

FROM THE EDITOR

The 42nd Annual Conference of the American Council on Consumer Interests, March 27th to 30th in Nashville, drew participants and speakers from across the United States and around the world. In the Esther Peterson Policy Forum, those attending the conference had the opportunity to hear Colien Hefferan, USDA, reflect on the role of consumer policy professionals in an era of government downsizing. Two European consumer professionals, Erik DeGier, Consumentenbond, the Netherlands, and Peter Sieber, Stiftung Warentest, Germany, provided a fascinating comparison of consumer product testing procedures in the U.S. and European Consumer Unions. William Baer, Federal Trade Commission, addressed the role of antitrust enforcement in protecting the consumer interest in the Colston Warne Lecture. Luncheon speakers added to the diversity of topics considered in general sessions. Elizabeth Owen, TV Reporter and former Director, Tennessee Division of Consumer Affairs, provided a media perspective on consumer concerns while Andrea Beller, University of Illinois family economics researcher, related her research on child support to policy recommendations for improving the well-being of children.

Forty manuscripts were submitted for consideration as refereed papers with 25 accepted for presentation (63% acceptance rate). Refereed and invited papers covered a variety of topics including the latest analyses from the consumer expenditure survey, banking and the alternative financial sector, food safety and other food-related research, welfare reform, health care expenditures and policy, consumer education strategies for cyberspace, as well as fraud, credit and consumer debt, and international consumer issues. There were 13 refereed poster displays, plus 3 refereed posters submitted as papers. Accepted posters were chosen from 16 submissions (84% acceptance rate). There were 6 student papers submitted with 4 accepted after review. In addition to the refereed process, 14 organizations accepted ACCI's invitation to provide an exhibit and contact person at the meeting. Sharon DeVaney, exhibits chair, made special arrangements to have exhibits available during the opening reception as well as at the usual times. This increased the opportunity for those attending to view exhibits and consult with exhibitors.

Program chair, Cathy Zick, and poster chair, Barbara Rowe, spent many hours assembling the superb offerings throughout the conference. Capitalizing on the pleasant facilities provided by the Sheraton Music City Hotel, Etta Mae Westbrook, local arrangements chair, continued working throughout the conference to keep things running smoothly. Many thanks to her and her student assistants for making the meeting a success. Attendees also enjoyed the ACCI reception at the Tennessee State Museum offering an opportunity to network with other consumer professionals and students and to learn from the museum exhibits.

The completion of these proceedings was aided greatly by the competent wordprocessing of Jean Storch as well as the expert advice of Anita Metzen. Special thanks to Dean Hamilton McCubbin, School of Human Ecology, UW-Madison, for funding the majority of the secretarial help. With the 1995 proceedings production experience to guide us, the work of assembling and standardizing the nearly 100 submissions to this 1996 volume went smoothly. It was a pleasure to facilitate the publication of the work of so many consumer researchers and educators.

Karen Fox Folk
University of Wisconsin-Madison

1996 ANNUAL ACCI CONFERENCE

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PAPER AND POSTER REVIEWERS

Thanks to the following people who so generously served as reviewers for the refereed papers and posters presented at this conference.

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Reviewers of Graduate Student Papers for 1996 Conference

Thanks to the following young professionals who served as reviewers for the refereed graduate student papers presented at this conference.

Paul Camp, Purdue University
Natasha Carvalho, University of Manitoba, Canada
Chen-Fu Chien, University of Wisconsin-Madison
Deanna Grobe, Oregon State University
Lauralei Harper, University of Guelph, Canada
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Surf's Up: Antitrust Enforcement and Consumer Interests in a Merger Wave

Editors Note: This is an abridged version of the Colston Warne lecture given by Mr. Baer at the ACCI conference. An unabridged version will be published in The Journal of Consumer Affairs.

William J. Baer, Federal Trade Commission¹

It is a pleasure to be here, and I am honored to follow the many leading figures in the consumer movement that have preceded me to present the Colston E. Warne Lecture, including Mary Gardener Jones, Esther Petersen, Steve Brobeck, Mark Green, and my former boss and good friend, Michael Pertschuk.²

Today, I would like to share with you some thoughts on how consumers are served through government enforcement actions against anticompetitive mergers. Virtually ever week, the business media report on a new megamerger that potentially could affect many millions of us in one way or another. Media giant Time-Warner proposing to merge with Turner Communications. Defense behemoths Lockheed and Martin-Marietta combining. A large pharmaceutical firm, Marion Merrill Dow, acquired by Hoechst AG. Columbia/HCA buying Healthtrust and 120 more hospitals. Many mergers are followed by layoffs as companies shed what they view as redundancies -- otherwise known as workers. The number of new mergers is staggering. Last year, 2,816 mergers and acquisitions were reported to the FTC and the Department of Justice. And those are only the largest transactions. A total of nearly 9,000 transactions occurred in 1995 (Henry, 1996). The surf is up and rising.

The title of this article is, of course, a metaphor, but one that may raise a number of questions for consumers. What is the appropriate role of federal antitrust enforcement in this environment? The FTC and the Department of Justice had a near-record number of merger enforcement actions last year, but compared to the deluge of reported mergers, we challenged only a very small percentage -- less than 2% of the large, reportable transactions. What is the public policy regarding mergers? Who are we charged with protecting, and are we doing enough? What mergers do we challenge, and why? Or, as Ross Perot's 1992 vice presidential running mate, Admiral Stockwell, stated in debate: "Why am I here?"

In addressing those questions, I'd first like to review some of the history of the merger laws and their underlying purposes. Federal merger law has a long and interesting history. Born into an age when the business environment was much different than it is today, our merger law has been interpreted, amended and applied with various goals in mind. What were those goals, and how are they applied today? Are the merger laws concerned with large concentrations of economic power? Are they intended to preserve and protect small businesses against takeover by larger competitors? Are they intended to preserve diversity among business enterprises? Are they intended to protect jobs? Is enhancement of economic efficiency the guiding star of how merger laws should be applied? Or is the proper focus the protection of consumers against anticompetitive price increases? In truth, each of these goals has played a part in how merger law came into being and what it has become today. And each is related in some way to the well-being of consumers. The difficult task is to meld these interests and goals into a coherent merger policy.

A Brief History of Merger Law

The Original Clayton Act

The basic antitrust law that governs mergers, Section 7 of the Clayton Act, was enacted in 1914, the same year that the Federal Trade Commission came into being. Legislative history has it that the new law was born out of dissatisfaction with the way the federal courts were handling mergers under the Sherman Act, an older antitrust statute enacted in 1890. As you know from your history books, the turn of this century was the era of so-called robber barons and big business trusts -- large combinations of companies dominating entire industries. The railroad trust. The oil trust. The steel trust. The tobacco trust. And many other trusts, numbered, perhaps in the hundreds. Interestingly, Colston Warne has noted that the consumer movement in the U.S. began at about the same time. He said:

"The early growth of the consumer movement blends into the antitrust and pure food and drug aspirations... at the beginning of the twentieth century, and the consumer movement really got going full steam after the turn of the century." (Morse, 1993).

The consumer movement and antitrust thus are kindred in time as well as purpose.

Why was it necessary to add a specific merger law? Although the Sherman Act prohibited anticompetitive agreements, the Supreme Court did not apply the statute rigorously to aggregations of economic power through mergers and acquisitions. As a result, numerous companies were being acquired through stock acquisitions, and vast wealth and corporate control were being amassed in relatively few hands.

It was in this setting that the Clayton Act, and the Federal Trade Commission, came into being. The Clayton Act prohibited a number of specific business practices thought to be inimical to our economy, including anticompetitive acquisitions. The FTC was to play a central role in the enforcement of the new law. The merger provision, Section 7, prohibited the acquisition of the "stock or other share capital of another corporation ... where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition..."

By using the words "*may be* to substantially lessen competition," Congress indicated that it wanted to be doubly sure that *potentially* anticompetitive transactions would be stopped. If there were competing interests, Congress came down on the side of intervention. It did not require proof that an acquisition definitely *would* lessen competition substantially, but only a reasonable probability that it would. Another important aspect of the new merger law was that it was intended to arrest anticompetitive tendencies before they could develop into full-blown violations of the Sherman Act. The intent thus was to reach *incipient* monopolies and trade restraints outside the scope of the Sherman Act.

What goals did Congress seek to serve by enacting this new statute? There were many interests involved. But there is no doubt that Congress was concerned about the monopoly power of the great industrial trusts. Protection of consumers was one of the explicit goals. Some were concerned that the trusts used their power unfairly against smaller firms. The power of the trusts over labor was another major concern. In addition to their economic strength, the trusts also enjoyed a substantial degree of protection from strikes.

Federal courts granted injunctions under the Sherman Act to crush strikes and limited the ability of workers to organize.

Congress addressed this in Section 6 of the Clayton Act, which declared that "the labor of human being is not a commodity or article of commerce." The new law also declared that labor organizations are not conspiracies in restraint of trade, and that the antitrust laws shall not prohibit or restrain individual members of labor organizations from carrying out their legitimate objectives. In other words, workers could act jointly in bargaining with employers without fear of prosecution under the antitrust laws.

There was also a political dimension. The big trusts were viewed as seeking not only industrial domination, but "political supremacy" as well. There were concerns about usurpation of political power by the wealthy and the privileged few. Some feared that this trend would lead to socialism "as the properties of all the people pass into the hands of a few trust magnates." Competition, on the other hand, was viewed as "the best environment for the advancement and the welfare of mankind in the individual initiative, the individual independence, and the individual responsibility."

What can we learn from the enactment of the original Clayton Act about the goals Congress sought to achieve? I think one thing is clear--Congress sought to prevent abuses of economic power from business combinations that approached or reached monopoly proportions. Congress had a number of different reasons for wanting to do so -- that is, those abuses were perceived to have a number of different effects, some non-economic, on American society -- but at least one clear target of the legislation was the abuse of what we antitrust lawyers call market power -- the ability to raise prices above competitive levels.

That is not the end of the story, however, because the original Clayton Act left a number of gaps in its coverage, and would require amendments some year later. As originally enacted, the merger provision of the Clayton Act prohibited only the acquisition of the stock of another corporation. It did not apply, either expressly or by judicial construction, to the acquisition of assets. The focus of the original Clayton Act on stock acquisitions probably was intentional. The primary concern at the time was the development of holding companies and the secret acquisition of competitors through the purchase of all or parts of a competitor's stock. But it was soon recognized that the effect of an asset acquisition could be the same as that of a stock acquisition, and the Federal Trade Commission repeatedly urged that the loophole be plugged. However, the country was preoccupied with other events in the

years that followed. World War I; the Depression; the New Deal recovery; and the World War II. But following the second world war, a new merger movement caught the attention of legislators. Congress enacted the Celler-Kefauver amendments in 1950, making the Clayton Act applicable to asset acquisitions and to acquisitions involving firms other than direct competitors.

The 1950 Amendments.

A dominant theme driving the 1950 amendments was a fear of what was considered to be a rising tide of economic concentration in the American economy. Debate in the House and Senate repeatedly raised that theme. In 1909, the 200 largest non-banking corporations owned about one-third of all corporate assets; in 1928 they owned 48%; in the early thirties they owned 54%; by 1940 they held 55%. Aggregate concentration increased even further during the second World War, when the federal government itself enabled large corporations to become larger as part of the war production mobilization efforts. Some viewed the concentration trend as a threat to the entire economic, social and political fabric of the nation. Some were interested in retaining local control over industry and the protection of small businesses in order to disperse both economic and political power. Another interesting feature of the merger movement of the 1940s was that many mergers involved the acquisition of small companies by very large corporations. Unlike the era of the business trusts in the late 1800s and early 1900s, the merger movement of the 1940s generally did not involve the merger of large companies; instead, small companies were being swallowed up. This explains the focus on small businesses during much of debate over the legislation.

Apart from competitive impact, acquisitions of small businesses raised several other issues. Some argued that the law should accommodate the owners of small businesses who wished to sell their business. Supporters of the legislation responded that some transactions were not purely voluntary -- small firms were being forced out of business by the tactics of large corporations. In that respect, the issue involves the possible abuse of market power by a large firm. Others saw lost opportunities for entrepreneurs. But more fundamentally, the disappearance of small firms was seen to threaten the fabric of a decentralized democracy. Representative Celler noted that Thomas Jefferson had tried to include protections against monopolies in the Bill of Rights. Senator Kefauver quoted President Lincoln on the threats to the Republic posed by uncontrolled concentration of wealth and economic power. some

viewed the proposed legislation as a fight "for the survival of democracy."

In sum, the Clayton Act -- the source of our merger enforcement authority today -- presents something of a mixed bag of values and goals. As in other areas of law, the federal courts had the task of deciding how the Clayton Act was meant to be applied. Given the mixed and not always consistent purposes that underlie the statute, it is not surprising that judicial interpretations evolved over time.

The Supreme Court and Merger Enforcement in the '60s

Those competing considerations underlying the Clayton Act's prohibition on mergers that would tend substantially to lessen competition created a difficult dilemma for the courts. The cases of the '60s reflect a merger law in search of a consistent theory. We see mergers of two small players in markets with lots of competitors condemned almost as readily as mergers of very large players in very concentrated markets. This led one Supreme Court Justice to say, in his dissent in a leading case, *Von's Grocery*: "The sole consistency that I can find is that in litigation under § 7, the Government always wins." It may not have been quite as simple as that. One could argue that the Court was being faithful to one of the sentiments consistently expressed during the Celler-Kefauver hearings -- that trends toward market concentration should be nipped in the bud. One could also argue that these cases reflect a judicial philosophy -- and an enforcement philosophy -- that sided in favor of government intervention to prevent increases in concentration. But these are not rules of law that consciously consider consumer interests. They don't help us distinguish the "bad" mergers from the good. They lead to a result, as Justice Stewart suggested, that most mergers are bad. That would not be consistent with economic theory or the way markets actually work, and it would not be good for consumers. I'll explain that as I briefly describe three of the leading cases of the '60s, *Brown Shoe*, *Philadelphia Nat'l Bank*, and *Von's Grocery*.

In 1962, the Supreme Court decided the *Brown Shoe* case, which is still cited today as an important statement of several legal principles on mergers. But the Court's application of those principles to the facts of that case has been the subject of substantial criticism. The Supreme Court expressed concern with a merger that would allow one retail shoe chain to account for as little as 5% of retail shoe sales in community. Even though there had been prior mergers in the industry, the market was still, in the Court's words, "fragmented". In many cities there were still a large number of competitors;

those markets were not very concentrated. But the removal of even a relatively small competitor from the market was thought to present a significant threat to competition.

What is noteworthy about the *Brown Shoe* case is that the merger did not appear likely to create market power -- the ability of a firm, such as a chain of shoe stores, to raise prices above competitive levels. Indeed, by insisting on blocking an acquisition in a market that was unconcentrated in order to protect small businesses, the Court chose to ignore the possibility that a somewhat larger shoe store chain would be more efficient and result in lower prices for consumers.

In 1963, the Court decided another landmark case, *Philadelphia National Bank*. This case, too, involved a history of prior mergers in the relevant area, but, unlike *Brown Shoe* and the late decision in *Von's*, the merging parties were big players in the market. They were the second and third largest commercial banks in the Philadelphia area, and their combined share of the market would have exceeded 30%. Moreover the market already was substantially concentrated.

Philadelphia National Bank thus involved precisely the kind of acquisition that Congress sought to prevent by amending the Clayton Act. That the Court found the merger to be unlawful is not surprising. What is important are the rules of law the Court established in the case. One of them is that there should be a strong (but rebuttable) presumption of illegality for mergers that produce a firm with an "undue" percentage share of the market and result in a significant increase in concentration. The court believed that those mergers are so inherently likely to lessen competition substantially that they must be enjoined in the absence of evidence clearly showing that the merger is not likely to be anticompetitive. In other words, mergers in concentrated markets were so likely to create market power and put consumers at risk of anticompetitive prices that they were presumptively unlawful. The Court based this presumption in part on the economic theory that "[c]ompetition is likely to be greatest when there are many sellers, none of which has any significant market share." We thus see in *Philadelphia National Bank* the seeds of an economics-based examination.

Then in 1966 came *Von's Grocery*, another well-known (some would say notorious) case from those times. That case reverted to a *Brown Shoe* kind of analysis, relying perhaps even more heavily on a numerical count of competitors and the beginnings of a trend toward concentration. The Supreme Court held unlawful a merger of two grocery store chains holding a combined share of 7.5% of the grocery market in Los

Angeles, where the four leading firms accounted for 24.4% of sales, and the top eight firms accounted for 40.9%. The total number of grocery stores in Los Angeles was in the thousands. The market share and concentration figures did not approach those in *Philadelphia National Bank*. Yet, the Court did not engage in an analysis of likely competitive effect, other than noting the trend toward concentration.

How can we explain these different approaches? There are several possibilities. First, it is possible that the Court was simply uncertain about the merger standards of the amended Clayton Act. Second, given that there were substantial factual differences among the three cases, and the different goals articulated in the legislative history of the Clayton Act, it is possible that the Court applied in each case the merger standard that best fit the facts of the case. The Court arguably was not being inconsistent, because those different standards can be traced to the legislative history. This explanation is consistent with a hypothesis that I've already mentioned -- that each of these cases reflects a judicial philosophy and an enforcement philosophy that sided in favor of government intervention to prevent increases in concentration, and the Court used the standard that fit the facts of the case.

That "pick and choose" approach, despite its flexibility, is not necessarily in the best interest of consumers. The *Brown Shoe* and *Von's Grocery* cases illustrated the potential consequences of focusing enforcement policy on one goal or interest, without fully considering the alternatives. This is brought out most sharply in *Brown Shoe*, where the consequence of the Court's decision was to protect small competitors at the expense of consumers. The Court in 1962 recognized a tension between the goals of protecting consumers and protecting small businesses, but seemed willing to sacrifice lower consumer prices for the latter.

Von's Grocery may have involved a similar trade-off. Chain grocery stores may enjoy some lower per-unit costs than independent grocery stores. That benefit likely would be passed on to consumers so long as the market remains competitive. The question, then, is whether the increase in concentration in *Von's* posed a serious threat to competition and consumers. In other words, does a supermarket chain with only 7% of sales in Los Angeles have the ability to soak consumers with higher prices? Today, many of the antitrust field doubt that competition was seriously threatened. If that is correct, a consequence of *Von's* is that small businesses were protected at the expense of consumers.

What is noteworthy about *Brown Shoe* and *Von's* is that, to the extent the court balanced consumer

interests against small businesses' concerns, it sided with small businesses rather than consumers. Whatever the reason, the merger law of the 1960s has been described as "by far the most stringent...in the world." And it was a law that seemed, in the words of Robert Brok, to be "at war with itself," pursuing Congressional purposes -- protection of small business, hostility to small increases in concentration, and lower process to consumers -- that were not mutually consistent.

Changing Directions in the '70s

The Court changed course in the mid 1970s. The focus on preserving competitors for numbers' sake, deconcentrating markets and social goals shifted to a critical economics-based examination of market power, and whether and how such power might be exercised. This is reflected in the Court's decision in *United States v. General Dynamics Corp.*, which remains the most recent decision by the Supreme Court on substantive merger law. The case involved the merger of two firms engaged in the production and sale of coal. The Court held that General Dynamics' share of the market after the acquisition, while within the range that resulted in the condemnation of mergers in cases such as *Von's Grocery*, was not an accurate indication of the company's competitive position, because a substantial portion of its coal reserves were already committed under contract for future sales, and it had little likelihood of obtaining additional reserves. The Court found that the firm lacked the capacity to exercise market power, either alone or in combination with other firms.

The Court also began to rethink how to analyze other antitrust issues. Antitrust law in non-merger areas began to focus heavily on the market effect of business conduct, either in terms of anticompetitive effect such as output reduction and price increases, or procompetitive effect such as greater efficiencies. For example, in *Continental TV, Inc. v. GTE Sylvania, Inc.*, the Supreme Court overruled its own precedent and held that it no longer was automatically (per se) illegal for a manufacturer to restrict the sales territories of its distributors or retailers, or the types of customers to whom they could sell. Instead, such "vertical" restraints would be analyzed under a legal standard called the "rule of reason," balancing any anticompetitive effects against procompetitive benefits generated by the restraint's efficiencies. The rationale for the Court's new approach was the recognition that such territorial and customer restrictions could be efficiency-enhancing, i.e., they might lower costs or stimulate greater competition between brands. For example, distributors and retailers might invest more in sales efforts if they have protected

territories or customer groups, because the investments would not be lost to competitors who steal away customers. As a result, such restrictions could result in greater sales for the manufacturer. Although there might be less competition among the dealers in a particular brand of product, overall competition in the market would not be harmed, and perhaps would be enhanced, if there were enough competing brands.

These developments were widely associated with the so-called "Chicago School" economic ideology. A basic premise of the Chicago School approach is that the sole goal of antitrust is (or at least should be) the maximization of "consumer welfare". (Rule & Meyer, 1988) This term has a special meaning to some economists, however. It does not necessarily mean, as the words might suggest, that a particular transaction will lower prices to consumer like you or me. Rather, it refers to the aggregate wealth of the nation. The theory is that consumers as a group will be better off by maximizing aggregate national wealth, and that the way to do this is by putting resources to their best use. the economist's term for that is maximizing allocative efficiency. Thus, if a merger promises to result in a more efficient use of resources, a proponent of this theory might argue that the merger should be allowed even if the merger firm gains market power and increases prices. The firm could either put the increased profits to productive use itself, or it could increase dividends for shareholders to reinvest in other presumably productive endeavors. This is a close cousin to the argument in favor of dramatically lowering the capital gains tax rate, to encourage new investment in productive assets and increase national economic activity. The Chicago School denies that this approach is anti-consumer. On the contrary, its basic premise is that by maximizing allocative efficiency, all consumers ultimately will benefit.

A related theoretical development that followed a little later, in the early '80s, was the theory of "contestable markets." In a nutshell, this means that if entry into a market is easy and is easily reversible without substantial cost, the market is "contestable" because new firms will be attracted by high profits, and thus the threat of entry will constrain the behavior of the incumbent firms. Combined with the Chicagoan belief that true barriers to entry are very few, the contestable markets theory provided a basis for arguing that even mergers in highly concentrated markets were not likely to result in sustainable market power.

The contestability theory had seductive appeal for many, but if the theory is applied too readily, without a thorough examination of entry conditions, the result may be a highly concentrated market and higher prices.

Several observers cite as an example the airline industry, where the Department of Transportation applied the theory to approve a number of airline mergers in the 1980s. Airline markets were thought to be contestable because airplanes can readily be moved from the routes to serve those routes where prices are substantially above costs. Subsequent experience and economic evidence suggests that wholesale application of the theory to that industry may have been naive. Proponents of the theory may have failed to take into account the fact that it takes more than an airplane to begin flying a particular route, and that some of those requirements might not be obtained as readily as airplanes -- landing slots, for example. The result may be higher prices and reduced service for consumers.

There was another development during the late 1970s -- a national mood change that placed growing emphasis on productivity. This development was influenced by growing inflation, lower productivity, an increasingly negative balance of payments, and increasing concerns about our ability to keep pace with aggressive foreign competition. The last point -- foreign competition -- is worthy of particular attention. It is a factor that was not present during the periods leading to the 1914 and 1950 merger legislation. The economy then was much more insular than it had become by the late '70s. The competitive significance of imports and the establishment of foreign-owned manufacturing operations in the U.S. were not issues in the legislative debates. But by the late '70s, the competitive dynamic in the market had changed. Foreign competition was here.

Thus, for several reasons, the stage was set for a dramatic change in antitrust. By the late 1970s, there was a growing recognition among many antitrust scholars, practitioners and the enforcement agencies that the '60s approach -- the focus on almost any increase in market share -- was not always beneficial for consumers. The agencies turned to new model. The central goal of merger policy, as reflected in new guidelines announced in 1982, was not simply to prevent undue concentration, but to prevent mergers that may create or enhance market power or facilitate its exercise. As I noted before, market power is defined as the ability to raise prices above competitive levels, or to maintain output below competitive levels. In other words, firms could increase prices unjustifiably, or create a product shortage which would drive up prices. A group of firms may be able to exercise market power collectively by colluding, or a single firm might have market power. Market power can be exercised by affecting price, output, quality or service directly, or more indirectly through tactics such as excluding or disadvantaging competitors. Consumers

can be harmed because, by definition, they lack sufficient suitable alternative suppliers when firms have market power.

The theory underlying the merger guidelines policy of the '80s -- and today -- is that high market concentration can facilitate collusive behavior, and it can sometimes result in single-firm market power. Collusion could occur in several different ways. The most familiar is garden variety price fixing, where competitors expressly agree on the price they will charge. In addition, a highly concentrated market can also facilitate a more sophisticated and subtle kind of collusion that is difficult to detect. There are various names for it, such as "tacit collusion" or "coordinated interaction." What it means, essentially, is that in some situations firms don't have to collude explicitly in order to reach some sort of understanding that each will be better off if they don't compete aggressively against each other. It is a mind game of sorts. In fact, in economic jargon, the study of such behavior falls within a broader discipline called "game theory."

In one sense, this economic theory of the cause and effects of market power was not new. It was recognized during the Congressional hearings on the 1950 amendments to the Clayton Act, and it was recognized and applied by the Supreme Court in *Philadelphia National Bank*. What was new was the view that concern with market power over price would be the principal focus of Clayton Act merger enforcement.

Although the new guidelines perhaps did not go as far as some Chicago School followers might have wished, the guidelines did benefit from the Chicagoans' questioning of the conventional wisdom. The thrust of the policy changes reflected in the 1982 and 1984 revised merger guidelines was generally well received, even by some who criticized the government's actual enforcement efforts. The problem, the critics claimed, was that the government in the 1980's did not actually apply the new merger guidelines. Relatively few enforcement actions were brought, leading some commentators to charge that the government had effectively abandoned their own guidelines. One study reported that the federal enforcement's enforcement rate fell by more than two-thirds, to 0.7% of proposed mergers during the 1982-1986 period, from 2.5% in the 1979-80 period.

Looking back, the *actual* enforcement policy that was applied in those days may have effectively changed the standard for challenging mergers. Instead of using the standard mandated by the Clayton Act, which prohibits mergers that "may tend substantially to lessen competition," the Reagan Administration's policy seemed to apply a presumption that mergers *would not* decrease

competition except in extreme cases.

A defender of the Chicago School approach (an antitrust official during the Reagan Administration) stated at the time that the Chicagoans are not really about whether markets work perfectly, but whether, "given a problem in the market, government intervention will result in a net benefit, a net improvement, or whether it's just as likely as not to make things worse." In other words, generally trust the competitive process to work unless you are near certain that antitrust will make things better.

So we came out of the mid '80s with more analytical rigor, a focus on "consumer welfare" as the bottom line concern of antitrust, and some insightful merger guidelines that government enforcers largely disregarded in favor of a presumption that government intervention was more likely to make things worse than to make things work better.

Merger Enforcement Policy in the '90s

Merger enforcement experienced an upturn beginning in the late '80s. More horizontal mergers were challenged, and the Commission renewed enforcement efforts on vertical and potential competition theories. What accounts for this change of events? A continuing merger wave is one answer. There was a sharp upswing in mergers in 1987 and continuing through 1990, and another one beginning in 1993 and continuing today. With more transactions, one would expect to find more that are problematic. But it is fair to ask whether there is anything more fundamental -- a change in policy? Have we returned to the '60s approach of general hostility to mergers and combinations? Are we applying different standards than those the agencies used in the 1980s? The Commission and the Department of Justice jointly issued new horizontal merger guidelines in 1992, but the fundamental policy stated in the 1984 guidelines did not change. The policy still is to prevent mergers that may create or enhance market power or facilitate its exercise.

What has changed is our enforcement philosophy. The merger guidelines we apply are basically the same, but we may, ironically, have more faith that they can be intelligently applied than did our predecessors who authored them. We no longer assume that government will necessarily get it wrong and only can do harm; rather, we apply the available tools in an evenhanded way to advance consumer interests, and thus further the various goals that Congress established.

Professor Fox (1977) has written that antitrust policies could be viewed along a continuum, with the "small is beautiful - large numbers of competitors are important" camp at one end, and the "free market - big is

beautiful - government is burdensome" camp at the other end. She also notes that "economic ideas are usually part and parcel of social and political philosophy. I think it is fair to say that there has been a change in enforcement philosophy at the antitrust agencies. We have moved along the policy continuum away from the Chicago School, certainly not to the other end, but enough to make a real difference. Thus, our goal today is to protect consumer welfare, but we use that term in a broader sense than the Chicago School notion of the term. It is neither necessary nor appropriate to maintain that the merger laws are concerned only about achieving the best allocation of resources. That is not a fair reading of the legislative history. Merger efficiencies do matter, but so do price increases that consumers have to pay, reductions in quality of products, less service, less variety of goods and services and reductions in other forms of rivalry such as innovation and research and development. We can agree that many transactions are intended to achieve efficiencies, but we won't *assume* efficiencies in any particular case -- we have to examine what the evidence tells us. Nor do we have to assume away the other goals identified in the legislative history.

How does protecting the competitive process serve the varied goals underlying the Clayton Act? One of the goals was to preserve economic opportunity for small businesses. If we prevent mergers that threaten market dominance, if we prevent mergers that would erect barriers to entry, if we allow weak, inefficient firms to merge so that they can be stronger competitors, we preserve economic opportunity. And if we allow the owner of a small business to sell the business to another firm, that, too, is consistent with economic opportunity. The freedom to operate a business is not complete without the freedom to exit that business.

Is merger policy today consistent with the Congressional goal of preventing a rising tide of economic concentration? I think so. By preventing undue increases in market concentration, merger policy is also consistent with other interests that certain legislators sought to protect in enacting the Clayton Act. If we have competitive markets, free from artificial restraints, we have economic opportunity, entrepreneurs have a fair chance to control their own destiny, the free enterprise system has the maximum opportunity to flourish, and small businesses have a fair opportunity to compete. The diversity in such a market also is conducive to "political democracy."

Competition also serves well the interest in efficiency. The inefficient will be spurred on to be more efficient, for otherwise they will find it difficult to survive in a competitive market. And firms seeking a competitive edge will be motivated to innovate and to be

more efficient than their competitors.

Our focus on the competitive process serves each of the Clayton Act interests well, but perhaps not equally or perfectly. For example, competitors are not protected for the sake of numbers, or for the sake of smallness. But it was not the intent of the statute or of the Court simply to protect competitors. The objective remains the same, but we now have a much better understanding of what is necessary to protect competition. It doesn't require vast numbers of competitors in any given product market. And some balancing of interest is inevitable.

Translating Policy into Action: Merger Enforcement and Consumer Interests in the '90s

What does current enforcement say about the role antitrust plays in a merger wave? It suggests a certain humility about the role of antitrust in addressing all aspects of a dynamic economy. We are not the agency and ours is not the law that resolves all the difficult questions about how our economy should be organized. For example, we are not the ones who should decide whether Wal-Mart or some other megastore should be allowed to come to town with lower prices but possibly disruptive effects on the local economy. Independent retailers, main street as we know it, the quality of life and small town values, all may be threatened. But it is within our competence to assess the effects on competition and on consumers. Thus, we do know that Wal-Mart is very efficient and can pass on the benefits of that in lower prices to consumers. But whether that benefit is worth the trade off in other costs is a political decision for the community, in another forum.

The same is true of the effects of a merger on the local economy. The combined firm may have lower costs and be able to offer lower prices to consumers, but the lower costs may be the result of a consolidation or restructuring to operations -- in other words, lost jobs. And those lower costs may make it difficult for smaller firms to compete resulting in a further loss of jobs. We know that the effects can be far-reaching. But the antitrust laws don't give us the authority to deny a merger because job losses will result. Nor would it be desirable to have that authority within the antitrust laws. If there is any lesson to be learned from the merger enforcement of the '60s, it is that we cannot have a consistent approach to mergers if we have inconsistent objectives. If a merger does not pose a serious threat to competition, there is a fundamental inconsistency between the goals of achieving lower prices for consumers and protecting jobs that may be either redundant or unnecessary to the

effective functioning of the business. Similarly, as I noted earlier, there would be conflict between consumer interests and other goals or interests such as preserving small businesses.

That tension between interests is what has led the courts and the enforcement agencies to focus on economic harm to consumers as the best proxy for harm to society, and to let the political process sort out these other issues. On the local level, that means zoning boards and town councils debating Wal-Mart's entry. At the state and national level it means debates in the legislature on how to cope with worker severance and retraining and the bottom line question of who pays for addressing those effects of mergers.

The antitrust laws best serve the consumer by focusing on the competitive process. A competitive market involves not only opportunity for success but also freedom to fail and ability to adjust to the competitive environment. Competition is not painless, but the alternative would be worse. If we block mergers on account of jobs or to preserve small businesses for the sake of smallness, that will handicap the economy and deny consumers of the lower prices that result from productive and distribution efficiencies.

Antitrust's focus on economic harm to consumers also serves us well by ensuring that we intervene only when there is evidence that tangible harm is likely. For example, it is easy to become alarmed when we see a series of megamergers in a particular industry, such as Disney buying Capital Cities/ABC, Westinghouse buying CBS, and Time-Warner buying Turner Communications. The fact that media giants are involved might make us especially nervous about a diminution of independent voices and means of expression.

A well focused, economics oriented antitrust analysis can help us sort out the issues. If media became too concentrated, that is likely to be reflected not only in First Amendment concerns but also in economic costs to consumers. Antitrust can assess the likelihood of that by looking at such things as the proper definition of the relevant market (i.e., what forms of media compete for the conveyance of a particular form of communication), the number and types of firms that compete in that market, and barriers to entering that market. For example, in connection with the three media mergers just mentioned, is the relevant market limited to broadcast and cable television, or should Direct Broadcast Satellite (DBS) transmission be included? And what about the potential for entry by telephone companies?

Where we see evidence of tangible consumer harm, that tends to confirm subjective concerns about

particular mergers. But where we don't see evidence of tangible consumer harm, we need to question whether a change of ownership is only that, and less of a threat to democratic values and First Amendment rights than we might otherwise think.

Now that I've outlined my view that antitrust enforcement is not equipped to defend the notion that small is beautiful, that efficiency benefits should be sacrificed to preserve small firms or that any job loss is unacceptable, what is our purpose? To paraphrase Admiral Stockwell again, "why are we here?"

Let me cite a few recent examples of what our pursuit of consumer welfare means for the average consumer and ordinary citizen. The benefits are felt at both the local and national levels, some of it direct and some more indirect.

At the local level, we recently prevented the merger of supermarkets in St. Louis and Boston. Not in *Von's*-type markets, but in highly concentrated markets where consumers would have been left with few alternatives and inevitably would have faced higher prices. We also prevented the merger of funeral homes in small communities throughout the South, and we challenged hospital mergers in Grand Rapids, Michigan, Central Florida, and other communities in the U.S. In each of these places, merger enforcement sought to preserve the benefits of competition so that consumers would not experience higher prices or lower service as a result of a merger.

In some other cases, the benefit to consumers was more indirect, but no less real. For example, the Commission preserved the benefit of competition in the pricing of natural gas to industrial customers in Salt Lake City. The Commission also challenged mergers involving intermediate products, such as industrial ovens used to make glass. The costs of inputs and intermediate products obviously show up in the cost of final consumer products.

Other cases benefited consumers directly on a national scale. For example, the Commission prevented the merger of Western Union and MoneyGram, the only two firms that provide consumer wire transfer services. Consumer money wire transfers are a quick, convenient and secure way of transferring funds between two parties. These services are frequently used by consumers who don't have bank accounts -- surprisingly, they account for about 25% of U.S. households -- and people who are temporarily stranded without adequate funds, such as students and travelers. Until a few years ago, Western Union was the sole provider of the service, and it charged a monopoly price of \$38 for a \$500 transfer. MoneyGram entered at half the price, and provided aggressive competition. Western

Union responded by dropping its price to \$29. MoneyGram's parent company then tried to buy Western Union, which would have eliminated the competition between them. The commission took steps to keep MoneyGram independent, which should save consumers \$15 million to \$30 million per year.

Some of what we do is focused specifically on protecting competition for tomorrow. For example, last year the Commission took action against Hoechst AG's acquisition of Marion Merrill Dow ("MMD"), which would have produced the third-largest pharmaceutical manufacturer in the world. At the time, the two firms did not compete against one another with the same drugs, but they were poised to do so in the near future. MMD marketed Cardizem, a leading medication used by millions of patients who suffer from high blood pressure and angina. Cardizem is a form of diltiazem, a \$1 billion market, in which consumers paid \$500 to \$1000 per year for their medication. Hoechst was on the verge of introducing a competing product, Tiazac. If Hoechst had gained control of both Cardizem and Tiazac, it could have deprived consumers of meaningful competition between the two drugs.

The commission's order produced immediate benefits for patients who need once-a-day diltiazem. A few days after the Commission issued the order, Hoechst removed the obstacles to effectively marketing the drug, and the FDA approved Tiazac 24 hours later. Tiazac was recently introduced into the market, with a list price 25% below Hoechst/MMD's Cardizem. The actual price to the consumer is probably even lower, around 30-35% below Cardizem, because of volume discounts at the wholesale level. For the average patient who switches, that means a yearly savings of \$250 or more. We understand that market acceptance has been good, and sales of Tiazac may exceed projections. Market-wide, that could mean a savings of \$30 million or more per year.

It is noteworthy that two cases alone -- *Western Union/MoneyGram* and *Hoechst/MMD* -- could produce \$60 million in annual savings, exceeding the Commission's current annual budget for antitrust enforcement.

To sum up where we are today, we are trying to keep our eyes on the ball, focusing on a merger policy that delivers consumer benefits from competitive markets. Colston Warne once said: "The central faith of the consumer movement is that free choice lies at the very core of democracy in an economic system." In summing up the philosophy of Consumers Union, he explained the need for truthful information about products:

In the American economy, information about

products is assumed in basic economic theory. People are assumed to have the competence to buy, and if they maximize their utility, they will bid for the articles they want most, and the price reflects the equating of supply and demand. All this might work some day if people were rational, knew what they wanted, knew the characteristics of goods, weighed their decisions, and had the truth about the market.

His views were eloquently stated, and are not unlike our own. Freedom of choice is not complete, however, if markets are not competitive. Consumers may not have the choice of products and services they would otherwise have, and price will not reflect the normal equating of supply and demand in a non-competitive market. Unfortunately, faith in free markets sometimes is not enough. That is why there have been consumers' movements. That is also why the merger laws and other antitrust laws exist. To ensure that consumers have freedom of choice, to ensure that consumers can bid for goods and services knowing that the market pricing mechanism is not artificially constrained. I believe that merger laws are fulfilling the promise.

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Endnotes

1. Director, Bureau of Competition, Federal Trade Commission, Washington, D.C. 20580.
2. The views expressed herein are those of the author and do not necessarily represent those of the Commission or any individual Commissioner. I am grateful for the considerable assistance my colleague Ernest Nagata provided in the preparation of these remarks.

Whither the Consumer Interest: The Role of Consumer Education and Research in an Era of Public Reinvention

The Esther Peterson Consumer Policy Forum, American Council on Consumer Interests Annual Meeting, March 28, 1996, Nashville, Tennessee

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It is a rare privilege to share my ideas with you--my mentors, my colleagues, and my hopes for the future of consumer research and education--today at this Forum which recognizes and honors the extraordinary contributions of Esther Peterson to consumer policymaking. It will be 20 years ago this summer that the full impact of Esther Peterson's influence on public policy in this nation came clear to me in one, high impact, visual image. As rambunctious delegates to the 1976 Democratic convention moved through the roll call of states casting their votes for candidates to be the party's torchbearer, the television cameras switched to the hotel where frontrunner, Jimmy Carter, calmly sat watching the fray. Flanking him on the couch were his two most trusted advisors, his wife, Rosalynn, and Esther Peterson. I gazed hard at the television screen. I was less than a year out of graduate school, enthusiastically gathering a cadre of undergraduate and graduate students to embark on what I was sure would be the seminal research program in family and consumer economics. The image of someone who I knew shared the same broad concerns as I, sitting next to someone I knew would soon be President of the United States (It's amazing how much one "knows" one year out of graduate school.), was affirming, exhilarating, and inspirational. From that day forth--and still today--with Mrs. Peterson as the model, I believe consumer issues can and should be at the forefront of national policy discussions and decisionmaking.

This morning as I discuss the role of consumer professionals in an era of regulatory reform and government downsizing, I intend to emphasize how we need to attend to our research and education agenda as public institutions and services reinvent themselves. Where are we today in consumer affairs? First, we are pragmatic. Take as an example the following: "QUALITY, PRICE, AND SERVICE," writ bold on a sign behind the counter, greets customers in the one shoe

repair shop in Corvallis, Oregon. In much smaller letters, at the bottom of the sign, it reads, "Pick any two." The age of realism arrives in seller-buyer relations. How have we gotten to here from the age of idealism in which so many of us are grounded?

Only a bit more than three decades ago, our national leaders articulated a consumers' bill of rights predicated on the notion that armed with adequate information, and protected against fraud and abuse through government oversight and intervention, educated consumers could consistently make maximizing choices in the market, leading to improved individual welfare and reflecting market efficiency. Yet the notion of "pick any two" is fair warning to the consumer that no public intervention, no degree of consumer information or educational savvy can overcome the first law of consumer physics--"You can't have it all." Consumer decisionmaking is about balancing outcomes--making choices about the attributes of products and services we receive in the market. In fact, consumer decisionmaking is no different than public policy development.

On a broader level, we are in the throes of a fundamental, structural change in our economy and polity. Worldwide, public confidence and support are shifting away from the public to the private sector, and away from large to small institutions. Ironically, while we are seeing declining support in the public sector, we are experiencing rapid and growing concentration in the private sector--both in essential services, such as banking and in essential goods, such as food.

This shift in confidence away from the public sector is based on several things, including:

1) Demographic change. The central demographic change we often focus on is the aging of the population, leading to pressure on public budgets to support medical services and assistance. However, the maturing of the baby boomers--those born between 1945 and 1965--has been matched by the collateral

conservatism of 1980-1995. During that period, 12% of baby boomers shifted political allegiance from liberal to conservative causes/perspectives. Exacerbating this has been the suburbanization of the population, through which housing stratification has limited people's experiences and interactions.

2) Technological change is also moving us away from the public sector, shifting the locus of responsibility to individual decisionmakers. The technological changes most relevant to consumer affairs professionals relate to information access and management. I am pleased to see attention to the questions of information quality, sorting, and use being addressed at this meeting.

3) Internationalization of the economy has been driven by communications, transportation, and trade agreements. One corollary of internationalization is the end of the cold war and the need to develop a new basis for defining relationships among nations.

Whatever the underlying causes, the shift in confidence of the public sector has resulted in budgetary pressure at all levels of government and clear recognition of the need to establish new ways of doing business. In the Federal sector, budget pressure is measured in the 7 year budget accord of the President and Congress reached this winter. In the accord, discretionary spending (that is spending which is not legislatively mandated such as entitlements, some loan programs and a few--very few--priority programs) is set to decline almost 30% between now and 2002.

Budget pressure at the state level peaked in 1990, permanently influencing support for the public institutions where the vast majority of consumer research and education is conducted. Interestingly, government budget pressures at the local level were first severely manifested in the early 1980s, suggesting we should be watching local trends as a bellwether of national issues.

A second response of government to declining public support and growing skepticism regarding its role has been a tidal wave of regulatory reform, some in the form of streamlining, with most designed to reduce the role of government in private enterprise. Since 1994, the Federal code of regulations has shrunk--or been shrunken--by 37%. The goal of the Administration is to reduce Federal regulations by 50% by 1997, through reducing both the number and complexity of existing rules and significantly curtailing new rulemaking activity.

Again, regulatory reduction and reform have been the focus of efforts at the state and local level for almost a decade. Consumer protections--in the form of usury laws, cooling-off periods, disclosure requirements, and product grading and inspection--have decreased in

almost half of the states since 1995. More striking, in a recent review of state consumer protection legislation since 1992, I found no states which had passed (or rescinded) major legislation which would result in substantial new consumer protections. The Tennessee Legislature, for example, failed to pass legislation this year which would reduce the more than 250% interest rates charged by title lenders in the state. Legislative or regulatory protection, as a means to assure consumer well-being, is anything but a growth component in the tool boxes of consumer affairs professionals.

The decline in the size and support for public sector programs is necessitating a much needed and highly valuable reassessment of how government--and universities and other public entities designed to serve the common good--operate. This is reflected in an emphasis on strategic planning, performance management, improved accountability, new partnerships and collaborations. In the case of my agency, which is the Federal partner spending almost \$1 billion of taxpayers' money in support of a decentralized system of research, education, and extension in the agricultural, environmental, and human sciences, we are engaged in redefining the national interest vis-a-vis state and local concern in agriculture. We have set three broad goals for our programs which I believe will result in continuous improvement in food and agricultural science. We strive for 1) excellence, 2) relevance, and 3) usefulness, implemented through merit review, listening to stakeholders, and program evaluation and impact assessment.

What are the issues we need to address and the principles and actions which will guide consumer professionals through the churning waters of reform in public institutions? I believe we need to begin by clearly defining the business we are about. In 1974, the North Central Regional Research Coordinating Committee, NCR-52, still in business the last time I looked, set out to define and distinguish consumer economics, family economics, and consumption economics. That was one of the early systematic efforts to address the issue of specialization in our fields. I am pleased to see this issue on our agenda here. During the past decade, we have generated incredible expansion in financial planning and management professional education. We have witnessed, at long last, a recognition of household economic analysis, as a legitimate field of endeavor in economics. The work of many in this room was brought back into the mainstream of economics with award of a Nobel prize to Gary Becker. And we have watched or in a few cases participated in the struggle within home economics to rename the profession, resulting in adoption of nomenclature--family and consumer

sciences--which in some cases supports and in others, frustrates, the efforts of consumer professionals. These are only a few of the tentacles we have in related areas. In a world where "everybody's business is nobody's business," we need to hold ourselves responsible for defining the consumer interest and assuring that we and our students are prepared to conduct research, mount educational programs, and assess policies that advance it.

Second, I believe we need to listen to our stakeholders, not just by putting our ear to the ground and waiting for the signal that the herd is stampeding, but by actively engaging in on-going conversation not only with leadership of consumer organizations, but also with people who have real problems or who see opportunities in different ways. This may require that we forge partnerships not only with those who share our agenda, but also with organizations, institutions, and individuals with whom we have limited points of tangency and perhaps substantial points of divergence. The proposal put forth by Scott Maynes and Steve Brobeck to establish an ACCI issues advisory board is an institutional step--but only a step--toward this end.

Finally, I believe that those of us who serve the consumer interest need to aggressively and specifically articulate the value of consumer research and education in helping government and other public institutions meet their responsibilities for assuring consumer welfare, protecting citizens, and developing and assessing public policy. Similarly, we need to demonstrate how improved knowledge can support the transition from government intervention and protection to a market-based consumer economy. This will require an enormous commitment of intellectual leadership, political savvy, and organizational effort. I believe we have much of the groundwork in place.

I would like to develop one possible scenario for achieving this from that which I know best, agricultural research and education. Congress has passed a new Farm Bill which includes in the Research, Extension, and Education title, a new section, 1419a, authorizing Policy Research Centers. Specifically, the Department may make grants, enter into cooperative agreements or contracts with policy research centers which conduct research and education programs that are objective, operationally independent, and external to the Federal Government and that concern the effect of public policies on--

1. farm and agricultural sectors
2. the environment
3. rural families, households, and economic
4. consumers, food, and nutrition

State agricultural experiment stations, land grant

universities, and other universities and research institutions and organizations, private organizations, corporations, and individuals are eligible to compete for funds to support policy research centers.

This legislation is the essential step in providing a mechanism to solidify research, education, and policy expertise in the consumer interest. A consumer policy center could assess the return to investment in consumer economics research, address long standing issues such as the relationship of well-being to financial status and consumer policy. A center could address theoretical issues, such as the components of a consumer decisionmaking model. A center could establish and maintain data bases needed for impact analyses.

Federally-supported infrastructure for a consumer policy center, could be located at one institution, multiple institutions, operated through a consortia, as an arm of a professional group, or as a virtual center connected to many individuals and institutions electronically. Other models such as the National Bureau for Economic Research, a consortium of excellent economic theorists and analysts also is worth pursuing. The point is, if we believe consumer policy should be based on credible, consistent research, and if we believe consumer information, education, and the professionals who deliver these programs need to be informed by science driven analysis, we need to coalesce that belief in a strong focal point.

John Bryne, President Emeritus of Oregon State University, tells of a faculty member inspired by a call to action issued by the former evangelist who now presided over a university. At the end of the fall faculty meeting, hearing the inspirational administrator, one smitten professor rose and shouted out, "Take me, Lord, Take me--but in an advisory capacity." It's easy to advise action; I know how hard it can be to take the next definitive step and engage the effort.

The first question that arises in these times of downsizing and reduced funding levels is where do we find the financial resources? Let me again draw from what I know best--agricultural research and extension. I mentioned our need to articulate the value of consumer research and education in helping consumers transition from a regulated, protected marketplace to an information based, market-driven economy. An analogous problem is confronting production agriculture. Agricultural scientists used a highly effective strategy to seek a portion of public savings (in this case, mandatory dollars from the commodity credit corporation) to establish the Fund for Rural America -- a 3-year program to provide \$300 million to support research, education, and rural development.

I expect to see neither substantial growth in the

public sector, nor a return to a highly regulated, protected consumer market in my professional lifetime. I do hope to see a renewed clarity of purpose among consumer professionals leading to policy which will yield continuous improvement in consumer welfare. I encourage you to share my commitment to science-based public policy, particularly working toward excellent, relevant, and useful research and education to guide consumer policy. Perhaps one day this lecture will be jointly sponsored by the ACCI and the Esther Peterson Center for Public Policy Research.

Endnote

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Observations About the Role of Consumer Professionals During "The Worst of Times and the Best of Times"

E. Thomas Garman, Virginia Tech¹

When examining the role of consumer professionals in an era of regulatory reform and downsizing, such discourse must occur in the context of an economic and business environment that continues to change. Illustrative of this point is Secretary of Labor Robert Reich's frequent observations about today's "anxious worker."

Today's Anxious Consumer Affairs Professional

In the context of the consumer movement, what also exists in today's workplace is the "anxious consumer professional." This term denotes consumer affairs specialists in business, consumer protection experts in government, and consumer economics professors and researchers in colleges and universities. It is my conclusion that in these times of economic uncertainty, consumer affairs professionals have to do the same thing that almost all of today's workers have been and must keep on doing—"Rethink and retrain ourselves, what we do, and how we do it!"

Consumer Protection in an Information-Based, Market-Driven Economic System

The consumer protections that the American society now enjoys are largely legislative and well institutionalized. These regulatory agencies, laws and regulations are purposive in that they have been created to achieve the goal of consumer protection, which occurs in most marketplace transactions as well as in business and government decision-making. As the same time, however, there remains a lingering degree of uncertainty for consumers.² In their collective psyche, consumers have grown into adulthood "knowing" they have legal and moral rights, but they are not sure about the specifics. Further, today's consumers are overwhelmed with choices in our market-driven economy.

We had an "information-based, market-driven economic system" one hundred years ago. In those days, the sellers were the kings in marketplace transactions who dictated the why, who, what, where, and when of consumption. As recently as 35 years ago, the dominant

law of redress for consumer transactions was the Uniform Commercial Code (emphasis added). (Most states waited until the 1960s to pass consumer protection laws.) Thus, yesterday's consumers had precious little information available and they were further hampered by a lack of redress mechanisms. While we still live in an information-based, market-driven economic system, today's consumers are better informed.

Consumers Continue to Shop in Imperfectly Competitive Markets

Consumers always have had imperfectly competitive markets. The deviations, or market failures, include (1) a lack of competition, (2) negative externalities, (3) imperfect information, and (4) the overuse of public goods. These imperfections are precisely the arena of consumer protection efforts.

Government efforts to promote competition are an absolute necessity, since consumers are generally incapable of observing price fixing and collusion. Government also is expected to deal with negative externalities, such as pollution and resource preservation, because such an interest generally is not parallel with the profit motive.

The arena of imperfect information is clearly within the realm of consumer professionals, whose job it is to empower consumers with education and knowledge so that consumers themselves can discipline the capitalistic marketplace with their economic votes. (The competitive market wisely responds by providing more and better information, too.) Responsible economic voting also decreases uncertainty for consumers in marketplace transactions. Thus, market failures are challenged by the very essence of the consumer interest—seeking value for money as well as equity for all consumers.

Equity Concerns of Consumers

The societal concern with equity—the justice of any distribution of goods—is well within the common interests of consumers. Equity goals include (1) equalizing the distribution of political and economic power, (2) altering the distribution of income, and (3)

reducing uncertainty. The United States has made enormous progress on these equity goals—especially since the 1930s—although slippage has occurred in income distribution since 1978. History reveals that the more informed and educated societies are less willing to accept inequities. Such change, of course, takes time. Life for consumers in the United States is so much better than 100 years ago, or even just 35 years ago. For ample details about American progress on equity goals, see James Carville's (1996) book, *We're Right, They're Wrong*.

Consumer Professionals Are Under Challenge

Yes, today's consumer professionals are under challenge, and in some quarters they are under threat. Here is an illustration. Over the past two years the radical-extremist conservative governor of Virginia gutted consumer protection by cutting the number of employees in the state office of consumer affairs from 35 to less than one dozen. Because of massive pressure from the reputable businesses community, politicians of all persuasions, and various consumer action organizations, the state legislature overrode the governor's efforts. Later this summer, the OCA's 800-number will be reconnected and its work force will rise to 19. This pro-consumer protection reaction to radical-extremist, anti-consumer politicians is becoming more typical.

The Need for Consumer Education Has Never Been Greater

Today's consumers can be described (to borrow a phrase) as "harried consumers." They are overwhelmed with choices, flooded with information (and much of it is very good and useful), forced to accept responsibility for buying and investment decisions, and living in a time when crass commercialism is becoming society's dominant value system.

Such times argue that there has never been a greater need for consumer education in the United States than today. Today's consumers do not comprehend their legal and moral rights. Consumers also have a weak understanding of sellers' everyday persuasive techniques. Knowledge of ripoffs and frauds is dismal, with one out of every six consumers annually being a victim of a serious deception. The list of problems and challenges facing consumers goes on and on.

The Future for Consumer Affairs Professionals is Bright

The fundamental responsibility to protect consumers in marketplace transactions has been and always will remain with consumers themselves. This implies, of course, that consumers be knowledgeable about their legal and moral rights in consumer transactions. Then and only then can consumers be empowered to provide some of the discipline necessary to keep the marketplace honest. Businesses will continue to help consumers by providing useful information and helpful redress systems because it is "good business" to do so. Government will not go out of business of consumer protection either because consumers, businesses, and politicians will not permit that to occur. The desire for the "level playing field" of an honest marketplace was long ago shown to be the common interest of sellers, consumers, and governments.

The preparation of consumer affairs professionals in colleges and universities—contrary to the predictions of some doomsayers—is a growth industry. Businesses want consumer affairs graduates. Businesses are hiring—and promoting—our graduates largely because consumer affairs majors understand the importance of protecting the interests of consumers in whatever work endeavors they follow.

These are not the worst of times for consumer affairs professionals, rather the current times are another evolutionary step in the consumer movement. The proverbial glass of water is neither half empty nor half full for consumer professionals—it is more than half full. Consumer professionals must seize the opportunity to, "Rethink and retrain ourselves, what we do, and how we do it!" Why? Because the best is yet to come.

Acknowledgements

I am indebted to Angela Cichocki for her excellent notetaking of the extemporaneous comments made during my oral presentation, reflected in this manuscript.

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Small Change: Problems and Prospects in Child Support

The role of child support payments as resources invested in children is explored. There was at best a small change in child support payments during the 1980s and 1990s, and inadequate child support amounted to no more than "small change". Both the problems collecting child support and the consequences for children's well-being are examined. I conclude with a policy agenda, actions that can be taken, and speculation about why progress has been so limited.

Andrea H. Beller, University of Illinois¹

Introduction

The increase in the percentage of children living with only one parent is one of the most striking trends transforming the American family. The percentage increased from 12 in 1970 to 27 in 1993 (U.S. Bureau of the Census, 1994). Put another way, if present trends continue, six out of every ten children born today will spend part of their childhood in a single-parent family, usually headed by a mother (Norton & Glick, 1986).

Children who live in mother-only families suffer from low incomes and smaller inputs of parental time. Many of these children fall into poverty and are forced to rely on welfare. In 1992, more than half of all children in mother-only families lived in poverty compared with only 10% in married-couple families [(U.S. Bureau of the Census, 1992; table 6). See Figure 1.] During any given year in the 1980s, more than 40% of all female-headed families with children under 18 years old participated in the Aid to Families with Dependent Children (AFDC) program (Moffitt, 1992). The absence of one parent from the household almost inevitably reduces time available for investments in children.

Lower resources invested in children should raise our concern about the future generation. For the direct link between early investments in children's human capital and their socioeconomic attainments as adults, such as their education, employment and wages, has been well established in the literature (for a review, see Haveman & Wolfe, 1995). Less investment in children means poorer outcomes for them as adults.

Importance of Child Support

One factor contributing to the economic plight of many of these families is that too often the children's fathers provide little or no financial assistance and see

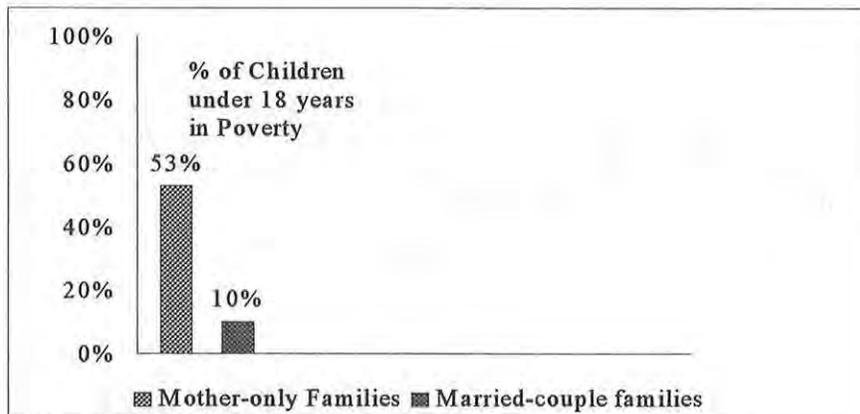
their children infrequently, if at all. Not surprisingly, the public has come to view child support--that is, regular, legally-mandated payments from a noncustodial parent to a custodial parent--as one of the keys to improving the economic well-being of mothers and their children (Beller & Graham, 1993).

Government efforts to insure that able-bodied noncustodial parents fulfill their financial obligations to their children intensified along with the growth in single-parent families and the associated increases in public expenditures on welfare. Federal efforts officially began in 1975 and by the end of the 1980s, child support enforcement had become the first line of defense in the government's long-running war on poverty and welfare dependency. Title I of the Family Support Act of 1988 placed primary responsibility for the support of children squarely on the shoulders of their parents (Beller & Graham, 1993).

Contribution of Child support

Receiving child support can benefit a child in many ways. Immediate and direct benefits may include lifting the child and his mother out of poverty, allowing them to escape welfare. The payment of child support can enable the single mother to find high-quality child care so that she can work. The incomes of women who receive child support are higher than of women who do not, and the difference exceeds the amount of child support received. This is due in part to the fact that women who receive child support are more likely to work, work longer hours, and earn more income than women who do not receive child support (Graham & Beller, 1989). This occurs, in part, because child support reduces the likelihood of welfare participation, which in turn, tends to increase work effort even more. In addition, child support income *per se* appears to deter work effort less than equivalent amounts of other

Figure 1
Poverty of Children by Living Arrangement, 1992



Source: U.S. Bureau of the Census (1992).

nonwage income (Beller & Graham, 1993). There is also some evidence that the payment of child support is associated with increased contact between the noncustodial father and the child (Wallerstein & Huntington, 1983; Lerman, 1986). Long-run benefits for children include greater socioeconomic attainments later in life, with particular emphasis of many studies placed on educational attainment as the outcome (Beller & Chung, 1988; Beller & Graham, 1993).

Discussion of Theme

Small Change

The theme of this talk and of our book, *Small Change*, means that there was at best a small change in child support payments during the 1980s, and as best as I can tell during the 1990s as well, and that for too many mothers and children inadequate child support payments amounted to no more than "small change" (Beller & Graham, 1993; p. xxi).

Problems with Child Support

It wasn't that long ago--it was in 1980 when the Census Bureau released findings from its first national survey of child support and alimony--that the full extent of the problems with child support had become widely known (U.S. Bureau of the Census, 1980). That survey revealed that only 59% of the roughly 7 million mothers with children under 21 whose father was living elsewhere in 1979 had a child support award. Among the roughly 3.5 million mothers with an award and due

payment in 1978, one quarter received no payment at all, and another quarter received less than the full amount due. Among the 2.5 million mothers who received some support in 1978, the average annual payment was just over \$3300 in 1989 dollars, to help support an average of nearly two children (U.S. Bureau of the Census, 1991). The survey also found that on each of the aforementioned child support outcomes, black women and never-married mothers--groups that form a high proportion of both the poor and welfare populations--fared much worse than average (Beller & Graham, 1993).

Prospects for Child Support

We did more in our book than just uncover the many problems with child support; our data analyses also revealed some cause for optimism. We showed that the relative constancy of aggregate child support statistics over a decade and a half concealed some important underlying changes. First, our detailed analysis of aggregate statistics revealed notable gains for both black mothers and never-married mothers, relatively small groups in the population eligible for child support. Second, our statistical analyses revealed that opposing forces were responsible for the apparent lack of change in award and receipt rates shown in the aggregate statistics (Beller & Graham, 1993). Because receipt rates did not fall, and in fact increased for some subgroups of the population, we were able to infer that changes in public laws and private attitudes had had a positive impact. We also documented that without the

improved legal and social environment, the real value of child support awards would have declined even more than they did due to adverse socioeconomic changes in the composition of the population eligible for support, to the stagnation of male incomes after 1973, and to the impact of inflation on both existing awards and newly-made ones (Beller & Graham, 1993).

We also devoted attention to how child support laws have been related to both the progress and the persistent problems we identified. Historically, state laws varied considerably, but the 1984 Child Support Enforcement Amendments mandated a uniform set of laws for all states, and the 1988 Family Support Act further tightened some of these requirements. Until recently, most new child support legislation addressed problems with the enforcement of existing awards rather than the creation of new ones. The relative absence of guidelines and the weakness of paternity legislation were probably responsible to some extent for the problems of the low and declining value of awards and the lack of awards among the never-married (Beller & Graham, 1993). As more information has become available, lawmakers have continued to revise and attempted to strengthen these laws.

Problems with Child Support

Now, I will discuss some of the ongoing problems in child support. I will consider in turn the lack of award and payment, the inadequacy of awards, interstate enforcement, never-married mothers and paternity establishment, and noncustodial fathers. I will begin with information assembled for our book and update the issue where further information is available. Some degree of comparability over time has been lost because in 1992, the Census Bureau changed some of its questions in the April Current Population Survey (U.S. Bureau of the Census, 1995).

Lack of Award and Payment

An examination of child support outcomes across the repeated Census surveys of the population eligible for child support shows how little things had changed by 1990.² As of April 1990, 58% of the roughly 10 million mothers with children from absent fathers had a child support award, down from 61% in 1986, and 59% in 1979. During 1989, 75% of all mothers due support actually received some payment, up from less than 72% in 1978. Among those receiving support, the average amount of child support received fell 25% between 1978 and 1985, adjusted for inflation. After that, receipts rose, but even by 1989 the real value of child support received was 12.5% less than in 1978.³

Inadequacy of Awards

Even if child support awards had kept pace with inflation, would they be adequate? We offered three vantage points from which to evaluate the adequacy of existing awards. First, we showed that child support awards are low and have been declining relative to father's ability to pay as measured by average male incomes. New awards as a percentage of men's incomes declined from 16% in 1970 to 12% in 1984. By almost any standard, these declining percentages would have to be considered alarmingly low for an average of roughly 1.7 children. Both Massachusetts and Wisconsin base their guideline percentages on the noncustodial parents' gross income: Massachusetts recommends 25 to 30% for one to two children and Wisconsin requires 17% for one child and 25% for two children (Garfinkel & McLanahan, 1986). Thus, it would appear that, since at least 1970, new awards as a proportion of male incomes have fallen well below these mandated guidelines.

Second, we showed average awards are too low to meet children's needs as determined by actual expenditures on children from studies on costs of raising children and even by the minimal living standards incorporated into the official poverty line. And finally, we showed that at current levels, awards have little potential for reducing poverty and welfare dependency among women and children.

The Family Support Act of 1988 has several provisions designed to attack two sources of the problem of the inadequacy of awards. First, it makes the use of guidelines by the states mandatory; although the guidelines vary widely, awards are specified as a percentage of the noncustodial parent's income. Second, it provides, beginning in 1993, for the review and adjustment of awards established under the state child support enforcement program every three years (Beller & Graham, 1993).

Interstate Enforcement

A major problem has existed with interstate enforcement. Since child support enforcement functions as a state-by-state system, a noncustodial parent used to be able to flee across state lines to avoid paying child support. Some states were lax about enforcing orders from other states. About two out of ten noncustodial parents live in different states from their children (U.S. Bureau of the Census, 1995; Table C). Now, if the noncustodial parent can be located, he can face criminal penalties for fleeing across state lines to avoid paying child support. Research we carried out for our book showing that criminal penalties for nonsupport were effective state laws served as invited testimony at hearings held on Capitol Hill in January 1992. The

Child Support Recovery Act of 1992 was passed into law in October of 1992.

Never-married Mothers and Paternity Establishment

While the divorce rate has leveled off, the out-of-wedlock birth rate continues to rise. Thus, paternity establishment is becoming more and more of an issue. As of April 1992, never-married mothers comprised 26% of all custodial mothers (U.S. Bureau of the Census, 1995; Table A), up from around 20% during the early eighties (Beller & Graham, 1993; Fig. 2.2). The Family Support Act of 1988 required states to meet Federal standards for establishing a minimum percentage of paternities, with the ultimate goal of reaching 50%. It also required states to obtain the Social Security numbers of both parents when issuing a birth certificate. In 1992, 27% of never-married mothers had a child support award (U.S. Bureau of the Census, 1995; Table 1), up from only around 16% during the early 1980s (Beller & Graham, 1993; Table 2.1). Assuming that paternity establishment preceded the award, these figures suggest that this law resulted in some progress, but that we still have a ways to go. A recent paper concludes that "...paternity establishment is important for child support success and can be altered by policy" (Freeman & Waldfogel, 1995; p. 19).

Noncustodial Fathers

The issue of noncustodial fathers' role in the support of their children appears to underlie many of the aforementioned problems. In terms of economics, it has been established that noncustodial fathers can afford to pay much more than they are paying now (Sorenson, 1995). Then why are there so many seemingly intractable problems? Economic theory forms the basis of one argument that fathers who live apart from their children cannot observe their children's consumption, thus reducing the amount of money they will be willing to transfer to their children (Weiss & Willis, 1985).

Consequences of Child Support

While our book delineated in great detail the **problems** with child support, it defined a *new* area of study on its **consequences**. The evidence we presented firmly documented the value of higher payments by showing how they improve the economic well-being of children. We examined to what extent child support payments augment the income of single mothers and their children. We also considered the effect of child support on dimensions of family behavior including a mother's decisions regarding employment and whether or not to marry or remarry, and a child's decisions about

his or her own schooling. In turn, these decisions affect not only current but also future well-being. Thus, child support payments have important implications for both the current and the future generation.

In September 1995, a conference on the consequences of child support enforcement for nonresident fathers was held at Princeton University, for which a number of papers had been commissioned. Among the consequences covered were their labor supply, marriage and fertility, nonmarital fertility, and parental contact and conflict.

What I want to focus on now is the consequences of child support for children's educational decisions. This is an area that I have pursued entirely with graduate students working on their Ph.D. dissertations, and I am looking for the next graduate student who would like to work in this vibrant research area.

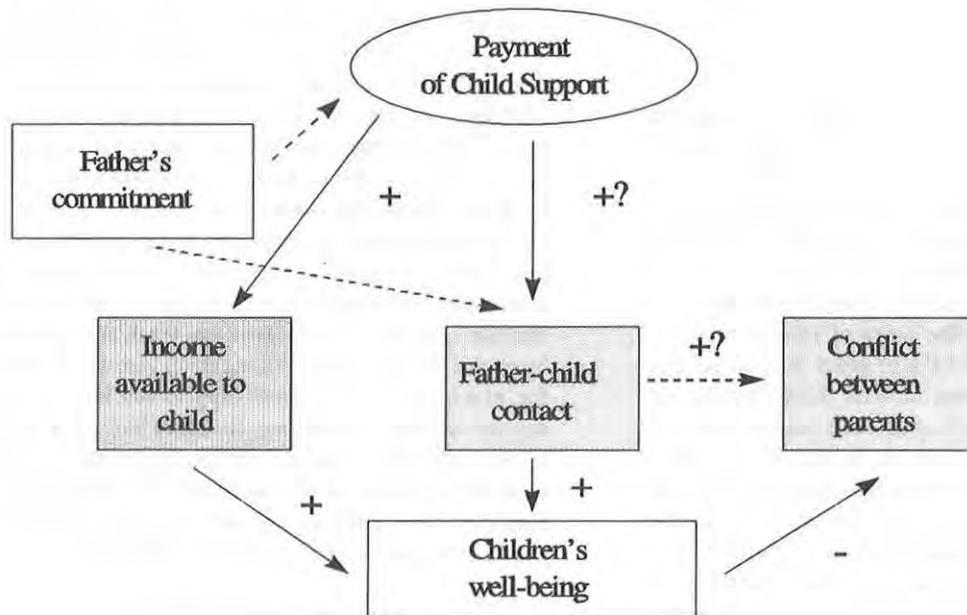
Children's Educational Attainment

Most of the research on the consequences of family structure for children focuses on their educational attainment. One of the pathbreaking studies in this area was carried out by Sheila Fitzgerald Krein who found that young adults who ever lived in a single-parent family attain less education than those who have always lived in an intact two-parent family (Krein & Beller, 1988). The findings also suggested that the resource differential extends beyond money because the lower income of the single-parent family does not explain the entire educational differential (e.g., Krein & Beller, 1988; McLanahan, 1985). Interestingly, not all sources of income have an equal positive effect on educational attainment; Seung Sin Lee Chung was the first to show that child support income had a larger effect on education than other income (Beller & Chung, 1988).

Recently, Pedro Hernandez has shown that part or all of the stronger positive effect of child support than of other income on children's education may represent nonmonetary aspects of the father-child relationship, such as interest in the children's development, parental values or childrearing practices, or the presence of a male role model in the child's life (Graham, Beller & Hernandez, 1994; Knox & Bane, 1994; Hernandez, Beller & Graham, 1995). These unobservables affect both child support payment and children's educational attainment.

Is it child support income per se or something about the men who pay child support? Hernandez formulates a model designed to provide indirect evidence on the impact on educational attainment of characteristics of non-custodial fathers (Hernandez,

Figure 2
 Relationship Between Child Support and Children's Well-Being



Beller & Graham, 1995; Hernandez, Beller & Graham, 1996). Arguing that the strengthening of the child support enforcement system during the 1980s would have brought more reluctant payers into the system, he predicted a decline in the beneficial effect of child support. If the stronger positive effect of child support than of other income was associated with positive characteristics of fathers who paid *voluntarily*, then the extent to which the effect was stronger should have diminished over time. Using the CPS data, he examined changes between 1979 and 1988 or between 1984 and 1988 in the effect of child support on three measures of children's educational attainment and found evidence consistent with this hypothesis.

Problem of selection. This hypothesis is based on the concept of selection. It states that fathers who pay support voluntarily are different in unobservable ways from those who don't. The research described above assumes that the payment of child support *per se* does not cause fathers to become more involved with their children.

What do we know about these relations and what do we still want to know? This work raises a series of questions of importance to public policy. (See Figure 2.) First, does the payment of child support itself cause nonresident fathers to become more involved with their children? Second, can public policy intervention cause

fathers who become payers through the child support enforcement system to become more involved with their children? And finally, would this increased involvement benefit children? Fathers who pay, but only reluctantly, may compensate by decreasing their involvement with their children in other ways, or their reluctance may lead to increased conflict with the child's mother, which would reduce the child's well-being (Seltzer, 1991; Seltzer, Hanson, & McLanahan, 1995). Yet other fathers who pay child support reluctantly may simply lack the necessary skills to become involved with their children, and for this group, programs that accompany child support enforcement with the "development of parenting and other life skills," as recommended by Hernandez, Beller and Graham (1995; p. 259), might be effective. But, it may be that father's commitment increases both child support payment and father-child contact, making it look like payment is increasing contact. This is the same problem of unobservables that plagues our research on the effect of child support on children's educational attainment.

Prospects for Child Support in the 1990s

For the benefit of the next generation, it is crucial that we find ways to get absent fathers to provide adequate support for their children. The intractability of

the problem suggests that this is to some extent a question of family values. Are men becoming more or less committed to their children and what are the societal influences that are shaping this?

Policy Agenda for the 1990s

We concluded our book with a policy agenda for the 1990s. I will share with you some of the highlights.

Continue to work on the development and full implementation of mandatory guidelines for child support awards. (1) Guidelines should incorporate percentages of income that are based upon the latest reasonable estimates of the costs of raising children, which at that time were 18% of gross income for one child, 27% for two children, 32% for three children and 36% for four children. (2) Implement a uniform national system of guidelines in place of the present state-by-state system. Developing a uniform national system would mean that only one set of guidelines would be needed rather than 50. The time and money saved could then be used to update child cost estimates on a regular basis. A national system of guidelines might even help reduce the problems with interstate enforcement.

Continue vigorous enforcement of effective child support techniques. (1) Add criminal penalties for nonsupport to the federally-mandated arsenal of enforcement weapons. As I indicated earlier, this step has already been taken. (2) Encourage innovative approaches to child support enforcement, especially for the self-employed and chronically unemployed. For example, the Illinois House approved on March 27, 1996 a bill to place a list of deadbeat dads on the internet and to deny marriage licenses to individuals who owe back child support.

Develop and implement policies that facilitate greater investments in the education of children in single-parent families. (1) Extend child support beyond age 18 for students enrolled full-time in high school, and extend child support to age 22 for students enrolled full-time in any postsecondary education. In addition, either require the noncustodial parent to pay a proportionate share of expenses up to the tuition and fees at the major state university in the state or establish a trust fund as part of child support agreements to provide savings for children who are expected to enroll full-time in postsecondary education. (2) Develop policies that encourage increased contact with the noncustodial parent but take into account the possibility of the negative impacts through increased conflict between the parents.

Actions that can be taken by Family and Consumer Economists

There are some actions that family and consumer economists can take. **Family economists** can continue to contribute to the development of the cost of raising children estimates as Mark Lino has done. In addition, they can work to get reasonable guidelines passed in their states and provide their expertise when their state guidelines come up for revision as mandated by law. **Financial counselors** can work on getting single mothers and noncustodial fathers to understand the value of establishing college trust funds and continuing child support beyond age 18 for full-time students. **Consumer educators** can teach teenagers that having a child is at least an eighteen year commitment for, at a minimum, financial support and ideally, other support as well. **Graduate students** and other young scholars should consider contributing to the growing body of research on the consequences of changes in family structure, child support payment, and contact with noncustodial fathers for children's well-being.

Summary and Conclusion

Despite all the efforts, child support isn't paid now any more frequently than it was a decade and a half ago. We need to continue to work on the goal of getting children fully supported, so that they can attain their full potential as adults. The missing key to future progress and the one that has allowed inadequate provision of support to go unchecked for too many years, is lack of a national commitment to the economic well-being of children, our primary national resource. Until and unless a national consensus is reached which puts our children's well-being first, we may find that new laws and regulations cannot bring about improvements in the award and payment of child support of the magnitude that are so desperately needed (Beller & Graham, 1993).

Acknowledgements

I am grateful for the excellent and persistent research assistance of D. Elizabeth Kiss in preparation of this talk.

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Endnotes

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2. The second Census survey on child support was conducted in April 1982, and subsequently, they have been conducted every two years. All of the statistics in this paragraph were obtained from U.S. Bureau of the Census, Current Population Reports, Series P-23, No. 112, and Series P-23, No. 173.
3. This rise may need to be viewed with caution due to some possible change in the way the Census Bureau measured the amount of child support received that may break comparability with earlier data (Meyer, 1992).

The Informed Consumer: The Believability of Non-Test Consumer Ratings

This paper was part of a general session, "Behind the Ratings: a Review of Consumer Product Testing", organized by E.Scott Maynes as means to establish a stronger scientific foundation for consumer product testing and rating. It also serves to introduce ACCI members to consumer product testing and rating as carried out in Europe and better appreciate the foundations on which U.S. product testing is conducted by Consumers Union.

Erik de Gier, Ph.D., Consumentenbond, Netherlands¹

Introduction

Consumentenbond is the Dutch Consumers Union. Its leading publication, Consumentengids, or Consumer Guide, has 660,000 subscribers, or about one in ten households. This 10 percent penetration is about double that of the other leading Consumers Unions. Consumentenbond is a members organization, whose members automatically receive Consumentengids. In addition, members can subscribe to two other magazines dealing with Personal Finance and Travel respectively. Consumentenbond also does complaint resolution and offers free legal services to its members. The organization relies on revenues of \$46 million (1 guilder = \$0.5279) and a staff of 270 to carry on its activities. Besides its periodicals, Consumentenbond is a major publisher of books and compact discs. The consumer issues that concern Consumentenbond most these days are health care and personal finance.

The Research Division of Consumentenbond numbers 70 and includes engineers, social scientists, economists and lawyers. The activities of the Research Division cover the entire range of research--comparative product testing, health and nutrition research, environmental research, as well as research on services. Unlike Consumers Union, USA, Consumentenbond does not have its own test labs. Instead, it "farms out" its testing to independent laboratories.

Consumentenbond is a major collaborator with other consumer organizations. It is one of the chief partners in International Testing, the group that subjects products marketed in different European countries to identical tests. It is also an active participant in BEUC, the pan-European organization that seeks to influence policy in the European market.

Within its own country Consumentenbond is one of the most influential Consumers Unions in the world. It is one of the few CU's that negotiate on equal terms with industry and government. The Director of Consumentenbond has regular contacts with Cabinet officers in the Netherlands Government.

My discussion focuses on four topics:

- the methods employed in the evaluation of services;
- the impact and significance of research on "consumer satisfaction";
- new developments in research on services;
- the believability of ratings of services.

In dealing with these topics, I will pay some attention to the European dimension. At the end of my paper I will seek to make the case for research on consumer satisfaction as a new and powerful tool for consumer organizations.

The Evaluation of Services: Our Tool Kit

At Consumentenbond research on services covers the following topics:

- financial services;
- telecommunication and other information services;
- public utilities and transportation;
- health services;
- private (commercial) services;
- price surveys.

In collecting information on services, we employ a variety of methods, each tailored to the problem at hand. Our methods include desk research, "ghost shopping", sample surveys, panel studies, and complaint analysis. I will describe these methods very briefly and give some examples.

Desk Research

Desk research consists of the selective scrutiny and culling of all relevant publications, whether print or computer, from public or private sources. The advantages of desk research are its ease of collection and low cost. Since published information is not usually current, desk research typically signals the beginning of a more extensive search for information, to be followed up by ghost shopping, survey research, or some other approach. A great virtue of desk research is its ability to produce compact, readily understood tables, e. g., tables comparing the interest rates and terms offered by different banks on mortgage loans.

A majority of the articles in the 1994 and 1995 issues of *Consumentenbond's* Personal Finance magazine are based exclusively on desk research. The tables speak for themselves and the quality of the information is excellent. There is no need to recommend "Best Buys"; the winners are obvious.

Ghost Shopping

"Ghost Shopping", or Mystery Shopping, seeks to simulate the experiences of ordinary consumers in purchasing some service or item. In Ghost Shopping an experimental person (s) presents himself as a customer or potential buyer of services. What Ghost Shopping records, ever so vividly, are the gambits and sometimes exaggerated claims which salespersons employ to make the sale. Sometimes Ghost Shopping reveals the unwillingness or inability of sellers to provide the purchaser with relevant information. And sometimes, Ghost Shopping identifies salespersons who are helpful, honest, and knowledgeable, i. e., performing the role that consumers properly expect of them. Ghost Shopping may involve actual store visits or sometimes, just telephone contacts.

Methodologically, Ghost Shopping constitutes an exercise in investigative journalism. It is intended to dramatize consumer problems. And it serves the magazines by arousing reader interest. Ghost shopping can also be viewed, like focus groups, as a first step in coming to understand what consumer problems exist and what accounts for them.

Consumentengids and the other two magazines regularly feature the results of Ghost Shopping. These attract readers' attention and warn them of the sometimes false "pitches" they will encounter when shopping. In 1994 and 1995 Ghost Shopping was used to explore the extent of illegal price fixing by different kinds of sellers, for example, real estate agents, window cleaning firms, pharmacists and drug stores.

Cross-Sectional and Longitudinal Sample Surveys

Consumentenbond relies heavily on sample surveys with sample sizes and the representativeness of the sample varying with the purpose of the survey.

Phone Call "Actions" represent a combination of research and "campaigning." In these annual "Actions" interviewers telephone representative samples of members and non-members and seek information on a major theme. Actions in the last five years have dealt with:

- 1989. Problems in buying and using pharmaceutical products;
- 1990. Consumer complaints about environmental problems, e.g., chemical waste, noise, traffic, transportation.
- 1994. Problems with public services--telephone, transportation (air, rail, bus), post office, bureaucracies, etc.
- 1994. Consumer problems in dealing with insurance companies.
- 1995. Problems consumers encounter dealing with banks.

The objectives of these Action Surveys are three: (1) to put together an inventory of complaints and problems; (2) to provide "stories" that will command attention and help focus public concerns on the issue of the year; (3) to use the findings as "ammunition" in seeking changes in policies and practices. These Action Surveys were conducted over a week and resulted in 3,000-5,000 complaints each. The table below shows the distribution of complaints on banking services that were obtained from the 1995 Action Survey.

A second type of sample survey invites members or special groups to participate in Focus Groups or controlled use tests (e. g., shavers) or to report on their experience with some service.

"Real" Surveys are those that meet the common methodological standards of social research. This means that particular attention is paid to sample design so that the resultant sample can be claimed to be a probability sample, entirely representative of the parent population. *Consumentenbond* rarely uses Real

Surveys: ordinarily they are too expensive. Consumentenbond's goals can be achieved by using less expensive surveys of members, surveys that cannot claim to be representative.

Table 1
Relative Frequency of Consumer Problems, 1995 Action Survey (n = 3,252)

| | % |
|-------------------------------|------|
| Within country check clearing | 41.7 |
| Borrowing | 19.8 |
| Service | 11.5 |
| Savings | 7.4 |
| International payments | 7.3 |
| Investments | 5.0 |
| Combinations of services | 2.4 |
| Others | 4.9 |

One Real Survey dealt with consumer behavior and problems with respect to payments and covered such instruments as ATM machines, credit cards, and checks. Another Real Survey dealt with the Chronically Ill. This was a Panel Study that was carried out in collaboration with a health research institute and a consumer research institute. The focus of this study was on alternative ways of achieving recovery. Respondents were asked to fill in booklets, recording their encounters and experiences with different health professionals--general practitioners, dentists, etc. Yet another type of Real Survey is Consumentenbond's continuing Readership Panel in which respondents are asked to evaluate particular articles in Consumentenbond's periodicals.

Consumentenbond also maintains an ongoing panel of 7,000 members who are car owners. This panel is mined for three-times-a-year articles on car satisfaction, costs of ownership and driving costs, frequency-of-repair, accident claims, and a comparison of the costs of buying new vs. used cars.

Usability Research

From time to time Consumentenbond carries out research on the "usability" of certain products, denoting the ease and effectiveness with which each product can be used. Survey respondents and/or expert panels are asked to render positive and negative judgments on various aspects of usability. Usability research covers both user manuals and the operation of the product. In 1995 usability projects dealt with color televisions and the use of microwave ovens by the elderly and in 1996 with VCRs.

Consumer Complaints

In the realm of consumer complaints, Consumentenbond culls extremely useful information from the files of its Customer Complaint Division. As mentioned earlier, Consumentenbond operates the country's primary consumer complaint resolution service. Consumentenbond's complaint department serves only members. Typically the Legal Service Division of Consumentenbond receives more than 15,000 written complaints. Since 1993 this department has stored information on most of these complaints in an electronic database called the Uniform Complaints Register, or UKR. Recorded in UKR are the product involved, the nature of the complaint, and the resolution of the complaint. Thus, UKR provides a comprehensive, up-to-date, and detailed picture of consumer complaints as well as showing how the frequency of complaints changes over time. Table 2, based on UKR data, shows the distribution of complaints by type of product or service.

Table 2
The Netherlands: Complaints by Product/Service, 1994
 (Source: UKR, SWOKA, 1995)

Number of Complaints

| | |
|----------------------------------|-------|
| Purchase of consumer durables* | 1,874 |
| Repairs and traditional services | 840 |
| Financial services | 2,061 |
| Liberal professions | 203 |
| Health sector | 274 |
| Semi-collective services | 1,222 |

*includes cars, furnishings, and household/kitchen appliances

In resolving consumer complaints, The Netherlands also utilizes Arbitration Committees. These are voluntary committees established across the country with the support of Consumentenbond, retailers, and manufacturers. They handle about 4,000 complaints a year. This information, too, is used by Consumentenbond for consumer education.

New Developments in Services Research

Over the last decade Consumentenbond has been trying to develop permanent, updated electronic data bases for Health Insurance and for Automobile Insurance that would provide our members with Tailored

Advice, that is, advice that fits the needs of the particular individual or household. Both health insurance and auto insurance are characterized by numerous suppliers, many different policies, and myriad terms.

This is exactly the situation for which modern computers are suited. Consumentenbond's future delivery of Tailored Advice via computer online services on the Internet is facilitated by the fact that 65 percent of members have personal computers in their homes.

The goal of Tailored Advice is to improve market transparency for these two services and thus make it more likely that members of Consumentenbond obtain just what they need at a reasonable price. As time passes, Consumentenbond expects to enlarge the set of services for which Tailored Advice is available, starting with pensions and term insurance.

Another new development is the combination of product testing with services research. An article in Consumentengids will include the results of ghost shopping, laboratory tests, usability research, and frequency of repairs surveys, all pertaining to, e.g., microwave ovens. In the future we will be doing more of this. This approach will provide our readers with appraisals of all aspects of the product or service in which they are interested. Table 3 depicts Consumentenbond's current reliance on various approaches to information collection published in the main magazine and the money guide.

Table 3
Data Collection Methods Used by
Consumentenbond, 1994 and 1995

| Method | 1994 | 1995 |
|----------------------------------|------|------|
| Laboratory product tests | 60 | 60 |
| Desk research | 66 | 70 |
| Ghost shopping | 5 | 8 |
| Sample surveys and panel studies | 17 | 11 |
| Usability research | 2 | 1 |
| Total projects | 150 | 150 |

European Services Research

During the 1980s the European Consumers Unions became aware of the possible advantages of joint testing of consumer products. This resulted in the formation of the European Testing Group, whose name was later changed to International Testing, or IT.

It was almost inevitable that joint testing of products would be followed by joint evaluation of services. The need for such an activity became more urgent in 1992 when the European Commission introduced the "internal market," an arrangement permitting a free flow of services across national borders within the European Common Market. Thus, a single firm might offer the same banking services in all the Common Market countries.

Where might the Consumers Unions obtain funds to finance the evaluation of cross-national services? In IT's view, the most likely source was the European Commission, located in Brussels. Recently IT submitted research proposals dealing with credit cards, mortgage rates, and term insurance.

In April, 1996 Consumentenbond and Stiftung Warentest (Germany), with funding from the European Commission, will sponsor a European Workshop on Services Research. The goal of the Workshop will be to put together a research agenda that may be implemented in subsequent years. We expect the resulting research to provide input for our magazines and also ammunition for the campaigning activities of member Consumers Unions.

The Believability of Our Service Evaluations

The services research we do may be viewed as a hierarchy. Statistical reliability and validity, and hence, "believability," will tend to be low at the bottom of the hierarchy and high at the top. Information obtained from Ghost Shopping and our Consumer Complaints "Actions" will probably be low in the hierarchy while the information from our "Real" Sample Surveys is likely to be at the top.

To be specific, we can be confident that our Ghost Shopping reports are *valid*, i. e., represent accurately what they purport to measure. However, a single or small number of Ghost Shopping episodes will not be *statistically reliable*, revealing how often a type of behavior occurs.

By the same token, reported complaints from our Consumer Complaints "Actions" may not be perfectly valid or perfectly reliable. Why? Because with respect to validity, we have no way of confirming the accuracy of the events reported (though we assume our members try to convey their experience accurately). As for reliability, we do not know the extent to which different individuals take the trouble to report different types of complaints. But we will assume, reasonably, that different types of complaints are reported at the same rate.

By contrast, our "Real " Survey on Payments utilized standard social science methods with respect to questionnaire design and execution and survey design and execution. It should meet high standards with respect to reliability and validity.

Services research in a consumers union like Consumentenbond must match the highly practical needs of an organization that turns out one monthly magazine and two quarterly magazines. This means that, usually, services research must be done quickly, with minimal cost, and with an eye to headlines. This implies that Consumentenbond is seldom able to engage in fullscale sample surveys with well specified probability samples and high response rates.

Nonetheless, the research must be executed in a careful, defensible way. Otherwise, Consumentenbond will be vulnerable to lawsuits. We believe that, in general, we have produced research that is at once attention-raising, helpful, and defensible.

Nevertheless, an important question remains: whether Consumentenbond's menu of research methods will require modification in the near future. There are at least two reasons to believe so. First, the increased societal and political significance of Consumentenbond after several decades of growth makes well developed, defensible research methods a *sine qua non*. Second, the increased complexity of consumer products and services also demands a variety of research approaches. How much change will be required is not yet clear.

Probably we will continue to employ a hierarchy of research methods. But it is likely that two changes will be necessary. First, we will rely ever more on electronic data bases such as our consumer complaints data base and the proposal for tailored information. On the other hand, we will rely more on survey-based reports on usability and consumer problem. Comparative product test information will not suffice any longer.

A Need for "Consumer Satisfaction" Surveys?

Tomorrow's consumers will be different from today's consumers and yesterday's consumers. Three factors support this assertion: (1) demographic changes, e. g., aging of the population, (2) the globalization of consumption, and the apparently unending proliferation of new technologies, affecting products and information delivery alike.

At the same time consumers are becoming increasingly segmented. The French marketer, G. Mermet, identified the following market segments based

on the reported goals of the consumers responding to his national survey: Those whose consumption activities are dominated by (1) economic wellbeing ("pour être mieux dans sa peau"), (2) the quest for health ("passion pour sa santé), (3) the quest for comfort and safety ("on veut du confort et de la sécurité), (4) his image as an informed and assertive consumer ("on veut être consulté informé et consommer actif") (5) his role as an activist consumer ("on exige le droit à l' infidélité zappeuse,") and (6) his desire for novelty and cosmopolitan tastes ("par éclectisme et par curiosité"). (Mermet. 1995)

All across the western world preferences are fragmenting and consumers are dividing themselves into distinct market segments. Producers of goods and services try to adapt to this by catering to the needs of different segments of consumers. Consumer oriented thinking is replacing production-oriented thinking.

As Philip Kotler points out, a consumer-orientation requires a company to assume the customer point of view (Kotler, 1994). It follows that producers should devote more resources and more attention to customer satisfaction research. The reason: satisfying consumers is the chief avenue to profits.

Kotler defines *consumer satisfaction* as "the level of the person's felt state resulting from comparing a product's perceived performance (or outcome) in relation to the person's expectation". (Kotler, 1994, 40). Kotler asserts that buyers will buy from the firm with the highest customer delivered value. *Customer delivered value* then is the difference between total customer value and total customer cost. Further, "Total customer value is the bundle of benefits customers expect from a given product or service" (Kotler, 1994, 37).

Customer delivered value consists of a number of factors that might be pertinent to future research undertaken by consumer organizations on behalf of consumers. These are product value, service value, personnel value, image value, monetary price, time cost, energy cost, and psychic cost.

I tentatively conclude that the future research of consumer organizations might profitably make use of supply side and marketing research insights. "Customer Satisfaction" or, better "Consumer Satisfaction" could become the corner stone not only of research strategies and methods, but also of consumer product testing unions. In my view this approach would increase the believability of research-based ratings. I might note, in ending, that members of Consumentenbond often seem less satisfied with their purchases than non-members. (Box, 1979)

References

- Note: In writing this paper I used various Dutch language reports of Consumentenbond. I also reviewed two volumes (1994 & 1995) of the Consumentengids (main magazine) and the Consumentengeldgids (money guide)
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Endnotes

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Behind the Ratings: The Reasons to Believe A Review of Consumer Product Testing

This paper was part of a general session, "Behind the Ratings: a Review of Consumer Product Testing", organized by E.Scott Maynes as part of a discussion to establish a stronger scientific foundation for consumer product testing and rating. It also serves to introduce ACCI members to consumer product testing and rating as carried out in Germany and better appreciate the foundations on which U.S. product testing is conducted by Consumers Union.

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Why should a consumer have more confidence in product test results from a *Consumer magazine*, as compared with those from a *commercial publication*? Are there reasons for "believing" more in the quality ratings by consumer product testing organizations rather than other "tests"?

I will try to "make the case" for consumer product testing by explaining the methodology used at Stiftung Warentest, the Testing Institute in Germany, or SW. I will also deal with the sometimes different testing methodology used by large consumer product testing organizations in other European countries.

Let me start by acquainting you with key statistics that describe the four most important product testing organizations in Europe. First, alphabetically, comes Consumers' Association, or CA, in the United Kingdom. Founded in 1957, its staff currently numbers 470. CA's banner publication is *Which?*. Subscribers to *Which?* receive 60 pages of test results and consumer information twelve times a year. A subscription costs 60 Pounds, or US\$91. At the end of 1995 *Which?* had a paid annual circulation of 610,000. Annual revenues from *Which?* and CA's other publications and activities come to 47 Million Pounds, or US\$71.4 million.

Consumentenbond, or CB, the Consumers Union of The Netherlands, the Hague, Holland was founded in 1963. It now has a staff of 275 and annual revenues of 54 million Guilders, or US\$31.9 million. Subscribers to *Consumentengids* pay 60 Guilders per year, or US\$35.50, and receive 12 issues of 68 pages.

At the end of 1995 Consumentenbond had 650,000 members subscribing to its main magazine. This amounted to a market penetration of 10 percent, about double that of any of the other large consumer organizations.

My organization, Stiftung Warentest, The Testing Foundation, or SW for short, was founded in 1964. It currently has a staff of 220 and annual revenues of 100 million Marks, or US\$65 million. Our primary publication, *Test*, has a circulation of 800,000. Subscribers pay 70 Marks, or US\$32, and receive 12 issues of 100 pages each. Newsstand sales account for 20 percent of our circulation.

Verbruikersunie (Flemish) or the Association des Consommateurs (French), the Consumers Union of Belgium, or VU, was founded in 1957 at about the same time as the British Consumers' Association. The staff of VU numbers 230 and its annual income is 1.2 billion Belgium Francs, or US\$36 million. The 300,000 subscribers pay 2.250 Belgium Francs, or US \$67.50, per year to receive 11 issues of 52 pages each of VU's chief magazine, *Test Achats*.

None of these organizations compares in age or size with Consumers Union, or CU, in Yonkers, New York. This "Mother" of consumer product testing organizations celebrated its 60th anniversary this year. It takes a staff of 454 and revenues of US\$124 million to finance *Consumer Reports* and many other publications and activities. *Consumer Reports* is sold to 4.5 million subscribers who pay US\$24 a year for 13 issues of 70 pages each.

So much for the organizational background. Now to the critical issue: To what extent should consumers accept as "correct" the product test results published by the various Consumers Unions? The credibility of product testing by consumer organizations rests on two factors: (1) the appropriateness of test methodology and the care with which it is executed and (2) the independence and integrity of the testing organizations. While the independence and the integrity of the consumer organizations is not a topic for discussion in this paper, I can assure you that CA, CB,

SW and VU conduct their testing with complete independence, brooking no outside influence on their work.

It is widely acknowledged that SW has played a leading role in the scientific development of product testing methodology. For this reason I will describe the key steps in SW's product testing and evaluation procedures. Wherever appropriate, I will comment on the sometimes different procedures followed by our European "partners" and by Consumers Union, U. S. A.

The key steps in SW's Product Testing are:

- Planning, based on readership surveys
- Test sample selection
- Test sample purchases
- Setting up the test program
- Performing the laboratory tests
- Checking the lab results
- Assigning quality ratings
- Transforming the results into a magazine report

Planning

Planning has two main goals: (1) the selection of goods and services to be evaluated for the year; and (2) the development of a month-by-month schedule of product tests for the year. A successful plan will result in monthly issues of Test that provides our readers with product test information that is useful, interesting, and seasonally appropriate.

To ascertain what products readers want us to test, we collect data from two sources: subscribers and newsstand readers. In the case of subscribers we invite a panel of 1,200 subscribers, chosen randomly from our 650,000 subscribers, to tell us what products and information are most interesting and useful for them and, more particularly, what products and topics they would like Test to deal with.

As to newsstand readers, we enclose 30,000 questionnaires in the 150,000 copies of Test sold each month at news-stands. The questionnaire asks purchasers of single issues which topic (s) triggered their interest, how helpful they found each article, and what products and topics they want to read about. This procedure yields about 800 questionnaires every month. You may ask whether, with only 800 respondents from the 30,000 inserts, we suffer a nonresponse bias. The simple answer is that do not know.

We use the surveys of subscribers and newsstand purchasers to formulate a product/topic schedule for the year and a related publication plan.

Results from our surveys of readers suggest that our choice of products/topics usually conforms with what they want. Sometimes the recorded level of interest may be affected by special events, e. g., press conferences, publicity, comments from the mass media, and competition from SW's other periodical, Finanz Test. Sometimes we are just wrong: we misjudge interest in a particular product or topic.

Our partner organizations--CA, CB, VU, and CU-USA--all carry out similar readership research, employing both qualitative and quantitative analysis. The methods of the four organizations may differ somewhat, but the goal is the same: to put together the menu of product tests and topics that will best serve consumers in general, but especially our subscribers.

Test Sample Selection

The next step is Test Sample Selection. Here our goal is to select test samples that are "representative" of what will be offered in the entire market--low- and high-priced variants, technologically simple and sophisticated variants, national and private brands, variants on sale in various parts of Germany. (This process is called "Market Research" in our consumer product testing organizations. Unlike conventional "market research," our goal is not to ascertain what consumers want, but rather to buy an array of test samples that will be approximately representative of what is available in local markets across Germany).

The decision as to which brand-models to include or exclude from a special test project cannot be taken accidentally or arbitrarily. Were it so, our organizations would be vulnerable to criticism. Instead, we follow carefully chosen criteria.

Our procedures for selecting types of product types and particular brands-models for a test has four steps. We begin with **Basic Market Research**, contacting industrial associations and some important manufacturers and suppliers by both telephone and surveys. This gives us a realistic picture of what brand-models will be produced.

For a given product, this enables us to:

- classify the market and ascertain the size and nature of different market segments, as differentiated by technical features and price;
- identify distribution channels--the most important, new, and changed;
- assess the importance of private brands;
- identify identical models ("twins"), similar models, producers of models for different brand names.

Step 2 is intended to identify the most important brands, best-selling types of product and brand-models that are sold regionally. This step is carried out by sending questionnaires to about 100 retailers (including mail order catalogues and sales brochures) and analyzing the answers of the approximately 50 retailers who respond. The final outcome of Step 2 is a list of suppliers who offer the most interesting brands for this product and also a draft price list.

The most important step is Step 3. Here we send an elaborate, 3-4 page questionnaire to selected manufacturers, and to retailers with private brands. The 30 to 40 replies provide an overview of brand-models classified by features and price. Here, we also try to uncover any planned changes in the models, to identify identical models, and to learn of secondary lines.

The result is a "Market Overview" and a "Model Selection Report" of 10 to 15 pages, summarizing all the information gathered as a result of our market research. Finally, we arrive at a tentative list of brand-models that will constitute our test sample for this product.

In Step 4 we approach suppliers, seeking from them information on the availability and final features of brand-models from our tentative list of test sample models. To ferret out identical models, we have found a special questionnaire useful. In this questionnaire we ask the manufacturers specifically what the difference is between the specified model and other models. Often our special questionnaire elicits answers they might otherwise have "forgotten."

Suppliers' answers to our questions sometime result in changes in our brand-model selection, e. g. ,to make the list more up-to-date. Nonetheless, final decisions always reflect our selection criteria, market shares, and occasionally especially interesting technical features of a particular brand-model. Suppliers never influence the decision to include or exclude a particular brand-model from the final list of test samples. The Final List, assembled by the Project Officer and approved by the Technical Director, is then transformed into Buy orders for the Purchasing Department.

For some products it is more economical to buy retail audit data from commercial market research institutes like the Gesellschaft für Konsumforschung (Association for Consumer Research). Typically we buy the so-called "hit-list", which provides information on brand, price, and selected features for the 100 to 300 best-selling product types and brand-models. From this data base we can identify the most important brand-models and price ranges. In addition, we obtain actual prices for the three months prior to publication. In choosing between retail audit data versus direct contact

with retailers, we evaluate the pros and cons independently for each product. The other steps in Test Sample Selection are unchanged.

Market research at VU in Belgium follows roughly the same line. Sometimes though, the necessary market research is done by the Project Officer instead of a specialist market researcher.

CB in The Netherlands maintains its own market information data bases. For the most important products the data bases are kept up-to-date by sending periodic questionnaires to manufacturers. If no data base exists for a product, CB dispatches shoppers to stores to find out how well various brand-models are selling before finalizing a test sample list. Manufacturers are only partially included in this process.

In the UK, CA utilizes the telephone to establish personal contacts with manufacturers from whom they then obtain market information directly. For certain special products the Project Officer directs the Market Research process, but relies on a Market Research Officer because CA's rules prohibit direct contact between Project Officers and manufacturers.

CU-USA relies on Readership Surveys conducted by its Survey Research Unit to find out what products and topics readers want CU to investigate. There is a separate Market Information Division with responsibility for collecting the market and product information needed to select the final list of Test Sample Brand-Models.

More specifically, CU's Market Information Division:

- provides background information on markets and market segments;
- provides general descriptions of products;
- provides detailed features charts for candidate brand-models;
- provides detailed information on model similarities;
- performs price and availability checks with manufacturers prior to publication.

In this work the Market Information Division relies on trade and company directories, trade journals and newspapers, catalogues, market share data, industry reports and product studies, consumer surveys and interviews. Thus, CU's approach is extremely thorough involving many sources. Unlike the European organizations, CU has little, direct contact with manufacturers and retailers.

Purchasing Test Samples

All the consumer product testing organizations follow the same rule in Purchasing Test Samples: they purchase anonymously so they will obtain a sample that is representative of that purchased by any average consumer. Unlike some commercial "test" magazines, the CU's never accept test samples offered by suppliers as loans or gifts. (The fear here is that the seller may take steps to insure that the sample offered as loan or as a gift will be specially prepared, purged of defects that might plague the ordinary buyer.) This practice increases the reader's confidence that the sample tested by the Consumers Unions is like the sample that he/she purchases.

Test samples for seasonal products that cannot be bought from retail establishments during the "off" season require special purchase procedures. In these cases the Consumers Unions make random selections from manufacturers' stocks and pay for them directly, instead of pretending to be ordinary consumers. Besides random selections, one other check is employed. At the end of the testing process, the CU may buy another test sample for a given brand-model anonymously from a retailer. Then the testers will undertake a careful comparison of this "late purchase" to insure that it is highly similar to that purchased from the manufacturer's stock. CA always makes "late purchases" while CB, SW, and VU do so only when they become suspicious that early variants of a brand-model differ from late variants.

Performing the Laboratory Tests

The most critical component of the entire product testing process is the **Formulation of the Test Program**. A valid Test Program must cover all aspects of product quality. The typical components are:

- Performance Tests to evaluate the main function(s) of a product or an appliance. Sometimes these tests are objective, e. g., plotting the rate at which temperature declines with time in a freezer. Other tests are subjective, e.g., users' ratings of various aspects of an electric shaver's performance (closeness, comfort, etc.); riders' ratings of the comfort of car seats, etc.
- Technical Tests to evaluate elements of performance not directly associated with use, e. g. durability, corrosion, the appropriateness and performance of materials embodied in the product, etc.

- Safety Tests, designed to ascertain the probability of the product being dangerous to users.
- Convenience In Use, typically evaluated by subjective ratings obtained from controlled use tests. ergonomic principles
- Environmental Tests, designed to detect and measure the potential harm a product might impose on the environment. Environmental Tests may deal with energy consumption; harmful chemical discharges; noise especially from engines, lawn-mowers and dish-washers; disposal problems posing environmental hazards, e. g., lead from batteries, TV screens, cosmetics, etc.

In essence, in deciding which products to test, which brand-models to purchase, in making purchases, and in testing itself, all the major consumer product testing follow essentially the same procedures. But the practices of different organizations differ in some respects. From project to project, our organizations may differ with respect to the following issues: how close they adhere to existing test standards--either those of national or international standards organizations or their own earlier procedures, what weight to assign to objective vs. subjective measurements, whether to include in their testing programs expensive tests of durability, whether to invite a review of their test protocols and quality scoring by outside experts.

As to the latter, SW invites groups of experts ("Fachbeirat"), including some from industry, to do just this. SW sends members of the Fachbeirat copies of proposed test protocols at the outset of a test program and invites criticisms and suggestions, some of which will lead to changes in protocols. SW feels that this exposure of its methods to engineers and other professionals in industry and national standards organizations contributes to SW's credibility and to the reader acceptance by outsiders of its results.

Whatever the differences in product testing practices among different CU's, there is no reason whatever for anyone--subscribers, manufacturers, retailers, the media, the public to have any doubts regarding the credibility and the scientific basis of our procedures.

Nonetheless, there is room for improvement and a role for an umbrella organization to arrange for this. In Europe the "International Consumer Research and Testing, Ltd. , or IT, discusses methods and arranges for joint comparative tests, utilizing identical methods across countries. IT brings together 22 consumer product testing organizations from 19 countries. It is

natural that leadership in IT is taken by the four largest organizations: CA, CB, SW and VU. It turns out that the cross-country tests of IT represent an effective means of reducing multinational manufacturers' complaints regarding our test results.

Our organizations differ considerably in their **Execution of Product Tests**. Neither SW in Germany nor VU in Belgium owns its own testing laboratories. Instead, they specify test protocols precisely and contract with external specialized laboratories who do the actual testing. By contrast, CU-USA conducts its product tests in 50 state-of-the-art laboratories at their own National Testing and Research Center in Yonkers, New York. CA in the UK and CB in The Netherlands occupy middle positions. CA has a large laboratory in Milton Keynes, an hour from London which carries out most of CA's recurring test projects, including consumer electronics. Some of CA's more "exotic" projects are farmed out to specialized, outside labs.

We in product testing have learned that the exercise of care in carrying out tests, the experience and skill of the personnel and an objective, unbiased approach to testing are all critical factors for achieving tests results that merit the confidence of friends and foes. Credible, defensible product testing can be carried out by either an organization's own laboratories or by outside laboratories.

Testing the Test Results

All the major European consumer product testing take certain steps to assure themselves that their results are "right." Typically, they send manufacturers or suppliers the results of product tests performed on that manufacturer's or supplier's brand-models. The suppliers are asked to respond if the test results appear "unreasonable," i. e., inconsistent with the supplier's own tests or experience. When manufacturers find the results "not credible," then the consumer organization reviews its tests with great care. If doubts remain, then the organization purchases additional test samples and replicates the original tests. In such cases SW buys two additional samples. SW's final judgment then rests, at a minimum, on two of three samples yielding essentially the same results.

This consultation with suppliers familiarizes them with SW's test methods and its personnel, increasing SW's credibility and manufacturers' acceptance of consumer product testing in general and SW's in particular.

Assigning Quality Ratings

The Transformation of Test Results Into Product Ratings is, without doubt, the most delicate and the most crucial step in the process, greatly affecting the credibility of the final product ratings.

All of the CU's obtain, as their basic measurement, a numerical quality score ranging from 0 to 100. Fundamentally, this is a weighted average of characteristic scores where product characteristics such as picture quality, tone quality, convenience, etc. are assigned (1) weights, denoting the relative importance of the characteristic and (2) characteristic scores, ranging from 0 to 10 and denoting performance on this characteristic. Weights are determined on the basis of discussions by the testing team. See Geistfeld, 1988 for a detailed description and criticism of this model. See. Maynes, 1993 for the most recent discussion of this model.

Transforming the Results into a Magazine Report

The final step in the entire process involves the translation of these numerical scores into published quality ratings. Like most of the other organizations, SW uses, a 5-point, equal-interval rating scale for both overall quality and the product's performance on particular characteristics. SW's categories are as follows:

SW's Quality Rating Scale

| In German | In English | Symbolically | |
|-------------------|--------------|--------------|---|
| Sehr gut | Very good | ++ | 5 |
| Gut | Good | + | 4 |
| Zufriedenstellend | Satisfactory | O | 3 |
| Mangelhaft | Poor | - | 2 |
| Sehr mangelhaft | Very poor | -- | 1 |

SW, unlike most of its partners, also publishes the weights it assigns to each major quality component. All the CU's also publish data regarding price, e. g., average price, median price, list price, "manufacturer's suggested price," or the price range encountered by the organization's shoppers. The particular statistic published varies with the organization and the product. The price data published by the CU's has a major limitation arising from the fact that prices vary greatly locally. The single price statistic published by the CU's can suggest, but not describe the extent of price variation in the market in which an individual reader shops.

We see the following advantages for the quality-price information that SW publishes in Test:

- The 5-point scales are readily understood and easy to use.
- Our publication of weights makes our quality evaluation more transparent since the reader can see for himself which quality components were most important in determining overall quality.
- The reader whose weights differ from SW is in a position to identify the brand-model that has the best overall quality, taking his own weights into account.
- SW does not regularly identify "Best Buys" as reflected in a low ratio of Price-to-Quality. We are fearful that our published median price, three months "old" at the time of publication, may mislead our readers. Instead, SW offers verbal advice ("Unser Rat") varying with the product, and sometimes identifying "Best Buys" or "Good Bets," and sometimes noting useful technical features of the product.

As to partners, CA in the UK also utilizes a 5-point scale on overall quality. Without calculating group ratings they offer a "total test score" giving a figure out of ten. Their overall quality rating takes no account of price and frequency of repair. Different weights are given to different quality components and are published. Which? calls attention to "Best Buys" by attaching a red Best Buy label.

CB'S practices are similar to those of SW. However, CB sometimes utilizes intermediate categories for overall quality, e. g., "satisfactory/good." CB publishes neither separate ratings for major quality components nor weights. They do identify "Best Buy"s and, where appropriate, "Best in Test" or "Good Bet".

The practices of VU in Belgium are very similar to those of CB. However, VU pays more attention to the price/quality ratio.

In the last five years CU-USA has veered away from the practices of other CU's in its reporting of Overall Quality. Now CU uses bar charts for most tests to denote overall quality. Here the length of the bar denotes the brand-model's performance on a 0-to-100 cardinal scale. CU does not publish its weights. However, CU does report performance on components of quality on the familiar five-point scales favored by the other CU's.

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Endnotes

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Consumer Product Testing: A Comment

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Thanks to E. Scott Maynes for organizing this session. I appreciate having the opportunity to study these papers in depth. I will comment on each in turn.

Sieber

Dr. Sieber's paper entitled, "Consumer Product Tests: The Reasons to Believe", was a fascinating paper, providing a rare detailed glimpse of what goes on behind the scene in consumer product testing. I would like to discuss aspects of: 1) product information gathering and testing and 2) test information presenting and how each contribute to consumer sovereignty in the market.

Product Information Gathering and Testing

For information to be useful and relevant to consumers who shop in local markets, it is imperative that a wide variety of brands and models be tested. The Stiftung Warentest (SW) practice of regularly surveying retailers about the brands of items they carry is extremely important to the ultimate relevance to consumers of product testing information. When a consumer consults product test results, if the only evaluated products they can find in their local market are name brand products, the information is of limited value in their purchase decision. The consumer is left to assess product quality themselves on private label goods. This may be possible if the good in question is a search good, but if the product is an experience or credence good, their prepurchase assessments are of limited value. If they must learn about product attributes through experience, transactions costs are increased, thus undermining consumer sovereignty. In my opinion, a lack of regional brand representation is a major limitation of published product ratings in the U. S.

I was also impressed by SW's use of independent product testing laboratories. This is a much different model than is used in the U.S. where most product tests are conducted internally by Consumer's Union. I would expect one might get different assessments of 1) important characteristics for evaluation and 2) relevant performance standards by the two groups. It would be interesting to compare evaluations of SW's external tests with the CU's internal

tests for similar products to see whether differences arise.

Dr. Sieber discusses the importance of consumers having "confidence" in reported product tests. When independent experts in a field of product testing (like automotive experts) question a testing agency's report or testing methods, consumers confidence is certainly undermined. When the marginal benefit of information to a consumer is undermined, less search will be conducted and thus greater quality constant price dispersion will prevail in the market.

Finally, I would like to comment on the SW practice of publishing their weighting of product evaluative criteria. I strongly support this practice. Without the availability of such information it is difficult for the consumer to assess whether their tastes are similar to that of the average consumer whose tastes are implicit in the testing organizations recommendations.

As a researcher, I would like to have more information about how weighting schemes are derived. Are they based, for example, on surveys of consumers about the weight that they actually assign to product attributes, or on characteristics that experts believe that consumers "should" value? Consumer sovereignty is defined as production in conformity with consumer preferences. Thus, product recommendations should be based on a weighting of evaluative criteria consistent with consumer wants and desires.

How Information is Presented

Ultimately, it is the way in which testing results are presented and the ease with which they can be used that will determine whether published information will improve consumer sovereignty in the market. From the consumer's perspective, consumer product testing magazines serve to minimize their marginal costs of search by consolidating and comparing information about numerous product brands while maximizing the marginal benefits to search by presenting highly salient product price and quality information.

From my perspective, there are three elements to product testing results that are critical to providing relevant, low cost product information. First, there must be a clear and discernable way to communicate the price

quality frontier to consumers for products as tested. Consumers need ready assessment of either product quality within their budget constraint (price range) or the price range of a given quality of product. Second, the price quality frontier must include local market information or an easy means by which the consumer can evaluate their actual market choices. This is not now possible. Assuming that all brands found in a local market are rated by a national product testing organization, if not all are available in the local market, the price quality frontier may be strikingly different when missing points are frontier points. If one further considers regional price differences, the frontier for a local market may not even resemble the national one.

I would challenge consumer product testing organizations to consider making ratings available electronically such that consumers could not only visualize a price quality frontier based on the testing organization information, but also construct their own price quality frontier based on local market conditions. This is technically possible and in my opinion would be a fantastic benefit to consumers especially when evaluating goods of widely varying quality. I would also challenge consumer organizations to further consider using this same technology to allow consumers to apply their own weighting schemes to evaluative criteria.

de Gier

Dr. de Gier's paper, "The Informed Consumer: The Believability of Research-Based Ratings", I also liked very much and will similarly comment on how I believe Consumentenbond's services enhance consumer sovereignty in the market place.

I believe that information plays a powerful role in the market place. Well informed consumers enhance the competitive nature of the market place since when they use their superior knowledge at point of purchase their actions lead to lower average prices and less price dispersion in the market. However I believe that we often underestimate the power of consumer information *per se* to affect the firm's behavior. Dr. de Gier's organization has not lost sight of this. The practice of Ghost Shopping and publishing the results of ghost consumer's experiences not only provides important market information to the consumer, but also has a powerful impact on the firm and its future business practices. Business practices in the market would improve as 1) all firms seek to avoid the negative publicity associated with an unsatisfactory published report by the ghost shopper and 2) culpable firms reassess their practices in response to the harsh light cast on them by truthful consumer information.

Consumentenbond also collects and publishes consumer complaint information filed with their office as well as information on case disposition. Again, consumer access to complaint information is extremely valuable and the firms knowledge that such complaints may be published will have a direct impact on all firm's behavior. Thus, the publication of market "inefficiencies" in a form that is salient to the average consumer will enhance the competitive nature of the market and thereby consumer sovereignty. It is an appropriate alternative to market regulation.

A good parallel example in the United States of consumer information's power on firm behavior is the U.S. Department of Transportation's (DOT) policy to track and publish the on-time performance of U.S. airline flights. Rather than developing costly regulations designed to punish airlines that were effectively misrepresenting their flight departure times, the DOT alternatively developed a system to collect on-time performance and to publicly report that information in a salient way that consumers could understand. Not only did consumer's understand, but so did competitors who used negative information about their competitors in their own commercials. Subsequently, airlines with notoriously poor on-time performance records made record improvement their mantra.

One suggestion I would offer for the publishing of consumer complaints and their resolution, is that a scheme be developed to assess the "severity of potential harm" associated with consumer complaints. This would afford consumers using information the ability to readily identify potential problems with the biggest economic (including health and safety) impacts on their households.

Finally, I believe the mediation services offered by Consumentenbond are a unique and important way to ensure that consumers are heard in the market place at a minimum cost to themselves. Too often, consumers do not complain or ask for restitution when they are treated poorly or defrauded in the market. This abdication of consumer responsibility in the competitive market place occurs increasingly because the time cost to deal with claims outweigh the perceived likelihood that consumers can successfully resolve claims. By including mediation service in their membership fees, Consumentenbond effectively offers consumers a means of managing the risk of fraud like they would other financial risks.

Endnotes

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