

## Invited Panel Session: A Comparison of the Structures and Current Issues of the Consumer Movements of Canada, Australia and New Zealand

This session focused on international consumer movements and policy. Representatives from the Federal government, voluntary or non-government organizations and academia compared current consumer issues, ideologies and protection frameworks in Canada, Australia and New Zealand.

**Louise Sylvan, President Consumers' Association of Australia**  
**Lydia Shevchuk, Office of Consumer Affairs, Industry Canada, Winnipeg, Manitoba**  
**Anne Pigeon, Office of Consumer Affairs, Industry Canada, Ottawa, Ontario**  
**Sue McGregor, Mount Saint Vincent University, Halifax, Nova Scotia, Canada, coordinating author**  
**Margaret Charters, Syracuse University, panel moderator**

We are pleased to announce that Louise Sylvan was able to join the discussion on the day of the panel, as she was en route from Australia to Africa. She clarified updates of the Australian presentation as was relevant and appropriate. These are incorporated into each of the three Canadian sessions. Margaret Charters, Chair of ACCI's International Consumer Affairs Committee, moderated the panel and shared current information gleaned from a contact in New Zealand since the Canadians had problems garnering information from both the government office and the Consumer Institute of New Zealand.

For clarification, all information was obtained from faxed updates from foreign contacts, relevant internet web sites for both government and consumer organizations and e-mail as well as personal communications and experience with the issues.

### Consumer Protection Frameworks

Lydia Shevchuk shared an overview of the organizational structures of all three Commonwealth countries. Each has a federated structure (national level of government and provincial, territorial or state governments which all have some degree of responsibility for consumer protection). This overview sets the context and policy environment in which consumer issues arise and to which the consumer movement responds. Three themes were used to organize the discussion and analysis: organizational structure, jurisdictional issues and fiscal pressures.

### Organizational Structures

Canada. Canada has a three tiered consumer protection framework comprised of: (a) the Department of Industry Canada at the federal level (previously the

Department of Consumer and Corporate Affairs Canada (CCAC)), (b) ten provincial departments (which have various titles) and (c) two territorial governments (soon to be three). Canada's protection framework was put in place in the late 60s and early 70s during a time of economic prosperity when people respected social and civil rights to the extent that President Kennedy enacted the basic consumer rights of information, safety, a voice and a choice. CCAC, established in 1967, resulted from an amalgamation of legislation already on the books for up to 100 years as well as the enactment of new legislation. A 1991 analysis revealed that there were over 1000 pieces of direct and indirect consumer protection legislation spread over the three levels of government.

Over the next 25 years, the momentum of the consumer movement in Canada slowed down, most visible by the gradual disbanding and amalgamation of consumer departments, leading to a situation where there are only two provincial departments with the word consumer in their title. The remaining have consumer functions embedded in business or commerce, justice, housing, public safety, even municipal affairs. At the federal level, CCAC was disbanded in 1992 and replaced by a newly amalgamated super department called Industry Canada. There is now a much smaller Office of Consumer Affairs as well as the traditional administration of competition legislation in another, much larger, division. Indeed, much of the legislation dealing with food and drugs and health protection has been assumed by Health Canada, and Agriculture and Agri-foods Canada. As governments downsized, Cabinet portfolios were eliminated or combined, and, since consumer ministries were seen as junior Cabinet positions, they became especially vulnerable to fiscal pressures (to be discussed shortly).

Australia. A government office representing the consumer interest did not evolve in Australia until the

mid eighties. The Federal Bureau of Consumer Affairs was announced in 1987 and was established as a separate body to assist the then Attorney General on Consumer Affairs. The Bureau (originally the Office of Consumer Affairs) was a separate Bureau within the Department of the Attorney General. As was the case in Canada, the intention of this initiative was the amalgamation of various government services directed at protecting the consumer and informing business. The National Consumer Affairs Advisory Council (NCAAC) was established in 1987 to afford a means of providing advice on matters of national consumer interest to the Minister of Consumer Affairs. Membership stemmed from consumer, business, trade and governments. The counter part of the Federal Bureau of Consumer Affairs was the Trade Practices Commission (TPC) which dealt with complaints concerning breaches of the Trade Practices Act. As with Canada's Competition Bureau, the TPC saw competition as a means to protect the interest of the consumer. As well, all of the eight states and territories now have separate Consumer Affairs Agencies, the last one being Tasmania in 1988. These State agencies were established so as to create a wider network of the federal structure, for purposes of decentralization, and to streamline consumer policy activities. Each State and Territory has its own protection laws which mirror parts of the Federal Trade Practices Act as well as provide even wider coverage.

Recently, in Australia, the Trade Practices Commission of 1974 and the Prices and Surveillance Authority of 1984 were merged into the new Australian Competition and Consumer Commission (1995). The Australian Consumers' Council (ACC) replaced the NCAAC in 1993 as an advisory body to the Federal Minister of Consumer Affairs on strategies for more effective consumer protection. Margaret Charters reported that the Australian Federal Bureau of Consumer Affairs and the Small Business unit have recently combined into one Ministry (no information was available about this very recent change). It seems that Australia is not immune to the condition of "amalgamation and mergers" of government departments either.

New Zealand. As with Australia, New Zealand did not formally represent the consumer interest at the federal level until the mid eighties. The Ministry of Consumer Affairs (1987) was officially launched as a division of the Department of Trade and Industry, which was restructured in December 1988. The Ministry is now a subdivision of the new Ministry of Commerce (1988). The Commerce Commission administers the Commerce Act (1975) and the Fair Trading Act (1986). The consumer affairs department has its own funding but the

Minister of Consumer Affairs is NOT a member of Cabinet; rather, she reports through the Ministry of Commerce. The key sections and services (referred to as bureaus or divisions in the other countries) in the Ministry of Consumer Affairs include the Policy Section, the Operations Section, the Product Safety Section (1987, used to be the domain of the now defunct Product Safety Council), and the Weights and Measures Services (1988, previously part of Department of Labour) and currently called the Trade Measurement Unit (TMU) which has been in existence for over 150 years. The Complaints and Liaison Service (as of 1989) works with community groups and disadvantaged consumers via the five regional offices of the Federal Ministry throughout the country. The Ministry of Consumer Affairs is also responsible for tourism, overseas trade and energy. There is also an Office of the Ombudsman, appointed by the Prime Minister, which deals with consumer complaints regarding banking, insurance, state owned enterprises and power utilities. The Citizens Advice Bureau handles consumer inquiries and trains consumer volunteers.

It is clear that consumer departments in each country have been set up and then changed to meet the specific needs of their citizens, to respond to "local" marketplace conditions and to accommodate different policy environments. This diversity leads to the variations in specific programs and laws that have been enacted to regulate the marketplace. There is a developing concern in all three countries that the consumer voice is being lost or becoming less visible and less audible. Consumer groups are also confused, wondering which side the minister is on if s/he has to represent both the consumer interest and the business interest. Indeed, consumer policy is now becoming more integrated into a broader marketplace policy which is aimed at the proper functioning of the marketplace rather than advocating a consumer perspective. This leads to marginalization of the consumer voice because consumer protection is increasingly structured around fair competition, deregulation of the market and intensification of market policy.

#### Jurisdictional Issues

Lydia noted that both Canada and Australia have multi-tiered systems of consumer protection, dictated by their constitutions. In both countries, the federal level is responsible for trade and commerce, competition and market structure, banking (except state banking in Australia and credit unions in Canada), weights and measures, product safety, bankruptcy, misleading advertising and intellectual property. The provinces or states deal with fair trading, civil and property right and tort law (which covers the sale of goods and services),

credit, consumer redress and complaint handling, and registration and licensing of businesses and professionals. However, unlike Australia, which has mirror or parallel consumer affairs departments at the state and territorial levels, there is no consistency among provinces and territories in Canada with respect to departments that deliver consumer programs and services or what is actually delivered. Remember that considerable overlap was evident in the finding that over 1000 pieces of consumer related legislation are on the books in Canada.

As with the issue of loss of visibility of the name "consumer", such lack of consistency in the delivery of consumer services in Canada leads to confusion on the part of the consumer. Although it is usually fairly clear in the minds of officials what their area of jurisdiction is, this is not transparent to the consumer! To them, it may be totally irrelevant whether an issue is federal or not; they know they have a problem or they need information and they know they encounter considerable frustration trying to find the right person to help them. This is further exacerbated when government departments have similar names. A recent federal government study revealed that over 60% of consumer calls they received were referred to another jurisdiction or agency.

Another fallout of jurisdictional issues is the creation of a patchwork of laws leading to inter-jurisdictional inconsistencies, internal barriers and gaps in enforcement. This is not such an issue in Australia which ensures that the state and provincial acts mirror the federal Trade Practices Act. One has to wonder what the implications will be of the recent merger of the Trade Practices Commission and the Prices and Surveillance Authority into the new Australian Competition and Consumer Commission (1995). Will this bode well for consumers or not? In Canada, a current problem is the inability of one jurisdiction to prosecute fraudulent businesses which exist in another jurisdiction. To address this issue, there is a major initiative underway to eliminate barriers that arise because of the patchwork system of laws across Canada - this is the *Agreement on Internal Trade*.

#### Fiscal Pressures on Government

In response to high debt, high deficits and poor economic growth, governments have undergone the massive exercise aimed at reducing operating costs. Consumer agencies are continuing to go through a process of reorientation, regulatory reform and institutional streamlining. One result is that demands from consumer groups to regulate or rectify marketplace failures through enforcement measures are at odd with the fiscal reality so much so that these very consumer agencies are losing their core funding to be the

countervailing voice in the marketplace. All of the major consumer organizations in all three countries have recently lost their core funding from government consumer offices: Consumers Association of Canada in 1992, Consumer's Association of Australia in 1996 and the Consumers Institute of New Zealand in 1997. Granted there are still grants and contributions programs but the amount of money has decreased alarmingly and the funding criteria have become much more stringent, open to more issue specific groups.

Due to fiscal restraints, there is a move away from regulation towards self regulation and voluntary codes of conduct or practice, towards harmonization of cross-jurisdictional legislation and the emergence of new framework law. This is being coupled with a re-emergence of consumer information and education initiatives, the purpose being to increase the consumer's ability to manage their own affairs in the marketplace. The following section on consumer issues provides more evidence of this shift in market philosophy. Governments themselves are using new technologies to deliver information: government agencies in all three countries have web sites and e-mail. Australia and Canada have developed videos and CD-ROM's and New Zealand has developed consumer information packages for indigenous people (a new focus for them).

#### **Consumer Organizations**

Anne Pigeon explained that, within each of these countries, there are active consumer organizations which are all being challenged in times of fiscal constraints and the shifting momentum of the consumer movement. There is general agreement in the literature that the consumer movement is in its mature stage moving towards a more focused future. It is challenged to do more and different things with fewer and different resources and partners. The organized voices of the consumer are particularly hard hit by the reality of the 90s but seem to be thriving despite all.

Canada. The Consumers' Association of Canada (CAC) was formed in 1947, is currently celebrating its 50th anniversary. Up until the early 90s, it was seen to be "the voice of the marketplace" in Canada. Along with CAC, other consumer groups in Canada depended almost totally on government funding for their survival. But once Industry Canada cut its core funding, CAC became just one of many voices clamouring for declining funding for consumer related issues. The Canadian Consumer magazine has been replaced by a quarterly newsletter distributed by the United States Consumer Union (this is a long and protracted story better left for another time). Membership has declined steadily from 100,000 to

10,000. An up and coming consumer voice in Canada is the Quebec based consumer groups, given that 80% of consumer organizations are based in this one province.

Australia. Each state and territory in Australia has a consumer organization, whether they be privately incorporated or federally funded. Australia has two especially large consumer organizations, the Consumers' Federation of Australia (CFA), the umbrella organization for 90 plus member organizations. It was funded by government but Louise clarified that this funding was cut in 1997. The Consumers' Association of Australia (CAA), established in 1959, would be the counterpart to CAC in Canada except it is not funded by government. It is a huge organization which receives its funding from its more than 150,000 subscriptions to its magazines, CHOICE and *Consuming Interest* (the policy and issue perspective).

New Zealand. Once the operational arm of the now defunct Consumer Council Act (1966), the Consumers Institute of New Zealand was run and funded by the Ministry of Consumer Affairs until recently. Louise informed us that the Institute lost its funding from the MCA early in 1997, so recently that it has yet to determine how this will affect its future. Its main source of funding may now be the magazine and membership. The Dunedin Consumer Association Inc (1960) is the sole survivor of an earlier attempt of the now defunct Consumer Council to create a three tier consumer organization in New Zealand. It is now a largely independent, incorporated society at the local level that still supports the Consumers Institute. This support may be waning since Margaret Charters reported that the DCA is about to disappear, according to the Head of MCA (conversation early 1997).

### **Current Consumer Issues**

Sue McGregor outlined the major consumer issues being addressed by governments and consumer groups in all three Commonwealth countries, using United Nations and Consumer International's eight consumer rights as an organizational tool. The right to basic needs is met in all countries so it is not an issue; the other seven issues are presented for discussion. General comments will be shared with an invitation to contact Sue for the overheads used in the presentation.

By far, the most prevalent consumer right that was being addressed was consumer choice, competition and fair transactions. This should not be surprising given the recent shift to merging consumer affairs departments into commerce, business or industry. Most especially, parties in these consumer movements were dealing with mergers, voluntary codes in banking, insurance and

EFTS/POS, with bio-technology and telecommunications, and trade barriers. Financial services (credit and reform of entire industries) were common across the board. Canada was dealing with negative option marketing and bio-technology but the other countries focused on lay bys (aways), rentals and direct distance selling practices.

The second most prevalent issue was information with a focus on the information highway, the Internet, telemarketing, and product standards. New Zealand focused on consumer information in indigenous languages and on resources for youth, adults and traders. Australia focused on privacy, country of origin labelling and children's advertising.

The third largest issue was safety for products (not services) with common issues including standards and children's night clothes. Canada was focusing on bio-technology and Australia was tracking the issue of sunglasses (skin cancer threat).

All three countries were paying attention to environmental issues including recycling claims and energy conservation. Canada did not explicitly mention consumer education but Industry Canada has funded several key initiatives recently (Consumer Information Research Network, Canadian Consumer Information and Education Forum, and Project Real World, a consumer economics curriculum). Australia provides ongoing advice to the minister on consumer education and has recently mandated consumer education in all primary schools. New Zealand developed a consumer education package and a glossary of consumer terms for the Maori peoples (and six other Pacific languages).

Canada developed a position paper on how to make consumer groups more self sufficient, a topic which truly reflects the competition theme of Industry Canada. Australia has developed a paper on the social responsibility of the banks, a topic related to the consumer's voice in the marketplace. Finally, a striking finding was the visible focus on consumer redress and preventing the problem before it starts in New Zealand and Australia with no such thing happening in Canada. Australia provides ongoing advice to the Minister on dispute resolution and administers a complaint resolution scheme. New Zealand also has a complaint resolution scheme and is reviewing its existing dispute tribunal.

One final comment: governments and consumer organizations both seem to be addressing similar dimensions of the consumer rights, save for information and choice, with consumer groups favouring human rights, women, elderly, indigenous consumers, privacy, and literacy instead of a competitive, efficient, effective marketplace. Their concern for the consumer interest in the midst of the current policy context seems justified.