

Washington Calling: Independent Academic Research Needed On Consumer Issues

By Edmund Mierzwinski, U.S. PIRG

A decade ago, in his Colston E. Warne lecture, Stephen Brobeck urged consumer researchers to address the reality that they "have little influence on public policy making" (1988). Scholars in consumer science are not alone; scholars in policy science also have expressed concerns over the limits of their influence (deLeon 1994). Brobeck described two key reasons for the lack of policy influence by consumer researchers: over-involvement in theory or methodology, with consequent irrelevance to policy, and the frequent failure to address the most pressing public policy issues.

"Academics and Advocates: Using Participatory Action Research To Influence Welfare Policy," Journal of Consumer Affairs , 2000¹

At least every ten years or so, it is apparently worth a shout-out to academics that Washington needs their help to make good public policy. In my own Colston Warne lecture in April, 2010, I repeated the same clarion call.² Quite frankly, here in Washington, an information shortage has never been a problem. The problem, instead, has been a shortage of good, academically-buttressed, independent information. Washington is awash in self-serving "issue briefs" or "white papers" or "blueprints" from corporate associations and from what some call "coin-operated" think tanks, since the bulk of their funding comes from companies looking for an additional voice to help them make their business case. Lobbyists peddle these papers as if they contain actual facts and empirical data, instead of as what they really are: longer versions of lobbyist talking points with slick color covers.

Yet as the problems that the Congress addresses become more and more complex, the need for independent academic research becomes greater. The editors have asked me to suggest a few ideas for graduate students or professors to look into, based on my 30-plus years as a consumer advocate. So here's a start on some off-the-top-of-my-head ideas of ideas for academic research that can help shape public policy. The first step is to look at some areas where policymakers are already looking around, but where more data would be useful. For this particular column, I've tried to stay away from straightforward personal finance and banking research, which I expect will be covered in an upcoming column or two by colleagues. I've also added some links to some starting-off points.

Improving the Fair Credit Reporting Act: Has the 1970 Fair Credit Reporting, despite major amendments (1996 and 2003), kept up with changing industry practices and the growth of the use of credit reports and credit scores as gatekeepers to credit, insurance,

¹ Quoss, Bernita; Cooney, Margaret; Longhurst, Terri, "Academics and Advocates: Using Participatory Action Research To Influence Welfare Policy," Journal of Consumer Affairs , v34 n1 p47-61 Sum 2000, quoting Brobeck, Stephen, "Academics and Advocates: The Role of Consumer Researchers in Public Policy-Making," Journal of Consumer Affairs, v22 n2 p187-200 Win 1988.

² Mierzwinski, Edmund, "Colston Warne Lecture: Consumer Protection 2.0—Protecting Consumers in the 21st Century," Journal of Consumer Affairs, v44, n3, pgs 578-598, Fall 2010

housing and employment? (1) Industry critics contend that consumer studies of credit report inaccuracy are “anecdotal.” Larger studies are needed. ([LINK to NCLC report: “Automated Injustice”](#)) (2) Industry has pushed back after several states restricted use of credit scores for insurance purposes because of disparate racial impacts and/or concerns that whether a consumer paid his or her credit card bill on time shouldn’t affect the price of their car insurance. More research is needed. ([Link to Center for Economic Justice memo](#)) (3) Absent a fiduciary responsibility or needed security clearance, should the use of credit reports be allowed for employment purposes? (Link, [hearing before Congress on HR 3149](#)) (4) Does the growing use of alternative credit reporting – based on rental or utility payments – help or hurt consumers at the margins?

Behavioral targeting on the Internet. In the last few weeks the Wall Street Journal has written extensively on Internet tracking of consumers. What are the ethical and economic implications of the growing use of neuro-marketing to influence consumer preferences for brands? What is the role of social media in triggering peer to-peer viral promotion of products? What is the impact of advertising in video games tied to real-time interaction of a user/gamer? Does the growing use of racial and ethnic data for online profiling and targeting introduce new forms of discrimination? Is dynamic pricing – where different consumers are offered the same product at different prices -- fair if it is based on secretly-collected “cookies” and other information acquired without consumer consent? How has the mobile platform offered marketers opportunities to target children and youth with rewards via location targeting? (LINK: [Real-Time Targeting Complaint to FTC](#), Center for Digital Democracy and U.S. PIRG).

Procedural limits in state and federal law on consumer redress mechanisms.

Questions: Are there empirical methods to measure the impacts of various procedural laws and regulations on the ability of consumers to seek redress or stop unlawful practices in state courts (e.g.; mandatory arbitration clauses, requirements of a show of harm, lack of right of private action or limitations on class actions)? (Link, [Fair Arbitration Now blog](#)).

Changing methods of transactions and their impact on consumers: (1) In response to Congressional investigations, [VISA](#) has announced it will no longer allow first-party retailers to share consumer account numbers with third parties for the purpose of billing consumers for “free-to-pay” or other trial offers. Does this action go far enough to protect consumers? What about similar non-retailer-based (e.g., banks contracting directly with membership clubs) transactions? ([Link, Cox, The Invisible Hand of Preacquired Account Marketing.](#)) (2) Different legacy payment methods (check, credit card, debit card, prepaid debit card, etc.) have varying consumer rights under law; new payment methods (Internet, mobile phone) are emerging. Hillebrand has proposed that all payment mechanisms have upgraded, equivalent consumer rights. What are the implications of a system where they do not? (Link, Hillebrand, [Before the Grand Rethinking: Five Things to Do Today with Payments Law and Ten Principles to Guide New Payments Products and New Payments Law.](#))

Improving Health Care Delivery: (1) Can a study be done to determine the effectiveness of state by state multi-payer initiatives to drive health care delivery system reforms? (Link, [DHS release](#)) (2) Are prize funds a better mechanism for medical research and development than patents? Can these ideas be extended to other consumer needs? (Link, Hubbard and Love, "[The Big Idea: Prizes to Stimulate R&D for New Medicines](#)") (3) What are the costs to consumers of "pay-for-delay" pharmaceutical deals to delay generic entry? (Link, [FTC "Reporter Resources on Pay-For-Delay"](#))

New Business Models for Textbooks: One aspect of the rising cost of education is the rising cost of textbooks. Digital textbooks, open-source textbooks, textbook rental and other ideas are being experimented with. Are there new viable business models and intellectual property regimes for the textbook industry or just textbook authors? See maketextbooksaffordable.org (PIRG project).

These ideas are by no means a comprehensive overview of opportunities for academic researchers to make an impact on public policy. This preliminary list is intended to act as a brainstorm to stimulate discussion and to suggest to researchers some of the public policy issues that affect consumers that Washington is weighing. If academic researchers weigh in on these and other proposals under consideration, their research could make a difference.

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