

Speech, Public Interest Advocacy Centre, Nov. 5, 2010.

I've covered consumer issues since the early 1970s. I was hired as a retail reporter at the Financial Post and got a tip that Pierre Trudeau was planning to appoint a food prices review board headed by long-time CAC volunteer Beryl Plumptre. I grew to admire her work and interviewed her later in her long life.

As a late '60s student radical at the McGill Daily, I was looking for a cause that would ignite my passion and feed my soul. I started at a time when Canada had a federal minister of consumer affairs and Phil Edmonston was launching campaigns to fight Rusty Fords. The Consumers Association had its own magazine and hundreds of thousands of subscribers, plus active volunteers across Canada. Those were the days.

Now there's a tiny consumer movement, underfinanced and struggling to make itself heard in the halls of power. The middle-class women who used to volunteer their time with CAC committees have gone back to work. And the issues are so complex that a broadly-based activist group can't keep on top of them. What we see are more single-issue groups that come together for a while and then dissolve when they succeed. Look at Brian Hunter and the ABCP investors committee.

Only in French Canada do we still see a thriving consumer movement that can keep itself alive through public support and government grants. Even the Quebec government is more actively involved in consumer issues than others, putting through a revamp of consumer laws to control cellphone abuses. Who cares if this is a federally regulated industry? Quebec wants to put things right, unlike Ontario where we've had three ministers in the consumer role in one year. The latest, John Gerretsen, made such a mess of eco fees that he's demoted to this job.

In the United States, Barack Obama has managed to get government approval for a Financial Consumer Protection Agency. He appointed crusading law professor Elizabeth Warren, if not to head it, then at least to get it off the ground. Let's hope the new Republican majority in the House can't derail things.

I feel like I'm standing at the corner of a sagging tent, trying to hold up my part against the pressures that pull down the other sides. Luckily, I have lots of support from my employer and can write pretty much what I want in the paper and online in a new Star website, Moneyville.ca. Maybe the print world is toppling, but the virtual newspaper is a going concern.

Little did I think when I opted for a career in journalism that I'd be a writer and problem solver, an Agony Aunt as they're known in Britain, listening to complaints and using the power of the Internet, backed by Canada's biggest paper, to make companies behave properly toward their customers.

Here are highlights of my week, which will give you a taste of my life on the job.

Eva calls to complain about Premier Fitness, one of the worst actors in the industry. I haven't had much luck before, but I give it a try. Something must have worried this company, since the v-p answers my email in three minutes with an offer to help. An hour later, Eva gets a call and a promise of a refund cheque. She decides not to go to small claims court after all.

Shalini has a story about her Toyota lease expiring and getting a better lease offer with a Nissan dealer. At the last minute, the dealer changes the terms of the agreement and she's crushed. I look up Nissan's PR people on Google and send them her email. A day later, she's told that Nissan Canada will step in and cover the cost difference with the dealer. She's picking up her vehicle tomorrow.

Margaret is a senior who tells me that Bell has billed her improperly since July. She went to Visa and got the charges reversed, but Bell just added them back to her bill. She's tired of speaking to call centres in India. Can I connect her to someone in Canada? I write down her phone number and send it to Bell. "I don't know what you did, but Bell resolved it right away," she says.

You get the picture. Companies hate to be portrayed badly in the media. That's why they're all trolling Twitter these days, looking for unhappy customers and trying to make their problems go away.

My brother Howard waited 10 months for Delta Airlines to pay his \$600 claim for lost luggage. He kept trying to reach a supervisor until a call centre rep said to try @Delta Assist on Twitter. His first tweet in his life got a response from Delta, though it took him two more tries to get the promise of a cheque.

I love the fact that I can achieve results in minutes or hours that ordinary people have strived months to obtain. I like getting compensation for customers in addition to having their immediate problems resolved. But I also know that companies are doing it only because they fear looking bad. They can satisfy a small percentage of people who go to the media, without having to do anything for the vast majority who stew in silence or bat their heads against a brick wall without making a dent.

I also get results because of my blog, Ellenroseman.com, which gets 400,000+ hits a month. Bell Blues is by far the biggest draw, followed by Direct Energy woes and Tim Hortons complaints about overcharging. Employees write comments almost as often as customers, stating their frustration with company policies or with nasty callers. Lately, there's been a debate about furnace contractors diagnosing a cracked heat exchanger and pushing customers to buy replacements. Are they out for commissions or just concerned about safety?

Another group is fighting a credit card company, MBNA, which promised them a low rate indefinitely. (Some have 1.99% and some 7.99%.) They moved over big balances to MBNA and paid a minimum of interest plus \$10 each month. Then, they got letters saying their minimum payments would go up to 1 per cent in September. For some people, it meant they couldn't afford to carry their debt.

Behind MBNA's move is a new federal law that requires credit card statements to show how long it would take to pay off a balance with only minimum payments. MBNA insisted it was raising the payments to help its customers, though they suspected it was to avoid embarrassment. Many are asking if they can launch a class action, since by raising the payments to a point where they can't pay them, MBNA is going back on a commitment to keep their low rate indefinitely. If you miss a couple of payments, your rate is jacked up to 25 per cent.

If you ask me which consumer issue makes me angriest and most vocal, I'd have to say it's the door-to-door sales of fixed price energy contracts. Ontario has allowed these companies to lie to consumers, avoid leaving contracts behind after they're signed and subvert the reaffirmation call that's supposed to be a check on high-pressure sales. Newcomers to Canada are targeted by energy resellers, as are seniors, new mothers and first-time homeowners. Most pay a lot more than they should for their gas and electricity.

It took politicians many years to pass a new law to control the abuses, even though energy sales were the number one complaint in their constituency offices. I asked Ontario ombudsman Andre Marin to intervene, but couldn't get past his media people, who said they weren't getting complaints. The Ontario Energy Board is a toothless regulator, maybe because it devised the ineffective rules in the first place. Finally, a private member's bill by a Liberal MPP shamed former energy minister George Smitherman into doing something.

Now that we're getting tough new rules in January, the same sellers will go door-to-door to push water heater replacements and carbon offset plans. Burglar alarms are probably the next thing. Alas, the new law won't touch anything but energy contracts.

I often wonder what happened to Canada's consumer movement and whether it can be revived. I also see similar trends elsewhere, as the far right paints all government intervention as expensive, elitist and ineffective. It's hard to interest politicians in far-reaching new initiatives, let alone in funding consumer groups.

If you Google the phrase, "Canada's consumer movement," the first thing that comes up is a CBC radio commentary I did in September about the decline in organized advocacy. I said I'd like to see more squawking in Canada and got a reply from Don Mercer, president of the Consumers Council of Canada, a group that broke away from the CAC years ago in a quest to get industry funding.

Don said consumer groups were struck a serious blow in the 1990s, when provincial and federal governments (outside Quebec) withdrew financial support

for advocacy groups of all kinds. Publishing started going downhill at that time, removing a needed revenue source.

He urged me to join the CCC at a membership cost of \$75 and encourage others to do so, giving examples of the great work done in research, policy development and representation. Canadian governments have a terrible record of supporting consumer representation and participation in policy making. This is well documented in OECD literature and weakens the Canadian economy.

“One need look no further than the fact that the Consumer Product Safety Act cannot seem to pass Parliament, even though all parties have voted overwhelmingly in favour of it on multiple occasions. Special interests are constantly able to sideline this important legislation,” he wrote.

“The Canadian public is treated to sideshow enforcement of consumer protection, as we have seen with the Fisher Price toy recall, after millions of units of product have been sold and children exposed to risk. Let’s face it. There would have been no recall without the action of the U.S. government because today, the Canadian government has no power in law to act.”

So, what about the politicians’ responsibility to help alleviate the concerns and ease the daily lives of the voters who elect them? Too often, they’re squabbling about jurisdiction. Payday loans weren’t regulated for years because of federal-provincial wrangling.

Ontario outlawed negative option billing, but the federal government didn’t follow suit, leaving consumers open to deception by federally-regulated banks, airlines and telecom firms. One example is the credit balance insurance sold by telemarketing to bank customers. If you sound undecided, they send you a package and continue to bill you until you notice the charges and opt out.

There is some success in the Competition Bureau’s decades of wrangling with the real estate industry to lower its fees and make them negotiable. And there’s a financial literacy task force readying recommendations to release in January about how to make people more educated about money.

I do worry, however, that the emphasis on arming consumers against wrongdoing may lessen the zeal to make the perpetrators pay for their crimes. Financial literacy campaigns can never take the place of well-drafted and well-enforced legislation to keep standards high.

But instead of new laws, we're getting a bunch of industry-funded agencies that act as an ombudsman. They do their work in secrecy, publishing vague reports that never reveal much about the complaints they handle and the outcomes. Consumers are gagged from talking to the media or disclosing the settlement amount to anyone. Yes, you avoid the time and expense of going to court. But how do you know what kind of honest and thorough investigation is being done?

When I look at companies that have an interface with consumers, I see a trend to reduce costs to the bone. Customer service is outsourced to call centres in Canada and overseas. My own employer, the Toronto Star, does so with circulation complaints. Answers are scripted, often lacking context or compassion, leaving callers without a way to escalate to senior management. That's why people go to the media. They're striking out on their own.

Telecom complaints are probably the number one issue, involving extra charges on bills, recurring errors on bills, onerous penalties to get out of contracts and the use of verbal contracts not backed up by written documents. I'm also hearing about outrageous bills for travelling with a smart phone when you don't know you can shut off your data roaming and find free WiFi connections. There's also outrage about premium text messages of \$2 to \$5 apiece that keep coming if you enter an online contest and give your cellphone number to see if you win.

The CRTC regulates less and less of the business activities of telecom companies, hiving off complaint handling to an industry-funded agency, the Commissioner for Complaints for Telecommunications Services, set up in 2007. Members had to join at the beginning. Now they're telling the CRTC they want to have the choice of joining or not.

The agency's mandate is so narrow that it can accept only a fraction of the complaints it receives. And it can't review contracts for fairness, only to see whether or not companies follow their own rules. This just institutionalizes the existing power imbalance between companies and consumers.

Two things I used to advocate for have come to pass. The small claims courts in Ontario have been expanded to include cases up to \$25,000. Alas, the staffing hasn't expanded, leaving a backlog that decries the previous speed at which you could get justice on your own without legal help.

Consumer class actions have become feasible with the advent of contingency fees for lawyers. Some lawsuits have been beneficial to consumers. I'm following one now involving a financial planner in Barrie who used inappropriate leverage on most of his clients to buy three times as many mutual funds as they could afford.

But there's a case that went to the Supreme Court of Canada involving Enbridge and late payment charges. The utility lost but still had its legal costs covered when it applied to the Ontario Energy Board for higher rates. Thus, consumers paid twice.

Now some electricity distributors are asking the OEB to be allowed to recover the costs and damages resulting from a late payment penalty class action lawsuit, which they lost before the Ontario Superior Court of Justice. They want to get \$17 million back from customers at a time when electricity costs are skyrocketing. Now is this right? Is this fair? Who's going to say no?

How can the consumer movement regroup and move ahead?

I see the media continuing to play a part in keeping the issues alive and present in the public's and politicians' minds. CBC Marketplace, with its hidden cameras, can shine light on many nefarious practices usually kept in the dark.

I see the Internet helping consumers to share information, raise awareness and create a stink, just as the ABCP holders did. When issues or individuals go viral, they get a huge reaction – and they often get change.

I see people getting more upset about how they're treated by big companies and government agencies that don't care about anything but the bottom line. They're recognizing the enormous power they can have in bargaining for better deals, playing off one firm against another, publicizing the companies they like and boycotting companies they don't like.

As a columnist who gets her best stories from readers, I'm viscerally connected to the concerns of average Canadians. I see their anger and frustration when they come across inequities.

Will consumers continue grumbling to each other? Or will they organize to fight and win reforms? I can't cover this beat forever. But I'm dying to know whether consumer activism is on the decline or will revive in the decade coming up.