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CONSUMER POLICY IN THE LESS DEVELOPED COUNTRIES:  
A SAUDI ARABIAN CONTEXT.

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## ABSTRACT

Consumer policy of the developed countries might not fit the needs of the consumer of the less developed countries.

The researcher contends that the less developed countries should be more concerned with macro issues rather than micro ones. The main objective of this dissertation is to assess the role of the free market system in protecting the consumer's interest. This has been performed by investigating the field of passenger cars in Saudi Arabia and the United Kingdom. Two consumer surveys were carried out: One in Saudi Arabia in the period April-June 1987, and the other in the United Kingdom in the period August-September 1987. The findings of the consumer surveys support the concept that the more the economic system is oriented towards the market system, the more the augmentation of the consumer interest. It was found that a relation exists between consumer awareness, the levels of education and income as well as the environmental factors. Therefore, the best policy of the less developed countries to adopt is to accept the free market system, to increase productivity and to improve the educational standards of the consumer.

Since it was found that bureaucracy discourages the



consumers from claiming their rights, simplifying government procedures rather than overregulation should augment the consumer's interest.

The findings of this dissertation do not present a new theory or support others, but they contribute more understanding to the consumer issues in the less developed countries.

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DEDICATION.

*To my lovely wife, Hind,  
and my three daughters,  
Nuha, Lojain and Fatima.*

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PART 1.

THEORETICAL ANALYSIS.

CHAPTER ONE.

CONSUMER PROTECTION THROUGH  
MAINTAINING THE FREE MARKET SYSTEM.

The main contention in this Chapter is that consumer interest is better served by promoting competition in the market; free competition is the panacea for most consumer problems. On the other side of the coin, monopoly, whether it is private or public, is a short-cut way to deprive the consumer of his rights and abusing his interests. Government monopoly is however worse than private monopoly in aggravating the consumer problems.

The optimal situation for achieving the consumer's satisfaction is a situation of perfect competition, which requires the following<sup>1</sup> :

1. There must be a large number of buyers in the market, to the extent that every buyer takes the price as given.
2. There must be a large number of sellers to the extent that every seller takes the price as given.
3. All products in a particular market are homogeneous, to the extent that consumers see them as identical.
4. Freedom of entry to and exit from the market is secured.
5. Everyone in the market possess perfect market knowledge.

The foregoing conditions cannot be achieved in real life, because perfect competition is an ideal with important conceptual implications which can be approximated but never achieved in real terms.<sup>2</sup>

In real life, there may be palisades to entry into



the market, a lack of product homogeneity, or there may be an information gap among participants in the market.<sup>3</sup> Such characteristics will lead to market failures, which make the roles and influences of consumers in such markets much weaker than proposed.<sup>4</sup>

In contrast to the abstract of perfect competition, monopoly is a fact of life in the communist world, where government does not control specific industries, but it controls the whole economy.

In this Chapter, much concern will be devoted to the following subjects:

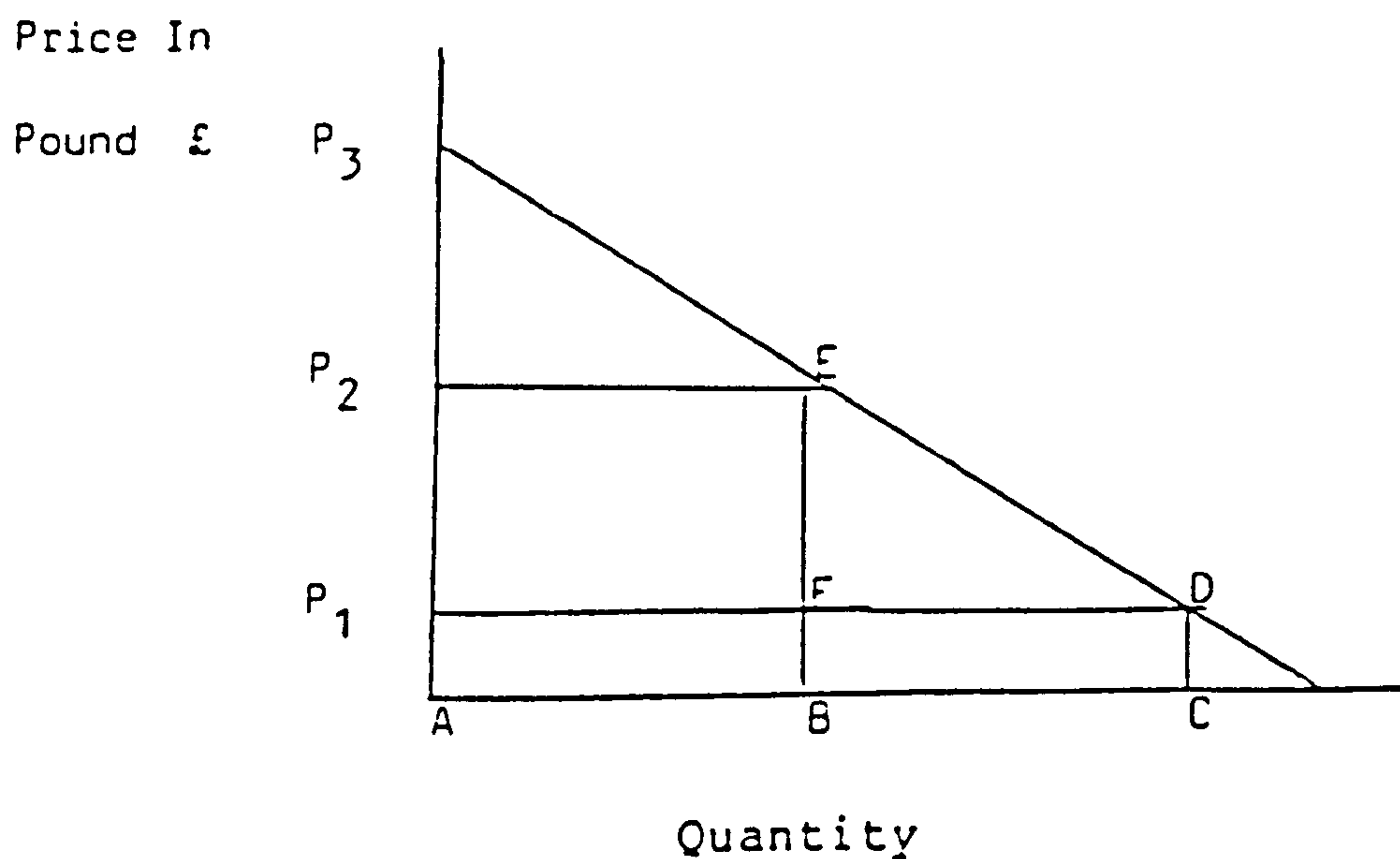
1. The theoretical foundation of economics and consumer protection.
2. Nationalised industries and consumer protection.
3. Trade obstructions and consumer protection.
4. Oligopoly in the western world versus monopoly in the communist world.

#### The Theoretical Foundation of Economics and Consumer Protection.

Consumer surplus was defined by Marshall as "the excess of the price (total expenditure) which he (the consumer) would be willing to pay for the thing rather than go without it, over what he actually does pay."<sup>5</sup> The producer surplus is the difference between revenue and the necessary costs incurred to produce a given output.<sup>6</sup>

With the assumption that the marginal utilities of money and income are constant, which might not be true, it could be argued that perfect competition leads to an increase in consumer surplus. Monopoly could, in a similar situation, lower consumer surplus, but it does not necessarily lead to an increase in producer surplus. Under perfect competition lower prices and higher output would prevail as it is shown in Figure 1.1.1.

Figure 1.1.1.



Under perfect competition, the price would be  $AP_1$  and the produced quantity would be  $AC$ , so the welfare derived by society in this case would be  $AP_3DC$ . Some consumers might be willing to pay for the quantity  $AC$  at a higher price than  $AP_1$ , such as  $AP_2$  or even  $AP_3$ ,

but, in fact, every consumer only pays  $AP_1$ . So consumers, in this case, are paying  $AP_1DC$  and they are taking in return  $AP_3DC$ , so the difference ( $P_1 P_3 D$ ) between what they are paying and what they are taking is the consumer surplus.

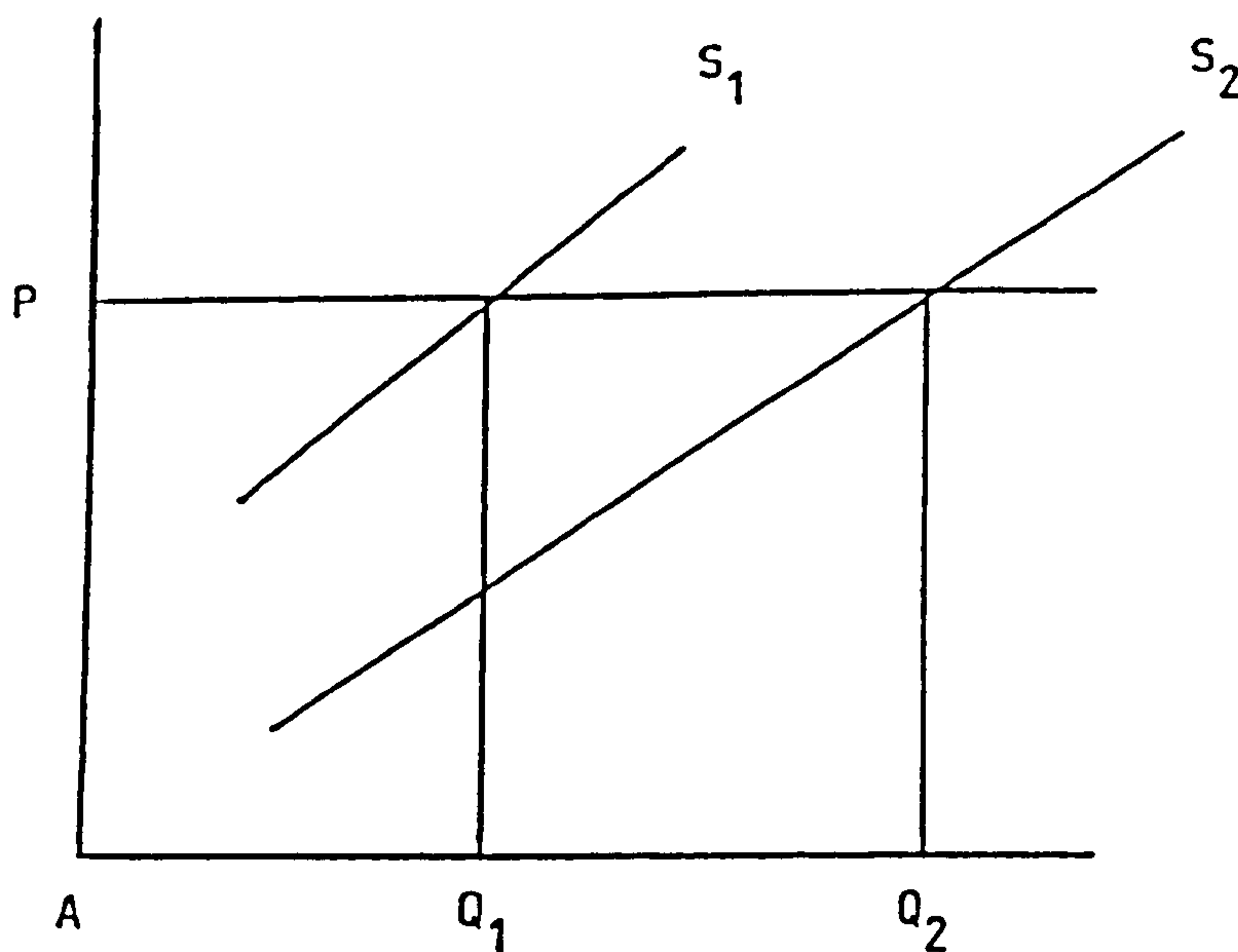
If we assume that we have monopoly, the consequences would be lower output and higher prices than those under perfect competition, *ceteris paribus*. If we have a monopoly situation the prices would be  $AP_2$  and the produced output would be  $AB$ . The gain to producers, as a result of the monopoly would be  $P_1 P_2 E F$  which is less than the consumer surplus ( $P_1 P_3 D$ ), so the difference between the lost consumer surplus and the gained producer surplus is the area ( $E D F$ ). This area is called, in economical terms, X-inefficiency, which is represented by managerial slack, lack of industrial disciplines, and disguised unemployment especially under government monopoly.

The foregoing analysis was static. If we take time into consideration, that X-inefficiency could be increased under monopoly for the following reasons:

1. Under monopoly there is no pressure to reduce the production and marketing costs, becausee profit could be attained through overpricing. Under competition, profit should be gained through reducing the production and marketing costs, so the supply curve of monopoly would be relatively stable, compared to that under competition.

In other words, under competition the supply curve is more likely to shift to the right with time as a result of inventing ways to reduce cost. Ceteris paribus, that means under specific prices, suppliers would be willing to produce larger quantities than the previous time. Figure 1.1.2. shows that suppliers under competition would be willing to produce in period 2 and under price  $P$ , the quantity  $AQ_2$ , whilst in the period 1, they were willing to produce  $AQ_1$  under the price  $P$ .

Figure 1.1.2.



4. Monopoly means power in society. In order to maintain that power, the monopolist has to spend. In other words the abnormal profit under monopoly must be spent to maintain that power by inhibiting potential new comers from entering the market.

In conclusion, the existence of monopoly would produce an environment in which inefficiency would prevail, and consumer would pay for it in terms of a shortage of products, poor quality and higher prices.

Under perfect competition, there is not much need to formulate consumer protection policy since the price should be equal to the marginal revenue and marginal cost.<sup>7</sup> Under monopoly, the price is greater than the marginal revenue, therefore in order to maximise the profit of the monopolist marginal revenue should be equal to marginal cost.

### The Limitations of Perfect Competition

Perfect competition is based on assumptions which rarely exist in real life. The assumptions of perfect competition could be refuted as follows:

1. Most products are not homogenous, in fact, homogenous products do not maximise the expected utility function of the consumer. The consumer intends, through his consumption preference, to maximise his expected utility.<sup>8</sup>

According to diminishing marginal utility, the consumer gets less utility the more he consumes of a specific product. If we have homogenous products, the marginal utility, as a result of consuming more items of that product, would diminish rapidly, so



the expected utility function would not be at maximum. By introducing product differentiation, the consumer will maximise his expected utility function. For example, if a lady bought five homogeneous night gowns, her marginal utility would diminish rapidly. The table below shows the diminishing marginal utility and the total utility of buying five identical night gowns,

Table 1.1.1

Marginal Utility of Identical Products.

<u>Quantity</u>	<u>Marginal</u>	<u>Total Utility</u>
1	10	10
2	8	18
3	7	25
4	5	30
5	2	32

If the same lady bought five heterogeneous night gowns, her marginal utility will diminish, but at a lower rate than in the case of buying five homogeneous products.

The table below shows the marginal and the total utility of buying five heterogeneous night gowns.

Table 1.1.2

Marginal Utility of Differentiated Products.

<u>Quantity</u>	<u>Marginal</u>	<u>Total Utility</u>
1	10	10
2	9	19
3	8	27
4	7	34
5	5	39

In the case of homogeneous products, it was found that total utility was 32 units, when the marginal utility was diminishing at an accelerated rate. Product differentiation led to diminishing marginal utility, but not as accelerated as in the case of homogeneous products, because the consumer perceives the differentiated five night gowns as different products, but she perceives the homogeneous five night gowns as identical items.

The assumption of homogeneous products in perfect competition is hardly a mirror of fact. Product differentiation is an issue admired by consumers, when they insist on using consumption to express themselves, their social class and their identities.<sup>9</sup>

In other words, the assumption of homogeneous products is not realistic in contemporary society and it never maximises the expected utility function



of the consumer.

2. The assumption of having more suppliers in a particular market is not necessarily in the interest of the consumer in every case. In some cases monopoly is dictated by the sheer facts of technology and the requirements of economic visibility.<sup>10</sup> Also patent should lead to monopoly, and if it does not, there will be no incentive for invention and innovation.

3. The assumption of full information to every participant in a particular market is not realistic for the following reasons:

(i) Products become very sophisticated to the extent that the lay consumer cannot understand their complications.

(ii) Alternatives available to consumers become too wide to become acquainted with, so there must be search and information costs. Those costs incurred should be added to the cost of buying goods. Since consumers are different from each other, in terms of the degree of sophistication, the effort of research and acquiring information would vary among consumers. Hence the cost of buying goods would be different among consumers.

In other words, perfect competition does not take into consideration the search and information costs, whereas the prices of goods as well as the search and information costs constitute the total buying costs to consumers. Consequently, if some sellers offer more information and convenience to customers, it would be possible to justify the discrepancies among the prices within particular market.

(iii) Not every consumer is well educated, many of them, especially in the third world, are illiterate, even though they use sophisticated products. Any information given to them might therefore confuse them.

4. The assumption that the consumer is rational is an ambiguous one. How is it possible for a rational consumer to smoke or drink, bearing in mind, that smoking and drinking might damage their health. If the consumer is rational, he would not regret any purchasing decision he takes. In fact, the consumer regrets many of his buying decisions. It is only possible to determine if a consumer is rational in the sense that he has an instinct for good living. In a word, he is rational in his desire to maximise his expected utility function, but he is not rational by necessity, in the practices of making

his wishes come true.

5. Perfect competition theory requires that all resources must be free to move from one industry to another according to profitability. This assumption is idealistic because it is not feasible for many cases in the short-run. For example, by declining of oil prices, consumers should convert from using coal to oil, but that transfer might bring repercussions. In the short run some miners could lose their jobs, and it takes some time to re-train them for other occupations; some of them might not be able to cope with the new changes, since we are not dealing with machines, but with human beings. More important is it is not in the consumer's hand to change from coal to oil. He is not buying coal or oil from the electricity boards - he is buying heat or light and the decision to transfer from coal to oil is a political one and is taken by the electricity boards.
  
6. In perfect competition theory, the price was taken as the only independent variable,<sup>11</sup> but there are many other independent variables that must not be neglected like product quality, after sale service, before sale service, and packaging.

In conclusion, perfect competition might be attainable at the time of its introduction, but in the contemporary society its assumptions are not

pragmatic. It is possible to re-phrase the assumptions of perfect competition in the sense that competition always benefits the consumer:

1. The fewer the obstructions which exist on entry, the better off will be the consumer.
2. The larger the number of suppliers, the better off will be the consumer.
3. The fewer the concentration of industries, the better off will be the consumer.
4. The greater the availability of information to participants in a particular market, the better off the consumer will be. What matters is not whether an individual is informed or not, but if there is a lack of information, or the existence of misinformation which results in non-competitive practices.<sup>12</sup>
5. The more mobile resources are, the better off the consumer will be.

Homogeneity of products is eliminated from the analysis, becausee homogeneous products accelerate the diminishing rate of marginal utility, as has been demonstrated. The greater product differentiation, marmarginal utility will diminish less rapidly with an increase in the expected utility function.



## Nationalised Industries and Consumer Protection

Technical considerations might make monopoly the only solution to offer some goods or services effectively. In such a situation, there are only three alternatives: private monopoly, public monopoly, or public regulation.<sup>13</sup>

Some believe that public monopoly is a lesser evil than the other two, while others believe that public regulation is the lesser evil. Milton Friedman concluded that private monopoly may be the least of the evils.<sup>14</sup>

From the researcher's point of view, government monopoly is the worst of all evils, at least in the third world, because bureaucracy is so rigid that it inhibits public monopoly in rendering the services expected from it. Besides that, political power in the third world would associate its survival with the reputation of public monopoly. Government monopoly in the third world also provides political power with more economic power, so the problem of power concentration would be aggravated by government monopoly.

In order to generate publicity for the sake of maintaining the political stance, the losses which government monopoly achieved, could easily be promulgated as tremendous profits. Government subsidies could be considered as revenue in profit and loss accounts, while they are actually funds to cover

government monopoly losses. (Such behaviour is fact, and has taken place for example in Egypt, at the epoch of the ex-President Nasir). In any case, the nationalised industries are a burden not only on people as taxpayers, but also as consumers.

According to Robert Bush, government should confine itself to articulating collective demand and leaving the private sector to deal with monopoly, that would make private industry accountable for its performance. <sup>15</sup> What makes things worse is that some governments take over some industries which can operate under private competition. In most cases the argument would not be private monopoly versus government monopoly, but private competition versus government monopoly.

The argument against government monopoly could be summarised as follows:

1. Nationalised industry has a monopolistic power conferred by Statute, so it would be difficult to question its performance, especially in the third world where democracy does not exist.
2. In nationalised industries, governments try to achieve some other objectives besides the services that consumers expect, like decreasing unemployment. Therefore consumers would pay the bills for implementing those government objectives, either in extra taxes or in over-priced and shoddy products.
3. Success could be measured by the rate of return on

investment in private industry, while in the nationalised industries all the measures used to evaluate their performances are not conclusive. For example, in the United Kingdom there are four methods to evaluate the efficiency of nationalised industries. They are as follows:<sup>16</sup>

- (i) Financial targets, such as the rate of return on investment.
- (ii) External financing limit. It is the ability of the nationalised industry to finance its investment from its own funds.
- (iii) Efficiency performance aims. They tend to measure the efficiency of the nationalised industry in terms of productivity.
- (iv) Value for money. The aim would be to impose continuous scrutiny on the ability of the nationalised industry to take and implement policy decisions and monitoring and controlling their use of resources. VFM should be performed independently.

In the foregoing approaches, the performance indicators could be manipulated. By extending the time table, for example, it could be shown that trains arrive in time.<sup>17</sup>

4. In nationalised industries, political issues might penetrate project performance, so most of the economic decisions are restricted by political issues. On the other side of the coin, decisions in



the private industries are more likely to be judged on the impersonal criterion of profit. Profit would help augment the consumer's interest in the long-run in the following two aspects:

(i) The more profit the private industry makes, the more taxes it pays. Those taxes help the consumer by financing social programmes in society, while in nationalised industries, the taxpayer's money finances the mis-management of government monopoly.

(ii) Profit in private industry may be used in research and development. This could help consumer by inventing more alternatives to satisfy his needs.

5. Government monopoly is less likely to respond to any change in the market situation, which entails the transfer of resources to their most profitable uses without delay. This can be attributed to the fact that the management of government monopoly is not motivated by profit as is the case in private industry. The consumer can also be deprived from any future benefits of resources transfer to their most profitable uses. After all, who would persuade a labour government to transfer from coal to oil, if this transfer resulted in making many miners redundant, although this transfer would help consumers in getting cheap energy.

6. In nationalised industries, the profit of one

specific industry could be used to finance the losses of another nationalised industry. This means the consumer is paying less for the products of the second industry and over-paying for the products of the first industry, amounting to a situation of distorted prices. In a word, the consumer will not reach his optimal satisfaction because he is inhibited in equating his marginal utility divided by the price for all products.

In conclusion, nationalised industries could be exploited by government officials in the third world to deflect rather than to respond to the consumer interest. Government monopoly is therefore the worst situation, but private monopoly is not an optimal situation either. The only alternative left is a regulated monopoly. In the U.S.A. a fair rate of return may be determined for natural monopolies, but this does not necessarily ensure that the cost is minimised. Instead it might encourage the regulated monopoly to transfer monopoly profit into costs through a higher level of X-inefficiency.<sup>18</sup>

Determining fair prices and specific levels of services for a regulated industry, with continuous revision of prices to take account of the world growth of technology, might be more pragmatic than determining a fair return on investment. It would also be less disadvantageous to the consumer.

## Free Trade and Consumers Protection.

Reducing restrictions on international trade should help the consumer by making every country specialise in those areas where it has comparative advantages over the other countries. Import and export trade would also be based on the comparative advantages for individual countries. It would, for example, be cheaper for the U.K. consumer to buy goods which require intensive labour from the Peoples' Republic of China rather than buy those goods from British manufacturers. Imposing any restrictions on international trade, especially on those goods for which a country has no comparative advantages, will produce severe repercussions for the consumer.

A country, which imposes restrictions on imports from other countries is hurting its consumers, before it hurt other countries. By depriving itself of the advantages of specialisation the country is also provoking other countries to impose restrictions on the imports from that country. Therefore severe repercussions are the result, especially if the national market does not allow mass production in every industry. Imposing restrictions on imports will not only hurt consumers, but it also hurts employment for the following reasons:

1. Any country who imposes restrictions on imports will

be countervailed by restrictions on its exports.

2. Countries with restrictions on imports will not receive the advantages of specialisation. Productivity would decline, as well as consumer income and consumer spending, resulting in increased redundancy.

On the other side of the coin, freedom of international trade will lead to improved productivity, increased income for the consumer, and more consumer spending, with the opportunity for more jobs. In other words, free trade will increase the real income of the consumer, and this will lead to more consumer demand and more job opportunities for labourers. It is important to notice that the interests of the consumer will enhance the interests of workers in the long-run, while protectionism will destroy the interests of both the consumer and worker.

It is not only the tariff barriers which would hurt the consumer, but even the quota system may affect the import product mix. By substituting higher quality, higher priced goods for low quality items,<sup>19</sup> the quota system can be worse than using tariffs, because the consumer (especially the economically disadvantaged) is deprived from buying low priced products. To cite an example as evidence, after the U.S.A. imposed quotas on the import of Japanese cars, the Japanese car companies substituted higher priced cars for low priced cars in this market.



The foregoing argument is a two way street. In a word it does not hold if a specific country does not impose reciprocal import restrictions, otherwise this country is importing the unemployment of other countries. Possibly the worst trade barrier is the nationalistic barrier, where the citizen of a country discriminates against buying foreign products for nationalistic reason. For example, the Japanese consumer discriminates against imported cars, but Japan exports cars, so Japan is exporting its own potential unemployment to the western world. Besides the productivity, which results from free international trade, the following benefits could be claimed by the consumer.

1. Restrictions on imports will make national producers under no pressure to invest in invention and innovation, and under no restrictions on imports, national producers will be under competitive pressure to invest in new technology to survive. In the long-run, the supply curve of the national producer will shift to the right.
2. Free international trade dilutes the oligopolistic situation which characterises the economic structure of the free market countries. It would also make the emergence of collusion less likely than if there are restrictions on trade, so the consumer would benefit in the sense that free trade would enhance

competition.

3. Free international trade reduces barriers to entry.

In order to enter a particular market, new business firms do not need to invest in production facilities, and instead could enter a market by importing products from well-established firms.

In a study undertaken by Rachel Dardis and Katherine Cooke, it was estimated that the United States consumer loses between 11 billion and 12 billion U.S. dollars yearly as a result of trade restrictions on apparel.<sup>20</sup>

#### Oligopoly in the Western World Versus Monopoly in the Communist World.

Competition is seen as beneficial to the consumer in its contribution to the optimal allocation of resources. On the other hand, monopoly hurts the consumer by encouraging slackness within the economy, so the greater the competition in the economy the better off the consumer is. In the real world perfect competition is not attainable. Monopoly is more common practise in the communist countries than in the free enterprise countries.

The western world is characterised by oligopoly. For example, in the United States of America, between 25% and 33% of manufacturing takes place in industries where four firms control 50% or more of domestic production.<sup>21</sup>



The size of firms in the U.S.A. resulted from government tax policy, where there is a double taxation system. Individual income is taxed as well as the corporation's profits, although capital gains taxes are not as high as those imposed on a corporation's profits. This tax structure encourages the retention of corporate earnings and the sale of stock to dilute the burden of double taxation.<sup>22</sup>

The risk of failure in research and development cannot be undertaken by small firms, only large firms can pool the risk of failure.<sup>23</sup> Furthermore, in concentrated industries investment in technological advances is considerable, which no small firm could afford.<sup>24</sup>

Empirical studies support the contention that profit is directly related to the degree of market concentration and the height of entry barriers.<sup>25</sup> There is no proof, however, that all those profits were at the expense of the consumer. Some profit at least, could be the reward for inventing new technology. Large firms do not only enjoy economies of scale in production and research and development, but also in marketing activities, which could permit rapid market penetration in introducing new products.<sup>26</sup>

There are three areas of criticism in oligopoly, they are as follows:

1. Large firms in concentrated industries may use heavy advertisement to deter new entrants. Those in the

market also have the power to raise prices.<sup>27</sup> Evidence in this area is inconclusive because those companies which do not advertise can gain market share by under-selling their products, without having to bear advertising costs. For example, the American Quaker Company survives without advertising. Furthermore, firms who advertise on television sponsor many programmes on private television stations. If these firms include the cost of advertising in the prices of their products, the consumer would buy the product and the benefit of the sponsored programme. In fact the consumer could get the benefit of the sponsored programmes free if he does not buy the products, but he is obliged to pay for the service of the government television station either in taxes or in the form of a television licence. In a study carried out by Buzzel and Wiersema, it was found that relative advertising changes had only a modest relationship to market share changes, whilst product quality and sales force had the strongest impact on changes on market share.<sup>28</sup>

2. Most economists believe that product differentiation is an obstacle to entering a particular market, but it could be considered as an impetus for more competition, when rival companies compete to differentiate their products. In fact product differentiation is in the interests of the consumer

since it augments the expected utility function. This is especially the case in the rich countries, where the consumer is opulent. He needs to differentiate the products that he consumes to reflect his social status. Otherwise his marginal utility of consuming homogeneous products will diminish rapidly, and he would be deprived of enjoying his affluence.

3. Under the structure of oligopolistic competition, competition will be deflected into non-price competition.<sup>29</sup> Firms in a concentrated industry avoid price competition, fearing a price war, and instead recourse to non-price competition. This could serve rather than hurt the consumer in the following aspects:

(i) Once a price war is started, the consumer might benefit in the short-run, but in the long-run some firms might leave the market, as a result of the price war, and the concentration of the industry will intensify.

(ii) Non-price competition tends to offer more services to the consumer. According to Engel's Law. "as his income rises goods with a higher time-effort cost component will decline in relative importance in the consumer's budget. The consumer can now afford to express a preference for goods that save time and effort."<sup>30</sup>

Non-price competition most of the time tends to offer some other services, besides the expected original benefit of consuming the product. Such services could include home delivery, good packaging, after sale service and so on.

It seems that economists failed again in perceiving that any product is a collective assortment of services.

The real problems of oligopoly, as far as the consumer's interest is concerned, could be summarised into two parts:

1. The "fewness" factor tends to make firms in oligopoly inter-dependent and it might facilitate forms of collusion between firms in the same industry.<sup>31</sup> Even if firms did not reach agreement about collusion, price leadership could be cited. Restrictive practices include price fixing, reducing the supply by taking plant out of production, collective exclusive dealing when a group of suppliers persuade a group of retailers to carry only their products, collective output, deferred rebate, price formation or specialisation arrangement.<sup>32</sup> All the foregoing practices could be prevented by enforcing severe and enforced laws. Restrictive practices are not only common in the free market countries, but are found in many communist countries. Some of the problems to be found in the communist countries are corruption among bureaucrats and the special treatment of some



groups. On the contrary the U.S.A., which is accused of being the leader of the capitalist world, has a very tough law, as far as restrictive practices are concerned. There the per se principle does apply to horizontal price fixing agreements as well as agreements to restrict output, divide markets, allocate customers to particular sellers and collective boycott.<sup>33</sup> Because the collusion agreements are difficult to detect, the U.S. courts are permitted to infer the existence of collusion agreements from surrounding circumstances and there is no need to get direct proof of collusion.<sup>34</sup> On the other side of the coin, the Western European countries, which are less capitalistic than the U.S.A., do not take tough measures against agreements to oppress competition. For example, the law in the United Kingdom considers such agreements contrary to the public interest,<sup>35</sup> but it provides gateways to make such agreements work based on the pretext of securing the public interest, as with the issue of employment and the country's exports. The law in the Netherland and Belgium allows for the correction of abuse, if they are found to exist.<sup>36</sup>

In conclusion, the problems of restrictive practices are found in every country, and it is the burden of the law makers to correct them. The extent of disallowing restrictive practices has no relation whatsoever to

being more or less capitalist. The proof of this is conspicuous; the U.S.A. is more capitalistic than the Western European countries, but it does take a strong stand on restrictive practices.

2. Mergers tend to reduce competition, so it might work against the consumer interest. The law in the Western countries is concerned with the horizontal merger, whilst vertical and conglomerate mergers are neglected, even though they might have indirect effects on the survival of competition. For example, vertical mergers might deny other competitors cheap supplies of raw materials, which might intensify the concentration of industry. Conglomerate mergers might provide few firms with more power in society. T.T. Jones and J.F. Pickering from the University of Manchester's Institute of Science and Technology, proposed that any merger that gives rise to major increases in the inequality of firm size and market share should be prohibited. For example, merger of the two largest firms in any industry should be prohibited.<sup>37</sup>

Less attention is paid to mergers in the Western World, although mergers intensify the concentration of industries, which would affect the consumer's interest in the long-run. The following propositions could tackle the merger dilemma:

1. Vertical and conglomerate mergers should be



scrutinised carefully amongst large firms, as is the case in horizontal mergers.

2. Governments should provide more assistance to small firms, since they are in a disadvantageous position. Small firms borrow money at higher interest rates than the large firms, and they do not capitalise on mass-economy production. The survival of small firms in industries should enhance competition.
3. Government should help ailing companies when unacceptable concentration would be the outcome. For example, the U.S.A. government helped Chrysler to survive, otherwise the passenger cars market would have been more concentrated.
4. Particular taxes must be imposed on mergers, because merger leads to more concentration in industry.
5. Consumer interest must be prior to any other public interest. The latter is however, very resilient to the extent that no one could predict where it lies.

In order to defend the free market countries as far as consumer policy is concerned, one should look at the consumer policy in the communist countries. There consumption is treated as a leak in a continuous cycle of production,<sup>38</sup> so there is greater concern with the expansion of producer goods at the expense of severe shortages in the availability and the quality of consumer goods. This could escalate to the extent that a western tourist could be asked in the streets of

Moscow, Kiev, or Leningrad to sell his shirt or shoes if he wished.<sup>39</sup>

The lack of freedom in communist countries deprives the consumer of his simple right - the right to choose between alternatives (although provision of freedom by the type of the economic system is debatable). Some have exploited the principle of freedom to oppose any government intervention in the economy.<sup>40</sup> Some like Friedman determined that capitalism provides the only protection for personal freedom. According to Robert Wuthnow freedom is subjective to the extent that he questions the freedom provided by the market system.<sup>41</sup>

Trying to avoid bigotry, it could be argued that the market system at least provides economic freedom in the sense that every individual has the right to choose, to produce and to consume. On the other side of the coin, governments in the communist countries decide what consumers should consume by minimising the number of alternatives, while in the free market countries, alternatives are so wide to the extent that consumers are faced with difficulties when making a choice. The main difference between the communist countries and the free market countries is really the freedom of consumers to be protected by enlarging the forum of alternatives in the latter. As far as consumer protection is concerned the following differences could be cited between the two systems:

1. The economics in the free market countries are

mobilised to satisfy consumer needs. Firms fearing their competitors will push them out of the market, are under pressure to innovate and use technology better.

Ultimately this should help the consumer by providing new and cheap products. In the communist countries there is no incentive among bureaucrats to reduce costs or to introduce new products, because managers are not judged by a profit and loss account. In fact, they are judged by their loyalty to the communist party. To cite this as a proof, in spite of the massive natural resources in the Soviet Union, the country is unable to feed its people. (The bitter winter is taken as pretext to defend their failure of their agricultural policy.) This is contrasted to the western countries where there is worry over surpluses of farm product.<sup>42</sup>

Applying the free market system will increase productivity and increase security and income at the lower income level. Such policy has eliminated the servile of class in the U.S.A.<sup>43</sup> To cite another proof from the Peoples' Republic of China, after the Chinese Government abolished the communes and replaced them with a contract system by renting plots to individuals, food production has increased annually by 8% yearly since 1978; that is about 2.5 times the rate of the preceding 26 years.<sup>44</sup> That policy had a real impact on the Chinese consumer to the extent that before introducing the new reform,

the Chinese consumer's dream was to buy "The three bigs": a bicycle, a wristwatch and a sewing machine. After introducing the reform those three bigs became a refrigerator, a washing machine and a television set.<sup>45</sup>

Some might argue that more production in the free market countries leads to more depletion of natural resources and more pollution while pushing the world to its limits, therefore the market system should be eliminated. The pollution and the depletion of natural resources in the communist countries are however more problematic than the western countries.<sup>46</sup> The free market system provides the arena for intellectuals and environmentalists to express their opinion. They can exert some pressure on government as well as business, while not even one demonstration has been cited in the communist world to protest against pollution, the depletion of natural resources or even against nuclear war.

2. The bureaucracy in the communist countries is so acute, that it takes a long period of time to make decisions concerning consumer needs. In a communist country the central party must discover the needs of consumer. In fact the centre cannot perform that in micro-detail<sup>47</sup>, and the managers on the spot have no authority to take important decisions, when they must be told what to produce and where to sell their products. Managers therefore have no incentives to



satisfy the consumer's need, but to satisfy those of their superiors.

3. By government intervention in the communist countries, the authority assumes that bureaucrats know the consumer's need better than the consumer himself, while consumer in the free market countries is free to choose.

4. The consumer in the communist countries make a lot of effort to get the basic needs. He has to stay in line for hours to get shoddy products, since convenience and time saving do not figure in national statistics.<sup>48</sup> By contrast to the communist world, the consumer in the free market system has the choice to make the effort to get what he wants by more shopping and search for products with relatively low prices. Alternatively he could pay more by one-stop shopping, home delivery, buying by catalogue or from specialised stores.

If the money saved, as a result of more search and effort, is more valuable than the value of spent time, the consumer would trade-off search and effort appropriately.

5. Communism leads in the end to government monopolising not only one industry, but the whole economy. Consequently mis-allocation and suppression of resources are sure to result. The profit from government monopoly under communism goes into two streams:

(i) Party officials. For example, in the Soviet Union they have their own private network of well-supplied dining rooms, stores, clinic and clubs.<sup>49</sup> Party officials enjoy those privileges in society when the average citizen stands in line for hours to get a chicken which is very precious. Comparatively speaking the party officials enjoy the life of the American television series "Dynasty".

(ii) To maintain the communist system, the communist countries have to allocate a lot of resources to propaganda and aggression on the free market countries.

6. Under the free market system, the consumer can fight back either by co-operating with other consumers or by co-operating with distributors or producers against the dominant firms.<sup>50</sup>

According to Hirschman's theory, consumers vary in their sensitivity to product and service performance. The level and type of consumer's response depends on their perception as well as the nature of the competition.<sup>51</sup>

Hirschman concluded that in loose monopoly, the more sophisticated the consumer is, the more he would switch to other alternatives, while those who do not switch will swallow their satisfaction.<sup>52</sup> The contention derived by Hirschman was supported by Alan R. Andreasen on physician care in the U.S.A..



He found that the medical care industry in the U.S.A. is characterised by the following attributes:<sup>53</sup>

- (i) The supply of doctors is restricted by the American Medical Association, the Medical Schools and State Licensing Bodies.
- (ii) Loyalty among patients to their doctor is very strong.
- (iii) Patients do not shop around for doctors, since customs in the U.S.A. discourage that.

In conclusion, the consumer in the free market system is less likely to be abused if he is educated and aware of his rights. Educating the consumers would therefore help them to avoid being abused. In the communist countries consumers cannot express their feelings about shoddy products, otherwise they would be accused of committing anti-government activities. The last show in the Soviet Union of consumer complaint was permitted by the authority to discredit the ex-leadership otherwise it would not have been allowed.

7. Under the free market system, profit for business is the mechanism to make the system work. In the communist countries, aggression and police power are the mechanisms to make the system survive. In a word, the free market system uses the carrot and communism uses the stick, so the free market system works and communism never works in respecting the

consumer's choice.

8. Since the level of income in free market countries is relatively higher than that of the communist countries, any abuse of consumer interest in the former will not hurt as much as it does for consumer in the communist countries. This is because marginal utility diminishes rapidly at a higher level of consumption. The consumer in the free market countries has reached the saturation level, while consumers in the communist countries hardly satisfy their basic needs.

#### Conclusion.

Since perfect competition is not obtainable in the real world, it is replaced by workable competition.

In the western world, oligopoly is a fact of life, and mergers have become phenomenal, hence government must intervene to discourage not only horizontal mergers, but also vertical and conglomerate mergers. If not the concentration of industries will worsen and the consumers will pay the price in the future. In discussing the nationalised industries, it is clear that those nationalised industries operate within a market sheltered from competition. The best alternative for nationalised industries is the regulated private monopoly, that is if mass economics allows consumers to benefit from that monopoly. If consumers would not

benefit competition would be the only solution.

Communism will never help the consumer. It kills incentives among people through Marxist objectives of "from each according to his ability, to each according to his needs".<sup>54</sup> This objective will make people lazy, and it is unfair to equate between those who are not equal in qualification and abilities. That is why this objective has not been achieved so far, even in the Soviet Union.

Applying communism or even socialism in the third world will not help the consumers; in fact it gives more power to the state than consumers. It worsens the bureaucracy and red tape which the third world is suffering from. Although some countries have increased their productivity after applying communism, that was temporary because those countries started making progress from scratch. In other words, if they make a little progress, it would be very significant because they started from a very low income level. After they reached the level where the carrot is needed to increase the GNP, rather than the stick, then economic growth will stagnate, so the consumers will never benefit. Even though perfect competition is an ideal that does not exist, monopoly is the real fact of the communist countries, and it is no different from the private monopoly that we study in economic textbooks.

In fact, monopoly is not only in one industry, but it is in the whole economy, it is a communist monopoly.

It is characterised by X-inefficiency and output suppression. The profits of the communist monopoly are given to party officials, and to launch propaganda and aggression wars against the free world and the third world to win the communist argument.

In the free market system the efficient firms are rewarded with growth and profit. Inefficient firms are penalised by extinction. The consumer will not pay for mismanagement or lack of initiation of new technology. Neither will the consumer pay for the cost of financing the disguised unemployment in nationalised industries. The consumer has more alternatives to choose from. The consumer may even co-operate and constitute monopsony. The more educated the consumer is, the more alternatives he has and the more he can fight back. Even the problem of the disadvantaged consumers in the free market countries derives from their inability to cope with the system, rather than from the system itself. Educating those consumers and initiating programmes to transform their disadvantages into advantages, will therefore help them to fight back. This approach appears to be better for the consumer's welfare in the long term rather than direct government intervention.



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CHAPTER TWO

CONSUMER PROTECTION THROUGH MAINTAINING

THE FLOWS OF INFORMATION TO THE CONSUMER

The free market system requires that all participants in a particular market should be informed: the more information the consumer acquires, the more he is protected. But that conclusion is not true in every case, since provision of information to the consumer is not without cost: in fact the cost of information could be classified into three categories:<sup>1</sup>

1. The direct costs of complying with the provision of information law, such as the printing cost.
2. The costs of enforcement.
3. The side effect costs, like advertising substantiation, which can lead advertisers to recourse to "puffery" advertising. This type of cost is difficult to detect or anticipate.

If the cost of being informed is prohibitive, the consumer might discover that he would be better off not being informed. The policy maker should therefore make sure that the consumer would benefit from any proposed law to increase the flows of information otherwise the consumer would end up paying more to process unprocessable information and more taxes for the cost of law enforcement, especially in the case of most of the consumers in the less developed countries who are illiterate.

The foregoing argument could be countered by the concept that provision of information should lead the business community to improve the quality and safety standard of products. It is not true that all individuals in any society are illiterate, and many of them could process product and service information easily.

Provision of information is essential to maintain the free market system. According to Nason and Armstrong, lack of product information cannot be considered as evidence of the failure of the free market system, but it is proof of a premeditated departure.<sup>2</sup>

In the reality of the world economic situation, perfect information is not attainable, and it might cost far more to obtain than it is worth.<sup>3</sup> Provision of information to the consumer should produce the following results:

1. The health effect of food and drugs is not imminent; it might take years to develop diseases caused by the consumption of food or drugs, when it would be difficult to attribute any health problem to a specific product.<sup>4</sup> The cost benefit analysis, as far as health problems are concerned, is not feasible: in such cases provision of information can not be elective.
2. Provision of information to the consumer on prices, quality, service, and safety should prevent any



market failure due to the building of informational market power to some firms. This will help the consumer to have maximum utilization of his resources.

3. Feedback information to business firms that will help them to compete to serve the consumer's needs.
4. Less government intervention, since imperfect information is a good argument for government intervention in the market place.
5. Reduce the cost of enforcing the law, since providing information to the consumer should make him aware of any future problems concerning the purchased products and services. Consequently, he should not hold the seller responsible for further product failure, since that failure was anticipated by the consumer, before he made his choice.

Furthermore firms enforce their own compliance out of the consumer's support and self control rather than from fear of governmental compliance action.<sup>5</sup>

6. Since consumer cannot estimate the running and maintenance costs of durable goods and he allocates a considerable portion of his income to buy them, provision of information concerning their quality, prices, service and guarantee can not be elective.
7. Discourage business firms discriminating amongst customers on the basis of knowledge or sophistication by charging the non-searcher consumer

higher prices or providing him with lower quality than is offered to comparative shoppers.<sup>6</sup>

The following subjects will be discussed in this Chapter:

1. Theoretical analysis for the provision of information to the consumer.
  2. Informational remedies, which include:
    - (i) Increasing the flows of information to the consumer.
    - (ii) Advertising substantiation.
    - (iii) Making consumer information more processable.
- 
1. Theoretical Analysis for Provision of Information to the Consumer.

What makes the study of the economics of information a formidable task is that most demands for products and services are derived from the demand for products and service themselves, when the consumer demands information to maximise the satisfaction derived from consuming products and services.<sup>7</sup>

The economics of information is characterised by public good properties, since the non-searcher consumer can receive advantages of the effort of the searcher consumer; the informed consumer produces ("free rider" externality) for the less informed consumer.<sup>8</sup>

Consumers as well as businesses have self-interests in providing more processable information to participants in a particular market: lack of information offers a reasonable base for government intervention. In order to avoid government intervention, the informational gap between consumer and business should be bridged. Without bridging, or at least shortening that gap, there will be no feedback information from consumers to businesses; in fact information from consumer to business helps business to anticipate the consumer's needs, which intensifies the competition among business firms to serve those needs.<sup>9</sup>

The consumer can improve his buying power by searching for product information which will increase his real income.<sup>10</sup> Information therefore should provide the consumer with many attributes of products and services, not only in terms of prices, but also in terms of quality, safety, guarantee and service. With the absence of information on those attributes, competition puts more emphasis on prices at the expense of degrading the other attributes including the quality as well as the safety factor.<sup>11</sup> From the researcher's point of view, the ignorance of the consumer, in the less developed countries, of product attributes other than the price was exploited by the Japanese and some other Asian firms. On the other side of the coin, if consumer believes that low price indicates low quality, he will associate higher price with high quality,

consequently price competition could disappear.<sup>12</sup> When the consumer fails to distinguish between products in terms of quality and safety, he might depend on other observable attributes, which will then make business concentrate on those attributes, like improving the exterior condition of used cars.<sup>13</sup>

The information gap between consumer and business may induce even smaller firms to maintain market power, not only over prices, but over all the other attributes.<sup>14</sup> Salop has shown that: "a firm with market power may contrive either price or quality dispersion in order to price discriminate against consumers with less information or reduced ability to discover the better value."<sup>15</sup>

According to Akerlof, if a party to a particular contract has informational power over the other party, that power can lead to the destruction of that market; for example, bad risk buyers are attracted to buy insurance policies, that lead to "hike" in premiums and deter good risk customers, which then destroys the whole insurance market.<sup>16</sup> In order to improve the efficiency of the consumer's buying decisions, assuming the quality of products is the same, the number of shops to be visited by particular consumer should be determined by balancing the cost of search against the expected reduction of prices resulted from visiting extra shops.<sup>17</sup> Under perfect competition the search cost is zero and the market should reach the equilibrium



price; at this stage no firm has any incentive to reduce its price, because the competitive price is at the minimum point of each firm's average cost curve.<sup>18</sup> But in the real world search effort is difficult to quantify in monetary terms, since individuals differ in balancing the search cost against the saving as a result of extra search. Since perfect competition is not attainable in contemporary society, search cost cannot be zero, and there is no way to reach the equilibrium price for the following reasons:

1. Firms in any particular market vary widely in size, so the average cost per unit differs according to the level of production.<sup>19</sup> The possibility for having equilibrium price is therefore eliminated.
2. Besides the tangible utility that is derived from buying products, there are other benefits that consumers can get from buying products, such as showing social class by buying from elegant stores, or getting convenience when the consumer is shopping.
3. Consumer information may be part of the price tag. For example, some consumers might prefer to buy from large stores because they can find many alternatives. In fact, the variety of alternatives in one store reduce the cost of comparing between brands, so when the prices in that store are



relatively higher than those in small stores, that could be tolerated by the consumer, since the variety of brands in the one stop has reduced the search cost for the suitable brand.

4. The marginal utility of money is different from one consumer to another, therefore balancing the cost of search against the reduction in prices resulted from committing more search is different from one consumer to another. But the policy maker can capitalise on the pure theory by advocating informative advertising<sup>20</sup> and by reducing shopping costs, as well as making shopping more convenient. That should move the prices of products to approach the equilibrium level.

Not providing the consumer with information can be considered a deceptive act: deception does not involve only misinformation or preventing the flow of information, but also providing true, but incomplete, information to lure the consumer to make the wrong decision.<sup>21</sup> In the long run deception is expensive for the consumer on realisation that incomplete information was offered to him. This is not the case every time as competitors also share the same negative behaviour, refraining from countering each other's claims.<sup>22</sup>

In conclusion, the consumer can be hurt by denying him product information at the right time, since

obstruction to the flow of information leads to making the buying decision that does not maximise the consumer's utility function. Thus, lack of information causes the market place to behave non-competitively. Reducing the cost of comparison shopping as well as the search costs has a key role in making the market place approach the competitive situation. Information is supposed to help the consumer to have a better choice, although there are some doubts about the ability of the consumer to digest all the available information.<sup>23</sup> The disclosure of information about prices should be accompanied with the disclosure of information about quality, otherwise increasing the availability of information about prices will result in degradation of quality.<sup>24</sup>

## 2. Informational Remedies.

Informational remedies can be classified into three parts as follows:

- (i) Increasing the flows of information to the consumer.
- (ii) Advertising substantiation.
- (iii) Making consumer information more processable.

(i) Increasing the flows of information to consumer:

Consumer information provides the consumer with the opportunity to trade off between quality and price. It also reduces the risk of government regulation which imposes a single solution on business as well as consumer.<sup>25</sup>

When business has no incentive to supply consumer with information, then government should bring affirmative disclosure; for example, tobacco companies have no incentives to reveal the health hazard of smoking, therefore government had no choice other than bringing a compulsory disclosure on the package of tobacco.

It is not true that consumer information brings more protection to consumer in all the cases; more information may well be harmful to consumers in some cases for the following reasons:

1. Too much information can hurt the consumer by confusing him; that is the concept of overload, although experiments fail to support that concept, but lacking the support of experiment is not sufficient to refute that concept.<sup>26</sup>

The concept of overload is a matter of relativity, since a specific amount of information might confuse some consumers, but it could help some other consumers. In the less developed countries, for example, a little amount of information could

confuse the consumer, because the general education is lacking. Even though there is some evidence that consumer education increases the number of functional dimensions that are salient,<sup>27</sup> consumer education never helps, unless the general education of consumer is improved. How can the prices of two brands be compared when consumer is illiterate?

2. To guarantee that consumer information helps the consumer, the informational measures must be standardised, otherwise consumer deception could occur. For example, the consumer could fail to compare the prices of two brands if the contents were given under two different systems.
3. When the consumer does not utilise the available information, the problem of non-use arises. In other words the consumer is paying for information that he does not need.

In order to facilitate the flows of information to the consumer, restrictions on information must be removed because such restrictions strangle competition. For example, lawyers are not allowed to use broadcast media to advertise their services in some states.<sup>28</sup> Advertising of eye glasses and eye examination is also banned in some states on the grounds of public policy and expected substantial injury to consumer.<sup>29</sup>

Studies have however proved that prices were substantially higher in states that banned eye glasses



advertising than in those states which impose no restriction.<sup>30</sup>

Advertising can reduce the prices of products and services for the following reasons:

1. Advertising produces economies of scale in production and distribution. Firms with high fixed costs are motivated, since increasing their sales reduces the fixed cost per unit.<sup>31</sup> Advertising therefore plays a key role in establishing firms with large scale production and marketing facilities.
2. Advertising increases the efficiency of communication and marketing. Committing more advertising may reduce the need for employing other marketing communication tools like personal selling, therefore no one could claim that advertising increases the cost of marketing.<sup>32</sup> In fact "advertising is maintained by the business community to be the cheapest way of letting consumer know about a product".<sup>33</sup>
3. Advertising can reduce the cost of search, although such a statement is difficult to verify quantitatively.<sup>34</sup> In order to understand the conflicting views of those who believe that advertising reduces the prices of products and those who believe that advertising increases the prices of products, there are two schools of thought concerning this matter:



- (i) The first school of thought claims that advertising = information. By providing more information on advertising, more competition and price sensitivity results.<sup>35</sup>
- (ii) The second school of thought claims that advertising = market power. Since the purpose of advertising is to increase consumer loyalty, then higher prices and more profits will be the result of advertising.<sup>36</sup>

Each of the mentioned schools has empirical evidence to support its claims, the first school looked at consumer prices, while the second school looked at factory prices.<sup>37</sup> That conflicting evidence can be explained by Steinser's theory which states that: "Retailer and manufacturer face different demand functions, if manufacturer can generate strong consumer demand by capitalising on extensive advertising, he is able to sell to the retailer at higher prices. That will not necessarily mean higher prices for consumers, retailers might resort to lower their gross margin and prices to be able to compete with other retailers".<sup>38</sup>

Restrictions on the advertising of professional services in some countries are based on the fear of quality deterioration, but if consumer is sophisticated enough, he will not neglect the quality information. It would be more beneficial if policy makers cause advertisers of professional services to disclose quality

information besides the prices, instead of banning professional services advertisements. For example, the Swedish experience in consumer policy is unique in obliging advertisers who provide persuasive commercial information to give more product information about the advertised products as part of the commercial advertising<sup>39</sup>. Such obligation has the following advantages:

1. Advertiser will be motivated to develop the quality of his product to avoid supplying discouraging information, consequently under such consumer policy, product quality should improve.
2. Since business is taking over the responsibility of offering product information, it is expected that the cost of communicating that information to be the least.<sup>40</sup>

Since business could avoid providing product information by not committing any commercial messages, such a policy could complement a consumer educational programme, but it would never replace it.

(ii) Advertising Substantiation.

According to the views of Nader and Cowan, advertisers do not provide the consumer with the right information to help him to make the right decision, in fact advertisers might provide false claims about products to mislead consumers.<sup>41</sup> Most advertisers are

unwilling to support their claims with scientific evidence, when it is requested by the public, pretending that such disclosure could hurt their business.<sup>42</sup>

Claims could be classified into two types:

1. Data or factual claim. It is defined by Holbrook "as logical objectively verifiable description of tangible product features."<sup>43</sup> It is those claims that could be proved by scientific test. Example of data claims are "1 out of 4 dentists use...." or "50 miles per gallon on the motorway".
2. Puffery or evaluative claim. It is defined by Holbrook: "as emotional subjective impressions of intangible aspects of the products".<sup>44</sup> Puffery claims do not imply any scientific proof to support those claims. Example of puffery claims are "it tastes great" or "it makes you smile better".

In the U.S.A. the Federal Trade Commission (FTC) obliges advertisers to supply (upon request) the commission with appropriate supporting data for claims made in advertising<sup>45</sup> and consumer has direct access to such information through the FTC. Due to time and confidentiality in disclosing such information to the public, however, the FTC exempted substantiation material from public disclosure.<sup>46</sup>

In a study performed by Kenneth and Patti it was

found that less than 20% of the total number of claims investigated were judged to have been substantiated.<sup>47</sup> This result was confirmed by Carol H. Anderson who found that only 21% of all original requests are successfully substantiated.<sup>48</sup>

By advertising substantiation, the policy maker is transferring the burden of proof to the advertiser in the most sophisticated way for consumer protection.<sup>49</sup> It is essential to oblige advertisers to substantiate their claims, otherwise, the policy maker opens the way for advertisers to deceive the consumer. It is not necessary to allow the consumer recourse to ask for advertising substantiation directly from advertisers; the latter are more likely to refrain from providing any valuable information to consumer. It is therefore pragmatic to oblige advertisers to submit advertising substantiation to an independent agency before they commit advertising. It is difficult to prove that advertising substantiation protects the consumer in all the cases; it has been found that advertising substantiation leads advertisers to resort to puffery claims, at the expense of data claims. In a study of the relationship between the amount of information available to consumer and advertising substantiation, performed by Healey and Kassarian, it was found that "industries without substantiation were increasing the amount of information available to consumers, while the industries with substantiation were staying constant.



This is an effect opposite that desired by the FTC or consumer group".<sup>50</sup> But on the other side of the coin, it is not only the amount of information available to the consumer that matters, but also the accuracy of factual claims. At least advertising substantiation helps the consumer in the sense that it discourages advertisers of advertising data claims, which cannot be proved in the laboratory.

In order to protect the consumer, the policy maker must complement advertising substantiation by regulating puffery claims. He should ensure puffery claims are reasonable and the layperson can disbelieve them. There must also be more concern with puffery claims directed to disadvantaged consumer groups, such as the elderly, children and the non-educated groups. Puffery claims might be stronger than the data claims for the following reasons:

1. What puffery claims lack in scientific substantiation is compensated for by novelty reception and desires created by advertising fascination.<sup>51</sup>
2. Consumer is motivated to ignore or minimise cognitive inconsistencies in order to avoid psychological discomfort.<sup>52</sup>
3. It is impossible to refute puffery claims.<sup>53</sup>

In a study performed by Shim and Yokum on the impact



of deceptive advertising on actual purchase behaviour, it was revealed that: "evaluatively deceptive advertising was neither more nor less effective than factually deceptive advertising."<sup>54</sup>

In conclusion, the policy maker should make sure that puffery claims do not reach the exaggeration point, otherwise, such claims can be considered deceptive. According to Oliver, "due to the creation of high viewer inspections, puffery claims may be the equivalent of literal deception",<sup>55</sup> because deception is defined as "having the capacity or tendency to deceive".<sup>56</sup>

In order to protect the consumer, the policy maker can use corrective advertising as a recourse, but corrective advertising implies a high level of misconception.<sup>57</sup> Therefore, the lesson is learned that policy makers should adopt precise and preventive advertising law, which would be better than allowing advertisers to deceive the consumer, and then obliging them to undertake corrective advertising.

(iii) Making Consumer Information More Processable.

In order to make sure that the consumer benefits from available information, the policy maker must keep in mind that the processability of information is as important as the availability of information - otherwise, there is no value to consumer information, and in fact information could be costly to consumer.

Because it is difficult to rationalise consumer behaviour, and it could differ from one society to another, and between individuals in the same society, there must be a tremendous allocation of resources to study consumer behaviour in the processing of information.

As far as consumer information is required there are two schools of thought:

- (i) The first school claims that the availability of information should be guaranteed, regardless of its processability, since consumers have a legal right to be informed. In turn that will convince business to release more information, giving an incentive to improve the quality of their products to avoid providing discouraging information.
- (ii) The second school represents persons who are dealing with consumer behaviour. It claims that there are limits to the ability of the consumer to digest and assimilate information, and once those limits are surpassed, information confuses the consumer.<sup>58</sup>

In order to reconcile these conflicting schools of thought, information given to consumer should be more processable.

There are two observations concerning the current

studies of the processability of information:

- (i) Many of the researches have used university students as subjects. Such researches cannot be reliable in formulating consumer policy, since students do not represent the whole society.
- (ii) Many of those researches reach conflicting results; in a word, they could not be considered as conclusive.

We will discuss some of the literature on the processability of information as follows:

1. Presenting information to the consumer. There are three ways to present information to the consumer:

- (i) Brand processing. The consumer examines all or most of the attributes of particular brand at a time, then examines another brand.
- (ii) Attribute processing. The consumer examines a particular attribute across several brands, then another attribute is considered.<sup>59</sup>
- (iii) Matrix format processing, where columns represent brands and rows represent attributes.

It has been confirmed by research that the format used to present information affects the processability of that information.<sup>60</sup>

Most studies have found a tendency toward more

processability by attributes. That could be justified by the fact that alternatives under attribute processing could be easily compared using the same units.<sup>61</sup> It was found by Bettman and Zins however, that matrix information was overwhelmingly chosen and took less time to process, but was only made available in consumer reports.<sup>62</sup>

2. The ability of the consumer to process information is limited. It was proved by research evidence that the consumer has limited tolerance for the cognitive strain induced by the information processing task.<sup>63</sup>

It is not only that information will be lost in the process, but also that providing the consumer with a substantial amount of information could lead him to unwise buying decisions.<sup>64</sup> When the consumer faces complicated situations, he tends to simplify the situation by eliminating some of the alternatives, and that is called bounded rationality.<sup>65</sup>

3. The effect of prior information and experience. It was confirmed by Bettman and Park that consumers who have moderate prior product information depend on prior product information less than those who have more or less prior product information. This could lead the moderate group to do more processing of the currently available information.<sup>66</sup> That could be justified by the fact that the groups who have less



prior information lack the stamina to digest the currently available information, so they rely on past experience. Accordingly the groups who have less prior information tend not to change their attitudes about products easily. Policy makers must take that into consideration when formulating consumer information policies in the less developed countries. Consumers in those countries tend to possess little prior knowledge about products, therefore the advertising law should aim to prevent misrepresentation in advertising.

4. The relationship between the amount of product experience and the amount of external search. The relationship was found to be negative, and can be explained by the following two factors:<sup>67</sup>

(i) The experienced consumer does not need to acquire information from external searches because he possesses prior information about the attributes of various alternatives.

(ii) The experienced consumer knows which attributes are the most useful for making his choice, therefore it is expected that he performs more efficient information searches.

5. Objective and subjective knowledge. Objective knowledge refers to what consumer actually knows about products, while subjective knowledge is



the consumer's degree of confidence in his/her objective knowledge.<sup>68</sup>

It was confirmed by a study performed by Merrie Brucks that search variability increases as objective knowledge increases, and the search for inappropriate alternatives decreases as objective knowledge increases.<sup>69</sup>

6. The effect of missing consumer information. Two models were developed concerning the effect of missing consumer information:<sup>70</sup>

(i) The averaging model. The importance of particular attribute varies according to the weights of other attributes to be added. The value of particular attributes therefore increases when other attributes are missing, and it decreases as other attributes are presented.

(ii) The adding model. The value of every product attribute is independent from the other attributes. In other words, adding more attributes will not increase or decrease the value of a particular attribute in the consumer choice.

Tests have favoured the averaging model over the adding model. This aggravates the problem choice for

consumer, becausee advertisers capitalise on the averaging model by presenting the most favourable attributes about products, ignoring the other less favourable attributes<sup>71</sup>. Therefore, the policy making role is to make business disclose information about all product attributes.

7. Information presentation and learning goals. There are two types of consumer learning situations:<sup>72</sup>

- (i) Intended learning, where the consumer processes information, bearing in mind that he will benefit from that information in future purchasing decisions.
- (ii) Accidental learning, when information is acquired without having any acquisition intentions.

According to Krugman's low involvement model, "print media require an active audience to gain message effect, but television can influence a passive audience. In addition, advertising for trivial products is of so little interest to these passive viewers that their selective defense mechanism are weak or inoperative over massive repetition, the message will eventually filter through and re-arrange the viewer's cognitive structure, thereby repositioning the product in the viewer's mind. This change takes place with out awareness".<sup>73</sup>

In other words, the accidental learning situation has repercussions on consumer interests, therefore policy makers require to have more regulation on television commercial than the other media commercial.

### Conclusion.

The flows of information are necessary to maintain the free market system, although perfect information is not attainable under the circumstances of the contemporary society.

The cost of securing more information must be balanced against the benefits to the consumer derived from that information.

Reducing shopping cost, and making shopping more convenient, as well as advocating informative advertising, move the market place towards the competitive situation.

As a general rule, information helps the consumer to make the best of his resources. This is not the case every time, however for example, when the consumer cannot digest the product information, he is confused by more information. Therefore, he resorts to limiting his choice by eliminating some of the available alternatives.

Restrictions on the flow of information must be removed, since such restrictions smother competition: it was found that the prices of eye glasses in the States

that ban advertising of eye glasses are higher than those in the States that impose no restrictions on eye glasses advertising.

Advertising substantiation aims to help the consumer by preventing data claims that cannot be scientifically proved. It has an adverse effect when advertisers take recourse in puffery claims at the expense of data claims. Advertising puffery claims are often stronger than data claims, especially in television commercials. Therefore as a policy requirement, data claims are an essential requisite of a commercial message.

The policy maker should consider the processability of information as important as the availability of information to consumer, otherwise any consumer information policy will never help consumer. Most of the researches performed on the field of the processability of consumer information have taken students as subjects; those students do not represent the whole society, therefore, the policy maker should be wary about the conclusion of those studies.

From the researches in the processability of information, the following conclusions, concerning consumer policy, have been drawn:

- (i) Since the format used to present information affects the processability of that information, the policy maker must establish guide-lines with the business community, about the best



format to be used to present information to consumer.

(ii) The consumer has limited ability to process information, and too much information confuses him, therefore product information requires to be precise and concise, in clear language with a unified standard of measure.

(iii) The consumer with less prior experience relies on his prior information, and is less likely to use available information. This implies that it is difficult to change the attitudes of such a consumer. Preventive advertising law is therefore better than relying on corrective advertising, which acts to add more confusion to consumer's mind.

(iv) Since the relationship between the amount of product experience and the amount of external search was found to be negative, consumer policy must emphasise the need for business to make shopping convenient, as a way to increase the amount of external search and to facilitate the search of consumer with lesser product experience.

(v) Since it was found that search for inappropriate alternatives decreases as objective knowledge increases, increasing the objective knowledge for consumer renders his search more efficient.



- (vi) Since tests have supported the averaging model over the adding model, it is important that all product attributes are disclosed, otherwise, business can capitalise on the averaging model by presenting only the most favourable attributes of their products.
- (vii) Since print media requires an active audience, and television does not, to persuade consumers the policy maker should be aware that the advertising law in print media is based differently from that in television, and hence needs to be more regulated than print.

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CHAPTER THREE.

PROTECTING CONSUMER  
THROUGH SELF-REGULATION.

Government regulation versus self-regulation is a vital subject as far as consumer protection is concerned. This chapter addresses itself to the role of self-regulation in protecting the consumer's interests; it also reconciles government and self-regulation as well as investigating the conditions suitable for self-regulation to emerge.

The following subjects will be discussed in this chapter:

1. Theoretical foundation for self-regulation.
2. The pros and cons of self-regulation.
3. The problems of self-regulation.
4. Setting standards and self-regulation.

Special attention will be paid to advertising self-regulation for the following reasons:

1. Advertising should provide more processable information to the consumer. If the flow of processable information is guaranteed, then most of the consumer's problems would vanish, government intervention would be at minimum level, and private regulation would be unnecessary to protect the consumer in any aspect other than the flows of information to the consumer.

2. Since advertising self-regulation does not only regulate the advertisement of a specific industry, but



it regulates the advertisements of all industries, the problem of anti-trust in advertising self-regulation should not come to the surface. This could be attributed to the large number of advertisers from all industries.

### Theoretical Foundation for Self-Regulation.

There are three levels of self-regulation in marketing:

1. Corporate social responsibility.
2. Industry self-regulation.
3. Business self-regulation.

### Corporate Social Responsibility.

Social responsibility could be defined as "the obligation of the firm beyond the requirements of the Law, to take into practical consideration in its decision making the social consequences of its decisions and its action as well as profit."<sup>1</sup>

This definition reconciles the definition of Milton Friedman which states that the profit maximisation is the only responsibility of business, and that of others who deny business its right to make profit.<sup>2</sup>

Since the role of marketing goes beyond inducing and satisfying consumer needs to influencing the social values of consumers and their life style,<sup>3</sup> marketing

practitioners can play a key role in maintaining good environment by behaving ethically. In order to behave ethically, business firms should adopt a code of ethics which forbid unethical behaviour and reward ethical behaviour.<sup>4</sup> If all business firms behave ethically, there will be no room for any private or government regulations. But not every firm responds to its social responsibility, although sensitivity to social responsibility could be in the long-run interests of business, since it provides the environment for de-regulation. Levitt suggests that the *raison d'être* for insensitivity of business to social responsibility is its total commitment to achieving day to day profit maximisation.<sup>5</sup> In conclusion, it is not expected that every firm adopts a code of ethics that prohibit the marketing practitioner of committing unethical behaviour.

#### Industry Self-Regulation.

Self-regulation in marketing is defined by Lazer as "the willingness to voluntarily construct and comply with standards, codes, and rules governing market practices and to use marketing techniques, concepts and knowledge to enhance business and social ends to alleviate the social consequences of marketing policies, decisions and actions."<sup>6</sup>

To make self-regulation effective, all firms in

a specific industry must abide by its rules, otherwise, self-regulation would be useless. The obedience of business firms to the rules of self-regulation could be considered as a public good. According to Olson "it is not in the interest of a group member to contribute to the costs of providing such goods, since their availability is not contingent on a firm having contributed, and each firm has a rational incentive to free-ride."<sup>7</sup> Therefore, Olson concluded that "a collective good will not be provided unless there is coercion or some outside inducement."<sup>8</sup>

Russell Hardin pointed out that "the logic underlying Olson's theory of collective good is identical to that of an n-person prisoner's dilemma (PD), the strategy of not contributing toward the cost of a public good dominates the strategy of paying for it, in the sense that no matter what other firms do, any particular firm will be better off, if it does not contribute."<sup>9</sup>

Ford Runge contested the concept of (PD) substituting instead the (AP). According to his theory "the group member (ie., the firm) does not withhold its contribution to a public good based on a rational calculation of the costs and benefits involved (as with the PD) but rather does so because it is unable to obtain the necessary assurance that other firms will contribute their fair share."<sup>10</sup>

Regardless of the differences of (PD) and (AP)



theories, both of them predict that some business firms will not abide by the rules of self-regulation, either for the purpose of profit maximisation or because they are not sure that other firms will stick to the rules of self-regulation. Therefore firms who stick to the rules will be placed in disadvantageous competitive situations. Industry self-regulation could then work out against the interest of consumer if an industry is controlled by a small number of business firms, where self-regulation could discourage competition by creating more obstructions to entry into the market place.

#### Business Self-Regulation.

Business self-regulation may be more effective in serving the consumer interests, since such a mechanism of business self-regulation can include a large number of sellers, where it would be less likely for one firm or one industry to dictate the rules of the game. Furthermore, since business self-regulation includes regulating the business of all industries, there will be no room for designing detailed rules for regulating every industry. The problem of collusion therefore will not be associated with self-regulation. Instead the rules of self-regulation will cover the general conduct of business and the practices of conveying information to consumer.

Ian Maitland concluded that business self-regulation



with a peak organisation would work out in the U.S.A. for the following reasons:<sup>11</sup>

1. American political culture is so individualistic that interest groups have no integral place.

2. Associations have not been officially incorporated into the process of policy formulation. For example, the U.S. government deals directly with individual firms and not with associations. One of the major limitations of business self-regulation is the possibility of violating its rules by a handful of major firms.<sup>12</sup>

In conclusion, the best solution is corporate social responsibility, but it contains the temptation for firms to violate the rules of self-regulation either to make more profit (PD) or because of the lack of assurance that other firms will not violate the rules of the game (AP). Business self-regulation is more likely to serve the consumer's interest than industry self-regulation since the largeness of membership would prevent any firm and any industry dictating the rules of business self-regulation, although its effectiveness could be questioned if some large firms violate the rules of the game.

The Conditions for the Formulation of Viable Self-Regulation.

Consumer associations and marketing executives differ in their attitudes to the ability of self-regulation to serve the consumer's interests. The majority of marketing managers believe that business is capable of regulating itself, while the majority of consumer advocates think that self-regulation is not a workable concept.<sup>13</sup>

Regardless of the attitudes of business people and consumer advocates about the effectiveness of self-regulation in maintaining the consumer interest, there must be pre-conditions for self-regulation to be effective. These pre-conditions are as follows:

1. Since self-regulation requires the participation of business firms, industries and consumer advocates to determine the rules of self-regulation in a democratic way, self-regulation would be a nightmare for the less developed countries, because they lack cultural democracy, hence disputes could not be solved in a democratic way. Less developed countries lack democratic tradition, interest and resources to establish self-regulatory system.<sup>14</sup>

In order to establish a self-regulatory mechanism, we should first have government regulations, but since the less developed countries are characterised by lack

of adequate consumer protection regulations, self-regulation is out of the question.

2. Self-regulation may well work out to protect the consumer in a market approaching perfect competition. In such a situation the market mechanism could provide a check and balance on self-regulation. But on the other side of the coin, if there are fewer sellers who dominate the market, self-regulation can be used to augment the interests of the dominant firms.

If consumers have considerable power, and a limited number of producers do not dominate the market, self-regulation will work in the interest of consumer.<sup>15</sup>

3. A distinction must be made between those fields that require government regulation and those that could be regulated by business. For example, the control of pollution can not be regulated by business, since profit and growth could easily blind business to the long run consequences of pollution.<sup>16</sup>

4. Compliance with the rules of self-regulation can not be left to the whim of business firms.<sup>17</sup>

5. Although there is outcry in some countries to reduce government regulation, no one has suggested the abolition of the government mechanism.<sup>18</sup> In fact self-regulation cannot be a viable alternative, unless



there is a threat of government regulation. Therefore in the absence of government regulation, self-regulation will never cross the mind of business people. Self-regulation only complements government regulation, it cannot replace it.

6. There must be outside participation not only in enforcing the rules of self-regulation, but also in setting them.

7. The public should be aware of the self-regulatory mechanism, otherwise the consumer will not get any benefit from self-regulation.

8. To have viable self-regulation, the consumer movement must be strong enough to exert pressure on business people to make them sensitive to the consumer interest. In a cross national survey of consumer attitudes in the developed countries, it was concluded that there is a strong belief among consumers that the consumer movement is responsible for the positive change in the performance of business.<sup>19</sup>

#### Pros and Cons of Self-Regulation.

The cons of government regulation paved the road for the emergence of self-regulation. The cons of government regulation can be summarised as follows:



1. Once government starts to introduce regulations, those regulations start to proliferate. Business finds its way to get round those regulations, then government introduces new regulations to close the loopholes, which have been discovered by business in the previous regulations. The process will continue until government regulations become rigid and complicated.<sup>20</sup> Introducing new regulations will only induce business to invest subtle ways to evade them.

2. Government regulation is so rigid that it requires uniform application without any consideration to the surrounding circumstances.<sup>21</sup>

The rigidity of government regulations cannot be overcome, since they set norms for the behaviour of society. If legislation takes account of the surrounding circumstances for each case, then society will end up with draconian regulations. This rigidity could bring more obstacles to new-comers in business; small business cannot incur the costs of complying with extensive government regulation, therefore self-employment and the formation of new, small businesses may be discouraged, and consumer interest denied the effects of competition, as obstacles to new-comers are created.

3. Setting and changing government regulation is time consuming.<sup>22</sup> By taking a long period of time to debate

drafts, the surrounding circumstances could change, and the new regulation will not fit the new situation.

4. Government regulation is difficult and expensive to enforce, for example, in a very developed country such as the U.S.A. it could take up to ten years to get a complaint handled through government agencies and courts.<sup>23</sup>

The delay in enforcing justice would inhibit many consumers to file a complaint, therefore, government regulation could be considered as a window dressing, if it is not enforced.

Because of the difficulties in protecting consumer via government regulation, self-regulation could be the answer to the dilemma of trying to protect consumer interests in the short run, while preserving the long-run benefits of freedom.<sup>24</sup>

The pros of self-regulation are as follows:

1. Self-regulation is flexible to the extent that it allows the market to maintain its flexibility by anticipating the future needs of the consumer.<sup>25</sup>

Self-regulation is less likely to limit consumer choice.

2. Self-regulation involves business people who are more knowledgeable about business than bureaucrats.<sup>26</sup>

3. Since enforcing the rules of self-regulation is the responsibility of business associations, government agencies would be able to divert their resources to areas of business where consumer is not protected by self-regulation.<sup>27</sup>

4. Self-regulation addresses issues which are not addressed by government regulation, like advertising taste, fear appeal and degradation of societal groups.<sup>28</sup> Government regulation only sets a minimum standard of behaviour, while self-regulation can set out minimum requirements for the provision of product information.<sup>29</sup>

5. Self-regulation should act to reduce government intervention, which imposes a single solution. Government regulation could serve the consumer's interest only in the short-run, while neglecting his interest in the long-run through smothering the creativity and efficiency of marketing.<sup>30</sup>

6. Self-regulation is less costly to enforce than government regulation which can be attributed to two factors:

(i) In order to alleviate the unemployment problem government over-employs bureaucrats who enforce the government regulation.

(ii) The cost of self-regulation is fully borne in



the market in which the regulation is imposed; economic efficiency dictates that those costs should be borne in the market that is regulated.<sup>31</sup>

7. In a study performed by Labarbera about the effect of self-regulation and government regulation on the credibility of firms without a known reputation, it was concluded that self-regulation was more effective than government regulation in increasing the intent to purchase the brand of the no-reputation firm,<sup>32</sup> thus increasing market competitiveness.

Besides the problem of enforcing the rules of self-regulation and the collusion which could be caused by self-regulation, the following could be considered as cons for self-regulation:

1. One of the major drawbacks of self-regulation is that its activities are executed in secrecy. This could be partly attributed to the fact that government and consumers do not participate in those activities.<sup>33</sup> To cite this as a proof, in a study of the National Advertising Division of the Better Business Bureau and the National Advertising Review Board at the University of Illinois, it was found that less than 5% of the American public were aware of the self-regulatory mechanism.<sup>34</sup>



2. Because business firms are motivated by profit and growth, self-regulation could lead to decisions that emphasise the interests of business at the expense of the interests of society.<sup>35</sup>

What makes matters worse is that there is no parliamentary supervision on self-regulation.<sup>36</sup> Self-regulation is introduced to alleviate the threat of government intervention, therefore without government intervention, self-regulation will never exist. Business always waits until the last hour to propose voluntary rules.<sup>37</sup>

3. The high cost of government regulation does not indicate that self-regulation is costless, in fact, sometimes it could be more costly to consumer than government regulation. For example, preventing people who want to enter the market place through setting voluntary standards by trade associations could represent a high cost to the consumer by preventing competition in the market place.

4. Self-regulation lacks the reasonable participation of consumer advocates.

5. Self-regulation could be used to slow down the development of consumer law.<sup>38</sup>

In conclusion, self-regulation has advantages and

disadvantages, and there is no firm benefits to the consumer. It can be applied however, in a society where democracy allows the voice of the consumer to be heard, and where the market place is not dominated by a few firms.

#### The Problems of Self-Regulation.

Self-regulation could lead to two main problems:

1. The problem of enforcement.
2. The problem of collusion.

#### The Problem of Enforcement.

Self-regulation cannot be effective, unless it is enforceable. Many firms could undertake positive steps to stick to the rules of self-regulation, but some other firms, in order to maximise their profits, might neglect the rules of self-regulation. What makes matters worse are the following:

1. Some people get into business casually, so they do not intend to survive the long-run. Because the benefits of self-regulation could only be seen in the long-run, there is no need to stick to the rules of self-regulation for casual business people.

2. The penalties of violating the code of self-regulation do not lead to imprisonment of violators.

3. Companies that incur costs as a result of their concerns with the code of self-regulation, and the natural environment, may face price disadvantages in their own domestic market as well as the export market, due to self-regulation not being applied internationally.<sup>39</sup>

4. Industries cannot punish violators of the code of self-regulation, since boycotting other firms is in restraint of business. In the U.S.A. for example, boycotting is considered illegal under the Sherman Act.<sup>40</sup>

In order to avoid the legal problem of boycott Stern proposed that there must be prior approval and periodic approval of proposed restraints by the Federal Trade Commission.<sup>41</sup> Regardless of the legality of boycotting, it is considered a restrictive practice, and it works against the interest of consumer.

5. The expulsion of violators could be considered a fair penalty for those who violate the code of self-regulation, but that has two repercussions:



(i) Industry could lose members, and no industry is interested in the loss of members.

(ii) The expelled members have more freedom to violate the code of self-regulation, since they are no longer under any obligation to abide by the code of self-regulation.

Industries must follow the right procedure, when attempting to expel those who violate the self-regulation rules, giving them a chance to justify their behaviour.<sup>42</sup>

In order to overcome the difficulties of enforcing the code of self-regulation, the following are proposed:

1. In order to make self-regulation more enforceable, soft law should be corrected not only by soft law remedies, but also by effective administrative and court actions.<sup>43</sup> If this proposal is followed, then the spirit and effectiveness of self-regulation is lost to the procedures of bureaucrats and courts.

2. William Lazer proposed that the disclosure of the results of social audits should be applied to self-regulatory programmes that present the most effective means of enforcement of self-regulation.<sup>44</sup>

The concept of social audit is not however, practically applied yet and even if it were applied, it would



require the consumer to study the reports of social audit, and that is not a pragmatic option.

### The Problem of Collusion.

A self-regulation mechanism could be used to strangle competition, as the following repercussions could be the outcome of self-regulation:

1. Obstruction of the flows of information to consumer. As a proof the American Medical Association's Code of Ethics once prohibited advertising which solicits patients, but under outside pressure, the code was amended in 1977 to allow certain forms of advertising. Self-laudatory statements were prohibited and since advertising is to some extent self-laudatory, the Federal Trade Commission concluded that the ban on self-laudatory statements indicated that the American Medical Association had not moved from its position to ban advertising.<sup>45</sup>

2. The exclusion of new products and new-comers to the market place.

3. The inducement that self-regulation could bring to business to cartelise industries, characterised by increasing profit and achieving growth through higher prices and reduced output.<sup>46</sup>

What makes self-regulation a cause of concern for the consumer is that it could limit the consumer's choice in more subtle ways by denying small business access to the market place through setting high fees payable to join the trade association, or by denying them an access to basic material or services.<sup>47</sup>

The elimination of government intervention does not ensure de-regulation and it might not increase the consumer choice if business takes steps to cartelise itself.<sup>48</sup>

In order to avoid the problems of collusion resulting from self-regulation, the following two steps should be taken:

1. Codes of self-regulation must be designed in such a way not only to avoid any possible anti-competitive practices, but also to encourage competition.
2. Hiring outside administrators to police the enforcement of self-regulation assists in avoiding any possible anti-competitive practices.<sup>49</sup>

If business fails to observe the foregoing conditions, self-regulation could be harmful to consumer interest.

## Self-Regulation and Standardisation.

To set standards, there are two choices:

1. Standards can be based on the lowest common denominator but in this case, standards will never help the consumer—in other words, they are useless.
2. Standards can be based on higher quality and higher safety factors. There is no question that standards, whether they are set by business or government regulation, may limit the consumer choice. Some firms might benefit from standardisation at the expense of other firms which is a legitimate cost of setting standards.<sup>50</sup> But voluntary standards can bring anti-competitive practices for the following reasons:

(i) Members of industry could use high standards as a pretext to prevent new-comers.<sup>51</sup> That could harm the consumer in the long-run by depriving him of more choices and by cartelising the market place through depriving small business firms of the opportunity to survive. To cite this as a proof, The American Society of Sanitary Engineers (ASSE) restrained trade by refusing to extend standards coverage to an innovative plumbing valve produced by small business.<sup>52</sup>



(ii) Large firms in any industry could use their power through standardisation at the expense of small business in the industry.<sup>53</sup>

What are sometimes displayed as high standards can be a subtle way to thwart competition.<sup>54</sup>

(iii) Private standardisation could be used to exclude competitors who are price cutters.<sup>55</sup>

(iv) Standards could be used by certifying groups to prevent a non-member from marketing his products.<sup>56</sup> Charging excessively high prices, discriminating against small customers, and difficulties in obtaining access to certification bodies, are common claims against the major testing laboratories in the U.S.A. particularly by underwriter's laboratories.<sup>57</sup>

#### Advertising Self-Regulation.

It is easy for anyone to acknowledge the necessity of controlling advertising behaviour, to ensure that the commercial messages are true, credible and fair.

Although the extent of fairness, credibility and even truthfulness is different from one society to another, the real question is who is qualified to determine the scope and meaning of the foregoing attributes. Given the history of advertising abuse,



government regulation is essential to protect the consumer. The dilemma is how to provide that protection without over-regulation.<sup>58</sup> Since advertising is practiced through many business firms, through different channels of mass communication, and it has power to change the social values of people, regulation of advertising cannot be done without over-regulation. Furthermore, it is difficult to regulate decency and taste in advertising, since they change rapidly from time to time to the extent that the public policy maker cannot keep pace with and reflect in government regulation. Consequently the need for advertising self-regulation is generated. Advertising self-regulation does not present a serious threat of anti-trust, unlike other activities of marketing such as standardisation which can smother competition,<sup>59</sup> because advertising is practiced by many firms in all industries.

The advantages of advertising self-regulation are as follows:

1. Self-regulation provides a short-cut method of resolving advertising complaints. Self-regulation is faster than the abuse of government red tape in securing urgent solutions to complaints, thus stopping campaigns of misleading advertising before they build effects on the attitudes of the consumer. Furthermore, any firm under investigation, concerning a misleading

advertisement, prefers to settle the dispute as is possible to evade unfavourable publicity.<sup>60</sup>

2. Codes of advertising self-regulation cover areas which are not covered by government regulation. Government regulation cannot cover decency and taste, therefore, in this case it is better to have business regulate those areas instead of having no regulation at all.

3. Business is more qualified and has more resources than a government mechanism to resolve advertising disputes through conducting research. For example, the Federal Trade Commission of the U.S.A. has dropped the subject of the influence of advertising on children because they do not have the research to support the conclusion that advertising could hurt children.<sup>61</sup> Another example can be cited of the facts presented by the Cereal Industry to counter the proposed FTC ban and restrictions on junk food and advertising to children.<sup>62</sup>

4. It was cited that self-regulation in many cases is more affirmative than government regulation. For example, the National Advertising Review Board in the U.S.A. has conducted inquiries concerning advertisements which had been cleared by the FTC.<sup>63</sup>

### Disadvantages of Advertising Self-Regulation.

1. If advertising has the impact to change social attitudes and beliefs of people, how could it be left to those people, who are only motivated by profiting their firms, regardless of the social problems that could be produced by advertising.
2. Advertising self-regulation has little or no public participation, that would make impartial decisions concerning colleagues a difficult task, because the majority of the members of advertising self-regulation boards are drawn from advertising and business positions.<sup>64</sup> The most clear example of partiality is the Australian Standard Council, perceived to be at its worst in the area of cigarette advertising, where ASC has upheld complaints against health authorities advertising the dangers of smoking, on the grounds of over-emphasis or not proven.<sup>65</sup>

### Outside Participation in Advertising Self-Regulation

In order to dilute the disadvantages of advertising self-regulation, outside participation was introduced into the system. In Belgium, France, and Japan controlling and monitoring advertising activities are performed by the advertising industry. In the U.K., Holland, and Canada, outside participation has been



incorporated into the system in such a way that outsiders control and monitor complaint handling, while the advertising industry sets the standards.<sup>66</sup>

The pros of outside participation in advertising self-regulation can be summarised as follows:<sup>67</sup>

1. Outside participation brings an impartial viewpoint and objectivity to the advertising industry.
2. Outside participation brings credibility and legitimacy to the advertising self-regulation. If outside participation is not present in advertising self-regulation, the consumer will doubt its seriousness and effectiveness.
3. Outside participation brings consumer advocates into the process. Instead of giving the opportunity to false consumer advocates, who are seeking political objectives by exaggerating matters, to criticise the advertising self-regulation, the sincere consumer advocates will be brought into the process.

The cons of outside participation in advertising self-regulation are as follows:<sup>68</sup>

1. The spirit of self-regulation is that business people regulate their business behaviour. If we



bring outsiders into the process, the spirit of self-regulation is violated and the advertising self-regulation loses its meaning.

2. Bringing in outsiders, who are not experts in advertising, can deprive the advertising self-regulation of its flexibility.
3. Bringing outsiders in advertising self-regulation will duplicate the effort of consumer protection. Generally speaking, it is difficult to decide if outsider participation would be effective in advertising self-regulation, but it would be much easier to decide that case by case.

The effectiveness of advertising self-regulation depends on the following factors:

1. The qualifications of those outsiders and their sincerity. If those outsiders are qualified to make judgement on behalf of the consumer, outside participation could be effective.
2. If those outsiders represent the society as a whole and are dedicated to their professional ethics, outsider participation could be impartial, and would help the consumer, business and society.

3. Outside participation must not be a mere window dressing to win the support of the consumer, which would harm the consumer cause.
4. If outside participation has the same power as business in advertising self-regulation boards, then it would be effective in balancing out the interests of consumer, business and society.

The extent of outside participation depends on cultural, and political factors. In order to prove this contention, we have three cases of outside participation in advertising self-regulation:

1. The case of outside participation in advertising self-regulation in Italy. The extreme case of outside participation in advertising self-regulation is represented by Italy, where the jury and investigative committee of advertising self-regulation have only outsider members and no advertising people.<sup>69</sup> The success of advertising self-regulation can be attributed to the fact that the advertising members are lawyers and law professors, and all of them have to serve according to their personal beliefs, rather than on behalf of the appointing parties.<sup>70</sup>

The proof that advertising self-regulation is a

success in Italy is as follows:

(i) The whole process before the jury takes from 15 to 20 days, therefore unfair or deceptive campaigns could be halted before they injure consumer interest.<sup>71</sup>

(ii) The jury is concerned with social sensitivity of advertising.<sup>72</sup>

In a country like Italy, where breaking the rules could be considered as a sort of national pastime,<sup>73</sup> the exclusion of advertising people from the jury and the investigative committee is necessary to secure the credibility of advertising self-regulation. Without that exclusion, advertising self-regulation might never work out.

2. The case of outside participation in advertising self-regulation in Belgium. In Belgium, the advertising self-regulation is controlled by the advertising ethics jury (JEP) whose members are appointed by the advertising council and drawn from advertisers, agencies and the media, and the only independent person is its President.<sup>74</sup>

The JEP depends on the International Code of Advertising Practices and other codes which are developed by some industries.<sup>75</sup>

The lack of outside participation in advertising



self-regulation has led to the following consequences:

(i) In a matter of good taste, the role of JEP is very limited; it only provides advice and recommendations to business.<sup>76</sup>

(ii) There is a conviction within the advertising industry, that outside participation slows the process of self-regulation by bringing the antagonist consumer advocates into the process.

(iii) The number of cases which are handled by the JEP is very low, for example, the JEP handled only 113 cases in 1982.<sup>77</sup>

The lack of outside participation in advertising self-regulation can be attributed to cultural, political, and legal causes, and explained as follows:

(i) The Advertising and Consumer Protection Law in Belgium is not adequate in providing legal remedies. For example, corrective advertisements cannot be imposed,<sup>78</sup> therefore there is no cause to include outsiders in advertising self-regulation in order to avoid or delay government regulation.

(ii) Belgium is divided into linguistic groups, - Flemish, French, German - as well as its



historical divisions of leftist, centrist, rightist lines, and catholic/anti-catholic lines.<sup>79</sup> That fragmentation is reflected on the consumer movement, where there are no less than 14 officially acknowledged consumer associations in the country.<sup>80</sup> There is no way to include all those consumer associations in any self-regulation process.

3. The case of outside participation in advertising self-regulation in the U.K.. The Advertising Standards Authority (ASA) which was founded in 1962 to enforce high standards of advertising does not investigate complaints about commercial television and radio; that responsibility is handled by the Independent Broadcasting Authority.<sup>81</sup> The Chairman of the ASA is appointed by the Advertising Standards Board of Finance, and he should not be engaged in advertising activities. The Chairman then appoints the other members of the ASA from non-business sectors, advertising sectors and other industries. All members should work in the ASA Board as individuals.<sup>82</sup>

In order to ensure the independence of the ASA (although its activities are financed by the advertising industry) funding comes from an automatic levy on advertising expenditure rather than via contributions collected from industry or

business firms.<sup>83</sup>

The independence of the ASA is limited by the following two factors:

(i) The Code followed by the ASA is drawn by the Code of Advertising Practice (CAP),<sup>84</sup> but this factor is diluted by the fact that the ASA can put pressure on the CAP Committee to make changes.<sup>85</sup>

(ii) Advertising complaints emanating from competitors are handled by the CAP. It is based on the ground that business people can resolve their disputes with no need for outside participation - but that contention is refuted by the fact that disputes among advertisers affect consumers in the long-run. For example, disputes concerning massive commercial campaigns weaken some competitors, and that affects consumer interest. Therefore it could be better for the consumer if outsider participation was included in the CAP.

The success of outside participation in the advertising self-regulation can be attributed to the high standard of democracy which provides parliament and government with the ability to conduct inquiries when it is felt necessary.

## Conclusion.

It is very difficult to generalise that self-regulation is a viable alternative, but such generalisation depends on specific conditions prevailing. For example, self-regulation would be a nightmare for less developed countries, since they lack the cultural democracy which enables the voice of consumer to be taken into the process of self-regulation.

There are some areas which self-regulation cannot operate in, for example, pollution control, because business is blinded by profit and growth, meaning that the long term consequences of pollution will not be taken into consideration in the process of self-regulation. The optimal type of self-regulation is the corporate social responsibility, but since there is no guarantee that every firm will be sensitive to its social responsibility, the corporate social responsibility is an unattainable dream. Industry self-regulation might lead to restrictive practices by the dominant firms in the industry, especially as economic efficiency has led many industries to be oligopolistic. The best alternative appears to be the business self-regulation, since it does not lead to collusion problems, because no large firm or specific industry could dictate the rules of the game.



Advertising self-regulation could be a viable alternative for the following reasons:

1. Government regulation cannot regulate taste, decency and the sensitivity of ethnic groups towards advertising.
2. Government does not have the resources to conduct research, which could shed light on advertising policy.
3. Government bureaucracy cannot stop misleading advertising campaigns before they influence the intent to purchase of the consumer.

Because advertising could affect the social values of people, advertising cannot be left to business people who are mostly motivated by profit and growth. Outside participation in advertising self-regulation must be guaranteed, not only to monitor and control the Code of Advertising self-regulation, but to have a say in Code of Advertising self-regulation. The success and the extent of outside participation in advertising self-regulation however, depends on legal, cultural, and political factors.

Regardless of the pros and cons of self-regulation, it was invented because of the cons of the government bureaucracy. Therefore those governments who antagonise



self-regulation must first improve the efficiency of government regulation and its mechanism, otherwise the consumer loses out in the long-run.

In a study performed by John K. Ryans Junior et al about the executive attitudes towards the consumer movement, it was concluded that the European and U.S. executives are expecting self-regulation to become a viable alternative in the next decade.<sup>86</sup>

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CHAPTER FOUR.

CONSUMER PROTECTION THROUGH  
GOVERNMENT INTERVENTION.



The main contention in this Chapter is that government intervention is only justifiable in the following cases:

1. Market failure, which could be due to:
  - a) Concentration of industries. This may be due to the necessity for economies of mass production, or due to restrictive practices.
  - b) The existence of obstacles to enter the market.
  - c) The gap of information between producers and consumers or among producers and industries.
  - d) Consumer inability to process product information.
2. External factors which could be exemplified by health and environmental factors. Because the market system is motivated by growth and profit, the government should not abandon control over these externalities.<sup>1</sup>
3. Fraud practice, which could be committed by those who want to exploit the other participants in the market place.

In a survey examining whom people trust to recommend change in the Clean Air Act, it was concluded that the majority of interviewees do not trust the business community in having a Clean Air Act.<sup>2</sup>

Government regulations can be divided into two types:<sup>3</sup>

1. Economic regulations, which seek to monitor the market activities such as prices, product information and trade practices.
2. Social regulations which seek to monitor and control the externalities resulting from the market activities.

In this Chapter, we are concerned with government intervention to regulate the economic activities, while analysing the social regulations are beyond the scope of this Thesis. The economic regulatory intervention by government should be directed toward facilitating the mechanism of the market system by adopting policies which promote and improve the operations of that mechanism<sup>4</sup>. The policies make the mechanism respond to shifts in supply and demand by reducing the barriers to move from one industry to another, reducing the search to consumer and helping small business. By doing that, government intervention should make the market approach the competitive situation, and that should promote consumer interests in the long-run.

Government intervention to regulate the market operations should be the last resort in consumer policy because regulation could increase the barriers to entry.

In a free market country like the U.S.A. polls

continue to show that the public is concerned about business exploitation of the consumer and in favour of stringent Consumer Law.<sup>5</sup> That could reflect the fact that the American economy is directed toward more concentrated market structure. The government regulation should be directed towards increasing the available alternatives to the consumer through breaking up the concentrated industries, encouraging small business, and removing the barriers to enter the market place.

Government intervention should be measured by the following criterion:

1. Efficiency. Government intervention must not cause the efficiency of the market system to decline, otherwise the government cure will be worse than the disease.
2. Fairness. Government intervention must be directed to achieve fairness in the market place. Fairness is not justified by equality, but it implies that business should make profits through providing the consumer with socially acceptable products and services, rather than through capitalising on the market failure.<sup>6</sup> In such a case, government intervention should not determine the level of profitability, but make industries disclose the



achieved rate of return, that will encourage more entrants into the industry with a high rate of return on investment. Therefore the higher and lower rates of return on investment would tend to normalise in the long run.

3. Appropriateness. It is the ability of government intervention to achieve the desired objectives.<sup>7</sup> Appropriateness entails that the proposed intervention does not bring side effects, which have not been anticipated and treated by the policy maker in advance. For example, if advertising substantiation makes advertisers tend to increase the puffery claims at the expense of reducing the data claims, the policy maker must anticipate such a situation and tackle it in advance, before introducing any regulation, otherwise such regulation will backfire.

In this Chapter, the following subjects will be discussed:

1. Theoretical foundation of government intervention.
2. the necessity of government intervention.
3. The problems of government intervention.
4. The approach to government intervention.



1. Theoretical Foundation for Government Intervention.

In order to make the market system protect the consumer's interest, any government intervention should avoid the following consumer policies:

- a) The role of government as Business Unit.
- b) The role of government as paternalistic to the consumer.
- c) The role of government to intervene, when the benefits of intervention exceed its costs.

a. The Role of Government as Business Unit.

When government gets involved in business, consumer would not only be denied the right to buy reliable products and services, but he would also be denied the right to caveat emptor for the following reasons:

- (i) The procedure of getting redress is time consuming and laborious hence the voice of consumer is less likely to be heard.<sup>8</sup> Such a problem is aggravated in the less developed countries. There the consumer does not dare to raise his voice about not being able to install a telephone service or water supply, fearing that such a voice could be interpreted as castigating the political system.

(ii) Government does not provide enough information when it markets its services. For example, government when advertising state savings bonds emphasise the security they provide to their holders. This is only half the fact, the other half is that government bonds yield a low rate of interest. In other words, government capitalises on the averaging model by not telling the whole story of government bonds.

(iii) By involving government in business, the business activities of government would be judged by the government. Under the democratic system, the citizen has the right to sue the state-owned firms, or even complain to the Ministry concerned, but that would be a formidable task for the following two reasons:<sup>9</sup>

- Any ministry or government agency is more reluctant to take a state-owned firm than a private business firm to court.
- Government agencies or state-owned firms are required to achieve objectives, which may be incompatible with the objectives of serving the consumer. For example, one of the

objectives of a government university in any developed country is to promote a good quality of higher education to those who have the ability to pursue it. But this objective may be in conflict with the goal of the government to have free education, especially when the government under-budgets universities, with the consequent result of a large number of graduates of reduced quality. It is reasonable that no one could take a university to court for failing to provide a good quality of higher education, since free education and good quality education may be in conflict.

(iv) State-owned business firms could be immune from government regulation. The federal government in the U.S.A., for example, ordered the utilities companies to take expensive steps to reduce the air pollution, but the Tennessee Valley Authority (T.V.A.), a public agency, was exempted of being committed to such steps.<sup>10</sup> In fact, committing the T.V.A. would prevent it from achieving its objective: to offer cheap electricity to the public.

(v) The right of the consumer to buy safe products is less solid in dealing with government



marketers than with private business.<sup>11</sup>  
This contention could be laid bare by the fact that the jeeps, which are used by the U.S. postal services, are exempted from the safety standards laid down by the Department of Transportation. Ironically, 5000 jeeps are auctioned by the U.S. postal service yearly.<sup>12</sup>

(vi) When government involves in business, it has conflicting roles; that could be embodied by those governments who are involved in the manufacture and marketing of cigarettes - government on the one hand uses demarketing to persuade people not to smoke, while on the other hand the government takes the profit of the cigarettes industry to finance the cost of subsidised food.<sup>13</sup>

In conclusion, the role of government business enterprise will be in conflict with its role to serve the public interest. Government's involvement in business is handicapped because state-owned firms have to pursue certain governmental policies which can prevent the achievement of efficient economic performance.<sup>14</sup> Some of these policies are designed to alleviate the problem of unemployment at the expense of using obsolete technology, leaving the consumer to pay



the bill of such a policy. Furthermore, the decisions of state-owned business firms are motivated by political (and possibly personal) reasons, with public policy commitments directed to advance the career of politicians.<sup>15</sup> The state-owned business firms cannot take advantage of market opportunities, since they are plagued by the political process of government, therefore the delays of business decisions are expected and could be astronomical. It was estimated by Mazzolini that the period between formulation of a plan by the relevant business unit and final approval is between 18 and 34 months.<sup>16</sup>

b. The Role of Government as Paternalistic to Consumer.

Paternalism is any prohibition of action on the ground that such action would be contrary to the actor's own welfare.<sup>17</sup> Accordingly under the paternalistic model, government rather than the consumer undertakes the calculation of buying products and services. Such an approach to protect consumer interest could be justified whenever product risks reduced by government intervention are greater than the cost of that intervention.<sup>18</sup> Such an argument could be refuted by the following facts:

- (i) The cost of governmental intervention has distributional effect. For example, government intervention could result in a net

benefit to society as a whole, but the cost of intervention is not allocated equally among consumer groups, and the allocation of cost is not in proportion to the benefits to each consumer group. Some groups might even be penalised by being forced to pay the whole cost of government intervention; those consumers who can use dangerous products more carefully than the others or can make repairs cheaply would incur the cost of government intervention, while they get no benefit of such intervention.<sup>19</sup>

- (ii) Measuring the costs and benefits of government intervention is considered a subjective matter. It could differ from one consumer to another, therefore the costs and benefits of government intervention are difficult to predict.<sup>20</sup>

In conclusion, the consumer should be the best judge of his own interests rather than bureaucrats.

- (iii) Government intervention to protect the consumer from the malpractices of the seller could have logical bases, but protecting the consumer from himself by bureaucrats is an

insult to the freedom of consumer choice. If government takes the role of protecting the consumer from himself, the logic surely calls for prohibiting alcohol and tobacco.<sup>21</sup> Ironically no government has banned the consumption of tobacco, and those governments who ban the consumption of alcohol are motivated by religious grounds, which illustrates the inertia and hypocrisy of government intervention.

c. The Role of Government to Intervene When the Benefits of Intervention Exceed its Costs.

According to the cost/benefit analysis, government should intervene to protect the consumer only when the benefits of such intervention to society as a whole exceed its costs. Such approach can be harmful to the consumer in some cases for the following reasons:

- (i) The costs of intervention have distributional effects.<sup>22</sup> It is possible for a group could pay the whole costs of intervention, while other consumer groups reap the fruits of that intervention. It is stated that "truth in lending regulations may provide greater benefits to middle income rather than lower income".<sup>23</sup> In fact such regulations create black market for lending to the low income



consumer groups.

(ii) It would be unreasonable to determine the cost and benefit of government intervention to the society as a whole, since the marginal utility of benefits differs according to the wealth of the consumer. An intervention which could result in net benefit to society as a whole, could result in great loss to the low income consumer groups, although their loss may be small in terms of money.

(iii) If government intervention is based on the cost/benefit analysis, it could only benefit the pressure groups because they can emphasise and demonstrate the benefits and costs of intervention in such a way as to serve their own interests.<sup>24</sup>

(iv) It would be a difficult task to calculate all the costs of intervention - especially the side effects costs of intervention. It is easier to anticipate the benefits of intervention than to anticipate its costs.

## 2. The Necessity of Government intervention.

Government intervention can be mostly justified on



the grounds of the following factors:

- a There is an informational gap between consumer and producer.
- b The structure of the market.
- c Misleading and deceptive practices.

a. An informational gap between consumer and producer.

Because of the imbalance in the distribution of information between the producer and the consumer, and the potentially harmful effects on the vulnerable consumer groups such as the poor, the elderly and the children,<sup>25</sup> government intervention is justified to treat and to adjust that imbalance for the consumer interest. Two factors that could aggravate the informational gap between consumer and producer are:

- (i) the availability of information to the consumer does not guarantee that he could process it.
- (ii) business firms can use the power of persuasion to influence the buying decision of consumer.<sup>26</sup> Government can therefore provide subsidies for product information dissemination on the grounds that market information is considered a public good.<sup>27</sup>

The aim of the policy maker must be to provide

better information to help consumers make their own decisions in such a way as to make a sensible trade off between prices and the other aspects of products and services.<sup>28</sup> Without government intervention the consumer would have no information concerning the durability of light bulbs, octane ratings for gasoline, and the amount of tar and nicotine in cigarettes in many countries.<sup>29</sup> Perfect competition ensures the availability of information to the consumer, but a perfectly competitive market is an unattainable situation. Government should intervene to make business provide more processable information to the consumer, when the workable competition fails to generate sufficient incentives for sellers to provide more processable information about the attributes of products and services. By doing so, government intervention pushes the market to approach the competitive situation through reducing the search costs. Government intervention to disclose product information to the consumer is very delicate, therefore the following factors should be taken into consideration:

- (i) Adopting an expensive disclosure system could raise the barriers to enter the market place by favouring large firms over small firms.<sup>30</sup> Expensive disclosure systems must therefore be avoided, since they may cause more market failures.

(ii) It is not necessary for government intervention to secure perfect information in the market place; it would be better rather to generate adequate information, which could push the market to approach the competitive situation<sup>31</sup>, especially if sellers cannot discriminate between marginal and ordinary consumers.<sup>32</sup>

(iii) Government intervention should be directed towards disclosing the rate of return on investment in every industry, with the aim of bringing more entrants to the industries which make abnormal rates of return on investment. Therefore the law of supply and demand uses its invisible hand to protect consumers in the long run.

Those industries who make very low rates of return on investment will benefit from such intervention, since some firms could exit. That could help consumer in two ways:

- Making an industry efficient and profitable convinces business people to stay in business to serve consumer needs. Failing industries reduce the resources allocated to research and development and that is harmful for the



consumer in the long run.

- By moving resources from an ailing industry to a healthy industry, the prices in the latter will decline in the long run

(iv) Government should intervene when the consumer is unable to evaluate the risk of his buying decisions. Drugs and additives are a clear example of the inability of the consumer to evaluate the risk of consuming them.<sup>33</sup> That could be understood by the fact that health risks with deferred and lingering effects are not suited to the market mechanism.<sup>34</sup>

b. The Structure of the Market.

The real danger to consumer interest is the lack of sellers in the market place. According to Friedman, "the consumer is protected from being exploited by one seller by the existence of another seller from whom he can buy and who is eager to sell to him".<sup>35</sup> But concentration of the market is not always against the interest of consumer. For example, the consumer in small countries would be hurt if there are a large number of relatively small oil refineries rather one, or to have more small power generating firms instead of one large one; the implications of economies of scale cannot be neglected where that helps the consumer.<sup>36</sup>

In the cases where competition would serve consumer



interest better, government policies must be directed to make the market structure more competitive, and to correct the behaviour of business firms in such a way to prevent them from conducting restrictive practices.<sup>37</sup> Since great difficulties exist in changing the structure of the market, breaking up a monopoly or oligopoly is a difficult task which could lead to unpredictable repercussions.<sup>38</sup> Government should intervene to mollify the barriers to entry through reducing regulation of small business, and even to tax mergers to make them less profitable: efficiency must not be taken as a pretext for merger in every case. In the United Kingdom, for example, the MMC generally allows dominant firms to merge regardless of their market share on the grounds of efficiency.<sup>39</sup> The recent example is the acquisition of the Distillers Co. Ltd., in Scotland, by the Guinness Group.

Government intervention must be directed towards preventing the concentration of the market in cases where consumer interest could be served better through more suppliers for the following reasons:

- (i) The behaviour of every oligopolist depends on what the other oligopolists do. Oligopolists are more likely to engage in agreements to avoid conflicts, thus reducing the extent of competition in the market place.<sup>40</sup>

(ii) The promotional efforts of a monopolist and an oligopolist are concerned with improving the images of the seller rather than providing information to the consumer.<sup>41</sup>

(iii) When a firm is shielded against competition, if the pressure of efficiency and innovations are removed, nepotism and loose supervision may prevail.<sup>42</sup>

c. Misleading and Deceptive Practices.

Government should intervene not only to protect the consumer of deceptive practices, but also to prevent those who abuse the market system from reaping the fruits of their malpractices, by establishing not only stringent laws, but also speedy enforcement.

Government must intervene in situations where the market does not prohibit the fruits of deception. In situations where product claims can be evaluated before purchase, products are inexpensive and frequently purchased, and business relies on repeat purchases, there is no incentive to deceive the consumer,<sup>43</sup> therefore there is no need for government intervention.

"Recent empirical work by Jacoby and his colleagues indicates a substantial probability that televised communications will be miscomprehended because of characteristics of the receiver rather than those of the message".<sup>44</sup> Therefore government intervention to

fight deception has two obvious directions:

- Improvement in the living and educational stances of the vulnerable groups. Programmes that make the uneducated educated and the poor rich would make the vulnerable invulnerable in the long run.
- Allocation of the bulk of resources to protect the vulnerable groups in society. Protecting those who do not need protection dissipates the resources, and for those who need protection it is not adequate. In a word, government should put its resources where they are required.

Government must be reasonable in differentiating deceptive practices from non-deceptive, taking a pragmatic approach in so doing. For example, it would be unwise to consider an advertisement that contains valuable information as deceptive if some other information is missing from that advertisement, otherwise business will be reluctant to advertise, thus depriving the consumer of more information. Including all the informational aspects in advertising is very costly.<sup>45</sup> But the missing information can be considered deceptive if it is related to safety hazards, or to the fundamental usefulness of the product-fitness for use.<sup>46</sup>



### 3. The Problems of Government Intervention.

Government intervention is not without costs, hence it is expected to create some problems. Barriers to entry may be increased, placing a heavy burden on the small business. Furthermore government intervention is related to the bad effect of bureaucracy.

The problems of government intervention could be classified as follows:

- a. The effect of intervention on small business.
- b. The effect of intervention on competition.
- c. The problem of bureaucracy.

#### a. The effect of intervention on small business.

The role of government intervention is to push the market to competitive situation. Ironically, government intervention, which could be prescribed to increase competition in the market place, may result in reducing the intensity of competition through creating more barriers for small business.

Large firms have absolute advantages over small firms in handling regulations, since they have more financial and technical ability to abide by or manipulate regulations. In fact most of the government regulations were designed to tackle problems created by large firms, but they are applied equally to small and



large firms without any consideration to the ability of small firms to abide to them. Therefore regulations impose a heavy burden on small business.<sup>47</sup> To cite this as a proof, it was estimated that compliance to the environmental protection agency cost on average \$328,000 per firm, while compliance to the Occupational Health and Safety Act (O.S.H.A) cost on average \$257,000 per firm.<sup>48</sup>

The Chrysler Corporation did argue that its smallness, relative to General Motors and Ford, contributed to its financial troubles.<sup>49</sup> It is easy for large firms to absorb the cost of compliance with regulations, but those regulations discriminate against small firms. For example, a fine of £10,000 could be easily paid by large firms, while this same amount becomes the first nail in the coffin of a small firm. According to the Hirschman theory "organisations have three alternatives when faced with threats of decline:- exit, voice or loyalty".<sup>50</sup> Firms who are faced with government regulations have the Hirschman three alternatives. In fact the "exit" choice would be more likely to be taken by small firms. Large firms can use the "voice" alternative, capitalising on utilising the concept of megamarketing by the threat of closing down their business activities, manipulation of public relations, or showing that they stick to the regulations, while their loyalty to these regulations need be only skin deep.<sup>51</sup> The problem of having skin

deep loyalty to regulations is aggravated in the less developed countries, where it is easier to bribe or commit illegal activities without being caught, consequently government intervention weakens the small firms, leaving large firms to prosper.

Since the role of government intervention is to increase competition in the market place, government regulation must be designed in such a way as to help small business to survive. That does not indicate exempting small business from social regulation, but it does provide tax incentives to adhere to regulations. There is a tax break for small firms who invest to abide by regulations, or the provision of technical and financial services. Such policy protects consumers through enabling small firms to survive. This view towards small business is supported by a survey performed by Chrisman and Fry, when it was concluded that 85.1% of business people and 77.1% of individuals agreed that government has a responsibility toward small business.<sup>52</sup>

b. Effect of intervention on competition.

According to George Stigler, "Regulation is usually undertaken to maximise the profits of a producer group emphatically not to improve the welfare of consumer".<sup>53</sup>

Regulation has always protected large firms by reducing the risk of uncertainty concerning prices and

market shares. For this reason, large firms have always resisted economic deregulation, but on the other side of the coin they have resisted regulation in social areas.<sup>54</sup> For example, trucking companies and most airlines preferred to pay the substantial costs of economic regulation, in order to avoid the risk of working in competitive market.<sup>55</sup> In fact regulation could hurt competition in the following ways:

- (i) Government regulation may suit certain firms, therefore those firms get competitive advantages over the others.<sup>56</sup>
- (ii) Government regulation raises the costs of doing business. The cost of compliance to regulation represents a large percentage of the operating costs of small firms, relative to large firms, therefore under government regulation, small firms find it difficult to survive.
- (iii) By eliminating the risk factor of doing business, large firms are protected from competition, therefore they have no incentive to reduce their costs or develop new technology. In other words, the pressure of hard work would be eased off.
- (iv) Regulated business has the ability to resist any deregulation. For example, it could threaten to drop the cross subsidies system to



resist deregulation or even regulatory reform, although cross subsidies mechanism is a legal way of price discrimination.<sup>57</sup>

In conclusion, government intervention can restrict the way people do business. For an established business, it is better to produce if the variable cost and some of the fixed cost is covered. In such a case the losses from producing are less than the losses from not producing. A decision like that could be considered predatory pricing by bureaucrats, while it is an intelligent way of reducing losses.<sup>58</sup>

c. The Problem of Bureaucracy.

Since bureaucrats and politicians owe their jobs to the existence of regulations, they are considered as very important factors in achieving their societal goals regardless of their fairness and efficiency. Once government starts to regulate business, it will therefore continue to do so at the expense of the jobs that it was established to perform. To cite this as a proof, after the Reagon Administration slowed down enforcement of some regulations, and dismantled some others, the regulatory pendulum is swinging for more regulations again. In fact politicians have debated some issues which have not been brought up before.<sup>59</sup>

As a result of more regulation, government seems to have reached its limits in many different



countries.<sup>60</sup> The problems of bureaucracy with regard to consumer protection can be pointed out as follows:

- (i) The cost of regulation is astronomical, and go far beyond the costs of bureaucracy. In a recent study it was shown that the costs of bureaucracy are quite small when they are compared to the costs of compliance to regulation.<sup>61</sup>

Since bureaucracy is financed by tax payers money and the costs of compliance to regulation are paid fully or partially by the consumer. Costs of regulation are therefore costs on consumer.

By identifying and quantifying the costs and benefits of regulations and their distributional effects, a trade off between the benefits and costs of regulation can be reached.<sup>62</sup> But in practice costs of regulation and their distributional effects are not considered in the process of regulation.<sup>63</sup>

- (ii) Besides the problem of power abuse by bureaucrats, the reluctance to take decisions by bureaucrats remains a severe blow to

consumer interests, "The problem is that not much personal benefit derives from a decision that turns out to be a good one, but a great personal tragedy results if a decision is made that turns out to be a bad one. It is the reason why bureaucrats in every country are known for obstructing progress rather than promoting it".<sup>64</sup>

(iii) Bureaucrats fail in designing consumer policies based on government intervention, because they rely on information provided by the business community. Such information can be manipulated either by distorted reports, incomplete reports, or plunging bureaucrats in detailed technicalities.<sup>65</sup> What is worse is that government is less likely to use consumer research in designing consumer policies. In fact most regulations are designed as a result of public outcry of abnormal abuse of business, hence government intervention is spontaneous and irrational, and could cause market failure.

(iv) Bureaucrats replace the consumer wishes by their own arbitrary will. By establishing arbitrary high standards for product safety, bureaucrats fail to realise how consumers

value safety against the extra cost of safety.<sup>66</sup>

(v) Bureaucrats fail to estimate the side effects of regulation. The side effects of regulation need to be treated before introducing regulation. For example, one side effect of the regulation of the Federal Food and Drug Act, which states according to 1962 Amendment that "no new drug may now be marketed unless and until the F.D.A. determine that there is substantial evidence not only that the drug is safe as required under the 1938 Law, but that it is effective in its intended use".<sup>67</sup> Such regulation is considered by Friedman as counter-productive in the sense that it slows down the introduction of new drugs and as regulation proliferates, so the cost of developing new drugs for rare diseases would be unfeasible.<sup>68</sup>

(vi) Bureaucrats always ignore the priority of consumer. For example, after the death of seven persons in Chicago caused by taking poisoned tylenol, the F.D.A. issued packaging requirements for over-the-counter drugs; it was estimated that such regulation would save lives at \$4.4 million per head.<sup>69</sup> The point



is that an economy such as the U.S.A. can afford to spend that amount to save the life of one person, but the less developed world cannot. In fact, if such an amount were spent to supply food, clean water, medicine or even shoes, in a less developed country it would save hundreds of lives.

#### 4. The Approach to Intervention.

The proposed approach for government intervention is to treat market failure by making business move towards the competitive situation. In order to achieve that objective, government regulation should be concerned with the following rules:

- a. Government should not get involved in business activities.

The role of the government is to maintain the rules of competition and to enhance the interests of producers as well as consumers. That implies such measures as price fixing or determining the right amount of profit are to be avoided, since those measures lead to the emergence of a black market. To cite as a proof, the inability of the land lords in Egypt to raise rent or to evict tenants by the Law, encouraged tenants to keep the rented housing units, even in the case of them becoming house owners. New land lords were encouraged to rent



their flats only to tourists on short-term basis, or to ask for a very high allowance besides the rent received to hedge against not being able to raise rent or evict the tenants in the future.

In such a system Egypt ended up with millions of people living in cemeteries, and many people who keep more housing units for hedging against not being able to find houses for their sons and daughters when they get married. After being plagued in such a system, there is no way to abolish it without grave political consequences. Therefore it is recommended not to prevent the forces of the market to determine the prices from the beginning.

b. To enhance free world trade.

Removing all barriers of world trade would allow every country to capitalise on its comparative advantages. Every business would feel the threat of foreign competition, so slackness would be at a minimum level. For example, the importation of Japanese cars to the U.S.A. forced the American car manufacturers to build small cars.<sup>70</sup> But the voluntary quotas on imports of the Japanese cars have caused the American made cars to increase by almost \$2000 per car in the U.S.A.<sup>71</sup>

In order to make the best use of free world trade, every country should open its door to the exports of the other countries only to the extent that its factors of

production are fully utilised. The Japanese market is blocked by visible and invisible barriers, where foreign companies counter high tariffs, complicated channels of distribution, and discrimination by the Japanese consumer against foreign products:<sup>72</sup> Whilst facing these barriers, parts of the labour forces in western countries are becoming idle.

c. Increase the efficiency of bureaucracy.

Government has a job to protect the consumer through establishing the environment for the viability of market system. In order to do that job, government should have qualified bureaucrats. The contemporary situation of any government in the third world is to increase the number of bureaucrats without any regard to their quality to alleviate the problem of unemployment. In order to maximise the number of bureaucrats, they are under-paid. The qualified people go to work in the private sector and some of those who accept being bureaucrats in the less developed countries accept corruption to increase their incomes.

The right approach for government intervention is that government should abandon its objective of alleviating the problem of unemployment, and get the right people who best serve the interests of consumers.

d. To reduce regulation.

According to Stigler, "Regulation begins and/or

continues to the extent that it helps business maximise profits."<sup>73</sup> But on the other side of the coin, regulation can be necessary to protect the consumer from the abuse by business when competition is lacking. Regulation must be designed in such a way as to adjust market failure by encouraging small business, by eliminating barriers to entry and by providing and forcing business to disclose information about the profitability of all industries. That would keep government intervention at minimum level.

Government intervention should be concerned with developing a competitive market rather than regulating standards of products, price fixing, profit fixing, and protecting the consumer from bad products.<sup>74</sup> By limiting the role of government, the consumer has more alternatives and is able to influence business by his ability to "voice" and "exit", which suggests government intervention should avoid direct control over product quality.<sup>75</sup> But the limited role of the government does not exempt it from setting standards for products that cause injuries to persons other than those who use them. Car accidents, for example cause damage not only to drivers, or owners, but also to other people in the street. The same goes for building. This exception that gives government a bigger role in setting product standards is based on the logic that freedom of a person should not cause an injury to others in their health and their properties.



The proposed limited role of government will enable government to divert its resources to protecting the vulnerable groups, and protecting the consumer from fraudulent practices, and providing information about the products that the consumer fails to evaluate, because of their latent and lingering effects on health.

e To establish goodwill between business and consumer.

When there is a good intention between the consumer and business, government intervention is at minimum level. A policy of establishing goodwill between consumer and business reduces the cost of compliance to regulation, since such policy concentrates on the market.<sup>76</sup> It is self-interest of a large business firm to win the trust of the consumer to enhance its reputation.<sup>77</sup>

### Conclusion.

Government should not become involved in business activities, since any government involvement in such activities hurts consumer interest by denying him even the right to complain and the right to get the benefit of economic growth, since economic growth would become staggering. The clear example is a country like Romania which has achieved one of the highest industrial growth rates in the world.<sup>78</sup> There the ownership of washing



machines and refrigerators by household units respectively are 25.7 and 38.6 units per 100 households in 1977 despite of the participation of women in the labour force.<sup>79</sup> On the other side of the coin, the free market system is the only system where people enjoy political freedom. In such a system the consumer can even sue governmental agencies, for example the centre for Auto Safety brought a suit against the Federal Highway Administration claiming that the highway system is not being maintained in good condition.<sup>80</sup>

Any government agency is unlikely to bring legal action against another agency, but there is no way to compare between the difficulty of bringing legal action against governmental agency and denying the right to caveat emptor in the socialist countries.

Efficiency, fairness and appropriateness are the criteria to evaluate government intervention, if any of those criteria fail government does not have a right to intervene.

Government should intervene in the following three cases:

1. When there is an informational gap between the consumer and business.
2. When there are few sellers in the market place.
3. When misleading and deceptive practices prevail in the market.

Government intervention must be directed towards bridging the informational gap between consumer and business, disclosing the profitability of all industries, increasing the number of participants in the market place by encouraging small business and by designing regulation that does not lead to an increase in the burden on small business, and penalising those who abuse the market system through committing deceptive practices.

The cost/benefit analysis for government intervention is rejected, since it neglects the distributional effects of the costs of intervention. It is proposed that government should only intervene when the market system fails to generate incentives among business to disclose information, when the consumer fails to evaluate the risk of the latent and lingering effects of products, and when people other than the consumer could get injured as a result of using the products, as in the case of a car accident.

Governments have a special responsibility towards the vulnerable groups. Improving their level of education and income is the best solution in the long run, but in the short run government must protect them through penalising those who commit fraudulent practices. In order to protect the consumer, government needs qualified bureaucrats who are able to design consumer policies that push the market to the competitive situation. Those bureaucrats who are

concerned with the red tape and the letter of the law rather than its spirit only damage consumer welfare, since obeying the letter of the law may be disastrous to the consumer. To cite this as a proof, Manville's attempt to avoid product liability judgement for asbestos injuries via bankruptcy was not illegal.<sup>81</sup>



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PART II

CONSUMER PROTECTION  
IN ISLAM.

CHAPTER ONE

CONSUMER POLICY

IN ISLAM.

## BASIC ASSUMPTIONS.

The following assumptions are basic in order to understand the background of consumer protection in Islam.

1. The purpose of this Chapter is to write a theoretical analysis of consumer protection, which has no relation whatsoever with what is being practiced in the Muslim countries. In other words, non-muslims should differentiate between Islam and the Muslim people, because the behaviour of Muslim people might have deviated from the basic principles of Islam.

The researcher is very concerned with the principles and guidelines of consumer protection in the Kur'an and Sunnah. The Kur'an is the Holy Book of the Muslim people, it is Allah's words as conveyed to the Prophet Mohammed (peace be upon him). The Sunnah is what the Prophet Mohammed (peace be upon him) has said and done or has seen without showing any disapproval.

The researcher also wants to make a clear-cut distinction between the Sunnah Muslims and the Sheah Muslims, since each of these two sections interpret Islam differently. The researcher shall stick with the interpretation of the Sunnah Section, since we believe that the Sunnah people are the Orthodox followers of Islam.

2. There are no conflicts between the Kur'an and

Sunnah, because the Sunnah complements the Kur'an, and explains the principles of Islam in more detail.

3. Although the Kur'an looks with favour upon business activities, there is a strong relationship between morality and business: morality comes first and business comes second.

4. Islam organises all the details of business such as contracts, sales, purchasing, and loans, to the extent that it can be considered exhaustive - even ordering the people to document any loans. Allah said, "O ye who believe! When ye contract a debt for a fixed term, record it in writing."<sup>1</sup>

5. Islamic law is flexible. The interpretation of this law is different from one generation to another. However, any interpretation of the Islamic law must not touch the basic rules of Islam, for example, usury is against Islam. There is no one who can legalise bank interest, because the social and economic conditions of contemporary society are different from those at the emergence of Islam.

6. Islamic law is applicable all the time and everywhere. Believers in Islam should abide by the rules of Islam in every aspect of their lives including their business practices.



7. Islam urges people to get involved in business activities and looks upon the wealthy people with favourable attitudes, to the extent that, the Prophet Mohammed (peace be upon him) is reported to have said "poverty is almost disbelief."<sup>2</sup>

The Prophet Mohammed is reported to have said advising one of his companions "you better leave your heirs rich than leaving them poor and dependent on asking other people."<sup>3</sup>

8. Islam recognises the difference of people in terms of wealth and income, but this cannot be considered as a pretext to any struggle among classes "See how we prefer one above another, and verily the here after will be greater in degree, and greater in preferment."<sup>4</sup>

#### The Economic System in Islam.

Private ownership is the main core of the economic system in Islam. Any violation of private ownership is considered a crime in the Islamic law, to the extent of cutting off the left hand of the thief. Islam even lays rules for inheritance. In Islam there is no ceiling limits on the amount of wealth that a person can acquire, as long as, he or she does not violate the rules of Islam. Islam goes further than that, by recognising that acquiring wealth is a joy "Beautified for mankind is love of the joys (that come) from women

and offspring, and stored up heaps of gold and silver, and horses branded (with their mark), and cattle and land. That is comfort of the life of the world. Allah! with him is a more excellent abode."<sup>5</sup>

Islam recognises the differences of wealth among individuals, not only because of the differences of talents and intelligence between people, but because Allah wanted that, "Allah giveth without stint to whom he will."<sup>6</sup> Islam does not only protect private ownership, but also induces the joys of consumption. It is written "and he it is who hath constrained the sea to be of service that ye eat fresh meat from thence, and bring forth from thence ornaments which ye wear and thou seest the ships ploughing to that ye (mankind) may seek of his bounty, and that happily ye may give thanks."<sup>7</sup> We also find in Chapter Seven that Allah ordered the people not to deprive themselves of the joys of consumption: "say: who hath forbidden the adornment of Allah which he hath brought forth for his bondmen, and the good things of his providing? Say: such, on the day of resurrection will only be for those who believed during the life of the world. Thus we detail our revelations for people who have knowledge."<sup>8</sup>

The only limit of private ownership is the way of using this ownership, where the business activities can be classified into two parts:

1. The permissible business activities, which are

called Halal.

2. The impermissible business activities, which are called Haram.

This classification can be attributed to the fact that any product or service which can be used to satisfy a human need, is permissible unless it causes harm to the individual consumer, or to society as a whole. For example, alcohol, speculation and gambling - are considered impermissible in Islam, since they cause damage to society as a whole, as well as to the individual: "They question thee about strong drink and game of chance. Say: in both is great sin, and (some) utility for men; but the sin of them is greater than their usefulness. And they ask thee what to spend say: that which is superfluous. Thus Allah maketh plain to you (his) revelations, that happily ye may reflect."<sup>9</sup>

It should be made clear, that the limit of the use of one's wealth is designed for the sake of protecting his interests rather than to preclude one's will. Since private ownership is an essential concept in Islam, no direct government intervention has been cited during the epoch of the Prophet Mohammed (peace be upon him) and that of the orthodox caliphate. In Islam, the government does not have control of prices and rents and there should be no nationalization. To cite this as proof: (during the epoch of the Prophet Mohammed peace be upon him) at one time, the price of staples soared, then the Prophet was asked to fix the prices, but he



(peace be upon him) declined to do so.

There are some scholars who believe that price fixing is permissive in Islam. They have been pushed to this belief by the severe dearth of necessities in many Islamic countries. From the Islamic point of view this belief is groundless, since the Prophet (peace be upon him) declined to order any price fixing.

In the researcher's opinion, the dearth of necessities in some Islamic countries has been caused by some factors other than non-price fixing. Non-price fixing is a real protection for consumers. Once price fixing is imposed, the supply of products shall shrink; since the suppliers would be discouraged to supply more products. The Kur'an has given a clear order of avoiding price fixing - "so give full weight and wrong not mankind in their goods."<sup>10</sup>

Governments should have no right to intervene directly in business, unless business has failed to offer the services required.

In this case, it is a duty of governments to intervene and offer that service. For example, if there are not enough private schools and hospitals to satisfy the needs of society, then it is the duty of governments to establish more schools and hospitals. The government intervention was designed not to supplement private business, but to complement it.

Monopoly and oligopoly are not against Islam, since they can be a natural result of the economic situation



in a country. There is no proof in the Kur'an and Sunnah that make monopoly forbidden, but the restrictive practices of monopoly and oligopoly are against Islam.<sup>11</sup> The Prophet Mohammed (peace be upon him) was reported to have said "anyone who monopolises (commit restrictive practices) is committing wrong doing."<sup>12</sup> There are different opinions about the products, of which, monopolistic practices are not permissible. Some scholars think only of food and some believe in all products, while some others believe that only the staples.

Monopoly and oligopoly are not feasible in any country that applies the rules of Islam. One of these rules, is the direct government intervention, where a business has failed to provide the right service. The main role of the government, according to Islamic law, is to make sure that the rules of the game are maintained. One of these rules is to make sure that competition exists in the market - even if this requires ordering business to increase the availability of necessities in the market.

The free enterprise system is the best protection for the consumer, and in order not to let anyone take advantage of this freedom at the expense of the others, the following factors go hand in hand with the free enterprise system:

- a. The prohibition of Riba (usury).
- b. The imposition of Zakat.

- c. The guarantee of the availability of information to the consumer and business.
- d. Consumer protection through wise spending.
- e. Advocating absolute honesty in trade.
- f. The prohibition of fraudulent practices.

a. The Prohibition of Riba (usury)

In Arabic Riba means an increment or an increase, but according to the Islamic law, it is any advantage occurring to one of the contracting parties.<sup>13</sup>

Usury is classified into two types:

(1) Riba al-naseah (usury of the delay of payment).

It is for instance, taking one bushel of wheat and giving back one and a half bushels of wheat after one year.

(2) Riba-al-fadal (usury of surplus).

The advantage that one party is taking, is not based on the delay of payment, it is the exchange of one bushel of wheat with one and a half bushels of different wheat. There is no agreement among the schools of thought about the prohibition of usury of surplus,<sup>14</sup> but there is a consensus about the prohibition of Riba Al-Nasaeh. Consequently bank interest has been considered a usury, whether the interest was on the

producer's credit or the consumer's credit. Citing the prohibition of usury from the Kur'an, "those who swallow usury cannot rise up save as he ariseth whom the devil hath prostrated by (his) touch: that is because they say: trade is just like usury; whereas Allah permitteth trade and forbiddeth usury. He may unto whom on admonation from his Lord cometh, and (he) refraineth (the profit of) that which is past, and his affair (henceforth) is with Allah. As for him who returneth (to usury) - such are rightful owners of the fire. They will abide therein. Allah hath blighted usury and made alms giving fruitful".<sup>15</sup>

"O ye who believe: observe your duty to Allah, and give up what remaineth (due to you) from usury, if ye are (in truth) believers. And if ye do not, then be warned of war (against ye) from Allah and his messengers. And if ye repent, then ye have your principal (without interest). Wrong not, and ye shall not be wronged."<sup>16</sup>

Islam has prohibited usury for the sake of benefits to society, the following points elucidate those benefits:

1. Islam urged people to work in order for society to benefit from their work. Legalisation of usury will therefore encourage the wealthy people to be satisfied with the interest they receive from lending their capital, whilst declining to do any other job. In other



words, usury creates an idle class of people who receive their income from their capital, and society will be deprived of their talents.<sup>17</sup>

2. Taking usury on the lent capital is unfair, because it leads to the exploitation of the needy people.

3. Legalising usury would eventually lead to the transfer of wealth from the poor to the rich. This would lead to the concentration of capital in the hands of a few people or monopolisation of the market, by reducing the number of potential entrepreneurs will be the result.

4. Obtaining usury is unfair practice, in the sense that lent capital has not exposed itself to the risk and the uncertainty of doing business.<sup>18</sup>

5. Obtaining usury on lent capital contradicts the spirit of religion, in the sense that religion urges people to co-operate and help each other.

In spite of the prohibition of interest in Islam, there are ways to get round this prohibition, which are called Hiyla, meaning ruses.<sup>19</sup>

Some of those ruses are:

1. To inflate the sale prices, if the products are sold



on credit.

2. The buyer purchases specific products from the seller, to be paid at a later date, and the seller purchases those products back with cash money, but with lower prices. This type of sale is called Alena. It is prohibited in Islam, because it results in the exploitation of needy consumers.

3. Determining a dual price system: one price for cash sale, and the other for credit sale. This system is called two sales in one sale, and is prohibited because it includes usury.<sup>20</sup>

Any type of ruses are impermissible in the Islamic law for the following reasons:

1. Ruses harm the consumer especially the needy ones, when they are forced to overpricing, for no reason other than they do not have cash money.

2. In Islam, people are judged by their intentions; and those people who try to get round the prohibition of usury are committing a sin.

3. There is no ruse that could be played on the supreme being, as he knows the intention of the people.

The Role of the Prohibition of Interest in Protecting Consumers:

The ban of interest in Islam is intended to protect the consumers in the following aspects:

1. Since interest is illegal in Islam, people will refrain from depositing their money in banks, which usually lend this money to big business firms. Instead they will try to invest their savings to their own ways. Being entrepreneurs will increase the number of sellers in the market. This is one condition of perfect competition. By having a competitive market, consumers will benefit.
2. Business firms will not indulge themselves in selling to the consumer because there is no interest on consumer's credit. In this sense consumers will be protected from buying products on credit, which might keep them in a vicious circle of debt.
3. Illegalisation of interest in Islam, protects consumers from being trapped in the so called holder. Consequently doctrine specifies that if the contract is assigned to those who have purchased on credit they are free from any claim against the seller. Therefore once the bill of exchange is discounted, the buyer is obliged to pay the holder, even if the product he bought was

defective.<sup>21</sup>

4. Illegalisation of interest will protect the consumers, especially the needy ones, from the inflated interest.

5. Illegalisation of interest in Islam leads to lower prices, since the cost of business credit is always part of the total cost.

b. The Imposition of Zakat

Zakat is defined as Islamic taxes. It has a role in alleviating the gap between the rich and the poor. This gap has been recognised in Islam - "All giveth without stint to whom he will."<sup>22</sup>

Since the fund of Zakat is given mostly to the needy, factors of production are diverted from the production of luxurious goods to the production of necessities.<sup>23</sup>

Since Zakat is imposed on capital rather than income, it discourages hoarding and accumulation of idle capital, otherwise the wealth of any person would vanish. The equation below shows the disappearance of one's wealth with time, considering this idle wealth.

$$W (1 - .025)^n$$

W = Wealth

.025 = the rate of Zakat.

Therefore the idle wealth will decline by 22.37% in ten years. This should be a real incentive not to keep idle wealth. This coincides with what has been reported about the Prophet Mohammed (peace be upon him): "invest the wealth of the orphan so that it does not vanish because of the deduction of Zakat."<sup>24</sup>

The imposition of Zakat is intended to protect consumers in the following aspects:

1. It encourages small investors to invest their wealth, otherwise it would decay, so there will be more entrepreneurs in the market. This is one condition of perfect competition.

2. Zakat could be given to the business firms who failed in the market. This has two advantages:

(i) It guarantees the rights of creditors to the failed business firms, not to mention the creditors who do not get any interest when they take the risk of losing through lending to others.

(ii) It keeps the business firms which fail in the market. This will be cushioned against any risk of letting the market be monopolised by a few traders which is a real protection for consumers.



3. The provision of Zakat to the poor is not given to make the poor people rely on it, but it is given to make them rely on themselves. For example, the poor people who devote their lives to worship Allah are not entitled to get funds from Zakat, but the persons who are eager to become educated can get funds from Zakat.<sup>25</sup> Getting Zakat should help those who take it to become rich, where the second orthodox caliph ordered his assistants to make people who take Zakat rich.<sup>26</sup> Being rich is being entrepreneurial. This will benefit the consumer by having more sellers in the market.

c. The Guarantee of the Availability of Information to Consumer and Business.

In order to provide the consumer with the information he needs, to take the buying decision Islam gave the buyer the right to return the merchandise in two cases:-

1. When a person purchases a product that he has not seen, the buyer when he sees the product, has the choice to return it or to keep it on seeing the product. The Prophet is reported to have said "anyone who bought a product, that he has not seen, has the choice to return it back."<sup>27</sup> On the other side of the coin, the seller who sells a product that he has not seen, has no choice to cancel the sale. It is certain that Islam, in this

case, gave this privilege to the buyer, regarding that the buyer is the weak party in the sale contract.

2. In the case that the product is not as it was previously described, it is called "the choice of missing desirable description." The buyer has the right to return it. This would prohibit the seller giving false specifications of any product he sells.

Islam obliges the sellers by showing any defect in the products, and not showing any false features of the products. This was due to a report of the Prophet (peace be upon him) on seeing a seller removing his hand from the staple that it was wet. The Prophet asked the seller about the matter, to which the seller's reply was his hand was wet, because of the rain. The Prophet therefore ordered him to keep the wet layer on the top to enable the people to scrutinise that it was wet.<sup>28</sup> The Prophet Mohammed (peace be upon him) is reported to have said "no Muslim is allowed to sell products with defects to his brother unless he shows the defect."<sup>29</sup>

The flow of information is not only required to the buyer but also to the seller. The Prophet (peace be upon him) is reported to warn traders of buying from farmers, before they arrive in the city, because farmers have no information about the market prices of their products in the city. The lack of information may lead

some traders to tell farmers a lie to under-price their products. The flow of information to the seller should protect consumers in two ways:

1. It prevents any potential monopolisation of staple food by not giving traders any chance to buy up the whole quantity of staple food from the farmers in order to raise the prices.

2. It also shortens the channel of distribution. Instead of having three levels or more channels of distribution - farmers - traders - final consumers - the market would have the possibility of having two levels or more channels of distribution - farmers - consumers. If traders bought from the farmers, the latter would have the right to cancel the deal after satisfying the following two conditions, according to Shafeah school of thought.<sup>30</sup>

1. The sale price is below the market price in the city.

2. The farmers have no idea about the market price in the city at the time of performing the transaction. Islam puts great emphasis on the flows of information to buyers and sellers, Islam prohibits any transaction that includes an element of uncertainty. The specification



of the products and the sale price should be known both to seller and buyer.<sup>31</sup>

The following types of sale are not permissible in the Islamic law, because the product or the price, or both are not known to the seller or the buyer or to both:

1. Stone Sale. This is applicable to a land sale, where someone purchases land with a specific price and the area of the land is determined by throwing a stone. In this case the price is known to both seller and buyer, but the area of the land is not known to both of them at the time of performing the sale contract.

2. Touch Sale. Buying the product after it has been touched by the buyer. In this case the buyer does not know the specifications of the product, while the price is known to the seller and to the buyer.

3. Diving Sale. Paying a specific amount of money in return to what a fisherman catches in a specific period of time. In this case the price is known to the seller and to the buyer, but the product and its quantity is not known to both of them.

4. Monabazah Sale. Buying or selling a product, but the price is what comes out of the buyer's pocket. In



such a situation the product is known to the buyer and the seller, but the price is not known to both of them, or it is known only to the buyer, since he knows how much he carries in his pocket.

5. Mohalakha Sale. It is like selling the fruits growing on a tree. In this case, the price is known to the buyer and the seller, but the quantity of the product sold is unknown to the seller and the buyer.

6. Progeny Sale. It is buying the embryo during the pregnancy period. In this case the price is known to the seller and the buyer, but the product is not known to both of them.

d. Consumer Protection through Wise Spending

The economic problem can be summarised as the consumer having unlimited needs and limited resources. Unfortunately, economists devoted much of their time on the supply side - resources - while the demand side - needs - have been neglected. Islam paid more attention to the demand side by encouraging people to spend wisely. This approach has been cited in the Kur'an many times: "and those who, when they spend are neither prodigal nor grudging; and there is ever a firm station between the two."<sup>32</sup>

Some Islamic scholars, like Akram Khan, believe that

in an ideal Islamic society consumers conform to totality, that is to puritan expenditure norms and observe austerity in their spending behaviour.<sup>33</sup> By reviewing the Kur'an and Sunnah, this point of view could be refuted. Furthermore this point of view is against Islam. For instance, the Kur'an says: "O ye who believe! Forbid not the good things which Allah hath made lawful for you, and transgresses not. Lo! Allah loves not transgressors. Eat of that which Allah hath bestowed on you as food, lawful and good, and keep your duty to Allah in whom ye are believers."<sup>34</sup> The austerity concept contradicts the spirit of Islam, which encourages people to work hard as the Prophet Mohammed (peace be upon him) had said: "Allah like you, when you make some thing, to make it with perfection."<sup>35</sup> Why should people do things with perfection, if they are deprived of the fruits of their work?

It is understandable that people who cannot afford to live lavishly are advised not to over-consume. This idea has been cited in the Kur'an: "Let him who hath abundance spend of his abundance and he whose provision is measured, let him spend of that which Allah hath given him. Allah asketh naught of any soul save that which he hath given it. Allah will vouchsafe, after hardship, ease."<sup>36</sup> So it is not wrong if the rich Muslim people overspend and live lavishly, but is when overspending becomes a prodigality. This would be a different story, because prodigality is not appreciated

by Allah. Although being prodigal is not sinful the poor Muslim consumers should not overspend, that is the real protection for consumers. It is not expected that poor Muslim consumers buy air conditioning on borrowed money. The wise spending rule is in the interest of this consumer, otherwise he will be engulfed in a vicious circles of debt.

e. Advocating Absolute Honesty in Business

Islam obligates its followers to be honest with emphasis on the character of the people who work in business. It is reported that the Prophet Mohammed had said "the merchant who is sincere and trustworthy will (at the day of judgement) be among the Prophets, the justs and the martyrs."<sup>37</sup>

He (peace be upon him) is reported to have said: "the trustworthy merchant will sit in the shade of God's throne at the day of judgement."<sup>38</sup>

In the Islamic law, the merchants should abide by the following principles:

1. No adultration in measures and quantities. Allah warned those who defraud in measures in the Kur'an by saying: "woe unto the defrauders." That refers to those who when they take the measures from mankind demand it in full but when they measure unto them or weigh for them, they cause them loss. Do such (men) not consider



that they will be raised again unto an awful day? The day when (all) mankind stand before the Lord of the worlds?"<sup>39</sup>

Islam associated worship with the honesty of giving the right measures and quantities. Where it has been mentioned in the Kur'an it says "and unto Midian (we sent) their brothers Shue'yb he said: "O my people! Serve Allah. Ye have no other God save him! And give not short measure and short weight. Lo!, see you well-to-do and lo!. Fear for you the doom of besetting day. O my people! Give full measure and full weight in justice, and wrong not people in respect of their goods and do not evil in the earth, causing corruption."<sup>40</sup>

## 2. No defraud in the quality.

It is the duty of the merchant to show all the defects in the products that he wants to sell to his potential buyers. Product defects have been classified into two types:

1. Man made defect. It is like mixing oil with water, water with milk, or injecting water into water-melons in order to make water-melons weigh more.

2. Natural defect. Like the adultration of food as a result of time passing.

The buyer has the right to return the defective



product, regardless of the type of the defect, when the following conditions are met:

(i) The product could not be used for the purpose that it was bought for.

(ii) The buyer did not notice the defects at the time of buying the product or before.

(iii) It is hard to repair the defect.

3. Providing the consumer with all the information he needs in order to take the right decision.

4. No misleading information will be given to the consumer.

5. Merchants should do their best to make the product they offer available in the market.

6. No hard selling approach to make the consumers buy the products they do not need or cannot afford.

7. Although the Prophet Mohammed (peace be upon him) declined to obligate merchants with price fixing, Islam urges his followers to co-operate, and not to be greedy.

f. The Prohibition of Fraudulent Practices

Fraud could be defined, from an Islamic point of view, as inducing the other party in the contract to believe that the terms of the contracts are in his interest, whilst they are not.

Fraud could be classified into two types:

(1) Actual Fraud. It is by committing cosmetic changes in a product in order to disguise a defect or to claim a false feature in the product. If there is any proof of fraudulent practice, the buyer has the right to return the product, but only if the fraud cannot be realised by layman.<sup>41</sup> This would protect the consumer by making him aware, so he should use his personal judgement before he makes a buying decision.

There is a consensus among the different schools of thought that the buyer has the right to return the product if there was any proof of fraudulent practices. There could however be disagreement on what could be considered as fraudulent practices.

(2) Semantic Fraud. It is any verbal lie whether it is related to cost, price, features of the product, or the durability of the product. Any semantic fraud gives the buyer the right to return the product. If

any over-pricing is involved without fraudulent practice the buyer has no right to return the product. Referring to the Kur'an, it says "O ye who believe! Squander not your wealth among yourselves in vanity, except it be a trade by mutual consent."<sup>42</sup>

Islam has protected the disadvantageous position of the consumer by inventing two techniques:

1. The sale of honesty. The potential buyer who has no idea about the market can ask the trader about the cost price of the product and the trader is obliged to tell the truth. The potential buyer and the trader then make an agreement about the sale price. If the seller told a lie about the cost price, then the buyer has the right to return the product or obtain the difference between the told cost price and the real cost price.
2. The Advice sale. If the potential buyer has no idea about the market, he can ask for advice from the seller by informing the trader about his ignorance of the market. The seller is obliged to sell to the potential buyer at the market price, otherwise the buyer has the right to return the product, or obtain the difference between the sale price and the market price.<sup>43</sup> The conspiracy between the seller and

any person who inflates the sale price is considered as fraud, and this gives the buyer the right to return the product.

### Conclusion.

Islam protects consumers through providing private ownership, where individuals' incentives play a key role in securing the necessities and luxurious products, which could diminish if private ownership was violated. Islam does not distinguish between the material and spiritual life, and looks upon business with favour. Islam therefore provides more protection to the consumer in the sense that if its followers, especially the traders, work hard then economic growth would be achieved. That in itself will benefit consumers.

Price fixing contradicts the freedom of business, and the only limit on private ownership is the use of this ownership. It is not permissible to use private ownership in haram.

In order to dilute the disadvantages of private ownership Islam makes the following rules that should be observed by business firms as follows:

1. The prohibition of usury.
2. Imposition of Zakat.
3. The flow of information.
4. The urgency of wise spending.



5. Advocating absolute honesty in trade.
6. The prohibition of fraudulent practices.

In Islam the freedom of business should be guaranteed, but this freedom would be abused if any of the six rules were violated. According to Islamic principles it is not expected that the free enterprise system will operate well, if business people cheat or refrain from providing enough information to consumers. It is supposed that the role of the government is to ensure that the rules of the game are maintained. If the rules of the game are not maintained then the government should intervene, but any direct involvement should be avoided as much as possible.

The Islamic economic system leads as near to perfect competition as is possible, for the following reasons:

1. Islam guarantees the flow of information from business to consumers and vice versa, to the extent that sellers are obliged to show the defects of their products.
2. Since bank interest is impermissible, people with a little wealth will try to become entrepreneurs. This in itself will lead to more sellers in the market. In a system where bank interest is permissive, people with small savings will mostly deposit their savings in banks that lend those deposits to large business firms.

3. Giving away Zakat to businesses who have failed will keep more suppliers in the market.
4. The imposition of Zakat on idle wealth, urges people with little wealth to invest their wealth, and this will finally lead to more suppliers.
5. Giving Zakat to people, should make them rich, so those people who take Zakat will become entrepreneurs. This will lead to more suppliers in the market.

One of the real pillars of consumer protection in Islam is the urgency of wise spending by the poor consumer. This pillar protects poor consumers in three ways:

- (i) It reduces the demand of the products which are beyond the reach of poor consumers, therefore the prices of those products will fall. Some of the poor consumers will be able to buy some of those products.
- (ii) It will prevent any exploitation of the poor consumers.
- (iii) It is better for consumers to live in dignity without being drowned in debt and deprived of the joy of consuming unnecessary products.

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CHAPTER TWO.

CONSUMER PROTECTION THROUGH LEGISLATION.

In the previous Chapter, it was clear that Islam provides the Muslim consumers with sufficient protection to face the market situation. In Islam, state and religion are inseparable. Saudi Arabia is an Islamic country. Secular state is not known to the Saudis. Instead the government and the people are proud of having a religious state, the religious state is imperative to Saudi Arabia. Since Islam has emerged in Saudi Arabia, and the Holy Shrines are in Saudi Arabia, the Muslim believers all over the world look at Saudi Arabia as an Islamic model which should be emulated.

The constitution of the country is Kur'an, therefore the legislation in Saudi Arabia should not contradict the Islamic law. Consequently the researcher should expect that the law of consumer protection in Saudi Arabia to be derived from the Islamic law.

If an article in the Saudi consumer protection law contradicts the Islamic law, that article is considered unconstitutional, and the Islamic judge should not consider it. In the Chapter, the researcher will discuss the law of consumer protection in Saudi Arabia, where there are four Codes of Laws to be discussed.

- A. Commercial Fraud Law
- B. Supply Law
- C. The Law of Jewellers
- D. The Law of Weight and Measure

A description of the Legal System in Saudi Arabia is a prerequisite to understanding these four Codes of Law.

A comparison between Saudi Arabian consumer protection law and that of the United Kingdom will shed some light on consumer protection in less developed countries. There is a lesson that should be learnt from the developed world because the developed world introduced consumer protection laws long before the less developed countries won their independence.

#### THE LEGAL SYSTEM OF SAUDI ARABIA.

As Saudi Arabia is an Islamic country; criminal, civil and business laws are supposed to be derived from the Islamic Law based on the Kur'an and Sunnah as interpreted by the Islamic clergymen and precedents. There are four schools of thought that Orthodox Muslims should base their interpretation on.

Those schools are as follows:

1. The Hanbali School of Thought
2. The Malki School of Thought
3. The Hanafi School of Thought
4. The Shafeah School of Thought

The difference between those schools of thought are on the degree of emphasis laid on various sources of Islamic law.<sup>1</sup> although the differences are not crucial.



Before 1927 in Saudi Arabia, there were four types of Islamic court and the followers of each school of thought had their own courts<sup>2</sup>. It was possible that the verdict given to someone was a function of the court that he proceeded in. In order to change that anomalous situation, all the courts were instructed to use the six Hanbali Books for their legal decisions, but the judges still have recourse to the other three schools of thought as well as their personal discretion.<sup>3</sup>

Muslim clergymen should utilise the sources of Islamic law according to the following primacy:

1. THE KUR'AN: It is the words of Allah as conveyed to the Prophet Mohammed (peace be upon Him.)
2. SUNNAH: It is what Prophet Mohammed (peace be upon him) had done or said or had observed without showing any disapproval.
3. ANALOGY: In any situation, where there is no verse of Law or any precedent that could be used to establish a verdict, the rules of a case should be applied to different case, because of the similarities of the spirits of the two cases. It is like the prohibition of drugs, because of the prohibition of alcohol, since both of them result in family and health destruction.

The most important characteristic of the Saudi legal

system is that judges in the Islamic courts are independent from the executive authority. The following points should prove their independence:

1. Although bank interest is prohibited in Islam, banks in Saudi Arabia charge interest on loans because of new business conditions. If a borrower proceeds to the Islamic court, the interest charge would be waived and the lender bank cannot do anything about it.
2. The Islamic court does not recognise the concept of the limited responsibility of partners in limited companies. The law of companies make those partners responsible for the debt of the limited companies according to their stake in the companies. The Islamic courts hold them ultimately responsible, since no one can limit his responsibility, when it comes to repaying the debt in Islam.
3. The judges in the Islamic courts in Saudi Arabia have a reputation for incorruptibility and justice, and there is considerable faith in the fairness and impartiality of the Islamic law procedure<sup>4</sup>. Anyone who feels that he has been treated in an unjust way by any court should have the right to appeal his case to the Islamic courts<sup>5</sup> where the judges assign significance to a defendant's sworn testimony under the Islamic Oath<sup>6</sup>.

Having the Minister of Justice in the Council of Ministers does not affect the independence of the Islamic courts. In fact, this has been intended to accommodate both the Islamic law and the unprecedented legal problems, since all these problems should be solved according to the general rules of Islam. The government has recently established a higher judicial council of outstanding members of the judiciary and Islamic clergymen to consider problems not covered by the Islamic law.

It is natural that Islam did not cover every area of legal concerns in detail; that is the kernel of Islam, and if it did so, it would not be applicable all the time and everywhere. In Islam, general principles were laid and the details of applying those principles would be different from time to time.

Saudi Arabia was isolated from the rest of the world until the oil discovery, so the general principles of Islam were enough to make the legal system work. However, after the oil discovery, and the exposure to the foreign cultures, as well as the attainment of new products, there was a real need for detailed rules to cover many legal areas. A Royal Decree in 1927 classified courts into three types<sup>7</sup>.

1. Expedious courts which handle simple civil and criminal cases.
2. The Commission on Judicial Supervision deals with



cases involving Nomads.

3. Shariah Courts have jurisdiction over all other cases.

In order to cope with changes in the society the following subsidiaries were added to the Saudi Judicial System:<sup>8</sup>

1. The Grievance Board.
2. Committee on Cases of Forgery.
3. The Commission on Cases of Bribery.
4. The Commission on Impeachment of Ministers.
5. The Commission on the Settlement of Commercial Disputes.
6. The Central Committee on Cases of Adulteration.
7. The Supreme Commission on Labour Disputes.
8. The Disciplinary Council for Civil Servants.
9. The Disciplinary Council for Military Personnel.

Since 1953 the Council of Ministers have been responsible for formulating the general policy, by directing the activities of the ministries. It became the most potent body in the country<sup>9</sup>.

Legislation in Saudi Arabia is by Royal Decree or Ministerial Regulations.

The main point to be mentioned here is that crimes which are covered by the Islamic law are tried by the Islamic courts, and the crimes which are covered by various codes of law and regulations, established by



Royal Decree and ministerial decisions, are tried by government bureaucrats.

A. COMMERCIAL FRAUD LAW.

In response to the exposure of Saudi Arabia to other cultures as a result of the oil discovery, Saudi Arabia became dependent on aliens. This led to an astronomical demand on imported goods like canned food, durable goods and cars. A Royal Decree in 1381 AH had established the commercial law of fraud. At that time the law was enough to inhibit commercial fraud, but as a result of the increase in oil prices in the 1970's, and the ambitious development plans, the 1381 AH law was not effective enough to protect the consumers in the following aspects:

1. The financial penalties were lenient and were equivalent to "peanuts" compared to the huge profit generated from committing fraud.
2. Advertising before the 1970's was minimal<sup>10</sup>.
3. The increased demand on durable goods, canned food, and pre-packaged goods was rising. Before the 1970's most of the food stuff was not packaged, so the consumer was able to scrutinise the products, before buying them.

Introducing a new law to protect the consumers was a necessity, so the 1381 AH Commercial Fraud Law was

replaced by the 1404 AH law. The commercial fraud law is now considered a part of the criminal law.

It is harder under the criminal law to prove charges than to win in the civil court, but the legislation under the criminal law is concerned with the interests of society rather than the redress of the consumer. The commercial fraud law provided the consumer with the right to obtain a full refund for the goods he had bought if they were adulterated or if any fraud was implicated<sup>11</sup>. In this case the Saudi legislator did guarantee the refund to the consumer, although the case is proceeded under the criminal law. Under the commercial fraud law, injury is not a prerequisite to proceed against the seller. It is enough to sell adulterated goods or to commit a fraud in order to start criminal proceedings.

As it is in the U.K. only the business trader can commit an offence under the commercial fraud law. People who are not involved in business activities cannot be held liable for any infringement of this law<sup>12</sup>.

Under the criminal law (including the commercial fraud law) any vendor is made aware of what he is selling which is a real advantage for society as a whole. Proceeding against the offender of commercial fraud law under the criminal law will however never bring any compensation for the consumer beyond the full price of the product. In spite of that, the injury to the consumer can go beyond the price of the product,

where he or any of his dependents receive emotional or physical injuries.

#### Fraud in Goods:

Article number one of the commercial fraud law stated that there is a fine from SR 5,000 to 10,000 or closing the shop for a period of 7 to 90 days or both for anyone who has committed fraud or started to commit fraud or adulterated or tried to adulterate in any of the following ways<sup>13</sup>:

1. The nature of the product, its type, its components or its main characteristics.
2. The origin of the product.
3. The quantity of the product in terms of number, weight, measure, capacity, or any other way that gives false information.
4. Description, advertising, or displaying products in a way that misleads or provides false information.

Fraud could be proved, if fraudulent practices have been committed, regardless of the ability of the layman to discover it<sup>14</sup>. If the buyer was able to discover the fraudulent practice before he bought the product, the fraudulent practice could be considered a fraud.

The Saudi legislator did not go into detail when defining the clear line between fraudulent practices and permissible practices.

Adulteration could take place by mixing the product with some other material, for example adding water to milk or to shrimps to make them weigh more. It could also be done through taking away some elements of the product, for instance skimming the milk. It could also be done through replacing some raw material by other inferior material, such as using saccharin instead of sugar in the manufacturing of beverages. It is clear from article number one that the legislator equates between the act of fraud and the capacity to commit fraud which should act as a deterrent to committing fraud by the business community.

#### Food Adulteration:

Article number two of the commercial fraud law states "anyone who adulterates or starts to adulterate in food stuff, either for human or animal consumption; anyone who sells or even displays for sale; possesses adulterated food stuff either for human or animal consumption, will be penalised by closing his shop, or by imprisonment for a period of 7 to 90 days. In addition to this he will also be penalised with a financial fine of 10,000 SR to 100,000 SR<sup>15</sup>".

It is clear that the penalty for food adulteration is more severe than for fraud in the non-food stuff because food has a direct effect on the health of the human being, even if the adulterated food was given to animals.



The legislator equates between committing food adulteration and the capacity to commit it to provide the consumers with preventive protection.

The penalty for food adulteration is applicable even if the buyer knows about the adulteration of the food before he bought it. As this was not stated in the law a breach of the law could be exempted from the penalty if the buyer knows about the food adulteration. In contrast to the fraud in non-food goods, the law stated that the forfeiture of the adulterated food is part of the penalty, and the law even considered possession of the adulterated food a crime. This appears reasonable because there is no need for a seller to keep adulterated food, unless he wants to sell it.

Any product is considered adulterated, if it does not satisfy the determined specifications,<sup>16</sup> even though, the Saudi Arabian Standards Organisation did not design specifications for all products.

Until 1982/1983 the Saudi Arabian Standards Organisation had designed specifications for only 357 products<sup>17</sup>, while the Saudi market is flooded with all types of products from all over the world.

In order to give more protection to the consumers, the law has considered the following rules:

1. The manufacturers of adulterated or unusable products will be ordered to recall the products from the market and repair them, otherwise they would be

fortified with nothing in return. The penalty which has been stated in the first article is also applicable in this case<sup>18</sup>.

2. It is clear from the law that the legislator considered the unusable goods as adulterated goods. This gives more protection to the consumer, so the consumer should be aware of stating his purpose when buying.
3. Traders who import adulterated products are required by the law to re-export those products.
4. There is a penalty of SR 5,000 - 100,000 for anyone who imports, manufactures, prints, possess, or sells any material which could be used to commit any fraud, like changing the expiry date of products.

#### Legal Procedures for Preventing Commercial Fraud:

In order to enforce the commercial fraud law, two types of committees were established. They are as follows:

1. Committees to discover the infringement of the commercial fraud law. The members of the committees are drawn from the Ministry of Commerce, the Ministry of Municipal and Rural Affairs, and any other Ministry the Minister of Commerce wants to include.<sup>19</sup> The members of each committee have to perform their duties collectively. It is not allowed for any member to inspect shops individually, unless there is an urgent

need to do so. Under such conditions the Inspector should submit the whole matter to the Committee<sup>20</sup>. The law delegated authority to the employees of the Ministry of Municipal and Rural Affairs to inspect perishable food stuff, for example fruit and vegetables. In order to facilitate the work of the Inspecting Committees and the employees of the ministry of Municipal and Rural Affairs, the law stated that there is a minimum fine of SR 10,000 for anyone who tries to inhibit the bureaucrats. If someone was proved to be inhibiting the "Inspector" by trying to disguise the infringements of the law, the shop would be closed for a minimum period of 15 days.

2. Central committees for interrogation and determining the penalties.

In order to achieve justice and to avoid any bias of the Inspecting committees, specialised committees are responsible for determining the verdict of the law breakers. These central committees are composed by decisions from the Ministry of Commerce. Every central committee consists of two Saudi bureaucrats from the Ministry of Commerce and one bureaucrat from the Ministry of the Municipal and Rural Affairs. One of these bureaucrats should have a good background in law. The verdicts of these committees are considered final after they have been approved by the Minister of

Commerce. Except for verdicts that implicate imprisonment, the defendant could appeal to the Board of Grievance within 30 days of the day he is informed of the verdict. The verdict issued by the Board of Grievance is final. If the defendant did not appeal to the Board of Grievance within 30 days from the date, he was informed of the verdict he will lose his right to appeal.

In order to discourage fraudulent practices, the law obliged the Ministry of Commerce to promulgate the Contempt of Court in at least one of the national newspapers at the expense of the contempered defendant.

Needless to say, promulgating the infringement of commercial fraud is an effective deterrent of committing future infringements of the law, by informing consumers of dishonest merchants. However, promulgating the Contempts of the Courts in newspapers have two drawbacks:

- (i) The procedure is protracted, where verdicts should be signed by the Minister of Commerce. It is not logical to involve a minister in condemning the owner of a small shop who sold adulterated goods. By prolonging the procedure, and giving everyone the opportunity to cheat, the protracted procedure prevents consumers from complaining.
- (ii) Publishing the Contempt of Court in national newspapers does not help all potential



consumers of being aware of the merchants who have committed fraud due to the high illiteracy rate in the country. In fact, promulgating the Contempts of Court on Saudi television would better serve the cause of the consumer, when considering that the television station is completely owned by the Government. It will cost nothing to educate consumers by television promulgation.

The law holds the employees, the managers and the owner responsible for any infringement of the law. If any one of them could prove his innocence by showing that the fraud was out of his control, then imprisonment could be avoided. The physical penalty would be imposed on the ones who would not prove their innocence. All of them are still collectively responsible to pay the financial penalty. The mentioned rule goes hand in hand with article number ten of the Commercial Court Law which states "every trader is responsible for the behaviour of his employees, and he is considered a partner with every one of them in breaching the law, unless he could prove otherwise, then the onus of proof is on the owner."<sup>21</sup>

Comparing between the Commercial Fraud Law of 1381 AH and that of 1404 AH, the new law is distinguished from the 1381 AH law in the following aspects:

1. The penalty of the 1404 AH law is more severe than that of 1381 AH law, because the financial fine has increased astronomically and, in addition, imprisonment terms were added. The table below shows this point.

TABLE 2.2.1.

PENALTIES OF THE COMMERCIAL FRAUD LAW OF 1381 AH AND  
THOSE OF 1404 AH

Type of Infringement	Penalties under 1381 AH Law	Penalties under 1404 AH Law
(1) Fraud of nature, source, quantity of non-food goods	Fine SR 100-1,000 to be increased if it was repeated	Fine SR 5,000-100,000 or closing the shop for 7-90 days
(2) Adulteration of nature, quantity, source of food items	Fine SR 500-2,000 + forfeiture of the goods	Fine SR 10,000-100,000 + closing the shop or imprisonment from 7-90 days + forfeiture of the goods
(3) To inhibit bureaucrats from performing their duties	Fine SR 1,000-2,000	Minimum Fine SR 10,000

2. The new law covers more areas than 1381 AH law. For instance, an untruth in an advertisement is considered as fraud.

3. Displaying adulterated food stuff even if it was not

- for sale is considered a fraud under the new law.
4. Under the new law goods are considered adulterated in two situations:
    - (i) If the period of their usability has expired.
    - (ii) If the products do not satisfy the Saudi specifications.
  5. Under the 1381 AH law, there were three Committees: one for inspection, one for interrogation, and one for determining the verdict. It was a very protracted procedure to convict breakers of the law. Under the new law, there are only two Committees: one for inspection, and the other for interrogation and determining the penalties. This should reduce the task of convicting the breakers
  6. In both the 1381 AH and 1404 AH laws the legislator did not consider the fraud practices in service. This is a very important area, which is open to abuse by business.
  7. The legislator does not differentiate between the breachers of the manufacturer, wholesaler, and retailer, nor between those of small and large businesses. This differential is vital for justice. For example, imposing a SR 5,000 fine on a small shop would harm its owner, while imposing the same fine on a large chain supermarket would not harm its owner.

By drawing the members of the Inspecting and Central Committee from different ministries, the task of co-ordinating members, monitoring their ability to perform their duties, as well as the desire to reach final decisions is very tough.

Another drawback is that the commercial fraud law was not devised to compensate the injured person; it was invented to punish those who break the criminal law, although the new law obliged the seller to return the full price to the buyer, if fraud was cited or the food was adulterated. So the problem of the non-existent contract between the seller and the injured person does not arise. Even if the buyer was the injured person, he would receive no redress for any injury. In conclusion, the problem which took the U.K. legislator a long period of time to solve, eventually by determining that the injured person could sue the manufacturer under the concept of negligence, does not exist in Saudi Arabian Law.

From the researcher's point of view the injured person should receive fair compensation whether there is a contractual agreement or not. For example, if the driver who bought a defective tyre was involved in an accident as a result of that tyre, obtaining SR 150 from the seller by no means compensates for the physical and emotional experience of being the victim of defective goods. The concept of compensating the victim of defective goods does not contradict the Islamic Law.



The theory of tort is known in Islam and accordingly, anyone who causes damage is held responsible to repair that damage. This fact would make business firms aware of what they offer to the consumers.

The last thing to be mentioned is that Saudi commercial fraud law is not applicable in some cases. It is unfair to apply it to the illiterate retailer who sells canned food, when he does not know the date of usable expiration.

The legislator should bear in mind that the sale of canned food by the illiterate retailer could not be proved as a crime, since no court could prove that the act of retailer was wilful.

#### B. THE LAW OF SUPPLY.

The Saudi Arabian government pledged that the staples in the market are enough with reasonable prices. This pledge is based on the concept of the welfare of Saudi society. In order to achieve this pledge, the government adopted the following objectives:

1. The provision of staples to the consumers in the right place with reasonable prices, which could be afforded by everyone.
2. To provide the consumers with more alternatives to choose from.
3. To urge fair competition among business firms.

4. To improve the efficiency of marketing activities of staples.
5. To build bridges between the government agencies and the business community to serve the needs of consumers.

In order to achieve these objectives without violating the Islamic principles of the freedom of the enterprise system, the government avoids intervention in staples business as much as possible. In order to achieve the previously mentioned five objectives, the government plays a key role in the following areas:

1. The government encourages the importation of staples. This encouragement is embodied in providing the business community with all the information concerning the world supply of staples, the national demand for staples, and the quantity of staples in Saudi Arabia.<sup>22</sup>
2. The law delegated authority to the Minister of Commerce to consider any product as a necessity, and to reverse his decision according to the supply situation in Saudi Arabia.

It is possible to classify the products, which are governed by the law of supply, into three types:

- (i) The subsidised products.

All the subsidised products are price fixed; this takes into consideration the differential cost of transportation from one city to another. No one is allowed to overprice the subsidised goods. Flour, rice, sugar and some other food staples-all are subsidised goods<sup>23</sup>

(ii) Products with a maximum fixed mark up.

The Ministry of Commerce determines the maximum mark up for some essential products. The following Table shows these products.

TABLE 2.2.2  
MAXIMUM MARK UP OF SOME ESSENTIAL  
PRODUCTS IN SAUDI ARABIA.

Product	Maximum mark up of CIF to Importers	Maximum Mark up of Imp- orter's Selling Price to Retailers & Wholesalers
Tea	10%	12%
Coffee	10%	12%
Cardamom	10%	12%
Beans and Lentils	10%	12%
Wood	10%	10%
Building Steel	10%	10%
Sanitary	15%	15%

SOURCE: Kingdom of Saudi Arabia, Ministry of Commerce, The Manual of Supply and Consumer Protection in the Kingdom of Saudi Arabia (Jeddah: Jamjoom Publishing Company), p.8.

(iii) The unsubsidised fixed price goods, such as cheese, eggs, fuel, mineral water, cement, and gypsu.

As it was shown in the last Chapter, price fixing is against the Islamic Law, but in Islam there is a



loophole for that. If it is in the public interest of the people, it is permitted to freeze a rule to avoid haram.

The Saudi government has used this loophole of price fixing on some products. Price fixing, in the situation of Saudi Arabia, could be justified by the following factors:

- Price fixing and determining the maximum mark up were imposed on some necessities - they were not imposed on luxurious goods.
- Although Saudi Arabia is governed by the rules of Islam, the character of the Muslims of today is not as perfect as the Muslims at the emergence of Islam.

Some traders could be described as exploitative and opportunistic. Some traders exploit any situation in order to obtain advantages from it. To cite an example of this, increasing the salaries of the government employees. The Council of Ministers, in his decision number 680 in 12/5/1397 AH, delegated authority to His Royal Highness the Minister of Interior Affairs and the Minister of Commerce to ensure no trader takes advantage of the increase in government employees' salaries<sup>24</sup>.

3. Obliging traders who trade in staples to use the Journal and Inventory Books. This was established by a ministerial decree in 1975<sup>25</sup>. This goes hand in hand with the law of commercial court. Traders



are also required to keep all the invoices relating to selling and buying staples, that would enable Inspectors to make sure that no infringement of the law is committed<sup>26</sup>.

4. The law of supply obliges retailers to place price tags on the staples. This will help the consumers to make comparisons between products, and it will also enable the Inspectors when performing their duties.
5. Direct Intervention.

The government of Saudi Arabia does not intervene directly in business, unless there is no other alternative.

In an unusual situation the Council of Ministers could delegate the authority to the Minister of Commerce to import staples<sup>27</sup>. However, the Ministry of Commerce does not sell directly to the consumers. It sells all the imported staples to the traders, who sell directly to the consumers. In 1394 AH the Ministry of Commerce imported large quantities of rice and sugar<sup>28</sup>.

#### Penalties for Breaking the Law of Supply:

In order to make sure that the law of supply is not abused, the legislator determined the following penalties:

1. Anyone who overprices the staple will be fined with SR 5,000 to SR 50,000 plus, returning the difference in prices. In addition to this, closing his shop for three days to a month, or imprisonment of three days to one month, or both, with the forfeiture of the products and publishing the infringement at his expense. These penalties can be applied to the traders who keep the staples out of the market. Keeping staples out of the market is against Islamic Law, and is intended to manipulate the prices of the market. This is the reason behind determining the same penalties on over-pricing and keeping the staples out of the market.
2. Disobedience of performing the instructions could lead to a fine of SR 1,000 to SR 10,000 including publishing the disobedient behaviour at the culprit's expense.
3. There is a fine from SR 1,000 to SR 10,000 plus the publishing of the infringement at the lawbreaker's expense for any retailer and wholesaler who do not place price tags on the staples. The price tags should be in Arabic.
4. There is a fine from SR 1,000 to SR 10,000 plus publishing the infringement in national newspapers at the expense of those traders who do not keep accounting records and buying and selling invoices.
5. There is a fine of SR 1,000 to SR 10,000 plus publishing the infringement in national newspapers

at the expense of the consumer who overpays - when he is buying staples. It is not fair to impose any penalty on the consumer who overpays for the following reasons:

- (i) The consumers are not supposed to know the fixed prices of staples. Many of them do not know whether the supply law exists or not. The consumer is the weak party in any contract.
- (ii) Overpaying cannot be considered a crime. In order to commit a crime, there must be wilful action. A consumer buys staples to satisfy his basic needs, not to manipulate the market. The legislator was intended to make the consumer aware of the right prices, but it is not logical to fine someone (with what is equivalent in the U.K. to £200 as a minimum fine) to make him aware of his rights.

Legal Procedures for Preventing the Violation of the Supply Law.

The Inspection Committee which enforces the commercial fraud law inspects and interrogates those who break the supply law. A member of the local government is added to every Inspection Committee. The Inspecting Committee should submit the whole matter to the Ministry of Commerce, which in turn submits it to the Ministry of Interior Affairs. Thus the latter should determine the penalty.



Involving the Ministry of Interior Affairs makes the violation of the supply law a serious matter, for those who break the law. The verdict of the Ministry of Interior Affairs is final and the defendant cannot appeal his case to the Board of Grievance because title number nine of the grievance law states "it is not allowed for the Board of Grievance to look at any objection presented by individuals on the verdicts of the courts and the judicial committees"<sup>29</sup>.

If imprisonment was implicated, the Board of Grievance would be required to look at the appeal of commercial fraud verdicts. (This is an exceptional case).

In conclusion the supply law in Saudi Arabia is very stringent. The objective of the legislator is to ensure the supply of necessities to everyone in Saudi Arabia, rather than to give the law breaker the right to appeal in protracted procedure which delays the act of justice.

### C. THE LAW OF JEWELLERS.

The law of jewellers is considered the first code of law to protect consumers in Saudi Arabia. A Royal Decree in 1360 AH was issued to regulate the trade of precious metals. That act of law was mostly concerned with the duties of jewellers and the relationship between jewellers and their employees.

The law established a chief for the jewellers and a



board of jewellers. Under the jewellers law, it is necessary for anyone to be licensed by the chief of jewellers, before he could be a jeweller. In order to sanction the license the following conditions must be met:

1. The person applying for the license should be honest.
2. He should have at least three years experience as a craftsman
3. The board of jewellers should approve his qualifications and manner.

In order to protect the consumers, the law obliges the jeweller to conduct the following duties.

1. The jeweller should record all the transactions of precious metals, such as their type, weight, the original sellers, as well as the buyer.
2. The jewellers should use formal invoices. The buyer should receive the original one, and the jeweller keep the copy. The weight, the shape, the date of sale, and the degree of purity should be shown on the invoice. If any dispute arises in the future, the copy of the invoice should be neglected, unless there has been changes in the original invoice.

## The Dispute Between the Jeweller and the Buyer.

In the case of any dispute between the jeweller and the buyer about the type of metal or its purity, the matter should be solved between both of them. If not the whole dispute should be referred to the chief of the jewellers. If the latter was unable to resolve it satisfactory between the jeweller and the buyer, the matter should be referred to the board of jewellers. The decision by the board of jewellers about the type of the metal, or its degree of purity, is final<sup>30</sup>.

If the buyer thinks that overpricing was involved in the deal, the matter could be referred to the chief of jewellers, who would then decide if over-pricing was involved or not. If over-pricing was involved then there are two cases:

1. If over-pricing was extortionate, the chief should order the jeweller to return the difference.
2. If over-pricing was trivial, the chief should convince the buyer to forget it and no refund or credit would be given to him.<sup>31</sup>

The law of jewellers provided the jewellers with the authority to solve all the disputes and to regulate their activities. The decisions of the board of jewellers are final concerning the type and degree of purity of precious metals. This situation was

acceptable at the time of issuing the law of jewellers forty-five years ago, when the Saudi people did not expect to face fraudulent practices, and the Saudi society was a traditional one. The word of the old people in the community was considered a law, but the norms of the society started to change. No new law was made to replace the 1360 AH law to tackle the unprecedented situation. The Ministry of Commerce from time to time issues regulations, concerning the precious metal transactions. Three ministerial decisions concerning the matter until now were issued:

1. The ministerial decision number 394 in 21/2/1396 AH concerning the jewelry made of gold, silver, and platinum. The ministerial decision illegalises displaying and even possessing any jewelry, for the purpose of selling, unless it is clearly hallmarked. The standard marks for gold were made: 22, 21, 20, 18, and 14 Carats. The standard marks for silver were made 100, 900, 800, and 700 to 1,000 parts of alloy respectively. The standard marks for platinum were made 100, 800, to 1,000 parts of alloy.<sup>32</sup>

The ministerial decision obligated all jewellers to hallmark all the jewellery in their possession. Any break of the decision should be referred to the central committee of commercial fraud law.



2. In order to protect the Saudi small investors from speculation of gold and silver, the Ministry of Commerce issued the ministerial decision number 948 dated 1/1/1402 AH. According to this decision it was made illegal for any firm to speculate in gold or silver, or even to advertise about any speculation which would induce the Saudi people to take part in any precious metal speculation<sup>33</sup>.

The ministerial decision went further by making it illegal for firms to include speculation of gold and silver in their objectives. This ministerial decision was a reaction to the traps that many investors have fallen into. Banks were exempted from this ministerial decision. Consequently, they could speculate in gold and silver. In fact, speculation contradicts the rules of Islam. It is fair from the Islamic point of view to illegalise speculation, but it is not fair to legalise it for the banks. The Ministry of Commerce should have adopted one stand on the issue of speculation in gold and silver. By not doing that, it considered the small investors as incapable of evaluating the risk of speculation. That might be the case for some small investors, but not for everyone.

3. According to the ministerial decision number 315/14/33 dated 28/1/1403 AH, it is legal to import and make the gold and silver coins (which are not in circulation), and medals, awarded by the Saudi



government, except under the following conditions:<sup>34</sup>

- (i) All coins and medals should be identical to the original ones, concerning the shape, the weight, the measure, the design, and the degree of purity of the precious metal.
- (ii) All coins and medals should be hallmarked by the logo of the manufacturers, in a similar way to the original ones.
- (iii) All coins and medals should be hallmarked to clarify the purity of the precious metal.

In order to protect the consumers from buying counterfeit medals and counterfeit uncirculated coins, the legislator did not illegalise selling them, but he required the sellers of those coins and medals to inform the buyers that those are not the original ones. This gives double protection: protection to the buyers from over-pricing, and protection to those who were awarded these medals - what would the benefit be of being honoured by winning any medal, if anyone could buy the same medal from the market?

The ministerial decision delegated the inspection committees of the commercial fraud to enforce the regulations related to the decision.

From the researcher's point of view, the infringement of the ministerial decision dated 28/11/1403 AH is totally different from the infringement of commercial fraud law, where it first touched the security of the state. It is like forging the national currency, so they should not be tried under the consumer protection laws, as the penalties would not be severe.

In a summary, the 1360 AH law is not enough to cover the areas of precious metals and stones, so the Ministry of Commerce issues ministerial decisions from time to time responding to public outcry.

There is a real need for comprehensive precious metals and stones for the following reasons:

1. The law of 1360 AH delegated the authority to the chief of jewellers to enforce the law, but the ministerial decision number 394 dated 21/2/1396 AH gave the inspection and the central committees of the commercial fraud the jurisdiction to enforce the precious metals regulation. In fact, this made two types of court for one type of case.
2. Giving the chief and board of jewellers the authority to have the final say in any dispute between the buyer and the seller is not plausible, since no one could be judge and adversary in one case. The chief of jewellers is a jeweller, before he becomes chief of the jewellers.
3. Hallmarking should be done by a government agency

and not by the jewellers. The imported jewelry should also be checked by a government agency to make sure that the hallmarking is correct.

4. Precious metals are gold, platinum, and silver, but the law should also cover the precious stones like diamond, sapphire, pearls, ruby, onyx and moonstone. Diamond frauds are more severe than gold and silver, because ladies receive a very low price when they trade-in their diamonds.
5. The education of females started very late in Saudi Arabia. A lot of women are illiterate even in the large cities, so they are the weak parties in any contract of precious metals and stones.

#### D. THE LAW OF WEIGHT AND MEASURE:

Before 1383 AH there had been different systems of weights and measure in Saudi Arabia. In order to enable the consumers to compare the unit price of products, there was a real need to have one system of weight and measure. In 13/9/1383 AH a Royal Decree established the law of weight and measure. For its simplicity, the metric system was adopted. Under the law it is an offence to use any system of weight and measure other than the metric system. The law delegated the authority to the Ministry of Commerce which exempted some of the rural areas of applying the metric system. The legislator took into consideration that some of the



rural people might not assimilate the metric system.

The control of the law of weight and measure takes three main parts:

- (1) The inspection of weight and measure devices.
- (2) Labelling of quantity on packages.
- (3) Penalties for breaking the law.

1. Inspection of weight and measure devices. Under the law of weight and measure, the Ministry of Commerce and the local municipalities are responsible for enforcing the law. Article number three obligated the Ministry of Commerce to establish central units in the capital and the other cities. The same article obligated all the municipalities to establish units for weight and measure. All those units should be under the technical supervision of the public Department of Weight and Measure at the Ministry of Commerce.<sup>35</sup>

The Ministry of Commerce is responsible for determining the relations between those units. This should be approved by His Royal Highness the Minister of Interior Affairs.

The Ministry of Commerce imported devices for weight and measure in 1385 AH, and in 15/1/1386 AH the gas stations were instructed to the use of the litre instead of the gallon.

The law did not determine who would be responsible of enforcing it, although the inspection committees of



commercial fraud do this job, while the municipalities do this job for the perishable goods.

2. Labelling the Quantity on Packages. At the time of introducing the law of weight and measure, goods had not been sold in packages. As a result the legislator did not pay much attention to labelling of the packages, although he required that any goods should be labelled with the net weight or measure in a desirable place according to the metric system. The only exemption was given to imported goods, whose country of origin does not follow the metric system, but they should be traded according to the metric system.<sup>36</sup>

At the time of introducing the law of weight and measure, food has been imported in bushels and retailers have been selling them using units of weight, for example, by kilograms, or gallons. Nowadays consumers buy pre-packaged products in small or large quantities. If the letter of law is followed, the consumer will end up having most of the imported food stuff labelled according to the imperial system for two reasons:

(i) Most of the imported food products are imported from the United States of America. The U.S.A. still follows the imperial system.

(ii) In order to re-label the quantity of pre-packaged food products according to the metric system, the cost of marketing would

increase and the consumers would be charged with those expenses.

3 Penalties for Breaking the Law. The law only considered four types of infringement, they are as follows:

- (i) The use or possession of any device, which is not based on the metric system or which is not stamped by the authority, is a crime. The penalty for this offence is a fine from SR 100-1,000, in addition to forfeiting the device.
- (ii) Anyone who uses a device with a counterfeit stamp would be penalised with a fine from SR 1,000 - 20,000, or imprisonment of one month to one year, or both of them besides forfeiting the device and the instrument of forgery.
- (iii) Anyone who counterfeits the stamp of the device will be fined from SR 1,000 - 2,000, or receive imprisonment of one month to one year, or both of them besides forfeiting the instrument of forgery.

The legislator equated between the ones who use a device with a counterfeited stamp and those who commit the forgery. In other words, he designed one penalty for two different types of infringements. Possessing or using a device

with a counterfeited stamp could not be considered a wilful behaviour, when the shopkeeper or the peddler is illiterate.

- (iv) The law considers not displaying the net weight or measure according to the metric system as an offence and the penalty is a fine from SR 1,000 to SR 5,000, in addition to correcting the infringement at his expense.<sup>37</sup>

#### COMPARISON BETWEEN CONSUMER LAW IN SAUDI ARABIA AND THE UNITED KINGDOM.

In this section, the researcher is concerned with the similarities and dissimilarities between the consumer laws in both countries. Before making the comparison, three assumptions should be made.

1. The comparison between the present Saudi consumer law and that of the United Kingdom is the forum of this section. No comparison between the Islamic law and the U.K. law is carried out, although the Saudi consumer law is derived from the general principles of Islam. In other words, the comparison would be, between the U.K. consumer law and the application of the general principles of Islam as a CASE in Saudi Arabia. The merit of any law is not only the cushion for justice, but the way in which the law has been interpreted and applied is a key factor in achieving justice.



2. The researcher will not differentiate between English and Scottish laws; for the purpose of this study, he will be concerned with the U.K. laws as a whole.
3. The comparison will be concentrated on the general similarities and dissimilarities - the researcher has to admit that detailed similarities and dissimilarities are beyond the scope of this Chapter.

Two main concepts exist in the U.K. consumer protection law:

(i) The freedom or the sanctity of contract. This concept developed through the centuries, but it reached its peak in the Nineteenth Century.<sup>38</sup>

(ii) The duty to take care is a concept of the Twentieth Century.<sup>39</sup>

In Saudi Arabia the freedom of contract was derived from the Islamic principles. It is deeply entrenched in the beliefs of the Saudi people.

The freedom of the contract is the main denominator between the U.K. law and that of Saudi Arabia.

The concept of the duty to take care is a very new concept to Saudi consumer law, although this concept is entrenched in the Islamic law. In fact, the government of Saudi Arabia takes care of the Saudi people, but not



to the extent that the sanctity of contract may be violated. This can be exemplified in the following cases:

- (1) In Saudi consumer law, there is no limit on the claims that business could avoid, as no code of law has been discussed about this matter. In the U.K. there has been recognition that disclaimers can undermine the protection provided by the legislator. The courts decided that disclaimers must be bold, precise and compelling in order to attract the notice of consumers.<sup>40</sup>

The right to limit liabilities in consumer transactions is extremely limited<sup>41</sup> and the seller has no right in excluding his liabilities for death and personal injury caused by negligence.<sup>42</sup>

- (2) If a sold product caused an injury to the buyer, the buyer could sue the seller for a breach of contract. But if someone other than the buyer was injured, there is no agreement between the seller and the user. Even if the buyer was injured there is no contract between the manufacturer and the buyer.

It was not until 1932 in the U.K. that a House of Lords decision stated manufacturers owed a duty to the ultimate consumer.<sup>43</sup> Unless there is an agreement between the injured person and the manufacturer, the

manufacturer could be liable for negligence. In Saudi Arabia, this problem does not exist, since no insinuation about emotional or physical redress was made in the Saudi consumer law.

It could be generalised that the U.K. consumer law is more concerned with these duties than the Saudi consumer law. Consequently the Saudi consumer law is more concerned with the freedom of contract than the U.K. consumer law. There is another area that could be considered as a common denominator between the two countries - much of the legislation is concerned with the sale of food products.<sup>44</sup>

The following dissimilarities can be traced between the consumer laws in the two countries:

1. The U.K. consumer law is more elaborate than that of Saudi Arabia, where the consumer law in Saudi Arabia is very concerned with the general rules. For example, the Saudi commercial fraud law does not detail the procedure which enables the consumers to avoid sales traps. In the U.K. the law details the application of the general rule. For example, it is an offence if the traders have not offered the goods for sale at a higher price within the preceding six months for a continuous period of not less than 28 days<sup>45</sup>. The courts have held that products may not be merchantable if they have minor blemishes, so no store can sell defective goods even if they are on

sale.<sup>46</sup>

Another example that explains the detailing of U.K. law, although price per unit is not required by the law in the U.K., the Department of Trade authorises self service weighing procedures, where a weighing machine will be kept available in stores in order that the buyer could ensure the weight if he so wished.<sup>47</sup>

2. Although the Islamic courts are independent from the executive authority, consumer courts are part of the executive authority. In fact they are committees under the supervision of the Ministry of Commerce.

In the U.K. all consumer courts, including small claims courts, are independent from the executive authority.

3. Because the Saudi consumer laws were made to face unprecedented situations, and to face the introduction of new products, which were not known by the last generation, there was an urgent need to make laws. Those new laws were not based on the experience of the new goods, so with time, the problems of the new goods are brought to the surface. The need to change the law emerged again, so the government must introduce new laws or amend some articles of the old ones.

In the U.K. the opposite situation prevails, where the law emerges through judicial precedent. The common law cannot keep pace with the accelerated



changes of business in the Twentieth Century. For example, it took the U.K. law a long period of time to recognise that the manufacturer is liable for his manufactured products when there is no contractual agreement between the injured person and the manufacturer.

Another example is that the U.K. outlawed the restrictive practices in 1948, while the U.S.A. introduced the Sherman Act in 1890.

4. There is a dilemma in the Saudi legal system, where bank interest is prohibited but banks are all over the country. Banks could be necessities of the contemporary society and because the government is supposed to apply the principles of Islam no law was introduced to regulate the interest rate. In fact, interest is not based on the declining balance. The borrower does not pay back the loan in one lump sum, but pays a fixed part of the loan every month, therefore the actual rate of interest could reach 40%, while the agreed rate of interest was only 10%. This dilemma is not faced by the U.K. citizens. In the U.K. the true rate of interest must be made clear to the borrower,<sup>48</sup> even though there is no ceiling on the rate of interest rate in the U.K., as in the case in the U.S.A.

5. Monopoly is not against the law in Saudi Arabia, but in the U.K. any person or group who controls at least a quarter of the domestic or



export market will be a target of investigation by the Office of Fair Trading.

Also resale price maintenance (RPM) is unlawful in the U.K., but R.P.M. is lawful in Saudi Arabia. In the U.K. it is unlawful to drop prices in an attempt to force competition out of the market, but in Saudi Arabia this behaviour is lawful.

6. Price discrimination is not against the Saudi law, since the prices of products are determined according to the personal relations between the sellers and the buyers. In the U.K. it is unlawful to practice price discrimination between groups of customers.<sup>49</sup>

7. In Saudi Arabia, the law does not give any attention to consumer protection in service. In the U.K. there was some concern with service, but it is not as much as the concern given to products.

8. In Saudi Arabia, self regulation does not exist even as a concept, while in the U.K. the Office of Fair Trading urges the emergence of Codes of Practice. Although the codes are voluntary, they alleviate the burden on the judicial system.

### CONCLUSION

The Saudi consumer law is more concerned with the freedom of contract than the duty to take care, although the Saudi law is very concerned with the provision of

staples to the consumers.

Business firms should limit their liabilities as far as they can. There is no compensation for the victims of defective products even if there is a contractual agreement between the buyer and the manufacturer. Restrictive practices are not against the law with the exception of keeping the staples out of the market.

Monopoly is not feasible in the Saudi market for the following reasons:

1. The freedom to enter the market for every business firm.
2. There are ample alternatives open to consumers, because the Saudi market is open to all the importers from all over the world, and the import taxes are very low. They hardly get 20% (Cost Insurance Freight) when the legislator wants to protect the Saudi manufacturers.

The judicial system for consumer disputes is protracted and that gives an opportunity for some business firms to exploit the consumers, although the financial penalties are very severe for those who break the law.

3. The consumer protection law in Saudi Arabia can be characterised by the following drawbacks:
- (i) The judicial authority is not separated from the executive authority, where the committees of consumer disputes are bureaucrats. That would make those committees, judges and adversaries in any dispute. What makes the matter worse, is that the members of these committees are drawn from different ministries.
  - (ii) Bank interest is prohibited in Islam, so the legislator is refrained from introducing any law that regulates lending. Therefore interest rates could reach 40% on annual basis which is a dilemma to the Saudi legislator.
  - (iii) All the consumer laws are reactions to unprecedented situations. When problems concerning new products arise, the legislator starts to issue laws and make decisions hastily to face those problems.
4. Under the consumer laws in Saudi Arabia, consumers and business firms have no right to appeal, unless imprisonment is implicated.
5. There are many areas that have not been touched by the legislator in Saudi Arabia. This is a result of

the speedy changes of the economic activities in Saudi society. In order to have applicable law, the legislation should take a long period of time, since law does not develop as fast as business develops.

From the researcher's point of view, the merit of any law is not only evaluated in terms of its penalties and the areas it covers, but it also evaluated by its enforcement and that is the subject of the next Chapter.



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CHAPTER THREE.

ESTABLISHING GOVERNMENTAL MECHANISM.



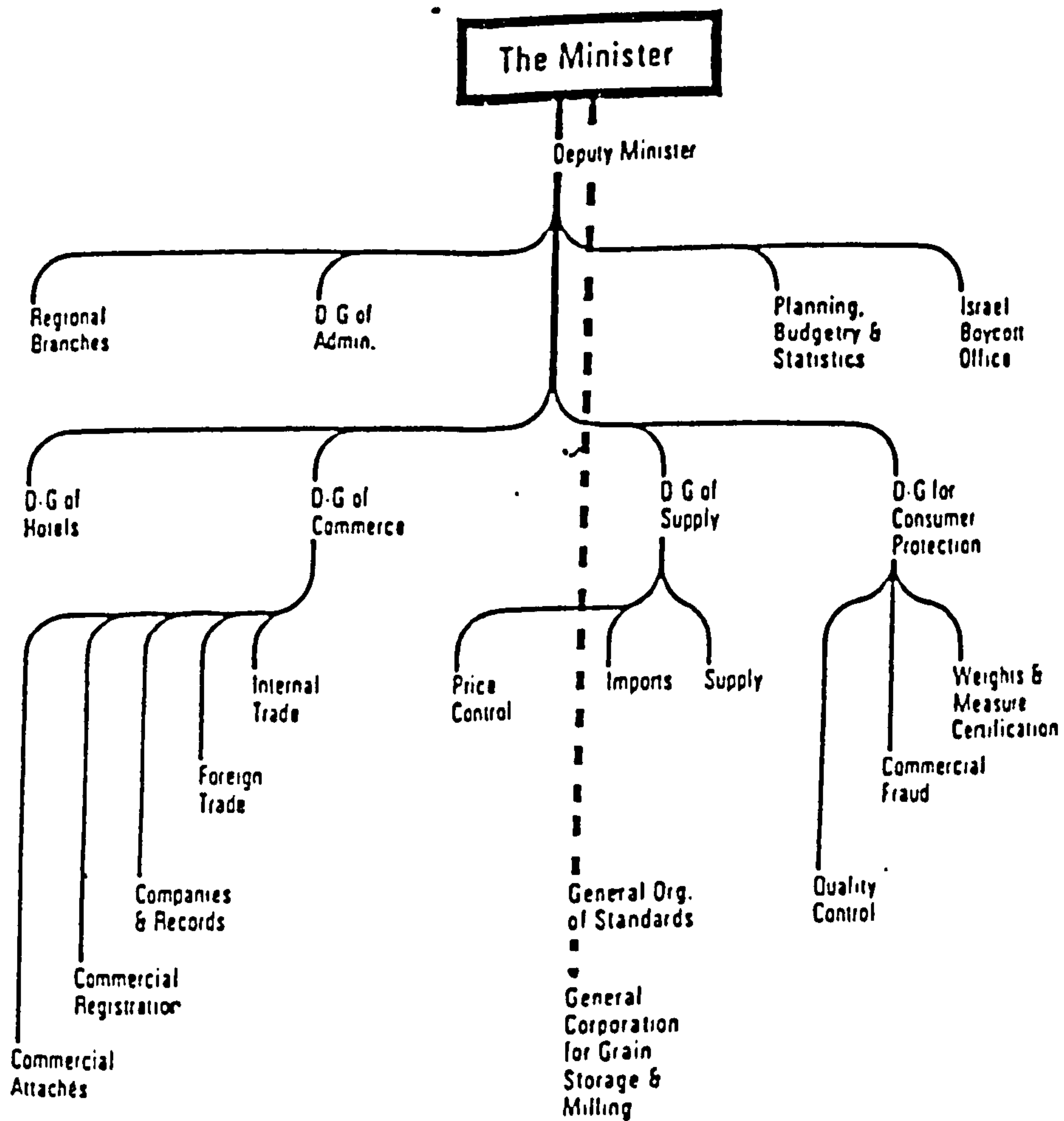
Any law is useless, unless it is enforced. Having unenforced consumer law is worse than having no law. Because consumers think their problems were solved by legislators, they do not exercise awareness when they buy, bearing in mind that the legislature and the bureaucracy have taken care of their problems. When consumers know that they are not protected by the law, they are then expected to exercise an enormous amount of awareness to protect their interests.

In order to evaluate the Consumer Law in Saudi Arabia, the mechanism which is responsible of enforcing that law should be evaluated.

The Ministry of Commerce is responsible of enforcing the consumer law in Saudi Arabia. Under the Ministry of Commerce, the Deputy Minister of Supply is wholly responsible for enforcing the Supply Law and the Consumer Protection Law.

Before 1397 AH the Administration of Supply and the Administration of Consumer Protection were separate from each other, but both of them were under the supervision of the Deputy Minister of Commerce. The following Chart shows that situation.

The Organisation Chart of the Ministry of Commerce  
before 1397 AH in Saudi Arabia.



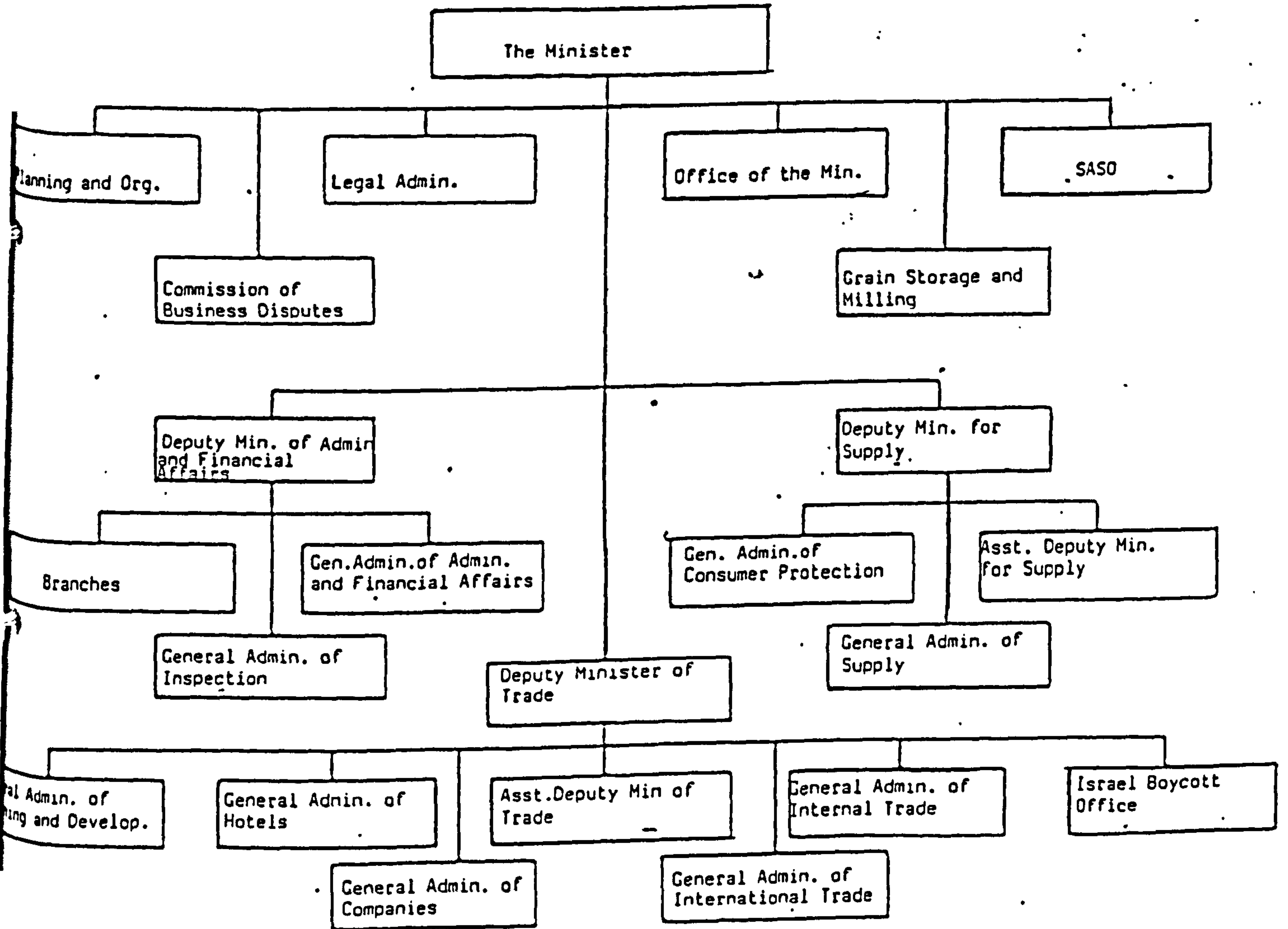
Source: Fouad Al-Farsy, Saudi-Arabia A Case Study in Development (London: Stacy International, 1980), p. 112.

**TEXT BOUND INTO**

**THE SPINE**

In the new situation a Deputy Minister became responsible for enforcing the Supply Law and the Consumer Protection Law. This reflects concern for consumer protection by the government. The Organisation Chart below of the Ministry of Commerce shows the new situation.

The Present Organisation Chart of the Ministry of Commerce in Saudi Arabia.



Source: Kingdom of Saudi Arabia, Ministry of Commerce, We and You on a Road (Jeddah: JamJoom Publishing House, 1984), P.8.



The main aim of the Ministry of Commerce is to aid the business community in Saudi Arabia. Therefore how is it effective and fair to let the Ministry of Commerce take over the job of protecting the consumers? This would result in conflicting interests.

This situation is not different from the U.S.A. where the product testing activities of the National Bureau of Standards operates within the Department of Commerce. This situation has led to the delay of designing and enforcing the flammability standard for children's sleep wear. This delay can be attributed to the sensitivity of the Department of Commerce to the interests of the business community in the U.S.A.<sup>1</sup>

The situation in Saudi Arabia is worse than that of the U.S.A., in the sense that, the Department of Trade in the U.S.A. is only partially responsible of the Consumer Protection Affairs. There are many other government agencies that share the responsibility of protecting the consumer in the U.S.A.. By passing the Consumer Product Safety Act in late 1972, for example the enforcement of the Flammable Fabric Acts were transferred to the Consumer Product Safety Commission.<sup>2</sup>

By making the Saudi Ministry of Commerce wholly responsible for formulating and enforcing the Consumer Protection Law in the country, the conflicting interests of the consumers and the business community were aggravated.

In the present Chapter, the following subjects will be discussed:

- A. The Saudi Arabian Standards Organisation.
- B. The General Administration of Consumer Protection.
- C. The Deputy Ministry of Supply.
- D. Comparisons Between the Bureaucracy of Consumer Protection of the United Kingdom and that of Saudi Arabia.

A. Saudi Arabian Standards Organisation.

The Saudi Arabian Standards Organisation was established by Royal Decree in 3/3/1392 AH corresponding to 16/4/1972. It is considered as an autonomous organisation, but it is still related to the Ministry of Commerce administratively.<sup>3</sup>

The organisation is governed by a Board of Directors, which is headed by the Minister of Commerce. It was taken into consideration that the members on the Board of Directors must represent all the government ministries and agencies which are concerned with standardised specifications, for instance the Ministry of Health, the Ministry of Agriculture and Water, and representatives from the Trade and Manufacturing Sectors. The law delegates authority to the Minister of Commerce to add four members to the Board of Directors who represent the business community, the professionals,

the consumer and the independent government agencies, which are not represented by the law in the Board of Directors.<sup>4</sup> The Ministry of Commerce did not utilise this permit to add anyone to the Board of Directors. Even if the Minister of Commerce wanted to utilise that permit, it will not be able to include any consumer representative in the Board of Directors, since there is no consumer association in Saudi Arabia.

The Objectives of the Saudi Arabian Standards Organisation (SASO).

SASO is the only government body in Saudi Arabia to set standardised specifications for consumer products. Its objectives are as follows:

1. To set national specifications for all products.
2. To make the consumers and the manufacturers aware of the necessity of setting specifications by promulgation of those specifications.
3. To design the rules of giving certificates of conformity.

In order to evaluate the success of SASO, its objectives should FIRST be evaluated.

Evaluating the objectives of setting specifications for products.

It could be argued that it is very important to have national specifications for all the products in the country, since adopting foreign specifications would be impractical. For example, adopting British air conditioning specifications for use in Saudi Arabia would not work, because the temperature in Saudi Arabia is totally different from the temperature in Great Britain.

The main criticism of the Saudi specifications is that these specifications are not even enough to cover a small proportion of the products available in the country, a country which is open to exports from all over the world.

As it is clear from the Table below the number of the approved specifications until the financial year 1402/1403 AH are only 357 with an average of 59 approved specifications every year. The total number of specifications issued by the British Standards Institute reached 7800 in 1984.<sup>5</sup> The types of consumer products in Saudi Arabia is not less than those in the U.K., therefore it is a dilemma for SASO, because it cannot design specifications for all the products. At the same time, it is unwise to adopt the specifications of the other countries.



Table 2.3.1.

Number of Approved Specifications by SASO Every Year.

Description	Number of Specifications Added Each Year	Total
Number of approved specifications, in 1400/1401 AH and before	-	180
Number of approved specifications in 1401/1402 AH	56	236
Number of approved specifications in 1402/1403 AH	49	285
Number of approved specifications in 1403/1404 AH	72	357

Source: Kingdom of Saudi Arabia, Saudi Arabian Standards Organisation, The Yearly Report for the financial Year 1402/1403 AH. (Riyad: Saudi Arabia) P. 19.

It is logical to attribute the small number of approved Saudi specifications to the fact that SASO was established recently. The lack of qualified personnel within SASO could also be a cause of the smallness of the number of approved specifications. In the financial year 1402/1403 AH SASO appointed 36 employees, 14 hold High School Certificates or less, 10 hold University Degrees in Arabic Literature, Library Science and Economics, 7 hold University Degrees in Agriculture, one in Architecture, only three electrical engineers, and one has University Degree in Science. Setting standardised specifications however requires professional personnel in Engineering and Science.

The negligence of consumer desire is a major shortcoming of setting specifications by SASO, since no consumer research is performed before setting specifications. In contrast to the consumers, the business community is consulted before setting specifications to make sure that they are satisfied with the specifications. To cite this as proof, the Minister of Commerce claims that the first question he asks before approving new specifications is whether the merchants and the Chambers of Commerce are asked about their opinions in the proposed specifications.<sup>6</sup> This reflects the duplicated role of the Ministry of Commerce. The Ministry serves the interests of the business community and the interests of the consumers simultaneously, so when it comes to hurting the

Table 2.3.2.

The Qualifications of Appointees in SASO in the  
Financial Year 1402/1403 AH.

The Educational Certificate

and Major

Number

Elementary School

8

Intermediate School

3

High School

3

University Degree in

Arabic Literature

4

University Degree in

Library Science

1

University Degree in

Geography

3

University Degree in

Economics

2

University Degree in

Agriculture

7

University Degree in

Architecture

1

University Degree in

Electrical Engineering

3

University Degree in

Science

1

Source: Kingdom of Saudi Arabia, Saudi Arabian  
Standards Organisation, The Yearly Report for  
the Financial Year 1402/1403 AH (Riyad: Saudi  
Arabia), pp. 41-42.

business community, the consumers interests could easily be neglected.

The emergence of consumer associations is infeasible in less developed countries. Consumer research is crucial to setting specifications. Consumers must have a say in the trade-off between the safety factor and the cost of securing safety in the products. Some consumers might not want safe goods if the safety factor will cost them a lot of money, especially if the chance of injuring themselves from using unsafe products is very slim. In fact, the extra cost of safety might inhibit many consumers from attaining safe products. Consumer preference issues are not addressed in setting specifications in SASO.

Evaluating the objective of making the consumers and the manufacturers aware of the necessity of specifications.

This objective should serve the Saudi consumers and business firms by making them aware of the Saudi specifications. The only avenue which is utilised by SASO is magazine standards. Although magazine standards are given free, it never reaches the average consumer. Even if magazine standards are mailed to every Saudi household, very few consumers can read it because the illiteracy rate is still high in the country. Besides that, the subjects addressed in it, are very scientific.



Evaluating the Objective of Utilising Certificate of Conformity.

Certification is a major means of making sure that products are made according to specifications. But in order to ensure that, certifications of conformity should be checked and sophisticated laboratories should be utilised otherwise the system of certificates of conformity is useless. This is the reason behind the delay of utilising the certificate of conformity in Saudi Arabia, however SASO started establishing different kinds of laboratories. For the time being, SASO has six types of laboratories.<sup>7</sup>

1. Chemistry Laboratory
2. Metal and Mechanical Laboratory
3. General Material Laboratory
4. Nutritional Laboratory
5. Household Electrical Goods Laboratory
6. Building Research Laboratory

Appraising the system of the certificates of conformity cannot be performed, as it has not been widely applied. In fact, it was planned to be applied to household electrical goods in 30/5/1406 AH corresponding to 9/2/1986.<sup>8</sup>

A certificate of conformity of cars was in effect from March 1985, but this is performed without building

a car laboratory. A sample of imported cars will be sent abroad for testing.<sup>9</sup>

### Area of Delinquency.

SASO is delinquent in the following areas:

#### 1. The Asbestos Case.

Although asbestos has been known as a hazardous product since the 1960's in the U.S.A. and Western European countries, it is still used widely in Saudi Arabia. In fact, the use of asbestos in Saudi Arabia is more hazardous than in the Western World for the following reasons:

- (i) The danger of being exposed to asbestos is aggravated by the high temperature in Saudi Arabia.
- (ii) No precaution is taken by the workers who are exposed to asbestos. SASO is still on the verge of drafting regulations concerning industrial safety and the health conditions of using asbestos.<sup>10</sup>
- (iii) Most of the consumers in Saudi Arabia have no idea of the danger of asbestos. Even if a person tells somebody about its danger, he would not be believed since the danger of asbestos is not imminent, because it takes from 15-20 years to develop.

The case of asbestos raises three questions:

- Why are the bureaucrats so late in establishing the fact that asbestos can cause damage to the health?
- Why was asbestos not banned after it became known to the bureaucrats that it is hazardous to health?
- Who is responsible for banning the use of asbestos, or at least regulating its use? Is it the Ministry of Health, SASO, the local municipalities (in the sense that asbestos is mixed with cement<sup>11</sup>) or the Ministry of Labour and Social Affairs (in the sense that labourers are exposed to its danger)?

The first question could be explained due to the fact that Saudi Arabia lacked the basic education in the 1960's, but the second question cannot be justified by any means other than delinquency or loyalty to the business community. The third question could be answered by holding the Ministry of Health, the local municipality, SASO, and the Ministry of Labour and Social Affairs responsible for banning the use of asbestos or regulating its use.

## 2. The Case of the Electrical Frequency.

The electrical frequency in Saudi Arabia was different from one city to another. Most of the cities had been using 60 HZ, but the rest had been

using 50HZ. The electrical household goods were in 50 HZ and in 60 HZ, so many consumers have been using the wrong cycle, and this caused the shortened life span of the electrical goods.

Before unifying the electrical cycle to 60 HZ, no attempt was made by SASO or the Ministry of Commerce to ban the importation of the electrical goods with 50 HZ.

### 3. The Case of Car Splitting.

Cars in Saudi Arabia split in half in the event of accidents. The blame was attached to the drivers and resulted from injuries. No mention is given to the counterfeit spare parts, the unsafe cars and the faulty tyres. Furthermore, there was no disbelief to the Japanese claim that Japanese cars exported to Saudi Arabia were the same as those exported to the U.S.A. and Western European countries.<sup>12</sup> This claim could be refuted on the following grounds:

- (i) Why do prices of the Japanese cars in Saudi Arabia cost less than their counterparts in the Western World?
- (ii) Why do car accidents in the U.S.A. and Western Europe not result in car splits as in Saudi Arabia? To add to this issue SASO is relying heavily on Japanese firms to do the preliminary



studies for building test car laboratories when SASO receives visits from Jama and Jair.<sup>13</sup>

4. The Case of Ciclamate.

The use of ciclamate was banned in the U.S.A. in 1969, after it was proved that it causes cancer. It was banned in Saudi Arabia in 10/11/1983, fourteen years later.<sup>14</sup>

B. The General Administration of Consumer Protection.

The Director General for consumer protection operates under the supervision of the Deputy Minister of Supply. The objectives of the general administration of consumer protection are as follows:<sup>15</sup>

1. To protect consumers from all types of fraud.
2. To curtail monopolisation.
3. To stabilise the prices of products.
4. To make sure all products are in line with the Saudi specifications.
5. To enforce the law of Weight and Measures.
6. To enforce all the regulations related to gold, silver, and platinum.

The Activities of the General Administration of Consumer Protection.

These activities can be classified into three types:<sup>16</sup>

1. To check the material and prices of products. This includes:
  - (i) Checking the nature, the origin and the quantity of products.
  - (ii) Ensuring that food products are edible, either by humans or animals.
  - (iii) Checking the prices of priced goods.
  - (iv) Ensuring that price tags are used in shops.
  - (v) Promulgating awareness among consumers.
  - (vi) Sending the law breakers to the Central Committees of Commercial Fraud.
  
2. To ensure the quality of the products. This includes:
  - (i) Supervising the activities of the quality testing laboratories in Riyadh, Jeddah, Al-Dammam, and Halat-Ammar.
  - (ii) Improving the methods of quality testing.
  - (iii) Enforcing the Saudi specifications and all religious and educational instructions related to the specifications of products.

3. To make sure the Law of Weights and Measures and Hallmarking regulations are enforced. This includes:

- (i) Enforcing the use of the metric system.
- (ii) Providing the branches of the Ministry of Commerce with prototype measures.
- (iii) Inspecting shops and filling stations to make sure that they are using the metric system.
- (iv) Enforcing the Law of Jewellers and all the ministerial decisions related to precious metal.
- (v) Developing the Hallmarking system.
- (vi) Training technicians to be able to do jobs related to precious metal.
- (vii) Inspecting the jewelry shops from time to time.

Evaluating the objectives of the General Administration for Consumer Protection.

All the afore mentioned six objectives are understandable, with the exception of the second one which is the objective of curtailing monopolisation. Since monopoly is not against Islam and it is not against the Saudi Law, no allusion to monopoly was mentioned in any piece of law in Saudi Arabia. Even if antitrust law exists in Saudi Arabia, there is no way to enforce that law because enforcing antitrust law requires a lot of managerial and technical capabilities,

which Saudi Arabia lacks. The researcher should consider the reasons why the General Administration of Consumer Protection adopts an objective that is unrelated to the Saudi Law.

Evaluating the Activities of the General Administration of Consumer Protection.

The main assumption in this matter is that only consumers have the right to evaluate the activities of this administration, whether these activities exist in practice or whether they exist only on paper. One can pretend that the protracted procedure in the Ministry of Commerce hinders consumers from filing any complaints, but besides that, the inspection function of the General Administration of Consumer Protection is implemented through Committees, which consist of members from different Ministries. A lack of co-ordination among the members of those Committees is a deterrent to the function of proper inspection by the General Administration of Consumer Protection. The inspection function is needed badly in Saudi Arabia since the adulterated food has become a social phenomenon. The following two Tables show the quantities of adulterated food which were seized by the Inspection Committees within a period of eleven months. The following three factors aggravate the situation of adulterated food:



1. The high illiteracy rate among consumers in Saudi Arabia.
2. The expiration date and labelling are written in a foreign language.
3. Changing the expiration date by some merchants is a common practice.

The huge quantities of adulterated food seized by the Inspection Committees reflect the increased activities of the General Administration of Consumer Protection and the Inspection Committees. However, it also reflects the aggravated problems of the consumer.

The lack of sophisticated laboratories hinder the General Administration of Consumer Protection of assuring that products are made according to specifications. Most of the concerns are emphasised on the purity of food from lard and to make sure that animals are slaughtered according to the Islamic Law.

#### C. The Deputy Ministry of Supply.

To emphasise the concerns of the Saudi government with staples security, the General Administration of Supply became the Deputy Ministry of Supply in 1397 AH. The objective of this Deputy Ministry, as we have seen in the last Chapter, is to secure the necessities for the Saudi people at low prices at the right time and in the right place through encouraging competition. There should be no direct intervention unless there is no other alternative.

Table 2.3.3.

The Destroyed Quantities of Foodstuff By The Inspection  
Committee From 1/7/1403 AH |Until 20/12/1403 AH.

<u>Products</u>	<u>Cartons</u>	<u>Products</u>	<u>Cartons</u>
Chicken	1131	Dried Figs	355
Chewing Gum	9070	Complete Meal	2100
Syrup	630	Biscuits	1977
Baby Food	1206	Sweets	440
Heads of Sheep	89	Meat Pies	1177
Oil	585	Vinegar	700
Olive Oil	59 Cans	Beer	120
Tuna	109	Flour	1000
	Cans		Bushels
		Fish	189
Tomato Paste	13	Chick Peas	22
Beans	18	Juice	133
	Cans		Cans
Shrimps	506	Coffee	45
Meat Slices	190	Rabbit	400
Ready Made Dough	130	Meat	1180
Rice	1600 Bushels	Macaroni	90
Kidney	535	Juice	264
Mineral Water	55800	Cheese	3334
Soft Drinks	80	Liver	1900
Milk	18	Sheeps Brains	350

Source: Kingdom of Saudi Arabia, Ministry of Commerce,  
We and You on a Road (Jeddah: Jamjoom  
Publishing House, 1984), p. 21.

Table 2.3.4.

The Destroyed Quantities of Foodstuff By The  
Inspection Committees from 1/1/1404 AH Until  
30/5/1404 AH.

Products	Cartons	Products	Cartons
Olive Oil	130	Pickles	2
Sausage	6	Liver	1163
Beans	122	Kidney	150
Sweets	674	Chips	57
Kraft Cheese	8245	Chocolate	336
Orange Juice	1413	Macaroni	12804
Lemons	24	Tahini	2
Pepsi Cola	24	Cake	30
Meat Slices	68	Vimto	330
Olives	341 jars	Ice Cream	278
Apricots	4	Beer	80
Meat	2969	Milk	7164
Coffee	301	Tea	1
Mango	233	Orange	5
Pepper	12	Rabbits	545
Tomato Paste	36	Tuna	219
Meat	16259	Okra	8
Beef Legs	145	Soup	52
Biscuits	2192	Mustard	67
Mineral Water	477	Turkey	43
Carrots	93	Shrimps	400
		Suda	1000
		Cheese	3476

Source: Kingdom of Saudi Arabia, Ministry of Commerce,  
We and You on a Raod (Jeddah: Jamjoom  
Publishing House, 1984), pp. 23-24.

The activities of the Deputy Ministry of Supply could be classified into two types:

1. The Activities in a Normal Situation.<sup>17</sup>

In a normal situation the Deputy Ministry of Supply performs the following activities:

- (i) To estimate the country's need for staples and to identify its resources.
- (ii) To estimate the available staples in the country.
- (iii) To estimate the expected quantities of staples to arrive in a minimum of three months.
- (iv) To perform the necessary research to identify factors affecting the supply and demand of staples and price fluctuations.
- (v) To follow up nonprice factors like bilateral trade agreements and world expected harvest.
- (vi) To provide staple merchants with all the available information about national and world staple stances.
- (vii) To co-ordinate with the Ministry of Agriculture and Water and the Ministry of Industry and Electricity to uphold the national output of staples to reduce the dependence on staple imports.



## 2. The Activities in an Abnormal Situation<sup>18</sup>

The abnormal situation is defined as in the case of a steep acceleration in the prices of staples, or a severe dearth of a staple, or the commitment of any restrictive practice in staples. In any situation like these the Deputy Ministry of Supply performs the following tasks:

- (i) It encourages merchants to import more staple into the country.
- (ii) If the situation is serious, it could import staples or give subsidies to the staples importers, but a permit of the Council of the Ministers is required in this case.
- (iii) It intensifies the inspection effort to make sure that no staple is kept out of the market.
- (iv) It appoints Inspectors to supervise the Law of Supply. This would dilute the protracted procedure of the Inspection Committees of Commercial Fraud.

### Evaluating the Objectives and the Activities of the Deputy Ministry of Supply.

The Deputy Ministry of Supply has succeeded in protecting the consumers through introducing a competitive staples market, so staples are available at very low prices. The main drawback is that the

inspection function is performed through the Inspection Committees of the Commercial Fraud, and that makes convicting the breakers of the Law of Supply a tough task.

D. Comparison Between the Consumer Protection Governmental Mechanism of Saudi Arabia and that of the United Kingdom.

The basic assumption in this comparison is that there is no way whatsoever in comparing the efficiency and fairness of the governmental mechanism of Western countries, and that of the less developed countries. This comparison is concerned with the lessons that Saudi Arabia could learn from the U.K. experience.

One of the major similarities between Saudi Arabia and the United Kingdom is that before 1974 the Trade and Consumer Affairs were consolidated in the Department of Trade and Industry. But after the Labour victory in 1974, the Consumer Affairs were taken away from the Department of Trade by establishing the Department of Prices and Consumer Protection.<sup>19</sup> However, after the Tory victory in 1979, the Conservative Government abolished the Department of Prices and Consumer Protection (DPCP) so the function of DPCP has been transferred to the Secretary for Trade.<sup>20</sup>

It is also difficult to evaluate whether the consolidation of Consumer Affairs in the Department of

Trade and the creation of a Minister of State for Consumer Affairs within the Department of Trade and Industry is better or worse than the independence of Consumer Affairs in DPCP in serving the consumers.<sup>21</sup> From the experience of the U.S.A. and that of Saudi Arabia, the consolidation of Trade and Consumer Affairs in one Department always leads to conflicting interests.

In conclusion the main similarity between the United Kingdom and Saudi Arabia is the consolidation of Consumer Affairs and Trade in one Department or Ministry.

The following dissimilarities between the two countries are cited below:

1. The U.K. is distinguished by the variety of the consumer protection mechanism. The Department of Trade and Industry is not responsible for consumer protection alone, as is the case in Saudi Arabia.

The following governmental bodies are concerned with consumer protection issues in the United Kingdom:

- (i) The Department of Trade is responsible for policy and legislation on Consumer Affairs. It is also responsible for mergers, monopolies and restrictive practices.<sup>22</sup>

(ii) The Office of Fair Trading.

The Director General of Fair Trading exercises various statutory responsibilities like consumer credit, monopoly, merger and anti-competitive practices. He also plays a key role in consumer education as well as the emergence of Codes of Practice.

(iii) The Department of Health and Social Security.

It gives medical advice about contamination of consumer products, besides the control of the use of drugs.

(iv) The Ministry for Agriculture, Fisheries and Food.

It has responsibilities in enforcing the Food and Drugs Act of 1955 with the Local Authorities.<sup>23</sup>

(v) The National Consumer Council.

It conveys the consumers' view to Central and Local Governments, to private industry and the nationalised industry. The NCC also plays a major role in representing the interests of the poor consumers.<sup>24</sup>

This variety of governmental mechanism is not available in Saudi Arabia, where the Ministry of Commerce is responsible for Consumer Protection Legislation as well as enforcing this legislation. Even the Saudi Arabian standards organisation is under the



supervision of the Ministry of Commerce. The responsibilities of setting specifications for food were taken away from the Ministry of Health by SASO.<sup>25</sup>

The varietal governmental mechanism of consumer protection in the United Kingdom serves the consumers in the sense that every Department can check on the delinquencies of the other Departments or Bodies. This dilutes the conflicting interests of consumers and business in the department of Trade and Industry.

2. The role of Central Government in the United Kingdom is to formulate the consumer policy, but the enforcement of consumer laws are the responsibility of the local authorities. The role of the local authorities in enforcing consumer law is inherited from the middle ages, when Borough appointed its own justices and enjoyed autonomy in its local affairs.<sup>26</sup> The role of local authorities in enforcing the consumer laws at present is still almost the same as it was in the Middle Ages, because the County Council (including Metropolitan County Councils and Scottish Regions) are responsible for weights and measures, food, drugs, trade description, consumer safety, fair trading and consumer credit. Councils are responsible for environmental health and shop opening hours, while the London Boroughs are responsible for all functions.<sup>27</sup>

3. The Central Authority in the United Kingdom relies

heavily on the experience of specialised bodies in formulating consumer policy.

The Advisory Committee, the Monopolies and Merger Commission and the Restrictive Practices Court are true examples of getting the experience of knowledgeable persons to serve the consumer interests. For example, at least one member in the Consumer Protection Advisory Committee should be experienced in the supply of goods and services to consumers and at least one member should be experienced in the enforcement of the Trade Description Act of 1968 and the Weights and Measures Act of 1963. At least one person should be experienced in consumer groups or activities, although the Secretary of Trade and Industry has the right to exercise his patronage in appointing members to CAP.<sup>28</sup>

The membership of the Monopolies and Mergers Commission consists of persons who are distinguished by their practical and academic experience.<sup>29</sup> The Restrictive Practices Court consists of five nominated judges and ten appointed members at most, who are chosen by virtue of their knowledge and experience of industry, commerce, or public affairs.<sup>30</sup>

In Saudi Arabia, the Central Authority does not rely on the knowledge of experienced Commissions and Administrative Bodies.

The distinguishing matter in the United Kingdom is that, in the Restrictive Practices Court, knowledgeable persons sit with the judges to decide whether a

restrictive agreement referred to the Court is in the interests of the United Kingdom consumers or not.

4. The private sector has no role in protecting the consumer interests in Saudi Arabia, but in the United Kingdom, the private sector plays a key role in consumer protection in two approaches:

(i) The emergence of the self regulation concept in British industries.

(ii) The emergence of voluntary consumer organisations like the Citizens Advice Bureau which emerged in 1939, the Consumer Association which was brought to life in 1957 and also the National Federation of Consumer Groups.

The concept of consumer groups is to introduce pressure on the government by formulating National Consumer Policy and the business community, so businesses will think twice before abusing the interests of consumers.

All consumer groups in the U.K. are independent and their aim is to serve consumers' interests.

The concept of the Consumer Association is too sophisticated for the less developed countries, and that might be a good reason for more government intervention in Saudi Arabia. The real dilemma however, is that the government has not developed the administrative mechanism to enforce any consumer law.

5. Consumer protection issues are like a football that can be played back and forth by the successive

governments in the United Kingdom. The following is listed as proof:

(i) The Department of Price and Consumer Protection was abolished after the Tory victory in 1979.

(ii) Although the Consumer Council did an excellent job, it was abolished in 1970 by the Tory government.<sup>31</sup>

(iii) The Tory government abolished the Price Commission in 1980.<sup>32</sup>

That situation does not exist in Saudi Arabia. The Saudi government is firm in its belief of the free enterprise system, while the Conservative Party and the Labour Party hold different views concerning the extent of government intervention.

#### Conclusion.

The main problem of governmental mechanism in the field of Consumer Protection in Saudi Arabia is that the legislation and the enforcement of the Consumer Laws are condensed by the Ministry of Commerce. This led to a situation of conflicting interest between the consumer and business, since no organisation could represent the interests of two different conflicting groups.

The lack of qualified bureaucrats in the country is a major problem in enforcing Consumer Laws. To cite this as proof, from 36 appointees in SASO in the financial year 1402/1403 AH, 14 hold High School



Certificates or less, and the majority of those appointees have not majored in any subject, which is related to setting standard specifications.

The Saudi government tries hard to establish a governmental mechanism like those in the western world. The efficiency of this governmental mechanism is not the same as that of the western world, since the attitudes of the Saudi people toward consumerism, the quality of bureaucrats, and the level of education, cannot match those of the western world.

The government established SASO, Consumer Protection Laws, and a Consumer Protection Department within the Ministry of Commerce, but asbestos has not been banned yet. The change of the cycle frequency has resulted in a loss to the consumer. 5000 people have also been killed in car accidents every year. Preventing the counterfeited products is more important than setting specifications, so there must be rules of priorities. Consumers do not benefit from specifications if the market is flooded with counterfeited products.

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PART III.

CONSUMER POLICY IN  
THE LESS DEVELOPED  
COUNTRIES.



CHAPTER ONE.

CONSUMER POLICY IN  
THE LESS DEVELOPED  
COUNTRIES.

The main contention in this chapter is that consumer policy which fits the developed countries cannot necessarily fit the less developed countries. A consumer would be ripped off his welfare in the less developed countries if the consumer policy of the developed countries was applied in the less developed countries.

The researcher does not pretend that a consumer from the less developed countries should not have the consumer's rights of the developed countries, but it can be argued that consumers' rights must have varying priorities. For example, it would not be relevant to stress the rights of a consumer, to be heard, if he has not enough food to eat or uncontaminated water to drink.

There is a strong argument against adopting the consumer policy of the developed countries, (such as, safety standards, or even pollution standards) that could hurt the consumer's interest in the less developed countries. To cite as proof, it was documented by Nairn that some Indian villagers live on the equivalent of six cents a day. It would therefore be irrelevant to design a policy to protect consumers, from the hazardous chemical substances in soap, since those Indian villagers cannot afford to buy soap.<sup>1</sup> In fact poverty by the American criterion is considered as unimaginable affluence, by comparison to some less developed countries such as Bangladesh.<sup>2</sup>

The Researcher contends that the policy of the free market system is the right policy for the less developed countries, and the consumer policy should be directed toward changing the level of consumer's income as well as his level of education. This would help in changing his attitudes as well as his behaviour.<sup>3</sup>

The principle of caveat emptor prevails more in less developed countries than developed countries. But there is an outcry to shift from the caveat emptor toward the business accepting more responsibilities.<sup>4</sup>

It could be argued that the policy of caveat emptor could be defended in the less developed countries on the ground that governmental bureaucracy cannot enforce government regulations. Therefore the policy of caveat emptor should be combined by increasing competition as well as the income and education levels of consumers.

In order to prescribe the suitable consumer policy for the less developed countries the following subjects will be extrapolated:

- a. Characteristics of the consumer and market structure in the less developed countries.
- b. Consumer policy and consumerism.
- c. Land reform.
- d. Public owned business firms.
- e. The policy of dangerous products.
- f. The policy of drugs.
- g. The policy of baby formula.
- h. The policy of trademarks.

A Characteristics of consumer and Market Structure of the Less Developed Countries.

In order to demonstrate how consumer policy of the less developed countries should be different from that of the developed countries, it is plausible to demonstrate how market structure and consumer behaviour are totally different from those of the developed countries.

Thorelli believes that consumer policy in the vast majority of the less developed countries is at a starkly primitive level.<sup>5</sup> He warned of exposing those countries to high risk as a result of copying the consumer policy of the developed countries without adapting those policies to their circumstances.<sup>6</sup>

The vast majority of the less developed countries are characterised by the following:

1. The consumer does not only lack adequate income, but he also lacks the continuation of a relatively small amount of income.

The low level of income and the lack of continuity of that income pushed the consumer to make less rational buying decisions like resorting to borrow from a usurer. Also, the low level of the consumer's income has resulted in a lack of adequate refrigeration, storage space, and low car ownership.<sup>7</sup>



Societies of the less developed countries have to adjust overnight to the values and consuming patterns of the developed countries without being able to increase their levels of income<sup>8</sup>. A consumer in the less developed countries is poorly nourished, and inadequately dressed, even though he spends more money on luxury products like soft drinks, cigarettes and alcohol.<sup>9</sup> In fact, the expenditure spent on alcohol represents a significant public and social problem, because it creates a poor nutritional state, substitutes expensive calories for less costly calories, and could leave the members of family, other than the husband, starving to death.<sup>10</sup>

The examination of the relationship between nutrition and income in the less developed countries is cited as, "that for many low-income consumers in LDC's there was actually an inverse relationship between income and the nutritional value of one's diet. This was attributed to the fact that as income increased many consumers shift to more prestigious, but less nutritional food".<sup>11</sup>

The lack of stable income in the less developed countries caused the low aspiration of the consumer. It was argued by Simoons-Vermeer that: "the socio-political position of the consumer as a citizen is quite often weaker in developing

countries and the majority of the poor are used to an attitude of submissiveness, of not daring to question, of not speaking up".<sup>12</sup>

2. According to Thorelli, the market in the less developed countries is a seller's market. Private business as well as public business have no incentive to serve the consumer.<sup>13</sup>
3. Because of the existence of the seller market, consumer exploitation is a social phenomenon. For example, in Nigeria, some cloth sellers slice manufacturer's double-yard material into half in order to sell each section separately.<sup>14</sup>

Khuri noticed that the Lebanese traders in West Africa capitalise on recognising tribal divisions as well as customer's status to link the products to the buyer's background to demonstrate that other people of his status or tribe do purchase the concerned products.<sup>15</sup> Since people with high status do not bargain in the Middle East they could be overcharged.<sup>16</sup> In fact, the seller usually recognises the ability of the consumer to pay as well as his crudity and charges the consumer accordingly.

The consumer in the less developed countries is

suffering from forged products. For example, in Nigeria, counterfeit spare parts have cost a British firm half of what it used to pay. The uncounted costs of the counterfeit spare parts should be calculated in terms of the number of accidents as well as the lives lost, due to the counterfeit spare parts.<sup>17</sup>

4. According to Thorelli the consumer in the less developed countries has two strategies to acquire product information:<sup>18</sup>

i) In order to eliminate the biases of information, the consumer consults different sources of information.

ii) He establishes personal relationships with some sellers in order to obtain reliable information.

The first strategy is not widely utilised by the consumer in the less developed countries for the following two reasons:

- Many consumers are illiterate, and many of the literate might not have the desire to search for information.

- There are not many sources of information in the less developed countries. The main source of product information is "word-of-mouth", or from sellers. Even in the case of product information being contained in the label, it is sometimes written in a foreign language.

Kerton has defined the concept of consumer search capital as "the accumulated stock of decision making principles and data which can be used to increase the effectiveness of consumer decisions".<sup>19</sup> He extrapolated that seeking information could provide an important service to consumer overtime, therefore it is regarded as capital formation, and the process of the accumulation is regarded as investment.<sup>20</sup>

By applying the concept of consumer search capital in the less developed countries, it could be noticed that the consumer has to spend a lot of time in order to get a modest and unreliable stock of search capital. In supporting Kerton's contention, Geertz concluded, in his study of the bazaar in Morocco, that the "search for information - laborious, uncertain, complex, and irregular - is the central experience of life in the bazaar".<sup>21</sup>

The finding of Cunningham and Moore in Sao Paulo, Brazil indicated "the market could be segmented by



social classes and that the primary source of information for all social classes is word of mouth. However, the upper classes depend upon mass media for product information, whereas the lower classes do not".<sup>22</sup>

The policy of product information in the low income countries is not relevant, and it should not take more attention than productivity. As an example, the consumer with low income does not receive any benefit of information concerning refrigerators, since he cannot either purchase a refrigerator or afford to buy enough food to fill it.<sup>23</sup>

Kaynak upheld the foregoing point by asserting that "the 1977 riots in Egypt and Morocco, and more recently in Tunisia, are examples of what LDC's consumers are concerned with - the right to consume".<sup>24</sup>

5. The consumer in the less developed countries is "the forgotten man" when such matters as heavy industry, defence, transportation and even the prestige of the government come far above the consumer concerns.<sup>25</sup> Furthermore, even if there is any concern for the welfare of the consumer, all consumer measures are mostly designed to fit and bless the upper and middle classes.<sup>26</sup> The poor majority is not on the mind of the policymakers. This neglect of the

impecunious majority could be elucidated by borrowing the measures of the developed countries without any regard to the needs of the unprivileged consumer. As a matter of fact, there is no consumer policy for the starving consumer in the developed countries because there are no starving consumers in the developed world.

6. Marketing in the less developed countries is rationalised on clientelisation, which requires satisfying the consumer's demand on criteria other than purely economic ones.<sup>27</sup> Clientelisation could produce the following repercussions:

- (i) The consumer resorts to shops, that he patronises instead of searching the market widely at every occasion of need.<sup>28</sup>
- (ii) Loyalty to patronise specific sellers could give those sellers the opportunity to take advantage of their clients through manipulating the quality, or even the quantity, but keeping the prices constant.

7. Marketing should help the consumer by facilitating the opportunity of trading off between saving time and spending more money. However, many obstructions still remain in the face of applying the marketing

concept in the less developed countries such as the high transportation cost, and the expensive shops.<sup>29</sup>

B. Consumer Policy and Consumerism.

Thorelli defined consumer policy as "measures taken to enforce consumer rights and to promote the interests of citizens as consumers".<sup>30</sup>

Consumer policy can be divided into two types:

1. Direct consumer policy "refers to matters that have traditionally belonged to consumer policy and to which legislation applies, such as consumer information and education, the legal rights of consumers in the process of purchasing products, control of market practices, product safety, and questions related to competition".<sup>31</sup>
  
2. Indirect consumer policy "refers to emphasis being put on the consumer viewpoint in various public decision making processes where the drawing of boundaries between consumer policy and other policies is usually difficult (employment, income, housing, transportation)".<sup>32</sup>

In the Western countries, where consumerism is regarded as a social movement that aims to augment the right of the consumer,<sup>33</sup> four distinct stages can be distinguished during the evolution of consumerism:<sup>34</sup>

1. Crystallisation stage, in which the emphasis is put on business to soften competition through introducing monopoly and merger regulations.
2. Organisation stage. Under this stage, the consumer movement organises itself to have a voice in the legislation.
3. Institutionalisation stage. Under this stage government intervenes to protect the consumer in the market place, and the emphasis is placed on competition policy, patent and industrial property.
4. Conceptualisation stage, in which consumer issues are involved in all of the critical, political, technological, social and economic macro issues. In the conceptualisation stage there is complete involvement by the consumer in all broader direct and indirect consumer policy.<sup>35</sup>

Only nine countries have reached the



conceptualisation stage. These countries are Canada, U.S.A., Great Britain, West Germany, Switzerland, The Netherlands, Denmark, Norway and Sweden.<sup>36</sup>

At the beginning of the 20th century, the problem of consumption in the West was mostly concerned with the low income level of wage earners. Consequently consumer issues were only concerned with the economic and functional aspects of consumption and the commodity problems such as adulteration and falsification of products.<sup>37</sup>

But by increasing the income and productivity of the Western world, the economic importance of consumption declined<sup>38</sup> to the extent that the economic problems of consumption have become associated with only a few durables.<sup>39</sup> Indirect consumer policy therefore outlarged direct consumer policy, to the extent that it was predicted that the main issue of consumer policy in the future will be related to the justification of the work distribution, and that the consumer is seeking a just distribution of income and consumption possibilities.<sup>40</sup>

As a matter of fact, consumer policy in the Western world, for the time being, is related to macro issues such as unemployment, trade barriers, protectionism, government spending, taxes and inflation. For example President Reagan argues that inflation is hurting the purchasing power of the poor consumer. He prescribed the cure through cutting government spending as well as

reducing taxes. He said that it should give the poor consumer more purchasing power, encourage businesses to increase their investments, and reduce unemployment.<sup>41</sup>

By comparing consumerism in both the developed and the less developed countries, it could be noticed that consumer advocates in the developed countries are focusing a greater amount of their efforts on major macro issues like protectionism, welfare state, pollution, barriers of trade and nuclear energy.<sup>42</sup>

On the other side of the coin, consumerism in the less developed countries has not had any impact in shaping, or adjusting the economic policy, nor in introducing new means to satisfy the urgent needs of the consumer.<sup>43</sup>

That delinquency is ascribed to the following factors:

1. Consumerism requires the availability of a sizeable number of educated middle class consumers, but this prerequisite condition is lacking in most of the less developed countries, because the majority of consumers are impecunious.<sup>44</sup> Even if there is a successful consumer movement in any of the less developed countries, it is only engineered to help the opulent and the middle-income consumer. For example, in India, a country which entered the Atom Bomb Club, 80% of its population live in the villages, 70% are illiterate, and only 5% receive

adequate calorie intake.<sup>45</sup>

2. Consumerism requires the existence of a democratic environment, but most of the less developed countries live under military regimes as well as censorship.
3. The majority of consumers in the less developed countries will not benefit from any consumer movement, because of its stress on micro issues like unit pricing, product information, misleading advertising, product safety, product quality and product specifications. These micro issues require the consumer to have a decent income, and the availability of suitable products in the market place. The majority of consumers in the less developed countries lack enough income to spend on products assuming that there are products in the market place. In Sudan for example, it is not important to any unprivileged consumer to rank the brands of washing machines, if he cannot buy detergent to wash his clothes.
4. A viable consumer movement requires the availability of a just litigation system, but generally speaking, fairness is lacking in the less developed countries. By comparing the litigation systems of the Western countries with those of the less

developed countries, in terms of consumer litigation, consumer complaints in the less developed countries cannot be made. The consumer in Western countries has the right to petition any consumer problem to the courts, where court cases could constitute rules for future conducts, and the government as well as business should adjust their behaviour accordingly.<sup>46</sup>

In the Western world, if litigation in any consumer case cannot uphold the consumer's position, at least the public attention will observe the litigated consumer issue in the future.<sup>47</sup> The consumer in the Western world still has the opportunity to form class action for cases which cannot be litigated without collective action, such as the need for clean air. Such opportunity is absent in the less developed countries.

In conclusion, consumerism requires the existence of a healthy macro economic environment, which does not exist in the less developed countries.<sup>48</sup>

Kaynak believes that consumerism in the less developed countries has only reached the crystallisation stage.<sup>49</sup> Kaynak's contention can however be debated, because most of the less developed countries have not even started the crystallisation stage for the following



two reasons:

1. Many of the less developed countries have chosen socialism, while others intervene in the economy for the purpose of fostering development. That intervention (either, for the sake of ideology, or fostering development) chokes competition.
2. The environment in less developed countries does not allow consumerism to exercise pressure on business or government to deepen competition, especially if the business is owned by government.

The Researcher contends that borrowing consumer policy from developed countries is irrelevant, because it does not serve the majority of consumers in the less developed countries, who are mostly destitute, ignorant and passive. As it was mentioned before, it does not matter for the majority of consumers in the less developed countries to rank the brands of washing machines, when they do not have enough clothes to dress. As a consequence they do not require product safety or even product information.

Indirect consumer policy is relevant to the requirements of most consumers in the less developed countries, because their basic and urgent needs are to have enough food, shelter and medicine. Indirect consumer policy is therefore required to augment

productivity rather than to reduce pollution.

Productivity, especially in agriculture, has been declining in most of the less developed countries, due to introducing land reform and government intervention. On the other side of the coin, more concern is focussed on micro issues like trademarks, dangerous products, drugs, baby formula and even the disaster of Bhopal, India due to the leak of poisonous gas from Union Carbide's Plant.

The Researcher will debate the foregoing issues to demonstrate how consumer micro matters could hurt the majority of consumers in less developed countries.

### C. Land Reform.

No slogan has misled and destroyed consumer interest in less developed countries as much as the slogan of socialism. Socialism has been used by many of those countries to portray their own perception of their economic structure<sup>50</sup> as well as their hostility to Western ideology. The essence of land reform is to seize land from large land holders and to redistribute those holdings to the poor farmers for the purpose of reducing land concentration.

The Researcher could cite from the experiences of some Arab countries the misery of land reform. Land reform in these countries destroyed the future of agriculture and widened the gap of the consumer's

income. Land reforms in all countries led to land being divided into small plots for cultivation, for example, in Egypt 46.2% of the cultivated land consisted of 3 HA or less in 1975, while it was only 13.4% in 1950.<sup>51</sup> To add another example, Syria, experienced land reform and it achieved a successful disposition to destroy land concentration, but it failed to redistribute the confiscated land. Before introducing the land reform law, farmers who held more than 100 HA constituted more than 50% of total landholding, but after executing the land reform, that share fell to less than 10%.<sup>52</sup>

The Syrian government intended to form agricultural cooperatives, but such a communist system failed to produce any result when by 1973, the cooperatives represented less than 15% of the total cultivated land.<sup>53</sup> Most of the farmers preferred to stay out of the cooperative system and instead leased small plots from the government. The outcome was a fiasco and as a result the government became the largest holder of cultivated land in the country.<sup>54</sup>

The Iraqi experience was indifferent from the Syrian one, where the government wanted to establish a cooperative system, but the Iraqi farmers chose to hire small lots. Since the government could not redistribute the captured land, the result was that the government ended up as a renter of one third of the cultivated land in the country.<sup>55</sup>

The outcome of introducing land reform in the less

developed countries could be summarised as follows:

1. Income inequality has been increasing. For example, it was cited that the inequality of income widened in Syria under socialism.<sup>56</sup> While in Iraq the income equality remained no closer a reality than in the pre-socialist era (in spite of the increase of the national income due to the sharp increase of the oil prices) and even failed to support the all Iraqi consumers with a decent minimum standard of living.<sup>57</sup>
2. The participation of workers and farmers in the economic decision-making is a slogan of socialism, but this slogan failed when Gottheil compared the two socialist countries of Syria and Iraq with two free market countries, Jordan and Morocco. He concluded that the participation of workers in Jordan and Morocco is more prevalent than in Syria and Iraq, as workers in Jordan and Morocco are free to strike while striking is illegal in Syria and Iraq.<sup>58</sup>
3. Fragmentation of land did not allow less developed countries to utilise new technology in the agriculture sector. The outcome was, that the productivity of farmers and land did not increase to match the population growth, although most of the



less developed countries were able to increase their GDP by 6% a year in the period 1960-80.<sup>59</sup> However, the food production per capita for many less developed countries has been declining, for example, per capit food production in Africa fell by 11%.<sup>60</sup> This could be ascribed not only to the recent drought, but also to the inappropriate agricultural policies as well as misuse of land.<sup>61</sup>

Fragmentation of land has a direct effect on the productivity of farmers. It was cited in some studies that the rate of growth in output per worker has been increasing at 1.5% yearly in the less developed countries, while that growth averaged 4.5% in the developed countries.<sup>62</sup> The decline of food production is not the only problem caused by land reform. Land fragmentation worsened the efficiency of the food marketing system, which was already suffering from the decline in scale of farms.

In order to have an efficient food marketing system in the less developed countries, agricultural firms should be large enough to take advantage through the economies of scale for the following reasons:

1. Producing and marketing agricultural products are full of externalities, therefore only large firms could survive such externalities in the

long-run.<sup>63</sup>

2. In order to have an efficient food marketing system, specialisation is regarded as prerequisite for such efficiency, but specialisation cannot be performed without vertical integration. Large agricultural business firms are therefore necessary to develop the efficiency of a food marketing system.<sup>64</sup>

Land reform caused food shortages, therefore the occurrence of price control, food rationing and food subsidy were produced.

1. Price control. In many of the less developed countries, especially those who introduced land reform laws, the prices of food products are determined by the governments at a low level. This policy is justified on the following grounds:<sup>65</sup>

- i) To maintain low food prices for urban consumers.
- ii) To increase the government revenues. This is possible because the revenues of many less developed countries come from the difference between the producer's prices of their export crop sold to the government's monopolies, and the prices of the world market.

Despite the above two grounds of price control, the following repercussions are the outcome of price control:

- Price control policy has put farmers of the less developed countries in a chronic destitute position. Therefore, the majority of them have immigrated to urban areas. This has caused the urban population to grow twice as fast as that of the developed countries.<sup>66</sup>
- When price control is implemented in any country, a parallel market will appear, therefore those people who do not abide by the regulations will receive advantages of the existence of the parallel market. Consequently the social values of the people could deteriorate, and corruption will be the life style in society.
- There is a lack of elasticity of supply to changes in demand, when the government does not change the prices according to the changes in demand. In the long-run price control should produce an acute shortage of food products. In the case of Sarri in Egypt, a massive evasion of area controls was the result of government imposing a large area of cultivation of a particular crop, when the government did not offer the farmers attractive

prices.<sup>67</sup>

On the contrary, the governments of the less developed countries should overprice food products to encourage farmers to produce more staple food. Such a policy is followed by Western Germany, which has a history of food shortage, and still has the desire to maintain the rural structure, as well as the farmers votes.<sup>68</sup>

2. Food Rationing. Following the policy of low prices for food will not benefit the low-income consumer, unless government establishes an efficient rationing scheme, otherwise rationed food will be sold in the parallel market.<sup>69</sup> But the governments of the less developed countries are not sophisticated enough to design and implement an efficient rationing plan. Consequently the following expected problems will be on the horizon as a result of food rationing:

i) Problems relating to corruption and poor administration as well as political interference in implementing a rationing plan.<sup>70</sup>

ii) Although, food rationing could have an impact on income distribution, it might favour the urban population.<sup>71</sup>



iii) Food rationing could humiliate consumers by forcing them to stand in a long queue, as well as wasting their time to get a loaf of bread. The cost of humiliating consumers is not taken into consideration when formulating a food rationing plan.

iv) Food rationing could cause the food shortage to deteriorate in the sense that high and middle-income consumers, who eat less staples, will have an equal share with low-income consumers.<sup>72</sup>

3. Food Subsidy. The main shortcoming of adopting the policy of food subsidy, is that countries who apply it become net importers of food products in the future.<sup>73</sup> It was cited by Alderman that the price distortion of agricultural products in Egypt has led to a reduction in agricultural output equivalent to 1.5% of the national income, or 7.5% of agricultural production in 1979/80.<sup>74</sup>

The policy of food subsidy could have a negative impact on industrialising less developed countries, because subsidising food could drain the foreign exchange reserves, which result in postponing the import of capital goods and raw material.<sup>75</sup>

By demonstrating how a price subsidy represents a negative long-run impact on economy, the Researcher can

cite the sharp hike in oil prices in 1973-4, when many of the less developed countries delayed increasing their domestic energy prices. This delay produced large deficits in the Balance of Payments, and discouraged the consumer from using energy wisely. The consumer has paid the price in the end, via rampant inflation.<sup>76</sup>

In conclusion, the governments of some of the less developed countries have been hurting the consumer by adopting an exotic system from the communist world - land reform - which produced land fragmentation. Consequently their agricultural output and the marketing efficiency has been declining ever since.

It could be argued that the private enterprise initiative in a free market economy is essential to feed the hungry of the less developed countries and the large agricultural land-holdings are necessary to apply modern technology as well as to increase the efficiency of the marketing system. Productive land has however been lost through "Desertification" which is a stumbling block in increasing food production in the less developed countries.<sup>77</sup> Therefore, the way to lift food production in the future, is to use modern technology such as green-houses and chemicals. Large firms are more equipped to deal with the problem of "Desertification" than government bureaucracy or small land holding farmers for the following reasons:

- i) The governments of the less developed countries

are less likely to establish any project that cannot be inaugurated.

- ii) "Desertification" is caused by a diminution of rainfall, and by over-exploitation of land by man.<sup>78</sup>

Over-exploitation of land is actually performed mostly by the practices of small land-holding farmers, such as fuel wood cutting, and inappropriate cultivation on marginal land.<sup>79</sup>

#### D. Public Owned - Business Firms.

The policy of establishing public owned - business firms in the less developed countries has little correlation with the ideology of government. Left and right regimes as well as civil and military governments form public owned - business firms under the pretext of stimulating progress.<sup>80</sup> That deters government from playing an impartial role between the consumer and business.<sup>81</sup> For example, in India where editorial freedom exists, criticism of governmental policies is not practiced through radio and television stations, because they are owned by the government.<sup>82</sup>

Without the stamina to criticise public owned - business firms, corruption and inefficiency should prevail. In order for public owned - business firms to be successful, they should utilise the marketing

concept. The clear example is the Pohang Steel Company. It is highly entrepreneurial and the world's lowest cost steel producer,<sup>83</sup> but South Korea is a very exceptional case.

Public owned - business firms drowned the less developed countries in a vicious circle of debt, when countries were encouraged to borrow in the 1970's, because real interest rates were low.<sup>84</sup> It was assumed that, the borrowed funds were invested wisely, but, they were squandered on large public projects that contributed little to development or to servicing their debt.<sup>85</sup>

It could be concluded that the consumer is the one who pays the prices of the failure of public owned - business firms, since he is the one who suffers from inflation which has resulted from the debt of the third world. He was deprived from the borrowed funds, which were squandered by officers who lack any business skill, and could otherwise have been used on his education and health.

The only feasible solution, which can help the consumer, is to sell all the public owned - business firms either to national, or to foreign investors. By taking this step the consumer will benefit in three ways:

1. By settling some of the public debt, national currency devaluation will be reduced, consequently inflation rate will be reduced. The consumer should



benefit from lowering the inflation rate.

2. Turning all public owned - business firms into private hands, makes their projects profitable. This helps in stimulating the rate of growth.
3. The public funds, which are used to finance unprofitable projects, could be used in health and education programmes.

Undoubtedly privatisation of public owned - business firms will be faced with determined resistance from vested interests against it.<sup>86</sup>

The above analysis of land reform and direct government intervention in business shows that the governments of less developed countries have approached an economic policy which has hit the consumer's pocket. On the contrary, indirect consumer policy could have benefited the consumer. Such policies, are adopting the free market economy, free trade, no direct government intervention in business, and stimulating competition, all of which have been neglected. There is much concern about direct consumer policy, such as dangerous products, drug policy, trademarks, safety and even baby formula.

In the following sections, the researcher will be concerned with dangerous products, drug policy, trademarks and baby formula as examples that demonstrate the extent of consumer deception by useless concerted

efforts on issues irrelevant to consumer interest in less developed countries.

It is not the desire to discount the importance of product safety, but it is essential to notice that direct consumer policy only benefits the rich and the middle class minorities, and neglects the needs of the poor majority. Indirect consumer policy must have priority, after making the poor comfortable or at least after enabling the consumer to use soap. Direct consumer policy should then have a place in society.

#### E. The Policy of Dangerous Products.

There is an accusation of dumping unsafe products, which are not allowed to be used in the developed countries, by multinational corporations.<sup>87</sup> This accusation is not without foundation.

In order to substantiate that accusation, Karim and Scherr cited that in 1976 more than 550 million pounds of pesticides were exported from the U.S.A., 30% of which were not registered for use in the U.S.A.<sup>88</sup> It is not only the U.S.A., but also the OECD countries are responsible for the bulk of hazardous products sent to the third world.<sup>89</sup> The export of hazardous products could be explained by the laws in the developed countries, which provide exemptions to exports. In the United Kingdom, for example, the Consumer Safety Act of 1978 provides mandatory safety regulations which may

contain exemptions relating to exports.<sup>90</sup>

In West Germany the law states that goods for export are not subject to the law, although they must comply with certain provisions specifically concerned with danger to health.<sup>91</sup>

But the U.S.A. takes most of the blame, since only she is accused of casting the dissenting votes against the development and publication of a hazardous products<sup>-</sup> list, in separate action taken in December 1982, and December 1984.<sup>92</sup> Such action explains the dissatisfaction of the international consumer union with the policies of the U.S. government toward hazardous products.

The overall policy of exporting hazardous products contains three different policies:<sup>93</sup>

1. Goods are freely exported, even if they are not allowed to be consumed domestically.
2. Domestically banned goods could be exported after notifying the governments of importing countries of the latent danger in the products.
3. Domestically banned goods are not to be exported.

In evaluating the implication of the previous three policies, the first one should be rejected, since it exploits the ignorance of the importing countries.

Adopting the third policy, although very humane, could hurt the consumer interests in the less developed

countries for the following reasons:

- i) Cost/benefit analysis should be the main criterion for importing products in every country. It is expected that some products, whose cost outweighs its benefit in a specific country, might have a net benefit in other countries. For example, Depoprovera, the injectible contraceptive, which was not cleared for use in the U.S.A. because of its side effects, but using such a contraceptive in less developed countries has a net benefit, because of the urgent need for a simply administrative and relatively long-lasting contraceptive.<sup>94</sup> Another example could be cited, any restrictions on exporting lorries which are not allowed to be used in the United Kingdom because of the binding specifications in the Western countries concerning the safety of lorries, but it does not benefit the consumer in Sudan. Exporting lorries with high specifications to the less developed countries could save few lives on the roads, but it certainly increases the costs of farm products.
- ii) Banning exports of hazardous products by the exporting countries is a futile policy for a simple reason, multinational corporations have



subsidiaries all over the world. In the case that the law in the United Kingdom, for example, bans the export of a specific product, the product could be exported from the subsidiaries of multinational corporations in other countries who do not ban the export of that product.

iii) The life expectancy of a person in the less developed countries is too short to take the lingering effects of dangerous products into consideration. It was estimated that the expectation of life at birth in Yemen is only 43 years.<sup>95</sup> Surely, the short life span of the consumer will not be jeopardised by the lingering effects of hazardous products, because the people from the less developed countries die before the side effects of using hazardous products appear. Therefore, it is unnecessary to prevent the consumer from less developed countries, obtaining cheap products even if they are dangerous to health in the long-run.

iv) If some countries observe their exports to the less developed countries and the others do not, then the competitive advantages of those who do, will be curtailed.

- v) Every country has product specifications which reflect the extent of developments, therefore it is not plausible to expect that all countries should have the same product specifications, since countries differ in terms of stages of development.
- vi) Hazardous products could have a positive side, for example, the use of pesticides can lift the food production of the less developed countries, where consumers are suffering from malnutrition. The DDT which is regarded as a hazardous product is credited with preventing 15 million malaria cases and saving 2 million lives in India during the 1950's and 1960's,<sup>96</sup> although mosquitoes developed a new DDT resistant strain and malaria soared to a new height.<sup>97</sup>

But why is the whole blame thrown only in the face of multinational corporations, while the governments of the less developed countries do not take any responsibility in providing a hygienic environment? If they did perhaps many diseases would vanish.

In order to demonstrate the hypocrisy toward the governments of less developed countries by the international press, there has been an international outcry about the tragic consequences of the gas leak at

Union Carbide's Chemical Plant in Bhopal, India. All the blame was directed toward Union Carbide, and no blame was directed at the Indian government, which had failed to supervise the safety system in the plant, and had approved the site for the plant to be near a populated area in the first place.

From the researcher's point of view, the Indian government and Union Carbide should be held collectively responsible for the accident in any litigation. A disaster such as the Bhopal accident attracts worldwide attention. The international consumer congress, which was held in Thailand in December 1984, considered the Bhopal accident as one of the main issues in the conference.<sup>98</sup> But the application of socialism and land reform, which were enforced through internal civil war, oppression and famine<sup>99</sup> do not take much of the attention of the international media or even the international consumer union.

The only viable policy, concerning the export of hazardous products, is the second policy, when the governments of the importing countries are notified about the potential danger of the concerned products, but only under the following conditions.

- Notification policy should be applied by all countries, otherwise the countries who do not respect its doctrine will gain a competitive edge against those who do.

- All the information relating to the potential danger of hazardous products should be given directly to the consumer in the importing countries through clear labelling in a language that can be digested by the lay consumer.<sup>100</sup>

F. The Policy of Drugs.

There are three accusations directed at multinational drug companies, they are as follows:

1. Very little information is given to doctors and patients in the third world about the effects of drugs, furthermore some of this information is misleading. More information given to doctors and patients in the Western world about minimum doses, maximum doses, the division of doses, doses for children and the side effects of drugs.<sup>101</sup>

There is growing evidence that the maximum doses of many drugs in the third world is higher than that of the Western world.<sup>102</sup>

Medawar argues that patients in the third world tend to have lower body weight. The less the weight of a person, the more the concentration of the drug in the body, therefore patients in the third world require less doses than those of the Western countries.<sup>103</sup>

It is beyond the scope of this research and the ability of the researcher to refute or prove any medical



claim, but there are some points which justify giving patients in the less developed countries more dosage:

- i) Doctors in many of the less developed countries practice overprescription as a substitute for examining patients; they prescribe, for example, antibiotics for the common cold.<sup>104</sup> Overprescription could be based on two factors:
  - Government hospitals are very crowded. Each patient is given two minutes or less of the doctor's time.<sup>105</sup> Furthermore, doctors could ask patients about the symptoms, and upon the answer of the patients, prescribe the drug without even touching the patients. It could be concluded that overprescription is widely used to make sure that any mistake in the diagnosis is compensated by using more drugs.
  - Patients in the less developed countries feel only satisfied when they receive more drugs especially expensive ones.
- ii) The spread of diseases in the less developed countries might explain the need for strong and effective medicines. For example, the need for controlling malaria might justify bearing the side effects of using pesticides.

iii) Patients in the less developed countries have the choice of purchasing drugs, even antibiotics over the counter.<sup>106</sup> They can ask the advice of the seller, who might not be a chemist. Furthermore, patients who feel that they benefited by using a specific drug might recommend it to a friend or a relative.

Recommending any policy that prevents patients from buying over the counter drugs without securing reasonable advice regarding their use is not in the interests of the consumer in the third world for two simple reasons:

- The current public health service in the less developed countries suffer from chronic shortcomings.
- Resorting to private clinics could cost a fortune for the majority of destitute patients.

## 2. Unethical Marketing Practices.

The multinational drugs corporations are accused of hard selling and unethical marketing practices. The single most important item of sales promotion in the third world, is sampling,<sup>107</sup> which requires drug companies to provide doctors with free samples, which some doctors will sell to their patients.<sup>108</sup>

Judging from the Researcher's point of view, multinational drugs corporations might not be responsible for the dishonesty of some doctors in the third world for the following reasons:

- i) As it was mentioned in the words of a doctor from one of the less developed countries "the price of buying official acquiescence or professional silence could be as low as the price of a return air ticket to Singapore or Bangkok".<sup>109</sup>

When there are higher standards of professional ethics among doctors, the practice of selling free samples should diminish.

- ii) The laws in many of the less developed countries do not illegalise dispensing drugs by doctors.

### 3. Trademarks of Drugs.

The Multinational Drugs Corporations are also accused of product differentiation through trademarks, which have created market power. Consequently the prices of trademarked drugs are higher than those sold under generic names.<sup>110</sup>

If it is assumed that the foregoing claim is true, the logical question should be why do the less developed

countries not promote the use of generic drugs? To cite the delinquency of the governments of the less developed countries, in Mexico, for example, there are four times as many drugs as in the U.S.<sup>111</sup> Doctors in the State of New York are required by the law to include the generic names of the drug on every prescription.<sup>112</sup>

Trademarks of drugs could be justified on the desire of companies to make a profit to sustain their capacities in research and development. Without profit no drugs firm can develop new products. The World Health Organisation has made approximately 250 essential drugs for the primary health care,<sup>113</sup> but the primary problem for the third world is not the different brands of drugs in the market place. In short, the problem is that modern health care does not reach the majority of the population. In India, for example, modern medicines do not reach 80% of the population.<sup>114</sup> The world would be better off, if the World Health Organisation, and the less developed countries concentrated their efforts on designing a macro socio-economic policy that would enable the disadvantaged majorities to find primary medical care instead of looking for a scapegoat for the failure of economic policy on many of the less developed countries.

#### G. The Policy of Baby Formula.

Multinational corporations have been exposed to



furious campaigns to increase public awareness concerning the health risk of using baby formula. The campaign reached its vertex when Nestle was put on the defence by republishing "The Baby Killer" under a new title "Nestle Kills Babies".<sup>115</sup>

The grounds for justifying the attack on baby formula could be summarised as follows:

1. The product of baby formula is beyond the reach of many families in the less developed countries. It requires a high proportion per capita income to feed a baby, therefore mothers over dilute it which results in infant malnutrition.<sup>116</sup> The blame, in that regard, should be directed toward those countries whose policies resulted in making a relatively cheap product such as baby formula beyond the reach of the majority of consumers.
2. Mothers mix baby formula with contaminated water. In this respect, the blame should be directed toward those countries who failed to provide purified water to the consumers.
3. There is a presumption that even a mildly malnourished mother can adequately breastfeed an infant. Therefore it is much better for poor families to substitute food for baby formula, because baby formula is relatively more expensive

than food.

But the above presumption might hurt mothers in many communities of the third world, where women as well as their daughters are amongst the most vulnerable to poor diets.<sup>117</sup> Therefore discouraging consumers from buying baby formula will only benefit men at the expense of women in some communities. In fact, it could be argued that baby formula could help mothers who hold permanent jobs and those who cannot breastfeed their babies for causes related to health.

Although no one could contend that baby formula is the same as breastfeeding, at least women in the third world should have a choice. This would only be possible if governments provided uncontaminated water, and the macro socio economic policy can facilitate economic progress, which enables consumers to buy baby formula or to breastfeed their babies.

The campaign against the use of baby formula was designed to distract the consumers of the third world from the causes of their poverty by blaming the multinational corporations rather than the tyranny of socialism, land reform, and dictatorship. This claim is substantiated by showing that international condemnation is focused only on the multinational corporations, while the local producers of baby formula were exempted from any criticism.<sup>118</sup>

## H. The Policy of Trademarks.

There have been allegations by some consumer advocates and many economists that trademarks are not in the best interest of the consumer. This claim is based on the assumption of the theory of cognitive dissonance, which implies that the positive features of the rejected alternatives and the negative features of the chosen alternative could create conflict in the consumer's mind. The consumer strives toward consistency, therefore he must convince himself to like what he buys by finding justifications for his buying decisions. The implications of the theory of cognitive theory might lead the consumer to demonstrate the following behaviour:

1. The consumer overestimates the quality of trademarked products by placing more faith in trademarks.
2. Placing more faith in trademarks should convince the consumer to buy more than he intended. Consequently business with exclusive rights on trademarks might have monopolistic power over prices.<sup>119</sup>

In order to explain the benefits of trademarks, the consumer's error must be identified. In fact, there are two types of consumer error:

1. Error of Commission. "Error of commission occurs

when a buyer erroneously overestimates the quality of a commodity or brand. He commits himself to buying more than he would with full knowledge".<sup>120</sup>

2. Errors of Omission. "are the opposite. They occur when the buyer buys less than he would with full knowledge".<sup>121</sup>

Greer believes that purchasing errors can be easily avoided in the absence of trademarks (only in search goods) because quality is transparent prior to buying. However, trademarks could be helpful in experienced goods, because they lower the errors of commission and omission and reduce the time and money spent to avoid these errors.<sup>122</sup>

He implies that a trademark is not indispensable for search goods, but this claim would be refuted. In fact, a trademark is needed in the less developed countries for both search and experienced goods. The following will justify this statement:

1. A trademark contains all the features of a specific product expressed in one word "the brand name".
2. Since word-of-mouth is the main instrument of product information in the less developed countries, a trademark is a keystone in facilitating product information from one consumer to another. With the absence of a trademark, word-of-mouth would not be



utilised in the product information influx.

3. Since household consumers are prone to making more errors in their buying decisions than business firms,<sup>123</sup> a trademark is essential to the consumer in both the developed and developing countries.

Since the consumer in the less developed countries is mostly illiterate, and word-of-mouth is the main source of product information, a trademark is more important for those countries than the developed ones, even though the consumer might pay more for preferred brands. With the open market policy, more brands will be in the market place, there will be more competition, higher quality and a decline in prices.

#### Conclusion.

Borrowing consumer policy from the developed countries is more likely to produce devastating results for the consumer in the third world. Consumer policy in the developed countries is related to matters which would be luxurious for the consumer in the third world, such as product information, product safety, pollution standard, and even the fairness of work distribution would be an important issue for the consumer in the future. Furthermore, business in the Western world focuses its attention on studying the changing values of

the consumer in the future in order to satisfy his needs. For example, by introducing new products, the British business firms have replaced traditional product testing by an analysis of data on the movement of the consumer's attitudes on matters like the desire for convenience, physical fitness, and the wish of women to spend less time in the kitchen.<sup>124</sup>

Adopting consumer policy from the developed countries would only serve the need of the opulent minorities in the less developed countries, therefore designing an indirect consumer policy that aims to increase the productivity, especially in the agricultural sector should help the consumer. But in order to lift food production the free market system should be implemented and land reform should be abandoned, because it fragmented the land into small plots. Consequently food production has declined due to the inability of farmers to use modern technology. Abandoning land reform should eliminate food subsidy, price control and food rationing. Increasing productivity should increase the consumer's income, and introducing means for fair distribution of income should be abandoned, since all these known means reduce productivity. If not widespread poverty for everyone would prevail with the exception of corrupted officials.

Increasing productivity in the agricultural sector would be through forming large scale business firms that can bear the risk of externalities and can use new

technologies not only in food production but also in marketing. In fact, there is no conflict between an efficient marketing strategy and morality,<sup>125</sup> to justify blocking the development of an efficient food marketing system in the less developed countries. Increasing productivity will hedge against any future famine, since productivity increases the purchasing power of the consumer. If the less developed countries had purchasing power they would not have been exposed to hunger because in a free market system when demand for any product is coupled with purchasing power, that demand can be satisfied, even by importing from abroad.<sup>126</sup>

By increasing the purchasing power of the consumer, the market structure of the less developed countries will be improved through introducing more outlets for business firms. These firms will be forced to compete to get the consumer's income by providing more goods and services which should reduce the knavish practices of business firms. In fact, the widespread fraud in the less developed countries is mainly attributed to lack of competition.

Since the consumer cannot be protected either by government, due to the mistrust of bureaucracy, or private consumer associations due to the lack of independence,<sup>127</sup> the only viable solution is introducing the free market economy, which protects the consumer through the ample alternatives in the market

place and the augmentation of his purchasing power.

The governments of the less developed countries should privatise the publicly owned - business firms to settle their debts. That would reduce the staggering rates of inflation and leave more funds for the health care and the educational programmes that would serve the consumer interest. The less developed countries should stop searching for a scapegoat to hide the failure of their economic policies.

In conclusion, consumer policy in the less developed countries should focus its objectives on widening their scope to incorporate a more holistic view of consumer well being. In other words, the adoption of indirect consumer policy, that aids in increasing the quantity of produced goods and services, especially in the agricultural sector, by focusing not on micro issues, but on the social, economic and political order around them.<sup>128</sup>



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CHAPTER TWO.

CONSUMER POLICY IN SAUDI ARABIA.

The main contention in this Chapter is the unique characteristics of Saudi Arabia which made the consumer policy different from other less developed countries. Saudi Arabia is a very rich country, therefore she is able to pursue an expensive consumer policy through generous subsidy programmes. However, this policy can have pros and cons for the consumer.

In face of the oil prices decline could this policy be continued in the future? In answering this question, and therefore shedding more light on consumer policy in Saudi Arabia, the Researcher intends to demonstrate how Saudi Arabia differs from other less developed countries. In order to assess the consumer policy in Saudi Arabia, it is necessary to study the marketing environment, and the main characteristics of the behaviour of the Saudi consumer. Any consumer policy should take into consideration the foregoing two factors. Consumer policy in Saudi Arabia is classified into direct and indirect policies. Although there is a drift toward direct consumer policy, indirect consumer policy is still predominant in the sense that Saudi Arabia follows the market system.

#### How Saudi Arabia Differs From Other Less Developed Countries

Dholaki and Nason have classified countries into four categories:

- (1) Mineral-rich developed countries such as Canada and the USA.
- (2) Mineral-poor developed countries such as Japan.
- (3) Mineral-rich under developed countries such as Kuwait.
- (4) Mineral-poor under developed countries such as Egypt.

According to their classification Saudi Arabia is considered as a mineral-rich, under developed country<sup>1</sup>. However, Saudi Arabia is different from other countries that can be classified as mineral-rich and underdeveloped, in the sense that she is considered to be among the richest in the world. In fact, Saudi Arabia combines extreme characteristics of development and under-development. On one side of the coin, high per capita income, and a strong annual growth, but on the other side, over-dependence on the oil revenue, the reliance on imports and an inadequate indigenous supply of technical skills and labour is prevalent in the country<sup>2</sup>. To expound, Saudi Arabia differs from other less developed countries in the following aspects:

- (1) Saudi Arabia is considered one of the most affluent countries in the world. Even after the decline of oil prices, it is still opulent, and has a sizeable amount of foreign reserves. The GDP of Saudi Arabia reached SR 385.5 billion in 1980 (or equivalent of

\$102.8 billion) although it declined to SR 284.1 billion in 1984/1985 (or equivalent of \$75.76 billion<sup>3</sup>). By assuming that the population is seven million, the per capita income is \$10,794. The high consumer income makes the Saudi consumer different from the consumer in other less developed countries, in terms of his aspiration to acquire more luxurious products. The consumer problems related to poverty do not exist in Saudi Arabia.

According to a report describing the Saudi market, which was prepared by officials of the US embassy in Saudi Arabia, "this market has shifted from heavy emphasis on basic needs (housing, road, communications) to become more sophisticated and increasingly service oriented<sup>4</sup>".

(2) Saudi Arabia is an under-populated country, according to the 1974 census. The population was estimated at 7,012,642<sup>5</sup>, while the area of Saudi Arabia is 2,240,000<sup>6</sup> square kilometers, therefore the density of population per square kilometer is less than 4 persons. The problems therefore, which can result from high density population, are not present in the Saudi case.

(3) Saudi Arabia is different from other less developed countries, because the dual economy has no place in Saudi Arabia. It was expected that dualism could be developed with the oil wealth, but the



government has played a key role in subsidizing the essential products, and in lifting the standard of living for all Saudis.

(4) The lack of social security, poverty, illiteracy, and poor health - are all some symptoms of a lack of development<sup>7</sup>, but Saudi Arabia is a special case, where the foregoing symptoms do not exist. For example, the Saudi consumer on average takes 3277 calories daily<sup>8</sup> and most of the health problems are derived from over-eating. The government has played a major role in fighting illiteracy. According to Vassiliou, illiteracy is no longer a problem in Saudi Arabia, where a few years ago it was the main characteristic of the Saudi society<sup>9</sup>.

TABLE 3.2.1.

Literacy by Age - All Adults in Saudi Arabia

Age	18-24	25-34	35-44	45-54	55 and over
%	97	88	85	85	50

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SOURCE: G. VASSILIOU, MARKETING IN THE MIDDLE EAST  
(ENGLAND: GRAHAM AND TORTMAN LTD, 1983), P26.

Table Number 3.2.1 shows how illiteracy disappeared for the younger population. It can now only be shown among the aged population, which do not represent a high

percentage of the Saudi population. The population is skewed against the aged segments; only four per cent of the Saudi population is above 64 years of age, 47% of the population is between 15 and 64, and 49% is less than 15 years<sup>10</sup>.

The smallness of aged population can be attributed to the following two factors:

(i) The harsh economy of the past, when the country lacked the basic need of a health service before the oil discovery.

(ii) The tradition of having more children in the Saudi society.

#### Marketing Environment in Saudi Arabia

The Saudi market can be classified into three major segments:

- (1) The Saudi population.
- (2) The expatriates whose stay in the kingdom is limited.
- (3) The Muslim believers, who come to perform their ritual practices every year.

These three main segments could be sub-segmented:

each sub-segment has a different behaviour<sup>11</sup>.

The segmentation of the Saudi market has an influential impact on the marketing structure of the market, when it is essential to have different types of stores to serve each segment. For example, pilgrims have produced the need for the existence of peddlers; as a matter of fact, some of the pilgrims stay in the country illegally to work as peddlers.

Public markets and corner grocery stores attract low income consumers, and even some of the affluent consumers, who still do not patronize supermarkets. The shopping centres, which are located in the outskirts of the main cities are becoming recreational facilities for consumers. These shopping centres are not only utilized by the high and medium income consumers, but also by some of the low income consumers. This could be attributed to the high ownership of cars, also the cheap cost of oil.

To expound the varied nature of Saudi business by investigating food retailing, it is easy to notice the existence of multinational corporations, who established supermarkets under their own names, for instance Safeway. Tycoon families have established supermarkets with the cooperation of foreign multinational corporations. Other types of retail outlets are the average businessmen who could manage to open small supermarkets, the traditional corner grocery stores, the food stores in the public markets and the fruit markets,

where there are many peddlers, who sell groceries.

The evolution of the food retailing system in Saudi Arabia upholds the notion of Kaynak, which states "structural changes taking place in retailing are caused by the changes in the economic, technological, social and cultural environments of retailers<sup>12</sup>." In fact, the increase in income of the Saudi consumers, the accumulated wealth of Saudi business, and the introduction of new marketing technology by the multinational corporations all have a major impact on the evolution of food retailing systems.

The new marketing technology, which was introduced by the multinational corporations, inspired the Saudi business community to emulate. The retailers no longer prefer the status quo. They are ready to accept and introduce fundamental changes in their operations. This could be considered as one of the major differences between marketing in Saudi Arabia and other less developed countries whose retailers are described by Kaynak as preferring "the status quo and are unwilling to change their operations<sup>13</sup>." The channels of distribution in Saudi Arabia are similar to those in western countries. The common channel for manufactured products is manufacturer - wholesaler - retailer - consumer<sup>14</sup>. However, in many products, retailers can by-pass the wholesalers by buying directly from factories, or can even by-pass the sole agents for imported products. It is not unusual to find many car



sub-dealers by-passing the sole agents, by importing cars from neighbouring countries like Kuwait or directly from Europe and the USA. The consumer can by-pass the whole distribution system by buying directly from the factories, or even by importing what he needs. For example, it is not unusual for many consumers, who think that the quality or the price of furniture in the market place is not suitable, to import, or to buy what they want, when they are travelling abroad. In fact, Saudi consumers shop extensively especially women, when they are abroad.

It was estimated that around 10% of Saudi consumers travel abroad every year, spending a lot of money on their trips. The total expenditure of a trip to the USA for a Saudi family group could be as high as \$30,000<sup>15</sup>.

The varied marketing structure of Saudi Arabia provides the Saudi consumer with more bargaining power with which to maintain his interests. For example, the majority of the supermarkets and the small supermarkets started with a high price strategy based on the high level of the consumer income, but following more entrants in the supermarket business, and after many foreigners left the country, they re-evaluated their policies to maintain sizeable sales<sup>16</sup>. This contradicts the hypothesis of the wheel of retailing, which states that new forms of retailing institutions begin as, low status, low price businesses,

but after some time they increase their prices<sup>17</sup>.

In spite of the magnificent strides toward marketing technology in Saudi Arabia, the Saudi marketing environment can be described to some extent, by the following:

(1) Since price haggling is still practiced in many stores, personal selling is the most common method of the promotional mix. Because of the cheap imported sales force from the neighbouring countries, personal selling is considered costwise.

(2) Because of the prevalence of large numbers of small firms, advertising in newspapers and television is within the reach of large business firms<sup>18</sup>.

(3) The Saudi market is lacking in local marketing and promotional infrastructure, where there are only a few advertising agencies and market research firms<sup>19</sup>.

Even the marketing research performed by the Universities' staff is not accurate in terms of sampling or the scientific methodology. Furthermore these researchers do not bother to perform cross tabulation or any statistical tests, therefore the researchers do not provide any help in a truly segmented market.

(4) It was cited by Nicholls that the British firms

in Saudi Arabia are faced with advertising problems such as communicating with the female population and the uncertainty of determining targets for advertising for family consumption<sup>20</sup>.

(5) The Saudi business community acts as a short-term profit maximizer<sup>21</sup>. This prevailing behaviour has caused business firms not to welcome the marketing concept. In this regard Saudi Arabia is not different from the other less developed countries, where marketing is still considered to be a relatively less important factor of the economic system<sup>22</sup>.

Tamer and Yavas concluded in their study of the transfer of management know-how to developing countries, that in most Turkish firms, managers are hostile toward the marketing concept and this attitude is attributed to the following factors<sup>23</sup>:

(i) The background of most business people. Most of them have had no University education and their success is due to the spirit of entrepreneurialism rather than to specific knowledge.

(ii) The existence of a sellers market in Turkey, where every produced product is sold easily.

Although the market in Saudi Arabia is not a sellers market, the business community is not enthusiastic about

the marketing concept. This is due to the ignorance of marketing, where marketing is thought as a synonym of selling.

The plain truth according to Levitt is that "the difference between marketing and selling is more than semantic. Selling focuses on the needs of the sellers and marketing on the needs of the buyer. Selling is preoccupied with the seller's need to convert his product into cash, marketing with the idea of satisfying the needs of customer by means of the product and the whole cluster of things associated with creating, delivering and finally consuming it<sup>24</sup>".

According to Nicholls, because of the increased education, sophistication of consumer, increased marketing competition and modernization of the distribution system, the marketing era is replacing the selling era in Saudi Arabia. He concluded that the firms who understand the Saudi consumer will only survive in the Saudi market in the 1980's and 1990's<sup>25</sup>. Nicholls' prediction is substantiated by Yavas and Tuncalp who concluded, in a study to measure the attitudes of Saudi students toward marketing, that the respondents assured Saudi Arabia needs more trained marketing professionals<sup>26</sup>.



## The Main Characteristics of Consumer Behaviour in Saudi Arabia.

According to the consumer behaviour model of Engel, Blackwell and Koll, the cultural, economic and demographic variables do not influence specific consumer choice, but they shape and determine the nature of a consumer in such a way that influence all the consumer's decisions from birth<sup>27</sup>.

For the Saudi consumer the case is not different from Engel's model, where the ancient Beduin customs such as pride, hospitality and rivalry are still observed in the Saudi society<sup>28</sup>. Due to these unique characteristics the Saudi consumer can be differentiated as far as consumer behaviour is concerned, from other consumers in the less developed countries in the following respects:

(1) Since the Saudi consumer is a very proud person, he is sensitive to any criticism that depreciates his honour or hospitality<sup>29</sup>. In this regard, the Saudi consumer does not want to be seen as ignorant, therefore he is less likely to ask for more product information, to avoid being seen as an ignorant person.

(2) Because of the unlimited generosity and hospitality, the Saudi consumer is willing to give more than what he receives<sup>30</sup>. Therefore some of his

behaviour could be seen as ostensible such as giving a very large tip, a very lavish dinner for guests, or a very expensive present.

(3) The effect of rivalry is still to be seen embodied in the behaviour of the Saudi consumer. For example, he could overpay for a product in the auction if he felt that some person does not want him to take that product. He even could be persuaded into buying luxurious products which are beyond his limits in order to prove that he is not less than his brother or cousin.

The behaviour of Saudi consumer could be summarized as follows:

(1) In spite of the oil wealth, the Saudi society still keeps many of the characteristics of a communal society. Social roles are inclusive, personal relations still have a key role, and reference groups shape and influence the consumer behaviour.<sup>31</sup> There is a high level of social contact among the Saudi consumers, with people tending to meet each other frequently and on a regular basis<sup>32</sup>. Consequently the Saudi consumer prefers face to face communication<sup>33</sup>, in other words, word-of-mouth still plays a key role in obtaining product and service information.

(2) According to Islam, the father is responsible for providing, and protecting his family members, in return, they are supposed to respect his wishes and

remain under his authority<sup>34</sup>. The power of the father in terms of buying decisions is still alive in Saudi Arabia. This is supported by research, which has been sponsored by Riyadh Chamber of Commerce, where it was concluded that the husband makes the buying decision, and performs the actual buying in the majority of cases<sup>35</sup>. The conclusion of this research is not valid in the sense that it does not tell the whole story because no cross tabulation was performed in a truly segmented market. In fact, the male's domination is being challenged by women, where cultural change is being rapidly performed in Saudi Arabia. This change is influenced by western products and communications<sup>36</sup>. The question of who makes the buying decisions should be addressed in terms of demographic factors. This would take account of the Saudi shopping centres and bazaars being crowded with women, who enjoy shopping, and the main tourist attractions for Saudi women in western Europe are the shopping centres.

(3) Ownership of durable products. The consumer in Saudi Arabia is characterized by a high level ownership of durable products. This is one of the main characteristics that discerns the Saudi consumer from others in less developed countries.

According to Vassiliou, the lack of opportunity for entertainment relevant to the western world, has caused the amount spent on durable and luxury products to be

proportionately higher than in any of the rich countries in the world<sup>37</sup>. That is not the whole story, however, since lack of opportunity for entertainment is present in most of the less developed countries. They are distinguished by a low level ownership of durable products. The high level of consumer income, and the almost complete absence of import restrictions are also considered key factors in the occurrence of the high level of ownership of durable products in Saudi Arabia.

TABLE 3.2.2.

Ownership of Durable Products in Saudi Arabia

Product	Level of Ownership
Any Colour TV.	76%
Any Black & White TV.	75%
Any Radio	97%
Electric Refrigerator	95%
Air Condition Unit	83%
Washing Machine	88%
Video-Tape Recorder	20%
Stereo Hi-Fi Equipment	60%
Electric Dishwasher	12%
Deep-Freezer	32%

Source: G. VASSILIOU, MARKETING IN THE MIDDLE EAST

(ENGLAND: GRAHAM AND TORTMAN LTD., 1983), P.30.



the main problem of durable products in Saudi Arabia is the poor standard of maintenance, where the average life span of durables is shorter than that of the Western world. For example, the expected life span of passenger car is only four years, while it could be seven or eight years in Europe<sup>38</sup>.

Many traders look at durables as non-durables, where the consumer is expected to throw away the durable after the occurrence of a few breakdowns<sup>39</sup>.

This behaviour is ascribed to the following factors:

- (i) There is only a 7% tariff on durables including passenger cars, therefore the price of buying new durables can be lower than that of repairing equipment.
- (ii) Many of those durables are not imported for the Saudi consumers, but for foreign workers and pilgrims, who take them home as gifts.
- (iii) The freedom to enter the market to the extent that small traders can import durables, (even if they lack resources to hold spare parts and provide maintenance). This situation appears to be against the interests of the consumer. However, on the contrary, it helps the consumer because of the intensification of competition, by increasing the number of durable traders in the market place. Any direct policy that

obliges importers to provide service should lower competition in the market place by terminating those traders who lack resources to provide after-sale service.

4 Ostentation is one of the Saudi consumer's characteristics. It has been produced by the oil wealth, which has resulted in an imbalance between the levels of consumer awareness and consumer income. Many consumers have shifted from a nomadic life style to a high living standard in a short period of time. Products therefore, that have a high level of social status, appeal to many Saudi consumers. In fact, luxurious products are utilized to substantiate one's claim of affluence, tribal strength and purity of race.

Showing affluence through luxurious products does not contradict the teaching of Islam. To cite the following from the saying of the Prophet (May peace be upon him) "Mohammad's saying to someone who appeared in ragged attire that when God blesses a man with prosperity he likes to see the signs thereof visible on him".<sup>40</sup>

Using a product as an indication of a high social status by the consumer is not a special case for Saudi Arabia. It has been documented in the literature of consumption. According to McCracken, products can be used to express the categorical scheme established by culture<sup>41</sup>. They can discern between categories by

encoding something of the differences between classes to demonstrate which are supposed to exist.<sup>42</sup>

The appeal of luxurious products in Saudi Arabia could be explained by the following:

- (i) Because of the oil wealth, many families progressed in terms of wealth more than others. Those who progressed more, wish to utilize luxurious products in order to symbolize their mobility to higher classes<sup>43</sup>. Those who progressed less want to prove that they did not fall behind, through utilization of luxurious products.
  
- (ii) Since the Saudi society is still distinguished by many traits of communal society, reference groups have an unlimited power on one's buying decisions. For example, it is not unusual for a consumer to buy a Jaguar car if his neighbour, or friend bought a Mercedes. Such behaviour is cited in societies other than the Saudi one. It was confirmed that much of the consumer decision making process is influenced by the pressure to the norms of the groups<sup>44</sup>. In fact, conforming to reference groups occurs without deliberation or choice<sup>45</sup>.
  
- (iii) Cultural traits. The Arabs are discernable

through their history with unlimited hospitality, pride, and rivalry. These traits are still vivid in the mind of the Saudi consumer and is confirmed in research, which was sponsored by Riyadh Chamber of Commerce. Respondents were asked about their reasons for spending any increment in their incomes: 16% believe to prove their social status; 12% to emulate the others; while 59% confirm that they spend any extra income satisfying the requirements of the Saudi environment, such as the duty of hospitality and presenting gifts<sup>46</sup>. This result shows how the traits of past centuries' Arabs are still affecting the Saudi consumers. In the foregoing result social status is an indication of pride, emulation of others is rivalry, presenting gifts and the duty of hospitality are indications of generosity.

5. The foreign made products have more appeal to the Saudi consumers than the Saudi-made ones.

Such behaviour is attributed to the following factors:

(i) The Saudi consumer is used to foreign-made products to the extent that the brand names of some products are used as the product names.



For example, "Kleenex" is used for tissues, "Pepsi" for soft beverages and "Tide" is used to indicate detergent.

(ii) Many foreign countries are using the dumping policy, therefore many foreign-products are more competitive in terms of price than Saudi-made ones.

(iii) Low tariffs on imported products.

(iv) The Saudi-made products represent a small percentage of the total products in the Saudi market. They constituted only 8% of the total products in the Saudi market in 1982<sup>47</sup>.

#### 6. Price Consciousness.

The Saudi consumer is price conscious<sup>48</sup>. This claim is supported by research in Saudi Arabia where the price is considered one of the most important factors in determining the buying behaviour<sup>49</sup>. On the other side of the coin, Nichollas cited that there was a consensus by ten British firms, operating in Saudi Arabia, that cultural considerations have no impact on their pricing decisions<sup>50</sup>. This conclusion could be in conflict with research that shows the Saudi consumer as price conscious.

In order to reconcile the differences between these conflicting conclusions, one has to mention that all the

research conducted about the price did not address the question of cross tabulation. It is necessary to determine such matters in terms of age, sex, education, and income, therefore the findings of this research is not conclusive.

The policy of the ten British firms might not reflect the degree of price consciousness. In other words, they might sell to specific segments whose income is high. It is worth mentioning that a small sample is not reliable in determining the degree of price consciousness among any consumer group. Further work is badly needed to shed more light on this issue.

#### 7. Pattern of Shopping.

Because of the lack of existence of supermarkets in less developed countries, and the high specialization of food outlets, the consumer must shop in many stores in order to meet his food needs<sup>51</sup>.

The case of Saudi Arabia is different, because supermarkets and shopping centres are a fact of life. One stop shopping may not however appeal to many consumers. This could be explained by the following factors:

- (i) Cost of fuel is very low, and the ownership of private cars is very high in Saudi Arabia, therefore the cost of extensive shopping can be negligible relative to its gains in terms of

money units.

- (ii) Shopping is considered an entertainment for the Saudi consumer. It is a way of killing spare time.
- (iii) The Saudi consumer is used to buying large quantities of products. For example, he buys a carton of tissues, or a bushel of rice, which weigh 50 kilograms therefore it is worthy to shop around.
- (iv) Saudi consumers opt to buy fresh food, and even bread straight from the bakery to be taken home before it gets cold.

In conclusion, although shopping centres exist in Saudi Arabia, the Saudi consumer prefers extensive shopping to one stop shopping, where he can buy frozen and Western food from the supermarket, bread from the bakery, vegetables and fruits from the fruit markets, fish from the fish market, whole sheep which are slaughtered before his eyes from the sheep market, and he could approach the wholesalers to buy a full carton of tissues or soap.

#### Indirect Consumer Policy

Saudi Arabia adopted an indirect consumer policy to maintain the interests of the consumer by emphasizing the macro issues. The pillars of indirect consumer

policy are as follows:

(1) Maintaining the free market system.

The Saudi government adheres to the free market system in every aspect as long as it does not contradict the Islamic law. In fact, the Islamic law entails the economic freedom for each individual.

In Saudi Arabia, there are no restrictions on imports, currency exchange, private initiative, or even fund repatriation. The concept of the market system goes deep into the Saudi culture. The private sector played an important role in developing the country even before the oil discovery. It did not limit itself to the importing of goods. Some of the first schools were established and financed by private charity and some of the earliest electricity networks were initiated and operated in the private sector.<sup>52</sup>

In upholding the free market system, the government adopted a policy of providing the private sector with the opportunity to undertake many of the economic tasks of the development plans. The government also avoided becoming involved in any business activity which was undertaken or could be undertaken by the private sector.<sup>53</sup>

Interest free loans, and generous subsidies are given to the private sector to increase the non-oil sector contribution to the GDP.<sup>54</sup> Furthermore, the government made it law that at least 30% of the value of



a contract awarded to foreign firms should be provided by Saudi business firms.<sup>55</sup>

Maintaining the market system, with its full entitlement to freedom of entering and leaving the market through minimizing the costs of entry, has played a key role in the following areas:

(i) The outstanding increase in the number of business firms. Table 3.2.3 shows that the number of registered business firms has increased by 147.33% in the period 1399-1403 AH.

Table 3.2.3.

Registered Business Firms in Saudi Arabia

1399 AH is the Basic Year.

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Year	Number	% of Increase
1399AH	78,770	-----
1401AH	130,817	66.07%
1403AH	194,817	147.33%

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Source: Kingdom of Saudi Arabia, The Ministry of Planning, the fourth 5 year development plan, 1985-1990. (Riyad, Saudi Arabi, 1985), p.107.

(ii) By minimizing regulation of entry to the

market, small firms are able to stay in the market. The road is open for more small firms to enter the business arena. This picture is crystal clear in the fourth development plan when it was stated "most private businesses are very small scale: over 80 per cent employ less than 5 persons and less than 2 per cent employ more than 50 persons. The bias toward small establishments reflects not only the comparatively recent development of the private sector, but also the high degree of entrepreneurial drive within Saudi Arabia".<sup>56</sup> In fact small business firms are not only important in terms of their proportion to the total number of business firms, but also in their contribution to the sale value. 45% of the sales value of the Saudi business is generated by small firms.<sup>57</sup>

(iii) Because of the absence of regulations concerning the establishment of trade and service firms, they outnumber the manufacturing firms. These firms are on a ratio of 3 to 1 according to the 1976 survey.<sup>58</sup> That has produced a proliferation of retail outlets, consequently competition has intensified.

(iv) The almost complete lack of import regulations has inspired businesses to operate in the most profitable product lines according to supply and demand factors. This has resulted in the lack of specialization of trade and service activities. Consumer interest has been served by making the business community more responsive to the changes in the demand

side by shifting resources from one product item to another. For example, if it was thought that trading in a specific product became very lucrative, many trading firms would add this product to their product mix. In order to demonstrate the lack of specialization amongst trading firms, it was estimated that 50% of wholesalers deal with non-food products and food products at the same time<sup>59</sup>. That has contributed in making Saudi Arabia one of the most competitive markets in the world in terms of the number of products and brands available in the market place.

To support this point, citing from Vassiliou, "All the well-known and established international brands from particularly every country and region in the world are present in the market."<sup>60</sup>

## 2. Minimum Tariff.

Consumer policy in Saudi Arabia depends on intensifying competition in the market place, since there is a desire to industrialize the country. Imposing a high tariff could help national manufacturers, at least in the short run - but it could hurt consumer interest. The Saudi government therefore has chosen to impose only a 7% tariff on imported luxurious products and a 20% tariff for those products which compete with Saudi-made products. Raw materials, industrial machinery, agricultural equipment, food stuff, drugs and all other essential products are all

exempt from custom tariff, although the government can impose a temporary surcharge duty on imported products if it feels that the national industry is facing an unfair competitive situation. The government only used this power once, when it felt that the poultry industry was in trouble due to the subsidized imported chicken. This action produced the following two results:

(i) Since the national producers sell chicken per head and not by weight, they push chickens to the market place before they gain the reasonable weight while maintaining prices at previous levels.

(ii) Since the surcharge duty was based on every chicken rather than its weight, the importers of chickens start to import heavier chickens.

### 3. Less Regulation.

Because there are few regulations concerning business activities, the cost of starting a business is minimized. Traders have to register with the Ministry of Commerce, but this registration does not go beyond filling forms and paying the right fees. There is no regulation concerning pollution standards, and the effect of location on the movement of traffic. Nearly everything is left to the wishes of business.<sup>61</sup> The lack of regulation - with all its effects on the environment - lowers the cost of doing business. It reduces the prices of products.

From the researcher's point of view, less regulation



versus more regulation cannot be evaluated in a vacuum. It should be analysed in terms of macro issues like the strength of the national economy, the purchasing power of the consumer, and the efficiency of the governmental mechanism to enforce regulation. For example, more regulations would increase the costs of business and therefore increase prices. The macro issue in this regard is could the consumer afford the cost of more regulations?

#### 4. Political Stability.

Although political stability is not the only factor for economic growth, it is a pre-requisite for any country to grow. It provides the opportunity for government, and business to plan ahead. It increases foreign direct investment, which is fundamental for growth.<sup>62</sup>

Political stability is a mere fact in Saudi Arabia. This claim is supported by the ability of Saudi Arabia to attract more foreign direct investments than any other country in the Gulf region, even the Gulf War did not represent any risk to the stability of the Kingdom. This could be upheld by the fact that foreign direct investment in the Kingdom by multinational corporations did not change after the outbreak of the War. Kassicieh and Nassar examined the 45 month period before the war started from January 1976 to September 1980, and the 45 month period after the outbreak of the war from October

1980 to June 1984. They concluded that the Gulf War did not affect the amount of foreign direct investment in the country.<sup>63</sup>

The political stability of any country augments the welfare of the consumers. Those consumers in countries with fragile political stability fully appreciate the value of political stability.

#### 5. Encouraging Investments by Multinational Corporations.

By stemming the view of the less developed countries toward the role of multinational corporations, Jain and Puri concluded that the policy makers in the less developed countries realize that multinational corporations are conducive to growth and a clear policy in this regard is essential for the engine of development. This conclusion reflects the willingness of the third world to support further investments by multinational corporations.<sup>64</sup>

The policy of Saudi Arabia concerning investments of multinational corporations is crystal clear. The government stimulates foreign direct investment with a minimum of 25% Saudi ownership by offering joint ventures, income tax exemption for 5 years, free interest loans, duty exemption for material and equipment and low land rental.<sup>65</sup>

It is self-evident that multinational corporations can be used as an engine for development by looking at

countries such as Taiwan, Hong Kong and Singapore to find out that without the multinational corporations' participation, their developments would not have existed.

The contribution of multinationals could be reflected through managerial know-how, modern technology and through measures that improve labour productivity. Saudi Arabia does not need the capital flows of multinational corporations as much as she needs their technical, marketing and managerial know-how.

The following points justify this notion:

(i) Saudi Arabia is not a heavily populated country. According to the 1974 census the total population is 7,012,642 with a growth rate of 3% annually, therefore the argument about technology by multinational corporations and its effects on employment is not an issue in the Saudi case. In fact Saudi Arabia needs very sophisticated technology to compensate the shortage in the labour force.

(ii) Saudi Arabia is lacking behind in the field of management know-how, where the main characteristics of management style such as, personal matters combining with organisational ones. The approach to managerial issues is through personalization rather than departmentalization. This approach could reduce the productivity of business firms.<sup>66</sup>

Involving multinationals - with their objectivity in decision making - would provide Saudi managers with the right model to emulate.

(iii) the existence of multinational corporations should provide the country with the marketing technology. As was cited previously, the operations of multinationals in supermarkets stimulated Saudi business to open more supermarkets and superettes. It is worth noting, that multinational corporations introduced the fixed price policy. This should protect the consumer against price discrimination practices, reduce the selling pressure and provide more perceived consumer satisfaction.

To support this notion, Jacobs et al., in a cross countries study concluded the following points:

- "perceived buyer satisfaction was lower for retailers that bargained, than for retailers using a fixed price policy".<sup>67</sup>
- "perceived selling pressure was higher among retailers that bargained than retailers using a one-price-for-all policy".<sup>68</sup>
- "the influence of a bargaining policy was much more pronounced on selling pressure tactics, than on buyer satisfaction."<sup>69</sup>



6. Providing incentives rather than protection for national industry.

Levinson, in his article "Asking for protection is asking for trouble", pointed out the following drawbacks of protectionism:<sup>70</sup>

(i) Protectionism leads to a rise in labour costs. This would reduce the competitive edge of the national industry in competing with import products. After the introduction of the Voluntary Restraint Agreement in 1981, the UAW won a wage hike above the inflation rate. It was estimated, by the economist Robert Crandall of Brookings Institution, that higher prices caused by the VRA raised the before-tax profit of US automakers by \$8 billion in the year 1984. The Japanese car makers, and their dealers in the US were able to obtain \$4.6 billion more as profit than they would have without the VRA.

(ii) Protection will never provide national industry with any incentive to shift their resources to products which have more profit appeal. Profit from protected industry makes the national companies less aware of profit trend in other industries.

(iii) The introduction of VRA stimulated the Japanese to use their capacity to increase their exports to

Europe. They gained market share at the expense of the American car makers.

In order to avoid the bad effects of protectionism, the Saudi government decided to choose the other alternative "subsidy policy" where a comprehensive plan was initiated to subsidize agricultural and manufacturing firms.

In this regard, a special emphasis will be stressed on the effect of a subsidy on agriculture.

Subsidizing agriculture was initiated for the following justifications:

- (i) To serve the consumer interest through providing cheap food staples.
- (ii) To prevent depopulation of rural areas.
- (iii) To encourage nomadic communities to settle.
- (iv) To preserve the Saudi agriculture.
- (v) To provide future food security, especially after the oil depletion.
- (vi) To overcome the dual characteristics of sudden wealth by providing the opportunity for prosperity under the oil boom era.

Agricultural subsidy is given on two bases:<sup>71</sup>

- Subsidy for purchasing fertilizers and machinery.
- To produce specific staple items like wheat and dates.

Subsidies are given to the farmers directly instead of giving food coupons to consumers. This saved the government the burden of allocating coupons and avoided the potential misuse of food coupons. Subsidies for agriculture are considered to be very generous by any standard. This generosity is explained in Table 3.2.4.

Table 3.2.4.

Subsidies for Agriculture in Saudi Arabia.

<u>Product</u>	<u>Subsidy</u>
Fertilizers	50% of the cost
Fodder	50% of the cost
Fertilizer of potatoes	5 tons free, then SR 1000 for each ton with a max. of 15 tons.
Equipment for poultry	30% of the cost
Equipment for milk factories	30% of the cost
Machinery for agriculture	50% of the cost
Cattle transportation by air	100% of the cost
Rice	SR.30 for each produced Kilogram
Sorghum	SR.25 for each produced Kg
Barley and Millet	SR.15 for each produced Kg
Dates	SR.25 for each produced Kg
Plots	Free land distribution for those who want to reclaim plots

SOURCE: Kingdom of Saudi Arabia, The Ministry of Planning, The Third 5 Year Development Plan 1980-1985 (Riyad, Saudi Arabia, 1980), p.134.

Providing subsidies for agriculture produced the following positive effects:

- (i) It enabled Saudi Arabia to obtain self sufficiency in many staples.
- (ii) It helped in achieving the desired social objectives such as maintaining the Saudi agricultural tradition, settlement of nomadic communities and avoiding dualism.
- (iii) It facilitated food, especially staples, to be the lowest price in the region.

In the financial year of 1398/99 AH, the government began to purchase wheat at SR 3.50 for each kilogram produced or what is equivalent to \$1.00, at the exchange rate at that time. However, in 1405 AH, farmers with production of less than 500 tons were paid SR 3.50 for each kilogram, while farmers with production of 500 tons or more were paid SR 3.00. The price was then fixed at SR 2.00 for each kilogram of wheat for the period 1406/1409 AH.<sup>72</sup>

Even though subsidies for wheat production enabled the country to lift production to 1.3 million tons during the year 1404/1405 AH,<sup>73</sup> production of sorghum has been declining, as it is shown in Table 3.2.5. This could be explained by the fact that the subsidy for wheat production is higher than that of sorghum production.



Table 3.2.5

Domestic Production of Wheat and Sorghum  
in Thousands Tons.

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	1399/1400AH	1400/1AH	1401/2AH	1402/3AH	Average Annual Growth
Wheat	142.0	187.2	412.1	741.0	73.5%
Sorghum	110.3	93.3	79.0	75.2	-11.9%

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SOURCE: Kingdom of Saudi Arabia, The Ministry of Planning, The Fourth 5 Year Development Plan 1985-1990 (Riyad, Saudi Arabia, 1985), p.187.

The effect of a subsidy on wheat production increased the amount of water used from finite non-replaceable sources.<sup>74</sup> There is a pronounced warning in the fourth development plan that "some areas of the Kingdom could face critical water shortages in the near future unless conservation measures are introduced to control the over-exploitation of finite reserves".<sup>75</sup>

Table 3.2.6 shows that the Kingdom's non-renewable ground water constitutes 73% of water resources. Demands for water by the agricultural sector is 84% of

the total demand, while the industrial and domestic demands account for only 16% of the total demand for water.

Table 3.2.6

Water Resources and Demand in Saudi Arabia

	Million Cubic Meter 1400 AH	Million Cubic Meter 1405 AH	% Share
-----			
Demand:			
Agriculture	1860	7430	84
Domestic, industrial, other.	502	1400	16
Total	2362	8830	100
-----			
Resources:			
Surface Water	485	900	10
Renewable Ground Water	660	950	11
Non-Renewable			
Ground Water	1154	6480	73
Desalinated Sea Water	63	400	5
Reclaimed Waste Water	--	100	1
Total	2362	8830	100
-----			

SOURCE: Kingdom of Saudi Arabia, The Ministry of Planning, The Fourth 5 Year Development Plan 1985-1990 (Riyad, Saudi Arabia, 1985), p.139.

Wheat production consumes 37.5% of the total water demand by agriculture - as is shown in Table 3.2.7. In other words, the wheat production consumes 31.5% of the total water consumption in the Kingdom.

Table 3.2.7

Water Consumption By Crop in Saudi Arabia.

Water Demand m <sup>3</sup> /Million		
Crop	Per Year	%
Wheat	2784	37.5
Coarse Grains	1301	17.5
Vegetables	1120	15.1
Fodder	1125	15.1
Dates and Fruits	425	5.7
Others	675	9.1
Total	7430	100

SOURCE: Kingdom of Saudi Arabia, The Ministry of Planning, The Fourth 5 Year Development Plan 1985-1990 (Riyad, Saudi Arabia, 1985), p.140.

Furthermore, according to the fourth development plan "over 90% of all land distributed has been in the

Central, Northern and Eastern regions, all of which rely mainly on non-renewable ground water for their water needs. The spectacular growth in agricultural production, associated with the expansion in land reclamations, has led to an extensive depletion of non-renewable water resources in some areas. The aquifer depletion rates in several areas are approaching critical levels".<sup>76</sup>

Saudi Arabia cannot rely on desalinated sea water for meeting its domestic needs because of the high cost associated with this source of water.<sup>77</sup>

The potential problem of water depletion is caused by providing generous subsidies for wheat production even though the country has achieved social objectives such as food security. However, the water security is more important than food security for any country where wheat can be imported, while it is not feasible to import water. It is more feasible to increase staples' production, such as dates, which do not require a huge amount of water and encourage the growth of agricultural output in areas where the dependence is mainly on renewable water resources.

#### 7. To Privatize Public Business Firms.

Although Saudi Arabia follows the free market system, which entails no direct intervention in business by government, the Saudi public sector invested billions



of pounds in business activities. This intervention is justified on the grounds that the country is determined to diversify its national income against the possibility of declining world oil prices or the depletion of oil in the coming century.<sup>78</sup> Furthermore, the huge investments in the chemical industry cannot be considered profitable, if the long-run objectives of the country are not taken into account. Therefore, the private business will never take the country's long-run objectives into consideration. To cite this as proof, Saudi business tycoon Gaith Pharaon expressed his belief that "the natural gas that will fuel the projects would yield more for Saudi Arabia if it were simply converted to liquified natural gas or liquified petroleum gas to be sold abroad".<sup>79</sup>

In fact, the hydrocarbon-based industries in the two industrial cities, which were built by the government, depend on six billion cubic feet of gas per day.<sup>80</sup>

All the shortcomings of the government's commitment to industrialize the Kingdom, including the exploitation of Saudi Arabia by the big international companies, were embodied in the words of the Saudi Deputy Minister of Planning who said:

"the big international companies in the US, Western Europe and Japan seem to have three sets of prices: a regular price, a higher one for the oil producing countries and a still higher one for Saudi Arabia".<sup>81</sup>

The Government's wish to build national industry could be justified as follows:

(i) If Saudi Arabia did not invest in the national industry, she would have increased her investments in the international currency market. The government had only two alternatives, either to invest in the national industry or to increase her holdings abroad taking the risk of the international currency market, besides the depreciation in the value of the dollar.<sup>82</sup>

(ii) Because of the over-dependence on oil revenue, the stability of the Saudi economy depends on external factors, which can cause fluctuations in oil prices.<sup>83</sup> Consequently, diversifying the economy through governmental intervention makes a lot of sense.

The declared policy concerning the public business firms is privatization. The government undertakes business projects that are not attractive to the business community. When the projects prove to be profitable, the wheel of privatization starts to run.

The government has already sold part of the equity in Sabic to the public, and will continue privatizing more public business corporations.<sup>84</sup> In the span time of the fourth development plan 1985-1990 the government intends to sell some of the equity of the Saudi Arabian Airline to the public when it can generate a series of annual operating profits.<sup>85</sup>

## 8. To Build the Economic Infrastructure.

The consumer rather than the business community is the main beneficiary of developing the economic infrastructure in Saudi Arabia. To uphold this claim, it is easy to recall the period 1973-1979, when ports and roads were not able to cope with the increased imports. The goods were congested at ports for as long as six months. According to Vassiliou "these were golden years for traders, whether exporters or importers, when all that counted was to have the product available in the market. The consumer was ready to pay any price and usually paid no attention to brand names."<sup>86</sup>

After 1979, when the government had revolutionized the transportation system, built sophisticated new ports, and the telephone services connected the whole country, even remote villages with the world, the scale started to tilt in favour of the consumer, when the sellers' market started to vanish.

### Direct Consumer Policy.

It is clear from the third development plan that the government is becoming concerned with issues related to direct consumer policy, when it was stated that the consumer policy of the country is as follows:<sup>87</sup>

(1) To curb inflation through continuing supervision of

the priced goods, monitoring the price trends in the non-priced goods, and offering subsidies for the necessities.

(2) To establish new product testing laboratories, increase their efficiency and the facilities of the existing ones.

(3) To educate the consumer by establishing public relations offices.

(4) To promulgate the prices of some necessities in national newspapers.

(5) To revise the current consumer protection laws, for the purpose of amendment, especially the ones related to jewelry, defective products, and misleading information from either manufacturers, sellers or service providers.

The tone towards direct consumer policy was confirmed in the fourth development plan, when the following matters were raised:

(i) The need to revise the consumer protection laws. It was confirmed in the fourth development plan that "the present regulatory system is deficient in some respects. First, its coverage, as not all companies or business activities fall within its jurisdiction and second, in



its procedure and administration, which require review to bring them into line with the current business situations. Moreover, although evidence of monopoly is increasing, no regulation exists for its control".<sup>88</sup>

(ii) SASO will introduce new standards covering both consumer and industrial products.<sup>89</sup>

(iii) A review of weights and measures will be committed in the span time of the fourth development plan.

The tone of the fourth development plan reflects more consumer regulations on the horizon. In short there is a shift towards direct consumer policy in the Kingdom. This shift has some justifications; many unsafe products from the Far East are dumped on the market. Maintenance of durables became a source of consumer complaints,<sup>90</sup> there was straightforward copying of well known brands using the words London - Paris - New York or Italian style on products, to make the consumer think that those products are Western-made.<sup>91</sup> Using a package that resembles the original one and using the brand name which is close to the original one such as San-Silk Shampoo<sup>92</sup> - are all widely practiced by Far Eastern companies.

In order to prevent these practices a new regulation was introduced in the Kingdom. The government

introduced a law which specified that no brand can be imported unless the name differs from that of other similar product brands by a minimum of four letters.<sup>93</sup>

The drift toward direct consumer policy could lead to Draconian consumer regulations, which cannot be enforced by government bureaucracy. The policy of government to employ every graduate could contribute to the introduction of such law. Bureaucracy has to create more functions to justify its existence.

From the Researcher's point of view, more regulations will lead business to invent new techniques to get round the regulations. To cite this as proof, the consumers of Hong Kong, which is considered one of the countries that export fake brands to the Saudi market are misled by business, where the preference for foreign brands is very strong that many locally made products are sent overseas for "stamping" and then shipped back to be sold as imported products in Hong Kong.<sup>94</sup>

#### FUTURE POLICY IMPLICATIONS.

Saudi Arabia pursues indirect consumer policy, but there is a shift toward direct consumer policy. Saudi consumer policy has augmented the consumer interests, but the subsidy programmes are implemented at high costs in terms of the funds involved, and the environmental effects. The subsidy programmes cannot be sustained in

the future in the face of oil prices decline. In this regard, there are two points worth mentioning:

(1) Starting from the financial year 1402/3 AH, the GDP of Saudi Arabia is on the decline. For the first time since 1389/1390 AH the trade balance recorded a deficit in 1403/4 AH. It has been declining as shown in Table 3.2.8.

Table 3.2.8

GDP, Balance of Payment and Current Account  
Balance of Saudi Arabia in SR Billions.

Year	1399/ 1400AH	1400/ 1AH	1401/ 2AH	1402/ 3AH	1403/ 4AH	1404/ 5AH
GDP	385.8	520.6	524.7	414.4	382.2	361.0
Balance of Trade	126.1	210.9	167.1	38.1	-10.1	-4.4
Current Account Balance	87.1	151.9	120.8	5.5	-61.4	-75.0

SOURCE: Kingdom of Saudi Arabia, The Ministry of Planning, The Fourth 5 Year Development Plan 1985-1990 (Riyad, Saudi Arabia, 1985), p.37

(2) No one should gamble on the possibility of an oil price hike in the future for the simple reason, that the contribution of OPEC oil to the non-communist world, excluding the OPEC countries, has been declining, as shown in Table 3.2.9. In 1973 the imports of OPEC oil to the free world were 36.5% of the energy sources but in 1985 it fell to 15.3%. This can be explained by the mere fact that the free world, excluding the OPEC countries, has developed its sources of energy, where the contribution of indigenous energy sources was 60.9% of all energy in 1973, but reached 79.4% in 1985.

Table 3.2.9

Sources of Energy Used in the Non-Communist Countries Excluding OPEC Countries in Million Tonnes Oil Equivalents

	1973		1985	
	MTOE	%	MTOE	%
Total Energy:	4045	100	4115	100
OPEC Imports of Oil	1480	36.5	630	15.3
Other Energy Imports	100	2.5	220	5.3
Indigenous Production:	2465	60.9	3265	79.4
Oil	760	18.8	1200	29
Natural Gas	765	18.9	750	18.7
Coal	805	19.9	1045	25.2
Others	135	3.3	270	6.4

SOURCE: Peter R. Odell, "The Prospect for Oil Prices and the Energy Market," Lloyd Bank Review (July 1987) : 4.

According to Odell "As oil's percentage contribution to the non-communist world's energy needs will by the year 2000 have declined even further, and as the OPEC countries share of the market seems likely to be less



than it is now, OPEC's ability to exercise much pressure on the international economic system will remain limited-overall, its prospects for reasserting its domination of the international market this side the year 2000 are negligible"<sup>95</sup>

In the face of the oil price decline, the future policy implications could be recommended as follows:

(1) Saudi Arabia should not depend only on agricultural and industrial growth to achieve the development plans, but she must capitalize on developing an efficient and sound marketing system. As Drucker stated "in every under-developed country marketing is the most under-developed part of the economy."<sup>96</sup> Marketing should not be viewed from a narrow perspective only as the transfer of products from centres of production to centres of consumption. It should be viewed as the process by which society meets its consumption needs.<sup>97</sup> Building and developing marketing is considered as a pre-condition for economic development.<sup>98</sup>

In building the marketing system in the country, the following policies should be pursued:

(i) To encourage building horizontally and vertically integrated distribution systems, which could augment economies of scale. By shortening the channel of distribution, the

consumer would benefit through increasing his purchasing power.<sup>99</sup>

(ii) To revolutionize the teaching of marketing at the Saudi Universities, where teaching of marketing still depends on memorizing. In fact, there is no specialization in marketing, instead students are given introductory courses in marketing, management, public administration and accounting. At the end the graduates find themselves unable to practice the marketing concept.

(iii) The marketing concept could be adopted by the government in communicating with consumers. The current promulgation of the government to advise the consumer has not utilized the marketing concept.

According to Kotler "management of many organisations think they have fully met their communication responsibilities by setting up advertising and/or public relations departments."<sup>100</sup>

The audience should be segmented. By differentiating the messages to be tailored to the readiness of each segment's response, good results should be expected. The government should utilize the

concept of audience segmentation to rationalize the lavish behaviour of consumers, which could not be feasible in the face of future diminishing consumer income.

2. In order to have a viable free market system, there is a need for more digested information in two ways:

(i) To secure flows of information from consumer/business/consumer. According to Baker, the lack of commercial success in the British firms can be attributed to the low level of contact between business firms and their customers.<sup>101</sup>

Getting information from consumers to business is the responsibility of business, but business should be obliged to secure the flows of comparable information to the consumer.

(ii) Flows of information from business/business and government/business/government.

Indeed the government has acknowledged the need of businesses to get detailed information about governmental projects, which help businesses plan expansion with more certainty.<sup>102</sup>

The flows of information from business to business should be the responsibility of

Chambers of Commerce. By publishing the rate of return on investment, sale value, sale volume, and all the other financial ratios of every industry the shift of resources from the less profitable sectors to the more profitable sectors would speed up and this would serve the consumer's interest by restoring equilibrium in the economy.

3. Subsidising policy should be re-evaluated in the face of oil price decline. Special attention should be paid to wheat subsidies and its impact on water depletion. It is expected that the policy option for subsidies in Saudi Arabia will contain selective cuts.<sup>103</sup> It is a dilemma whether to halt subsidy programmes, where consumers and farmers will be hit severely in their pockets. The agricultural production will decline and moreover the farmers could leave the countryside. But, on the other side of the coin, it should stop water depletion, improve financial returns of utilities and reduce the expenditure of the budget,<sup>104</sup> taking into consideration the fiscal policy of the Kingdom which is to keep government expenditure in line with revenue.<sup>105</sup>

Continuing the subsidy programmes could lead to increasing the custom taxes on imported goods to maintain the objective of a balanced budget. The benefits of subsidies to the consumer could be less than



the increase of the price of the imported products caused by the hike of custom tariffs.

4. To rely on indirect consumer policy and to maintain a minimum profile of direct consumer policy. This would save more public funds which could be spent on consumer education enabling consumers to protect their own interests.

5. The impact of direct consumer policy should be studied in depth before drafting. The costs to the consumer of enforcing laws outweigh the benefits, and the macro effects of direct consumer policy should be anticipated before initiation.

#### CONCLUSION.

There is a shift from indirect consumer policy toward direct consumer policy in Saudi Arabia. The cost of direct consumer policy should be calculated, otherwise the consumer could suffer from paying the costs of Draconian law, bureaucracy and fewer alternatives.

The alternative to more regulation should be consumer education. This alternative should make the Saudi consumer more sophisticated in protecting his interests.

This Chapter has shed more light on subsidy

programmes, where it was proved that such programmes could give negative results. The food security was obtained through subsidy programmes, but the cost is the jeopardization of the water security.

The Kingdom should diversify her GDP in areas where she holds comparative advantages. The lesson that should be learnt by the other less developed countries from the Saudi case, is to stick to the free market system.

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