

ECONOMICS OF CONSUMER CLASS ACTIONS

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An Abstract of a Paper

The consumer class action has been hailed as the ultimate consumer remedy. It permits economies of scale in some legal proceedings which may benefit the consumer. Moreover, government agencies will not ordinarily bring suit on behalf of one consumer but they will, in some cases, sue on behalf of the class. In the case of a harmful commodity, if a class action has been successfully adjudicated disutility is lowered for those harmed and social benefits (i.e., collective benefits) may accrue in some measure to those for whom damage was averted. Whether, in the short-run, or the extent to which in the long-run prices will be increased as a result of the adjudication of a class action depends upon the degree of competition in the market in which a producing firm operates and on the level and elasticity of the relevant supply and demand curves for the product subsequent to the suit. Even without suit being brought the effect of the threat posed by the availability of the consumer class action will be a shift to a higher quality of product and more non-price competition on the basis of quality or at least a reduction of fraud and of harmful product attributes. The dishonest firm and the one producing harmful products will be the ones most adversely affected, and their loss may be little mourned, but there will be less competition in some markets unless firms leaving the market are replaced. The equilibrium prices may be higher in these markets after a time period.

The overall affect of the class action being available as a legal tool should be a better performing market and better performing agencies serving the consumer. Legal limitations on the bringing of class actions made them far from readily available but they are one of the most important means for internalizing external costs and for discouraging fraud and deceit in the market place, and it is the low-income consumer who suffers most from the latter. Therefore, even though consumer economic welfare will not always be increased through the use of the class action, especially if taxes are considered, its increased use is important if we are to have a more equitable economy.