

# What are consumer organisations for?

some issues from Europe and elsewhere

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## Introduction

It is a great honour to be asked to deliver the 2004 Ruby Hutchinson memorial lecture – an even greater honour since I understand the lecture is being revived after a number of years absence. Wherever you look in the world of consumer affairs there have been inspirational figures: in the UK it was Michael Young who was the classic incarnation of a social entrepreneur setting up both Consumers' Association (CA) and the National Consumer Council (NCC), as well as a host of other initiatives. We also had Sheila McKechnie, the Director of CA, who very sadly died earlier this year, but I would like to take this opportunity to pay tribute to her extraordinary and forceful contribution. In Australia you had Ruby Hutchinson who combined exactly the same qualities of determination, social goals and entrepreneurship that Michael Young and Sheila possessed. It is not just setting up an organisation that matters: it is setting it up with a passion and a purpose that serves society. Ruby Hutchinson did that and you all benefit from her legacy.

Let me start with two historical references. The first to Adam

Smith who is so often mis-quoted as endorsing a *laissez faire* approach to markets. In fact in his classic book *The Wealth of Nations* <sup>1</sup>

he reminds us that the purpose of production is consumption and that consumer sovereignty is indispensable to an efficient, fair marketplace. The second half of that quote – the need for consumer sovereignty – is echoed in the famous speech made by President Kennedy in 1962: <sup>2</sup>

*"Fortunate as we are, we nevertheless cannot afford waste in consumption any more than we can afford inefficiency in business or Government. If consumers are offered inferior products, if prices are exorbitant, if drugs are unsafe or worthless, if the consumer is unable to choose on an informed basis, then his dollar is wasted, his health and safety may be threatened, and the national interest suffers. On the other hand, increased efforts to make the best possible use of their incomes can contribute more to the well-being of most families than equivalent efforts to raise their incomes."*

So there we have it, from the 18th century, running through to President Kennedy, a golden thread of understanding about the role of consumers in the marketplace. But that thread has, at times, been stretched very thin, has been overlaid by other thicker strands or has been 'borrowed' by other ideologies. Now, at the beginning of the 21<sup>st</sup> century there are significant new challenges for consumer organisations that seek to promote the understanding and practical application of that golden thread in the context of a globalised world. So I want today to reflect on what consumer organisations are for: how should they operate and what should they be doing?

Consumer organisations tend to be pretty hard-headed and not given to existential questions, but on an occasion intended to

pay tribute to a founding figure in the Australian consumer movement, perhaps a little reflection is called for. Of course Ruby Hutchinson did not put the question posed in my title. According to *Consumers Choice: 25 years of the Australian Consumers' Association*, she wanted to start an organisation "that would do something about the increasing complaints about poor quality goods and services"<sup>3</sup>. In other words, the problem gave rise to the organisation, not the other way round. We do well to remember that. The work should speak for itself, and should respond to the needs of consumers not to its own self-perpetuation. Fortunately one of the strengths of consumer organisations has been their ability to evolve, but there are nevertheless weaknesses in our make up which I intend to cover.

The changes in the work of consumer organisations worldwide have responded not just to changing patterns of consumption, but also to the scale and level at which consumer issues are dealt with. Most obviously, consumer bodies operate much more internationally now than at the time of their various national origins. This is for the simple reason that markets are increasingly global, and global decisions by business and governments require global countervailing forces. Australian consumer organisations were among the first to recognise this need. Remarkably, the Australian Consumers' Association (ACA) was founded in 1960 and immediately, in the same year, became a founder member of the International Organisation of Consumer Unions (IOCU), later to be renamed Consumers International, of which Louise Sylvan was President until October of last year. The other signatories to the IOCU constitution were the associations from the US, UK (CA, not NCC) , the Netherlands and Belgium<sup>4</sup>. Pioneers indeed. Coinciding as it did with the move away from wartime austerity, these associations met a huge need. Being based on comparative testing, and practical assessments, they were stunningly successful. What a lot has changed since then.

The notion of 'consumerism' is sometimes unfairly equated with greed and acquisition, leading to mindless accumulation and environmental despoliation. There is, sadly, some truth in this accusation as a description of the conspicuous consumption and the wasteful commandeering of resources that happens at some levels. But 'consumerism' does not mean that, for even the poorest have to consume. It has been about more mundane matters such as value for money, product safety, continuity of service, a fair balance between producer and consumer and the notion that purchasers have rights, which can be exercised by individual redress and collective representation.

Yet the very successes of the movement have forced it to move on from these starting points as product standards have risen and consumer protection legislation and its enforcement have improved. As consumerism has spread, it has come to mean meeting basic needs, ensuring sustainability and reducing the impact of consumption on the natural environment. And for many of our colleagues in other countries, it is also a part of the democratic process and the extension of citizen's rights.

It may surprise those of us from the UK and Australia to learn that leaders of consumer associations in Malaysia and Greece were imprisoned in the past for their activities, and Colston Warne of US Consumers Union was investigated by the House Un-American Activities Committee <sup>5</sup>. Our Latin American, Portuguese and Russian colleagues found themselves consolidating democratic rights of representation and transparency at crucial transitional stages of their countries' histories. To do such work while remaining independent of party political interest is a difficult balancing act. Cue for a brief history.

## **History and evolution**

Throughout history there have been consumer protests at food

prices or access to water, to take two common examples. The storming of the Bastille in Paris on 14 July, 1789 started with a protest against the maintenance of bread prices by a system of protective tariffs set at the customs posts at the entrances to the city. The Parisians burnt down the customs posts and then went on to turn their attention to the Bastille<sup>6</sup>. I think you know the rest of the story. The system of tariffs was, of course, due to a producer cartel that captured the machinery of government to defend its own interests. Just imagine, if the Australian Competition and Consumer Commission (ACCC) had been there to act, the course of history might have been altered.

The first consumer demonstration of the 20th century was also about tariffs: in 1903 several thousand women converged on the Free Trade Hall in Manchester to voice their opposition to tariffs. It was organised by the Women's Co-operative Guild and this mass meeting is credited with an influential role in maintaining Britain's free trade system. In a nice repeat of history, the focus of the protest was the white loaf.

But there is some truth in the idea that consumer rights are a modern phenomena, in that organised consumer movements have followed on from industrialisation with its associated specialisation separating producers from consumers. In the early years the movement took the form of consumer cooperatives such as the Rochdale pioneers in Northern England in the early nineteenth century. (The earlier New Lanark experiment in Scotland was a producer and consumer cooperative). The cooperative shops using consumer power to bargain from the retail level up the production chain, rapidly spread to become part of the fabric of working class life.

In contrast, in continental Europe, cooperatives were agricultural producer-led developments helping peasant farmers to share production facilities and to develop investment banks owned

by their members<sup>7</sup>. In the USA yet another model developed - that of consumer and farmer cooperatives for the development of public utilities such as water and electricity. In twentieth-century Yugoslavia, the tradition of self-government also had elements of these ideas, and local 'consumer clubs' still exist in many Eastern European countries<sup>8</sup>.

The modern consumer movement based on technical assessment of consumer products and dissemination of published reports comparing the different products on the market, developed first in the USA in the 1930s. The Consumers' Union remains to this day the world's largest consumer organisation. Its reports are read by over four million subscribers. This model of independent and detailed technical assessment of consumer products independently published is a highly successful North American export to the rest of the world. The Consumers' Association (CA) of the UK was founded in 1956 and went on to develop a mass membership based on its product testing and its magazine *Which?*, reaching one million members at its peak, the second largest consumer body in the world, and the largest in Europe. The highest level of market penetration was reached in Belgium and Holland which have the highest percentages of families taking the product testing magazines.

The USA, UK and Belgium saw these consumer bodies develop on a self-funding basis, although Consumers' Union of the US provided start-up capital for CA, just as CA provided start-up capital for the ACA. (Incidentally, CU gave CA a grant. CA gave ACA a loan. I think there is a joke in there somewhere!) In due course, their operations were financed by subscriptions to their publications, which were effectively commercial operations<sup>9</sup>. In Holland, Germany, France and Denmark a more mixed economy developed with consumer bodies being built up with the support of public money, and in France with the active participation of the trade unions a feature also of the modern Italian movement.

The model of 'pure' self-funded associations based on product testing magazines dispensing advice on purchasing decisions to households is sometimes seen as old fashioned, even conservative. But at its time it was revolutionary. The movement's very success in the richer countries means that its membership there is now shrinking and ageing, as many of the improvements sought by Ruby Hutchinson have been integrated into daily life. And yet, as I argue below, individual consumer experts are in greater demand than ever to contribute to the process of governance. This sets in train a whole new set of needs.

New consumer associations are rapidly growing in the developing and transitional economies. But the pure model of the 1960 pioneers is difficult to transpose outside of relatively wealthy countries or countries large enough to have a middle class market for product magazines, like Brazil. Generally, the expense involved in testing and the volatility of the markets have made it very difficult to establish the classical model on a stable basis.

So, without falling into the self-perpetuating way of thinking, what is the proper basis for future work on behalf of consumers?

I wish to list four vital functions which I believe consumers need associations to carry out on their behalf. They are: product evaluation; public information and advice; policy formulation; and representation. I do not see regulation and enforcement of consumer law as being a consumer responsibility. Consumer bodies can, and should, participate and inform the regulatory process. But ultimately these are the functions of government, either at local or national level. We participate in governance not government.

## **Product evaluation**

I will not labour the point about product magazines such as *Which?* in the UK, or *Choice* in Australia. There is no doubt that magazines based on comparative testing have met a need and acted as an incentive for producers to maintain standards. Standards of durability have risen and we are now seeing more attention being paid to issues such as environmental sustainability. This is all very positive.

But despite its undoubted successes, there are limitations in this model which we need to be aware of. Firstly, in the early years of the development of such magazines, they tended to concentrate on goods rather than services (a trend which has now been corrected in the richer countries) and complex products such as domestic appliances and electronic leisure products, rather than basic products such as simple foodstuffs and water. Secondly they tended to ignore public services such as health and education where there are clearly consumer issues to be addressed. Thirdly, operating on a commercial basis they tended, naturally, to reflect the spending patterns of their members. All of the above patterns tended to exclude the poor, although attempts have been made to try to serve lower-income consumers.

Finally, dealing with products as they are released on to the market, comparative testing magazines do not lend themselves to analysis of market structures. That requires detailed policy analysis and then action by public institutions. Consumer associations can carry out analyses, if they have the research staff to do it, and, by publishing their findings, they can strengthen the arm of competition authorities in such matters. But without a research capacity, there is a limit to how far they can take that kind of analysis, which is frequently highly complex and much of the necessary information is confidential. The richer consumer organisations are able to finance this kind of analysis on the back of their sales. But even then, their

staff complain that the needs of the publications are always paramount, inhibiting the kind of long-term analysis which is needed.

These limitations explain why my own organisation, the National Consumer Council (NCC) was established in 1975 by a Labour government, as a non-departmental public body <sup>10</sup>. Our Articles of Association dating from this time, spell out the need to cover goods and services, both publicly and privately provided, in other words explicitly covering what were felt to be neglected areas <sup>11</sup>. The original Articles refer, rather quaintly, to the needs of the 'inarticulate and disadvantaged', and this antique phrasing has ever since been used to define our social mission. In the NCC's early years this was translated into action on such previously under-researched areas as the rights of municipal housing tenants (very limited as it turned out) and the system of social security benefits to the poorest. While, to some extent, we drifted away from these areas in the late 80s, we retained a consistent interest in the National Health Service and the public utilities in their transition from public to private ownership and their subsequent evolution. We have recently redefined these topics under our 'Everyday Essentials: meeting basic needs' programme where we deal with, for example, universal service and fair treatment of poor consumers. My point here is not to blow our own trumpet (well perhaps a little) but to make the point that the NCC was seen as complementary to other consumer bodies, both statutory and private. The first Chair of the NCC, Michael Young, had also been the founding father of CA twenty years previously.

## **Public information and advice**

Many consumer associations around the world have tried to develop advice services to individual consumers, sometimes through legal advice clinics, sometimes through telephone advice lines. These

may be paid for on an itemised basis or they may be part of the service to members. This exposes a cruel dilemma. It is that consumer bodies providing services to their members on an exclusive basis will, by definition, be exclusive and therefore ignore the needs of many of the poorest consumers. On the other hand, providing a large-scale advice service to non-members involves a cross subsidy that can only be carried out to a limited degree without causing serious disruption to the organisation. Many consumer bodies struggle with this problem and, being often very idealistic people, try to help non-members on an altruistic basis. In due course this may lead to paralysis.

Given this dilemma of exclusivity or insecurity, comprehensive direct advice to the general public is probably best funded by the public authorities. It does not have to be provided by the public authorities themselves and, for the sake of independence, it is often better not to be. It can be provided by consumer organisations set up for that purpose, as is the case in Germany, for example, where there is a network of specialist consumer advice centers, publicly funded.

In contrast, the British system of Citizens Advice Bureaux is generalist - that is, clients can get advice on any issue, not only consumer issues. There is no golden rule about the specialist/generalist division. But the cardinal principles that have underpinned the success of advice services are their independence combined with its technical expertise. The technical expertise required public resources for training and for developing information systems. Independence can be reinforced by a diversity of funding (for example EU and local funding in Eastern Europe) and a certain level of voluntary participation may also reduce political interference while channeling the altruism of many ordinary citizens.

But there are limitations to the advice based model too.

Organisations that do case work become overwhelmed by the sheer pressure, their focus diluted by the width of subjects covered. Although many want to be able to synthesize the problems that people bring to them and to make proposals for reform, somehow the immediate problems of their clients always take priority. It is also necessary to develop a policy-making function which will not be relegated by day-to-day pressures. Many advice workers move on to policy work, feeling that better policies will reduce the problems they see presented.

## **Policy formulation**

The NCC's main output is policy work. It does not test products or give direct advice to the public or enforce legislation. Its reports are carefully researched by specialists and then publicised in the press and argued for in Parliament, the machinery of government and in the European Commission and even, through Consumers International (CI), with global bodies such as the World Trade Organisation <sup>12</sup>.

Again, there are strengths and weaknesses. The strength of a body like the NCC is its ability to analyze the reasons behind market structures, features which often do not show up at the level of the product in the marketplace. I should illustrate how this worked by taking examples at national, European and global level.

## **National level: utility prices**

British public utilities were privatised during the 1980s culminating in 1990 with water and electricity. In 1993 the NCC published a comprehensive analysis of the four sectors arguing for stronger regulation and a fairer balance between consumers and shareholders <sup>13</sup>. We have, throughout this period, and since, carried out detailed responses to the consultations by the regulators. Following initial price increases (except in gas) we

saw a remarkable turnaround during the 90s, in that telecommunications and electricity prices came down, (in particular, dramatically, electricity prices since 1998) gas prices continued to fall until recently, and real price reductions in water started in the year 2000. We cannot claim all the credit for this shift but I have no doubt that we played our part; in fact, some regulators have said as much.

Consumer organisations are particularly well suited to this kind of analysis as they are used to presenting information in a way which is accessible to the public and liked by the press and they are trusted by the public for their independence. This public exposure was crucial for us as the press enjoy covering utilities; every one of their readers has an opinion. One of the universal laws of consumerism is that nobody loves the electricity company.

What has sectoral regulation achieved? Many specific price reductions can be directly attributed to the regulators, but the effect of competition is contested. There is great debate as to whether sectoral regulation should be phased out in favour of generic competition legislation <sup>14</sup>. Australia is further down that road than we are in Europe where the rule of thumb is that the greater the degree of natural monopoly, the greater the need for regulation. Australia incidentally is unusual in having an electricity sector in New South Wales which is publicly owned and yet subject to autonomous regulation as if it were privatised, as was intended at one stage. Under EU legislation, this arrangement is also present in theory but practice lags far behind, so that in Germany energy is regulated by the cartel office and *Electricite de France* is parodied as an estate of the realm. (They have even taken over London Electricity which, as a result, is now back in the public sector – the French public sector.) European consumer organisations are arguing for regulation to be consolidated, indeed established, rather than dismantled <sup>15</sup>.

What our regulatory system has failed to do is deal with inequities within the population of domestic consumers. A gulf is opening up with privileges accruing to 'mainstream' consumers who can avail themselves of cheap payment methods, such as direct payments from their bank accounts. For using such methods, they are rewarded by the companies with generous discounts. Left behind are the poorer consumers who pay using traditional methods such as bills paid in arrears or prepayment meters <sup>16</sup>. The NCC found that some price differentials over a year amounted to an average of £39 but in some areas this amounted to £182 for the same level of consumption <sup>17</sup>. Such trends raise major questions as to whether the duty under the legislation to avoid undue discrimination is being honoured. That in turn raises the question of whether improvements for the mass of consumers can leave behind or even act against the interests of the poorest.

### **European and global level: food prices**

A further issue on which the NCC have spent much energy is all too well known here in Australia. Agricultural prices in the EU are determined by the workings of the Common Agricultural Policy (CAP) which raises food prices in the EU and causes volatility of prices around the world by its policy of dumping subsidised surpluses. This is damaging to consumers in Europe and producers elsewhere. So this was a matter for us operating at European level to argue for reform of the CAP and at global level in the context of the GATT treaty and the World Trade Organisation (WTO). In the run up to the GATT negotiations of 1993, the NCC - working through its colleagues in BEUC (Bureau Européen des Unions des Consommateurs) and CI - published major submissions to the European Commission and to the GATT secretariat, to loud applause from the Australia and New Zealand governments <sup>18</sup>. The NCC has since been present to push the case at the WTO summits in

Seattle, Doha and Cancun, where our Head of Policy, Jill Johnstone, chaired the CI delegation.

Yet, although we seem to have won the intellectual argument, political agreement seems as far away as ever. The collapse of two out of three WTO summits is ominous for those of us who believe in multilateral negotiations. The hopeful signs to emerge from Cancun were the greater assertiveness and expertise of the developing countries and the expiry of the infamous (and scandalously misnamed) 'peace clause' which effectively exempts the US and EU from actions under WTO rules. It has been rumoured for some years that the moment the peace clause expired, the Australians would act. This is a classic instance of where we need concerted action –European consumers need the Australians to enter the fray.

So to return to my analysis, and yet again foregoing the temptation to blow trumpets, I use this example to show how product testing alone is not enough if the whole structure of the market and its prices is determined upstream from the release of products on to the market. Agricultural policy is a difficult and technical area, with a global impact. It requires the kind of expertise and international liaison which is expensive in staff time and may be seen by members as an excuse for international fun – perish the thought that I could ever be accused of that! I always make a point of having a thoroughly austere time whenever I am in Australia.

These two examples show that policy formulation is a necessary process, if consumer associations are to play a part in the market place. Such work is not amenable to being developed on a commercial basis, and therefore requires some kind of public support either through general, continuous funding or through project based funding, if it is not to be confined to the richest organisations.

But, yet again, there are limitations to the model. Policy research bodies do not have a clearly defined constituency other than the generality of consumers. Therefore, their work can become somewhat theoretical and removed from the feelings of ordinary people in specific localities. Furthermore, crawling over the details of a policy can be quite seductive and may bring us into close proximity to, and sympathy with the industries. Of course understanding the mechanics is important, but at what point does this risk becoming dereliction of our partisan duty? To redress this tendency, representative structures need to be developed.

### **Representation – individual and collective**

I have already dealt with the cruel dilemma faced by many consumer bodies as to whether they should provide services for members or for non-members. Similarly, they face dilemmas in deciding whether to represent consumers individually or collectively. The UK Citizens Advice Bureaux service tries to do both by advising large numbers of individuals and then seeking to exercise a responsible influence on policy by drawing on that experience. In practice it is very difficult.

In terms of individuals, there are some encouraging examples from around the world. Extra-judicial methods of dispute resolution are fast developing. In France there are local committees which resolve cases of consumer debt, comprising representatives of the credit industry, the local prefecture and consumer associations and serviced by the *Banque de France*. The Scandinavian concept of the Ombudsman has been a spectacular success in many countries. Starting as a guardian of the citizen's rights vis-a-vis public services, it

has now spread to other sectors in some cases becoming a form of self-regulation<sup>19</sup>. Australia has been something of a pioneer in this respect, and so I will not elaborate further; it is you that need to be informing us. Suffice it to say that two of my ex-NCC colleagues have recently been impressing on the Russian government the finer points of some of the Australian self-regulatory schemes<sup>20</sup>.

I should just note in passing the encouraging experience of Latin America in developing Ombudsmen in the field of utilities. For in Peru and in Argentina, and elsewhere, the office of the *Defensor del Pueblo* has been developed with the duty to consider cases relating to public utilities. The concept derives from recent Latin American history in that it grew out of a concern for the development and maintenance of human rights. The concept of citizens having a right to these most basic of services as part of the range of citizens rights could well be path-breaking.

The Ombudsmen proceed on the basis of individual cases. But what about collective representation? If there is one thing worse than being ignored, it is being taken seriously. For it generates demands that are very difficult for us to meet. In the UK the Thatcher administration had an approach to consumers that was a kind of 'welfare' approach, where consumers were tagged on to policies as a kind of loose end, somewhere on the list of factors to be taken into consideration. We were on consultation lists, but so were lots of other interests.

There was some measure of change under John Major, in particular with the arrival of the Citizens' Charter. This attempted to put into codified terms, service by service, the idea that users of public services had the right to expect a certain and predictable standard. The idea was much derided by the press, I suspect for snobbish reasons, because it dealt with mundane matters such as waiting times for attention in social security offices - hardly

affairs of state, but of great importance to those particular consumers. The scheme was derided on the right for trying to reform the unreformable, and on the left for not leveraging in large sums of extra cash.

The exercise spawned a whole panoply of consultations for procedural improvements all over the public services, which left the NCC scrambling for responses. But some of these ideas paid off. In fact many of those ideas are now commonplace in public administration and have been adopted by the private sector, in particular the utilities. Most conspicuously, the idea that late arrivals of trains should be recorded and published and should entitle the traveler to compensation has become an instrument of regulation, as has automatic compensation for service failure in water and telecommunications under Guaranteed Standards schemes<sup>21</sup>. The science of Performance Indicators was boosted and turned into practical policy. On the face of it, it was not high politics, and yet it got us consulted by the Prime Minister to an extent hitherto unheard of.

The other reform under Major was an improvement in the system of membership of public bodies through making them more open for competitive appointments, although the benefits of this have largely emerged in the Blair administration where the consumer perspective has been far more central and where sector specific regulatory bodies have been matched by dedicated consumer organisations.

This pattern is taking off round the world, not just in Europe. In Latin America and Africa the pioneering work done by consumer organisations in water and electricity is being recognised by governments inviting them to consult regulatory bodies (they generally accept) or even to join regulatory bodies (they generally refuse). Our Argentinian colleagues are members of the tripartite committee which oversees public utilities and which

has to advise on how to work through the peso crisis and the collapsing utility contracts with foreign companies <sup>22</sup>. Our Russian colleagues, many very young, were catapulted to prominence by the 1998 rouble crisis, as they were the only group battling for the small saver, with significant success it transpired. The pattern seems to be that consumer representation operates on an increasingly specialist basis, and we need to develop the technical skills to hold our own in such forums. The outcome devoutly to be avoided is to demand the right to be consulted but then not to have anything meaningful to say.

So as we can reflect on the past successes of our traditional model of consumer organisations, taking initiatives through their publications and campaigns, we now seem to have moved towards a 'portfolio' existence, where the generalist organisations may not be able to handle the detailed technical questions thrown at them and where we are increasingly operating as lone representatives rather than hunting as a pack. This brings a whole new set of technical and political challenges - we have to train an army of Daniels to enter a labyrinth of lions' dens.

Of course a vital prerequisite for successful consumer representation is freedom of information. How can consumers be expected to make a sensible input into policy debate if the information is not made available for them, or if they cannot share it with colleagues for technical advice? Such sharing and briefing is the best guarantee of our not being co-opted into corporate thinking. Yet major decisions affecting consumers remain confidential. The contracts between the private water companies that run the services to the public and the capital city governments of Bucharest, Budapest, and Berlin are not published, hiding behind the great God of commercial confidentiality, this in the most complete of natural monopolies <sup>23</sup>. Our German colleagues have been refused sight of the details of the Berlin contract <sup>24</sup>. If consumers in the capital city of

Europe's largest economy are kept in the dark we clearly still have a long way to go.

## **UK experience**

I want to cover some of the challenging issues of the new century. But before that, I would like to deal with some specifically UK questions. Why have our consumer organisations survived and, indeed, multiplied? Do we have legitimacy? Have we been captured by government or industry? Do we have the new recruits the consumer movement needs? It might first be helpful to lay out the UK consumerist map.

I have already referred several times to the two large national consumer organisations:

the NCC and CA. In addition there are two small national bodies: the Institute of Consumer Affairs which is located in a University, and which was established to bring some academic rigour to this area; and the National Consumer Federation which is the organ of the voluntary movement in the UK. Perhaps the greatest recent change has been the establishment, usually in legislation, of robust independent sectoral consumer bodies designed to shadow sectoral regulators. This list includes bodies in financial services, the combined world of telecommunications/broadcasting/IT, energy, water and postal services. Each of these bodies is independently established, has the right to an independent voice, has the right to receive information where required and has the right to receive a reply from the regulator where necessary. Some of these bodies also handle complaints from the public.

The academic world is becoming more engaged with the Economic and Social Science Research Council recently developing a £5 million programme to aid the intellectual understanding of consumerism. Apart from that formal list of organisations, there is hardly a

government task force or committee which does not include consumer representatives. Indeed, a recent report from the Better Regulation Task Force of the Cabinet Office entitled *Independent Regulators*, for which I was responsible, states quite clearly that the governing bodies of regulators should have a majority of non-executive directors - a definition that will usually include non-executive directors with a consumer background. This report has met with almost universal acceptance. If you add in the growing body of ombudsmen, it becomes clear that the UK consumer map has changed very significantly under the current government. But why?

The answer can be found in two of the Blair government's early White Papers. The first of these was *Modernising Government* <sup>25</sup> which aimed to give users of public services a better deal. Although the intention of placing consumers at the center of services was articulated in this white paper, progress has been patchy and I would like to return to public services later in this paper as they remain a thorny, intractable issue.

The second white paper was *Modern Markets: Confident Consumers* published in 1999 <sup>26</sup>. It was mainly concerned with individual consumers in their use of private sector goods and services and it was significant in laying out a new analysis of the economic importance of consumers. In his foreword, the then Secretary of State for Trade and Industry said:

*"This white paper puts consumers centre stage. It recognises for the first time that confident, demanding consumers are good for business. They promote innovation and stimulate better value and in return they get better products at lower price. The Government is committed to making markets work ... "*

This emphasis on a market role for consumers is not one which had

been explored before in the UK. Up to that point consumer policy had largely been seen as a protective welfare issue - and as we all know, welfare policies are always vulnerable. But the thinking behind the white paper came in part from the American economist, Michael Porter, who was engaged by the Treasury to help the Government understand how it could increase the UK's productivity - a particular obsession of the Chancellor, Gordon Brown. As Michael Porter says: "A stiff upper lip is not good for upgrading an economy" <sup>27</sup> and in his analysis of international competitiveness he points out that the British are reluctant to complain and are less demanding as consumers than many other nations. He links demanding consumers in the home market with the competitiveness of a nation's suppliers. It is this analysis that has led to a much more robust approach to consumer policy in the UK and which has ensured that the role of consumers is better understood and that the role of their organisations is more highly valued and listened to.

At a more colloquial level, the Permanent Secretary to the Treasury recently agreed with me that what we needed in the UK was 'rampant' consumers!

The new analysis (at least, new to the UK) has also led to two particularly important pieces of legislation, the Competition Act and the Enterprise Act. The former created a competition regime worthy of the name and ensured that there were some real penalties attached to businesses behaving uncompetitively and the latter improved regulation and enforcement and gave new powers to consumer organisations to demand enquiries into uncompetitive areas of the market through the medium of a 'super-complaint' to the Office of Fair Trading.

Within the Department of Trade and Industry (DTI) - our home department - the standing of consumer policy has improved somewhat (though not enough) and the department has as one of its

Public Service Agreement (PSA) targets to:

*"Place empowered consumers at the heart of an effective competition regime, bringing UK levels of competition, consumer empowerment and protection up to the level of the best by 2006 . . . "* <sup>28</sup>

As a consequence of this PSA target, the department undertook a study of consumer regimes in 2003 comparing the UK to nine other countries. In very general terms, the conclusions showed that the UK was on a par with the best in many areas, but lagged behind in its overly fragmented enforcement arrangements, in its provision of advice to consumers about suitable traders and in its legal framework (which is now potentially to be rectified through the EU's draft Directive on Unfair Commercial Trading). Australia was one of the countries studied and, although there is no overall judgement made of the Australian system, its general fair trading laws, the tough approach of the ACCC and the skilful use of media to give consumer warnings are very positively mentioned.

So far this analysis has focused mainly on the legal framework, but there have been other equally important moves in the UK to enhance consumer empowerment. There have been two main routes for this. The first has been an increasing emphasis on consumer education. This is particularly prevalent in financial services where the Financial Services Authority is in the process of outlining a strategy for a very significant increase in the financial education directed at school children, at students, through the work place and pre-retirement. There is also a more general thrust towards consumer education in schools. This is delivered through the medium of a citizenship strand and focuses on consumer rights and responsibilities. The NCC believes that this approach is patchy and not always well done. As a consequence, we see a strong need for a national strategy led by the Office of Fair Trading and, as a more practical help, we have

developed a teaching pack which has gone to every secondary school in England <sup>29</sup>.

The second route has been through providing greater access to information and this is reflected in the plans to establish Consumer Direct, a national helpline which will answer consumer queries such as their rights or where to go for further help and support. Consumer Direct is being piloted in a number of areas at the moment and aims to deal with 80 per cent of the calls it receives, passing the remaining 20 per cent through to secondary and more specialist organisations. I believe Consumer Direct has the potential to become an important consumer brand, perhaps developing complaints handling, mediation and other functions. For example, Consumer Direct will not deal with the difficulty consumers face in trying to choose decent traders and the NCC is pushing very hard for a scheme we have called Trading Information <sup>30</sup>. It is based on the idea of the Better Business Bureau in the States and would essentially collect together in one accessible place information about the trading record, both good and bad, of individual traders. But what a difference it could make if consumers had one well-known place to go to for a range of their enquiries and needs.

Although the intellectual understanding of consumer affairs has placed this area of policy on a firmer footing, it has also presented a considerable challenge to policy- focused consumer organisations in the UK, particularly those that are publicly funded. To put it crudely, civil servants may feel they can do it better.

From the perspective of the NCC, this means that we face something of the pressure that private sector companies face, but instead of shareholders and the bottom line breathing down our necks, we have civil servants, the media and indeed consumers themselves asking whether we are worth preserving. I welcome that

pressure: it has meant that the NCC has become sharper, more focused, more effective; it means that we measure what we do and to an extent are able to track the outcome of our work; it means we have learn to work smarter; it means that we must employ the best staff we possibly can; it means that we must be skilful in lobbying; it means that we must treasure our independence of thought and action; but it means that it is also sensible to be aware of the realities of government; and it means that we have imported some of the useful bits of the private sector to help ensure we are delivering value for money.

One example of this last point is the change in our governance structures where we have created a small and very skilled Board which is focused entirely on governance - that is, on the strategic direction of the organisation and on its effectiveness. But we have also created a secondary level of governance through our Advisory Group which has about 40 people on it who represent the various stakeholder groups we engage with. You could describe this group as proxy shareholders. To ensure that we stay connected with our grass roots, we have established consumer forums around subjects that we are working on. Finally, we have a consumer network of individuals from around the country who feed us information and views. All of this sits alongside our continuing programme of consumer research either through large scale quantitative surveys or through qualitative work.

In a nutshell, the NCC must always remember that it can only argue for public funding if it can justifiably be seen to be relevant, legitimate, efficient and effective. It is a major part of my job, and the Board's job, to ensure that this is the case.

The consumer picture of the UK which I have laid is in many ways an improving one. But it would be simply complacent to assume that it will continue for ever. The political pendulum will ensure that the value placed on consumer policy will rise and

fall and it may be that a future government will see no further need for an NCC. After all, it is an extraordinary construct of a highly sophisticated democracy that government should fund a body which will very often be critical of government and which will always wish government to go further. But it is in the NCC's very independence of thought that its value lies. It is government which holds the balancing role, not the NCC. The NCC will remain unashamedly partisan in promoting the consumer interest.

But I think it is reasonably safe to say that the gains made for consumers in the last five years by way of legislation, information and empowerment are secure, not least because society is steadily getting better educated, more demanding and generally more savvy about holding those in authority to account.

It also begs the question - becoming increasingly important - of whether markets can serve all consumers.

## **21st Century**

Now to the challenging issues of the new century. Future gazing is always a hazardous enterprise, but I will identify four overarching themes.

### **Public services**

The first of these is **public services** - not a new subject, but some new questions. The most basic of these questions is what level of public service is it right to fund from the taxpayer - excellent, good or merely adequate? This question represents a sharp collision between citizenship and consumerism which we are ill equipped to deal with. We certainly should focus on improving the experience of service users in a world which is increasingly fragmented and where we are seeing rising individual expectations.

There are two quite irreconcilable drivers at play. The first is that public services have traditionally been a professionally driven affair, with monolithic infrastructures, delivered in ways which continue to reflect the views and interests of the professions. Set against that, is a society which has broken away from previous centres of authority. It is defined by much greater social, cultural and ethnic pluralism. It is increasingly looking to transfer experience of the private sector to public services. These social developments threaten everything that the professions have held dear over many decades.

We would maintain that in a world of increasing diversity the only way of understanding individual consumers needs is to ask them and then offer a level of services that reflects those needs. That implies choice.

The government is using choice in a different way. It sees choice not as an end in itself to enhance the quality of the consumer experience, but as a lever to achieve the wider policy goal of equity and improved standards. In the words of the Secretary of State for Health, choice is "the route to equity and excellence" <sup>31</sup>. However, the concept of choice implies several things if it is going to work: first, a surplus of supply; second, good quality accessible information; third, providers with the freedom to deviate from the central norm. This set of questions has led to a heated debate in the UK between those who value individual consumer choice and those who believe that as far as public services are concerned, it is time consumers stopped making selfish individual choices and that we return to the collective notions of citizenship

In an increasingly pluralistic world choice may be the only tool to drive the recognition of individual consumer need, but will it be effective, will it be sustainable and will it be a tool that can be used by those who are more disadvantaged in society? Our

research would suggest not and we do not want to go down in history as the consumer organisation that helped those with loud voices and sharp elbows.

### **The information economy**

The second theme is the advent of the **information economy**. The advance of technology with its astonishing ability to manipulate information will have an impact on every corner of our lives. Technical advances have created the capacity to know about individuals, to understand their buying patterns, their predilections, their financial strength, their daily movements, their health, their families - indeed the minutiae of their lives. The private sector uses this to segment markets, to tempt consumers, to avoid consumers, to individualise offerings. The market is likely to develop new types of knowledge-based networked companies which may exist in a virtual world floating free of regulatory or even tax frameworks. What type of trans-world systems will then protect consumers?

The government will increasingly seek to transform the relationship between consumer and government using technology to enhance the efficiency of government, thus saving public money. For example, in the UK, the e-government strategy aims to ensure that the public interact electronically with government at all levels. Individual information will be shared right across government as much as is possible, consistent with privacy.

But what *is* our right to privacy? What do we want government to know about us? Sharing information with government should not be used just to help the government - it should be a tool to drive through culture change focusing services on the needs of users. That could be beneficial. But how do we avoid the lurch of governments towards a more coercive use of IT, pushed by post 11 September fears?

Yet a further aspect is the overload that consumers face in information. How, as consumer organisations who have always called for information, do we execute an about turn and cry halt to the deluge?

President Kennedy said:

*"The housewife is called upon to be an amateur electrician, mechanic, chemist, toxicologist, dietitian, and mathematician - but she is rarely furnished the information she needs to perform these tasks proficiently."* <sup>32</sup>

He forgot to add that, just occasionally, consumers might like to put their feet up and watch the television.

But the real question is how do we cope with the polarities of both too much information and not enough - or not the right sort delivered in the right way at the right time?

### **Risk**

The third theme is **risk**, both large-scale societal risk and the increased level of risk being imposed on individuals. Societal risks arise through scientific discovery and the recent example of genetic modification showed governments and consumers unprepared to deal with scientific advances that had social, ethical and environmental implications. Some companies just completely failed to recognize that there was an issue. The government is perhaps better informed on gm than any government has been before when dealing with a major policy issue.

It has commissioned a science report, an economic report and a report of consultation with consumers. I am not sure that any of this has made the decision easier. The government has now given the go ahead to grow genetically modified maize, but I think they

may be fooling themselves if they believe the public has forgotten the debate.

Next on the horizon is nanotechnology - and there will be more. How do we assess risk and benefit and how do we stimulate the sort of societal conversations that are needed to help us all establish the right way forward?

Aside from societal risk, individuals in the UK are increasingly being asked to bear risks for which they are sometimes singularly ill-equipped. The government has presided over a system where risk is increasingly individualized in that we have a low state pension (currently only 16.2 per cent of national average earnings) coupled with a huge drop in the number of company final salary schemes. In essence, that means that above state pension level, people are on their own.

At the same time, government strategy is confused and disconnected between different government departments. On the one hand it talks about the need for low and middle income consumers to save. But on the other hand it has created a means tested environment which makes it incredibly difficult for consumers of moderate means to know whether it is worth saving. The government focuses on tax incentives, but forgets that for low income consumers tax incentives mean nothing.

Our research shows that consumers are feeling bewildered, worried and let down<sup>33</sup>. They are also completely confused and have very little understanding of financial services. The industry continues to offer products that are unsuitable for the people they are sold to and to use language that is obscure and frequently misleading.

Under this theme, you could also include the risks that we are running from food. Not so much that it is unsafe, but that it

is nutritionally unsound and risks leaving us with a frightening heritage of disease which will unfold over the next 20 to 30 years.

The industry is keen to remind us that there are no bad foods, only bad diets - although it is odd that they are happy to imply in labeling that some goods are good - and that the real culprit is lack of exercise. They also emphasize the issue of consumer responsibility.

Consumer organisations riposte that labeling is confusing, that marketing is heavily directed towards food laden in sugar, fat and salt and that there are food deserts where the magical colour green is not to be found in the shops. The sad reality is that the projections suggest that, by 2020, one in five boys and one in three girls will be obese. The diseases that obesity triggers already cost the NHS £500 million per year and the epidemic of diabetes that is just round the corner will literally break the NHS bank.

It is perfectly possible that this is going to lead to a good old fashioned fight between industry and consumers. Do we have the stomach and the resources?

### **Sustainability**

My final theme (almost) is the new one of **sustainability**. For the whole of the 20<sup>th</sup> century we have been living in a fossil fuel economy. In the 21<sup>st</sup> we are going to have to develop an economy based on renewable resources which faces consumers of the wealthy developed world with particular challenges. It will also face consumer organisations with intensely difficult intellectual challenges. We are used to trying to balance the interests of consumers across a highly differentiated population. That is difficult enough, but sustainable consumption also requires us to take into account the interests of future consumers.

One of the few areas of concrete agreement from the World Summit on Sustainable Development in 2002 was an agreement that countries should encourage and promote the development of a ten year framework of programmes in support of initiatives to accelerate the shift towards sustainable consumption and production. The UK is one of the first countries to move on this. *Changing Patterns* - its framework on sustainable consumption and production - was published in 2003<sup>34</sup>. It is a welcome first step but falls short of a coherent strategy, tends to ignore the impact of consumer behaviour and fails to provide policy measure that tackle consumption as well as production.

The UK government's analysis shows household environmental impacts are rising as consumer expenditure rises and consumer purchasing is currently outstripping production efficiency gains. This cannot be sustainable. But what is the role of consumer organisations here? We have not traditionally either encouraged or discouraged consumption, the emphasis has been on value for money. Will our role be to tell people to change their lifestyle? Or will it be to help government understand the factors that motivate people in order to ensure that the best policy instruments emerge?

### **Disadvantage**

Those represent four over-arching themes for the 21<sup>st</sup> century but there is one extra theme that runs through everything and which takes me back to the NCC's home territory. **Disadvantage** - consumers who, for one reason or another, find it very difficult to participate in society. In the public sector, how do we ensure their voice is heard? In the private sector, how do we ensure that the market benefits everyone? And if the market cannot deliver for the whole of society, whose responsibility is it to ensure that consumers on a low income are able to access essential services that are delivered through the market economy? We all of us need water, energy, and access to housing,

telecommunications, basic financial services and food.

## **Conclusion**

A few years ago I wondered for a moment if consumer organisations had had their day. Government and industry were apparently becoming more consumer sensitive and new issues such as the environment were grabbing the headlines. We were finding it more difficult to recruit the young, keen and idealistic staff that we had always relied on. Maybe we were a post-war construct due to die as society moved on.

The moment soon passed. As I hope I have shown you, the need for robust consumer organisations has never been greater. Some of the issues they face are new, some are old issues in new guises. Wherever you look new challenges are arising but the basic four roles for consumer organisations which I set out at the beginning remain valid. We need product evaluation of goods and services, public information and advice, policy formulation and, finally, representation.

The development of representative institutions will always be difficult in the consumer world. People do not see themselves as consumers. It is too obvious - we are all consumers. There are always problems of legitimacy, of representativeness, of conflict of interest between our roles as consumers and other roles which we may have. And the consumer interest is not monolithic, indeed it may contain conflicts, thus requiring further difficult judgements by representatives.

But getting too obsessed with these questions can lead to an excess of naval gazing. We must not allow this to become a self-indulgent luxury that prevents us from dealing with the really tricky issues that are developing. The real task ahead of us all is to continue to bring intellectual rigour, determination and inspiration to the world of consumer affairs. Most of all we

must focus on tackling the real needs of consumers.

I am sure Ruby Hutchinson would have agreed. Thank you for your attention. It has been a great honour.

**Deirdre Hutton**

**Melbourne, March 2004**

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