

Developing Countries and the Market System

Toward Better Policy for Aiding the Contribution of Civil Society Consumer Organisations.

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Preface

This paper has been written to provide food for thought for all those in the community of people involved in development assistance policy making and implementation and those concerned with global consumer and competition issues particularly in respect of the developing world. This community includes MPs, AusAID officials, officials of consumer and competition agencies, people in aid NGOs and consumer organisations. The paper therefore devotes some space to achieving a common level of understanding of the civil society consumer movement and its role and some basic issues in market regulation and development assistance.

In significant measure this paper draws on the writer's personal experience as follows:

- As CEO of Australia's peak civil society consumer organisation the Australian Federation of Consumer Organisations (now the Consumers' Federation of Australia).
- As a member of a number of government policy advisory and regulatory bodies and of a number of industry non-formal regulatory bodies.
- As an official of AusAID working in policy development and public affairs.
- As a participant in projects to assist the consumer organisations in Egypt in 1996 (funded by UNDP) and in the Philippines in 2000 (funded by AusAID).

Summary

This paper addresses the question of increasing the availability and utility of assistance to civil society consumer organisations in developing countries in the interest of building the effectiveness of the market system in those countries and in the interest of building a global market system which benefits those countries.

The paper considers:

- How much the making and operation, or administration and enforcement of sound rules for markets in developed economies is dependent on the involvement of consumer organisations as civil society actors.
- The actual and potential contribution in this regard of such organisations in developing economies.
- The limitations on the effectiveness of such organisations.
- Current aid donor policies on assistance to civil society organisations and the domestic, bilateral and multilateral policy and political considerations for donors.
- Improving the ways in which assistance from the developed world might be provided.

Development assistance policy in Australia, many other donor countries and in international agencies has seen increased attention in recent years on measures to assist:

- the development of good governance, (around 20% of Australia's aid is in this category),
- the growth and contribution of private enterprise to development in an effective market system, and
- the capacity of civil society including through indigenous civil society organisations (ICSOs).

The interdependence of these three factors is recognised.

Currently under the Australian aid programme indigenous civil society organisations (ICSOs) are able to access assistance in various ways. Generally funding is for particular limited projects with the approval of domestic governments. This makes sense in terms of accountability, but it does not make it easy for ICSOs to develop the capacity to sustain longer-term programmes and to respond quickly to changing policy circumstances and make constructive criticism of their governments which may be necessary to achieve beneficial public policy, regulatory and administrative reforms.

The paper argues that ICSO consumer organisations have the potential to accelerate the development of effective market systems and associated public policy and regulatory regimes in developing countries and to participate effectively in international processes to the benefit of their countries' economies. To take advantage of this potential some changes to Australia's aid programme and to Australia's participation in policy making for the World Bank, the UNDP and other international agencies would be indicated.

Introduction

Economic growth clearly underpins development. But all participants in an economy do not automatically share in the benefits of growth. Moreover, “there is nothing in the market mechanism that works to prevent” (Baumol, 1992) inequality as markets can only discriminate between efficiency and inefficiency. The UK *White Paper on International Development - Eliminating World Poverty: Making Globalisation Work for the Poor* (DFID, 2000) states: “While the market fundamentalism of the 1980s and early 1990s has been thoroughly discredited, it is now almost universally accepted that efficient markets are indispensable for effective development.” So this paper will assume broad agreement that, while it is not a sufficient condition for equitable distribution of the benefits of growth, an effective market mechanism may well be a necessary condition.

Adam Smith observed that: “People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.” In other words incumbent market players have an attraction for rule-making to protect their interests. Although their purpose might be to make rules in the public interest, and often they do, governments through history have obliged private interests with rules mandated in law. As Braithwaite and Drahos (2000) make clear, more and more these rules will have to be global, rather than state based, to be effective either in the public or private interest and governments are obliging with rules to regulate globalised and globalising markets.

In their extensive survey of the way markets are regulated at the global level, Braithwaite and Drahos (2000) find that key actors include governments, transnational corporations, labour organisations, international institutions and civil society organisations. They conclude that the rules adopted reflect the interests of the most powerful actors - “the global law-makers”, that civil society organisations have been the weakest actors and that “Women, excluded national minorities and citizens of developing countries are the law-takers”, thus the rules adopted do not operate in their interests. Of the actors involved, they decide that civil society organisations have the greatest potential to enhance the position of the law-takers. Amongst CSOs they see the international consumer movement, given its purposes and expertise in making the most of markets, as being in a very special position, indeed potentially “an NGO powerhouse of the next (21st) century”.

They advance a demanding programme for the movement, which, inter alia, requires it to “globalise to consumer organisations in developing countries”. They say, though, that for the movement to do all they ask “would require the funding leverage of a visionary foundation.” Some things can be done under Australia’s aid programme to assist the consumer movement to make this contribution.

Effective Markets

The main conditions for operation of a market that effectively promotes efficiency are:

- rivalrous competitors in numbers resulting in optimal productivity, including containment of profits to normal return on capital levels, and
- adequate information and an effective margin of consumers educated and informed to make maximising decisions.

These conditions are often not met automatically and rules or fair-trading regulatory regimes, covering both competition and consumer protection, are employed by governments to bring them about or correct problems where they cannot be met.

This is the principal public policy mechanism to ensure that the benefits from economic growth flow to all industry sectors including small business and on to consumers in general thus leading to equitable welfare gains.

Regulation for competition includes that seeking to prevent anti-competitive practices (such as monopolisation through mergers and takeovers, price agreements between competitors, market sharing, collusive tendering, etc) and that which assists new entrants to compete with incumbent monopolies. The full benefits of such regulation may not be realised, however, without effective complementary consumer protection regulation. Such regulation ensures that efficiency gains brought about by competition policy reforms are passed to end-users and not appropriated through deceptive and unfair practices. Competition and consumer protection regulation combine to promote overall community welfare.

Consumers' International (April, 2002) argues that empowering poor consumers can "can help market perfection, encourage competition for fairer and competitive prices by working with the supply-side of the economy. However, if they are neglected, as the case is now, it is the poor (the consumer) who suffers most, so any talk of lifting the poor out of poverty without properly addressing the question of the poor consumers (demand-side) is questionable."

So in general terms this paper will assume that the level of effectiveness of many if not most markets in contributing to efficient, equitable and ecologically sustainable welfare maximising can be enhanced by the judicious making and operation of rules. It has been the tendency to think of such rules as only being effective if they are formal, mandated in the laws of states, but increasingly it is recognised that informal rules not based in laws of states, but rather rules to which market actors have voluntarily agreed to adhere, can play a significant role in enhancing market outcomes. (Braithwaite and Drahos, 2000) These rules of course cannot be of the kind referred to by Adam Smith. They will only be judicious if they are made and administered in an entirely transparent manner and are adequately informed, especially by the needs and wants of the weakest interests in a society or the global society. Representation of those weakest interests can be enhanced by building the capacity of civil society, especially through national and international civil society consumer organisations.

What is civil society and what are civil society consumer organisations?

Doubtless there is a wide range of views around the world on the characteristics of a society that is civil. There does appear to be growing consensus that a society is likely to be less civil, in terms of any measure, if "civil society" is limited, as against state and market actors, in the extent to which it can influence social, economic and political or public policy developments. Interpreting the work of Martin Krygier (1997), Jane

Panetta and I elsewhere (Brown and Panetta, 2000) observed: "The economic crisis faced by a number of Asian countries, where there are traditional civil society organisations (CSOs), but not connected to modernising processes, and the difficulties faced by Russia and other post-socialist societies, where CSOs were largely replaced by the state apparatus, have starkly demonstrated the importance of a strong civil society to the overall health of nations."

Recent years have seen much discussion of just what constitutes "civil society". A number of definitions have been suggested. The following, which is the working definition of the Norwegian Agency for Development Cooperation (NORAD) is useful:

- The formal and informal organisations and associations that operate in the space between the family and the state. These organisations are not controlled or owned by the state, and primarily operate on a not-for-profit base.
- An arena for civil society actors and their relationships with other actors like the state and the private sector. This space and arena will be shaped by its surroundings, including the legal framework under which a civil society operates. (NORAD website)¹

Just as it is the case that there is a spread of views on the optimal areas and relative merits of state and market action in, efficient, equitable and ecologically sustainable welfare maximising, so there is a spread of views on the optimal kinds and amounts of civil society action. At one extreme, for example, particular civil society actors might be so influential as to overwhelm and stop the state from functioning for the "overall welfare of society" (Diamond 1999). A civil society organisation might act only in the interests of a part of the society, for example the followers of a particular religion or people living in a particular region and if too powerful might advantage its constituency in the public policy process over other citizens.

A civil society consumer organisation, which meets criteria agreed by the international consumer movement through Consumers International, though is unlikely to have this drawback. While such an organisation might charge for access to the results of some of its work it must act exclusively in the interest of all consumers of products of the markets of the land; that is all the country's citizens. It must be open and democratic, politically non-aligned and quite independent of business interests even to the extent that it may only disseminate information about products at its own expense; that is it must not advertise or endorse products for payment of any kind. A full member of Consumers International also must be non-profit-making and not influenced or restricted by any subsidy it might receive. (Consumers International website) These strictures enable consumer organisations to claim a special voice in the public policy process, but, as is discussed later, they limit these organisations in terms of the resources they can command.

¹ Two other definitions suggested are:

Civil society is the realm of organized social life that is open, voluntary, self-generating, at least partially self-supporting, autonomous from the state, and bound by a legal order or set of shared rules. (Diamond 1999)

It is what citizens do together in their own right at the bidding of no higher authority, for the common good, and apart, generally speaking, from direct party political affiliation or alignment. The civil society is not concerned primarily with power, although it may be ranged against the excessive concentration or abuse of power in any quarter. (Guthrie, 1994)

What contribution have consumer organisations made in developed economies?

The fundamental objective of civil society consumer organisations, or the consumer movement, is to correct market failures. This they do either directly by reducing consumers' information search costs, or by pressuring or working with governments and/or other actors such as professional or business associations or collaborations of these, to make and effectively administer rules for the operation of markets. Sometimes they will press for some other forms of market intervention such as subsidies to disadvantaged groups.

The way the consumer movement has operated can be grouped into four modes:

- Product testing/correcting information asymmetry
- Engaging in the public policy debate and using the court system
- Organising nationally and internationally and becoming policy insiders
- Collaborating with the corporate world

Elsewhere Jane Panetta and I have set these out in some detail in the Australian context (Brown and Panetta, 2000). Martin Smith's analysis (Smith, 1993) broadly concurs. The consumer movement has generally developed these four modes sequentially in developed countries, but continues to operate in all four with the emphasis dependant on the product or issue in question. The following summarises these modes.

- **MODE 1 - Product testing/correcting information asymmetry**

In the first mode, the movement was almost exclusively concerned about the provision of information about products. It's independent testing or assessing the quality (especially safety) of goods and services and reporting findings reduced consumers' information search costs and helped them to exercise their power of choice more effectively. At first, goods, rather than services were the main focus of attention, but, over time, this changed as services represented an increasing proportion of average household expenditure.

The development of the consumer movement was associated with the growth of mass production. With mass production, producer and consumer become more and more separated and product problems become mass problems.

Product testing is clearly limited in effect. Only a proportion of products can be dealt with and only a small proportion of consumers have access to the reports, though it may be that this proportion is large enough in some cases to have a flow on effect or to produce an effective margin of informed consumers.

- **MODE 2 - Engaging in the public policy debate and using the court system**

In the second mode, the movement became much more active in public affairs. It sought to change the behaviour of business by exposing unfair practices, economic rent, poor quality/unsafe products and engaging with it in public debate via the mass media. It also used private legal action to change business conduct. The thinking was very much based in notions of consumer rights and justice and the broad aim was to pressure governments to impose higher levels of business regulation to protect consumers. This mode was characterised by a generally adversarial relationship between business and consumer groups.

A most notable champion in this mode has been Ralph Nader who thought of the consumer movement in terms of a countervailing force to correct the failures of the market/capitalist system.

- **MODE 3 - Organising nationally and internationally and becoming policy insiders**

In a third mode, the movement organised itself more effectively nationally and internationally and strengthened its relations with other public interest groups and with them called for transparency in public policy formulation and public administration. In many countries it also developed better relations with other social movements, unions, and professional organisations, academia, and governments and their bureaucracies. A new, more co-operative, approach to business slowly developed, more slowly in some countries than in others, with the movement changing its view of business as some kind of opposition and starting to engage in genuine dialogue with it. In many countries the movement succeeded in embedding itself in processes of governance and getting formal representation in policy processes, often on pretty much an equal footing with business, and direct participation in formal or government regulatory processes.

In this mode consumer organisations can be seen as working with other public interest groups in making windows into government processes, keeping those windows open and helping to build capacity in civil society at large to look through those windows.

Broadly speaking in the 1980s the consumer movement, world-wide, had accepted that:

- economic rationalism, deregulation, privatisation, and smaller government, or what was to become known as the “Washington Consensus”, was ascendant in public policy throughout the ‘western world’, whether governments were right- or left-leaning.
- while reforms to make legislation and its administration more effective could be expected, governments in most countries were not going to generally expand consumer protection regulation.

In some countries the movement therefore embraced the concept of non-formal or non-government regulation (often referred to as “grey” letter as distinct from “black letter law”). Where such regulatory schemes are established with effective consumer participation they might be called “co-regulation”. In this the consumer movement was at least in step with business and ahead of it in some industry sectors.

- **MODE 4 - Collaborating with the corporate world**

While relations were less adversarial in the third mode there was still a sense of business and consumer advocates competing to influence government policy and regulation. Now, in this fourth mode, consumer movement philosophy has moved from notions of ‘value for money’ to ‘value for people’. Mainstream economic policy now also reflects the understanding that markets need to be made to work for people and in boardrooms worldwide it is apparently *de rigueur* to talk of consumer sovereignty.

A significant growth of the dialogue between people in the consumer movement and both government and business and the adoption of co-regulatory regimes has occurred in the last couple of decades. Business people have become more prepared to communicate and collaborate in projects with consumer movement organisations. For some elements of the movement this is considered problematic. There are concerns about co-option and about the movement compromising its ability to maintain a purely impartial position.

What the last decade has seen is a real blurring of the boundaries between consumer advocates and people in business. For example, the Society of Consumer Affairs Professionals in Business, an organisation started in the USA, but which has chapters in a number of other countries, is close to being a consumer organisation within the corporate world. "Although not consumer advocates in the traditional sense, these professionals, because of their 'insider' positions, are well placed to temper some of the harshness to consumers that may flow from the pressures of global competition" (Smith, 2000). In addition, there are many instances of former consumer advocates taking up positions in business. It seems that the consumer movement is no longer a thing outside, or other than business, but rather an association of people in many walks of life subscribing to the idea that markets can be made to work better for people.²

Though much progress has been made in many fields, the rapidly changing world continues to present new and unforeseen challenges. New technologies confront consumers with new sets of choices. For example, in the controversy over genetically modified foods the consumer movement has had to operate adversarially. This is often the case with emerging controversial issues and in some cases, e.g. the tobacco industry; there is really no alternative to adversarialism.

The Significance of the Contribution

Gauging empirically just how much the consumer movement has influenced public policy in the area of market regulation is difficult. Richard Morse (1993) claims that: "There is overwhelming evidence that the consumer movement actually has been a vital force in preserving, protecting, and advancing capitalist free-enterprise in which price-competitive marketplace forces allocate resources and goods." Many people from the consumer movement and many observers have documented its activities and written of its achievements in public policy development in many countries. (See, for example, Sim, 1993, Brobeck, 1997, Smith, 2000 and Short, 1998.) This literature could be criticised for the fact that many of the writers might have had difficulty in being entirely objective. However, the reaction of some quarters of business to various campaigns over the years is an indicator that the movement has been influential. A book by R Browning illustrates this well. (Browning, 1990) Browning seeks to show the consumer movement, amongst other social movements, as a force that the business world must reckon with or even fear.

One valid measuring method might be to compare countries in which the consumer movement has been more active with those in which it has been less active. Martin Smith (1993) has compared the influence that the consumer movement has had in the United States and the United Kingdom. While he concludes that "the impact of consumer groups is only one factor in determining consumer policy", he charts a history of developments in the US that, clearly, would not have occurred nearly as early as they did without the active pressure of the movement. In the UK the movement developed later and was less well organised. It was institutionalised and partly controlled by government and consumer policy did not develop at the same pace as in the US.

² "The last decade of the 20th century saw the emergence internationally of political leaders propounding a 'Third Way' in politics. Also labelled 'mutualism', it is not simply a compromise between socialist or command economies and capitalist or free-market economies, but can be seen as a recognition of the social, political and economic importance of 'civil society'..... The embracing of co-regulation by the consumer movement in the 1980s in a number of countries could well have been a heralding (even if unconscious) of the Third Way." (Brown and Panetta, 2000)

John Wood, former Director of the Federal Bureau of Consumer Affairs in Australia, has a clear view on the influence of the movement. He says: "there are many examples of developments in effective market regulation in the public interest worldwide and in Australia that would have been much delayed without both the intellectual input and public pressure of consumer organisations. Of course it is invariably the case that things do not happen without a politician of some influence taking on the cause and proposals go nowhere without sympathetic and skilled public servants to pilot them through the policy process, but an equal role is played by the public interest group, often marshalling the evidence of the need for change, but, importantly, bringing about the required public opinion environment. Many examples are available in action by the Federal Government: its pursuit of a code of conduct for electronic funds transfer; food and nutrition policy approaches; its advocacy of dispute resolution schemes for the insurance industry and regulation of various therapeutic devices. The removal of dangerous goods from the market place and the promulgation of safety and information standards has always relied on the consumer movement's research and advocacy." (Wood, 2002)

The development of sound public policy and legislation is of little use without effective administration and enforcement. Here also consumer groups have played a significant role. Allan Asher, former Deputy Chair of the Australian Competition and Consumer Commission (ACCC), observes "Getting business generally to comply with regulation like the Trade Practices Act requires more than simply the efforts of a group of public servants no matter how professional and dedicated. Agencies such as the ACCC must have informed commentators in the community, prepared to support and give constructive criticism as appropriate. Successful prosecutions make a relatively small contribution to the achievement of broad compliance. A critical element is a culture of compliance and this does not happen unless there are general community expectations. There is no doubt in my mind that consumer organisations have been a major force in promoting that culture of compliance". (Asher, 2002)

Limitations on consumer organisations and the issue of state assistance

Perhaps at least as much as environment and any other public interest group, as against special interest groups, consumer organisations have the very great difficulty of garnering support because of the collective action problem Mancur Olson identified in 1965 (Olson, 1965). This "free rider" problem is particularly difficult for consumer groups because of the relatively low economic significance of most individual consumer problems to most consumers. Getting a group of egg producers to join and resource an organisation to lobby for favourable egg price regulation is clearly easier than enthrusting many consumers to sign up to a counter campaign. Any one consumer will benefit anyway from the work of those who are active. Increasing resources simply by growing memberships does not seem to have been successful in any national consumer movement.

In a number of developed countries consumer organisations have been successful in building membership or supporter groups by essentially selling the results of their product testing. However, this has been largely restricted to middle class consumers able to afford the price for the information. This means that products or markets dealt with are largely those related to middle class consumption patterns. In addition there is a limit to the extent that income from information selling can cross-subsidise public interest advocacy. The structure of the movement in most developed countries, therefore, comprises a single large product-testing organisation and a large number of relatively small or poorly resourced groups either geographically or issues based. It would seem that product-testing organisations are generally able to secure national monopolies for their services to consumers

In the USA significant extra resources have been available from donations from charitable foundations etc. The personal contribution of Ralph Nader from the earnings of his books and lectures is not inconsiderable. This sort of support has been rather limited in other countries.

Developed country governments, though have recognised the resource constraints of consumer organisations and provided state financial assistance. Referring particularly to consumer policy issues, Gormley shows that even in the USA, where consumer organisations are better resourced from their own efforts than anywhere else, there is still a need for state assistance:

“Without such support, citizens must often choose between passive acquiescence and hysterical appeals to the mass media for publicity. With government support, citizens can sharpen their own understanding of complex issues before they make a case to the bureaucracy. The playing field (between producer and consumer interests) may not be equalized, but it does become more equal.”
(Gormley, 1991)

In Australia the argument for state assistance being provided to public interest groups was well articulated in the report of the Royal Commission into Australian Government Administration (1976). Appendix 2D of the Report specified that to receive such assistance “citizens groups should meet the following criteria:

- (i) they represent certain interests deemed worthy of support; especially of the economically and socially deprived and the public at large,
- (ii) they are properly constituted,
- (iii) the funds are used for specified purposes,
- (iv) the group’s accounts are audited,
- (v) the group report on how the funds were spent”

The Commission recommended (R90) that a special neutral agency be established to provide this assistance. This has not been implemented, but all governments since then have given financial assistance to consumer organisations amongst others. It is critical that while some of this assistance has been given in response to particular project proposals organisations have received grants-in-aid to provide general support for their operations and activities that they independently decide to undertake from time to time. This has meant for example that they have been able to be advocate policy positions not favoured by the government of the day.

Consumer organisations and the developing world

The contribution so far and the potential contribution

In the role of Deputy Chair of the Australian Competition and Consumer Commission and before and after that appointment in positions with the Australian Consumer’s Association, Consumers’ International and the UK Consumers’ Association, Allan Asher has worked extensively on global consumer and competition issues, including with developing country consumer organisations. With this experience he observes:

“As to the developing world, the consumer movement globally has already made a very considerable contribution. There are many examples of developing country consumer groups achieving better health care, getting dangerous medicines, agricultural chemicals and other unsafe products off the market and generally empowering poorer consumers so that they have been able to make markets work

better for them. A really significant global development, which was almost entirely the result of efforts of the world-wide movement, though with the help of some governments, was the adoption of the United Nations Guidelines on Consumer Protection. With pressure from local consumer groups legislation based on these guidelines is now in place in nearly every country. In many, however, much has yet to be done to have this legislation operating effectively. The political will needs to be created and the main creative force is pressure from civil society in which the key players in this arena are consumer groups". (Asher, 2002)

It is the case though that the way a developing country consumer organisation can operate is very different from that of a developed country organisation. The following considers this in terms of the four modes discussed previously.

- **MODE 1 - Product testing/correcting information asymmetry**

This mode has been extremely limited in developing countries. As already noted, in developed countries it is largely the middle class that is prepared to pay for information on consumer products. Apart, perhaps, from large economies like India, the middle class in most developing countries would not provide a big enough market to sustain a product-testing consumer organization. There is already some international cooperation amongst product-testing consumer organizations so that test results for products common to a number of countries are shared. At this time though the world economy does not seem to be sufficiently globalised for this sharing to be extensive. In due course it seems likely that it will be possible for quite wide product testing cooperation, including between developed and developing country consumer organisations. Of course there would be difficulties involved in working out equitable arrangements for sharing the costs and profits of such cooperation. It might also be possible for developing country consumer groups to cooperate amongst themselves, perhaps on a regional basis or some other basis such that there is a sufficient level of common products. It does seem to be the case though that at least in the medium term product testing and deriving financial resources from it will not be feasible in most developing countries.

- **MODE 2 - Engaging in the public policy debate and using the court system**

In developing countries some consumer groups have proved their capabilities in engaging in the public policy debate. Consumers' International (January, 2002) documents a number of illustrations, both relating to consumer protection and to competition regulation. For example, recently the efforts of consumer groups have been critical in achieving:

- more efficient and fairer priced electricity, especially for small farmers, in El Salvador, Chad and Zambia
- reforms to transport services in Niger and Mali
- developments in consumer protection and competition regulation in Ecuador, Côte d'Ivoire, Kazakhstan and Zimbabwe
- lower petrol prices in Malawi, and
- clean water regulation in Senegal.

In most countries there do not appear to be any significant obstacles to this kind of action other than having the resources to research issues adequately and to network amongst groups and run publicity campaigns.

There is a difference, though, between advocacy for information asymmetry or direct consumer protection regulation and advocacy for competition regulation insofar as the benefits of the latter are not always readily apparent. The consumer movement in developed countries took some time to appreciate fully that competition regulation was the other side of the regulatory coin from direct consumer protection regulation (Braithwaite and Drahos p623, 2000). Building civil society support for a competition regulatory regime which involves measures to make markets work more freely and competitively, including breaking down industry protection, especially when that implies opening economies to international competition, requires a process of information dissemination and public debate. Without this there is a likelihood of consumer and other public interest groups and small business being very wary of competition policy and the introduction of a competition regulatory regime and in some cases actively opposing it.

Programmes to develop competition regulation must therefore include a range of activities to involve and nurture consumer and other civil society groups to develop the required shared information base. This is by no means a straightforward exercise. The work of Hall and Soskice (2001) shows that countries differ markedly in the way competition works and that this is reflected in competition policy and law. They identify a "liberal market economy" or Anglo-American type and a "co-ordinated market economy" or European type. They argue that different national characteristics and public policy settings, especially relating to education and training and regulation of unions, lend themselves to different competition regulatory regimes and produce different structural outcomes. A developing country is confronted with the question of determining which regulatory regime is appropriate to its national characteristics. But, the choice is not necessarily between the Anglo-American type and a European type. Interestingly the Australian type is something of an amalgam and arguably it has characteristics which make it particularly suitable for smaller and/or developing economies. Of special relevance is the Australian Trade Practices Act's provision for the authorisation of arrangements which are anti-competitive if, on balance, they can be shown to be of public benefit. In developing economies, as markets establish themselves such a provision could be well utilised.

Developing country consumer groups have had less success in using court system processes, probably due to the fact that laws and court systems are not sufficiently developed in many countries and the fact that legal processes are too costly relative to the resources that consumer groups can command. There would seem to be potential as law and court systems develop provided that resources can be garnered.

- **MODE 3 - Organising nationally and internationally and becoming policy insiders**

A coherent national organisation is almost a prerequisite to becoming a policy insider or gaining effective participation in the public policy process. In many developing countries the consumer movement is not so organised, often with a number of groups competing for the government's attention. Udaya Wagle observes: "Rivalries among many different NGOs are also evident. Because of these rivalries, many activities are duplicated by different organizations, causing a waste of resources." (Wagle, 1999)

Participating in regulatory processes, formal and non-formal, requires personnel with some legal and economic expertise – not necessarily university degrees, but a capacity to cope with legal and economic concepts. It is, in developed countries, a constant problem for consumer groups to find people to fill these roles. In developing countries assistance in the form of training of consumer representatives would be highly beneficial.

Thus far non-formal regulatory systems have not got off the ground in developing countries, but there is no particular reason why they should not. Indeed, it may well be that non-formal regulatory systems for industries which are part of the global economy would be more readily established than formal systems. Moving legislation through parliamentary processes and developing the required bureaucratic expertise to administer it is time consuming in developed countries. In developing countries where the concepts involved might be quite novel, and where complex political difficulties might be encountered it might well be more protracted. Given that senior executives of transnational corporations in developing countries have a high level of interaction and exchange with those in developed countries, which have established non-formal regulatory systems, the transfer of expertise could be quite straightforward. Such moves could have significant flow-on effects to other market sectors.

Because of the increasing level of dependence of national governments on international or intergovernmental processes in the development of consumer and competition regulation it is essential that national consumer organisations participate in international processes. Consumers' International, which is accredited to or recognised by all the relevant international bodies, provides an effective vehicle for this. However, as Braithwaite and Drahos (2000) observe, lack of resources is a severe constraint on Consumers' International getting representatives along to the numerous international regulatory committee meetings. Very little is left over to assist developing country consumer groups to participate in Consumers' International's own policy making processes so that it can represent their views effectively in these regulatory forums.

- **MODE 4 - Collaborating with the corporate world**

There would seem to be as good reason for developing country consumer groups to take advantage of opportunities to work on projects jointly with corporate actors as there is for groups in developed countries. It seems likely that initially opportunities might arise to work with transnational corporations already working with consumer groups in developed countries.

Resourcing issues

The track record is there and the potential for greater contribution in modes 2,3 and 4 would seem significant. The constraint is resourcing. Product-testing will not produce resources in the short to medium term, memberships of groups can only be expected to provide resources at lower levels than in developed countries where such resourcing alone is insufficient anyway and assistance from indigenous charitable foundations will be limited. Ralph Nader figures are possibilities, but revenue from book sales and lecture fees could not be expected to be significant. Expecting financial assistance from domestic governments is probably unreasonable given the many and more pressing demands on the public purse in developing countries. Aid from developed countries seems therefore to be critical to boosting the contribution in the short to medium term.

Aid donor country policy on assistance to civil society organisations.

The formulation of aid policy is perhaps somewhat more complex than other areas of public policy. Governments must take account of an unusually large number of factors and are subjected to pressures from an unusually large number of interests. Aid policy must harmonise with foreign and trade policy or at least not compromise it. Immediate and long-term relations with countries to which aid is being given are clearly critical, but

so are relations with other recipient countries and other donor countries especially those significant for trade or security reasons. Involvement with international bodies is also a factor.

Domestically aid policy is not significant in public debate, but it must take account of the views of a range of groups including those arguing for lower taxes, those arguing for increased expenditure on, say, social security, those arguing for increased aid for humanitarian reasons and those arguing for aid that will assist in advancing national economic interests.

Unsurprisingly, aid policy varies amongst donor countries very significantly. Some per capita wealthy countries like the USA pay well below average per capita aid while some per capita not so wealthy countries pay well above average per capita aid. Some countries require aid projects to be delivered with significant input from their own businesses or other organisations and others give recipient countries freedom to contract whomever they wish. While the importance of building the capacity of civil society to support the development process is now generally well recognised there is significant variation in policy on assistance to ICSOs.

International institutions such as the United Nations Development Programme (UNDP) and the World Bank, while not always the first in terms policy development tend to cement trends. The UNDP has been involved in civil society capacity building projects for a decade or more and in 1997 it adopted a "Policy on Collaboration with Civil Society: Building Partnerships for Sustainable Human Development". (UNDP, 1997) And the World Bank has been active in this area for a similar period. The World Bank-Civil Society Collaboration—Progress Report for Fiscal Years 2000 and 2001 states: "In the last two decades, the World Bank has significantly expanded and improved its relationship with Non-Governmental Organizations (NGOs) and other Civil Society Organizations (CSOs). During this period, the Bank's dialogue and collaboration with civil society has moved from negligible to substantial." (World Bank, 2002)

The policies of donor countries generally contain provisions for assistance to ICSOs, but vary in their approaches and level of support that will be provided. For example under the UK's Civil Society Challenge Fund support for ICSOs must go through "UK-based, non-profit organisations" and there is a £250,000, 5 year limit on projects. (DFID website) This contrasts with the much more flexible Norwegian policy which has no set upper limit on project funding and which allows for the support to be given directly to ICSOs. (NORAD website)

US policy places quite high priority on assisting ICSOs including consumer groups:

"The Agency supports these CSOs whose advocacy efforts give voice to citizens and expand their influence on the political process. Strengthening civil society is increasingly seen as a way to counterbalance the exercise of excessive authority by governments and economic and political elites, and as a way to encourage more open dialogue about public policy matters too often decided behind closed doors." (USAID website)

A USAID programme for El Salvador for example, has the following objectives:

- "a. Strengthen civil society's capacity to promote consumer issues and interests in El Salvador.
 - b. Facilitate cooperation among Salvadoran organizations interested in consumer protection, and with their counterpart organizations in the United States."
- (USAID website)

Under Australian policy the main ways ICSOs can access assistance are as follows (AusAID, 2002):

- The aid programme provides for assistance to ICSOs through AusAID accredited Australian aid NGOs. However, overall funding for this is limited and there is a project cap of \$200,000. The success of a proposal is dependant on the priorities of Australian aid NGOs.
- Heads of Missions are able to make limited grants to ICSOs
- Proposals for funding more substantial projects must generally be made through country programme procedures thus involving domestic government approval. Clearly this could well be constraining to the extent that an ICSO has objectives which do not accord with the government of the day. For example, a project proposal from an ICSO in Vietnam must go through the following stages:
 - All proposals must have strong Vietnamese Agency ownership in design, implementation and outcomes.
 - All proposals must be submitted to the Ministry of Planning and Investment (MPI) following standard Government of Vietnam procedures and formats for this.
 - MPI will approve themselves or seek Prime Minister's approval and then will send approved in principle proposals to AusAID for indicative approval and assessment.
 - Approved in principle proposals may then need to be further developed into a project design which will then come back to MPI and AusAID for final endorsement.

Also, under AusAID's Philippines-Australia Governance Facility, ICSOs were able make proposals for project funding. Now it is required that all proposals have the endorsement of a government agency.

Hesitancy in respect of assistance to ICSOs, especially advocacy groups, is understandable. There are difficulties, but also opportunities. Norway's policy sums this up:

"In some instances, direct Norwegian support to civil society actors may be seen as controversial and difficult by the government in a partner country. This may even be the case when the support is to promote universally accepted human rights standards ratified by both governments. In such cases it may be necessary to find more efficient ways to pursue these goals. In other instances, political circumstances make it difficult to establish regular government-to-government programmes, and civil society support may in such cases provide an alternative option" (NORAD website)

The special nature of the work of consumer organisations and their special characteristics means they might deserve special attention. Effective regulation for competitive markets and consumer protection means economic change, which means social change, which leads to political change. It is clearly therefore a more difficult area of development assistance than others. ³

³ "The mobilization of new information and understanding are essential to the achievement of economic reform in a democracy, and this is a tenth function that civil society can play. While economic stabilization policies typically must be implemented quickly and forcefully by elected executives in crisis situations,

There are potentially particular difficulties of support under bilateral aid programmes as there can be the view that such support interferes with the politics of the recipient country. Nevertheless, a number of bilateral aid programmes are now providing this sort of support. For example, there was a project, entitled "Consumer Assistance Facilitation Project" (CAFP) in 2000 under the "Philippines-Australia Governance Facility" of the Australian government aid programme specifically to assist the development of the consumer movement in the Philippines. (R Brown – personal experience)

Multi-lateral aid agencies, for example the UNDP, have funded consumer movement development projects and this has the advantage of avoiding potential bilateral relations difficulties.

How support to consumer organisations could be more effective

Self evidently, if a consumer organisation is worth assisting it is worth assisting it to do its job effectively and to do its job on a continuing basis.

To do its job effectively it must have the capacity to:

- be representative
- be independent and impartial
- be organised
- access information and advice
- be professional and have a constructive approach

These capacities are elaborated in the appendix. Assistance arrangements should be designed to ensure as far as possible that the horses most likely to win are backed.

Strengthening capacity rather than adding capacity

It is critical that support works to help build and build on existing consumer organisations rather than trying to create new entities with no foundations in communities. Where there are no actual consumer organisations it might be more effective to provide support to other existing groups to build a consumer advocacy capacity. "The course and eventual success of programmes for civil society have much to do with the extent to which programmes have constructively melded with existing forms of civil society". (Ottaway and Carothers, "Toward Civil Society Realism" in Ottaway and

without widespread consultation, more structural economic reforms, like privatisation and trade and financial liberalization, appear to be more sustainable and far-reaching (or in many post communist countries, only feasible) when they are pursued through the democratic process.

Successful economic reform requires the support of political coalitions in society and the legislature. These coalitions do not emerge spontaneously; they must be fashioned. Here, the problem is not so much the scale, autonomy, and resources of civil society as the distribution across interests. Old, established interests that stand to lose from reform tend to be well organized into, for example, state-sector trade unions and networks that tie the managers of state enterprises or owners of favoured industries to ruling party bosses. These are precisely the interests that stand to lose from economic reforms that close down inefficient industries, reduce state intervention, and open the economy to greater domestic and international competition. Newly emergent and more diffuse interests that stand to gain from reform (for example, farmers, small-scale entrepreneurs, and consumers) tend to be weakly organized and poorly informed about how new policies will ultimately affect them. In Asia, Latin America, and Eastern Europe, new actors in civil society-economic policy think tanks, chambers of commerce, and economically literate journalists, commentators, and television producers-are beginning to overcome the barriers to information and organization, mobilizing support for (and neutralizing resistance to) reform policies." (Diamond 1999)

Carothers, 2000) In other words it is essential to understand and build on what is already there. Indigenous civil society might well often not be evident as western style CSOs, but it is a mistake to think that it is not well developed.

For example in the CAFP the organisation intended to be assisted was a body which was essentially an elite think tank. It had a particular agenda driven by the need it saw to open up the Philippines economy to greater competition including from offshore. While there might well have been considerable merit in its position it was rather alienated from most of the long established consumer ICSOs. In the event, after considerable renegotiation, the project plan was changed to draw in and build on the capacity of the established consumer ICSOs. (R Brown – personal experience)

To ensure that the inevitably limited funding available does support those organisations that have the greatest potential to make a contribution there is no substitute for working sensitively at the earliest stages in project design with existing organisations to come up with a funding arrangement that avoids destructive internecine conflict. In this process it has to be accepted that some organisations will have political connections and the extant or potential pluses and minuses must be taken in to account. For example, in 1996 the UNDP funded a project to assist the Central Egyptian Society for Consumer Protection. The Society was well connected with the government, which meant its relations with some other significant consumer organisations, quite opposed to the government, were strained. On balance, the decision to support it was probably sound on the basis that for the medium term it would be likely to be in a good position to influence policy formulation. (R Brown – personal experience) Larry Diamond's observation: "Civil society must be independent from the state, but not alienated from it" is relevant. (Diamond, 1999)

Assisting in the development of the national coordination and cooperation of consumer groups for greater effectiveness is difficult. Sensitive advice and modest resources for organising such as the funding of a national consumer movement website (<http://www.cafp-phil.org.ph/>) as provided under the CAFP could make a significant difference.

The language of donors and the language of the community

"The survival of advocacy NGOs in the short run often depends more on their ability to talk to and engage the donors than ability to talk to and engage their fellow citizens". (Ottaway and Carothers "Toward Civil Society Realism" in Ottaway and Carothers, 2000) This is especially problematical where, as is often the case, aid agencies use intermediaries to manage projects. Intermediaries, normally commercial entities, must naturally be required to work to quite specific contracts. They must tender, and therefore budget, to deliver what the contract stipulates. If a project proposal comes to the intermediary in language that does not conform to the contract the intermediary will be disinclined to stretch its mandate. The longer line of communication makes it that much more difficult for the funding agency to learn the language that makes sense to the locals and accordingly to make relevant changes to funding schemes.

Flexibility to respond to changing circumstances

Stephen Golub (2000) observes that because projects have to be designed, the funded ICSOs are unable to be proactive and opportunistic in advocacy. Clearly this is exacerbated when there is an extended period between the initial project proposal and the commencement of the project.

Edgardo Santoalla, local coordinator of the Consumer Assistance Facilitation Project (CAFP) in the Philippines, considers this to be a major constraint in the area of consumer/competition policy and administration. "To be successful consumer groups must be able to move quickly in response to new political developments. The CAFP had to go through the stages of proposal by the local proponent, a feasibility study and project design by an Australian consultant, approval by the Philippines-Australia Governance Facility committee then a tender process to select the project delivery agency. The project required quite tightly specified outputs to be delivered at particular times. In fact, as the project developed, it became clear that much of the thinking underlying the project design was inadequately informed about the realities of the consumer movement and consumer/competition issues in the Philippines. The project was successful, but it could have been much more successful if there had been more flexibility in delivery." (Santoalla, 2002)

Relying on intermediaries is also a problem with respect to flexibility. It is difficult to write a contract that provides for management of projects with any significant built-in flexibility. Asking an intermediary to make judgements about variations of projects, especially projects which might be somewhat politically sensitive, seems to be problematic.

Sustainability and project cycle demands

Aid projects tend to be just that - projects. The problem is working out how to sustain effective consumer organisations in developing countries on a continuing basis. Stephen Golub (Democracy as Development in Ottaway and Carothers, 2000) writes of ICOSOs being trapped in the project cycle. This is no less true of CSOs in developed countries reliant on grants for particular discreet projects. The demands of developing new project proposals give organisations little opportunity to develop core competencies sustainable over time. General grant-in-aid type funding used in Australia for the Consumers Federation of Australia and the Consumers Health Forum meant that these bodies could be quite autonomous in making medium term plans to develop their capacities. Accountability can be achieved by, say, quarterly reports or inspections.

As Diamond (1999) notes, developing country CSOs, just like those in developed countries, which have been able to develop and maintain professional secretariats have been significantly more effective. Unhappily they have been effective at surviving in part because of the skill they have in meeting the project cycle demands. But, importantly, running a CSO, especially an advocacy CSO, requires considerable skill to manage its internal processes, its external domestic and international relations, to undertake sophisticated public policy analyses and to make the best use of the media in public debate. To get and keep this professional expertise is clearly much more straightforward if resourcing over three or four years, rather than just the life of a short project, can be relied upon. What a professionally managed CSO must guard against though is alienation from the constituency it serves. Sound participative decision making procedures are essential.

Continuing access to information and advice is critical to sustainability. One solution is to provide assistance through developed country civil society organisations. On this, for example, Norway's policy states:

"The rationale is that some of the experiences of Norwegian voluntary actors may be transferable and useful to voluntary actors in partner countries. As like-minded, the Norwegian voluntary actors are considered to have a comparative advantage compared to the competence and capacity of an embassy, particularly in the field of competence -and institution building." (NORAD website)

This approach may have particular advantages where continuing relationships can be built up between consumer organisations in developing and developed countries, but it is important to avoid growth of a real or perceived dependency relationship. A number of observers consider dependency to be a very significant problem. Diamond (1999) considers that "There is no easy answer for this dilemma of international dependence." Avoiding dependency is especially important for developing country consumer organisations so that they can participate quite independently in international governmental and non-governmental forums. The consumer movement might be better placed to avoid dependence than other international civil society movements. Consumers International is structured so that, in its decision-making, a consumer group from a developing country has an equal voice to the voice of a developed country group

Solutions

No single recipe will be appropriate for aid under bilateral programmes to the different countries with changing governments and the range of circumstances and characteristics of the consumer movement in those countries. Funding through Consumers International could well be effective in some countries, but in others using such a vehicle might be counter productive. The main aim should be to provide assistance that most closely replicates the annual grant-in-aid type funding that has given the support to CSOs in general, and consumer organisations in particular, in Australia which has allowed them to make significant contributions to public policy formulation here.

Conclusion

"The objective of the Australian Government's Overseas Aid Program is to advance Australia's national interest by assisting developing countries to reduce poverty and achieve sustainable development." (AusAID website) Assisting in the building of effective market systems in developing countries and helping them engage the global market system might not have an immediate impact on poverty levels. Indeed it might seem more relevant to Australia's interest insofar as it will assist trade with Australia and assist Australian business to engage in domestic markets of developing countries. Assisting consumer organisations may well initially deliver benefits to the middle class rather than directly assist the poor. The aid programme clearly should continue to deliver assistance that will produce measurable results in the short term. But, given that the consumer movement, perhaps precisely because it has been able to marshal resources of the middle class, has significantly contributed to making the most of the market system to the general benefit of the peoples of the developed world, the ideas this paper draws together are relevant to efforts to aid the peoples of the developing world.

Appendix

The following suggests the characteristics of effective consumer organisations.

Representative

- contestable market for consumer advocacy
- open and democratic
- well founded in the community - confidence of the community - of existing CSOs
- work for welfare of all consumers not just sectors of society
- geographically comprehensive
- well networked with other CSOs eg environment groups

Independent and impartial

- contestable leadership of consumer organisations
- ability to act quite independently - being able to act without fear or favour implies sustainable resourcing and non-dependence on government or business
- politically and business non partisan

Organised

- structured and managed to involve all consumer groups and other civil society organisations in policy development
- active in international consumer movement

Access to information and advice

A professional and constructive approach

- high quality public policy analysis
- strong capacity to use mass media
- good training of consumer advocates/representatives
- ability to use legal system if necessary
- constructive relations with and respect of business and professional community and academia
- constructive relations with and respect of bureaucracy

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