

Super Complainers: Greater Public Inclusiveness in Government Consumer Complaint Handling

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CONSUMERS COUNCIL OF CANADA

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This research reveals consumer views on third-party consumer complaint management systems (consumer complaint handling systems operated by entities other than private-sector businesses) and their receptivity to alternative systems where greater transparency, and consumer advocacy group participation is encouraged. The report also discusses the challenges and opportunities of adopting more inclusive and interactive, alternative systems in Canada and makes recommendations. Consumer views about complaint handling were gathered through a national web-panel survey of Canadian adults. A literature review was conducted to ascertain many existing practices concerning complaint handling. Key informants were identified and contacted to explore challenges and opportunities of introducing alternative systems of third-party consumer complaint handling.

Keywords: consumer complaints, super-complaints, government complaint handling, self-regulatory agency complaint handling, ombudsman complaints, regulatory surveillance, consumer protection

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Executive Summary

“The fastest way to develop a customer focused culture is by generating complaints.”

Jerry Plyrnire, author of “Complaints as Opportunities”

Background

One of the primary sources of information for regulators to trigger market conduct reviews and enforcement inspections and investigations is consumer complaint data. Regulators, delegated administrative authorities, ombudsman offices, and self-regulatory agencies have long relied upon and actively sought out consumer complaints to identify unfair or unsafe business practices and sector or industry-wide patterns that may raise flags and warrant investigation. Resources at many consumer protection regulatory agencies have dwindled over the years, forcing them to rely more heavily on complaints as a method of observing marketplace conduct within their risk management approach to compliance.

Effectively collected, analyzed and publicized consumer complaint data can be a highly useful compliance tool by raising public awareness about high levels of non-compliance, influencing enforcement priorities, instigating product recalls, enhancing intelligence gathering and strategic planning, supporting other evidence, providing disincentives to non-compliant firms,

encouraging reticent consumers to complain, and precipitating policy consultations and public hearings.

Examples exist from countries such as the United States, the United Kingdom and Australia where some government agencies are providing greater flexibility openness and transparency in their consumer complaint management systems and reaching out to consumers and consumer advocacy groups to assist in and enhance complaints management processes.

Greater public involvement in government consumer complaint processes could help consumer advocacy organizations increase their profile and role in advancing consumer interests and create new relationships with government and other agencies that operate third-party consumer complaint management systems.

This report explores Canadian consumer views regarding the effectiveness of current government and self-regulatory complaint handling systems and their appetite for more innovative, inclusive,¹ interactive and effective programs. The report also provides an overview of some alternative systems being implemented in various regions and other countries. It discusses the challenges and opportunities of adopting more open, inclusive and interactive third-party consumer complaint management systems in Canada.

Methodology

The research leading to this report relied upon three primary methods:

National Web Panel Survey

Information was gathered from consumers directly through an online quantitative survey conducted by national research firm Environics Research Group, which included results from 2,000 respondents. The survey focused on:

¹ The words “inclusive” or “inclusiveness” in the context of this report refer to greater contact or collaboration with consumers and/or consumer organizations in third-party complaint handling processes beyond the intake and sorting functions. For example, making more detailed consumer complaint data and analysis available to the public, actively soliciting consumer complaints or providing detailed advice and guidance on effective complaining.

- consumer attitudes and experiences with filing consumer complaints with government agencies.
- approaches consumers used to interact with consumer protection agencies, and why those approaches were taken.
- consumer satisfaction with the outcomes.
- knowledge of consumer protection laws and jurisdictional powers.
- perceptions of the role of non-government agencies and consumer advocacy groups.
- thoughts about approaches to making effective complaints
- consumers' use of social media and online review sites as alternative approaches.
- views on the level of government transparency and openness to providing information on complaint trends and resolutions.

Literature Review

A literature review adds perspectives on:

- other relevant research done.
- the success of super-complaint programs in the U.K.
- transparent financial services complaint handling by the U.S. Consumer Financial Protection Bureau.
- relevant federal privacy legislation.
- viable alternatives to the status quo, including the impact of online reviews and social media.

Key Informant Interviews

Interviews were sought with federal and provincial consumer protection agencies, the Treasury Board Secretariat, the U.K. Consumer Markets Authority, Resolver,² Ad Standards Canada, and Canadian academics with expertise in public policy oriented consumer interest research.

² A new private sector multi-issue, third-party consumer complaint forwarding and management service that entered Canada in November 2018.

Summary Conclusions

Consumers believe effective complaint handling by third parties increases consumer confidence

Consumers believe that their complaints assist governments, retailers, manufacturers, importers and other parties to ensure Canada's marketplace is fair and competitive and that reliable and effective government complaint handling systems are important to their confidence in the Canadian marketplace.

But many say finding where to complain to government or self-regulatory agencies is difficult

About 68 percent of those surveyed said it was difficult to find the appropriate government or self-regulatory agency to file complaints about goods and services they felt were misrepresented, unhealthy or unsafe.

Consumers judge government complaint handlers as only marginally effective and have low confidence governments can deal effectively with their complaints about distant transactions

Most consumers in this research's survey tended to believe government agencies are only somewhat or not very responsive at all to complaints filed against companies that misrepresent their products or services or sell products and services that are unsafe and illegal. Consumers understand and accept that they take more risk with distant transactions and have low confidence that governments can help when there are problems with those transactions.

Sector-specific Ombudsman offices and self-regulatory agencies invest most heavily in transparent and inclusive complaint handling systems

Agencies created by governments or self-regulatory bodies to handle consumer complaints in specific sectors (telecommunications, banking, advertising) are more likely to provide greater transparency to the public regarding the nature and disposition of complaints.

Some indication exists that consumer-facing regulators are starting to face the other way

In some cases, government departments and agencies with consumer protection mandates are reducing or abandoning proactive monitoring of the marketplace and placing greater emphasis on complaints and policy options such as communications, self-auditing, mandatory reporting or general prohibitions. Yet, consumers cannot complain about what they cannot see or experience and it is unreasonable to expect them to take the steps to assess business compliance themselves.

Strong support exists for experimentation with more accessible, effective, inclusive and interactive third-party consumer complaint handling systems

Consumers somewhat (48 percent) or strongly (43 percent) agree (total 91 percent) that the various levels of government in Canada and non-profit consumer agencies should collaborate on experimenting with more inclusive and interactive consumer complaint handling systems.

Consumer organizations are as trusted as government agencies to handle and resolve third-party complaints

While Canadian consumer organizations are generally not in the business of handling complaints and helping consumers directly to seek resolution and

redress, in the estimation of consumers they rank equal to government agencies in terms of trustworthiness and effectiveness to assist in resolving a consumer complaint regarding a product, food, service, contract, consumer information or advertisement.

Governments should seek more meaningful relationships with consumer organizations

Respondents felt governments should seek more meaningful relationships with consumer organizations in competition cases concerning consumer welfare and harm. (86 percent) They felt nearly as strongly that this should be the case for individual consumers, as well. (84 percent)

Institutionalizing consumer representation in government policy development is not always easy and can be fraught with many challenges

Improving relationships and fostering better partnerships is dependent on stakeholders reaching a common understanding of what ‘putting consumers first’ actually means, a respectful attitude from established actors with specific expertise, and an understanding of the regulator’s role to balance private and public interests.

Key Recommendations

1. Governments should place greater emphasis on effective, inclusive and interactive consumer complaint handling systems as a means to increase consumer confidence that the Canadian marketplace is fair and competitive.
2. Governments, delegated administrative authorities and self-regulatory agencies should seek more meaningful relationships with consumer organizations and, where appropriate, institutionalize consumer representation in their consumer complaint management processes.

3. Governments, designated authorities and self-regulatory agencies should be as proactive in handling third-party consumer complaints as should private-sector consumer-facing firms who deal directly with their consumers.
4. Governments and other third-parties also may consider investing in the development of an international guidance standard on inclusive and interactive third-party consumer complaint systems.
5. Government departments with broad consumer protection mandates should model some of the consumer complaint handling management systems employed by sector-specific Ombudsman offices and self-regulatory agencies that invest in transparent and inclusive and interactive complaint handling systems.
6. Governments can play an active role by working with, and investing in, consumer-empowered artificial intelligence and information and communications technology (ICT) programs to help curb consumer detriment before complaints arise.
7. Governments should ensure that reliance on complaints as primary indicators of consumer detriment does not serve as an excuse to abandon proactive surveillance and inspection.
8. Impact and benefit-cost analyses should be conducted when assessing the various options for creating more effective, transparent, inclusive and interactive complaint handling systems in in Canada.

Introduction

“... the availability of effective dispute resolution and redress mechanisms can increase consumer confidence and trust in the online and offline marketplace...”

OECD Committee on Consumer Policy

A primary information source for market conduct reviews and enforcement investigations is regulators’ consumer complaint data. Regulators rely on complaints to identify business practices, unusual trends and sector or industry-wide patterns warranting investigation. Yet, once the complaint is filed, regulators tend to pay little regard to consumers and detriment they experience. (Hutchings 2006 16:5)

Complaints are early indicators for consumer agencies to identify companies for market conduct examinations, as the primary way consumers communicate problems.

Complaint data that is effectively collected, analyzed and publicized can be a highly useful compliance tool by:

- Raising public awareness about sectors and individual companies that may have high levels of non-compliance.
- Influencing compliance and communication priorities.
- Enhancing intelligence gathering, strategic planning and forecasting.
- Reinforcing or supporting other evidence in investigations and prosecutions.

- Instigating urgent public notices such as food and consumer product recalls and safety warnings (Vuk 2013).
- Providing real-time data on consumer issues and trends.
- Inviting consumer and public interest organizations to become additional eyes and ears in the marketplace and report on adverse events and consumer detriment.
- Being the catalyst for public hearings and precipitating policy changes (e.g., the 2018 CRTC hearings on Misleading or Aggressive Retail Telecommunications). (“Highlights of the Report on Misleading or Aggressive Communications Retail Sales Practices” 2019)
- Providing a disincentive for businesses to carry out unsafe or unfair marketing practices. (Johnson 2017)
- Providing an incentive for consumers and whistleblowers to come forward.³ (Jordan 2018)

At the commencement of this research, the Council determined scant evidence existed that governments in Canada are carrying out research into the feasibility of greater collaboration with the public and consumer advocacy agencies or organizations to modernize and seek greater efficiencies in consumer complaint handling and resolution.

The OECD Committee on Consumer Policy’s 2007 publication *Recommendation on Consumer Dispute Resolution and Redress* outlines measures domestic third-party consumer complaint management systems can take to increase consumer confidence:

“... the availability of effective dispute resolution and redress mechanisms can increase consumer confidence and trust in the online and offline marketplace, encourage fair business practices, and promote cross-border commerce, including electronic and mobile commerce.”

Introducing the concept of super complaints, greater transparency and public exposure to government consumer complaints databases in Canada

³ While regulators seldom attribute compliance actions directly to consumer complaints, there is clear evidence that whistleblowing is a key regulatory tool.

could prove an efficient, additional compliance tool for regulators, advance consumer interests, and better use valuable resources provided by professional non-profit consumer advocacy groups.

One of the primary sources of information for both market conduct reviews and enforcement investigations is regulators' consumer complaint data. Regulators have long relied on information obtained from complaints to identify business practices or unusual trends as well as sector- or industry-wide patterns that warrant investigation.

Complaints are also one of the earliest indicators used by consumer agencies to identify companies for market conduct examinations, since they are the primary method of communication for consumers with problems.

Greater public involvement in government consumer complaint processes could help consumer advocacy organizations increase their profile and role in advancing consumer interests and create new relationships with government agencies. Consumer organizations already serve a valuable public service by ironing out unwarranted consumer problems, irritants and unfair business practices and thereby contribute to a more equitable, competitive and fair marketplace.

Examples exist from countries such as the United States, the United Kingdom and Australia where some government agencies are providing greater flexibility openness and transparency in their consumer complaint management systems and reaching out to consumers and consumer advocacy groups to assist in and enhance complaints management processes.

Some consumer protection agencies are increasing transparency by exposing their complaints database to the public. For example, the U.S. Consumer Financial Protection Bureau (CFPB) significantly amplified the consumer voice by establishing a database to share customer complaints publicly online. CFPB has taken steps to make complaints public, by institution, customer complaint narratives and complaint response data. These actions provide the public with important information and may encourage reticent consumers to complain and "pile on" bad actors. This program is believed to incent financial

institutions to strengthen their complaints program to avoid a public airing (“Consumer Financial Protection Bureau” n.d.). By implication this could moderate or alleviate some demands on governments to monitor and enforce in the marketplace.

Compliance and enforcement resources in most consumer protection regulatory agencies have dwindled over the years, forcing agencies to rely more heavily on complaints as key elements of their compliance programs.

In 2002, a “super-complaints” system was established in the U.K. government by the Office of Fair Trade (now Competition & Markets Authority). This system allows a designated consumer body to submit a complaint that “... any feature, or combination of features, of a market in the U.K. for goods or services is or appears to be significantly harming the interests of consumers”.

The process is public. Regulators are required by law to provide a response in a reasonable time period. By most accounts the program has been a success. Several super-complaints have been launched and resolved.

The concept appears to be expanding. The U.K. Home Office consulted about a new super-complaints system for policing, launched in 2018 (“What Are Super-Complaints? - GOV.UK” n.d.). In August 2016, Australian consumer group CHOICE called for a similar system.

A super-complaint could allow a systemic marketplace problem to be pursued on behalf of all consumers while protecting the privacy of individual consumers. A super complaint supports the right of representation, and enables consumers to have a new opportunity to have themselves represented. It supports redress and having a consumer take responsibility to seek redress, not just for themselves but for all unfairly treated consumers.

Consumer groups’ ability to collect consumer experiences could be enhanced by growing awareness that the sharing of those experiences could lead to meaningful, accountable public outcomes.

This report reveals consumer views of some of the current government and self-regulatory complaint handling systems, provides an overview of

alternative systems being implemented in various regions and other countries, and discusses the challenges and opportunities of adopting more open, inclusive and interactive third-party consumer complaint management systems in Canada.

It explores whether the introduction of modified systems in Canada could give:

- consumer groups strong reason to devote public and private resources they receive to identifying and addressing tangible consumer problems.
- a focus for consumer group fundraising, where the outcomes of initiatives would be demonstrable, because of accountable, observable processes associated with receipt of a complaint.
- greater recognition of the current and potential influence Canadian consumer organizations have in advancing government objectives of a fair and competitive Canadian marketplace.

Methodologies Used in the Research

Research conclusions were reached through the use of a national web panel survey of adult Canadians, a literature review and key informant interviews. The research was conducted under the guidance of a research methodologist.

National Web Panel Survey

Information was gathered from consumers directly through an online quantitative survey conducted by national research firm Environics Research Group, which included results from 2,000 respondents. The French/English survey focused on consumer attitudes and experiences with filing consumer complaints with government agencies. It explored the approaches consumers used to interact with consumer protection agencies, why those approaches were taken, and their satisfaction with the outcomes. It also sought to determine knowledge of consumer protection laws and jurisdictional powers, the role of non-government agencies and consumer advocacy groups, approaches to making effective complaints, use of social media and online review sites as alternative approaches, and views on the level of government transparency and openness to providing information on complaint trends and resolutions.

An online quantitative survey is a non-probability method of quantitative research. This survey was sampled to be representative of Canada's general

population 18 years of age or older based on age, gender and region from the 2016 Census. Demographic questions were included, allowing examination of responses to specific questions of different demographic groups (gender, age, region of the country, etc.)

Respondents – often referred to as panelists for online quantitative studies – were recruited primarily through social media (Facebook, Instagram, etc), online advertising and via telephone. This approach was designed to optimize the probability that the panel reflects the overall composition of the target online population.

In order to gain entry and remain on the panel, panelists had to have clearly and actively indicated an intention to join; received an invitation with the opportunity to opt out; not been a duplicate of another panelist; possessed confirmed validated demographic data matched to postal address files and correct geographic assignment; been assigned a unique panelist ID, their identifier used for de-duplicating, re-contacts, and post-survey analysis; if needed, understood survey participation was not to be a means to supplement their income; and agreed to keep information confidential.

Literature Review

Literature reviews added the perspectives of other relevant research done; the success of super-complaint programs in the U.K.; transparent financial services complaint handling by the U.S. Consumer Financial Protection Bureau; relevant federal privacy legislation; and viable alternatives to the status quo, including the impact of online reviews, social media, private third-party complaint systems such as Resolver,⁴ broadcast media and artificial intelligence. There is very little research on the subject of inclusivity in third-party consumer complaint handling systems other than case studies and performance analysis of some of the above systems.

⁴ A new private sector multi-issue third party consumer complaint forwarding and management service that entered Canada in November 2018.

Key Informant Interviews

Interviews were sought with federal and provincial consumer protection agencies, the Treasury Board Secretariat, the U.K. Consumer Markets Authority, Resolver, Ad Standards Canada, and Canadian academics with expertise in public policy oriented consumer interest research.

IV

Summary of Consumer Survey Results

Consumers view consumer organizations to be about as trustworthy and helpful to them as the courts or government

Consumers Believe Their Complaints are Important

Consumers believe their complaints assist governments, retailers, manufacturers, importers and other parties in ensuring Canada's marketplace is fair and competitive. (86 percent versus 14 percent to the contrary)

Consumers believe reliable and effective government complaint handling systems are important to their confidence in the Canadian marketplace. (86 percent versus 14 percent)

Business, News Media, Social Media Rank Lower as Trustworthy Institutions

Here's how consumers rate the following institutions in terms of trustworthiness and effectiveness to assist initially (instead of going directly to the business to complain as recommended first action) in resolving a consumer complaint regarding a product, food, service, contract, consumer information, or advertisement:

1. Courts – 74 percent
2. Consumer Organizations – 72 percent
3. Government - 71 percent

4. NGOs (such as self-regulated professional societies, Better Business Bureau) – 66 percent
5. Lawyers – 61 percent
6. Industry-provided arbitrator – 53 percent
7. News media – 49 percent
8. Manufacturer or Retailer – 48 percent
9. Social media – 38 percent
10. None of the above – 3 percent

Notably, the public has high confidence in the courts as a ‘resolver,’ yet they are very unlikely to use the courts.

Somewhat strikingly, the public has high confidence in consumer organizations given that they are generally unwilling to fund consumer organizations and despite the reality that domestic consumer groups have low brand recognition with consumers and have limited capacity to assist them directly.

Government and consumer organizations have the trust of most consumers, potentially indicating a good environment for greater collaboration. The relatively low trustworthiness of business-and industry-provided arbitrators to resolve a complaint could indicate support for the current suite of ombudsman and sector-specific complaint handlers such as the Commission For Complaints For Telecom-Television Services.

Here’s how consumers rate the following institutions in terms of trustworthiness and effectiveness to resolve a consumer complaint regarding a product, food, service, contract, consumer information, or advertisement once they have been unable to resolve it with a product or service provider:

1. Courts – 70 percent
2. Government – 67 percent
3. Consumer Organizations – 65 percent
4. NGOs – 62 percent
5. Lawyers – 61 percent
6. News media – 46 percent

7. Social media - 39 percent
8. None of the above – 6 percent

There seems to be an understanding that as a dispute hardens, consumer groups play a less significant role. Nonetheless, consumer organizations, like government and the courts, still offer the highest expectation of delivering results for consumers.

Cynical Attitudes Toward Business Practices

A large share of consumers (68 percent) generally agree some businesses take significantly unfair advantage of them in how they provide their products and services and handle their complaints.

Government Complaint Handlers Considered Marginally Effective

Most consumers tend to believe government agencies are only somewhat or not very or responsive at all to complaints filed against companies that misrepresent their products or services or sell products and services that are unsafe and illegal. Only 5 percent of consumers find government agencies to be fully accessible and responsive. About equal shares of consumers say government agencies are somewhat accessible as those who find them not very or not at all accessible and responsive.

The following are consumers' rank-ordered expectations of importance of complaint handling systems of government agencies:

1. Hearing back in a timely manner on progress or resolution – 82 percent
2. Knowing that the complaint has reached the right agency that can do something about it – 82 percent
3. Receiving acknowledgement of the complaint – 81 percent
4. Understanding how the complaint will be handled and options if it is not resolved – 81 percent

5. Speaking directly to a person who can discuss the complaint and discuss tracking procedures – 80 percent
6. Learning if there has been other complaints of the same nature – 76 percent
7. None of the above – 9 percent

Women have generally higher expectations for service by government agencies. So do more educated and higher income people and people who speak English, as opposed to French.

Consumers Find It Difficult to Identify Where to Complain to Government

About 68 percent of those surveyed found it difficult to find the appropriate government agency to file complaints to about their problems with goods and services they feel were misrepresented, unhealthy or unsafe. These views were fairly consistent based on income. But seemed to be more strongly held by women and older and more highly educated persons.

Only 3 percent of consumers overall said it was “very easy” to find an agency.

Low Confidence Government Can Help with Problems Involving Distant Transactions

Public confidence was low (84 percent) that government complaint handling systems would be helpful to consumers with a complaint pertaining to products or services through distant transactions from another province or a foreign country. Women more than men shared this concern, as did older, more educated and higher income individuals.

Most of those surveyed (79 percent) felt governments should provide the same or greater service to help deal with complaints regarding their distant transactions. Respondents were most likely to feel this way to see such trade facilitated and because they expect disputes emerging from differences in consumer protection to be ironed out by governments.

Consumers Understand and Accept They Take Some Risk with Distant Transactions, But Still Expect Government Protection

Consumers entering into distant transactions were prepared to accept some risk for doing so (71 percent) but 23 percent said they would accept no extra risk. Only 6 percent said they were not concerned about the risk. Women were more risk averse than men. Older and less educated people were more risk averse. Wealthier people were prepared to take more risk.

However, consumers were interested in seeing measures by government aimed at reducing their risk in distant transactions. They favoured:

1. National consumer complaint data bank for federal and provincial government agencies – 54 percent
2. International cooperative agreements on complaint information sharing and complaint handling – 51 percent
3. Frequent issuance of consumer complaint trends reports – 50 percent
4. Automated complaint handling systems – 48 percent

A mere 1 percent said government should be uninvolved and save tax money.

Strong Support Exists for Experimentation with New Consumer Complaint Handling Systems

Consumers somewhat (48 percent) or strongly (43 percent) agree (total 91 percent) that the various levels of government in Canada and non-profit consumer agencies should collaborate on experimenting with more inclusive and interactive consumer complaint handling systems. Consumers similarly agree that the existence of such a program would encourage more consumers to either come forward with complaints or become whistleblowers, informing authorities, news media or the public about fraudulent, illegal or unethical business practices. They feel equally strongly that their local, provincial and federal government representatives should adopt third-party complaint handling systems.

Respondents felt such systems would encourage firms to pay closer attention to compliance with consumer protection, competition, privacy and other laws and regulations. (89 percent)

The top-3 most mentioned changes in business behaviour consumers expected from such systems were:

1. Accountability to consumers/being responsible for their products/ensure product quality.
2. Increase consumer satisfaction/listen to them/comply with consumers' needs/feedback.
3. Acknowledging complaints seriously/being more responsive to consumers' complaints

Tellingly, respondents said the barriers to implement such programs in Canada would result from government rather than business conduct:

- Lack of communication among levels of government – 60 percent
- Resistance to putting resources toward providing consumer complaint handling – 58 percent

A significant share of respondents had concerns about the privacy implications and the costs versus benefits of such initiatives. (40 percent)

The Public Will Blame Governments, Not Corporate Lobbyists for Not Attempting to Improve Complaint Handling Systems

Only 1 percent thought corporate lobbyists were a barrier to a government decision to engage in such experimentation.

Accessible, Effective Third-party Consumer Complaint Handling System Believed to Foster Public Discussion of Consumer Problems and Make Consumer Organizations More Useful and Appreciated

The survey identified that 84 percent of respondents felt more accessible and effective third-party consumer complaint handling systems that encourage consumer engagement would lead to more public discussion on consumer problems and increase the utility and profile of consumer organizations.

The most significant things governments might do to develop more meaningful and mutually beneficial relationship ties with consumer and other organizations which are working towards marketplace fairness are ensuring (1) that all parties operate from the same levels of knowledge and (2) that lines of responsibility are clear to facilitate the efficient direction of complaints.

Governments Should Try Harder to Make Relationships with Consumer Organizations Work

Respondents felt governments should seek more meaningful relationships with consumer organizations in competition cases concerning consumer welfare and harm. (86 percent) They felt nearly as strongly that this should be the case for individual consumers, as well. (84 percent)

Respondents ranked the following as important measures by governments to ensure more opportunities for individual consumers and consumer organizations to weigh in on determinations of consumer welfare/detriment and other potential marketplace failures when new policies, laws and regulations are being formulated.

1. Public notices asking citizens to provide detailed comments regarding new government priorities (53 percent)

2. Contracting with consumer organizations to seek out independent, professional input (53 percent)
3. Requesting the public or consumer organizations to review and comment on positions (52 percent)
4. Conducting consumer surveys and focus groups (42 percent)

Consumers become most interested in engaging actively with a consumer group once they have a problem and after they have been unable to resolve it. (59 percent) However, about 46 percent see a point in taking a problem to a consumer group to help spare other consumers future difficulty.

While a significant share of respondents would turn to a consumer group to learn about their rights (45 percent), their identity as seekers of justice and policy and legal reform appears stronger.

Many Consumers See Investment of Fines and Regulatory Fees as a Way to Encourage Independent Analysis of Consumer Welfare/Harm

Respondents thought investment of fines from consumer and competition law compliance actions (55 percent) and fees collected by regulatory organizations (42 percent) might help encourage greater independent consumer welfare/harm impact analysis by independent consumer and public interest organizations. They felt the creation of an independent consumer commission to facilitate this would help, as well.

Business Practices, Not Business Sectors, Stand Out as Priority Consumer Issues — Except With Telecommunications

The 10 most frequently identified priority issues identified by consumers related to:

1. Warranty
2. Telecommunications monopoly and costs

3. Services/goods not delivered
4. Misleading and fake advertising
5. Price fixing/hidden fees
6. Poor quality products
7. Lack of good ways to file complaints
8. Slow resolution of complaints
9. Lack of information about problem businesses
10. Recurrences of the same problems, without them being addressed

Being cheated of value seems to be more top-of-mind, day-to-day for most consumers than product safety or health considerations. However, regulators should be troubled that if consumers encounter a serious health and safety problem, they find few good ways to file complaints, and, even then, slow resolution of complaints is a top issue for them. In addition, 9-12 percent of consumers present as a “persistently cynical” group (more likely to be younger, less educated, less affluent, and male) that say “nothing works”.

Case Stories

Super-Complaints

The U.K.'s Consumer and Markets Authority (CMA) introduced a unique inclusive and interactive complaints system referred to as “super-complaints”. The intent of the system is to capture complaint data and evidence indicating potential marketplace failures from sources external to government analysis and normal complaint handling procedures of the CMA.

The ability to submit a super-complaint to the CMA is embedded in primary legislation in the U.K., namely section 11 of the *Enterprise Act, 2002* (Enterprise Act 2002). It allows a number of designated bodies to submit a super-complaint to the CMA (and the predecessor body, the Office of Fair Trading). The U.K. model created by the Act provides procedures for the handling of complaint formation and complaints that offers some direct and indirect protection to both complainants and objects of complaints from abuse of the process and to enable complainants' ability to manage risks that could be inherent in launching a complaint. For example, the U.K. Enterprises Act provides ruling governing the confidentiality of a complaint."The program was expanded and adopted by several U.K. national sector regulators such as the Financial Conduct Authority (FCA), the Payment Systems Regulator (PSR), and the Office of Road and Rail (ORR).

For example, [Guidance and procedures for a 2016 super-complaint program](#) was adopted by the U.K. Financial Conduct Authority Payment Systems Regulator, authorized under the Financial Services Banking Reform Act (“Super-Complaints Guidance: Guidance for Designated Representative Bodies on Making Super-Complaint under Section 68 FSBRA” 2016).

Designated U.K. consumer and public interest bodies such as Which?, Citizens Advice and the Consumer Council for Northern Ireland can submit complaints with evidence of structural issues in a market that significantly harms the interests of consumers. The CMA or other sector regulators are bound by legislation to examine the complaint and within 90 days respond whether or not they agree with the evidence. If the regulator signals agreement, they must present a strategy for addressing the issue. The complaint and response, excluding the actual details of the investigation, are open to the public.

Two recent super-complaints have been settled by the CMA: one by the consumer group Which? in relation to misleading promotional pricing by grocery retailers (“Groceries Pricing Super-Complaint” 2016), and one more recently by Citizens Advice in relation to the ‘loyalty penalty’ (Davey and Jones 2018). A recent BBC article provided some insight into the complaint process and its direct impact on consumers (Peachey 2018).

Whether or not the regulatory authorities agree to proceed with follow-up investigations, the public filing of super-complaints can cause significant media attention and stir regulatory authorities to make recommendations to protect consumer interests. The very existence of the program and its high profile and public airing of investigations may prove to be a potent incentive for corporations to review their marketing and trade practices.

Researchers have recommended that European Commission authorities take a closer look at super-complaints as a means to advance competition authorities’ mandates to provide consumer protection. A relatively small administrative change to adopt super-complaints could go a long way in improving consumer welfare analysis, lead to more public discussion, and give

competition authorities a more formal route for dealing with consumer organizations (Hutchings 2007).

In 2017, the largest Australian consumer organization CHOICE recommended that specified consumer organizations be given a right under the Australian Consumer Law to make a super-complaint to the relevant federal, state or territory regulator under similar conditions of the U.K. super-complaint systems. This would be a much broader application of super complaints than implemented by the U.K., which has enabled super-complaint legislation for a few regulatory authorities. CHOICE has been piloting a form of super-complaint system through Memoranda of Understanding with New South Wales Fair Trading since 2011 (NSW Government Fair Trading and CHOICE 2011 – See Appendix C). In February 2019, a new super-complaints policy introduced by Shadow Cabinet Ministers received public support from business and consumer organizations (Leigh 2019), including the Australian Small Business and Family Enterprise Ombudsman (Carnell 2019).

While there is very little analysis available on the impact and performance of super-complaints programs, the potential benefits to consumer welfare appear to be obvious. However, the program is resource intensive, both from the perspective of the regulator who is bound by legislation to put its own priorities on hold to work on responses that must be completed within 90 days, and for the designated consumer group which must do months of evidence gathering before submitting a credible super-complaint that cannot be easily dismissed (Moorey 2018).

Based on the above observations a combination of factors would have to be in place to ensure viability of a super-complaints program:

- legislators willing to add legislative tools to enhance consumer protection.
- regulatory authorities willing, able, and adequately resourced to vet super complaints and provide a credible, thorough response within 90 days.

- strong, credible consumer organizations that are sufficiently resourced to meet designation criteria and carry out months of preliminary research to ensure their super-complaints regarding systemic market failures are not dismissed.

Consumer Financial Protection Bureau

The U.S. Consumer Financial Protection Bureau (CFPB) introduced a unique publicly available consumer complaint system and public complaint database that supports consumers in receiving timely responses to complaints about financial products and services when they have failed to get satisfactory responses by dealing directly with a company.

Consumers submit their complaints to CFPB and receive e-mail updates that track the complaint status. CFPB forwards the complaint and supporting documents provided by the consumer to the company. The company reviews the complaint and reports back to the CFPB on steps that will be taken to address the complaint. The consumer has 60 days to respond to the company response. CFPB publishes information about the consumer complaint on its public Consumer Complaint Database (“Consumer Financial Protection Bureau” n.d.) after the company has responded or after 15 days, whichever comes first.

CFPB’s original purpose for the Consumer Complaint Database was to give timely and understandable information about consumer financial products and services and improve the functioning, transparency, and efficiency of markets for those products and services. The Bureau deemed that adding consumer narratives to the database was consistent with and promoted this purpose (“Disclosure of Consumer Complaint Narrative Data” 2015).

This unique approach to inclusive, interactive, third-party complaint handling has several benefits for consumers, companies, regulators and policy analysts:

- Consumers are supported by a government agency in resolving their complaint and are assured the opportunity to seek and obtain dialogue

with the company on a public forum and share experiences with other consumers.

- Companies are given the opportunity to publicly demonstrate their ability to adequately resolve consumer issues in a timely and meaningful manner and can track their own internal complaint handling performance.
- Compliance and enforcement duties of both regulators and individual companies are leveraged due to public availability of the consumer complaint database.
- Consumers, regulators, and policy analysts have the ability to discern for themselves ‘trouble spots’ and make informed decisions accordingly.

The program has not been without challenges. As predicted, civil society and consumer organizations welcomed the open government approach. Financial products and services industries were less enthusiastic, citing privacy concerns and the potential for unwarranted damage to reputation due to erroneous or inaccurate consumer narratives. In 2018, following the changed U.S. administration, the CFPB Acting Director indicated he may eliminate public access to complaints and CFPB has issued formal requests for information that could also lead to withdrawal of public access (Weissmann 2018).

Other research (Porter 2012) cites the high resource costs for handling complaints, and the high expectations from politicians seeing this program as a one-stop solution to problems in the financial products and services industries. Another potential threat to the program is inaccurate consumer perception that it is designed to help them on an individual basis (Foohey 2017).

Finally, an early analysis of 110,000 consumer complaints handled by the CFPB in 2014 found the program useful in identifying timeliness of complaint handling by various financial institutions in relation to various demographics. (Ayres, Lingwall, and Steinway 2014). The overall value of the program based on the analysis was encouraging:

“Our analysis demonstrates that the CFPB’s decision to disclose the details about the complaints that it receives indeed serves the Bureau’s goal of enabling researchers to ‘analyze, augment, and build’ on the Consumer Complaint Database. The results of the study reveal significant differences among financial services providers on how timely they are in responding to complaints, and the extent to which consumers dispute those responses. Moreover, the underlying products being complained about and the issues consumers had with those products drove differences in company response time and percentage of disputes. Likewise, the demographics of a complainant’s ZIP code also drove significant difference in these key company variables. Given the CFPB’s power to regulate financial services providers, and its stated reliance on the Consumer Complaint Database as a key source of information about the marketplace, companies should heed these results and strive to improve their response processes for all consumers. Additionally, the CFPB should work to ensure that all consumers know about and have access to the complaint system, at the very least as a means of strengthening the feedback loop.” (Ayres, Lingwall, and Steinway 2014)

Resolver

A new private-sector, multi-issue, third-party, consumer complaint collection, distribution and management service entered Canada in November 2018. The company Resolver advertises itself as “the world’s biggest free complaint resolution service”. (“Resolver” n.d.)

Resolver is a U.K.-based company that offers free services to help consumers resolve complaints. They give consumers current information on consumer rights legislation or regulations applicable to their complaints, and help the consumer connect with the right business or government agency that will move them closer to resolution or potential redress. When fully operational in Canada it plans to cover more than 30 sectors (airlines, retail, telecommunications, travel, etc.).

The company has operated in the U.K. for more than 4 years. The service helps explain consumer rights, helps the consumer prepare e-mail complaint correspondence, and opens case files so that the consumer can easily track and trace correspondence. It boasts having served more than 2 million consumers in the U.K.

The company generates revenue by working with business to help them improve their customer experience. Data collected from the complaints they receive is used to create summary reports that companies can use to adjust client services and marketing practices.

It is too early to tell how Canadian consumers and consumer groups, governments and businesses will respond to this service. Resolver may well offer the one-stop, multi-functional, complaints-processing resource Canadian consumers and consumers in other countries request but to date have not received. (Cook 2018) Government consumer protection agencies may view the service as adjunct to their own communications and consumer complaint-handling systems or see Resolver as a potential applications service provider for receiving and processing complaints.

Canada's Specialized, Third-party Complaint Management Systems

This section provides an overview of some third-party complaint handling systems in the Canadian marketplace. There are several other third-party government and self-regulatory agencies that manage consumer complaints and attempt to help consumers seek resolution and redress. Most can be found in the *Canadian Consumer Handbook* published by the Office of Consumer Affairs, Innovation, Science and Economic Development Canada. (“Canadian Consumer Handbook” n.d.)

Several self-regulatory and government agencies exist to handle consumer complaints in some detail in specific sectors. Some of the more impactful agencies that work directly with high volumes of consumer complaints are Ad Standards - Canada (ASC), and the Commission for Complaints for Telecom-Television Services (CCTS) and the Financial Consumer Agency of Canada (FCAC).

Canadian consumer organizations also play an important role in referring complaints they receive and in analyzing publicly available complaint data to make interventions at public consultations and hearings.

Ad Standards

Ad Standards (ASC) is Canada's national, independent, not-for-profit advertising self-regulatory body, which administers the voluntary *Canadian Code of Advertising Standards (Code)*. ("The Canadian Code of Advertising Standards" 2016) The Canadian Advertising Advisory Board (later renamed Ad Standards) was founded by the Canadian advertising industry in 1957, and the Code was published in 1963. The Code, which has been updated several times over the years, sets criteria for acceptable advertising that is truthful, fair and accurate. It applies to advertising of products and services in any medium (i.e., radio, TV, newspapers, magazines, billboard, Internet, flyers, etc.) except packaging and labelling, political and election ads and advertising from foreign countries.⁵

The volume of consumer and other complaints is considered less significant to ASC than the nature of the complaint when undertaking review and assessments. Complaints about safety issues and unacceptable depictions or portrayals are handled in more detail. The complaint is sent to the advertiser, and, if the consumer is not satisfied with the response, they can request that the ASC Standards Council review that matter. The Standards Council consists of members drawn from the public and experienced advertising industry personnel. If the Standards Council upholds a complaint the advertiser is requested to withdraw the advertisement. Both consumer and advertiser are made aware of the decision in writing. Both can also appeal the Council decision.

⁵ Note: The Consumers Council of Canada is a member of ASC but involuntarily has reduced its engagement because ASC declines and other opportunities have not emerged to adequately facilitate and resource participation of independent consumer groups in ASC's governance.

Complaints under other code clauses can be handled less formally and can be resolved administratively.

ASC does extensive, detailed reporting of complaints received and their decisions. (“Recent Complaint Case Summaries – Ad Standards” n.d.) However, they do not publish complaints that have been found internally to be groundless and where no further action was deemed necessary.

Procedures are in place if an advertiser refuses to respond or participate in the complaint process. ASC can ask the carrying media to provide copies of the advertisement and render a decision in the absence of the advertiser, based on available information.

Failure of advertisers to comply with ASC decisions can result in ASC requesting assistance from the exhibiting media outlet to no longer exhibit the advertising, publicly declaring ASC findings, or referring the issue to provincial or federal government consumer protection agencies.

An interesting feature of ASC is its pre-clearance service aimed at preventing Code violations and ensuring advertisements are in compliance with federal food and drug legislation. Preventing complaints appears to be as important a focus for ASC as processing them.

Commission for Complaints for Telecom-Television Services (CCTS)

CCTS is a private, not-for-profit corporation incorporated under federal legislation with the mandate to help with a wide range of complaints in the telecommunications sector. (“About CCTS: Telecommunications Mandate” n.d.) It offers a free dispute resolution service with a typical 90% plus resolution rate. The service is funded by all participating telecom and TV service providers as required by Canada’s telecommunications and broadcasting regulator, the Canadian Radio-television and Telecommunications Commission (CRTC).

Complaint procedures are interactive. Consumers are contacted by CCTS if more information is required. If the complaint does not fall within CCTS’s

mandate they will ensure it is forwarded to an appropriate agency if one exists.

CCTS publishes a list of participating service providers and a list of non-participating providers who have not yet joined the CCTS system. (“About CCTS: Participating Service Providers” n.d.)

An accepted complaint is forwarded to the service provider with a request for a 30-day turn-around for response. Many complaints are resolved informally when the provider responds. In the case of unresolved complaints, the CCTS will launch an investigation and sometimes mediate to resolution. Written recommendations are followed by investigations and may include advising the provider to take action such as correcting a billing error. They may also recommend a service provider make a payment to the customer as compensation for any loss, damage or inconvenience suffered by the customer arising directly from the facts of the complaint (to a maximum of \$5,000).

Both the customer and the service provider have 20 days to consider the recommendation and decide whether to accept or reject it. If rejected by one or the other, or both, the CCTS will do a further examination and render a decision that is binding on the provider.

Financial Consumer Agency of Canada

The Financial Consumer Agency of Canada (FCAC) “ensures federally regulated financial entities (FRFES) comply with consumer protection measures, promotes financial education and raises consumers’ awareness of their rights and responsibilities.” (“Financial Consumer Agency of Canada” 2015)

FRFES include banks and federal credit unions, trust and loan companies, approved external complaints bodies (ADR Chambers Banking Ombuds Office; Ombudsman for Banking Services and Investments), insurance companies, and retail associations (*Cooperative Credit Associations Act*).

Consumer complaints play a role in compliance activities in two main ways:

- financial institutions are legally required to have a complaints management system in place and are required to report to FCAC under prescribed conditions.
- FCAC will investigate consumer complaints they receive directly that are related to a legislative provision, code or commitment, and refer other complaints to the appropriate financial institution for complaint handling.

In November 2018, FCAC announced it would take a closer look at the complaints handling processes of banks and external complaint handling bodies. (Ligaya 2018) Consumers Council of Canada, CARP, and FAIR Canada raised concerns that the complaints system favoured the banks and recommended that the federal government appoint a single, not-for-profit ombudsman for the retail banking sector.

Ontario Energy Board (OEB)

The OEB is Ontario's independent electricity and natural gas utilities regulator. ("About Us" n.d.) The Board has a strong focus on consumer protection, consumer engagement, and consumer communications.

Consumer complaint handling is a key priority. Complaints about disconnections are actioned within 24 hours and follow ups with the consumer take place within 48 hours. For all other complaints, companies are required to respond to the consumer within 21 days and provide a copy of their response to the OEB. If the consumer is not satisfied with the company's response, the OEB will escalate the complaint for further review. If consumer complaints or OEB enforcement activities lead to enforcement action against a company, the matter is published under the "Find Out Who is Not in Compliance" section of the Board's website.

A Consumer Panel is an interesting feature of the overall OEB consumer protection mandate. Panel members include residential and small business consumers from all parts of Ontario. They provide feedback on policies, programs and processes under development, give insights on public opinion,

and participate directly in the design of outreach and communications activities.

The Consumers Council of Canada is a frequent intervenor at OEB formal hearings and has found this process to be transparent, accountable, and receptive to promoting consumer interests. In addition, the Board has conducted policy discussions in formal hearings where intervenors could be funded to participate. From the perspective of consumer organizations, this process would be superior to participation in the Consumer Panel because funding is needed to provide evidence-based and value added professional advice from their advocates and specialists. There are very few multi-issue consumer organizations in Canada and they do not have the resources to offer free professional services at countless informal hearings.

Canadian Consumer Organizations

Canadian consumer organizations are generally not deeply involved in consumer complaint handling, though some will engage in mediating between consumers and business and providing legal, budgeting and credit counselling services. They play a valuable role in consumer complaint referrals (the Consumers Council of Canada operates an automated online system that refers complaints it receives directly from consumers to more than 60 potential complaint handlers) and by analyzing complaint data from various sources, to bring public attention to potential systemic marketplace failures through its interventions in government public consultations and hearings or those of agencies such as the CRTC.

VI

Opportunities and Challenges for Consumers and Regulators

“Clearly establishing a complaints system is not an end in itself.

Vijaya Nagarajan

“Complaints should never be taken as the primary driver for targeting inspections”

OECD

The introduction of super-complaints in the U.K. and Australia, more government transparency with elements of ‘reputational enforcement’ such as the U.S. Consumer Financial Protection Agency, sector-specific ombudsman offices, self-regulatory agencies, private-sector one-stop consumer complaint sorting and one-on-one complaint mediation by various other third-party consumer complaint handlers are all approaches in motion that indicate some form of collaboration and transparency with consumers and consumer organizations.

Yet for many of the multi-issue mainstream consumer-facing departments the standard formula – intake, process, triage, minimal contact with complainants, aggregated complaint and enquiry reporting – does not appear to have changed dramatically over the years. Regulators tend to pay little

regard to consumers and the detriment they experience once the complaint is filed. (Hutchings 2007)

For example, the larger federal departments and agencies with consumer-facing legislation such as ISED (in particular the Competition Bureau), Health Canada, and the Canadian Food Inspection Agency appear to be more distant in their consumer and consumer organization interactions, treating consumer complaints largely as a one-way process only – complaint in. With some exceptions, the government-consumer/public interaction generally ends at the intake stage. Consumer expectations are low, leaving the individual or consumer organization few options if they want follow ups and details on how the complaint was pursued – information that might allow them to build a stronger case for themselves in seeking resolutions and/or redress. In many cases the only formal alternative is to file an Access to Information request to seek information that could easily be provided by an open complaints data process or from detailed, disaggregated quarterly or annual reports.

Regulatory ‘Modernization’ Can Discourage Complaints

Apart from government agencies whose specific role is the handling and response to consumer complaints (i.e., Commission for Complaints for Telecom-Television Services – CCTS), federal and provincial government consumer agencies remain relatively distant and opaque in their complaint handling and reporting procedures. A cursory examination of annual reports from federal agencies that deal directly with consumer complaints reveals a tendency to aggregate complaints data into general and relatively meaningless categories. For example, the FCAC 2017-18 annual report notes the agency received 10,946 calls and written correspondence and it displays a half page breakdown of the top three complaint areas. (“2017-2018 Annual Report: Protect, Inform, Collaborate” 2018) The Competition Bureau’s 2017 annual report declares that the Bureau received 10,993 complaints and information requests with no breakdown of major complaint categories. (“Annual Report of the Commissioner of Competition for the Year Ending March 31, 2017”

2018) Health Canada's 2017-18 annual compliance and enforcement report for product safety reports the number of consumer and industry complaints separately but doesn't attribute which contributes most to identification of general problem areas. ("Annual Compliance and Enforcement Report Fiscal Year: 2017-2018" 2019) The Canadian Food Inspection Agency's Compliance and Enforcement Operational Policy ("Compliance and Enforcement Operational Policy" 2015) does not factor consumer complaints as a priority source of intelligence, yet on average the agency receives 2,000 reports from consumers concerning food safety each year. ("How It Works: Canada's Food Safety System" 2015)

Adding to the opaque culture is the ongoing trend for regulators to quietly withdraw from or greatly reduce proactive inspections and enquiries, ironically, to more 'risk-based' or responsive enforcement programs where compliance and enforcement priorities are determined by trends analysis and complaint data, regardless of whether the consumer could be reasonably expected to know they are being misled or harmed and file a complaint. An OECD report on regulatory and enforcement best practices warns against the replacement of monitoring and surveillance programs with complaints-driven compliance strategies: "... complaints should never be taken as the primary driver for targeting inspections...." (Organisation for Economic Co-operation and Development 2014)

For example, due to the absence of compliance/inspection data in the Competition Bureau's annual reports, and information from Council members' interactions with consumers and other consumer organizations, it appears as if the Bureau has greatly reduced or abandoned proactive monitoring and inspections under the Consumer Packaging and Labelling Act (CPLA), the Textile Labelling Act (TLA), and the Precious Metals Marking Act (PMMA) – three consumer protection statutes that directly address consumer misrepresentation and quality/composition standards in specific sectors of the marketplace. Unfortunately, consumers have no reasonable means of knowing if their consumer products are short weight (CPLA), their apparel is

made of cheaper and potentially allergenic fibres (TLA), or their 18K gold wedding ring is actually gold-plated brass (PMMA). A recent Access to Information Request initiated by a Council volunteer regarding the three federal agencies that have sole authority over the accuracy of weights and measures in Canada (Competition Bureau, the Canadian Food Inspection Agency, and Measurement Canada) revealed that over the past 10 years the Competition Bureau has carried out no net-quantity-verification inspections and the Canadian Food Inspection Agency and Measurement Canada have done very minimal net quantity commodity inspections. Consumers cannot reliably and accurately identify systemic shortages in weight or volume of prepackaged food and consumer products and therefore cannot reasonably be expected to file complaints. This scenario is playing out in Canada despite the fact that ensuring accurate weights and measures is considered to be the foundation of fair trade and commerce and consumer protection in all economies.

In late 2018, the provinces of Ontario and Manitoba revoked public health regulations designed to prevent unsanitary and dangerous filling materials in stuffed articles such as children's plush toys, mattresses and winter coats filled with man-made or animal fibres (e.g., down and feather). Both programs required importers and domestic manufacturers to register with the respective ministries and label each product with a declaration that it 'contains new material only'. During the existence of these programs, proactive inspections by these agencies uncovered vermin, bed bugs, mould, rust, and other unsanitary conditions that risk human health.⁶

⁶ Section 10 of Ontario Regulation 218/01: Upholstered and Stuffed Articles (scheduled for revocation July 1, 2019 states:

Prohibition on sale of unsanitary articles

10. (1) No person shall sell or offer for sale an upholstered or stuffed article that has been in contact with a person suffering from a communicable disease unless the article has been sterilized in accordance with section 19 or disinfected in accordance with section 20. O. Reg. 218/01, s. 10 (1).

(2) No person shall sell or offer for sale an upholstered or stuffed article that contains vermin unless the article has been sterilized in accordance with section 19 or disinfected in accordance with section 20. O. Reg. 218/01, s. 10 (2).

(3) No person shall sell or offer for sale an upholstered or stuffed article that is so soiled or is in such condition that the article is likely to affect adversely a person's health. O. Reg. 218/01, s. 10 (3).

The primary reasons given for revoking these regulations were (1) cost savings for businesses and (2) that federal regulations under Health Canada and the Competition Bureau, as well as general provincial consumer protection regulations, will ensure adequate consumer and public health protections. (“Upholstered & Stuffed Articles” 2019) However, these agencies do not duplicate registration and labelling requirements under the upholstered and stuffed articles regulations and do not carry out proactive inspections to specifically ensure filling materials in most articles are not a threat to human and public health. In addition, these agencies rely heavily on consumer complaints to set enforcement priorities. Again, consumers cannot be reasonably expected to determine the sanitary condition of fill in their sofas, mattresses, bedding and winter coats they are about to purchase.

There is some evidence that the number of inspections and inspection staff have been reduced in other government agencies and regulated sectors mandated to protect the public from harms that they cannot be reasonably expected to detect themselves, such as food safety, (Cotter 2016) (Kindy 2019) commercial vehicle safety, (B.C. Government and Service Employees’ Union 2012) and aircraft safety. (Boyle 2019) Concerns have been voiced about the de-regulation or anti-regulation trends leading to what U.K. author and academic Steve Tombs has called “the institutionalisation of a new form of regulation: regulation without enforcement”. (Tombs 2015)

Benefits and Challenges of Engaging with Consumer Organizations to Assist with Ensuring a Fair Marketplace

Governments do attempt to cultivate partnerships with consumer organizations on an ad hoc basis or, in some cases, by inviting consumer group members to participate on standing consumer advisory committees.

- The Office of Consumer Affairs (OCA) hosts annual or biennial events where multi-issue consumer organizations are invited to discuss consumer trends and hear presentations from federal consumer

agencies such as the Competition Bureau, the Financial Consumer Protection Agency, the Office of the Privacy Commissioner, and others.

- In 2010 the Canadian Food Inspection Agency convened a Consumer Association Roundtable that was designed to provide input into regulatory and policy matters. (“Action on Weatherill Report Recommendations to Strengthen the Food Safety System: Final Report to Canadians” 2013) The committee has since been dissolved.
- Several Ontario Delegated Administrative Authorities such as the Technical Standards and Safety Authority, Electrical Safety Authority, and Ontario Motor Vehicle Industry Council have permanent consumer advisory councils or appoint consumer representatives to their Boards.

However, there is scant evidence that governments seriously consider consumer organizations and consumer analysis as being of primary importance in contributing to a fair and competitive marketplace in Canada.

Funding for consumer organizations to provide timely and extensive consumer impact analysis on major policy issues is low to non-existent and governments do not appear receptive to innovative suggestions to close the gap. The Competition Bureau states that it ensures consumers prosper in a competitive marketplace (“Competition Bureau Canada - Home” 2005) but consumer bodies are seldom if ever consulted or heard from in competition cases. Consumer detriment is routinely discussed in court proceedings but independent analysis of consumer welfare/detriment is seldom called for. (Hutchings 2007)

Consumers and consumer organizations will often circumvent opaque and overly formal government third-party consumer complaint services to seek more immediate and efficient means available to them via social media (Pinto 2011). In his lecture on the future of consumer representation, Edmund Mierzwinski, Senior Director of Consumer programs at the U.S. Public Interest Research Group noted the enormous power of grass roots consumers and consumer organizations in the United States to effectively raise profiles of complaints and systemic marketplace failures and asymmetric information:

“Perhaps the area that offers the greatest opportunity is to figure out how to use the Internet to organize consumers—not just our members—but all of the victimized consumers who have stories to tell. We need to encourage more individual consumers to make rankings, or make blog posts or create “mybanksucks.com” sites. We then need to collect all those complaints and use them more effectively.” (Mierzewski 2010)

The explosion in blogging and podcasts could have a profound impact on informing consumers and pressuring politicians, corporations and governments. Though less structured and less reliable than information from domestic government and non-government agencies, blogs and podcasts transcend national boundaries and can have a regulating impact on business. (Nagarajan 2008)

Canadian public and private broadcast and Internet media such as CBC’s *Marketplace*, CTV’s *Consumer Alert*, and Global News’ *Consumer Matters* have highlighted effectively systemic marketplace failures and influenced legislators outside of formal government or self-regulatory complaint handling systems.

CBC’s *Marketplace* has been on air since 1972 and has been one of the most effective consumer watchdogs and influencers of consumer policy in Canada. The *Marketplace* blog provides deeper dives and follow ups into complaints and issues presented in a given segment and gives a forum for corporations to respond to the issues raised about them. (“Marketplace News & Updates” n.d.) The program airs Friday evenings. Controversial consumer issues raised in the program are often picked up by the Canadian Press and included in weekend newspaper reports, which in turn have led to Monday Question Period debates in the House of Commons and generated consumer ‘pile-on’ complaints to appropriate agencies. It has been credited with being influential in the banning of urea formaldehyde foam insulation and lawn darts, and new legislation and standards on exploding pop bottles, bottled water, drinking fountains, children’s sleepwear (flammability), and safer designs for children’s cribs. (“Marketplace (Canadian TV Program)” 2019) A newer related program at CBC is *Go Public*. A team of investigative reporters invite citizens to go

public with their complaints and if the issue is in the public interest they may pursue the story and “... go after who should be held responsible”. (“Go Public” 2014)

Early research is also underway to provide consumer-empowering artificial intelligence (AI) to combat potential consumer detriments resulting from the exponential growth of artificial intelligence being employed by firms and marketing companies. Labelled the “counter-power paradigm shift”, new AI technologies and ICT programs are being designed to help consumers and consumer organizations to detect and contest unfair uses of AI such as misuse of privacy data, unwanted monitoring and data collection, and discrimination in terms or race, gender, social or cultural status. Other programs are proactive by, for instance, assessing the trustworthiness of online consumer reviews of unfair clauses in online contracts. (Contissa 2018)

Corporations have long recognized the value of consumer complaints in helping to determine weak spots, gaps, and liabilities, and have made great strides in mining consumer complaint data, social trends, social media and other indicators to make course corrections in product innovation and service delivery. There is greater recognition that they are dealing with a new form of consumer who feels empowered and is well-aligned with and skilled in accessing the on-demand economy.

Many consumer-facing corporations are highly cognizant and reactive to innovative disruptions in various sectors that indicate greater consumer empowerment through mobile technology, social media, interconnectivity (Internet of things), innovative apps and websites, the sharing economy, the do-it-yourself culture, wearables and location monitoring technologies, and online customer communities. (Claveria 2019)

These companies are responding to the new realities of consumer empowerment by becoming far more responsive to consumer complaints through the introduction of rapid response complaint handling systems and by mining complaints data to improve efficiencies and forecast trends. Several firms are migrating from traditional complaint handling systems to

comprehensive integrated systems using a combination of services, including Artificial Intelligence and built-in analytics for root-cause analysis. (“A New Perspective on Utilities Complaint Management” n.d.)

If the desire is for governments, self-regulatory agencies and consumer organizations to improve decision making, increase efficiencies and promote best practices to increase consumer and social welfare, meet changing consumer expectations, and extract maximum value from consumer complaint data, it may be time for a shift in how they value, analyze, and utilize consumer complaint data and how they collaborate with consumers and consumer organizations.

Institutionalizing consumer representation in government operations and policy development, including complaint handling can be fraught with many challenges. A 2007 study of the formation and subsequent dissolution of the U.K. Food Standards Agency’s Consumer Committee (Rothstein 2017) outlined some of the difficulties in sustaining systematic consumer representation in a policy setting:

- Policy makers and consumer representatives may not have a common definition or understanding of what consumer representation is and what putting consumers first actually means.
- Information from consumer representatives may be considered of lower value because they may have less to offer than established actors with specific expertise.
- Recommendations from those in participative processes may be outside the remit of the regulator or in conflict with legal or operational principles and therefore viewed as “mission creep” and not viable.
- Regulators are required to balance private and public interests whereas consumer committees may assign greater weight to public interests.

It is also clear that the greater successes in integrating consumer organization input, analysis and support into consumer-facing government and self-regulatory bodies come from those jurisdictions with strong commitments to consumer and social welfare and strong, well-resourced,

independent consumer organizations (Nagarajan 2008). Consumer organizations such as Which(?) in the UK (“Expert Testing, Reviews and Advice from Which?” n.d.), Consumer Reports/Consumers Union in the U.S. (Consumer Reports n.d.) and CHOICE in Australia (CHOICE 2015) are well-positioned to provide an independent, evidence-based consumer voice from outside or inside policy arenas.

While this research does not directly determine how most Canadians would respond to specific more inclusive and interactive complaint handling models, it does ascertain that the public is open to some experimentation. To the extent these methods have demonstrated some cost-benefits in other jurisdictions, the public may be more satisfied experimenting with these new methods, because they may be thought more likely to be worthwhile. Complaint handling needs to be thought of by government as a service that will be judged in its own right by the same sorts of benchmarks consumers apply to other products and services they engage.

VII

Answers to the Research's Key Questions

Canadian consumers appear to be ready for disruption and innovation in third-party complaint management. Governments? Not so much.

Receptivity to alternative methods of complaint handling used by foreign governments

While this research does not directly determine how most Canadians would respond to specific complaint handling models used by foreign governments, it does ascertain that the public is open to some experimentation. To the extent these methods have demonstrated some cost-benefits in other jurisdictions, the public may be more satisfied experimenting with these new methods and consider them more likely to be worthwhile. Complaint handling needs to be thought of by government as a service that will be judged in its own right by the same sorts of benchmarks consumers apply to other products and services they engage.

Consumers somewhat (48 percent) or strongly (43 percent) agree (total 91 percent) that the various levels of government in Canada and non-profit consumer agencies should collaborate on experimenting with more inclusive and interactive consumer complaint handling systems. Consumers similarly agree the existence of such programs would encourage more consumers to

either come forward with complaints or become whistleblowers, informing authorities, news media or the public about fraudulent, illegal or unethical business practices. They feel equally strongly that their local, provincial and federal government representatives should adopt more effective third-party complaint handling systems.

Respondents felt such systems would encourage firms to pay closer attention to compliance with consumer protection, competition, privacy and other laws and regulations (89 percent).

Challenges and barriers in Canada to alternative methods

Consumers identify lack of collaboration among levels of government (60 percent) and resistance to spending on complaint handling as the main barriers to experiment with alternative models of consumer complaint handling (58 percent). A significant share of respondents had concerns about the privacy implications and the costs versus benefits of such initiatives (40 percent).

Experimentation might help to overcome these lesser perceived obstacles.

Would ‘super complaints’ process give consumer groups strong reasons to use their resources to identify consumer problems?

In Canada, a super-complaints process could give consumer groups strong reason to devote public and private resources they receive to identifying and addressing tangible consumer problems. However, this would require a build-up of resources for consumer groups who are currently severely constrained. Organizations that are designated as “super-complainers” in the U.K. are very well funded and staffed with legal and other experts capable of pulling together convincing evidence-based super-complaints that are likely to elicit positive responses from regulatory authorities.

Nonetheless, the public believes more accessible and effective third-party consumer complaint handling systems would encourage consumer engagement and lead to more public discussion about consumer problems, as well as increase the utility and profile of consumer organizations.

Would a super complaints process give consumer groups a focus for fundraising?

Consumer groups would have a focus for fundraising, where the outcomes of initiatives would be demonstrable, because of accountable processes associated with receipt of a complaint. This could happen if Canadian consumers could be mobilized to donate around some widely accepted problem. But the likelihood of this is up against fairly entrenched public attitudes about how consumer representation should be funded, and it's not out of the personal pocketbooks of consumers. Perhaps consumers' views about this would shift if there were several high-profile super complaints that resulted in highly popular public outcomes.

Popular thinking about funding such initiatives among the Canadians surveyed as part of this research was that investment of fines from consumer and competition law compliance actions (55 percent) and fees collected by regulatory organizations (42 percent) might help encourage greater independent consumer welfare/harm impact analysis by independent consumer and public interest organizations. They felt the creation of an independent consumer commission to facilitate this would also help.

Could a super-complaint allow a problem to be pursued for all consumers, while protecting the privacy of individual consumers, who may fear retribution in reaction to a personal complaint?

Enabling collective action through consumer groups is a way to keep individual consumers and their personal information a step removed from

resolving, and avoiding in the future, consumer problems. It lessens the point of attempting retribution against individual consumers when problems are raised by a group, both because of greater strength in numbers but perhaps more importantly because the problem can be addressed as an abstract, not personal issue. It is fairer, easier and more responsible to insulate capable groups with good governance from legal and other forms of retribution than to do so for individuals pursuing unexamined, personal, pecuniary interests.

Does a super complaint support the right of representation, and enable consumers to have a new opportunity to have themselves represented?

Yes.

Does a super complaint support redress and having a consumer take responsibility to seek redress, not just for themselves but for all unfairly treated consumers?

It's not clear that resolution of systemic complaints will result necessarily in redress or other reward for adversely affected consumers. However, some consumers seeking redress also demonstrate interest in seeing justice for other consumers similarly affected and may feel rewarded by systemic reform. Consumers become most interested in engaging actively with a consumer group once they have a problem and after they have been unable to resolve it, but about 46 percent of survey research respondents saw a point in taking a problem to a consumer group to help spare other consumers future difficulty. However, the magnitude of influence of this disposition on behaviour is to be proven.

Will consumer groups' collection of consumer experiences be enhanced by growing awareness that the sharing of those experiences could lead to meaningful, accountable public outcomes?

While Canadian consumer organizations are generally not in the business of handling complaints and helping consumers directly to seek resolution and redress, they rank equal to government agencies in terms of trustworthiness and effectiveness to assist in resolving a consumer complaint regarding a product, food, service, contract, consumer information, or advertisement. This holds true whether the consumer seeks out consumer organizations as a first contact or after they have tried to resolve the complaint with a product or service provider.

Consumers (84 percent of respondents) felt more accessible and effective third-party consumer complaint handling systems that encourage consumer engagement would lead to more public discussion on consumer problems and increase the utility and profile of consumer organizations.

Consumers are more likely to be influenced to complain and share consumer experiences with consumer groups when there is some likelihood of present or future personal gain from doing so. The survey research tells us that where their problems and complaints are concerned, consumers value the role of consumer groups as policy reformers relative to being purveyors of information to assist them in understanding their rights, although a large plurality of respondents find this purpose valuable.

Canadians are not confident government will act to protect them when they complain. Frequently they don't know how to launch a complaint with governments. Consumers felt strongly that having consumer organizations involved in complaint handling systems could encourage more consumers to come forward with complaints or for others to come forward as whistleblowers. By a wide margin, survey respondents felt systems involving consumer groups would encourage firms to pay closer attention to

compliance with consumer protection, competition, privacy and other laws and regulations.

Respondents felt governments should seek more meaningful relationships with consumer organizations in competition cases concerning consumer welfare and harm. (86 percent) They felt nearly as strongly that this should be the case for individual consumers, as well. (84 percent)

What are consumer attitudes and experiences related to government consumer complaint handling procedures?

The survey identified that 84 percent of respondents felt more accessible and effective third-party consumer complaint handling systems that encourage consumer engagement would lead to more public discussion on consumer problems and increase the utility and profile of consumer organizations.

Consumers believe their complaints assist governments, retailers, manufacturers, importers and other parties in ensuring Canada's marketplace is fair and competitive. They believe reliable and effective government complaint handling systems are important to their confidence in the Canadian marketplace. But while confidence in the top-3, most-trusted institutions involved with consumer complaints is high – courts, consumer organizations and government – a large minority of consumers are untrusting and even those trusting express fairly high levels of disappointment with government processes.

Most consumers in our survey tended to believe government agencies are only somewhat or not very or responsive at all to complaints filed against companies that misrepresent their products or services or sell products and services that are unsafe and illegal. Only 5 percent found government agencies to be fully accessible and responsive. About equal shares of consumers say government agencies are somewhat accessible as those who find them not very or not at all accessible and responsive. They understand and accept that

they take more risk with distant transactions and have low confidence that governments can help when there are problems with those transactions.

About 68 percent of those surveyed found it difficult to find the appropriate government or self-regulatory agency to file complaints about goods and services they felt were misrepresented, unhealthy or unsafe. These views were fairly consistent based on income but seemed to be more strongly held by women and older and more highly educated persons. Only 3 percent of consumers overall said it was “very easy” to find an agency.

How do they perceive the complaint handling in terms of transparency, responsiveness, efficiency, and public access with respect to consumer complaint trends analysis, results and resolutions?

Few consumers find government agencies to be fully accessible and responsive. About equal shares of consumers say government agencies are somewhat accessible as those who find them not very or not at all accessible and responsive. A lot of consumer expectations are defined by good service skills, like timeliness, clarity, acknowledgement, accessibility and a sense when government becomes involved it will be with a mind to protect all Canadians, not just a single one. Women have high expectations of the government to protect them.

How satisfied are they with resolutions when the complaints are about out of province or foreign country businesses and e-commerce transactions?

Public confidence was low that government complaint handling systems would help consumers with a complaint pertaining to products or services through distant transactions from another province or a foreign country. Women more than men shared this concern, as did older, more educated and higher income individuals.

How do consumer agencies in other advanced economies address consumer complaint management?

Advanced economies such as the United States, U.K. and Australia approach consumer complaint management in very similar ways as Canada – a mixture of national and sub-national government agencies with complimentary and overlapping responsibilities, delegated administrative authorities, self-regulatory agencies, ombudsmen or boards for regulated sectors such as utilities, telecommunications, banks and financial services. Anecdotally, if there were a distinction to be made between Canada and the others it would be the greater emphasis many other governments place on encouraging consumers to come forward with complaints when business fails to adequately respond. cursory examination of websites of the U.K. Consumer Markets Authority, the U.S. Federal Trade Commission (FTC) and their Consumer Financial Protection Bureau (CFPB), and the Australian Competition and Consumer Commission (ACCC) shows a more modern, consumer-oriented/consumer friendly approach to encouraging consumers to file complaints, helping them with their rights and applicable consumer laws and providing them with timely and helpful information and services on filing complaints to the appropriate agencies.

Governments in other countries have been open to experimenting with unique ways to include the public and consumer organizations in their complaint handling processes.

- In 2002, the U.K.'s Consumer and Markets Authority (CMA) introduced a unique inclusive and interactive complaints system referred to as "super-complaints". The intent of the system is to capture complaint data and evidence indicating potential marketplace failures from sources external to government analysis and normal complaint handling procedures of the CMA.
- In 2011 the U.S. Consumer Financial Protection Bureau (CFPB) introduced a unique publicly available consumer complaint system and

public complaint database that supports consumers in receiving timely responses to complaints about financial products and services when they have failed to get satisfactory responses by dealing directly with a company.

- Resolver, a private-sector, U.K.-based company that launched in Canada in 2018 offers free services to help consumers resolve complaints. They provide consumers with current information on consumer rights legislation or regulations applicable to their complaints, and help the consumer connect with the right business or government agency that will move them closer to resolution or potential redress. When fully operational in Canada Resolver plans to cover more than 30 sectors (airlines, retail, telecommunications, travel etc.).

What degree of public involvement do they support apart from the actual filing of a consumer complaint?

Australian Competition and Consumer Commission provides an interactive “Repair, Replace, Refund Problem Solver” that walks consumers through various scenarios to narrow down information on their experience and provide detailed advice and direction. (Australian Competition and Consumer Commission 2012) Most agencies provide template letters to help consumers develop succinct and effective complaint e-mails and letters. The U.S. Federal Trade Commission provides a detailed complaint assistant and actively encourages consumers to file complaints with a short video presentation. (Federal Trade Commission n.d.) The U.S. Consumer Financial Protection Bureau operates a public consumer complaint database that allows the public to view close to real-time data on consumer complaints and the financial service provider responses. The U.K. Competition and Markets Authority administers super-complaint legislation. A super-complaint is a complaint submitted by a designated consumer body that ‘any feature, or combination of features, of a market in the UK for goods or services is or appears to be

significantly harming the interests of consumers'. ("What Are Super-Complaints? - GOV.UK" n.d.)

Are there viable alternatives or best practices available that provide greater efficiencies?

The more specialized the economic sector the better the chance more inclusive and interactive third-party models can be engaged – or at least more individual dialogue with consumers and consumer organizations.

Agencies created by governments or self-regulatory bodies to handle consumer complaints in specific sectors (telecommunications, banking, advertising) are more likely to provide greater transparency to the public regarding the nature and disposition of complaints. Some models for complaint-taking and handling include the following:

- The Resolver model approach is appealing as a first-stop/sometimes-one-stop complaint brokerage since a common concern of consumers is to identify how and where to complain about their problems.
- The 'super complaints' model is appealing because it brings long-standing systemic marketplace failures to light and engages designated consumer organizations in preparing the ground work for further investigation.
- The Ad Standards model appeals as a more inclusive, interactive and transparent self-regulatory complaint management system. However, it currently fails to meet the objective of meaningful consumer representation within its operations. For consumer groups access does not equal meaningful participation without resources to support necessary capacity.
- Agencies with broader consumer protection mandates tend to report aggregated consumer complaints and enquires allowing no possibility for the public to ascertain trends or areas of concern. Social media has helped consumers bridge that gap by providing multiple online forums

that expose unfair or unsafe marketing practices, but organized attention to this information is required for it to become meaningful. Innovation, Science and Economic Development Canada is the de facto federal consumer affairs department and its Minister is the consumer affairs representative in Cabinet.⁷ (Legislative Services Branch 2005) ISED could take a greater leadership role by organizing a Government of Canada consumer advisory panel to address, among other matters, integrating and standardizing federal consumer complaint management systems that will allow analysis of cross cutting trends, help regulators pinpoint areas of concern, and inform consumers.

- Consumer complaints to third parties often reflect consumer frustration with business' inability or unwillingness to deal effectively with issues at source. This, despite ample private sector programs and material, as well as national and international standards that provide extensive guidance for customer satisfaction codes of conduct, complaint handling, dispute resolution, and complaint monitoring. (Head 2018) By the time the consumer reaches a third party their aspirations have often extended beyond resolving their own personal complaints to wanting to ensure other consumers do not experience the same issues, especially if misrepresentation or fraud is suspected. General guidance is available to governments such as the OECD's 'Consumer Policy Toolkit' which is a "...practical guide that is designed to aid policy makers in using a systematic approach to identify and evaluate consumer problems and to develop, implement and review effective consumer policies so that consumers can play their role in ensuring a dynamic economy". (OECD 2010) An international guidance standard on inclusive and interactive third-party consumer complaint systems could provide more specific assistance to help third-party organizations improve the timeliness and effectiveness of dealing with serious consumer

⁷ See Part I 4(1)(d) Department of Industry Act

detriments expressed through consumer complaints that may be otherwise missed or allowed to linger under current systems. The standard could provide a model for greater collaboration and engagement among consumers, consumer advocacy organizations, businesses and governments to target the most serious cases of consumer detriment due to failures in the marketplace. The standard may be particularly useful in countries that identify a greater need to actively engage key stakeholders to improve fairness and competitiveness in the marketplace.

- Finally, consumers often directly complain to consumer organizations with the aspiration that their complaints will influence marketplace reforms. With adequate funding, consumer groups can play a significant role in relaying consumer concerns through participation in public consultations. Governments and businesses would benefit from developing constructive relationships with consumer groups with the mutual objective of improving consumer satisfaction and confidence.

How do Canadian non-government agencies that receive consumer complaints view the efficiency of government complaint handling?

Small attention was given to this particular question in the research. However, an informant interview with an official from Ad Standards Canada – a non-government self-regulatory agency – said a close relationship exists with Health Canada and Canadian Food Inspection Agency food and drug regulators to pre-clear advertisements and administer complaint handling procedures.

Ample evidence exists that non-government organizations (NGOs) actually enhance efficiencies and save costs by limiting the volume of complaints that reach government agencies. They do so by screening out claims of doubtful merit, mediate conflicts, reduce court appearances and court costs, and lead

consumers to more efficient ways of settling disputes. A 2017 report on cost savings and other positive economic impacts realized by Pro Bono Law Ontario (founded by the Law Help Ontario) – a non-profit agency that represents unrepresented litigants – estimated \$5.16 million in cost savings in fiscal year 2015-16. (The Resource for Great Programs, Inc. 2017)

Consumer organizations now frequently intervene in areas where there is a high level of consumer complaints that governments cannot seem to prevent in regulated sectors such as telecommunications and banking. The Consumers Council of Canada, the Public Interest Advocacy Centre, and several other non-profit agencies advocating on behalf of consumers intervened in 2018 CRTC hearings on the inability of telecommunication companies, the CRTC and government agencies to adequately handle the number of consumer complaints regarding aggressive and misleading sales tactics. (“Highlights of the Report on Misleading or Aggressive Communications Retail Sales Practices” 2019) Also in 2018, the Consumers Council of Canada, FAIR Canada, CARP and other non-profit consumer advocates raised concerns about unfair complaint handling practices of Canadian banks. These interventions contributed to the Minister of Finance’s decision to conduct a review of banks’ complaints handling processes and the effectiveness of the external complaints bodies. (CARP, Consumers Council of Canada, and FAIR Canada 2018)

How do federal and provincial privacy laws impact on the transparency and level of public engagement in government complaints handling?

Government agencies introducing more inclusive and interactive complaint handling systems would seek to ensure compliance with federal and provincial privacy laws. This would particularly get attention when sharing complaint information between jurisdictions is involved, and with any parties external to government, including consumer organizations. Introduction of

highly transparent, detailed complaint data such as the CFPB example above, would likely entail extensive consultations with privacy regulators.

What are the important considerations for policymakers?

Agencies created by governments or self-regulatory bodies to handle consumer complaints in specific sectors (telecommunications, banking, advertising) are more likely to provide greater transparency to the public regarding the nature and disposition of complaints. Agencies with broader consumer protection mandates tend to report aggregated consumer complaints and enquires allowing no possibility for the public to ascertain trends or areas of concern. Social media has helped consumers bridge that gap by providing multiple online forums that expose unfair or unsafe marketing practices.

In some cases, government departments and agencies with consumer protection mandates are reducing or abandoning proactive monitoring of the marketplace and placing greater emphasis on complaints and policy options such as communications, self-auditing, mandatory reporting or general prohibitions. Yet, consumers cannot complain about what they cannot see or experience, and it is unreasonable to expect them to take the steps to assess compliance themselves (quality of precious metals, accurate weights and measures, sanitary conditions of fill in mattresses or apparel, safety problems in food and other products that are hidden from consumers). The absence or low volume of consumer complaints is not always a reliable indicator of consumer welfare. Collecting and counting consumer complaints cannot be considered substitutes for proactive enforcement where the consumer has no reasonable means of detecting if standards are met.

Consumers become most interested in engaging actively with a consumer group once they have a problem and after they have been unable to resolve it. (59 percent) However, about 46 percent see a point in taking a problem to a

consumer group to help spare other consumers future difficulty. This is the case despite the fact that in Canada consumer groups have low name recognition among members of the public. (Mercer and Whitehurst 2015)

While a significant share of respondents would turn to a consumer group to learn about their rights (45 percent), their identity as seekers of justice and policy and legal reform appears stronger.

The top-3 most mentioned changes in business behaviour consumers expected from such complaints systems were:

1. Accountability to consumers/being responsible for their products/ensure product quality.
2. Increase consumer satisfaction/listen to them/comply with consumers' needs/feedback.
3. Acknowledging complaints seriously/being more responsive to consumers' complaints

What would be required to introduce innovative consumer complaint handling systems that involved greater participation of consumer advocacy organizations and the public?

The most significant things governments might do to develop more meaningful and mutually beneficial relationship ties with consumer and other organizations that work towards marketplace fairness are ensuring (1) that all parties operate from the same levels of knowledge and (2) that lines of responsibility are clear to facilitate the efficient direction of complaints.

The survey identified that 84 percent of respondents felt more accessible and effective third-party consumer complaint handling systems that encourage consumer engagement would lead to more public discussion on consumer problems and increase the utility and profile of consumer organizations.

Respondents ranked the following as important measures by governments to ensure more opportunities for individual consumers and consumer organizations to weigh in on determinations of consumer welfare/detriment and other potential marketplace failures when new policies, laws and regulations are being formulated.

1. Public notices asking citizens to provide detailed comments regarding new government priorities (53 percent)
2. Contracting with consumer organizations to seek out independent, professional input (53 percent)
3. Requesting the public or consumer organizations to review and comment on positions (52 percent)
4. Conducting consumer surveys and focus groups (42 percent)

Consumers want consumer organizations to offer government independently produced evidence and analysis about their interests.

What are the challenges and arguments against making those changes?

The first step taken will need to be an acknowledgement that making these changes are necessary and will lead to efficiencies. But there is scant evidence that regulators are open to, or feel they have the scope of authority to make such changes unless there is public pressure and/or they are ordered by their Ministers. For example, the Minister of Innovation, Science and Economic Development intervened by directly ordering CRTC regulators to examine its complaints handling procedures that allowed such a high volume of consumer complaints regarding aggressive sales tactics by telecommunications authorities. Similarly, the Minister of Finance ordered the Financial Consumer Agency of Canada to examine its complaint handling procedures following interventions by consumer groups concerning unfair complaint handling processes for banking consumers...and just as CBC Go Public was reporting

cases of questionable bank practices to add creditor's insurance to client accounts, creating public controversy.

During informant interviews a Canadian business school professor cast some doubts that businesses would be amenable to government-mandated third-party complaint handlers automatically revealing greater details about consumer complaints and information such as timeliness of responses and consumer satisfaction with responses. Businesses may also resist the “reputational enforcement” or “naming and shaming” aspect of the process, and the potential for consumers to “pile on” complaints once they see complaints similar to theirs are being processed. Even when required by law such as the U.S. CFPB complaints data program or the CCTS open data program, regulated-sector businesses respond negatively to having their consumers' issues aired publicly. (LaMagna 2018)

However, public reporting can encourage providers to ‘up their game,’ and some use the information to demonstrate improvement and responsiveness to the public and its consumers. Australian opposition parties which vowed to introduce a super-complaints system similar to the various super-complaints programs in the U.K., are receiving support from small business organizations that hope to be designated super complainers themselves, along with consumer organizations, as a measure towards cleaning up unfair trading practices in their sectors. (Elmas 2019)

Improving relationships and fostering better partnerships with consumer organizations is dependent on stakeholders reaching a common understanding of what ‘putting consumers first’ actually means, a respectful attitude from established actors with specific expertise, and an understanding of the regulator's role to balance private and public interests. Expectations of stakeholders can also be codified by issuing clear terms of reference or, in the example of the U.K. super-complaints system, terms and conditions of designated authorities. While the survey results indicate that consumers have expectations of greater collaboration between governments and consumer organizations, government agencies appear reticent to embrace the concept in

any meaningful, consistent, or systematic way. And consumer organizations struggle to get enough funding and attract enough volunteer experts to adequately respond to a fraction of specific requests from governments for input on new or amended public policies.

What are the implications of not making those changes on consumers?

Canadians' experiences as consumers define their perception of their personal well-being. Safety, security and justice is a fundamental expectation Canadians have of the state. And yet Canadians' trust that government or business will see to their interests is low. They trust the judicial system to be fair, but they don't choose to use it because of its cost and inconvenience. Many of the top problems consumers identify result from questionable market practices that erode the benefits of competition in the economy.

Since Canadians rank their own protection as important, the lack of protection may signal to them that their tax dollars are poorly or not invested for the purposes they expect. For example, when unanticipated problems emerge as a result of lack of market surveillance and enforcement or ignored complaints, particularly around problems they cannot easily discern on their own, they will be surprised and disappointed. This is because, while they are accustomed to weak complaint handling by government, they often believe the government is protecting them when it is not and that business is bound to certain standards of conduct that it is not.

Research on citizen and business trust in government (Bouckaert 2012, OECD 2013) suggests that "...trust is not just something that happens to governments but something that governments can influence through their actions and policies". Failing to address the trust issues Canadians experience as consumers undermines their confidence in democratic institutions to represent them and the fairness of the country's markets-based economy.

The way these impacts are experienced depends on the contexts in which consumers' feelings of mistrust and dissatisfaction are felt, focused and expressed. Mistrust and dissatisfaction can lead to lower rates of compliance with government rules, aversion to accepting innovations, and suspicion of policy-making processes (OECD 2013).

VIII

Recommendations

Governments should place more emphasis on effective, inclusive and interactive consumer complaint handling systems to increase consumer confidence Canada's marketplace is fair and competitive

The survey conducted for this research shows that consumers believe their complaints assist governments, retailers, manufacturers, importers and other parties by helping to ensure Canada's marketplace is fair and competitive. Consumers say reliable and effective government complaint handling systems are important to their confidence in the Canadian marketplace. This study suggests that consumer confidence may increase when governments provide tangible evidence that their complaints lead to action, in the form of detailed reports, publicity (reputation-based enforcement), media coverage, or direct contact with consumers and consumer organizations to ensure they know their voice is heard and creates response.

This recommendation and others in this section of the report are consistent with recommendations by the OECD Committee on Consumer Policy's 2007 publication *Recommendation on Consumer Dispute Resolution and Redress*.

Some government actions that consumers favoured in the survey include:

- Informing the public on initiatives being considered to address high profile consumer complaints (e.g., telecommunications and banks carrying on aggressive and misleading marketing practices) and seek detailed comments as to how complaints should be resolved;
- Taking advantage of existing non-government platforms such as the Consumers Council of Canada's 'Consumer Agenda' for notice publications and dissemination;
- Contracting with consumer organizations to seek out independent, professional input into draft policies intended as responses to evidence of consumer detriment, and conducting consumer surveys and focus groups.

Governments, delegated administrative authorities and self-regulatory agencies should seek more meaningful relationships with consumer organizations and, where appropriate, institutionalize consumer representation in their consumer complaint management processes

Consumer organizations rank equal to government agencies in terms of trustworthiness and effectiveness to assist in resolving a consumer complaint regarding a product, food, service, contract, consumer information, or advertisement. This holds true whether the consumer seeks out consumer organizations as a first contact or after they have tried to resolve the complaint with a product or service provider.

Our research indicates consumers believe that the various levels of government in Canada and non-profit consumer agencies should collaborate on experimenting with more inclusive and interactive consumer complaint handling systems. Consumers similarly agree the existence of such programs would encourage more consumers to either come forward with complaints or become whistleblowers, informing authorities, news media or the public about fraudulent, illegal or unethical business practices. They felt that such

systems would encourage firms to pay closer attention to compliance with consumer protection, competition, privacy and other laws and regulations.

Improving relationships and fostering better partnerships is dependent on stakeholders reaching a common understanding of what putting consumers first actually means, a respectful attitude from established actors with specific expertise, and an understanding of the regulator's role to balance private and public interests. Expectations of stakeholders can also be codified by issuing clear terms of reference or, in the example of the UK super-complaints system, terms and conditions of designated authorities.

Governments, delegated authorities and self-regulatory agencies should be as proactive in handling third party consumer complaints as are the private-sector, consumer-facing firms who deal directly with their consumers

Many firms providing consumer products and services are responding to the new realities of consumer empowerment by becoming far more responsive to consumer complaints through the introduction of rapid response complaint handling systems and by mining complaints data to improve efficiencies and forecast trends. Several firms are migrating from traditional complaint handling systems to comprehensive integrated systems using a combination of services, including Artificial Intelligence and built-in analytics for root cause analysis.

Though it would be a more daunting task, there is scant evidence that federal and provincial consumer protection agencies, delegated authorities, ombudsman or self-regulated agencies are attempting to experiment with integrating consumer complaint data across agencies to maximize intelligence gathering and leverage compliance. There is also potential for governments to better utilize information and communications technologies to enhance complaint and intelligence gathering by, for example, using SMS messaging to

crowd source specific information from consumers on known problem areas and to create heat maps of potential risks.

Governments and other third-parties also may consider investing in the development of an international guidance standard on inclusive and interactive third-party consumer complaint systems

An international guidance standard on inclusive and interactive, third-party consumer complaint systems could provide more specific assistance to help third-party organizations improve the timeliness and effectiveness of dealing with serious consumer detriments expressed through consumer complaints that may be otherwise missed or allowed to linger under current systems. The standard could provide a model for greater collaboration and engagement among consumers, consumer advocacy organizations, businesses and governments to target the most serious cases of consumer detriment due to failures in the marketplace. The standard may be particularly useful in countries that identify a greater need to actively engage key stakeholders to improve fairness and competitiveness in the marketplace.

Government departments with broad consumer protection mandates should model some of the consumer complaint handling management systems employed by sector-specific Ombudsman offices and self-regulatory agencies that invest in transparent, inclusive and interactive complaint handling systems

Consumers judge government complaint handlers to be only marginally effective; they have low confidence that governments can deal effectively with their complaints about distant transactions. They find it difficult to find the appropriate government or self-regulatory agency to file complaints about

goods and services they felt were misrepresented, unhealthy or unsafe. And when they do find the right agency they believe it is not responsive. Only a small number find government agencies to be fully accessible and responsive.

Agencies created by governments or self-regulatory bodies to handle consumer complaints in specific sectors (telecommunications, banking, advertising) do a better job of providing transparency to the public in terms of timeliness and communicating the disposition of complaints. Agencies with broader consumer protection mandates tend to report aggregated consumer complaints and enquires allowing no possibility for the public to ascertain trends or areas of concern. Social media and private sector third parties have helped consumers bridge that gap by providing multiple online forums that expose unfair or unsafe marketing practices or offer one-on-one help to ensure consumers launch effective complaints. However, there are risks in this approach if credible players are not involved.

Some interesting organizations that may be worth benchmarking and/or modelling include:

- The Ontario Energy Board that engages consumers and consumer organizations to assist with consumer complaint management and integrates consumer involvement into its policy development, communications and research functions.
- The U.K. and Australian governments that have introduced ‘super-complaints’ systems whereby designated consumer organizations can gather evidence and submit complaints pertaining to systematic marketplace failures with the requirement that the complaint will be reviewed and a decision available to the public within a short time period of time.
- The U.S. Consumer Financial Protection Bureau (government) and Ad Standards Canada (a self-regulatory agency) that practice more open data policies, incentivize consumers to file consumer complaints, and

publicize follow up actions and proceedings that can serve as disincentives to non-compliant firms.

- Delegated administrative authorities and self-regulatory agencies that invite consumer organizations to participate in consumer advisory panels and on boards.
- Consumer organizations and private sector organizations such as Resolver that could provide timely and accurate guidance to consumers in the process of filing an effective consumer complaint, tracking documents and records of discussions, and seeking redress.

Governments can play an active role by working with and investing in consumer-empowered artificial intelligence and ICT programs to help curb consumer detriment before complaints arise

Evidence exists that new Artificial Intelligence technologies and ICT programs are being designed to help consumers and consumer organizations detect and contest unfair uses of AI such as misuse of privacy data, unwanted monitoring and data collection, and discrimination in terms or race, gender, social or cultural status. Other programs are proactive by, for instance, assessing the trustworthiness of online consumer reviews or helping to identify unfair clauses in online contracts.

Governments should ensure that reliance on complaints as primary indicators of consumer detriment does not become an excuse to abandon proactive surveillance and inspection

In some cases, government departments and agencies with consumer protection mandates are reducing or abandoning proactive monitoring of the marketplace and placing greater emphasis on complaints and policy options such as communications, self-auditing, mandatory reporting or general

prohibitions. Yet, consumers cannot complain about what they cannot see or experience. It is unreasonable to expect them to take the steps to assess compliance themselves (quality of precious metals, accurate weights and measures, sanitary conditions of fill in mattresses or apparel, and safety problems in food and other products that are hidden from consumers). The absence or low volume of consumer complaints can be unreliable as an indicator of consumer welfare. Collecting and counting consumer complaints cannot substitute for proactive enforcement where the consumer has no reasonable means of detecting whether standards are met. It is important to ensure that red tape reduction and regulatory streamlining of consumer protection legislation does not over-rely on consumers to complain – in particular in instances where it is unreasonable to expect consumers can discern detriment.

Impact and benefit-cost analyses should be conducted when assessing the various options for creating more effective, transparent, inclusive and interactive complaint handling systems in in Canada

Such impact and benefit-cost analysis would encompass, bring together, and compare both quantifiable and non-quantifiable impacts, costs, benefits, and related efficiencies that are noted throughout this document. There is no question that more effective complaint handling systems would result in some additional costs for governments, businesses, consumer organizations and other relevant civil society groups. These are noted in various sections of this study. Possible privacy costs, risks and threats would also need to be identified and mitigated. However, the literature review and survey results also indicate substantial benefits from improved complaint handling that may often be more difficult to quantify but would likely be substantial. Some of the major benefits for further investigation would include the following:

- Expanded consumer engagement, empowerment, education, literacy, and self-confidence as well as consumer trust and confidence in market fairness and competition, which can greatly enhance consumer acceptance of new and more innovative products and the role of consumers in driving competition, innovation and efficiency in Canadian markets.
- More frequent and higher quality consumer complaints generated by a system which: (1) screens out the complaints of dubious merit, (2) distributes and shares complaint and related information across regulatory agencies, consumer and other civil society groups and business associations, and (3) provides the high quality and more credible information needed by regulatory authorities, consumers organizations and other non-government groups (including the news media) to better target and increase the effectiveness of their investigative, enforcement, deterrence, surveillance, inspection, compliance promotion and other activities.
- Higher quality complaint information (combined with the related threat of expanded naming and shaming and related reputational effects) needed by businesses and their industry, trade and professional associations to improve, expand and sustain their compliance promotion, corporate social responsibility and related public interest programs.
- Potential for additional complaint handling costs of regulatory agencies to be offset by the enhanced targeting and effectiveness noted above as well as the role and contributions of consumer organizations and other NGOs in reducing the number of complaints and improving the quality of complaints that require administration by government agencies.
- Potential for the super-complaints and other improved systems that expand the mutually beneficial relationship ties between government, consumer organizations and other groups, and the business community to increase the effectiveness, visibility, legitimacy, and revenue earning

capabilities of Canadian consumer organizations and other relevant civil society groups.

- Longer-term potential for expanded public, political and news media attention to consumer complaints and detriment and related regulatory harm, to reverse current regulatory “modernization” processes and expand both government and non-government resources that are allocated to enforcement, deterrence, surveillance, inspection, compliance promotion and other regulatory activities.

Additional and related benefits for investigation are provided in an earlier section on the CFPB’s public Consumer Complaint Database.

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IX

Appendices

Appendix A

Public Survey Questions

SCREENING QUESTIONS

Thank you for agreeing to participate in our online survey. Please be assured that all information you provide here will be kept entirely confidential. This survey will take approximately **20** minutes to complete and your opinions on the matter are highly appreciated!

Please proceed (or NEXT button)

DOB1. What is your year of birth?

Select one response

Select Year (drop down _1917 ... _2010)

If 18yrs+ continue, otherwise thank and terminate

37. What is your province of residence?

- 01 Newfoundland and Labrador [Allow English only]
- 02 Prince Edward Island [Allow English only]
- 03 Nova Scotia [Allow English only]
- 04 New Brunswick [Allow English or French language of interview selection]
- 05 Quebec [Allow English or French language of interview selection]
- 06 Ontario [Allow English or French language of interview selection]
- 07 Manitoba [Allow English or French language of interview selection]
- 08 Saskatchewan [Allow English only]
- 09 Alberta [Allow English only]
- 10 British Columbia [Allow English only]
- 11 Other

IF SELECTED A PROVINCE (CODES 01 - 10 AT Q.37) CONTINUE, OTHERWISE TERMINATE

J. Do you identify as male or female?

Select one response

- Male 1
- Female 2

IND. Is anyone in your household employed in any of the following areas:

Select one response for each

<u>Randomize</u>		<u>Yes</u>	<u>No</u>
[]	Retail	<input type="radio"/>	<input type="radio"/>
[]	Provincial Government	<input type="radio"/>	<input type="radio"/>

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[]	Federal Government	○	○
[]	Travel/Tourism	○	○
[]	Real Estate	○	○
[]	Healthcare	○	○
[]	Telecommunications	○	○
[]	Manufacturing	○	○

continue TO SURVEY...

SECTION 1: SUPERCOMPLAINERS STUDY

GEN POP (18 YRS+) [N of 2000]

NATIONAL

This survey seeks consumers' views on attitudes and experiences on how consumer complaints are handled by Canadian governments and other third party complaint handlers today and whether greater engagement by individual consumers and consumer advocacy groups may lead to greater confidence in the Canadian marketplace.

This section covers the topic of consumer attitudes and experiences related to government and non-government consumer complaint handling procedures.

Q1 Have you ever filed a consumer complaint regarding a consumer product, food, service or advertisement with: a government agency (federal or provincial government, complaints commissions, ombudspersons); a non-government agency (Better Business Bureau, a consumer organization such as the Consumers Council of Canada, the Public Interest Advocacy Centre, Option consommateurs or Union des consommateurs); or a self-regulating agency that govern professions such as dentistry, financial services, investments, media)?

Select one response

- Yes
- No
- Unsure

Q2 How important do you think consumer complaints are to assisting governments, retailers, manufacturers, importers and other parties in ensuring Canada's marketplace is fair and competitive?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM 'UNIMPORTANT' TO 'VERY IMPORTANT' (1-4)

2) SHOW ORDER FROM 'VERY IMPORTANT' TO 'VERY UNIMPORTANT' (4-1)

- Very unimportant
- Unimportant
- Somewhat Important
- Very important

Q3 To what degree do reliable and effective government complaint handling systems contribute to your confidence in the Canadian marketplace?

Select one response

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SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM 'UNIMPORTANT' TO 'VERY IMPORTANT' (1-4)

2) SHOW ORDER FROM 'VERY IMPORTANT' TO 'VERY UNIMPORTANT' (4-1)

- Very unimportant
- Unimportant
- Somewhat Important
- Very important

Q4 Please rate each of the following for trustworthiness and effectiveness as they relate to assisting you initially to resolve a complaint regarding a consumer product, food, service, contract, consumer information, or advertisement?

Select one response for each

Least trustworthy and effective			Most trustworthy and effective
1	2	3	4
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Randomize list – show in carousel format

- Manufacturer or Retailer
- Social media (chat lines, online review platforms, Facebook etc.)
- Other media (television, radio, newspapers, blogs, internet news feeds etc.) [MUST IMMEDIATELY FOLLOW SOCIAL MEDIA]
- Government (consumer protection agencies, complaints commissions, ombudspersons etc.)
- Lawyer
- Courts
- Consumer Organizations
- Non-government organizations (self-regulated professional societies, Better Business Bureau etc.)
- Industry-provided arbitrator

Q5 Please rate each of the following for trustworthiness and effectiveness as they relate to assisting you to resolve a complaint regarding a consumer product, food, service, contract, consumer information, or advertisement once you have been unable to resolve it with the product or service provider?

Select one response for each

Least trustworthy and effective			Most trustworthy and effective
1	2	3	4
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Randomize list – show in carousel format

- Social media (chat lines, online review platforms, Facebook etc.)
- Other media (television, radio, newspapers, blogs, internet news feeds etc.) [MUST IMMEDIATELY FOLLOW SOCIAL MEDIA]
- Government (consumer protection agencies, complaints commissions, ombudspersons etc.)
- Lawyer
- Courts
- Consumer Organizations
- Non-government organizations (self-regulated professional societies, Better Business Bureau etc.)
- Industry provided arbitrator

Q6 To what extent do you think the following statement is true:

I feel some businesses take significantly unfair advantage of me in how they provide their products and services and handle my complaints about them?

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Select one response

Not true			True
1	2	3	4
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Consumer perception of government complaint handling systems in terms of honesty and openness (transparency), ease of understanding, ability to respond/react quickly in a helpful manner, efficiency, and ease of access to the general public with respect to consumer complaint trends analysis, results and resolutions.

Q7 How accessible (easy to find, and access and use) and responsive are government agencies when complaints are filed against companies that are misrepresenting consumer products and services or are selling products and services that are unsafe and illegal?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM 'NOT AT ALL ACCESSIBLE' TO 'FULLY ACCESSIBLE' (1-4)

2) SHOW ORDER FROM "FULLY ACCESSIBLE" TO 'NOT AT ALL ACCESSIBLE' (4-1)

- Not at all accessible and responsive
- Not very accessible and responsive
- Somewhat accessible and responsive
- Fully accessible and responsive
- Don't know

Q8a Thinking specifically of government agencies, what are your expectations of their complaint handling systems and rate each as to level of importance?

Select one response for each

Not at all important						Very important
1	2	3	4	5	6	7
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Randomize list – show in carousel format

- Receiving acknowledgment of the complaint
- Speaking directly to a person who can discuss the complaint and discuss tracking procedures
- Knowing that the complaint has reached the right agency that can do something about it
- Understanding how the complaint will be handled and options if it is not resolved
- Learning if there have been other complaints of the same nature
- Hearing back in a timely manner on progress or resolution

Q8b How easy is it to find the appropriate government agency to file your complaint regarding goods and services that are misrepresented, unhealthy or unsafe?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM 'VERY DIFFICULT' TO 'VERY EASY' (1-4)

2) SHOW ORDER FROM "VERY EASY" TO 'VERY DIFFICULT' (4-1)

- Very difficult
- Somewhat difficult
- Somewhat easy
- Very easy

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Complaint handling systems and distant transactions.

“Distant transactions” are the purchase of goods, services and digital content where the buyer and seller are geographically separated. This can include purchase over the Internet, via telephone, fax or mail. It does not include purchases through online classifieds such as Kijiji, because those transactions are typically completed in-person. The following four questions address consumer satisfaction and dissatisfaction with complaint resolution processes when the complaints are about out of province or foreign country businesses and e-commerce transactions.

Q9 How confident are you that government complaint handling systems can help you when your complaint pertains to products or services purchased through distant transactions from another province or a foreign country?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM ‘NO CONFIDENCE’ TO ‘HIGHLY CONFIDENT (1-4)

2) SHOW ORDER FROM ‘HIGHLY’ TO ‘NO CONFIDENCE’ (4-1)

- Not confident at all
- Somewhat confident
- Confident
- Highly confident

Q9i What degree of service should governments be able to provide when handling consumer complaints regarding distant transactions?

Select one response

- Less than if products or services were produced or sold domestically,
- Same degree as products or services produced or sold domestically
- Greater degree than when products or services produced or sold domestically

Q.9ii Please provide one or two main reasons for your response.

Type response below

Q10 Are you comfortable taking risks knowing that complaints may be less likely to be resolved when completing distant transactions?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM ‘NO EXTRA RISK’ TO ‘NOT CONCERNED’ (1-3)

2) SHOW ORDER FROM “NOT CONCERNED’ TO ‘NO EXTRA RISK’ (3-1)

- Will accept no extra risk
- Will accept some risk
- Not concerned about risk

Q 11 What should Canadian governments be doing to ensure consumer complaints regarding products or services purchased through distant transactions can be investigated as effectively as complaints against local manufacturers and retailers?

Select all that apply

- National consumer complaint data bank for federal and provincial consumer agencies
- Frequent issuance of consumer complaint trends reports that identify key sectors where complaints are heaviest as well as the type, nature of complaints and origin of products or services

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- International cooperative agreements on complaint information sharing and complaint resolution and follow up investigation and enforcement of consumer protection laws and regulations when warranted
- Automated complaint handling systems that provide consumers with trends data on similar complaints, resolutions and specific guidance on seeking resolutions such as the U.S. government's e-consumer.gov web portal
- Other, please describe _____

Trends are appearing in the U.S.A. and Europe where governments provide greater information on and access to their consumer complaint databases and give consumers and consumer advocacy groups a greater role in the complaints management processes.

For example:

- The U.S. Consumer Financial Protection Bureau lists its consumer complaints in a public consumer complaint database and updates it daily with information on the company reactions to the complaint, timeliness of company response and whether the complaint was resolved or the consumer has disputed the response. In addition, several U.S. agencies have introduced extensive protections and incentives for whistleblowers who reveal consumer fraud.
- Several UK government agencies with competition and consumer protection powers designate certain non-profit/non-government consumer advocacy bodies to submit "complaints on behalf of consumers" by providing evidence that certain features of a market for goods and services may be significantly harming the interests of consumers. The agency is obliged by law to provide a response within 90 days. The complaint and the response is provided to the public.

Q12 Would you like to see various levels of government in Canada and non-profit consumer agencies collaborate on experimenting with more inclusive consumer complaint handling systems of this nature?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM 'STRONGLY DISAGREE' TO 'STRONGLY AGREE' (1-4)

2) SHOW ORDER FROM "STRONGLY AGREE TO 'STRONGLY DISAGREE (4-1)

- Strongly disagree
- Somewhat disagree
- Somewhat agree
- Strongly agree

Q13 How much do you agree or disagree that the existence of programs such as these encourage more consumers to either come forward with complaints or become whistleblowers (note: whistleblowers are individuals who inform authorities, news media, or the public about fraudulent, illegal or unethical business practices)?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM 'STRONGLY DISAGREE' TO 'STRONGLY AGREE' (1-4)

2) SHOW ORDER FROM "STRONGLY AGREE TO 'STRONGLY DISAGREE (4-1)

- Strongly disagree
- Somewhat disagree
- Somewhat agree
- Strongly agree

Q14 Would you encourage your government representatives to adopt similar inclusive third party consumer complaint handling systems at your local, provincial or federal levels of government?

Select one response

SPLIT SAMPLE INTO TWO SEQUENCES:

1) SHOW ORDER FROM 'STRONGLY DISAGREE' TO 'STRONGLY AGREE' (1-4)

2) SHOW ORDER FROM "STRONGLY AGREE TO 'STRONGLY DISAGREE (4-1)

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- Strongly disagree
- Somewhat disagree
- Somewhat agree
- Strongly agree

Q15 Would such systems have an impact on encouraging firms to pay closer attention to compliance with consumer protection, competition, privacy, and other laws and regulations and/or their role in promoting and maintaining a fair and competitive marketplace?

Select one response

- Yes
- No

Q16 [If yes to Q 15, ASK:] What specific changes in firm behaviour and decision making would you expect to see?

Type response below

Q17 What do you believe would be some barriers to implementing such programs in Canada?

Select all that apply

Randomize

- Lack of communication among levels of government
- Resistance to putting resources toward providing consumer complaint handling and related programs and systems
- Concerns about consumer and firm privacy rights
- Lack of cost/benefit analysis
- Other – please explain _____ [SHOW LAST – EXCLUSIVE[]]

Consumers' view of greater participation and engagement by consumers and consumer advocacy groups in government consultations.

Q18 Despite the prevalence of social media and communication efforts by regulatory authorities and the mainstream media, only the highest profile cases that compromise consumer welfare reach the public. Would more accessible and effective third party consumer complaint handling systems that encourage consumer engagement lead to more public discussion on consumer problems and increase the utility and profile of consumer organizations?

Select one response

- Yes [CONTINUE]
- No [SKIP TO Q.20]

Q19 [If yes to Q18; ask:] In your opinion how might governments develop more meaningful and mutually beneficial relationships with consumer and other organizations that are working towards similar objectives of fairness in the marketplace?

Type response below

Q20 Consumer organizations are rarely heard from in consumer law and competition law cases and consumer welfare and consumer harm is often not given sufficient attention – especially in competition cases. Should governments be seeking ways to develop more meaningful relationships with ____?

- i. consumer organizations
- ii. individual consumers

Select one response for each

SPLIT SAMPLE INTO TWO SEQUENCES:

Super Complainers: Greater Public Inclusiveness in Government Consumer Complaint Handling

1) SHOW ORDER FROM 'STRONGLY DISAGREE' TO 'STRONGLY AGREE' (1-4)

2) SHOW ORDER FROM "STRONGLY AGREE TO 'STRONGLY DISAGREE' (4-1)

- Strongly disagree
- Somewhat disagree
- Somewhat agree
- Strongly agree

Q21 Governments will often consult business and business associations when conducting Impact and cost-benefit analysis on consumer welfare/detriment and other potential marketplace failures when new policies, laws and regulations are being formulated in order to avoid unintended consequences and consumer complaints. What measures could be taken to ensure there are more opportunities for individual consumers and consumer organizations to weigh in on this assessment process? Please rank highest to lowest.

DRAG AND DROP HIGHEST PRIORITY, 2ND HIGHEST, 3RD HIGHEST AND LOWEST

Rank Highest priority, 2nd highest priority, 3rd highest priority and lowest priority. Drag and drop.

<u>RANDOMIZE</u>	RANK (ALLOW CODES 01-04 TO BE RANKED)
Public notices asking citizens to provide detailed comments regarding new government policies, services, or information products	1.
Conducting consumer surveys and focus groups	2.
Contracting with consumer organizations to seek out independent professional and public feedback, perspectives and advice	3.
Requesting the public or consumer organizations to review and comment on positions articulated by business and business sector experts	4.

Q22 What are the circumstances under which you would most likely turn to a consumer group for help resolving a problem? DRAG AND DROP 1ST CHOICE, 2ND CHOICE, 3RD CHOICE AND 4TH CHOICE

Rank first choice, 2nd choice, 3rd choice and 4th choice. Drag and drop.

<u>RANDOMIZE</u>	RANK (ALLOW CODES 01-04 TO BE RANKED)
When I'm trying to find out my rights and understand my position, before I decide to talk to the government, go to court, or negotiate with the product or service provider giving me difficulty.	1.
After I have been unsuccessful in resolving a problem with a product or service provider giving me difficulty and I am trying to identify what I should do next.	2.
After I have been unsuccessful in both resolving a problem with a product or service provider giving me difficulty and obtaining enough help from a consumer protection authority to solve my problem.	3.
When I want to not only solve my problem but take action so other consumers don't have the same problem in the future.	4.

Q23 What measures do you feel might help encourage greater independent consumer welfare/harm impact analysis by independent consumer and public interest organizations?

Super Complainers: Greater Public Inclusiveness in Government Consumer Complaint Handling

Select all that apply

RANDOMIZE

- Directing a proportion of fines resulting from consumer and competition law compliance actions to independent consumer organizations so they can provide consumer research, education and advocacy to better ensure consumers are treated fairly and respect laws, regulations and standards
- Directing government funding to consumer advocacy organizations that have demonstrated the capacity or shown the interest and ability to develop the capacity to carry out credible research and make recommendations and be heard by business and government, representing consumers
- Directing fees collected from business by regulatory organizations to consumer organizations that have demonstrated the capacity or have shown the interest and ability to develop the capacity to carry out credible research, make recommendations and be heard by business and government, representing consumers
- The creation of an independent consumer commission to pursue consumer and public interest analysis is provided in policy initiatives
- Improving opportunities for and the conditions under which consumers themselves can contribute and will be encouraged to contribute on a tax-assisted basis (deduction, tax credit) to a consumer group or groups of their choice, to represent their interests.
- Other – please specify _____ [SHOW LAST]

Q24 If you were to make a consumer complaint today to government, a retailer or producer, consumer organisation, Better Business Bureau etc., what consumer issue would you address in your complaint and what improvements important to consumers would hopefully result from your complaint if the recipient of your complaint took appropriate action?

Type response below

Continue with next section

ASK EVERYONE

Now, just a few final questions to help classify your responses...

B. Please select the highest level of schooling you attended or completed.

Select one response.

No formal schooling	01
Some Public/Grade school	02
Completed Public/Grade school	03
Some Secondary school	04
Completed Secondary school	05
Some College/CEGEP	06
Completed College/CEGEP	40
Some University/post graduate	07
Completed University/post graduate	08
Other	98

Super Complainers: Greater Public Inclusiveness in Government Consumer Complaint Handling

N. Please check your annual household income from all sources before taxes.

[Dropdown list]

Select one response.

Less than \$50,000	1
\$50,000 to less than \$75,000	2
\$75,000 to less than \$100,000	3
\$100,000 to less than \$150,000	4
\$150,000 or more	5
PREFER NOT TO ANSWER	97
DON'T KNOW	99

R. In order to categorize your responses please enter your 6-digit postal code.

999-999 – DON'T KNOW

**THIS CONCLUDES OUR SURVEY.
THANK YOU FOR YOUR PARTICIPATION.**

Appendix B

Key Informant Questions Guide

Inclusive Third-party Consumer Complaint Handling

Background

The Consumers Council of Canada is carrying out research funded by the Office of Consumer Affairs of the Department of Innovation, Science and Economic Development Canada to examine receptivity to the adoption of innovative third party consumer complaint handling systems.⁸ The Council seeks your views on the benefits and challenges of introducing systems and processes that provide greater transparency (i.e., publicly available complaint and resolution data) and more direct consumer and consumer organization participation.

A primary information source for government consumer protection agencies and self-regulatory agencies is its complaint data. Reliable complaint data helps these organizations identify business practices, inform policy development, and detect unusual trends and sector or industry-wide patterns warranting investigation.

Some consumer protection agencies are increasing transparency and inclusiveness by making their complaints database public. For example, the U.S. Consumer Financial Protection Bureau (CFPB) significantly amplified the consumer voice by establishing a database to share customer complaints publicly online. CFPB has taken steps to make public customer complaint

⁸ The Consumers Council of Canada has received funding from Innovation, Science and Economic Development Canada's Contributions Program for Non-profit Consumer and Voluntary Organizations. The views ultimately expressed in the final research report will not necessarily be those of Innovation, Science and Economic Development Canada or of the Government of Canada.

narratives and institution complaint response data. These actions provide the public with important information and may encourage reticent consumers to complain and “pile on”. This program can incentivize financial institutions to strengthen their complaints program to avoid a public airing of disputes.

<https://www.consumerfinance.gov/data-research/consumer-complaints/>

In 2002, a “super-complaints” system was established in the U.K. government by the Office of Fair Trade (now Competition & Markets Authority). This system allows a designated consumer body to submit a complaint that “...any feature, or combination of features of a market in the U.K. for goods or services is or appears to be significantly harming the interests of consumers”. A program summary is at <https://www.gov.uk/government/publications/what-are-super-complaints/what-are-super-complaints>

Private sector organizations are also entering the consumer complaint handling environment, providing consumers with up to date advice on current regulations, their rights and responsibilities, and guiding them through the complaint process to an outcome. One organization poised to enter Canada in the near future is the U.K.-based Resolver <https://www.resolver.co.uk/>

Interview Questions

The purpose of this interview is to understand your individual perspective on inclusive and more transparent third-party complaint management systems such as the ones described above and the challenges or barriers that might prevent your organization from introducing similar systems into your consumer complaint management processes.

To prepare for your interview, you are kindly asked to review the following questions. These questions are meant to guide the conversation, and will inform the final report resulting from the Council’s research.

1. What degree of public engagement do you undertake after receiving consumer complaints? For example, publishing real-time complaint data to demonstrate to the public current trends and hot issues, or providing monthly or annual detailed consumer complaint data and statistics.
2. Do you believe that greater transparency and inclusiveness in your complaint handling and resolution processes such as those mentioned in the background would be beneficial? Please be as specific and detailed as possible in your answer.
3. What challenges would you foresee in introducing more innovative, inclusive or transparent consumer complaint handling systems that involve greater participation of consumers and consumer organizations? How could these challenges be addressed and mitigated?
4. Is there any other information that we should be aware of in this review?

Appendix C

New South Wales Australia Voluntary Agreement



**Fair
Trading**



Super Complaints Procedures

(A joint project between
NSW Fair Trading and CHOICE)



Super Complaints Procedure

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1. Introduction

The Super Complaints pilot is a joint project between NSW Fair Trading and consumer group CHOICE. The pilot builds on previous work that NSW Fair Trading and CHOICE have undertaken together and recognises the existing roles and expertise of both organisations.

This project will allow CHOICE to submit to Fair Trading evidence of conduct in the marketplace that is significantly harming consumers' interests.

The Super Complaints process provides a mechanism by which a Super Complainant (CHOICE) can submit to Fair Trading evidence of issues that are or appear to be significantly harming the interest of NSW consumers. Fair Trading will then assess the evidence and report on what action is to be taken.

2. What is a Super Complaint?

A Super Complaint is a formal complaint to NSW Fair Trading by the Super Complainant (CHOICE). The Super Complaint needs to represent an issue that is consistent with the current legislative and policy responsibilities of the NSW Fair Trading (NSW FT) portfolio.

In the formal submission, CHOICE needs to specify the reason(s) why they view a feature, or combination of features, of a market for consumer goods or services is, or appears to be, significantly harming the interests of NSW consumers, in areas of Fair Trading portfolio responsibility, supported where possible by documented evidence.

The main issue of a Super Complaint cannot be a matter which is primarily the responsibility of other NSW or Commonwealth Government agencies and Ministers. Complaints that are, or appear to be, frivolous or vexatious will not be accepted by NSW Fair Trading.

3. Super Complaint Process

3.1 Who Can Make A Super Complaint To NSW Fair Trading?

A Super Complaint must be made by the Chief Executive of the Super Complainant (CHOICE).

3.2 To Whom Should A Super Complaint Be Made?

A Super Complaint must be made in writing to the Commissioner for NSW Fair Trading.

3.3 Notice Of Intention To Lodge A Super Complaint

- The Super Complainant (CHOICE) is to give reasonable notice to NSW Fair Trading of its intention to make a Super Complaint.
- When deciding whether to submit a Super Complaint, consideration needs to be given to whether the Super Complaint option is the most effective and appropriate mechanism for addressing the issue involved. It may be that enforcing compliance with existing competition or consumer legislation would provide a more immediate and/or effective means of addressing the issue.

3.4 Responding To A 'Notice Of Intention To Lodge A Super Complaint'

- Upon receipt by NSW Fair Trading of a notice of intention to lodge a Super Complaint by CHOICE, the NSW Fair Trading Policy Unit officers will arrange to meet with CHOICE.
- The Policy Unit representatives, Manager – Consumer Protection Policy and Principal Policy Officer, will meet with Choice representatives to discuss the nature of the proposed Super Complaint and assess whether the complaint falls within the definition of a Super Complaint and is likely to be accepted by NSW Fair Trading.
- Once the Policy Unit officers determine that CHOICE's *notice of intention to lodge a Super Complaint* is valid, CHOICE will be advised to lodge a Super Complaint with NSW Fair Trading, as per the terms of the Memorandum of Understanding (MOU) – Super Complaints between CHOICE and NSW Fair Trading.

3.5 Making A Super Complaint

- When making a Super Complaint, CHOICE, must provide a submission outlining the details of its claim including documented facts and evidence to support the contention that the market feature(s) is or appears to be significantly harming consumers. Submission requirements are outlined below in point 3.6 – What Should a Super Complaint Include?
- CHOICE can request that NSW Fair Trading examine any evidence that NSW Fair Trading may hold which may support the Super Complaint. Such evidence may be provided to the Super Complainant in a pre-identified format.

3.6 What Should A Super Complaint Include?

When making a Super Complaint the Super Complainant must provide a paper outlining the details of its claim that a market for consumer goods (or services) has a feature (or combination of features) which is or appears to be significantly harming the interests of NSW consumers.

This paper should include documented facts and evidence to support the contention that the market feature(s) is or appears to be significantly harming consumers.

The Super Complainant should give consideration to include in its submission the following type of information:

- (a) Details of the market (nature of the good or service) to which the complaint relates and whether there are particular aspects of the good or service relevant to potential problems for consumers such as infrequency or high cost of purchase.
- (b) Whether the complaint relates to the market as a whole or only to certain suppliers or parts of the market.
- (c) How consumers' interests are harmed and an indication of the scale of detriment.
- (d) Whether all or only certain consumers of the relevant good or service are affected by the aspect(s) of the market to which the complaint relates.
- (e) Whether there is disproportionate purchase of the good or service by particular vulnerable groups of consumers such as the elderly or those on low incomes.
- (f) Available information on market shares by volume and value of suppliers in the relevant market for the good or service and information on changes in market shares over the past few years.
- (g) Evidence of barriers to entry to the market by existing or new suppliers.
- (h) Information on the level and impact of buying power in the relevant market and whether any benefits from exercising buyer power are passed onto consumers.
- (i) Details or information on:
 - current retail/wholesale prices (as relevant) for the good or service
 - discounts available to some or all consumers
 - different prices charged to different classes or categories of consumer
 - levels of price dispersion in the market more generally
 - price trends over the past few years
 - comparative information on different suppliers' prices and the timing of price changes.
- (j) Information (if available) on the general level of profitability of suppliers in the relevant sector for the good or service.

- (k) Any evidence of practices by suppliers in the sector that may be restricting or distorting competition in the marketplace.
- (l) Any evidence of high-pressure selling techniques or other sales practices that could be having detrimental effects on consumers.
- (m) Whether there are complex contractual terms for the good or service.
- (n) Whether the relevant good or service is only supplied together with other goods or services (rather than separately).
- (o) Details of any costs incurred by consumers as a direct result of switching to alternative suppliers of the relevant good or service, and evidence of the degree of switching.
- (p) Any available indicators of the general level of quality of goods or services in the relevant sector.
- (q) Any available indicators showing how well informed consumers in the sector are relative to suppliers about the quality and prices of goods and services offered by different suppliers.
- (r) Information relating to whether complex aspects of the good or service, the way in which it is supplied, or difficulties in assessing quality, presents particular problems for consumers.
- (s) Details of means of redress available to consumers of the good or service that have complaints, and their effectiveness.
- (t) Details of any codes of practice that apply to the industry responsible for producing the good or service.
- (u) Details of organisations, such as governing bodies, industry groups etc. that may affect and/or be affected by the market in question.

3.7 Accepting A Super Complaint

- On receipt of a Super Complaint, MES-FT will register the Super Complaint as an internal document for a response from Fair Trading.
- MES-FT will send an acknowledgement letter to CHOICE indicating receipt of the Super Complaint. They will advise CHOICE who will be the Fair Trading contacts for the Super Complaint i.e. the Manager – Consumer Protection Policy and Principal Policy Officer.
- MES-FT will allocate the Super Complaint to the Policy Unit for consideration and assessment.

4. Assessing a Super Complaint

- The Policy Unit will examine the contents of the Super Complaint to confirm whether the submission contains documented facts and evidence to support its complaint including relevant information as outlined in Schedule 2 of the MOU – Super Complaints.
- The Policy Unit will determine whether the evidence supplied in support of the Super Complaint is sufficient or whether further evidence is necessary.
- The contents of the Super Complaint and supporting evidence will be examined to see if it meets the criteria set out in the MOU – Super Complaints. All criteria must be satisfied for the complaint to receive Super Complaint status.
- The Policy Unit representatives will keep CHOICE informed of the progress on assessing the Super Complaint.

4.1 Possible Outcomes Of Assessing A Super Complaint

The possible outcomes of assessing a Super Complaint include:

- Recommendation to Government that it consider specific legislative or regulatory reforms;
- Launching a market study into the issue;
- Targeted investigation and enforcement action by NSW Fair Trading;
- Referral of specific elements of the Super Complaint to another body which is better placed to deal with the complaint (note that any matters referred to another body would be dealt with by that body in a manner that it considers appropriate); and
- Finding the Super Complaint requires no action.

4.2 Informing The Super Complainant Of The Assessment Outcome

Fair Trading is required to publish a reasoned response derived from the Policy assessment process to a Super Complaint within 90 calendar days of receipt of the Super Complaint.

Once the outcome of the assessment is approved, the Policy Unit will be responsible for providing the response to CHOICE and ensuring that the response is also placed on the Fair Trading website. A press release may also accompany the response.

4.3 Referring The Super Complaints To Fair Trading Business Units

- If the outcome from the Policy assessment process identifies that a '*targeted investigation and enforcement action by NSW Fair Trading*' is needed for the Super Complaint, the Policy Unit will refer the Super Complaint to the relevant Fair Trading Assistant Commissioner depending on the nature of the complaint.
- A time – frame for a response from the relevant Fair Trading Assistant Commissioner to the Policy Unit will be identified in the referring document.
- The Policy Unit will have the coordinating/liasing role between Fair Trading and CHOICE in matters relating to Super Complaints.

5. Processing a Super Complaint Referred to C&E

A Super Complaint that is referred to the C&E Assistant Commissioner by the Policy Unit will be processed as follows:

- Super Complaints will be given priority status and dealt with as a priority investigation, as per the Priority Investigation procedure, requiring processing in an efficient and timely manner.
- The C&E Assistant Commissioner will liaise with the C&E Director to allocate the Super Complaint to relevant investigators.
- The Super Complaint is to be processed within the time – frame identified by the Policy Unit.
- **Direct contact with CHOICE is not to be made by C&E officers.** Policy Unit representatives, Manager – Consumer Protection Policy and Principal Policy Officer, are to be contacted if at any stage during the processing of the Super Complaint it is identified that contact needs to be made with CHOICE. The Policy Unit officers will contact CHOICE on behalf of Fair Trading.
- The final investigation report for the Super Complaint is to be submitted to the C&E Assistant Commissioner for approval. The C&E Assistant Commissioner will in turn provide the Policy Unit with the recommendations from the Investigation report on the Super Complaint.

6. Informing the Super Complainant of Outcome

The Policy Unit will be responsible for informing CHOICE of the results and recommendations from the Super Complaint investigation. Results of the investigation will also be placed on the Fair Trading website.

7. Super Complaint on the Fair Trading Website

The NSW Fair Trading Website will contain information on any Super Complaints that Fair Trading has assessed and investigated. The Website will have details on:

- Current Super Complaints;
- Previous Super Complaints;
- List of Media Releases regarding Super Complaints;
- Market studies;
- Referred Super Complaints.

8. Super Complaint Project Contacts

Contact persons in relation to Super Complaint project are:

NSW Fair Trading: Diana Holy – ph: 9338 8948
Diana.Holy@services.nsw.gov.au

NSW Fair Trading: Jeremy Tucker – ph: 9338 8912
Jeremy.Tucker@services.nsw.gov.au

Glossary of Terms

Commissioner for Fair Trading	The NSW Commissioner for Fair Trading, NSW Department of Finance and Services.
Chief Executive	The Chief Executive of CHOICE.
Consumer	Consumer as defined under section 3 of the Australian Consumer Law.
NSW Fair Trading	NSW Fair Trading is a division of the Department of Finance and Services. Its function is to safeguard consumer rights, regulate specific industries and occupations, and advise traders on fair and ethical business practices.
Super Complaint	A formal complaint to NSW Fair Trading by the Super Complainant.
Super Complainant	A designated body, named in Schedule 1 of the Memorandum of Understanding – Super Complaints Pilot. A Super Complainant must be an independent and impartial consumer organisation, and act with complete integrity.