained that Wolpoff failed to provide the validation notice required under §1692g.

The district court found for Wolpoff & Abramson and on appeal the 4th Circuit overturned, remanding to the district court to determine the appropriate damages. On remand the district court awarded damages of \$50 under §1692k(a)(2)(A). Award of attorney's fees are provided for under §1692k(a)(3). Carroll's counsel submitted affidavits requesting a lodestar (number of hours reasonably expended on litigation multiplied by reasonable hourly rate) of \$9,783.63. The district court ordered \$500 in attorney's fees. Carroll appealed, arguing that the district court erred by not adhering to the lodestar formula.

The 4th Circuit upheld the district court's award for essentially three reasons. First, the district court has broad discretion in awarding attorney's fees and is in the best position to evaluate the quality and value of the attorney's efforts. Second, an abuse of discretion is the proper standard of review by the appellate court for reasonableness of attorney's fee awards. The FDCPA, in §1692k, does not require that a lodestar amount be awarded for attorney's fees. The district court has the discretion to reduce the amount of attorney's fees it awards, based on the success of the litigation and the severity of the violation. Third, Carroll received only \$50 in statutory damages, as opposed to the \$1000 originally sought, for what the court considered a "technical misstep" violation by Wolpoff & Abramson. In cases where the plaintiff achieves success in the litigation or where the violation is a more serious abuse of the Act, the plaintiff would be entitled to

a larger award of attorney's fees. In this case, the 4th Circuit reasoned, success was minimal and the violation was minor. Therefore, it found no abuse of discretion in the district court's awarding of attorney's fees.

## "LOAN FLIPPING" SCHEMES

*Emery v. American General Finance, Inc.*, No. 95-1037 (7th Cir. 1995)

This case involved an alleged "loan flipping" scheme by American General. On July 14, 1992, Emery borrowed \$1,983.81 from American General. The finance charge, based on an annual percentage rate of interest of 35%, was \$1,327.08. It was a three-year loan. Six months later, American General wrote a letter to Emery, signed by a branch manager, which read as follows:

Dear Verna:

I have extra spending money for you.

Does your car need a tune-up? Want to take a trip? Or, do you just want to pay off some of your bills? We can lend you money for whatever you need or want.

You're a good customer. To thank you for your business, I've set aside \$750.00\* in your name.

Just bring the coupon below into my office and if you qualify, we could write your check on the spot. Or, call ahead and I'll have the check waiting for you.

Make this month great with extra cash. Call me today—I have money to loan.

\*Subject to our normal credit policies

Emery responded to the offer. When she arrived at the branch manager's office, he gave her forms for refinancing her existing loan, with additional funds advanced. The new loan amounted to an additional \$200 over the original loan amount, with a finance charge (computed at the same 35% interest rate) of \$1,641.28, payable over three years. Her monthly payments, which had been \$89.47 under the original loan, increased to \$108.20. The cost to Emery of borrowing \$200 in this way was about three times what it would have been had she borrowed that amount for three years in a separate loan at the annual interest rate of 36%.

The court calculated that the implicit interest rate that she paid for the \$200 loan exceeded 110%. This figure was not disclosed as interest since the Truth in Lending Act considers the transaction as a reborrowing of the original amount of the loan plus \$200. Emery filed suit against American General, alleging violations of the Racketeering Influenced and Corrupt Organizations Act (RICO).

The district court granted American General's motion to dismiss the complaint, but the court of appeals reversed. Emery claimed that while the letter sent to her implied that she was being offered a separate loan, when she tried to take advantage of the offer the company presented her with papers for refinancing her existing loan with additional funds being advanced, and did not disclose that this method of obtaining new funds was more costly than taking out a new loan. Emery also alleged that the customers do not understand this scam because American General markets these loans to working-class consumers who generally do not understand the computations necessary to compare the costs of the transactions.

The court concluded that American General's letter to Emery was "replete with falsehoods and half truths." The court noted that Emery received the letter not because she was a "good customer" but because she belongs to a class of probably gullible customers for credit; that the purpose of offering her more money was not to thank her for her business but to rip her off; and that nothing had been "set aside" for her. The court also noted that at oral argument American General's attorney had been unable to state what it cost Emery to obtain the extra \$200 through a refinancing compared to what it would have cost her had the company simply made her a separate loan for that amount. Although the court did not hold that American General engaged in fraud, it concluded that Emery had alleged sufficient facts to defeat American General's motion to dismiss.

## TRUTH IN LENDING ACT

*Cowen v. Bank United of Texas*, No. 95-1334 (7th Cir. 1995)

Linwood and Jean Cowen borrowed money from Bank United of Texas in order to refinance their home, on which they had two mortgages that they wanted to replace with a single mortgage from Bank United. The proceeds of the loan went to the prior mortgagees to pay off their mortgages. The title insurance company that handled the transaction hired an overnight courier to carry Bank United's checks to the prior mortgagees. The courier service fee was \$14, which the title company charged to the Cowens. The bank did not disclose the \$14 fee on the Truth in Lending disclosure form that it gave to the Cowens.

The Cowens filed a class action lawsuit, alleging that the bank's failure to disclose the courier's fee violated the Truth in Lending Act (TILA) because the fee was really a finance charge. The court of appeals rejected this argument on two grounds. First, it rejected the Cowens' argument that TILA's disclosure requirements apply to courier fee because the title company acted as Bank United's agent. The court held that the title company acted both as a principle to the transaction (since it has its own interest in removing the prior liens on the property) and as the bank's agent. Thus, reasoned the court, when the title company hired the courier to send the checks, it was doing something it would have done even if it had not been the bank's agent.

Second, the court looked to the official staff commentary to TILA (written by the Federal Reserve Board), which states that "a fee for courier service charged by a settlement agent to send a document to the title company or some other party is not a finance charge, provided that the creditor has not required the use of a courier or retained the charge." Although the interpretation was written after the Cowen's transaction, the court nevertheless gave it weight because it is "interpretive rather than legislative, and the commentary in question purported to clarify rather than to change existing law."

The court's ruling allowed it to bypass an interesting legal question under TILA, since the Cowen's arguably saved money by virtue of the use of the courier service (as the Court noted, the courier fee was less than the interest saved by paying off the two mortgages sooner). This raises the issue of whether plaintiffs may collect TILA's statutory damages (twice the finance charge up to \$1,000) even when the defendant's violation of TILA actually benefits the plaintiffs monetarily.

While acknowledging that no cases have decided this issue, the court noted that "if penalties can be collected by people who have not been harmed by the violation, we suppose they can be collected by people actually benefitted by them."

## ANTI-TRUST/HEALTH CARE

*Blue Cross & Blue Shield United of Wisconsin, and Compcare Health Services Insurance Corporation, v. Marshfield Clinic and Security Health Plan of Wisconsin, Inc.*, 65 F.3d 1406 (7th Cir. 1995)

The Marshfield Clinic is the fifth largest physician-owned private medical clinic in the country, with approximately 400 doctors on staff. Marshfield operates 21 branch offices throughout 14 counties of north-central Wisconsin, where it is the largest health care provider. The clinic also owns Security Health Plan of Wisconsin, Inc., which is a health maintenance organization, commonly referred to as an HMO.

In 1994, Blue Cross & Blue Shield United of Wisconsin, a health insurance provider, and its HMO subsidiary, Compcare Health Services Insurance Corporation, brought suit against Marshfield Clinic and Security alleging violations of sections 1 and 2 of the Sherman Act, a federal antitrust statute. Compcare's lawsuit was based on the premise that access to Marshfield Clinic's doctors is required for it to compete against Security for HMO customers, yet it believed this access was being denied by Marshfield Clinic in order to maintain Security's dominant position in the HMO market of north-central Wisconsin. Blue Cross argued that the clinic used its monopoly power and engaged in collusion with competitors to charge supra-

competitive prices for health care services in the region.

In December of 1994, a jury decided the liability issue of the case and found for Blue Cross and Compcare, agreeing that there had been violations of both sections of the Sherman Act. After hearing the damages arguments, the jury awarded \$10.5 million to Blue Cross and over \$5 million to Compcare. Motions were filed after the verdict. The liability finding was upheld and injunctive relief was granted; however, the award to Blue Cross was reduced to about \$600,000. The case was heard in September of 1995 by the 7th Circuit on an appeal by the Marshfield Clinic and Security. The 7th Circuit upheld only one antitrust violation and remanded the case for a new trial to determine damages based on the per se violation of section 1 of the Sherman Act.

In writing the 7th Circuit decision, Judge Posner stated that HMO's do not constitute a distinct market for health care services. There are close substitutes available, including Preferred-Provider Organizations, which compete with HMO's and therefore keep health care prices competitive. This conclusion prevented the court from upholding the jury decision that Compcare was prevented from competing with Security. Furthermore, the court said that the Blue Cross claims of monopoly power could not be upheld without proof that the Marshfield Clinic controlled more than half of the doctors in any relevant geographic market. Blue Cross failed to provide the necessary proof. Judge Posner declared that high prices or high profit margins relative to competitors within a relevant market are not sufficient to find the existence of monopoly power because the higher prices or profit margins might be justifiably attributable to higher quality care being provided.



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The one antitrust violation that was upheld by the 7th Circuit involved Marshfield's agreement with some of its competitors to divide markets and thereby eliminate price competition between them. Documentary evidence was provided that was sufficient to sustain the jury's verdict that the Marshfield Clinic violated federal antitrust law by entering into "Free Flow" agreements with its competitors. This part of the case was remanded to the district court for a new trial on the issue of damages. Blue Cross and Compcare have filed a petition for certiorari to have their case heard by the United States Supreme Court.

Compiled by Stephen Meili  
*Center for Public Representation*

with the assistance of  
S. Edward Sarskas  
*University of Wisconsin Law School*

## AMERICAN COUNCIL ON CONSUMER INTERESTS

Established in 1953, ACCI is a non-partisan, non-profit, professional organization governed by elected officers and directors.

### *ACCI Mission Statement*

The Mission of ACCI is to provide a forum for the exchange of ideas and presentation of information among individuals and organizations that are committed to improving the well-being of individuals and families as consumers. This mission includes the production, synthesis, and dissemination of information in the consumer interest.

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To promote the well-being of individuals and families as consumers, nationally and internationally, by identifying issues, stimulating research, promoting education, and informing policy.

To provide for the professional development of the membership by creating, maintaining, and stimulating interactive communication among advocates, business representatives, educators, policy makers, and researchers through publications, educational programs, and networking opportunities.

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*The Journal of Consumer Affairs*, an interdisciplinary academic journal, is published twice a year.

*Advancing the Consumer Interest* focuses on the application of knowledge and analysis of current consumer issues.

*The ACCI Newsletter*, published six times a year, offers information on the latest developments in the consumer field.

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## ADVANCING THE CONSUMER INTEREST GUIDELINES FOR AUTHORS SUBMITTING ARTICLES

Refereed articles are double-blind reviewed. To expedite the review process, the authors should follow these guidelines.

1. Submissions should be accompanied by a cover letter stating that the material in the manuscript will not infringe upon any statutory copyright and that the paper will not be submitted elsewhere while under *ACI* review. (This review normally takes 6 to 12 weeks for refereed papers.) Cover letters should include author's complete address and telephone number.
2. Submit four copies of the manuscript. Articles typically are no more than 2500 words. Longer articles will be considered for review, though the author may be requested to shorten the paper upon acceptance and before publication.

With the four manuscript copies, include one title page. This page should specify the author's title and affiliation and the title of the paper.

Include a headnote not exceeding 75 words. This headnote is for the purpose of review only.

All papers must be typed or letter-quality printed, double-spaced throughout (including quotations, notes, and references), with 1 1/4-inch margins. Each page of the typescript should be numbered consecutively, including notes and references.

Each table, graph, figure, and chart should be comprehensible without references to the text and placed on a separate page included at the end of the manuscript. Omit all vertical lines. Use letters for footnotes to tables and asterisks for statistical significance.

3. All notes must be double-spaced and typed separately from the text (i.e., placed at the end of the typescript rather than as footnotes).

To facilitate our double-blind review process, any reference in the manuscript to other work by the author should be referenced as Author.

Reference style is as follows:

Books:

Leet, D. R. and Driggers, J. (1990).  
*Economic decisions for consumers*  
(2nd ed.). New York: Macmillan.

Journal articles (notice inclusive pages):

Peltzman, S. (1981). The effects of the  
FTC advertising regulation. *Journal of  
Law and Economics*, 24, 403-448.

For other references see the *Publication  
Manual of the American Psychological  
Association* (4th ed.).

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