

Unclassified

DSTI/CP(2007)1/FINAL



Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

23-Jul-2007

English - Or. English

**DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INDUSTRY
COMMITTEE ON CONSUMER POLICY**

ROUNDTABLE ON ECONOMICS FOR CONSUMER POLICY

SUMMARY REPORT

JT03230498

Document complet disponible sur OLIS dans son format d'origine
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FOREWORD

This report was prepared by the OECD Secretariat. The Committee on Consumer Policy agreed to declassify the report by written procedure completed on 27 June 2007. It is published under the responsibility of the Secretary-General of the OECD.

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MAIN POINTS

In October 2006, the OECD Committee on Consumer Policy (CCP) hosted its second Roundtable on Economics for Consumer Policy to examine how policies relating to the demand side of markets could be further developed.

At the first Roundtable on Demand Side Economics for Consumer Policy, which was held in October 2005,¹ experts, academics and policy makers explored policy approaches, acknowledging that consumers' ability to activate competition in a market should be examined in a more rigorous manner to ensure that markets operate efficiently. Speakers, who were concerned with the market failures which can occur in markets which are structurally sound on the supply side, informed the CCP on developments in behavioural economics and the interface between economics and the law with a view to exploring possible implications for consumer policy.

The October 2006 Roundtable which brought together academics and public officials from OECD member countries, was again concerned with market failures in markets where competition is deemed effective. It considered the economic theories of information disclosure and focussed on two major industry sectors – telecommunications and financial services. In addition, a proposed programme for further action, including the development of a “toolkit” to guide demand-side policy developments, was introduced.

The following main points emerged from the presentations and discussions held during this Roundtable:

- **For policy purposes, the demand and supply side of markets should not be considered separately**

Competition policy, consumer policy, and social justice in markets should all work together to ensure that markets operate to deliver outcomes which are beneficial to consumers and to the economy as a whole. Competition policy is a means to an end, not an end in itself. Consumer policy should ensure that consumers gain the benefits of competition, are active participants in markets, and have reason to trust that markets can provide fair outcomes for consumers and producers.

- **Regulatory interventions in markets should be researched and, once implemented, reviewed**

There should be analysis of proposed interventions (if possible using trials) and once interventions are in place, there should be an ongoing assessment to ensure interventions are working as expected. The importance of including cost-benefit analysis was also pointed out.

¹ A Summary Report of the October 2005 Roundtable is available at: www.oecd.org/dataoecd/31/46/36581073.pdf.

- **Mandatory disclosure is an important policy instrument, the outcome of which policy makers can explore, based on consumer behaviour**

In certain situations, firms have an incentive to disclose information voluntarily. Mandatory disclosure may be necessary in other cases (*e.g.* if information disclosure is costly, or if the proportion of informed consumers is low). Mandatory disclosure is an important instrument in many markets, but policy makers should explore its outcome based on the direct and indirect consequences of consumer behaviour and other factors.

- **Interventions in markets should take into account consumer behaviour**

Even well-informed consumers may be subject to costly biases which systematically lead them away from welfare-improving decisions. These biases should be taken into account by policy makers. Where possible, interventions should work with rather than against behavioural biases. Biases, such as endowment and the influence of framing, may be used to guide consumers gently.

- **Lessons may be drawn from the telecommunications and financial services markets**

In both markets consumers are buying complex and rapidly-changing products, and have to make decisions weighing immediate costs and benefits against longer-term costs and benefits. A number of behavioural biases, particularly the bias of myopia (hyperbolic discounting), may lead consumers away from making sound decisions. These findings have applicability in other markets with similar characteristics. In some markets (for example, credit cards), consumer biases may lead to distorted patterns of competition.

- **There are warning signs when markets may be failing on the demand side**

These include a high level of consumer complaints, low or inappropriate switching behaviour, patterns of rash behaviour (particularly in financial markets), and patterns of short-sighted behaviour.

- **Demand-side failure is more likely in some markets than others**

Failure is most likely to occur in markets with complex products (including supplier-induced complexity), where consumers make infrequent purchases, in markets with “intermediary” competition (for example, where commission agents are under high pressure to sell), where there are conflicting sources of information, in markets where easy entry and exit provide opportunities for fraud, and generally in markets where switching costs are high, or are perceived to be high, in relation to benefits.

- **Interventions to protect those subject to costly biases should be made with care**

While protecting consumers from the consequences of costly biases that could lead to significant consumer detriment, care should be taken not to distort other consumers’ decision making. In particular, in financial and similar markets, interventions to protect undisciplined or naïve consumers should not distort the decision-making of disciplined or well-informed consumers.

- **CCP forward work plan**

An informal working group of the CCP was established to elaborate further methods of analysis of demand-side market failure, and to develop a toolkit to guide policy makers.

INTRODUCTION

In October 2005, the OECD Committee on Consumer Policy (CCP) hosted its first one-day Roundtable to hear from academics and public officials from OECD member countries about developments in economic research, particularly behavioural economics, with a view to exploring possible implications for public policy.

The main points that emerged from the 2005 Roundtable were as follows:

- Performance on the demand-side of markets, particularly consumer behaviour, is an important indicator of market efficiency.
- Conventional economics, which focuses mainly on market structures and on the availability of information to consumers, does not explain all reasons for demand-side market failure.
- The findings of behavioural economics suggest other reasons for demand-side market failures, which may have implications for public policy.

A summary report of that Roundtable was published on 20 April 2006² and was declassified by the CCP at its 71st session on 29-30 March 2006. During that session, the Committee agreed to continue to work on the economics of consumer policy, with a focus on the demand side, encompassing both conventional and behavioural economics. The aim was that it would assist in determining whether and when intervention is necessary, the most effective shape of intervention, and the costs and benefits of mechanisms to deliver consumer empowerment and consumer protection.

Building on this first event, the CCP organised a second Roundtable on 27 October 2006, with more focussed content and more extended discussions.³ After an introductory session setting the context, discussions focused on *i*) economic theories relating to consumer disclosure, *ii*) practical challenges: decision-making in deregulated markets – specifically telecommunications and financial services, *iii*) proposals for the next steps for the Committee.

Eight speakers from various backgrounds, including academics and public officials from member countries, made presentations⁴ to the Committee which were followed by questions and discussions from Committee members.

This report provides a summary of the presentations and discussions.

Section I summarises the introduction provided by Joseph Mulholland (United States Federal Trade Commission (US FTC) and Louise Sylvan (Australian Competition and Consumer Commission (ACCC), setting the context.

Section II summarises the presentations on economic theories for consumer disclosure, introduced by Koichi Fujisaki (Japan, Cabinet Office) and presented by Professor Moriki Hosoe (Kyushu University, Japan) and Professor Ginger Zhe Jin (University of Maryland, United States).

² The Summary Report of the first Roundtable is available at: www.oecd.org/sti/consumer-policy.

³ The Agenda of the second Roundtable is in Appendix 1.

⁴ The presentations by public officials reflected their own views and research findings and were not necessarily representative of the views of their respective organisations.

Section III, which concerns practical challenges for decision-making in deregulated markets, summarises presentations on telecommunications by Jean-Louis Gaugiran [French *Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes*, (DGCCRF)] and Jill Johnstone [United Kingdom National Consumer Council (UK NCC)]. It also summarises presentations on financial services by Janis Pappalardo (US FTC), prepared in collaboration with James Lacko of the same agency, and Professor Iain Ramsay (York University, Canada).

Section IV summarises the discussions at the conclusion of the session, and presents proposals and decisions on further action agreed by the Committee at its 72nd session.

SECTION I. SETTING THE CONTEXT
Presentation by Joseph Mulholland and Louise Sylvan

This session involved a joint presentation by Joseph Mulholland and Louise Sylvan. It covered the general principles of intervention in markets when there is consumer detriment resulting from either information problems or the presence of behavioural biases.

A. Failure in structurally sound markets

A basic condition for ensuring markets perform to their potential is that they are structurally sound on the supply-side. Competition policy has a strong emphasis on structure, ensuring that there are no unnecessary barriers to entry and that market concentration does not result in economic loss or unreasonable transfers from producers to consumers.

Even vigorous supply-side competition, however, falls short of delivering economic benefits if markets are not well-developed on the demand-side. On the demand-side, active consumers stimulate firms to innovate, improve quality and increase price competition, which in turn lead to productivity improvements and economy-wide benefits, including international competitiveness.

More broadly, if there is to be a general community acceptance of competition policy, it must be seen to be delivering widespread benefits.

This Roundtable is concerned with situations where there are failures in structurally sound markets and where there is no collusion or concentration of power on the supply-side, but where these markets are still not delivering their full potential benefits to consumers.

Such failures arise when there are deficiencies in information disclosure or when there are systematic biases in consumer behaviour, which lead consumers to make choices which are not in their best interest.

B. General principles relating to market failure

Any correction of market failure needs to be guided by sound economic principles and by rigorous evaluation of the costs and benefits of any proposed intervention.

The first step is to evaluate the extent and nature of injury suffered by consumers resulting from their inability to make informed, welfare-improving decisions. That inability may result from inadequate information being provided to consumers, from consumers being unable to process available information, or from consumer behavioural biases.

Next, there needs to be an examination of available remedies and whether they would actually confer a net benefit on consumers. Some time-honoured remedies, such as requiring more detailed information disclosure, may not be the most useful means and may even be counter-productive. Policy makers can usefully employ a variety of remedies based on research into various aspects of consumer behaviour; both “rational” behaviour and observed behaviour need to be considered in this regard.

The examination process, moreover, should include a review of existing interventions. The option of replacing existing ineffective or high cost interventions with more appropriate interventions should always be considered.

Then an evaluation should be made of benefits and costs of the possible remedies. Do the benefits conferred on consumers by the most efficient remedy outweigh the costs of that remedy? Those costs can fall directly on consumers (for example in the form of search costs) or indirectly through producers, who, in competitive markets, pass their costs through to consumers. In some cases, costs occur as lost opportunities for consumers and producers (“deadweight loss” in economic terms).

Ideally, before any remedial intervention, there should be an *ex ante* evaluation, drawing on published research, experience in other jurisdictions, and supervised trials. In addition, when a remedy is implemented, its cost and effectiveness should be evaluated.

Finally, policy makers should consider the distributional consequences of any intervention. Do all consumers benefit equally or do some benefit at the expense of others? While there can be no firm decision rule relating to distributional effects of government action, they still must be addressed taking societal concerns into account.

C. Consumer detriment resulting from imperfect information⁵

Consumers can suffer detriment when information is withheld, when there is deception in the information provided, or when information is too difficult for them to obtain or evaluate.

One set of problems relates to “bad deals” where consumers make welfare-reducing decisions in the marketplace that result from either deceptive claims made by sellers or the failure of consumers to process correctly the information provided to them. Deceptive claims can arise from the provision of false information or through the deceptive withholding of relevant information to consumers. Alternatively, constraints on the ability of consumers to process information can lead to welfare-reducing decisions even when the information available to them is non-deceptive.

There is also the “lemons” situation which results from consumers being unable to judge the quality of goods and suppliers being unable to provide credible information on the quality of their offerings. The most frequently discussed example of a lemons equilibrium relates to used cars, but there are also examples from other markets. This situation can lead suppliers to employ costly and often imperfect quality signals that lead to higher prices, rather than improvements in the product. For example, sellers of new apartments may invest heavily in visible kitchen and bathroom fittings, at the expense of less visible quality attributes.

Remedies can be implemented through review and redesign of existing regulations and laws, or through new regulatory initiatives. Either way they can take two forms – product modification or provision of more useful information.

Product modification is usually achieved through the setting of minimum quality standards, particularly in those aspects which are not easily evaluated by consumers. In the case of products with ongoing commitments, such as financial services and warranties associated with physical products, prohibitions on unfair contract terms can be implemented. All of these kinds of product modifications

⁵ This is a brief introduction to issues relating to information disclosure. Professor Hosoe’s presentation in Section II goes into much more detail.

represent some reduction in consumer choice and thus need to be enacted after a thorough review of alternative remedies.

Information disclosure can take many forms. For example, governments can provide public information websites. Trusted third parties, such as consumer organisations or rating agencies, can perform an information disclosure function. Information can be provided directly, or in cases such as financial services, in the form of calculators which allow consumers to key in their own data. Firms themselves can be required to provide information, such as warning labels on cigarettes (negative information), or ingredient listing on foods (neutral information). One of the most important sources of information for consumers is not directly government mandated at all, but rather comes from non-deceptive information provided in commercial advertising as a result of competition among firms combined with the effective enforcement of consumer protection laws.

Mandated information can take many forms and need not be comprehensive. For example, it can refer to compliance with published standards, such as energy efficiency ratings for appliances. In other cases, firms can be required to engage in corrective advertising to compensate for previous deceptive or misleading practices.

Disclosure is complex in its consequences. Many markets are characterised by significant variations in the level of information possessed by consumers, which in turn reflect differences in the degree to which they search as well as differences in their abilities to process information. In such markets, a mandated disclosure will tend to have a disparate impact both in terms of the information conveyed and the costs incurred by the sellers which are likely to be passed on to consumers.

Typically, a mandated disclosure is intended to improve the information received by the less-informed buyers to a greater extent than by those more sophisticated consumers who may already possess and be able to process the requisite information. But the reverse can also be the case where it is the more sophisticated (and more cognitively capable) consumers who can make more use of the information contained in a mandated disclosure. For example, labelling of food ingredients is of far more use to those consumers who have at least a basic knowledge of the value of nutrients.

The presence of differences in the benefits from a mandated disclosure means that any costs associated with this disclosure will tend to affect consumers differently. Some consumers may be provided with information they cannot use, some may be provided with information they do not need, and some others will be overloaded with information, but all will have to pay for the compliance and related costs.

Weighing the costs and benefits across different groups presents a difficult policy problem.

As a remedy for market failure, information disclosure has its limits. Excessive disclosures can confuse consumers and can also discourage firms from providing useful information through their advertising. Alternatively, there may be situations where outright prohibition on certain behaviour is appropriate. In all cases, there is a need for a rigorous analysis of the costs and benefits associated with alternative remedies before any government action is justified. Where feasible, such analysis should be empirically based. In this Roundtable, Janis Pappalardo presents a case study of a rigorous *ex ante* evaluation of a proposed intervention in a consumer financial market (Section III. B).

Also, disclosure, in itself, does not provide redress for consumers who have suffered detriment because of deceptive or misleading behaviour by firms. In this regard, mechanisms such as small claims tribunals, ombudsmen, and complaints systems (which provide feedback to regulators and suppliers) are important institutions in many markets.

D. Consumer detriment resulting from behavioural biases

Conventional economics starts with a number of assumptions about consumer behaviour – assumptions that generally provide a reasonably sound basis for guiding public policy, particularly relating to the provision of information. Some of the main assumptions are that:

- We approach markets with a stable set of preferences.
- We are concerned only with our own welfare.
- In aggregate at least, we can rationally use available information to make optimal decisions.

Behavioural economics goes beyond these assumptions, subjecting them to the tests of experiment and empirical observation. It finds that in many situations we consistently depart from behaviour predicted by these assumptions; our choices are directed away from those which would occur if our behaviour conformed to the economic assumption of “rationality”.⁶

It is important to stress that not all behavioural biases lead to detriment. For the most part they do not lead us to depart significantly from optimal decisions. Public policy should be concerned only with those biases which lead to significant detriment – “costly biases”.

Some of the costly biases identified by the findings of behavioural economics, with particular reference to policy issues under consideration at this Roundtable, relate to:

- *Unstable preferences*: our choices are shaped, in part, by our experience in the marketplace. That is, we do not always enter the market with a defined “shopping list” and budget. We can be persuaded to alter our preferences. Advertising and other forms of product promotion are more than neutral information instruments.
- *A concern for fairness*: we are concerned not only with our own immediate gratification; we are also concerned that market transactions should be fair to other consumers and we are often concerned about the conditions of supply (such as labour conditions and use of environmental resources). Supply and demand are not as independent as posited by the assumptions of conventional economics.
- *Conditioned preferences*: particularly in cases of addiction (for example, cigarettes, alcohol, gambling) many would prefer to have other patterns of consumption but feel powerless to shift. (Professor Koichi Hamada covered addiction in some detail in the 2005 Roundtable).
- *Choice/information overload*: economic models suggest that the benefits from extra choice and information are unbounded. Even the theory of “bounded rationality” does not suggest that extra choice and information is detrimental. Market research however, in products as diverse as jams and retirement savings, suggests that past a point, when provided with more choice and information, we either walk away from markets, choosing not to choose, or we choose randomly.

⁶ A more complete discussion on the relation between behavioural economics and conventional economics is in the Summary Report of the 2005 Roundtable.

- *Endowment bias*: we value what we have more than what we might have. We are often reluctant to switch suppliers because of a loyalty, which may be misplaced, to existing suppliers. This is particularly relevant for the products under consideration at this Roundtable – telecommunications and financial services.
- *Overconfidence*: in many situations we are overconfident in our own abilities and in our own future fortunes. For example many people invest, believing that they can beat the stock market, or they underestimate the risk that illness or unemployment may cause difficulty in repaying a loan. Again, this bias is important in financial services.
- *Framing biases*: we are influenced not only by the objective information provided by suppliers, but also by the “frame” of that information. For example a claim “92% fat free” elicits a different response than “8% fat.”
- *Difficulty in handling uncertainty and risk*: our perceptions of the consequences of uncertain outcomes are influenced by the frame in which we consider our choices. When gambles (such as insurance choices) are considered in isolation we tend to be irrationally risk averse. When we consider ourselves to be in a loss situation (such as becoming heavily overcommitted on a credit card) we tend to behave recklessly. Furthermore, we have difficulty in thinking rationally about possible outcomes with very low probability.
- *Mis-evaluation of future benefits and costs* (hyperbolic discounting, myopia): we do not rationally weigh up present against future benefits and costs; rather we put too much weight on the immediate. This bias is manifest in outcomes such as low retirement savings in the absence of compulsion.

When markets fail because of costly biases, remedies should be shaped accordingly. For example, a situation of choice or information overload will probably be aggravated by a requirement for more information disclosure. Rather, the appropriate intervention may involve re-framing the information which is available to consumers in a way that makes choice easier.

Some remedies, which arise from a social justice or information perspective, are consistent with a behavioural approach. For example, cooling-off periods are sometimes seen in terms of removing the consumer from the pressure of the salesperson, or giving the consumer time to analyse the provider’s contract. They have another role in that they give a consumer time to reflect on his or her own biases. Laws against unfair conduct can be seen from both a social justice and behavioural perspective.

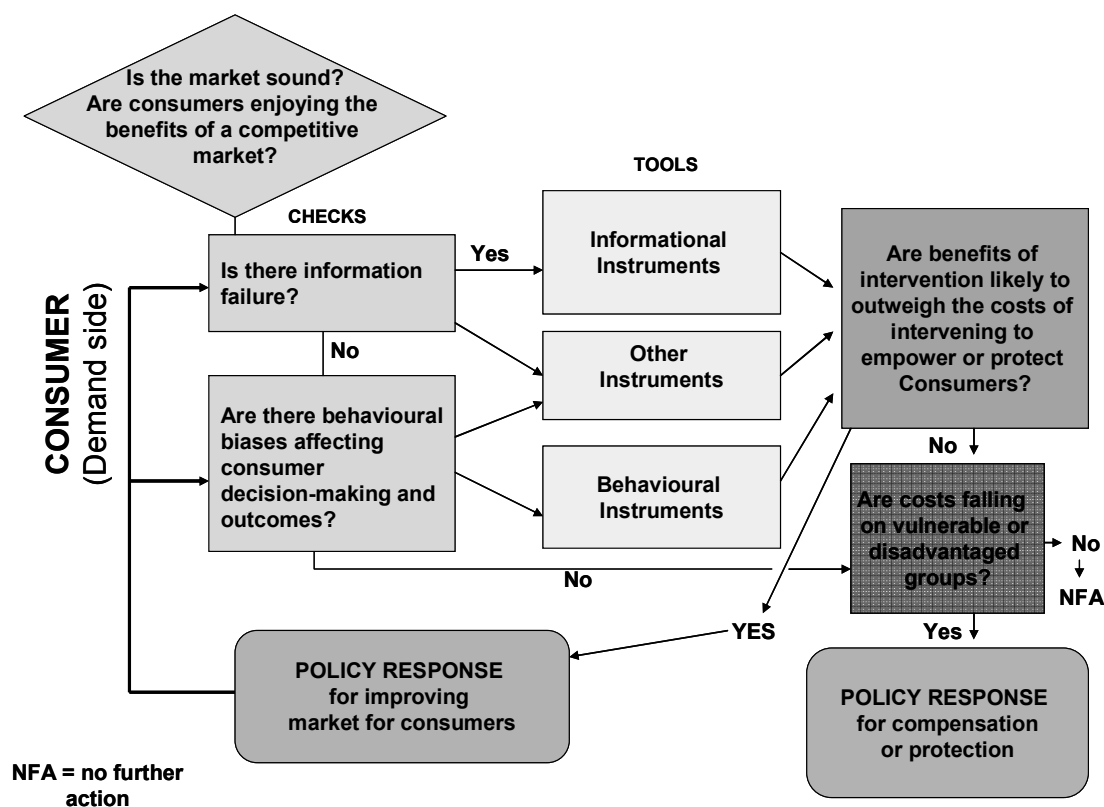
In some cases behavioural biases can form the basis of “light” interventions. For example, in the New Zealand “Kiwisaver” scheme (described in the 2005 Roundtable summary report), workers are automatically enrolled in a pension scheme with an “opt out” provision. This intervention uses the bias of defaults (staying with what we have) to overcome the bias of hyperbolic discounting (under-investing in our future retirement). It is a “light” intervention because it involves no compulsion. In this Roundtable, Professor Iain Ramsay provides examples of interventions that integrate with, rather than conflict with, behavioural biases (Section III. B).

In some cases, however, compulsion is required. We ask our governments to bind us to certain behaviours which overcome our myopia or overconfidence. Seat belt legislation is an obvious case in point, and many countries have compulsory retirement saving schemes.

E. The regulatory challenge

Whether market failure results from information failure or from consumer biases, the regulatory challenge is similar. It is to ensure that the benefits of intervention are outweighed by the costs of intervention, and for policy makers to be cognisant of the distributional effects of any proposed intervention. A diagrammatic presentation of such a regulatory framework is shown below.

Figure 1. Decision tree – Demand-side market analysis by consumer regulators



A standard for intervention to protect those who are less informed or less sophisticated has been developed by the behavioural economist Colin Camerer and his colleagues. Known as “asymmetric paternalism,” such intervention is relevant not only when failure results from behavioural biases but also more generally when failure results from information deficiencies.

The authors reason as follows:

“A regulation is asymmetrically paternalistic if it creates large benefits for those who make errors, while imposing little or no harm on those who are fully rational. Such regulations are relatively harmless to those who reliably make decisions in their best interest, while at the same time advantageous to those making sub-optimal choices.”⁷

⁷

Colin Camerer, Samuel Issacharoff, George Loewenstein, Ted O’Donoghue, and Matthew Rabin, “Regulation for conservatives: Behavioral economics and the case for ‘asymmetric paternalism,’” *University of Pennsylvania Law Review*, (Vol. 151, pp. 1211 - 1254, 2003).

Although the wording may differ, this standard embodies the basic decision approach used by consumer protection authorities. For example, the Unfairness Standard utilised by the US FTC identifies an unfair act or practice as one that:

1. Results in significant injury to consumers.
2. Is without offsetting benefits.
3. Cannot be reasonably avoided by consumers.

Although not explicitly enunciated, the distributional issues identified by Camerer *et al.* are also addressed by consumer protection agencies. The difficulty lies in predicting these distributional effects and their impacts. *Ex ante* evaluation of interventions should be broad ranging, considering not only the assumptions of conventional economics, but also the findings of behavioural economics, including psychological research into decision-making, laboratory studies and market studies. In that regard the emerging research of behavioural economics is adding to the policy maker's toolkit.

When one analyses the advisability of government intervention, the appropriate comparison is not between an imperfect market and a perfectly functioning legal system. Instead, the relevant comparison is between an admittedly imperfect market (and the firms and consumers that comprise it), on the one hand; and an admittedly imperfect legal system, on the other.

As a result, the analytic approaches which have been discussed for consumers can, in much the same way, be applied to governments (and researchers). In particular, regulators can be subject to both behavioural and information failures that must be taken into account when evaluating consumer protection policy initiatives:

1. Behavioural failures: Regulatory decisions are made by people who may display many of the same cognitive and self-discipline problems that are observed in consumers. In particular, researchers have noted that regulators can be subject to a list of behavioural and information failures that are similar to those experienced by consumers.⁸
2. Information failures: Regulators are limited in their ability to identify consumer preferences. The more paternalistic the proposed regulation, the more the regulator takes over the decision making process for the consumer. More generally, there is a problem identified by Hayek in that knowledge available to a regulator/planner is necessarily incomplete, as it is to any individual or group of individuals in a market.

F. Telecommunications and financial services

To illustrate how consumer decision making can be distorted in practice, this Roundtable focussed on the telecommunication and financial service markets. This is not to suggest these are the only sectors in which consumer policy is important, but they have been of particular concern in member countries. They are rapidly growing and changing markets; they both require consumers to assess present costs and benefits against future costs and benefits (problems of hyperbolic discounting); they both involve a complex array of choices (problems of disclosure and choice overload); and, in many countries, they have been subject to recent de-regulation. Many of the issues manifest in telecommunications are shared with the older utilities such as gas, electricity and water supply. If a sound set of consumer policies can be developed for telecommunications, then there is sure to be some flow over to these other utilities (which do not have the complexity of such rapid technological change).

⁸ Stephen J. Choi and D. A. Pritchard, "Behavioral Economics and the SEC," *Stanford Law Review*, Vol. 56, 1, 2003, pp. 1-73.

SECTION II. ECONOMIC THEORIES FOR CONSUMER DISCLOSURE

This session was introduced by Koichi Fujisaki, Vice Chair of the Committee on Consumer Policy. The focus of the session was on three main questions:

1. To what extent is mandatory information disclosure supported by economic theories?
2. Does the extent to which mandatory disclosure is supported vary according to the proportion of people who are knowledgeable enough to understand a seller's information, or the number of "rational actors" in markets? (That is, "rational" in the sense of conventional economics.)
3. In situations of mandatory information disclosure, what role would intermediary experts or advisors, who analyse information and provide consumer advice or recommendations, play? In particular, would the presence of such experts affect consumers' decisions and therefore justify mandatory information disclosure?

The first two questions were addressed by Professor Moriki Hosoe, who gave a presentation of the theoretical costs and benefits, and the distributional consequences of disclosure of information relating to product quality. His presentation covered situations in which quality information is costless and situations in which quality information is costly. (In this context the term "quality" refers to all properties of the goods or services on offer, and not simply those that relate to "excellence" or "reliability".)

The third question, with specific reference to "report cards," was covered by Professor Ginger Zhe Jin. Her presentation also covered broader aspects of information disclosure.

Both presenters drew on the theoretical framework developed by Sandford Grossman,⁹ Boyan Jovanovic,¹⁰ and Michael Fishman and Kathleen Hagerty as well as other academic researchers in the field of information disclosure.¹¹ In addition, Professor Hosoe referred to the works of Gian Luigi Albano,¹² Alessandro Lizzeri,¹³ and Robert Verrecchia.¹⁴ Both covered situations in which consumers are considered

⁹ Sandford J Grossman, "The informational role of warranties and private disclosure about product quality", *Journal of Law and Economics*, Vol. XXIV, December 1981, pp. 461-489.

¹⁰ Boyan Jovanovic, "Truthful disclosure of information," *The Bell Journal of Economics*, Vol. 13, 1982, pp. 36-44.

¹¹ Michael J. Fishman and Kathleen M Hagerty "Mandatory Versus Voluntary Disclosure in Markets with Informed and Uninformed Customers," *The Journal of Law, Economics and Organization*, Vol.19 No.1 (2003), pp. 45-63.

¹² Gian Luigi Albano and Alessandro Lizzeri "Strategic certification and provision of quality," *International Economic Review*, Vol. 42 No. 1, 2001, pp. 267-283.

¹³ Alessandro Lizzeri "Information Revelation and Certification Intermediaries," *Rand Journal of Economics*, Vol. 30, No. 2, 1999, pp. 214-231.

¹⁴ Robert E Verrecchia "Discretionary Disclosure," *Journal of Accounting and Economics*, Vol. 5, 1983, pp.179-194.

to be homogeneous in their capacity to use and process available knowledge to guide their judgement as well as situations in which consumers are divided into those who can and cannot use such knowledge. And both noted that in some situations, including those where information disclosure is costless and the proportion of sophisticated consumers is high, firms have incentives to disclose. However, both presenters took the view that in other situations, there can be a case for mandatory disclosure. In addition, a number of practical policy-relevant conclusions were presented.

A. The effectiveness of mandatory information disclosure for consumer policy

Presentation by Professor Moriki Hosoe¹⁵

This presentation examined situations in which mandatory information disclosure is necessary, even in competitive markets, and when there are uninformed consumers, particularly when there are consumers who cannot understand and use quality information. By using several models of the incentives on producers, Professor Hosoe stressed that voluntary disclosure is adequate when: *i*) disclosure is costless; *ii*) information is verifiable; and *iii*) the fraction of consumers who can understand disclosed information is high. When these conditions are not met mandatory disclosure or another appropriate enforcement mechanism may be justified.

Is voluntary disclosure adequate in a competitive market?

In a competitive market, the extent of disclosure depends on its cost. That is, the cost to firms in providing information, in addition to the cost to consumers in assessing and verifying information.

A classical analysis of the incentives facing firms reveals that when disclosure is costless to producers and consumers, all producers, other than those with the lowest quality, will reveal information. If the market sets one price, and all producers have similar costs, then all producers with quality greater than the average will gain in profit, while those with lower quality will suffer a loss. If the market has a range of prices, then prices will be commensurate with quality. Producers' revenues will be a reflection of their quality. Therefore, in such cases, there is no need for mandatory disclosure.

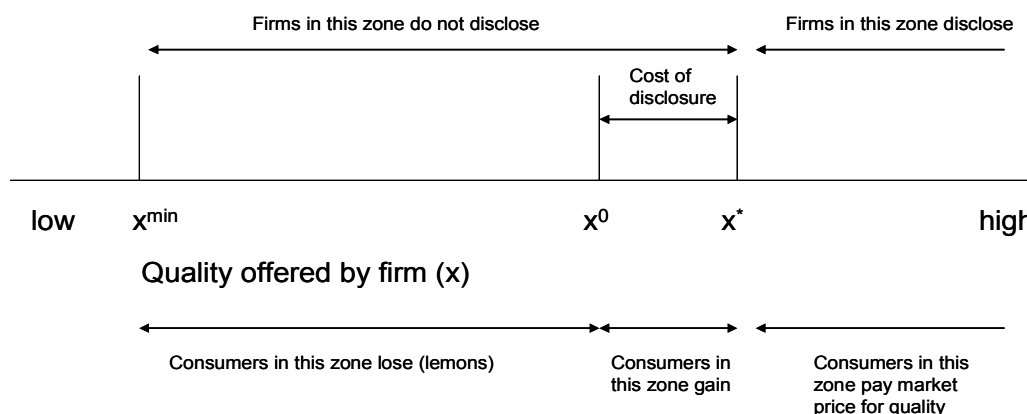
On the other hand, where disclosure is costly, firms may not disclose quality information. In addition, in some cases, producers face no cost in disclosing quality information, but consumers are unable to verify the information provided. This is the "lemons" situation as described earlier.¹⁶ Producers of goods, other than those with the very lowest quality, will not be able to command a price which reflects their quality, and the market will come to an equilibrium at the lowest available quality.

More interesting are cases in which disclosure is costly to producers or consumers, but not prohibitively so as in the classic "lemons" situation. In these situations there will be some mixture of disclosure and non-disclosure.

In such cases, producers with low quality do not disclose, while those with high quality do disclose. The cost of disclosure sets the break point, for the return from disclosure must be greater than or equal to the cost of disclosure. In a market with one price for all producers, this cost is shown by $(x^* - x^0)$ in Figure 2, where x denotes the quality (which would equate to the price in a purely competitive market with all information revealed). The threshold of disclosure is a quality x^* , and x^0 is consumers' expectation of the quality of products for which quality has not been disclosed.

¹⁵ A paper in support of Professor Hosoe's presentation, including diagrams and equations, is available at: www.en.kyushu-u.ac.jp/hosoe/Publication/oecd.pdf.

¹⁶ See Section I.C of this report.

Figure 2. Consumer and firm outcomes when disclosure is costly

Consumers in the zone ($x^0 - x^*$) gain at the expense of producers. That is, there is a transfer from producers to consumers, while those who buy goods of higher quality operate in a more perfect market, for those firms find the premium they can charge is greater than the cost of disclosure. In the zone ($x^{\min} - x^0$), the “lemons” problem reappears.

Enforcement of mandatory disclosure

To cope with situations in which firms do not disclose, there is the need for some regulatory mechanism. This can range from monitoring, through disclosure, up to more intrusive regulation.

Using an accident-deterrence model to analyse this problem, it is shown that in order to make the producer truthfully disclose the quality, the penalty level for providing false information should be increased when the penalty level for the damage caused by the false information is increased. And considering the enforcement cost, the regulator has to set the penalty for the damage less than the real damage. The magnitude of the social penalty such as loss of sales due to reputation loss should be taken into consideration in the design of this penalty system.

When consumers vary in their capacity to assess and verify information

The foregoing assumes consumers are a homogeneous group. In reality, however, consumers differ in their capacity to interpret the meaning of quality information. While some can understand and use the information provided (“informed” consumers), others can not (“uninformed” consumers). These latter consumers, while not understanding the information, can still observe whether information has been revealed.

If the proportion of informed consumers is low, then there is a decreased incentive for firms to disclose – because the return to the firm from disclosure is diminished. In such a case mandatory disclosure can provide welfare-improving benefits, but it may be harmful to producers.

As a policy conclusion, when there is limited voluntary disclosure, to the extent that there is an opportunity cost to social welfare, then there may be a case for some policy intervention.

If the problem arises from a high disclosure cost, it could be useful to subsidise firms for the provision of information, but such subsidies can result in a misallocation of resources.

Mandatory disclosure may be recommended if the proportion of informed consumers is low and if the value of the goods increases significantly when the quality is known. In such cases however, when the problem relates to a low proportion of informed consumers, a complementary policy to mandatory disclosure is to increase the proportion of informed consumers through education and through support of an intermediary organisation to provide information. In the case of mandatory disclosure, the content of the information provided should be presented in such a way that it does not result in biased interpretation by the consumer.

B. The value of report cards: Theoretical insights and empirical evidence

Presentation by Ginger Zhe Jin

This presentation started with a short description of product “report cards,” before moving to a more general theory of disclosure covering situations in which information is available and all consumers are “sophisticated” (able to use and process information); situations in which consumers are not homogeneous in their information abilities (some consumers are “naïve” in varying degrees); and situations in which producers withhold information. In general, the findings are much more complex than predicted by simple models. Drawing on empirical research, and linking theory to practice, a number of practical policy-relevant conclusions are presented.

Report cards

“Report cards” (a term covering a variety of disclosure instruments) contain factual information about the products, services and practices of firms or other organisations. They can be provided as follows:

- Because governments require mandatory disclosure (for example disclosure rules by the US Securities and Exchange Commission, nutrition labelling rules).
- Voluntarily by firms, and in cases by competing firms engaged in negative advertising.
- By private third-party providers (such as financial ratings agencies and consumer organisations).

It is easy to assume that more information is always better for markets to perform, but this assumption needs to be questioned by reference to theory and observation of practice. For example, the insurance market operates only because insurers and the insured lack complete information. If all parties had complete and reliable information, adverse selection on both sides would destroy the market.

In general, the costs and benefits of disclosure fall unevenly on consumers and producers, and on different groups of consumers and producers.

In the absence of regulation, the extent of disclosure will depend on its costs, and the ability of consumers to use disclosed information. As a general point, if disclosure is costly, not every firm will disclose. Another general point is that if the proportion of sophisticated consumers is low, voluntary disclosure may not be forthcoming.

Research by David Hirshleifer *et al.*,¹⁷ and by Alan Schwartz,¹⁸ however suggests that much behaviour by firms and consumers is more complex than is suggested by simple models. Some consumers

¹⁷ David Hirshleifer, Sonya Seongyeon Lim, Siew Hong Teoh, “Disclosure to an audience with limited attention,” Fisher College of Business, The Ohio State University, Columbus Ohio, October 2004.

are able to obtain and process knowledge but fail to do so. “Naïve” consumers can be subdivided between those who know their flaws and those who do not. Firms do not necessarily know how their markets are divided between different types of consumers, but they usually try to design their products to serve the informed while exploiting the uninformed. And there is interdependence between different markets. For example, consumer attention to disclosure in one market can crowd out attention in others.

Contrary to simple theory, even when disclosure is costless, firms with high quality may not disclose information, for fear that when more information is made available to consumers more intense price competition will result.¹⁹

In some cases, disclosure by one firm, even if it imposes no immediate costs on that firm, may have adverse consequences for all suppliers. For example, cigarette manufacturers do not advertise that their products are “less addictive”, because such a disclosure would remind consumers that cigarettes are addictive, to the detriment of the whole industry.²⁰ In some other cases, disclosure may be of benefit to the whole industry, but the disclosing firm is not able to capture a significant share of the benefits. In some situations of oligopoly, disclosure of information which would be of benefit to consumers but which is not available to other firms may be of detriment to the disclosing firm.²¹

For some products, information can be provided by private testing agencies without seller co-operation. This is possible for standardised goods and services (such as cars, cameras), but not for personal services (such as medical services). The testing agency must enjoy the trust of consumers and must be able to recoup its expenses; consumers must value the information sufficiently to pay the testing agency.

Policy-relevant findings

These relate to the following:

- *Consumer attention* – consumer awareness of the need for disclosure is often triggered by large and visible adverse incidents. In some cases consumers’ attention is sufficiently sharp to allow voluntary disclosure to achieve almost the same level of compliance as mandatory disclosure (for example restaurant hygiene report cards in some US states), but in others attention is captured only with mandatory disclosure (for example fat content of salad dressings). Mandatory disclosure of contract terms on the Internet tends to be ineffective because consumers do not read detailed contracts online.
- *Producer strategic behaviour* – producers can use disclosure strategically, and to differentiate their products, thus reducing competition. Firms may design their products to make sure they score well on the report card criteria. In cases they can “cherry pick” customers; for example

¹⁸ Alan Schwartz “How much irrationality does the market permit?,” American Law & Economics Association Annual Meetings, Paper 29, 2005.

¹⁹ V Joseph Hotz, Mo Xiao “Strategic Information Disclosure: The Case of Multi-Attribute Products with Heterogeneous Consumers,” National Bureau of Economic Research Working, Paper W11937, January 2006.

²⁰ Milgrom, Paul and Roberts, J. (1986) “Relying on the information of interested parties”, *Rand Journal of Economics*, Vol. 17(1986), pp. 18-32.

²¹ Masako N. Darrough, “Disclosure Policy and Competition: Cournot and Bertrand,” *Accounting Review*, Vol. 68 # 3, July 1993; and Ronald A Dye “An evaluation of ‘essays on disclosure’ and the disclosure literature in accounting,” *Journal of Accounting and Economics*, Vol. 32, 2001, pp. 181-235.

surgeons may make sure they do not operate on patients whose prospects for recovery are poorest. When firms provide more detailed information on product quality this can make consumers less sensitive to price. Firms may release adverse information at a time or in a form so as to avoid attention; for example public companies may choose to release unfavourable financial information on a Friday. And in some situations report cards can provide an incentive for cheating; for example teachers may help students with tests to help their school get a favourable rating score. Disclosure, while useful for consumers (particularly “new” consumers), tends to direct consumer attention towards those aspects which are disclosed (for example hygiene in restaurants) and away from others which are not disclosed.

- *Political forces* – as a general point, parties that may be hurt by disclosure (producers) are usually concentrated and politically active, while beneficiaries (consumers) are usually diffuse and politically inactive. Consumers may gain a voice, however, when there are large and visible scandals and when they have the support of “entrepreneurial” politicians.
- *Third party information providers* – information from different information providers usually matches (in cases there can be herding effects), but not perfectly. In fact competition between information providers can give them an incentive to differentiate their products, thus failing to exploit scale economies, adding to consumer confusion, and resulting in a degree of inefficiency.

Some of the studies and reports that have been done in the above areas are listed in Box 1.

In conclusion, the following points should be borne in mind by policy makers:

- Different compositions of consumers (in their levels of sophistication) and the opportunity for strategic behaviour by firms affect incentives for firms to disclose.
- Report cards, when they are available, may have some unintended effects. For example, they may focus consumers’ attention on matters included in the report card, while distracting them from other important matters.
- Private competition among information providers can lead to differentiated information, which may add to the cognitive burdens faced by consumers.
- For a disclosure policy to succeed, not only must there be attention to consumers’ capacity to gain access to and use the information, but also there needs to be media attention and political support.

Box 1. Policy-relevant findings: Selected studies and reports

- Capturing consumer attention

Mathios, Alan D. (2000), "The Impact of Mandatory Disclosure Regulations on Health Choices: An Analysis of the Salad Dressing Market", *Journal of Law and Economics*, Vol. 43(2000), pp. 651-678.

Jin, Ginger Z. and Phillip Leslie (2003), "The Effects of Information on Product Quality: Evidence from Restaurants Hygiene Grade Cards," *Quarterly Journal of Economics*, 118(2), May 2003.

Jin, Ginger Z. and Phillip Leslie (2005), "The Case in Support of Restaurant Hygiene Grade Cards" Choices, 20(2) 2005, available at <http://www.glue.umd.edu/~ginger/research/jin-leslie-choices-final.pdf>.

Hillman, Robert (2006), "On-line Boilerplate: Would Mandatory Website Disclosure of E-standard Terms Backfire?" Working paper available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=771627.
- Producer strategic behaviour

Jin, Ginger Z. (2005), "Competition and Disclosure Incentives: An Empirical Study of HMOs," *Rand Journal of Economics*, Spring 2005.

Jin, Ginger Z. and Alan Sorensen (2006), "Information and Consumer Choice: The Value of Publicized Health Plan Ratings," *Journal of Health Economics*, 26(2) March 2006.

Lynch, John G. and Dan Ariely (2000), "Wine online: Search cost affect competition on price, quality, and distribution," *Marketing Science*, 19(1), 83-103.

Dranove, David; Den Kessler, Mark Satterthwaite and Mark McClellan (2003), "The Effects of Health Care Quality Report Cards," *Journal of Political Economy*, 111 (2003): 555-88.

Della Vigna, Stefano and Ulrike Malmandier (2006), "Paying Not to Go to the Gym," *American Economic Review*, June 2006, Vol. 96 (3), pp. 694-719.

Jacob, Brian and Steve Levitt (2003), "Rotten Apples: An Investigation of the Prevalence and Predictors of Teacher Cheating," *Quarterly Journal of Economics*, 118(3), 2003.
- Political forces

Wilson, James (1985), *The Politics of Regulation*, publisher: Basic Books.

Fung, Archon; Mary Graham and David Weil (2002), "The Political Economy of Transparency What Makes Disclosure Policies Sustainable?" Harvard University John F. Kennedy School Working papers RWP03-039, available at: <http://www.ashinstitute.harvard.edu/Ash/FGW.pdf>.
- Third party information provision

Friedman, Monroe (1990), "Agreement between Product Ratings Generated by Different Consumer Testing Organizations: A Statistical Comparison of 'Consumer Reports' and 'Which?' from 1957 to 1986," *Journal of Consumer Affairs*, Summer 1990, Vol. 24, iss. 1, pp. 44-68.

Graham, Mary (2001), "Information as risk regulation: Lessons from Experience" Harvard University John F. Kennedy School of Management Faculty Research Working papers OPS 10-01, available at: <http://www.innovations.harvard.edu/showdoc.html?id=74>.

Cantor, Richard and Frank Packer (1997), "Differences of Opinion and Selection Bias in the Credit Rating Industry," *The Journal of Banking and Finance*, 21: 1395-1417.

Cantor, Richard, Frank Packer, and Kevin Cole (1997), "Split Ratings and the Pricing of Credit Risk," *The Journal of Fixed Income*, December 1997:72-82.

Berger, Allen, Sally Davies, and Mark Flannery (2000), "Comparing Market and Supervisory Assessments of Bank Performance: Who Knows What When?" *Journal of Money, Credit and Banking*, 32, August 2000 Part 2, pp. 641-66.

Jin, Ginger Z.; Andrew Kato and John List (2006), "That's News to Me! Information Revelation in Professional Certification Markets" mimeo, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=917312.

SECTION III. PRACTICAL CHALLENGES FOR DECISION MAKING IN DEREGULATED MARKETS

A. Telecommunications

There were two presentations on telecommunications, relating to experience in France and in the United Kingdom, where there have been many similarities in consumer experience, particularly in relation to contractual terms. The presentation regarding the French telecommunications market focused on policy responses to consumer complaints, while the presentation on the UK telecommunications market focussed on the results of a survey of switching behaviour. One theme common to both presentations was the need for clarification, simplification and standardisation of consumer information.

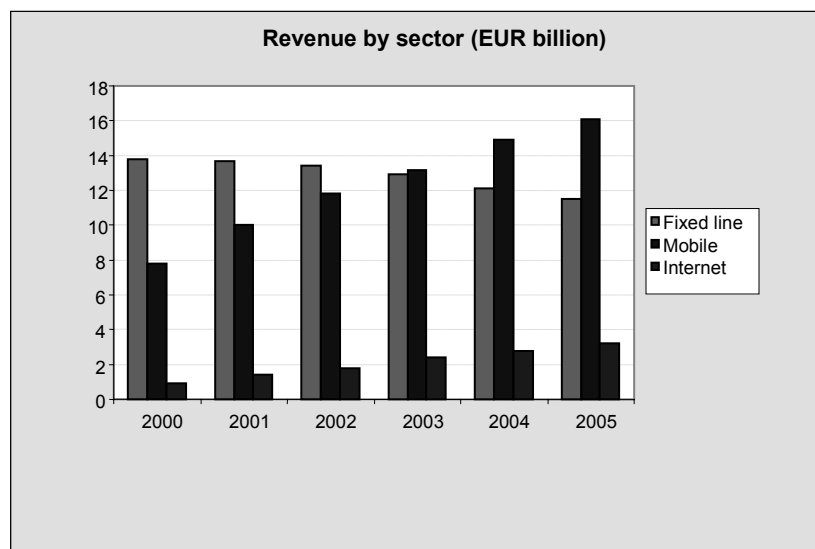
Protection of users of telecommunications services

Presentation by Jean-Louis Gaugiran

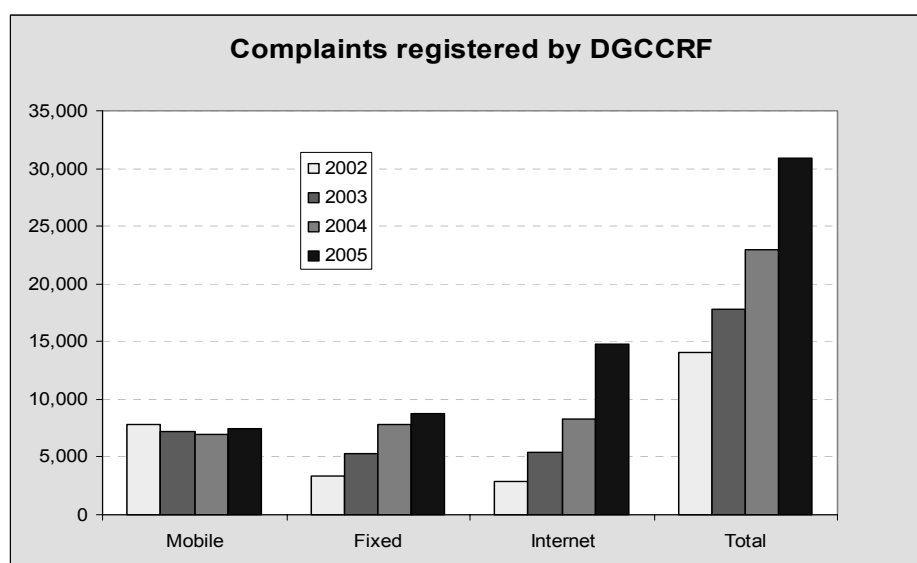
This presentation showed that while there has been a strong growth in the telecommunications market in France, there has also been a strong growth in customer complaints. This presentation summarised the processes put in place by the French authorities, in consultation with consumer organisations, to restore confidence in the telecommunications market.

The French experience

There has been strong growth in the French telecommunications market. From 2000 to 2006, while the number of fixed line subscribers rose by only 16%, the number of mobile subscribers rose by 67% and the number of Internet subscribers by 180%. Data on revenue shows even stronger trends. The mobile sector has overtaken the fixed line sector, and Internet revenue, while still low, has grown strongly. Total revenue in 2005 was EUR 31 billion.

Figure 3. Growth of the French telecommunications market

At the same time, there has been strong growth in complaints registered by the French DGCCRF, particularly in relation to fixed line and Internet services. In just one year, from 2004 to 2005, the number of complaints rose by 35%, to 31 000, and that growth continued into 2006. Complaints about telecommunications represent one seventh of consumer complaints received across the whole economy.

Figure 4. Growth in telecommunication complaints

Most complaints (77%) relate to contractual issues, including loss of service and difficulties in resolving contractual disputes. Others include allegations of false advertising and forced sales.

Policy responses

When authorities considered the situation, they felt that formal legal approaches, such as referring consumers to court, were not realistic. The problems related more to generally poor contractual relationships, leading, in turn, to a general loss of confidence in the industry, thereby impeding

development of the whole industry. Public authorities wanted to raise awareness of the need for improvement and all stakeholders have been concerned with improving consumer confidence in the market. A new approach to solving these problems was called for.

The policy response involved the Industry Minister, who brought together the principal firms, industry associations and representatives of the French *Conseil National de la Consommation* (CNC). There have been two consultative roundtables of consumers and industry associations, charged with the task of developing creative solutions to these problems. An *ad hoc* working group of the CNC on Electronic Communications was established with the aim of re-balancing the customer-supplier relationship. This group, in turn, has established six sub-groups dealing with specific issues. Between December 2005 and July 2006 these groups met 75 times, including 8 plenary sessions.

These consultation processes have revealed four general priorities:

- Helping consumers make more informed choices.
- Improving service delivery.
- Improving the transparency of contractual relations.
- Accelerating and facilitating the amicable settlement of complaints.

Practical initiatives include development of regulations for more readable promotional offerings, the production of standardised fact sheets for consumers (to facilitate consumer choice), agreement on the handling of contractual modifications, new procedures to handle disputes, and automatic cancellation of contracts in the event of prolonged unavailability of service. One important outcome in 2006 was a decree relating to phone number portability.

Other provisions relate to arrangements aimed at specifying the turn-around time of deposits, limiting the time for contract cancellation, and specifying the time to handle requests for operator assistance.

A draft bill, aimed at improving consumer protection and information, was presented before the French *Conseil des Ministres* on 8 November 2006, and should be examined by the French *Assemblée Nationale* in the course of 2007. This draft bill implements Directive 2005/29/EC on Unfair Commercial Practices, adopted by the European Parliament and Council on 11 May 2005.²²

Development of appropriate regulation is an ongoing process in the DGCCRF. It is too early to make a full assessment, but there is a programme of meetings with consumer organisations to assess the progress of these reforms, in particular their direct impact on the market.

Competition and consumer policy – lessons for regulation in the telecommunications sector

Presentation by Jill Johnstone

This presentation focussed mainly on the findings of a major study on switching behaviour in a number of markets, conducted by the UK National Consumer Council (NCC). It concludes with a number

²² Directive 2005/29/EC of the European Parliament and Council concerning unfair business-to-consumer commercial practices in the internal market, 11 May 2005, text with EEA relevance, *Official Journal of the European Union*, L 149/22, available at: http://eurlex.europa.eu/LexUriServ/site/en/oj/2005/l_149/l_14920050611en00220039.pdf.

of policy recommendations relating to the telecommunications market – a market where rapid technological changes and changes in business practices have brought particular problems for consumers.

The National Consumer Council

The NCC was established by the UK government in 1975, with the purpose of helping everyone get a better deal through making the consumer voice heard. It also has a special remit to represent the interests of disadvantaged and vulnerable consumers. To these ends its activities include providing research and policy analysis, campaigning, and working with policy makers, providers and others in the private and public sectors, all concerned with developing proposals to improve consumer outcomes in problem markets.

The broad aim of its markets work programme is to ensure that markets work for consumers through promoting effective competition and consumer policies and putting forward proposals to improve consumer outcomes in problem markets.

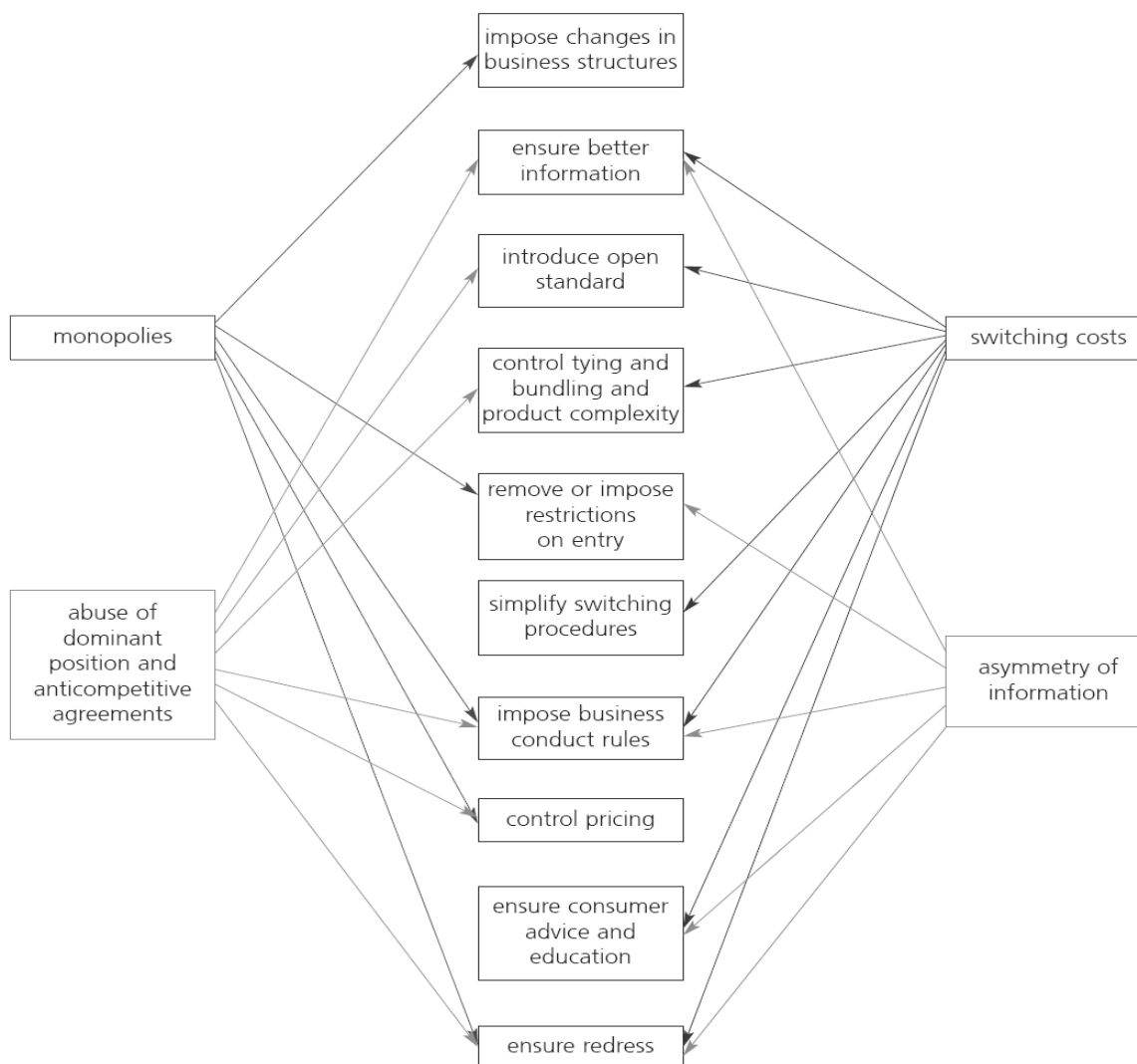
Competition and consumer policy frameworks

Competition and consumer policy, although they are directed to the same ends, and often use the same tools, are often seen as separate. Regulators tend to be entrenched within one discipline. For example competition policy is rooted in industrial economics, with an emphasis on industry structure and supply-side interventions. Supply-side and demand-side policies, however, are not separable; active consumers drive competition and innovation. Supply-side and demand-side policies need to work together.

Although supply-side interventions have benefited competition and consumers, in general, there has been insufficient attention to the demand side of markets. Further gains, given the increasing complexity of products and the greater share of services in the economy, will require greater attention to the demand side, particularly the findings of behavioural economics, which reveals that consumer behaviour is complex, based often on habit, social norms, and decision making short cuts.

A framework, suggesting how supply- and demand-side policies may be brought together is shown in Figure 5.

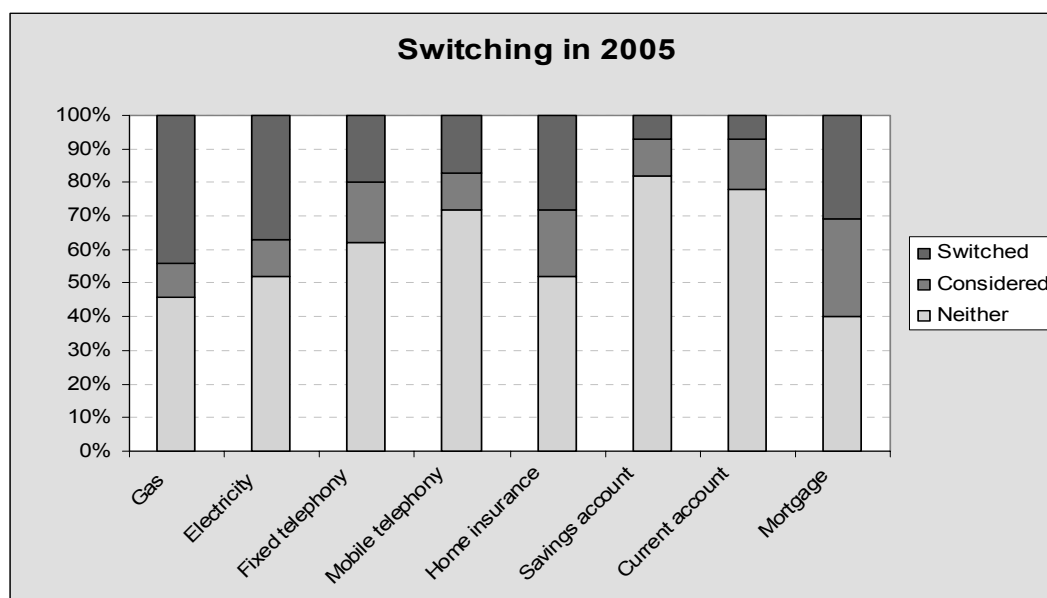
Figure 5. A supply-demand policy framework



The NCC switching survey

A switching survey is a useful indicator of consumer activity, although an incomplete one. In spring 2005, the NCC undertook a survey using telephone contact of 1 000 consumers. This survey, an update of a similar survey done in 2000, covered the same six markets as in 2000 – gas, electricity, fixed telephony, home insurance, current accounts, mortgages, with the addition of mobile telephony and savings accounts.

Figure 6. Switching experience in the United Kingdom 2005



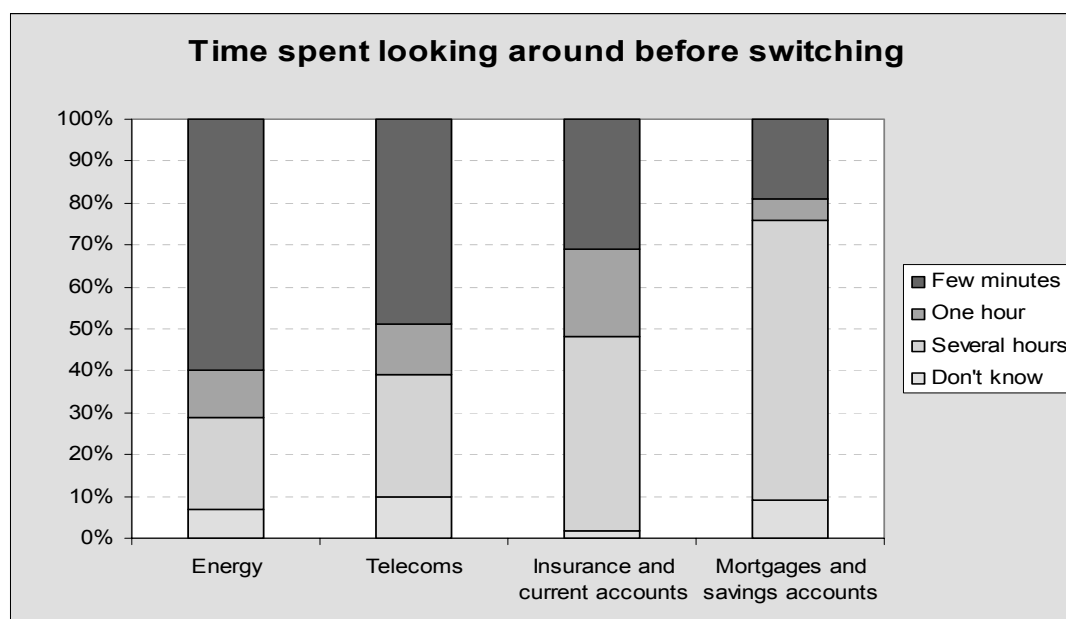
The results of the 2005 survey are shown graphically in Figure 6. For gas and electricity, switching levels were high, but they were very low for bank accounts – both savings and current accounts.

Consumers' propensity to switch is influenced by a number of factors including: the ease of switching and their perceptions of the savings to be achieved through switching. For energy, telephony and home insurance, 96% of consumers considered switching to be "easy" or "very easy." By contrast, only 77% gave similar responses for current accounts. In terms of expected savings, these were highest for mortgages, but still significant for other products.

In response to the question "would you switch if it were easy and free," the response was strongest for mortgages (61% "yes") and lowest for current accounts (37% "yes").

For most products, particularly energy and telecommunications, consumers spent only a few minutes of research before switching. For financial products, however, many consumers reported taking "several hours."

Figure 7. Search time spent before switching



The main findings were that between 2000 and 2005 switching rose in all markets, apart from home insurance. The mortgage market was the most dynamic, while the current account market was the most static. Consumers found switching to be very difficult in some markets, particularly banking. Switching varied according to demographic groups, the younger and wealthier being the most likely to switch.

A large proportion of consumers seemed to be unaware of the benefits from switching or even the possibility of switching, and many considered that the financial benefit from switching was outweighed by the time and effort involved.

Telecommunications: consumer issues

Communication products – mobile telephony, television and the Internet – are coming together. The industry is subject to rapid technological change, from both a provider and user perspective. Broadband speeds are increasing as the amount and complexity of content is growing. The user-provider interface is blurred at the edges with the rise of user-generated content, and the industry is becoming more vertically integrated, from broadcaster through to hardware provider.

These changes have raised important policy issues as a number of supply-side behaviours, sometimes interacting with consumer decision-making short cuts, have reduced competition. The industry practice of product bundling has some consumer benefits in terms of convenience, but bundling generally introduces barriers to competition, particularly price competition. Some components of bundling products can be poor value; for example many bundles include low broadband speeds. There are contractual issues, including confusing and unfair terms, long contractual periods, and exit penalties, all of which act as impediments to effective competition. And there are technical problems of interoperability of both software and hardware, which tend to lock consumers into particular products from particular suppliers.

In terms of policy, the issues the NCC consider important are as follows:

- Bundling and product complexity – the need to allow for simpler consumer choice and open standards allowing for interoperability.
- The provision of better information, consumer advice, and consumer education.
- Simplification of switching.
- Standardisation of contract terms, business conduct rules and avenues of consumer redress.

B. Financial services²³

There were two presentations on consumer behaviour in financial markets. The first recorded a carefully conducted trial of a proposed disclosure which, because of its direction of consumer attention towards certain information, would have had the perverse effect of leading consumers to make poorer decisions. The second presentation revealed patterns of consumer behaviour involving costly biases in credit markets – patterns which result in competition being directed towards front-end rather than long-term costs, and suggested some specific disclosure measures.

During the discussions at the end of this session, the UK delegation briefly presented a paper outlining research in that country on consumer behaviour in credit markets.²⁴

The effect of disclosures on consumers and competition: a controlled experiment

Presentation by Janis Pappalardo²⁵

This presentation discussed the benefits and costs of mandatory disclosure, identifying possible unintended consequences of disclosure. It outlined a major experiment conducted by the US FTC into the effects of disclosure of broker compensation, and found that disclosure has the effect of confusing people, most likely by diverting consumer attention away from the cost of loans and towards the amount of broker compensation.

Disclosure and its consequences

Mandatory disclosures are commonplace and they come in many forms. They include energy use labels on appliances, nutrition and ingredient labelling on foods, fuel use ratings on cars, patient disclosures on prescription pharmaceuticals, and many disclosures specific to financial services.

They can have substantial benefits. They can protect consumers from deception. They can reduce search costs and can make for more informed consumer decisions. In general, they can promote the more efficient operation of markets.

There are basic policy questions to be addressed about mandatory disclosure, however. Why is there an information problem? Would the provision of more information help consumers make better decisions?

²³ Note that the previous presentation, while specifically concerned with telecommunications, contained a significant amount of data on financial products.

²⁴ UK Department of Trade and Industry, “Applying Demand-Side Economic Principles to the UK Consumer Credit Sector,” October 2006 (on file with OECD Secretariat).

²⁵ Prepared in association with James Lacko.

Is disclosure feasible – is it possible to provide information in a meaningful form? Will disclosure work as intended? How will it affect consumer decisions? Will it have distributional consequences among consumers? Can it be circumvented?

Disclosure can have unintended consequences. Possible pitfalls include the provision of information which is irrelevant, confusing or even (unintentionally) misleading. In some cases, consumers can be overloaded with disclosed information. The costs of poorly designed disclosure can be substantial in terms of transaction and compliance costs. In some cases poorly designed disclosure can distort firms' decisions on product and feature offerings and can harm competition. People often state they want more disclosure, but on testing it is sometimes found that consumers make wiser decisions when they are provided with less information.

To protect against inappropriate disclosure, controlled testing on a sample of relevant consumers can be used to assess the effectiveness and consequences, in terms of both consumer and firm behaviour, of proposed disclosures. Such trials can rely on either pre- or post-implementation observations, or on comparisons between jurisdictions with different disclosure requirements.

The FTC study on mortgage broker compensation

In 2002, a proposal by the United States Department of Housing and Urban Development (“HUD”) would have required mortgage brokers to disclose prominently the yield spread premium (“YSP”) – essentially a commission paid by the lender to the broker – on documents offering loans. Mortgage brokers would be required to disclose, in the Good Faith Estimate (“GFE”) provided to borrowers, any compensation received from the lender in connection with the origination of the loan.

The YSP can comprise a major part of brokers' compensation. It is paid by the lender for a loan originated at an above-par interest rate, reflecting the additional value to the lender of such a loan. The proposed disclosure was motivated by a concern that brokers were placing borrowers in above-par loans without their knowledge, and keeping the YSPs rather than passing them through to consumers in the form of reduced settlement costs. Direct lenders would not be required to make the same disclosure, even though they may be charging the same interest rate and settlement fees. In addition, loan officers who work for direct lenders can receive a payment that is essentially the same as a YSP.

US FTC staff were concerned that such a requirement may be unnecessary and could have perverse consequences. It could act to the disadvantage of brokers, thereby lessening competition, and may lead consumers to focus on broker compensation rather than net costs, thereby resulting in worse loan choices. They therefore conducted a study on 517 recent mortgage customers who were shown cost information on two different pairs of hypothetical mortgage loans. Although the hypothetical loans did not reveal whether the loans were broker or direct, one revealed the YSP separately (as would be required with a broker loan) and the other revealed only the net charges.

The study involved five treatment groups. Three treatment groups were presented with disclosure documents that included prominent lines for the disclosure of broker compensation, while the other two were control groups. Although the hypothetical loans did not reveal whether the loans were broker or direct, for treatments that included a line for the broker compensation payment, the form from a broker revealed the YSP separately (as would be required with a broker loan) while the other revealed only the net charges. The two control groups never saw a form that included a line for a YSP. (There were two control groups because, as part of the study, there were two general types of forms under examination.)

The tests were conducted twice, each with a different loan cost scenario – once with the broker loan less expensive than the lender loan and once with both loans costing the same. Respondents were asked

two key questions – to identify the less expensive loan and to indicate which loan they would choose if they were shopping for a loan.

The results of the study are shown in Table 1. The ranges in the table are of the means of different groups.

Table 1. Results of US FTC’s experiment

<i>Scenario 1 – Broker loan less expensive than direct loan</i>			
Percentage of respondents:		Correctly identifying the less expensive loan	Choosing the less expensive loan if shopping
Without YSP disclosure		89–90%	85–94%
With YSP disclosure		63–72%	60–70%
<i>Scenario 2 – Identical cost loans</i>			
Percentage of respondents identifying less expensive loan:	Both same	Broker loan	Lender loan
Without YSP disclosure	95–99%	1–2%	0–3%
With YSP disclosure	49–57%	5–11%	30–45%
Percentage of respondents choosing if shopping:	Either loan	Broker loan	Lender loan
Without YSP disclosure	78–83%	1–7%	3–7%
With YSP disclosure	25–30%	5–17%	46–57%

The experimenters concluded that broker compensation disclosures reduce the proportion of consumers correctly identifying the less expensive loan, reduce the proportion of consumers choosing the less expensive loan if they are shopping, and lead to a significant anti-broker bias that may have anti-competitive effects on the mortgage loan market. While it was difficult to assess the actual impact across the whole market, as a rough calculation, based on approximately 20% of respondents mistakenly choosing a loan USD 300 more expensive than the alternative, the potential annual opportunity cost to consumers could be in the order of hundreds of millions of dollars.²⁶

Policy implications

Behind the disclosure proposals there was a sound intention – to help consumers understand loan costs and thereby obtain less expensive loans. The experiment demonstrated, however, that separate disclosure of broker compensation added to confusion and resulted in mistaken choice.

²⁶

The trial is in a published paper by James Lacko and Janis Pappalardo, “The effect of mortgage broker compensation on consumers and competition: a controlled experiment,” US FTC Bureau of Economics Staff Report 2004, available at: www.ftc.gov/os/2004/01/030123mortgagefullrpt.pdf.

This is not to suggest that disclosure policy cannot work. Simple, clear disclosures can be very effective in conveying important information to consumers. This was illustrated in the experiment by a control group, who had simpler comparison documents which did not separately disclose the YSP compensation. Their judgement showed very little error. In such a situation the focus of disclosure should be on costs to the consumer, rather than on compensation to the broker or other parties.

A sound disclosure policy requires careful identification of what information consumers really need, analysis of how consumers will interpret and use that information, and an assessment of the benefits and costs of disclosure. Ideally, as in this experiment, this should be done through consumer testing of any proposed disclosure.

Behavioural economics and consumer credit regulation

Presentation by Professor Iain Ramsay

This presentation focussed on behavioural issues in consumer credit markets, particularly credit cards. The main bias identified was myopia (“hyperbolic discounting”), which results in competition being directed to short-term costs and benefits, rather than long-term costs, particularly interest rates. Some simple disclosure measures were recommended as a way of compensating for this, and other, consumer biases.

Current credit issues

The main issues in consumer credit regulation are addressing market failures, over-indebtedness and fairness – including regulation of sub-prime marketing and certain practices of credit card providers.

Recent regulatory concerns relate to responsible lending, such as the initial version of the European Union’s proposed Directive on Consumer Credit that would have required credit companies to consult credit databases and apply a suitability of credit standard in credit decisions.²⁷ These are matched on the consumer or demand side with concerns for responsible borrowing, particularly the need for consumers to have the abilities to make sound financial decisions.

Disclosure regulation applies at many points. It occurs at the pre-contractual point and throughout the life of the contract. Disclosures come in many forms, including warnings to lenders when they are approaching limits and advice on minimum payments on credit cards. The objective of disclosure is generally to ensure markets operate efficiently by reducing search costs, helping consumers make price comparisons and reducing disputes.

In spite of the widespread use of disclosures in credit markets, however, there has been little systematic evaluation of the effectiveness of these measures. This is an area calling for further research. For example, because different countries have different practices, there is scope for policy-relevant comparative studies.

A basic question in disclosure regulation relates to the assumptions policy makers hold about consumer behaviour. Do they assume consumers act “rationally” (that is, that they can weigh present and

²⁷ The more recent version has modified the responsible lending provision so that a creditor need only consult databases “where appropriate” [article 5 (1)]. The creditor must “provide adequate explanations to the consumer, in order to put the consumer in a position to assess whether the proposed credit agreement is adapted to his needs and to his financial situation, where appropriate by explaining the pre-contractual information to be provided...as well as the advantages and the disadvantages associated with the products proposed” [article 5(5)].

future costs and benefits using appropriate and consistent discount rates), or do they assume consumers are subject to costly behavioural biases (particularly the bias of myopia or “hyperbolic discounting”)? If their decisions are subject to costly biases, what interventions can policy makers use to reduce their influence?

In fact there are many insights economics can bring to credit markets. These are not necessarily novel; for example, in 1739 Hume wrote:

“There is no quality in human nature, which causes more fatal errors in our conduct, than that which leads us to prefer whatever is present to the distant and remote.”²⁸

Similarly, Adam Smith in 1759 referred to the tension between the “indifferent spectator,” cool and calculating, and the “fury of his desires.”²⁹

Behavioural economics has formalised these observations into coherent, tested theories and the results confirm the myopic bias.³⁰ In fact, Avner Offer suggests that with the general growth in wealth over time our capacity for self-control has actually diminished, for as affluence grows it brings a “relentless flow of new and cheaper opportunities” which arrives faster than we can develop the discipline of prudence.³¹

Other costly biases are also present in credit markets. The bias of overconfidence or optimism explains why borrowers may pay insufficient attention to factors which could impair their capacity to repay loans, such as unemployment or other adverse changes in life circumstances. In research on people’s attitudes, perceptions and decisions on consumer credit, the United Kingdom National Consumer Council found that:

“... most of our respondents suppressed the risks involved, and felt confident [possibly overconfident] in their ability to stay out of trouble... consumers were aware that unexpected events could seriously affect their ability to pay but felt that this was something that happens to others. Most felt losing their jobs, suffering a serious accident or illness were remote possibilities.”³²

The status quo or endowment bias can explain why people hold on to poorly-performing assets or try to keep up a lifestyle which is not financially sustainable through the use of credit cards. And many people use heuristics, such as using the affordability of the monthly repayment as a criterion for the level of credit card debt to accumulate.

Behavioural economics and credit card pricing

Economists have often wondered why, in a market with so many providers, credit card interest rates are sustained at high levels.

²⁸ David Hume, *A treatise of human nature*, Book 3, Part II, Sect. vii. of the Origin of Government 1739.

²⁹ Adam Smith, *The theory of moral sentiments*, Part 3, Chapter 4, 1759.

³⁰ For a review of the literature documenting hyperbolic discounting see Shane Frederick, George Loewenstein and Ted O’Donoghue, “Time Discounting and Time Preference: A Critical Review,” *Journal of Economic Literature*, Vol. XL, June 2002 (pp. 351-401).

³¹ Avner Offer, *The challenge of affluence: Self-control and well-being in the United States and Britain since 1950*, Oxford University Press, 2006.

³² National Consumer Council, “Credit – choice or chance,” NCC, 2002.

An explanation lies in the practice of providers exploiting consumer's myopic bias. According to Lawrence Ausubel the consumer is attracted by the interest-free period on credit cards, and fully intends to pay the debt in time, but when the time comes he does not pay and starts to accumulate debt – a case of the myopic bias overriding rationality and self-control.³³

Oren Bar-Gill suggests that the myopic bias not only also results in consumers under-estimating their future level of debt, but it also allows credit card providers to attract consumers with appealing front-end features, such as zero annual fees, benefit plans and teaser interest rates, while loading costs on the back-end, such as high late and over-limit fees.³⁴ Competition, which is structured by consumer biases, focuses on short-term costs rather than long-term costs, particularly interest rates.

This pricing structure has many inequities. Penalty fees, for example, load costs on to those who are already financially stressed. In general, this structure results in a cross subsidy from those who run up credit card debt to those who use their credit cards for short-term convenience and pay in time. "Revolvers" subsidise "transactors."

Policy alternatives – disclosure as a policy tool

There are simple interventions which can help counteract some costly biases in credit card markets. One simple intervention is to provide detailed disclosure at the time of borrowing on the credit card, as well as at the time of obtaining the credit card.

Another is to provide a warning that the minimum payment will take a very long time (usually many years) to clear the debt. For example the United Kingdom Payments Association suggests as a best practice guideline a statement "if you make only the minimum payment each month, it will take you longer and cost you more to clear your balance."³⁵

A more specific (but still generic) minimum payment warning is contained in section 1301 of the United States Bankruptcy Abuse Prevention and Consumer Protection Act. The consumer is advised:

"... making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example making only the typical 2% minimum monthly payment on a balance of \$1 000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number ..."

A more customised disclosure would relate to the consumer's particular circumstances:

... for example, your balance of XX will take YY months to pay off... at a total cost of XX in principal, and XX in interest if only the minimum monthly payments were made.

³³ Lawrence Ausubel "The failure of competition in the credit card industry," *American Economic Review*, Vol. 81 #1, March 1991 (pp. 50-81); and "Credit Card Defaults, Credit Card Profits, and Bankruptcy," *American Bankruptcy Law Journal*, Vol. 71 Spring 1997, pp. 249-270.

³⁴ Oren Bar-Gill, "Seduction by plastic," American Law & Economics Association Annual Meetings, Paper 12, 2004.

³⁵ See APACs Best Practice Guidelines at: www.apacs.org.uk/resources_publications/best_practice_cards.html.

(A variant would be to indicate the date when the cardholder would pay the balance, monthly payments were sustained and further purchases made.)³⁶

A study by the United States Government Accountability Office has found that customised disclosures would provide more information to consumers and consumers who typically carried balances found customised disclosures very useful.³⁷ Credit card issuers indicate that providing cardholders with customised information is feasible; the primary increased cost would be that of increased postage costs.

Another possible intervention, based on the power of defaults (endowment bias) is for the provider to set a high minimum payment level which would clear the debt quickly, but to allow the consumer to request payment at a lower rate.

A pre-commitment option is for providers to encourage, or to set as a default, automatic debit of credit card payments. Alternatively, by setting appropriate fees and conditions, such as chargeback protection, they could make debit cards an attractive option.

A firmer approach (which could be combined with others) is to impose a regulated ceiling on interest rates.

In general, disclosure in consumer credit markets needs to be designed with attention to behavioural biases – if possible disclosure and other regulations should work with behavioural biases, rather than trying to compensate for them. As with all regulations, possibilities of self-regulation and co-regulation need to be explored, and any regime regulation has to be carefully assessed, both prior to implementation and during implementation.

³⁶ See Ronald Mann, *Charging Ahead*, 2006, Ch. 13.

³⁷ US Government Accountability Office, “Credit cards: Customized minimum payment disclosures would provide more information to consumers, but impact could vary,” Report to Congress GAO-06-434 2006.

SECTION IV. GENERAL DISCUSSION AND FURTHER ACTION

A. General discussion

Ian McAuley, Rapporteur to the Roundtable, provided the Committee with a brief summary of the main points of the presentations and discussions. This presentation was followed by a general discussion on the proceedings.

The following main points emerged from the discussions:

- Questions on the sequencing of interventions to deal with demand-side market failures. Should cost-benefit analysis be applied? Should interventions be considered sequentially, with some given greater priority than others?
- A reminder that behavioural biases can occur not only among consumers, but also in regulatory agencies (overconfidence) and in corporations. (Indeed, most of the early work on behavioural economics was on corporate decision making).
- An observation emerging from this and the previous Roundtable that the demand and supply sides of markets cannot be considered separately; they interrelate closely.
- Drawing from the day's discussion, a reminder that evaluation of interventions should be prior to intervention, and once interventions are in place there should be an evaluation to ensure they are working as intended. The importance of including cost-benefit analysis was also pointed out.
- The proportion of informed consumers should be taken into account when a policy measure is introduced. In addition, a sound information disclosure policy may be crafted in such a way as to work with behavioural biases.
- A reminder that telecommunications and financial services are not the only markets in which there are demand-side issues. For example, in markets for basic utilities several of the same issues have emerged as are revealed in telecommunications.
- An observation that people in general have time pressures with demands from work and family. The time they can spend assessing the information generated by markets with complex and changing products is very limited.
- A question about who the consumer is. Who makes the purchasing decision? And should policy be concerned with all consumers equally or should it focus more on the disadvantaged?

The New Zealand delegation briefly presented a paper being used as a guide to policy development incorporating behavioural findings. It is described as "an introductory guide to encourage policy analysts

into a deeper understanding of people's behaviour, the factors that influence behaviour, and how to incorporate this into the policy development process."³⁸

During these discussions, Dimitri Ypsilanti, Secretariat to the OECD Working Party on Communication Infrastructures and Services Policy (CISP), outlined developments in telecommunications in OECD countries. The experiences of France and the United Kingdom, which were outlined in the presentations, apply generally in other countries. Issues of bundling, lock-in contracts, complaint response and others identified in the presentations arise in many countries. Poor consumer experience in early stage competitive reform can build up a resistance to change.

While, so far, most regulatory work has been on the supply side, regulators are now coming to consider the demand side as well. Some developments, such as phone number portability, have a supply-side origin (a means of helping new firms into the market), but they are also consistent with demand-side economics.

B. Next Steps

Louise Sylvan introduced proposed next steps for the Committee, aimed to develop further a checklist and toolkit for demand-side policy analysis. One delegation suggested the importance of including a focus on information disclosure, noting that information disclosure is an essential tool for many member countries and that it would be useful for them if the Committee explored this issue more deeply.

To this end, the Committee agreed to establish an informal working group to lead the project and to suggest improvements. The purpose of the working group would be to refine the elements of the checklist and toolkit for Committee consideration and eventual declassification.

It was agreed that, between the Roundtable and June 2007, a joint project of the Committee on Consumer Policy and the Committee for Information, Computer and Communications Policy (ICCP) Working Party on Communication Infrastructures and Services Policy (CISP) would examine the telecommunications sector from a demand-side perspective. The study will investigate the types of consumer protection and empowerment problems that are occurring, the nature of the interventions (educational, information-based, regulatory, *etc.*) that could be considered by regulators to improve consumer outcomes, the benefits and cost of such interventions, and any other matters of relevance.

It was suggested that the CCP may also wish to explore, at a future date, the possibility of joint work with the International Energy Agency (IEA) which is planning to undertake a new project on empowering the demand side in the energy market. The IEA Secretariat has been following the work of the CCP in this area and was represented at this Roundtable.

³⁸ New Zealand Ministry of Economic Development, "Behavioural Analysis for Policy, "New Lessons from Economics, Philosophy, Psychology, Cognitive Science, and Sociology," 2006, available at: www.med.govt.nz.

APPENDIX I. AGENDA
Roundtable on Economics for Consumer Policy
27 October 2006

Co-Chairs:

Mr. Michael Jenkin, Chair, OECD Committee on Consumer Policy

Ms. Louise Sylvan, Deputy Chair, Australian Competition and Consumer Commission

Rapporteur:

Mr. Ian McAuley, University of Canberra

INTRODUCTION

- Mr. Michael Jenkin, CCP Chair

SESSION A. SETTING THE CONTEXT

The main economic elements underlying a practical toolkit for consumer policy decisions

- Ms. Louise Sylvan, Australian Competition and Consumer Commission
- Mr. Joe Mulholland, Federal Trade Commission, United States

SESSION B. ECONOMIC THEORIES FOR CONSUMER DISCLOSURE

Theoretical discussion on mandatory consumer information disclosure

- Prof. Moriki Hosoe, Kyushu University, Japan
- Prof. Ginger Zhe Jin, University of Maryland, College Park, United States
- Discussion

SESSION C. PRACTICAL CHALLENGES: DECISION MAKING IN DEREGULATED MARKETS

1) Specific focus – Telecoms

- Mr. Jean-Louis Gaugiran, *Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes*, France
- Ms. Jill Johnstone, National Consumer Council, United Kingdom
- Discussion

2) Specific focus – Financial services

- Ms. Jan Pappalardo, Federal Trade Commission, United States
- Prof. Iain Ramsay, York University, Canada
- Discussion

ROUNDTABLE FOLLOW-UP

a) Conclusions

- Mr. Ian McAuley, University of Canberra, Australia
- Discussion

b) Next steps

- Ms. Louise Sylvan, Australian Competition and Consumer Commission
- Mr. Dimitri Ypsilanti, OECD
- Discussion

APPENDIX II. BIOGRAPHICAL INFORMATION ON SPEAKERS

Jean-Louis Gaugiran

Head of the office of Transport and Communication in the *Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes* (DGCCRF) in the Ministry of Economy, Finances and Industry. Responsible for issues relating to competitive regulation and consumer protection in the transport sector (air, road, rail, maritime), in the electronic communications sector (fixed and mobile telephone, Internet) and the audio-visual sector.

Has facilitated consultations between firms in the electronic communications sector and consumers in the Electronic Communications working group of the French *Conseil National de la Consommation*.

Professor Moriki Hosoe

Professor, Department of Economic Engineering, Kyushu University. Member of the Board of the Japanese Economic Association, and the Board of the Japanese Law and Economics Association. President, Japanese Applied Economics Association.

Research interests in the economics of information and incentives, in particular economic behaviour in situations of asymmetric information.

Has been a Visiting Fellow, Harvard University (1983-1985), a Visiting Professor, Indiana University (1996), and Dean, Faculty of Economics, Kyushu University (2001-2003).

Professor Ginger Zhe Jin

Assistant Professor of Economics at the University of Maryland and a Faculty Research Fellow affiliated with the United States National Bureau of Economic Research.

Research focuses on information economics, and more specifically on the incentives to provide information and market response to new information. Most of her work involves disclosure and advertising policies in a broad range of industries including restaurants, health care, e-commerce, and education.

Jill Johnstone

Director of Policy, National Consumer Council, United Kingdom

In that role has overseen the Council's four main themes:

1. *Public services*: putting users at the heart of public services.
2. *Open markets*: making markets work for all consumers.
3. *Disadvantage*: ensuring that disadvantaged and vulnerable consumers get a fair deal.
4. *Sustainability*: achieving more sustainable consumption.

Has specialised on innovation and intellectual property projects, and produced significant publications on trade and competition from a consumer perspective. In 1999 was seconded to the Performance and Innovation Unit of the Cabinet Office as part of their project team looking at international trade issues.

Ian McAuley

Adjunct Lecturer in Public Policy and Public Management, University of Canberra, Australia.

Academic interests and research specialisation in economic policy, with particular focus on health care and consumer finance policies. Has sat on Australian Government regulatory committees, and has worked as a consultant for Australian consumer organisations and Australian Government financial regulatory agencies.

Holds postgraduate qualifications from Adelaide University and Harvard University.

Joseph Mulholland

An economist in the United States Federal Trade Commission (US FTC) Division of Consumer Protection. He has a PhD from Washington University. In addition to his current position as a Consumer Protection economist, has worked in the US FTC's Antitrust Division. Has held a number of teaching positions, including Visiting Professor at the University of Maryland and adjunct professor in the Georgetown University Graduate School of Public Policy.

Has participated in international technical missions for the US FTC, including those conducted in the Philippines, Romania, Russia, and Venezuela. Has been a long term advisor to the Polish Antimonopoly Office. Has also participated in OECD-sponsored conferences regarding competition and consumer protection issues.

Janis Pappalardo

An economist at the US FTC. Her Ph.D. from Cornell University (1986) was in consumer economics, statistics and industrial organisation.

Work at the US FTC involves examining the effect of information on consumer behaviour and market outcomes. Has worked on regulations on health claims for foods, direct-to-consumer advertising of prescription drugs, and on the Real Estate Settlement Procedures Act. Has collaborated with US FTC colleagues on content analyses of health claims in food advertising and an experimental study of mortgage broker compensation disclosures. Has published, alone and with others, on health claims advertising and mortgage issues.

Professor Iain Ramsay

Professor of Law at Osgoode Hall Law School, York University, Toronto, Canada, and Professor-elect at the University of Kent, Canterbury, United Kingdom. Research areas include regulation of consumer markets and consumption relations at the national and international level, consumer credit law and consumer bankruptcy. An internationally recognised scholar in these areas; in 2003 was elected President of the International Association of Consumer Law.

Has written many articles and books on consumer law, market regulation and bankruptcy. Currently engaged in a comparative research project funded by the Social Sciences and Humanities Research Council of Canada studying approaches to over indebtedness in Canada and England.

Has acted as a consultant on consumer law and policy to governments and NGOs in Canada, Europe and South America. Has been a member of the Canadian Federal Task Force on Personal Insolvency (2000-2002) and is a member of the American Law Institute. Teaches bankruptcy law, commercial law, consumer law and contract law.

Louise Sylvan

Deputy Chair of the Australian Competition and Consumer Commission (ACCC), appointed as the member with expertise in consumer affairs.

Formerly the Chief Executive of the Australian Consumers' Association (ACA), and served on the Executive of Consumers International for three years as President.

An active member and worker on consumer issues nationally and internationally for over 15 years, is well known for her work in enhancing consumer empowerment and protection in a range of areas such as health, food safety issues, financial services, as well as in competition and consumer policy.

Currently part of Australia's delegation for the OECD's Committee on Consumer Policy and the International Consumer Protection and Enforcement Network (ICPEN).

APPENDIX III. SOURCES OF INFORMATION ON BEHAVIOURAL ECONOMICS

This is a small selection of published articles on behavioural economics.

Published collections

Colin Camerer, George Lowenstein and Matthew Rabin (eds), *Advances on Behavioral Economics*, Russell Sage Foundation NY 2004.

Daniel Kahneman and Amos Tversky (eds), *Choices, Values and Frames*, Russell Sage Foundation NY 2000, 2003.

Richard Thaler (ed), *Advances in Behavioural Finance*, Russell Sage Foundation NY, Vol I 1993, Vol II 1995.

Key articles

On Amir, Dan Ariely, Alan Cooke, David Dunning, Nicholas Epley, Uri Gneezy, Botond Koszegi, Donald Lichtenstein, Nina Mazar, Sendhil Mullainathan, Drazen Prelec, Eldar Shafir and Jose Silva
“Behavioral Economics, Psychology, and Public Policy” *Marketing Letters*, Vol 16 Numbers 3-4
December 2005 pp 443-454.

Nava Ashraf, Colin Camerer and George Lowenstein “Adam Smith, Behavioral Economist” *Journal of Economic Perspectives*, Vol 19 Number 3, Summer 2005, pp 131-145.
<http://www.hss.caltech.edu/~camerer/JEPadamsmith.pdf>

Colin Camerer, George Lowenstein and Matthew Rabin (eds), *Advances on Behavioral Economics*, Russell Sage Foundation, NY 2004.

Colin Camerer, Samuel Issacharoff, George Loewenstein, Ted O’Donoghue and Matthew Rabin,
“Regulation for Conservatives: Behavioral Economics and the Case for ‘Asymmetric Paternalism’”
University of Pennsylvania Law Review Vol 151, January 2003, pp 1211-1254.
<http://www.hss.caltech.edu/~camerer/paternPLR.pdf>

Emma Dawney and Hetan Shah, “Behavioural Economics: Seven Principles for Policy-Makers”, The New Economics Foundation 2006:
<http://neweconomics.org/gen/> (“Publications” link)

Daniel Kahneman “Maps of Bounded Rationality: A Perspective on Intuitive Judgment and Choice”, Prize lecture, Swedish Academy of Sciences 2002.
http://nobelprize.org/nobel_prizes/economics/laureates/2002/kahneman-lecture.html

David Laibson, “Golden Eggs and Hyperbolic Discounting” *Quarterly Journal of Economics* Vol 112,
May 1997, pp 443-477.

Sendhil Mullainathan and Richard Thaler, “Behavioral Economics” (September 2000). MIT Department of Economics Working Paper No. 00-27, 2002.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=245828

Thomas Schelling, “The Intimate Contest for Self-Command”, Chapter 3 in Thomas Schelling *Choice and Consequence: Perspectives of an errant economist*, Harvard University Press, MA 1984.

Cass Sunstein and Richard Thaler, “Libertarian Paternalism”, Federal Reserve Bank of Boston Conference Proceedings 2003 (See hyperlink below under “Other Resources”).

Other resources

The Federal Reserve Bank of Boston has established the Research Center for Behavioral Economics and Decision-making. Their website includes conference proceedings, research papers, and a short description of behavioural economics: <http://www.bos.frb.org/economic/bedm>

Joseph Mulholland of the United States Federal Trade Commission has provided a bibliography of more than 100 references on behavioural economics, many with references to publicly accessible websites: <http://mcmb01.oecd.org/dataoecd/23/6/38077003.pdf?contentId=38077004>