

SUMMARIES of 2017 WORKSHOP PRESENTATIONS

Canadian Partnership for Public Policy Oriented
Consumer Interest Research (PPOCIR)

Workshop

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Table of Contents

Thursday, December 7th, 2017

PRESENTATION SUMMARIES

I. Welcome and Introduction: The Path of PPOCIR in Canada.....	3
II. Evidence for Policy: What can we Learn from Complaint Analysis?	3
III. The Online Transaction: Dynamic Pricing, Chargebacks, and “Disruption”.....	4
a)Dynamic Pricing - Can Consumers Achieve the Benefits They Expect?	5
b)Consumer Redress, Chargebacks and Merchant Responses in Distant Transactions	5
IV.Disruption in an International Context: Digital Opportunities and Wicked Problems	6
V. Disruption and the Case for Benchmarking Quality	6
VI. Consumers, e-Commerce and SLAPPs: How and Why Did We Legislate?	8
VII. Graduate Student Session – Capacity-building	9
a)The Role of Social Media-oriented Internet Platforms as Regulators of Online Conduct through terms of Service Provisions, and the Regulation of Internet Platforms by the State	9
b)Market Disruption or Market Equalization: Knowledge Engineering and Artificial Intelligence for Consumer Empowerment.....	10
c)Online Consumer Reviews (OCRs) as Trust Mechanisms: Positioning OCRs as a New Regulatory Form, and Reviewing how OCRs are Regulated.....	11
VIII. Dining Disruption: Opportunities and Threats in Food Regulation	12
a)Food and Consumer Policy: Health, Safety, Fraud and Labelling	12
b)Disruptive Technology in the Food Services Industry	13
IX. The Sharing Economy	13

Friday, December 8th, 2017

THE PATH FORWARD TO SECURING SECOND STAGE SSHRC SUPPORT FOR PPOCIR RESEARCH

1. Immediate Priority - Letter of Intent Submission for a SSHRC Partnership Grant	165
2. Framing the PPOCIR “Story”	16
3. Brainstorming: Macro-Level Themes for PPOCIR	177
4. Additional Notes and Considerations	188
5. Longer-term Considerations for PPOCIR.....	18

Thursday, December 7th, 2017

PRESENTATION SUMMARIES

I. Welcome and Introduction: The Path of PPOCIR in Canada

-Kernaghan Webb (*Ryerson University*) and Bob Kerton (*University of Waterloo*)

This is the fourth and final annual workshop pursuant to the initial Social Science and Humanities Research Council (SSHRC) funding of the Public Policy Oriented Consumer Interest Research (PPOCIR) project. The first annual workshop was also held at Ryerson University, and now we have the honour of hosting the last workshop for the project. This year's workshop presents opportunity for us to review where we've come from, what we've accomplished to date, to discuss the latest set of research activities flowing from the project, and to determine next steps. It is hoped that this workshop will unearth a possible path forward with respect to "version 2.0" of the PPOCIR project.

II. Evidence for Policy: What can we Learn from Complaint Analysis?

-Professor Les Jacobs and PhD Student Matthew McManus (*York University*)

This presentation provided preliminary findings from an ongoing study of Ontario consumer complaints (from over 75000 respondents) that were submitted to Consumer Protection Ontario (CPO) between January 1, 2014 and December 31, 2016. Using demographic data available in 19,000 of the cases, the ongoing analysis of this dataset is guided by 3 key concerns: (1) finding relationships between different consumer categories (age, education, etc.) and the types of transactions they have problems with (financial services, consumer goods, etc.); (2) whether demographics and geography put consumers at greater risk of experiencing consumer problems; and (3) the factors that motivate consumers to express satisfaction or dissatisfaction with a product/service.

The data revealed that over 70% of respondents reported that their consumer problems were eventually resolved, which is surprising considering that many of the recourse mechanisms available to and used by consumers do not rely on courts and adjudicated decisions. However, initial analysis of consumer submissions reveals significant differences in the submissions between similar-sized urban centers. The analysis also reveals a variety of challenges faced by vulnerable claimants and specific groupings of Ontario consumers. For example:

- Milton and Brantford are similar-sized urban centers but there were considerably more complaints from Milton than from Brantford (over 220 vs. less than 175), which could partially be attributed to income and age differences between those urban centers.
- Vulnerable respondents submitted significantly more complaints related to consumer goods than all other claimants. They were also more likely to be told to write directly to sellers.
- Age seems to be an important factor in terms of how much compensation consumers received. Consumers over 65 received considerably more compensation than consumers between 15 and 29, perhaps because the compensations were related to household expenditures.

- The level of education seems to have a high degree of influence on whether consumers sought resolution with respect to their respective problems. Consumers with a master's degree were twice as likely as other respondents to pursue resolution.

These early findings point to promising and important avenues that require more in-depth inquiries of the CPO dataset.

III. The Online Transaction: Dynamic Pricing, Chargebacks, and “Disruption”

-Session Chair: Ken Whitehurst (*Consumers Council of Canada*)

A lot of attention has been focused on new ‘disruptive’ products and services facilitated by information technology. However, the Consumers Council of Canada points out that less attention has been given to how the transaction itself is being disrupted for the consumer. One important result is that consumers are facing new responsibilities about which they are unaware and unprepared. The council conducted two pieces of research examining how transactions are subject to disruption at both ends of the purchase experience.

a) *Dynamic Pricing - Can Consumers Achieve the Benefits They Expect?*

-Howard Deane (*Acme Metric Company and Consumers Council of Canada*)

<https://www.consumerscouncil.com/dynamic-pricing-download>

Big data offers a gold mine of opportunity for businesses, driving many marketing and pricing decisions. New online offerings often have obscure and easily bypassed privacy consent rules, involve difficult to enforce competition regulations, pose a lack of consumer awareness, and generate consumer confusion regarding benefits and costs. Big data can be easily abused. Consumers often give up personal information, overestimating the benefit and underestimating the downstream costs. This research focused primarily on consumer and expert views on how consumers can be better protected in an era of increased dynamic pricing. The methodology included an initial environmental scan and literature review and two questionnaires of the Council's Public Interest Network to determine general issues and possible solutions with dynamic pricing in the marketplace. An online survey of a representative sample of 600 Canadians by age, location and gender was used to obtain views on the fairness of a range of 10 types of dynamic pricing, including traditional discounting, more technologically enabled supply and demand pricing, and the use of demographic and personal information to set individualized prices.

The results suggest that the recent significant increase in price transparency most consumers gain from improved price information on the Internet, has resulted in a response from some businesses who profit from opaqueness. Certain retailers are looking for ways to combat the impact of well-informed consumers willing to shop based on price. Many dynamic pricing models exist, and their variants increase in a manner commensurate with increases in online shopping which provides new strategies that make use of big data, mobile technology and algorithms capable of detecting vulnerabilities by means of significant correlations. Systematic algorithms, combined with data hoarding, is an invitation for abuse, intentional or inadvertent. These results suggest a need for consumer protection tools, such as required durable price offers, mandated retention of transaction data with related pricing algorithms, and the introduction of a Dynamic Pricing Standard by standards organizations.

b) *Consumer Redress, Chargebacks and Merchant Responses in Distant Transactions*

-Denise Barrett (*Barrett Consulting and the Consumers Council of Canada*)

Consumer protection in electronic commerce varies according to payment choice (i.e., credit card vs. Pay Pal vs. electronic transfer). Each payment mechanism has its own set of rules of recourse in the case of a disputed distant transaction. This issue will gain importance as consumers continue to prefer to “point and click” rather than “park and haul” and as payment alternatives grow. Consumers reported to the Consumers Council of Canada an increase in instances in which consumers had sought a chargeback from their credit card company, and thought the issue resolved, only to have the merchant pursue third-party collection or legal action. This research aimed to show if and how protections varied by payment method and how well consumers understood those protections. A review of literature and legislation was conducted, in addition to interviews with card networks, card issuers, retired industry sources, banking dispute resolution firms, and companies that help reduce merchant losses in disputed or fraudulent transactions.

These results were used to create a consumer survey of 2000 Canadians, which asked about online purchasing and payment habits, disputed transaction experiences, satisfaction with how those disputes were resolved, and consumer knowledge of protections. Eight of 10 provinces were found to have specific laws allowing consumers to seek refunds from credit card issuers for properly cancelled transactions if the merchant is unresponsive. Protections offered by industry participants were found to be roughly equivalent. The consumer survey results demonstrated that 29 per cent of consumers sought reimbursement from a payment intermediary in the past 24 months, and most disputes were resolved satisfactorily with the merchant directly. About 20 per cent of disputes include payment intermediary involvement, and satisfaction levels were seen to rise with intermediary involvement.

Satisfaction was highest for consumers who paid through PayPal, and lowest for those who paid with debit. The survey responses also suggest that consumer understanding of credit card “chargeback” protections is low. This is likely the case because chargeback protections are often omitted from credit card applications, agreements, or websites. Consumers cannot take advantage of protections when they are not informed of their existence. Newer market entrants such as PayPal and Amazon provide greater clarity in how protections work - and provide better information about credit card chargebacks than most card issuers. Consumers who are “chargeback aware” tend to make more purchases. In contrast, those with no knowledge of chargeback protection are more likely to take no action to resolve disputes, are less satisfied with the resolution, and shop online less frequently.

<https://www.consumerscouncil.com/chargebacks-download>

IV. Disruption in an International Context: Digital Opportunities and Wicked Problems

-Derek Ireland (*Carleton University*)

The purpose of this presentation was to frame the global and ever-expanding digital economy as a “wicked problem”, which has implications that go beyond government policies, laws and regulations. The term “wicked problem” is used to identify complex, critical and persistent

problems that are ambiguous and difficult to solve (given their incomplete, contradictory, evolving nature and complex interdependencies). They attract a variety of differing perspectives from multiple stakeholder groups and usually have no unique, conclusive resolution (e.g. climate change).

While the rapid expansion of the digital economy around the world has created new opportunities, it also presents human societies with a set of complex, fluid and interrelated challenges that involve human and digital actors interacting, competing, cooperating and learning from each other. The digital interactions taking place in these global/borderless digital markets are facilitated by “black-box” digital technologies (e.g. algorithms), driven by the private sector, often not open to external scrutiny. Yet, these widely used technologies are recklessly relied on to make increasingly consequential decisions and are actively supported by consumers, who willingly trust them with vast amounts of personal information. Furthermore, the information asymmetry and potential biases that are knowingly/unknowingly built in to these technologies, along with the rising financial and international political clout of companies adopting and developing them are creating conditions that make it easier for companies to engage in non-competitive, socially exploitative behaviour (e.g. “blame the algorithm”). All this is happening without the corresponding development of effective public oversight mechanisms to ensure accountability

Hence, in the face of this wicked problem, there is a pressing need to develop regulatory regimes that are polycentric, inclusive, innovative, principles-based and “wickedly smart”. In addition, there need to be enhanced scopes and roles for: well-resourced and capable civil society groups; proactive corporate leaders; collaborative standards and voluntary codes of conduct; and whistle-blowing mechanisms to address information asymmetries.

V. Disruption and the Case for Benchmarking Quality

-Robert Kerton (*University of Waterloo*)

Disruption requires new consumer policy – yet any new policy needs to take account of where disruption raises new challenges and where it solves consumer difficulties, possibly removing the need for public regulation. Big data and behavioural segmentation (i.e., division of a market into groups based on the degree of a customer knowledge, or on previous market responses) are technical improvements in old sales tools. This provides sellers better methods of identifying behavioural weaknesses of consumers.

Disrupted goods and services are of three types: “search goods”, “experience goods”, and “credence goods”. Search goods are (familiar) items or services with quality the consumer understands, so the problem is to locate the best price or location. The disruption to *search goods*, (say by Amazon, Kijiji, Consumer Reports) *improves* consumer access to information (search techniques). Some problems exist (phantom search sites have indeed been created), but, on balance, disruption of *search goods* has had a net empowering effect for consumers. *Experience goods* are good or services one needs to consume before quality can be assessed: e.g.: restaurant meals or online movies. Disruption includes online reviews. These include truthful consumer experiences that help potential buyers. Unhappily, reviews often suffer from dishonest “crowdsourcing” where websites like Yelp are deliberately contaminated by false

recommendations (“astroturfing”). Specialist firms provide skillful deceptions for a fee. *Credence goods* oblige you to trust an expert’s appraisal e.g.: dentistry or a public good like defence or a weather forecast. Disruption of credence goods has introduced a new level of exploitation of consumer trust via false information (e.g., fake news on Twitter and Facebook or Google algorithms that grossly amplify the well-recognized confirmation bias). Reviews by credible consumer organizations and independent consumer protection agencies offer a promising solution to the disruption of credence goods. Even so, policies for international cooperation, new standards – preferably international standards - and a *National Customer Satisfaction Index* are urgently needed to mitigate ‘noise’, consumer fraud, and false information.

Disruption urgently requires a credible promise about the level of quality of new choices. Yet disruption creates a time of high ‘noise’. Noise erupts as accurate *and* as misleading information framed to affect decisions. The challenge – for individuals and for public policy – is to facilitate beneficial disruptions and to block those that are harmful, fake or otherwise decrease quality. A national program to benchmark quality is a strategy for reducing noise and for sharing information internationally about quality – especially the quality resulting from disruptions. It is vital for this to be a regular part of a firm’s activity *and* a national program too. From the point of view of an agile firm, as Albert Hirschman explained, there are three market responses, not just two. Response #1 is loyalty: If consumers like what they bought, they will buy it again. Response #2 is exit; if they do not like what they bought, they avoid repurchasing. There is, however, a third possibility, Response #3: consumers complain about what is wrong with their purchase. Agile firms, whether traditional or disruptive, offer solutions to consumer problems.

An agile business can conduct *defensive marketing* to learn of problems and make prompt improvements so that existing customers are satisfied. This can, in many cases, have a greater payoff to the firm than trying to find new customers. It accelerates positive quality change. University of Waterloo Graduate Student Cheryl Smith did some early Canadian research on this. Cheryl surveyed some 300 disappointed customers of three Canadian firms, finding that 81 percent of dissatisfied customers were not willing to repurchase - only 19 percent remaining loyal. However, when the dissatisfied customers were given the opportunity to voice a complaint (one that was heard), 84 percent were willing to remain loyal. Thus, there is often a business case for companies to make it easy for customers to complain by placing their phone number on the product, or less successfully, a web address. It is true that customer satisfaction is frequently out-sourced and the specialist firms that do the customer relations management (CRM) work are wildly different in quality. With respect to consumers who voice complaints, research demonstrates that the chance of a positive outcome has a very wide range. It is probably worthwhile to try for redress, staying on hold for, say five minutes or waiting one week to see if the web response is promising or off-putting. Importantly, the consumer rarely knows which firms are eager to make amends. One specially interesting case occurs where a disrupting firm fully understands the traditional seller has a poor reputation for customer satisfaction and introduces a better idea. Disruptive successes of Amazon and Ali Baba are directly related to superior redress policies.

There is also a *public* reason for benchmarking quality: the “wellbeing of everyone” case. In this situation, sellers with superior products can be rewarded, even as disreputable quality requires *less* regulation. This policy is a *National Customer Satisfaction Index* with credible, statistically

sound results for consumers. It is terrifically helpful for two very different challenges: markets controlled by oligopolies and those experiencing disruption. The policy is a key aid where consumers encounter switching costs, new noise, difficult documents, new imbalances in power, incipient monopolies, and disruptive market malpractices like hidden incentives to agents, information-throttling, or the routine planting of false reviews.

Public benchmarking of accurate information on quality is key in mitigating these problems. Thirteen countries have now adopted the American Customer Satisfaction Index (ACSI) system to encourage national quality. The regular publication of statistically-sound quality surveys immediately rewards sellers with superior offerings while giving firms an instant incentive for improving performance precisely on components of poor service experienced by customers. The ACSI can provide insight into changes in consumer perceptions of quality over time (e.g.: highly unbalanced electronic contracts, including those designed to transfers risk of software programming errors to the unsuspecting user). Statistically sound information from a National Customer Satisfaction Index allows consumers to move to suppliers with superior quality, whether traditional or disruptive, improving success for the best of sellers. Obviously, consumer well-being is much higher when consumers avoid scams and deceptions concealed by noise.

VI. Consumers, e-Commerce and SLAPPs: How and Why Did We Legislate?

John Gregory (former General Counsel in the Justice Policy Development Branch, Ontario Ministry of the Attorney General).

The crafting of consumer-oriented government policy uses variety of informal and formal consultation methods with internal and external stakeholders. Public participation is sometimes inhibited by special laws lobbyists get into place to prevent public participation. This is SLAPP legislation (Strategic Litigation Against Public Participation). The best time for consumer advocates to influence government policies is during the early stages of their development before recommendations are submitted to the legislature. This requires reaching out to and building relationships with the appropriate politicians, their political staff, and civil servants (where lobbying laws may apply). This presentation provides a walkthrough of the development and consultation process concerning two Ontario laws with significant consumer dimensions – the Electronic Commerce Act and the Protection of Public Participation Act (also known as the anti-SLAPP law).

The Electronic Commerce Act came into force in 2000 and was meant to *remove* barriers to e-commerce that existed in traditional law and not to regulate e-commerce transactions. The push behind the Act largely came from businesses rather than from consumer groups. Nevertheless, the law's development involved consultations with the consumer ministry and the Office of the Information and Privacy Commissioner. The proposed bill underwent additional scrutiny during committee hearings at the Ontario legislature. E-commerce law in Canada in the early 2000s was also influenced by the federal-provincial-territorial committee of ministers responsible for consumer issues and by the Consumer Measures Committee. Unlike the U.S., input from consumer advocacy groups was patchy in Canada. Even so, there were important cases where consumer policy reflected more robust consumer-oriented input. For example, public consultations with consumer advocates influenced amendments to the Ontario Consumer Protection Act. Too, amendments were made to Canada's Internet Sales Contract Harmonization

Template (approved in 2001) including refined disclosure requirements for vendors selling goods and services online.

In 2010, Ontario's Attorney General created an expert panel on anti-SLAPP legislation (Strategic Litigation Against Public Participation) to advise on how to address the issue of individuals or organizations misusing the legal system to silence free speech on matters of public interest. The panel's points of reference included Quebec anti-SLAPP legislation (in place since 2009), model legislation from the Uniform Law Conference of Canada, and a short-lived BC statute from 2001. The immediate push to develop anti-SLAPP legislation in Ontario was a well-publicized case - from approximately two years prior - in which a real-estate development firm claimed millions of dollars in costs from residents' associations and other public interest intervenors in an Ontario Municipal Board (OMB) proceeding. Though the OMB dismissed the developer's claim, the case put pressure on the government to act on SLAPP lawsuits. The anti-SLAPP panel received 31 written submissions as well as oral presentations from 8 groups or individuals, almost all from the consumer or public interest perspective. The panel's report gained urgency and credibility because of this input.

VII. Graduate Student Session – Capacity-building

- a) *The Role of Social Media-oriented Internet Platforms as Regulators of Online Conduct through terms of Service Provisions, and the Regulation of Internet Platforms by the State.*
PhD Student Madeleine Martin and Student Daniel Bartolomucci (Ryerson University)

Social media platforms (SMPs) such as those provided by Google/YouTube, Facebook/Instagram and Twitter are so well known and so frequently used, that they have almost become a taken for granted part of daily consumer interactions in the online public sphere. In signing up for SMPs, users are asked to read and agree to contracts known as the “terms of service” (ToS) or “end user licensing agreements, which represent foundational legal documents setting out the rights and responsibilities of both the users and the service provider. ToS agreements can be lengthy and complex. Evaluations of the reading levels needed to understand ToS find that a university degree is often required to comprehend provisions users must agree to *prior* to accessing the service. Perhaps for this reason, recent investigations have found that most users typically skip over reading internet ToS altogether. While perceived as “free” services, users are often unaware of the contractual terms that underlie use of social media platforms, and the powers of regulation that these agreements grant SMPs over online activities. Social pressures to use the services, combined with the sense that “everyone else is doing it”, may lead users to overlook the potentially problematic aspects of SMPs. Recent investigations have found that most users typically skip over reading internet ToS altogether. Given the increasing significance of SMPs as primary mechanisms for online interaction in the public sphere, a more systematic approach to state/non-state regulation of online public sphere activities may be warranted.

The research currently being undertaken has two investigative aims: 1) to determine the national and international regulatory tools governing SMPs and to make recommendations to address perceived gaps in statutory mechanisms; and 2) to explore the role of SMPs as a form of “privatized governance” directly administering the rights of users and business partners,

while overseeing information exchange occurring on their platforms. Some issues addressed by top SMPs in their ToS were seen to overlap with government regulation (e.g., hate speech, spam). A preliminary comparison of the rule-making and implementation capacities of government and social media providers suggests that there is a considerable degree of opaqueness in many aspects of SMP governance of users. Furthermore, there is little opportunity for user participation, and the “consent” that users provide is largely technical in nature, with few users reading or understanding the ToS. The sustainable governance framework, which recognizes roles for state and non-state regulation through a variety of rule instruments, institutions, processes, and actors, sometimes operating collaboratively, sometimes in a more adversarial dynamic, appear to be an appropriate lens of analysis for multi-level regulation. A mature and fully realized approach to sustainable governance moves from ad hoc multi-stakeholder governance to a more systematic, comprehensive and cohesive state and nonstate approach. This could conceivably be the next step in SMP governance.

b) [Market Disruption or Market Equalization: Knowledge Engineering and Artificial Intelligence for Consumer Empowerment.](#)

Selena Lucien (University of Ottawa and PIAC)

In his book *The Great Transformation*, Karl Polanyi argues that economic activity is embedded in social and economic context. He suggests that there is a double movement characterizing the market economy; markets evolve, change, and are disrupted through “embedding” or “disembedding” processes. Polanyi’s characterization of market transformation appears to accurately describe the current state of the legal economy. The legal world is undergoing a great transformation, with on the one hand, the forces of economic liberalism seeking to expand (i.e. digital technologies as new actors and knowledge sources in the legal market), and on the other, a call for social protection against these market forces as they: 1) attenuate political reform and normative commitment by government and the law society to address the access to justice crisis, and 2) spark fears that digital technologies will take over work typically conducted by lawyers will result in unauthorized legal practice. This transformation threatens to displace both the state, and the lawyers that are relied up by consumers as conduits of legal information and processes.

Within the context of market efficiency, digital technologies have significant influence on the legal market’s labour and supply. One example of an emergent legal technology is the small claims wizard, which simplifies access to small claims court, removing the need for a lawyer to facilitate the process. The small claims wizard tool aggregates data for the consumer (e.g., compiles forms, deadlines, PDFs online) in a way that is more digestible than if the consumer were to do the same on their own. One key limitation of these technologies is that for more complex claims, a lawyer may be needed. Literature on the topic has focussed on the potential for digital technologies to empower citizens; however, there appears to be little consideration of the extent to which this empowerment is in fact occurring. This area merits investigation because these technologies can reconfigure the relationship between the consumer and the legal system - in addition to constituting central forces being shaped by the law and society. The small claims wizard aims to equalize the playing field for litigants by reducing the monetary, technical, and financial barriers consumers may encounter trying to

access the court system, to improve the process for self-representing litigants, and to remove barriers for individuals with accessibility needs.

The Small Claims Wizard can also improve the ability for litigants to construct a legal narrative by asking specific questions that the technology translates into a succinct, grammatical description. These technologies are disrupting the long-held standard of law and the need for legal activities to be administered solely by lawyers. A survey of 100 consumers was conducted (with some having experience with small claims court, and others without any experience). There was a high receptivity to using the small claims wizard in future small claims litigation. Those with no prior small claims court experience were amenable to the possibility of using a digital tool to assist with future litigation. The Wizard might increase participation for some in this group. Respondents who reported themselves as being less likely to use a digital tool cited concerns related to (i) personal data collection and storage, and (ii) whether the software would be able to identify circumstances in which a client may require a lawyer. The survey results suggest that the technology represents a promising tool to increase consumer accessibility to justice and to improve confidence in the legal system.

c) Online Consumer Reviews (OCRs) as Trust Mechanisms: Positioning OCRs as a New Regulatory Form, and Reviewing how OCRs are Regulated

Master's Student Lukas Parker (*Ryerson University*)

This research project explored: (1) how online consumer reviews (OCRs) can fit within existing state and non-state regulatory arrangements; and (2) the challenges of using OCR as a non-state regulatory mechanism and how these challenges can be mitigated using non-state and conventional state-based approaches to consumer information. The project involved collecting and analyzing interview and survey data as well as surveying existing literature about the impact of OCRs on consumer and business behaviour.

An OCR provides publicly available information that is authored by a consumer about a supplier's product/service. OCR platforms, which are increasingly being used by consumers to help make purchasing decisions. Platforms offer a structured process for the collection and publication of consumer reviews. This information can not only improve consumer decision making, but it can also impact the behaviour of businesses. Given that OCR platforms are managed by private sector entities, they function as a new type of non-state behavioural regulating mechanism that is very different from conventional approaches to regulation (e.g., laws enforced by government agencies). For example, current laws regulate misleading/false advertising, but generally do not require that information on the quality of a business and/or its products/services be provided on a day-to-day basis, which OCRs can provide. Hence, OCRs are an important addition to the existing landscape of state and non-state regulatory actors and mechanisms.

In a sustainable approach to regulatory governance, the responsibilities, costs, and learning associated with governance require active participation by public sector, private sector, and by civil society organizations working systematically to achieve common public policy goals. OCRs can enable constructively cooperative and rivalrous interactions between businesses and consumers. However, OCRs also come with several deficiencies (e.g. intentionally deceptive/fake/misleading reviews, consumer blackmail of businesses and deceptive

practices by OCR platform operators). Each of these measures may require adjustments to laws and support for non-state approaches (e.g. an ISO online consumer review standard). Successful adjustments will help address regulatory governance gaps and enable a shift towards a more systematic, coordinated approach to regulatory governance.

VIII. Dining Disruption: Opportunities and Threats in Food Regulation

a) *Food and Consumer Policy: Health, Safety, Fraud and Labelling*

Professor Ellen Goddard (*University of Alberta*)

Agriculture and food systems are currently undergoing a disruption brought by technological change, with far-reaching implications for farming practices, environmental sustainability, diet-related disease, and market structure. For example, these technological changes to food systems have raised consumer policy concerns related to the labeling of food, including genetically modified (GM) products. Currently, under Canadian law, GM foods are not obligated to indicate which products (ingredients) are genetically modified, or to provide information regarding where these GM products are being sold. Some producers voluntarily label products “GMO-free” to tap into consumer fears regarding GM foods when, in fact, no GM version of the product exists. This lack of transparency in product labeling has only served to magnify consumer frustration.

Survey responses indicate that a significant proportion of consumers support increased transparency in labelling, although this proportion declines in response to the suggestion that consumers may have to shoulder some of the costs of accurate labeling. The state of Vermont introduced a mandatory GMO labelling requirement, which led many U.S. food producers to voluntarily label modified products. This ultimately led to the mandatory requirement for labeling in the US. The information could be on a website. In some cases, genetic modification to foods brings health benefits (e.g., new GM potato higher in vitamins A and E that does not produce known carcinogen acrylamides when fried) that may not be fully realized due to companies not wanting to sell and label the products.

Transparent labeling also mitigates fraud. Some experts have remarked that the more consumers demand of their products (e.g., organic, niche products), the greater the potential for food fraud. Blockchain technology can be used to fill gaps in consumer knowledge regarding the foods they purchase; however, most producers have no incentive to make this information publicly available. Innovations in meat and dairy products (e.g., meat-free chicken, lab-grown meat, soy/almond milk) have raised questions regarding misleading labeling (is “meat-free” meat actually meat?) and terminology, which has led to legislative changes in some jurisdictions. In Canada, legal amendments addressing food labeling (including proposals with strong consumer support) have provoked backlash from the food industry worried about costs of changing the mandated content. Technology, in combination with collaboration with the food industry, has the potential to increase consumer access to product information and resolve issues associated with the consumer right to know, a potentially positive outcome from the current food system disruption.

b) *Disruptive Technology in the Food Services Industry.*

PhD Student Shannon Allen (*University of Alberta*)

Fast food chains like McDonalds and Panera Bread are increasingly relying on self-service kiosks (SSKs) to improve process efficiency, order accuracy; to enhance the purchasing experience; and to reduce labour costs. At McDonalds, SSKs offer customers with calorie and pricing information for all available food options and remind customers about the total caloric content of their final purchase before they are asked to pay for their completed orders. This enables customers to make choices about which meal options, for example, offer the lowest calories and/or the lowest price.

SSKs can potentially open new avenues of interaction with customers that were not possible with standard person-to-person interaction at most fast-food restaurants. The growing deployment of SSKs provides an information-rich platform to experiment and investigate whether “nudge”-oriented interventions on SSKs (e.g. order of item listings, calorie requirement reminder) can influence customers to make healthier fast-food purchasing decisions.

This study relied on an online survey of 603 adult respondents across Canada. In addition to asking them about their fast food purchasing habits, the survey simulated the purchase of a meal (entrée, side, and beverage) at a SSK. Survey respondents were divided into 3 groups: one group given no calorie information, one group given calorie information and another group given calorie information along with a calorie reminder nudge that detailed the average calorie requirement for adults and children.

The survey responses revealed that the provision of calorie information along with the calorie reminder nudge was a significant factor that affected total calories purchased. While over 80% of respondents found the calorie reminder nudge to be helpful, respondents were unsure about whether the decision to include this nudge should be left to restaurants or be made mandatory by the government. Given that restaurants in North America have already been moving towards voluntarily disclosing calorie information, a policy requiring both calorie information and the calorie requirement nudge for electronic food ordering (including SSKs and online food ordering apps) would help consumers make healthier food choices.

IX. The Sharing Economy

Annik Bélanger (*Option Consommateurs*)

The sharing economy describes an economic model based on sharing, exchange, or using a product or service facilitated by a peer. The benefits of a sharing economy include an increased number of consumer choices (i.e., increased competition), relative inexpensiveness in comparison to alternatives, convenience, the tailoring of experiences to suit individual needs, and the ability to use products without having to own them. Shortcomings of the sharing economy include information asymmetry, pertinent regulation moving more slowly than innovation in the field, and the question of insurance and liability. The study aimed to explore the following research areas: the legal framework currently regulating the sharing economy, the protections

offered to consumers, best practices for governing a sharing economy, perceptions and knowledge of consumers regarding the laws designed to protect them.

Data was collected via a literature review, expert interviews, analysis of consumer protection legislation, and analysis of the terms of conditions of selected services (Uber, Airbnb, peer-shared parking, Askfortask, Part Time Pooch, and ShareShed), in addition to a sample survey of 1100 Canadians. The results suggest that consumers who use sharing platforms are less well protected in cases where a 3rd party merchant is involved. The applicability of consumer protection in these scenarios is determined by several factors, including the nature of the commercial activity, the type of contract and signatories, the status of the party entering into the contract with the consumer (e.g., is a sharing consumer a merchant? Is the contract a tripartite agreement?). The contract's terminology also matters (e.g., does the use of the term "enterprise" in lieu of "merchant" offer more protection for consumers?)

A review of provincial consumer protection laws reveal that sharing economy platforms may fall outside of the scope of that legislation. Consumers could potentially lose protections if the sharing economy contract is not considered a consumer contract that falls under the Consumer protection act. Consumers may lose, for example, warranties, internet sales contract protections, clear disclosure of terms of contract, the rule of evidence and remedies. In a similar vein, the sharing economy raises new issues concerning liability; sharing platforms do not purport to provide any service other than connecting individual peers who provide services to each other.

All sharing economy platforms examined in this investigation exercise sufficient control to visibly define them as intermediaries. Consumer survey revealed that most consumers used sharing economy platforms because they are cheaper and convenient, although they voiced fears regarding a lack of trust, being ripped off, and feeling less safe than when services were provided by a regular merchant. The survey also revealed that there is a gap in knowledge of consumer protection rights; consumers believe they have the same legal protections with sharing economy platforms as with traditional merchants. The overall results suggest that governments should modify regulations to consider the sharing economy business model, exert better protection for consumers, include a disclosure of information requirement, and promote harmonization of regulations between different levels of government.

Friday, December 8th, 2017

THE PATH FORWARD TO SECURING SECOND STAGE SSHRC SUPPORT FOR A NEW PARTNERSHIP INITIATIVE

ORIGINAL PDG

In 2013 The PPOCIR Partnership was created to provide evidence-based insight soundly based on (i) practical experience and on (ii) research from many disciplines - to improve public policy and consumer well-being. In the process it is expected that input from policy-makers, consumer advocates, the private sector, and researchers, will lead to new opportunities for Partnership development and novel strategies for enhanced decision-making. We are grateful to the Social Sciences and Humanities Research Council for support. Ever since 2013, expected Workshop outcomes included the following:

1. Participants will provide and obtain information in readily-understandable formats, and provide feedback on current PPOCIR research projects, including projects designed to increase Canada's research capability for the future;
2. Provide an opportunity to represent and network among Canada's PPOCIR community;
3. Members will gain a better understanding of the PPOCIR Partnership's objectives and how to devise - and participate in - the most promising steps the Partnership can take;
4. Participants will share the latest discoveries with other researchers and with practitioners interested in PPOCIR, to identify potential partners for their research needs;
5. Researchers who are expert in the rigorous methods of one specific discipline will meet and exchange ideas with advocates and research users, and develop inter-disciplinary research;
6. PPOCIR policy-makers will identify research areas that deserve attention.

SECOND STAGE SSHRC FULL PARTNERSHIP GRANT (PG) FOR PPOCIR RESEARCH

PPOCIR proposes a Partnership Grant (PG) to continue its work on supporting relevant, practical and rigorous consumer policy-oriented research by facilitating collaboration between a diverse range of researchers and partners from the public, private and civil society sectors. The Partnership's mandate along with its multi-party and multi-disciplinary approach to consumer policy issues have been key achievements with respect to its past success with obtaining SSHRC funding; it was ranked very highly (falling within the top 3 of all applicants) for the Partnership Development Grant.

What has PPOCIR achieved so far? We have:

- (1) developed an interdisciplinary network of researchers and practitioners interested in PPOCIR to support the conduct and dissemination of PPOCIR, with an end objective of improving public policy approaches pertaining to consumer interests;
- (2) produced dozens of research papers and reports focussed on the consumer interest;
- (3) regularly held multi-stakeholder workshops to explore research opportunities;
- (4) provided evidence-based positions for advocacy groups (consumer NGOs) and
- (5) influenced development of policy initiatives.
- (6) increased Canada's capacity to conduct consumer-interest research in the future through the CIR network and especially by developing graduate student research expertise.
- (7) mobilized consumer-interest research directly with participating consumer NGOs and with consumer policy agencies.

1. Immediate Priority - Letter of Intent Submission for the SSHRC Partnership Development Grant

- The Letter of Intent is an executive summary of the project.
- For the immediate purpose of meeting the February 15, 2018 Letter of Intent deadline, it is essential to clarify the research project's overarching story, and to specify broad, cohesive, relevant themes that the PPOCIR Partnership will address. This will help the Partnership put its best foot forward with respect to meeting the requirements of the 2018 SSHRC Grant.
- The Letter of Intent must demonstrate: (1) PPOCIR has the correct purpose and function; (2) we have written support from partners (institutions and individuals); (3) PPOCIR's growth and continuity shows an organization ~~that is~~ addressing an underserved, but critical, area of research; and (4) the importance of PPOCIR's research themes and objectives.
- If PPOCIR succeeds with the Letter of Intent, it will receive a \$20,000 grant to secure the brief.
- According to SSHRC, a common "stumbling block" between the letter of intent and the final application is the failure of applicants to secure written commitments from their partners. Another potential stumbling block identified by participants during the discussion is the degree of commitment of applicants.
- A clear PPOCIR "story" and direction will make it easier to attract and retain individual and institutional support in the academic, industry, government, and civil society communities. This will prevent the research group from spreading itself too thin.

2. Framing the PPOCIR "Story"

A. Draft Backstory

- I. Human societies are at a transformational point.
- II. Consumers are operating in an environment that is rapidly changing. Their ability to cope is considerably challenged in the face of rapidly changing and disruptive technologies as well as increasingly sophisticated markets.
- III. This transformation not only affects how consumers relate to markets (e.g., in the blurring of consumer and small business roles, such as with Uber), but also the outcomes consumers experience (e.g., environmental outcomes, health outcomes, class outcomes, reduced/stagnated bargaining power of consumers).

B. So What?

- The above story raises the question of how we can ensure the interests of consumers are included in the face of this rapidly shifting technological and market context.
- In exploring the new challenges that consumers are being presented with, it is important to apply multidisciplinary and multi-stakeholder perspectives to determine the distinct, evolving regulatory and governance landscape, including the roles of the public, private and civil society sectors.

C. Story Headline and Narrative?

- The discussion has raised several potential directions for the SSHRC submission (see next section), but we need a "point at the end" of this narrative. What is the central thematic message that we are conveying to SSHRC?
- The headline and accompanying narrative must demonstrate the concrete potential for the research to shed light on methods for improving consumer outcomes.

- D. Two headlines (drawing on discussion summarized in the following section) are:
- “Changing Role of Information in Consumer Interest”; and “Consumer empowerment in a Technologically Disrupted Marketplace”

3. Brainstorming: Macro-Level Themes for PPOCIR

- **“Disruptions”** – the implications of rapid changes in technology and in the marketplace for consumers. Technological changes are readily accepted and implemented without the necessary study of their long-term impacts. Civil society groups and consumer policy ministries lack the resources to thoroughly investigate these ongoing consumer disruptions.
 - “Emerging technologies” and their ethical, environmental, economic, legal and social implications is one of the 6 “Future Challenge Areas” outlined by [SSHRC](#). It is also a theme underlying many of the research projects supported by PPOCIR (e.g. sharing economy, online consumer reviews, nudging consumers via self-service kiosks). With a view to protecting and empowering consumers, what is the appropriate public policy response to these technologies?
 - It is also important to consider that these disruptions not only impact consumers, but the larger natural and social ecosystems they inhabit.
- **“Fairness for Consumers”** – a potential sub-theme. How do we structure digital markets so that they are not only efficient, but also fair and trustworthy for consumers? Do disruptive technologies favour “first movers” who might unbalance previous protections?
- **“Consumer empowerment and consumer responsibility”** Canada lacks the consumer research institutes and the testing agencies that exist in countries that score well in consumer empowerment. Regulatory systems, including government, not only protect consumers, but they can also empower them by creating spaces for consumers (via standards, disclosure laws, etc.) to make choices and take responsibility for those choices. It is true that consumers are at the receiving end of disruptive technologies and rapidly changing marketplaces, but they are also important drivers behind these changes. With increased access to information and the ability to share information, the consumer plays a role in regulation.

However, consumer protections have not kept up with technological disruptions (e.g. “black box”, increasingly pervasive algorithms). Consumer empowerment is needed to allow consumers to participate in public policy formation, and to help them make more transparent choices. What are the appropriate governance measures to not only protect consumers from the harsh impacts of this fast-changing market context, but also to empower and equip them to be active participants in reforming consumer protections? Where are disruptions ‘liberating’ for consumers, meaning that previous regulatory protections are no longer needed?

“Changing role and impacts of information” – is at the center of the PPOCIR discussions. The quantity, variety and sources of information that consumers are expected to assess, process, and respond to have increased dramatically. What are the public policy implications? Is resourcing an issue? Is there any prospect for Canada to create a national consumer research institute like those that exist in highly-empowered countries or are there other methods for facilitating success in the face of old and new challenges? Is there any prospect for overcoming the ‘public goods problem’ so that consumer NGOs can finance essential work on transparency and assess impacts of disruption on quality?

4. Additional Notes and Considerations

- The Sustainable Governance approach provides a potential cohesive theoretical framework for the 2018 SSHRC application and may offer PPOCIR a competitive edge over other applicants. The Sustainable Governance approach recognizes that governments, the private sector and civil society all have regulatory capabilities; governance that harnesses the unique capabilities of each to address a public policy problem – using a combination of instruments, institutions, processes and actors, working collaboratively or in a rivalrous manner – can be more effective than an approach which focuses exclusively on government regulations.
- It is important to have a historical understanding of the evolving role of the consumer, especially with respect to the ongoing shift in what it means to be a consumer. The term “consumer” has shifted to mean more than just consumption; consumers are also citizens and participants in society (e.g., purchasing a product can be counted as a vote that has regional and international implications for the environment, labour, etc.) Hence, there is an opportunity to reframe what a 21st century consumer looks like.
- The meaning of “consumer interest” is unclear. It may be worth defining the types of consumer interests PPOCIR is focused on (e.g. economic interests).
 - For example, “digital economies” may be too narrow a focus (i.e., it is important not to lose sight of emergent consumer issues not connected with the digital economy).
 - “Emerging technologies” may also be too narrow a scope (e.g., the 2008 financial collapse cannot just be attributed to new technologies).
- It may be worth exploring the consumer angle on problems such as globalization, income polarization, stagnant income growth, highly indebted households and a looming environmental crisis. But are these topics better served from a “citizen” angle? Is there sufficient space to explore how these issues intersect with consumer interests (e.g. public or private insurance)?

5. Longer-term Considerations for PPOCIR

- The interdisciplinary partnership approach has been a clear success in the PDG.
- The group might consider extending this triumph by recruiting research expertise on subject areas such as climate change and in disciplinary areas such as behavioral economics, industrial economics, anthropology, ICT, and computer science.
- One priority goal of the Partnership is to advance the field of consumer policy research.
- The Partnership needs to incorporate ongoing knowledge mobilization of research findings, engagement with consumer groups and public outreach as important long-term objectives.
- It is important to think about how to ensure the long-term feasibility of PPOCIR (beyond the SSHRC grant).
- We have yet to articulate and put into action a plan to integrate civil society organizations into the Partnership.
- Consumer associations need research and outreach expertise, but they have little room to take on additional administrative and overhead costs. It would be useful to build-in research and administrative support for consumer associations into the SSHRC application.
- International co-operation has been useful, especially with governmental consumer protection agencies and with setting standards. There is obvious potential in adding formal arrangements for international consumer-interest research and policy.

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