
Advancing the Consumer Interest

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EDITORIAL POLICY STATEMENT

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

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

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

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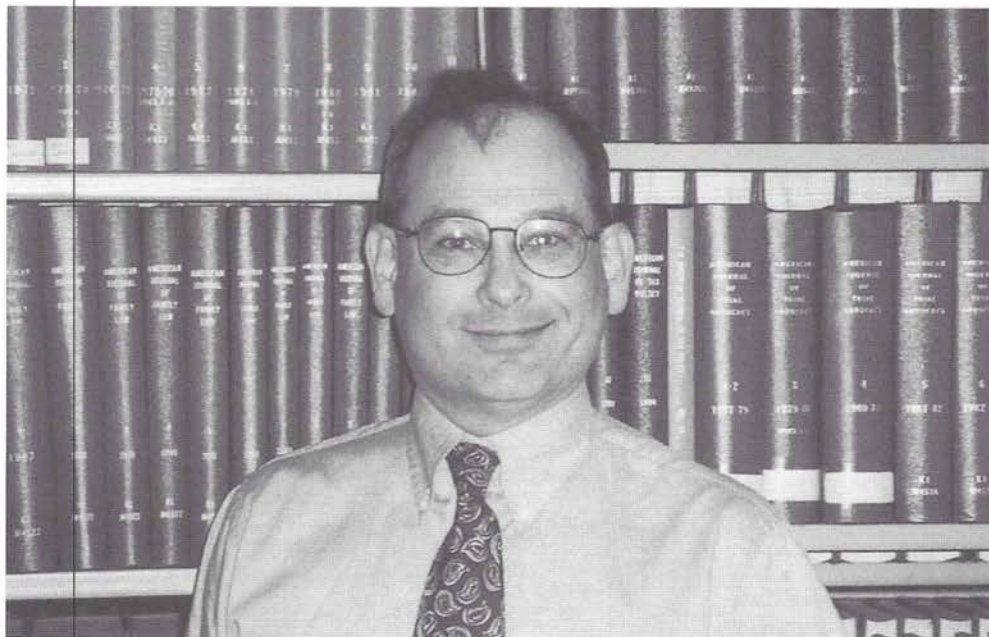
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Incoming editor, Professor Norman Silber

With this issue we conclude our editorial term and introduce Professor Norman Silber as the new editor of *Advancing the Consumer Interest*. We are delighted to hand over the reins to a scholar of his caliber.

It has been a pleasure to serve the American Council on Consumer Interests. Our work was more pleasurable due to the efforts of our volunteer advisory board, editorial board, and reviewers. We would like to thank by name these three groups whose efforts have enhanced the quality of ACI.

We are grateful to the following advisory board members for their support: Stephen Brobeck, Bonnie Liebman, E. Scott Maynes, C. Lee Peeler, Esther Peterson (deceased), Susan Reverby, and Gerald Thain.

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The lifeblood of any journal is its staff. We have been fortunate to work with Jessica Brownell, Paul Davis, and most especially Sonya Sidky, whose employment was made possible through funding from the University of Wisconsin Graduate School, the University of Wisconsin Law School, and the University of Wisconsin School of Human Ecology. We gratefully acknowledge their generous support.

Thoughts on Women's Contributions to the Modern Consumer Movement

Robert N. Mayer
University of Utah

More so than any social movement except the women's movement—*itself*, the consumer movement—both in the United States and elsewhere—has been marked by a high degree of female participation and leadership. This observation raises three basic questions: to what extent is this the case, why, and with what possible consequences? This paper addresses these three questions in a fashion that is meant to stimulate debate and research. In particular, a man writing about women in the consumer movement is bound to produce some statements that are provocative, sexist, or just plain incorrect.

EXTENT OF FEMALE PARTICIPATION IN THE GLOBAL PERSPECTIVE

Before trying to gauge the level of female leadership in the worldwide consumer movement, one needs a measurement standard. Most social movements, reflecting as they do the social conditions of the countries in which they exist, have been inhospitable to the participation of women. In the United States, for example, the so-called progressive movements of organized labor and civil rights movements have been criticized regularly for

ignoring women. The same criticism may appropriately be leveled at today's environmental movement. As a result of this general sex bias in social movements, finding that female consumer leaders are approximately equal in number to male consumer leaders would support a conclusion that the consumer movement is, *in relative terms*, characterized by female leadership.

If any single individual personifies the world consumer movement, it is Ralph Nader, but from a gender perspective, he is more the exception than the rule. The leadership of the U.S. consumer movement and those of other countries is as likely to be female as male. In the U.S., one can look at the leaders of the four most important consumer organizations (listed in relation to their age): the National Consumers League, Consumers Union, the Consumer Federation of America, and Ralph Nader's own Public Citizen. Of the four, only the Consumer Federation is currently led by a male, Steve Brobeck, and he is the first male executive director in the Federation's history—following Erma Angevine (1968–73), Carol Tucker Foreman (1973–77), and Kathleen O'Reilly (1977–80).

[A]mong consumer-oriented governmental bodies, women are most likely to lead those with a strong emphasis on public education whereas men are most likely to lead those which involve regulating scientists and professionals.

Among the remaining private consumer organizations, one can find many that have been led primarily by men, like the Center for Science in the Public Interest, the Center for Auto Safety, the Health Research Group, and the National Consumer Law Center. Counterbalancing these organizations, though, are ones like Public Voice for Food and Health Safety, Toward Utility Rate Normalization, Action for Children's Television, and Bankcard Holders of America, which have been largely female-led. Many of these organizations are the reflection of a single leader (e.g., Peggy Charren of Action for Children's Television). More telling about the role of female consumer activists is the leadership of professional organizations that represent broader constituencies and a wider array of consumer issues. One such organization is the American Council on Consumer Interests (ACCI), representing the research/education arm of the movement. A review of ACCI's presidents, board members, and administrators since its inception in 1954 suggests that, on balance, women have played a greater leadership role than have men.

Turning to appointed positions of leadership within the U.S. federal government, the only agency, department, or commission that a woman might realistically hope to head (at least until the Clinton Administration) would be one involving consumer or health matters and, possibly, labor. Women have monopolized the position of Special Assistant to the President for Consumer Affairs (or head of the Office of Consumer Affairs) and Chair of the Consumer Product Safety Commission. Women have also regularly occupied positions of leadership in the Federal Trade Commission and the Department of Agriculture's Cooperative Extension Service. The Food and Drug Administration and the National Highway Traffic Safety Administration, in contrast, deal with important consumer matters but have remained largely led by males. One might offer the following generalization: among consumer-oriented governmental bodies, women are most likely to lead those with a strong emphasis on public education

whereas men are most likely to lead those which involve regulating scientists and professionals.

State- and local-level consumer agencies have been even more likely to be led by women than have federal ones. The first state-level consumer affairs administrators tended to be women, with Persia Campbell and Helen Nelson providing fine examples. While today's consumer agency administrators include many men, their professional association, the National Association of Consumer Agency Administrators, has been and continues to be marked by a high degree of membership and leadership from women.

The prevalence of women as consumer leaders in private and government organizations applies to English-speaking countries other than the United States. The Canadian consumer movement was born in 1947 when delegates from 20 women's organizations voted to establish the Canadian Association of Consumers later the Consumers Association of Canada). According to Kerton (1997), the CAC derived much of its early force during the 1960s and 1970s from the "Two Helens" (Morningstar and Anderson) and the "Two Ruths" (Jackson and Titheridge). Although there have been several male consumer leaders in Australia, most notably Syd Einfeld and Alan Asher, the acknowledged founder of the Australian consumer movement was Ruby Hutchinson, who established the Australian Consumers' Association in 1959. The Association is led today by another woman, Louise Sylvan, and the Federal Minister for Consumer Affairs is Jeannette McHugh.

As large a role as women have played in the United States and other English-speaking countries, they have been even more prominent as consumer leaders in the Nordic countries of Sweden, Norway, and Denmark. As in so many other countries, the consumer movement in Scandinavia sprang from women's associations and their interest in making household work more efficient and scientific (Blomqvist, 1997; Jensen and Jensen, 1997). During the early 1970s, Scandinavia gave birth to a unique consumer institution, the ombud, an official whose job

it is to give voice to consumer concerns and encourage business compliance with consumer protection measures. Though lacking in enforcement powers, the ombud is the most visible consumer protection official in Norway and Sweden, and the ombud is almost invariably a female.¹

The leadership of the consumer movement in more developed nations has been most heavily female where, as in Scandinavia and Japan (Imai, 1997), the movement was begun by women's groups concerned with household-level consumer problems. In other nations, the consumer movement drew as well on labor unions, cooperatives, and/or product testing organizations, in which case their sex composition tilted more toward men (as in Germany, Austria, Belgium, the Netherlands, and France).

Turning to the consumer movement in the countries of Central and Eastern Europe, there is a relatively short history to examine. Nevertheless, many of the most prominent consumer leaders in the region are women, including Malgorzata Niepokulczycka of Poland, Breda Kutin of Slovenia, and Marta Cerna of Slovakia.² Generalizing about the less developed nations of Latin America, Southeast Asia, Africa, and the Middle East is made difficult by both the youth of the consumer movement in these regions as well as the diversity of the countries involved. Yet, it is safe to say that women have provided leadership to the consumer movement in these nations far out of proportion to their general political participation. Female leadership is probably most pronounced in Southeast Asia and the Pacific, especially in Hong Kong, South Korea, Indonesia, Malaysia, and Micronesia (Wells and Sim, 1987). The area has produced the two most recent presidents of Consumers International—Erna Witoelar (1991-97) and Pamela Chan Wong Shi (1997-present).³

This impressionistic survey of female leadership within the consumer movement suggests that women have guided many of the world's major consumer organizations. Whether the exact percentage of female leaders is slightly above or below 50 percent

isn't important for showing that the consumer movement has been hospitable to female participation because similar percentages for other social movements would be so much lower, except for the women's movement itself.

POSSIBLE EXPLANATIONS

If one is willing to accept that women have indeed played a major role in the worldwide consumer movement, then one must ask why this should be the case. Two general types of explanations seem plausible. One explanation would attribute the high level of female leadership in the consumer movement to the preferences of women themselves. It would hold that women are more involved in the consumer movement than other social movements because they are more interested in consumer issues than other issues. Indeed, the work of many women consists of acquiring, transporting, and storing goods, and, most important, transforming them into goods of greater value through inputs of labor and time ("home production"). This would make the consumer movement for women roughly analogous to the labor movement for men inasmuch as the consumer movement

The Canadian consumer movement was born in 1947 when delegates from 20 women's organizations voted to establish the Canadian Association of Consumers later the Association of Consumers of Canada).



Esther Peterson checks produce quality as special assistant to the president for consumer affairs in 1965.

REPRODUCED BY PERMISSION OF THE NATIONAL ASSOCIATION FOR HOME CARE, 1998. FROM RESTLESS: THE MEMOIRS OF LABOR AND CONSUMER ACTIVIST ESTHER PETERSON. NOT FOR FURTHER REPRODUCTION.

[F]emale appointments to leadership positions are perhaps made as a form of "tokenism."

addresses the concerns arising from the daily work of women. Both the labor movement and the consumer movement would then represent two expressions of the impulse for social justice in economic markets.

A final reason why women might gravitate to the consumer movement more than other social movements involves its relatively reformist and non-confrontational nature. Although consumerists like Ralph Nader, Sidney Wolfe, and Michael Jacobson will sometimes speak bitterly about corporations, on the whole, the consumer movement involves non-violence, cooperation, and compromise. These latter approaches, exemplified by Esther Peterson (1995), may be more consistent with the way women are socialized to deal with political conflict than the more violent and confrontational tactics of other social movements.

If the first set of explanations provide reasons why women might be "pulled" toward the consumer movement, a second set of explanations might account for why women are "pushed" toward the movement. One possibility is that women are considered appropriate for leadership positions within private and government consumer organizations because these positions entail control of struggling organizations with meager budgets and little power. When these organizations gain more resources, prestige, and power (as in the case of government bodies that regulate professional or business constituencies), it becomes more likely that they will be headed by men. This explanation would be particularly applicable to countries in which women are still second-class citizens, including many less-developed nations.

Where women cannot be shut out of leadership positions entirely, especially in more developed nations with a commitment to sexual equality, female appointments to leadership positions are perhaps made as a form of "tokenism." Women are made leaders of relatively unattractive organizations, allowing charges of discrimination to be deflected. The concept of tokenism would also explain the fact that several women who have been appointed to visible consumer positions in

the U.S. government have also been members of racial minority groups (e.g., Bonnie Guiton and Polly Baca as Special Assistants to the President for Consumer Affairs; Jacqueline Jones-Smith of the CPSC). Such appointments provide two tokens for the price of one.

POSSIBLE CONSEQUENCES

Whatever the explanation, the possible consequences of the notable female presence within the consumer movement may be even more worth exploring. In particular, we can ask: has a high degree of female leadership and participation within the consumer movement affected (a) the consumer problems addressed by the movement, (b) the analysis or explanation of these problems, (c) tactics, (d) preferred solutions or policies, and (e) the training, career path, and status of consumer affairs "professionals." Put another way, would consumer policy and the consumer field be substantially different if it was as male as, say, the environmental movement?

At a surface level, it does not appear that the agenda of the consumer movement has been biased toward issues of exclusive relevance to women. If it had, the consumer issues receiving the most attention would involve discrimination (in access to credit, treatment by salespeople, and in pricing of similar services), sexism in advertising, and product safety issues (related to cosmetics and contraceptive devices). While these issues have hardly been ignored by the consumer movement, they have not occupied center stage either.

At a deeper level, though, many of the earliest and most enduring issues raised by the consumer movement directly reflect the experiences of women as homemakers and mothers as well as the solidarity of women with other women. The U.S. consumer movement began at the turn of the 20th century with attention to the safety of foods, many of which were adulterated, and patent medicines, which were neither patented nor medicines. The result, of course, were the Federal Pure Food and Drug Act and Meat Inspection Act of 1906. The National Consumers League, the world's most durable consumer organiza-

tion with its forthcoming 100th anniversary in 1999, focused as well on the working conditions of women and children. Middle- and upper-class women at the turn of the century were expected to be engaged in civic matters, and consumer issues—along with the suffragette movement—allowed them to be socially active in a way that was relevant to women's roles.

With the advent of scientific product testing in the 1920s and the founding of Consumers Union in 1936, the U.S. consumer movement turned in a potentially more technical and "male" direction, but it retained its focus on household items that were traditionally made or used by women. The first issue of *Consumer Reports* in May 1936 contained articles on milk, breakfast cereals, toilet soaps, stockings, toothbrushes, lead in toys, Alka-Seltzer, and credit unions. Only later did the magazine place a strong emphasis on more male-oriented products and services like automobiles, lawnmowers, and life insurance. Similarly, it took the considerable force of Ralph Nader in the 1960s to "masculinize" the agenda of the consumer movement toward an emphasis on automobile safety, government-enforced monopolies in the transportation and utility industries, and credit abuses. Yet, many of the most enduring consumer issues—food safety, water purity, health care, and energy use in the home—have their roots in the daily lives of women.

Given a set of identified consumer problems, the consumer movement's analysis of the causes of these problems can be reformist or radical in nature. In practice, the analysis has been primarily reformist. That is, problems are typically attributed to breakdowns in competitive processes, information inadequacies, and market impacts on third parties (externalities). This is in contrast to an analysis that views markets and the capitalist system as fundamentally flawed and incapable of promoting consumer welfare. Is the preference for reformist rather than more radical explanations of consumer problems connected to the female influence within the consumer movement?

Consider, for example, how one might explain the phenomenon by which "the poor pay more" for goods than do their more affluent counterparts. A reformist explanation would point to the higher costs of doing business in low-income areas. It would also point to the tendency of low-income consumers to shop only in stores near their home, foregoing the opportunity to shop in larger, more efficient, lower-priced outlets located in suburban areas. A further reformist explanation of why the poor pay more would note that the poor tend to buy products, especially food, in smaller quantities, thereby losing out on quantity discounts. A radical explanation, in contrast, would contend that businesses seek to take advantage of consumers in general and vulnerable consumers in particular. Low-income consumers are made vulnerable by their lower levels of education, income, creditworthiness, and mobility. While one can find elements of both the reformist and radical explanations in the rhetoric of consumer activists, the reformist explanations have been more influential. They have been used to support informational remedies, such as truth-in-lending and unit pricing, and to provide financial incentives for large, national chains to place outlets in low-income neighborhoods. A more radical approach would seek to remove low-income consumers from mainstream marketing institutions, perhaps by establishing consumer cooperatives or low-cost loans to locally-owned businesses.

In the U.S. at least, the most radical voices have been those of men such as Ralph Nader, Sidney Wolfe, and Mark Cooper. Seen in a global context, however, these radical U.S. voices are relatively tame compared to the anti-capitalist and anti-corporate views of some consumer leaders in the less developed nations.⁴ Thus, it appears that the reformist ideology that dominates the consumer movement in more developed nations is largely unrelated to the role of women in this movement. It is more likely attributable to the relatively open economic, political, and social institutions of these countries, thereby obviating the need for more radical analysis.

The ideology and the tactics of the consumer movement are closely linked, but is



"No More War Toys: Disarmament Begins in the Playroom" poster donated by Madison Chapter of Women's International League for Peace and Freedom.

STATE HISTORICAL SOCIETY OF WISCONSIN WHI (X3) 51808

[T]here may be a connection between female participation in the consumer movement and the use of the boycott.

there any sense in which the tactics have been influenced by the role of women in the consumer movement? The consumer movement has relied on many of the same political techniques as other more male-dominated reformist social movements, especially lobbying and litigation. One technique that is more closely associated with the consumer movement may reflect its female leadership and, perhaps more importantly, its female rank-and-file membership. This technique is the boycott. While the term "boycott" apparently originated in the 19th century with respect to the withholding of rent from C.C. Boycott, the ancient Greek play *Lysistrata* by Aristophanes showed that a female boycott of sex with their husbands could end a war.

While boycotts have been used by other social movements, especially those relating to the rights of workers and racial minorities, boycotts in pursuit of consumer goals have relied disproportionately on the participation of women. Price oriented boycotts in the U.S. go back at least to the meat boycotts of 1902 and include the 1966 nationwide boycott of supermarkets and the food boycotts of the 1970s. In reviewing these consumer economic boycotts, Friedman (1995) found that the leaders and participants were overwhelmingly female. The same gender pattern is likely to be characteristic of consumer boycotts that are less economic in their goals, such as those against Nestle for its techniques of marketing infant milk formula in less developed countries and those against sellers who discriminate against consumers based on their race. In short, there may be a connection between

female participation in the consumer movement and the use of the boycott. Indeed, one might wonder whether refusing to purchase goods and services for economic and political reasons ought to be renamed a "girlcott."

Relative to movements such as environmentalism, civil rights, labor, and feminism, the consumer movement is marked by the use of education as a political tool, and this may be related to the role of women within the movement. While consumer education is far less prevalent in the public schools than might be desirable, it is more institutionalized than courses regarding environmental, civil rights, labor, and women's issues. Yet, most consumer education courses are taught by women to women, often in the form of high school home economics and business education courses or extension service programs for adults. The importance of education within the consumer movement is also evidenced by the existence of the U.S. Consumer Information Center, a government clearinghouse of information. The environmental, civil rights, labor, and women's movements have not established comparable centers oriented to informing members of the general public.⁵

In terms of preferred solutions to consumer problems, consumer activists have often been criticized for being overly "paternalistic," that is, favoring policies that protect consumers by restricting their choices. Examples of supposedly paternalistic policies are laws mandating use of automobile seat belts and motorcycle helmets, bans on medicines, medical treatments, and dietary supplements for which there is no sound evidence of effectiveness despite testimonials from individual users, and regulations requiring that power lawnmowers come equipped with a special "dead man" switch that automatically stops the engine when the user is not holding the handles. Although the term paternalistic derives from the word for father, would such choice-restricting policies be better described as maternalistic and owing to the influence of women within the consumer movement?

Some survey research lends credence to the idea that women are more likely than men to

support restrictions on individual freedom in the name of promoting the overall health and safety of the community. In the most recent comprehensive national study of attitudes toward the consumer movement (*Consumerism in the Eighties, 1982*), women were more favorable toward government regulation of business in general and more favorable toward Ralph Nader (a strong paternalist) than men. In a study based on Wisconsin and Illinois respondents, Kroll and Stampfl (1986) found that women were not only more supportive than men of the consumer movement in general, they also were more likely to support policies that limited consumer choice to achieve some broader objective. For example, women would be more likely to ban a dangerous product than provide risk information on its label.

If women are indeed more supportive than men of consumer policies that restrict individual freedom of choice, why might this be? Is it possible that women, by virtue of the greater time they spend supervising young children, are more accustomed to imposing restrictions designed to benefit naive or uninformed consumers? Another possibility is that women have less power than men and therefore enjoy fewer prerogatives, so they have less to lose from government intrusion on individual freedom. To the extent that women are less familiar with science and technology than men, they may be quicker than men to call for choice-limiting policies to tame new and potentially dangerous technologies such as genetically modified food (Grobe and Douthitt, 1995) and new drugs with potentially dangerous side effects. For whatever reason, the female presence within the consumer movement may have tilted its tactics in the direction of choice-limiting strategies, it is sobering to note that any such influence is likely to be overwhelmed by the broader shift in the U.S. and elsewhere toward market-based solutions and the choice-allowing philosophy they imply.

Finally, has the relatively large role of women within the consumer movement, both in the U.S. and worldwide, affected the extent to which careers in consumer affairs have

become “professionalized”? As a general rule, female-dominated occupations enjoy less remuneration, prestige, and power than those dominated by males. Female-dominated occupations are also less likely to be considered “professions”—occupations based on high levels of specialized knowledge requiring individual autonomy and self-regulation by peers. Some female-dominated occupations have achieved professional status, like nursing and teaching, but these professions carry fewer of the benefits of professionalization than male-dominated professions such as medicine, law, and business.

Most female-dominated professions like nursing, teaching, and dietetics are extensions of services that women traditionally delivered in the home to family members (of both sexes) and taught to their daughters. Today, many of these caregiving, instructional, and home production activities take place in formal institutions (e.g., hospitals and schools) that serve a large and constantly changing base of female and male service recipients.⁶ Early 20th century advocates of home economics anticipated a similar transition. Domestic work had become too complicated for untrained housewives relying on information passed down from mother. Housewives needed to become domestic professionals. Without payment for their services, though, providers of home production were not viewed by society as professionals, no matter how much technology was involved and no matter how much value was provided.

Today’s providers of consumer affairs services suffer a similar undervaluation. Unlike nursing, teaching, and dietetics, the work involved in providing consumer affairs services has not been transferred to formal institutions. Consumer affairs services such as handling complaints through toll-free numbers, explaining how to use new products via pamphlets and demonstrations, and counseling households regarding debt management are provided invisibly and mostly largely from woman to woman. Although the services may be every bit as complex as those delivered by nurses, school teachers, and registered dietitians, consumer affairs work is often viewed

Unlike nursing, teaching, and dietetics, the work involved in providing consumer affairs services has not been transferred to formal institutions.

by employers as requiring little training beyond what a person gains through everyday experience. A small amount of professionalization occurs for consumer affairs workers through associations like the Society of Consumer Affairs Professionals (SOCAP) and the American Council on Consumer Interests (ACCI), but this only reinforces the idea that consumer affairs training does not need to take place until a person's formal education in schools and universities ends. As a result, consumer affairs programs in educational institutions are not viewed by prospective consumer affairs professionals as necessary for their advancement, and these programs compound the problem by not agreeing on a core set of competencies that would be useful to consumer affairs professionals.

[W]omen's organizations and consumer organizations have been strongly linked.

CONCLUSION

The consumer movement in the United States and elsewhere has been strongly influenced from its earliest days by a high level of female leadership and participation. Indeed, it is hard to imagine the consumer movement in the U.S. starting as early as it did without the impetus of women. Women dominated the first consumer leagues and the home economics movement, both of which were essential forces behind the passage of food and drug legislation. The same pattern of the consumer movement emerging from the action of women concerned about issues stemming from their everyday activities of home production has characterized consumer movements in other developed and developing nations.

Without the leadership of women, the coalescence of a consumer movement in the U.S. and elsewhere would likely have been delayed until the 1960s. Ralph Nader played an enormous role in articulating and mobilizing consumer discontent in the U.S., but if he had not been around, the times would have demanded a man or a woman like him. By the 1960s, the technological sophistication of products was increasing so rapidly, the marketplace was becoming so geographically broad and impersonal, and marketing efforts

were becoming so pervasive and intrusive, that some type of consumer movement was almost inevitable to accompany the other social movements of the 1960s and 1970s. If the U.S. consumer movement had begun only in the 1960s, however, it might not have been as hospitable to the participation and concerns of women. It might have turned out more like the environmental movement, that is, more characterized by male leadership and more susceptible to criticisms of being insensitive to the concerns of the average citizen.

Instead, women around the world have looked at each other and seen their own consumer concerns mirrored. In some contexts, these concerns will crystallize as "women's issues"; in others they will be defined as "consumer issues." In either event, women's organizations and consumer organizations have been strongly linked. According to Erna Witolar, former president of Consumers International, "women's organization have been the strongest allies of consumer organizations all over the world—even more than environmental groups" (Dee, 1995). The connection between women's issues and consumer issues is most pronounced in developing countries where neither the rights of women nor consumers are strongly entrenched. Defining consumer issues as women's issues gives them an "owner" within society, a crucial step in overcoming the free rider problem by which everyone cares about a consumer goal but no one sees a personal need to act in support of that goal.

At the same time that female leadership has been essential to the consumer movement in the United States and elsewhere, the association of consumer issues with women's issues may have come at a price. Given that women enjoy lower status than men in most societies, issues articulated by women may be viewed as less urgent by policy makers. Similarly, to the extent that women are less politically powerful than men, both corporations and governments may feel safe in ignoring their demands. Finally, to the extent that being a consumer affairs professional is regarded as an aspect of women's work, then professional training may be defined superficially and

paths of professional advancement may be stunted based on the assumption that being a consumer affairs professional is a part-time or short-term job.

The obstacles to any social movement are so enormous that one should be thankful that the consumer movement in the U.S. has a century-long history and consumer organizations can now be found in every corner of the globe. Would it be greedy to ask, though, whether the consumer movement can take advantage of its historic connection to women's issues while shedding the political and professional liabilities implied by this connection? The continued growth of the movement might depend on it.

NOTES

1. Denmark also has an ombud, but the country's most important consumer leader has been another woman, Bendicte Federspiel, head of the non-governmental Danish Consumer Council.
2. The major male figure in the region is Alexander Auzan of Russia.
3. In South America's most populous nation, Brazil, not only is the major consumer organization headed by a woman, Marilena Lazzarini, but female leadership spans two generations in the person of her daughter Andrea, who serves as an attorney for the organization.
4. The tameness of even the most radical consumer leaders in the U.S. compared to less developed nations is not unique to the consumer movement. The radical leaders of the labor movement abroad are also more extreme than their U.S. counterparts.
5. Not surprisingly, the Center is headed by a woman, Teresa Nasif. According to Mary Levy, Director of the Center's Publications and Media Division, the readers of material distributed by the Center are slightly more likely to be female than male, although there is no systematic data on the Center's users.
6. The traditionally female activities of sewing and laundering did not achieve professional status, possibly because they involve working with objects more than people.

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CONSUMER SCIENCE EDUCATION IN KOREA: TWO PERSPECTIVES

The following two articles grew out of a panel session on consumer education in Korea at the 1998 ACCI Annual Conference. The first examines consumer science within the evolving home economics curriculum, an evolution that presents the "traditional Korean professor" with significant challenges. The second focuses on one particular aspect of these curricular changes, the development of family financial management with the push for certification of financial planners. Taken together, the articles mirror changes that have taken place, or are taking place, in U.S. consumer science programs as well. Most significantly, they point to areas in which Korea has gone beyond curricular changes to ensure both professional standards and survival of the field. These strategies may be particularly pertinent to ACCI members.

The Development of Consumer Science in Korea

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INTRODUCTION

Home economics colleges and home management departments are passing through a period of significant change in Korea. This paper considers the historical developments leading to these changes, examines the changes themselves, and considers the political/economic environment in which the changes will mature.

HISTORICAL SETTING

Economic Development. For much of its history since World War II, Korea has suffered from the effects of war and colonial occupation. In the 1960s major economic development programs were initiated; however, it has been only since the late 1980s that the Korean middle class has had sufficient discretionary income to focus on more than life's basic needs.

The economic devastation following World War II and the Civil War (known in the United States as the Korean War) created a situation in which Korea struggled to attain the economic growth needed to pull itself out of poverty. Between 1960 and 1995 Korea experienced significant economic growth with per capita gross national product increasing from \$79 in 1960 to \$10,037 in 1995 (Table 1).

Prior to the late 1980s there were only minimal wage increases as a result of government policies designed to encourage economic

growth. The regimes of former presidents Park and Chun adopted labor policies designed to keep workers' wages low and, thereby, make Korean products internationally competitive to encourage exports (Bedeski, 1994).

Governmental wage controls started to weaken in the late 1980s when the Korean public began to demand reduced governmental control of the economy and a "fair share of the economic pie." 1988 was marked by labor disputes and a large increase in real wages (Rhee and Lee, 1996). Korean worker wages increased by 20% in 1990, and there was no year between 1990 and 1995 when the wage increase was below 10% (Table 1). Economic conditions Koreans face have changed rapidly since the mid-1980s. Consumer expenditures have increased along with wages, and families often needed increased income to maintain or increase their levels of living. An illustration of this is that prior to the mid-1980s, nursery schools and child day care were rare; however, as levels of living increased, these services have become more prevalent. At the same time, many household tasks and household products were moved into the market sector. For example, the various sauces used in food preparation are no longer produced in the home, rather they are commercially produced and purchased from food retailers.

Evolution of Home Economics. In the late 1960s many Korean universities founded colleges of home economics. These colleges typically had three or four programs: nutrition, textiles and clothing, home management and housing, and/or child development.

Other universities created departments of home economics education located in colleges of education.

During the 1960s and 1970s many highly qualified female students applied to colleges of home economics or home economics education departments. Programs of study focused on private family life and contained extensive course work in home management theory and practice, child rearing, cooking and sewing. Parents and students liked the programs since they believed that an education centered on home economics would improve family life. This was important in an era in which most female students married after graduating from college and in which it was considered shameful if a woman had to work outside of the home. Most women believed that they should seek a spouse with a good job, maintain a beautiful home, nurture a healthy family, develop good relationships with relatives, and manage family finances carefully.¹

In the early 1980s women's studies courses and programs began to appear in Korean universities. Numerous female students took these courses resulting in the development of a new perspective on the female role in society. Many of these students no longer perceived that having a happy family life, being a good housewife or being a wise mother to be the only model for women.

The effect of the change in perspective from the 1960s and 1970s to the 1980s can be seen in the placement of college graduates. Between 1974 and 1994 female college graduates grew from 28% to 41% of all graduates. Over this same time the share of female college graduates not working outside of the home decreased from 68% to 54% (Table 2).

By the late 1980s many female high school graduates were no longer interested in home economics. They wanted an education leading to a professional career, and enrolled in

TABLE 1.

Selected Economic Indicators: GNP, Per Capita GNP, Consumer Price Index (1990=100), and Average Wage Per Month (Manufacturing)

Year	GNP (billion \$)	Per Capital GNP (\$)	Consumer Price Index	Average Wage Per Month (won) (Manufacturing)
1960	1.9	79	na	2,330
1965	3.0	105	6.8	4,600
1970	8.1	253	12.1	14,301
1975	20.9	594	24.6	38,378
1980	60.6	1,597	54.5	146,684
1985	91.1	2,242	76.8	269,652
1990	251.8	5,883	100.0	590,760
1991	292.0	6,757	109.3	690,310
1992	305.7	7,007	116.1	798,548
1993	330.8	7,484	121.7	885,398
1994	378.0	8,467	129.3	1,022,496
1995	451.7	10,037	135.1	1,123,723

Sources: National Statistical Office, Social Indicators in Korea; National Statistical Office, Korea Statistical Yearbook; National Statistical Office, Monthly Statistics of Korea.

TABLE 2.

Post Graduation Status of College Graduates

Year	Total	Post -baccalaureate	Employed	Unemployed	Military
1974					
% female	28	23	25	68	0
% male	72	77	75	32	100
N	30,153	2,024	17,227	3,237	4,378
1984					
% female	31	22	23	59	0
% male	69	78	77	41	100
N	90,888	10,935	43,907	16,630	10,761
1994					
% female	41	34	34	54	0
% male	59	66	66	46	100
N	179,519	14,835	90,110	52,228	5,020

Source: National Statistical Office, Statistical Yearbook.

business schools, medical schools, law schools or in other programs that awarded a license.² Home economics was entering an era in which high school graduates did not want to enroll in home economics since it was perceived to be a "traditional woman's field."

Matriculation Change. Before 1990, matriculation within most Korean universities occurred at the department level. Admission was based on test scores and availability of space in a particular depart-

ment. Once a student enrolled in a given program or major, it was very difficult to transfer to another. If a student was not satisfied with the chosen major, it was necessary to reapply to another program and start over. Some students chose to graduate from a given program and then to apply to and enroll in their preferred program.

A survey conducted in 1990 revealed that more than 40% of college students were not satisfied with their major (Kookmin University, 1996). Since it was difficult, if not impossible to transfer to another program, the Education Ministry instituted a requirement that universities provide open enrollment for freshmen and let them choose majors or programs in their second or third year of enrollment.

THE PRESENT

Home economics programs are significant within the Korean higher education system. There are over 160 universities and 145 junior colleges in Korea with graduates in 1995 exceeding 180,000. Of the 160 Universities, about 60% have a formal home economics program or college of life sciences with 29 having a college of home economics (or a college of life sciences). About one-half of the junior colleges have a formal home economics or life sciences program. There were more than 4,000 graduates from 4-year home economics programs and more than 3,600 graduates from junior college home economics programs. Female home economics graduates represented over 10% of all female college and university graduates in 1995 (Kim and Lee, 1996).

Changes within Home Economics. As colleges of home economics faced a new environment brought about by the social and economic changes of the 1970s and 1980s, they began to examine curricula and name. Of the 29 universities with a college of home economics, 17 changed the college name to the College of Life Sciences or the College of Life and Culture, and 12 have retained home economics as the name.

Changes were also occurring at the department level. Many home management pro-

grams were in a difficult position since they were not perceived as being directly applicable to a professional career. These programs were considered inferior to other programs and, therefore, experienced declines in applications. To attract students, home management programs began to examine both their curricula and names. This brought about the development of new programs and a move towards educating students for market-oriented careers. Some home management departments changed their name to consumer science, consumer and family resource management, consumer and family, consumer and child development, or consumer and housing.

CONSUMER SCIENCE³

The Consumer Education Subcommittee of the Korean Society of Consumer Studies suggested two directions for revising home management curricula: consumer affairs and financial planning (Song and Lee, 1996). The demand for consumer affairs professionals is increasing, in part because Korean consumer protection laws require businesses to establish departments of customer service. Even without this legal requirement, many businesses are becoming more consumer-oriented because they understand the importance of listening to consumer wants and concerns. Change is not only occurring in the private sector. After implementation of the local autonomy system in 1995, the Korean government at many levels is seeking ways to better serve citizens, thereby creating an additional need for consumer professionals. Although the demand for consumer professionals was increasing, there was no licensed consumer professional.⁴ The Consumer Education Committee of Korean Consumer Studies Society developed the Consumer Adviser Certification Program in 1996 to meet the need for accrediting consumer professionals.

Financial planning for consumers has recently emerged as an important concern. Historically, financial advice and the concept of financial planning were not popular among the general public. However, with the rapid increase in household income, the

The demand for consumer affairs professionals is increasing, in part because Korean consumer protection laws require businesses to establish departments of customer service.

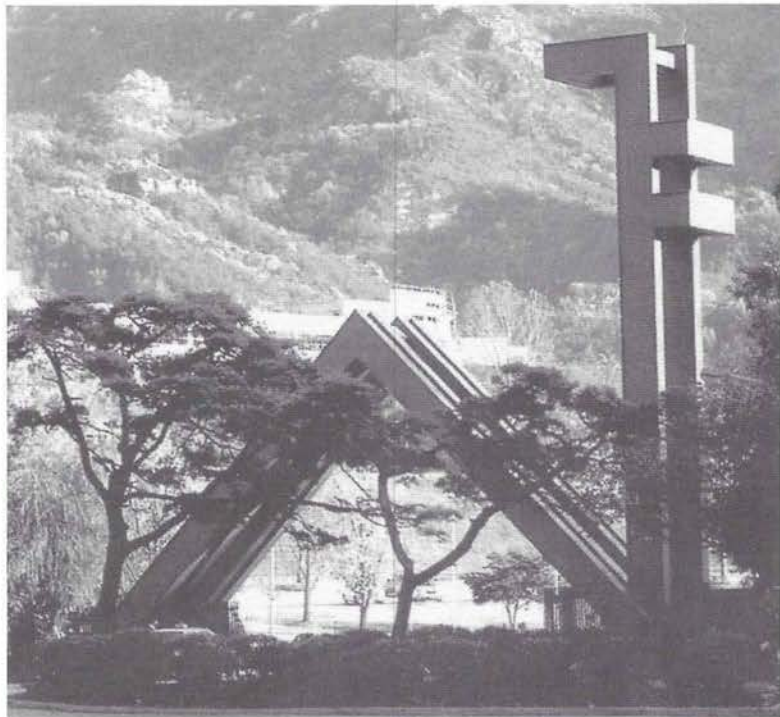
increase in dual income families, the increase of economic problems associated with old age and the increased risk of job loss, many consumers find themselves in need of professional advice to achieve economic security (Yoon, Shon, Kim and Sung, 1997).

While banks, insurance companies, and brokerage houses often provide financial advice to consumers, this advice may be biased toward the firm's own products or services. Given changes in the Korean economic environment, there is a need to provide comprehensive and less biased financial advising services to consumers. Given this background, the Consumer Education Committee of the Korean Consumer Studies Society decided to develop a program to accredit financial planners.

After developing new programs of study and changing department names, consumer science departments are experiencing growth as the 1990s end. For example, at Seoul National University, increased numbers of high school graduates, especially males, have demonstrated interest in consumer science programs. Graduates of many consumer science programs are receiving the Certified Consumer Adviser designation. While this certification is not widely recognized because it is so new, it will nevertheless come to positively affect the job search process for consumer science graduates.

CONCLUSION

Since 1990 there has been an increasing emphasis on consumer studies in Korea. The consumer movement and consumer satisfaction are repeatedly mentioned as growing areas of interest for business leaders, consumer activists and academics, as well as consumers themselves (Choi, Rhee, Park, Kim and Yoon, 1990). This has created a situation conducive to the recognition of consumer science as a newly-emerging field. Research in consumer-related areas is becoming increasingly popular, partially due to the rapidly developing economy and growing consumer base. However, if this newly-emerging field cannot meet the demands of society, it will merge with other programs or



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die away altogether. If consumer science graduates become successfully employed in business, government and extension programs, consumer science will emerge as a recognized academic discipline.

The economic difficulties that emerged in late 1997 and economic policy guided by the International Monetary Fund⁵ may have lowered Korean consumer confidence due to the anticipated slow, even negative, economic growth (Yim, 1997; Yoo, 1998). Meanwhile, the large number of corporate bankruptcies and the shrinking job market are causing the highest unemployment rate in recent history (Worse Unemployment, 1998). Expectations related to increased inflation and interest rates are also factors affecting consumer confidence.

While it may not be easy to establish consumer science as a new field in this environment, consumer science faculty members are maintaining a focus on career-related skills and are becoming more involved with students' job searches. This approach is very different from the traditional Korean professor who is interested in teaching and in conducting theoretical research. It is believed that this focus will help consumer sciences weather the current economic and social problems and mature into a respected area of study.

[C]onsumer science faculty members are maintaining a focus on career-related skills and are becoming more involved with students' job searches.

NOTES

1. After graduating from college, in spite of the cultural norms, some of the brighter and braver women wanted to work outside of the home. However, they were limited to traditional women's jobs such as home economics teachers, dieticians, fashion designers and preschool teachers.
2. In the 1960s only 30% of female college graduates wanted employment outside of the home. By the 1990s over 90% of them want to have a career outside of the home (Mok and Han, 1996). Those marrying also tended to seek careers outside of the home, rather than being a professional housewife.
3. Consumer science includes the following traditional areas: consumer economics, family economics, consumer resource management (financial planning), consumer affairs and consumer policy (Choi, et al, 1990).
4. For a professional area to be recognized in Korea, it is important that a program of study lead to accreditation. In addition, employment opportunities are greatly enhanced for individuals with appropriate credentials.
5. Koreans named 1998 as "the first year of the IMF age."

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Accredited Financial Planner in Korea

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BACKGROUND

In Korea, home management programs have come to a crisis because of decreasing undergraduate enrollments. Under new Educational Ministry policies, many universities have decided to provide open curricula for freshmen who may then choose a major in their second or third year, with a flexible limit to total number of students enrolled at one time in such programs. Present applicants for home management programs are least common in schools with other majors such as textiles and fashion design, nutrition, housing, or child studies. The prospect for the future is not optimistic and may even be aggravated by the declining number of university applicants as a result of a decreased birth rate.

For several years, we in the field have recognized the problem of stagnation within our programs. Academic societies such as the Korean Society of Home Economics, the Korean Society of Home Management, and the Korean Society of Consumer Studies have held several sessions at their conferences to discuss how to survive and grow in this changing society. Many efforts have been made to assess to what extent current programs meet the demands of a changing society, and to provide direction in response to changing market conditions. Some fruits of these efforts involve curriculum revision and departmental name changes with a focus towards consumer study issues (Yoon, Cho, and Song,

1993). These changes will help students prepare for their future careers and help them find the jobs they want, which in turn will likely increase future undergraduate enrollments. New directions in the curriculum of consumer study were suggested by the Consumer Education Subcommittee of the Korean Society of Consumer Studies, and include developing two specific program areas: consumer counseling and financial planning.

Financial planning for consumers has recently emerged as a service within financial institutions. In the past, financial advice was only provided for the rich, and the concept of financial planning was not familiar to the general public. However, with household incomes increasing rapidly up to last year, along with an increase of dual-income families, an increase of economic problems among the elderly, and an increase of job loss due to the recent economic crisis, many consumers now find themselves in need of professional advice as they take steps to achieve their economic security.

Middle-income consumers may often have the questions about taxes, savings, investment, insurance, retirement planning, and estate planning. In the late 1980s, some newspapers began to publish daily financial counseling columns. Nowadays they have jumped on the band wagon. Two years ago the first weekly professional magazine of personal finance, *ROI (Return on Investment)*,

Many efforts have been made to assess to what extent current programs meet the demands of a changing society, and to provide direction in response to changing market conditions.

TABLE 1.
Financial Planning Related Jobs in Korea

Jobs	Accrediting Institution	Accreditation Requirement	Size
Certified Public Accountant	Ministry of Finance & Economy	examination	3,288 licensees in 1996
Certified Tax Accountant	Ministry of Finance & Economy	examination & experience	3,077 licensees in 1996
Investment Advisor	Association of Securities Dealers	experience the 2nd class)/ experience & exam. (the 1st class)	1,645 1,920 in 1996
Securities Analyst	Korean Association of Securities Analyst	examination	1,060 licensees in 1996
Insurance Broker	Insurance Supervisory Board	examination	51 passers (the first exam. was in 1997)
Insurance Salesperson	Korea Life Insurance Association	examination & experience	356,589 licensees in 1996
Financial Advisor of Bank	banks(by operating their own training courses)	no license	no statistics

Kim (1996); Korean Association of Securities Analyst (1996).

emerged as a guide to investors. The popularity of the financial columns in the newspapers and the emergence of this kind of magazine have demonstrated that there is a desire for financial services. And according to nationwide data collected in 1995 by the Bank of Korea, 98.2% of the sample households had accounts with an average of three different financial institutions (Bank of Korea, 1995).

In this situation, banks, insurance companies, and securities firms often provide financial advising services to meet consumer needs. Examples of related jobs include certified public accountant, certified tax accountant, investment advisor, securities analyst, insurance broker, insurance salesperson, and bank financial advisor, which are summarized in Table 1. Certified public accountant, certified

tax accountant, and insurance broker are accredited by Korean government. The other certified jobs such as investment advisor, securities analyst, insurance salesperson, and bank financial advisor, however, are accredited by private associations. While insurance companies and banks have attempted to provide more extensive financial planning services, often their approach is too narrow and far less thorough than one would expect from a financial planner. Indeed, the financial advice obtained from bankers, securities analysts, or insurance salespersons is undoubtedly slanted toward the products they represent. Because of this, such offerings are suspected to be biased because they focus more on introducing products than on providing comprehensive information. In the long term, financial institutions in Korea need to provide financial advising services in a more comprehensive scope, and on a more independent ground. And financial advising services must become more accessible, perhaps by providing toll-free telephone access, for example.

Recognizing a shortage of competent financial planners and hoping to prepare students of consumer studies for the job market, the Korean Society of Consumer Studies decided to develop a program to accredit financial planners at their convention in 1995.

ACCREDITED FINANCIAL PLANNER PROGRAM DEVELOPMENT

Through several meetings, the Accredited Financial Planner (AFP) program was launched in 1997. During the past two years, the Korean Society of Consumer Studies has developed the AFP program as follows.

1. September 1995: Inaugurated a Financial Planning Preparatory Subcommittee from within the Consumer Education Committee of KSCS.
2. September 1995–February 1996: Collected and reviewed related materials and examples from abroad, especially the USA and Japan.
3. March 1996–August 1996:
 - a. Collected and analyzed consumer studies or related field curricula at universities in Korea.

- b. Discussed educational requirements for accreditation.
 - c. Developed required curricula and educational contents.
4. At the August 24, 1996 convention:
 - a. Discussed the name of the license.
 - b. Discussed required and optional curricula.
 - c. Suggested contents of the required curricula.
 5. At the December 14, 1996 convention:
 - a. Inaugurated the managerial subcommittee for financial planning accreditation.
 - b. Established the accreditation regulations.
 - c. Decided to hold a workshop in the summer of 1997 on "Investment and Insurance," because most universities have no such course.
 6. January 1997–June 1997:
 - a. Determined the license shall be termed "Accredited Financial Planner."
 - b. Held an "Investment and Insurance" Workshop (June 23–June 28) with 238 attendants.
 - c. Mailed accreditation program promotional materials to universities.
 7. June 1997–March 1998:
 - a. Sent accreditation program promotional materials to financial institutions outside universities.
 - b. Reviewed license qualifications.

REQUIREMENTS FOR THE ACCREDITED FINANCIAL PLANNER

The Accredited Financial Planner Program seeks to provide students in consumer studies the competence to work as comprehensive financial planners in various financial service industries. In specific, an Accredited Financial Planner is expected to provide professional advice in personal budgeting, life-cycle financial planning, retirement planning, taxes, insurance, investment, estate planning, credit management, and financial independence (Yoon, Sohn, and Sung, 1997).

To become an Accredited Financial Planner, candidates must meet the education and training requirements of related agencies. The education requirement can be met by implementing special course work provided by most consumer-related departments of

TABLE 2.

Accreditation Requirements for the Accredited Financial Planner in Korea

Accrediting Institution: The Korean Society of Consumer Science

Educational Requirements: Candidates must complete the following five required courses and two optional courses provided by their universities.

Five required courses (or approved substitute courses)

- Consumer Science (Consumer and the Market, Consumer Education)
- Household Economics
- Consumer Financial Planning (Household Financial Planning, Household Financial Management)
- Investment and Insurance
- Research Methods

Two optional courses from the following:

- Consumer Counseling
- Consumer Finance
- Consumer Law and Policy
- Economics
- Family Resource Management (Home Management)
- Financial Planning Practice
- Korean Household Welfare
- Life-Cycle Planning
- Principles of Accounting
- Private Law

Training Requirement: A minimum of 40 hours of training in financial service institutions, or take equivalent one credit course of On-the-Job-Practice.

universities, i.e., consumer science, consumer and housing, consumer and child, consumer and family, home management, and so on. Candidates must have at least 40 hours of training in banks, insurance companies, and other related businesses. These requirements are summarized in Table 2.

PROSPECTS FOR THE AFP PROGRAM

Korea has a major drawback in that the educational requirement seems too weak to produce students with substantial skills and knowledge so as to be valued by potential employers. Because one major incentive for AFP program development has been to activate university consumer studies, educational requirements have had to be adjusted and should be further extended.

Following the example of the Japan Association of Financial Planning, which operates three different levels of financial planner licenses, the KSCS should consider

Because one major incentive for AFP program development has been to activate university consumer studies, educational requirements have had to be adjusted and should be further extended.

KSCS should make more efforts to help the public understand what the AFP designation stands for, to help AFP licensees gain the recognition they deserve, and to extend possible job markets for these AFPs.

creating higher levels of licenses in the future. Since 1993, the JAFP has certified a Primary Financial Planner (PFP) Program, an Affiliated Financial Planner (AFP) Program, and a Certified Financial Planner (CFP) Program. While PFP and AFP licenses are typically Japanese licenses, which can be obtained after finishing courses at any of 28 educational institutions approved by the JAFP, a CFP license, which designates the highest level among FPs, is given by the CFP Board of Standards of the USA. One must be an AFP, before he or she can take the CFP examination (FP Association of Japan, 1997). Korea has 26 newly accredited AFPs, with more AFP licensees expected in the coming years. KSCS should make more efforts to help the public understand what the AFP designation stands for, to help AFP licensees gain the recognition they deserve, and to extend possible job markets for these AFPs.

We expect there will be a greater need for financial planners with credibility in spite of the current economic crisis, or rather because of the crisis itself. Under the current economic situation, Korea faces an interest rate which has almost doubled during the first four months of 1998 in spite of a decreasing rate of return on stocks or real estate. Many people with stocks or real estate holdings have already or are beginning to consider liquidating those holdings, thus increasing demand for adequate financial advising services as consumers seek to change their financial portfolios. In addition, demand for financial planners will likely increase simply because of the large influx of international financial activity involving banks, insurance companies, and other financial entities from outside Korea. Credibility of financial planners will be an important determinant as consumers shop among available financial institutions, both domestic and international. And with this international financial marketplace comes a need for international cooperation to develop Korea's FP license with international credibility the ultimate goal.

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The Meaning and Experience of Spending Down to Medicaid in Later Life

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Attempts to understand transitions of families in and out of poverty are not new. In fact the experiences and implications of facing poverty in our society have received a great deal of attention by policymakers and practitioners in recent years. A majority of the attention has focused on transitioning younger individuals off of public welfare to private work as sources of financial support. This paper examines the experience of consumers facing poverty at another point in their life, when the chance of escaping or working out of poverty for the rest of their life is unlikely. For elders in need of long-term health care, fears can be very real regarding having to spend for care most of what they have accumulated during a lifetime. "Spend down" occurs when private or family finances are depleted so far that an individual becomes eligible for public sources of payment through Medicaid. This process of involuntary impoverishment is a transition from private to public sources of payment for long-term care.

Very little is currently known about the process of involuntary impoverishment or what the experience means to the those intimately involved in the process, the elders and

involved family members (Adams, Meiners, and Burwell, 1992; Cohen, Kumar, and Wallack, 1993; Short, Kemper, Cornelius, and Walden, 1992). As a result, there is less understanding of how the current spend down process might be implemented to be more consumer-friendly or how changes in policies might make the spend down process more humane. Technical descriptions of Medicaid eligibility criteria obscure the subjective economic and emotional realities of the spend down process and present faceless numbers. Having practitioners who understand the meaning of spend down can help improve how elders and their family members are treated, as well as what and when information and supportive services are received by consumers in the process of spend down.

Rein (1996) has suggested that current practices are seriously out of touch with what the spend down experience means for human lives, given that many Americans will not be able to save for their own long-term care and may experience the spend down process. A variety of societal trends reinforce the increasing relevance of having practitioners who understand the meaning of spend down.

"Spend down" occurs when private or family finances are depleted so far that an individual becomes eligible for public sources of payment through Medicaid.

Such trends include the context of people living longer after the onset of chronic illness, the aging of the baby boomers, and a dramatic growth in the number of individuals age 85 and older, or those most at risk of needing long term care (U. S. General Accounting Office, 1995).

The overall purpose of this paper is to add an understanding of the human meaning and context of the spend down process by systematically listening to the voices and experiences of long-term care consumers. This paper first examines the process and meaning of spending down to poverty and relying on Medicaid in later years from the perspective of elders and involved family members experiencing the process. Examining the spend down process in this way offers insight into the burdensome impact of long-term care on elders and their family members in a way not often addressed in the literature. Second, the paper offers strategies for educating practitioners who are instrumental in implementing the current spend down process and who can impact future policies and practices.

The costs of long-term care are typically not covered by Medicare or Medicare supplement policies, and few consumers have purchased long-term care insurance policies as a source of financial protection.

BACKGROUND AND LITERATURE REVIEW

Whether or not an individual faces the potential of spend down depends a great deal on the type of health care needed in later life and existing sources of payment. Long-term care refers to many different services designed to help individuals function independently when they suffer from chronic conditions such as severe arthritis, Parkinson's disease, or Alzheimer's disease. Most of the 12 million Americans needing some type of long-term care are elderly (60 percent), with a majority of the care needed being nonmedical assistance with daily routines and activities (U.S. General Accounting Office, 1995). Long-term care services may be delivered in a variety of settings including ones' home, in the community such as adult day care, or in institutional settings such as a nursing home.

Elders faced with long-term care needs face a very different financial reality than persons with an acute illness such as a heart attack who will likely receive financial coverage for their care needs under Medicare, without any

spend down requirement. The costs of long-term care are typically not covered by Medicare or Medicare supplement policies, and few consumers have purchased long-term care insurance policies as a source of financial protection (Moon, 1996). As a result, consumers rely heavily on unpaid formal caregiving as well as their own life savings to pay for needed services (Moon, 1996).

When private financial resources are basically depleted, Medicaid is the primary state and federal government partnership program that offers a safety net and provides long-term care benefits. Medicaid eligibility requires that an individual meet poverty-level means-tested criteria for both income and assets. If an elder is married, their spouse is allowed to keep selected types and amounts of income and assets to help protect the often healthier spouse's future financial security. Adult children or other family members are not expected or required by law to contribute their financial resources to pay for an elder's care, however they may choose to do so. Explaining the technicalities of Medicaid eligibility is beyond the scope and purpose of this article. However, readers may refer to Burwell and Crown (1996) and Wiener, Sullivan and Skaggs (1996) for more detail.

Insight into the process of involuntary impoverishment and spending down to qualify for Medicaid from the perspective of families caring for an elder in need of long-term care is clearly missing from the current literature (Adams, Meiner, and Burnwell, 1992; Cohen, Kumar, and Wallack, 1993). Of the research studies reported, none was found which spoke directly with consumers about the meaning and reality of their experiences as they changed sources of payment. While systematic research may not exist, the media recently captured the loss of dignity and choice for 20 elders when they were evicted from their nursing home as a result of spending down to Medicaid. The nursing home management quickly reversed their decision after the attention and resulting public outcry. Baker (1996) used the experiences of legal services practitioners to offer perspectives of professionals outside the family system

regarding the ethical dilemmas individuals face when becoming eligible for Medicaid. Dilemmas surrounding the spending and transfer of personal assets, and the financial and legal expectations of spouses in later life were highlighted, although not from the perspective of the consumers involved.

Questions have also been raised by professionals as to what the spend down rules and process may mean for human dignity and the implicit messages individuals receive regarding the value of later life (Rein, 1996). For example, Medicaid recipients must contribute all of their income, except a small personal needs allowance (\$30–\$90), to the cost of their care. What message this sends to an elder and how family members experience such policies has not been systematically examined. Moody (1994) questioned the ethics of leaving a person defenseless in a society that often measures the power and respect due individuals according to their money and assets.

Medicaid spend down research to date has been dominated by attempts to understand the magnitude and prevalence of asset spend down. Such studies have focused primarily on examining how many nursing home users are affected by catastrophic long-term care expenses (Adams, Meiner, and Burnwell, 1992), and spend down among disabled elderly in the community (Temkin-Greener, Meiners, Petty, and Szydlowski, 1993).

Questions about the magnitude and process of spend down are complicated by issues of Medicaid estate planning, often referred to as voluntary impoverishment, wherein intentional and legal strategies are used to transfer, reduce and/or divest assets to meet Medicaid eligibility criteria (Burwell and Crown, 1996). Just as in involuntary impoverishment, no published studies were found which would provide an insider family perspective on the process or meaning of voluntarily becoming poor as a comparison process.

The Adams, Meiner, and Burnwell (1992) review of spend down research concludes that studies on length of time to spend down, determinants of spend down, and the process of spend down have largely been ignored.

This study begins to address the gap in what is known by examining the meaning of the spend down process from the perspective of the ultimate consumer of long-term care.

METHODOLOGY

Examining the meaning of the Medicaid spend down process from the consumer perspective requires listening in-depth to the individual and shared experiences of elders and their family members who are coping with the costs of long-term care and the likelihood or reality of being on Medicaid (Gilgun, Daly, and Handel, 1992; Jaffe and Miller, 1994). In the case of spend down, it is important to listen to families who have an elder in need of long-term care and living either in the community or in the nursing home and therefore at various stages of the spend down process. This purposive qualitative sampling method was used in a larger study of 45 families experiencing decisions for financing long-term care (Stum and Brouwer, 1996). Of the 45 families in the larger study, a subsample of 35 families were involuntarily experiencing the spend down process. Ten of the 35 sub-sample families, all with elders in the nursing home, had already become eligible for Medicaid or were in the application process. Twenty-five of the 35 sub-sample families (10 with elders in community; 15 in nursing home) expected to spend down to Medicaid within the next year if the elder's care needs continued. This sub-sample size allowed the identification of repetitive themes and patterns, the sign of saturation in qualitative sampling (Gubrium and Sankar, 1994).

Family members volunteered to participate in the larger study. They were recruited through the assistance of family councils in nursing homes and support groups in churches, hospitals, and agencies serving caregivers and individuals with Alzheimer's and Parkinson's disease in both a metropolitan and rural geographical location. A majority of interviews were intentionally conducted with the one family member most involved in financial and care decisions—typically a spouse for married elders, or an adult child

[I]t is important to listen to families who have an elder in need of long-term care and living either in the community or in the nursing home and therefore at various stages of the spend down process.

(daughter or son). The remaining interviews were completed with the two family members who were both involved in financial decisions. The elders in need of long-term care and still living in the community typically participated in the interview, while those in nursing homes were unable to do so. This sample provides an insider family-level perspective, but does not attempt to examine the different perceptions or individual meanings within each family system.

Elders ranged in age from 59 to 99 years of age, with a mean age of 87 for nursing home residents and 74.5 for community-based elders. Of elders in the nursing home, a majority were female, widowed, and over age 85 years of age. Elders experiencing spend down included elders who lived with Social Security as their only source of income, to upper middle class elders with accumulated assets up to \$100,000, not including the value of their home. Spouses, adult children and other involved family members with an elder in a nursing home had provided a mean of almost six years (5.85) years of unpaid care, while families in the community had provided a mean of two-and-a-half years of care to date. Adult children also ranged across the spectrum of socioeconomic status.

DATA COLLECTION AND ANALYSIS

The qualitative methods chosen for this study focused on understanding meaning through words as data, with the data analyzed and interpreted qualitatively. In-depth interviews were conducted using open-ended questions to understand how the family members view and experience the reality of financing long-term care, including the spend down process. Three trained interviewers followed an interview protocol using a semi-structured interview format. Questions were designed to understand how those involved talk about and view the context of their unique long-term care situation; experiences regarding the use of and transitions in sources of payment for long-term care; and perceptions about problems, risks, and consequences.

Analysis included one coder using open coding procedures to identify recurring

themes and patterns in the transcribed taped interviews within the 35 family subsample (Strauss and Corbin, 1990). Recurring themes were identified separately for families in the process of spend down, and for those who had applied or had qualified for Medicaid. Quotes serve as illustrations of key themes in keeping with the purpose of discovering how those involved in spend down think about and give meaning to the experience from their perspective. Case situations are used to minimize the decontextualization of the identified themes from the complex and rich family situations which make them meaningful.

FINDINGS

The findings which follow provide insight into the meaning and process of involuntarily spending down one's income and assets to qualify for Medicaid from the perspective of families at different stages in the process (see Figure 1). Family members in the process of spend down often talked about having "no end in sight" with three major themes emerging from their experiences. Family members who had already spent down to qualify for Medicaid or who were in the application process spoke of their experience in terms of "when our money's gone" with six themes as the focus of their spend down experience.

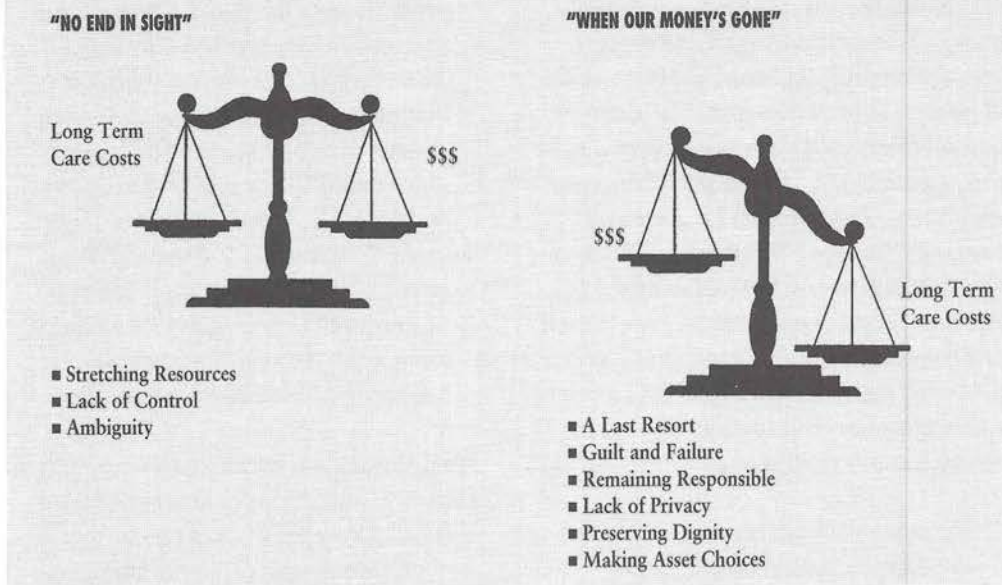
NO END IN SIGHT: FAMILIES IN THE SPEND DOWN PROCESS

Case A. Mrs. P recently moved to an assisted living apartment building after spending most of her life in her home of 40 years. She is 83 years of age, suffers from multiple chronic illnesses, and has needed help to remain independent for the past ten years. Her 81-year-old sister and 63-year-old daughter live in the same community and have provided many hours of help. She has also hired home care help when she could find it and afford to pay the bills. *Mrs. P's* husband died 12 years ago, after suffering a stroke, and needing paid home care and six months in the nursing home.

Mrs. P is desperately trying not to go to a nursing home. Not only does she not want to go, she knows that what's left of her life savings

In-depth interviews were conducted using open-ended questions to understand how the family members view and experience the reality of financing long-term care, including the spend down process.

Figure 1. Spending Down to Medicaid: Meaning for Later Life Consumer



and what she gained from selling her home won't go very far in paying the bills. She finds it hard to see the money she and her husband worked so hard for go so quickly. She doesn't understand why the cost of care seems so out of line and unrealistic. *Mrs. P* talks about hope, playing it by ear, and hoping she doesn't end up on "relief." Everyone in the nursing home knows who is on Medicaid.

Mrs. P's case illustrates the context of the spend down process when families are experiencing their money going quickly with no end to care needs in sight. At this stage of the spend down process the experiences of families focused on: (a) stretching resources, (b) lack of control, and (c) ambiguity.

Stretching Personal Resources. Family members spoke about trying to stretch their financial and caregiving resources until an elder's death to avoid going on "relief," "the dole," or "the county." Of families with elders in the community, none had become eligible for Medicaid; however, a majority expected their resources to be depleted if the elder's costs of care continued. Learning how quickly an elder's life savings could be depleted as a result of the costs of quality care was a new experience for many family members.

I just keep hoping that our money is going to hang on and that the house will sell. They say, "Oh this must cost \$100 a month in here!" I just say "yes." I know it would kill both of them if they felt they were going to run out of money. (Niece caregiver of two aunts in their nineties in nursing home.)

I am just barely making it now, and I have been spending on my 401K and with my Social Security and pension it's tough. It's not easy no matter how you look at it . . . and you have the feeling that this could go on forever. (Wife of husband with Parkinson's in nursing home.)

The greatest thing in the world would be if mother could pass away the day that she didn't have any money left, that's the feeling among all four of us (adult kids). (Son of mother in nursing home.)

Many families were experiencing a spending down of their private resources while the elder was in the community. Income as well as selected assets were going to pay for assist-

ed living, paid home care, adult day care, and the frequent co-pays and deductibles not covered by Medicare or Medicare supplement policies. Costs such as dental and eye care, prescription drugs and insulin were examples of typical out-of-pocket costs. The ability of families to stretch their resources depended in part upon available income and assets, insurance coverage and benefits for acute care costs, and the degree to which community-based services were subsidized or affordable. It was not uncommon for assets from the sale of a home, typically the largest family asset, to be used for assisted living, or for a move to an apartment or condominium with some arranged services and support.

The only option we have is to apply for MA when he goes in (to the nursing home) because we don't have a lot of money. You've got to pay for adult day care, for metro mobility, and then there's the dentist bills. That's all before I begin to think about my bills. I'd rather not apply for MA but who can afford \$3000 per month or more for very long . . . not ordinary working people. (Caregiver wife of husband with Parkinson's.)

Not being able to control or manage the timing and process of spend down meant that for many married elders, the future economic well-being for a spouse felt out of control.

Lack of Control. Not being able to predict or control an elder's health status, and the resulting costs and expenditures, contributes to the worry and fear family members experienced in the spend down process. Taking it one day at a time was often required given the unpredictable nature of a chronic illness as well as the potential for change in a caregiver's health and their care needs. Not being able to control or manage the timing and process of spend down meant that for many married elders, the future economic well-being for a spouse felt out of control. Some other families worried about a lack of control over care decisions and having few if any choices when the government versus family would be paying.

Every time we have to dip into savings to pay for some of Dad's care, it is a

real concern to Mom that eventually she is not going to have anything. We try to reassure her that it will be okay, that we can only take it day by day. I think she feels that she is no longer in control and that she is going to lose her savings. We don't know if Dad's care is going to increase or if he might live to be 102. I said, "you know Mom, Dad could die tomorrow and we wouldn't have to worry—we just don't know—and we can't sit and worry about the unknown." (Daughter of mom (age 75) and dad with dementia in nursing home.)

Ambiguity. Family members also experienced ambiguity when trying to understand who would pay for what types of care as well as future financing options. Family members expressed frustration with changing Medicaid policies and rules, different interpretations of the rules, and how the complexity of financial issues often required dependence on professional advice. Family members also shared various "myths" and information perceived to be ambiguous regarding eligibility criteria, and the consequences of going on Medicaid. Some of the most common myths revolved around whether, when, and how the nursing home and/or county could take an elder's home.

We are confused because it's so expensive (nursing home care), and I'm just in limbo as far knowing how to pay for care is concerned. I just say go with the wind, whatever happens, happens. (Husband with Parkinson's and spouse.)

Eventually she'll have to go to nursing care and we kind of take it for granted that our finances will be wiped out at that point and she'll be on public assistance. We've been talking with a lawyer, but the laws keep changing every time we go there it seems. You have to do a lot of digging yourself, and it is still very confusing. (Daughter of mother with Alzheimer's.)

I think one of my biggest frustrations is dealing with all the paperwork created and not everyone who is in the system seems to know how the system works. They can't really explain to you what's going to happen. (Son with both parents in nursing home.)

WHEN OUR MONEY'S GONE: FAMILIES ON OR APPLYING FOR MEDICAID

Case B. *Mrs. N*, 80 years old, talks about having to do things in life you don't like. One of the hardest things was giving up caring in their home for her husband who has Parkinson's disease. After eight years of home care, her kids forced her to quit. She's been at the nursing home every day for the last three years, helping, caring, and feeling guilty for not taking care of her husband as she should "til death do us part." *Mrs. N* also talks about how difficult it has been running out of money to pay for her husband's \$3000/month care. After using up \$125,000 of their life savings, *Mrs. N* talks about not having any choices. It's not what they would have planned or wanted. *Mrs. N* is on Medicaid and it bothers everyone in the family. He doesn't know he's on Medicaid and no one in the family would ever tell him. He would think they had failed him twice—one by his being in the nursing home, and the second time by going on "the dole." *Mrs. N* believes that as much as possible the system should require family assets to pay for their own care. When their resources were running low two years ago, she talked with county social services and was told how their income and assets would be divided and about ways that she could use their assets before she became eligible. She chose to set up a burial trust (\$1800) and gifted \$800 to each of their three children so that all of their money wouldn't go to the nursing home. The kids are now using that money to make sure their Dad has a private room, an expense Medicaid won't cover. She doesn't know what they would be doing if Medicaid wasn't there as an option.

The experiences of families on or applying for Medicaid, such as *Mrs. N*'s, consistently

reinforced six major themes. For these families the spend down process often meant: (1) a last resort, (2) guilt and failure, (3) remaining responsible, (4) lack of privacy, (5) preserving dignity, and (6) making asset choices.

A Last Resort. *Mrs. N*'s case is reflective of a majority of family members interviewed who expressed strong feelings about not relying on the government to pay for long-term care except as a last resort. For the families who had entered a nursing home on private pay and had gone through the spend down process, knowing Medicaid was available as a safety net and that care should not differ depending upon whether they were on private or public pay was a great relief. For a majority of families who had spent down to Medicaid, the process was a lengthy one, following a mean 5.85 years of informal caregiving, numerous and unmeasured out-of-pocket costs for community based care, and from two months to three years of private pay for nursing home care.

You see, we didn't think it would turn out this way. I feel really bad . . . I don't want my mother on the dole, I think that's terrible, but what else are we going to do? We sold her home and she had very little in savings. I'll pay for her private room. (Daughter of mom in nursing home.)

Guilt and Failure. For many family members, going through the lengthy Medicaid application process and becoming eligible for Medicaid brought on feelings of guilt and failure. Family members talked about going on Medicaid as degrading, ethically wrong, a burden on taxpayers, and shameful. While adult children did not always have the same strong feelings as their parents about Medicaid, they respected the older generation's values when making spending decisions about a parent's financial resources.

I sat down and figured out how many more months it would be before I had to apply. I found that to be extremely

Family members talked about going on Medicaid as degrading, ethically wrong, a burden on taxpayers, and shameful.

emotional and very, very difficult. I wanted to get her by until her 100th birthday before applying. She never thought she was going to live to be this old. Our family has always felt, we take care of ourselves, and if we don't, then someone else in the family takes care. Maybe it is a certain amount of guilt on my part that I am not doing more. It's just very difficult to accept. I think people should take care of themselves when they can . . . but what would happen now if there wasn't any Medicaid for my mother? (Daughter of 101-year-old mom in nursing home.)

Adult children or spouses often contributed their own financial resources to pay for an elder's personal needs and care not covered by Medicaid.

Remaining "Responsible." Individuals who had exhausted their resources and spent down to be eligible for Medicaid consistently reinforced that they were still contributing or being as responsible as their resources would allow. Family members were quick to point out that the elder's income continued to be applied to the total nursing home cost, with Medicaid picking up the balance. Adult children or spouses often contributed their own financial resources to pay for an elder's personal needs and care not covered by Medicaid. In addition to financial contributions, family members remained intimately involved in the emotional and physical care of their spouse, mother, father, sibling or relative.

Lack of Privacy. Family members spoke of the lengthy Medicaid application, trying to trace answers to detailed questions about income, assets, and expenses over many years, and the feeling of having their finances scrutinized. Others spoke of how everyone knows who is on Medicaid in the nursing home as well as how comments are heard from nursing home staff and residents about who's paying.

Preserving Dignity. Of the families on or applying for Medicaid, all were keeping the process a secret from the elder. Family members often protected the elder from knowing the costs of their care as well as the source of payment as a way to preserve the elder's dignity and pride.

Dad would ask me what the balance was and I would have to say, "Well, we're getting kind of low, Dad, we're going to have to cash in a CD." But when it got to the point when there wasn't any more money, he didn't want to know anything. It was a stigma for Dad to think that he might be on welfare. He just said, "You take care of it," like just don't even talk to me anymore about money. (Daughter of dad in nursing home.)

Family members also considered it essential to maintain an elder's dignity and privacy by ensuring the elder had a private room in the nursing home, a benefit not paid for by Medicaid. For some adult children this meant contributing their own financial resources, and for others it involved using money previously gifted to them from the elder.

Making Asset Choices. Most families learned details about Medicaid upon admission to the nursing home and it was at that time that they began to learn about and explore specific options to transfer or reduce assets. Asset reductions and transfers were talked about as decisions made in response to the reality of having to spend down to Medicaid. Families talked about trying to follow the Medicaid guidelines for asset transfers and reductions as interpreted to them by nursing home social workers, county social services, a family attorney, or financial planner.

Prepaid burial trusts were the most common asset reductions, with one-time gifting (\$500–\$8,000) to family members common transfers. A burial trust appeared to force family members to face their own or another family member's mortality and make plans for death which may not otherwise have been done. In the case of gifting, adult children were frequently using transferred assets to support the extra cost of an elder's private room or other incidentals not paid for by Medicaid.

She had about \$65,000 when she went into the nursing home. It was about five years ago that she gave each of us

kids \$500 and we said this money would be for Mom. We keep her in a private room. (Daughter of mother in nursing home.)

DISCUSSION

The meaning and perspectives shared by family members regarding the spend down process highlight the complex emotional and financial burdens of coping with long-term care and facing poverty. The findings reinforced that meaning will likely vary depending upon whether a family is expecting to apply for Medicaid and has “no end in sight,” or whether they have reached the Medicaid safety net. Three of the nine themes families described as meaningful were similar to the ethical dilemmas suggested by legal practitioners in Baker’s (1996) analysis of spend down issues. These included dilemmas regarding stretching resources, ambiguity regarding a spouse’s financial well-being, and making asset choices.

Families with “no end in sight” reinforced that the spend down process meant a great deal of ambiguity regarding their future and involved hope that their private resources would last. For families who had reached poverty level in the spend down process, a dominant theme voiced was one of “relief” that there is a public safety net. Even though ambiguity regarding an elder’s health care status and progression would continue, family members at last had reached some clarity about who would pay for certain costs. In addition to “relief,” Medicaid also meant tradeoffs and consequences for the elder and involved family members as reflected in the other identified themes.

Overall, the voices of these consumers suggest a spend down process and transition to poverty which not surprisingly involves multiple losses, including loss of control, choice, and dignity. While family members did not speak directly of a loss of “power,” their experiences support the concerns raised by Moody (1994) that a loss of resources may result in a sense of vulnerability and loss of power. Specific examples of loss of power were illustrated within the family system

when an elder was no longer able to control their own finances and became dependent upon other family members. Power losses within the larger long-term care system were also illustrated when an elder or family member was no longer private pay and considered themselves to be at the mercy of Medicaid.

Various themes and examples reinforced the role of information as a source of power. Family members at both stages of the spend down process spoke of the lack of available and consistent information to help make informed decisions or to judge the potential consequences of decisions. Specific information needs revolved around making asset choices, ambiguity regarding payment options, the consequences of Medicaid, and helping protect a spouse’s financial well-being.

IMPLICATIONS

Understanding the meaning of spending down to Medicaid to pay for long-term care from those intimately involved seems essential for practitioners who interact with elders and their family members as they experience the spend down process. Practitioners such as legal services personnel, elder law attorneys, geriatric case workers, discharge planners, county social services case workers, and nursing home social services personnel are instrumental in making the spend down process more humane and relevant to the lives of elders and their family members. In addition to these current practitioners, future professionals receiving training in poverty, aging, family or consumer economic well-being, and financial management in later life are ideal candidates for developing awareness and understanding of the spend down process within the context of financing long-term care. Two educational activities are offered to encourage discussion and understanding of the meaning of spend down with the goal of improving practice among these identified audiences. Educators and trainers are encouraged to develop additional activities to help current and future practitioners understand the meaning of the spend down experience and improve the process for consumers.

Practitioners such as legal services personnel, elder law attorneys, geriatric case workers, discharge planners, county social services case workers, and nursing home social services personnel are instrumental in making the spend down process more humane and relevant to the lives of elders and their family members.

This study is only a beginning point for understanding the challenging experience of becoming poor in later life as a result of facing costly long-term care. Using the consumer perspective to inform practice will become more essential given the expectation that involuntary poverty will be faced by more and more elders and family members in the future.

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Suggested Training Activities for Practitioners

THE FIRST TRAINING ACTIVITY is designed to increase participants' understanding of: (a) the meaning of spending down from the perspective of the consumer, that is the elder and involved family members, and (b) the implications for improving practice.

Facilitators should use Cases A and B and include the following discussion questions for each participant. First, ask participants to identify possible meanings of the spend down process found in each of the cases. Second, compare responses with the meaning themes identified in the findings (use Figure 1). Third, ask participants to identify when and how they might go about understanding how consumers think and experience the spend down process given the practitioner's role and setting. For example, simply incorporating asking family members "what has this process been like for you?" would offer the consumer an opportunity to talk about their experience and practitioners the chance to reinforce and "normalize" the consumer experience.

Fourth, ask participants to examine each of the meaning themes (use Figure 1) and identify specific policies, procedures or practices which could improve the spend down process for elders and their family members. For example, how can practitioners help consumers:

- better understand how to stretch their private resources,
- clarify myths and misinformation about the consequences of Medicaid (include potential losses),
- understand Medicaid eligibility criteria, or
- protect a spouse's future financial security?

What types and forms of information might help families cope with the ambiguity or losses involved?

A SECOND SUGGESTED EDUCATIONAL ACTIVITY is designed to help participants: (a) develop empathy and insight into the Medicaid application form and process which faces elders and their families, and (b) identify needed consumer information and how these needs are or could be addressed. Use Case A and add the conditions that *Mrs. P* has had a stroke, and has spent down her resources after 2 months in the nursing home. The nursing home social worker is recommending that she apply for Medicaid. Obtain a complete copy of the Medicaid application form in your state for each participant. First, ask participants to identify and discuss: (a) skills *Mrs. P* will need to complete the application; (b) types of financial information needed and assessed (income, assets, expenditures, transfers); (c) length of time for which financial information is needed; and (d) overall reaction to the application and process. Second, use Figure 1 to share meaning themes identified by family members who have experienced the application process, highlighting differences in the technical/paperwork process and the meaning of the process for consumers.

Third, ask participants to identify information and skills consumers may have given, such as what's been learned about meaning and how practitioners might address such needs. Fourth, ask participants to identify what critical conversations elders and their family members should be having to be able to complete a Medicaid application and judge the timing of spend down. A follow-up activity could include a critique of existing local and state educational resources available to help elders and their family members understand the spend down process.

TRAINING ACTIVITY

Purpose: To increase participants understanding of the meaning of spending down from the consumer perspective, and the implications for improving practice.

Participant Handouts:

Cases A and B

Figure 1: "Spending Down to Medicaid"

Small Group Exercise and Discussion Questions:

1. What might the spend down process mean for the consumers involved in both Cases A and B?
2. How do your responses compare with the meaning themes identified in Figure 1 (the study findings)?
3. When and how might you go about understanding how consumers think and experience the spend down process given your role and setting in which you work? (For example, simply incorporating asking family members "what has this process been like for you?" would offer the consumer an opportunity to talk about their experience and practitioners the chance to reinforce and "normalize" the consumer experience.)
4. What specific policies, procedures or practices could improve the spend down process for elders and their family members?
 - a. How might practitioners help consumers: better understand how to stretch their private resources, clarify myths and misinformation about the consequences of Medicaid, understand Medicaid eligibility criteria, protect a spouse's future financial security, make asset choices based on their values and goals, and cope with feelings of guilt and failure?

- b. What types and forms of information might help families cope with the ambiguity or losses involved?

TRAINING ACTIVITY

Purpose: To help participants develop empathy and insight into the Medicaid application form and process which faces elders and their families identify needed consumer information and how these needs are or could be addressed.

Participant Handouts:

Revised Case A adding the conditions that *Mrs. P* has had a stroke, and has spent down her resources after 2 months in the nursing home. The nursing home social worker is recommending that she apply for Medicaid. Include a complete copy of the Medicaid application form in your state.

Small Group Exercise and Discussion Questions:

1. Review Case A and the state application for Medicaid, then discuss:
 - a. What skills *Mrs. P* will need to complete the application.
 - b. What types of financial information will be needed and assessed (income, assets, expenditures, transfers).
 - c. The length of time for which financial information is needed.
 - d. Your overall reaction to the application and process.
2. Review Figure 1 and the meaning themes identified by family members who have experienced the Medicaid application process.
 - a. Are you surprised by any of the meaning themes? Which ones and why?
 - b. What differences do you find in how the technical/paperwork

process is presented and how the process might be experienced by consumers?

3. What critical conversations should elders and their family members be having to be able to complete a Medicaid application and judge the timing of spend down?

4. What role could you play given your role and setting to help address the information, communication, and skills needed by consumers when applying for Medicaid or when anticipating a Medicaid spend down? (Facilitator's note: A follow-up activity could include a critique of existing local and state educational resources available to help elders and their family members understand the spend down process.)

Greg J. Duncan and Jeanne Brooks-Gunn, eds. (1997), *The consequences of growing up poor*. New York, NY: Russell Sage Foundation, \$49.95.

Using a wide variety of carefully executed analyses of multisite and national data sets, Duncan and Brooks-Gunn have explored "the consequences and correlates of growing up poor as well as the mechanisms through which poverty influences children" (p. 1). The breadth and quality of the analyses make this volume an important read for anyone interested in the education, development, or welfare of children. It is a vital read for anyone who is in the position to influence or make policy that affects the lives of children or families. In this volume, Duncan and Brooks-Gunn do an excellent job of articulating both the need to examine the link between poverty and outcomes in children's lives, as well as the methodological challenges in completing such an analysis. Their findings provide excellent guidance for policy development and standards by which to judge the success of policies that are implemented.

Duncan and Brooks-Gunn use this volume to address four main questions. Does income matter? If so, when does it matter? For what outcomes does it matter? Why does it matter? They attempt to test a central hypothesis that poverty in childhood can predict particular outcomes in children's lives both in the short- and long-term. In addition, they hypothesize that certain factors mediate the affects of poverty on children, and in this vein, that poverty may create conditions in a child's life that lead to particular outcomes.

To examine the relationship between childhood poverty and outcomes, the editors asked the contributors to analyze several large multisite or national databases to determine the relationship

between certain conditions of poverty, specific mediating variables, and particular outcomes. Each chapter includes a succinct review of the mediating variables and outcomes considered, describes the data set used to test the relationship between the variables, gives a detailed explanation of the data analysis plan and findings, and then ends with a summary of the findings and how they compare to previous research as well as what questions these findings leave unanswered. Each chapter explains how the authors have dealt with common problems such as developing a useful definition of poverty, or what variables in the data set were used to represent which mediating or outcome factor.

One of the most useful aspects of the book is the conversation about defining poverty. The contributors to this volume are consistent in their perspective that income alone is not a useful definition of poverty, as income alone might not provide an accurate indicator of the real challenges facing a child. The contributors are of the consensus that poverty is a function of several variables, including: (a) relative status in the community (e.g., what is poor in rural Arkansas might be different than in urban Chicago), (b) income relative to needs (e.g., family size affects resources available to each child), (c) annual versus permanent income or the persistence of poverty (e.g., a family that spends a six months or a year below the poverty line might be qualitatively different from a family that spends two or more years in poverty), and (d) the effects of being poor and being near-poor (e.g., is there a substantive difference between being below versus being near the poverty line). In the various chapters, each of these factors are considered in the data analysis. Importantly, the authors also examine the affect being poor has on the daily

living conditions (e.g., quality of housing, quality of neighborhood, quality of schooling) that directly impact central elements of a child's life.

As mentioned earlier, the authors attempted to answer four basic questions. Does income matter? If so, when does it matter? For what outcomes does it matter? Why does it matter? This review now briefly summarizes their findings.

Does income matter? The general answer is that income does matter in many obvious and not-so-obvious ways. The authors found that income directly affects a child's cognitive ability and school achievement. The more income a child's family has the better he or she performs of tests on cognitive ability and the better he or she performs in school. Following that trend, poverty, particularly long-term poverty, predicted stunting in children (low height-for-age) but not wasting (low weight-for-age), predicted nutritional status, and also predicted increased chronic health problems. They found that income predicted the age a child entered into nonmaternal care, with higher income predicting earlier entry and longer duration of time in nonmaternal care. They also found that quality of child care was predicted by family income, with the poorer family receiving the lowest quality of care.

It is also pretty clear from these analysis that family income predicts educational attainment. This becomes a particularly important finding in that educational attainment, especially for the mother, predicts the income for child. This occurs in two important ways. First, many families depend on the mother's income to keep them out of poverty, particularly as the earning power of men has decreased over the past few decades. Second, households headed by single women are more likely to fall below the poverty line than

those headed by males. The paradox is that working women keep families out of poverty, while the stress of dual income families contributes to the dissolution of the family which serves to place children in poverty. It seems that educational attainment contributes to both the creation of and the resolution of poverty.

If income matters, when does it matter? The findings in this book make it very clear that poverty early in the life of the child, particularly poverty that persists over time, has more of a negative affect on the child's well-being and life chances than poverty of short duration or that occurs when a child is an adolescent. The findings seem to suggest that the older the child the less their psychological, social, or physical well-being are negatively affected by the experience of temporary poverty in terms of certain outcomes such as completing school, academic achievement, or social adjustment. On the other hand, early and pervasive experiences with poverty predicts poor school performance, an increased high school drop out rate, poor social achievement, and poor social adjustment.

These findings seem to negate the value of one data set used in the book to discuss the effects of poverty on life chances. Using a data set that looked at the life experiences of late 1950's high school graduates, these particular contributors found that experiences with poverty in adolescence did not affect the occupational attainment of these participants. Other research in this volume suggests that this data set is skewed in two ways. First, that adolescent poverty does not affect outcomes, particularly if it is short in duration. Second, that those who were probably affected by the experience of poverty were unlikely to have graduated from high school and would not have been eligible to participate in the study. It

appears that the results of this investigation were a function of the procedures rather than a true test of the hypothesis being tested.

For what outcomes does income matter? The findings in this volume indicate that income does not predict all negative outcomes. For instance, income does not predict psychiatric disorders even though it does predict behavioral problems in school. Most important, there are variables in addition to income that influence outcomes in children. Parental characteristics predict out-of-wedlock teen parenting but income does not. Although income might predict cognitive ability and school achievement, it is family structure that predicts behavioral, psychological and health problems in children. These studies also indicate that the manner in which poverty leads to outcomes in children's lives is not a linear process.

Why does income matter? Based on the findings in this volume, it appears that income matters because it sets the foundation for a families' ability to provide the resources a child needs to be successful in American society. Starting from nutrition, progressing through effective parenting, providing quality child care and schooling, on through modeling academic and work skills, the poorer a parent is, the less likely he or she is able to provide these resources to a child. The data on mother's educational attainment brings this process into sharp relief. The more educated a mother is, the better job she is able to attain, the more she is able to provide financial and, it appears, emotional resources; both which seem to translate into a healthier child who is more able to succeed in school and replicate his or her mother's success.

Poverty also affects a child's life through the stress it places on marital relationship, often leading to marital instability. This instability increases

economic pressure, which in turn increases parental financial conflicts. This cycle appears to reduce the time and energy that can be invested in a child, and can lead to punitive and/or inconsistent parenting, which in turn can negatively affect a child's sense of self and subsequent academic performance. Lack of academic success then serves to perpetuate the cycle of poverty.

Prior to recommending ways to use the findings in this text, it is important to address some of the strengths and limitations of the methodology. The book's great strength lies in the fact that the authors use large data sets to substantively support their findings, which appear consistent across regions of the country, and across different age, racial and gender groups. The different researchers are reaching consensus, which further validates the hypothesis that income really matters.

The volume would be greatly strengthened if the authors had included more ethnographic representations of the phenomena under investigation. By using statistical manipulation and inference, the authors were able to say that something happens when a child is poor, but they were not able to portray a deeper sense of why it happens that way or what it feels like to the child. Any effective policy development must take into account the complex relationships that create a child's life. This volume does an excellent job of suggesting that this complexity exists but only uses one form of data analysis and interpretation to make this point. Numerous investigations that directly represent the process of poverty in a child's life would have been worthwhile integrating into this volume.

Another limitation apparent in several investigations was a clear bias towards the assumption that the primary caregiver is always the mother. One investigation went so far as to suggest a

father taking full-time care of his own child is the same as placing that child with a relative or child care facility. This bias implies that any care not provided by the biological mother is structurally and emotionally the same for the child. Another fault: several investigations did not consider the father's education as part of the model when discussing the human capital available to a child. Future analysis of these large data sets should correct for these oversights.

I wish the authors would have taken a stronger stand in favor of the policy implications of their findings. It seems very clear to me that these findings call for particular focus in policy development and implementation. Indeed, any and all investment in the education and advancement of women in this society will have a direct benefit on the lives of children. As mentioned earlier, wealthier women are away from their children earlier and longer, yet these children outperform their lower income peers. This finding suggests that time women spend at work has great rewards for children and society. This connection does not eliminate the importance of men's employment and earning power. It is also clear that wages available to men in the lower regions of the economic spectrum must be increased to reduce stress on the marital structure. Both lower wages for men and marital instability contribute to the intergenerational transmission of poverty.

To further elaborate on policy implications, it is vital to note that investment in the income status of young children will significantly impact their cognitive ability, academic achievement, and physical health. Changes in these factors are necessary in order to break the cycle of poverty that has developed as a function of a modernized economy. This change is

made possible by increasing parental occupational status and improving the ability of schools to meet the needs of low-income students. This appears not to be a matter of curriculum development so much as finding ways to ameliorate the more invasive conditions of poverty. It is in that area that more ethnographic data will be useful to guide policy development.

Duncan and Brooks-Gunn have done an excellent job of identifying the ways in which poverty leads to negative outcomes for children. It is now up to those interested in the welfare of children to find and implement programs to reduce and eliminate those effects.

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Jonathan Bond and Richard Kirshenbaum (1998), *Under the radar: Talking to today's cynical consumer*. New York, NY: John Wiley & Sons, Inc., \$27.95.

How do you reach consumers in today's market, with its epidemic of cynicism, high level of intolerance of all forms of marketing, and individuals who view even the most creative advertising approaches with jaundiced eyes? Bond and Kirshenbaum think they know the answer. Their new book, which is part autobiographical, part "how to," describes how they started their own highly successful advertising agency based on a new vision of persuasive communication which they call "under the radar." The term "under the radar" has its origins in military surveillance, but Bond and Kirshenbaum borrow the analogy to describe tried and tested techniques to penetrate consumers' long-term defenses against hard-sell marketing. Their techniques are designed to find weak spots in those defenses so as to reach consumers with commercial messages that are almost "invisible," messages which can make the consumer "feel" a product's benefits emotionally, rather than messages that force them to "digest" detailed information they won't remember anyway.

In the book's preface the authors describe the humble beginnings of their advertising agency, Kirshenbaum, Bond and Partners (KB&P), in a subtle one-room office in New York City. Some of their early accounts met with phenomenal success, due in part to the straight-shooting approach and shock appeal of their ads. Their campaigns such as Hennessy Martini, Snapple, and Bamboo Lingerie, offered a revolutionary advertising appeal that caught the public's attention. Without realizing it, they had started a whole new

approach to advertising that many of us now remember as some of the best ads we've ever seen—and ones we paid attention to! A host of examples illustrate their approach, and the chapter is full of great examples of campaigns that worked, and some that didn't. For marketing and advertising instructors, this is must reading.

In the chapter "The New Consumer" Bond and Kirshenbaum offer an excellent analysis of the American marketplace. They describe "new" market dimensions that have significant implications for designing and executing ads to reach the "new" consumer. They cover issues such as the need to recognize diversity among consumers, the critical role brands play as commodities, the psychological benefits brands provide, the dawning of an era of "wants" rather than "needs," and the desire to get "into the heads" of the newest consumer markets—Generation Xers and their younger siblings.

The chapter "The New Creative Rules for Getting Under the Radar," sets out the KB&P basic advertising philosophy, and their "do's and don'ts" for creative communication. Some of their most appealing suggestions include "involve the consumer in a real relationship," "treat brands like people—only better," "be honest to a fault," and "don't push sex too far." They emphasize that advertising sells brands, and that brands represent a "comfort zone" for consumers which enhances their sense of self. Advertising, according to Bond and Kirshenbaum, represents a relationship with consumers that must be honest, respectful, straight-shooting, involving, and fun. Their strategies represent a significant turnaround from the traditional hard-selling, over-exaggerated ads we have come to accept as the norm—a truly refreshing approach.

The remaining chapters of the book provide detailed recipes for putting the KB&P philosophies to work in various media, and for designing an advertising agency that produces under-the-radar ads. This book is well written, engaging, full of practical examples and, for those interested in consumers and market communication processes, a must!

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Kenneth J. Meier, E. Thomas Garman, and Lael R. Keiser (1998), *Regulation and Consumer Protection: Politics, Bureaucracy and Economics (3rd Ed.)*. Houston, Texas: Dame Publications, Inc, \$48.95.

Are you looking for a text that references the scope and coverage of regulation and consumer protection in the United States? Look no further. *Regulation and Consumer Protection: Politics, Bureaucracy and Economics* is a book of readings by twenty-two¹ authors with a rich tradition of regulatory and consumer protection experiences who responded to Meier, Garman and Keiser's invitation to write about what they know best. The result is a multidisciplinary book of readings that is unified by a single conceptual framework.

Chapter one sets the tone for the book. Meier notes that the examination of the regulation and protection is a complex process. Unlike other texts on the subject, *Regulation and Consumer Protection* explains regulatory outcomes and posits specific changes in regulatory policy. Chapter authors also express explicit normative judgements about the beneficiaries of government intervention into the marketplace.

Michael J. Licari, a Ph.D. candidate in political science at the University of Wisconsin-Milwaukee, presents the conceptual framework that provides the unifying structure for the text. This model acknowledges that regulatory agencies operate in a political, economic, and technological environment.

Chapters 3–17 focus on the analysis of regulation beginning with occupational regulation and continuing with antitrust regulation, agricultural regulation, environmental protection regulation, and drug regulation. Several chapters on safety regulation include workplace

safety and health regulation, food safety, consumer product safety, and automobile safety. Other chapters focus on financial regulation including depository institutions, credit, securities market regulation, and investor protection. Resource regulation chapters examine the regulation of housing and telecommunications.

The final three chapters deviate in format from the middle chapters. S. Lee Richardson, a professor of marketing at the University of Baltimore, traces the history of state and local consumer protection and recent developments in consumer protection at these levels of government. Today's unsophisticated consumers are targets of fraudulent and deceptive individuals using the mails, telephones, faxes, and the Internet. Are consumer advocates and state and local legislatures prepared to respond in a timely manner to the challenges of a dynamic marketplace and social forces that create deficiencies in our capitalistic marketplace?

Robert N. Mayer, a professor of family and consumer studies and department chair at the University of Utah, extends the Meier Model to examine environmental factors at the global level. Future researchers will benefit from his insights.

In the final chapter, Kevin B. Smith, an assistant professor of political science and public policy at the University of Nebraska-Lincoln, reflects on regulatory reform and evaluates a series of reforms designed to improve regulatory performance.

Several features of the text make this a reader-friendly book. Key terms and concepts are in bold print and discussion footnotes appear at the bottom of the page where each reference is cited. Visual learners will appreciate the summaries that are included at the ends of Chapters 3–18. Each outlines the level at which economics, technology,

subsystems, and macropolitical actors are engaged in the regulatory process relevant to the focus of the chapter.

While some readers will appreciate the complete list of references in a separate appendix, in my role as teacher, I would also appreciate the inclusion of a list of chapter references. This would be helpful to others who wish to assign relevant chapters to supplement readings for undergraduate consumer education, housing, personal finance, resource management, and public policy courses.

This book is best read in chapter increments rather than from cover to cover. It is a "must have" reference resource for students, teachers, consumer professionals, researchers, and activists.

NOTE

1. Contributing authors include James Anderson, Mary L. Carsky, Mary Ellen R. Fise, Alexander Grant, Ramona K. Z. Heck, Gong-Soog Hong, Anne M. Khademian, Michael J. Licari, Robert N. Mayer, Carol B. Meeks, Sharon Olmstead, S. Lee Richardson, Evan J. Ringquist, Mark Silbergeld, Samuel A. Simon, Kevin B. Smith, Joseph Stewart, Jr., Judith Lee Stone, Clark D. Thomas and Jing J. Xiao.

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James L. Morrison with Michael Liebermann and Pamela P. Morrison (1997), *The Healing of America: Welfare Reform in the Cyber Economy*. Hants, England: Ashgate Publishing Limited, \$63.95.

Although the authors state that "The framework for this book is derived from theory fundamental to the disciplines of family economics, microeconomics, and consumption economics," little or no theory is used throughout the text. In fact, the book as a whole is extremely disappointing. Not only do the authors contradict themselves but the text is full of errors. Citations are missing or wrong, authors' names are misspelled, text lines are repeated; and beyond these editorial issues it is important to note that popular press articles are given the same weight as serious research.

The issue of welfare reform is tackled by a proposal generated by the authors to take over abandoned military bases as a way to solve the poverty problem. In chapter one, the authors propose that families be moved to these bases, given jobs at higher-than-average salaries by private partners in the venture, and be required to participate in their children's schools. In their new communities, families will bond, develop a social responsibility, and become productive citizens. The model community will have a judicial environment in which all citizens are required to participate. Residents will work as teams to solve crime problems. Home ownership opportunities will be provided to residents. Thus the beginning of the book suggests a rather utopian environment will be created.

Once involved in their community, families will gain control their finances. Chapter three focuses on research generated by family economists such as Hira, Godwin, Marlowe, Maddux, and

others. Shopping and education on line are also discussed along with background on the income gap between high- and low-income households.

Part II begins with a discussion of the demographics of households in poverty. Topics discussed include family mobility, deadbeat dads, surrogate families, immigrants, and female-headed households. Past welfare policies are noted as contributing to the emergence of an underclass. Spending on welfare programs such as AFDC, food stamps, Medicaid, SSI, etc. is briefly reviewed and both public and private institutions are faulted for being inaccessible, inadequate, and unresponsive.

The current workplace is described as a harsh environment that has resulted in downsizing, discouraged workers, and prompted homelessness, as well as workplace anxiety. The authors suggest (p. 126), that going back to school may not be useful for gaining employment in today's workplace. However, on page 210 they present the opposite argument, that is, that in today's world it is critical to upgrade job skills and the authors suggest that this may be achieved through on-line courses, videotapes, etc. There are other such contradictions throughout the book.

The authors review a variety of programs that have been instituted to reduce poverty. Data are reviewed that relate to number of families in poverty over time and expenditures on benefits such as Medicaid, education, housing and food assistance to poverty households. The conclusion is that welfare policy has failed miserably and the time is now to be creative and support the model solution proposed by the authors.

In contradiction, chapter 7 rails against the harshness of welfare reform and attempts to debunk a series of myths related to welfare. There are some critical issues raised such as what happens to welfare reform once all the

easy-to-place recipients have work. Federal Reserve policy on interest rates is challenged as impacting employment. The authors conclude that their model will enhance quality of life for those households struggling to survive.

In the book's final chapters, technology and its impact on families are discussed. The development of collectivism as a way to improve life is promoted, and the authors suggest that group action will promote civility and "a new camaraderie in America."

The majority of topics in this book are important but the discussion is superficial throughout. The style of writing rambles from one topic to the next and the point of any given section is often lost. Use of this book for a seminar class should generate much opportunity for critical thinking and analysis.

Carol B. Meeks
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FAIR CREDIT REPORTING ACT

Ali v. Vikar Management LTD., WL 69672 (S.D.N.Y. 1998).

Freddie Ali and Ursilla Jitta, husband and wife (plaintiffs), were tenants in a rent-stabilized apartment in New York City. Vikar Management (Vikar) was a managerial company hired by the owners of the plaintiffs' building to provide certain services, which included a "monthly tenant check." These checks sometimes included accessing information from the tenants' credit reports which had been collected by TRW, a national credit bureau. TRW required Vikar to enter into an agreement stating that Vikar would use the service for permissible purposes only, as defined by the Fair Credit Reporting Act (FCRA). The owner of the plaintiffs' building was mainly concerned with the tenants' credit-worthiness for rent purposes.

In January of 1995, Vikar obtained "address only information" (i.e. updates on names, addresses, and former addresses) concerning the plaintiffs from TRW. About one month later, Ali's attorney, James Fishman, wrote a letter to TRW requesting Vikar's purpose for making the inquiries. TRW reported that Vikar had mistakenly received some of Ms. Jitta's mail and wanted to properly forward it to her, but TRW would not disclose Vikar's reason for accessing additional information on Ali.

In December of 1995, Fishman wrote to the managing landlord of Vikar, requesting specific reasons for the January 1995 inquiry to TRW. The landlord responded by saying that a "credit report was not obtained" but refused to clarify this comment when asked.

Based on information gathered through Vikar's TRW requests, Vikar determined that the rent-stabilized

building was not Ali's primary residence and decided not to renew his lease. Vikar later admitted that the TRW information was not used for credit purposes, but rather for determining plaintiff's residence for lease renewal purposes.

The plaintiffs sued Vikar Management under the Fair Credit Reporting Act (FCRA) as well as New York State law. The plaintiffs claimed that Vikar violated FCRA by (1) obtaining credit reports for an improper purpose (i.e. a purpose not enumerated in the statute) and (2) obtaining consumer information under false pretenses.

As for the plaintiffs' first claim, the court ruled that the "address only" information requested by Vikar does not constitute a credit report under FCRA. As such, FCRA's "permissible purpose" limitations, which restrict the uses of credit reports, were inapplicable to Vikar's conduct. Accordingly, the court ruled in Vikar's favor on this claim.

The court ruled in favor of the plaintiffs on their second claim, however, since section §1681(q) of the FCRA prohibits gathering information from a credit reporting agency under false pretenses, even if the information is not a consumer report. Obtaining any information for an impermissible purpose, without disclosing that purpose, constitutes obtaining the report under false pretenses.

Vikar falsely claimed that it obtained information on Ms. Jitta from TRW in order to forward her mail to her, while later admitting that its sole reason for accessing the information was its desire to determine leasing options for the rent-stabilized building. Because the "defendants obtained information on Jitta under false pretenses and no reasonable jury could conclude otherwise," the court granted judgment against Vikar on Jitta's claim.

Finally, the court rejected the defen-

dant's claim that the mere presence of a landlord-tenant relationship permits a landlord to access a tenant's credit report. While acknowledging that landlords do have legitimate business needs to obtain credit information on prospective tenants or for lease renewal purposes, in this case the relevant plaintiff was entitled to lease renewal without regard to her credit worthiness.

UNFAIR DEBT COLLECTION PRACTICES

Duffy v. Landberg, 133 F.3d 1120 (8th Cir. 1998).

Duffy and Quaderer wrote checks for \$25.00 and \$24.40, respectively, to Snyder Drug Stores, and Hacken wrote a check for \$11.38 to MGM Liquor. These checks were returned for insufficient funds. New Concepts Business Services, in an attempt to collect the delinquent amounts of the checks, sent letters to each consumer requesting both the face value of the checks and a \$20.00 service fee. The consumers also received letters on the letterhead of "Kevin W. Landberg, Attorney at Law" that were mailed by New Concepts, yet not reviewed by Mr. Landberg or signed by anyone. The letters requested payment of the amount of the check, a service charge, collection fee, interest, and civil penalties. The letters also threatened further legal action if the plaintiffs did not pay the amounts demanded, plus court costs, service of process costs, and attorney fees.

The consumers filed suit against New Concepts and Landberg for numerous violations of the Fair Debt Collection Practices Act (FDCPA). They alleged that the amount due was falsely represented (15 U.S.C. §1692e(2)(A)), that unlawful attempts were made to collect inflated interest payments, civil penalties,

and collection fees (15 U.S.C. § 1692f(1)), that one letter falsely represented that it was from an attorney when Mr. Landberg had not actually seen it (15 U.S.C. §1692e(3)), and that legal action was falsely threatened (15 U.S.C. §1692e(5)).

Landberg filed a motion to dismiss the claim on the grounds that the FDCPA did not govern dishonored check collection practices. Although the FDCPA does not specify the type of transaction that may give rise to a consumer debt, the trial court held that in order to be covered by the statute, the transaction must involve an offer or extension of credit to a consumer. The trial court then determined that a payment by check for consumer goods was not a debt within the meaning of the statute and dismissed the complaint.

The plaintiffs appealed. The U.S. Court of Appeals for the 8th Circuit reversed the trial court holding. The FDCPA is clearly worded and broadly defines a debt to include "any obligation to pay arising out of a *consumer transaction*" (i.e. the obligation need not arise from a *credit* transaction). Therefore, the FDCPA applies to dishonored checks. In this case, the payment obligations arose through purchasing personal or household goods, and nothing in the FDCPA suggests that an offer or extension of credit is necessary for a debt to be included in the statute. The court also noted that since a check written by a consumer in a transaction for goods is evidence of the individual's obligation to pay and this obligation remains even if the consumer's check is dishonored, abusive collection practices related to dishonored checks are prohibited by the FDCPA. Finally, the court stated that although the statute does focus on credit-related debt, the statute is not limited to such situations.

Kobs v. Arrow Service Bureau, Inc., 134 F.3d 893 (7th Cir. 1998).

Arrow Service Bureau is a debt collection agency that purchases debts from the American TV Corporation, including a debt allegedly owed by Mr. Kobs. During January of 1996, Mrs. Kobs received more than five calls from Arrow, and Mr. Kobs received between one and three calls. Mrs. Kobs informed Arrow that they did not owe American TV any money, and this was confirmed by a credit bureau report showing no balance of their debt. Upset by how rudely and disrespectfully she was treated during most of these phone calls, Mrs. Kobs sought the assistance of an attorney. When Mrs. Kobs received additional calls from Arrow, she informed Arrow that she was represented by an attorney and provided Arrow with her attorney's identifying information.

Nevertheless, Arrow continued to call the Kobs, even after having been informed that they were represented by an attorney. In addition, Arrow sent a letter to the Kobs stating that it was a "NOTICE BEFORE RECOMMENDATION OF SUIT." The letter stated that litigation could be avoided only if the Kobs contacted Arrow within 7 days. The Kobs took no action, and Arrow did not file suit.

Finally, three months after Arrow was informed that the Kobs had retained counsel, Arrow contacted the Kobs' attorney to verify the representation. Verification was given, but Arrow then called Mrs. Kobs and stated that her attorney denied knowing anything about the case.

The Kobs then filed suit, alleging eight violations of the Fair Debt Collection Practices Act (FDCPA). In a pre-trial motion, Arrow requested that the judge, rather than the jury, decide the issue of whether to award statutory damages to the Kobs. The court

granted the motion over the Kobs' objection. After the jury determined that Arrow had violated the FDCPA and awarded *actual* damages of \$1500.00 to Stacey Kobs, the judge awarded \$100 in statutory damages to Ron Kobs. The Kobs then appealed the decision of the trial court which had prevented the jury from deciding the issue of statutory damages.

The U.S. Court of Appeals for the Seventh Circuit determined that 15 U.S.C. 1692k(a)(2)(A) provides for a trial by jury when determining *statutory* damages. The Court of Appeals relied, in part, on the 11th Circuit decision in *Sibley v. Fulton Dekalb Collection Service*, 677 F.2d 830 (11th Cir. 1982), which had reached a similar conclusion for two reasons: (1) consumer rights under the FDCPA most resemble tort actions, which traditionally have been viewed as being resolved by a jury, *and* (2) the relief sought by the consumers was monetary, which is the traditional form of relief offered through jury trials. Thus, the FDCPA must be construed to include the right of a trial by jury.

The court concluded by finding that the jury should be instructed to consider the frequency and persistence of non-compliance by the debt collector, the nature of the noncompliance, and the extent to which such noncompliance was intentional, in determining the award of statutory damages.

Lopez v. Orlor, Inc., 176 F.R.D. 35 (D. Conn., 1997).

Jose and Jackeline Lopez bought a used car from Orlor, Inc., in March of 1995. The Lopez's also bought a \$475.00 balance protection plan (BPP) from Orlor. The BPP was to protect them, if the car was stolen or totaled, from having to pay any outstanding balance on the car which may not have been

covered by insurance less the deductible. The BPP also covered the difference between insurance coverage and the amount still owed, which may have occurred if the outstanding balance were greater than the bluebook value at the time of theft or destruction. In an attempt to comply with the Truth in Lending Act (TILA), Orlor disclosed the BPP as "an amount paid to others." However, only \$175.00 was actually paid to a third party, and the balance was kept by the defendant as a commission. This discrepancy violated the TILA.

Lopez sued Orlor under TILA. Count one of Lopez's complaint argued that the BPP was a "finance charge" and should have been disclosed as such, rather than as part of the "amount financed." The definition of a finance charge, which was amended *after* the Lopez's bought their car, specifically cites debt cancellation fees, such as the BPP, as an example of what should be included in a finance charge. Orlor argued that prior to the amendment, debt cancellation fees were not considered finance charges under TILA, thereby precluding liability for the Lopez transaction. The court ruled, however, that the amended rule was simply a clarification of the old rule, rather than a change in existing law.

Orlor then argued that because it made a good faith interpretation of applicable regulations, a good faith defense should bar them from liability. The court stated that while TILA allows a limited good faith defense, the provision only protects lenders from good faith reliance on Federal Reserve Board rules, regulations and interpretations that are later changed or invalidated (15 U.S.C. §1640(f)). The defense was not meant to provide blanket protection for creditors' good faith mistakes or even reliance on incorrect judicial decisions. Hence, the good faith defense does

not apply to reasonable yet mistaken interpretations by creditors.

The court then turned to Count III of the complaint, which alleged a TILA violation for inaccurate disclosure of the BPP's actual cost. The court reviewed the purpose of TILA, which is to assure a meaningful disclosure of credit terms so that the consumer will be able to compare the credit terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair billing and credit card practices (15 U.S.C. §1601(a)). Thus, to designate a payment as an "amount paid to others," when in fact only a fraction is paid to a third party, is misleading. The court reasoned that Orlor's practices made it more difficult for consumers to compare prices and to use credit on an informed basis, thus contravening TILA's stated purpose.

Riebe v. Juergensmeyer and Associates, 979 F. Supp. 1218, (N.D. Ill, 1997).

In 1995, Elizabeth Riebe, a child, borrowed a library book from the St. Charles Public Library. The due date came and went without Ms. Riebe returning the book. Six months later, the Library hired the defendants, who wrote a letter to Ms. Riebe's parents (plaintiffs) and requested payment of \$29.95. The letter implied that the Riebes, or their daughter, could be arrested and imprisoned for intentional theft of public library property. The Riebes filed a complaint alleging that the defendant's letter violated the Fair Debt Collection Practices Act (FDCPA). Defendants moved to dismiss the claim because the subject of the letter, the library book, did not involve a "debt" within the meaning of the FDCPA statute.

The protection of the FDCPA extends only to debts as defined within

that statute; i.e. "any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes.....". (15 U.S.C. §1692(o)(5)). And, while the FDCPA defines debt broadly, not all obligations to pay are considered debts under the statute. The court observed that "cases holding that a 'debt' exists under the FDCPA involve some sort of 'business dealing' creating an obligation to pay."

In this case, according to the court, there was no initial business deal creating an obligation to pay, but merely a promise to return a library book by a scheduled date. This promise did not create the type of contract or business dealing that the FDCPA was meant to cover. Rather than the purchase of a good or service, the borrowing of a library book is a "public privilege that largely depends on trust and the integrity of the borrower." The court agreed with the defendant's argument that public libraries lend property to members free of charge and are not involved in "business transactions" with their members. Consequently, the court found that borrowing a library book was not the type of conduct that the FDCPA considered a transaction. Similarly, any obligation to pay for the failure to return the book was not a "debt" under the FDCPA.

Zagorski v. Midwest Billing Services, Inc., 128 F.3d 1164 (7th Cir. 1997).

Joyce Zagorski and Laura Velasquez received letters from Midwest concerning their accounts at two Wisconsin hospitals. Midwest did not disclose that it was trying to collect a debt or that any information gathered would be used for that purpose. The plaintiff

filed a complaint against Midwest, alleging that it had violated certain provisions of the Fair Debt Collection Practices Act (FDCPA). Midwest admitted these and other allegations and consented to an immediate entry of judgment in the amount of \$100.00.

The plaintiffs later filed a petition for attorney's fees, which was denied by the trial court. The court based its decision on a U.S. Supreme Court ruling under the Civil Rights Attorney's Fees Award Act of 1976, which held that the nature of relief awarded to the prevailing party bears on the propriety of awarding fees. In other words, a victorious plaintiff may receive no attorney's fees if the plaintiff's recovery is de minimis or merely technical. The plaintiffs appealed.

The U.S. Court of Appeals for the Seventh Circuit reversed, noting that the Seventh Circuit had previously held that it was mandatory to award attorney's fees to plaintiffs for a debt collector's violation of any provision of the FDCPA. Thus, since the plaintiffs brought a successful action under the FDCPA, they were entitled to a reasonable attorney's fee.

To aid the district court in determining the fees to be awarded, the court stated that the most critical factor in determining reasonableness is the degree of success obtained. Success is to be measured not only by the amount recovered, however; the principle established and the harm checked must also be taken into account. The court noted a recent case in which the Seventh Circuit held that "the cumulative effect of petty violations.... may not be petty, and if this is right then the mere fact that the suit does not result in a large award of damages or the breaking of new... ground is not a good ground for refusing to award any attorneys' fees." See *Hyde v. Small*, 123 F. 3d 583, 585 (7th Cir. 1997). Also, in order to encourage attorneys

to take on cases under the FDCPA, the court should award fees in an amount commensurate with what they can obtain in other types of cases. Setting fees in such a manner is consistent with the Congressional desire to enforce FDCPA through private actions.

TRUTH IN LENDING ACT

Benion v. Bank One, et al., WL 255369 (7th Cir. 1998).

Mr. and Mrs. Benion purchased a satellite dish and one year's worth of satellite transmitted programming from an authorized dealer of EchoStar Communications. The total purchase price was approximately \$4,300. Rather than pay cash, the Benions applied for an EchoStar credit card, offered by Bank One. For use exclusively at EchoStar dealers, the card's initial use must include the purchase of a satellite dish. The Benion's application was approved with a \$4,500 credit limit, leaving them only \$200 of available credit. The documents that accompanied the transaction disclosed the card's variable interest rate but did not disclose total finance charges.

Almost immediately, the Benions were dissatisfied with their purchase and refused to make payments on their EchoStar card. Later, they brought a federal class action suit on behalf of themselves and thousands of other EchoStar card holders, alleging that the failure to disclose the total finance charge violated the Truth in Lending Act (TILA), 15 U.S.C. §1601 et seq. The trial court ruled in favor of EchoStar and Bank One. On appeal, the Benions claim concerned whether the EchoStar card should be classified as "open-end" or "closed-end" credit under TILA. This is an important question, since creditors must make

more disclosures (such as the total finance charge) under closed-end credit transactions.

Under TILA, the distinction between these two types of financing plans depends on whether or not the creditor "reasonably contemplates repeated transactions." 15 U.S.C. §1602(i). If the credit plan is usable from time to time and the creditor may legitimately expect repeat business, rather than a one-time transaction, the plan is considered a form of open-end credit (and thus subject to more extensive disclosure requirements) (Federal Reserve Board, Official Staff Commentary on Regulation Z, 12 C.F.R. §226.2(a)(20)). Common examples of open-end credit include legitimate credit cards and other forms of revolving credit. It is important to note that no repeat purchases are required and that any such repeat transactions are irrelevant.

The Benions contended that because their credit limit (\$4,500) barely covered their initial transaction (\$4,300), EchoStar and Bank One could not have reasonably contemplated repeated transactions, and therefore the credit plan was closed-end. They further contended that Bank One was attempting to evade TILA's closed-end disclosure requirements because the card's first use required the purchase of a satellite dish. They suggested that permitting this kind of practice would create a significant loophole in TILA with a potential for abuse in other industries, such as automobiles.

The Seventh Circuit Court of Appeals was unconvinced by the Benion's first argument and concluded that the limited credit available on the Benion's card was irrelevant. Because their credit limit was revolving, they would need only to begin to pay off their existing balance in order to increase the available credit. Second,

Bank One had studied the EchoStar financing plan and found that it did incur increased repeat purchases. The court found that EchoStar could hope for and expect repeat business. Indeed the Benions had purchased only one year's worth of programming and could reasonably be expected to make a subsequent purchase the following year.

With respect to the Benions second argument, that the EchoCard credit plan was simply an attempt to circumvent TILA, the court chose to defer to the Federal Reserve Board (FRB) for any change in the regulatory scheme of TILA. Accordingly, the court concluded that under existing law, the EchoStar card must be considered an open-end credit plan, and, as such, there was no obligation to disclose the total finance charge.

The court alluded to the FRB's own concerns in this area, which included a proposed amendment to the Official Staff Commentary which would have "forbidden the use of open-end credit in the present type of case." 62 Fed.Reg. 64,769, 64,772 (Dec. 9, 1997). However, despite the FRB's continued disapproval of such practices, it ultimately withdrew the amendment, concluding that it would be nearly impossible to "differentiate between legitimate and illegitimate open-end credit programs." 63 Fed.Reg. 16,669, 16,670 (Apr. 6, 1998). One possibility, which the court rejected, involved imposing a minimum level of repeat transactions. The court feared that any such requirement would prove infeasible, as well as potentially detrimental to legitimate credit card companies. Ultimately, the Seventh Circuit affirmed the district court's ruling, concluding that if the FRB, "in the exercise of its expert administrative discretion," could not formulate a suitable rule to address these ques-

tionable practices, then any attempt made by the courts to do so could possibly do more harm than good.

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