Chapter 5

Consumer Policy Decision Making

The purpose of this chapter is to provide a step-by-step process that policy makers can employ to help determine whether or not they should intervene in a market to address a specific problem and, if a policy intervention is warranted, to help determine what policy instrument, or instruments, should be used.

Introduction

As outlined in Chapter 1, policy makers are facing growing challenges in protecting consumers. Markets for many goods and services have become more sophisticated in recent decades, requiring higher levels of knowledge and skill on the part of consumers. At the same time, understanding of how markets function, and more importantly, the oftentimes complex manner in which consumers behave and make decisions within these markets has increased through, for example, the study of information and behavioural economics (see Chapter 2).

The challenge for policy makers is to develop improved policies and techniques for responding to consumer problems. In this context, Chapter 3 describes the methods that can be used to screen and analyse markets where consumers are being harmed. Chapter 4 examines the tools that can be used to address problems. This chapter draws on the previous chapters, presenting a framework for evidenced-based policy making.

General and operational objectives of consumer policy

There are two general elements underlying consumer policy: protection and empowerment. How these objectives are expressed, however, varies among jurisdictions. The EU's consumer policy strategy seeks to harmonise levels of security and protection for consumers throughout the EU, for example, through the following operational objectives (EC, 2007):

- To empower EU consumers. Putting consumers in the driver's seat benefits citizens but also boosts competition significantly. Empowered consumers need real choices, accurate information, market transparency, and the confidence that comes from effective protection and solid rights.
- To enhance EU consumers' welfare in terms of price, choice, quality, diversity, affordability and safety. Consumer welfare is at the heart of well-functioning markets.
- To protect consumers effectively from the serious risks and threats that they cannot tackle as individuals. A high level of protection against these threats is essential to consumer confidence.

Similar objectives have been established in other jurisdictions (see, for example, MCCA, 2008 and MCCA, 2009).

While traditional emphasis of consumer policy has been on consumer protection, governments are increasingly exploring ways to enhance both individual and total consumer welfare through consumer empowerment. For example, the Australian Productivity Commission (2008) notes that educated and informed consumers are the first line of defence against firms who try to unfairly take advantage of consumers and that demand from empowered consumers encourages firms to compete vigorously and to be innovative.

The general and operational objectives of consumer policy – and by extension, the manner in which consumer policy is developed and implemented, will vary across countries according to different political, economic, social and other factors. For example, ethical considerations, such as a community's perceived sense of fairness, or the protection of vulnerable consumers, may vary widely across jurisdictions and can play an important role in determining when and how to intervene in a market.

Rationale for intervening in markets

When to employ a policy measure requires careful consideration. Consumers experience no obvious difficulties when undertaking the majority of transactions, particularly those that are simple and routine. Moreover, when problems arise they are often able to be resolved through direct dealings with retailers. Furthermore, markets can sometimes work on their own to generate effective solutions to many consumer problems. For example, a firm that that misleads customers about the quality of its product may lose sales from a lack of repeat business and a reputation for dishonesty.

However, as discussed in previous chapters, markets do not always deliver good outcomes for consumers. This is often the case where competition in a market is weak (*e.g.* a monopoly, an abuse of market power or collusion) or fragmented. Information asymmetry, especially incomplete information on the part of consumers, or a limited understanding of available information, can also expose consumers to significant detriment. Behavioural factors (*e.g.* consumer over-confidence, the tendency of consumers to focus on short-term benefits and costs and the tendency of consumers to automatically accept defaults set by firms) or unfair or illegal commercial practices (*e.g.* misleading advertising or fraud) can also lead consumers to make poor, and sometimes costly, decisions. It is in these circumstances that policy makers may wish to consider intervening in a market. It is imperative that any policy intervention taken be based on solid evidence that has been carefully considered so as to avoid unintended or unforeseen costs for both firms and consumers.

Evaluating consumer problems

Most consumer authorities operate within resource constraints and must be selective in deciding which problems to consider or study more fully. In some cases, consumer authorities are required by law to respond to certain types of complaints or requests for administrative advice or decisions. However, there is generally scope for authorities to undertake additional initiatives beyond these legal requirements. The extent to which formal criteria exist to determine priority areas for discretionary work varies among OECD countries. In the United Kingdom, the Office of Fair Trading has published a guide that outlines the criteria that are applied to such decisions (UK OFT, 2008). Furthermore, preliminary reviews are often carried out to clarify the situation in markets or areas where there are concerns. While the process for identifying consumer problems may vary among OECD countries, the way that a consumer problem is addressed must be informed by sound economic principles.

This toolkit does not provide guidance on setting general or operational objectives for consumer policy. Furthermore, it assumes that a method is already in place to detect consumer problems and that a process exists to determine whether a consumer problem needs further investigation. For example, the detection of consumer problems may be based on a proactive (*e.g.* surveys, preliminary market reviews) or reactive (*e.g.* complaints-based) approach, while the decision to take further investigation may be based on the estimated number of consumers affected by the problem, the degree to which consumers are harmed and the general priorities of the consumer agency or authority and other actors in society at large. While the process for identifying which consumer problems require further attention varies among OECD countries, the way that the problem is addressed should be informed by sound economic principles. This toolkit presents an approach for achieving this end in a six-step process (Figure 5.1):

- Step 1: Define the consumer problem and its source.
- Step 2: Measure consumer detriment.
- Step 3: Determine whether consumer detriment warrants a policy action.
- Step 4: Set policy objective and identify the range of policy actions.
- Step 5: Evaluate options and select a policy action.
- Step 6: Develop a policy review process to evaluate the effectiveness of the policy.

Stakeholder engagement

Stakeholders can play an important role in many (if not all) steps of the evaluation process, providing basic information, technical expertise and advice on the issues being evaluated. Their role is seen as particularly important in Step 5, as they may be in good position to identify any unforeseen or unintended consequences of a chosen policy option. While not explicitly referenced in Figure 5.1, consumer policy makers should carefully consider which steps would benefit from broad stakeholder consultation.

Step 1: Define the consumer problem and its source

Consideration of when and how consumer authorities should intervene in a market begins when a consumer problem has been detected and authorities have decided to review it. The first step should then be to *define the nature and source of the problem* (Box 5.1).

Defining the consumer problem and its source will help identify the institutions and stakeholders that could be involved in any potential policy development process. For example, consumer problems derived from anti-competitive conduct (*e.g.* collusion or abuse of market power) would indicate the need to involve competition agencies and authorities. Alternatively, consumer problems derived from firm behaviour, information failures or behavioural issues are often best dealt with by consumer policy agencies and authorities.

Therefore, once the nature and source of the problem is defined and well understood, decision-makers need to determine:

- Whether the consumer agency or authority is the most appropriate entity to address the source of the consumer problem as a whole, or certain aspects of the problem (if so, proceed to Step 2).
- Whether the problem would be better handled by another entity. This would occur if the problem, or likely policy tools for correcting the problem, fell outside the consumer authority’s mandate.
- Whether there is reasonable scope for correcting the problem at its source.
- Whether the solution would conflict in an unacceptable manner with other public policy objectives; if so, the investigation may need to be terminated.

Figure 5.1. **Consumer policy making steps**

Step 1: Define the consumer problem and its source

What is the problem from the consumer's perspective?
(*e.g.* product doesn't work or overcharged)

Identify the source of the problem requiring action:

- **Firm behaviour:** misleading claims, fraud, or unconscionable conduct.
- **Information issues:** such as too much, too little or too complex
- **Behavioural issues:** such as myopia, defaults and framing; overconfidence; heuristics; hyperbolic discounting.
- **Regulatory or market failures:** such as lax or ineffective enforcement or collusion.

Is this a consumer policy problem, or would it be better addressed by a non-consumer policy action
(*e.g.* competition policy)**?**

Decide whether to: proceed with measuring detriment (Step 2); refer problem to another agency; or terminate investigation.

Step 2: Measure consumer detriment

Identify how consumers are being harmed by the problem, including considering wider social and economic costs
(*e.g.* financial costs, time loss, stress, or physical injury)**.**

Determine the level of consumer detriment:

- **Qualitative analysis** (using, for example, complaints, focus groups or mystery shopping).
- **Quantitative analysis** (using, for example, surveys, market screening or econometric analysis).

Proceed to Step 3

Step 3: Determine whether consumer detriment warrants a policy action

Determine whether the scale, nature and duration of consumer detriment are significant:

- **Scale:** Small detriment experienced by many consumers, for example, or large detriment experienced by some.
- **Nature:** Are there unfair distributional impacts, including those on vulnerable consumers?
- **Duration:** How is the scale and nature of detriment likely to change over time? What are the likely consequences of taking no policy action?

Are there other substantial costs to the economy? How are other stakeholders (including firms) negatively impacted by the consumer problem?

Determine whether: a policy action should be examined (Step 4); more evidence is required (Step 2); or the investigation should be reconsidered (Step 1) or terminated.

Step 4: Set policy objective and identify the range of policy actions

Set a policy objective (be as specific as possible)**.**

Identify the consumer policy tool(s) that could be used to address the policy objective (*e.g.* demand-side tools, supply-side tools, intermediate tools)**.**

Examine whether improved enforcement of existing policy tool(s) could meet the policy objective.

Identify the full range of practical policy actions
(*e.g.* improved enforcement, a new tool, a combination of new tools) **that could be further studied.**

Proceed to Step 5

Step 5: Evaluate options and select a policy action

Evaluate the costs and benefits of each policy action, including the possibility of unintended consequences:

- **Financial aspects** (consumer and business costs and benefits).
- **Non-financial aspects** (such as community values and ethical considerations).
- **Consider the effects on other policy areas** (such as competition, health and environment).
- **Consultation:** consult with stakeholders (including firms) on all policy actions or the selected policy action, as appropriate.

Select the most advantageous policy action(s).

Proceed to Step 6

Step 6: Develop a policy review process to evaluate the effectiveness of the policy

Establish time frames and the elements of a review process
(*e.g.* interim monitoring or full scale review)**:**

Factor in changes and potentially unforeseen or unintended consequences.

If review process reveals that the selected policy action is not meeting its objective or is not warranted any more, consider:

- **Modifying (or eliminating) the selected policy action.**
- **Reviewing alternative policies (Step 4 and/or 5).**
- **Reviewing the nature and/or source of the consumer problem (Step 1).**

Box 5.1. **Nature and sources of a consumer problem**

I. What is the *nature* of the problem from the consumer's perspective?

- Does the problem pertain to:

  i) Price (*e.g.* artificially high prices, hidden charges or tied-selling)?

  ii) Quality/safety (*e.g.* unsafe goods, products that do not meet reasonable expectations of quality)?

  iii) Availability (*e.g.* unavailable products/services or insufficient choices)?
- Are consumers failing to have their problems with products or services resolved in a satisfactory manner (unreasonably high cost, of or lack of access to, redress mechanisms)?
- Is there evidence that consumers are making decisions that are inconsistent with their personal preferences and self-interests (*e.g.* purchasing unnecessary – or too much – insurance, purchasing incompatible products, etc.)?

II. What is the *source(s)* of the consumer problem?

Firm behaviour

- Are there issues related to fraudulent, deceptive or misleading commercial practices? Are firms making false claims about their products? Or, for example, is a market intermediary representing an unsuitable product or service as being in the best interest of a consumer, when in fact the primary motivation behind the recommendation is a hidden commission?
- Are consumers being harmed due to unfair contract terms, price discrimination or other unconscionable conduct?
- Does the problem reflect insufficient competition or related harmful business practices (*e.g.* cartel-like behaviour)?

Information issues

- Does the problem arise from inadequate information? Is there evidence of information overload? Is information too complex to be understood by a sizeable population of consumers or is the cost of accessing the information too high?
- Does the problem concern obstacles that firms have in conveying the qualities and attributes of goods (including experience goods, credence goods and emerging technologies) and services?

Behavioural issues

- Is there evidence that behavioural biases are responsible for, or contributing to, the problem? If so, which one(s)?
- **Heuristics:** are consumers making quick purchasing decisions or eliminating some superior options as a result of too many product offerings or due to the complexity in comparing options?
- **Hyperbolic discounting** and **overconfidence:** are consumers taking on too much debt either due to placing too much value on current consumption, or based on an overly optimistic anticipation of future earnings?
- **Defaults** and **framing:** are consumers making decisions based on inertia (*i.e.* failing to choose and selecting the default choice), or are their decisions heavily influenced by the manner in which a choice is presented to them (*e.g.* "95% fat free" *versus* "5% fat")?

Regulatory or related market failures

- Does the problem reflect inadequate industry knowledge of existing regulations, inadequate enforcement of regulations, inadequate consumer knowledge of, or access to, formal and informal redress mechanisms and/or real or perceived failures of redress mechanisms? If so, in what ways?
- Does the consumer problem represent a market externality that negatively impacts an individual in their capacity or interest as a consumer? For example, as outlined in Chapter 2, firms may not fully consider the negative impacts experienced by consumers resulting from telemarketing or spam. Many consumer policy authorities have become increasingly active in addressing these – and similar – types of consumer problems.

Step 2: Measure consumer detriment

Chapter 3 describes how market outcomes can sometimes fall short of their potential, resulting in welfare losses for consumers. These losses are referred to as consumer detriment. As previously discussed, it has two forms: *structural detriment* (which focuses on the loss of consumer welfare due to market or regulatory failures) and *personal detriment* (which focuses on the negative outcomes for consumers relative to a benchmark such as reasonable expectations). Once the nature and source of a consumer problem has been correctly identified, a consumer policy agency or authority should establish the nature and extent of any consumer detriment. The assessment would include estimating the number of consumers affected by the problem as well as identifying the specific nature in which they are harmed.

The analysis needs to consider both economic and non-economic effects, such as financial costs, time loss, stress and physical injury. Selecting the techniques that could be used to measure these factors, which are reviewed in Chapter 3, depend on the nature of the problem being examined and the resources available for undertaking the assessment. Determining the level of consumer detriment by using qualitative analysis, for example, may involve carrying out field work with focus groups and/or analysing complaints data. Quantitative analysis may rely on data collected through surveys, market screening and econometric analysis.

Chapter 3 also describes the many challenges in measuring consumer detriment. For example, some qualitative forms of consumer detriment – such as frustration or disappointment – can be very difficult to assess in a precise manner. Complicating this matter further is the difficulty in identifying when negative experiences lead to long-term changes in consumer behaviour which result in further detriment. A negative experience could, for example, cause consumers to unjustifiably avoid certain products or services in the future or it could cause them to become resigned to accepting a negative outcome without taking action to seek redress. Another key challenge involves detecting "hidden" detriment – that is, harm to a consumer that the consumer is not aware of (*e.g.* a consumer agreeing to an unnecessary car repair based on faulty advice). Detriment may also be hidden from consumer authorities when, for example, a consumer is reluctant – perhaps due to shame or embarrassment – to admit that they made a poor decision or have been the victim of fraud. Finally, as implied above, sometimes a consumer agency or authority does not have sufficient resources to precisely identify or carry out the research and analysis required to measure detriment.

Despite these measurement challenges, it is important for a consumer policy agency or authority to estimate, to the extent possible, the full range of detriment experienced by consumers. Without this information, it is difficult to make a reasonably well informed decision on the merits of a market intervention. Once a consumer agency has a good appreciation of the magnitude of consumer detriment, they will be in a much better position to build a case – if warranted – for a market intervention (Step 3), and will also be in a better position to set an effective policy objective (Step 4). It is also important that the evidence collected at this stage be maintained so that it can be used as a benchmark for evaluating the impact of any policy that is introduced (Step 6).

Step 3: Determine whether consumer detriment warrants a policy action

Once the nature and magnitude of detriment have been examined, policy makers should consider whether there are sufficient grounds for intervening to correct a consumer problem. The decision whether to intervene should consider:

- *What is the scale of consumer detriment?* An intervention may be warranted if the detriment is small, but felt by a large number of consumers, or alternatively, if the detriment experienced even by a small group of consumers is very large; the extent to which very severe negative detriment (such as death) may arise should also be considered.
- *Who is experiencing the consumer detriment?* Are there disproportionate impacts on certain groups or classes of consumers, including vulnerable groups such as children, the elderly or other socially disadvantaged groups? Are these impacts acceptable?
- *What is the anticipated duration of the consumer detriment?* Is it likely to decline, remain the same or increase over time? If the detriment is likely to change, how significant are these changes expected to be and over what duration are they likely to occur?
- *What are the likely consequences of taking no policy action?* The political, social and economic consequences of taking no policy action should be considered. Is the problem likely to improve or worsen without intervention?
- *Are there other substantial costs to the economy?* In considering the cost of detriment, policy makers should be aware that other stakeholders may also experience detriment resulting from a consumer problem. For example, a rogue firm may cause detriment to consumers *and to other firms* (*e.g.* a legitimate firm may experience lower sales, or the reputation of an industry as a whole may suffer). Detriment caused to legitimate firms (in addition to consumers) may help to build a case for policy action.

Once having considered these factors, a consumer agency or authority should decide whether:

- A policy action should be considered (if so, proceed to Step 4).
- More evidence is required before proceeding to policy development (if so, return to Step 2).
- A better understanding of the nature and/or source of the consumer problem is necessary (if so, return to Step 1); or
- The investigation should be terminated; that is to say, on the basis of the evidence gathered in Steps 1 and 2, and the analysis conducted in Step 3, a policy action is not warranted.

Step 4: Set policy objective and identify the range of policy actions

Setting the policy objective

Having made a decision to intervene in response to a consumer problem, policy makers should set the desired policy objective (*i.e.* the specific outcome the policy intends to achieve for consumers and the market more generally). For example, a specific policy objective may be to aid consumers in making better marketplace decisions by reducing false or misleading statements on firms' websites by a certain percentage. Policy makers should ensure that the specific objective that is identified at this stage is consistent with the general goals of consumer policy. While it is sometimes difficult to do in practice, the policy objective should be set with as much precision and specificity as is possible. Doing so will help select a range of feasible policy options and will also aid in evaluating the success of the policy action at a later date. At this stage, it would also be beneficial to determine what indicators, targets or metrics could be used in the future to review the effectiveness of the policy. If metrics are employed, efforts should be made to establish a baseline prior to implementing a policy.

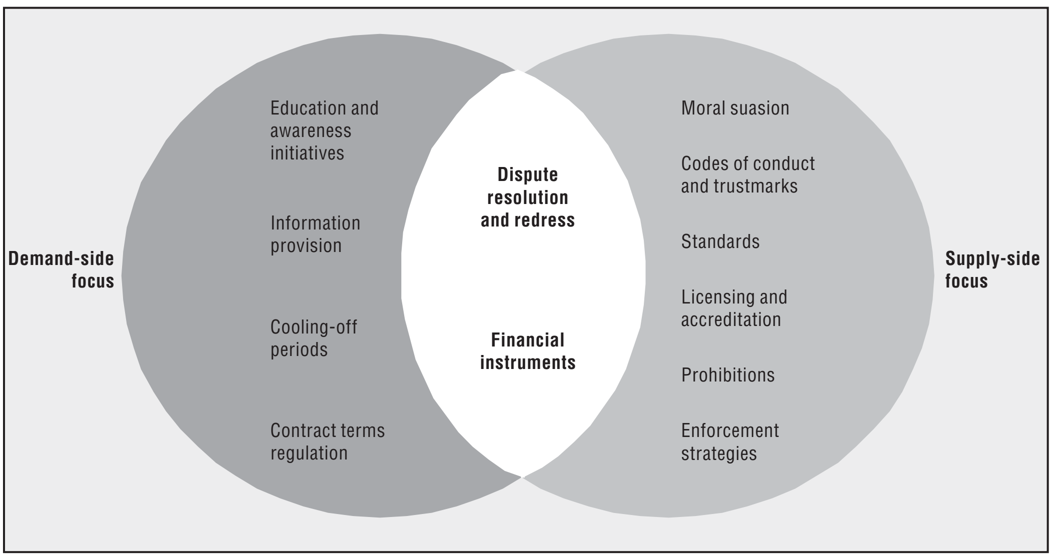
The desired outcome of a consumer policy intervention will vary depending on the problem. It is critically important, however, that great care is taken to set a policy objective that will reduce (or eliminate) the consumer detriment that has been identified. For example, consider a situation in which consumers of energy services are not being provided with enough information by firms and are subsequently making poor decisions. In this instance, a government may decide to increase the amount of mandated information that must be disclosed by firms to consumers, with a view to helping them make better choices. The primary objective in this case would be for consumers to make better decisions. Making more information available could provide an effective means to this end. If, however, consumers continued to make poor decisions, possibly because there was too much information to deal with or it was too complex to understand, the broader objective of the intervention will not have been met, and the intervention will not have been successful. It is important that the desired outcome be clear to ensure that policies appropriately target the problem and are not overly burdensome.

Identifying the range of practical policy actions

The next task is to identify the range of consumer policy tools that could be used to achieve a policy objective. As described in Chapter 4, these include (Figure 5.2):

- *Demand side tools: e.g.* education and awareness initiatives, information provision, cooling-off periods, contract terms regulation.
- *Supply side tools: e.g.* moral suasion, codes of conduct, standards, licensing and accreditation, prohibitions.
- *Intermediate tools: e.g.* dispute resolution and redress and financial instruments (including fines and other financial penalties).

Figure 5.2. **Consumer policy tools to target the demand and supply side of markets**



Examples of problems faced by consumers and some frequently used policy responses are set out in Table 5.1.

Table 5.1. **Frequently identified problems and policy responses**

Problem (from the consumer's perspective)	Potential source(s) of consumer problem	Potential policy response(s)
Product quality does not meet expectations.	Firm behaviour (*e.g.* false or misleading claims; failure to meet standards). Consumer issues (*e.g.* misuse of product; unreasonable expectations).	Enforcement actions against deceptive claims; improved disclosure; redress mechanisms (including financial penalties); restrictions on misleading advertising; enforcement of standards.
Unanticipated charges on mobile phone bills.	Information problems (*e.g.* contract is too long or contains complex information). Unfair contract terms.	Education or awareness material on cell phone contracts (including information on common charges); technical support (through the government or intermediaries); mandatory disclosure of simple information; industry ode of conduct; moral suasion. Contract-terms regulation.
Consumer regrets signing a long-term contract for a gym membership.	Behavioural bias (*e.g.* overconfidence) High-pressure sales techniques	Cooling-off period. Restrictions on marketing practices
Dangerous product.	Firm behaviour (insufficient expertise or use of inappropriate inputs). Consumer issues (*e.g.* misuse of product).	Enforcement of safety standards; licensing and accreditation; prohibitions. Improved disclosure.
Excessive telemarketing calls.	Market externality (firms do not consider the harm experienced by consumers from excessive and unwanted telemarketing calls).	Codes of conduct; prohibitions; financial penalties.

In addition to identifying new measures that could be taken to address a problem, policy makers should also examine whether a problem could be addressed by improving the enforcement of an existing measure that was already in place. This would help to identify the full range of practical policy actions that could address a problem. Creative policy actions that combine elements of new and existing policy tools should be considered as there may not be a single measure that could address a problem on its own.

Efforts to identify policy options should focus on those that are practical. Those that would be unfeasible or politically unacceptable should be filtered out. For example, a policy maker may decide that restricting or banning advertising of certain unhealthy food products to children is desirable consumer policy. However, if this solution is likely to encounter legal or constitutional challenges (*e.g.* on freedom of expression grounds), it may not warrant further consideration.

Consideration should also be given to: *i)* who will be responsible for implementing and administering the various instruments (that is, industry, government, and/or consumer organisations); *ii)* the proposed strength of the instruments (ranging, for example, from voluntary guidelines to strict rules); *iii)* the cost of introducing and maintaining the instruments; *iv)* who will be responsible for communicating the new policy to stakeholders and the public and how this will be done; and *v)* any special consideration to be given to vulnerable or disadvantaged consumers.

Step 5: Evaluate options and select a policy action

Once practical policy options have been identified, they should be evaluated to determine which would be the most appropriate and cost-effective. In most instances, a cost-benefit analysis should be carried out, covering both quantifiable aspects and those areas where quantification may not be practicable (*e.g.* community values and ethical considerations). The scale and depth of a cost-benefit analysis should be determined on the basis of the likely consequences of the policy under consideration. Not every action by government requires in-depth analysis. For example, an immediate product ban following a death or serious injury to consumers would not always require a cost-benefit analysis. On the other hand, in some instances, it may be worthwhile to carry out surveys, field trials and research aimed at deepening an assessment. This would likely be the case for policies that entail high costs on some stakeholders and are of a relatively permanent nature (*e.g.* locked in by legislation). For modest or easily modified interventions, more simple approaches, often dispensing with quantification, could provide policy makers with a useful guide for decision making.

In instances where a cost-benefit analysis is carried out, in addition to the costs imposed on firms and consumers, it is important to cover the costs and benefits associated with developing and implementing a policy. Regulation that mandates product safety and information standards, for example, would need to take into account the expected costs (and benefits) associated with monitoring and enforcement. This would include, for example, surveillance of retail outlets and websites, responding to complaints and acting against offending firms (*e.g.* by withdrawing goods from sale and bringing legal action).

Assessing benefits and costs of policy options

The first step in choosing an appropriate policy intervention involves evaluating the costs and benefits of each option, which is a standard tool in regulatory decision making. The OECD's *Recommendations on improving the quality of government regulation* states that "regulators should estimate the total expected costs and benefits of each regulatory proposal and of feasible alternatives, and should make the estimates available in accessible format to decision makers" and that "the costs of government action should be justified by its benefits before action is taken" (OECD, 1995).

Cost-benefit analysis is often seen as a rigorous and exacting exercise which is relevant and affordable only for major projects. Moreover, there can be a misconception that such analyses focus only on quantifiable, financial data, ignoring other qualitative and less tangible considerations. In fact, properly designed, cost-benefit analysis should provide a general framework for evaluating policy proposals that takes into account all benefits and costs, including those that are non-monetary, qualitative and intangible in nature (see Box 5.2). As such, cost-benefit analysis should provide decision makers with information about all of the positive and negative effects of a regulatory proposal. It should enable them to consider factors such as political and administrative feasibility, community values and expectations, ethical considerations, welfare and equity issues, and the effect of a measure on other policy areas, such competition and the environment.

Consulting stakeholders

Effective policy development also requires consultation with stakeholders, including consumer organisations, affected firms and/or industry associations. Such consultation can give regulators access to information and perspectives that might not otherwise be available. It can also help to ensure that policies are clear and comprehensive. Many governments have developed guidelines with respect to public consultation. In 2004, for example, the UK Cabinet Office developed a revised *Code of Practice on Consultation*. The Code details seven criteria for effective public consultation and applies to all public

Box 5.2. **Dealing with costs and benefits that are difficult to value**

Some costs and benefits can be difficult to monetise. Examples include environmental, social, cultural and ethical considerations, regional impacts, health and safety issues and national defence. In such instances, tools may be available to make estimates. Boardman *et al.* (2006) have, for example, proposed two techniques:

- **Revealed preference techniques,** which infer value from observed behaviour. A non-marketed good's value may be reflected indirectly in markets for related goods; and
- **Stated preference techniques,** which rely on surveys to obtain information on how people value costs and benefits. People are simply asked their willingness to pay.

NZIER (2005) provides further insights into carrying out cost-benefit analyses where the effects are difficult to quantify and monetise. While the techniques described are useful, their limitations need to be kept in mind (see, for example, Breidert *et al.*, 2005).

In those areas where estimates cannot be made, cost-benefit analyses should nevertheless include all relevant information that can affect a decision in such cases. To assure that all relevant elements are considered, cost-benefit estimates should be reported in three categories:

- **Monetary** (*e.g.* revenues and expenses, cost savings).
- **Quantified,** but not monetised (*e.g.* number of complaints or the estimated number of reduced injuries or lives saved).
- **Qualitative** (or descriptive), but not quantified or monetised (*e.g.* changes in stress levels or trust).

The potential importance of qualitative elements should not be underestimated as they can significantly influence decisions. They should be explicitly highlighted and explained in an analysis so that decision makers are aware of the value judgements they are making in pursuing a particular policy option.

The process of identifying, describing and evaluating all costs and benefits is valuable in itself as it helps to ensure that policy makers weigh all factors, in their entirety when comparing different policy options. Policy makers should, however, be cognizant of the limitations of the estimation techniques being used.

Source: Boardman, E.A., Greenberg, D.H., Vining, A.R. and Weimer, D.L. (2006), *Cost-Benefit Analysis: Concepts and Practice*, 3rd ed., Pearson Prentice Hall, New Jersey; Breidert, Christoph, Michael Hahsler and Thomas Reutterer (2006), *A Review of Methods for Measuring Willingness-to-pay*, Innovative Marketing (Volume 2, Issue 4), see *http://michael.hahsler.net/research/wtp_innovative_marketing2006/wtp_breidert_hahsler_reutterer_preprint.pdf*; NZIER (New Zealand Institute of Economic Research) (2005), *COOL Revisited: Benefit cost analysis of Country of Origin Labelling* (prepared for Food Standards Australia New Zealand), NZIER, Wellington, *www.foodstandards.gov.au/_srcfiles/NZIER_COOL_September_2005.doc*. See also OBPR (Office of Best Practice Regulation) (2007), *Best Practice Regulation Handbook*, Australian Government, Canberra and New Zealand Treasury (2005), *Cost Benefit Analysis Primer*, New Zealand Government, Wellington.

consultations by UK government departments and agencies, including consultations on European Union directives (Box 5.3).

Step 6: Develop a policy review process to evaluate the effectiveness of the policy

The final task, evaluating consumer policies, is often ignored or undertaken irregularly and incompletely by policy makers. In today's rapidly changing marketplace it is important that policy makers develop regular review processes to evaluate consumer policies to determine the extent to which they are achieving policy objectives in a cost-effective manner. As indicated in step 4, this task is easier to accomplish if policy objectives are

Box 5.3. Consultation guidelines

- **When to consult:** Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- **Duration of consultation exercises:** Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- **Clarity of scope and impact:** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- **Accessibility of consultation exercises:** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- **The burden of consultation:** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if buy-in to the process is to be obtained.
- **Responsiveness of consultation exercises:** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Capacity to consult:** Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Source: HM Government (2008), *Code of Practice on Consultation*, Better Regulation Executive, Department for Business, Enterprise and Regulatory Reform, *www.berr.gov.uk/files/file47158.pdf*.

set at the onset, and if targets or metrics are identified prior to the implementation of the policy.

However, such reviews may not be straightforward. Just as it can be difficult to measure detriment with precision, it may be difficult to measure reductions in detriment from a successful policy. It is also possible that since implementing a policy the problem may have changed, diminished, or grown, for reasons unrelated to the policy. More importantly, the underlying causes of the problem may have changed and require different measures or approaches. Without evaluating policy interventions on a consistent basis, policy makers risk continuing to support ineffective or inappropriate instruments. Moreover, they could risk locking in resources that could be more usefully deployed elsewhere to address other, potentially more urgent, problems.

Countries have addressed evaluation issues in a number of ways. In Australia, for example, the core function of the Productivity Commission is to conduct public inquiries on key policy or regulatory issues bearing on Australia's economic performance and community wellbeing. In this context it carries out policy reviews, which in recent years have included an evaluation of the country's consumer product safety system (Australian Productivity Commission, 2006) and the previously mentioned evaluation of the country's consumer policy framework (Australian Productivity Commission, 2008). In the United Kingdom, policy evaluation is one of the key functions of the country's Office of Fair Trading. In 2009, for example, it published a report which reviews the effectiveness of a sample of six consumer enforcement interventions, with a view towards identifying ways to enhance the effectiveness of future interventions (UKOFT, 2009).

In developing a policy review process, consideration needs to be given to the time frames and the elements of the process, including the need to factor in changes in the nature of the consumer problem or the marketplace, and potentially unforeseen or unintended consequences of the selected policy action. Policy evaluation is usually best undertaken after a policy has been in operation for a reasonable period of time (*e.g.* three to five years).

The methods and techniques for conducting post implementation evaluations, which can range from interim monitoring to a full-scale review, are similar to those used for prior assessment of expected costs and benefits and can be carried out in various ways, including:

- Self-monitoring by the regulated community.
- Periodic assessments by governments, competent authorities or third parties.
- Monitoring complaints by the public.

The reviews should be used to determine whether a measure should be maintained, modified or eliminated, whether enforcement should be strengthened, whether an alternative policy action should be considered, or whether reassessment of the nature and/ or source of a problem would be beneficial (Step 1).

Summary

The six-step tool kit outlined above provides policy makers with a framework for developing policy interventions that are evidenced-based and well designed. The first step, specifying the nature and source of a consumer problem, helps to identify the relevant agencies that should be involved in the policy making process. The second and third steps, determining the nature and magnitude of consumer detriment and determining whether a policy action is warranted, provide the analytical basis for making a marketplace intervention. The fourth step, which includes setting a policy objective and considering the full range of policy options that could be used to address a problem, helps to ensure that any policies are designed to achieve a well-defined outcome and that the full range of options (including better enforcement of existing policies) are considered. The fifth step, analysis of practical options (usually supported by cost-benefit examinations) helps to ensure the selection of the most advantageous option for society. It recommends that stakeholders be consulted to help ensure that the policy does not have unanticipated consequences and is also well understood by the relevant stakeholders. Finally, the sixth step calls for policies to be reviewed for ongoing relevance, in order to ensure that they continue to meet their objectives, or, as appropriate, that the policies be modified or eliminated.

Establishing a robust framework for policy development and review is essential in today's more challenging policy making environment. The emphasis on careful, evidence-based analysis and a deliberate review of relevant options, in consultation with stakeholders, should help to strengthen the effectiveness of any policy interventions that are taken. Furthermore, the integration into the policy framework of what has been learned through the study of neoclassical, information and behavioural economics should provide policy makers with stronger bases for selecting and blending policy instruments and refining policy options. Using the framework to strengthen the functioning of markets thereby boosting consumer welfare, will also facilitate other desirable public policy objectives, such as promoting greater innovation and competition in the marketplace through more empowered, discriminating and well-protected consumers.

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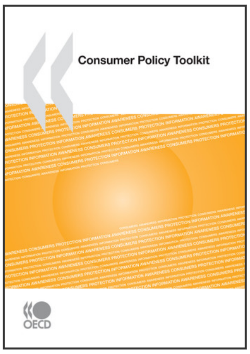
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