

# Consumerism

## Search for the Consumer Interest

FOURTH EDITION

**David A. Aaker**  
**George S. Day**



# CONSUMERISM

*Search for the Consumer Interest*

EDITED BY

*David A. Aaker and George S. Day*

FOURTH EDITION



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# **PREFACE TO THE FOURTH EDITION**

Today consumerism is very different from what it was in 1971, when the first edition of this book appeared, or even in 1978, when the third edition was published. The area continues to broaden, mature, and change its thrust. In Part I, the introduction to this edition, we assess consumerism at this point in time: what is the field's current scope and direction and its probable future?

One hint of present trends comes from the four new sections that are included in this edition. The first is government regulation, an area now undergoing an extensive, healthy, and sometimes rigorous cost-benefit scrutiny. The second is advertising aimed at children, which involves fascinating issues about fairness and the role of government regulation. The third is consumer information systems, especially those entirely or partially in the private sector. We have always thought that consumer information is a key to consumer protection. The efforts of the private sector in this regard are most significant. The fourth new topic is demarketing, or reducing consumption (of tobacco or energy, for example). The ethics, public interest, and effectiveness of demarketing become interesting issues.

Half the selections in the fourth edition are new; only five of the chapters carry over from the second edition and only two from the first. However, those familiar with previous editions will find some similarities. The basic organization of the book, which has been well received, has been retained. We have again attempted to present a balanced treatment of the issues, recognizing that both critics and supporters of current practices in the marketplace have worthwhile points of view and that both groups can learn from each other. Discussion questions are again included to challenge the reader.

Part II reviews historical perspectives, current views, and the special problems of disadvantaged consumers. The following four parts are

organized according to the steps of the purchase process—the prepurchase phase, the purchase transaction, and the postpurchase experience. Part III discusses consumer information systems and the debate over information disclosure requirements. Part IV looks at advertising—social issues, advertising and children, and deception in advertising. The fifth part concerns the purchase transaction; chapters deal with selling practices, ecology, demarketing, and antitrust. Part VI, on the postpurchase phase, addresses warranties and service, safety and liability, and consumer satisfaction. Issues associated with business response to consumer problems and with governmental regulation are raised throughout the book. Part VII, however, focuses on these two areas.

We would like to acknowledge the many people in business, government, and academia who have struggled during the past decade to search for the consumer interest. Their efforts have substantially elevated the sophistication with which difficult consumer issues are addressed. It has been a pleasure to watch this process. We owe our greatest debt to the authors who permitted us to include their work in this book. We are also grateful to the many colleagues and students who, having used the book, offered helpful suggestions for improving it. We hope they will find this edition even more useful. Most of all, we acknowledge the encouragement and support of Kay and Marilyn: they are exceptional wives and consumers but nonetheless sometimes need protection.

David A. Aaker  
George S. Day

# CONTENTS

Preface to the Fourth Edition	vii
 <b>I. INTRODUCTION</b>	
A Guide to Consumerism	2
DAVID A. AAKER AND GEORGE S. DAY	
 <b>II. PERSPECTIVES ON CONSUMERISM</b>	
 <i>A. Historical Perspectives</i>	
1. The Consumer Movement in Historical Perspective	23
ROBERT O. HERRMANN	
2. The Great American Gyp	33
RALPH NADER	
 <i>B. Current Perspectives</i>	
3. The Consumer's Real Needs	48
SIDNEY MARGOLIUS	
4. Public Policy and the Marketing Practitioner—Toward Bridging the Gap	57
STEPHEN A. GREYSER	
5. The Theory and Practice of Swedish Consumer Policy	62
J. K. JOHANSSON	
6. Axioms for Societal Marketing	76
PHILIP KOTLER	
7. Consumerism Lives! . . . and Grows	87
E. PATRICK MCGUIRE	

*C. Disadvantaged Consumers*

8. The Differing Nature of Consumerism in the Ghetto 96

ALAN R. ANDREASEN

- Discussion Questions* 107

**III. THE PREPURCHASE PHASE:  
CONSUMER INFORMATION**

*A. Consumer Information Systems*

9. The Future for Consumer Information Systems 115

HANS B. THORELLI

10. A Plan for Consumer Information System Development, Implementation, and Evaluation 127

DONALD A. DUNN AND MICHAEL L. RAY

11. Developing Corporate Consumer Information Programs 134

DAVID A. AAKER

*B. Information Disclosure Requirements*

12. Assessing the Effects of Information Disclosure Requirements 152

GEORGE S. DAY

13. Consumer Protection: More Information or More Regulation? 168

WILLIAM H. CUNNINGHAM AND ISABELLA C. M. CUNNINGHAM

14. Affirmative Disclosure of Nutrition Information and Consumers' Food Preferences: A Review 175

TYZOON T. TYEBJEE

- Discussion Questions* 184

**IV. THE PREPURCHASE PHASE: ADVERTISING**

*A. Social Issues in Advertising*

15. The Social and Economic Effects of Advertising 190

DAVID A. AAKER

16. The Cultural and Social Impact of Advertising on American Society 210

MARY GARDINER JONES

17. Statement before the Federal Trade Commission 215

DONALD M. KENDALL

*B. Advertising and Children*

18. Researchers Look at the "Kid Vid" Rule 224

SCOTT WARD

19. Can and Should the FTC Restrict Advertising to Children? 229

MICHAEL B. MAZIS

*C. Deceptive Advertising*

20. Deceptive Advertising 239

DAVID A. AAKER

21. Recent FTC Actions: Implications for the Advertising Strategist 249

ROBERT E. WILKES AND JAMES B. WILCOX

- Discussion Questions* 258

**V. THE PURCHASE PHASE***A. Selling Practices*

22. Caveat Emptor 267

WARREN G. MAGNUSON AND JEAN CARPER

*B. Social Dimensions: Ecology*

23. Ecological Marketing: Will the Normative Model Become Descriptive? 280

KARL E. HENION II

24. A New Milk Jug 292

THOMAS C. KINNEAR

*C. Social Dimensions: Demarketing*

25. The Energy Crisis and Consumer Conservation: Current Research and Action Programs 297

R. BRUCE HUTTON

26. Swedish Tobacco Controls—Precedent Setting "Negative Marketing" Approach 305

GRAHAM T. T. MOLITOR

*D. Constraints on Choice: Antitrust Issues*

27. Advertising and Competition 318

DAVID A. AAKER

28. The Cereal Companies: Monopolists or Super Marketers? 328

PAUL N. BLOOM

- Discussion Questions* 342



**VI. THE POSTPURCHASE PHASE***A. Warranties and Service*

29. New Legislation and the Prospects for Real  
Warranty Reform 349  
LAURENCE P. FELDMAN

*B. Safety and Liability*

30. The Mindless Pursuit of Safety 363  
WALTER GUZZARDI, JR.
31. The Devils in the Product Liability Laws 376  
BUSINESS WEEK
32. A Marketing Manager's Primer on Products  
Liability 387  
WILLIAM L. TROMBETTA

*C. Consumer Satisfaction*

33. Are Consumers Satisfied? 403  
GEORGE S. DAY

*Discussion Questions* 414

**VII. RESPONDING TO CONSUMERISM***A. Business Responses*

34. Industrywide Responses to Consumerism  
Pressure 420  
GEORGE S. DAY AND DAVID A. AAKER
35. Perceptual Differences in Market Transactions:  
A Source of Consumer Frustration 426  
RONALD J. DORNOFF AND CLINT B. TANKERSLEY
36. *Business and Society Review* Corporate Responsibility  
Awards 434  
BUSINESS AND SOCIETY REVIEW
37. The Courage to Work Together 437  
C. R. SITTER

*B. Governmental Regulation*

38. Regulation: Asking the Right Questions 444  
PETER H. SCHUCK
39. Some Difficulties in Measuring the Costs and  
Benefits of Regulation 460  
RICHARD B. ROSS
40. Measuring the Cost of Regulation 473  
R. LEE BRUMMET
41. Crying Wolf 478  
JOAN CLAYBROOK

*Discussion Questions* 483

Index 487

## PART I

# Introduction

# A GUIDE TO CONSUMERISM

*David A. Aaker & George S. Day*

The term “consumerism” identifies the contemporary consumer movement, launched in the mid-1960s by the concerns triggered indirectly by Rachel Carson<sup>1</sup> and directly by Ralph Nader’s auto safety investigation,<sup>2</sup> and by President Kennedy’s efforts to establish the four rights of consumers: the right to safety, to be informed, to choose, and to be heard.<sup>3</sup> Consumerism encompasses the evolving activities of government, business, independent organizations, and concerned consumers to protect and enhance the rights of consumers.

From the mid-sixties to the late seventies, the scope of consumerism steadily expanded. This trend was most evident in the rapid growth in expenditures for federal regulatory activities (see Table 1), fueled by the emergence of new issues and the persistence of many long-standing consumer problems. Further impetus for expansion came from the recognition that consumerism was concerned with protecting consumers whenever there is an exchange relationship with an organization, whether a business firm, a government agency, or a hospital. Finally, environmental concerns and consumerism became increasingly interwoven and frequently converged on common issues.

By the end of the 1970s, however, consumerist activity appeared to have peaked out and the consumer movement seemed “everywhere in

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<sup>1</sup> Rachel Carson, *Silent Spring* (Boston: Houghton Mifflin, 1962).

<sup>2</sup> Ralph Nader, *Unsafe at Any Speed* (New York: Pocket Books, 1966).

<sup>3</sup> For discussion see “Consumer Advisory Council: First Report,” Executive Office of the President (Washington, D.C.: U.S. Government Printing Office, October 1963).

TABLE 1.1. EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES (Fiscal Years, Millions of Dollars)

<i>Area of Regulation</i>	<i>1970</i>	<i>1978</i>	<i>1980</i>
Consumer safety and health	\$392	\$2255	\$2467
Job safety and other working conditions	62	496	701
Environment and energy	85	1296	1866
Finance and banking	106	273	373
Industry-specific regulation	125	297	357
General business	96	245	277
	<u>\$866</u>	<u>\$4862</u>	<u>\$6041</u>

Source: Center for the Study of American Business. Cited by Murray L. Weidenbaum, "Public Policy: No Longer a Spectator Sport for Business," *Journal of Business Strategy* 1 (Summer 1980), p. 47.

retreat."<sup>4</sup> As evidence, Reich cited a series of reversals that began in 1976:

Congress has rejected the Food and Drug Administration's proposed ban on saccharin, and several courts and state legislatures have attempted to block the FDA's attack on Laetrile. The Consumer Product Safety Commission's recent ruling that swimming pool slides must carry danger warnings has elicited widespread ridicule, brought a reversal in the federal courts, and contributed to rumors that the Commission itself will be abolished. Congress has rescinded the Department of Transportation's safety-belt/ignition interlock rule, removed its authority to require helmets for motorcyclists, and expressed distaste for its "air bag" regulation. Congress has also rejected the proposed consumer-protection agency.<sup>5</sup> And the Federal Trade Commission's proposal to control television advertising of sugared cereals for children has prompted the *Washington Post* to accuse the agency of becoming the national nanny.<sup>6</sup>

These events coincided with a period of questioning Ralph Nader's effectiveness and power. For example, there was a largely negative reaction to his formation of a group to protect the interests of sports fans—an effort interpreted as evidence that Nader could no longer count on unquestioning public support. This was followed by several widely publicized confrontations between Nader and onetime supporters who had been given

<sup>4</sup> Robert B. Reich, "Toward a New Consumer Protection," *University of Pennsylvania Law Review* 128 (November 1979). At the time of writing the article the author was director of policy planning for the Federal Trade Commission.

<sup>5</sup> The bill to create an agency for consumer protection was defeated by a vote of 227 to 189. See 124 *Congressional Record* H828 (daily edition February 8, 1978).

<sup>6</sup> "The FTC as National Nanny," *Washington Post*, March 1, 1978, p. 22.

senior positions in the Carter administration.<sup>7</sup> Finally, the 1980 election of Ronald Reagan was viewed by many as conclusive evidence that the consumer movement had lost most of its clout. Not only did Reagan owe little to the traditional constituencies of consumer regulation—unions, environmental interests, and consumer groups—but also he was committed to decreased government intervention.<sup>8</sup>

On the basis of a regulatory or legislative scorecard, the strength of the consumer movement has indeed waned. This would, however, be a premature judgment in light of the considerable momentum of consumerism. For instance, consumer protection is solidly entrenched in the legal system, including provision for private parties to sue to redress violations of regulations, but most of the dissatisfactions that ultimately fuel consumerism have not abated. Indeed, to understand why the contemporary consumer movement has endured longer than similar movements in the 1910s and 1930s,<sup>9</sup> it is necessary to go beyond the issues of the moment and expose the underlying problems and forces. Accordingly, this introduction seeks to clarify the present scope of consumerism—the causal factors and the mechanisms for focusing consumer discontent—and then to use this analysis to suggest what the future likely holds.

## THE SCOPE OF CONSUMERISM

At the core of consumerism remain the four rights set forth by President Kennedy. Clearly, the meaning of each of these rights has been broadened considerably to embrace many new concerns. Further, there is a growing recognition that the scope of consumerism now includes the right to redress and the right to an environment that will enhance the quality of life.

The *right to safety* implies protection against the marketing of goods that are hazardous to health or life. Such a right has motivated numerous laws to protect consumers when they cannot be expected to have sufficient knowledge to protect themselves. Thus, laws pertaining to foods, textiles, drugs, cosmetics, and tires demand that the products not endanger health or safety and that if the potential exists for dangerous misuse a clear warning be provided (e.g., on poisonous cleaning liquids).

<sup>7</sup> Marc Leepson, "Consumer Protection: Gains and Setbacks," *Congressional Quarterly*, 1978.

<sup>8</sup> "Deregulation: A Fast Start for the Reagan Strategy," *Business Week*, March 9, 1981, p. 62.

<sup>9</sup> For a description of the ebb and flow of consumerism in the past see Chapter 1.

There is little controversy about such a principle; the only question is whether a specific problem will merit legislation and whether the benefits outweigh the costs.

The right to safety has been broadened to include the protection of people from themselves, a policy with which there is more disagreement.<sup>10</sup> It is argued that people should not always be permitted to make decisions that are not in their best long-run interests even when such decisions are deliberate and informed. Thus, people are not permitted to select an automobile without seat belts and other mandatory safety features. The concern is with consumers' long-run interests, not their immediate desires. At one time the paternalism inherent in this argument was generally accepted as legitimate. This acceptance has turned to skepticism as experience reveals the difficulties of limiting government intervention that is paternalistic.<sup>11</sup> So far, however, there has not been serious questioning of intervention when consumer products may have significant adverse effects on third parties.

The *right to be informed* is a fundamental economic interest of the consumer. There is wide agreement that this right implies at a minimum that the consumer should not be deceived. Just what constitutes deception is more controversial and fluid. For example, the FTC has taken the position that an advertising claim should be unique to the advertised product. Thus, Wonder Bread's claim to build "bodies 12 ways" was considered deceptive by the FTC not because the message was false but because other brands could make the same claim and people exposed to the Wonder Bread advertisement could get the impression that the claim was unique. Along the same lines, slogans like "best buy" and "most significant breakthrough," which in the past were regarded as innocent exaggerations, permissible puffery, are now being challenged.<sup>12</sup>

The right to be informed goes well beyond protection against deception to giving the consumer sufficient information to make wise purchase decisions. To this end there has been a great deal of legislation designed to provide useful comparative information—such as the true rate of interest (truth in lending), the cost of food products on a per unit basis (unit pricing), product ingredients, and nutritional quality.<sup>13</sup> Nonetheless, commercial sources, principally advertisements and point-of-sale information, still provide much of the product information upon which the

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<sup>10</sup> J. Fred Weston, "Economic Aspects of Consumer Product Safety," Presentation to the National Commission on Product Safety Hearings, Washington, D C., March 4, 1970; also see Chapter 32.

<sup>11</sup> Reich, "Toward a New Consumer Protection."

<sup>12</sup> See Chapter 20.

<sup>13</sup> These disclosure requirements and their probable effects are discussed in Chapter 12.

consumer relies. To what extent are companies responsible for insuring that such sources are informative rather than merely persuasive (effective by conventional standards)? Should firms be required or motivated to tell the consumer about what their products will not do—to reveal product disadvantages as well as advantages even when safety is not at issue?

There is growing interest in protecting the consumer's right to know through means other than legislation to correct specific information problems. Particular attention is being directed to education and independent information systems, encompassing comparative testing and informative labeling,<sup>14</sup> to give consumers a broad capability to make effective decisions and police the market.

Concern over the *right to choose* dates back to the end of the last century, when the Sherman Anti-Trust Act was passed to break the monopoly power of the giant firms of the day. Initially, the focus was on protecting competitors from each other, particularly the small firm from the large one. However, antitrust legislation and enforcement have gradually evolved toward an emphasis upon protecting and encouraging competition. Thus, the major effort is directed at increasing the number of competitors and insuring that competitors do not have understandings that are detrimental to the long-run interests of consumers.

Increasing attention is being paid to the economic role of advertising, especially its potential for raising prices, profits, and barriers to entry, which can reduce the range of choice.<sup>15</sup> In a period of significant inflation, it is not surprising that advertising costs have come under scrutiny for their role in contributing to high prices, particularly in the supermarket. However, it now appears that the most significant threat to the consumer's right to choose is price fixing. Although the U.S. Justice Department has always been concerned with deliberate conspiracy to fix prices, its efforts have not been equal to the surprising prevalence of this behavior during a period of inflation.<sup>16</sup> So far the definition of price fixing has stopped short of including administered pricing, although shared monopolies—a few large companies acting in parallel to block outside competition—have been attacked.<sup>17</sup>

There has recently been a significant move away from the view that the structure of an industry is indicative of anticompetitive behavior and in particular that higher prices characterize the more concentrated industries. Some economists have argued that antitrust policies have been doing more harm to consumers than good, as when strong companies in

<sup>14</sup> See Chapter 9.

<sup>15</sup> See pp. 190–219.

<sup>16</sup> "Price Fixing: Crackdown under Way," *Business Week*, June 2, 1975, pp. 42–48.

<sup>17</sup> See Chapter 28.

declining industries protect ailing, inefficient competitors for fear that antitrust enforcers would try to dismantle the efficient companies if they became too big.<sup>18</sup>

President Kennedy indicated that the *right to be heard* involves an assurance that consumer interest will be considered in the formulation of government policy and in regulatory proceedings. The difficulty is that the consumer movement is relatively amorphous and lacks the authoritative spokesmen that labor, business, medicine, education, and other interest groups have.<sup>19</sup> To give the consumer a voice within government, Lyndon Johnson created the Office of Special Assistant to the President for Consumer Affairs in 1964. Many states and cities subsequently established similar offices, as did a number of federal agencies during the Nixon and Ford administrations. This did not satisfy consumer advocates, who campaigned vigorously for an independent agency for consumer advocacy, whose main purpose would be to act as watchdog over regulatory bodies. Business lobbies successfully opposed the agency, arguing that it would only increase the harassment of businessmen and disrupt the work of other government units.

It has become clear, nonetheless, that businesses have difficulty listening to their customers. Thus, many firms have created consumer affairs departments to coordinate consumer programs and to permit a new type of representation of consumer interests.<sup>20</sup> Most of these departments handle customer complaints, but some take a more active role and advocate the consumer interest in the internal policymaking process. However, the political realities of large organizations tend to inhibit such efforts.<sup>21</sup>

It is now generally accepted that there is a fifth right the *right to recourse and redress*, that is, to fair settlement of just claims.<sup>22</sup> A variety of innovations, including free legal services for the poor, consumer class action suits, and arbitration procedures, have substantially enhanced this right. The Magnuson-Moss Warranty Act of 1975 was a major legislative effort to overcome consumer problems with warranties; one provision established incentives for firms to set up dispute settlement procedures. As with much complex legislation based on imperfect under-

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<sup>18</sup> "Antitrust Grows Unpopular," *Business Week*, January 12, 1981, pp. 90-93.

<sup>19</sup> David Vogel and Mark Nadel, "The Consumer Coalition: Dimensions of Political Conflict," in Robert Katz (ed.), *Protecting Consumer Interests* (Cambridge: Ballinger, 1976).

<sup>20</sup> E. Patrick McGuire, *The Consumer Affairs Department: Organization and Functions* (New York: Conference Board, 1973).

<sup>21</sup> See Chapter 34.

<sup>22</sup> Esther Peterson, "Consumerism as a Retailer's Asset," *Harvard Business Review* 52 (May-June 1974), pp. 91-101.



standing of the problem, the ultimate benefits to the consumer are uncertain.<sup>23</sup>

The list of consumer rights has been further expanded to include the *right to a physical environment that will enhance the quality of life*. Indeed, consumerism has been defined broadly as an organized expression for an improved quality of life. A discarded beer can or phosphates from detergents can substantially degrade the physical environment. Advertising cluttering the television screen or the highway can similarly depress the quality of life. Environmental problems differ from other consumer questions in that the decisions of the individual consumer do not create an immediate problem. As a result, individual consumers have little incentive to modify their purchasing patterns because their decisions alone will not have an observable impact.

## THE ROOTS OF CONSUMERISM

To understand both the evolution of consumerism and the prospect for the future we must look at the enduring problems, which provide the underlying momentum. Of course, any given issue may represent the convergence of a number of these problems:

- disillusionment with the system
- the performance gap
- the consumer information gap
- antagonism toward advertising
- impersonal and unresponsive marketing institutions
- intrusions of privacy
- declining living standards
- special problems of the disadvantaged
- different views of the marketplace

In this section we examine each of these areas in turn, leaving for the next section the question of how they surface as consumer issues demanding action.

### Disillusionment with the System

Consumerism is one manifestation of the societal concerns voiced since the sixties. All institutions—courts, government, universities, church, as well as business—have been subjected to increasing public

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<sup>23</sup> See Chapter 29.