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The Consumer Bill of Rights: Thirty-Five Years Later

A TRIBUTE

In Memorial to Robert J. Lampman

On March 4, 1997, Robert J. Lampman died of lung cancer. He left behind a rich academic and public policy legacy. The Lampman contributions noted by our readers are undoubtedly his landmark poverty research and his crafting of the original Consumer Bill of Rights that President John F. Kennedy delivered in his historic message to congress on March 15, 1962. Lampman served on the Council of Economic Advisors (CEA) under both the Kennedy and Johnson administrations. His writing on *The Problem of Poverty in America* for the CEA provided the intellectual foundation for President Johnson to declare a war on poverty in his 1964 State of the Union Address.

Robert Lampman, Professor of Economics, University of Wisconsin-Madison, 1977.

Prior to his death, the ACI editors discussed with Bob our desire to include his narrative of the crafting of the Consumer Bill of Rights in an issue of ACI that would commemorate the 25th anniversary of the Kennedy message. With his usual enthusiasm, he was delighted to help with the initiative, although his failing health precluded him from taking an active part in writing. It is with great pleasure that we publish the article in this issue and with great sadness that Bob was unable to see the article in its final form.

As important as his policy contributions at the national level, are the contributions that he made as mentor and friend to students and colleagues all over the world. From 1958 to 1987 Lampman was a professor at the University of Wisconsin-Madison. His own mentor, Edwin Witte, the principal author of the 1935 Social Security Act, ignited the passion he shared with others for action in the public interest. He was a popular teacher, an ardent supporter of faculty governance, and an advocate for the University's ideal to sift and winnow knowledge.

In addition to his many credits, Lampman was decorated with the Air Medal and the Military Order of the Purple Heart for his service as an air navigator in the Naval Reserve from 1942-45. He left behind JoAnn, his wife of 53 years, and their four children and families. He has left a great legacy and will be missed.

Robert J. Lampman
and Robin A. Douthitt[1]
University of Wisconsin

On March 15th 1962, President John F. Kennedy delivered a Special Message to Congress on Protecting the Consumer Interest. This address, which announced what we now call JFK's Four Consumer Rights, proved a pivotal point in the history of the consumer movement in the United States. Since that time, the articulation of additional consumer rights has been attributed to other Presidents. In this essay, we review the genesis of the original bill of rights and document additional rights as articulated by subsequent Presidents.

In his 1960 campaign, John Kennedy promised that he would bring consumer representatives into the upper reaches of government and would give a high priority to consumer protection issues. Following his election, several independent regulatory agencies were reorganized and revitalized. The Council of Economic Advisors (CEA) was identified as the home base for what became the Consumer Advisory Council (CAC), and steps were taken to name special assistants for consumer affairs in selected departments and agencies. Key to developing this pattern of consumer representation was William Cannon of what was then the Bureau of the Budget.

The Kennedy administration's first steps toward prioritizing consumer protection issues included the Bureau

of the Budget setting up an interdepartmental task force to collect and review a "laundry list" of proposals for action. This list included suggestions for strengthening almost every existing program of consumer protection. Recommendations included efficacy-testing of prescription drugs, truth in lending, fair packaging and labeling, unit pricing, new food additives and food supplements, performance testing of household appliances, publication of more consumer information bulletins by the Government Printing Office, and plans for local ombudsmen and citizens' advice bureaus.

The White House decided to put its weight behind certain items on this laundry list in a message to Congress that was to have an historical and thematic context. Requests went out to members of the task force and to others for "language" to describe and justify each of the specific proposals selected for presidential backing. Consequently, many provided input into drafting the message.[2] Michael March, Assistant Chief of the Labor and Welfare Division of the Bureau of the Budget, and Robert J. Lampman, member of the CEA staff, were responsible for classifying the wide range of ideas and concepts and were thus critical participants in the drafting of Kennedy's original speech. Lampman's recollections are the basis for this essay.

Over a period of about two weeks, several long meetings were devoted to "thinking out loud" about an organizing principle or frame for the message. Most items from the laundry list had their historical roots in the three decades that preceded World War I, in the formation of the Interstate Commerce Commission in 1886 and in the provisions of the National Bureau of Standards in 1901, and the Sherman Antitrust Act of 1914. Parallels were drawn between governmental promotion of consumer, worker, and farm interests. Sketches of existing federal consumer protection program typologies were drawn. Alternative ways of classifying existing program and agency activities were examined with an eye to identifying either overlapping or contradictory government activities.

The idea of announcing a consumer bill of *rights,* rather than programmatic goals, emerged from the wide-ranging discussions. Precedents for the rhetorical use of the term "rights" could be found in the enabling clauses of such landmark statutes as the National Labor Relations Act, the Social Security Act, the Housing and the G.I. Bill of Rights. It was decided that under each right, the laundry list of items would be classified. The first draft list of rights was prepared by Lampman and March and was then intensively reviewed and redrafted by Kermit Gordon of the Council of Economic Advisors. CEA Chairman Walter W. Heller transmitted to the White House, the draft of rights ultimately articulated to Congress on March 15, 1962 by President Kennedy.

In its final form, four rights were defined and limited the field of consumer protection, identifying legitimate policy choices vis-a-vis consumer markets. "These rights include:

(1) the right to safety—to be protected against the marketing of goods which are hazardous to health or life.

(2) the right to be informed—to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make an informed choice.

(3) the right to choose—to be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and Government regulation is substituted, an assurance of satisfactory quality and service at fair prices.

(4) the right to be heard—to be assured that consumer interests will receive full and sympathetic consideration in the formulation of Government policy, and fair and expeditious treatment in its administrative tribunals." Kennedy (1962).

This final right, to be heard, was considered, in its day, one of the more radical parts of the consumer message. It was based on the notion that the consumer interest tends to get lost in departments such as Agriculture and Commerce that are expressly designed to represent the producer interest. Consumer advocates were keenly aware of the tendency for regulatory agencies to be controlled by the regulated and for ostensibly pro-consumer legislation to be perverted to serve producer ends. What was needed, in the view of several CAC members, was a shift in the structure of government to make it more responsive to consumer priorities.[3]

The original consumer bill of rights endorsed the value of the consumer in a competitive market with special modifications to assure adequate information and protection on safety grounds. It gave cautious support to the idea that consumers need greater political influence to offset that of entrenched producers in making government policy. Thus, the enumerated rights reflected the idea that consumers can suffer from government failure as well as market failure. JFK's consumer message with its vision of a fair society that balances the interests of the consumer with those of the producer expressed a faith in the integrity and capacity of the federal government to promote economic and social justice.

Since President Kennedy's original articulation of a consumer bill of rights, we have been able to document only two other presidential declarations expanding consumer rights. The first is an October 30, 1969 Special Message to Congress on Consumer

Protection by President Richard M. Nixon,[4] who forwarded the concept of "buyer's rights." Most secondary sources attribute Nixon with having articulated only the consumer right to "register his dissatisfaction, and have his complaint heard and weighed, when his interests are badly served." However, his buyer's bill of rights also included the buyer's right to:

(1) "make an intelligent choice among products and services."

(2) "accurate information on which to make his free choice."

(3) "expect that his health and safety is taken into account by those who seek his patronage" (Nixon, 1969). Like Kennedy, he used these rights as the basis for announcing a set of presidential recommendations concerning consumer interests.

Secondary sources have credited President Gerald R. Ford with articulating the right to consumer education. One reference cites a 1975 White House news release where Ford announced that the time had come "to recognize the right to consumer education," a right, he asserted, without which consumers cannot gain the full benefit of other rights (Clinton, 1994). We were unable to find a primary reference to Ford claiming for consumers the right to consumer education. In fact, attempts to document that President Ford ever made any declarations regarding consumer rights were futile.[5]

President William J. Clinton forwarded the eighth and last consumer right as part of National Consumers Week, October 23-29, 1994.[6] Due to dramatic innovations since JFK's original message in not only what we buy but how we buy, Clinton pronounced that consumers should have a "right to service—the right to convenience, courtesy, and responsiveness to consumer problems and needs and all steps necessary to ensure that products and services meet the quality and performance levels claimed for them" (Clinton, 1994).

In sum, we have been able to document that three American Presidents (Kennedy, Nixon, and Clinton) have articulated eight consumer rights.[7] Although references to other such Presidential decrees can be found in the literature, we were unable to confirm any primary citations. The Consumer Bill of Rights is important, as it has historically served as the basis for presidential, congressional, and private calls for regulatory and market reforms. It will remain a vital cornerstone in the modern consumer movement.

NOTES

1. This recounting of the Kennedy administration's historical role is drawn from Lampman's presentation at the 1986 International Conference on Research in the Consumer Interest. The complete version of the paper is published in Lampman, 1988.
2. Other government leaders integral to consumer-related discussions during the Kennedy administration included CEA members Walter W. Heller (Chair) and Kermit Gordon, along with White House staffer Meyer Feldman, Assistant Secretary of Health, Education and Welfare Wilbur Cohen, and the Bureau of the Budget's Hazel Guffey. Important non-government contributors included Persia Campbell, Helen E. Nelson, Carolyn Ware, and Colston Warne.
3. Interestingly, Kennedy's boost of the consumer interest was one of only a few moves he made on a domestic agenda. For this reason, he was considered a disappointment to some of his liberal backers, who saw him as unwilling to challenge the conservative coalition in Congress.
4. Although President Lyndon Johnson laid before the House a Message from the President on Consumer Interests on February 5, 1964, he did not expand the consumer bill of rights. In the message he reaffirmed the rights as set forth by President Kennedy, and offered proposals for consumer protection.
5. These attempts included *ACI's* editorial assistant, Sonya Sidky, consulting with the librarians at the Gerald R. Ford Library (S. Sidky, personal communication, July 24, 1997).
6. President Clinton's 1994 proclamation about National Consumers Week includes a reference to the "Right to Consumer Education, added by President Gerald R. Ford in 1975" (Clinton, p. 2150), but makes no reference to the buyer's rights enunciated by President Nixon.
7. Although no U.S. President has articulated such a consumer right, the right to a clean environment has been forwarded by the International Organization of Consumers Unions (IOCU, 1984) in response to and as criticism of Kennedy's original message.

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COMMENTARIES

Achieving Consumer Purchase Payoffs: A Used Car Purchase

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STATE HISTORICAL SOCIETY OF WISCONSIN, WHi(X3)S193

Car show, Milwaukee, WI, Nov. 28, 1966.

Achieving maximum consumer purchase payoffs is a universal goal. Everyone wants "good-value-for-money." The first author has written three articles that spell out consumer purchase procedures to obtain maximum payoffs (Maynes, 1969, 1976, 1992). This article takes a different approach by first presenting a case study and then identifying the concepts and principles that lead to an optimal purchase. The graphic details of this case study should both grab your interest in and clarify the principles. The details themselves are important elements in executing a purchase strategy.

A CASE STUDY OF A USED CAR PURCHASE

The last week in May, 1995, Old Blue—Adam and Eve's '86 Ford Taurus—exhibited signs of senility. Its brakes failed on a steep incline, almost causing an accident. This precipitated a decision: the Cs (for "Consumers") would replace Old Blue by September.

THE PRELIMINARY SEARCH

Old Blue had been a used car; so, too, its replacement. What to buy? The Cs would look first for a "small" car. Their natural first move was to turn to *Consumer Reports*, their guide for so long on so many purchases. (Consumers Union, publisher of *Consumer Reports* (CR), is the only organization that tests most makes of cars under comparable conditions and is in no way beholden to car manufacturers.) They honed in on the April, or car issue, of CR. Adam turned first to CR's list of "Best Used Cars Under $10,000." Of ten listed, Adam winnowed out five, eliminating "large" and "exotic" makes. Adam's candidates: Acura Legend (medium), Honda Civic (small) and Accord (medium), Toyota Corolla (small) and Camry (medium). Their ideal: a '92 or '93 small car with under 20,000 mileage. This would get them an almost new car with at least one air bag. As for durability, all five scored "much better than average" on CR's frequency-of-repairs. As new cars, all five had stood at the head of their class.

A POSSIBILITY

On May 31, Adam spotted the following in *The Pennysaver:*

1993 Toyota
Corolla, electric sunroof,
auto., air, 1 owner, 19K
$11,900

It seemed on-target. Its specifications, some only known later: 1993 Toyota Corolla Sedan DX [better than "Standard"; not as deluxe as LX], White, 19,000 miles, Single Owner. Features/Accessories: 1.8 liter [rather than 1.6] 4-cylinder motor, Air Conditioner, Cruise Control, Power Sunroof, Tape Deck/AM/FM Radio, Variable Wipers, Rear Window Defroster.

THE PRELIMINARY SEARCH

The next day, after lunch, Adam made his way to Sterling Autos. He spotted a white Toyota Corolla next to the entrance. After meeting his salesman, Mr. Pitch, Adam said, "Tell me about your Toyota." Pitch responded, "This is a lovely car. We took it on a trade-in." "Al," he asked another salesman, "Was it you who took in the Toyota?" "Yes. We got it from a lady in Jonesburg. They loved it. But she had another baby and they needed a larger car." (Pitch gave Adam the name of the former owner. When Adam phoned her, she confirmed Pitch's story and expressed great satisfaction with the car.) Pitch confirmed that it had a driver-side air bag.

Art Sterling, the retired owner of Sterling Autos, came by, greeted Adam warmly, and told Pitch "Adam's a

FIGURE 1: CONSUMER PURCHASE PAYOFFS ACHIEVED

GROSS CONSUMER PURCHASE PAYOFFS	
Lower price, quality constant:	$ 900
Asking price less final price paid	
Better price, quality constant:	1,950
For Adam & Eve, "better quality" meant the avoidance of repair costs—repair costs avoided ($750) plus time cost in getting car repaired ($1200=3days x $400/day [Adam]	
"Correct" tradeoff between price and quality:	100
Their judgment, taking into account their financial position and the quality they preferred in a second car	
Their preferred features/accessories	500
"Winning":	1,000
This was important for Eve	
Total Purchase Payoffs	$4450
TOTAL SEARCH COSTS	
Reading April 1995 and June 1993 issues of *Consumer Reports*	$ 0
Adam & Eve already subscribed to CR.	
Checking out use car prices in the *NADA Used Car Guide* at the Public Library:	200
0.25 days x $400 x 2 [Adam & Eve]=$200	
Adam visits the car dealer for 2 hours:	100
0.25 days x $400 x 1[Adam]=$100	
Bargaining and closing the deal:	400
0.5 days x $400 x 2[Adam & Eve]=$400	
Total Search Costs	$700
Net Purchase Payoff in After-Tax Dollars ($4,450 - $700) = $3,750	
Net Purchase Payoff in Pre-Tax Dollars ($3,750 ÷(1-0.43)) = $6,579	

member of our church. Take good care of him." Is knowing the founder a boon or bane? Adam told Sterling that he needed a replacement for his old Ford Taurus. He would choose among late-year, low-mileage variants of the Acura Legend, Toyota Corolla or Camry, the Honda Civic or Accord. Sterling replied, "You can eliminate Acura from that list, Adam, unless you want to service your car in Albany!" There is no Acura dealership in Ulysses, Sterling explained. The retired owner then instructed Pitch to ascertain whether there was something suitable "across the street" at the Honda dealership that Sterling also owned. In parting, Art Sterling thanked Adam: "Whether you buy from us or not, we're pleased you gave us a chance."

There followed typical salesman-buyer interactions. Pitch recited the virtues of the Toyota. He took Adam for a 15-minute drive. The Corolla impressed Adam as lively and well made, but much noisier and less comfortable than his Taurus. Pitch then asked Adam whether he expected to trade-in his Taurus. "Maybe no, maybe yes." "Just in case," Pitch said. "I should take a look at it." Outside, Pitch started up the Taurus and listened a minute. "Does it run well?" he asked. "Yes," Adam answered. Pitch said he thought that the Taurus ought to be worth $1,000 on a trade-in, but "Our chief mechanic will have to take a careful look at it."

In talking with Pitch, Adam stressed that their search was just beginning. "We don't *need* anything until the end of the summer. What's more, my wife must be in on any final decision. What we want is something like the Corolla for $10,000 or less." "That ought to be possible," Pitch said. More talk followed: about the need to act swiftly, the virtues of the Toyota, the care Sterling takes in dealing with its customers. Etc., etc. etc.

THE BARGAINING

The next day Johnny Pitch greeted Adam and his wife warmly. The Toyota was still there. (For a particular used car, there is always the chance that someone else has snapped it up.) Adam and Eve had read with care CR's August, 1993 report on the Corolla. By agreement Eve took the lead in the bargaining. "This car has the 1.8 liter engine?" A lifting of the hood confirmed that it was the 1.8. Eve continued, "I told Adam that I didn't want to spend more than $10,000 to replace our Taurus." An hour of classical bargaining ensued. Eve addressed Pitch, "The ad says you want $11,900 for the Toyota. What's your *real* price?" Pitch said that the $11,900 was a $1,000 less than the $12,900 they had asked when the Toyota was first taken in. "But," he conceded, "I could give it to you for $11.7." Eve was adamant. "That's miles too high."

Pitch shifted ground. "How about your Taurus? Do you want to trade it?" Adam: "We'll either sell it ourselves or trade it. It depends." Whereupon Pitch suggested that Sterling's Chief Mechanic look it over. The mechanic looked it over and reported privately to Pitch. Pitch to Adam and Eve. "He says there's an awful lot of rust. The best I could give you is $200 or $300. We wouldn't sell it ourselves." This was no surprise: Adam and Eve knew that Old Blue had become a rust bucket. But the "$200 or $300" was a far cry from the $1,000 Pitch had suggested on the basis of his casual examination.

More "filler" talk followed, Pitch calling Adam and Eve's attention to Sterling's excellent service. "When that car leaves us, it's ready to go!" When Adam asked about the Sterling warranty, Pitch said that state law provided a 90-day warranty. Finally, Eve: "$11.7 plus the Taurus is much too high!" Pitch said he would consult Roger Sterling, the owner. He went off for a five-minute consultation. Two such consultations during the course of an hour cut Sterling's price to $11.5 and then $11,200.

At $11.2 Pitch and Sterling seemed adamant. So, too, was Eve. She said to Adam . "I just won't agree to $11.2! We can't afford that much for a second car!" She told Johnny Pitch, "You people have been most helpful. But we just can't afford $11,200. We'll just have to look for another car. Come on, Adam!" With that she walked out, followed by Adam . . . . A minute later, as Adam and Eve were sitting in their old car, ready to drive off, Pitch rushed out. "We just couldn't stand *not* having you as Sterling customers!! Eleven thousand it is! Including your old car."

"We'll take it," said Adam. They climbed out of their old car and re-entered the salesroom. It took Johnny

Pitch some time to do the paper work. When he finished, Pitch told them they could pick up their car the next day at 5 PM. "We'll wash it, change the oil and oil filter, and make sure everything is perfect." Roger Sterling came over and voiced his pleasure that they had become Sterling customers.

THE AFTER-BARGAINING

The dealing wasn't over yet. Johnny Pitch took them to meet Sterling's chief salesman, a genial man named Tony Mahon. The meeting took place in the chief salesman's more impressive office. After congratulating them on their purchase, Mr. Mahon said that he wanted to be sure that they were completely satisfied. They would be completely secure, he asserted, if they purchased (1) an Extended Warranty and (2) Rust Protection. (CR had told them—if they could recall it—that Toyotas come with a 33,000-mile basic warranty, a 5-year or 60,000-mile power train warranty, and a 5-year rust-through warranty.) The Extended Warranty would cost them $500 and the Rust Protection, $400. CR declaims both are "packs," i. e., charges that confer big profits on dealers without doing much for buyers. Adam and Eve decided to forego both. Adam viewed this meeting with the Chief Salesman as a second effort by Sterling to gain profit from this sale.

FEEDBACK

How did their purchase work out? Overall: excellently. Several months later Adam and Eve were well pleased with both their car and their terms. Shortly after leaving the Sterling Showroom, they hadn't been so sure: They discovered that (1) three lights were not working, and (2) the tires were inflated to 40 pounds instead of 30 pounds. A week later, they went back to Sterling where these problems were fixed, swiftly, courteously, and without charge. But where was the Sterling "care" they had been promised?

THE CONCEPTS AND PRINCIPLES THAT GUIDE

Facts fade; *concepts* and *principles* last. The following concepts and principles utilized by the C's should help you make *any* purchase decision. An *Informationally Imperfect Consumer Market*, like that for used cars, is characterized by substantial price variation, quality held constant. In such markets *there is a near-zero correlation between price and (true) quality.* Often (usually?) the buyer does *not* "get what he pays for." Instead, the buyer obtains good-value-for-money only when he shops skillfully, knowledgeably, persistently, and perhaps luckily. *Most* local consumer markets for *most* goods are informationally imperfect (Geistfeld, 1988).

The Payoffs for Shopping/Searching. Competent shopping not only saves money, quality constant, but yields four other payoffs: Better Quality, Price Constant; The Consumer's Preferred Trade-Off Between Price and Quality; The Consumer's Preferred Features and Accessories; and Winning.

"A Dollar Saved Equals Two Dollars Earned." The purchasing agent for a corporation earns a salary for achieving the payoffs just listed on behalf of his company. So, too, a household purchasing agent "earns" by rendering the same services. The earnings of household purchasing agents have one major advantage: they are not taxed. Hence, it is roughly true that "A dollar saved equals two dollars earned!"

How Much Should One Shop? The answer is easy: keep searching as long as the expected gross payoffs exceed the expected cost of shopping where the latter includes both objective and subjective costs, e. g., a shopper's distaste for shopping.

Price Discrimination (Maynes 1990), which occurs whenever a single seller charges different customers different prices for the same good, is widely prevalent. It includes every genuine sale or special; every instance of bargaining; all kinds of coupons; off-peak discounts (movies, early specials, off-season discounts); discounts to groups (senior citizens, students, members of organizations, longstanding customers, frequent flyers); and upgrades. Consumers can initiate price discrimination as Eve did when she asked Mr. Pitch, "What's your *real* price?" The payoff came when Pitch answered that he "could give it to you for $11,700," $200 less than his initial asking price. It also pays for consumers to be aware of discount possibilities and to search them out.

Finding the Lowest Price: The Walk-Out. This is the ploy that uncovers the lowest price. The intelligent shopper should bear in mind that walk-outs can be lengthy. Further, they can be costly: the good in question could be sold to someone else during your walk-out.

CONSUMER PURCHASE PAYOFFS ACHIEVED BY ADAM AND EVE

Being of systematic and quantitative bent, Adam and Eve sought to specify their Consumer Purchase Payoffs. The results are displayed in Figure 1. Their final verdict: Not bad! "One of the best purchases we ever made!"

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Legalized Theft: The Expropriation of the Net Worth Of Mutual Savings Banks Through Mutual to Stock Conversions

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Consider the liquidation of a mutual savings bank. If all of its assets (mortgages, bonds, buildings, and equipment) were to be sold and the proceeds used to pay off depositors' checking and savings accounts, there would still be money left over. This amount is called the bank's net worth. Since the bank was founded, perhaps over 100 years ago, its net worth has grown as each year it earned more interest on its assets than it paid on its liabilities, that is, on its deposit accounts. Who owns this net worth is simple: In a mutual savings bank it is unequivocally owned by the depositors, collectively and in proportion to each depositor's deposits.

Over the past two decades bank managers, trustees, and others have discovered a legal way to expropriate or redistribute this communally-owned net worth. The mechanics of the theft can best be illustrated by a specific example. Consider the balance sheet of a typical small savings bank prior to its "reorganization." In a simplified form, it might look like Figure 1. The bank has $4 million in cash and deposits with the Federal Reserve; $81 million in mortgages, home equity, and other housing loans; and $82 million in other assets, including U.S. government bonds, corporate bonds, and federal funds (sold). The bank's total demand and time deposits are $150 million, leaving a residual net worth, owned mutually by the depositors, of $17 million. The theft is initiated with an "independent" study, which proposes that the bank create 1.7 million shares of stock at $10 per share. Were all of this stock to be sold, with no transactions costs or gifts to management, the new balance sheet would look like Figure 2.

Through the reorganization or conversion, the bank's net worth, which was owned by the depositors in communal or mutual form, is expropriated and given to the new shareholders. The shareholders pay $10 per share; these proceeds, together with the amount stolen from the depositors, immediately amount to $20 per share. For the shareholders, reorganization is a great investment; for the depositors it is a total loss.

THEFT BY BANK OFFICERS

The chief bank officers recognize that when the depositors' mutually-owned net worth is being stolen in such a legal and sanitized manner, it is easy for them to help themselves to part of it. Contingent on the conversion, they usually grant themselves "recognition and performance incentives" and golden parachutes or other generous retirement benefits. The size of these unwarranted gains has caused some press coverage and sporadic resentment on the part of a few observant depositors.

In one notorious conversion the bank president was to be "awarded" 307,000 shares; he was also to receive options to purchase 153,000 shares at $10 per share. His three subordinate managers were to be given a total of 345,000 shares plus options to purchase an additional 264,000 shares.

To ensure the cooperation of the trustees, the bank officers often grant them a share of the booty usually in the form of stock options. The right to buy stock at $10 per share when it is virtually certain that the stock will rise 40 to 50 percent in the first year is

a subtle, but generous, payoff for a trustee's endorsement of any conversion plan. In the case mentioned above, the twelve trustees were to be given 1,341,000 shares of stock with options to purchase 1,226,000 more shares at $10 per share. The total gain (within one year) for the officers and trustees would have been in excess of $85 million.

The bank officers, with the blessing of the board of trustees, also redistribute some of the depositors' net worth to the bank employees, contingent of course on the conversion. This is not done for altruism, but rather to ensure the employees' cooperation and enthusiasm during the conversion process. Employees are frequently told to back the conversion with promises that a portion of the new bank stock will be added to their retirement fund. Such promises are in effect bribes for tellers and lower level employees to solicit proxies of depositors to vote for the conversion plan. Although most do not see it as such, bank employees persuade depositors to give up any liquidation or other rights mutual depositors possess so that the employees can get a boost in their retirement accounts.

COMPLICITY BY THE BOARD OF TRUSTEES

The members of a typical board of trustees are not chosen by depositors and do not have real allegiance to them. They are recommended by the bank's management and are endorsed by the existing board. They are selected for congeniality. They are not consumer watchdogs and they are not advocates of what is best for the depositors. They are chosen for appearance and for their willingness to "go along" and be "part of the team." It is precisely their facade of trust, respectability, and wise leadership which obfuscates the theft of the mutually held net worth in a conversion to stock ownership.

ALTERNATIVES

Rather than carry out an expensive conversion, which in no way benefits depositors, the bank managers and trustees could spend excess reserves in ways which would benefit those they had pledged to serve. The easiest option would be to increase the interest the bank pays on deposit accounts, either by increasing the rate or by issuing a one-time, pro rata interest bonus at the end of the year. A second option would be to use excess net worth (net worth beyond the amount required by bank regulations) to expand loans to the local community in which most of the depositors live.

Justification for the conversion from mutual ownership to stock ownership is often based on a real or feigned "need" to raise additional capital (or net worth). The bank officers and trustees claim that the bank needs to grow and compete in the fast-changing financial market where, through mergers and acquisitions, there are fewer and fewer small depository institutions. They point out, and rightly so, that the only way to increase the bank's net worth as a mutually organized institution is through the growth of retained earnings or through the issue of subordinate debentures. They argue that the best way to increase the bank's capital is to convert to stock ownership and to sell more stock.

But even if the need to raise capital is real, and that is not usually the case, it does not mandate a theft of the net worth now owned (mutually) by the depositors. If each depositor were *given* stock in proportion to the amount of his or her deposits, the conversion from mutual to stock ownership would involve no theft whatsoever. Then the stockholders could decide to dilute their ownership and

ASSETS	
Cash	4
Loans	81
Other	82
Total	167
LIABILITIES	
Deposits	150
Net Worth	17
Total	167

Figure 1. Simplified balance sheet prior to bank reorganization. Figures are in millions of dollars.

ASSETS	
Cash	21
Loans	81
Other	82
Total	184
LIABILITIES	
Deposits	150
Net Worth	34
Total	184

Figure 2. Simplified balance sheet after bank reorganization. Figures are in millions of dollars.

raise new capital by issuing new stock in exactly the same manner as do other corporations. Of course, in this scenario there would be no reason for the stock to increase in price as is the case when the depositors' net worth is expropriated. In our example, if current depositors were *given* 1.7 million shares, each share would be worth $10 per share after the conversion. Then, if an additional 1.7 million shares were sold to the public at $10 per share, there would be $17 million of new capital raised (for a total of $34 million), now owned with 3.4 million shares each worth $10 per share. The bank would have converted to stock ownership; the same capital would have been raised with no expropriation or theft from current depositors.

A conversion from mutual to stock ownership of a bank is often confused with an initial public offering (IPO) of stock by a corporation. The two are not the same. In an IPO the current stockholders of a (usually small) privately held corporation are selling newly issued stock and thereby diluting their ownership or their share of the corporate net worth. Reasons for IPOs vary, but the primary one is to raise new capital and to expand the size and market share of the corporation. Nothing is expropriated or stolen from the current private owners; an IPO is a free sale of ownership rights with the price determined by the free market.

That is not the case in a typical conversion of a mutually owned bank. While the purpose may be to raise new capital, the effect is to steal the net worth, previously owned mutually by the depositors, and divide it among the bank officers, trustees, employees, new stockholders, and all the middlemen who made the complicated conversion possible. The depositors previously had a mutually owned asset; after the conversion they are left with nothing.

INCHOATE CLAIMS TO OWNERSHIP

Mutual ownership is different from individual ownership and stock ownership. It is confusion about these differences which cause misunderstandings and expropriation by conversion practitioners. In the case of a mutually-owned bank:

- ownership is premised on opening and maintaining an account. Without an account, you are not a depositor and hence not entitled to a pro rata share of the bank's net worth. Even if you have an account, the bank has the right to redeem it or pay it off and thereby eliminate your right to vote and your right to any share of the bank's net worth.

- ownership is proportional to the size of your account. The larger your deposits, the larger your share of the bank's total deposits and the larger your share of the bank's net worth.

- ownership is not subject to losses beyond the decline in the net worth of the bank. If the bank fails, the depositors (for the most part) are insured, and are not expected to make up for a negative net worth. Of course, it can be argued that their bank pays premiums for this insurance and, therefore, they should not be expected to lose more than their share of the net worth. Limited liability is also a feature of stock ownership.

- ownership is not salable or transferrable *except in liquidation.* (Some consumerists believe that if depositors were really aware of this, they would recognize their ownership rights and demand that the bank be liquidated and that each depositor receive his or her share of the bank's net worth, pro rata with the size of each depositor's deposits.)

Based on these differences, mutual ownership is considered inchoate or incomplete. As such, bank managers and bank regulators justify their expropriation through conversion and the dividing of the net worth (formerly owned by the depositors) among the bank managers, the bank trustees, the bank employees, the new stockholders, and the minions of lawyers, brokers, and others who perform the mechanics of the conversion itself.

Some attorneys and some politicians have tried to make the argument that the nature of the inchoate ownership or mutual ownership by depositors supports their contention that depositors do not "deserve" to receive or benefit from reorganizing and distributing the bank's previously communally-owned net worth. They argue that depositors risked nothing (especially in light of federal insurance on their deposits) and were largely unaware of their incidents of ownership of the bank's net worth and are therefore not entitled to even a portion of it when the bank is reorganized or converted to stock ownership. Even if this point were valid, it is hard to argue that the managers, the trustees, the employees, the lawyers, and the new stockholders somehow rightfully "deserve" the windfalls they receive from the theft of someone else's net worth.

Recognizing this problem of who deserves the inchoate ownership of mutually-owned net worth, other politicians have suggested a socialistic solution, namely that the net worth (or a portion of it) be turned over to the state. Those in the consumer movement have different reactions to this type of redistribution depending on their views of property ownership and property rights and the fact that no compensation is made to the former communal owners, namely the depositors.

Improving Food Safety in Meat and Poultry: Will New Regulations Benefit Consumers?

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The Centers for Disease Control and Prevention (CDC) state that "food-borne disease remains one of the most common and important cases of illness and deaths" (Harman, et al., 1991). According to researchers at CDC and the U.S. Food and Drug Administration (FDA), 6.5 million to 33 million illnesses and up to 9,000 deaths may occur each year from foodborne pathogens (namely, bacteria, parasites, viruses, and fungi). For just the few foodborne bacterial and parasitic diseases for which there are cost estimates, medical costs, and lost productivity cost society $6.5 to $35 billion annually (Buzby and Roberts, 1996).

Foodborne microbial pathogens reside in the digestive systems of animals and can contaminate meat and poultry during slaughter. These pathogens can also contaminate food through poor handling or sanitation at any point during food production. To reduce foodborne pathogens in meat and poultry products, the U.S. Department of Agriculture's Food Safety and Inspection Service (USDA/FSIS) introduced a new regulation in July 1996. This regulation requires all meat and poultry slaughter and processing plants to implement the Hazard Analysis and Critical Control Point (HACCP) system, to implement sanitary standard operating procedures, and to conduct periodic tests for microbial pathogens.

This new regulation reflects a decade of debate about new approaches to food safety hazards in meat and poultry. The National Academy of Sciences has issued a series of reports endorsing this new HACCP approach to ensuring the safety of meat and poultry products (National Research Council 1985, 1987, 1990). In contrast to the historical system of organoleptic carcass-by-carcass inspection (based primarily on visual inspection), HACCP relies on science-based risk assessment and prevention of hazards.[1] The preventive approach which was developed in the food-processing industry, is codified in a set of HACCP principles.

Whether and how this new approach, as embodied in the USDA's new regulation, will benefit consumers is an important question.

As the costs of HACCP to industry could be translated into higher meat prices for consumers, it is important to weigh them against the expected benefits to consumers from reduced risk of illness.

Regulations costing more than $100 million must undergo a cost/benefit analysis to ensure that the costs they impose are less than the benefits to society. As the costs of HACCP to industry could be translated into higher meat prices for consumers, it is important to weigh them against the expected benefits to consumers from reduced risk of illness. USDA carried out an analysis demonstrating benefits to society range from $7 to $27 billion, compared to costs of about $1 billion (Roberts, Buzby, and Ollinger, 1996). In other words, the benefits from reduced medical costs and productivity losses associated with the likely reduction in foodborne illness are expected to exceed the costs of implementing HACCP. This article discusses what HACCP is, how its implementation in the meat industry could benefit consumers, and some alternative approaches to improving food safety.

WHAT IS HACCP?

The HACCP system is a general approach to hazard control in food processing that includes seven general steps (NACMCF):

1. Assess the hazard
2. Determine critical control points (CCPs)
3. Establish critical limits for each CCP
4. Establish procedures to monitor each CCP
5. Establish corrective actions
6. Establish record keeping
7. Establish verification procedures

HACCP is a general approach that can be applied to any point in food production chain (e.g., farm, packing/processing, food service).

Two examples illustrate what HACCP might mean in practice for meat processing. First, HACCP may involve adoption of new technologies to reduce pathogens. A recent innovation for beef carcasses illustrates this point. Frigoscandia's Steam Pasteurization Process was developed after the 1993 *E. coli* O157:H7 outbreak to reduce pathogens on beef. Before sides of beef go into the chiller, they are treated with steam for 6-8 seconds to kill pathogens. The capital costs of this process range from about .02 cents per pound for large plants to .20 cents per pound for smaller plants. In the laboratory, this technology brought about large reductions in pathogens on carcasses previously inoculated with a high level of pathogens (Phebus, 1995). On real-life slaughter lines where the bacteria are smaller in number, reductions would not be as pronounced. Firms will adopt this technology if they perceive that the benefits of product reputation or longer shelf life outweigh the costs of adoption. Apparently many processors perceive the benefits are greater than the costs, since Frigoscandia has installed the new process in one major firm's plants and another 60 units have been ordered by U.S. and international firms (personal communication with Frigoscandia's Craig Wilson, June 1996).

Another dimension to HACCP is process redesign to prevent the introduction of pathogens. HACCP is one kind of process control or quality management system. In implementing this kind of system, it is often more important to redesign the production process to improve quality than it is to address specific causes of quality variation in an existing process (Mazzocco, 1996). More problems arise from a poorly designed process than from a poorly executed one (Mazzocco, 1996). Furthermore, rapid innovation in technologies for pathogen control and testing create new possibilities for process redesign and verification.

For example, rather than generically controlling sanitation using visual inspection, HACCP will require redesigning the process to explicitly control specific pathogens. The reduction in cases of listeriosis by 40% in the last decade illustrates the contribution of process redesign, along with regulatory and educational efforts (Tappero, Schuchat, Deaver, Mascola & Wenger, 1996). Changes in production made to control *Listeria monocytogenes* include (1) reconfiguring conveyor belts on meat processing lines and reducing use of high pressure water sprays which splashed *Listeria* out of drains and from floors onto the underside of low conveyor belts, and (2) creating pressurized rooms for peeling hot dogs from their casing and putting into consumer packages to prevent aerosol contamination from rooms where raw product is handled (Roberts and Pinner, 1990). These examples show that major changes

in process may ultimately be required by implementation of HACCP plans.

HOW COULD HACCP BENEFIT CONSUMERS?

USDA/FSIS has claimed the following advantages of HACCP and the related efforts[2] to reduce microbial pathogens: prevents largely avoidable events to reduce contamination of food from farm to retail; uses scientific risk assessment for pathogens likely to be associated with each food; places food safety responsibility clearly on the food manufacturer or distributor; improves food safety practices by setting public health-oriented targets; fosters scientific and technological innovation to reduce pathogens; permits more efficient and effective government oversight because the record keeping for HACCP allows inspectors to better assess safety than spot checks or visual inspection; and helps food companies compete more effectively in international markets where HACCP requirements are becoming common.

This list covers benefits to consumers, but also includes those to private industry and regulators. For consumers, the benefits of HACCP will result from reduced risk of foodborne illness. A lower incidence of microbial pathogens on meat and poultry products means less likelihood of becoming sick from mishandling at the retail level or in the home. This reduced risk has economic value to consumers that can be measured in different ways. One measure is the reduced medical costs and productivity loss associated with foodborne illness. Another measure is the value of reduced risk to consumers, even if they never actually become ill (Roberts, 1991). This value might be represented by what some consumers are willing to pay for products with greater safety. For example, immune-compromised individuals might be willing to pay a premium for products that are certified to have low levels of pathogens.

USDA used the cost of illness approach to estimate benefits from the new regulation. Although valuing loss of life is controversial, regulatory agencies in many fields such as transportation or medicine must implicitly or explicitly balance the value of lives saved against the cost of reducing risk (Roberts, Buzby, and Ollinger, 1996). USDA/FSIS estimated that the new regulation would have benefits of $7.13 to $26.59 billion over 20 years, based on the assumption that HACCP would reduce foodborne illness by 90 percent. If HACCP were to reduce foodborne illness by only 30%, then benefits fall to $2.4 to $8.9 billion (Roberts, Buzby, and Ollinger, 1996). The large range of benefits estimates reflects the uncertainties in linking pathogen reductions on specific products at one point in the production process with ultimate reductions in foodborne illness. However, the magnitude of these estimates shows that there are considerable benefits to be gained from reducing the incidence of foodborne illness. Even if the actual size of benefits is uncertain, USDA/FSIS argues that they are likely to be greater than the costs to industry of implementing pathogen reductions.

For private industry, HACCP may ensure longer product shelf-life; allows access to new, distant markets, including international markets; reduce product liability; or possibly allows more efficient production processes. These benefits might indirectly affect consumers, if they ultimately reduce costs or spur product innovation. For regulators, HACCP may have benefits in reducing the cost of oversight and enforcement. This may also benefit consumers through reducing the costs of regulation paid for through taxes.

ARE THERE OTHER ALTERNATIVES TO IMPROVING FOOD SAFETY?

The costs to obtain information are high for consumers. In many cases, food safety is not an "experience good" because of inability to link many syndromes to the food of origin. This is especially true for complications following the initial acute infection. Information costs are high for producers because microbial testing is expensive, the outcomes are highly variable, and test results available after two days or more are difficult to integrate into an on-line production system. HACCP addresses hazard control through prevention, but another approach would be to address the lack of information directly, through labeling, certification, or legal liability (Unnevehr and Jensen, 1996). Other public or private strategies to reduce risk could be complementary to HACCP. Such approaches may be needed because the new HACCP regulation only addresses pathogen reduction at

Information costs are high for producers because microbial testing is expensive, the outcomes are highly variable, and test results available after two days or more are difficult to integrate into an on-line production system.

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one point in the food chain.

Other mechanisms for reducing the information costs to consumers wishing to purchase greater safety might be private advertising on safety, government certification of consumer labels, or government certification of production processes that can "significantly reduce pathogens." USDA/FSIS started using the latter approach in 1995 with approval of Frigoscandia's steam pasteurization process for beef carcasses. Such certification lowers the information cost to purchasers about safety performance of the process.

Another approach is legal reform. In 1990, the United Kingdom increased the legal liability of firms in food safety cases with the Food Safety Act that requires firms to use "due diligence" in producing safe food. Hobbs and Kerr (1992) conclude this act will encourage new forms of vertical coordination among U.K. firms to minimize the probability of microbial contamination of food. However, Viscusi (1989) theorizes that high information costs for tort liability will limit its usefulness in redressing health and safety problems. Basically, it is difficult to attribute illness to a specific food.

To evaluate different kinds of interventions like certification or legal reform, we need to know how consumers and producers will respond to the incentives created by this new information. Will consumers demand greater food safety and will this encourage industry innovation in response? Public outrage over the 1993 *E. coli* O157:H7 outbreak associated with hamburgers in Western fast food restaurants motivated the beef industry to fund new research to control this pathogen (Allen, 1990).

Food safety regulation and new information connecting microbial pathogens with specific meat products will bring about changes in the meat and poultry industry. For example, will relationships among meat packers, input suppliers, and meat wholesalers change, such as requiring that products be tested for specific pathogens? The new regulations have changed the role of industry laboratories to focus on providing services associated with setting up and verifying HACCP plans (Flickinger, 1996). Some changes in industry structure may be required to respond to increased consumer demand for food safety.

CONCLUDING COMMENTS

Consumers are interested in food safety and recent research has demonstrated the economic importance of foodborne illness from microbial pathogens. How to reduce the incidence of illness has been controversial, since pathogens can enter food products at any point during the production process from the farm to the table. Food handling in the home continues to be an important control point, but public policy is moving towards regulating pathogens during the production process. The new food safety regulations for the meat and poultry industry are likely to benefit consumers, as they are expected to prevent and reduce microbial pathogens. The benefits from reduction of foodborne illness are likely to exceed the additional costs to industry from implementing the regulations. Other approaches may emerge to address consumer demand for food safety, such as development of certified products, which could complement the direct regulation of production processes.

NOTES

1. For similar reasons, the FDA mandated HACCP for the seafood industry beginning in 1995 (see Williams and Zorn).
2. In addition to the new regulations for slaughter and processing plants, voluntary on-farm HACCP systems are encouraged by USDA/FSIS. USDA also requires food handling labels on raw meat and poultry, and operates a meat and poultry hotline for consumer information. The FDA and USDA/FSIS work with state regulatory agencies to encourage food safety at the wholesale and retail level.

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In order to foster research communication among universities, public agencies, and industry about this topic, the NE-165 Regional Project and the Farm Foundation are planning a conference for June 15-16, 1998 in Washington DC on "The Economics of HACCP." Proposals for research presentations are due October 15, 1997. For more information, contact:

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Personal Qualities Perceived as Important in Hiring Consumer Affairs Professionals

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The market potential for consumer affairs professionals seems to guarantee a steady demand for college-educated consumer affairs professionals for at least the next ten years (Stewart & Durand, 1996). Given this continued demand for college graduate professionals and what appears to be the continual technological and systemic changes in the nature and scope of consumer affairs, it appears prudent that college level programs should be concerned with their ability to prepare students for the requirements and needs of the profession.

Adapting successfully to change involves having the right professionals available to interpret and implement correct action. Key in that process is selecting and encouraging a stream of competent new professionals. Issues for consideration in the preparation of new professionals fall into two categories: academic preparation and personal traits and experience. While numerous studies have been designed to determine the most suitable academic coursework (Brady, 1991; Feinberg, Hong, & Widdows, 1994; Fritzsche & Ferrell, 1980; Goldsmith & Vogel, 1990), less investigation has focused on personal traits and experience. In 1985 a report from the Long Range Planning Committee of the Society of Consumer Affairs Professionals (SOCAP) did identify necessary consumer affairs and general skills. These included "sensitivity to the individual consumer, . . . analytical ability within the consumer affairs function, . . . ability to identify problems, set priorities, develop alternatives, make choices and establish objectives, . . . ability to plan a process for managing an issue to action, . . . and ability to work effectively as a member of an organization and build a cooperative effort" (p. 23). In 1991 a survey of SOCAP members conducted by Purdue University identified the most important traits to be "interpersonal skills, oral communications ability, and the ability to plan" (Brady, 1991, p. 81). Least important traits included "social involvement and goal orientation" (Brady, 1991, p. 81). A more recent article in *Mobius* (Bergh, 1995) identifies traits of successful consumer affairs managers. The traits which were identified include being proactive and visible in the company, being financially knowledgeable, understanding company technology, and

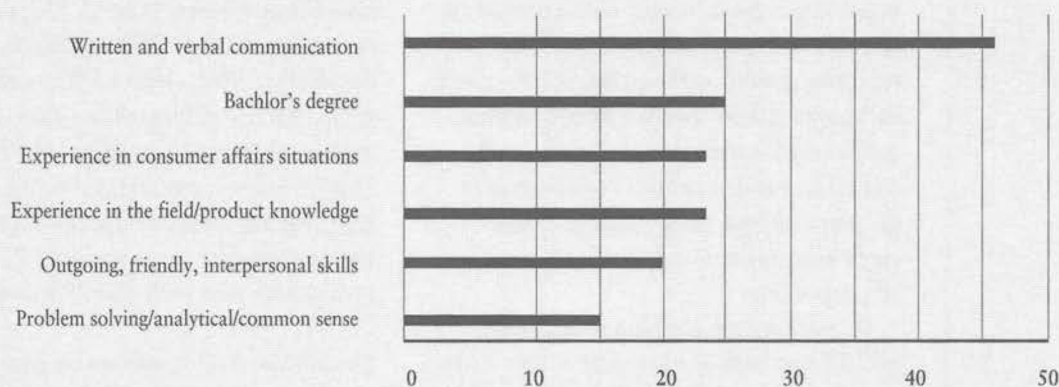

Figure 1. Qualifications desired in hiring consumer affairs professionals

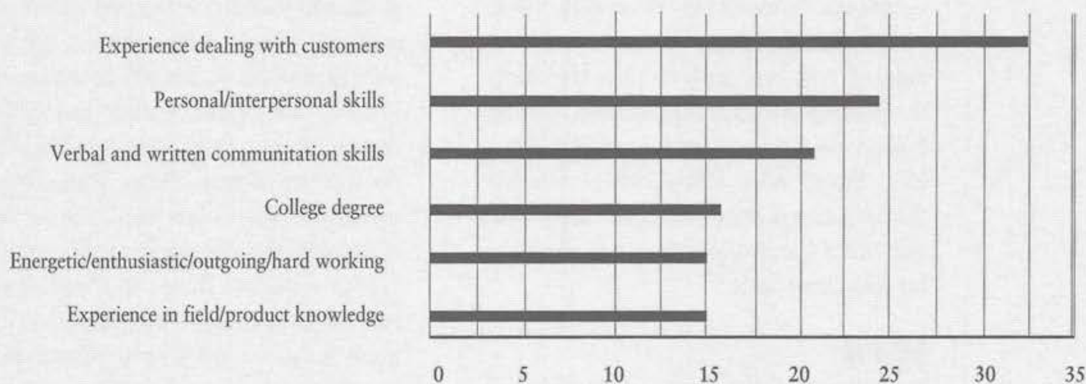

Figure 2. Influences on the hiring decision by respondents who had hired.

being involved with strategic planning. With this background, the current study was designed to investigate the personal qualifications evaluated by practicing consumer affairs professionals as needed in successful employment candidates.

SURVEY METHODS AND SAMPLE

A questionnaire was developed to ascertain desirable qualifications of candidates for consumer affairs positions. The self-administered survey utilized both open and closed ended questions. Certain demographic data (profes-

For individuals enrolled in academic programs, internships should be explored.

sional position level and title, sex, industry type, geographical area, and years as a consumer affairs professional) were gathered via closed-ended questionnaire items. Data regarding desired applicant qualifications and backgrounds were solicited by open-ended questions both from those individuals who had hired consumer affairs professionals in the past and from those individuals who might someday hire someone for a consumer affairs position.

The national membership roster of the SOCAP was used as a sampling frame. A systematic random sample (1197) of the national SOCAP membership was selected. More than 200 (n=209) randomly selected participants responded to the mailed questionnaire. No follow-up techniques were initiated for non-respondents. Issues of non-response bias were considered since the rate of return was less than 20 percent. Comparison to the *1994 SOCAP Salary and Job Survey* data showed no evidence of specific sampling or response biases based on consideration of the variables in common between the two studies. These included gender, years in consumer affairs, industry type, and position title. However, the findings are generalizable only to those individuals who are members of SOCAP (even though it has a broadly-based membership) because a more exhaustive sample of non-SOCAP members was not drawn due to funding constraints.

RESULTS

Demographics. Tabulation of demographic variables showed that participants were employed in consumer affairs from zero to 35 years with a mean of 10.3 years. By professional title, 52.2% were middle management, 22.0% were lower management, and 20.1% were senior management. By position title, most were either managers (42.1%), directors (20.1%), or supervisors (11.5%).

The industries represented in the sample, as defined by SOCAP, included: automotive/transportation (9.6%), consultants (3.3%), education (4.3%), energy/public utilities (3.8%), financial services (7.7%), food/beverages (16.3%), government (4.3%), health care/pharmaceutical (7.7%), household/consumer products (11.0%), leisure/travel/entertainment/hotel (3.3%), manufacturing (durables) (7.2%), manufacturing (non durables) (2.9%), media (.5%), retail/mail order (4.8%), telecommunications (1.9%), trade/professional associations (4.8%), other (4.9%), and no response (1.9%). Geographically, participants were dispersed throughout the United States. Approximately 25% of the respondents were male and 75% were female.

Qualifications & Influences on Hiring. Responses to an open-ended inquiry, ("What professional qualifications would you look for if hiring someone for a consumer affairs position?"), reflected that communication skills (46%) were most noted by current consumer affairs professionals. (See figure 1.) Other frequently mentioned qualifications were bachelor's degree (24.9%), experience in consumer affairs situations (23.8%), and experience in the field/product knowledge (23.8%). Additionally, someone who is outgoing and friendly, with good interpersonal skills (19.6%), or who is good in problem solving, analytical, and has common sense (14.3%) is desirable. Written and verbal communication skills were overwhelmingly the top ranked need. Other qualifications mentioned, but by less than 12% of respondents, included degrees in specific majors (11%), computer skills (7%), listener (7%), organizational skills (7%), empathy (7%), public relations (5%), professionalism (5%), written communication (4%), oral communication (4%), energetic/enthusiastic/team player (4%), marketing skills (4%), calmness (3%), ability to handle multiple tasks (3%), negotiation skills (3%), telephone skills (3%), intelligence (2%), salesmanship (2%), and fairness (2%).

Participants who had actually hired someone (78% of respondents) for a consumer affairs position were asked to list aspects of the applicants' backgrounds which influenced them in the hiring decision. This was formatted as a contingency question to exclude those who had not actually participated in hiring. The hiring influences which were mentioned

most frequently were experience dealing with customers (32.5%), personal/interpersonal skills (23.3%), communications skills (21.5%), a college degree (16.0%), energetic/enthusiastic/outgoing/hardworking traits (15.3%), and experience in the field/product knowledge (15.3%). (See Figure 2.) Other influences mentioned by those who had hired were general work experience (13%), ability to work with people in stressful situations/caring (10%), good oral communication (9%), good written communication (7%), problem solving skills (7%), work with public (5%), call center experience/phone (4%), listening ability (4%) computer knowledge (4%), intelligence (4%), references (4%), marketing skills (4%), respect for the views of others (3%), understanding of operations (3%), eagerness to learn (2%), and extracurricular activities (2%). Statistical analyses showed no significant differences for the qualifications participants would look for in hiring someone for a consumer affairs position. The data also showed that there were no differences in hiring criteria based on the interviewer's gender, years of service, industry of employment, or professional level or title.

IMPLICATIONS

Considering both desired personal qualifications and influences on the hiring decision as perceived by current consumer affairs professionals, it is clear that successful consumer affairs job candidates of the future should develop themselves in three critical areas: work experience, interpersonal/communication skills, and college degree.

Work Experience. First, work experience was highly valued. This was reflected in responses categorized as experience in consumer affairs situations, problem solving, experience in the field, and product knowledge. Future job applicants can be encouraged to seek early work experiences, prior to entrance into consumer affairs, which will provide this exposure. Job placement could be in consumer/product-related fields or in areas where the employee would have the opportunity to obtain consumer experience in addition to other responsibilities. This may require that academic programs develop flexible scheduling to accommodate students' needs to gain experience concurrently with education. For individuals enrolled in academic programs, internships should be explored. Dison (1993) suggests that since college programs do not teach all necessary professional skills, an internship "serves as an investment in . . . future success" (p. 45). Certainly, internships can provide exposure, guidance, and experience in the field.

Faculty associated with academic programs should be proactive in cultivating appropriate internship experiences for students. Visiting local and regional businesses, inviting business leaders to speak to students on campus, and committing advisory board members to mentor students are all means of developing the potential for internships. By placing competent, well-prepared students, faculty can show businesses that internships are mutually beneficial. Not only does the intern gain experience, but also, the company or agency benefits from the fresh perspective of an intern who is knowledgeable about the practices and theory of business. As an outgrowth, the internship site has the opportunity to educate the student in its own methods and operations and to evaluate the student as a potential employee. An effective company can tailor its internship program to provide a consistent stream of well-qualified new permanent employees.

Potential consumer affairs professionals must be given diverse opportunities to communicate.

Before the internship begins, students should determine the goals and accomplishments they want from the program. The company should also identify its goals and responsibilities. Once internships are completed, it is important that faculty aid students in their ability to document and communicate the salient characteristics of their internship. To do so faculty must be well-informed about the goals, responsibilities, and accomplishments of both groups. Since experiences among sites vary, it is important to evaluate the internship from two perspectives. The evaluation should include experiences common to all consumer affairs interns and companies as well as experience that is specific

the infusion of consumer affairs principles throughout corporations requires that current professionals foster the development of those personal qualifications which will drive future professionals.

to the specialized site as perceived by the intern and the company. Faculty can then work with groups of interns to assist them in translating common experiences into skills and attributes appropriate for inclusion on resumes. Thus as a group, the interns will be better prepared to communicate site-specific experiences as personal achievements. One means of facilitating this translation is to allow groups of interns to meet together, taking turns sharing their experiences. As they do so, others in the groups can note probable skills acquired. These can be verified by discussion. Other benefits of this method of evaluation are that it will expose interns to aspects of the internship which they personally may not have experienced; also, experiences and skills which are highlighted by others will be recognized by some interns as capabilities they now have. For example students whose internship included call center experience may recognize by hearing other students describe their telephone skills that, indeed, the students have developed experience dealing with customers which strengthened their personal/interpersonal skills. They have become better communicators.

Communication Skills. Second, communication skills were mandated. Written and verbal communication skills received twice as many responses (87) as a desired qualification than did the second-ranked "experience in the field" (41 responses). The ability to communicate well with both internal and external constituencies will drive the success of consumer affairs in the future. These findings are consistent with other studies where participants have been asked to describe the academic preparation most needed for consumer affairs (Brady, 1991; Fritzsche & Ferrell, 1980; Goldsmith & Vogel, 1990; Zick & Widdows, 1994) The need to develop communication skills was strong in those reports. In this context it is important to note that excellent communication skills are likely to be the product of both education and personal qualifications.

While it is recognized that some communication ability is innate, educators can play a role in both academics and practice. Certainly academic content should include the principles of sound oral and written communications. Beyond that, however, it is vital that educators and other professionals provide opportunities for the development of personal communication skills. Potential consumer affairs professionals must be given diverse opportunities to communicate. This can be accomplished by active participation as a leader in student professional organizations, presentation requirements in courses, written requirements in courses, internships, and part-time or full-time employment. Thus, students must have both knowledge of correct communication techniques and personal experience leading to mastery of those skills.

College Degree. Third, college degrees were prescribed. Today's marketplace demands academic preparation. General and specialized education combine to provide breadth of exposure and specific skills. Currently, between 30 (Soden, 1995) and 60 (A. Metzen, ACCI, personal communication, November 1996) colleges and universities in the United States have consumer studies curricula (Soden, 1995). These, as well as programs in related disciplines, are available for the preparation of future professionals. Educators would be wise to evaluate the curricula of their programs and include opportunities for students to develop the content and skill areas outlined in these findings. This would be an excellent area for individual or collective future study by educators.

By recognizing the qualifications needed by future professionals, what role, can current practitioners play? First, current professionals can foster experience by hiring qualified future professionals as full-time or part-time employees and as interns. The letters of recommendation for student applicants should document clearly the experiences and skills attained. Specifically, experiences with customers and products, interpersonal skills, communication skills, problem solving/analytical skills, and work habits and ethics should be highlighted. Specific examples of the execution of these skills are useful to

potential employers. Educators, too, should focus their letters of reference on these same attributes with the addition of examples of how the candidate has applied academic concepts. Second, current professionals can raise awareness of the need for excellence in communication skills. This can be accomplished through professional publications and meetings and guest lectures in academic settings. Third, current professionals and their companies must contribute to academia. This can be done by providing scholarships and internships, professional participation on advisory boards, assistance with career fairs, and presentation of guest lectures.

The future of the consumer affairs profession demands we begin preparing a stream of competent and qualified entrants into the field. Now, more than ever, the infusion of consumer affairs principles throughout corporations requires that current professionals foster the development of those personal qualifications which will drive future professionals.

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Deregulation May Be Hazardous To Your Health

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Consumers face many problems in the marketplace. Unfortunately, successful problem resolution can require greater problem solving resources than consumers can bring to bear. Furthermore, information alone is not may not be sufficient to supplant the need for a regulation. Education about the origin of a regulation is helpful because some regulations are designed by sellers for their own private interest. A "consumer purpose test" is a crucial first step to see if consumer defense is a public good. As an example, a regulatory framework for fair markets can protect the consumer from friends and foes alike. Nonetheless, on practical grounds a realistic prospect for the marketplace is "perfect perversity." Therefore it is vital to assess the rationale for any regulation.

REGULATION: THE LONG AND SHORT OF IT

Short carrots. Why would the consumer need a regulation to provide protection from short carrots? One has been proposed. Perhaps Hollywood has the answer. Several years ago a camp movie received attention because it was so bad it was being considered for distinction as the worst film ever made. Its title? "The Attack of the Killer Tomatoes." Can this explain why amendments to Canada's grading regulations for fruits and vegetables would set a minimum length for imported carrots? Were consumers out in the streets demanding protection from the attack of the short carrots?

Of course not. The regulation promulgated "to protect consumers" served only to protect domestic carrot producers from competition. Consumers are "protected" from lower prices and competitive quality. The regulation is a clear illustration of the way that producers can twist the consumer protection argument to achieve an end that can best be described as *perfect perversion.* In practical terms it is every bit as important to understand perfect perversion as to understand perfect competition. How is perversion achieved?

THE GRAS LIST

In 1958 the United States got the help of several hundred experts to assess the safety of food additives. From this effort the Food and Drug Administration (FDA) was able to provide a list of 415 additives that were "Generally Recognized As Safe" (GRAS). Food additives from the GRAS list can be used without special clearance from the FDA. Can this approach be used to assess economic arguments for regulation? Are there economic rationales that can be generally recognized as sound? Oddly enough, the answer is yes.

It is widely accepted that there are seven situations when it is wise to intervene in the marketplace. These are, to play on words, rationales for regulation that are Generally Recognized As Sound (GRAS again). The first five come under the general heading of "market failures." There are five possible reasons for the failure of a free market, each providing a rationale for regulation. The five are (1) externalities, (2) monopoly, (3) information deficiencies, (4) undersupply of a "public good," and (5) incomplete markets. In addition, it is widely accepted that two factors dealing with "equity"—distributional goals and merit goals—provide reasons for intervention to bring about "fairness."

Frequently the regulation rationale is acceptable, but the method is disputable. For example, a pulp mill may produce pollution as an externality to the firm next door, or to a town. All may agree on the need for intervention but disagree on the exact policy for dealing with it. Often the rationale is deliberately abused for private benefit. What every special interest lobbyist must do as the first step is choose a rationale from the GRAS list so it can be deployed to justify a regulation. The second step is to help draft the regulation. After all, who but the American Medical Association has the expertise to decide on the quantity of doctors to license? Milton Friedman used the

example of the hypertrichologists of Connecticut who sought the right to decide who could ply their trade. A license is a barrier to entry determining who could be a hypertrichologist and be allowed to "... remove excessive and unsightly hair with the solemnity appropriate to their high-sounding title" (Capitalism and Freedom p. 139-140, as cited in Gellhorn, 1965). If the lobbyist is to achieve the ultimate in private success, a third step is required: one must gain the right to administer the regulation . . . preferably at public expense. The carrot example serves well: border guards are to be paid by the public to check for terrorists carrying concealed carrots. This is perfect perversion of the public purpose of regulation.

SOME MAGNITUDES

Under "free trade" U.S. consumers gain the benefits from imported steel, right? Not exactly. The president of Stelco, recently demonstrated that to get product into the United States market it takes a report of 55,000 lines of computer entries. Is this an unusual example? Hardly: one diligent effort to count non-tariff regulations was by made two independent teams in the European Union. The effort was abandoned in despair when more than 100,000 of these regulatory barriers had been identified (European Commission, 1988).

REGULATION: FRIENDS OR FOES OF CONSUMERS?

Lobbying is the art of concealing the public interest from the public. The easiest way to dress a wolf in sheep's clothing is to clothe the real objective in the consumer interest. Because of this, tens of thousands of existing regulations will fail a consumer purpose test. If the public could draw the necessary distinction on which rules to abolish or retain, deregulation could be a clear benefit.

What about rules that autos must have brakes? What about safety and efficacy tests for new medicines? When Dr. Frances Kelsey of the FDA refused to allow thalidomide onto the U.S. market—in the face of enormous industry pressure—she saved hundreds, probably thousands of U.S. families from the characteristic birth defects so evident in Germany, France, Canada, and many other countries. With this second type of example of regulation we find a clear consumer purpose. The consumer's problem with regulation is the same as The Little Red Riding Hood problem: is the new regulation consumer-friendly or is it a hungry foe wearing a consumer-friendly suit?

DEREGULATION: WOLF OR SHEEP?

If consumer education is successful, consumer-unfriendly regulations will be removed. The price of steel and carrots will go down, while quality and price may improve. But that is not the only prospect: the wolves may be first in line in Washington because they see an urgent need to remove some binding restraints, some of which are amply justified. Consider the deregulation of savings and loans institutions (S&Ls) in the 1980s. The change made it easier for charlatans and thieves to get their hands on one of the most attractive incentives in existence: other people's money. A moral hazard problem already existed with deposit insurance but deregulation allowed as few as three persons to own an S&L. With deregulated supervision these owners could lend to related parties while leaving the risk with the Federal Deposit Insurance Commission (FDIC). If the borrowing company struck it rich, its owners did too, paying back the loan. If not, the company declared bankruptcy and FDIC reimbursed depositors at the S&L. The looting was not small: over 500 billion dollars in most estimates. That's enough for the United States to pay its outstanding bill with the United Nations, provide clean water to every village in India, and still have 460 billion dollars left over for health and education programs at home.

There is an important point here about the targets for deregulation, a lesson clearly illustrated by the response of the bank robber Willie Sutton to the question "Why do you rob banks?" His answer was, "Because that's where the money is." Why do we change S&L rules instead of deregulating licenses for hair pluckers? The wolf in sheep's clothes is back, this time seeking deregulation. The Red Riding Hood problem returns, with an important difference. The hard edge of economic reality has a subset of regulations which actually serve the consumer, say by keeping thalidomide off the market or by keeping scam artists from looting S&Ls, but which will be special targets for deregulation. The reason is that they are binding constraints whose release is worth billions of dollars. In practice, Mr. Wolf is probably more democratic about whom he will devour, but the economics means that deregulation will target those regulations that actually serve consumers. This is the second path to perfect perversion.

WHO WINS WITH REGULATION? WITH DEREGULATION?

The lesson is that anyone who is doctrinaire in stating that deregulation or regulation is *always* good or always bad, is part of the problem. The outcome of regulation or deregulation depends on whether it was inspired by private or public interests. We must examine what is being regulated and why. As the social philosopher, Yogi Berra, is reported to have said, "You can see a lot, just by looking". We need to look at regulations carefully to see which ones serve the public interest.

The Red Riding Hood problem has the possibilities seen in figure 1. Industry-inspired regulations exist in Box 1 harming Red Riding Hood. If these are removed, as in Box 2, she wins in a world of transparency where things are what they purport to be. Box 3 represents the case where an effective regulation, well administered, keeps the wolf from thriving at RRH's expense. If one moves from Box 3 to Box 4, a necessary regulation is removed and so, in the end, is Red Riding Hood.

	REGULATE	DEREGULATE
Sheep dressed as sheep RRH doesn't need regulation	1 RRH Loses	2 RRH Wins
Wolf dressed as sheep RRH needs regulation	13 RRH Wins	4 RRH Loses

Figure 1. Payoffs to Red Riding Hood from needed and not-needed policies.

POLICY

Much of the debate in the press is dominated by persons or groups with a doctrinaire bent. Policy, though, is too much in the hands of lobbyists with well-specified targets. In developing countries fewer regulations exist, yet some of the earliest rules are dedicated to maintaining the quality of exports (especially food). The sorry state of markets is partly related to the inability to offer what the U.N. Secretary-General calls the "irreducible minimum of consumer protection legislation, covering physical safety . . ." (United Nations, 1993). The European Union (which, in contrast, has "too many" regulations) has a logical policy. In the trade area—after the "Cassis de Dijon" case in 1985—regulations were permitted if they had a health and/or safety function. This was a practical start. All countries need more education to protect consumers from bad regulations. This is a demanding task because it needs to move people from the ideological position that regulation is "good" or "bad" to an open-minded assessment of the following: Does the original regulation pass the consumer purpose test? If so, is it efficient in achieving its objective? Is some other method superior?

Some regulation is clearly needed. We need some rules to ensure that contracts can be enforced, that weigh scales are truthful, and so on. Just as the defense of a country is a public good, so too is consumer defense. If one consumer finds from the FDA that thalidomide causes birth defects, other consumers can use that information too, without loss to the first.

Scale economies in search are also important. For any individual, the degree of difficulty in a consumer choice, d, depends on the complexity of the decisions, C, and the decision-making resources, R, available to the consumer: $d = C/R$. "Education" increases R, thereby decreasing d, which is an improvement. Yet highly complex decisions like the use of thalidomide require more investments in R than any individual can make. Developing countries have a special problem with the current wave toward liberalization of markets, which can certainly be a good thing for consumers. The basic public investment in "R" has not been made. For example, the World Health Organization assessed the capability of 111 developing countries to ensure that pharmaceuticals were of sound quality and found that 58 had no laboratories at all and only 9 had fully functioning quality assurance systems (World Health Organization, 1988). It is a big mistake to assume the existence of a food and drug administration. Without the essential framework for fair markets, sellers with superior products cannot gain market share from sellers peddling dangerous or useless products. In this circumstance, "deregulation" can be a move toward chaos or "might is right" rather than toward the emancipation of consumers that results from markets which have a framework for truth and fairness.

The forces explaining difficulty (d) also explain why there will always be a need for some regulations protecting consumers. Thus there will continue to be the sheep's clothing of consumer protection in which a wolf can conceal the true intent of his quest for regulation . . . or deregulation. The rewards for regulatory "success," millions of dollars or more, are often far greater than a private firm could earn producing real goods and services to meet consumer needs. It is not only the consumer who loses: some firms lose too, especially sellers who would supply superior goods and services in a fairer marketplace.

The task of educating consumers about their own interests in deregulation is daunting, but the multitude of wounds—ranging from the small nicks from small carrots to major hemorrhage from S&Ls—provide the lesson that the benefits from avoiding perfect perversion are high indeed.

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Regulate, Inform, or Educate? Choosing Efficient Consumer Policy Strategies

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What is the appropriate role of government in society? Americans have debated this question since the founding of the republic. Indeed, each time Americans cast their ballots, they send signals about their desire for more or less government in their lives. Although there is a wide spectrum of opinions about this question, the very existence of extensive local, state, and federal government institutions reflects a widely held belief that government is often necessary to further society's goals.

At the same time, pleas for less government, leaner government, and smarter government indicate that citizens often believe that their hard-earned tax dollars are squandered by inefficient government programs or that the government sometimes interferes too much in their daily lives. In this environment, a critical question for consumer policy makers is whether they can regulate more efficiently. An economic perspective is helpful when analyzing this question, because economics is devoted precisely to the issue of how to allocate scarce resources among competing uses.

In this paper I address one central consumer policy question from an economic perspective: What is the appropriate role for three consumer policy strategies: direct regulation of products or behavior, information provision, and consumer education? In addition, I consider the relative efficiency of many actors in fulfilling these tasks.

THE MERITS OF REGULATION, INFORMATION, AND CONSUMER EDUCATION

Recent headlines indicate that regulators are actively considering the trade-offs among consumer policy strategies. For example, the following quote from FTC Commission Christine Varney recently appeared in *PC Magazine Online* under the headline "Educate, Don't Regulate":

> Education and empowerment, rather than regulation, should be the consumer protection tolls in the information age. We haven't eliminated ordinary scams with regulation, and we're even less likely to eliminate electronic scams in that fashion. Real consumer education is possible in the electronic age, because the Net has the capacity to distribute information widely, instantly, and cheaply. In order to take advantage of this, consumers also need technological tools such as Parental Internet Control Standards (PICS), privately produced content selection services such as NetSurf, and dispute resolution services such as the Virtual Magistrate. Consumer education coupled with technology or service based empowerment tools, will facilitate the responsible exercise of personal choice. That, to my way of thinking, is vastly superior to government regulation.

Another recent headline cited a move away from regulation and toward consumer information at the Securities and Exchange Commission: "SEC advocates Plain English, Votes to Cut 45 Regulations; Agency Trying to Create Investor Friendly Documents" (Knight, 1996). This article discusses steps taken at the SEC toward "translating some investment documents into plain English—and toward getting rid of a host of other

reports that few investors read but every public corporation must file."

The Food and Drug Administration (FDA) has also adopted policies to further inform consumers. For example, after years of debate and passage of the Nutrition Labeling and Education Act of 1990, the agency overturned a ban on diet-disease information in food labeling in favor of a policy that allows at least some claims, albeit under tight restrictions. Similarly, policy signals that deterred prescription drug advertising to consumers have been replaced by policy signals allowing such advertising.

ECONOMIC APPROACH TO CONSUMER POLICY

The application of economics to consumer policy is a relatively new phenomenon. Economic advice was rarely solicited on consumer protection matters at the Federal Trade Commission until the early 1970s (Ippolito, 1986). By the late 1970s, however, FTC staff had substantially analyzed core consumer protection issues from economic and marketing perspectives. In fact, many of the arguments I make here appeared in a comprehensive volume entitled *Consumer Information Remedies: Policy Review Session* (Federal Trade Commission, 1979).

The principle for evaluating consumer policy options adopted in that volume is a principle that would be advocated by most economists: one must consider the balance of costs and benefits of the available alternatives. During the almost 20 years that have intervened since the publication of that volume, FTC staff have often advocated the use of a cost/benefit approach to consumer policy and the adoption of policies that promote the provision of more and better information to consumers.

Although cost/benefit analyses can rarely provide precise answers to consumer policy questions, they are valuable because they force analysts to consider alternatives explicitly, including possible long-run unintended side-effects. The approach can work only when policy makers agree on the goal of intervention. Many consumer protection laws and accompanying policy decisions are based not on efficiency concerns, but on concerns about equity. Policy analysts in this environment must clearly identify the goal of an intervention, separate efficiency from equity issues, and identify the most efficient way of achieving the stated goal.

When is government intervention most likely to improve social welfare? Economists generally associate the need for government regulation with the identification of situations when markets are most likely to fail. For example, intervention might be welfare-enhancing when public goods, such as defense or basic information, are provided through taxation; when government provides mechanisms to combat inefficiencies that arise from externalities, such as pollution affecting non- polluters; when government enforces property rights; and when government designs mechanisms to address imperfect information problems.

When possible market failures exist, there are potential gains from government intervention although intervention is not always better than the status quo. For example, market researchers often question whether information disclosures written by lawyers and economists improve consumer welfare. Thus the "no intervention" option should be considered when assessing policy alternatives.

CONSUMER POLICY STRATEGY SET

There are two broad classes of strategies potentially available to most government regulators: (1) direct regulation strategies and (2) information strategies. Information strategies can be roughly separated into two sub-sets: (a) information provision and (b) consumer education. Regulators constitute only a small part of the consumer protection landscape. Private litigation through the courts and industry self-regulation also strongly influence consumer policy outcomes. As noted above, analysts must also consider the "no intervention" strategy.

Direct Regulation Strategies

Direct regulation strategies include product bans, design standards, and performance standards. These options focus on controlling product availability, but they differ in terms of their costs and outcomes. Of the three, the strategy to ban products like the ban on Red Dye #2, is clearly the most restrictive. A ban prevents consumers from being harmed by a specific product. Whether this is justified will be determined by the choices consumers would have made if they had sufficient information about the product and if they knew how to evaluate the information. If reasonable consumers would choose not to purchase a product under such conditions, then the ban may be justified. Consumer welfare, in this instance, is likely to depend on several product characteristics (including severity of the risk associated with the product, the probability of the risk associated with the product, and the characteristics of substitute products) and several consumer characteristics (such as, consumer tastes and preferences, information, incomes, and discount rates).

Design standards specify how a product must be manufactured. Although design standards are generally less restrictive than bans, they can become de facto bans, if they are so stringent that they render profitable manufacture of a product impossible.

Performance standards are less restrictive than design standards, and in many instances are clearly preferred. For example, rather than specifying how a manufacturer must reduce pollution, a performance standard specifies

a goal, such as, reduce pollution by 10%. A manufacturer can then take advantage of changes in technology and relative prices, enabling it to achieve the goal most efficiently. However, stringent performance standards can also result in a de facto ban.

Information Strategies

Information strategies are substantially different from direct regulation strategies. They are not intended to regulate product existence, design, or performance directly; instead, they are designed to give consumers better information, with which to make their own decisions about the types of products they wish to purchase, and ultimately, on the allocation of society's resources.

Just as there is a restrictiveness continuum for direct regulatory strategies, so too is there a restrictiveness continuum for information strategies. There are several types of information strategies available, which can be roughly grouped into "manufacturer-supplied information"; "government-supplied information"; and "independently-supplied information" strategies.

Manufacturer-Supplied Information

When most consumer policy analysts think of information strategies, they probably think of strategies pertaining to product advertising and labeling. Several regulatory options are available in this realm. One strategy is an information ban, such as the ban on health information in food labeling, which has existed for decades. The potential benefit of a ban is that it might eliminate harm from claims that are misunderstood by or misleading to some consumers. The potential harm from a ban is that it might deprive consumers of information that would have been helpful. (See Calfee and Pappalardo, 1989.)

Another strategy is to require the affirmative disclosure of information. Information disclosures may be required universally (e.g., packaged foods must include nutrition information on their labels) or they can be "triggered" (e.g., lenders who choose to advertise interest rates are required to give consumers additional information). Disclosure remedies are generally less restrictive than bans; however, because information can be costly to provide, stringent disclosure standards can result in a de facto information ban.

"Information design standards" are another option. Such standards include setting definitions for descriptors (for example, standards for use of the term "lowfat") and setting standardized metrics (for example, defining how to measure R-values for home insulation).

Government Supplied-Information

In addition to setting standards for manufacturer-supplied information, government agencies have the option of producing and providing information to consumers directly. For example, the USDA collects information on food consumption patterns which is used to produce reports on consumption behavior. Government provision of basic information and basic research is often welfare enhancing, because the free-rider problem associated with information often leads to an insufficient production of information through private means.

Independently-Supplied Information

The net effect of any information regulation policy will depend, in part, on the quality and quantity of relevant information provided by independent third-parties. Such information can differ substantially from advertising or labeling information because its sources are accorded more First Amendment protection than commercial speech. Although government does not have direct control of information provided by independent third parties, government can affect the flow of such information. For example, press releases can help improve the dissemination of information. In addition, policies that promote use of third-party certification can enhance the development of independent testing and certification mechanisms.

CONSUMER EDUCATION

Consumer educators who attended a forum on "The Roles of Education and Regulation in Protecting Consumers" at the 1996 ACCI conference reminded me of an important distinction between mere information provision and consumer education. For example, there is a difference between requiring firms to publish the annual percentage rate (APR), and explaining to consumers how to interpret and use the APR in decision making. Policy analysts sometimes mistakenly equate the two approaches, in part, because true consumer education is often not feasible given the limited budgets in regulatory agencies, whose main function is to enforce consumer protection laws. Another potential complexity arises because education often involves a transfer of values from the educator to the students. To the extent that values differ across society, pure education strategies by federal regulators are likely to cause much more political turmoil than the strategy of simply providing factual information about a product's characteristics.

Although regulatory agencies often provide active consumer education, they are only one source of consumer education. Other sources include local teachers, newspapers, magazines, books, television, and public interest groups.

PRIVATE LITIGATION

Private litigation is an important determinant of the consumer protection landscape. For example, numerous product warning labels are not the result of regulatory actions, but have arisen from products liability cases, such as the initial $2.7 million judgement against

McDonald's, which resulted in the "Caution: Contents Hot" warning on McDonald's coffee cups.

A recent article chronicling the products liability phenomenon raises some interesting moral and legal questions. For example, according to the article, a product liability lawyer faced the question of how to keep teenagers from getting high through the use of aerosol propellants:

> The label on the can clearly warned of death or serious injury if the product was inhaled, Mr. Schwartz said, but some young people ignored it, leading to at least one death. The company wanted to make the warning larger, but Mr. Schwartz argued against it, saying that teenagers would then assume that there was more of the propellant in the product.
>
> "What do kids worry about more than death or injury?" Mr. Schwartz asked his clients. "How they look, of course. So we wrote the warning to say that sniffing the stuff could cause hair loss or facial disfigurement. It doesn't, but it scared the target audience and we haven't had a liability claim since then."

"That's why," he added, "I'm paid $370 an hour" (Broder, 1997). This raises the question of whether the end (fewer teenagers inhaling aerosol propellants) justifies the means (misrepresenting a product's effects). Also worthy of consideration is whether the many warnings used to avoid product liability lawsuits diminishes the ultimate effect of all warnings.

CONCLUSIONS

Cost/benefit analyses of consumer policy strategies suggest that information strategies are often preferred to direct regulation strategies, and that less restrictive information strategies are often preferred to more restrictive information strategies (such as bans on certain types of information). This conclusion arises primarily because consumers are heterogeneous; people differ in their tolerance for risk, in the rate at which they discount present versus future consumption, in their incomes, their values, and their tastes. A "one size fits all" consumer policy can therefore harm more people than it helps.

The important role of consumer values in the consumer policy process was noted by Schultz long ago:

> . . . when should labeling be used as a substitute for a ban on an unsafe product. In this regard, it might at first appear that our laws are inconsistent. For example, the Food, Drug and Cosmetic Act requires that Red Dye No. 2, a color additive, be banned, whereas other laws merely require a warning label on cigarettes, which are far more hazardous. In my view, however, an important part of the explanation for this and many other so-called inconsistencies in the regulation of hazardous substances and activities is consumer preference: the laws vary because consumer preferences vary (1980, P. 221).

The choice of which strategy should be used will depend, in part, on the goal of the intervention. If the goal is to change product usage, then information or education strategies might be less effective than direct regulation. However, one must consider whether the goal is to change consumer behavior, or to improve overall consumer welfare. In fact, due to differences in consumer values, bans are often simply not politically feasible.

Although information remedies that promote more and better consumer information are often preferred to other policy strategies, they can be surprisingly difficult to implement effectively because information can be costly to provide and disclosure requirements may not pass a cost/benefit test. Another potential concern is whether a disclosure will work as intended.

Consumer policy makers must consider not only which strategy—direct regulation, information provision, or consumer education—is likely to solve a problem most effectively, but also who in the consumer protection environment is relatively efficient at achieving the desired goal. There are many players in the consumer policy arena, including the popular press, government, academics, public interest groups, businesses, and trade associations. All of these groups have various comparative advantages. Who is best-positioned to produce large data bases with which to analyze consumer policy? I would argue that due to free-riding problems associated with information provision, government is often needed to fulfill this function. Who can get useful information to consumers fastest? I would argue that the media and businesses that market consumer products are relatively efficient in this task. Who is best at policing the regulators to ensure that programs pass a cost/benefit test and that information remedies work as intended? Perhaps this is the comparative advantage of academics and public interest groups. Who is best at educating consumers about how to evaluate product information? Perhaps this is best accomplished at the local level, through high schools and adult education, and through the media.

There is little doubt that direct regulation, consumer information provision, and consumer education are substitutes in some instances, but more often, they are complementary strategies. The overall question that remains for consumer policy analysts and advocates is: How can we design programs and institutions that foster each group's comparative advantages in

producing and disseminating effective information—information that different types of consumers can actually understand, and information that can improve overall consumer welfare?

NOTE

1. The views expressed in this paper are those of the author. They do not necessarily reflect the opinion of the Federal Trade Commission or any Commissioner.

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Money Management in Families: A Review of the Literature with a Racial, Ethnic, and Limited Income Perspective

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This article reviews the literature on money management in families, focusing on families with limited incomes and the two largest minority groups in the United States—African Americans and Hispanics. Areas covered in the studies include (1) budgeting and related behavior, (2) credit, (3) saving, and (4) parental influence on children's money management knowledge and behaviors. Findings in these studies suggest that there are differences in the way selected racial and ethnic groups manage money and in the money management behavior of consumers with limited incomes.

Educators are emphasizing the need to work with individuals and families who have limited financial resources. This focus is not new but one that is getting greater attention for a number of reasons, including the mandate for public educational institutions to extend their outreach to *all* citizens.

Recent data indicate that the proportion of the population experiencing difficulty in satisfying basic needs is increasing. In a profile of the nation's social and economic status, a Census Bureau report (U.S. Department of Commerce, 1994a) indicates that more Americans are on public assistance than in earlier years. In 1991, the average number of persons participating monthly in at least one major federal program was 30.9 million, up from 28.5 million in 1990. In addition, the number of Americans living below the poverty level increased from 38 million in 1992 to 39.3 million in 1993. This was the fourth consecutive year for this upward trend (U.S. Department of Commerce, 1994a). Segments of the population likely to experience poverty are households headed by single female parents and selected racial and ethnic groups, i.e., Black Americans and Hispanics. (Throughout this paper, the terms African Americans and Blacks are used interchangeably.) Most single-parent households are headed by females. In the United States, female-headed families are more prevalent among Blacks and Hispanics than among Asians (Myers, 1991; U.S. Department of Commerce, 1992). Data from the U.S. Department of Commerce (1992; 1994b) present a clear picture of the financial predicament of families headed by females, African Americans, and Hispanics (see Table 1).

Collectively, African Americans, Hispanics, and other "minority" groups (as defined by the U.S. Census) are burdened with consumer debt, have a low savings rate, own fewer interest-earning assets, and are less likely than the "majority" (Whites as currently defined by U.S. Census) to own their homes or have access to adequate health care and health insurance coverage (Hiltz, 1971; Myers, 1991).

When observed as a separate category of minorities, Asians/Pacific Islanders are better off economically than Blacks or Hispanics. Asians/Pacific Islanders have median incomes that tend to be comparable to or slightly higher than the incomes of Whites. Additionally, in this racial group, the proportion of married couple families is high (80%) and the proportion of female-headed

(13%) and male-headed (5%) households with no spouse present is very low (U.S. Department of Commerce, 1995).

Given these demographic patterns demonstrating strong connections among race, ethnicity, and income, this paper will focus on individuals and families with limited incomes and on the two largest minority groups—African Americans and Hispanics—that appear to be in a less favorable economic position. Currently African Americans are the largest minority group in the United States. The Hispanic population grew over seven times as fast as the rest of the country from 1980 to 1990 and is expected to exceed the Black population before the year 2000 (Pitts, 1990; U.S. Department of Commerce, 1993). This paper provides an overview of the research that has been conducted on low-income consumers, African Americans, and Hispanics since 1965. While any research in this area was sought, work given special emphasis was that of faculty and staff employed in the nation's public universities in areas of family economics, family social well-being, and family resource management.

TABLE 1
CHARACTERISTICS OF FAMILIES BELOW THE POVERTY LEVEL[1]

	White	Black	Hispanic
All families			
Total	57,858	7,888	5,318
Percent below poverty level	8.9	30.9	26.2
Married couple families with children under 18			
Total	22,406	2,175	2,497
Percent below poverty level	7.6	15.4	22.5
Median income[2]	$45,290	$36,357	$28,379
Families with female head, no spouse present and children under 19			
Total	5,060	2,898	945
Percent below poverty level	39.1	57.2	57.4
Median income[2]	$15,700	$10,393	$11,274

[1]Numbers are reported in thousands.
[2]Median income source: Statistical Abstract of the United States, 1994.

Source: *Current Population Reports.* Consumer Income. Series P60-185. Poverty in the United States: 1992. Bureau of Census. U.S. Department of Commerce.

PURPOSE

Studies have been conducted on families' management of financial resources for several decades (Israelsen, 1990). To determine the extent that race, ethnic origin and a low income have been the focus of money management research, two questions were asked.

1. How do individuals and families with limited incomes manage their money?

2. Are there differences in the way selected segments of the U.S. population (i.e., Hispanics, African Americans, and Whites) manage money?

The primary intent of this manuscript is to provide an overview of the quantity of research available on the above topics. The quality of research is an important and valid concern. However, before quality in an area of research can be debated, a sufficient quantity on which to make judgments must be readily available.

METHODS

To answer the two questions, literature from 1965 to 1995 was examined. These years are significant because they followed the passage of the Civil Rights Act of 1964. The period after 1964 was the beginning of an era in U.S. history when equality for all Americans, regardless of race or ethnicity, was legalized. One could rationalize that after 1965 *all* Americans should be included in research conducted by public educational institutions and other agencies supported primarily by public funds.

The following databases were searched electronically or by disk: *American Business Index Inform, Business Periodicals Index, Social Sciences Index, Public Affairs Information Service, and Dissertation Abstracts.* In addition, manual searches were conducted of the following: (1) annual proceedings of the American Council on Consumer Interests 1977-1995 (volumes from 1970-1976 were not readily available), (2) selected proceedings of the Association for Financial Counseling and Planning Education (1989, 1990, 1993, 1994, 1995), (3) Sage Family Studies, (4) *Sociological Abstracts,* (5) *Index to Black Periodicals*, and (6) *Financial Counseling and Planning* (journal), volumes 1-5 (1990-1994).

Literature considered relevant was identified by the following key words or combination of key words: low income, limited income, poor, poverty,

money management, personal finance, Black, African American, Hispanic, Latino, and minority. For items searched manually, the above key words were also used. In addition, article titles and the purpose and summary sections of reports were perused to see if they focused on the variables of interest. In one instance, authors were contacted for a copy of a report that was discussed at a national meeting.

DEFINITIONS

For the purposes of this paper, the following definitions were used:

- *Cultural:* concepts, habits, skills, etc. of a given group of people.
- *Race:* any of the categories used by federal agencies to collect statistics on groups of people identified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or White.
- *Ethnicity—Hispanic:* persons of Mexican, Puerto Rican, Cuban, Central America, South America, or other Spanish culture or origin, regardless of race.
- *Ethnicity—Non-Hispanic:* persons who are not of Hispanic origin.[2] Under current guidelines, some federal agencies combine race and ethnicity into one category for data collection purposes. When combined, the categories are: American Indian or Alaskan Native, Asian or Pacific Islander, Black—not of Hispanic origin, Hispanic, and White—not of Hispanic origin.
- *Family:* two or more related individuals living in the same household.
- *Limited income:* having a low income relative to family size and frequently not having enough money to satisfy basic needs.
- *Money management:* the daily financial activities and decisions that are made about spending, saving, and investing personal economic resources.

FINDINGS

The Disadvantaged Consumer (Andreasen, 1975) provided a starting point in the search for an overview about the money management behavior of individuals with low incomes. This book contains general descriptions of individuals with low incomes and their behavior. Andreasen analyzed the work of previous researchers and government documents on consumption and other financial matters of poor Americans. Andreasen reported most of his data on two racial groups: African Americans and Whites. Even with income controlled, significant differences were found between the consumer behavior of Blacks and Whites. On the average, Blacks saved more (in absolute dollars and by income percentiles) than Whites but were also more likely to have some kind of debt. Even at the lower end of the income spectrum, Blacks had lower average amounts of debt and their net asset position (assets minus debts) was less than that of Whites with similar incomes. At the upper end of the income spectrum, Blacks had more types of debt and more debt in absolute amount. Smith (1983) reported a similar finding relative to net asset position of Black and White families with the same incomes. In addition, based on his analysis of several studies, Andreasen (1975) concluded that Blacks have greater interest in seeking low prices but (1) were less likely to read newspapers or to venture outside their community to do comparison shopping, (2) were more likely to purchase national brand products, and (3) were more likely to spend less than Whites on food eaten at home, housing, medical care, and automobile transportation. Blacks spent more than Whites for clothing and non automobile transportation. Two factors, racial discrimination and cultural differences, were credited for these differences. Andreasen noted that racial discrimination affects the quality of schooling obtained, instability of income, housing choices, and feelings of being in control. He attributed the following unique cultural differences to Black consumers in relation to Whites: being younger, having higher fertility rates, and having different marital structures.

Could other cultural differences in Black Americans and Hispanics be a factor in the limited number of money management studies on them? Many of the studies located describe the gender, racial background, ethnic origin of participants, or include some information to indicate the proportion of the sample defined as low income. The majority of the studies are first attempts and do not build upon longitudinal studies or a prior work. To the extent possible, studies are grouped according to themes: budgeting, saving, socialization of children, and information searching. Several works are listed under more than one theme.

BUDGETING AND RELATED PRACTICES

Budgeting has long been recognized by family financial management educators as the base for subsequent actions that are critical to financial well-being. Without a spending plan, money management professionals agree that it will be difficult to reach financial goals.

Jackson (1968) studied urban homemakers who lived in households in which the major wage earner was employed in a low-wage occupation. The focus of the study was on the planning and controlling practices believed to be attributes of a good money manager: savings goals, savings practices, and attitudes toward money management. Planning, controlling, and a positive attitude toward money management were positively related to respondents' level of education. A positive attitude toward management and more control over expenditures were found in homemakers who (1) were satisfied with

their spending practices, (2) lived in a two-earner household, and (3) had long-term management and savings plans.

Mullis and Schnittgrund (1982) studied the budgeting behavior of almost equal numbers of Mexican American, White, and Black urban residents (n=199) with low incomes. The average income of study participants was $9,000. These researchers sought to determine if participants used budgets to help meet the economic demands of the three stages in the life cycle (beginning, expanding, and contracting). Budgeting formats ranged from an informal mental plan to a formal written plan with informal, unwritten plans being used almost exclusively. No statistically significant differences were found between budgeting families and non-budgeting families and key demographic variables: race, age, educational level of household head, income level, employment status, number of children, and stages in the life cycle.

Using the same data set as Mullis and Schnittgrund (1982), Schnittgrund and Baker (1983) studied participants' financial practices relative to budgeting, tracking expenses, using credit, and saving patterns. These researchers concluded that there were differences in the financial management practices of each racial group. While the most common method of budgeting for all families was having a "general idea in mind", Blacks (21%) were more likely to have a written budget than Mexican-Americans (10%) or Whites (17%). A greater proportion of all families kept track of expenses with White families (88%) leading, followed by Blacks (81%) and Mexican-Americans (79%). The annual household income for the three groups were: Mexican-Americans, $8,893; Blacks, $10,750; and Whites, $12,023. Authors of this report did not indicate whether tests were conducted to determine if the noted differences were statistically significant.

Using the focus group technique, Hogarth, Swanson, and Selgelken (1993) studied 58 potential learners from limited-resource families to determine their (1) knowledge, skills, and thoughts about money management, (2) how to "package" an educational program on this topic for different groups, and (3) how to effectively and efficiently get information to targeted individuals and families. The 58 participants were White (45%), African American (43%), and Hispanic/Latino (12%) women. Most participants were single (66%). This research emphasized the interrelated complications that persons with limited resources face daily. Themes surfacing from the data included the trap of public assistance programs, the difficulty of saving for the future, the influence of values and culture on management, and experiences in the marketplace. Participants' comments relative to the words "budget" and "budgeting" clearly indicated that there were many perceptions and interpretations of these words. Data in this report were not categorized by race or ethnic origin.

Godwin and Koonce (1992) studied low-income (household income less than $20,000) newlyweds to determine if they were different from their middle ($20,000 - $40,000) and upper (more than $40,000) income counterparts in terms of the way they felt about cash flow management patterns and their cash flow behavior. A mailed survey was sent to randomly selected newlyweds in their first marriage. Using multivariate analyses of variance that controlled for differences in the couples' age and education, these researchers found statistically significant differences between low-income and higher-income couples in their (1) practices related to cash flow management, (2) attitudes toward planning, and (3) locus of control. Low-income couples differed from high-income couples in maintaining financial records, monitoring their income and spending, projecting a budget, and balancing their budget.[3] Low-income couples were more likely to recognize the need for financial planning than couples with higher incomes. Also, low-income couples believed more strongly in the role of skills in success when compared to their high-income counterparts. The differences between low-income couples and higher-income couples showed that low-income couples have the behavioral practices and attitudes that are recommended for effective cash flow management. The average education level of these newlyweds was 14 years. Neither the race nor the ethnicity of the 106 newlywed couples who participated in this study was reported.

A study by Marlowe, Godwin, and Maddux (1995) focused on welfare recipients' financial knowledge and behavior. These researchers reported that participants (1) did not have high levels of financial knowledge, (2) felt they were in control of their finances, and (3) used positive planning and saving behaviors. However, the participants were frustrated with a lack of income. Although 35 participants completed the pretest, only 19 persons completed both the pretest and post-test used in this study. Race, ethnicity, and gender of participants were not reported. Most of the participants were between 25 and 35 years old and had one or more children.

Using data from the 1980-81 Consumer Expenditure Survey, researchers have studied how different groups of people spend money on basic living expenses. Wagner and Soberon-Ferrer (1990) analyzed the effect of ethnicity on money spent on clothing, food at home, and food away from home. After controlling for the effects of income and other socioeconomic variables, these researchers found that Hispanics spent more than Whites or Blacks on food at

home. Blacks, compared to Hispanics or Whites, spent more on clothing and less on food away from home.

Using data from the 1990 Consumer Expenditure Survey, Fan and Zuiker (1994) studied the household budget allocation patterns of Hispanic and non-Hispanic White households. After controlling for household characteristics other than ethnicity, these researchers found significant differences in the budget allocations in the two groups. Hispanic households allocated more of their budget to food at home, shelter, fuel and utilities, and apparel than non-Hispanic White households. Non-Hispanic White households allocated significantly more to food away from home, household equipment and operation, entertainment, health care, and tobacco products than Hispanic households.

Fan (1994) studied the budget allocations of Asian Americans and three other racial/ethnic groups: Blacks, Hispanics, and Whites. After controlling for other economic and demographic factors, statistically significant differences were found. Compared to Black households, Asian American households allocated less to fuel and utilities and more to food at home, food away from home, shelter, and household equipment and operation. In comparison to Hispanics, Asian Americans allocated more to food away from home, household equipment and operation, entertainment, and tobacco. Asian Americans spent less than Hispanics on food at home and fuel and utilities. Asian Americans were very similar to Whites in that no significant differences in allocations were found in food at home and food away from home. Asian Americans spent slightly more than Whites on shelter, tobacco, and entertainment.

CREDIT

If budgeting is the foundation of a financially fit family, credit standing is quickly becoming a measure of Americans' ability to manage money and to obtain other consumer products and services, such as automobile insurance (Scism, 1995). Since 1975, when the Equal Credit Opportunity Act (ECOA) was passed, credit has become more accessible to many segments of society. Prior to the passage of this law, it was legal for creditors to discriminate based on gender, race, national origin, age, or the receipt of public assistance.

Bowers (1979) and Bowers and Crosby (1980) studied the credit repayment performance of low-income African American consumers who completed a consumer education course and who were granted a credit card by a cooperating bank. There were 48 participants in Bowers' study and 141 in Bowers' and Crosby's study. Neither study included a control group. Participants in both studies tended to maintain unpaid balances close to their credit limit. Amounts charged and paid were highly correlated. These studies were exploratory, thereby attempting to provide some information about the use of credit on a segment of American society that, to date, is not widely represented in the academic literature.

All families in Schnittgrund's and Baker's (1983) study used credit. White families were the highest users (82%) followed closely by Hispanic families (81%) and Black families (71%).

Financing an automobile is one credit option that most adults use at least once during their lifetime. Zhong and Hong (1994) studied the effects of race/ethnicity and other sociodemographic factors on the decision to finance a car. They found that Blacks are more likely to finance a car than Whites, and Hispanics were less likely than Blacks to finance a car. Other factors associated with using credit to purchase a car were higher income, being a female, having fewer young children, and having a home mortgage.

Hogarth, Swanson, and Selgelken (1993) reported that participants in their study had negative reactions, initially, about credit but acknowledged that credit was a need, a want, and a problem. Participants' comments indicated they had different levels of knowledge and understanding about credit.

SAVINGS

Savings and other financial assets may affect one's ability to get some forms of credit. The amount saved or the value of financial assets depends on several factors including income, the regularity of saving, and knowledge about savings and investment options. Jackson (1968) showed that low-income homemakers who planned and controlled spending had a positive attitude toward management and were more likely to save regularly.

Hiltz (1971) used data collected from several Surveys of Consumer Finances (1962, 1967, and 1968) and two additional large surveys to compare Black and White Americans on key financial variables. In the area of savings, Hiltz found that at all income levels (under $5,000, to over $15,000), Black Americans were more likely than White Americans to have their savings deposited in commercial banks, rather than in savings institutions which paid higher rates of interest. Hiltz also reported that White Americans had more types of assets and a much larger amount of financial resources than African Americans. A similar finding from a study comparing the retirement planning of White and Black professionals was that Whites were more likely to be involved in investments that yielded higher returns (Richardson & Kilty, 1989). Statistically significant differences were found between the number of Whites and Blacks who held stocks and bonds (47% versus 31%) and bank certificates (41% vs. 29%).

In their study of low-income urban families, Schnittgrund and Baker (1983) found that White respondents were the most regular savers with nearly half (46%) saving something on a weekly, bi-weekly, or monthly basis. Mexican Americans were the second most regular savers (44%) followed by Black Americans (35%). The average yearly income for these families was White Americans—$12,023; Black Americans—$10,750; and Mexican Americans—$8,893. Davis and Schumm (1987) studied savings behavior and satisfaction with savings of married couples. The sample consisted of nearly 1,800 married couples in 13 states. Their study found that families with incomes of $9,000 or lower (low income) could not afford to save much. Above the $9,000 threshold, savings tended to rise rapidly with increased incomes. The best single predictor of satisfaction with savings for low and high income groups was the reported level of savings. Davis and Schumm suggested that consumer educators might develop realistic savings standards for households with limited incomes. These researchers noted that the frequently-cited standard of two to six months of income in liquid reserves may be unrealistic for low-income households. Davis and Schumm suggested that savings in low-income households may take the form of setting aside money for large, irregular payments or consumption items such as gifts or other expenditures that do not increase net worth. Respondents in this study were lower-middle to middle class, White, Protestant, middle-age, and members of intact marriages with at least one child.

Lewis (1994) compared low-income families from southern versus non-southern regions of the United States by studying a subsample of respondents from the 1985 Survey of Consumer Finances. Of the 538 respondents chosen, 73% were White, 51% were female, 58% were unemployed, 60% were not married, and 60% were less than 65 years of age. Nearly three-fourths had incomes less than $10,000, and 58% did not graduate from high school. Statistically significant differences were found between the regions on several variables. Southern families were less likely than non-southern families to have private or employer-sponsored health insurance or have medical benefits from the Veterans Administration. Non-southern families were more likely to have bonds, checking accounts and/or savings accounts, money market accounts, and/or certificates of deposit. Families from the South were more likely to have taken money out of savings over the past three years. A higher proportion of the non-southern families had a high school diploma and more Southern families were non-White.

FINANCIAL SOCIALIZATION OF CHILDREN

Learning to manage money is a developmental skill. People are expected to increase expertise in this skill over life. However, many parents neglect to teach their children about this life skill until they are about to leave the nest. Two studies (Rabow, Charness, Aguilar, & Toomajian, 1992; Rabow & Rodriguez, 1993) focused on the money management skills of American children of different ethnicity. These two studies suggest that there are cultural differences in Latino, Filipino, and White American families relative to who manages the family finances, the involvement of children in financial transactions, and discussions about family finances.

Rabow, Charness, Aguilar, and Toomajian (1992) studied the cultural impact of women and money. This study was conducted in two phases and focused on middle class, female college students. There were 13 women in each phase. Phase 1 participants were primarily White Americans, aged 19-29. Two of the participants were women of color. Phase 2 participants were first generation Filipino Americans, aged 17-22. Four of the Filipino women were born in the Philippines and had moved to the United States, on the average, by age 8. These researchers found that parents of Phase 1 participants (American-born, primarily White) used a variety of practices to keep their daughters uninformed about money. Examples of these practices include not openly discussing money, being secretive about finances with their daughters (but not with their sons), and giving advice that suggested they rely on the earnings of a husband or father for their financial security. Fathers of Phase 1 participants tended to manage the family finances.

Phase 2 participants (Filipino) indicated that money was discussed openly in their families. The daughters knew of the family financial hardships by hearing their parents argue about money. Although money was discussed within the family, there were clear rules that information about family finances could not be shared outside the family. The Filipino daughters were encouraged to be financially independent of men. Their mothers were the family's financial managers and instilled a strong connection between hard work and financial independence.

Rabow and Rodriguez (1993) studied a convenience sample (10 pairs) of first generation Latino brothers and sisters (i.e., born in the U.S.) who were attending college. They used the interview technique and focused their research on (1) ways in which the participants' parents approached money and (2) the impact of the parents' approach on their children. It is important to note that although the focus was on first generation Latinos, due to interviewer error, two pairs of subjects were second and third generation Latinos. All

parents of the first generation Latinos were born in Mexico.

Rabow and Rodriguez reported that subjects learned about money in three ways. First, the scarcity of money acted as a teacher. For the majority of the subjects, the scarcity of money was a powerful influence on their lives. Although the subjects were succeeding financially in college, they had problems managing money. Problems ranged from finding it difficult to spend money to money becoming an all-consuming passion. Second, subjects learned about money from the open discussion and disagreements about money between their parents. Finally, their parents actively instructed them about saving. Although the subjects had an understanding and knowledge of money, they had very little experience managing it until they entered college. Many opened their first savings and checking accounts when they entered college.

Two interesting observations were noted in the second and third generation brother-sister pairs that were different from the first generation pairs. The second and third generation pairs were still financially dependent on their parents. In addition, while the children were growing up, their mothers did not want them to know how much their fathers earned. This latter finding about parents was also noted in a later work by Danes (1994). In her study of parental perceptions of children's financial socialization, Danes reported that the most consensus among parents was noted in their belief that children should never know family financial information such as (1) family income, (2) savings, and (3) indebtedness. The median income of the 182 respondents in Danes' Midwestern sample was in the $35,000 to $39,000 category.

INFORMATION SEARCHING AND BANKING OPTIONS

Individuals' ability and willingness to seek information and to compare options before making financial decisions vary greatly. Koonce (1988) studied the financial management attitudes and behaviors of low-income elderly consumers with special emphasis on their search for information. This researcher found that of the 99 persons in the sample (73% White, 23% Black), half had searched for information related to managing money. The 50% who indicated that they searched for information cited personal sources such as their adult children. The majority of subjects lacked interest in money management or perceived that there would be no benefit to money management activities. Those who indicated that they searched for information tended to have more education and higher incomes than those who did little searching. Eastwood and Swagler (1982) also noted that low-income rural and urban residents did not use major sources of information before making purchasing decisions.

Lewis (1993) piloted an interview schedule with 21 low-income residents of a housing unit. The majority of the residents were Black, female, single, unemployed, and less than 50 years of age. Variables explored were the use of product information, assistance with major purchase decisions, and how major purchase problems were handled. Most of the participants rarely used information from any source before making a major purchase. Of the 29% (6) that had problems with a major purchase, a majority (4) had taken steps to correct the problem.

Writers who openly encourage readers to gather information and compare choices before making important consumer decisions assume that reasonable choices are available. For consumers who have low incomes and who live in communities away from major banks and shopping facilities and who depend on public transportation, the choices may be limited (Leech, Scott, & Fox, 1990). Leech, Scott, and Fox (1990) found that there were differences between low- and moderate-income consumers who do and who do not have checking accounts. Those without checking accounts had larger households, were younger (under age 50), less educated, and more likely to be female and/or Black. Participants in this study were clients from a variety of social agencies or members of community organizations. A recent study of fringe banks (check cashing services and pawnshops) found that the majority of the fringe bank customers had low to moderate annual incomes ($9,000 to $17,000) and a high school education or less (Caskey, 1994). Many of the customers were between the ages of 18 and 30, and a disproportionate percentage of the customers were believed to be African American and Hispanic. Pawnbrokers interviewed for this study believed that many of their customers were renters, had bad credit, and did not maintain bank accounts. Lewis and Godwin (1994) found that low-income newlyweds had less access to financial services than couples with higher incomes. In addition, low-income couples were less likely to have a checking account, certificates of deposit, money market accounts, credit card debt, or installment loan debt.

Low-income consumers' use of rent-to-own businesses may cause some to question their search for information before buying some durable goods. Items bought using a rent-to-own business usually cost twice as much or more than if the same items were purchased at non-rent-to-own businesses. Nearly 40% of the participants in Cantrell's and Godwin's study (1992) had used rent-to-own stores. The majority of the 105 persons in this sample were Black, female, less than 40 years of age, and had not completed high school. The modal yearly income range was $2,500 to $4,999.

Several studies with representative samples of ethnic and racial groups have been conducted by family economists. Their research has focused on income and expenditures of families on necessities such as food, clothing, housing, and transportation. These studies give insights about spending patterns of household units (Myers, 1991; Pitts, 1990; Schwenk, 1994).

Other reports covered topics such as housing satisfaction (Tuss & Schnittgrund, 1982), food demand (Tufts, 1989), and general approaches on reaching different cultures with consumer information (Hemphill, 1992; O'Neill, 1994; Rupured & Payne, 1993; Schuchardt, Glade, Torres, & Walt, 1992; Schuchardt, Marlowe, Parker, & Smith, 1991; Snuggs, 1992; Williams, 1993; Yates, 1992).

WHY IS THERE A LACK OF EMPIRICAL LITERATURE ON MONEY MANAGEMENT IN FAMILIES WITH LIMITED INCOMES AND ON SELECTED ETHNIC AND RACIAL GROUPS?

Managing family finances is a perennial problem that is affected by the economic conditions of the nation. While some recommended practices will remain constant, others will change. One constant that may have affected the number of studies on family finances is the reluctance of consumers to share information about their personal finances. Furthermore, consumers without sufficient income to meet their basic needs might be more resistant to sharing their predicament with others. Their participation in educational programs about money could be perceived as an admission that they are having problems or don't know how to handle their finances. In some instances, low-income families may be reluctant to participate in projects involving money management because they feel in control of their situation (Marlowe, Godwin, & Maddux, 1995). Consumers with adequate incomes usually are highly educated and may also be easier to study because (1) data can usually be collected using mailed surveys, thereby requiring less time and fewer resources, and (2) they may be more cooperative. The reverse may be true of those with limited incomes. The U.S. Census has consistently documented larger non-response and difficulties in enumerating low-income groups, especially African Americans and Hispanics. Adult African American males have the highest rate of undercounting of all groups (Robinson, Ahmed, Gupta, & Woodrow, 1993; Schenker, 1993). Low-income consumers may be more distrustful of researchers and less tolerant of formal surveys and formal interview procedures. Also, research based on personal interviews and mailed questionnaires can be costly, time-consuming, and less likely to lead to a quick promotion and job security in academia than mining existing data bases.

Informal and qualitative approaches may be more acceptable for the groups in question. However, getting work published in widely circulated indexed journals could have been hampered if studies were not "traditional" or "scientific" in the eyes of reviewers. Established researchers and reviewers might have been reluctant to accept articles based on studies conducted with small, non-randomized samples that used qualitative methods. Only three of the studies cited in this paper (Bowers, 1979; Rabow, Charness, Aguilar, & Toomajian, 1992; Rabow & Rodriguez, 1993) that were published in professional journals had samples of 60 or fewer. Two of the three studies were published since 1992 and involved a time-intensive research method, face to face interview. This could be an indication that reviewers and some journals are beginning to have a different viewpoint of the value of qualitative work in unexplored areas. Most of the recent works cited in this paper appeared in proceedings of professional meetings related to family finances and economic well-being. Unlike journals, proceedings from conferences are not common among library holdings, nor are they indexed in major indexes. In short, access to conference proceedings is limited and presents a problem for those who wish to use them.

Financial support often determines what is researched. The funding priorities and focus of agencies, foundations, and organizations that provide the money for research may emphasize the behavior of higher income groups and may be another reason there is limited research on these segments of society.

Additional reasons for a lack of literature in this area might include (1) a belief that people with low incomes are not concerned with managing because available dollars must be spent on necessities and (2) the assumption that managing money by the current established standard is the "only" way and the most relevant for everyone. Inexperience or "feeling uncomfortable" working with those who are different, racially or ethnically, may be another reason why research on the money management of African Americans, Hispanics, and low-income individuals has been scarce. It is likely that the majority of those who have been successful in getting research published in the academic literature have middle class socioeconomic backgrounds. Finally, the initial attempts of educators and researchers to work with these societal groups may have failed, thereby further discouraged work and research in this area.

SUMMARY, CHALLENGES, AND RECOMMENDATIONS FOR EDUCATORS AND RESEARCHERS

Summary. A review of the existing literature suggests that there is little doc-

umentation of the money management behaviors of Americans who have limited incomes or who are members of the two largest current "minority" groups (i.e., Hispanics and African Americans). However, since 1991, there has been a noticeable increase in the literature on low-income populations, and ethnic and racial minority groups. This can be attributed in part to the report, *Reaching Limited Resource Audiences: Recommendations for Extension Action in the 1990*'s, of the Limited Resource Audiences Committee (1991) and the encouragement of the Cooperative Extension System for educators and researchers to focus on these populations. Topics covered in studies located were budgeting and related behaviors, use of credit, savings behavior, use of financial systems, financial socialization, and searching for information related to money management.

Although few in numbers, these studies provide preliminary evidence that there are differences in the way families with limited incomes manage their money and in the way various ethnic and racial groups handle money. Families with low incomes were more likely than middle income families to have difficulty saving, to discuss family finances openly in their children's presence, not to use formal banking services, and not to search for product information before buying. Among the ethnic and racial groups, differences were noted in savings patterns, savings and investment practices, use of credit, family money managers, and the financial socialization of children.

Challenges. Researchers concerned with family financial management are challenged and encouraged to study families with low incomes and to include substantial numbers of non-White Americans in studies when such populations are available. If educators are going to be effective in reaching and educating different ethnic and racial groups about managing money, more documentation in the literature is needed of their behaviors and what works and does not work in reaching and educating these societal segments. Reviewers for professional publications must seriously consider the merits and contributions that such works can make to the literature even when the samples are small but the methods sound and logical for the conditions described.

Low-income consumers of all ethnic backgrounds are likely to be less educated. Researchers and educators who desire to work with these groups may need refresher seminars on techniques that are required to be effective with such groups. In addition, a sincere internal desire by researchers and educators to work with these consumers will be essential to conducting meaningful research and educational programs involving them.

While selected Americans, especially African Americans and Hispanics, are more likely to have lower incomes than Whites, poverty or a low income is not a race- or ethnic-restricted characteristic. Nor is it a characteristic one must be labeled with for life. It is a characteristic that anyone reading this paper may be faced with one day because of an unforeseen life event.

Recommendations. If progress is going to be made in working with limited income families and with "minority" groups, researchers and practitioners must work together to provide a link between applied research and program development. Researchers can (1) oversample these segments of society in studies on money management, (2) explore data collection methods that address their trust and tolerance with research, (3) sharpen research questions of relevance in working with the aforementioned groups, and (4) use appropriate statistical techniques so that the value of the research, from a statistical perspective, is adequate. Areas of research that can be explored are the importance of parental and peer socialization in money management practices, interest and trust in using mainstream financial institutions from a low income and/or cultural perspective, and interest in learning techniques and practices that improve financial well-being. Finally, sound studies can be replicated and longitudinal studies conducted to present a complete picture of the financial management of subgroups of the population (e.g., successes, or how periodic financial crises are handled).

Practitioners might consider the following recommendations: (1) Analyze current efforts in research or educational programming. Can one of these efforts be adapted to reach other ethnic and racial groups or consumers with low incomes? (2) Work with someone in your state or a nearby community on a small project to gain experience working with these societal subgroups. (3) Encourage your professional organizations to establish long term awards or initiatives to encourage research with these groups (4) For those who have worked with low income persons for many years, try to publish the result of your work in indexed periodicals. (5) Finally, if you serve in advisory roles to organizations that provide financial support for research or educational programs, encourage them to support work on these segments of society.

NOTES

1. The authors wish to thank the anonymous reviewers for their comments and suggestions and to acknowledge the contributions of Floyd Holmes and Shalini Chalana, former graduate students, to the early phases of this manuscript.
2. Note that the race and ethnic categories are not discrete.
3. Projecting a budget involved estimating family income and fixed and flexible expenses.

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EQUAL CREDIT OPPORTUNITY ACT

A.B. & S. Auto Service, Inc. v. South Shore Bank of Chicago, 1997 WL 159285 (N.D. Ill.).

In February 1995, Jerry Bonner, the president of AB & S Auto Service, and an African-American, applied for a loan from the defendant, South Shore Bank of Chicago. The loan was through a loan guarantee program sponsored by the Small Business Administration. One of the requirements of the program was that the applicant fill out a personal history form. While the form required the applicant to provide information on any criminal history, it also stated that such information would not necessarily disqualify the applicant. Plaintiff Jerry Bonner completed his form, and listed five occurrences for which he had been arrested and charged. He was not convicted of any of these incidents. Bonner also listed one conviction for aggravated battery, for which he asserted he acted in self-defense.

While the bank did not automatically exclude applicants if they had a criminal record, Bonner's application was denied because the loan committee decided that his criminal record "reflected poorly on Bonner's judgment and character." Bonner then filed suit, alleging violations of the Equal Credit Opportunity Act, 15 U.S.C. §1691, because, he asserted, the practice of using criminal history as a factor in business loan decisions had a disproportionate impact on African-Americans. The plaintiff moved for summary judgment, using a statistical comparison as supporting evidence. South Shore Bank also moved for summary judgment, arguing that reviewing a criminal record was relevant to creditworthiness and that it was obligated to review criminal history as a lender approved by the SBA.

To support his motion, the plaintiff presented testimony of an expert, who concluded that decisions based on arrest rates would negatively affect minorities. However, the expert used statistics based upon the general population, not upon those qualified for loans or loan applicants. The court relied on *Cherry v. Amoco Oil Company*, 490 F.Supp. 1026 (N.D. GA, 1980), which ruled that general population statistics can only be used successfully to show discriminatory effects if the plaintiff can also demonstrate that the population pool would possess the same characteristics as the general population. Bonner, the court stated, left two questions unanswered: 1) the number of African-Americans who are otherwise qualified for such a loan; and 2) the extent to which the bank's practice prevents African-Americans from applying for loans. Because the questions were left unanswered, the court could not grant plaintiff's summary judgment motion.

The court then turned to the defendant's motion for summary judgment. The bank asserted that it only refused applicants who had criminal records on a case-by-case basis; it did not automatically exclude those with a criminal record. South Shore presented evidence that they granted at least three business loans to applicants who had a criminal history, and one of them was African-American. The bank also argued that because it was obligated to look at the applicant's criminal history as a participant in SBA's loan program, it should be granted summary judgment. In addition, the bank argued that inspecting criminal histories furnished them with relevant insight into an applicant's judgment and character. The court agreed, and granted the defendant's motion for summary judgement because the bank's practice had a significant relationship to extending credit.

UNFAIR DEBT COLLECTION PRACTICES ACT

Bass v. Stolper, Koritzinsky, Brewster, & Neider, S.C. and Leschensky, 111 F.3d 1322 (7th Cir. 1997).

Terri Bass, who held a joint checking account, began receiving debt collection letters after a check written to a local supermarket bounced. These letters were sent by the law firm of Stolper, Koritzinsky, Brewster & Neider, S.C.; the first three were addressed to Joe Arsenault, the other holder of the joint account and the person who wrote the dishonored check. The fourth collection letter was addressed to both account holders, and was written by Kathy Leschensky, who worked at the law firm but was not an attorney. In the letter, Leschensky stated that while she "draft[ed] and file[d]" lawsuits of this type, she would delay action for seven days if plaintiff made payment arrangements.

Bass then filed suit, alleging violations of the Fair Debt Collection Practices Act (FDCPA). Specifically, Bass asserted that Leschensky misrepresented herself as an attorney in violation of 15 U.S.C. §§1692e(3) and 1692e(5), and that the letter did not include the language that the purpose of the letter was to collect a debt and that any information received would be used for the purpose of collection, as required by 15 U.S.C. §1692e(11). The law firm acknowledged that the letter did not contain the language required by the Act, but alleged that the Act does not apply to collectors of dishonored checks, only to credit transactions. Both sides moved for summary judgment, and the district court granted plaintiff's motion, holding that the FDCPA applied to dishonored checks. Defendants appealed, arguing that a dishonored check is not a "debt" as defined by the FDCPA. Defendants argued that since the FDCPA was passed as an amendment to the Consumer Credit Protection Act, it was intended to cover

only credit transactions; second, they asserted that dishonored checks do not constitute debts because "the tender of a worthless check is a criminal and tortious act, not a consumer credit transaction."

The Seventh Circuit Court of Appeals rejected the defendant's argument. In so doing, the court examined the definition of the term "debt" in the Act, and found that it extended to any obligation to pay in a consumer transaction, the subject of which is primarily for personal, family, or household purposes. Although the FDCPA was passed as an amendment to the Consumer Credit Protection Act (CCPA), the court stated that this fact alone was not significant evidence to show that Congress intended to include credit transactions only in the FDCPA. The court then cited the Electronic Funds Transfer Act (EFTA), which was also passed as an amendment to the CCPA but covers transactions in addition to credit.

The court also reviewed the legislative history of the FDCPA, which consisted of early drafts of the Act, House and Senate hearings on the Act, and committee statements on the Act. Early drafts of the FDCPA did include phrases that limited the definition of "debt" to transactions where credit was extended. However, these phrases were eliminated in later drafts, which the court found as evidence of intent to broaden the definition of debt beyond credit transactions. In addition, debates during Congressional hearings showed that dishonored checks would be included in the definition of "debt" under the Act. Finally, the court cited committee statements of intent, which stated, "The committee intends that the term 'debt' include consumer obligations paid by check or other noncredit consumer obligations." Thus, the court concluded, purchases made by check were debts under the FDCPA.

The second contention by the defendants, that all dishonored checks are fraudulent and thus not considered a debt under the Act, was also rejected by the court. The court noted that checks may be dishonored by a bank for many reasons, and that the drawer of the check may not have had any intent to write a check that bounced. Even if the check writer had such an intent, the court noted, the Act's purpose is to prevent abusive forms of debt collection only. The FDCPA lists no exception for fraudulently written checks; thus, the court reasoned, the judicial branch should not create one. Since no exceptions applied to this case, defendant's debt collection activities fell under the FDCPA, and the court of appeals affirmed the judgment of the district court in favor of Bass.

Taylor v. Perrin, Landry, deLaunay, & Durand, 103 F.3d 1232 (5th Cir. 1997).

USI Financial Services loaned Charles Ray Taylor money for payment of his automobile insurance. After Taylor neglected to repay the loan and did not respond to USI's requests for payment, he received a collection letter from the law firm of Perrin, Landry, deLaunay, & Durand (PLdD). The letter, which was printed on the law firm's letterhead, was a form letter pre-approved by the firm and signed by Allan L. Durand, an attorney at the firm. However, neither Durand nor other attorneys reviewed the accounts when such letters were sent out. Instead, USI's computer program automatically sent out the letter on the firm's letterhead if a debt went unpaid after USI had sent them an initial letter.

After Taylor received the letter on the law firm's stationery, he filed suit, asserting that PLdD had not fulfilled the necessary duties of an attorney performing debt collection activities under the Fair Debt Collection Practices Act (FDCPA). For example, Taylor alleged, no attorney at the firm reviewed his file, examined the validity of the claim, or inspected the letter. Taylor filed for partial summary judgment, and the law firm also filed for summary judgment. The district court granted the defendant's motion, and dismissed the suit. Taylor then appealed his case.

The Court of Appeals for the Fifth Circuit disagreed with the district court's decision. First, the court of appeals observed that the accepted standard by which a collection letter is considered deceptive is the "least sophisticated consumer" or "unsophisticated consumer" standard. Such a standard, the court recognized, protects all consumers. Under this standard, the court found that the letter was misleading and deceptive. USI violated §1692e(3) of the FDCPA by incorrectly leading Taylor to think that an attorney was attempting to collect a debt from him. Likewise, Allan Durand and his law firm violated the FDCPA, since they furnished the form letter recognizing that debtors would assume that the law firm was participating in the collection efforts, when in fact it was not. Specifically, the form letter stated that USI had hired Durand and that he would file suit if the debt was not paid within ten days. In contrast, evidence presented by the plaintiff indicated that Durand and the law firm did not try to collect debts owed by USI, never billed USI for legal services, did not receive copies of letters that USI sent out to debtors, nor in any other way was active in collection efforts for USI.

The court relied on *Clomon v. Jackson*, 988 F.2d 1314 (2d Cir. 1993), in which an attorney who provided form letters to a collection agency was held to be violating the FDCPA, because the form letter misled the recipient into believing that the consumer's account had been referred to an attorney, the attorney found the debt to be valid, and the attorney would take legal action against the consumer.

The court of appeals reversed the district court's decision to deny plaintiff's

motion for summary judgment. The court then looked at the defendant's arguments. First, the defendants reasoned that Durand and the law firm did not fall under the scope of the FDCPA because they did not "regularly" attempt to collect debts. The court of appeals disagreed, stating that 15 U.S.C.§ 1692j prohibits anyone from designing a form that misleads consumers into incorrectly believing that the furnisher of the form is participating in the collection process. The prohibition applies to anyone, whether or not they regularly collect debts and are subject to the Act.

Second, the defendants argued that USI did not fall under the Act, because it was collecting its own debt. The court recognized that while the definition of a debt collector is someone who attempts to collect debts for others, a debt collector also includes anyone who uses the name of a third party when attempting to collect a debt. Thus the court rejected this argument as well.

Third, the defendants argued that even if they were acting as debt collectors, the violations they committed were unintentional and not abusive. The court of appeals also rejected this argument, stating that the record did not support this claim.

FAIR CREDIT REPORTING ACT

Scott v. Real Estate Finance Group, et al., 956 F. Supp. 375 (E.D.N.Y. 1997).

Scott addresses the issue of whether a real estate agent who represents a landlord may obtain the credit report of a prospective client without his or her approval. Plaintiffs asked Remax to help them find a house to rent. Rose Petrokiewicz, a real estate broker and employee of Remax, found a potential house listed with ERA Gatewood Realty (ERA) using a computer listing service. According to the computer listing, the house's owners required references and a credit check for any potential renter. After ERA agent Ira Simonoff agreed to show the house to plaintiffs and plaintiffs made an offer subsequent to viewing it, he informed the plaintiffs that the owners may want to obtain a credit report on them before renting the house. However, plaintiffs allegedly told Simonoff that he was not authorized to obtain the credit reports, and they also allege that he agreed not to. When Simonoff went ahead and asked Real Estate Finance Group (REFG) to run a credit check on plaintiffs and plaintiffs discovered the action Simonoff had taken, plaintiffs filed this lawsuit alleging that the credit reports were obtained under false pretenses in violation of the Fair Credit Reporting Act (FCRA) and that the defendants failed to provide adequate notice of efforts to obtain consumer reports under state law.

Though the defendants denied liability, they filed cross claims against each other, and REFG and ERA filed third party complaints against Remax and its agent, Rose Petrokiewicz, alleging that they were acting with the consent of Remax and Petrokiewicz. Therefore, they believed they should be entitled to contribution and indemnification from these third party defendants if found liable. Subsequently, plaintiffs filed a motion for partial summary judgment on liability while REFG, ERA, and Simonoff filed cross motions for summary judgment, and ERA and Simonoff moved for sanctions against plaintiffs, alleging frivolous claims.

To determine whether the plaintiffs' credit report was obtained under false pretenses, the court looked to a standard defined in §1681b of the FCRA (IS U.S.C. §§1681-1681a) under which "A consumer reporting agency may furnish a consumer report under the following circumstances and no other: . . . (3) To a person who has reason to believe . . . (E) [or] otherwise has a legitimate business need for the information in connection with a business transaction involving a consumer." Plaintiffs argued that individuals involved with the rental of residential property do not "ha[ve] a legitimate business need for the information in connection with a business transaction involving the consumer" as the statute requires. However, the court relied on the Federal Trade Commission's Statements of General Policy or Interpretations, 16 C.F.R. Part 600, App., which states that the term "legitimate business need" includes obtaining credit report on potential renters to ". . . assist owners of residential properties . . . ."

Applying these standards, the court determined that ERA and Simonoff had a permissible purpose in obtaining the credit reports on plaintiffs, and did not obtain the reports under false pretenses. ERA and Simonoff let plaintiffs know that a credit report would be necessary immediately after the plaintiffs made an offer on the house. The court concluded that this conversation was sufficient to constitute a "business transaction" and to give rise to a "legitimate business need" to obtain plaintiffs' credit report. However, plaintiffs' partial summary judgment motion as to REFG's liability was granted because REFG, a mortgage broker, did not have a consumer relationship with plaintiffs and only ran the credit check at Simonoff's request. As such, the court held that the requesting party had no permissible purpose in obtaining the report.

The court also addressed and rejected plaintiffs' other arguments involving the absence of authorization to obtain the credit reports and their entitlement to notice that the credit report was sought and obtained. Concerning the former argument, the court found that where the defendants had a permissible purpose in obtaining the credit report, the fact that they either misrepresented that they had plaintiffs' permission or simply had no authorization at all was immaterial. Concerning plaintiffs' latter argument, the court held that recipients or

users of information obtained from a consumer reporting agency have no duty to notify any consumer or disclose any information to the consumer unless adverse action pertaining to credit, insurance, or employment is taken. Because the issues in this case do not involve credit, insurance, or employment, plaintiffs failed to maintain a federal cause of action based on inadequate notice.

Podell v. Citicorp Diners Club, Inc., et al., 112 F.3d 98 (2d Cir. 1997).

Without Podell's knowledge or authorization, an unknown individual secured credit in his name and made purchases on that credit without paying the accrued debts. When Podell became aware that the debts had been reported to defendants TRW and Trans Union, he wrote to both companies and requested that the disputed debts be removed from his credit card. Because the disputed debts were not removed from his credit reports, Podell brought a lawsuit seeking damages under the Fair Credit Reporting Act (FCRA), 15 U.S.C. §§1681-1681u, and New York state law. Though Podell originally named seven defendants in his complaint, claims against five were dismissed, and only the claims against TRW and Trans Union remained. Subsequently, TRW and Trans Union moved for summary judgment for Podell's failure to raise a genuine issue of material fact as to their compliance with FCRA.

First, Podell claimed TRW violated §1681i by failing to follow proper investigative procedures, to send him an updated credit report confirming his debt, and to provide notice of his right to file an explanatory statement with his report. Section 1681i provides that if a consumer disputes an item on his or her credit report and "directly conveys" the dispute to the credit reporting agency, the agency "shall within a reasonable period of time reinvestigate and record the current status of that information," and, if the "information is found to be inaccurate or can no longer be verified, . . . promptly delete such information." 15 U.S.C. §1681i(a). Reinvestigation generally involves sending a Consumer Dispute Verification (CDV) to the creditor reporting the debt and asking the creditor to verify whether the information it has on the consumer matches that of the credit reporting agency. If the creditor does not respond to the CDV or indicates that the credit reporting agency's information is incorrect, the agency deletes it. However, if the dispute is not resolved, consumers are sent an updated credit report that includes a notice of their right to file a "brief statement setting forth the nature of the dispute" with their credit report. 15 U.S.C. §1681i(c).

TRW responded to Podell's claim by presenting records showing that it received Podell's letter disputing the Salon Furniture account, reinvestigated the account by sending a CDV to Salon, received a response from Salon that the debt was accurately reported, and that an updated credit report, which confirmed the reinvestigation and debt and included a notice of Podell's right to file a "brief statement," was sent. Though Podell claims he was never sent a letter confirming the reinvestigation, his deposition testimony reflected the possibility that he might have received such a letter. When Podell later reviewed this testimony, he drew lines through the responses he felt were damaging and said he never received a confirmation letter from TRW.

In reviewing the evidence presented by TRW and Podell's deposition testimony in light of the changes he made, the district court held that there was no genuine issue of material fact as to TRW's compliance with the FCRA, and the court of appeals upheld this decision to grant summary judgment. Because TRW provided evidence indicating that a confirmation letter was sent and Podell admitted under oath that he might have received a letter, there was no sufficient factual dispute. Though Podell attempted to persuade the district court that Rule 30(e) of the Federal Rules of Civil Procedure allowed the changes in his testimony to become the actual record, it held, and the court of appeals affirmed, that the original answers will remain a part of the record and that his altered answers cannot take their place.

Concerning Podell's final claim, he asserts that Trans Union violated proper investigative and reporting procedures by failing to remove the Salon and Diner's Club entries from his credit report after both creditors informed Trans Union that the accounts were inaccurate. The district court, whose decision to grant Trans Union's motion for summary judgment was subsequently upheld by the court of appeals, found that Trans Union was entitled to continue reporting Podell's indebtedness until it heard directly from him. Trans Union had received notices from Salon and Diner's Club prior to Podell contacting them directly. While these notices indicated that Podell's debts were resolved, Trans Union simultaneously received reports showing outstanding debts still existed and therefore, continued to report his indebtedness. When Podell finally contacted Trans Union directly, it reinvestigated the disputed accounts and removed them from his credit report. Therefore, there was no material question of fact in dispute as to whether Trans Union followed proper investigative and reporting procedures.

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