

A DELIVERY SYSTEM: CHANGE FOR YOUR DOLLAR

Dr. Heinz Biesdorf and Ms. Jo Swanson*

In response to the changing economy and its impact on consumer resource management, "Change for Your Dollar" (CFYD), a consumer education program, was initiated within New York State Cooperative Extension and the Department of Consumer Economics and Public Policy, New York State College of Human Ecology, Cornell University. Its purpose is to reach a significant number of consumers through mass media outlets. The program was developed to efficiently utilize the valuable resources available to consumer education programs and the system devised is capable of being duplicated by other consumer education programs.

Need

Within most consumer education programs, including those of Cooperative Extension, there is a need for efficient, effective and low-cost delivery methods to disseminate educational information to the program's clientele. Frequently the information or facts to be disseminated are not originally in a form which can be released to the general public and be meaningful to the audience. As a result, consumer education programs must not merely release information, but must also render the information into a form which is acceptable and useful for the general public. Careful attention needs to be devoted to selecting a delivery mode that succeeds in reaching the intended audience at minimal costs.

Purpose

In response to the changing economy and its impact on consumer resource management a focused consumer education program entitled "Change for Your Dollar" (CFYD) was initiated in February 1975 within New York State Cooperative Extension and the Department of Consumer Economics and Public Policy, New York State College of Human Ecology, Cornell University.

Capable of being duplicated by other consumer education programs at a local, regional, state or national basis, the system used in CFYD is designed to reach a significant number of consumers through mass media outlets with reliable, authoritative and meaningful educational and informational messages on effective resource management. CFYD, in addition, was developed to efficiently utilize the valuable resources available to consumer education programs, namely the expertise of consumer educators and the wealth of existing educational materials.

Major emphasis in the program is placed not on creating new or entirely different information but rather on developing an improved delivery system

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to reach more consumers more often. Articles disseminated through the system are written to be both highly acceptable and useful to consumers.

Program Organization and Description

Under the overall direction and coordination of two consumer educators, part-time free lance writers in close consultation with a subject matter expert (faculty member) develop consumer mass media articles. This system of article development is unique since subject matter faculty exercise complete control over the content and focus of the article. The faculty time is optimized since a writer develops numerous articles of varying length on the same topic, each one containing the base information provided by the subject matter expert. The two consumer educators coordinate the variety of topics covered, hire and supervise the free lance writers and monitor and promote the use of the articles.

Fifty-seven consumer education professionals (Cooperative Extension home economists in each of the New York State counties and in New York City) are responsible for the actual dissemination and use of the articles by local mass media. They receive a monthly packet of fifty to seventy separate consumer articles of varying lengths, some in camera-ready form. Topics within the following subject matter areas are covered: general family money management, food and food purchasing, clothing, home furnishings and appliances, energy conservation (as it affects family budgets), and transportation (private automobile).

The home economists are responsible for maintaining contacts with a local mass media to insure continued cooperation with the program. All consumer information disseminated through this program is done as public service messages, thus no media fees are paid by the education organization (Cooperative Extension). Mass media outlets utilized include both radio programs and radio spots, television, newspapers, Cooperative Extension newsletters, newsletters of other organizations including credit unions, industries and community social groups, and local shopper or "pennysaver" papers.

A reactor panel of ten home economists from across the state was selected to provide quick feedback to the program's coordinators concerning proposed activities and program emphasis. The program's coordinators offer regular inservice education and individual consultation for the state's Extension home economists to monitor and improve program effectiveness.

A program logo was designed incorporating the title--"Change for Your Dollar"--and the educational organization--Cooperative Extension New York State. This visual identification is used on all articles and other communications within the program. In many communities within New York, mass media use the title and logo when carrying CFYD consumer information. The county home economists reinforce program identity by using the logo on brochures, leaflets and exhibits.

Results

As of April 1977 a total of 1,456 separate consumer articles have been sent to the home economists for use in local mass media and approximately 200 articles are in some intermediate state of preparation. Thus, efficient development of materials seems to be an accomplishment of the system.

Surveys conducted to monitor mass media use of the articles indicate excellent acceptance and use. The following compilation of statistics attests to the successful delivery of consumer information by the program (Table 1). More detailed information on program outreach is available to interested educators.

Indicative of the perceived general quality and value of information developed within this system is the fact that 28 educational organizations subscribe on a charge basis to receive the monthly mailing of articles. These organizations include state Extension groups outside of New York, credit unions, banks and savings institutions, a national weekly community newspaper, a labor union and a regional religious group.

Implications

Since there seems to be a general need for effective and efficient information systems within consumer education programs, the information system developed in the New York "Change for Your Dollar" program could be extremely valuable to other consumer education programs. It offers the potential of maximizing the input of consumer experts while keeping their total time commitment to a minimum. It provides for the development of authoritative information in a popular style with general appeal and acceptance. And lastly, the system offers an opportunity for a consumer education program to greatly expand its outreach with a minimum expenditure of resources.

Consumer educators considering a program similar to CHANGE FOR YOUR DOLLAR or interested in obtaining some of the materials developed in the program may contact:

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Table 1.
Use of CHANGE FOR YOUR DOLLAR Articles
As of December 31, 1976

<u>Printed Media</u>	<u>Number</u>	<u>Circulation</u>
Number of Cooperative Extension county newsletters/letter series using CFYD--New York	102	
Newsletter/letter series circulation		157,466
Newspapers with regular CFYD columns or features typeset by the paper--not camera-ready--New York	144	
Newspaper circulation		5,712,821 ¹
Pennysavers and other local papers carrying camera-ready articles--New York	166	
Camera-ready circulation		2,721,473 ²
Paid subscribers (42 of which 12 reported circulations) ³		<u>5,818,009</u>
3 reports from New York and 9 reports from other states--See Appendix.		
TOTAL CIRCULATION		<u>14,409,769</u>
<u>Radio & TV--New York State only</u>		
Number of radio stations with regularly scheduled Extension programs (not spots)	44	
Number of radio stations with regular spots--spots are frequently aired more than once a week--some more than once a day	112	
Number of counties using TV	10	
<u>Special Projects</u> ⁴ --New York State only		
Number of special projects using CFYD	47	

¹This figure does not include circulation figures for 11 of the 144 newspapers using regular CFYD columns. Circulation figures for these 11 newspapers were unavailable.

²This figure does not include circulation figures for 6 of the 166 pennysavers or other local papers that use CFYD camera-ready articles. Circulation figures for these 6 papers were unavailable.

³Only 12 of 42 paid subscribers have reported circulation figures including 3 reports from NYS and 9 reports from other states. This figure, of course, would be considerably larger if all subscribers had reported.

⁴Samples of special projects are tip-o-phone, exhibits, special supplements or programs, etc.

ABSTRACT*

EFFICIENCY OF CONSUMER PERFORMANCE

Dr. George Sproles, Dr. Loren Geistfeld and Dr. Suzanne Badenhop**

Consumer decision-making is a complex process affected by a variety of behavioral, economic and marketing factors. However, one central aspect which is relevant to all decisions is the types and amounts of information on alternative choices (i.e., brand/model/style combinations) which the consumer receives and processes. The consumer's effectiveness in making the final choice will ultimately depend to a great extent on these informational contents.

An experimental design was used in this investigation to assess the efficiency of consumer decision-making when different amounts of consumer information were available. Factors manipulated include types/amounts of information (three levels), consumer sophistication (two levels), and brands available (four levels). It was found that as information available was increased, efficiency of consumer decision-making increased. These findings suggest the potential significance of consumer informational programs in improving consumer performance in the market.

*The full text of this paper will appear in a future issue of The Journal of Consumer Affairs.

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A CONSUMER VIEW

Dr. Roger Henderson*

Accident losses and societal expectations have increased to the point in our society that the traditional tort-liability insurance system is overburdened. Insurance to distribute accident losses on a broader basis can be developed by the insurance industry and this is to be preferred to government programs. However, public demand will result in government programs if private enterprise does not heed the call.

A recent government study predicts that one-fourth of the people in the United States will be involved in an accident this year which will cause them to lose one or more days from work. This high accident rate raises difficulties in fixing liability under law. In past years our liability laws were different from today's. One hundred years ago, for example, if you caused another to be injured, you had to pay for that injury. This reflected an agrarian society with a smidgen of artisanship and other crafts performed by manual labor. There were not so many accidents that an individual could not live with a rule that said he paid without regard to fault if he hurt another. With the advent of the Industrial Revolution, however, many more accidental injuries were spawned and the society in England and in this country could no longer live with such a rule. We then moved to a rule which said that if you harmed another person you only had to pay on establishment of certain conditions. The common conditions were that the other person was at fault, either in acting intentionally or carelessly, in causing your injury and you yourself had to be free from any contributing fault.

In recent years, however, there has been a big change in liability, specifically in liability for defective products. Beginning about 15 years ago courts began holding manufacturers liable for putting products on the market which proved to be defective and which caused injury to consumers. At first this new law was intertwined with the law of sales, but it quickly emerged from that cocoon and became full-blown tort law. This is what is referred to as products liability or strict products liability. Not only can consumers recover but bystanders who had nothing to do with the purchase of the product can also recover. This law also reflects changes in our society.

Within the last 20 or so years we have experienced great advances in production techniques and technology. We now have a society where mass production of goods is taken for granted. Consumers cannot unwrap and inspect every piece of merchandise that they buy, nor could they properly

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evaluate the risks it presents if they were to inspect it. Thus, the courts have said that when we all benefit from mass production techniques, this great benefit should not be borne at the expense of a few who happen to get the defective products. The courts have put the cost of these defects, in theory, back on the manufacturer who in turn attempts to spread the risk by self-insuring or purchasing insurance from one of the established casualty insurance companies. There is no doubt that this was a piece of social legislation by the courts which has now been adopted in most states and predictably will be adopted in those remaining. Its purpose is to see that people who are injured in accidents from defective products are compensated, and we do it through a system of risk distribution ready-built. The business structure is supposed to add to the cost of its products the cost of these accidents.

Is this new theory of product liability taking us where we want to go? It is no longer viewed as hard luck or inevitable that people should have to bear the cost of accidents. There are just too many ways of distributing these costs so that no one person is mashed into the mire while the rest of us go merrily on our way chasing after the good life.

First, let us look at this new law of products liability and see whether it is really that far removed from the old law of negligence. Until recently it was commonly said that two of the three basic theories of product liability were really nothing more than negligence. The first of these involved cases where a victim complained that inadequate instructions or warnings were placed upon a product and they were injured because of this deficiency. On close examination it appears that the basis for this liability is that the manufacturer did something it should not have done. That is, the manufacturer was negligent in failing to put the proper instructions or warnings on the product. The second type of case is the design defect case where a victim alleges that the product should have been designed differently. How do you prove that a product should have been designed differently? You prove that it would have been just as easy or no great burden to have designed it to eliminate the objectionable feature. This also smacks of negligence because you are weighing the utility of manufacturing it the way it was manufactured against the magnitude of the risk that was created by manufacturing it that way. If you succeed you have proven that it was wrong for the manufacturer to manufacture the product as it was doing. Particularly if you use a test of foresight, this sounds very much like negligence again. The third theory involves a break from the negligence standard. You must prove that the product was not manufactured as it was supposed to be manufactured. This probably comes closest to strict liability--liability without fault--but in the final analysis it is easy to see that a consumer who is injured by a product does not have a free or clear shot at the manufacturer under this theory either. The consumer must still prove that the manufacturer either did something wrong or that the product itself was not as it was planned to be.

Thus, are we compensating the people who are involved in these accidents as efficiently as possible? Professor O'Connell of the University of

Illinois Law School says no. He argues that most of the insurance dollar which the businessman pays is going to administer the system. He argues that manufacturers defend their products with a vengeance and that the only way you can collect is to hire a lawyer who is going to have to be a very accomplished person in the field and that most of the money which could be used to pay people for their injuries is going to the insurance companies and lawyers instead of to the victim.

It is a little shortsighted, however, to blame the insurance industry and the legal profession. It is almost like criticizing the Green Bay Packers for tackling and blocking when the rules of the game call for this conduct. The system still is one of paying only upon proof of a certain condition. Thus, we have not advanced all that far, even though the law of products liability has been somewhat of an improvement over the pure negligence system.

The law of product liability has about reached its zenith in terms of compensating victims. In order to expand the law beyond the conditions for recovery which were mentioned above one has to cast loose from these conditions. Once having cast loose from the conditions, how does one determine whether the manufacturer should pay for something short of paying for all accidents involving a product. In other words, if a person falls off a ladder, smashes his finger with a hammer, burns himself on a stove, or walks through a plate glass door, should the manufacturer have to pay for this regardless of the actions of the consumer? Theories about extending no-fault insurance to products liability are weak in this area. In other words, can you attribute accident costs to a manufacturer without some concept of causation? Attribution assumes direction. In the past causation has been defined in terms of fault--whoever negligently causes injury to another has to pay. Then we went to so-called strict product liability which still involves nuances of negligence. Even in the cases of defective products one still has to prove that the product is unreasonably dangerous. Thus, the law of product liability will not carry the consumer much further in his and her goal to distribute for more people the costs of accidents in our society.

A solution is that the insurance industry do a lot more to satisfy these societal wants. For instance, why is it that the casualty insurance industry, which no doubt has good reason to view the world through tort law, does not expand coverages under home owners' policies so as to compensate people who are involved in accidents? Also, other types of insurance could be marketed either by the health and accident insurance industry or by the casualty insurance industry. More of the societal demands could probably be met today through voluntary marketing by the insurance industry of coverages designed to meet accident losses. Responsibility--or internalizing of costs--need not be abandoned. The insurance company after paying an accident loss victim could seek to put the cost back on the entity which "caused" the loss. This would not have to be as expensive an operation as it is today because it would probable not be politically impossible to have statutes compelling arbitration in these cases. The rules of evidence and other procedural

rules could be loosened in these behind-the-scenes loss shifting and distribution processes without doing much, if any, damage to the rights of the citizenry.

Finally, if the private industry will not engage voluntarily in this type of activity, it is apparent to me that the government, as usual, will step in where private enterprise leaves a vacuum. We have seen this time and time again and it will happen in the case we are considering. For instance, what will happen if we get national health care insurance? Would not a next logical step be to make national health insurance the exclusive coverage for medical costs thus displacing private insurance. Also, would it not be a logical argument to say that other government benefits such as social security, temporary disability insurance, workmen's compensation should also be primary, if not exclusive.

No doubt there is an appropriate place for governmental action in the realm of accident losses. It lies in the area of cataclysmic type losses either through direct tax subsidy or through a reinsurance program for losses in excess of certain amounts. The private insurance industry has served this country well and should continue to serve it in the future. However, it can only do so if it takes the initiative and uses some imagination to satisfy the desires of society with regard to compensating for accident losses. If it does not do so, there is no doubt that it will ultimately lose out to government programs.

AN INDUSTRY VIEW

Mr. T. Lawrence Jones*

The insurance industry is actively involved in helping to stop losses from increasing, but in the area of product liability the industry has not been successful. Recent court awards have made product liability insurance so expensive that we believe the consumer will ultimately suffer--through the industry's financial inability to continue to provide insurance. Encouraged by the plaintiffs' bar, the populace has adopted the proposition: "Sue. How can we lose?" This proposition demonstrates the perversion of the tort liability system. AIA has proposed changes and improvements in that system, especially relative to product liability cases.

Many industries are caught in the "product liability problem"--many of them much more ominously than insurance--the problem's appearance would seem to place insurance at its hub. For example, though a manufacturer may have been adjudged negligent and may have a judgment lodged against him, the judgment will probably be paid by his insurance company, and so, it is only when his insurance premium rises--sometimes out of sight--that he really comes to grips with the problem.

I shall certainly speak today from the viewpoint of insurance. We in the property-casualty insurance industry believe that our role and responsibility in the problem must make us active participants. It would be easy enough for us to proclaim something simplistic, such as "When losses go up, premiums must go up. When losses go down, premiums will go down, too." We want to assure you that we do not accept such a passive role. We recognize a responsibility to help and serve our customers--to help stop losses from going up.

Insurance may seem to be a simple system of spreading risk, but in recent times--especially with the advent of the automobile--so many risks have emerged that insurance has come to mean much more than that. It has become a required, often dominant, part of financial responsibility in this country. Many people must have it, by law. So frightful has the possibility of great financial loss become that whether people need insurance by law or not they certainly need it for simple prudence. Insurance is now a necessity. That is why we are regulated by 50 state governments and why we cannot merely sit back and adjust rates, ignoring the events that cause those rates to fluctuate. However, we have come to wit's end in this product liability dilemma.

The following event happened.

A man whose drivers license had been suspended, who knew his car had faulty brakes, was at a party drinking. He left the party after

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one-thirty in the morning and half an hour later the police spotted his car passing another illegally. They signaled him to pull over, but he accelerated. He later claimed his accelerator was stuck. Other testimony, however, showed that he braked the car at least twice, skid marks showing his defective brakes.

So, with bad brakes, accelerator depressed, approaching 80 miles per hour, police car in pursuit, the man came to a railroad crossing. A train was coming. The man did not or could not stop. His car was struck by the train and thrown in the air. It came down on a phone booth, one of those glass types, along the road. Inside the phone booth, a man was making a call. The crash crushed both his legs and he was rushed to a hospital where both legs were amputated. Our man driving the car ran away but later surrendered. He had no auto liability insurance.

The driver of the car was held liable for damages, of course, but the judgment against him was worthless since he had no money and no insurance. So, what did the court do? They issued a verdict against the General Telephone Company of Pennsylvania for \$216,000--and the verdict was upheld on appeal. For those of you interested in sources, I cite the Pennsylvania case reported at 339 A 2nd 545 (1975).

The court felt that the telephone company in providing the booth was negligent in not locating it in a safe place, a place immune from crashing automobiles that have been hit by locomotives. One wonders what the court would have decided had the victim been mailing a letter. In fact, the court was applying what some authorities have called the "deep pocket" theory of compensation. Courts do not look simply toward the negligent party, they look to the party with the money.

Here is the often quoted case of the Haver Manufacturing Company, a manufacturer of bench presses. Three years ago Haver was hit by a series of law suits. Plaintiffs were claiming injury by Haver's defective products. Haver contested the cases. They lost few. Even so, the cost of defense was such that the company's premium for product liability insurance rose from \$2,000 a year to \$10,000. A year after that, the insurance company no longer wanted Haver as a risk and cancelled the policy. Haver could not get insurance elsewhere for under \$150,000. Feeling they could not afford such a premium, they decided to liquidate.

Here is another case.

Randy, 15, and Nancy, 17, decided to perfume a lighted candle. Randy grabbed a bottle of Faberge's Tigress Cologne and began to pour its contents onto the lower portion of the candle. A burst of flame burned Nancy. The court upheld liability against Faberge because there was no warning that the perfume was flammable.

A member of AIA staff recently invested about \$8.00--it may have even appeared on his expense account--for some products. His major purchase

was a bottle of Faberge's "Tigress" Cologne which he bought on February 10, 1977 at a cost of \$4.50. It did not bear a warning indicating that it may be flammable. Apparently, Faberge determined that the possibility of another occurrence similar to the Moran case was remote.

In the case of Reyes V. Wyeth Laboratories, Angela Reyes contracted polio after having taken Sabin Oral Polio Vaccine. The jury was allowed to conclude that she had caught the disease as a result of taking the vaccine. The probability of her having contracted polio from a wild strain was 1 in 3,000 while the chances of her having contracted the disease from the Sabin Vaccine were less than 1 in a million. The court concluded that there must be a warning of any risk--no matter how small.

How does one mark a safety pin with a warning "Do not swallow when open"?

These events and conditions leave us with rhetorical questions that cannot be answered--not by us, not by the victims, not by the courts. Shall roadside telephone booths be made like Patton tanks--or located far from the road? Shall perfume carry the warning: "Flammable. Do not use near heat or flame"? Shall polio vaccine be labeled, "Use at your own risk"?

Now, we in the property-casualty insurance industry realize that many of you--especially you in this room--can brush by the ludicrous sound of the rhetoric I have used, and answer yes to each question. For the person whose perfume actually burned her, a warning label on the bottle is no laughing matter. Victims injured have a right to be made whole. Then where is the problem? Who objects to this?

We think that, in the end, the consumer will object. He will object because he may not be able to afford it. It is from the consumer that ALL the money in the insurance system comes. The industry reaps little or no profit, so far as we can determine, from product liability coverage. It is difficult to ascertain because companies are liable for losses caused by products made twenty years ago and will be liable twenty years from now for products being made and used today. But I can tell you this: If the 50 state insurance departments were suddenly to prohibit insurance companies from writing product liability coverage, you would not see one tear shed in Hartford.

Of course, companies have investment income, but this often amounts to a cushion against catastrophe rather than a contributor to windfall. After the last two years of horrendous losses, I doubt if many insurance companies would be alive today were it not for investment income. Yet, too many people envision the insurance industry as possessing some vast, inexhaustible vault of funds buried deep beneath Chicago or Hartford or Philadelphia. We depend on a flowing system--rather like a pari-mutual race track. We collect all the money paid in, subtract some for taxes, expenses, reserves, and profit, and pay all the rest out for claims. We cannot pay out more than we take in, yet the courts think we can--that somebody must -and the product liability crises result. When infinite largesse meets finite resources, something has got to give.

This problem has been exacerbated in recent years by a definite shortage of insurance capital. The shortage has been caused in general by underwriting losses and by huge demand, as more and more people in more and more lines of business enter the marketplace. Properties become more valuable. Compulsory automobile insurance grows. Limits of damage coverage increase. Workers' compensation benefits grow. We have found that rates cannot be adjusted fast enough, with or without stringent regulation, to accommodate all the demand. Risks must become more selective.

Yet, we believe that this is only a contributory cause of the product liability dilemma--that the root cause is the general breakdown of the tort liability system itself.

The courts have failed to follow established liability standards and this has blurred guidelines applicable to manufacturing technology. The manufacturer today cannot look to the law to anticipate the potential degree of responsibility. For example, taking the duty-to-warn cases, there is no way a manufacturer can be legally certain that he has complied with every requirement of warning, that he has provided the user of his product with all of the information that the user ought to have in relation to every conceivable use or misuse.

When the tort liability system operates correctly, it should not only provide compensation but should provide incentives and standards for potential defendants such as manufacturers. It should tell them what they ought to do and whether or not they have complied. The courts, which have had responsibility for administering the tort system, have not carried out this function.

There are, of course, other problems with the current tort system, some of which cannot be reformed by legislation. It now appears that damages awarded have become excessive. In Europe, an award for pain and suffering usually consists of a small fraction of the actual economic loss. In the United States, awards for pain and suffering are usually multiples of the actual damages.

Neither of these misuses of tort law really encompasses the root of the problem either. The fact is that tort law has come to be used in a perverted manner--a manner for which it was not designed and by which nothing less than perversion of our entire social structure can result. That perversion is best and most easily observed today in the condition we mean when we say, "Everybody is suing everybody." Supported by the plaintiffs' bar, speculative damages are sought like sunken treasure ships. Sue! What is there to lose? Easy Street is close by. This sue-crazy attitude is a social perversion, based on a perversion of the tort system.

Professor Richard Epstein of the University of Chicago Law School has said:

The "fashionable" proposition that the function of the law of tort is to provide compensation to make injured persons

whole, to the extent money can do it, sets the wrong framework for evaluating particular rules of tort law. It is the very essence of any system of tort law that the defendant's wrongful conduct... lies at the foundation of tortious liability.

To allow loss-spreading issues covertly to dominate the structure of the tort law will only produce unsound results and bad general principles; it will only bring the law and the courts into disrepute as the courts say one thing and do yet another; it will only call into question the solid arguments of traditional tort law, as they are overshadowed by current excesses of judicial doctrine; and it will so overshadow the tort system that it will destroy its effectiveness in situations where it has worked so well in the past.

The Professor was speaking before the California Citizens Commission on Tort Reform, a group which I believe has an excellent chance of developing answers to the tort perversion questions. Meanwhile, he has assisted us in development of our own proposals.

We believe that these proposals, to ease the product liability crisis, are responsive to the immediate needs of the day. We do not think they will solve all of the problems. We have attempted to address the most severe problems and those where the greatest inequities occur. We have drafted a statute of limitations which will put the obligations of a manufacturer within reasonable temporal limits. The greatest inequities arise in those cases which involve manufacturers of long-lived products. Under the current state of the law in most states, the statute of limitations applicable to product cases arises upon occurrence of the injury. This means that a defendant who may have created or dealt with a product 50, 60 or 70 years ago remains liable for that product even today. We believe that this is an inequity unmatched by any requirement of society. Accordingly, we have drafted a statute of limitations which would limit such liabilities.

We have also drafted a defense which is based upon the modification of a product by a party other than the defendant. It is not appropriate for a manufacturer of a product to be liable for damages which have resulted from tampering or adjustments made by others without his consent and without his knowledge.

Defenses based upon the state of the art have been subject to substantial erosion in recent judicial decisions. It is our belief that this is a problem in the so-called design cases. Accordingly, we have drafted a statute which would grant the defense to any manufacturer who has designed his product in accordance with a substantially accepted body of industrial practice. The subtleties of design choices are often much too complex to allow a jury to make the final liability determinations as now occurs, particularly under the doctrine of strict liability. A second portion of our state-of-the-art defense would also provide that

there shall be no liability for injury flowing from dangers inherent in a type of product which were not discoverable at the time the product was released. It is important to understand that we are not talking here about risks which were knowable. We are simply dealing with cases where neither the manufacturer nor others engaged in similar trades or businesses could know of the possibility of a particular risk. There should be no liability for risks which are knowable only by reason of technology developed subsequent to sale.

We have also drafted a proposal which would recodify a basic rule of evidence. Evidence of improvements made in a product after occurrence of injury should not be admissible. This is a basic rule which has its origins deep within the common law system. Its public policy purpose is to avoid evidentiary rules which would discourage correction of defects.

Our most ambitious draft has been a statute relating to the duty to warn or instruct. But no warning can be complete and definitive. Unfortunately, it is beyond the power of our legislative drafts to define the exact contents of a warning, and it is planned that subsequent reports will undertake a rational consideration of this issue.

Another proposal by the American Insurance Association is an attempt to rationalize the award of punitive damages. We propose to limit awards to the appropriate cases.

We believe adoption of these proposals, limited though they are, will help judiciary, industry, and consumer toward a more equitable, and more workable, system of risk in this country. But they will not find their most effective use unless they are joined within the public by a more educated, more rational approach to the concept of risk itself. If victims insist on grasping for all the traffic will bear, their friends and descendants will be left with no traffic at all.

THE ACCI, ITS RELATIONSHIP
TO CONSUMERS, TO GOVERNMENT AND TO BUSINESS

Authors listed in text in order of presentation

A panel discussion was initiated to determine what should be the relationship of ACCI with the business community. After all comments were made the following motion was adopted: "That ACCI not associate itself with any commercial, profit-making organization either financially or in name other than to provide exhibit space at the annual conference for those firms meeting current policy guidelines. Business contributions to the Colston E. Warne Lecture Fund will be allowed without public recognition of the contribution."

Dr. Richard Morse*

The history of the American Council on Consumer Interests is notable on three counts. First, ACCI has avoided identification with commercial enterprises and their associations. Second, the leadership in ACCI has recognized an inequality in consumer education thrust. The thrust between those whose primary interest is in the consumer and those consumer educators whose primary interest is to profit from having the consumer make better choices, hopefully, but essentially and inevitably choices that are better for those who are engaged in the consumer education. Third, ACCI has been undernourished financially from its start, but is extremely rich in its talent. It has succeeded essentially by the investment of good will on the part of persons who are non-commercially oriented. It is the only consumer education organization in the United States without commercial support.

The absolute standard of no commercial ties is simple to interpret. Deviation from a simple standard can lead to extended discussions as to whether a little bit of departure (no matter how small or how big) is too big. Second, with empathy to the Board of Directors; they have a tough time when they get together once, possibly twice, a year. They spend an awful lot of time running this organization, and I hate to see them burdened with extra concerns on the gray zone of tempering whether or not a little bit of commercialism would be acceptable. Third, there is precedent of other organizations of which we are familiar in home economics. I can well remember Colston Warne waiting at the door of American Home Economics Association when I was on the consumer interests committee asking to come and meet with us and being turned away. There is no turning back once we start with commercialism. And I would rather see ACCI continue, therefore, in a non-commercial identification role and do the best it can.

*Chairman, Family Economics, Kansas State University

The final point is that I think we should be able to distinguish between our role here for what is good for ACCI and what our role is as an individual. We have to distinguish between our personal lives--because we have to live with ourselves. ACCI is run by a Board of Directors that meets once a year and rotates consistently and it is hard to have them live consistently with themselves. Furthermore, I think it is up to your own standards.

Dr. Stewart Lee*

Back in the 1930's a fledgling consumer institute was established at Stephens College in Columbia, Missouri. In 1939 some advertising and marketing people set out to capture the institute. But failing that, they set out to destroy it and they did.

We have seen many in the business community take an active role in stimulating consumer input into their businesses, in doing a better job in serving consumers, and in appointing persons on their staff to represent the consumer position on company issues. But we have to be realistic and recognize that in the marketplace there are buyers of goods and services and sellers of goods and services. A person would have to be very naive to believe that the interests of buyers and sellers are the same. This is just not so. The buyer wants to pay as little as possible and get as much as possible while the seller wants to charge as much as possible and give as little as possible. But neither should be able to get just what he wants IF the competitive free enterprise system is working adequately. That IF is a very important qualification. Certainly all of us recognize how dependent buyers are on sellers and how dependent sellers are on buyers. We are mutually dependent on each other. But dependency does not make their interest mutual. Buyers and sellers represent two very distinct parts of the market economy. ACCI was established to further the interest not of both buyers and sellers, but of the consumers of goods and services through an expansion in the breadth and depth of consumer education. ACCI must never deviate from the foundation from which it has grown. Consumers Union has set an excellent example for ACCI. CU has been successful because it has maintained its integrity and people have had, and continue to have, confidence in its absolute separation from seeming or actually being affiliated with the business community. Where would CU be today if it had not built on its foundation a separate business and had not maintained its position. Consumers Union must be as pure as Caesar's wife. Can ACCI be any less pure?

Many of you are aware of the credibility problem with regards to the Consumer Federation of America. Its linkage with labor unions has created many problems for CFA. It has been discredited in the eyes of many people because it seems to speak in the consumer's interest only as long as that does not conflict with the union's interest. Fortunately, most of the

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time the interest of CFA and one of its very significant funding sources, the union, are the same.

ACCI must not allow itself to get in any position where the Board of Directors feel pressured into compromising on the basic tenet of the foundation of ACCI or compromising its integrity and credibility. This issue of the relationship of ACCI to the business community has come up for discussion a number of times over the years. It should. It deserves to be considered by the membership in open discussion. But it must be considered in an intellectual, unemotional atmosphere as possible. It can become a very emotional issue and I think those who have been at past sessions know to what I am referring. But it is imperative that we maintain the discussion at a high intellectual level in keeping with the best tradition of a professional educators' organization. We must all be willing to recognize differences in opinion, to give all sides a fair hearing, and then when decisions are made be willing to accept, not necessarily be persuaded, but accept the decision reached in the best tradition of a democratically operated organization.

Dr. Helen Nelson*

We have to look at the consumer in this country to see what we are representing as consumer professionals. The consumer does not have as an element in our society as much sense of pride and competence as belonging to a group. I would hope that ACCI would recognize the potential role it can play in building a sense of pride and a sense of identity in the American consumer as an independent person with rights and responsibilities and not merely dependent upon the good will of business or of government. I think we have to see what we can do as role models, as examples of professionals, to aid every consumer to emerge into an independent, determined role.

The consumer activist organizations, most of which have come into being in the last ten years are still, by and large, accepting the dependency role. They spend more time trying to raise funds, trying to get a government grant, trying to get some money to represent consumers' interests before government agencies, than they do in thinking through service to members that would build dues-paying members. This phase is going to pass but we will not have a strong consumer movement in the United States until there are more organizations like Consumers Union and ACCI which support themselves with fierce independence by a service to their membership. Again, ACCI can serve as a model to many of the young, emerging consumer organizations, if we project an identity of proud and fierce independence.

Every action that an organization takes establishes precedent for the people who come after.

My position is: take their money, lend them our name only when the joint program entered into merits a higher priority in advancing members'

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welfare than any other program the organization could undertake to benefit its members. I suggest that will be very seldom. Even then we should be certain that any program that carries our identification should also bear our stamp. It should be our program developed with ACCI in an active role. If we give our good name away at ACCI, we cannot take it back.

Dr. E. Scott Maynes*

Three considerations favor possible collaborations with commercial organizations. First, collaboration with commercial organizations is likely to be mutually instructive. Second, with certain precautions such collaboration will not jeopardize the consumer interest nor the reputation of ACCI. Third, such collaboration enlarges the resources available to ACCI and to the furtherance of the consumer interest.

First, Collaboration is Likely to be Mutually Instructive. It has been my good fortune to occupy a producer role in two large consumer organizations, as a Board Member of State Capital Credit Union in Minnesota and Consumers Union. Just as these experiences were useful to me in understanding producer concerns, so would contacts with consumer representatives "instruct" business representatives as to consumer concerns. I am convinced that ACCI representatives can learn about producer concerns without abandoning their loyalty to the consumer interest. ACCI and commercial organizations alike are united in a common desire to maintain and improve the functioning of the market portion of our economy.

Collaboration Will Not Jeopardize the Consumer Interest Nor the Reputation of ACCI. Procedures to assure the protection of the consumer interest in any collaboration between ACCI and commercial organizations may be embodied in three rules. First, collaborate only when consumer representatives have equal or majority control over resources and arrangements. Second, take care that ACCI is represented in any such collaboration by individuals of unquestioned competence, loyalty to the consumer interest and administrative skills. Third, incorporate escape mechanisms into any collaboration providing for both periodic review and possible withdrawal by ACCI in case the collaboration turns out to be unsatisfactory. The ultimate test comes from the results of the collaboration. Should ACCI not like the "fruit" of a particular collaboration, the procedures instituted that were just cited will facilitate the modest corrective step of changing representatives or, more drastically, complete withdrawal.

Collaboration Enlarges Resources Available to ACCI and the Consumer Movement. In my judgment the cost of purity is slower growth and less influence for ACCI and the consumer movement. The problem is that both ACCI and the consumer movement stand as bodies in search of means of

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financing. The aggregate resources devoted to consumer information and persuasion are probably now divided between business and consumer control as they were in 1970 when business controlled 67 billion dollars, and consumers controlled 13 million dollars, a ratio of 5,154 to 1. This represents an indefensible imbalance. In the long run ACCI should seek a more equal division of control over these resources. For now the only substitute is collaboration with business. They possess the funds: we do not.

Dr. Carole Vickers*

One concern that all of us have is in protecting and preserving the integrity of ACCI, and it is possible for our own organization to maintain its integrity and collaborate on specific projects under controlled conditions as it is for me personally to collaborate with profit-making organizations or with government and maintain my own personal integrity as a scholar. The integrity of ACCI is above reproach. We have established and maintained this organization as an independent rational voice for professional consumer educators. We strengthen our integrity when it is on the line not by maintaining an antiseptic distance from the action. We need to remind ourselves that we are considering the feasibility of collaborative efforts and that there is still the opportunity for evaluating each specific proposal.

Many commercial organizations have consumer education as one of their corporate goals. Most of us agree that the primary purpose of any money-making organization is to turn a profit, but many of them also disseminate educational materials and sponsor educational programs. No action or inaction by ACCI will dissuade them from this activity. When it is mutually advantageous, ACCI should influence the educational efforts of those corporations. Many of the best minds in the field of consumer affairs are found among our membership. If we cared to collaborate with commercial organizations, we could assume that our expertise would be available to them. It is my experience that there is always someone out there who is willing to act as a consumer expert. If ACCI withdraws, the best the responsible producer can get is second best.

The question is what activity does ACCI as an organization of professionals provide that separates us from any trade association. If we act only in our own interest as opposed to improving the educational input, quality, etc. of consumers in the marketplace, then we tend to justify our existence as a professional organization, not as a trade association.

Finally, we must ask where we want to be when the accuracy of consumer education content needs to be questioned. In the whole area of consumer information, we should have our inputs where we have our fingers in the dike and can help to control the flow of information rather than standing on the other side stuffing sandbags after the dissemination has already taken place. We can better spend our time trying to improve the quality of these education projects than having to appear negative

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when the project does not turn out to be consistent with our best interests. There are disadvantages that occur in following the participation of jointly sponsored projects. However, there are also advantages that merit our consideration as we as an organization attempt to formulate policy.

Ms. Edna Johnson*

Throughout the country more and more people are becoming interested in consumerism. Special summer programs as well as numerous in-service programs are being conducted to educate those persons who are teaching consumer education. The best possible source of materials and information is a must, and ACCI represents the most reliable source at this particular time. ACCI is the source of the best information to educators in the consumer field. Its membership should include those in the classrooms, those who are being prepared to leave the classrooms to provide services, those persons who have left the classroom to serve with the government in any role whatsoever, those in industry and in the academic world. These persons should share a common goal: to inform and educate other consumers. As members of ACCI they should readily serve as the best possible sources of coordinating unbiased and forthright consumer products that would benefit the general public. ACCI is the only organization to provide the expertise to see that quality in consumer education is given. Now, the business, industrial, and governmental world is already reaching the consumers in many ways. Many of them are using consumer educators, both ACCI members and non members, to help develop their material. A three and one-half month research study in 1972 revealed that the more successful programs were those that were cooperative ventures between consumer educators and businesses using the consumer educator as a consultant.

ACCI should provide expertise at seminars, conferences and workshops being sponsored by business, industries and government. ACCI can only provide this kind of cooperative effort if it is involved in the planning stage with some kind of equality. It cannot stand apart and then criticize materials and information presented as consumer education.

*Associate Director, Baltimore Urban League

IDENTIFYING FACTORS ASSOCIATED WITH SUCCESS
IN OVERCOMING FINANCIAL DIFFICULTY

Ms. Julia Marlowe*

More Americans are finding themselves in overextended debt situations marking the problem as a serious threat to thousands of families. This study deals with the problems by identifying factors which discriminate between those families liquidating their debts and those families that do not. Some key aspects of consumption patterns which discriminate between the two groups are identified and implications for further study are noted.

Introduction

Given the increasing complexity of family financial management, the growth in personal debt and the uneven performance of the economy, it is not surprising that numerous American families encounter financial difficulty. Some families continue to cope with those problems over extended periods. Others ultimately must file for bankruptcy. In some cases, however, families with serious debt problems overcome these difficulties. This study analyzes factors which distinguish the last group from others who are less successful.

Little is known about the manner in which families cope with financial difficulty. Using survey data on consumer finances, Ryan and Maynes developed a profile of consumers who were likely to encounter difficulty.¹ Garblowsky concentrated on measures based on cultural-social-psychological variables, but without establishing any firm relationships.² Caplovitz's study is one of the most extensive, but it is largely descriptive and nonanalytical.³ These studies focus on how families get into debt. Even less attention has been given to the question of why some families, once in serious debt, manage to get out. In dealing with that question, this study relies on data from the files of the Consumer Credit Counseling Service of Greater Knoxville, Tennessee (CCCS). The research question then becomes: what factors distinguish those families that successfully complete the credit counseling program from those that do not?

Sample Description

The sample consists of 292 cases completed between 1973 and 1976. Most families in the sample were in the lower-middle income bracket, which is

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typical of those in financial difficulty.⁴ Because of regional factors, the sample may not reflect the precise characteristics of the national population of overextended debtors. While income in the South is rising, the median income for the region in 1975 was \$1,500 below the national median.⁵ The Appalachian culture may also introduce personality differences which distinguish the sample from the total population of those in financial difficulty.

Case disposition of CCCS clients falls into one of two categories, successfully completed or dropped out. Of the total sample 55 represented successful completions. The other 237 dropped out of the program at some point.

The character of the study was necessarily limited by the available data, which did not include information on asset levels. Some indicators of assets are available, but were not considered sufficiently reliable to employ. However, the problem is minimized by the fact that most clients are from the lower-middle income range and shared low levels of assets. Thus, while the role of assets could not be analyzed, asset levels should not have produced a significant bias. The analysis is limited to a study of objective variables. Survey data could provide additional information on personality and related traits, but only at an extremely high cost in terms of complexity and smaller sample size. Furthermore, the objective financial variables discussed below offer a logical starting point for the inquiry.

Theoretical Framework

Economic theory offers little insight into the problems of families in financial difficulty. Most theoretical work applies to highly aggregated data, where individual variations would be averaged out. Nevertheless, certain theoretical developments do bear upon the question. Dusenberry's relative income hypothesis could explain why some get into financial difficulty. If a family's consumption was based on a standard of living to which it was accustomed in the past, but could not afford now, an extended debt would likely occur.⁶ Friedman tied permanent consumption to permanent income, the latter being the discounted value of the lifetime earnings flow. Thus, the value of that flow at any point in time would determine consumption. Introducing imperfections of information and expectations, on the part of the consumer, into the theory results in the possibility of consumers getting into financial difficulty.⁷

While these theories may be modified to help explain how people get into financial difficulty, they do not offer explanations of why, once in difficulty, some get out and others do not. Furthermore, theory does not treat situations leading to debt trouble such as loss of job, medical expenses and marital difficulty. One might hypothesize that the trauma of debt causes families to alter consumption, enabling some of them to work their way out of debt. Thus, it is that trauma, not relative or permanent income, which becomes the dominate factor in determining consumption patterns. If that is true, then distinguishing characteristics should be evident in the family's consumption pattern.

In less comprehensive terms, theory offers more guidance. The relationship of expenditure patterns to income is well established.⁸ Similar variation can be expected in terms of family size and composition. As discussed below, these patterns provide guidance in identifying likely explanations to the research question.

Methodology

The total sample was divided according to case disposition, with those who had successfully completed the program in one category and those who had dropped out in a second. Objective variables were used to discriminate between the two groups in terms of the specific hypotheses developed below. Since the dependent variables are categorical, discriminant analysis was employed. This approach identifies those independent variables which discriminate between the two groups. A significance level of .05 was set for evaluating the variables entered in the analysis. Since a stepwise program was used, variables were entered in order of their significance, but only those variables with sufficient discriminating power were entered (based on an internal significance test). Further, a variable could be entered and later dropped if its discriminating power is reduced when later variables are considered. Thus, the program offers a valuable measure of interaction effects. The program also reclassifies the cases (independent of their original classification) into either successful completions or dropouts according to the discriminant function. This provides a measure of how well the discriminant function predicted case dispositions. To facilitate comparison, ratio data were expressed as percentages of either debt or income (except for debt and income themselves, which were expressed as levels). Actual computations were made with all data in logarithmic form.

Objective Variables

Variables in this study can be divided into three categories: aggregate financial measures, component financial measures and variables concerning non-financial matters. The objective variables included in the study are listed in Table 1.

TABLE 1

Listing of Variables

Aggregate Variables	Component Variables	Non-financial Variables
1. Yearly income, both net and adjusted	4. Monthly house payment	8. Number of dependents
2. Total debt: yearly income	5. Monthly utility payment	9. Stage of the family life cycle
3. Monthly debt while in the program to monthly debt before entering the program	6. Monthly car payment	
	7. Total medical debt	

Data from the CCCS files express income in terms of net earnings. Because needs increase with family size, an adequacy measure based on a poverty threshold for family size and composition was used to arrive at an adjusted family income.⁹ On the basis of these variables it is possible to formulate the following series of hypotheses:

- H1: families with higher income levels will be more likely to successfully complete the program.
- H2: the higher the debt:income ratio, the less likely the family will be to successfully complete the program.

These hypotheses apply to both adjusted and unadjusted income with the expectation that adjusted income will be a better discriminator. Higher income has been associated with less financial trouble, and Ryan and Maynes also suggest the debt:income hypothesis.^{10,11} The rescheduling of debt payments does not reduce debt but does enable families to meet payments more easily, given their income constraints; therefore:

- H3: the greater the reduction in monthly debt payments through rescheduling, the more likely the family will be to successfully complete the program.

The minimal financial counseling provided by the CCCS includes a suggested living expense budget. If this budget is very low, clients may have difficulty adhering to it. Since the composition of consumption changes over income levels and over families, housing payments and utility bills should provide additional information. Thus, the following hypotheses can be developed:

- H4: families with lower living expenses will be less likely to successfully complete the program.
- H5: lower levels of housing costs will be associated with successfully completing the program.

Ryan and Maynes found that families owning two or more cars were less likely to have debt trouble.¹² If this can be generalized, then:

- H6: families with higher car payments will be more likely to successfully complete the program.

Medical debt represents a special case in this analysis for several reasons. First, medical expenses often reflect a major expenditure which significantly increases debt. Second, since medical insurance may be limited or unavailable, medical costs become a particularly significant factor for lower-middle income individuals. Furthermore, if temporary disability results in loss of job, the family is presented with the dual problem of mounting debt and loss of income. Medical debt is essentially different from other debts in that it is largely unplanned. Large medical expenditures do not reflect personality traits and personal consumption patterns, but rather represent a form of forced consumption. Therefore, the difficulty in such cases would not be with the family's basic consumption

pattern. This leads to the hypothesis:

H7: families with higher medical debt will be more likely to successfully complete the program.

Two non-financial variables were included in the analysis, with the following hypotheses:

H8: families with more dependents will be less likely to successfully complete the program,

since more dependents place greater strain on the family income.

H9: stage of the family life cycle is expected to be a significant discriminator between the successful completions and the dropouts.

The total sample was segmented according to three different classifications: (1) income level, (2) number of dependents and (3) stage of the family life cycle. These were chosen as logical elements which bear upon both a family's consumption and its ability to deal with financial problems. In turn, this provides another hypothesis:

H10: variables which discriminate in one classification will not necessarily discriminate in another.

Results

The results from the entire sample are summarized in Tables 2 and 3.

TABLE 2

Summary of Critical Values: Entire Sample

Sample Size		Eigenvalue	Canonical Correlation	Significance Level	Prediction
Success	Dropout				
55	237	.04488	.207	.027	61%

Source: Data from the Consumer Credit Counseling Service of Greater Knoxville, Inc.