CONSUMER POLICY TOOLKIT

EXECUTIVE SUMMARY

MAKING MARKETS WORK FOR CONSUMERS

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The OECD's '*Consumer Policy Toolkit'* is a practical guide that is designed to aid policy makers in using a systematic approach to identify and evaluate consumer problems and to develop, implement and review effective consumer policies so that consumers can play their role in ensuring a dynamic economy. It focuses on policies for which consumer authorities are typically responsible. This does not include competition issues, which are addressed in a related OECD report ('*Competition Assessment Toolkit').*

I. CHANGING MARKET AND CONSUMER LANDSCAPE

Consumer markets for goods and services have undergone profound transformations over the past 20 years. Regulatory reform, more open global markets, the development of new technologies and the growth of consumer services have been agents of change. In many instances these developments have provided significant benefits to consumers. However, relatively little attention has been paid to the challenges these developments have posed for both consumers and consumer policy makers. For example, the modern marketplace contains a broader range of increasingly complex products. Moreover, there is significant differentiation among related products and services, making it more difficult for consumers to compare and assess the value of what is on offer. And while increased global trade and the development of the Internet have provided new opportunities for consumers, new forms of fraud have emerged that require consumer protection authorities to be more vigilant and active in co-operating with foreign colleagues.

Consumers themselves have also changed. Children and young adults – who often lack experience as consumers – are more significant forces in markets, as are the growing number of older adults who sometimes face unique marketplace challenges. While consumers are better-educated overall, many still lack the arithmetic and literacy skills that are required in today's more complex, information-intensive marketplace.

II. INCREASED UNDERSTANDING OF MARKETS AND CONSUMER DECISION MAKING

Economics is useful for helping to identify areas where government intervention in markets serving consumers may be warranted, and it can provide guidance as to the types of intervention that will be most effective. Standard economic theory presumes that free markets will usually produce the best outcomes for consumers. There are, however, circumstances in which markets can fail to deliver optimal outcomes. A lack of competition is a case in point. Another important source of market failure occurs when consumers do not have sufficient information about the products and prices available in markets. For example, consumers cannot make well informed decisions when they are presented with information that is incomplete, misleading, overly complex or too voluminous. Behavioural economics has demonstrated that, among other things, the manner in which information is presented and the way that choices are framed can significantly influence marketplace choices, sometimes in ways that are not in the best interests of a consumer.

III. IDENTIFYING AND EVALUATING CONSUMER PROBLEMS

Detecting and evaluating consumer problems and determining whether the level of consumer detriment that arises requires government action are key challenges for policy makers. In this regard, consumer authorities have several techniques at their disposal. Countries have drawn extensively on consumer complaints to help guide their work, but other important avenues are also being pursued. Satisfaction and dissatisfaction surveys, focus groups and in-depth quantitative research have been carried out to analyse developments in markets. Moreover, in recent years, some countries have invested considerable time and resources in developing more sophisticated procedures for analysing and screening markets in a more systematic manner.

IV. DEVELOPING AND IMPLEMENTING CONSUMER POLICY

Consumer protection authorities have several policy tools available to address marketplace problems. These range from those that focus on consumer empowerment (demand-side measures), such as enhancing the quality or type of information provided for products and ensuring consumer contracts are not unfair, to those that focus on modifying firm behaviour (supply-side measures), such as mandating product standards or encouraging the development of codes of conduct.

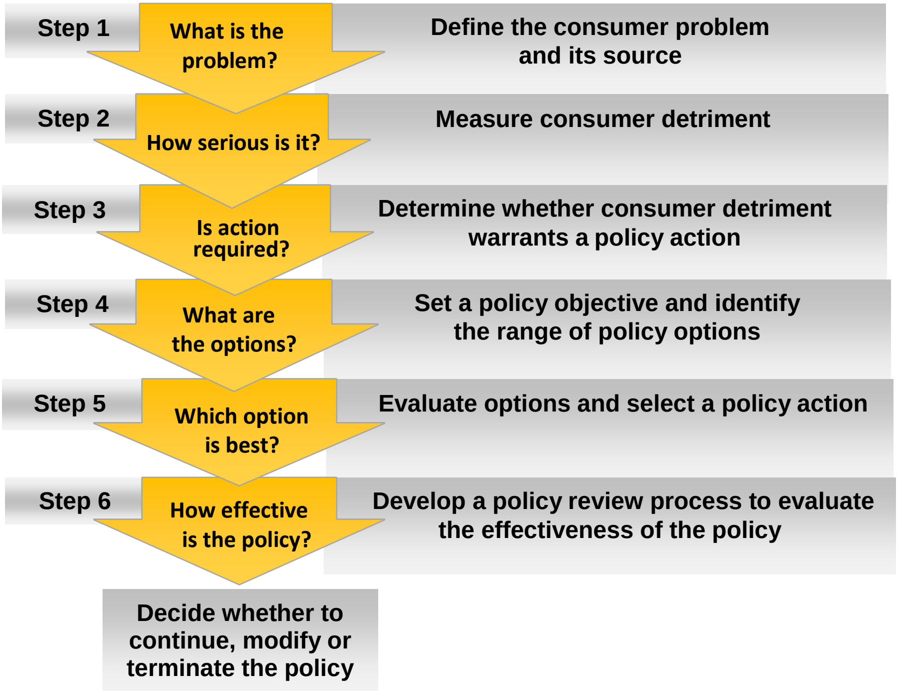
Policy makers may feel pressure to make decisions quickly in order to meet public expectations. Impromptu policy-making can, however, result in hasty decisions that have unanticipated, negative consequences for consumers and other stakeholders. To avoid this, consumer authorities should adopt rigorous, evidence-based approaches to policy making. The toolkit was developed to assist in this. Drawing on new understandings of how consumer markets function and how consumers make decisions, the toolkit provides a framework to guide policy makers in deciding when to intervene in a market to address a problem. It reviews the types of tools that are available and the circumstances and ways in which the tools could be used most effectively.

The toolkit presents a comprehensive six-step process for decision making which can be used at all levels of government, to address local, national or international issues (Figure 1).

Step 1: Defining the consumer problem and its source

It will help identify the institutions and stakeholders that could be involved in any potential policy development process. Sources of problems commonly addressed by consumer policy makers include firm behaviour (e.g., misleading advertising), information failures, consumer's behavioural biases and market and/or regulatory failures.

Figure 1. Six-step process of consumer policy making



At this stage, decision makers need to determine:

1. Whether the consumer authority is the most appropriate entity to address the source of the consumer problem as a whole, or certain aspects of the problem.
2. Whether the problem would be better handled by another entity. This would occur if the problem, or likely policy tools for correcting the problem, fell outside the consumer authority's mandate.
3. Whether there is reasonable scope for correcting the problem at its source.
4. Whether correcting the problem would conflict with other public policy objectives.

If the consumer authority decides to examine a problem further, it should examine how consumers are being harmed (step 2).

Step 2: Measuring consumer detriment

Consumer detriment arises when market outcomes fall short of their potential, resulting in welfare losses for consumers. Identifying and measuring the nature and magnitude of consumer detriment (how consumers are being harmed and the number of, and extent to which, consumers are being harmed) is a crucial component of evidence-based policy making. Elements of detriment include both financial and non-financial impacts, such as direct financial losses, time loss, stress and physical injury. Although quantification is oftentimes difficult, it is essential that detriment be assessed, even when it is only possible to do so in a qualitative manner. Possible sources of information for assessments include focus groups, complaints data, consumer surveys, market screening and econometric analysis. A good appreciation of consumer detriment provides a policy-maker with the evidence to build a case, if warranted, for a market intervention (Step 3), and is also helpful in establishing an effective policy objective (Step 4).

Step 3: Determining whether consumer detriment warrants a policy action

The decision whether to intervene should consider a number of questions:

1. What is the scale of consumer detriment? An intervention may be warranted if the detriment is small, but felt by a large number of consumers, or alternatively, if the detriment experienced even by a small group of consumers is very large.
2. Who is experiencing the consumer detriment? For example, disproportionate impacts on certain groups, such as children, the elderly or the socially disadvantaged, should be considered.
3. What is the anticipated duration of the consumer detriment: How detriment is likely to change over time should be evaluated. If it is expected to worsen, it may strengthen the case for intervention.
4. What are the likely consequences of taking no policy action? The political, social and economic consequences of taking no policy action should be considered.

5. Are there other substantial costs to the economy? Is the consumer problem creating detriment for other stakeholders? Is it, for example, distorting competition among firms?

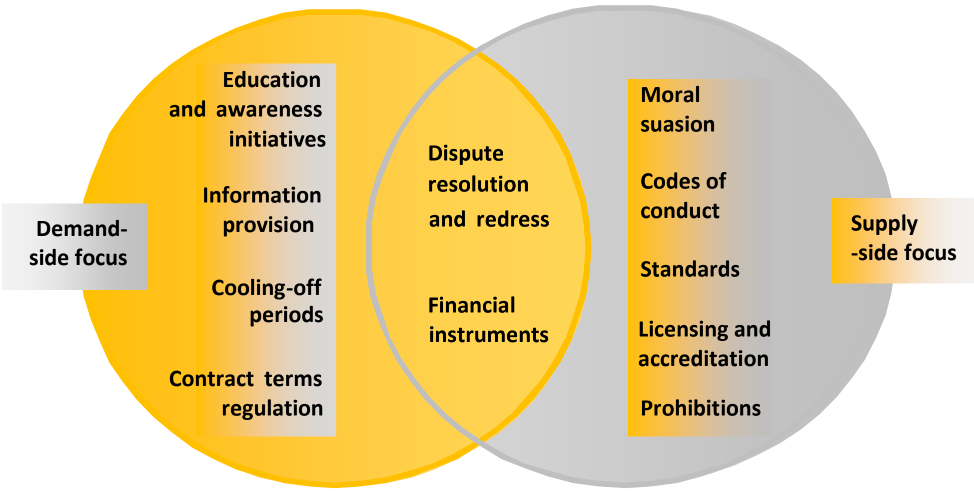
Considering these factors, a consumer authority should decide whether *i)* a policy action should be considered (proceed to Step 4), *ii)* more evidence is required before proceeding to policy development (return to Step 2), *iii)* a better understanding of the nature and/or source of the consumer problem is necessary (return to Step 1) or *iv)* no action is required, in which case the investigation would be terminated.

Step 4: Setting a policy objective and identifying the range of policy options

Setting the policy objective - A clear policy objective should be specified, in terms of what the policy intends to achieve for consumers and the market more generally. Appropriate success indicators, targets or metrics should be determined to aid future reviews of the effectiveness of the policy (Step 6) and should be focused on market outcomes for consumers (not intermediate results). If metrics are employed, efforts should be made to establish a baseline prior to implementing a policy.

Identifying the range of practical policy actions - Efforts should be made to identify the full range of practical policy options (those that can be realistically implemented). These would include those that focus on consumer empowerment and those that focus on modifying firm behaviour, as well as those that have elements of both (Figure 2). Both new policy actions, as well as better enforcement of existing policies, should be considered. At this stage it is also appropriate to identify who would be responsible for implementation and enforcement, the cost of maintaining the policy and how it would be communicated to stakeholders and the public.

Figure 2. Consumer policy tools to target the demand and supply side of markets



Step 5: Evaluating options and selecting a policy action

Once policy options have been identified, the aim is to determine the most appropriate and cost effective method for achieving the policy objective (from Step 4). In most cases, a benefit-cost analysis should be carried out, covering both quantifiable aspects and those areas where quantification may not be practicable (*e.g.,* community values and ethical considerations). The scale and depth of an analysis should be determined on the basis of the likely consequences of the policy under consideration. Not every action by government requires in-depth analysis. For example, an immediate product ban following a death or serious injury to consumers would not always require a cost-benefit analysis. On the other hand, in some instances, it may be worthwhile to carry out surveys, field trials and research aimed at deepening an assessment. This would likely be the case for policies that entail high costs on some stakeholders and are of a relatively permanent nature (*e.g.*, locked in by legislation).

Consultation with stakeholders, which include consumer organisations, affected firms and/or industry associations, could take place at any point in time during an investigation. It is particularly important to consider at this step, however, as it can help to ensure that options are expressed clearly and adequately address all relevant issues. It may also help reveal consequences that are not anticipated or intended by policy makers. Finally, the effects of each option on other policy areas, such as competition and the environment, should be considered.

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

Regular reviews of consumer policies serve to determine if the objectives (set at step 4) are being achieved in a cost-effective manner. The review process needs to factor in changes in the nature of the consumer problem, changes in the marketplace, and potentially unforeseen or unintended consequences of the selected policy action. The review should take place after a policy has been in operation for a reasonable period of time. Post implementation evaluations can range from interim monitoring to full-scale reviews. The methods for carrying out reviews are similar to those used for prior assessment of expected costs and benefits. The reviews should be used to determine whether a measure should be maintained, modified or eliminated, whether enforcement should be strengthened, whether an alternative policy action should be considered, or whether reassessment of the nature and/or source of a problem would be beneficial (Step 1).

www.oecd.org/sti/consumer-policy/toolkit

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