

CONSUMER LEADERS OF YESTERYEAR

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I.

Many individuals have contributed to the building of a powerful independent consumer movement in the United States. One immediately thinks of Ben Andrews, Harriet Howe and the other pioneers of the American Home Economics Association; Florence Kelly and the efforts of the National Consumers League launched in 1899 to eliminate sweat shops; Upton Sinclair, Dr. Harvey Wiley and the Muckrakers' struggle concerning food and drugs; Henry Harap's crusade for consumer education in the early '20s; Leland J. Gordon's Weights and Measures Research Center, Persia Campbell's quest for consumer representation in government. My task is to pay tribute to a number of other less well recognized individuals who laid the ideological groundwork for today's consumer movement.

My first candidate for the consumer hall of fame is Thorstein Veblen, a cynical, ornery Minnesotan who didn't even bother to accept the presidency of the American Economic Association when it was proffered. He laid a new groundwork for economics.

This genius had no desire to communicate save by the printed word. Kicked from pillar to post in the academic world because of his eccentric economic ideas and unacceptable sex habits, at the end of his career in the '20s, he landed at the New School for Social Research in New York where he would mumble a few words for the edification of dowagers attracted by curiosity.

What, then, did Veblen contribute? His seminal ideas included the bankruptcy of the theory of marginal utility and the negation of the belief in the ability of the consumer to maximize his satisfactions in a free market place. Writing at the turn of the century, Veblen treated economics as a branch of anthropology. In Veblenian terms, the possession of goods becomes the basis for reputability. Emulation is the motive. The accumulation of property replaces the quest for trophies of the chase—of predatory exploits.

Women initially entered the Veblenian picture as trophies who might add to the esteem of their masters by their conspicuous consumption in dress and in demeanor. Ceremonial consumption becomes in substantial measure the basis for the demonstration of pecuniary strength and hence repute. Wastefulness adds to reputability. The code of reputability in matters of dress dictates what shapes, colors, materials

and general effects are components of changing fashion codes. Beauty is not objectively measured but is the result of expensiveness.

The essence of the dress code, Veblen felt, was not alone that the garb must be costly; it must convey the impression of abstention from productive employment (thus the high heels, expensive and encumbering skirts, hair styling, corsets—all combined as evidence that one is rendered permanently and obviously unfit for physical work). The more rapid the shift in styles, the more offensive they become to sound taste.

In sum, the office of Veblenian woman was to consume vicariously for her "master"—head of the household. Propriety requires the successful woman to make a demonstrable show of her leisure class origin.

To Veblen, we are living in a primitive society, featured by ostentatious waste and conspicuous consumption, a world in which goods are purchased for ego satisfaction, costliness equals the virtuous and valuable, commodities are planned to be obsolete, and individuals play a role in displaying their affluence.

Consumers are conditioned to serve as vehicles for the sale of commodities. Women afford a demonstration of the pecuniary prowess of their mates.

The function of business is then the creation of salable products, not useful products. The costly is deemed the good.

The engineer is the captive of the businessman, confronted not with the task of producing workmanlike, durable and functional goods but rather to create artificial differentiation and through deceptive advertising the market is extended.

The driving force of our enterprise system is to take products out of competition, to place restraints on trade, to erect blockades which interfere with the successful functioning of the economy to render service to the consumer. Business seeks to escape standardization and the mandate of efficiency.

One does not have to accept all of Thorstein Veblen to appreciate the insights contained in his Theory of Business Enterprise, Theory of the Leisure Class or Engineers and the Price System. He reminds us once again that economics is but a branch of anthropology.

His perspectives on the role of the consumer have given us a better comprehension of the nature of consumer choice.

II.

The second great consumer innovator on my list is that largely forgotten author of Looking Backward, a journalist and former editor of a Springfield, Massachusetts, newspaper, Edward Bellamy. Bellamy was a Victorian utopian whose novel describes the reappearance in the year 2000 of a Bostonian after an overlong sleep which started in the year 1887. In this interval, machine technology and large scale enterprise had triumphed. Money had disappeared, giving way to a point system of income distribution. A tidy, rational society had emerged, bringing out the best of an advancing technology. Life in 2000 was split in three periods—one for education, one in the labor army, and one for cultural consumption. All retail stores had disappeared. Efficient factories were synchronized to create a veritable consumer paradise.

In the absence of any pressure selling or advertising, one went to a sample room, a great exhibit hall, to choose merchandise. If one wished scientific advice, he or she would push a button and an expert would appear to describe accurately the product attributes. The cost of the merchandise calculated in points was subtracted from one's drawing rights. Delivery was through the use of fire stations. As one grew older, one went from the educational contingent into the work army, then into cultural consumption. Planning, functional engineering and rational consumption were the keynotes of the new society.

The cultural flowering of Boston was the essence of the Bellamy message.

I see today little evidence that Boston with its eroding central city will attain the Bellamy goal by the year 2000. I do, however, see in Bellamy a warning against the proliferation of retail enterprises—large and small—of giant, wasteful shopping centers with massive acres of asphalt, kiddy corrals and soothing Muzak. Somehow in our era we seem embarked on a contest to maximize inefficiencies in product distribution as we build giant, subsidized merchandise marts in the central city and at the same time clutter the landscape with massive cinder block malls at every major intersection. The result is monstrous inefficiency.

Today the American consumer spends his day pushing shopping carts in an ever more wasteful exercise while retailers pyramid sales costs. Business becomes diffused among a host of competitors. Consumer satisfaction declines.

Still off in the dreamy wild blue yonder is the Bellamy solution of completely automated enterprise, producing standardized and functional products where one could push a button—perhaps at home—and encounter the miracle of delivery and of computerized bookkeeping. With all its utopian aspects, the dream of Bellamy still lives with his accent on the dominance of consumer values and the potentiality, some day, of making the distributive process efficient and rendering it the true servant of

the consumer rather than his master. Perhaps the time has come for a revival of Bellamy. The prophet has, however, another quarter century to deliver his utopia.

III.

The third forgotten innovator on my list is Dr. James Peter Warbasse, a Brooklyn physician and long-time President of the Cooperative League of the U.S.A.

He portrayed consumers' cooperation as the most radical social reform movement—as constituting a remedy for such worldly problems as crime, war, business cycles, poverty, human exploitation and unemployment. This movement inaugurated by the Rochdale Pioneers in 1844 would, by eliminating the profit motive, eradicate deception and would transfer sovereignty in our economy to the buyer, who had in his own hands the cure for our malaise. Let the consumer own the system, and he will not exploit himself—nor will he exploit others.

Consumers' cooperation in Warbasse's eyes became more than a grocery store movement. Organized to channel buying power on a voluntary basis to the fields consumers desire it can create a new motivation of service to the consumer. Its perimeters extend to housing, credit (credit unions), to insurance, to recreation, to medicine, to education—from pre-school education to funerals.

In moments of enthusiasm, Dr. Warbasse would voice a true doctrine of philosophical anarchism—the jails would be emptied as occupants received suitable therapy. Unemployment would be completely impossible under the cooperative commonwealth which could not have aggregate overproduction. Moreover, the wage problem was solved. If all people worked for the coop, it wouldn't matter whether wages were high or low. The Rochdale purchase rebate would give surpluses back to consumers. Capital got only a fixed rate of interest. Each person had one vote.

University of Chicago's Paul H. Douglas encouraged me to write my doctoral thesis on consumer cooperatives. He introduced me to Dr. Warbasse who strongly urged that I see the European movement with its banks, wholesalers and factories. European cooperators were hospitable in 1924. They didn't, however, have as many answers as did the good Doctor. I asked the British coops why they carried fake blood purifiers; they answered because the members want them.

Still, the Coop movement has an importance and a world influence seldom appreciated by Americans. As a significant force in the world consumer movement, it fosters a vigorous educational influence in many communities. Innovative marketing has characterized many of our co-ops. The Co-op store has often become a price yardstick. Among the newly-emancipated youth of our current generation, cooperatives have become a new discovery operating through work stints and discount

practices which would anguish any Rochdaler. Yet such enterprises carry a message—innovation does sometimes work with refreshing success.

A final anecdote concerning Dr. Warbasse. In 1933, he was co-opted by Franklin and Eleanor Roosevelt to lend his blessing to the National Recovery Administration which, overnight, set aside our anti-trust laws in favor of new codes of fair competition, generated by trade associations in each field and administered by the indefatigable General Hugh Johnson who maintained day and night office hours in the effort to get America "running again." A Consumer Advisory Committee had been convened by Mary Harriman Rumsey (sister of Averill Harriman) to voice from the White House a consumer reaction toward these codes of "fair competition."

My invitation came through Dr. Warbasse. I suggested that the Consumer Advisory Committee resign and go home; setting aside anti-trust laws and boosting prices sacrificed the consumer interest to the quest for profits.

Mrs. Rumsey insisted that I see General Johnson.

I insisted on taking a consumer committee with me. She agreed, so we entered General Johnson's office at 3 A.M.

He pounded the desk for emphasis as he refuted our criticism of NRA. Leon Henderson stepped up and pounded Johnson's desk with equal emphasis. Johnson broke off, pointing his finger at Henderson saying, "Young man, I want you here at my side." Henderson quit his job at the Russell Sage Foundation and joined the ranks at NRA.

Fortunately, the Supreme Court ended the Blue Eagle in 1935 after consumer advisors had fought a long, losing battle against producer-dominated price controls in agriculture and industry. It was, however, a beginning for recognition of the consumer interest.

IV.

The fourth name on my roster is Frederick J. Schlink, the founder of the world's first consumer testing organization, Consumers Research, in 1928 and co-author of Chase and Schlink's Your Money's Worth and of Schlink and Kallet's 100 Million Guinea Pigs.

The American Standards Association, with which F. J. Schlink was initially associated, was an engineering group. A product of World War I, the handiwork of Herbert Hoover and of the Hoover Commission of the Federated American Engineering Societies on Waste in Industry, it was a response to the stupidity of producing a dozen diameters of sewer pipe, a hundred styles of brick, and ill-defined grades of products on the market. Initially, it meant purchasing agents of corporations and of government could know what they were buying by exact specification—a means of expediting transactions.

The accident of teamwork between Stuart Chase and F. J. Schlink made the American standards movement an effective vehicle for consumer organization. Chase and Schlink were saying that if business could buy steel rails and cement by specification instead of by advertisements featuring alluring blondes, why couldn't consumers buy by test rather than by the paid testimonials of artists in persuasion?

The impact of Chase and Schlink's book was enormous. It promised for \$1 a Consumer's Club copy of recommended and not-recommended brands. The deluge of requests vaulted Schlink from the role of a dreamer to one managing a new corporation, Consumers' Research, founded in 1928 as a non-profit organization to assess the merits of competing brands. Schlink was off on unexplored ground, hated and feared by advertisers and the business fraternity and at the very center of the new fad of consumer testing.

Among individuals telling Schlink what to do with his new movement were the natural food faddists and rural escapists, the do-it-yourself contingent, the ardent cooperative followers, the handicraftsmen, the technocrats. There were those who wished to build a new consumer role in Washington; who wished government grading and who wished the expulsion from the market of merchandise which could not meet federal standards.

To Fred Schlink's credit, he initially resisted most of the wilder schemes and assembled an exceptionally competent and energetic staff to embark on uncharted seas from CR's New York headquarters.

The Board of Directors of his new non-profit organization reflected the deep interest of social workers, economists, sociologists and engineers in the new venture. Schlink made a most creditable start and was in great demand in explaining his objectives.

Yet, unlike Ralph Nader, our recent meteoric character, Schlink quickly lost the ardent followers who hitched themselves to his star. After five years of effectively developing an idea along sound lines, he mistakenly moved his organization to the Delaware Water Gap, the village of Washington, New Jersey. There discussion focused on a consumer party and on a consumer revolution. (Schlink distrusted the New Deal pretensions and divorced himself from the liberalism of the day.)

His Consumers' Research staff, wearied of working long hours for meager wages, listened to the new white collar unionism. A stubborn conflict ensued. Schlink fired the union organizers and sympathizers on his board and staff. He succeeded in breaking a long strike in 1935. Subsequently, he became a prisoner in his own walls, radiating a hostility toward government action, business enterprise, and academics. Consumers' Research and Fred Schlink never recovered from that strike of 40 years ago. The mainstream of the consumer movement which he had initiated fell to others who could find a better formula for harnessing technology to the service of the consumer.

Schlink, now in his mid 80s, is little known and less appreciated. Yet he did establish the pattern of independent consumer testing—an invention which harnessed the self-interest of those who wanted product ratings to provide the funds essential to build a world consumer movement.

V.

The fifth great among the consumer innovators was Arthur Kallet who died in 1971. Kallet had many of the attributes of and was a close co-worker with Fred Schlink, first as an assistant to Paul G. Agnew of the American Standards Association and later, at Schlink's invitation, as secretary of Consumers' Research as well as the co-author of 100 Million Guinea Pigs, a best seller.

Kallet, an upstate New Yorker, was a graduate of the Massachusetts Institute of Technology. He joined Schlink in accepting wholeheartedly the dedication to consumer testing as a way of life.

Kallet had, however, a number of talents which Schlink sorely lacked. First and foremost a promoter, he had a message to tell the world, a message which could be encapsulated in direct mail advertisements. Kallet too was highly motivated and persistent. He moved easily among the rebels who in the '30s were joining the Village to debate solutions for unprecedented unemployment in a declining economy.

Kallet was tough and highly energetic. The strike at Consumers' Research vaulted Kallet into leadership of an able but undisciplined contingent of strikers, a role in which he had no experience. Yet Kallet won the rather uneven contest thanks to Schlink's singular capacity for alienating those who had initially backed him. He, together with the technically trained strikers and fired Board members, started Consumers Union. Liberals overwhelmingly supported the new upstart organization, chartered in February, 1936.

Launched in the Depression, with all the odds against it, Consumers Union went through a decade of near bankruptcy before achieving acceptance. Yet from the outset, it could be sharply differentiated from its parent. CU had a crisp style which impressed academic allies. It had a singularly competent medical department which could fill issues of Consumers Reports at a time when meager finances resulted in a paucity of tests. Assisting Kallet were many able consultants who gave support to the new effort. New ideas constantly filtered into the management. Soon CU earned a far more intense hatred by the advertising fraternity than had Consumers' Research, and magazines rejected CU's advertising as anti-business.

In retrospect, CU initially faced a hostile climate of opinion. It was run by amateurs who mistakenly considered the organization's potential audience to be low income groups. Long before CU gained stability, World War II broke out and wartime restrictions eliminated

durable goods from the market, forcing the organization to alter its orientation.

The key to Consumers Unions' success lay in the interest generated by the magazine; it was never dull. It was also careful and it cherished the power of understatement. Through its academic links, it ever improved its coverage of new ideas and as it came to prosper after its first disastrous decade, it poured increasing sums of money into educational activity here and abroad. Most important, it never lost its quest for impartial and objective comparison of goods available on the American market.

After an internal disagreement, Arthur Kallet left Consumers Union in 1957 to establish a Medical Newsletter which would describe research findings concerning prescription drugs. This organization, like Consumers Union, thrived under Kallet's guidance. Arthur Kallet was truly a pioneer who maintained high technical standards and built a sound foundation for future consumer growth.

Fortunately, today we have a many-faceted consumer movement with innumerable organizations and a host of federations developed here and abroad. Consumer programs now exist in profusion—consumer councils, consumer safety groups, consumer guidance groups, consumer education groups. Many new leaders have emerged on the scene.

Present-day consumer leaders are building upon a foundation laid earlier by those who established the theoretical and engineering background for a viable movement. At Consumers Union a Center for the Study of the Consumer Movement welcomes students to prepare academic theses on this movement in the hope that greater integrity may be brought to the American market place.

POTENTIALS FOR PROFESSIONALISM
IN CONSUMER AFFAIRS

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A number of media stories recently seem to indicate a weakening of the consumer movement. They refer to the inability of the consumer groups to create an Agency for Consumer Advocacy, the financial difficulties of Consumers Union, and the decreasing impact of Ralph Nader. Rather than waning, however, the consumer movement is shifting in direction and emphasis and developing a broader support base.

Most consumer leaders now believe that the greatest impact can be made in the marketplace itself. Their goal is to move in this direction through direct communication with appropriate levels of industry regarding specific issues as they surface.

The greatest change in the consumer movement is the growing focus of activities at the grassroots level. The shift is occurring for the following reasons:

1. With increased confidence at the grassroots level that concerns and issues can be dealt with more appropriately by people on the local scene, the need for national leaders like Ralph Nader is not as critical anymore.
2. Consumers at the grassroots level readily coalesce around local issues that impact on their pockets.
3. Consumers achieve a greater sense of satisfaction from involvement with local issues.

The Yankelovich Monitor of 1975 shows a rise in the number of people supporting specific consumer issues. The MAP survey (Monitoring Attitudes of the Public) confirms that consumerism is still the most strongly supported of the social movements (76% for) ahead of civil rights, birth control, women's liberation, legalization of marijuana and communal living.

With this type of acceptance and activity, consumer affairs professionals in business and government today have unprecedented opportunities to provide leadership to their respective organizations. And yet, from my perspective as a Director of Consumer Affairs, the potential for professionalism in this field has not yet been fully explored, let alone

developed. The perceptions of the role of the consumer affairs professional, both by the practitioner and the employer, are confused. To many, especially in business, the consumer affairs function means the department that answers complaint letters or prepares leaflets on how to use products. While not completely off base, none of these are high impact functions as presently perceived.

What, then, are the potentials for professionalism in consumer affairs? As a Director of Consumer Affairs for a large company, let me tell you briefly what we are trying to do, what problems we have, and what potentials I see for professionalism in consumer affairs.

Our goal is to build a department that will serve as an advocate for consumer interests within the company. We want a department where commitment to the consumer will be a basic professional attitude of every person on the staff. We started from scratch in 1973 with no role model for an ideal consumer affairs function, no source to turn to for a formula or a plan. If consumer affairs is to be a high impact function in any given organization, the people working in the function must have a mission. Which brings me to the first in my list of potentials.

Potential #1—We need a definition of the consumer affairs function, whether in government or business, that could be, in essence, a mission statement. This would provide a base for the organization setting up the function and give invaluable guidance and self confidence to the professionals who are honestly trying to make a contribution. They would have a benchmark to measure their concepts about what they think they should do. The dictionary definition of advocate is "plead in favor of," but the definition should go further in defining the mission and the impact to provide a common base from which to build for the fullest impact possible within our organizations, and so that collectively our efforts will strengthen the voice of the consumer.

A proposed policy statement written for our company, when approved by our policy committee, will in essence be a statement of commitment to the consumer by the Penney Company, and by its very nature, a definition of the role of consumer affairs in helping the company to achieve this. A difficult statement to create, it meant clarifying our own values as professionals in consumer affairs, deciding what we meant by advocacy for the consumer and finally articulating this in terms of the leadership we would like to give the company. The five rights of the consumer—right to information, right to safety, right to be heard, right to choice, right to redress—served as the basis for focusing company commitment to the consumer.

Our task would have been much easier with a definition of the field and outside support for what we want to convince the company to do. As it now stands, we are pioneering a major consumer affairs policy for the second largest retailer in the world, and we must give the company the leadership to make this policy a reality.

Potential #2—The consumer affairs professional needs to understand how to function as a change agent. Basically, we are all working as change agents, trying to advocate for the consumer in organizations which up to now have gotten along very well without us.

A great deal of patience and understanding of group dynamics is needed to change the basic decision making patterns in an organization and to create a place for the consumer perspective at the decision making table.

To stimulate positive change for the consumer within an organization, we need to recognize one crucial fact: decisions and changes are hardly ever accomplished through orders issued from the top. The usual process of day-to-day decision making is based instead on influencing. This means that progress for a department such as ours will occur not as the result of directives from the President or the Vice President and Director of Consumer Affairs, but from our ability to work with all levels of management in a persuasive, yet tactful manner.

To succeed as change agents, we must learn to:

- "meet" management where they are: that is, understand the world from their perspective and their needs;
- work toward incremental improvements: not try to achieve Utopia overnight; work for practical, actionable steps which people can implement now;
- recommend and implement a set of combined, interrelated solutions; attacking only one front with one kind of weapon seldom wins battles. We must try a number of solutions, involve many layers of management and keep trying;
- exercise a high degree of patience and fortitude.

The training of students preparing for work in this field must focus on two major levels of study:

1. At the individual level, we need to help develop students so that they can use themselves as resources. The achievement of this goal will allow them to function as change agents. The courses should focus not on external content such as history, theory, or empirical data, but rather on the student as a person—his or her needs, values, behavior and impact on others.

This means courses would be managed as practicums, emphasizing experiential learning and group interaction. The ultimate goal would be education that helps the student learn how to depend on, help and influence others opposed to the stress on intellectual competition.

2. At the socioeconomic level, we need to help students (and ourselves) learn about the complex interaction between the society and our organizations, such as business. Operating together and increasingly interdependent, they constitute a complex system of forces.

We therefore need to study the process of decision making and business policy formulation, as is currently done at our best business schools.

This potential for professionalism in functioning as a change agent is one of the most important roles that anyone in consumer affairs can play. Understanding how to play it effectively can be the difference which makes the consumer affairs function a high impact one in the organization.

Potential #3—True competence in representation of the consumer within the organization is the third potential for professionalism in consumer affairs. To begin with, this means a clarification of one's own values as a consumer affairs professional as to the extent of one's commitment.

Why are you working as a professional in consumer affairs? Who is the target audience of the consumer affairs department, whether in government or business? Is it the consumer, as some people in and out of consumer affairs perceive? Or is it the organization for whom one works? Shouldn't the concept of advocacy for the consumer mean that the organization in which one functions is really the target audience for creating change?

This may seem like heresy to some, but, in my opinion, it is loyalty of the highest order. The consumer affairs professional is advocating more sensitivity to the wants and needs of the consumer so that the organization serving the consumer can anticipate consumer needs, rather than respond to them. Ultimately, this is in the best interests of both the consumer and the organization.

Once the question of identifying the target audience is settled, the task of representing the consumer becomes real, frightening, and challenging. In our company, consumer affairs is represented on such company committees as Product Safety, EFTS, legislation and informal dispute settlement mechanisms. This means knowing in depth the implications for consumers on every conceivable consumer issue, and on short notice at that.

We have been asked to provide the consumer perspective on current issues such as credit billing discrimination, warranties, proposed regulations for expanded care labeling, and on and on. Thus we have arrived at the position where we can be partners in the decision making. But, how well we succeed, and whether or not we are respected for our input, depends on our knowledge of current consumer issues—based on facts. There is no room for Mickey Mouse answers or personal theories.

The consumer affairs professional must have factual input and this information must be substantial enough to be convincing. Otherwise, we will not be invited back. We need not win or lose every battle. In the beginning stages of developing a function that advocates for the consumer, the professional must build credibility.

Let me describe our department and how we are trying to advocate for the consumer, because the entire potential of competence has a direct bearing.

Our Consumer Affairs Department was created 2½ years ago after the company studied how we should respond to the growing consumer movement. The "White Paper" which was prepared, a classic, lays out a broad mandate for representation of the consumer interest in the company at all levels. My job as Director of Consumer Affairs is to create a department that will fulfill this mandate.

Our Educational Relations Department, a part of this new department, is a very firm cornerstone of our program. We will continue to expand it as we fulfill part of our responsibility to advocate for the consumer's right to information. (Joyce Bisbee, Manager of this function, or Nancy Golonka can answer questions about the new consumer education modules.)

In addition, to build a program of advocacy for the consumer from within, we set up a Consumer Relations Department. David Schoenfeld joined us to pioneer this new function. Our goal is to build a high impact consumer affairs function that can really make a difference. Our target audience is the Penney Company—a \$7 billion corporation, with 1,700 stores in the United States, 86 stores in Europe, a supermarket operation, a retail drug business, a catalog business, an insurance business, and Treasury Stores, which are a discount operation. Functioning as change agents in this size setting is a formidable challenge. We must perform at a competent level if we are to be respected. The competition for different points of views is high. In addition, many departments look upon us as a threat rather than a partner. If we don't measure up as far as reliability and objectivity are concerned, we lose ground. In an organization of this size, with so many people to influence, we need to make a positive impact each time we try. There is very little room for mistakes.

We do our very best to represent the consumer but our resources for information are limited. We must rely on our own research. There are no strong independent sources of unbiased information regarding consumer concerns.

It would be helpful if universities, with their mandate for objectivity, could provide ongoing documentation regarding emerging consumer issues, consumer concerns, consumer wants and needs. If they could surface the issues, the consumer affairs professional working as change agents in organizations could turn to the universities for leadership and relevant research.

Working as partners, we could avoid the situation that so often develops now where decisions affecting the very fiber of life in this country become a reality before consumers are even aware of what has happened. The potential for leadership in focusing on consumer issues belongs to the academic community. The big question is whether academia is willing to accept the responsibility that goes with this kind of challenge.

In our company, we are trying to develop a partnership between academia and our department. We invite consumer advocates from universities and consumer groups to meet with the decision makers in various departments of our company to discuss emerging issues. The meetings are planned around specific topics, with consumer advocates and business management meeting at the same table to talk about a specific issue from their various perspectives. Although these meetings have been successful, the potential for professionalism on the part of the consumer representatives has not always been what it might be.

Many times, in academic circles and in some consumer organizations, issues are based on emotions or theoretical concepts, not on "the way it is." I'm especially thinking of the facts of life regarding our economy and the misconceptions regarding the role of business in our society.

I'm not speaking now as an advocate for business, but as a Director of Consumer Affairs trying to bring about change in a major corporation.

A huge gap exists between the marketplace as discussed in textbooks and the marketplace in the real world. Consumer educators we bring into the company as spokesmen for the consumer need to understand the perspective of the business world. In our role as catalyst, we try to bring the consumer perspective and the business perspective together to dialog as often as possible. To build credibility in business for the academic point of view, educators must be objective about the function of business in our society.

To be realistic about where we can bring about change, we must recognize the checks and balances of our economy. To paraphrase Reinhold Niebuhr, "We must have the serenity to accept what cannot be changed, the courage to change what should be changed, and the wisdom to distinguish the one from the other."

We must see the consumer perspective in relation to other perspectives in our society—to see the forest as well as the trees. Then, and only then, can we stand firm for the rights of the consumers.

Potential #4—The consumer affairs professional needs a thorough understanding of state and federal legislative and political systems. He or she must be able to distinguish between the regulatory functions and legislative mandates. What role does each play in our society? How

much authority does each have? How is the authority of each controlled? What is the difference between a regulation and a law? How does the political climate influence the decisions made? Do we, as advocates for the consumer, really understand the give and take of our political system? Do we know how to lobby for the consumer? Do we know how to give leadership to grassroots consumer groups to help make an impact for their perspective? As change agents, we must understand the system thoroughly so that we can know how and where to influence.

This includes understanding the language of the regulators and the legislators. Every group has a language of its own and to function within that system we must learn to speak the language. This not only includes fine line differentiations between a Trade Regulation Rule and a rule, or between unreasonable risk and substantial hazard, which are the vernacular of the lawyers, but also such designations as S200 and HR7575 which is the legislative identification system for pending laws. We must know what it means when proposed legislation has ended hearings and the implications for the passage or defeat of a bill when the term "mark up" is used.

Without this kind of knowledge, the consumer affairs professional can be easily snowed in meeting with the political and legal interests within the organization and seem naive, thus weakening the impact for the consumer.

Potential #5—The consumer affairs professional must be the source of reliable information on articulated and non-articulated consumer concerns. We must use all available information, including research on changing values, to anticipate changing consumer needs and emerging consumer issues. This information, a valuable tool for the organization in which we function, gives consumer affairs a high degree of credibility.

In our department, we are now developing the components for a major feedback system which will organize all available information on the consumer, research the information that is not available, and analyze the total to provide all levels of management with the information they need. To my knowledge, there is no such comprehensive source now. It is a need just waiting to be filled and Consumer Affairs is the natural one to fill it.

Analytical information about the consumer, organized in a form that's easy to use and understand, can't help but give the consumer affairs function another opportunity for high impact.

These five potentials for professionalism—to define the field, to function as a change agent, to develop true competence, to acquire knowledge of the political system, to achieve credibility as a resource—are not a final list. I see them as high priorities now, in the process of developing a consumer affairs function in a major company or any organization for that matter. If we were to have time to explore this

together, I'm sure we could add to the list. One absolute need for every consumer affairs professional, basic to all of this yet the most intangible of all, is commitment, commitment to the cause of the consumer, commitment that gives the professional that confidence to continue to function as a change agent even when the task seems impossible.

Despite the discouraging days, I am very excited about the potential for the consumer affairs function both in government and business. Today's consumer climate supports consumer affairs as a high priority social issue. I'm even convinced that our adversaries in face-to-face situations secretly want us to succeed. To measure up to the fullest potential of this opportunity, we must have better trained professionals with the competencies needed to make consumer affairs a department that will have a high impact.

Ultimately, I would like to suggest that ACCI consider the possibility of accreditation, not only for the academic training in the field, but accreditation of the individual professional as well. If the level of professionalism is not achieved and maintained, this may become a field of paraprofessionals who carry on band-aid operations instead of one that is counted as an equal partner in the decision making arena of the organization.

The consumer has too long been an invisible element in the decision making process of business and government. We now have the climate to support efforts to make the voice of the consumer heard. If we don't make that voice loud and clear, we have only ourselves to blame.

LEGISLATIVE PRIORITIES—THE WASHINGTON SCENE

Carol Tucker Foreman
Executive Director
Consumer Federation of America

Consumer Federation of America was founded nine years ago to give consumers a voice in Washington. We attempt to be the public policy or, if you will, the political voice of consumers. In 1846 the French historian, Jules Michelet, posed and answered the question that is the key to the effectiveness of consumers in influencing public policy: "What is the first part of politics?" He answered, "Education. The second? Education. The third? Education." At CFA we believe sophisticated consumer education should be the cornerstone of an effective consumer voice in public policy formation. You, as consumer educators, should play an active role in public policy formation as it relates to consumer issues.

A few years ago that great American political philosopher, Art Buchwald, wrote of Hiram Thesaurus, the largest manufacturer of political rhetoric in the U.S. Hiram, who is better known as the "little old phrasemaker," does a booming business in simplistic slogans every election year—"a chicken in every pot," "Tippecanoe and Tyler too," "peace, prosperity and progress." 1976 is no exception. Hiram is doing a great business these days. He has a two-for-the-price-of-one special on "Reduce the size of government" and "Get government off the backs of business."

Virtually every candidate for president is running on one of Hiram's slogans. The man who is president, the leader of our government, gets up every morning and attacks the institution he heads. No one wants to be associated with Washington. Everyone wants to get government out of his life and it's not hard to see why Hiram's slogans are doing so well.

Through the early and mid 1960's we experienced a period where government-initiated programs, largely grant programs, attempted to remedy longstanding and very difficult social problems. The programs were long overdue. However, in order to generate support for them, they were often described as ultimate panaceas for the problems they approached. Poverty programs were going to abolish poverty. Education programs were going to provide a decent education for everyone. The Department of Housing and Urban Development (HUD) was going to solve the nation's housing problems. The big problem was, of course, that the programs were oversold, underfunded, and sometimes badly managed. When ultimate success was not realized, confidence in governmental competence was shaken.

In the late 1960's and early 1970's, we turned our government over to a group of leaders who discredited the programs they were sworn to administer and systematically subverted the civil rights of large numbers of Americans. A citizenry spied upon and burglarized by its leaders is now leery of government—questions not just its competence, but its basic integrity.

To "get the government out of our lives," reduce its size, its influence and its capacity is very appealing. The cry is not new political fare among those who have never accepted an increasing federal role in civil rights, social programs, or worker and consumer protection.

But the appeal is much wider now. Many of us who, in the past, generally accepted, even urged, the use of government to solve problems have been so appalled by government's failure, by government's abuse of civil liberties, by illegal campaign contributions to government officials, we have joined in the cry to limit government.

For different reasons, people of different political persuasion have arrived at the same point—grasping at Hiram's slogans.

Clearly, with regard to civil liberties, government security agencies have stepped beyond the limits of law and the constitution. Steps must be taken to prevent such lawless attempts by government to regulate society.

The cry to get government off the backs of businessmen is a different problem though. Think about it. Do you really want to get government out of your lives? Do blacks and women want an end to equal protection regulation? Do workers want to end minimum wage and occupational safety legislation? Do consumers want an end to truth-in-lending rules, to product safety regulations, to deceptive advertising prohibitions? Do you really want to get government out of your lives, out of your students' lives? Do we want simple slogans?

Ladies and gentlemen, we are a nation of 214 million people who live very close to one another. We are far removed from the individuals whose decisions shape our role in the marketplace. In our society there are few simple questions and fewer simple answers and those who maintain differently are either charlatans or simpletons.

In a complex and crowded society, we must have sophisticated means of regulating our affairs. We have to have government. It is both the obligation and in the self-interest of each of us to make our government work for us. You can be sure it will work for someone. The question is not whether there will be government but whether your government will protect your health, safety and pocketbook or whether it will leave you at the mercy of those who would prey upon you.

It is important that your students know how to protect their health, safety and pocketbooks in the marketplace. They must also know

how government action affects their choices with regard to health, safety and economy.

For example, you can teach your students about electricity and heat conservation. That will lower their utility bills. But those utility bills will be more heavily influenced by decisions made by the state Public Service Commission on such issues as construction work in progress and fuel adjustment clauses. That electricity bill will be even more heavily influenced though by the federal government's decisions on whether to decontrol the price of old oil or to increase competition among oil companies by requiring divestiture of the major corporations or creating a federal oil and gas corporation.

It is important that your students become active in government to make government work for them.

Thomas Jefferson said in his inaugural address that it is the proper role of government to restrain men from injuring one another and otherwise leave them to regulate their own affairs. It is a good guideline to use in determining whether there should be more or less government regulation of business in order to protect workers and consumers.

In some areas, government regulation of business has clearly outlived its usefulness and should be altered substantially or eliminated. The most obvious area is economic regulation designed to regulate natural monopolies by setting rates and quality of service. As a result of faults in both design and process, economic regulation as practiced in the United States has failed. Fares and rates have been kept unnecessarily high. Technological innovation has been reduced. Unnecessary mergers have been tolerated. New entries have been discouraged. For example, the Civil Aeronautics Board has not certified a new trunk carrier since immediately after its inception in 1938. Yet within the California, unregulated, intrastate market, 16 new carriers entered the field between 1946 and 1965.

In 1973 Ralph Nader and Mark Green estimated that this economic regulation, as practiced by the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Wartime Commission and the Federal Communications Commission, cost consumers somewhere between \$16 billion and \$24.4 billion per year in unnecessary costs. They suggested that perhaps the time had come to do away with these agencies.

Green and Nader go on to point out, however, that deregulation is preferable only if it does not result in one group of citizens abusing another. Four key conditions must be met.

First, a viable, competitive market must be able to exist. In the case of natural gas and oil prices in the United States today, this is impossible and we oppose deregulation of these rules.

Second, antitrust regulation must be more strongly defined, better funded and more vigorously pursued.

Third, dislocation caused to workers by closing inefficient production units must be met with retraining and relocation.

Fourth, similar insurance must be provided to consumers damaged by the change.

In two other areas, government regulation of business must be substantially increased and improved in effectiveness in order to restrain people from injuring one another. First, antitrust regulation must be improved. The purpose of antitrust regulation is to limit market penetration by individual firms and/or prohibit interfirm agreements that restrain trade. In a free market system, nothing is so vital as effective antitrust regulation. However, in the United States, the history of antitrust regulation has been spotty at best. In its usual form, it has been so notoriously poor that many have forsaken it as a method of regulation.

If it is to take the place of economic regulation, new provisions are required to strengthen existing antitrust laws. Some are before the Congress now. Those proposals include allowing State Attorneys General to use in parens patriae and to require price clearance by the Justice Department for major mergers and requisitions.

It is also time to consider changing the entire concept of antitrust regulation. It is time to declare that oligopoly per se is not in the public interest and to require divestiture in most cases where it exists. If we are going to be a free market system, the government must have the responsibility and power to maintain the free market.

A second purpose of government intervention in the marketplace is to ameliorate the adverse effects of market activities by reducing their social costs, thereby increasing social welfare. This includes government regulation of business to protect basic rights to health and safety and quality of opportunity of workers and consumers. More of this type of regulation is needed in an increasingly complex and technological society where both worker and consumer are confronted with increasingly greater threats to these basic liberties.

The ultimately reasonable and cautious consumer or worker cannot protect himself against many of the health and safety threats in the marketplace or workplace.

The consumer cannot be expected to know that his car exhaust is poisoning the air, . . . that his television set emits dangerous levels of radiation, . . . that his children's drugs are mutagenic.

The worker cannot adequately protect himself against chemicals such as asbestos and vinyl chloride that contaminate his working environment.

Minority and female workers and consumers do not have the power to command equal treatment in credit or employment.

Marketplace forces cannot or will not prevent these abuses. In these cases, there must be more government regulation of business.

There must, additionally, be more government regulation of business when the customer can only act wisely if he has sufficient information about the product.

It is argued that such regulation is too expensive; it inflates the costs of products and stifles innovation.

Health, safety and equality regulation, in fact, make products reflect their true cost—which must include minimizing adverse effects of technology. It shifts the way costs are accounted for. For example, a bumper standard for cars increases the initial cost of the car but reduces repair bills and insurance premiums. Two studies conducted recently at MIT indicate that environmental regulation, while limiting some aspects of production, tends to encourage technological innovation and to create new production.

Present government regulation in health, safety and equality is inadequate. In some cases, it is because there is not yet a sufficient Congressional mandate. Control of toxic substances is one example. In other areas, the Congressional mandate is sufficient but has been thwarted by regulatory failure.

The integrity and capacity of government today is in question. The integrity and capacity of American business, especially the corporate giants, are even less secure. In a 1973 opinion research poll, 75 percent of the respondents said too much power is concentrated in a few companies. Fifty-three percent believed large corporations should be broken up for the good of the country. In a 1974 poll by Yankelovich, 73 percent of respondents said they believe business has too much power.

We have regulation because experience shows that it is necessary. Today when businessmen speak of "decontrol of business" they are not speaking to the need for eliminating that economic regulation which sets prices. They have in mind the elimination of essential, life-saving health and safety regulation, of dignity and liberty preserving equal rights regulation.

At every public gathering where the subject is raised, businessmen will tell you why EPA standards have to go and why we can't afford OSHA and why pre-market clearance for drugs is counterproductive and why, if you'll just let the chicken producer put a little DES in his feed, you'll reduce inflation by reducing the price of chicken. The man is offering the public cheap chicken and a good chance of cancer. That's what industry means by reducing government regulation.

It is astounding how vigorously these same businessmen will support continued government regulation if that regulation protects their business from price competition.

The most outspoken opponents of President Ford's proposals to "reduce airline and trucking regulation" are the airline and trucking industries. The FCC has recently attempted to inject competition into the long distance lines and equipment areas of the telephone industry. Virtually all segments of that industry are seeking legislation to overrule the FCC.

The business roundtable, an organization of major U.S. corporations, is the leading opponent of improved antitrust legislation.

Where are those businessmen who are willing to get the government out of their lives when doing so will mean the end of a subsidy program?

Who is willing to suggest an end to small business preferences because they are not economically efficient?

What business group is willing to lobby the Congress to abolish the overseas private investment corporations, bailouts of major corporations, or the domestic international sales corporation which provides a tax deferral to American companies that ship goods abroad and that is projected to cost the U.S. Treasury about \$1.5 billion in this fiscal year?

What business is willing to give up its tax loopholes? Foregoing them would, no doubt, reduce the federal budget and ease some inflationary pressures.

Far from being on the backs of American business, the American government and the American taxpayer have provided to the major corporations of America a large, warm comfortable life. And business is not about to give it up.

American business is regulated, in part, because segments of it have been irresponsible and lawless and like all such elements must be watched.

Why should the American people not demand stronger, more effective regulation of a group within society that has proved—through bribes and illegal campaign contributions—that it is contemptuous of democratic processes in this and other countries?

Now, my recommendations on government regulation will not satisfy Hiram Thesaurus nor those who expect a democratic system of government to function easily and smoothly without constant care and attention by the people.

First, government economic regulation should be phased out in favor of much stronger antitrust regulation.

Second, antitrust regulation should be expanded to prohibit oligopolies.

Third, progress toward mandating government protection of health, safety and equality of workers and consumers should continue and be made more effective.

Fourth, consumers must be granted an effective role in government decision making.

We believe nothing would enhance the regulatory process in this country more than regularizing consumer input to government decision-making.

Each time government acts and consumers aren't represented, the costs to consumers may be enormous. In our government, such decisions are part of an adversary process, and consumers are in the position of being in court with no lawyer. It is unfair. It is costing us billions. The first step in government reform must be to inject a qualified, resourceful consumer representative with power to intervene as a party, to seek information from business and to appeal adverse decisions in court.

We urge creation of the Consumer Protection Agency. Every legitimate objection that business has raised against this legislation has been met. Business and the administration are left now, stripped to the naked truth: to allow consumer representation in government hearings will mess up a cozy, beneficial relationship. Consumers must not allow this attitude to prevail.

Another mechanism for improving consumer input to the decision-making process is the awarding of attorneys' fees for public representation and class action suits.

A lot of folks out on the Hustings today urge you to hate your government; they campaign not on how they will use government to solve problems but against government itself. Benard Shaw said, "Democracy is a device that insures that we shall be governed no better than we deserve."

In 1952 we were going through a similar period of distrust in government. Then a candidate for president, Adlai Stevenson, said: "It seems to me that government is like a pump, and what it pumps up is just what we are—a fair sample of the intellect and morals of the people, no better, no worse. Public confidence in the integrity of government is indispensable to faith in democracy. . . . When we lose faith there is always that sinister man on horseback waiting in the wings to come in. When we get so discontented, we look for the ultimate solution and the solution always has its lamentable and inevitable consequences."

There are no ultimate solutions in 1976. There are no simple, easy answers. I urge you to get your students involved in the democratic process. Make consumer education include the effects on consumers of government action. Mark Twain said, "Soap and education are not as sudden as a massacre—but they're more deadly in the long run." I can't think of anything more lethal to anti-consumer policies than a major dose of consumer education mixed with consumer action.

CONSUMER PROTECTION—THE MUNICIPAL APPROACH

Charles H. Vincent, Director
Department of Consumer Affairs
City of Dallas, Texas

The term "Consumer Protection" has a variety of meanings in practice and refers to a number of different approaches to the solution of consumer problems in the marketplace. I intend to discuss one specific approach to consumer protection—the development and application of Municipal regulatory ordinances. To do this, I will discuss the development and operation of the City of Dallas' Department of Consumer Affairs which began operation on October 1, 1972, as an expansion of the Department of Weights and Measures.

The department now has an annual operating budget of \$732,000 and 55 employee positions. Regulatory licensing fees and other fees generate annual income sufficient to offset slightly more than 50% of the department's cost of operation. The department provides consumer protection to Dallas citizens through the enforcement of a variety of City regulatory ordinances. These criminal ordinances contain Municipal Court penalty clauses.

Our fundamental role is to respond to citizen complaints alleging individual acts of deception or misrepresentation in the retail marketplace. However, a significant amount of investigative activity is initiated in-house to correct apparent patterns of abuse and to prevent their recurrence.

But, one-on-one response to individual consumer problems absorbs the bulk of our resources. The vast majority of cases that we prosecute result from investigations carried out in response to complaints registered by individual consumers.

The department has responsibility for a broad spectrum of ordinances enacted during the last 3½ years dealing with the following:

1. Consumer Protection—This "little F.T.C." ordinance prohibiting unfair or deceptive acts or practices in trade or commerce contains the traditional "laundry list" of prohibited acts and practices.
2. Weights and Measures—This ordinance requires that all weighing and measuring devices used commercially perform accurately within prescribed legal tolerances, and that all items sold by weight, measure, or count contain the full stated quantity.

3. Electronic Repair—Requires persons who repair electronic equipment used for home entertainment purposes to obtain a license. All charges must be disclosed to and approved by the customer before he becomes liable for payment. A license may be revoked if the licensee is convicted of two ordinance violations within a two year period.
4. Motor Vehicle Repair—Requires that motor vehicle repair firms be licensed. Charges must be disclosed and approved by the vehicle owner before he becomes liable for payment. Two convictions in a two year period will result in license revocation.
5. Home Repair—Repair firms must be licensed. A written contract must be executed for repairs of \$500 or more. A written invoice describing labor performed and materials used must be furnished at the conclusion of transactions costing less than \$500. Contracts must describe repairs to be performed and materials to be furnished in a manner consistent with locally established trade practice.
6. Home Solicitation—Requires a 3-day "cooling off" period for door-to-door sales transactions over \$5.00. It also limits solicitations to prescribed hours and days and prohibits the conduct of any solicitation at a residence displaying a "No Solicitors" sign.
7. Charitable Solicitation—Requires that anyone who raises funds by representing that a charitable or philanthropic cause will be benefited obtain a City permit. It also requires that a specific percentage of total funds raised be expended for direct benefits of the stated cause.
8. Wood Vendors—Provides for licensing of persons who sell and deliver residential fireplace wood. Wood vendors are required to furnish an invoice giving the name and address of the seller, the amount of wood delivered, and the price charged.
9. Coin-Operated Devices—Requires that devices perform properly, that operating instructions be posted, and that instructions for reporting faulty operation also be included. Device owners are required to refund money paid for goods or services not delivered.
10. Mail Order Sales—Requires mail order sales firms operating in the City to deliver merchandise paid for within six weeks, or to deliver substitute merchandise if the substitution is approved by the customer. If acceptable merchandise cannot be delivered, a full refund must be made.

11. Motor Vehicle Tow Services—Requires that firms which remove unauthorized vehicles from private property without the vehicle owner's prior consent must be licensed. Establishes a maximum towage fee of \$20.00 and a maximum storage fee of \$2.00 for the first 24 hours of storage.

In addition to enforcing these ordinances, we also have responsibility for operation of the Municipal Produce Market which for the past several years has been the highest volume farmer to consumer retail produce market in the United States. We also have a very active public information program conducted by a full time information representative and assistant.

Organized consumer pressure on City government was essentially absent from the scene in 1972. However, positive input was received from a number of citizen groups during the period when formation of the department was being considered.

The fundamental question was whether City government should consider doing more for its citizens in the retail marketplace.

The City Manager initiated a study of the feasibility of expanding the City's consumer-related citizen services. This study consisted essentially of an analysis of consumer abuse in Dallas and other cities in terms of the best available indices. In addition, it involved a rather broad analysis of the organization and functioning of a number of other consumer protection agencies of local, state, and federal government. The study concluded that although Dallas had significantly fewer abuses of consumer rights in the marketplace than other cities of comparable size, they were occurring at a level which should be considered unacceptable by City government.

The end product of the study was a recommendation by the City Manager to the City Council that a Department of Consumer Affairs be established.

The original legislative package consisted of the basic Consumer Protection, or "little F.T.C.", ordinance along with a Weights and Measures ordinance. But expansion of activity has been constant since the beginning of the department to the extent that there has hardly been a time when a new ordinance proposal was not underway.

Enforcement activities are carried out through the four field operating divisions which are Consumer Protection, Technical Investigation, Home Repair Investigation, and Weights and Measures.

The organizational structure further consists of the Administrative Section, the Consumer Information Division, and the Public Market Division.

Our capability for personalized handling of individual consumer complaints by telephone is well identified in the community. We have

four Information Service Aides who devote full time to telephone complaint handling.

The complainant is not required to fill out a form and send it in before action on his complaint is initiated. When a complaint is filed with the department, relevant basic information is taken down by the telephone aide. The person who first talks with the complainant decides whether or not the complaint involves a potential violation of any departmental ordinances.

If a potential violation exists, the complainant is informed that the complaint will be assigned for field investigation. Individual complaints may be assigned for either routine or priority investigation.

If an individual complaint does not fall within the scope of one of our ordinances, the telephone aide refers the complainant to another agency if appropriate. A significant number of the complaints are civil rather than criminal in nature. Where the complainant needs legal assistance but cannot afford it, we often help him obtain assistance from one of several legal aid groups.

If a complaint is assigned for investigation, the investigator recontacts the complainant to see if the facts are consistent with those originally related to the telephone aide. The investigator reviews evidence, availability of witnesses, and other factors necessary to determine whether a prosecutable violation exists. The next step will be a contact with the seller.

If a prosecutable violation exists, the case will not necessarily be tried in court. If a particular violation is not flagrant and not a repeat violation, our policy is to issue a written "notice of violation," provided the seller is willing to make restitution to the complainant in the form of a refund or an adjustment. Our case will be considered closed when the complainant confirms to the investigator that the refund or adjustment was made to his satisfaction. If a seller does not follow through with an agreement of this nature, formal charges are filed in court.

If attempts to mediate would be inappropriate, a court citation will be served on the apparent offender by our investigator. We set each case for pretrial hearing within approximately two weeks of the date the citation was issued.

In the case of certain apparent violations, we go to court without any consideration or a prior warning notice. Examples are: (1) A consistently short-weight meat counter; (2) excessive lead content in gasoline represented as "unleaded;" (3) an odometer rollback where liability is reasonably apparent; (4) a material misrepresentation that could not reasonably have been accidental; (5) inaccurate performance on the part of a weighing or measuring device past the probable point of ordinary wear and tear; (6) a consistently short lot of milk or other commodity filled or packaged on a daily basis.

Also, our investigations take place within a structured framework which is defined by law. The question is whether a violation can be established, and not a complaint that can be resolved by appealing to someone's philosophic sense of fitness or social justice.

A significant number of the cases filed in the department are settled at pretrial hearings by "guilty" or "no contest" pleas coupled with fines. Fines obtained in Consumer Affairs cases have been consistently higher than fines levied in other types of municipal ordinance cases.

Although Texas State Law does not permit Municipal Courts to assess fines in excess of \$200, the threat of adverse publicity is a much more effective deterrent to consumer protection violations than the amount of the fine involved. Both the newspapers and the electronic media in Dallas have consistently shown great interest in Consumer Affairs cases, so that a very high percentage of our enforcement actions are widely publicized.

Incidentally, my investigators are commissioned law enforcement officers with the same legal authority that regular police officers have. Our court cases are handled by a three-person prosecution team assigned to departmental casework by the City Attorney. I also have a general counsel assigned by the City Attorney.

Activity in the department has increased steadily during the past 3½ years. The first year we received 10,561 consumer complaints, 12,113 the second year, and 14,979 the third. Ninety-six court cases were filed the first year, 109 the second year, and 162 the third year.

The dollar value of documented refunds and adjustments made to consumers in lieu of prosecution last year (1974-75) was \$206,989, about twice that for 1973-74.

How effective has our approach to consumer protection been? A well structured analytical model that could be plugged into to assess the effectiveness of a particular consumer protection program does not exist, so subjectivity comes into play in determining the effectiveness of various programs.

Those of us involved in enforcement type programs tend to look at our activity from year to year in terms of certain basic indicators. But I think these are more relevant to performance and to efficiency than they are perhaps to effectiveness in the broadest sense.

The usual performance indicators involve such basics as total complaints received, complaints assigned for investigation, dollar value of recoveries, cases prosecuted, etc.

But to measure effectiveness in a broader sense, we had to try to determine what fundamental impact the program has had on the retail marketplace. Our complaint files do not reflect the type of flagrant

economic abuse that was reported to us three years ago. And these complaint files are the most reliable index of economic abuse that we have.

In addition, the established business community has reacted positively to departmental programs and shared the feeling that a well-defined enforcement program, objectively carried out, protects business from unfair competition as well as protecting consumers from abuse.

Departmental programs have also created a more favorable environment for the resolution of individual complaints by consumers.

Effective consumer protection in an impacted population area requires some degree of legal authority for the implementing agency, because many of the built-in protective devices which exist in a smaller town or city tend to break down.

For example, in an impacted metropolitan area, there is very little effective communication between consumers because of geographic and social separation.

And, because of the sheer number of firms involved, the business community is not able to play a self-policing role to the extent that it could in a smaller community.

And, finally, the annual flux in population which a metropolitan area experiences assures an ongoing flow of customers for an unscrupulous seller without his having to depend on any repeat business at all.

A program such as we have in Dallas would not be practical in every community in the United States; approaches of a different nature would be more cost effective in other situations. I hope that within two or three years some in-depth research will be done on the broad effectiveness of various approaches to consumer protection in the retail marketplace.

VIRGINIA APPROACH TO CONSUMER PROTECTION

Mary Ann Shurtz, Coordinator
Virginia Office of Consumer Affairs

Since Virginia has a limited network of consumer laws and the Office of Consumer Affairs has an equally limited budget, its operating philosophy is to use available resources to their maximum to help consumers receive fair treatment in the marketplace. Within these constraints, the office has developed a three-pronged approach: first, the mediation of civil complaints filed by consumers; second, the prosecution of flagrant law violators and third, the education of the consuming public. The first two prongs clearly react to the problem and the last is an attempt to alleviate future problems. In all cases, we make every effort to eliminate duplication of effort between our office and the other county/city consumer offices within the state.

This presentation will be subdivided into several areas: first, the evolution of consumer laws in Virginia; second, the function of the Office of Consumer Affairs; third, a description of our newly established consumer education program; fourth, our method to encourage cooperation between the various consumer offices within Virginia; and fifth, an analysis of our effectiveness.

Prior to 1970, the enforcement of existing consumer laws was restricted primarily to regulatory agencies. The Virginia Department of Agriculture and Commerce administered 67 laws of which 28 protected the consumer directly. The laws dealt primarily with proper labeling, grading, wholesome and unadulterated food products, weights and measures, and plant transportation; the Labor Department enforced the wage law. Other regulatory agencies enforced a host of similar laws. Most of the law violations were criminal with misdemeanor penalties. The state lacked a law allowing the Attorney General to seek to enjoin certain practices.

The Virginia General Assembly felt the pressures to institute some type of a consumer program. In 1970 the Office of Consumer Affairs was established without funding and housed in the Virginia Department of Agriculture and Commerce. Unfortunately, the legislation did not have adequate enforcement provisions and did not authorize our office to subpoena, to promulgate regulations or to hold investigative hearings. We were primarily intended to be a clearing house for consumer complaints. To complement the Consumer Affairs Office, the General Assembly established a Division of Consumer Counsel in the Attorney General's Office, which was empowered to enjoin certain unfair trade and sales practices, to recommend to the General Assembly the enactment of needed consumer legislation and to represent the consumers' interest before governmental commissions, agencies, and departments.

Since 1970, consumer legislation has been limited to specific problem areas such as Landlord-Tenant, Condominium Act, and Credit to name a few. The enforcement of these laws is civil only and does not fall under the section of the code over which the Division of Consumer Counsel has jurisdiction. The only legislation under the Division's Unfair Sales Statutes was the pyramid promotional scheme, home solicitation, and the Prohibition of Referral Sales. Still lacking is an act establishing certain civil remedies for fraud.

On the operational aspects of the office, although the law establishing the Office of Consumer Affairs was weak, we carved out an effective complaint handling and investigative system with a limited staff, currently 14 full time and one part time person. Ten positions are state funded and five federally funded. The main office, located in Richmond with a branch in Northern Virginia, serves the D.C./Virginia suburbs and the northern part of the state.

Purely civil complaints comprise over 90% of all complaints received by our office. The consumers' only resource is to take the problem to General District Court. Some localities offer binding arbitration if both parties agree. However, in most cases, we are able to resolve the complaint satisfactorily. If the complaint is strictly criminal, the investigation report would be forwarded to the Commonwealth Attorney where venue was established. If the Commonwealth Attorney feels that the case is too weak to prosecute under Virginia Law, we may refer it to the Postal Authority if the mails were used, or to the U. S. Attorney in the case of federal violations. If the violation falls within the unfair trade and sales section of the code or misrepresentation connected with sales, the State Attorney General has the power to seek a civil injunction against the practices. The attorney General only prosecutes if the case has statewide significance. He has assigned a full-time assistant to our office to handle prosecution of the Unfair Sales and Misrepresentation Act and to recommend consumer-related legislation to the General Assembly. This past year, six cases were filed and settled. Our office did the investigation for the prosecutions.

Our office takes pride in the quality of investigators we employ-- those with experience in getting along with people, experience in negotiation, and an inquisitive mind. To illustrate, a complaint was received regarding a loan consolidation type operation in which the prospective borrower was led to believe that he could get a loan to cover all his needs despite the lack of assets. The firm charged \$100 in advance for services which did not result in a loan being granted. The complainant received an itemized statement of charges totalling \$1400 and letters of rejection from various loan companies across the nation. Initially, it appeared that nothing could be done since the complainant had signed a valid contract and the company had met the terms of the contract. However, close examination of the loan rejection letters revealed similar wording which was suspect. Our investigator then sent a letter to each loan company which allegedly turned down the complainant's loan application. None of them had done any business with the consolidated loan company. What appeared to be a civil complaint turned into a clear

case of fraud and clearly indicates the value of competent investigators.

Investigators last year were assigned 45% of the cases; 10% were referred to the Attorney General or Commonwealth Attorney, 35% to Local, State and Federal agencies, 3% to BBB, Chambers of Commerce, Trade Associations, etc., and 27% were handled administratively by letter or phone call. The percentages add up to over 100% as some complaints were assigned to more than one agency. For example, a case may be assigned to an investigator and then forwarded to the Attorney General for prosecution.

One of the strengths of the office is its thorough complaint handling and record keeping system. Each complaint has a code number assigned to it, 5-04-(271)-A415-(18)-01. The number reflects the fiscal year, month, chronological number, category number, special category, and final disposition of the case when it is closed. In addition, it indicates how the complaint was handled. The system is rather simple but has worked quite well. We have five sets of card indexes for retrieval purposes.

The third prong of our consumer program is consumer education. An analysis of complaints and inquiries received pointed out that consumers are in the dark when it comes to knowing their protections under existing laws. Many feel they are protected when they are not; others do not feel they are protected when they are.

Most consumer offices with a limited staff fail to hire a consumer education specialist as one of their first positions because the demands made upon the office are in the area of complaint mediation. However, once the investigative staff is adequate, the next staff consideration is in the education area. The fact is if an office's main function was consumer education from the beginning, fewer investigator positions would be needed as fewer consumers would get into situations they could not handle.

Although we do not have a full time staff person devoted to consumer education, the director and myself are doing some work in that area. The office worked with the Governor's Office in establishing a Governor's Advisory Committee on Consumer Education. The committee's primary purpose was to look at what is being done in the consumer education area across the state and make recommendations to groups or organizations where needs exist.

A state-wide survey developed by the committee with the cooperation of the Department of Education was sent to each school. The purpose was to learn the extent consumer education was being taught in the public schools. As a result, the Department of Education at the request of the Governor's Committee formed a curriculum committee to develop some type of organized approach to consumer education. In addition, the General Assembly passed a resolution for the Department of Education to take appropriate steps at all levels of instruction and develop programs

that will assist teachers in incorporating consumer education into existing courses as well as in teaching specific consumer education courses.

In the community, consumer education was identified as a priority area by Title I of the Federal Higher Education Act through a series of workshops. The Consumer Office is working cooperatively with VPI & SU in a consumer education financial management consumer project funded by Title I.

If funds permit, we will also do a pilot project in the consumer area with the State Welfare Department. The basic thrust would be to investigate complaints and problems of low income citizens and provide counseling sessions to help them avoid future pitfalls.

A third approach to education which we are pursuing in Northern Virginia on a pilot basis, funds permitting, is a cooperative effort of the four local consumer offices, the Northern Virginia Branch Office of the State and the Consortium of Colleges and Universities in Northern Virginia. The project would identify 120 key leaders in Northern Virginia and divide them in teams of five members each. The teams would attend a four day seminar with each member of the team concentrating his effort in one competency area, such as credit, money management or legal aspects of the marketplace. In addition, slide sets, instructor's manual and reference books would be developed and given to each team so they might collectively conduct one day workshops or individually present their competency area to a group or organization. This approach utilizes the volunteer sector, the multiplier effect, and identifies a nucleus to help get consumer legislation passed.

To maximize available resources, the office capitalized on the cooperative aspects by letting other agencies know we were there to work with and not in competition with them. When the State Office of Consumer Affairs was established in 1970, only one locality had implemented a consumer office. This gave our office the chance to take the leadership in working with the newly established offices when they came into existence. In fact, our office encouraged localities to establish their own offices. We also encouraged legislation that gave localities the power to establish consumer offices by ordinance if they wished.

After a while, it became obvious that if complaint statistics were to be meaningful, a uniform system needed to be developed. The state office held a meeting with the local directors who decided to adopt the state coding system with a few modifications. The only part in which a consensus could not be reached was in the complaint definition itself. Some felt that only those complaints that were submitted in writing should be counted; others felt that if a person took up five minutes or more of staff time, it should be considered as a complaint. So everyone is recording complaints as they see fit.

One area that has helped to foster cooperation is that we are not in the numbers game with the localities. Telephone inquiries many times

are referred by phone to local consumer offices and vice-versa. This position has allowed the state to concentrate efforts on cases that are cross-jurisdictional in nature and those that indicate law violations.

For all jurisdictions to get a broad picture of consumer activities and subject areas generating the most complaints, a quarterly report form was devised. Each quarter the forms are sent to each office to obtain statistical information as well as information on consumer education activities, cases referred to the Commonwealth Attorney and those litigated. Summaries are mailed to each office.

Looking back over the past six years, I think that the Virginia General Assembly made a good start by setting up a consumer protection mechanism. Unfortunately, the laws stopped short of what is really needed for an effective program. That is a law giving the Attorney General the power to seek civil remedies against fraud and provide restitution for the consumer. The consumer office needs to have subpoena powers and the authority to promulgate regulations and hold investigative hearings.

Although innovative consumer education programs have been designed, the future involvement and implementation hinge on Federal funding. The General Assembly endorses consumer education but fails to provide necessary funds.

For the future, I do not see any significant changes in the consumer legislation unless citizens become increasingly aware that much can and should be done.

AN EXPLANATION OF ELECTRIC UTILITY FINANCE
AND ITS EFFECTS ON THE RESIDENTIAL CONSUMER

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Introduction

Recently, the price of electricity has become one of the most profound consumer issues we face. While policy makers at all levels are confronting this problem, millions of residential ratepayers have increasingly fallen into extreme difficulty attempting to pay their monthly bills. Both organized and ad hoc consumer groups have coalesced around the utility issue and have necessarily become sophisticated in their knowledge of the industry. Yet, most consumers are bewildered as to the complexities and vagaries of utility finance and rate structure.

The following attempts to explain the electric utility industry so that residential consumers will be better able to confront the utility dilemma dramatically impacting on their lives.

Structure of the Electric Utility Industry

The electric power industry is comprised of several different types of utility systems, some owned by private companies (investor-owned utilities), some by the Federal government or by other public jurisdictions such as municipalities, states or public utility districts, and some by electric cooperatives—in all, approximately 3,200 individual entities.

The investor-owned segment of the industry is by far the largest, supplying 78% of the nation's total generating capacity (see Table 1). Almost all of the approximately 200 investor-owned utilities (IOU's) are "combination companies" that operate integrated generation, transmission and distribution systems. Over the past decade, a gradual trend toward consolidation of utility systems involving the acquisition by IOU's of small publicly-owned systems has meant these relatively few companies have further increased their capacity share of the entire industry.

The federally-owned segment of the industry accounts for more than 11% of the nation's total generating capacity. It is made up of 40 systems which primarily supply power in bulk for local distribution and

The opinions in this presentation reflect the views of the author and do not reflect official Federal Energy Administration positions.

Table 1

Percent of Total Electric Utility Net Generation,
United States 1962-1973^a

Year	Total	Privately Owned	Municipal	Power Districts, State Projects	Federal	Cooperatives
1962	100.0	76.4	4.9	4.4	13.6	.7
1963	100.0	76.5	5.1	4.1	13.6	.7
1964	100.0	76.8	5.1	4.1	13.2	.8
1956	100.0	76.7	4.7	4.0	13.8	.8
1966	100.0	77.0	4.6	4.1	13.4	.9
1967	100.0	76.5	4.8	4.4	13.3	1.0
1968	100.0	76.7	4.8	4.6	12.8	1.1
1969	100.0	76.5	4.8	4.8	12.7	1.2
1970	100.0	77.4	4.7	4.3	12.1	1.5
1971*	100.0	77.4	4.5	4.3	12.1	1.7
1972*	100.0	77.6	4.5	4.2	11.9	1.8
1973*	100.0	78.1	4.3	4.3	11.4	1.9

^a Exclusive of energy used for pumped storage.

* Preliminary

Source: FPC. Statistics of Privately Owned Electric Utilities in the United States, 1973

resale by others. Agencies of the Department of the Interior operate the major Federal systems with one exception, the Tennessee Valley Authority.

Utility systems owned by public bodies (municipal, power districts, state projects) other than the Federal government account for about 8.5% of the nation's generating capacity. This segment of the industry is quite diverse in its composition. About two-thirds of the some 2,000 separate systems are solely engaged in the distribution and resale of electricity purchased from bulk power suppliers. The other one-third operate generating facilities, either as part of an integrated generation-transmission-distribution system or to supply electricity for distribution by others.

The remainder of the industry is comprised of approximately 1,000 electric cooperatives which primarily supply power in many of the rural areas of the country. 90%¹ of these relatively small cooperatives are engaged only in the distribution aspect of the business. Electric cooperatives account for only 2% of the total generating capacity; however, they serve over 8% of the ultimate consumers.

Investor-Owned Utilities

An investor-owned utility can be defined as having at least the following four essential characteristics:

1. It is a monopoly in the provision of power for a specifically defined geographic area and typically state law imposes an obligation on it to supply all the needs in the area.
2. It is highly regulated by a public commission which has authority over such things as setting rates and establishing rates of return.
3. It is a publicly held corporation and therefore subject to the standards and practices established by the Public Utility Holding Company Act and enforced by the Securities and Exchange Commission.
4. Many of its operations fall under the authority of the Federal Power Commission as a result of the Federal Power Act for such things as interconnection and coordination of electric facilities as well as resale rates for electric power in interstate commerce.

Since the investor-owned sector of the electric utility industry provides power to the greatest number of end-users, is the most heavily regulated and has certainly received the most publicity in the media, this paper will concentrate on an explanation of the factors which precipitated the recent utility financial dilemma and its effects on the large number of residential consumers. (References to the electric utility industry will mean the investor-owned sector, except where otherwise noted.)

Traditional Utility Industry Performance and Practice

For decades, the electric utility industry was the paragon of stability. From 1958-1973 demand grew at an average annual rate of 7.4%. As a result, utility securities were considered to be among the safest available investment and little impeded financing new construction from external sources.

¹Federal Power Commission. The 1970 National Power Survey, Part I., Washington, D.C., December 1971, p. I-1-12.

The expansionary phase was marked by significant technological advances made in the efficiency of generating and transmission equipment. This growth-technology combination had an enormous impact on the psychology of both the industry and the investment community. Net generating capacity more than doubled² and almost all additions contributed to increasing economies.

As utilities invested increasing sums to build new plants and equipment, regulators permitted them to earn higher profits commensurate with their growing "rate base," and growth in electricity sales almost automatically provided enough utility earnings without the need for higher rates. Regulatory commissions set electric rates based on historical costs; however, since costs were decreasing, utilities typically earned more than their allowable rate of return. Companies were happy because their growth in earnings, profitability, and sales were orderly; commissions were not pressured to speed-up the regulatory process; investors felt confident in their holdings; and residential consumers were not overly concerned since rates were decreasing (Table 2).

Table 2

Average Cost Per Kilowatt-Hour to
Residential Consumer, 1962-1970

Year	Average Cost per KWH (Cents)
1962	2.56
1963	2.51
1964	2.45
1965	2.39
1966	2.34
1967	2.31
1968	2.25
1969	2.21
1970	2.22

Source: FPC. Statistics of Privately Owned Electric Utilities in the United States, 1973.

The Turning Point for the Utility Industry

In April 1974, Consolidated Edison Company of New York decided against dispersing its quarterly dividend, the first missed since 1855.³

²Federal Power Commission. Statistics of Privately Owned Electric Utilities in the United States, 1973. Washington, D.C., December 1974.

³Wall Street Journal, May 17, 1974.

This well publicized action, perhaps more than any other, brought public attention to the industry's financing difficulties. A combination of rising costs and the rather slow regulatory process contributed to the steady erosion of cash flow and traditional utility stability.

Between 1965-1974 the cost of electrical generating plants increased at a prodigious rate; utility revenues almost tripled while cash expenditures for plants almost quadrupled (see Table 3). The need for funds had grown much faster than before. Not only were construction costs and interest rates rising, but the actual lead time necessary to bring a new plant on line increased. As a consequence, continued expansion led to declining profitability for the electric utility companies in the absence of continuous rate increases.

Table 3

Growth in Revenues and Expenditures
of Investor-Owned Electric Utilities (\$ Million)

Year	Revenues	Cash Expenditures for Plant
1965	15,404	4,333
1966	16,467	5,284
1967	17,386	6,517
1968	18,800	7,177
1969	20,324	8,294
1970	22,276	9,987
1971	25,053	11,632
1972	38,437	12,713
1973	31,848	14,038
1974	40,096	15,214

Source: Edison Electric Institute. Statistical Yearbook of the Electric Utility Industry, 1974.

Typically, utility profits are a fixed percentage of the rate base or the amount of capital invested in power plants and equipment. The slow regulatory process—often a year or more to decide a rate case⁴—means a lag between the time when utilities spend money on new plant and the day when regulatory commissions grant increases to cover the return on the newly evaluated rate base. Ratepayers are not required to make any payments for costs of Construction Work in Progress (CWIP) until the new plant goes into service and is included in the rate base. In essence, as construction costs outpaced rate increases, utilities found their capital tied up with no returning income.

⁴In a 1974 telephone survey the FPC found that the average time to process a typical rate case was less than nine months, down from 13 months in 1972. Thus, commissions are attempting to reduce the regulatory lag problem.