

# 消費者政策和新右派

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## 壹、前言

消費者在很多方面是所有新右派<sup>1</sup>專案計畫的重心，新右派移除許多社會限

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<sup>1</sup> 譯者註：政治派系上的左右翼之分來源於 1789 年法國大革命。在當年 5 月召開之首屆三級會議上，主張改革的第三等市民代表被安排在主持會議的國王左邊，由僧侶和貴族組成的第一、二等級代表則坐在國王右邊。這種位置的安排本來是沒有象徵意義的，但在隨後的政治詞彙中，人們卻逐漸習慣於把主張改革、革命的激進力量稱為左翼，而把主張秩序、穩定的保守力量稱作右翼（陳林等著，1998：23）。新右派的思想在 1970 年代中葉發展起來，它是英國柴契爾主義(Thatcherism)成長的發源地，包含兩股完全不同的觀點，一個是經濟自由主義(economic liberalism)，尋求揚棄凱因斯經濟管制主義和任何政府的干預措施，支持有限政府和自由市場的力量；另一個是社會保守主義(social conservatism)，基於傳統社會、宗教和道德價值，要求社會秩序和權威，關注於移民、犯罪、社會安全、賦稅等問題。(Jordan, 1993：2-3；Levitas, 1986：1-3)

制，就是為了使人們在開放市場中成為自由的消費者。公民權(citizenship)<sup>2</sup>--一個個體在社會中的位置，並非由社會和政治關係所決定，而是由消費者在市場中的地位所決定。本章將檢視英國柴契爾(Margaret Thatcher)和美國雷根(Ronald Reagan)政府消費者政策的發展，首先將介紹新右派的消費者政策觀點，然後再檢視消費者政策及存在於 1970 年代末期的消費者政策網絡(networks)的本質。本章亦將分析 1980 年代的政府如何挑戰這些政策和網絡，以及他們改變消費者政策的效果是如何。

## 貳、消費者和新右派

新右派思想中主要支柱之一（即使不是唯一）是自由市場經濟的建立。對新右派來說，自由市場是自由和公民社會的基礎。如同海耶克(Hayek)<sup>3</sup>於 1944 年的聲明：

人類對市場非人為力量的順服，在過去已使得文明有可能成長，否則文明不可能發展：由於如此的順服，我們每天均能幫助去建立比我們任何一個人能夠完全理解還更偉大的事物。

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<sup>2</sup> 譯者註：公民權係指擁有國籍的人所享有該國法律賦予的權利。做為公民的人們享有特權和參與該社會政治事務的權力（李少軍等譯，Gerald C. MacCallum 著，1994：248）。本段文字，作者係將傳統公民權的意義與消費者的地位建立關聯。

<sup>3</sup> 譯者註：海耶克（F.A. Hayek，1899-1992），奧地利學派經濟學者，一生提倡自由主義思想，1974 年以貨幣和經濟週期理論上的成就得到諾貝爾獎。在 1970 年代「停滯性通貨膨脹」發生之前，他的經濟學說一直不受重視，大家都關注在凱因斯的一般理論、以及總體經濟學觀念，強調政府應利用財政、貨幣政策工具，加強對經濟的控制。停滯性通貨膨脹發生後，凱因斯的方法已經無法解決經濟問題，大家才逐漸重視到海耶克的主張學說，並從中解釋許多凱因斯解決不了的問題。（<http://mail2.scu.edu.tw/~u9151207/pp9.htm>）

市場是經濟繁榮的推動者，也是個人自由的保護者。公民權不能與市場的運作相衝突，因此，個人權利的保護不應該是透過政治和法律機制，而是應該透過市場的途徑。市場形成一個敏感而分散的資源分配方式，因此比政府更有效率。

這個市場觀點對消費者政策具有重要的意涵。如同我們將看到的，在 1960 年代和 1970 年代，消費者政策被以消費者保護的觀點來看待，而通常這是從市場來的保護。因此，消費者政策是管制性的和積極性的。就新右派來說，消費者利益並非是市場的保護，而是透過市場的擴張。因此，消費者政策與解制(deregulation)、民營化(privatisation)和市場化(marketisation)有關。對佛得曼(Milton Friedman)<sup>4</sup>來說，管制(regulation)和消費者保護通常是對消費者利益有害的。這是因為管制機關被他們應該要管制的利益所俘虜，以及管制和消費者保護會增加價格和減少選擇。管制被視為是企業過多的負擔，同時並不會對消費者產生更多的好處。因此，Reagan 政府特別被委任去推動大量的解制方案。

新右派的消費者政策有三個相互關連的主要領域：第一個是我們可視為消費者政策的傳統舞台--消費者保護和管制。這包括安全、資訊和救濟等法律；第二個領域是消費者政策和公共部門，這明顯地較適合於英國，是有關試圖透過民營化、公共服務供給的市場化及稍後的公民憲章(citizen's charter)<sup>5</sup>，以增加消費者的力量；第三，由於新右派經濟政治和廣泛經濟結構的變遷，市場有了全面的改變。大體而言，新右派消費者政策是以擴張市場為基礎去擴張消費者的選擇。

然而，在企圖達成這些目標時，新右派政府們需面對既有的政策和政策網絡。整個 1970 年代，消費者團體，特別在美國，成功地促成消費者保護法，並建立了與政府的特別政策網絡。政策網絡是將團體和政府間關係加以分類的方法，他們

<sup>4</sup> 譯者著：傅利曼是 1976 年諾貝爾經濟學獎的得主，是凱因斯經濟理論的主要批判者，芝加哥學派經濟學者中最突出的一位。他認為要達成社會目標，市場比政府來得有效率。他的理論在政治方面的影響主要有五點：貨幣供給在製造通貨膨脹的角色；資本主義和自由的關係；政府介入的失敗；社會市場經濟的建議及有關政府的適當角色。(Ashford, 1993: 20-24)

<sup>5</sup> 譯者註：“公民憲章”是英國保守黨領袖梅傑於 1989 年上台執政以來，在行政改革方面所採取的重要措施。1991 年 7 月英國政府以白皮書的形式提出“公民憲章”，目的在於促使政府各部門提高效率，改進服務，重塑政府在公眾中的形象（張定淮）。其他如本文後述。

的範圍從非常地鬆散和開放且在本質上幾乎是多元的議題網絡到擁有數量有限的行動者及分享政策方向意識形態的封閉政策社群。1970 年代期間，整合相當良好的消費者政策網絡被建立於英國和美國，這使新右派消費者政策的成效受到了限制。新右派消費者政策的衝擊受到團體-政府既有互動模式、經濟和社會廣泛變遷及政策決定非預期結果的限制。雖然，我們清楚新右派的目標，但 Thatcher 和 Reagan 政府卻無法全部都達成這些目標。

### 參、新右派之前的消費者政策

在 1960 年代以前，消費者團體和消費者政策並不受到重視。1960 年代早期，由於許多發展同時發生，在美國消費者問題有了明顯地政治化。安眠藥、汽車安全和食物中的殺蟲藥等議題由於媒體報導，以及受到政治企業家如 Ralph Nader<sup>6</sup> 的突顯，被運用以顯示消費者和生產者的利益總是不相容。Nader 建立了一個團體和個體的網絡，在消費者議題上向政府施壓。

產品測試團體的成長和愈來愈受支持，以及消費者議題愈來愈具有政治重要性，使政治人物領悟到消費者議題具有選舉上的重要性。他們看到消費者議題可利用來提昇政治事業，而且消費者政策通常不需要太多額外的開支。結果，總統開始認真的處理消費者議題。Kennedy 總統提出消費者權利法案(Consumer Bill of Rights)，Johnson 總統將消費者法當做他總統選舉政見的重點。Kennedy 總統設立了消費者諮詢會議(Consumer Advisory Council)，Johnson 總統更進一步的創立消費者利益總統委員會(Presidential Committee on Consumer Interests)及消費者事務總統特別助理。國會也表示出對消費者議題的興趣，提出藥物、汽車安全、標示、玩具安全的立法，以及一系列的產品責任法案。在 1970 年代，國會總共通過了 11 項消費者法案。

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<sup>6</sup> 譯者註：Ralph Nader，有人稱之為美國消費者之父，為執業律師，於 1965 年參議員李畢科福(Abraham Ribicoff)召開的汽車安全聽證會中代表消費者發言，並促使美國通過「國家交通與車輛安全法案」、「批發肉類法」等。Nader 為美國消費者的利益，不折不撓的奮鬥，喚起民眾、組織民力，揭發大企業之秘密，促使美國消費者保護運動如火如荼的展開，成為全民運動迄今，那段時期人們亦稱之為「消費者的成就時代」。(陳鴻瑜節譯，Feldman 著，1983：9-10)

當消費者議題開始取得政治議程中較重要的角色時，消費者團體也開始視需要與擁有豐富資源的既有團體建立聯盟。在美國 ALF/CIO(勞工聯盟/工業組織協會)在很多議題上支持消費者團體，並提供資金、組織和使消費者運動能更有效地遊說的合法性。消費者運動和勞工運動開始提供相互支援。工會有資源、專家和與政府的聯繫；消費者運動則具有提供廣泛支持基礎的潛能，可以為工會提升更大的合法性。

結果，消費者政治從單純是技術議題發展到具高度爭議性的政治議題。消費者政治不再與產品有關，而是與在所有政府層級創造消費者代表和挑戰企業力量的方法有關。在 1966 年，國會頒佈了四項消費者法律，依據 Vogel 的說法：「這些法律祈求規範企業社會行為的聯邦立法開始增加，而這些行為已持續超過十年未受干擾。」這種政治化和新立法，意謂著政府必須管理消費者議題，而這導致消費者和政府間的關係制度化。

消費者團體發展接近總統的管道，是透過於 1964 年設立的消費者利益總統委員會(President's Committee on Consumer Interests)，而這委員會於 1971 年被消費者辦公室(Office on Consumer Affairs)所取代。在 Nixon 總統主政下，這個消費者辦公室被降級，他的消費者顧問遭受整個行政部門的反抗，但這個辦公室仍持續有直接到達總統的管道。雖然如此，Lucco 認為，「在所有的行政部門中，除了一個接近總統的助手--不是消費者顧問，都在做消費者事務的重要決策」，以及雖然接近白宮，消費者無法理解達成的目標與其他經濟利益的認知程度相同。

再者，當消費者議題變成具有政治上的重要性時，國會準備去改變消費者在決策中的角色。聯邦貿易委會(The Federal Trade Commission, FTC)傳統上被視為是企業力量的堡壘。Miles Kirkpatrick 被賦予 FTC 的管理監督之責，他重組及重新使這個委員會恢復活力。接著，參議院的商業委員會開始研究增強 FTC 的方法。1975 年 Magnusson-Moss 法案<sup>7</sup> 賦予 FTC 權力去制定產業(industry-wide)的規範，它使得這個機構能夠調查侵害消費者利益的議題。除此之外，FTC 的權力也因為一系列涵蓋消費者議題的特別法令而被大幅的擴張。

<sup>7</sup> 譯者註：Magnusson-Moss 法案是規範消費者產品保證的美國聯邦法案，由國會於 1975 年通過立法，這法案要求消費商品的製造者和販售者提供消費者有關保證範圍的詳細資訊。在書面的保證之下，這法案影響了消費者的權利及保證者的義務。(Federal Trade Commission)

1976 年, Jimmy Carter 在總統競選期間保證支持消費者主義, 後來並任命 Michael Pertschuk, 一個消費者擁護者(advocate), 為 FTC 的主席。Pertschuk 的任命意謂著一個消費者行動主義者被安排去掌管 FTC, 他確保了 FTC 的角色成為積極支持消費者的一員。Pertschuk 更進一步地藉由創立消費者保護局(Bureau of Consumer Protection)及任命消費者保護專家, 而制度化了消費者在政府中的角色。依據 Rothman Hasin 的說法, 這是「可能辨別“鐵三角(iron triangle)”<sup>8</sup>」影響的開始, 而這影響是由 FTC、參議院商業委員會及消費者主義者的連結所造成的」。

在英國, 雖然消費者團體被制度化進入政治流程比美國早, 但他們在政策上並沒有產生相同的衝擊。早在 1959 年, Macmillan 政府設立 Molony 委員會<sup>9</sup>作為對新型態消費者主義的回應, 而這直接導致一個稱為“消費者會議(Consumer Council)”的公共資助團體的創立。雖然, 這個機構在 1970 年被廢除, 海斯(Heath)政府設立了公平交易辦公室(Office of Fair Trading, OFT), 賦予其保護市場中消費者的力量。在 1973 年, 國務院(the Secretary of State)在工商部(Department of Trade and Industry, DTI)設立了消費者保護諮詢委員會(Consumer Protection Advisory Committee), 提供消費者團體對消費者保護政策建言的機制。

在 1974 年到 1979 年間, 工黨政府甚至更進了一步。他們藉由在白廳(Whitehall)<sup>10</sup>間創立一個部門的提議, 創立了“價格和消費者保護部(Department of Prices and Consumer Protection, DPCP)”, 該部必須允許消費者直接進入政策制定。工黨政府也增加了價格委員會的權力。1977 年的價格委員會法案規定, 所有的製造和服務公司必須給價格委員會 28 天的價格調漲警示, 該委員會也被賦予調查和凍結價格調漲的權力。1975 年, 工黨政府也設立了“英國消費者會議(National

<sup>8</sup> 譯者註:「鐵三角」是形容美國政府次級系統的運作狀況, 指某些國會委員會或委員會中的小組、一個或兩個行政機關、與相關利益團體三者之間, 以某一政策領域為核心, 所形成的一種穩定的關係樣式。三者會聯合起來, 共同處理彼此具有直接關係的、實質利益的政策議題。(吳定, 1999: 117)

<sup>9</sup> 譯者註: Molony Committee 的任務是去檢討與商品標籤和認證商標有關的現有的法令的運作情形, 以及考量和報告現有的法令中可能有了什麼改變及可能有什麼其他的措施是未來保護消費大眾所渴望的。(Board of Trade & Committee of Consumer Protection, 1962)

<sup>10</sup> 譯者註: 此係指英國政府。

Consumer Council, NCC)”，它是一個獨立的機關，它的角色是與政府、地方當局和公平交易總幹事(Director General)等交易時，代表消費者的利益。整個 1970 年代，大部分的立法範圍出現在公平交易、標示和消費者保護。一個消費者政策網絡的建立，使得消費者團體在消費者政策上具有影響力。

雖然如此，不去誇大他們的影響是很重要的。DPCP 和價格委員會的主要目的並不是在保護消費者利益，而是管理工黨的價格政策。如同 Shirley Williams 在眾議院(House of Commons)所說的：

除非措施被用以控制通貨膨脹的推估率(projected rate)，否則將不會有產業的未來，當然也不會有消費者的未來。

就是為了這個理由，政府對處理通貨膨脹在短期內給予絕對的優先。

政府控制價格和提供食物補助金的努力，大部分是由於懼怕通貨膨脹及工會壓力的結果。價格控制是社會契約(Social Contract)的一個重要部分，政府允諾價格限制，以作為工資限制的回報。

NCC 和 OFT 的創設是使消費者諮詢制度化的一個手段，但不必然是一個重大影響的來源。不像美國的消費者團體，NCC 並沒有相當的權力。它唯一的角色是向政府提出報告。根據 NCC 官員的談話，通常這些報告已經被忽略，或是當政府知道報告結論將支持政府的立場時，政府會委辦這些報告。NCC 真的接近消費大眾的管道，但這是為了諮詢，而非為了政策制定的目的。然而，政府擁有一資助的消費者團體，以及任命它的領導幹部以便諮詢影響消費者的議題還是有用處的。這使得政策更容易決斷，以及政府不需要與超越它所能控制的更激進的團體對話，就可以宣稱它已經諮詢過相關團體了。另外，這也提供給政府一個保護傘，保護它免於更極端的要求。

這並不是說 NCC 已經沒有影響力了。即使在較有敵意的 1980 年代，NCC 成功地影響政府的建築資金融資合作社法案(Building Societies Bill)，以及它幫助有關消費者安全的私人法案(private member bill)的推行。然而，一般來說，NCC 的影響力已經被限制在技術議題的細節問題上。如同 Smith 所指出的，NCC 在 1985/86 年的議會期間錯失了很多議題。雖然，OFT 具有真正的影響力，其總幹事推動的幾個議題也影響了政策，但它畢竟不是代表消費者利益的團體，它是為了削減限制性規定而存在的政府機構。

1970 年代中期，美國和英國的消費者團體都已分別地透過 FTC 和 DPCP 建

立與政府的制度化關係。結果，在整個 1960 年代和 1970 年代，一系列的消費者法律被引薦進來，範圍從價格控制、嚴格安全管制及申訴救濟的方法。透過建立適當整合的網絡，消費者團體處於能夠影響政府的位置。然而，整合的程度受到消費者政策上衝突的層次、消費者團體資源的缺乏及消費者政策發展單一舞台消失的限制。結果，這些網絡並沒有特別的強大，大部分的消費者依賴於州行動者接觸政府的途徑。因此，當政府對消費者政策有不同理解時，就非常容易破壞既有團體/政府的關係。

## 肆、1980 年代的消費者：新右派與消費者政策

在 1979 年和 1980 年，在英國和美國分別被選出的政府，受託致力於自由市場、解制和特別利益的挑戰。Thatcher 和 Reagan 政府視消費者團體為特別利益的代表，並相信消費者利益要能夠被更好的服務，是透過自由市場而不是透過消費者立法和管制。他們對於消費者政策應該像什麼，有一個相當清楚的觀點，以及雖然有整合良好的網絡存在，但這些網絡很明顯地缺乏提出任何嚴厲反對自由市場消費者政策實施的資源。新右派消費者政策是如何成功的呢？

指出美國消費者團體影響力的減弱至少是發生於 Reagan 政府來臨之前這點，是很重要的。1978 年，當消費者團體、Carter 總統及國會資深委員支持的消費者保護局(Consumer Protection Agency)的提案遭國會否決時，美國消費者運動的影響力的遞減就開始明顯。在同時，國會對 FTC 的態度顯著地改變。從 1970 年代中期，認為消費者運動太過於有影響力的信念開始成長。到了 1978 年，在國會間興起了一股強烈的反管制浪潮。逐漸地，國會的委員質疑 FTC 特別權力的使用，並反對它在消費者事務的影響力。1979 年，國會撥款委員會(the House Appropriation subcommittee)停止了這機構的消費者保護調查和二項主要的反托拉斯調查。這委員會想要削減其預算及終止 FTC 制定產業規範的權力。根據 MacLeod 和 Rogowsky 的說法：

國會計畫終止幾項爭議性的法規制訂及案例、免除 FTC 對整體產業的管轄權、未來委辦規定的立法否決權，以及許多這機構權力的嚴格限制。這機構和它的主席已經淪為他們自己成功的受害者。

國會、企業和共和黨領袖的感覺是 FTC 變得太涉入於管制產業而非倡導消費者利益。

這股反管制浪潮成為 Reagan 總統競選的政策。Reagan 帶著一個非常清楚的解制方案進入總統辦公室，他視消費者利益是透過市場的擴張被保護，而非透過管制的國家干預。為了達成這個目標，他創立了一個解除管制的專案小組，任命解制人員到主要的管制機關，而且提升“行政管理和預算辦公室(OMB)”的權力在管制機關之上。Reagan 政府嚴厲地削減「消費者產品健康和 safety 委員會」(CPSC) 和 FTC 的預算。在 1981 年，CPSC 面對所有管制機構最大幅度的裁減，失去了 160 位員工，並關閉了 8 個地區辦公室；到了 1986 年，它的預算被削減了百分之 22，員工則被削減了百分之 42。

Reagan 任命 James Miller III 為 FTC 的主席。Miller 曾經任職於 Reagan 的解制轉型團隊，他相信「這機構不應該再保護消費者免於瑕疵產品和不實廣告聲明」。他宣稱，FTC 可以因應百分之 12 的預算削減，甚至百分之 18 的削減可能也是適當的。他並不認為 FTC 的角色是去制止市場上不完美的產品，依他的觀點，「對危險較不在意的人（與金錢有關）將是最可能購買便宜、不可靠的產品」。在 Miller 的領導下，FTC 減少了反托拉斯活動，以及放棄了許多消費者保護的案件。Reagan 政府透過員額及預算的裁減，以及藉由再聚焦政府機關的工作，也減少了消費者保護的實施。在 Miller 的觀念裡，「這機構應該避免對企業過度的管制；相反的，應該藉由促進自由和競爭的市場來增進消費者的福祉。」對 Miller 而言，最好的消費者保護是由功能良好的市場所提供的，而他也相信，政府應該干預以確保充分的資訊被提供，以及制度化的市場架構是最有效率的方法之一。消費者政策的中心目標是管制改革，因為消費者總是等待從真正的管制改革中獲益。

這股反管制的思潮受到國會強烈地支持，國會司法委員會考慮減少反托拉斯障礙的方法，使得在整個 1980 年代國會無法對 CPSC 重新授權，「所以當議員對這機構堆積了許多無效能的批評時，國會已使得政府消費者保護政策飄蕩了將近十個年頭」。國會已經進邁減少 FTC 的權力。在 1979 年，參議院商業委員會(The Senate Commerce Committee)(這委員會曾於 1970 年代早期使 FTC 重新振作起來)無異議地贊成一個法案去限制 FTC 的權力，並且緊握住這機構的立法控制。接著，國會加諸於所有 FTC 法規制定的立法否決權。FTC 被迫將它的調查案限制在兒童廣告，並且“國家專業人士證照(state licensed professionals)”被從 FTC 的權限中免除。而當國會採取一個措施去阻止任何機構法規生效，除非是通過一個聯

合決議且經總統簽署後時，CPSC 的權力也削減了。

英國消費者影響力相類似的減少是很明顯的。在 1979 年之後，保守黨政府採取了一個市場導向的途徑，消費者政策是要基於資訊和自由市場的可獲性。一個解制單位被設立去研究減少市場限制的方法，成本順服(cost compliance)被引入，因為任何新的管制利益必須超越對產業的成本。

在保守黨的主政下，消費者事務被廢除成為一個在自己權力範圍內的部門(a department in its own right)；之後，對消費者的責任被從政務部長(Minister of State)降級為事務次長(Parliamentary Under-Secretary)。新政府消費者政策的觀點，如同首任商務部長 John Nott 所描述的：「當我們給予消費者適當保護的同時，我們必須防衛猖獗的消費者主義的過度要求。」在他的觀念裡，消費者主義已經產生太多浪費工商產業資源的立法。根據一位消費者團體幹部的說法，工商部(DTI)逐漸地變成非干預主義者(non-interventionist)，與企業非常接近，很少去聆聽消費者的需求。消費者政策的主要焦點是鼓勵競爭和解制，而非消費者保護。對 Flickinger 來說，「這基本的訊息似乎是，消費者政策是被承認的，但它不是這個政府期望非常活躍的領域。」

Thatcher 政府並沒有完全放棄消費者保護，安全管制的觀點也是新規則中一條持續的源流。雖然，DTI 變得較少同情消費者團體，但前保守黨部長 Sally Oppenheim-Barnes，於 1987 年到 1989 年間擔任“英國消費者會議(NCC)”主席，增加了到其他部門的管道。新政府也於 1987 年通過消費者保護法。這是一個關鍵的法令，設定生產者需為瑕疵商品負責，而無論這瑕疵商品是否為疏失的結果。但是，這法律源自於一個歐盟的指令(EC Directive)，政府選擇去執行這個指令的方法是藉由允許“科技水準抗辯(a state of art defence)”去偏袒企業經營者。這個抗辯允許生產者如果能夠證明現有的知識狀態使他們無法知道一個產品可能是有害時，可以免除責任。消費者團體相信這個保護破壞了這個法律，且為了這個解釋，歐洲執委會將把英國政府帶到法院去。

在美國和英國所發生的政策改變，就美國消費者團體的力量及他們透過整合的網絡去管理以制度化他們的關係的事實來看，引發了為什麼政策改變如此激烈的質疑。有人認為，已建立良好的網絡應該能夠因應政府的變遷，並且確保政策的持續。

1980 年代的新右派政府想要一個基於能提昇競爭力的解制的消費者政策，根據 De Witt 的說法：「一個新的對消費者教育和資訊的強調及聯邦行動主義的簡

化，呈現並形塑了 Reagan 總統所推動的消費者政策的特性。」在英國，消費者事務部長 Michael Howard 的觀點是：「大體而言，消費者能獲得最好的保護是在自由市場提供公平的競爭。」這個從凱恩斯典範到自由典範的轉變，導致一個涉及消費者團體的干預主義政策被一個強調使市場自由、限制政府角色以輔助消費者的政策所取代。具有多元決策中心、共識的缺乏及依賴國家認同的消費者網絡的變弱，意謂著他們對變遷無法提供太多的反抗。

除了來自國家行動者的壓力外，消費者網絡也面對來自企業的外部壓力。特別是在美國，企業變得更積極地在政治上回應消費者團體和立法的成長。Vogel 指出，在 1960 年代和 1970 年代早期，因為企業缺乏反對及它在政策制定的特權地位，企業大部分沒有被政治性地組織起來。在 1970 年代中葉，企業協會變得更為積極。商業會和製造業協會改善他們的組織，增加資金，開始更積極地遊說，以及就某種程度而言，藉著發展草根網絡去模仿公共利益團體。他們也認知到宣傳的重要性，一些主要的公司開始進行一個強調大政府的成本的全國性廣告活動。

企業也運用政治行動委員會(PACs)去提供資金給支持他們事業而反對消費者團體的國會議員。國會觀察(Congress Watch)發現，在反消費者投票紀錄(anti-consumer voting records)和國會議員接受企業 PACs 競選獻金數量之間有直接的相關。保險產業進行一個大規模的遊說活動，試圖確保該產業從反托拉斯立法中免除。有四個前國會議員與參眾兩院的關鍵議員接觸，二萬二千個保險代理商精力充沛地遊說國會和企業組織。在 1970 年代，企業逐漸變得政治化，而且它可以藉此引入新的行動者和問題到政策舞台，而擁有威脅既有消費者網絡的資源。

在英國，就某一（但較少）程度，這是真的。企業有比在美國接觸政府更好的管道，特別是與它們的觀點有共鳴的保守黨政府。一個消費者團體的幹部相信，關於消費者保護法，政府採取了大量對企業需求的關注。祇要歐洲執委會發佈它的提案指令，政府就會諮商企業，以及試圖獲取當前科技水準(a state-of-the-art)抗辯的納入。一旦這指令被通過，企業將為了科技水準抗辯能被納入英國法案中而進行非常強烈地遊說。英國產業聯合會(CBI)鼓勵各個公司的首長寫信給 MPs。在政策發展期間，CBI 和，特別是，製藥產業經常和 DTI 接觸。DTI 的部長 Michael Howard 承認，他已經被來自許多產業組織的有力代表所說服，發展上危險條款(a

developmental risk clause)<sup>11</sup>的取消可能會抑制技術的進步、增加保險成本及限制獲利利率。

在 1980 年代早期，新右派興起、戰後共識的瓦解和經濟的衰退引發了新的議題。解決經濟和社會的方法不再從國家干預的觀點來看，而是透過解制和市場。這改變了國家行動者的認知，他們質疑消費者運動的政策議程，並且變得較關心個體的權利和競爭力，而非消費者的集體保護。除此之外，企業逐漸地變得更積極，更準備去挑戰消費者政策。因此，由於新政策問題的發展、新的意識形態、國家行動者的挑戰及企業漸增的影響，消費者網絡被減弱了。消費者運動也缺乏動員大量成員的政治資源。而擁有數個重要行動者和決策中心的消費者網絡的相對開放，也使得網絡要保護自己是非常的困難。即使如此，這些改變仍無法消除消費者的影響力，而且促成新的網絡形式，特別是在公共部門和某部分的私有市場。

## 伍、消費者政策和公共部門

消費者政策的一個重要部分，特別在英國，是公共部門的市場化。這已經透過以下二個主要政策被達成：民營化及引入市場準則於公共服務的提供。民營化的目標之一，至少在原則上，是將國有產業轉移到私人部門，使得他們更能回應消費者的需求。然而，因為其他的目標通常被賦予優先權，私人企業通常維持私人獨佔，而這產生了消費者政策非預期的結果。

在英國，解制和民營化的目標之一是將某些特定議題去政治化，以減少政府負荷過重的問題。結果，某些消費者需求被意圖透過市場予以滿足。現在，有關電話費或瓦斯費的申訴，因為需求減少而被認為經濟問題。雖然，保守黨政府是抱持自由市場的理想，但它並不準備將已民營化的產業完全留給那隻看不見的

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<sup>11</sup> 譯者註：「發展上危險」一般係指產品依生產時既存之科學及技術之知識，瑕疵無從合理發現者而言。而企業經營者排除發展上危險責任之抗辯，即英美法上通稱之科技水準抗辯(a state of art defence)。(黃明陽，1995：136)

手<sup>12</sup>。國有化是政府擁有部分經濟控制權的一個方法，當它消失不見了，政府必須找出去控制整體經濟重心的自然獨佔的方法。

因此，伴隨著民營化，新的管制機構如電信管制辦公室(Office of Telecommunication, Oftel)和天然氣管制辦公室(Office of Gas, Ofgas)被創設出來。在民營化之後獨佔持續存在的地方，這些機構被預期去確保競爭及消費者利益的代表。他們存在的目的是容許消費者代表，以及確保社會責任被符合及價格的增加被限制。Walker 宣稱：「政府有關這些機構角色的部分想法的缺失，導致這些新的管制機構被賦予彈性的權力……」，所以有大量控制這些新的私有化產業機構的存在。

Oftel 控制全面性的價格調漲，但這並無法阻止英國電信公司(BT)在 1984 年到 1986 年間增加百分之三十五的地區電話(local calls)成本。Oftel 的問題是它有著彼此衝突的目標。對某種程度來說，最重要的事情是要確保電信產業間的競爭和利益，但這也破壞了對消費者的承諾。

雖然如此，Oftel 真的為消費者提供了一些安全措施及消費者保護的機制。隨著 Oftel 的創立，管制和所有權已經被分開。Oftel 準備運用它充分的權力來保護消費者的利益。Oftel 在處理消費者申訴上已獲得一些成功，因為英國電信公司對 Oftel 的依賴，意謂著它準備接受這管制機構的勸告。

除此之外，消費者有許多接觸 Oftel 的管道：他們可以如同個別的消費者一樣提出申訴；設有消費者諮詢委員會(consumer advisory committee)，該委員會是由國務院任命的一個使用者的委員會；設有提供 Oftel 和消費者團體如 NCC 和消費者協會(Consumers Association)定期會議的消費者論壇。最近，Oftel 推薦的一個消費者政策顧問向總幹事提出政策議題建議，這被視為是確保國內使用者有代表性的方法，特別是舉辦了消費者組織與 Oftel 間的會議。雖然這些團體沒有正式的權力，以及 Oftel 的競爭責任還保留著，但似乎消費者已經成功的提升議題。同時，Oftel 已經準備迫使英國電信公司採取支持消費者的行動。依據 Harvey 和 Parry 的觀點，Oftel「一般被視為在公布申訴和獲取改革英國電信作業實務上已經是成功了。」

Oftel 提供了一個這些新管制機構可以保護消費者方法的例子。這些管制機構

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<sup>12</sup> 譯者著：1776 年，英國經濟學大師亞當·史密斯在名著《國富論》提出了市場力量是「看不見的手」的名言。

有一個非常廣泛的權力，而這些權力的使用大部分依賴總幹事的決定。瓦斯和電力管制機構已經在嚴格地控制能源價格，而英國瓦斯公司和英國電信公司已經被迫去削減給消費者的價格。而且，也有了確保消費者利益至少被聆聽的方法。在某種程度上，這些機構真的有了關注這些利益的警覺。

伴隨著 OfTel，一個重要的新的消費者網絡已經被建立，並提供了接近決策的管道，以及允許消費者的意見進入電信政策。然而，在建立了這些新機構方面，民營化政策已與新右派消費者政策相矛盾，不但未創造解制，事實上卻增加英國的管制層次。政府已經接受了，對某些程度而言，消費者利益無法透過市場被代表。

諷刺地，Thatcher 政府對其他公共部門的主張是消費者可以透過市場的擴張被更好的代表。在 1980 年代期間，新右派帶著對消費者利益很大的關注進入公共部門。隨著政府刺激公共部門的意圖，它試圖去引入選擇和競爭的要素，以增加消費者的影響力。Thatcher 政府也透過購買權(right-to-buy)政策及允許公共承租人選擇私人地主(landlord)的方式，嚐試將競爭機制擴展到住宅部門。政府也迫使地方當局將許多服務簽約外包。在 1992 年，”市場試銷(market testing)”被擴展到中央政府。

在健康服務改革後面的許多政府陳述目標是使國家健康服務(NHS)更能回應消費者及更受制於市場原則。改進 NHS 消費者回應的企圖是源自於兩個主要的政策改變。首先，1983 年的 Griffiths 報告提到，NHS 管理董事會和健康管理局長(Health Authority Chairmen)應該「探查服務在地方層級是如何被傳遞」及「直接地回應這個訊息」。對 Griffiths 來說，「足夠的管理印象必須在所有的層級被創造；在地方層級的重點是與照護的品質和服務的傳遞敏感地相關。」或許，更重要的是緊隨著健康服務評鑑的改變。再一次，政府宣稱，評鑑的主要目的之一是使 NHS 更能回應消費者。事實上，評鑑白皮書被稱為“為病人工作(Working for Patients)”。

雖然，這些改變被預期增加消費者的選擇，但卻清楚地存在許多問題。首先，如果個別的機關為特別服務簽約，這契約將是基於價格和品質，所以限制了消費者選擇。第二，病人可能必須旅行相當的距離，較不機動的和貧窮的人是不可能擁有相等的管道。第三，這系統可能偏好大型的教學醫院，使得在特定的區域無法提供較多的選擇。第四，病人、GPs 和諮詢人員的關係可能被打亂。

重要改變的第二個領域是在教育方面。新右派認為太多的權力被掌握在官員、政客和教師的手中，有需要增加父母的權力。在 1980 年代早期，有一些人支

持教育券計畫，該計畫允許父母向他們選擇的，不論是公家或私人的學校，提供學校所需要特別的費用去購買教育。教育券的理念在 1980 年代被揚棄，但 1988 年的教育法案則藉由增加州長的權力，目標朝向增加市場競爭和父母選擇權，允許學校脫離教育當局的控制，並且增加父母選擇學校的權利。

Thatcher 政府想要透過民營化和市場化手段，使公共服務更能回應消費者需求，就某種程度來說，她也達成這個目標。然而，在公共服務方面，通常是少有真正的選擇。時間、方便性和區位通常使選擇的學校有限。父母只能選擇還有空位的學校，事實上，選擇是受到限制的。

在梅傑(John Major)取代 Thatcher 成為首相之後，保守黨政府提出「公民憲章」作為公共部門保護消費者權利的機制。公民憲章的目標是在公共服務供應上提供消費者一組特別的權利。現在，這些憲章的公共服務範圍包括教育、健康、社會安全和鐵路。他們承諾給消費者特定的資訊、申訴救濟的機制、健康服務的特別等候時間，以及火車準時和可信度的目標。例如，英國鐵路公司(British Rail)現在正提供折扣給鐵路服務無法符合特定的準時和可信度標準的火車季票持有者。然而，公民憲章也被批評設定太低的目標及只有公眾關係活動。憲章並不需要與新右派意識形態相連結，因為他們是一個管制的方法，而非是消除，公共部門和所有的英國政黨都被委任某些形式的憲章。

在美國，公共部門相對地比較小，所以民營化和市場化的議題較不受重視。雖然如此，在健康政策上政府也想要引入較強的市場準則。在 Reagan 政府時代，有數個法案被引薦去創造財務誘因，以擴張消費者在購買健康服務的選擇權、誘發在健康照護專家和團體間較大的價格競爭、改進組織和服務傳遞的效率，最終是要降低健康照護的成本。

然而，由於缺乏國會廣泛地支持，以及關注於立即成本的減少，所有的這些法案都失敗了。相反的，由於醫院必須對特殊種類的治療給付固定費用，所以疾病診斷相關群(diagnosis related groups, DRGs)被引薦進來，因此有一個誘因使他們成本保持下降。除此之外，Reagan 政府也鼓勵健康維護組織(Health Maintenance Organization, HMO)。在這個系統之下，消費者每年以固定的成本購買健康照護，且當有需要時即可接受治療，不需要支付額外的費用。再一次的，不像保險，提供者有一個誘因使治療成本下降。HMOs 藉由創立一個選擇性的健康照護傳遞系統來擴張消費者的選擇權，以及增加與保險公司的競爭。Brown 認為，由於 HMOs、其他選擇性的健康傳遞系統、專業評鑑、更多的資訊及管理控制，整個

系統已經成為明顯的競爭成長。但這雖然增加了競爭，成本卻仍然很高而且持續上升，很多人無法接受到足夠的健康照護。

## 陸、消費者和經濟變遷

新右派對市場和廣泛經濟變遷的強調，對消費者和消費者政策造成衝擊。Thatcher 政府強調消費者在市場中的權力，以及主張透過稅收和民營化政策將增加人們的所得和選擇。如同我們所看到的，它企圖藉由建立在健康和教育中的內部市場，增加消費者公共服務的選擇。某些社會理論家主張這已經導致了一個消費文化的發展。當以消費權力的觀點，透過生活型態和公民權利來界定社會地位時，消費(consumption)已經具有文化和政治上的重要性。伴隨著解制和民營化，公民權不再被視為福利國家的功能之一，而是如同 Marshall 所描述的，是購買社會各項配備的能力。當然，這個改變使公民權成為一個特別而非普遍的現象。

現在，依據 Mort 的看法：「消費是位於對抗經濟的政治戰役中的重要階段。」或則對 Gardener 和 Sheppard 二人來說：

消費不再純粹是物質的或狹隘的功能……今日，消費是具有象徵的和物質的作用。它是展現，就真正意義而言，一個人在世界的地位，他或她的核心認同。

這股新的消費政治和文化是零售業革命所造成的部分原因和部分結果。一個從製造業到服務業的一般性移動，受到 1980 年代中期導致零售部門成長和變化的經濟繁榮所誇大。零售業現在取代了製造業成為經濟主導部門。這經濟的重要性已經有了政治意涵。零售業者承認消費者偏好和競爭的重要性，持續增加的競爭導致某些零售業者運用對消費者的關心作為吸引顧客的方法。有些零售業者使用他們的經濟力量保護消費者的利益。

這現象以二種方式發生。零售業者相對於製造業者的經濟優勢，使他們可以對那些為他們生產的公司加上管制。例如英國的零售公司 Marhs 和 Spenser 在食品處理的管制上要求非常嚴格的衛生標準。Sainsbury's 公司已經移除公司無法符合零售業要求標準的食品生產。Safeway 和 Tesco 二家公司首先禁止使用某種添加物，以及提供一種簡單而普遍的標示系統。所以這些食品公司已經發展出遠超過政府保護消費者利益政策程度的私人政策，而這大部分是由於消費者市場力量

的結果。

這個私人政策已經產生了許多公司集體行動的問題。如果他們採取嚴格的管制，將會提高他們的成本。他們所感興趣的是，在他們的自我管制之後，能將這些管制加諸於其他公司，以及擁有法律的力量。結果，零售業者變得更積極地遊說政府支持消費者議題。超市業者攻擊政府秘密地進行牛奶激素 BST 的檢測。在歐洲方面，主要的零售業者正努力遊說歐洲執委會對屠宰場加諸更嚴格的管制。這也造成新的結盟。在令人誤導的價格的案件中，消費者團體和零售業者同意他們聯合向工商部(DTI)提出的政策提議，但為 DTI 所拒絕。

如同在英國，美國消費文化的成長，也導致零售業者愈來愈顧及消費者的利益。逐漸地，企業正試圖改進生產品質和消費者服務。在 1970 年，Giant 食品公司提出一個消費者計畫，該計畫是建立在 Kennedy 總統的消費者權利法案上。他們推出單位標價(unit pricing)、標示、開放預約(open dating)及他們自己的產品安全政策。他們盡力去解釋牛肉的高價格，以及推薦消費者購買其他的產品。這個策略被其他視消費者主義為增加他們市場分享方法的公司所依循。美國運通公司設立了一個評估其政策和產品對消費者影響的消費者事務部門；另外，Target Store 每年花 50 萬美元確保所販售的玩具是安全的。雖然，僅有小部分的企業有如此的政策，但他們仍然繼續配合消費者的要求，並施給政府和其他企業壓力，促使其認真的處理消費者的意願。

## 柒、新右派和消費者網絡

在英國和美國，受到新右派意識形態影響的政府致力於改變消費者政策的本質。他們試圖將一個消費者管制的政策改變為透過市場增加個別消費者力量的消費者政策。這樣的做法，他們在挑戰傳統的政策網絡，但通常消費者政策有非預期的結果，並與其他政策目標相衝突。

在英國，1980 年代看到了一個對傳統消費者代表和申訴的救濟形式的攻擊。這不僅挑戰傳統網絡，並形成新形式的網絡。這是特別的有趣，因為它們通常繞過政府。在電訊方面，這網絡涉及英國電訊公司、Ofel 和受政府監督的消費者團體。至於零售業，這網絡涉及直接與零售公司工作的消費者團體（在有限的案例中），以及實施自己的與政府無關的消費者政策的零售公司。如同 Grant 等人的發

現，並不須要有一個國家行動者涉入一個政策社群，特別是在擁有能發展自我管制的組織的地方。

相似的改變也發生於美國，但採取了稍微不同的路徑。就某種程度而言，由於早先的反消費者措施，已經有了一個消費者的反動。在美國，消費者持續認為消費者保護是重要的，且不再相信國會可以保護他們的利益。國會也接到這些壓力的一些警示。雖然它最初是準備削減消費者機構的預算和減少他們的權力，但它不願意配合預算局(OMB)和 Reagan 政府的希望。當白宮將所強調的政策從解制移到稅務改革時，國會變得不願意去解除任何進一步和實際地以五百萬美元增加 FTC 預算的管制，它覺得平衡已搖擺在支持企業者方太遠了。在 1983 年以前，行政的解制政策是一團亂，事實上它無法「廢止或修正一個單獨年長的管制雕像」。自此之後，國會開始重覆地增加 CPSC 和 FTC 高於政府希望的經費。在 1990 年，國會已經逐漸地呈現支持消費者(pro-consumer)、引入防止價格壟斷(price fixing)、加強產品責任及增加 CPSC 的權力和預算的立法。

除此之外，當消費者運動在聯邦層級衰退時，消費者在州和地方層級上發現一個新的論壇。地方團體仍非常活躍，某些州準備維持嚴格的消費者保護。特別地，州檢查總長開始集體性地推行消費者管制。美國州檢查總長協會(The National Association of Attorney General)發展出州層級的消費者管制，他們透過法院的反托拉斯行動和消費者保護實例，去執行管制。消費者團體在許多機會上運用這個州的層級去訴求他們的案子。這個州層級法律的採用，迫使美國公司要求在國家層級上更大的干預，以促使消費者管制的全國一致性，公司不必面對不同的成本。如同化學專業製造商的 Ralph Engel 說，州的「產品安全法律引起我們和其他的產業相當不方便和擔心。」Bloom 和 Geyster 認為這是消費者主義移往成熟階段的指標，消費者主義不再是傳統運動排除的領域，而是現在採用了不同的形式。

在美國已經形成具有較多州層級活動的新形式的消費者政治運動，以及私人部門建立了一些消費者政策。然而，在 1980 年代晚期最重要的發展是國會態度的改變。最初國會準備支持 Reagan 對管制機關的攻擊。然而，當這些政策逐漸地不受歡迎時，國會準備保護傳統的網絡。在美國，FTC 和 CPSC 仍是消費者主義者權力的重要中心。這個矛盾的情勢是美國政治系統的特徵，它的太多接觸點和決策中心，雖使它難以形成政策網絡，但實際上卻保護著消費者網絡。國會阻止總統太過嚴厲地攻擊消費者管制。

這 1980 年代已看到了消費者運動和他們於 1970 年代建立的網絡的變弱。在

美國和英國的消費者政策是逐漸地以市場和解制為基礎。但這政策有了非預期的結果，它導致消費者成為購買者和準備承認消費者需求的零售業者的權力的轉變，這新而有力的經濟利益已經與消費者站在同一邊。在英國，解制創造了能被運用以促進消費者利益的新制度；在美國，國會並不準備允許完全的解制，消費者的影響力已經改變，但沒有消失，而且對某種程度而言，如英國的例子，它也許更為有效。

## 捌、結論

新右派意識形態最初在影響英國和美國的政策方面是有效的。在這兩個國家，為了減少消費者團體的權力但增加個別消費者的力量，解制和市場化政策已經被試用過了。然而，如同 Marsh 和 Rhodes 指出的，因為外部的因素、非預期的結果及既有政策網絡的遲鈍，消費者政策的實際結果通常大大的不同於意識形態的目標。在英國，消費者團體的影響力總是非常的有限，政府在減少消費者團體的政策角色並沒有太大的困難。然而，政策有了許多非預期的結果。如同民營化的副作用(by-product)，管制增加而非減少，而且這提供消費者團體選擇性的政策流程管道。廣泛的經濟改變和消費文化的發展，也增加消費者在零售部門的影響力。另一方面，在公共部門，雖然嚐試增加消費者的回應，但引入市場機制的困難，意謂著消費者的進入仍然受到限制。

在美國，消費者團體在 1970 年代造成顯著的衝擊，行政機關面對消費者政府甚至有很大的困難。最初，Reagan 政府非常成功的減少消費者團體的影響和管制機關的權力。但很大的程度，這些改變是在 1980 年以前著手的，所以不能單獨地被歸因於新右派。然而，新的網絡在州和地方層級發展，而且有了國會對消費者利益的足夠支持，阻止了 Reagan 的消費者政策完全的執行。結果，許多建立在 1970 年代的消費者政策的特徵保留至今：

## 參考書目

李少軍、尚新建譯，丁連財校閱，Gerald C. MacCallum 著

1994 政治哲學，台北：桂冠。

吳定

1999 公共政策辭典(初版二刷)，台北：五南。

黃明陽

1995 「淺論發展上危險之責任」，收錄於消費者保護研究第一輯，台北：行政院消費者保護委員會。

郭耀基

2000 人權和公民權，<http://www.asiademo.org/2000/01/20000129b.htm>。

陳林、侯玉蘭等著

1998 激進，溫和，還是僭越？當代歐洲左翼政治現象審視，北京：中央編譯社。

陳坤森等譯，Leon P. Baradat 著

2000 政治意識型態與近代思潮，台北：韋伯文化。

陳鴻瑜節譯，Feldman 著

1983 消費者保護運動，台北：臺灣商務印書館。

張定淮

英國“公民憲章”運動的現況與前景，  
[http://szulib20.szu.edu.cn/AD\\_bxzy/BD\\_sdxw/rw/1996/960108.htm](http://szulib20.szu.edu.cn/AD_bxzy/BD_sdxw/rw/1996/960108.htm)。

Ashford, Nigel

1993 “The Ideas of the New Right,” in Grant Jordan, & Nigel Ashford(ed.), *Public Policy and the Impact of the New Right*, pp.19-45, London and New York: St. Martin.

Board of Trade & Committee of Consumer Protection

1962 Committee of Consumer Protection final report ,  
<http://www.bopcris.ac.uk/bop1955/ref477.html>

Federal *trade commission*

Understanding the Magnuson-Moss Warranty Act ,

<http://www.ftc.gov/bcp/online/pubs/buspubs/warranty.htm#Magnuson-Moss> .

Jordan, Grant

1993 “The New Right and public policy : a preliminary overview,” in Grant Jordan, & Nigel Ashford(ed.), *Public Policy and the Impact of the New Right*, pp.19-45, London and New York: St. Martin.

Levitas, Ruth

1986 “Introduction : Ideology and the New Right,” in Ruth Levitas(ed.), *The Ideology and the New Right*, pp.1-23, Oxford: Polity Press.

Smith, J. Martin

1993 “Consumer Policy and the New Right,” in Grant Jordan, & Nigel Ashford(ed.), *Public Policy and the Impact of the New Right*, pp.19-45, London and New York: St. Martin.



# CONSUMER POLICY AND THE NEW RIGHT

*Martin J. Smith*

<b>A.Introduction</b>	<b>E.Consumer policy and the public sector</b>
<b>B.Consumers and the New Right</b>	<b>F.Consumers and econmic change</b>
<b>C.Consumer policy before the New Right</b>	<b>G.The New and consumer network</b>
<b>D.Consumers in the 1980s : the New Right and consumer policy</b>	<b>H.Conclusion</b>
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## A.Introduction

Consumers are in many ways central to the whole of the New Right project. The New Right is concerned with removing many of society's restrictions in order to allow people to be free consumers in an open marker-place. Citizenship, and an individual's place in society, is not determined by social or political connections but by a consumer's position within the market. This chapter will examine the development of consumer policy. It will then examine the nature of consumer policy and consumer policy networks that existed at the end of the 1970s. The chapter will analyse how the governments of the 1980s challenged these policies and networks, and how effective they were in changing consumer policy.

## B.Consumers and the New Right

One of, if not the, key pillars of New Right thought is the establishment of a free market economy. For the New Right a free market is essential for a free and civilised society. As Hayek claimed in 1944:

*It was men's submission to the impersonal forces of the market that in the past has made possible the growth of civilisation which without this could*

*not have developed: it is by thus submitting that we are every day helping to build something that is greater than anyone of us can fully comprehend.*  
(Hayek, 1944, pp. 151-2)

The market is both a promoter of economic prosperity and a protector of individual liberty. Citizenship cannot conflict with the operation of the market and therefore the protection of individual right should not be through political and legal mechanisms but through access to the market (King, 1987). Markets produce a sensitive and decentralised means of distribution of resources and therefore are much more effective than governments (Barry, 1987).

This view of the market has important implications for consumer policy. As we shall see, in the 1960s and 1970s consumer policy was seen in terms of consumer and often this was protection from the market. Therefore consumer policy was regulatory and positive. For the New Right, consumers interests are not served by protection from the market but through the extension of the market. Therefore consumer policy is concerned with deregulation, privatisation and marketisation. For Friedman, regulation and consumer protection is often harmful to the interests of the consumer. This is because regulatory agencies are captured by the interests they are supposed to regulate and regulation and consumer protection increases prices and reduces choice (Green, 1987). Regulation is seen as an excessive burden for business whilst producing little benefit for the consumer. Therefore the Reagan administration in particular was committed to a massive programme of deregulation.

There are three main interconnecting areas of New Right consumer policy. The first is what we might see as the traditional arena of consumer policy – consumer protection and regulation. This includes legislation covering safety, information, redress etc. The second area is consumer policy and the public sector. This is obviously more appropriate to Britain and concerns the attempts to increase consumer power through privatisation, marketisation of the provision of public services and laterly the 'Citizen's Charter'. Third, there are general changes in the market as a result of New Right economic policy and wider structural changes in the economy. In principle, New Right consumer policy is based on extending the market in order to extend consumer choice.

However, in attempting to achieve these goals New Right governments have faced existing policies and policy networks. Throughout the 1970s, consumer groups, particularly in the United States, were successful in achieving consumer protection laws. In doing so they established particular policy networks with government. Policy networks are means of categorising relationships between groups and government. They range from fairly loose and open issue networks (Heclo, 1978) which are almost

pluralistic in nature to closed policy communities which have a limited number of actors and shared ideology over the direction of policy (Marsh and Rhodes, 1992a). During the 1970s fairly well integrated consumer policy networks were established in both Britain and the United States and this placed limitations on the effectiveness of New Right consumer policy. The impact of the New Right on consumer policy was limited by the existing patterns of group-government interaction, wider changes in economy and society and unintended consequences of policy decisions (Marsh and Rhodes, 1992b). Despite clear New Right goals, the Thatcher and Reagan governments did not achieve all their aims.

### **C.Consumer policy before the New Right**

Consumer groups and consumer policy were of little importance before the 1960s. In the United States there was a significant politicisation of consumer issues in the early 1960s as a result of a number of developments occurring simultaneously. Thalidomide, car safety and pesticides in food were all publicised by the Ralph Nader and used to demonstrate that interests of consumers and producers were not always compatible. Nader established a network of groups and individuals to pressurise government on consumer issues (Thorelli and Thorelli, 1974).

The growth and increasing support of product testing groups and the increasing political importance of consumer issues made politicians realise that consumers were becoming electorally important. They saw that consumer issues could be used to advance political careers and that consumer policies often required little additional expenditure. Consequently presidents started to take consumer issues seriously. President Kennedy outlined a consumer Bill of Rights and President Johnson made consumer legislation central to his presidential package (Nadel, 1971,p.31) Kennedy established a Consumer Advisory Council and Johnson went further,creating a Presidential Committee on Consumer Interests and also the special assistant to the President for consumer issues and introduced liability legislation. During the 1970s,Congress passed eleven consumer acts(Flickinger,1987;McFarland,1983).

As consumer issues began to take a more central role on the political agenda, consumer groups began to see the need to build alliances with established groups which had substantial resources. In the United States the ALF/CIO supported consumer groups on many issues and provided the funding, organisation and legitimacy which enabled the consumer movement to lobby much more effectively(Vogel and Nadel,1976).The consumer movement and labour movement began to provide mutual support. The unions had resources, expertise and links with

government; the consumer movement had the potential to provide a wider base of support and hence greater legitimacy for the unions.

As a consequence, consumer politics developed from being a technical issue to a highly controversial political issue. Consumer politics was no longer about products. It was concerned with the means of creating consumer representation at all levels of government and challenging the power of business. In 1966 Congress enacted four pieces of consumer legislation and, according to Vogel (1989, p.35), 'These laws invoked the conduct that would continue uninterrupted for more than a decade'. This managed consumer issues and this led to the institutionalisation of relationships between consumers and government.

Consumer groups developed access to the President through the President's Committee on Consumer Interests, established in 1964, which was replaced in 1971 with an Office on Consumer Affairs (Thorelli and Thorelli, 1974, p.462). Under Nixon, the consumer office was downgraded and his consumer advisor met resistance throughout the President (Nadel, 1971, p.56). Nevertheless, Lucco suggests that, 'In all administrations but one, aides closer to the President, not the consumer advisor, made the important decisions on consumer affairs' and that despite access to the White House, consumers did not realise the goal of achieving the same degree of recognition as other economic interests (Lucco, 1992, p.250 and p.256).

Moreover, as consumer issues became politically important, Congress was prepared to change the role of consumers in policy-making. The Federal Trade Commission (FTC) had traditionally been seen as a bastion of business power (Rothman Hasin, 1987, p.6). Miles Kirkpatrick was placed in charge of the FTC and he reorganised and reinvigorated the commission (Pertschuk, 1982). Then the Senate Commerce Committee started to investigate means to strengthen the FTC (Pertschuk, 1982, p.43). The Magnusson-Moss Act 1975 gave the FTC power to make industry-wide rulings and it enabled the agency to investigate issues that harmed consumer interests (Rothman Hasin, 1987, p.11). In addition, the power of the FTC was greatly extended by a range of special statutes covering consumer issues (Macleod and Rogowsky, 1989).

Jimmy Carter had pledged his support to consumerism during the Presidential campaign in 1976 and so appointed Michael Pertschuk, a consumer advocate, as Chairman of the FTC. Pertschuk's appointment meant that a consumer activist was placed in charge of the FTC and he ensured that its role became one of actively supporting the consumer. Pertschuk further institutionalised the role of consumers in government by creating a Bureau of Consumer Protection and appointing new consumer protection specialists. According to Rothman Hasin (1987, p.61) it was 'possible to discern the beginning of the "iron triangle" of influence being forged to

connect the Federal Trade Commission, the Senate Commerce Committee, and consumerists'.

In Britain, although consumer groups were institutionalised into the political process earlier than in the United States, they did not have the same impact on policy. As early as 1959, the Macmillan government established the Molony committee as a response to 'the new style consumerism' and this 'led directly to the creation of a new publicly-funded body called the 'Consumer Council'(Smith, 1986, P. 8). Although this was abolished in 1970, the Heath government established the Office of Fair Trading(OFT) which was given power to protect consumers in the market-place(Smith, 1986, p 8). In 1973 the Secretary of State at the Department of Trade and Industry established the Consumer Protection Advisory Committee which provided a mechanism for consumer groups to give advice on consumer protection policy (Harvey and Parry, 1987, p. 45).

The 1974-9 Labour government were even further. They created a Department of Prices and Consumer Protection which was supposed to admit consumers directly into decision-making by creating a departmental advocate within Whitehall (The Times, 16 September 1978). The government also increased the powers of the Price Commission. Under the Price Commission Act 1977 all manufacturing and service firms had to give the Price Commission 28 days notice of price increase and the Commission was given the power to investigate and freeze price increase (HC Debs 930, c. 1255-1256). In 1975 the government also established the National Consumer Council(NCC) as an independent body whose role was to 'represent the consumer interest in dealings with the Government, local authorities and the Director General of Fair Trading'(Smith, 1986, p. 9; Harvey and Parry, 1987, p.44). Throughout the 1970s a whole range of legislation emerged on fair trading labelling and enabled consumer groups to have some influence over consumer policy.

Nevertheless, it is important not to exaggerate their impact. The main purpose of consumers but to administer the Labour government's pricing policy. As Shirley Williams stated in the House of Commons(HC Debs 872, c. 258):

*Unless steps are taken to control the projected rate of inflation, there will not be a future for industry, any more than there will be for the consumer.*

*It is for this reason that the Government will give absolute priority in the short term to deal with inflation.*

The government's attempts to control prices and to provide food subsidies were largely a result of a fear of inflation and trade union pressure. Price control was an part of the Social Contract. In return for wage restraint the government promised price restraint.

The creation of the NCC and the OFT was a means of institutionalising consultation with consumers but not necessarily a source of great influence. Unlike the consumer bodies in the USA, the NCC had no power. Its only role was to make reports to government. Often, according to an NCC official, these reports have been ignored or the government has commissioned reports when it knows the conclusions will support the government's position. The NCC does have access to consumer ministers but this is for consultation rather than policy-making purpose. It is useful for a government to have a consumer group which it funds and whose leading members it appoints to consult on issues that affect consumers. It is useful for a government to have a consumer group which it funds and whose leading members it appoints to consult on issues that affect consumers. It makes policy-making more predictable and allows the government to claim that it has consulted without having to talk to more radical groups beyond its control. It also provides a shield to government and protects it from more radical demands.

This is not to say that the NCC has been without influence. Even during the more hostile 1980s, the NCC successfully influenced the government's Building Societies Bill and it assisted in the enactment of a private member bill on consumer safety (Smith, M, 1991). Generally, however, the influence of the NCC has been restricted to matters of detail on technical issues. As Smith shows, the NCC has been restricted to matters of detail parliamentary session 1985/86. Although the OFT does have real influence and several of the Director General's recommendations have influenced policy, it is not a body which represents consumer interests. It is a government body which exists to curtail restrictive practices.

By the middle of the 1970s both US and British consumer groups had established institutionalised relations with government through the FTC and the DPCP respectively. Consequently, throughout the 1960s and 1970s a whole range of consumer legislation was introduced, ranging from price controls, strict safety regulations and means for the redress of grievances. Through establishing fairly integrated networks consumer groups were in a position to influence government. However, the degree of integration was limited by the level of conflict over consumer policy, the consumer groups' lack of resources and the absence of a single arena for the development of consumer policy. Consequently, these networks were not particularly strong and to a large extent consumers were dependent on state actors for their access to government. Therefore when governments came to power with different perceptions of consumer policy it was fairly easy to undermine the existing group/government relationships.

## **D. Consumers in the 1980s : the New Right and consumer policy**

In 1979 and 1980 governments were elected in Britain and the United States respectively which were committed to the free market, deregulation and the challenging of special interests. The Thatcher and Reagan administrations saw consumer groups as representatives of special interests and believed that the interests of consumers could be best served through the free market and not through consumer legislation and regulation. They had a clear view of what consumer policy should look like and although intergrated networks did exist, these networks apparently lacked the resources to provide any serious opposition to implementation of a free market consumer policy. How successful was New Right consumer policy ?

It is important to point out that in the USA at least the weakening of consumer group influence occurred before the advent of the Reagan administration. The declining influence of the consumer movement in the USA was first apparent in 1978 when Congress defeated the proposals for a Consumer Protection Agency despite the support of consumer groups, President Carter and senior members of Congress (New York Times, 14 January 1979). At the same time, the attitude of Congress towards the FTC changed remarkably. From the mid-1970s a belief grew that the consumer movement was becoming too influence (Vogel and Nadel, 1976) and by 1978 there was a strong anti-regulation tide within Congress. Increasingly member of Congress questioned the FTC's use of its extra power and opposition grew to its influence on consumer affairs. In 1979 the House Appropriations subcommittee halted the commission's consumer protection investigation and two of its major antitrust investigations. The Committee wanted cuts in budgets and to end the FTC's power to make industry-wide rulings (New York Times, 15 September 1979). According to Macleod and Rogowsky (1979, p.71):

*Congress was contemplating the termination of several controversial rulemarkings and cases, the exemption of entire industries from FTC jurisdiction, a legislative veto of future commission rule, and a number of draconian restrictions on the commission's authority. The commission and its chairman had fallen victim of their own success.*

The feeling from Congress, business and the Republican leadership was that the

FTC had become too involved in regulating industry rather than advocating consumer interests (Miller, 1989)

This anti-regulatory tide became policy with the election of President Reagan. Reagan entered office with an explicit programme of deregulation which saw consumer interests being protected through the extension of the market rather than state intervention through regulation. To achieve this goal he created a task force on regulatory relief, appointed deregulators to key regulatory agencies (Vogel, 1989) and increased the authority of the OMB over the regulatory agencies (Reagan, 1987). The Reagan administration sharply reduced the budgets of both the CPSC and the FTC. In 1981 the CPSC faced the largest cut of all regulatory agencies, lost 160 staff and had eight regional offices closed (New York Times, 4 October 1981). By 1986 its budget had been cut by 22 per cent and staff by 42 per cent (New York Times, 12 April 1986).

Reagan appointed James Miller III as the chairman of the FTC. Miller had been in Reagan's transition team on deregulation and believed that the 'commission should no longer protect the consumer from defective products and unsubstantiated advertising claims'. He claimed that the FTC could cope with a 12 per cent budget cut and that even a cut of 18 per cent might be appropriate. He did not see the role of the FTC as being to keep important products from the market. In his view, 'Those who have a low aversion to risk- relative to money- will be most likely to purchase cheap, unreliable products' (New York Times, 27 October 1981). Under Miller the FTC reduced its antitrust activity and abandoned a number of consumer protection cases. The Reagan administration also reduced enforcement of consumer protection through staff and budget cuts, and by refocusing the work of agencies (New York Times, 5 April 1982). In Miller's view, 'the agency should refrain from the comprehensive regulation of business activities and instead should promote consumer welfare by promoting free and competitive markets' (Miller, 1989, p.9). For Miller the best consumer protection is provided by well-functioning markets and he believed that government should intervene to ensure that 'adequate' information is provided and the institutional framework for the market 'is the most efficient one' (Miller, 1989, p.9). The central goal of consumer policy was regulatory reform because consumers' always stand to gain from true regulatory reform (Miller, 1989, p.14).

This anti-regulation ethos was strongly supported by Congress. The House Judiciary Committee considered ways to reduce antitrust obstacles (Congressional Quarterly, 20 May 1989, p.1194) and throughout the 1980s Congress failed to reauthorise the CPSC and 'So while members have piled criticism on the agency as ineffectual, Congress has left the government's consumer protection policy unmoored for almost a decade' (Congressional Quarterly, 3 March 1990). Congress has been prepared to reduce the powers of the FTC. In 1979 the Senate Commerce

Committee (the Committee that had reinvigorated the FTC in the early 1970s) unanimously approved a bill to restrict the powers of the FTC and to tighten legislative control of the Commission (New York Times, 21 November 1979). Congress then imposed a 'legislative veto' on all FTC rule making (New York Times, 4 May 1980). The FTC was forced to drop its investigation into child advertising and 'state licensed professionals' were exempted from the FTC's jurisdiction. The power of the CPSC was reduced when Congress adopted a measure to prevent any agency rule taking effect until a joint resolution was passed and then signed by the President (New York Times, 30 June 1983).

In Britain a similar reduction of consumer influence was apparent. The Conservative government after 1979 adopted a market-orientated approach and consumer policy was to be based on the availability of information and a free market. A deregulation unit was set up to investigate means of eliminating constraints on the market and cost compliance has been introduced whereby the benefits of any new regulations have to outweigh the cost to industry.

Under the Conservatives, Consumer Affairs was abolished as a department in its own right. Later the responsibility for consumers was down graded from a Minister of State to Parliamentary Under-Secretary. The new government's view of consumer policy was outlined by the first Trade Secretary, John Nott: 'While giving the consumer proper protection we must guard against the excessive demands of rampant consumerism'. In his view consumerism had produced too much legislation which was a drain on the resources of trade and industry (The Times, 16 October 1979). According to one consumer group official, the DTI became increasingly non-interventionist, was very close to business and rarely listened to the demands of consumers. The main focus of consumer policy was encouraging competition and deregulation rather than consumer protection. For Flickinger (1987, p.161), 'The basic message seems to be that consumer policy is recognized but it is not an area where this government expects to be very active'.

The Thatcher government did not completely abandon consumer protection. In terms of safety regulation there was a continual stream of new rules. Although the DTI became less sympathetic to consumer groups, having an ex-Conservative Minister, Sally Oppenheim-Barnes, as Chairman of the NCC between 1987 and 1989, increased access to other departments. The government also passed the Consumer Protection Act 1987, which was a major piece of consumer legislation making producers liable for defective goods whether or not the defect was the result of negligence (Gibb, 1988). Yet, the law resulted from an EC Directive and the government chose to implement the Directive in a way which favoured business by allowing 'a state of the art defence'. This defence allows producers exemption from

liability if they can show that the current state of knowledge prevented them from knowing that a product would be harmful. Consumer groups believe that this defence undermines the law and the European Commission took the British Government to court over this interpretation (The Times, 8 December 1986).

The changes in policy that have occurred in the United States and Britain raise the question of why the policies have changed so radically considering the strength of consumer groups in the USA and the fact they managed to institutionalise their relationships through integrated networks. It has been suggested that fairly well-established networks should be able to cope with changes of government and ensure the continuation of policy (Marsh and Rhodes, 1992b).

The New Right governments of the 1980s wanted a consumer policy based on deregulation which enhanced competition and so according to De Witt (1981), 'A new emphasis on consumer education and information and a reduction in Federal activism appear to characterise the most part, the best protection that consumers can have is that provided by fair competition in the free market' (HC Debs 115, 27 April 1987, c. 51). The shift from a Keynesian to a liberal paradigm resulted in an interventionist policy involving consumer groups being replaced by a policy that emphasised freeing the market and aiding consumers by limiting the role of government. The weakness of the consumer network, limiting the role of government. The weakness of the consumer network, with multiple decision-making centres, a lack of consensus and dependence on state approval meant they could provide little resistance to change.

In addition to pressure from state actors, the consumer network also faced external pressure from business. In the USA, in particular, business became much more active politically in response to the growth of consumer groups and legislation (Vogel, 1989). Vogel points out that in the 1960s and early 1970s business was largely unorganised politically making. In the mid-1970s business associations became much more active. Both the Chamber of Commerce and the National Association of Manufacturers improved their organisation, increased funding, started to lobby more actively and to some extent copied the public interest groups by developing grassroots networks (Vogel, 1989, p. 200-5). They realised the importance of publicity and major companies embarked on a national advertising campaign to highlight the cost of Big Government (New York Times, 28 October 1979; Vogel 1989).

Business also used Political Action Committees (PACs) to provide funds to members of Congress who supported their causes against consumer groups. Congress Watch found a direct correlation between anti-consumer voting records and the amount of campaign contributions that members of Congress received from business PACs (New York Times, 18 January 1982). The insurance industry's exemption from antitrust legislation. Four former Congress members contacted key members of the

House and Senate and 220,000 independent insurance agents vigorously lobbied Congress and business organisations (Congressional Quarterly, 30 July 1988). In the 1970s business became increasingly politicised (Pertschuk, 1982, p. 50) and in doing so it had the resources to threaten the existing consumer network by introducing new actors and problems to the policy arena.

To a certain, but lesser, extent this was true in Britain. Business had much better access to government than in the USA, especially a Conservative government which was often sympathetic to its views. A consumer group official believes that in the case of the Consumer demands of business. It consulted with business as soon as the European Commission announced its proposed Directive and tried to get a 'state-of-the-art' defence inserted. Once the Directive was passed, business lobbied very strongly for a state-of-the-art defence to be included in the British Act. The Confederation of British Industry (CBI) encouraged individual company directors to write hundreds of letters to MPs. During the development of policy, the CBI and, in particular, the Drug Industry had constant contact with the DTI. The Minister, Michael Howard, admitted that he had been persuaded by the forceful representations from a large number of industrial organisations that the absence of a developmental risk clause could hold back technical advance, increase insurance costs and limit profitability (the Times, 2 July 1986).

In the early 1980s the rise of the New Right, the collapse of the post-war consensus and economic recession raised new issues. The solution to economic and social problems was no longer seen in terms of state intervention but through deregulation and the market. This changed the perception of state actors who questioned the policy agenda of the consumer movement and became increasingly active and was much more prepared to challenge consumer policy. Hence, the consumer network was weakened because of the development of new policy problems, new ideologies, the challenge consumer movement also lacked the political resource of the mobilisation of large numbers of members. The relative openness of the consumer policy network embracing several important actors and decision-making centres made it very difficult for the network to defend itself. Even so, these changes did not eliminate consumer influence but led to new forms of networks, particularly in the public sector and in certain parts of the private market.

## **E. Consumer policy and the public sector**

An important part of consumer policy, especially in Britain, has been the marketisation of the public sector. This has been achieved through two main policies:

privatisation and the introduction of market criteria into the provision of public services. One of the goals of privatisation, at least in principle, has been to shift state-owned industries into the private sector and thereby make them more responsive to consumer demands. However, because other goals have often been given priority (see Chapter 7 by Swann in this volume), private industries have often remained private monopolies and this has produced unintended consequences for consumer policy.

In Britain, one of the aims of deregulation and privatisation was to depoliticise certain issues and so reduce the problem of governmental overload. As a consequence, certain consumer demands are intended to be satisfied through the market. Now complaints about telephone or gas prices are economic problems to be expressed through reduction in demand. Yet, despite the Conservative government's free market rhetoric, it was not prepared to leave the privatised industries completely to the invisible hand. Nationalisation was a means for the government to have some control over the economy, when it disappeared the government had to find a way of controlling natural monopolies which are central to the economy as a whole.

Therefore, with privatisation, new regulatory bodies like Oftel and Ofgas were created. These bodies are intended to ensure competition and the representation of consumer interests where monopolies continued after privatisations. They exist to allow consumer representation, to ensure social obligatisation. They exist to allow consumer representation, to ensure social obligations are met and price increases are limited (Carsberg, 1987; Gist, 1990). Walker (1990, pp. 150-2) claims that a lack of thought on the part of the government about the role of these bodies has led to the new regulatory offices being 'endowed with elastic powers...' and so a great deal of potential exists for control over the newly privatised industry. Oftel has limited overall price increases but this has not prevented BT from increasing the cost of local calls by 35 per cent in 1984-6 (Gist, 1990, p. 47). The problem for Oftel is that it has contradictory aims. To some extent the most important is to ensure competition and profitability within the telecommunications industry. This can undermine the commitment to the consumer.

Nevertheless, Oftel does provide some safeguards for consumers and mechanisms for consumer protection. With the creation of Oftel, regulation and ownership have been separated and Oftel is prepared to use its substantial powers to protect consumer interests. Oftel has had some success in dealing with consumer complaints because BT's dependence on Oftel means that it is prepared to accept the regulatory body's recommendations.

In addition, consumers have a number of means of access to Oftel: they can mark complaints as individual consumers; there is a consumer advisory committee which is a

committee of users appointed by the Secretary of State; and there is a committee of users appointed by the regular meetings between Oftel and various consumer groups such as the NCC and the Consumers Association. Recently Oftel has introduced a consumer policy advisor to advise the Director General of policy issues, which is seen as a means of ensuring that the domestic user has some representation, and there are ad hoc meetings between consumer organisations and Oftel. Although these bodies have no formal power and Oftel's duties to competition remain, it seems that consumers have been successful in raising issues and Oftel has been prepared to force BT to take action which favours the consumer. In the view of Harvey and Parry (1987, p. 69), Oftel. Although these bodies have no formal power and Oftel's duties to competition remain, it seems that consumers have been successful in raising issues and Oftel has been prepared to force BT to take action which favours the consumer. In the view of Harvey and Parry (1987, p. 69), Oftel 'is generally regarded as having been successful in publicising grievances and securing a measure of reform to British Telecom's operator practices'.

Oftel provides an example of the ways in which the new regulatory agencies can potentially protect the consumer. The regulatory agencies have a very wide range of powers and the use of these powers depends largely on the decisions of the Director General. The gas and electricity regulatory authorities have been strict in controlling energy prices and both British Gas and British Telecom have been forced to cut prices to consumers. There are also means for ensuring that consumer interests are at least heard and to some extent the agencies do have a brief to take notice of these interests.

With Oftel an important new consumer network has been established which provides institutional access to policy-making and allows consumers some input into telecommunications policy. However, in establishing these new authorities privatisation policy. However, in establishing these new authorities privatisation policy has contradicted New Right consumer policy and rather than creating deregulation has actually increased the level of regulation in Britain. The government has accepted that to some extent the interests of the consumer cannot be represented through the market.

Ironically, the Thatcher government's argument for the rest of the public sector was that consumers could be better represented through the extension of the market. The New Right brought a greater concern for consumer interests into the public sector during the 1980s. With the government's desire to shake up the public sector it attempted to introduce elements of choice and competition in order to increase the influence of consumers. the government also tried to extend competition in the housing sector through the right-to-buy policy and by allowing public tenants to opt for private landlords (Flynn, 1988). The government also forced local authorities to

contract out many of their services. In 1992 'market testing' was extended to central government.

Much of the government's stated aim behind health service reform is to make the NHS more responsive to the consumer and more subject to market discipline. Attempts to improve consumer responsiveness of the NHS arose from two major policy changes. Firstly, the Griffiths Report of 1983 said that the NHS Management Board and Health Authority Chairmen should 'ascertain how the service is being delivered at local level' and 'respond directly to this information'. For Griffiths, 'Sufficient management impression must be created at all levels that the centre is passionately concerned with the quality of care and delivery of services at local level' (Griffiths, 1998, p. 196). Perhaps more significant are the changes following the health service review. Again the government claimed that one of the key intentions of the review was to make the NHS more responsive to the consumer. Indeed, the White Paper following the Review was called *Working for Patients* (Cm. 555).

Although these changes are intended to increase consumer choice, there are clearly a number of problems. Firstly, if distinct authorities contract for particular services, the contract will be based on prices and quality and so limit consumer choice (Klein, 1989). Secondly, patients may have to travel substantial distances and the less mobile and poor are unlikely to have equal access. Third, the system is likely to favour large teaching hospitals and so provide people with less choice in certain regions. Fourth, relationships between patients, GPs and consultants are likely to be disrupted (Social Services Committee, 1988).

The second area of important change is in education. The New Right has maintained that too much power is in the hands of bureaucrats, politicians and teachers and there is a need to increase parental power (Green, 1987). In the early 1980s there was some support for a voucher scheme which would allow parents to purchase education from whichever school they chose - public or private - providing the extra money where necessary (Green, 1987). The idea of vouchers was abandoned in the early 1980s but the 1988 Education Act aimed at increasing market competition and parental choice by increasing the power of governors, allowing schools to opt out of education authority control and increasing parental choice of schools (Flynn, 1989).

Through privatisation and marketisation the government has clearly tried to make public services more responsive to consumer demands and to some extent has been successful in this goal. However often there is little real choice in public services (Hambleton, 1988). Time, convenience and location often make choices over schools limited. Parents can only have choice where empty places are available and so in reality choice is limited.

After Margaret Thatcher was replaced by John Major as Prime Minister the Conservative government introduced 'Citizen's Charters' as mechanisms for protecting consumers's rights in the public sector. The aim of the Citizen's Charter is to consumer with a specific set of rights in the provision of public services. There are now charters for a range of public services including Education, Health, Social Security and the Railways. They promise the consumer certain information, mechanisms for the redress of grievances, specific waiting times for the health service and targets for the punctuality and reliability of trains (The Guardian , 24 July 1991). For instance, British Rail is now providing discounts to season tricket holidays where train services fail to meet certain standards of punctuality and reliability. However , the charters have been criticised for setting very low targets and of being little more than a public relations exercise (The Guardian , 12 December 1992) Charters are not necessarily linked to New Right ideology. They are a means of regulating, rather than eliminating , the public sector and all British parties are committed to some from of Charter.

In the United States, the public sector is relatively much smaller and so privatisation and marketisation have been less of an issues. Nevertheless, in health policy the government intended to introduce stronger market criteria. During the Reagan administration several bills were introduced 'to create financial incentives to expend consumer choice in purchasing health services, induce greater price competition among health care professionals and institutions, improve efficiency in the organization and delivery of services and ultimately lower the costs of health care'(Oliver 1991).

However, due to the lack of widespread Congressional support and concern with immediate cost reductions, all these bills failed. Instead diagnosis related groups(DRGs) were introduced whereby hospitals are paid fixed fees for particular type of treatments and thus have an incentive to keep their own costs down. In addition, the Reagan administration encouraged Health Maintenance Organisations. Under this system consumers purchase health care annually at a fixed cost and are treated as needed without extra payment. Again, unlike insurance, the providers have an increased competition with insurance companies. Brown maintains that as a result of HMOs , other alternative systems of health delivery, professional review, greater information and managerial control, there has been a 'palpable growth of competition throughout the system'(Brown,1987 , p.9). Yet,despite this increased competition, costs are still high and rising and many people do not have access to adequate health care.

## F. Consumers and economic change

The New Right's emphasis on the market and wider economic changes had an impact on consumers and consumer policy. The Thatcher government emphasised the power of the consumer in the market and maintained that it increased personal income and choice through its taxation and privatisation policies (Saunders and Harris, 1990, p.66). As we have seen, it tried to increase consumer choice in public services by establishing internal markets within health and education. Some social theorists suggest that this has led to the development of a consumer culture. Consumption has become culturally and politically significant as it defines social position through life-style and citizenship in terms of the power to consume (Featherstone, 1990). With deregulation and privatisation, citizenship is no longer seen as a function of the Welfare State, as Marshall (1973) had outlined, but of the ability to buy the various accoutrements of society (King, 1987). This change, of course, makes citizenship a particular rather than universal phenomena (see Therborn, 1989).

Now, according to Mort (1989, p.161), 'Consumption is at the centre stage in the political battle over the economy'. Or for Gardener and Sheppard (1989, p.45):

*Consumption has ceased to be purely material or narrowly functional...  
Today consumption is both symbolic and material. It expresses, in a real sense, a person's place in the world, his or her core identity.*

This new politics and culture of consumption was partly the cause and partly the consequence of a revolution in retailing. A general move from manufacturing to services was exaggerated by economic boom in the mid-1980s which led to the growth and change of the retail sector (Gardener and Sheppard, 1989). Retailers have now replaced manufacturers as the economically dominant sector (Gardener and Sheppard, 1989, pp.16-17). This economic importance has had political implications. Retailers have recognised the importance of consumer preferences and increased competition has resulted in some companies using their concern for the consumer as a means of attracting consumers. These retailers are using their economic power to defend consumer interests. (The power of consumers is not to be equated with the power of consumer organisations.)

This has happened in two ways. Retailer's economic strength in relation to manufacturers has enabled them to impose regulations on the companies that produce for them. British retail companies, for example, Marks and Spencer demands very strict hygiene standards in the regulation of food handling. Sainsbury's has removed food production from companies that have not met their standards. Safeway and Tesco

have led the way in banning certain additives and providing a simple and comprehensive system of labelling. So food companies have developed private policy which far exceeds government policy in the extent to which it protects consumer interests (Smith, M.J 1991) and this is to a large extent the result of consumers' market power.

This private policy has created a collective action problem for companies. If they impose tough regulation, it pushes up their costs. It is in their interest to have these regulations imposed on other companies and to have the force of law behind their own regulations. As a result, retailers have become more active in lobbying government in favour of consumer issues. The supermarkets have attacked the government over its secret testing of the milk hormone BST. At the European level, a major British retailer has been lobbying hard for the Commission to impose tighter regulations on slaughterhouses (Mazey and Richardson, 1992).

This has led to new alliances. In the case of misleading prices, consumer groups and retailers agreed on policy proposals which they jointly presented to the DTI but which the DTI rejected.

As in Britain, the growth of consumer culture in the United States has resulted in increased consideration of consumer interests by retailers. Increasingly, companies are trying to improve product quality and customer service (New York Times, 15 October 1988). Giant Foods initiated a consumer programme in 1970 which was built around Kennedy's Consumer Bill of Rights. They introduced unit pricing, labelling, open dating and their own product safety policies. At one point they went so far as to explain the high price of beef and recommend that consumers buy something else' (Peterson, 1982, p.130). This policy has been followed by other companies who see consumerism as a way of increasing their market share. American Express has a computer affairs department which assesses the impact of policies and products on consumers, and Target Stores spends \$500,000 a year to ensure that the toys it sells are safe (New York Times, 15 October 1988). Although it is only a small proportion of companies that have such policies, they are still meeting consumer demands and this puts pressure on government and other companies to take consumer wishes seriously.

## **G. The New and consumer network**

In both Britain and the United States, government influenced by New Right ideology aimed to change the nature of consumer policy. They attempted to change from a policy of consumer through the market. In doing so they challenged the

traditional policy networks but often consumer policy had unintended consequences and was contradicted by the goals of other policies.

In Britain the 1980s saw an attack on the traditional forms of consumer representation and redress of grievance. This led to challenges to the traditional networks and to new forms of networks. These are particularly interesting because they generally bypass government. In telecommunications, the network involves British Telecom, OfTel and consumer groups with the government having a supervisory role. In the case of retail, the network involves consumer groups working directly with retail companies (in a limited number of cases) and the retail companies implementing their own consumer policy without reference to government. As Grant et al (1988) found, it is not necessary to have a state actor involved in a policy community especially where you have organisations that can develop their own regulation.

Similar changes have also occurred in the United State but have taken a slightly different path. To some extent there has been a consumer backlash since the first anti-consumer measures. In the United States, consumers continued to see consumer protection as important (Bloom and Smith, 1986, p. 11) and no longer believed that Congress was doing enough to protect their interests (New York Times, 17 February 1983). Congress has taken some notice of these pressures. Although it was initially prepared to cut consumer agencies' budgets and reduce their powers, it would not go as far as the OMB and the Reagan administration desired. As the White House moved the emphasis of policy from deregulation to tax reform, Congress became unwilling to million dollars, feeling that the balance had swung too far in favour of business (Pertschuk, 1983). By 1983 the administration's deregulatory policy was in further and actually increased the FTC budget by \$5 million dollars, feeling that the balance had swung too far in favour of business (Pertschuk, 1983). By 1984 the administration's deregulatory policy was in turmoil (Eads and Fix 1984, p. 1) and in fact it failed to 'repeal or amend a single major regulatory statute' (Vogel, 1989, p. 261). Since then Congress has appeared increasingly pro-consumer, introducing legislation to prevent price fixing, to strengthen product liability and to increase the power and budget of the CPSC (Congressional Quarterly, 13 January 1990; 3 February 1990; 23 June 1990).

In addition, whilst consumer activity declined at federal level, consumers found a new forum at state and local level. Local groups remained active (Warland, Hermann and Moore, 1986) and certain states were prepared to maintain strict consumer protection. In particular, state attorneys general started to work collectively to enforce consumer regulation. The National Association of Attorneys General has developed state-level consumer regulation which they could implement through court

action in antitrust and consumer protection cases.

Consumer groups have on many occasions used the state level to plead their cases (New York Times, 8 February 1988). This adoption of state-level laws has forced US companies to call for greater intervention at national level so that there is national uniformity in consumer regulation and companies do not face differential costs. As Ralph Engel of the Chemical Specialties Manufacturers said, the states' product safety laws have 'caused us and other industries considerable discomfort and concern' (Congressional Quarterly, 3 March 1990). Bloom and Geyser (1981, p. 136) see this as an indication of consumerism moving into a mature stage where 'consumerism is no longer the exclusive domain of the traditional movement' but is now taking various forms.

In the United States there have been new forms of consumer political activity with more state-level activity and the private sector establishing some consumer policies. However, the most important development in the late-1980s was a change in the attitude by Congress. Initially, Congress was prepared to support Reagan's attack on regulatory agencies. As this policy became increasingly unpopular, Congress was prepared to defend the traditional network. In the United States, the FTC and the CPSC remain important centres of consumerist power. The paradox of the situation is that the features of the American political system, its numerous access points and decision-making centres, which make it difficult to form policy networks, actually protected the consumer network. Congress prevented the President from attacking consumer regulation too severely.

The 1980s has seen a decline in the national consumer movements and the networks that they established in the 1970s. Consumer policy in Britain and the United States is based increasingly on the market and deregulation. Yet this policy has had unintended consequences. It has resulted in shifts of power to consumers as purchasers and to retailers who are prepared to recognise consumer demands. New powerful economic interests have sided with the consumer. In Britain, deregulation has created new institutions which can be used to further consumer interests and, in the United States, Congress has not been prepared to allow total deregulation. Consumer influence has changed but it has not disappeared and to a certain extent, in the case of Britain, it is perhaps more effective.

## **H. Conclusion**

New Right ideology has been effective in initially influencing government policy in Britain and the United States. In both countries policies of deregulation and

marketisation have been attempted in order to reduce the power of consumer groups but to increase the power of individual consumers. However as Marsh and Rhodes (1992b) point out, the actual outcomes of consumer policy have often varied greatly from ideological goals because of external factors, unintended consequences and the inertia of existing policy networks. In Britain, where the influence of consumer groups was always fairly limited, the government had little difficulty in reducing the role for consumer groups on policy, had a number of unintended consequences. As a by-product of privatisation, regulation has increased rather than decreased and this has provided consumer groups with alternative access to the policy process. Wider economic changes and the development of a consumer culture has also increased consumer influence in the retail sector. On the other hand, in the public sector, despite attempts to increase consumer responsiveness, the difficulties of introducing market mechanisms has meant that consumer input is still limited. In the United States, where consumer groups achieved significant impact in the 1970s, the administration faced even greater difficulties with its consumer policy. Initially the Reagan administration was very successful at reducing the influence of consumer groups and the power of the regulatory authorities. Yet to a large degree these changes were under way before 1980 and so cannot be solely attributed to the New Right. However, new networks developed at state and local level and there was enough support for consumer interests within Congress to prevent the complete implementation of Reagan's consumer policy. Consequently, many of the features of consumer policy established in the 1970s remain today.

## References

- Barbrook, A. and Bolt, C. (1980), *Power and Protest in American Life*, Oxford, Martin Robertson.
- Barry, N. (1987), 'Understanding the Market' in M. Loney et al. (eds), *The State or the Market*, London, Sage.
- Bloom, D.B. and Smith, R.B. (eds) (1986), *The Future of Consumerism*, Massachusetts, Lexington Books.
- Bloom, P.N. and Greyser, S.A. (1981), 'The Maturing of Consumerism', *Harvard Business Review*, 59, pp. 130-9.
- Brown, L.D. (1987), 'Introduction to a Decade of Transition' in L.D. Brown (ed.), *Health Policy in Transition*, Durham, Duke University Press.
- Carsberg, B. (1987), *The Regulation of the Telecommunications Industry*, Edinburgh, The David Hume Institute.

- Cawson, A. and Saunders, P. (1983), 'Corporatism, Competitive Politics and Class Struggle' in R. King (ed.), *Class Struggle* in R. King (ed.), *Capital and Politics*, London, Routledge Kegan Paul.
- Cm. 555 (1989), *Working for Patients*, London, HMSO.
- Congressional Quarterly.
- De Witt, K. (1981), 'Reagan's Consumer Chief Notes Policy Shift', *New York Times*, 12 April.
- Eads, G.C. and Fix, M. (1984), 'Introduction' in G.C. Eads and M. Fix (eds), *The Reagan Regulatory Strategy: An Assessment*, Washington DC, The Urban Institute Press.
- Featherstone, M. (1990), 'Perspectives on Consumer Consumer Culture', *Sociology*, 24, pp.5-22.
- Flickinger, R.S. (1987), 'Consumer Policy : Policy: Qualified Convergence' in J.C. Waltman and D.T. Studlar, (eds), *Political Economy*, Jackson, University Press of Mississippi.
- Flynn, N. (1989), 'The New Right and Social Policy', *Policy and Politics*, 17, 2, pp. 97-109.
- Forbes, J.D. (1987), *The Consumer Interest*, London, Croom Helm.
- Gardener, C. and Sheppard, J. (1989), *Consuming Passions: The Rise of Retail Cultures*, London, Unwin Hyman.
- The Guardian.
- Gibb, F. (1988), 'Law makes it easier to get compensation for poor goods', *The Times*, 22 February.
- Gist, P. (1990), 'The Role of Oftel', *Telecommunications Policy*, 14, pp. 26-51.
- Gorz, A. (1989), 'A Land of Cockayne', *New Statesman and Society*, 2, pp. 27-31.
- Grant, W., Paterson, W. and Whitson, C. (1988), *Government and the Chemical Industry*, Oxford, Clarendon Press.
- Green, D. (1987), *The New Right: The Counter-Revolution in Political, Economic and Social Thought*, Brighton, Wheatsheaf.
- Griffiths, R. (1988), 'Does the Public Service Serve. The Consumer Dimension', *Public Administration*, 66, pp. 195-204.
- Hall, S. and Jacques, M. (eds) (1989), *New Times: The Changing Face of Politics in the 1990s*, London, Lawrence and Wishart.
- Hambleton, R. (1988), 'Consumerism, Decentralisation and Local Democracy', *Public Administration*, 66, pp. 125-47.
- Harvey, B.W. and Parry, D.L. (1987), *Consumer Protection and Fair Trading*, London, Butterworth.
- Hayek, F.A. (1944), *The Road to Serfdom*, London, Routledge Kegan Paul.

- Heclo, H. (1978), 'Issue Networks and the Executive Establishment', in A. King (ed.) *The New American Political System*, Washington DC, AEI.
- HL 192(1985/86), House of Lord Select Committee on the European House of Commons, Parliamentary Debates, Fifth Series, Vol. 872, 9 April 1974.
- House of Commons, Parliamentary Debates, Fifth Series, Vol. 930, 27 April 1977
- House of Commons, Parliamentary Debates, Sixth Series, Vol. 115, 27 April 1987.
- King, D (1987), *The New Right*, London, Macmillan.
- Klenin, R (1989), *The Politics of the NHS*, London, Longman.
- Labour Party (1989), *Meet the Challenge, Make the Change*, Labour Party, London.
- Lindblom, C. (1977), *Politics and Markets*, New York, Basic Books.
- Lucco, J. (1992), 'Representing the Consumer Interest: Consumer Groups and the Presidency' in M. Petraccia, (ed), *Interest Groups Transformed*, Boulder, Westview Press.
- Lukes, S (1974), *Power: A Radical View* London, Macmillan.
- MacFarland, A.S (1984), *Common Cause*, Chatham, NJ Chairman House. during the Reagan Administration's in R.E Meiners, and B. Yandle, (eds), *Regulation and the Reagan Era*, New York, Holmes and Meier.
- Marsh, D and Rhodes, R.A.W (1992a) (eds), *Policy Network in British Government*, Oxford, Clarendon Press.
- Marsh, D and Rhodes, R.A.W (1992b) (eds), *Implementing Thatcherite Policies: Audit of an Era*, Milton Keynes, Open University Press.
- Marshall, T. H (1973), *Citizenship and Social Class*, London, Cambridge University Press.
- Mayard, A (1988), *Whither the National Health Services*, University of York, Centre for Health Economics.
- Mazey, S, and Richardson, J.J (1992), 'British Pressure Groups in the EC: Changing Lobbying Styles', *Parliamentary Affairs*, 45 pp92-107.
- Miller III. J.C (1989), *The Economist As Reformer: Revamping the FTC 1981-1985*, Washington DC, American Enterprise Institute.
- Mort, F (1989), 'The politics of Consumption' in S. Hall and M. Jacques (eds), *New Times The Changing Face of Politics in the 1990s*, London, Lawrence and Wishart.
- Nadel, M. V (1971), *The Politics of consumer Protection*, New York, Bobbs Merrill Company Inc.
- National Consumer Council (1979), *The Consumer and the State: Getting Value for real Money*, London, National Consumer Council.
- National Consumer Council (1990), *Annual Report*, London National Consumer Council.
- New York Times.

- OECD (1983), *Consumer Policy in the last Ten Years*, Paris, OECD
- Oliver, T.R.(1991), *Health Care Market Reform in Congress : The Uncertain Path from Policy to Proposal*. 'Political Science Quarterly', 106, pp.453-77.
- Pertchuk, M (1982), *Revolt Against Regulation*, Berkeley, University of California
- Perschuk, M (1983), 'The Case for Consumerism', *New York Times*, 30 May.
- Peterson, E (1982), 'Is Consumerism Still a Marketing Tool?' in P. Bloom (ed.), *Consumerism and Beyond*, Massachusetts, Marketing Science Institute.
- Potter, J. (1988), 'Consumerism and the public Sector : How Well does the Coat Fit?', *Public Administration*, 66 149-64.
- Reagan, M.D.(1987), *Regulation : The Politics of Politics of Policy*, Boston, Little Brown and Co.
- Rothman Hasin, B (1987), *Consumer, Commissions and Congress, Law, Theory and the Federal Trade Commission, 1963-85*, New Brunswick and Oxford, Transaction Books.
- Saunders, P. (1990), *A Nation of Home Owners*, London, Unwin Hyman.
- Saunders, P. and Harris, C (1990), 'Privatisation and the Consumer', *Sociology*, 24, 57-75.
- Silber, N.I (1983), *Thest and Protest: The Influence of Consumers Union*, London, Holmes and Meier.
- Smith, D.B. and Bloom, P.N (1986), 'Is Consumerism Dead or Alive? Some Empirical Evidence' in Bloom and Smith (1986).
- Smith, G (1982), *The Consumer Interest*, London, John Martin Publishing.
- Smith, M (1986), *The Consumer Case for Socialism*, London, Fabian Society.
- Smith, M (1991), 'Issue Advocacy in Parliament : the Case of the National Consumer Council' in G. Jordan (ed), *Commercial Lobbying*, Aberdeen, Aberdeen University Press.
- Smith, M.J (1990), 'The Impact of Social and Political Change on Policy Networks in Britain and the United States', Paper Presented to ECPR Workshop: Institutions, Structures and the International of Interests, Bochum, 2-7 April 1990
- Smith, M.J (1991), 'From Policy Community to Issue Network : Salmonella in Eggs and the New Politics of Food.' *Public Administration*, 69, 235-55.
- Social Services Committee (1988), *The Future of the National Health Service*, London HMSO.
- Taylor, M.(1987), *The Possibility of Cooperation*, Cambridge, Cambridge University Press.
- Therborn, G (1989), 'The Two-Thirds, One Third Society' in S. Hall and M. Jacques (eds), *New Times : The Changing Face of Politics in the 1990s*, London, Lawrence and Wishart.

- Thorelli, H.B and Thor'elli, S.V. (1974), *Consumer Information Handbook : Europe and North America*, New York, Praeger.
- The Times.
- Tivey, L (1974), 'The Politics of Consumer' in R. Kimber and J.J.Richardson (eds), *Pressure Groups in Britain*, London, Dent.
- Vogel, D.(1980). 'The Public Interest Movement and the American Reform Tradition', *Political Science Quarterly*, 95, pp.607-27.
- Vogel, D.(1989), *Fluctuating Fortunes*, New York, Basic Book.
- Vogel, D. and Nadel, M (1976), 'The Consumer Coalition Dimensions of Political Conflict' in R.N Katz (ed.), *Protecting the Consumer Interest*, Cambridge, Mass, Ballinger Publishing Co.
- Walker, D(1990), 'Enter the Regulators'. *Parliamentary Affairs*, 43, pp.149-58.
- Warland, R.H Hermann, R.O. and Moore, D.E (1986), 'Consumer Activism, Community Activism and the Consumer Movement' in Bloom and Smith (eds), *The Future of Consumerism*, Massachusetts, Lexington Books.
- Watkins, A (1991), *A Conservative Coup*, London, Duckworth.
- Williamson, P.J (1989), *Corporatism in Perspective*, London, Sage.