

THE ROLE OF STATE AND NON-GOVERNMENTAL
ORGANIZATIONS IN THE CONSUMER
PROTECTION MOVEMENT

By

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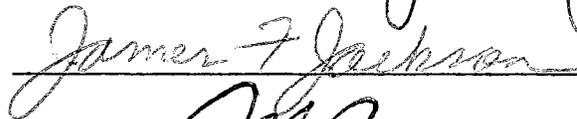
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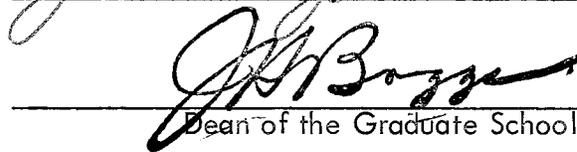


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Report Adviser



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Dean of the Graduate School

PREFACE

The consumer protection movement has had tremendous ramifications for the business community and the individual consumer. The purpose of this paper is to investigate the role of state and non-governmental organizations arising from this movement. The theme of the paper will be one of reporting what the two have accomplished to enhance the consumers' position in the market place.

The material used throughout the paper was gathered by a survey of the fifty states and by personal interviews of state and federal officials. Although the survey and interviews were conducted to investigate all state activities relevant to the general field of marketing, the data presented in this paper will focus only on one aspect of marketing, i.e., consumer protection. The writer wishes to thank L. Peter Maxie for his help in conducting the survey and interviews.

The writer also wishes to express his appreciation and thanks to his advisor, Dr. W. W. Thompson, and to Dr. James U. McNeal, who encouraged the survey.

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CHAPTER I

INTRODUCTION

A. Area of Study: Consumer Protection Movement

The past decade has seen the mass emergence of social, political and economic reform movements from every corner of the United States. The field or discipline of marketing is no exception; it also has experienced the tidal motion of contemporary reformation, viz., the so-called consumer protection movement. This movement (as suggested by its title) has placed an emphasis, which has been lacking in the past, on the individual consumer and his role in the market place. The objectives of the movement are two-fold: first, it seeks to make the market place "safe" for the consumer to enter; secondly, and hopefully simultaneously, it strives to present to the marketers a new consumer, sophisticated and less naïve in his understanding of his function.

The first objective of market safeness has had significant ramifications for governmental action, be it national, state, or local. Consumer protection has required a mild revolution in economic legislative theory. Traditionally, legal intervention by governmental bodies has been of the kind typified by unfair trade practices regulation. That is, the government organization involved usually served as a "referee" in a business versus business situation. More often than not, any protective consideration befalling the consumer was an accidental by-product. The consumer

protection movement has forced the government to also play the role of referee in a consumer versus business situation.

This new role in the consumer - business situation as portrayed specifically by state governments was the focal point of the survey. Chapter Two contains the views of several state governments on their relevance to the first objective of the movement. These views are presented as they materialized in the various programs reported via the survey.

The second objective of consumer education has become the domain of non-governmental organizations, which pervade national, state and local levels. Chapter Three is a brief presentation of representative non-governmental activities currently in operation throughout the nation. The reader should be cautioned that neither the vehicles accomplishing the two objectives nor the objectives are as mutually exclusive as perhaps it has been implied. Certainly both the vehicles and the objectives are somewhat overlapping in function and nature; however, for purposes of exposition, governmental legal activities are linked with the first objective and non-governmental activities with the second.

The bulk of the data presented in Chapter Two and Three was gathered from two primary sources, viz., the survey and personal interviews. The survey was conducted in order to determine if the various state governments were undertaking measures to remedy the problem of consumer protection. Although the original survey questionnaire was sent to all fifty states, it was answered (in adequate detail) by only about twenty states. Nevertheless, it is evident that the data from the twenty provided a reliable cross-section.

The personal interviews were conducted in an attempt to add supplementary

information to that of the survey. It is obvious that personal opinion and conjecture can easily distort the results of such an interview. However, the reader may be assured that every effort has been made to allow for this potential distortion.

B. Review of Literature

The consumer is not a chemist, nor an engineer, nor for that matter a lawyer. Hence, it is necessary that the consumer be protected through outside sources. It is important, also, that the consumer be aware of the legal protection that he is afforded, and the role that he can play in assuring himself of this protection.¹ It is to this end that Crown has addressed himself in his analysis of national, state, and local developments in the area of consumer protection.

Crown's philosophy is one of advising the consumer of the devices available for his protection and then educating the consumer on the use of these devices. Crown further claims that once the consumer has become thoroughly educated (or at least oriented), he will then be qualified to help decide if he and his peers need more or less protection.

The only other relevant work in the area of consumer protection was conducted by Gordon. Gordon's publication is the culmination of personal interviews in forty-five states and two mail questionnaires.²

Gordon's work focuses on just one aspect of consumer protection, i.e.,

¹Paul Crown, Legal Protection for the Consumer (New York, 1963), p. 19.

²Leland Gordon, Second National Survey of State Weights and Measures Legislation, Administration, and Enforcement (Washington, 1964), p. 2.

weights and measures. Although this topic appears quite narrow, in reality it actually pervades a wide marketing spectrum. The study reveals that this phase of consumer protection is receiving widespread attention in the United States. The obvious conclusion is that this attention granted the problem of weights and measures might well spread to all areas of protection.

C. The Role of the Federal Government

Although the specific scope of this paper is an investigation of state programs intended to allay the consumer's market dilemma, a brief backdrop of counterpart activities on the federal level would be worthwhile. In keeping with the theme of the survey, the following discussion of federal activities will subsequently be limited to those directly relevant to the consumer protection movement. The reader should note that the activities to be discussed comprise only a small component of a vast federal mechanism whose operation is directly relevant to the totality of general marketing.

The late President Kennedy was perhaps consumer protection's strongest ally on the federal level. In 1962 he presented to Congress his conception of the consumers' bill of rights. The following are basically those rights that eventually became the directives of increased federal activity in direct behalf of the consumer. They are:

1. The right to safety. To be protected against the marketing of goods which are hazardous to health or life.
2. The right to be informed. To be protected against fraudulent, deceitful or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make an informed choice.

3. The right to choose. To be assured, whenever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and government regulation is substituted, an assurance of satisfactory quality and service at fair prices.
4. The right to be heard. To be assured that consumer interests will receive full and sympathetic consideration in the formulation of government policy, and fair and expeditious treatment in its administrative tribunals.³

The culmination of Kennedy's effort in Congress in March 1962 was the creation of the Consumer Advisory Council. The objectives of the Council are deeply ingrained with the late President's desire that the consumer's point of view should be more clearly expressed and heard. To this end, the federal aspect of the consumer protection movement deals with programs benefiting the individual American consumer, serves as a liaison with government agencies on consumer matters, and advises the President on issues of consumer interest.

In its first three years of its existence the Council has identified ten phases of marketing activities which are of special interest to consumers. They are:

1. Standards, grades, and labels.
2. Two-way flow of information and opinion between government and the consumer.
3. Effective consumer representation in government.
4. Consumer credit.
5. Interrelation among federal agencies and between federal and state agencies in areas of consumer protection.

³U.S., President, 1960-1963 (Kennedy), The President's Message to Congress, March 12, 1962, House of Representatives No. 364 (Washington: U.S. Government Printing Office, 1962), p. 5.

6. Acceleration of economic growth.
7. Improvement of levels of consumption of low income groups.
8. Antitrust action and prevention of price fixing.
9. Provision of adequate housing for the nation's families.
10. Medical care.

It appears, by its actions, that the Council has devoted itself more thoroughly to the first six of the above. This is evidenced by the enormous amount of lobbying, endorsing and educating the Council has done regarding "truth in packaging", "truth in lending", wool labeling, tax reduction, and free access to public accommodations.

Before leaving this brief account of the role of the federal government in consumer protection, the reader might consider meaningful an examination of the Council's efforts to uphold the consumers' bill of rights. An excellent illustration is the current debate over the so-called "quality stabilization" legislation. Mandates of this sort would give manufacturers the right to prohibit retailers from selling a product at any price other than the manufacturer's minimum price. The Council has taken a staunch stand against such legislation. The reason given is that it violates the consumers basic right of choice.

CHAPTER II

SPECIFIC STATE CONSUMER PROTECTION PROGRAMS

After having read the first part of this paper, the reader might be led to the conclusion that state activities relevant to marketing would be insignificant compared to the elaborate and pervasive mechanisms the federal government has established. However, this is far from true, particularly in the area of consumer protection. As one writer sums up the situation: "It is impractical, and perhaps undesirable, that the federal government protect the consumer in all areas."¹

There are perhaps at least three reasons why the above statement is indeed true. First, obviously, substantial amounts of goods do not move in interstate commerce. Although intrastate activity is not nearly as large as interstate, legal philosophy must not overlook regulation and restriction in this area.

Secondly, the degree of controls and regulations needed may vary from state to state. Even if the Constitution did empower the federal government to intervene in affairs strictly within state borders, a uniform commission enforcement policy would fall short in extraneous circumstances.

Finally, there is an obvious need for state (and even local) laws to complement and supplement federal legislation. Since, by its very nature, federal legislation is usually exceedingly broad and subject to varying interpretations,

¹Paul Crown, Legal Protection for the Consumer (New York, 1963), p. 47.

legislation at the lower levels must "fill in the gap", so to speak, in their own respective locales.

A. California

In 1959 the California Legislature established the Office of Consumer Counsel and simultaneously the Attorney General's office established a new unit within the Department of Justice - the Consumer Frauds Section.

As suggested by its title, the Consumer Frauds Section's primary duty lies in the area of fraud investigation. However, the jurisdiction of the Consumer Counsel is much more pervasive. Specifically the Legislature set out its functions as:

1. To advise the Governor on matters affecting the interests of the people as consumers.
2. To recommend to the Governor and the Legislature legislation to protect and promote the interests of the people as consumers.
3. To study consumer problems and report on them to the people.
4. To appear before governmental commissions, departments, and agencies to represent and be heard on behalf of consumers' interests.

The Consumer Counsel and Consumer Frauds Section have worked together closely in stimulating and assisting local law enforcement agencies, in drafting and working for needed legislation to secure consumer rights, and in investigating problems.

Without going into detail, some of the areas where this joint effort has proved highly successful in terms of accomplishment are: protection of credit buyers; protection of home buyers and investors; automobile sales and supplies; medical care costs and insurance; food inspection standards, and labeling; health and safety safe-

guards; weights, measures, packaging and labeling; trading stamps; service; and selling practices.

It is perhaps significant to note that the Consumer Counsel has no law enforcement authority in the strictest terms. Probably its strongest weapon is its practice of publicly exposing fraud. Another common practice that has proven to be somewhat of a deterrent is the one of frequent appearance by members of the organization before legislative hearings. Aside from the above two, about the only other influence the counsel has is that of suggesting new laws and regulations.

Although the survey indicated that the California approach to consumer protection is often used as a model, research also indicates that Consumer Counsel is not without opponents. The criticisms range from the feeling that the Counsel can only lead to additional and unnecessary regulation of business² to the notion that it has failed to fulfill its intended purpose and is used as a political tool.³ However, it appears that the California state government still considers the Counsel worthwhile, political tool or not.

B. Connecticut

The Department of Consumer Protection of the state of Connecticut was created by the General Assembly in 1959. Unlike California, this state has empowered the Department to enforce a wide spectrum of consumer protection statutes.

²"New Consumer Protection - The California Way," Good Housekeeping, May, 1961, p. 148.

³Christian Science Monitor, March 17, 1961, p. 1.

Generally, the General Assembly has armed the Department with laws covering: manufacture and sale of foods, drugs and cosmetics; packaging and labeling; fraudulent advertising; and general unfair sales practices.

There are three specific laws that seem to occupy the effort and time of the Department. The first and most important is the Unfair Sales Practice Act, which has to do primarily with below-cost sales and with false or misleading advertising. The other two are the Connecticut Uniform Food Act and the Drug and Cosmetic Act. Remarkably, this Department (or any other agency for that matter in Connecticut) has no jurisdiction relative to anti-trust and restraint of trade. The organization of the Department includes three special investigators who travel the State enforcing the above mandates.

In addition, the Department serves as a tester, inspector and licensor. In this capacity it is responsible for: scales, weights and measuring devices; inspecting and licensing slaughter houses; meat, eggs, potatoes, apples, kosher stuffs and pharmaceutical inspections. One unique responsibility of this organization is its jurisdiction over certain sporting contests.

The government of Connecticut believes that some of the areas in which the Department of Consumer Protection has been most effective are: correcting frequent malpractice in the field of advertising; improving the practices of food vending operators; and control of misleading sales practices, i.e., "Fire Sales", "Going Out of Business Sales".

C. Missouri

The Consumer Protection Division of the Missouri Attorney General's

office was established in February 1962. This action was taken in order to assist the many persons who wrote to the Attorney General to complain of deceptive selling practices.

The purposes of the Division are:

1. To screen complaints for possible violations of criminal laws, and, where indicated, to bring such matters to the attention of the prosecuting attorney concerned or other law enforcement agencies.
2. To maintain permanent files of complaints, listings of sellers who are subject of complaints, and to record the disposition of such complaints.
3. To promote amicable settlement of disputes between buyers and sellers.
4. To publicize matters relating to consumer frauds thereby warning the public of such practices.
5. To cooperate with similar agencies of other states and the federal government in a free exchange of information relating to consumer matters.

At present, the Consumer Protection Division is not empowered to take direct legal action in the absence of obvious criminal activity. Even where such criminal activity is found, it may do nothing more than report the facts to the prosecuting attorney of the county where the violations have occurred. This potential malady of process is present because the commencement of criminal prosecution is the exclusive prerogative of the local prosecuting attorney.

D. Hawaii

One of the most recent developments in the area of consumer protection

occurred in October 1964 when the Hawaii Attorney General's Office created a Fair Business Practice Division. The Division is unique in that it was originally conceived to be more than just another state agency handling two or three statutes with shallow conviction and success.⁴ It appears that the Hawaii Legislature was adequately educated and convinced that the establishment of this organization would not be fruitful unless it truly was a consumer protection device in practice, not just in theory.

It is for this reason that it is evident that instead of a rehash of its procedural jurisdiction, the original objectives (which are the present functions) of the program would be more significant to the reader. The following points are basically the ones originally considered and incorporated into an actual working organization:

1. The program had to be justified on the grounds that despite existing laws and activities of existing agencies, a major gap remained in the way the economy served the consumer interest. Proponents of more consumer representation argued that whenever the consumer's interest is in question, a suitable specialist, representing the best interest of the consuming public, should be available to at least challenge the well-constructed line of argument submitted by a special interest group. The fact that all people are both producers and consumers does not offer any guarantee that the consumer side will receive adequate coverage. It was concluded that a lobbyist for the consumer is needed at every level of government - whether it be a legislative debate, or an appearance before governmental commissions, departments or agencies.

⁴Ronald Sanford, Consumer Protection Programs: Comparative Analysis (Honolulu, 1962), p. 34.

2. Coordination of the various existing, more specialized, consumer responsibilities, assigned to numerous separate state departments and offices, could promote a more efficient and effective overall state consumer program.

3. This necessarily involved closer attention to the proper administration of, and necessary surveillance over, existing consumer laws.

4. Ideally, the best way to protect an individual is to give him the tools to protect himself. The best tool for protecting the consumer without interfering with his free choice is education. By educating the public to the art of buying, a premium could be placed on customer satisfaction, rather than on different degrees of customer misinformation and/or manipulation. This was (and is) no small task for one organization, or for a number of organizations. Thus, consumer education should be a central feature of any state-sponsored program.

5. An active research program is necessary to insure objective reporting on behalf of the consumers. The resultant studies, along with a yearly progress report, must be made available to the general public as well as to the governor and the legislature.

6. And lastly, experience has shown that no consumer spokesman can long speak effectively without advice from and contact with the people he represents. The state holds different levels of consumer conferences and workshops. It also employs the use of advisory consumer councils - a volunteer body whose membership might vary anywhere from housewives to university professors.

E. Illinois

Prompted by the urging of the Attorney General's office, the Illinois

legislature in 1961 passed the Illinois Consumer Fraud Act. This law empowered the Attorney General to establish within his office a special division known as the Bureau of Consumer Fraud.

The original purpose (and subsequently the first action of the creation) was to halt increasingly frequent offensive practices involving deception and flagrant fraud in the sale of goods. The tremendous power of both the Act and the Bureau is exemplified by the fact that not only can it enjoin an alleged violator by going as far as issuing a citation for contempt of court but also by possessing the authority to insure renumeration to the injured claimant.

∟Note: This power evidently has been used quite effectively in Illinois. The Attorney General of the state of Wisconsin reported that he planned to visit Illinois and thoroughly study the Bureau in an attempt to strengthen his own organization.∟

F. Kansas

In June 1962 the Kansas Legislature established a Consumer Protection Unit. This new department was organized as a division in the Attorney General's office. The unit deals primarily with criminal practices in violation of the state statutes regarding consumer fraud.

One of the major accomplishments of the Unit has been the definition of deceptive practices that it claims jurisdiction over. It has classified these practices into four areas: false representation in the sale of goods or services; misrepresentation in insurance contracts; private trade schools operated for profit; and misleading assertions, representations, or statements in advertisements.

The Unit exercises three enforcement or quasi-enforcement powers.

They are:

1. Release of publicity concerning fraudulent activities.
2. A quasi-legal counseling body. The unit advises not only the injured but also the offender as to proper action to take.
3. Arbitration powers in certain cases within its functional area.

G. Massachusetts

Massachusetts is another state that has seen much recent development in the area of consumer protection. In 1963 the Legislature established the Massachusetts Consumer Council.⁵ This organization succeeded the older Advisory Consumers Council of the Attorney General's Office.

The Council is unique in that it is statutory and has powers not previously possessed by any similar body in the state. Generally these powers include the authority to conduct studies, investigations and research and advise the executive and legislative branches.

To insure the Council's success in acting as the voice of the consumer, the Legislature has empowered it to coordinate all consumers' services previously carried out by several other state agencies. This, in effect, allows the Council to oversee the activities of all other such agencies to insure proper consumer consideration.

The Council also has the authority to conduct hearings covering any

⁵Please note that the varying spellings of the word "council" is the quirk of the various states.

activity it feels is offensive to the consumer. To aid in these hearings, the compiled information of all other agencies and departments is legally accessible to it.

H. Michigan

Acting on a flood of complaints and requests for action by the consuming public, the Michigan Legislature created the Consumer Protection Division in 1961. The Division was established as part of the Attorney General's Office.

In addition to relieving the Criminal Division of the Attorney General's office of the burden of what was termed as unusually large numbers of annual allegations of fraud, deception, etc., the new division has been quite successful in a consumer education program. The essence of this campaign is the periodic publication of a consumer protection bulletin. The information it contains is usually general and is designed to indicate to the consumer what the Division is doing; and also it supplies information as to proper courses of action that he should undertake, if the need should ever arise. The underlying theme of these publications was best stated in a state official's remark concerning Michigan interpretation of the consumer protection movement. He stated: "Ours is not only a battle to raise marketing and advertising standards or to protect consumers from cheats, food poisoners, and liars; ours is a question of revitalizing basic American honesty and morality."⁶

I. Minnesota

Prompted by the needs of the Attorney General's Office, the Minnesota

⁶"Notes from the Grass Roots," Consumer Reports, 25 (1960), p. 437.

Legislature created in 1960 a new organization - the Consumer Protection Unit.

The jurisdiction the Unit has exercised is divided among functions covering: charities regulations; antitrust; fee employment agencies; fraud; private, trade, and correspondence schools.

Perhaps, the Unit's most significant effectiveness has been in the area of legislation. It appears that not only has it lobbied aggressively but it has practically drafted all legislation it supported.

J. New Jersey

The Consumer Frauds Bureau of the Attorney General's Office is the result of consumer protection movement in New Jersey. The primary function of the Bureau is the education of the consuming public. To this end, the Bureau publishes a consumers' guidelines called Watch Out. Operating in a state practically void of agencies of any sort (relevant to the subject matter), the Bureau's only jurisdictional authority lies in the area of advertising regulation.

K. New York

In 1957 the Division of Consumer Frauds and Protection was established within the Department of Law. This new organization succeeded the Office of Consumer Counsel. By 1959, after overwhelming success, the Division became the Bureau of Consumer Frauds and Protection.

In fulfilling its objective of consumer protection, the Bureau has four major methods of action available to it:

1. An educational program that is considered to be unexcelled by any

other state. Two products of this procedure that have received a great deal of attention are a film called "Caveat Emptor" and a pamphlet entitled "Four ABC's of Careful Buying".

2. Promotion of legislation in keeping with the principles of protection movement. The state government feels the Bureau has been quite effective in this respect (incidentally, there was no indication of a valence attached to this feeling by the government).

3. The authority to conduct negotiations between the injured and the alleged violator.

4. The authority to initiate formal litigation proceedings. This also includes the power of subpoena.

The Bureau has gradually established an empire in terms of jurisdiction. Concerning administrative procedure, it has taken over functions formerly controlled by various other state agencies. As for enforcement authority, it has encompassed statutes from advertising regulations to bankruptcy. It will take action on a complaint received from practically any source.

L. Washington

The State of Washington has established a Consumer Advisory Council within the Attorney General's Office. In the creation of the Council and the legislation that provided it with enforcement power, this state displayed a unique, progressive approach to the problem of bridging the gap between federal and state consumer protection.

The crux of the approach was a detailed study and subsequent reproduction

of the F.T.C. and its empowering legislation - the Federal Trade Commission Act (as amended).⁷ The state hoped to avoid any limitations the federal agency had encountered and at the same time incorporate techniques that had proved successful. According to the state government, the result was an effective mechanism, not a hollow pawn.

The Council's most successful enforcement has been afforded it by three acts - the Consumer Protection Act, the False Advertising Act, and the Installment Credit Disclosure Act. In addition, it is reported that the Council has proven to be a highly successful lobbyist.

M. Wisconsin

Wisconsin has attacked the problems of consumer protection on a truly "grass roots" level. The state has established (1964) the Attorney General's Advisory Council on Consumer Frauds to be organized on a county basis for effective local enforcement.

In the interview the present Attorney General of Wisconsin, Bronson La Follette, stated that he was presently primarily concerned with putting a "punch" into the enforcement procedure of the Council.

Mr. La Follette went on to point out that the Council would continue to protect the individual consumer at the lowest level possible. It was his contention that the Federal Government does a good job of protecting the consumer from big

⁷John O'Connell, "Washington Consumer Protection Act - Enforcement Provisions and Policies," Washington Law Review, 36 (1961), p. 279.

business and big businesses from each other. However, he stated that Wisconsin's protection was intended to cover the area left practically untouched by the federal government; viz, the "door-to-door salesman abuses" suffered daily by Mrs. Housewife.

CHAPTER III

NON-GOVERNMENTAL ORGANIZATIONS ACTIVE IN CONSUMER PROTECTION

The consumer today is an aroused consumer. It is through the work of a great many non-governmental organizations that this has come about.¹ These organizations have arisen in an attempt to hasten the traditionally slow wheels of justice. Of course, it is not precisely correct to say that these non-government organizations legally protect the consumer; however, scores of drafted legislation are testimony of the effective lobbying power wielded by them.

Below are set out some of these organizations and their proposed aims and functions. For the most part, this information was supplied by the states in their response to the survey. It is not intended that the following organizations are the totality of those in existence.

A. Legal Aid Bureaus

Many cities provide a legal aid bureau which gives legal advice to persons too poor to pay for the services of a lawyer. Persons to whom legal aid services are made available frequently have problems concerning debts, consumer credit, and breach of contract.

¹Paul Crown, Legal Protection for the Consumer (New York, 1963), p. 79.

The following list was reported by the Legal Aid Bureau of Detroit. This organization considers the following list as typical of the major sources of complaints registered in most bureaus.

1. Sale of books, encyclopedias, magazines.
2. Weaving machines and looms.
3. Correspondence courses.
4. Christmas cards and other specialized sales kits.
5. Shrubbery, trees and flowers.
6. Carpet with chain letter angle.
7. Freezer and meat sales tie-in.
8. Vacuum cleaners, washing machines, dryers.
9. Jewelry sold at the factory gates.
10. Waterproofing of basement wall without digging.
11. Portraits sold where sittings are in home.

B. Better Business Bureaus

The Better Business Bureaus are a national network of non-government organizations designed for public relations work for business and consumer education. The Better Business Bureau is indeed a "dichotomy deluxe" in terms of sanctimonious aims and practical accomplishments. The following is submitted as evidence to the reader in an attempt to allow him to arrive at his own conclusion.

Consider, first, the highly publicized functions of the Better Business Bureaus as set out by one source:

1. To present evidence to government agencies.
2. To publicly expose frauds.
3. To protect the public from charlatans.
4. To prevent the consumer's dollar from going into the hands of the illegitimate.
5. To educate the public on their consumer rights.²

Next the reader is asked to examine what other sources report as the actual policies of the Better Business Bureaus:

The Better Business Bureaus were established and still exist to protect businessmen against themselves one objective of the organization's operations admittedly is to ward off more government control of and intervention in business³

The Better Business Bureaus point out that publicity is held to a minimum in an effort to quietly resolve the problems encountered day to day.⁴

Advocates of official consumer representation point out that the Better Business Bureau of Hawaii has not taken and will not take, nor should it take, an active part in lobbying for the consumer. Reasons given - "Has not", because it was set up as a policing agency rather than a legislative body. "Will not" because it does not feel it has any right to force upon the legislature the views held by the Bureau. And "should not" because no effective consumer representative should be sponsored by any one particular interest group. It is not valid to assume that the Better Business Bureau will not appear at legislative hearings, but in the past this generally has taken place only after a formal request had been previously submitted.⁵

Regardless of aims or purpose, the Better Business Bureau is a tremendous source of consumer education pamphlets. This material is distributed by local

²Paul Crown, Legal Protection for the Consumer (New York, 1963), p. 81.

³Wall Street Journal, November 8, 1960, p. 1.

⁴Ronald Sanford, Consumer Protection Programs: Comparative Analysis (Honolulu, 1962), p. 27.

⁵*Ibid.*, p. 31.

bureaus and interestingly enough it is compiled to conform to different local laws.

C. National Consumers League

The National Consumers League is an educational movement founded in 1899 to awaken consumers' interests to their responsibility for conditions under which goods are made and distributed, and through investigation, education and legislation, to promote fair labor standards.

Not only does the League actively lobby in behalf of the consuming public, but it also has made itself available to legislative and executive organizations on the local, state and national levels. To this end, officials of the League have made frequent appearances before various investigative committees in support of protective measures ranging from truthful weight disclosure to deceptive credit policies. To keep its membership current, the League makes wide use of conferences, publications, and the distribution of materials. Before leaving this organization, the reader should be exposed to an examination of a state affiliate in action.

One of the oldest affiliates is the Consumers' League of New Jersey, which was chartered by the National Consumers' League in 1900. As an indication of the close relationship between the two, the New Jersey President serves *ex-officio* on the Board of the National League.

The purpose of the New Jersey League closely parallels that of the National Parent Organization. That is, it strives to educate and inform consumers as to the conditions under which goods and services are produced and distributed. As part of this campaign, the New Jersey League currently has three publications available - "Labor Laws at a Glance", "The Forgotten People", and "New Jersey Consumer Protection Laws".

D. American Home Economics Association

The AHEA initiated a program of consumer interests as far back as 1919. Since that time, the consumer interests committee has been concerned with ways in which the Association can contribute to consumer welfare.

The National Consumer Interests Committee has the following objectives:

1. Promote informative and descriptive labeling and advertising of consumer goods and services in standardized terms. Inform industry and government of specific needs for standardized terms.
2. Promote, for the benefit of the consumer, development of standards of quality and identifying marks for consumer goods.
3. Acquaint AHEA members with the AHEA, American Standards Association, and other standards through journal articles, other printed materials, and programs at national meetings.
4. Support programs for consumer protection against misrepresentation, misleading advertising, and fraudulent and unfair practices in buying and selling.
5. Call the attention of AHEA members to current problems and legislation of concern to consumers. Encourage study and discussion of the problems and participation in hearings.
6. Co-operate with such agencies and associations as the Federal Trade Commission, U.S. Department of Agriculture, Food and Drug Administration, U.S. Department of Commerce, Better Business Bureaus, and Council on Consumer Information.
7. Send communications to state chairmen reporting items of consumer interest and suggesting possible state action.⁶

The Association has found its expression vehicle, the Journal of Home Economics, to be an effective instrument in waging its protection campaign.

⁶"Report of Committees," Journal of Home Economics, 53 (1961), p. 595.

E. American Association of University Women

Like the AHEA, this organization has a special interest committee called the Social and Economics Issues Committee. The Committee functions primarily as a "sounding board" against practices that subjugate protective and safety standards. It performs a non-official service of informing state and federal agencies of the effectiveness of their various activities.

F. The Council on Consumer Information

The Council on Consumer Information is a relatively small organization that serves the consumer through informative newsletters, consumer information pamphlets, and conferences attended by the outstanding leaders of the consumer movement.

The following are typical of the pamphlets distributed to members:

1. "The Consumer Looks at Deceptive Packaging"
2. "Consumers Can Protect Their Own Health"
3. "Bringing the Consumer Point of View Into Government"
4. "Consumers Look at Antitrust Laws"
5. "Consumers Look at Discount Houses"

G. Consumers Union

The Consumers Union was formed in 1938 to provide consumers with information and guidance on goods and services being placed before the consuming public.

A by-product and vehicle of the above objective has been the publication Consumer Reports. Through this consumer "bible", the Consumers Union reports on unbiased tests of a variety of consumer products, with comparative ratings by brand name. The publicity of the ranking has tremendous effect both on the consumer and the manufacturer of a given good. If Consumer Reports continues to reach more people and cover more products, the potential ramifications are indeed tremendous.

In addition, the Consumers Union cooperates with other consumer-oriented groups. It sponsors conferences at various colleges and universities, and makes small grants to universities for special research into consumer problems. On numerous occasions various officials of the Union have appeared before different congressional committees and agencies to testify on matters relevant to the consumer protection area.

The preceding seven are by no means an exhaustive listing of all national non-government organizations interested in marketing and the consumer. Organizations such as the Credit Union League, Parent-Teachers Association, National Association of Broadcasters, AF of L - CIO, The Cooperative League of the U.S.A., Consumers Research, Chambers of Commerce, League of Women Voters, and many others actively participate in consumer programs. However, those groups discussed are a fair representation of the totality.

H. New England Consumers' Conference

In 1958 the New England Consumers' Conference was established at Boston College. Its original aims were to impress consumers of the need to organize, to investigate the impact of advertising upon the general public, and to investigate

the cost of consumer credit.

In 1962 the Conference changed its name to the Massachusetts Consumer Association and simultaneously broadened its campaign to enhance the consumers position. As a result, the Association is currently involved in informative and lobbying activities ranging from food and drug statutes to usury control.

I. Maryland Consumers Council

In 1961 the Maryland Consumers Council was organized at Rockville, Maryland. The Council was founded and formed under the auspices of Greenbelt Consumer Services, which is reportedly the largest consumer cooperative functioning in the United States.

This Maryland organization was not originally formed to remedy any particular malady; but rather to provide general educational information and services for the consuming public. In theoretical objectives, at least, the Council appears to be the consumer's "better business bureau".

J. Association of California Consumers

The Association of California Consumers is an excellent example of a state-level independent consumer organization. The Association is an active lobbyist in the consumers' behalf. The organization does not limit this activity to California; but, instead, conducts a national campaign to promote legislation. In this capacity the Association has been especially concerned with packaging, consumer credit, and fair trade or price maintenance.

To keep its membership and the general public informed of its operations,

the Association published a quarterly bulletin entitled The California Consumer. A common theme, present in most issues of this publication, is the Association's support and encouragement of the State's Consumer Council (discussed in a previous chapter).

K. Vermont Extension Service

In 1963 the Vermont Extension Service formed a Consumer Information Clearing House. The House was to clarify, formalize, and publicize many of the activities in the field of marketing which were already being carried on.

The House has set up five specific functions that currently occupy the majority of its time and effort. They are:

1. To publish and issue newsletters.
2. To serve as a clearing house for referrals of questions to the proper agency.
3. To sponsor and arrange a public state-wide annual conference on consumer-oriented information.
4. To represent the consumer point of view to other groups or agencies.
5. To interpret the production and marketing point of view to consumers.

L. Center for Consumer Affairs

The University of Wisconsin established the Center for Consumer Affairs in 1963 to promote consumer education on a national and state basis. The Center functions in much the same manner as its counterpart in Vermont. In its impersonal campaign to inform and educate the consuming public, the Center has focused on

areas ranging from trading stamps to burial costs. Consumer Affairs is the publicity organ of the Center.

M. Consumer Conference of Greater Cincinnati

The Consumer Conference of Greater Cincinnati has been in existence since about 1934. Although founded and formed as an independent consumer organization, the Conference maintains a close working relationship with the University of Cincinnati.

The Conference publishes and issues a monthly newsletter devoted to a wide variety of items of consumer interest and help. To provide background for many of the items included in the publication, officials of the Conference are frequent visitors to industrial and business establishments in the Cincinnati area.

N. Mayor's Advisory Committee on Consumer Education

The Mayor's Advisory Committee on Consumer Education was formed in Chicago in 1958. The object of the Committee is to study consumer problems and to bring these problems and their possible solutions to as wide a Chicago audience as possible.

Research indicates the Committee's programs of consumer education have been accepted with great interest. The mass media of radio and television have been used effectively to bring attention to various aspects of different consumer problems: housing, food buying, installment plans, and money management. Also the Committee has established a speakers bureau designed to train volunteers to deliver consumer-oriented messages in the Chicago area.

O. Metropolitan New York Consumer Council

Another typical local consumer protection development is an informal organization known as the Metropolitan New York Consumer Council. Since its inception in 1959, the Council has strove to fulfill three basic purposes. They are:

1. To bring together organizations and individuals who have an interest in the advancement of consumer knowledge and welfare.
2. To simulate and aid consumer information and education programs that assist families with their money management and buying problems.
3. To express the consumer point of view to the executives and legislators of the city, state and federal government.

In addition the Council has actually been allowed to add to and unofficially endorse prospective pieces of consumer legislation. In this capacity the Council has moved beyond the point of educating and informing to a position of quasi-legislating.

In a different direction, the Council has become instrumental in certain enforcement proceedings. To this end, it has served as a "go between" to bridge the gap between federal agencies and the individual consumer. That is, it has specifically conveyed "grass roots" complaints of violations to such agencies as the Federal Trade Commission and the Food and Drug Administration.

P. St. Louis Consumer Federation

Another local organization formed in the days of the Great Depression (1934) was the St. Louis Consumer Federation. The Federation claims it does not

engage in "chamber of commerce" or public relations work, but rather is a "hard nosed" organization acting on the "grass roots" level for the individual consumer.

The Federation's two primary functions are lobbying and educating. As an outlet for both of these, the group publishes a periodic newsletter. The publication is quite typical in that it publicizes St. Louis activity as well as that occurring across the nation.

Q. Critique of Non-Governmentals

Although the non-governmentals place in the pattern of organizations relevant to marketing will be discussed later in the General Conclusion, it is perhaps appropriate to comment briefly on them at this point.

In the preceding few pages of this chapter, an array of stated functions, aims, purposes, and objectives has been stated. Research has shown that these non-governmentals feel, practically unanimously, that, in terms of accomplishment, they are exceeding even their original fondest dreams.

The question posed for the reader is: "Are they indeed fulfilling the void in state and federal marketing regulations (i.e., providing counsel for the consumer) or are they merely paying lip service to an undertaking that at best is extremely difficult?" Research indicates that this question generally goes unanswered or is left to the individual's personal opinion.

It is interesting to note that just about every writer is willing and ready to take a "shot" at state and federal intervention and regulation of business activities. On the other hand, very few seem equally anxious to lamblast the non-governmentals. It appears they have become the "sacred cows" of our country. One explanation may

be that since a great many of the non-government groups (e.g., Chamber of Commerce, Better Business Bureau) are supported to some extent or another by the business community, it would be disastrous for them to "bite the hand that feeds them".

In an attempt to answer or at least secure comment on the above question, it is virtually impossible to derive anything in terms of an analytical analysis. The previously mentioned interviews with Nesbitt and La Follette proved to be about the best insight gained in this situation.

Both of these state officials agreed that the majority of non-governmentals lean toward business, as opposed to the consumer, consciously or otherwise. However, regarding what the ramifications of this would mean for the consumer, the two gentlemen disagreed.

Nesbitt's contention was that although the Better Business Bureau, for instance, was a "goodwill" outlet for business in the state, the consumer was protected as much as need be in the process. He further stated that his office felt that the quasi-protection resulting from the Better Business Bureau's efforts to keep business honest was quite enough for the consumer.

On the other hand, La Follette was convinced the non-governmentals would not (and perhaps could not) adequately protect the consumer. He cited examples where various complaints were registered with Wisconsin groups. The end result usually was that the complaining individual was quietly referred to a more "reliable" concern and the violator was at best "scolded". La Follette insists this is not the kind of "grass roots" protection Wisconsin hopes to develop.

CHAPTER IV

CONCLUSIONS

A. General Observations

Throughout the previous pages, the reader has been exposed to a great deal of data reported through the survey. It is evident from the information supplied that the consumer protection movement has produced tremendous ramifications in the United States. This paper has presented two types of ramifications, viz., the state and non-governmental organizations. Because of the legal ramifications for the consumer, the state developments are probably the most significant. Of course, this is not to imply that the non-governmentals do not portray an important role; however, as was shown, they usually function as educational or information units. Hence, the fact remains that in contemporary America, protection of any sort requires a legal basis.

As is true of the subject matter treated in almost any paper, the topic herein is indeed a virgin area of investigation. It is readily apparent that further study is warranted. An interesting study would be a follow-up to determine the effectiveness of the programs set out in Chapter Two.

A study of perhaps more significance would be an investigation of the overlap of function and jurisdiction of state and federal consumer protection programs. The result of such an undertaking might well be a lessening of duplication of effort.

B. Recommendations: A Model for a State Program

Since (as was discussed above) the state organizations arising from the consumer protection movement are the most significant to the consumer, the concluding section of this paper will present to the reader a model for a possible consumer protection division within a state government. The parts of the model are based on the data suggested by the survey. An effort has been made to eliminate weak points and incorporate strong ones.

Adequate laws and law enforcement are essential to an effective fair business program. Government officials charged with the duty to prevent unfair business practices must have the authority to institute legal proceedings and they must exercise that authority when the public interest requires. But an effective program - to protect legitimate businessmen and the consuming public from unfair methods of competition and unfair, fraudulent, and deceptive practices - encompasses much more than merely instituting legal proceedings against persons believed to be violating the law. Case by case adjudication, with all the limitations of adversary proceedings, is an expensive, time-consuming, and inefficient method of obtaining compliance with the law. It has been found that, in addition to law enforcement, a well-defined program to combat unfair business practices should include objectives and purposes along the lines discussed below.

Developing and administering a fair business program should be the full time responsibility of one adequately-staffed office in the state government. Many of the existing departments and agencies have responsibilities with respect to business practices and have specific authority to stop and prevent certain unfair

practices. For example, the typical department of agriculture is authorized to establish and enforce rules and regulations on the grading and labeling of agricultural products; the department of regulatory agencies is charged with the duty to protect the interest of consumers, depositors, and investors and it makes and enforces rules and regulations governing the conduct of trades, businesses, and professions; the department of health exercises authority with respect to the labeling, advertising, and sale of food, drugs, and cosmetics; and, of course, the attorney general has authority and responsibility under a number of different laws. The specialized knowledge - expertise - of the several agencies is vital to an effective program and there should be no lessening of the authority or efforts of the several agencies to prevent unfair practices. But these efforts of the several agencies need to be coordinated through one office. Coordination is needed not only to prevent undue duplication of effort, but also to insure that the most effective sanctions available may be applied. Additionally, there is need for one office in the government where members of the public may register their views and complaints about business practices and be assured that their views will receive full, impartial, and confidential consideration.

An educational program aimed at the public in general and the business community in particular is essential to an effective program. Alerting and educating the public as to practices to be aware of can be of inestimable value to an enforcement program. Good law enforcement depends in large part upon the support not only of the public at large but of the responsible business groups of the community. To win and keep this support, it must be demonstrated to them that the elimination of unfair business practices will have a beneficial effect on their individual businesses. The overwhelming majority of businessmen, being honest themselves, have no natural

sympathy for the competitor who stoops to deception. The honest businessman, who sees his customers deserting his place of business to buy deceptively advertised goods of a competitor, can be a strong ally in efforts to stop the deception. As a part of an educational program, the office designated to develop and administer a fair business program should meet regularly with organized units of the business community - chambers of commerce, professional and trade associations, and the like - to identify emerging unfair practices and discuss ways and means of dealing with them.

The Federal Trade Commission, the Department of Justice and other federal agencies have expressed a willingness and desire to cooperate with state agencies in their common efforts to stop and prevent unfair business practices. The Federal Trade Commission, in its 50 years of dealing with unfair business practices, has built up a considerable body of law and has developed techniques of investigation and litigation. Its staff is a repository of expertise in the field. The Commission has said that it wants to share that expertise with state enforcement officials. Arrangements and procedures for close cooperation and effective liaison with federal agencies should be established.

There should be a close working relationship and free exchange of information between the state agency and the several non-governmental protective organizations. Federal agencies concerned with unfair business practices, especially the Federal Trade Commission, have worked closely with these organizations for many years. States with active consumer protection programs report that the non-government organizations in their states provide valuable aid and assistance in eliminating unfair business practices. These groups are a good example of self-regulation in our free enterprise economy. But the fact remains that they are supported by business

concerns and they have little authority to correct unfair business practices. A state-sponsored program along the lines proposed herein would complement, rather than supersede or conflict with, the efforts of the non-governmentals to eliminate unfair business practices. Any close cooperation which exists between the office of the attorney general and the local organizations should continue.

An office charged with the duty to develop and administer a fair business program is the logical office for the legislature to look to for reports and recommendations with respect to proposed legislation which would affect the interests of consumers. Additionally, that is the logical office to represent the interests of consumers in proceedings by the several departments, agencies, boards and commissions of the government.

Every effort should be made to inform businessmen of the requirements of the laws and to encourage voluntary compliance therewith. Consideration should be given to the establishment of guides and standards for particular kinds of businesses and services. Businessmen are encouraged to seek advice from the state agency with respect to proposed courses of action in which possible violations of law are involved.

If it is determined that a program with objectives and purposes along the lines discussed above is needed, it then becomes pertinent to consider ways and means of implementing the decision. The need for legislation dealing with business practices has already been discussed. Remaining for consideration are questions such as: What kind of office or organization needs to be established? Which department of the government should be assigned the responsibility for developing and administering the program? What would be the staffing requirements of an office

to perform the designated functions?

The creation of an office of consumer counsel, or the organization of a consumer council, or the establishment of any other office or body for the sole purpose of protecting the interests of consumers has not been necessary, and would not be appropriate for the development and administration of an effective fair business program along the lines proposed herein. It has been found advisable, however, to explain the proposed program to organized groups of consumers and to organized units of the business community - Better Business Bureau, Chambers of Commerce, professional and trade associations, and the like - and to solicit their aid and support for the necessary legislation and appropriations.

It has been found that usually the responsibility for developing and administering a fair business program should be lodged in the department of the attorney general. That responsibility would be consistent with the typical attorney general's existing responsibility. It would be consistent also with his duty to represent the state in all civil actions in which the state is a party, and, unless otherwise provided by law, to prosecute cases involving violations of state laws. Furthermore, as the department of the attorney general usually assists all state departments and agencies in legal and enforcement matters, it is in a logical position to receive and coordinate consumer and business complaints. Where the expertise of a specialized department, such as the departments of agriculture and health, are necessary, the attorney general could refer the complaints to those departments or seek their assistance. Also, the attorney general, in his relationship with the executive, legislative and judicial branches of government, can most effectively represent the interests of consumers and businessmen.

Typically it has been found that the attorney general usually establishes within his department a separate division, designated "Fair Business Practices Division," or other appropriate designation, and assigns to that Division the full responsibility of developing and administering the program. Usually the legislature has the opportunity to pass on the above proposals.

BIBLIOGRAPHY

- "Administrative Agency Practice and Procedure in Pennsylvania." Temple Law Quarterly, Vol. 36 (Summer, 1963), 385-395.
- Barber, Perry O. "Judicial Review of Administrative Agency Action - A Need for Texas Reform?" Texas Law Review, Vol. 40 (October, 1962), 993-1018.
- Christian Science Monitor, Vol. 53 (March 17, 1961), 1.
- Crown, Paul. Legal Protection for the Consumer. New York: Oceana, 1963.
- Gordon, Leland J. Second National Survey of State Weights and Measures Legislation, Administration, and Enforcement. Washington: U.S. Department of Commerce, 1964.
- Legal Aspects of Doing Business in Arizona. Tuscon: Bureau of Business and Public Research, 1961.
- "New Consumer Protection - The California Way." Good Housekeeping, Vol. 152 (May, 1961), 147-150.
- "Notes from the Grass Roots." Consumer Reports, Vol. 25 (August, 1960), 437-439.
- O'Connell, John. "Washington Consumer Protection Act - Enforcement Provisions and Policies." Washington Law Review, Vol. 36 (October, 1961), 279-289.
- Oklahoma State Capitol. Personal Interview with the Attorney General of Oklahoma, Charles Nesbitt. February 11, 1965.
- Oklahoma State University. Personal Interview with the Attorney General of Wisconsin, Bronson La Follette. April 19, 1965.
- "Report of Committees." Journal of Home Economics, Vol. 53 (September, 1961), 590-591.
- Sanford, Ronald. Consumer Protection Programs: Comparative Analysis. Honolulu: Economic Research Center, 1962.

Sieker, George F. "The Role of the States in Antitrust Law Enforcement - Some Views and Observations." Texas Law Review, Vol. 39 (October, 1961), 873-881.

"State Aviation Threat Worries Airlines." Aviation Week, Vol. 73 (October 31, 1960), 39-42.

U.S. President, 1960-1963 (Kennedy). President's Message to Congress, March 12, 1962. United States Printing Office Publication.

Wall Street Journal, Vol. 30 (November 8, 1960), 1.

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