

Unclassified

DAF/COMP/GF(2008)6

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

14-Feb-2008

English - Or. English

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE

## Global Forum on Competition

### THE ECONOMICS OF COMPETITION AND CONSUMER POLICIES

Contribution by Mr. Ian McAuley

-- Session V --

*The attached paper drafted by Mr. Ian McAuley (Lecturer, University of Canberra) was prepared for the consideration of the Committee on Consumers Policy. It is now submitted FOR INFORMATION under session V of the Global Forum on Competition to be held on 21-22 February 2008.*

Contact: Hélène CHADZYNSKA, Project Manager of the Global Forum on Competition [Tel: 33 1 45 24 91 05; email: [helene.chadzynska@oecd.org](mailto:helene.chadzynska@oecd.org)].

JT03240448

Document complet disponible sur OLIS dans son format d'origine  
Complete document available on OLIS in its original format

DAF/COMP/GF(2008)6  
Unclassified

English - Or. English

## THE ECONOMICS OF COMPETITION AND CONSUMER POLICIES

### -- Background Note --<sup>(\*)</sup>

*Confident, informed and empowered consumers are the motor of economic change as their choices drive innovation and efficiency*<sup>1</sup>

#### 1. Introduction

1. The OECD Committee on Consumer Policy has hosted two one-day Roundtables, in 2005 and 2006, to hear from academic researchers and public officials from OECD countries about developments in economic research and public policy relating to the demand side of markets. In particular they were informed about developments in the emerging discipline of *behavioural economics*, with a focus on the study of consumer behaviour in market transactions.

2. The main points to emerge from the Roundtables are:

- that public policy should ensure that markets operate to deliver outcomes which are beneficial to consumers and to the economy as a whole;
- that competition policy is a means to an end, not an end in itself. Public policy should ensure that consumers gain the benefits of competition, are active participants in markets, and have reason to trust that markets can provide fair outcomes for consumers and producers.

3. This note summarises the main issues raised in those two Roundtables, with particular reference to developments, both in understanding of consumer behaviour and in markets themselves, that have implications for consumer policy.

#### 2. The context of consumer policy

4. While the objectives of economic policies may be expressed in terms such as “promoting growth” or “reducing inflation”, they are ultimately aimed at concerned at improving people’s well-being, and one way – perhaps the most important way – is through improving their well-being as consumers.<sup>2</sup>

5. People’s well-being is influenced by many factors subject to public policy. Of specific interest in this session are those policies which relate to the well-being people enjoy in their market transactions.

---

<sup>(\*)</sup> Background Note by Mr. Ian McAuley (Lecturer, University of Canberra)

<sup>1</sup> EU Consumer Policy strategy 2007-2013 *Empowering consumers, enhancing their welfare, effectively protecting them* Commission of the European Communities Brussels 2007.

<sup>2</sup> There is a strong statement to this effect: “Indeed, almost all economic policies are ultimately aimed at improving consumer well-being.” From the introduction to the Australian Productivity Commission Draft Report *Review of Australia’s Consumer Policy Network* Productivity Commission, Australia 2007, p. 4.

6. In this regard a fundamental requirement is that people have access to a well-functioning market where consumers and suppliers can trade fairly and in good faith.

7. A well-functioning market provides consumers with a variety of goods and services. Products are affordable, safe and reliable. Where possible, firms compete vigorously for customers through price and product competition. Over time consumers enjoy the ongoing benefits of productivity and technological gains in terms of price reductions, quality improvements and product innovations.

8. Although it is theoretically possible for such markets to emerge without intervention, well-functioning markets rarely come about without being shaped in some way by public policy. In this regard the most basic plank of public policy is competition policy.

### 3. Competition policy

9. Competition policy is concerned mainly with the supply-side structure of markets, ensuring that there are no unnecessary barriers to entry, that market concentration does not lead to economic loss or unreasonable transfers from consumers to producers, and that there are effective legal sanctions against fraud, misleading conduct, and collusion among suppliers. When markets exhibit these characteristics they can be said to be *structurally sound*, in that they conform with the economists' model of a competitive market.

10. Where monopolisation is unavoidable, as in the case of *natural monopoly* (where a market can efficiently support only one supplier), governments regulate the behaviour of firms to ensure that the outcomes in markets are as close as possible to those which would occur in a competitive market. In this way even a market with a monopoly supplier can be structurally sound, provided it is well-regulated.

11. Competition policy generally operates through the mechanism of competition law (e.g. antitrust law) backed up by the enforcement capabilities of a well-resourced competition regulator.

12. An important aspect of competition policy, in line with the economic theories of competition, is to ensure consumers have available adequate information to make decisions which optimise their welfare. It is in the nature of markets that suppliers have more information than consumers, and therefore measures to ensure consumers have access to relevant information on price and quality is a vital aspect of competition policy.

13. With its philosophical underpinning in the economists' theory of the competitive market, a key assumption in competition policy is that in aggregate, at least, consumer behaviour is "rational". That is, given adequate information in a structurally sound market, consumers will make wise decisions. In the context of economics and economic policy, "rationality" has a specific, technical meaning, summarised in an economics text as meaning:

. . . that people weigh the costs and benefits of each possibility. This assumption is based on the expectation that individuals and firms will act in a consistent manner, with a reasonably well-defined notion of what they like and what their objectives are, and with a reasonable understanding of how to attain those objectives.<sup>3</sup>

14. While competition policy generally relies on the theory of competitive markets and their benefits for rational consumers, governments in member countries have always had market policies which *de facto*, acknowledge the limits of the pure competitive market. (These limits are briefly outlined below under the

<sup>3</sup> Joseph Stiglitz *Economics* Stamford University Press 1993 pp 28-29. A more formal description is to express the axioms of rationality in terms of consumer preferences being complete, reflexive and transitive.

heading “rationality and its limits”.) In particular, governments are usually concerned about the welfare of disadvantaged and vulnerable consumers, and there are many policies such as cooling-off periods and restrictions on certain market practices which are not necessarily consistent with the prescriptions of competition policy.

15. An emerging question among member governments is whether these policies can be coherently brought together under the heading “consumer policy”. Is consumer policy an overall policy which absorbs competition policy, or do consumer policy and competition policy serve different (and potentially conflicting) ends? Have policymakers come to see competitive structures as a policy end in itself, disconnected from some further end of contributing to consumer welfare?

16. These questions are not easily resolved, but the purpose of this forum is to canvass these issues so that some progress can be made towards more efficient and effective consumer policies, taking into account the theories and evidence of consumer behaviour in markets and recent developments in markets which require policy consideration.

#### **4. Rationality and its limits**

##### **4.1 *The meaning of “rationality”***

17. To expand on the assumptions of rationality described above, the economic model of competition is based on the notion of “rational” behaviour on the part of suppliers and consumers. For the purpose of modelling market outcomes, all decision makers in markets – suppliers and consumers – are assumed to pursue their self-interest. They approach markets with their needs and preferences already determined, they undertake a comprehensive search of *all* alternatives, they weigh up the costs and benefits of those alternatives, and they make decisions which maximise their welfare.<sup>4</sup>

18. This is not to suggest that every consumer exhibits rational behaviour as defined. There will be individual departures from rationality, but these departures are distributed around some rational mean.

##### **4.2 *Bounded rationality***

19. As a refinement on this model, it is acknowledged that decision-makers do not undertake comprehensive search and evaluation of *all* alternatives. The theory of “bounded rationality” suggests decision-makers truncate their search behaviour. Information can be hard to obtain, and processing information involves computational work. It is quite rational, in a more general sense, for a consumer to cease search when the costs of searching start to outweigh the benefits resulting from that search.<sup>5</sup>

20. Empirical research, such as that done by Colin Camerer, not only tends to support the theory of bounded rationality; it also finds that preferences are not necessarily stable and well-

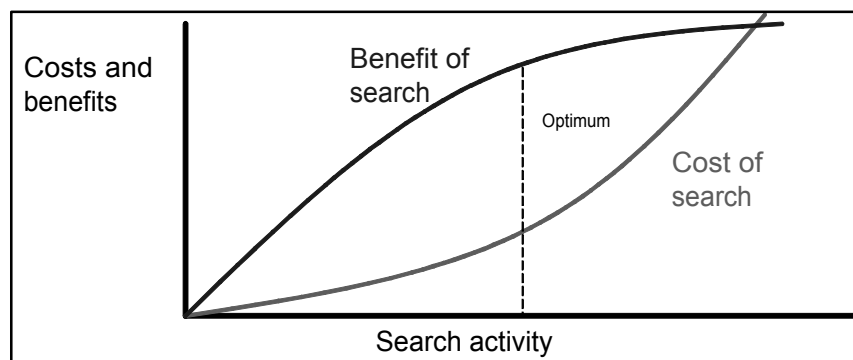
defined.<sup>6</sup> In colloquial terms, consumers’ preferences chop and change as they participate in the market – a fact well-known to marketers when advertising moves from the function of information provision to the function of persuasion and a point stressed by Professor Koichi Hamada at the 2005 OECD Roundtable.

---

<sup>4</sup> This construction is from Milton Friedman *A theory of the consumption function* (Princeton University Press, NJ 1957).

<sup>5</sup> “Bounded rationality” is a general phenomenon in decision making, originally articulated by Herbert Simon in *Models of Man*, (Wiley, New York 1957).

<sup>6</sup> Colin Camerer “Bounded Rationality in Individual Decision Making” *Experimental Economics*, 1 1998 pp. 163–183.

**Figure 1 – Bounded rationality search model**

## 5. Information problems in markets

21. A competitive structure is necessary but not sufficient to ensure consumer welfare. The market works best, with minimum need for policy intervention, when there is easy interchange of information between suppliers and consumers and when consumers can quickly learn and adjust their market practices to make best use of available opportunities.

22. The theory of bounded rationality acknowledges that information is costly to obtain and process. This is a departure from the pure theory of competitive markets, and is accommodated in public policy by various requirements for firms to disclose information and to use certain standardised forms of disclosure in those situations where firms may have an incentive to withhold information from consumers. In the 2006 Roundtable Professor Moriki Hosoe outlined the situations in which firms would and would not have market incentives to disclose information. There are many situations in which firms disclosing information would actually suffer a competitive disadvantage.<sup>7</sup> For example, the bottled water supplier who points out that their water is no better than municipal tap water would lose sales to competitors who do not reveal the same information about their water. (In some situations, such as insurance markets, consumers may have an incentive to withhold information from suppliers.)

23. There is a class of goods (and services) known as *experience goods*, for which consumers cannot judge quality before purchase. This gives rise to the prospect of detriment in circumstances where quality differs from what had been expected by the consumer. If the purchase price is low, and the consequences of poor quality are minor, consumers can correct their purchases at a later time. In other situations where the price is high (e.g. real estate) or the consequences of poor quality are high (e.g. faulty car parts), significant detriment can occur.

24. Experience goods can also impair the efficient operation of the market through what is known as the problem of the *market for lemons*.<sup>8</sup> Where consumers cannot distinguish quality, the probability of receiving low quality is reflected in the market price. As the price declines, high quality sellers who have difficulty in conveying credible quality information may leave the market, potentially perpetuating a cycle

<sup>7</sup> David Laibson "The curse of education" presentation to the US Federal Trade Commission Behavioral Economics Conference April 2007.

<sup>8</sup> George Akerlof, G. "The Market for "Lemons": Quality Uncertainty and the Market Mechanism", *Quarterly Journal of Economics*, vol 84, pp 488-500 1970.

of declining quality and prices until only poor quality products remain. Market responses, such as warranties, that enable suppliers to signal quality to consumers, can partly or completely compensate for this process.

25. Another class of goods is known as *credence goods*. For credence goods verification of quality may not be possible even after purchase. This can be because consumers lack the skills to assess the outcomes against any clear standard. This applies in markets such as legal services, financial counselling and medical services. It can also be because some product characteristics are difficult to verify (such as whether food is organic).

26. Establishing quality can be further complicated when problems take time to emerge, particularly in retirement savings and insurance products.

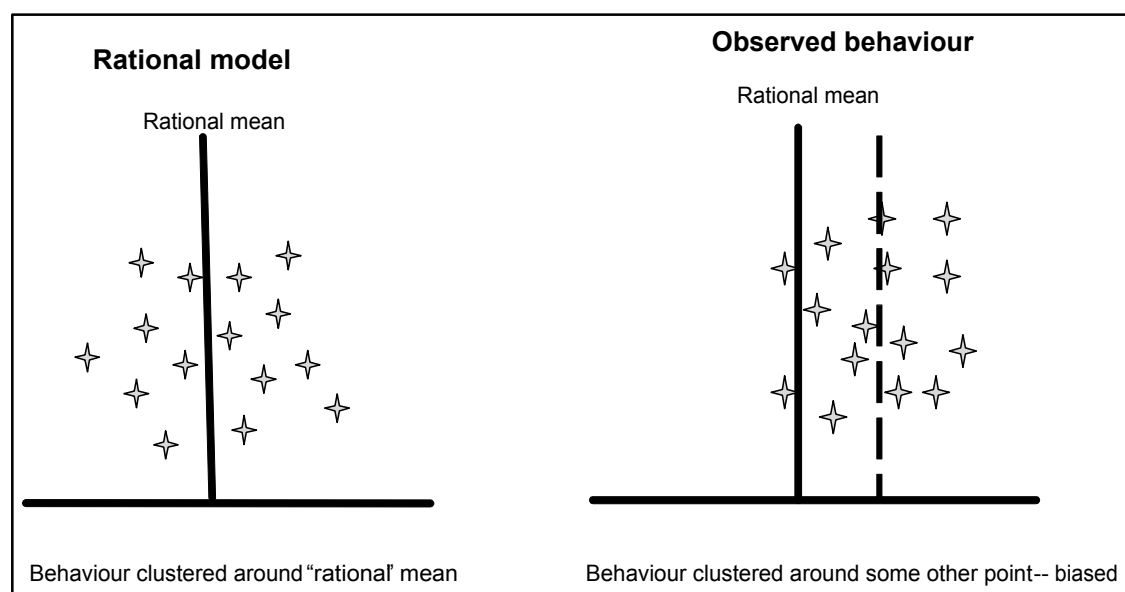
27. By their nature, credence good problems are not amenable to simple information provision, because information in itself has little use unless it is from a trusted source. Policy interventions have to attend not only to ensuring information is accurate, but also that it is credible to consumers.

## **6. Behavioural and experimental economics**

28. The “rational” model of consumer choice, including the “bounded rationality” model, rests on a set of assumptions about behaviour which, at a macro level, are generally consistent with observed behaviour. Economists can generally predict the consumer reaction to events such as a tax cut or a change in commodity prices, but within specific market situations there are observed significant departures from “rational” behaviour.

29. The empirical discipline of *behavioural economics* extends the knowledge base of economics with insights from actual studies of consumer behaviour. Relying largely on psychological studies, in laboratory simulations and actual markets, behavioural economics delves into the ways in which people actually make decisions. Some of this research, conducted in strictly controlled laboratory conditions, is known as *experimental economics*, and there are often questions about the applicability of experimental economics to real life situations. There is a growing body of research in actual markets, however, generally confirming the results of laboratory studies. In financial markets in particular there is a well-established and applied set of theories in the subsidiary discipline known as *behavioural finance*, which explains why investors are subject to certain biases in their decision-making, such as holding on to stocks they would not choose to buy if they did not already hold them (known as the *endowment effect*).

30. Behavioural research often finds systematic departures from rationality in decision-making. Rather than random departures, there are biases away from what is predicted by the rational model.



31. In some cases these departures are trivial in their effects, but in many others these biases have costly consequences.

32. For a detailed work on the findings of behavioural economics one source is provided by Colin Camerer and George Lowenstein.<sup>9</sup> There are still many classifications and differences in terminology in the field of behavioural economics. In this short background note a broad classification developed by Douglas Bernheim and Antonio Rangel is used.<sup>10</sup> Their classification is described below:

- *People appeal to heuristics and rules of thumb when making their decisions.* They make biased probability judgments and are often overconfident. People tend to anchor to seemingly irrelevant information or to the status quo, and they are loss averse. People do not understand probability or risk. In general, they do not maximise their welfare (“expected utility” in economists’ terms).
- *Incomplete self-control refers to the people’s to make decisions that are in conflict with their long-term interest.* Self-control problems – frailty of will – may lead to addictive behaviour, under-saving, or procrastination. As opposed to the conventional economic view that choice is always beneficial, restricting choice can be beneficial for an agent with bounded willpower. Most people “choose” restrictions on their choices, as in the case of certain addictive substances, and behavioural research suggests that when people are overloaded with choice they fail to make any choice at all.
- *Lack of self-interest refers to the idea that preferences have a social dimension.* Individuals care, or act as if they care, about other individuals’ well-being. They are also reciprocal: they care about being treated fairly and want to treat others fairly if those others are themselves behaving

<sup>9</sup> Colin Camerer and George Lowenstein “Behavioral Economics: Past, Present, Future” in Colin Camerer, George Lowenstein, Matthew Rabin (Eds) *Advances in Behavioral Economics* (Russell Sage, NY 2002).

<sup>10</sup> B. Douglas Bernheim and Antonio Rangel “Behavioral public economics: welfare and Policy analysis with non-standard decision makers. National Bureau of Economic Research Working Paper 11518, 2005, <http://www.nber.org/papers/w11518>

fairly. As a result, agents are both nicer and (when they are not treated fairly) more spiteful than postulated by mainstream economic theory.

33. The implications for consumer policy are significant. If consumers, in their market transactions, consistently depart from “rational” behaviour, then public policy such as competition policy, which is predicated on rationality assumptions, may not deliver the optimal outcomes for consumer welfare.

34. One of the conclusions of the two Roundtables, therefore, was that interventions in markets should take consumer behaviour into account. Behavioural research finds that information provision is useful, but even well-informed consumers may be subject to costly biases which systematically lead them away from welfare-improving decisions. Where possible, therefore, interventions in markets should work with rather than against behavioural biases.

## **7. Market developments**

35. There is no doubt that extension of competition in OECD countries has been associated with significant consumer benefits in terms of prices, quality, innovation and choice. While it is difficult to disentangle causal factors such technological change from competition, because they are so closely interrelated, there is no doubt that competition has had a large role in delivering these benefits.

36. Besides domestic competition policies, many developments are helping realise the potentials of competitive markets. Reductions in trade barriers and developments in transport economics have given give consumers access to wider, often global, markets. For many products the Internet has dramatically reduced the cost to consumers of obtaining price and quality information.

37. At the same time, however, there are some offsetting costs and complications for consumers. These developments include:

- *a shift in allocation of the consumer budget from goods to services.* This has been an inevitable outcome of increasing prosperity and of falling prices of manufactured goods. Many services, by their very nature, are individualised (for example house repairs), and therefore do not allow for easy comparison shopping.
- *transactions beyond the reach of national consumer protection.* Lower cost travel and the Internet allow consumers to make direct transactions with foreign suppliers. These can be significant, such as purchase of retirement real estate in foreign countries.
- *price discrimination.* Competitive market theory holds the assumption that market forces will determine one price (equal to the marginal cost of production) charged to all consumers. In industries with high fixed costs and low variable costs (for example airlines, energy utilities) some level of price discrimination is inevitable. In some industries suppliers, using sophisticated marketing techniques, can learn about individual consumers’ willingness to pay and charge accordingly. Whether price discrimination is detrimental to consumers is not an easily resolved question, for, in a competitive market, price discrimination generally involves subsidies between consumers. Those consumers enjoy promotional airfares priced near marginal cost enjoy the cross-subsidy from full-fare passengers. Disciplined consumers who pay their credit card balances monthly while having the benefit of up to two months of interest-free credit enjoy the cross subsidy from those accumulating debt. Judgements as to whether these transfers support or violate principles of equity depend, in part, on whether the consumers paying higher prices are considered to be disadvantaged or vulnerable.

- *the complications of competition.* As a result of market liberalisation consumers have widened opportunities to participate in market activities. Where, for example, they once had no decision to make on their energy utility, they now have a range of choice. At the same time their “budget” of shopping time has not necessarily increased, so they have the difficult task of allocating their search costs between different markets. In some cases, such as telecommunications or bundled products, price comparison is very difficult, and can be exploited by producers to create a situation of “confusopoly”. In both the 2005 and 2006 Roundtables there were presentations on the difficulties consumers experience in utility markets. In many situations their switching between suppliers were switches to higher-cost packages.

## 8. Implications for consumer policy

38. All of these developments, in our understanding of consumer behaviour and in the market itself, point to a need to re-visit consumer policy.

39. The model which has grown up over time is to have strong general competition instruments, with specific interventions in particular markets where there are potential or realised information problems. There are further supports such as protection for vulnerable and disadvantaged consumers, mechanisms of complaint and redress, and interventions such as cooling-off periods. These interventions generally pre-date the articulation of the specific discipline of behavioural economics, but they are often found to be consistent with behavioural findings. For example, cooling-off periods help overcome consumer self-control problems and overconfidence biases.

40. That model is still relevant, but it has limitations. Its two main shortcomings are:

- it tends to see consumers as passive, rather than as active drivers of markets;
- it tends to separate competition policy off from other consumer policies.

### 8.1 Consumers as drivers of the market

41. “Our need for confident consumers to drive our economies has never been greater” is the way the European Union expresses the need for a strong consumer role in markets.<sup>11</sup>

42. Consumers who know how a competitive market should work and who are confident in asserting themselves are able to cope with the complexities of markets. If they are sceptical about the extravagant claims of marketers, in many situations, their behaviour in itself will help the market deliver better outcomes for all. If they are skilled in negotiation, they will be able to deal with the suppliers strategic behaviour, particularly in markets where there is pricing flexibility. If they reject suppliers who use confusing pricing, eventually they will encourage firms to offer more transparent pricing.

43. That is not to suggest traditional protection mechanisms, such as redress mechanisms, are outdated. But their prime function may be more as a backstop to strengthen consumers’ negotiating power in markets rather than as a compensation for some market failure.

44. Confident and informed consumers not only provide a protection function. They also stimulation efficiency and innovation. Innovation, in turn, means markets are dynamic. New problems emerge, while other problems are swept away by innovating firms. Consumers, if they are sufficiently confident and informed, may be more agile in dynamic markets than public regulators.

---

<sup>11</sup> EU Consumer Policy strategy 2007 (*op cit*).

45. But in many situations consumer detriment will always persist. Behavioural research shows, for example, that departures from rationality are to be found in the educated and uneducated, and in those with high and low measured intelligence alike. This was a strong point made by Professor Eldar Shafir at the 2005 Roundtable.<sup>12</sup> Consumer education in specific markets may have only short-lived benefits before consumers revert to past practices.<sup>13</sup> Some biases, such as those resulting from risk aversion and misunderstanding of probability, are deeply ingrained, and result in consumers consistently misallocating their outlays on insurance, with excess coverage for minor risks.<sup>14</sup> And it is unrealistic to expect all consumers to be confident and assertive; there will always be a minority who lack those skills, and they will remain particularly vulnerable in those markets where suppliers can discriminate between consumers.

## 8.2 *Policy integration*

46. As suggested earlier in this note, there is a tendency to see competition and consumer policy as separate, perhaps even antagonistic.

47. The Committee on Consumer Policy is working on ways of achieving a single, integrated approach to consumer policy, involving an orthodox benefit-cost approach to interventions to achieve consumer benefits when there is a degree of market failure resulting from information or behavioural problems.

48. While a benefit-cost approach is conceptually simple, its realisation is difficult, for it requires estimates of consumer detriment from market failure and the costs of intervention. These estimates will often be unquantifiable, but a benefit-cost approach still calls for benefits and costs to be identified, even if not quantified.

49. At the outset the policymaker must make a judgement about whether the problem is likely to be solved in time by market forces, cognisant of the possibility that until it is solved there may be significant consumer detriment.

50. Consumer detriment is not always easily detected. Consumers whose expectations of markets are not high, or who have little faith in regulatory authorities, may not be vocal in their complaints. In countries moving from central planning to market structures consumers may have little idea of how markets operate, and therefore have low expectations of the potential; benefits of markets. When consumers walk away from markets because of mistrust or confusion, or when they are driven to purchase low quality goods because of a “lemons” problem, then there are opportunity costs to both consumers and producers – “deadweight loss” in economists’ terms.

---

<sup>12</sup> The study to which Shafir was referring is: Marianne Bertrand, Dean S. Karlan, Sendhil Mullainathan, Eldar Shafir, Jonathan Zinman “What’s psychology worth?: A field experiment in the consumer credit market” Economic Growth Center, Yale University, 2005 <http://ssrn.com/abstract=770389>. Also: Shane Frederick “Cognitive Reflection and Decision Making” *Journal of Economic Perspectives* Vol 19, Number 4 Fall 2005 pp 25–42.

<sup>13</sup> Sumit Agarwal, John C. Driscoll, Xavier Gabaix, and David Laibson “Stimulus and Response: The Path from Naivete to Sophistication in the Credit Card Market” August 20, 2006. <http://www.eui.eu/FinConsEU/ResearchActivities/BehavioralApproachesMay2007/Driscoll.pdf> presented to US Federal Trade Commission Behavioral Economics Conference April 2007.

<sup>14</sup> Justin Sydnor “Abundant Aversion to Moderate Risk: Evidence from Homeowners Insurance” <http://wsomfaculty.case.edu/sydnor/deductibles.pdf> presented to US Federal Trade Commission Behavioral Economics Conference April 2007.

51. Behavioural economics identifies a large class of problems when consumers make decisions that are not in their long-term interest. These may arise because of a failure of self-discipline (as in cases of addiction, or commitment to high cost debt) or a knowledge failure when consumers lack the sophistication to make wise decisions in the market concerned (as in cases, for example, where borrowers do not look beyond “teaser rates” in loans, or misunderstand contract terms.)

52. In some cases market-specific education will help unsophisticated consumers improve their decision-making, but problems of self-control are not amenable to simple solutions. Cooling-off periods can help the impetuous consumer re-consider his or her purchase, but they impose costs on business which are passed through to other consumers.

53. Colin Camerer and his colleagues have proposed a principle of *asymmetric paternalism* to guide public policy interventions. Such intervention is relevant not only when failure results from behavioural biases but also more generally when failure results from information deficiencies. They reason:

A regulation is asymmetrically paternalistic if it creates large benefits for those who make errors, while imposing little or no harm on those who are fully rational. Such regulations are relatively harmless to those who reliably make decisions in their best interest, while at the same time advantageous to those making sub-optimal choices.<sup>15</sup>

54. If, however, those net costs are significant, then the policymaker is faced with difficult normative questions. To what extent should costs be imposed on all to the benefit of a few, particularly if those whom the intervention is designed to protect are lacking in self-control or rationality? Should self-discipline and rationality be rewarded or privileged? Or should a weighting be given to the needs of vulnerable and disadvantaged consumers, even if that vulnerability and disadvantage results, in part at least, from people’s own poor choices?

55. It is easy to dismiss any costly intervention as “paternalistic”, but that, in itself, is not a criticism. Thomas Schelling points out that individually and collectively (through our governments), we choose to bind ourselves to restrict our choice to make decisions which are not in our longer term self-interest.<sup>16,17</sup> Individually we may enrol in savings clubs with payroll deductions, pre-pay gym membership (in the hope that “free” gym sessions will overcome our frailty of willpower when the time comes to exercise). Collectively we accept that our governments should require us to make compulsory contributions to our retirement savings, close off our options to consume certain addictive substances and impose heavy penalties if we fail to wear seat belts. All such interventions can be classified as “paternalistic”, but they are generally well-accepted.

56. In fact, in many cases competition policy has had to be forced on to people who, at the time, were suspicious, particularly of privatisation of government utilities. These interventions could be described as “paternalistic”, but few economists or policymakers would say that therefore they should not have occurred.

---

<sup>15</sup> Colin Camerer, Samuel Issacharoff, George Loewenstein, Ted O’Donoghue, and Matthew Rabin “Regulation for conservatives: Behavioral economics and the case for ‘asymmetric paternalism’” *University of Pennsylvania Law Review* (Vol 151, pp 1211 - 1254, 2003).

<sup>16</sup> Thomas Schelling *Micromotives and macrobehavior* (W W Norton 1978) and *Choice and consequence: Perspectives of an errant economist* (Harvard 1984)

<sup>17</sup> Thomas Schelling "The Intimate Contest for Self-Command" Chapter 3 in Thomas Schelling *Choice and Consequence: Perspectives of an errant economist* Harvard University Press 1984.

### 8.3 *Fairness of market transactions*

57. One strong finding from behavioural economics is that market transactions should be fair and seen to be fair. People place a high value on fairness as an end in itself. This has long been recognised in labour markets, and research in behavioural economics and game theory is confirming its importance in other transactions.<sup>18</sup>

58. For the policymaker this means interventions must be clearly understood. If they are perceived to be unfair, by either consumers or producers, they will not be easily accepted. People care about not the outcomes for themselves, but also the outcomes for others. Therefore any policy intervention (or non-intervention) which is seen to increase inequality, even if there are no specific losers, will meet with a degree of resistance.

59. From a macro aspect there is an important message not only for regulators but for governments in general. If market liberalisation, including competition policy, is not seen to be fair and is not seen to be delivering benefits for all, it will be resisted.

---

<sup>18</sup> For a comprehensive treatment of fairness in transactions see Colin Camerer *Behavioral game theory: Experiments in strategic interaction* (Russell Sage 2003).