

# The Role of Consumer Protection in a Fair Market Economy

William E. Kovacic

Visiting Professor, King's College London

Warsaw University

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# Today's Themes

- Rationales for Consumer Protection
  - Major Illustration: Electronic Commerce
- Who Should Do What
- Need for Ongoing Institutional Innovation
- Caveat: Personal Views Only

# How Competitive Markets Protect Consumers

- Life with a Single Supplier
- Competition
  - Prices
  - Quality
  - Innovation
- Example: The Communications Revolution

# Vital Conditions

- General: “Consumer Sovereignty”
- Foundations
  - Truthful representations
  - Meaningful disclosure of terms
  - Absence of duress
  - Market access

# Consumer Protection and “Fairness”

- A Definition of Fairness
  - Core: Honesty and absence of duress
  - Benefits of trust
- Elements
  - Truthful Advertising
  - Meaningful Disclosure
  - Prevention of Duress
  - Correcting Market Failures Related to Known Behavioral Traits (e.g., door-to-door sales)

# Truthful Advertising

- Essential Role in Markets
  - Entry and expansion
- Focusing on Harmful Misrepresentations
  - “Warsaw’s best coffee”
  - “Ranked as Warsaw’s best coffee”
- Allowing Truthful Statements
  - Example: Professional services
  - Example: Comparative advertising

# Meaningful Disclosure

- Material Terms
  - Hidden requirements
  - Example: credit card agreements and mortgages
- Mandatory Disclosures
  - Example: Health effects
  - Example: Octane rule

# Prevention of Duress

- Ex Post Opportunism and Locked-In Consumers
  - Furnace repairs
- Manipulation of Vulnerabilities
  - Example: debilitating physical infirmities



# Means

- Law Enforcement
- Rulemaking and Guidelines
  - Example: Green claims
- Education
  - Consumers
  - Business

# Electronic Commerce and Consumer Protection: Why Care?

- Electronic Commerce as a Market for Lemons
- Immensity of Harm
  - Example: Identity theft
- Confidence in Public Administration Erodes

# How Does the Internet Alter the Nature of Seller Misconduct?

- Reduces the Cost of Wrongdoing
- Expands the Geographic Scope of Operations
- Poses Qualitatively Greater Threats
  - Potential vulnerability of data bases
  - Rapid dissemination of information
  - More precision in targeting victims
  - Much broader pool of potential victims

# Traits of the Wrongdoers

- Good Eye for Schemes: E.g., Financial Crisis
- Many Repeat Offenders
- Technologically Proficient
- Geographically Adroit: Know/Exploit Gaps
- Indifferent to Reputation
- Organized in Networks
- High Discount Rate: Spend Quickly

# Policymaking Environment

- Fragmentation
  - National authorities and political subdivisions
  - Civil authorities and criminal prosecutors
  - Needs: Cooperation, convergence, interoperability
- Weak Incentives to Invest in Long-Term Assets
  - Typical Measure: Bring cases
  - Are they the right cases? Are cases enough?
  - Quality of policy infrastructure?

# Ability of Consumer Protection Agencies to Address Internet Fraud

- Strengths
  - Strong litigation teams and injunctive relief
  - Good electronic data sets: faster time to detect
  - Research capacity
  - Education unit
- Weaknesses
  - Civil remedies: stop it and give back the money

# Foundations for Future Success

- Cooperation at Home and Abroad
- Investments in Knowledge and Data Sets
- Litigation
- Research
- Education to Promote Precaution-Taking
- Evaluation

# Cooperation at Home/Abroad

- Criminal Liaison Units
- ICPEN: Late 1990s to Present
- Bilateral Cooperation
- Non-Government Bodies
  - Example: Legitimate enterprises



# Investments in Knowledge and Data Sets

- Electronic Data Bases
- Cyber Labs
- Past Orders
- Workshops/Research on Sociology of Fraud
- Major Needs
  - IT investments
  - Network security
  - Human capital

# Education and Precaution-Taking

- Consumer Education
- Business Education
- New Means of Reaching Audiences

# Evaluation

- Assessing Impact of Public Policies
- Substantive Programs
  - Litigation
  - Education
- Processes

# What Do Good Programs Have in Common?

- Evolutionary Development Across Chairmanships and Administrations
- Use of/Experiments With Multiple Policy Tools
- Substantial Capital Investments: e.g., IT
- Building Relationships with Other Bodies
- Periodic Assessment
- Internal Institutional Improvements

# Concluding Thoughts: Who Should Do What?

- Competition/Consumer Protection Unified
- Improve Interagency Cooperation
  - National, state, international
  - Strengthen Operations of Existing Networks
- Greater Links with Research Centers
- Aspiration for Leadership: Relay Race Model