

**FINANCIAL SERVICES AND CONSUMERS
- A COMPARISON BETWEEN
THE UK AND SWEDISH SYSTEMS**

Discussion paper, November 1999

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TABLE OF CONTENTS

FOREWORD.....	3
1. SUMMARY.....	4
2. INTRODUCTION.....	5
3. THE UK AND SWEDISH SYSTEMS.....	5
4. DIFFERENCES IN GENERAL BETWEEN THE UK AND SWEDISH SYSTEMS.....	17
5. QUESTIONS THAT ARISE FROM THE COMPARISON.....	19
6. INFORMATION.....	19
7. THE FSA AND OTHER BODIES.....	24
8. HOW SHOULD A CONSUMERS' FINANCIAL SERVICES BUREAU BE FINANCED?.....	27
9. SUPPLIERS' INTERNAL COMPLAINT PROCEDURES.....	28

FOREWORD

The financial world has shrunk in that there are few isolated markets, but has grown for the average consumer who can often choose from product providers from all over the world. It is for these two reasons that I decided to write a report, while working with the Office of Fair Trading as part of the Karolus programme, comparing the British system of consumer redress with that in my native. The purpose was to see if any lessons can be learned, and maybe transferred to the British system.

Britain's financial services regulation is currently undergoing wholesale change. The Financial Services and Markets Bill, the Competition Act and the DTI White Paper *Modern Markets: Confident Consumers* should all combine to give Britain a system of regulation, which both protects consumers and increases fair competition. I gained a great deal of useful information about the British system while researching my project which I intend to put to use back in Sweden.

Similarly I believe that there are aspects of the Swedish system that could enhance British regulation. I hope this discussion paper provokes debate on the points I have raised and as a result consumers benefit from enhanced confidence in providers.

But perhaps the most important lesson learned, as a result of my time in Britain is that the global market means supervisors must think in global terms too. The sharing of information, techniques and cooperation between supervisors and regulators in different countries is imperative to ensure innovative and safe selling of products in the European Union can continue.

The conclusions in this report are my own and they do not necessarily represent the views of the Office of Fair Trading, other UK authorities or Finansinspektionen.

I thank the Office of Fair Trading and the Karolus programme for giving me the opportunity to write this paper and to visit and talk to many

organisations, including Ombudsmen, Trading Standards Officers, and members of various government departments. I especially thank the Office of Fair Trading for their kind hospitality and the Arsenal FC shirt.

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1. SUMMARY

The UK Government is introducing a new structure for financial regulation by creating a single regulator for the financial markets, The Financial Services Authority (FSA). This discussion paper juxtaposes consumer protection in the financial services areas in the UK with that in Sweden and suggests which solutions in Sweden might usefully be incorporated into the UK. The opposite might be as important but is beyond the scope of the paper.

There are at least three different situations when consumers need information about financial services. These are just before they are to make a major investment; when they are reviewing their personal finances; and when they feel badly treated by a supplier.

When consumers do need this information they typically want it immediately. An organisation like the Swedish Consumers' Banking Bureau can be of great help to consumers in this situation, as it can quickly offer them unbiased assistance.

There is at present no impartial expert bureau to which UK consumers can turn when they need information and guidance. If a Consumers' Financial Services Bureau existed it could prevent a lot of unnecessary disputes, which in turn would save much time and money. This Bureau could be independent but with certain formal responsibilities towards, for example, the Financial Services Authority (FSA).

Questions from the public do not of course have to be answered direct by the Consumers' Financial Services Bureau. The Citizens Advice Bureaux for instance could complement the Bureau's work if they had the opportunity to consult about problems clients are having with financial services. This kind of co-operation would also conserve resources for the new bureau.

The nature of a Consumers' Financial Services Bureau makes it suitable to be used as a tool to educate consumers.

To be able to exercise its statutory responsibilities in the consumer area, the FSA will need a wide range of information on what is happening in the financial markets. A potential problem for the FSA could be the number of different sources it

receives information from. The Consumers' Financial Services Bureau could assist the FSA in this matter. The bureau would get a lot of information through its on-going contacts with the public and other consumer organisations. These contacts, together with knowledge of the financial services market, could enable the bureau to spot problems or changes in the market at an early stage. Passing this information to the FSA could be one of the main tasks for the bureau.

In Sweden it is recognised that an efficient complaints procedure is vital to minimise problems faced by consumers.

There is no statutory regulation in the UK defining how complaints should be handled. Furthermore, the contents of codes such as the Banking Code relating to complaints procedures are far too sparse. Codes should include a definition of a complaint and an assurance that the suppliers have set up a formal complaints procedure in writing.

This should include appropriate procedures for:

- Co-ordinating the handling of complaints;
- Ensuring that information from complaints of general interest is reported to the firm's management;
- Informing consumers about how to make a complaint;
- Contact points at which consumers can lodge a complaint; and
- Internal controls to ensure that complaints are properly dealt with.

Experience in Sweden has shown that the introduction of impartial, specialised advisers that give generic advice (together with strong guidelines for handling complaints swiftly and competently), shows that consumers often accept and appreciate the consideration given to their case even if the eventual outcome is not in their favour.

Therefore, I think that a culture that shows a will to address complaints and learn from their causes will do much to restore the UK public's faith in the industry.

2. INTRODUCTION

The UK Government is introducing a new structure for financial regulation by creating a single regulator for the financial markets, The Financial Services Authority (FSA). The draft Financial Services and Markets Bill, which will establish the powers and remit of the FSA, is now on its journey through Parliament. Consultation papers have been issued and a joint Parliamentary Committee is looking at aspects of the Bill. One of the principal objectives of the Bill is “to secure an appropriate degree of protection for consumers”.

HM Treasury’s latest Progress Report on the Bill says “Britain’s old system of financial regulation – with nine different regulators has not prevented us from developing a highly innovative and successful industry. But it has not always served the consumer well.”

The establishment of a single regulator for the full range of financial business provides an important opportunity to enhance the regulatory system in ways that will benefit both suppliers and consumers. In this development information about how other countries have organised their work might provide useful input.

This paper juxtaposes consumer protection in the financial services areas in the UK with that in Sweden and suggests which solutions in Sweden might usefully be incorporated into the UK.

There are various reasons why a comparison between the UK and Swedish systems is of interest. Firstly, the Swedish Finansinspektionen, like the FSA, a single regulator in the financial markets. The experiences that Finansinspektionen has gathered during its first eight years as a single regulator and supervisor as well as the measures that have been taken by it are of interest given recent developments in the UK. Secondly, in the early 1990s crises occurred in the Swedish property and credit markets which, together with the growing complexity of financial services and products on offer, led the Government to reconsider the imbalance between the supplier and consumer. Subsequently measures were introduced, for example the responsibilities of the Swedish Consumer Agency and the Consumer Ombudsman were extended with regard to the problems faced by consumers in connection with

financial services. Actions were taken in response which might be of interest given recent developments in UK. Thirdly, the UK system consists of a great many different organisations which help consumers once a problem has been identified, but the emphasis is on redress rather than on preventing the problem in the first case. The work in Sweden is more focused on the idea of prevention rather than cure. The possibility of preventing problems ought perhaps to be more thoroughly considered in the UK.

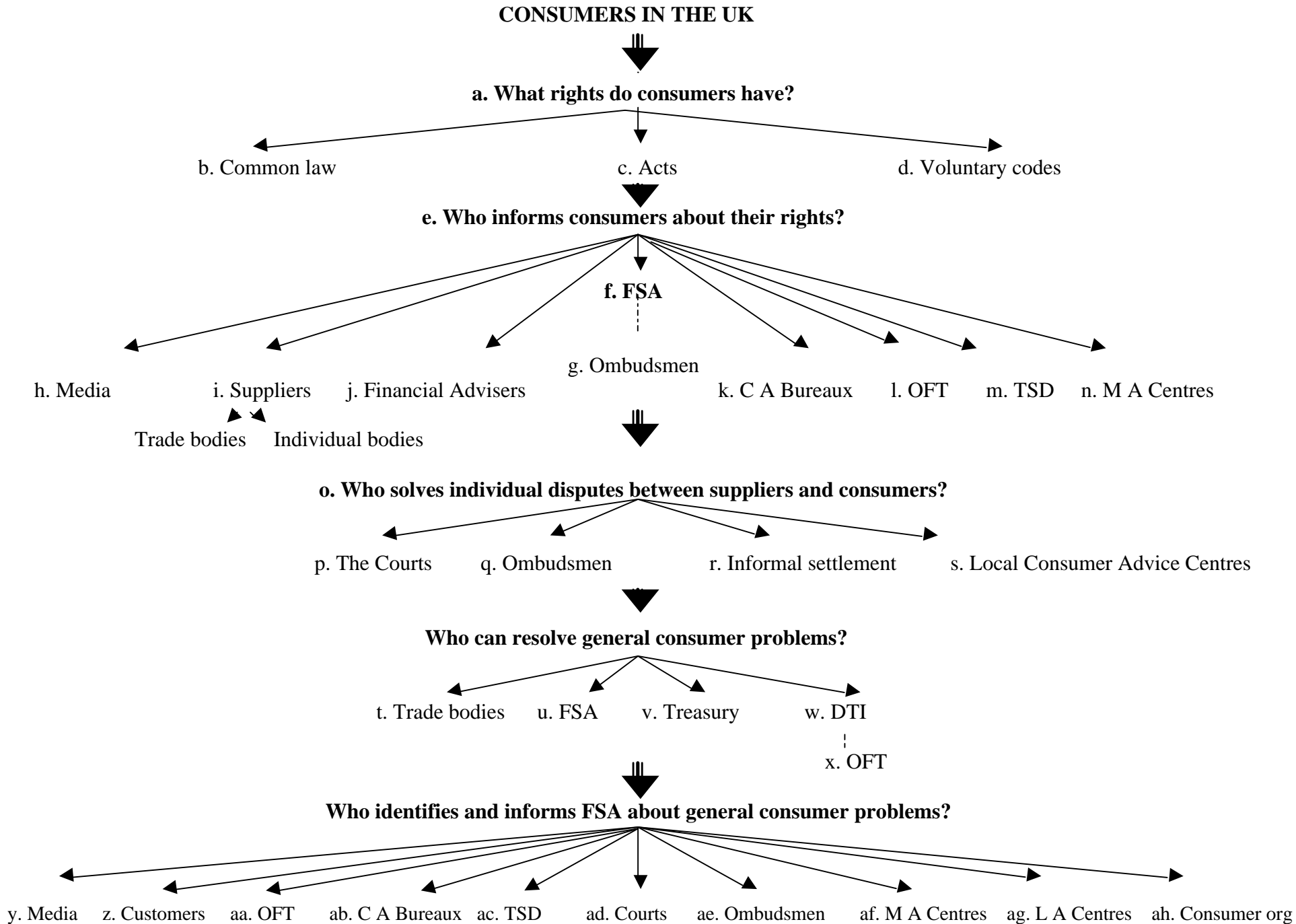
In this report the core concept of financial services is defined as consumer deposits and savings. This is taken to include deposit accounts, unit trust (mutual fund) saving schemes, pension saving schemes and the purchase of bonds and other securities. Payment services, that is to say giro payments, purchases made by credit card, “smart” card, cheque, etc are also considered to be financial services as are various forms of consumer credit such as credit sales, mortgages, unsecured and guaranteed loans, etc. Finally, insurance, in both life and non-life forms, is considered to be a financial service.

3. THE UK AND SWEDISH SYSTEMS

This chapter contains diagrammatic representations of how consumer protection works in the financial services fields in each country, together with explanatory notes. The conclusions and suggestions that are made later in this report are based on these descriptions.

3.1 CONSUMERS AND FINANCIAL SERVICES IN THE UK

Diagram 1 below illustrates how consumer problems are dealt with in the UK.



The diagram should be read in conjunction with the following explanatory notes:

a. The fact that the consumer has legal rights in respect of defective goods and services is of little benefit if the consumer is not aware of his rights or if there is not a suitable and inexpensive means for the consumer to enforce those rights. The purpose of this diagram is to show what help and guidance is provided to UK consumers in the financial services area.

b. Case Law, as established in the decisions of the courts, rather than by statute.

c. Statute which has been passed by Parliament.

d. Codes of practice are intended to encourage higher standards than those required by law or expected in normal business practice. They set out what consumers can expect from traders and how to get redress if they have a complaint. The Director General of Fair Trading has a duty under the Fair Trading Act 1973 to encourage trade associations to produce codes of practice, which safeguard consumers' interests. Codes of practice in the financial services area generally provide for redress through the relevant Ombudsman, see g below. The various Ombudsmen in the financial area will be amalgamated under the Financial Services and Markets Bill when enacted.

e. Financial decisions are generally the most important made by a consumer. It is therefore important that the consumer is aware of the significant consequences that may follow from entering into a contract. If the consumer is not aware, for example, of the scope of his rights and obligations when he takes out a mortgage there will be an imbalance of information and power between buyer and seller, to the seller's advantage.

f. On 20 May 1997, it was announced that the UK Government proposed to bring forward legislation to transfer responsibility for banking supervision to the Securities and Investments Board (SIB), and to replace the current system of self-regulation under the Financial Services Act with a new and fully statutory system, in which the SIB would become the single regulator. On 23 July 1997, it was announced that the insurance supervisory functions carried out by the Insurance Directorate of the Department of Trade and Industry and the functions of the Registry of Friendly Societies, the Building Societies

Commission and the Friendly Societies Commission would also be transferred to the new single financial regulatory body.

The new single regulator is the Financial Services Authority (FSA), as the SIB has been renamed.

The FSA's proposals for consumer protection include:

- **Consumer enquiries** The FSA Enquiries Office responds to a large number of letters and telephone calls from members of the public asking for information and assistance on a wide range of financial issues. How this Office is going to be organised in the future has, however, not yet been finally decided.
- **Consumer complaints** see note g below about the Ombudsmen
- **Compensation** There is a single compensation scheme, with effective compensation arrangements for consumers where individual firms authorised by FSA are no longer able to meet their liabilities to these consumers. The scheme is independently managed, but accountable to the FSA.
- **Consumer involvement** "The FSA shall seek to ensure that the interests of consumers are safeguarded in the most effective manner, and that the range of consumers' interests, their differing needs, and their views on the effectiveness and impact of regulation are taken into account in policy formation."
- **Consumer research** "The FSA shall seek to secure input from consumers by commissioning or promoting research into the experiences, needs and views of consumers of financial services."
- **Consumer education** "In order to help consumers take responsibility for decisions on their financial affairs and to assist them in making better judgements, the FSA will help promote efforts to raise levels of consumer knowledge and understanding."

g. Although individual schemes' constitutions differ, the UK financial services Ombudsmen were originally introduced as independent dispute-resolution schemes to be easy, cheap and simple alternatives to court proceedings.

There are in total 24 recognised UK Ombudsman schemes overall. The majority are set up by statute. Others are voluntary, non-statutory schemes set up on the initiative of the service sector concerned. There are at present eight existing dispute-

resolution schemes covering the financial services area:

- The Office of the Banking Ombudsman
- The Office of the Building Societies Ombudsman
- The Insurance Ombudsman Bureau
- The Office of the Investment Ombudsman
- The Personal Insurance Arbitration Service
- The PIA Ombudsman Bureau
- The SFA Complaints Bureau and Arbitration Service
- The FSA Independent Investigator

Each scheme varies in the type of complaint it handles, the powers it has and the procedures it uses. The Ombudsmen do not give general advice or information about financial matters or debt problems.

h. The UK media offer helpful information to anyone wanting to take a greater interest in their personal finances. Most newspapers have a finance section, which appears one day or more a week. Often, weekend newspapers have a personal finance section and there are also a number of general and specialist magazines. There are several relevant radio and TV programmes about general business and personal finance matters. More and more information is now made available on the Internet.

i. Suppliers provide consumers with various kind of information, and even assurance. In, for example, the Banking Code, banks and building societies undertake that all written terms and conditions in their relations with consumers in the UK will “be fair in substance and will set out your rights and responsibilities clearly and in plain language, with legal and technical language used only where necessary”. Sometimes suppliers’ trade bodies provide consumers with useful information about products and services.

j. All sellers of investment products must identify themselves as either independent financial advisers (IFAs) or tied agents. The former are required to advise objectively on a range of products in the market. The latter represent just one company and recommend products from that company’s range only. The advisers of both types are usually paid by commission – very few charge their clients fees.

k. The Office of Fair Trading (OFT) was set up under the provisions of the Fair Trading Act 1973. Broadly speaking, the OFT promotes the economic interests of consumers by safeguarding effective competition, removing trading malpractice and publishing appropriate guidance.

The OFT is unable to help individual consumers in their private disputes with traders. Information and advice to individuals are limited to services of the Consumer Information Line. If a consumer calls this service he or she will receive suggestions about who would be in the best position to help.

l. Local authorities are responsible for their Trading Standards Departments, which enforce trading laws locally. These departments aim to ensure fair trading for the protection of consumers and reputable business by:

- being accessible, responsive and innovative;
- dealing effectively and fairly with non-compliance;
- informing, educating, monitoring and advising;
- a commitment to service excellence.

They are committed to preventing non-compliance with the relevant law and to encouraging good practice by offering advice and information to both consumers and business. The scope of the work varies between different departments around the UK (some departments have carried out investigations into financial services) but they are not usually expert in financial services.

m. Citizens Advice Bureaux undertake two major areas of work, firstly, giving information and advice to individuals or groups of individuals and, secondly, carrying out social policy work. Each bureau provides a generalist service where individuals enquiring are offered advice and information on any subject of enquiry. Information on financial services is normally limited to the consumer’s basic rights. But many bureaux have specialist money advice counsellors to advise people in financial difficulties.

n. Some local authorities that do not have a Citizens Advice Bureau with specialist money advice counsellors may instead have Money Advice Centres to advise people in financial difficulties.

o. Consumer problems can be either individual, where for example, an individual trader is acting inappropriately or dishonestly, or symptomatic of a general trading malpractice, recent of which the pensions mis-selling affair is a recent example.

When a consumer has grounds for complaining and the supplier refuses to put things right it is important that the consumer knows where to seek redress.

p. Where informal methods of resolving a consumer complaint have failed, one possible action which a dissatisfied consumer may take is to resort to the courts. The majority of cases will be heard in a County Court, but if a case is particularly complex or involves an important question of law, the High Court may be more appropriate.

One other option for the consumer is the Small Claims Courts. These courts seek to provide accessible, speedy, inexpensive and fair resolution of minor disputes. The Small Claims Courts handle claims that are for less than £ 3,000.

q. The service of an ombudsman is provided free of charge to consumers. An ombudsman will, however, not normally consider a complaint unless the organisation, business or professional standards body concerned has first been given a reasonable opportunity to deal with it. An ombudsman does not normally treat complaints which are being dealt with or have been dealt with by a court or tribunal.

The FSA published its proposals for the establishment of a new single Financial Services Ombudsman Scheme in December 1997. The new scheme is going to replace the eight existing disputes-resolution schemes covering the financial services area. The FSA is currently in the process of setting up the new company which will manage the new scheme. Co-location on one site and early convergence of constituent schemes providing a "one-stop shop" for consumers, ahead of the new legislation are, according to FSA, expected to be matters of high priority for the new scheme's Board.

The new scheme provides for a panel of Ombudsmen and a Chief Ombudsman. The Financial Services and Markets Bill provides for the scheme to have both a compulsory jurisdiction (which covers all banks, building societies,

insurers and IFAs) and a voluntary jurisdiction (which would be available to others providing financial services).

r. Consumer dissatisfaction and disputes may often be based on a misunderstanding or on the fact that the consumer has been misinformed. One important way to minimise the problems faced by consumers is therefore to ensure that suppliers have efficient procedures for handling complaints. FSA also pointed out in its proposal for the establishment of a new single Ombudsman Scheme in December 1997 that it should be up to suppliers to attempt to resolve the complaints in the first instance, within a specified period of time.

s. Some local authorities offer consumer advice services, often through their Trading Standards Departments. The scope of the service offered varies but many will include resolving consumer complaints by directly intervening between the supplier and the consumer.

t. When problems occur in financial markets the more responsible suppliers and their trade bodies try to resolve them in the first instance.

u. One of the objectives for the FSA – which the government intends to include in the new legislation – is to secure an appropriate degree of protection for consumers.

v. HM Treasury is effectively the UK's Economics and Finance Ministry, and as such is responsible for formulating and putting into effect the government's financial and economic policy.

w. Amongst other things, the Department of Trade and Industry (DTI) is responsible for the development of general policy in the field of trading standards and fair trading, consumer credit and consumer safety. However, it is the Director General of Fair Trading who has the direct responsibility for enforcing consumer protection.

x. (See note a.) As OFT is both a competition authority and a consumer protection agency, it is able to link issues of competition failure and consumer detriment in matters it refers to the Competition Commission (formerly the Monopolies and Mergers Commission) for further investigation. The Director General's responsibilities are such that they cover financial services as well as every other area of trading activity in the UK.

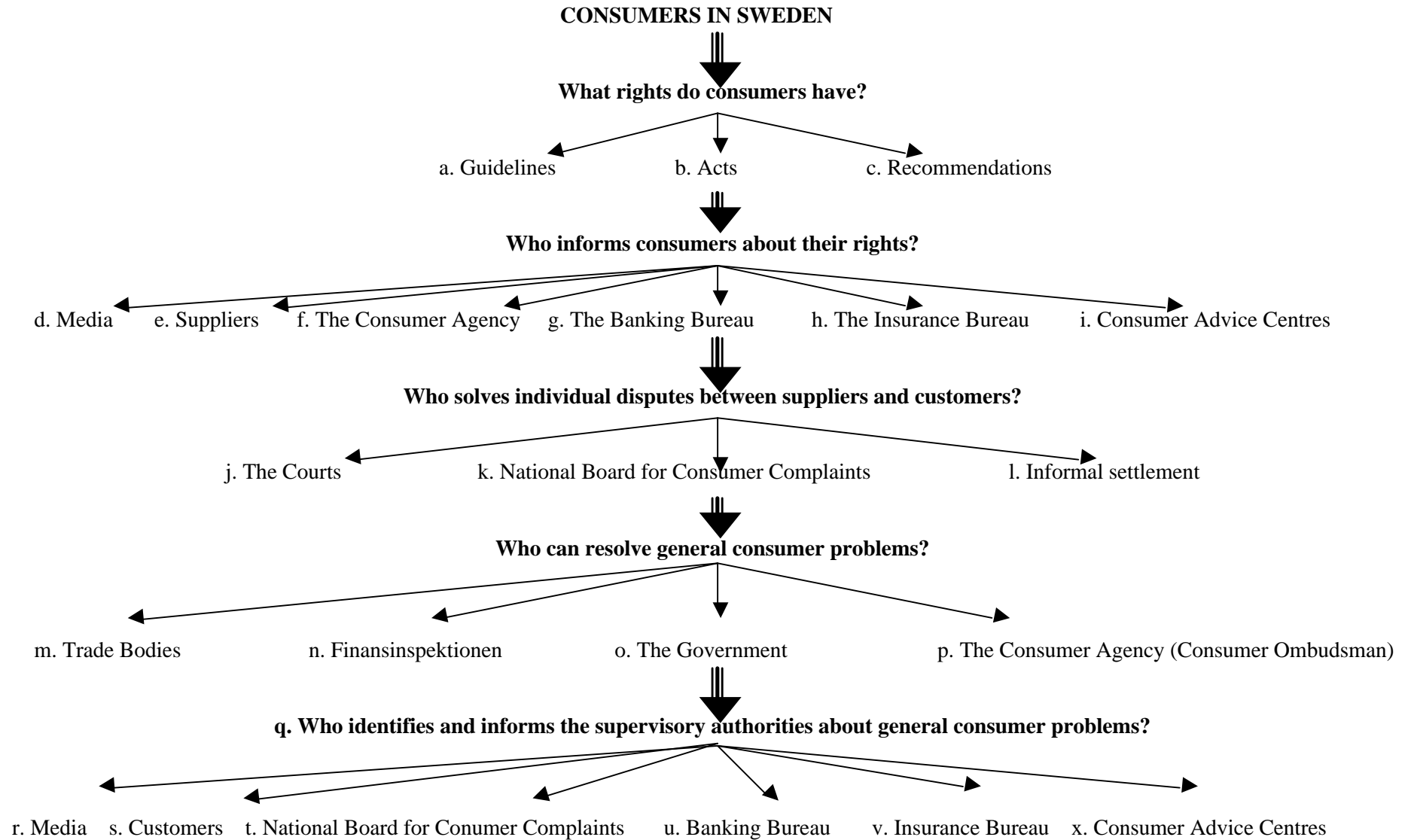
y. There are journalists who continuously observe the financial services scene closely. In this work they sometimes identify consumer problems that need to be resolved.

z. Customers are often the first to notice when a problem occurs. Complaints and questions from consumers ought to be a valuable source of information. Information contained in their complaints shows what customers think of financial services and helps suppliers and (regulatory) authorities to become aware of consumer problems at an early stage.

aa-ah. All these bodies will in their ongoing work from time to time run across problems for consumers of financial services that have to be resolved. It is of course important that these are reported to the body which has the power to resolve the problem, normally the FSA.

3.2 CONSUMERS AND FINANCIAL SERVICES IN SWEDEN

Diagram 2 illustrates how consumer problems are dealt with in Sweden.



This diagram should be read in conjunction with the following explanatory notes:

a. Both Finansinspektionen and The Consumer Agency (see notes n and p below) issue guidelines, spelling out what they believe is required from suppliers with regard to marketing, information, and so on. Such guidelines are worked out after consultation with the relevant trade body. When issuing guidelines concerning consumers' rights, the approach has been to be careful not to unnecessarily hinder sound growth in the financial sector by over-regulating. The focus has been oriented more and more toward information and disclosure as means to reach the objective.

b. The aim of legislation in Sweden is to prevent problems arising. Mandatory legal rules form an important basis to support the consumer. Swedish consumer legislation is, to a large extent, intended to prevent problems affecting consumers as a group in the market.

c. Some of the work of implementing consumer policy is founded on results achieved by agreements, recommendations, and the like. These are means of achieving broad effects in the market without expensive and time-consuming court proceedings.

d. The media give helpful information to people wanting to take a greater interest in their personal finances. Most newspapers have a finance section, which appears one day or more a week. The weekend newspapers often have a personal finance section. There are also a number of general and specialist magazines.

e. Companies marketing financial services are primarily responsible for disseminating the relevant information about such services to consumers. Information supplied by companies must comply with the statutory requirements regarding clarity and comparability.

f. The Consumer Agency is a state agency whose task is to help the Swedish general public with consumer affairs. The general goals for the Agency are:

- To help households to make the best possible use of their money and other resources;
- To strengthen the position of consumers in the market;
- To protect the health and safety of consumers;
- To encourage the development of patterns of production and consumption which reduce the burdens on the environment and contribute to long-term sustainable development.

The Agency informs consumers in general on different consumer issues by publishing manuals, study materials, reports, market reviews, etc. The Agency's most important direct channel to consumers is the magazine "Advice and Results". It is published once a month and covers a broad range of consumer issues.

g. The Consumers Banking Bureau is an independent advisory service operated jointly since 1994 by the Consumer Agency, Finansinspektionen and the Swedish Bankers' Association. The Bureau provides information and guidance concerning matters involving banks and other credit institutions. There is no charge for advice provided by the Bureau, which should be primarily regarded as supplementing the normal channels for communication between banks and their customers. The Swedish Bankers' Association finances the Bureau.

Pointers for the work of the Bureau are:

- Consumers shall be provided with sufficient information to enable them to take further action by themselves;
- Consumer Advice Centres, see note i, shall be provided with information and support in their work;

- The Bureau shall provide larger groups, for example the media, with information on questions about banks.
- The Bureau shall monitor the need for information material and contribute in the preparation and spreading of this;
- Identified problems that call for supervisory actions shall be reported to Finansinspektionen and to the Consumer Agency.

Requirements for consumer advice are:

- Advice shall contain objective and fair information regarding financial services offered to consumers;
- Advice shall contain information about applicable legislation, good business practice, etc;
- A complainant shall be referred to the person or persons in the bank who is responsible for complaints;
- Information shall be offered about the possibility of getting a dispute settled by the National Board for Consumer Complaints or by a court;
- Other subjects upon which information is given are the meaning of legal and financial terms and concepts employed in the terms of contract, the way in which the rules are being applied and about the various financial services that are available;
- Fact sheets shall be distributed that describe the legislation and good business practice.

It should be noted that the Bureau does not represent the individual in any action against the bank.

Since May 1999 the Bureau makes surveys, which compare the banks fees regarding the most common services. The surveys are available for consumers on the Bureau's website or can be ordered directly from the bureau. The Bureau's website also provides general information about financial services and has approximately 500 visits per week.

Most consumers get in touch with the Bureau by telephone.

In 1998 the Bureau received 3,609 enquiries, of which 2,526 were complaints. The Bureau felt that of these complaints, the bank was at least partially wrong in a third of the cases. The audited operational cost of the Bureau for 1998 amounted to 2 000 000 SEK. The number of employees is at present three.

h. The Consumers' Insurance Bureau provides help and guidance in insurance matters. The Bureau started its activities in 1979 and is supervised by a board from the Swedish Consumer Agency, Finansinspektionen and the Swedish Insurance Federation, an association set up by insurance companies. The Insurance Federation finances the Bureau.

The Consumers' Insurance Bureau provides both pre-purchase information and advice after a loss has occurred, and helps consumers choose from the insurance market by drawing up product overviews, free of charge, concerning virtually all forms of consumer insurance. If necessary the Bureau attempts to conciliate disputes between policyholders and the companies. This is done in an informal way since the Bureau is not empowered to reverse the decision made by the company. The Bureau can submit the case to the company for reconsideration. Enquiries may be both written and oral. In 1998 the Bureau received 15,841 enquiries.

The Bureau's homepage contains both general information and surveys. The homepage has approximately 25,000 visits per week.

The audited operational cost of the Bureau for 1998 amounted to 4 748 000 SEK. The number of employees is at present six.

i. At the local level, there are about 240 municipal Consumer Advice Centres, within reach of almost 90 per cent of the population. The centres provide information, budget

advice, and so forth, and assist in settling disputes. The Consumer Agency provides support for consumer advisers in municipalities all over Sweden. This support takes the form of training and guidance – for example in consumer law and budget advisory services. The Agency also supports and provides guidance for local consumer advisers on a daily basis, by telephone, for example regarding the interpretation of agreements between consumers and suppliers.

j. One possible action which a dissatisfied consumer may take is to resort to the courts. However, not many disputes between providers of financial services and consumers to go to court. One explanation might be that the consumer often has doubts in view of the expense involved.

k. In 1968 a special governmental body, the National Board for Consumer Complaints, was set up to make it easier for consumers to settle their disputes. The chairman of the board is an experienced lawyer, and its meetings are also attended by representatives of the industry and the Consumer Agency. It handles written, but not oral cases.

The Board's main function is to recommend – in an impartial way – how to solve disputes between consumers and suppliers. The Board's decisions are not binding and cannot be appealed. But the vast majority of these recommendations are followed and the Board has proved to be an easy and rapid, cheap and uncomplicated way of resolving disputes. The services of the Board are free of charge to all parties involved to the consumer.

l. Swedish insurance companies have set up a private complaints tribunal. The tribunal deals only with matters relating to the interpretation of insurance terms and cases that are considered to be questions of principle. Its services are free of charge for the policyholders. The decisions it makes appear in the form of an opinion (recommendation) addressed to the company concerned.

It ought also to be mentioned that Finansinspektionen in 1995 – 96 scrutinised financial providers' procedures for handling complaints. The result was that Finansinspektionen issued guidelines for such procedures. Effective procedures for handling complaints are considered an important way to minimise the problems faced by consumers in the financial services area.

m. Trade bodies are able to resolve general problems by entering into agreements, making recommendations, etc, on behalf of their members.

n. Finansinspektionen is the Swedish supervisory authority for financial markets. It covers three broad markets: insurance, credit and securities.

Finansinspektionen's overall objectives are to promote the stability and efficiency of the financial system and to provide effective protection for consumers. In order to contribute to the provision of effective consumer protection, Finansinspektionen shall:

- monitor compliance by institutions with laws, regulations, and other rules;
- seek to ensure high ethical standards within the financial system;
- seek to ensure that players in financial markets satisfy stringent demands for integrity, competence and sound business practice;

Finansinspektionen's activities in this field are focused on consumers as a group. Consequently, it does not intervene in or express comment on individual supplier-customer relationships.

Finansinspektionen is one of the founders of the Consumers' Insurance Bureau and the Consumers' Banking Bureau and is represented on their respective boards (see note g,h).

o. The government has the scope to start investigations or to initiate new legislation in order to protect consumers.

p. The Consumer Agency and the Consumer Ombudsman together comprise the central governmental body responsible for consumer affairs, see note f. The Director General of the Agency has also the role of Consumer Ombudsman, with responsibility for legal matters.

Experience of the crises which occurred in the Swedish property and credit markets in the early 1990s, and the greater complexity of the products offered by the financial markets, have led the government to extend the responsibilities of the Swedish Consumer Agency in relation to problems faced by consumers in connection with financial services. The government has established that one of the aims of the Agency's work should be to strengthen the consumer's position in this area, and has stated that, based on consumers' interests, the Swedish Consumer Agency should critically examine the range of financial products on offer and endeavour to ensure that consumers can benefit from competition in this area.

The role of the Consumer Ombudsman is quite different from his UK counterpart in that he does not maintain a neutral position but directly represents the consumer and his interests in the courts or takes a class action on behalf of a disaffected group.

The Consumer Ombudsman can take a case to either the Stockholm City Court or the Market Court which may impose a prohibition or information order on the supplier concerned, normally combined with a default fine. In clear cases the Ombudsman may himself issue a prohibition or information order - also combined with a default fine. If the supplier accepts this order, it has the same effect as a court order.

For a trial period the Consumer Ombudsman has been given the power to assist an

individual consumer in the general courts in civil disputes involving financial services. It is required that the issue is of fundamental consumer interest or otherwise may affect many consumers. The objective is to reinforce the development of law within the consumer field.

The Consumer Ombudsman may also take action on behalf of group interests at the National Board for Consumer Complaints (see above note k), thus giving the possibility of redress to a large numbers of consumers who have suffered a similar fate for the same reasons.

The Consumer Agency is one of the founders of, and is represented on the board of, the Consumers' Insurance Bureau, and of the Consumers' Banking Bureau (see above note h and g).

The demarcation line between the areas of responsibility covered by Finansinspektionen and the Consumer Agency is not always completely clear in relation to consumer problems in the financial services area. As a result, the authorities are co-operating on a continuous basis to ensure that the best possible results for the consumer are achieved and to avoid duplication.

q. Both Finansinspektionen and the Consumer Agency are themselves identifying problems as part of their ongoing work. Of interest, however, is which other sources these authorities have access to when it comes to identifying consumer problems in the financial area.

r. There are journalists who continuously follow the financial services scene. In this way they sometimes identify consumer problems that need to be resolved.

s. Customers are often the first to notice if a problem occurs. Queries and complaints from customers are a valuable source of information and feedback about financial products and services.

t. Decisions from the National Board for Consumer Complaints may sometimes indicate that problems exist that have to be resolved.

u-v. One important task for the Consumers' Banking Bureau and Consumers' Insurance Bureau is to note consumer problems in the financial services area and to report on such problems to the authorities and the providers of such services. This co-operation helps the regulatory authorities and suppliers to become aware of consumer problems early on.

x. Consumer Advice Centres maintain especially with the Consumer Agency an ongoing dialogue about problems that their clients are experiencing.

4. DIFFERENCES IN GENERAL BETWEEN THE UK AND SWEDISH SYSTEMS

4.1 WHAT RIGHTS DO CONSUMERS HAVE?

The two systems are fundamentally different. The UK system has historically relied on self-regulation in the form of regulatory bodies set up under the 1986 Financial Services Act and codes of practice developed by trade associations, e.g. the Banking Code. The Swedish system is more focussed on introducing legislation that prevents problems affecting consumers. In Sweden mandatory legal rules are considered to be an important element in support for consumers. The legislation is complemented by, for example, guidelines from Finansinspektionen and the Consumer Agency.

Whether regulation should be mandatory or otherwise is not a question addressed in this paper, but with the introduction of the Financial Services and Markets Bill in the UK it is obvious that a more prescriptive approach is being introduced there.

4.2 WHO INFORMS CONSUMERS ABOUT THEIR RIGHTS?

There are several bodies in the UK that offer general consumer information about financial services. Some bodies also help individual consumers by answering more general questions about financial matters. However, at present there is no body to which the public can turn if they need information and guidance about the meaning of legal and financial terms and concepts employed in the terms of contract for example. The FSA has, however, opened an Enquiries Office where members of the public can ask for information. How this Enquiries Office is going to be organised in the future has not yet

been finally decided. The FSA is actively considering different options.

The Swedish consumer is offered a wide range of information from the Consumers' Banking Bureau and the Consumers' Insurance Bureau.

4.3 WHO SOLVES INDIVIDUAL DISPUTES BETWEEN SUPPLIERS AND CUSTOMERS?

In the UK, many disputes between consumers and providers of financial services are resolved with the help of the eight existing dispute resolution schemes covering the financial services area. In Sweden most disputes are resolved by the National Board for Consumer Complaints. The purpose of these bodies is the same; to be an easy and rapid, cheap and uncomplicated way of resolving disputes. Consumers in both the UK and Sweden are able nonetheless to resort to the courts.

The Swedish system focuses more on eradicating problems at source and one way to do this is to ensure that the providers of financial services have effective procedures for dealing with complaints. Finansinspektionen has issued official guidelines on what kind of procedures providers ought to have in place when it comes to handling complaints.

4.4 WHO CAN RESOLVE GENERAL CONSUMER PROBLEMS?

Diagram 1 shows that general consumer problems in the UK can be resolved by trade bodies, the FSA, Treasury and DTI (see diagram 1 note y regarding OFT). However, as the new single regulator, the FSA will in practice have the main responsibility for the protection of consumers in the financial area. The Securities and Investments Board (SIB) stated in its July 1997 report to the Chancellor

that the FSA will “set, promote, monitor and enforce high standards of integrity, financial soundness, fair dealing and competence for those it regulates, in order to protect and secure fair treatment for investors, depositors and policyholders.” (see also diagram 1 note f)

As mentioned in diagram 2 (note o) the demarcation line between the areas of responsibility covered by Finansinspektionen and the Consumer Agency (Consumer Ombudsman) is not always completely clear in relation to consumer problems in the financial area. Both authorities promote effective protection of consumer interests. However, one of the aims of the Consumer Agency is to strengthen the position of consumers in the market. The work of Finansinspektionen is, on the other hand, more focused on ensuring that providers of financial services comply with the legislation and what can be considered as good business practice.

It ought to be noted that the Swedish Consumer Ombudsman is a totally different body with other responsibilities than the UK Ombudsmen, see diagram 2 note o.

In both the UK and Sweden the government can, of course, always seek to introduce new legislation to protect consumers.

4.5 WHO IDENTIFIES AND NOTIFIES GENERAL CONSUMER PROBLEMS IN THE FINANCIAL SERVICES AREA?

A body that is responsible for protecting consumers’ interests cannot fulfil its obligations without up to date information about what is happening in the various financial markets, for example whether the various codes are working in a satisfactory manner. Diagrams 1 and 2 show that there are in both Sweden and the UK several bodies and agencies which can provide this kind of information, especially in the UK.

In Sweden, the Consumers’ Banking Bureau and Consumers’ Insurance Bureau give the supervisory authorities important help in collecting this information. Since the Bureaux have expert knowledge on financial services and have ongoing contacts, not only with the consumers but also with the Consumer Advice Centres, suppliers and media, they are one of the most important sources for Finansinspektionen and The Consumer Agency when it comes to identifying consumer problems in the financial services area.

5. QUESTIONS THAT ARISE FROM THE COMPARISON

It is noted in chapter 4 that there are some major differences between the Swedish and UK systems and it is open to debate which system is more beneficial for consumers and suppliers. However, this kind of discussion would be of limited interest. Instead, the paper focuses on two areas where the Swedish solution might be relevant to the development of the UK system.

a. Financial services affect household finances to a considerable extent, and the rational decisions needed call for planning, information and experience. It has become harder for consumers to be up to date with their rights and obligations as well as the quality of various financial services. Traditional product providers are being challenged by new competitors, for example supermarkets. Furthermore, the progress in technology has meant that the average consumer has a wider range of services from which to choose and these services are generally becoming more and more sophisticated. These developments make the financial markets even more complex, and call for not only improved consumer information and education but also suppliers and authorities that are better informed. In what way is this best achieved? Could an impartial bureau similar to the Swedish Consumers' Banking Bureau provide UK consumers with necessary information and guidance concerning financial services? Could this kind of bureau even be an important tool when it comes to educating UK consumers? Should the FSA itself provide consumers with this service? In what different ways could an impartial bureau assist the FSA in its work in the consumer area? These and other questions are discussed below.

b. The Financial Services Authority (FSA) published in December 1997 its proposals for the establishment of a new single Ombudsman Scheme for the UK. One

of the main aims for the new Ombudsman is that he or she should provide consumers who seek redress with an informal, quick and user-friendly alternative to the courts. Effective procedures for handling complaints about FSA-authorized firms are intended to have a key role in delivering adequate consumer protection. But how should suppliers handle such complaints? Since these are coming from their customers, it could be argued that suppliers should be obliged to follow standard procedures for handling them. The first ones to suffer if a supplier has flawed procedures for handling complaints are the consumers themselves. In Sweden, Finansinspektionen has issued guidelines in this area. Later in this paper it is discussed whether the present content of UK codes relating to suppliers' complaint procedures are enough to ensure that the suppliers handle complaints and disputes in a satisfactory manner.

6. INFORMATION

6.1 GENERAL

The FSA has in various consultation papers made it clear that education of consumers and effective procedures for handling complaints about FSA-authorized firms are intended to be key elements in delivering adequate consumer protection. However, it may be still more important to find solutions that minimise the number of complaints and disputes. Perhaps this is an area that ought to be more thoroughly investigated.

Such an analysis here could contain a study of the most common reasons for complaints and disputes. The result would probably reveal that many disputes derive from consumers' unawareness of their rights and obligations under an agreement. Since financial services are more complex and less transparent than many other goods and services it is likely that these problems are more frequent in financial markets than in other markets. This kind of study would be

likely to demonstrate, in accordance with the experience of the Swedish Consumers' Banking Bureau, that many consumer complaints are initially simple misunderstandings or misreadings of the information already provided. They are exacerbated, however, by the negative response or lack of response by providers. All too often, a dismissive attitude prevails. A culture which showed willingness to address complaints and learn from their causes might well do much to enhance the public's faith in the industry.

Experience in Sweden has been that the introduction of neutral, but specialised advice-givers, together with strong official guidelines for handling complaints emphasising swift and competent action, shows that consumers appreciate the consideration given to their complaints, even if the eventual outcome is not in their favour. It could be added that the investigator evaluating the work of the Swedish Consumers' Banking Bureau (see chapter 8) estimated that two thirds of the complaints that the Bureau received were unjustified since the bank had not made any error.

However, it is not enough that consumers are well informed. To be able to reduce the number of disputes as much as possible, the authorities and suppliers also have to be well informed about the problems that are causing them. Existing problems have to be resolved as soon as possible to prevent the possibility of yet more dissatisfied consumers and further complaints.

6.2 CONSUMERS

Most consumers have simple financial requirements and relatively little money. They typically need a current account, a mortgage, a flexible pension and a good return on any savings. They need life insurance if they have dependants, and

insurance as protection against damage or theft.

There are in particular three different situations when consumers feel that they need information about financial services: when they are about to make a major investment, when they are reviewing their personal financial finances; and when they feel wrongly treated by a supplier.

It could be argued that the best way to help consumers to make rational decisions when buying financial services is to educate them. There are, however, two problems. The first is that the supply of services is changing continuously. Consumers need ongoing education in a way that is probably not feasible. Secondly, as the FSA points out in its Consultation paper "Promoting public understanding of financial services" (November 1998) there is "a well-documented lack of general interest in the financial market". It is not possible to educate consumers who are not interested in learning. The information given to the consumer should perhaps therefore be targeted at situations where the consumer feels he or she needs the information.

When consumers do need this information, they typically want it immediately, for example when they are about to buy a house. It is an important help to consumers if in this situation they can turn with their questions to someone they trust, such as the Swedish Consumers' Insurance Bureau, and which is able to offer them unbiased assistance. It is often enough for the consumer if someone explains the rules and how different financial services work, although the Swedish Consumers' Insurance Bureau is also able to speak directly to a company's representatives to help sort the problem out, despite having no formal powers in this area. The consumer is then able to use this information to decide whether he or she should take further action against the supplier. If the consumer does decide to take further action, the information

also might then be useful, for example in formulating a letter to a body that resolves disputes.

The Swedish Consumers' Insurance Bureau can also provide advice on the suitability of products before purchase. It carries out surveys on different types of insurance from different companies, and can share this information with consumers. Since May 1999 the Consumers' Banking Bureau conducts surveys which compare the banks' fees for the most common bank services.

As earlier remarked, there is at present no impartial expert bureau to which UK consumers can turn when they need this kind of information and guidance. Furthermore, before approaching the Ombudsman the consumer must follow the supplier's complaint procedures through to the end. Only when the consumer has exhausted this procedure and received a "deadlock" letter from the supplier, may he or she fill in a complaint form and send it to the Ombudsman. Such a procedure normally takes a substantial amount of time and effort and is a very resource costly way, for all involved parties, to resolve an individual complaint or dispute. If the consumer was provided with suitable information and guidance from the beginning, unnecessary disputes could be avoided and a lot of time and money would be saved. The experience of the Swedish Consumers' Banking Bureau is also that the consumer in many cases needs only someone that they trust to explain the precise meaning of what the supplier has said in response and to confirm that this is in accordance with the regulations.

As pointed out earlier, the Swedish Consumers' Banking Bureau provides consumers with help in the banking area while the Consumers' Insurance Bureau provides consumers with help in the insurance area. If a similar model was to be used in the UK it would probably be an advantage if there was but one bureau that

covered all different financial areas, since providers of financial services offer a wider and wider range of products and services; a Consumers Financial Services Bureau. It is, for example, nowadays not unusual for banks to offer products that before were sold only by insurance companies. This, together with the fact that products offered by a bank and insurance company might be connected in some way might make it difficult for the consumer to decide whether he or she should turn to the Banking or Insurance Bureau for help.

If such a bureau were to be established, the UK consumers' need for help regarding investments in the securities market ought also to be studied. The UK consumers probably also need someone to provide them with help and guidance in this area since poor investment decisions might have devastating consequences for the individual.

6.2.1 THE FSA'S ENQUIRIES OFFICE

As indicated above, the FSA is developing an Enquiries Office. How this will be organised has, however, not yet been finally decided.

Naturally, there are major advantages with a strong single regulator. However, it can be questioned if it is suitable to be both a single regulator and to give information and guidance to consumers in individual cases. It is by no means obvious that this is so. If the FSA answered questions from the public in individual cases it would be likely to alter its public profile, in that such a move would give the impression that the FSA is not only a regulator but also a consumer body.

There is surely a risk that consumers turning to the FSA's Enquires Office will expect not only that those people staffing the Office to "be on their side", but also to have the power to correct any suppliers' faults and to use this power to take immediate action to resolve their individual disputes. It will of

course not be possible for the FSA to meet these expectations. Answering questions from the public might therefore not enhance the FSA's credibility. The Swedish Finansinspektionen experienced this kind of problem in the beginning of the 1990s, especially in the banking and credit area. This was resolved when the Consumers' Banking Bureau was founded and Finansinspektionen was able to refer questions to this bureau and to the Consumers' Insurance Bureau.

Furthermore, the nature of the bureaux' work gave them a public profile without their having to take any special measures or having any special obligations towards suppliers. Their "natural" public profile also minimises the risk of some consumers not getting any help because of a feeling that an FSA-type body is an important organisation that "ordinary" people cannot approach with their questions.

The information that the FSA provides to consumers might also interfere with the relationship between it and suppliers. Suppliers might for example, question whether information that is provided is invariably correct, especially as the FSA only hears the consumer version of the problem and the suppliers might only hear the consumer version of what the FSA has answered.

Furthermore, a system where the regulatory authority alone both has access to the collected information about problems in the markets and the right to decide which and at what time actions should be taken might be connected with a risk that necessary actions are not taken since the authority feels that they have to give priority to other things. Having a strong independent body outside the authority calling for actions might give a creative tension and minimise this risk.

It is suggested that an independent information body be established with certain formal responsibilities towards the FSA, for

example to report identified problems that call for supervisory action.

6.3. SERVICE TO THE PUBLIC

One difficulty with establishing an impartial body like the Swedish Consumers' Banking Bureau and Consumers' Insurance Bureau is to make it known to the public. Another problem arises when the bureau is becoming familiar to the public and is required to answer all the questions received from the public with only limited resources.

6.3.1 GETTING A CONSUMERS' FINANCIAL SERVICES BUREAU KNOWN TO THE PUBLIC

There are various bodies in the UK such as Citizen Advice Bureaux, media and suppliers that could be used to inform the public of the existence of the bureau if a Consumers' Banking and Insurance Bureau was set up in the UK.

Media: In Sweden the Consumers' Banking Bureau and the Consumers' Insurance Bureau have almost daily contact with the media. The media in Sweden are usually interested in getting facts and of each bureau's experience of different issues. The bureau is then quoted in articles, which is an efficient way to make it known to the public. If there was a similar bureau for UK journalists to turn to it might work in the same way.

Suppliers: Suppliers could provide useful help by informing their customers about the bureau. Finansinspektionen in Sweden says in its guidelines that if the customer is not satisfied with the outcome of a complaint the supplier ought normally to inform the customer about the service that is provided by, say, the Consumers' Banking Bureau.

Other bodies: Bodies like Citizens Advice Bureaux, Trading Standards Departments, Local Advice Centres, Money Advice

Centres and the existing Ombudsmen have ongoing contacts with the public. These contacts could also be used to “market” the bureau.

6.3.2 ANSWERING QUESTIONS FROM THE PUBLIC

As pointed out earlier, consumers expect an immediate answers to whatever question they have regarding financial services. A Consumers’ Financial Services Bureau therefore has to be able to answer all questions instantly, correctly and with neutrality if it is going to maintain the trust of the public. This puts a lot of pressure on the people working there. It requires experience and skill to be able to give immediate answers. Financial services are too complex for one person to answer all types of question regarding different product areas. The responsibility of each person working for the bureau must therefore be limited to answering questions within their expert knowledge.

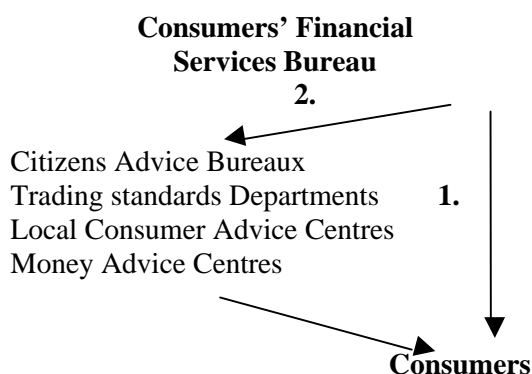
Another question is in which ways a bureau ought to answer questions from the public. Answering by letter is a service that would be very time consuming, since letters must be correct in all parts and be written in a way that cannot be misunderstood. Initially at least, the bureau should be limited to answering questions by telephone. Furthermore, in many cases oral explanations are necessary to ensure that the consumer understands his or her own rights and obligations.

One major difference between an information bureau in the UK and an information bureau in Sweden would be the number of people that the bureau has to serve. Perhaps this calls for a different type of organisation in the UK.

As mentioned earlier, there are many different advisory bodies in the UK. Since these have to be up to date in a lot of areas it is almost impossible for them to answer the

more complicated questions in as complex an area as financial services. On the other hand, these bodies are familiar to consumers, which could be an advantage when it comes to extending their help. Questions from the public would not have to be answered direct by the Consumers’ Financial Services Bureau. The Citizens Advice Bureaux for instance could complement the new bureau’s work if they had the opportunity to consult them with problems their clients are having with financial services, see diagram 3. This kind of co-operation would also conserve resources for the new bureau.

Diagram 3. **Ways of giving information and guidance to consumers**



1. Information and guidance provided direct by telephone to the individual consumer.
2. The bureau supports other bodies that answer questions from consumers. This also enables people who for example lack access to a telephone to get help from the bureau.

As mentioned in the description of the Swedish model, the Consumers’ Banking Bureau and Consumers’ Insurance Bureau support the Consumer Advice Centres in their work. The investigator evaluating the work of the Banking Bureau (see chapter 8) stated that some Advice Centres, rather than directing a consumer to the relevant Bureau, get the information themselves from the Bureau and then answer the question

directly. The reason is that Advice Centres are sometimes of the opinion that closer knowledge of the consumers' difficulties is necessary to be able to give a clear answer. The investigator also stated that the Advice Centres are very positive in regard to the work of the Bureau. The general opinion is that the Bureau has expert knowledge, understand the Advice Centres' questions and give reliable answers that are easy to understand.

6.3.3 EDUCATION OF CONSUMERS

A Consumers' Financial Services Bureau could also be used as an important facility to educate consumers. After a while it would be well known to consumers as a bureau that they could turn to in order to get answers about financial issues. The bureau could hopefully gain a reputation for providing answers that are easy to understand. This, in connection with its being up to date with what consumers in general do not understand, makes it suitable for the bureau to produce information to explain products and services. This information could be available for consumers on the bureau's website and through other bodies, including suppliers.

6.4 THE IMPORTANCE OF SURVEYS TO STIMULATE COMPETITION

As earlier mentioned the FSA points out in its Consultation paper "Promoting public understanding of financial services" that there is a well-documented lack of general interest in the financial market. The experience in Sweden is similar. For example a survey that a consultant in Sweden did in April 1999 (1 019 persons were interviewed) at the request of Finansinspektionen showed that only 29 % of those interviewed had tried to find out how much different bank services cost. The study also showed that the consumers felt that the information that is provided by the banks is hard to understand, partly because

the language is difficult, partly because of too extensive text.

Effective competition depends on the customers interest in comparing and shopping around in order to be able to choose the service that fulfils their needs in the best way. In this environment the suppliers always have to offer attractive services in order to gain new and keep old customers. However, it seems that many customers do not compare services and have a lack of interest and of commitment when it comes to financial services. One explanation could be that the customers feel that they do not have the necessary information and that it is therefore too difficult and not worth while to compare services from different suppliers.

This makes surveys that show what kind of different services each supplier offer, their fees, etc important. Surveys do not only make it easier for the consumers to compare services. They also put pressure on the suppliers to offer better terms than their competitors.

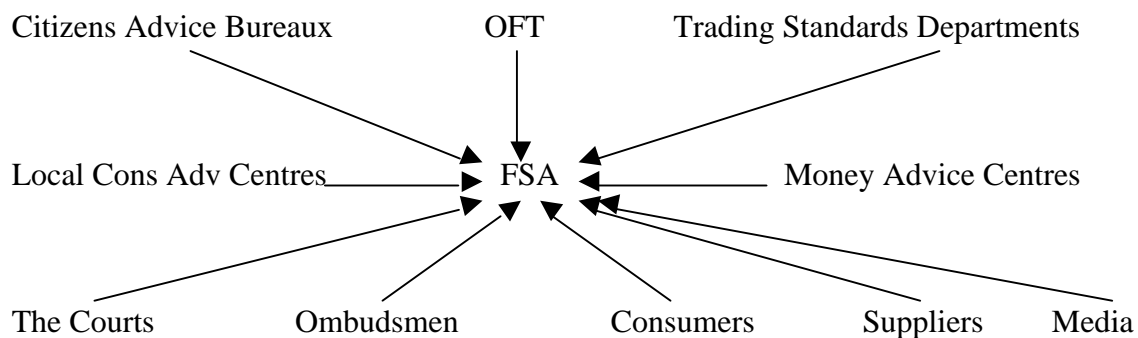
In Sweden both the Consumers' Banking and Insurance Bureaus conduct this kind of surveys. It would also be a suitable task for the Consumers' Financial Services Bureau to do this.

7. THE FSA AND OTHER BODIES

To be able to exercise its statutory responsibilities in the consumer area, the FSA will need a wide range of information on what is happening in the financial markets, for example the behaviour and attitude of certain regulated firms and whether the codes and provisions set up by the FSA are working in a satisfactory manner. In the Consultation paper "Consumer Involvement" the FSA says also that it intends to establish mechanisms for ensuring that information coming from complaints is used effectively.

Many bodies will be able to provide the FSA with this information, see diagram 4.

Diagram 4. **FSA and other bodies that may provide the FSA with vital information**



A problem for the FSA could be that it is receiving information from more sources than is convenient to handle. It might not have the necessary resources for analysing all the information that is received. At the same time serious problems could be overlooked if it does not collect and analyse all such information.

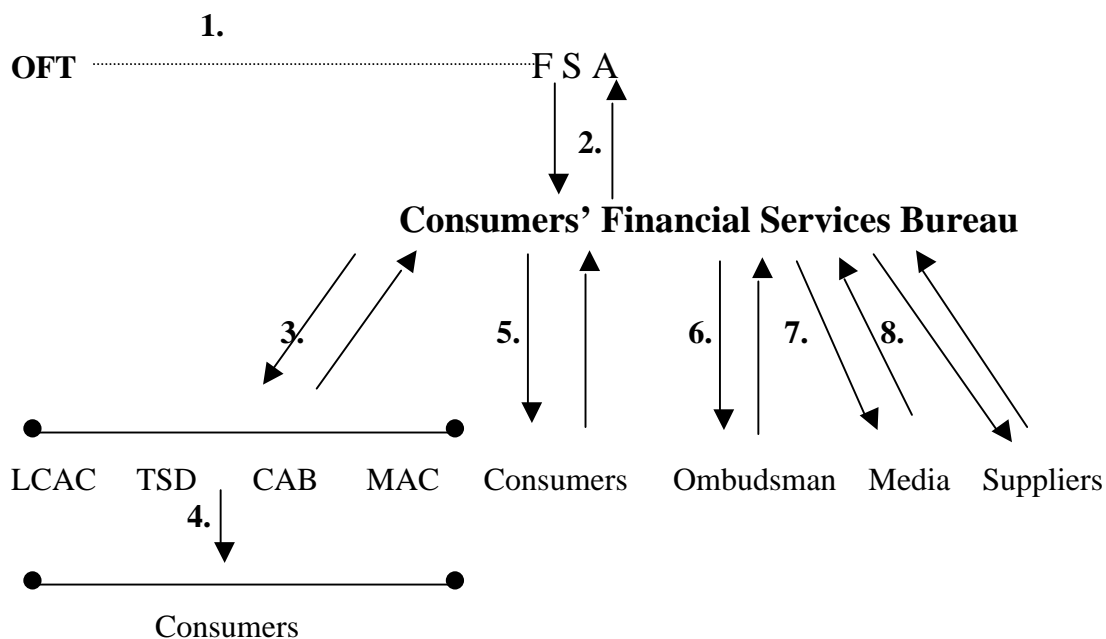
A Consumers' Financial Services Bureau could assist the FSA in this matter. The bureau would have ongoing contact with the organisations mentioned in diagram 4. These contacts together with their expertise, skill and experience would enable them at an early stage to spot changes or new behaviour

in the market that might cause problems for consumers. Providing FSA with this information could be one of the main roles for the bureau. Suppliers also would probably be interested in having this information.

If the FSA and suppliers obtained this information it would be one way of enabling them to correct flawed procedures etc, early on.

The following diagram is an example of how the bureau could work in relationship with other bodies.

Diagram 5. FSA and other bodies



OFT: Office of Fair Trading FSA: Financial Services Authority LCAC: Local Consumer Advice Centres TSD: Trading Standards Departments CAB: Citizens Advice Bureaux MAC: Money Advice Centres

1. OFT would direct enquiries to the appropriate body to answer their questions.
2. Exchange of information. The bureau would provide the FSA with information about problems in the markets. The FSA would inform the bureau about new provisions and rules, for example.
3. Exchange of information. The bureau would offer the TSDs and others help and guidance in the financial services area and receive in return information about identified problems.
4. TSDs and others would give information and guidance to consumers with support from the bureau.
5. The bureau would give consumers information and guidance in individual cases. Consumers would effectively help the bureau identify problems in the markets.
6. Exchange of information. Decisions from the Ombudsman have a direct effect only on the parties involved in the dispute that is settled by the Ombudsman. Nevertheless it is of interest both for suppliers and consumers to know the Ombudsman's decisions in various disputes since the

Ombudsman is not likely to change his opinion without good reason. It would therefore be important for the bureau to be up to date with the Ombudsman's decisions. In return the bureau might provide the Ombudsman with useful information about financial services issues.

7. Exchange of information. As indicated above, the Swedish Consumers' Banking Bureau and Consumers' Insurance Bureau have almost daily contacts with the Swedish media. If there was a similar bureau to turn to for UK journalists it might work in the same way. They could also inform the bureau about problems they or their readership had identified in the financial area.
8. The bureau might through its contacts with suppliers' customers provide those suppliers with information which enabled them to correct imperfect procedures or services early on. Suppliers would have the possibility also of referring customers who appeared to distrust them to the bureau.

8. HOW SHOULD A CONSUMERS' FINANCIAL SERVICES BUREAU BE FINANCED?

The Consumers' Banking Bureau and Consumers' Insurance Bureau in Sweden are regarded as supplementing the normal channels for communication between providers of financial services and their customers. This explains why the bureaux in Sweden are financed by the industry. On the other hand, the settling of disputes is not paid for by the industry in Sweden; the National Board for Consumer Complaints is a public body financed by the government.

UK suppliers have to pay for the settling of disputes by the Ombudsman. It could be debated precisely what kind of public services suppliers should have to pay for. However, when it comes to deciding who should finance the work a Consumers' Financial Services Bureau it should be realised that there would be savings for all involved parties by offering this service to consumers. The description below of an evaluation of the work of the Consumers' Banking Bureau in Sweden supports this statement.

In the beginning of 1998 an impartial evaluation was carried out on the work of the Consumers' Banking Bureau. The investigator asked people working for authorities, banks and consumer bodies what they thought about the work of the Bureau. The general opinion was that it was an important and competent specialist body. The people who were interviewed thought that consumers considered the Bureau to be authoritative and that consumers in general accepted their answers, which helped to reduce the number of complaints.

Of special interest may be what the employees within the banks - that also finance the work - thought of the Bureau. Most of those interviewed said that the number of disputes had been reduced since

the Bureau was founded. However, this was, according to them, not only because of the work of the Bureau but also a result of changes in the markets.

The following are examples of opinions from bank staff.

- a. The Bureau handles on its own a lot of questions that would have been troublesome for the bank and is in that way "saving an enormous lot of work".
- b. The Bureau has as an impartial stance and has "lowered the expectations from the customers".
- c. The people working for the Bureau function as a middleman when the bank has trouble in convincing the customer and even when the customer does not want to listen to what the bank says. This has reduced the number of disputes.
- d. It is a help to be able to refer a customer who is not satisfied with the outcome of a complaint to the Bureau for "a second opinion".
- e. The Bureau fulfils an important function in directing customers back to the bank.
- f. The Bureau's fact sheets are "very good" and distributed to our customers.

It should be acknowledged that one of those interviewed did not in general think that it helped to refer a complainant to the Bureau. However, the conclusion in the evaluation is that the banks think that the Bureau is doing a good job.

9. SUPPLIERS' INTERNAL COMPLAINT PROCEDURES

9.1 FINANSINSPEKTIONEN'S GUIDELINES

It has earlier been pointed out that an important way in Sweden to minimise the problems faced by consumers is to ensure that suppliers have efficient complaint procedures. Finansinspektionen has issued guidelines in this area.

9.2 PRESENT REGULATION IN THE UK

There is no statutory regulation regarding how complaints should be handled. However, there are some voluntary rules, for example in the Mortgage Code and the Banking Code. The scope of these codes in regard to complaints is generally limited to promising that the suppliers following the code, have internal procedures for handling complaints fairly and speedily, that complainants will be told how to make a complaint to the Ombudsman and how the complainant should act if he or she is not satisfied with the outcome.

9.3 DEFINITION OF A COMPLAINT

There are many conceivable definitions of a complaint. The Cabinet Office gives one example in a report entitled "How to deal with complaints" (June 1998): "any expression of dissatisfaction that needs a response".

The voluntary codes do not include any definition of what should be regarded as a complaint. Consequently, suppliers have to decide on this for themselves. Some suppliers probably have a tighter definition than the above example and consider only as a complaint those "expressions" addressed

to senior management where the complainant is seeking compensation.

If the supplier has not determined a definition it is up to the front-line staff to decide whether for example a question from a customer is a complaint or not. The choice of definition is of course going to be significant as to whether different expressions from the customers are going to be treated as complaints or not.

9.4 SUPPLIERS' COMPLAINT PROCEDURES

It is important that suppliers' procedures for handling complaints are integrated into the overall management processes so that all information from dissatisfied customers is routinely used to identify problems and to guide future decision-making.

It is also important that procedures exist, within the organisation, for the co-ordination of the handling of complaints. These help to maintain continuity and consistent treatment. It is also essential that the supplier has developed a method of internal control which shows whether current procedures for handling complaints function in a satisfactory manner.

Thus it is important for suppliers to have formal complaint procedures in place. It is preferable if these procedures are in writing since written procedures make it easier to maintain continuity in the handling of complaints. Procedures handed orally often change over time, either deliberately or accidentally. One explanation as to why this happens is that old employees have left and new ones started. Used in a proper way, written procedures can ensure that all staff, especially those who have most contact with the customers, know the company's policy. It also means that employees who cannot answer a specific question or do not know how to handle it can refer to the written policy without having to rely on colleagues

or to improvise. Written procedures are a way of ensuring a full and fair investigation of every individual complaint.

9.5 INFORMATION TO CONSUMERS ABOUT HOW TO MAKE A COMPLAINT

In, for example, the Mortgage Code lenders and mortgage intermediaries promise to tell a customer who wishes to make a complaint how to do so. Why should the customer not be provided with this information without having to ask for it? The supplier could easily supply this (in all cases), together with overall information about what kind of help the customers are entitled to from other bodies such as Citizens Advice Bureaux.

The most common situation giving rise to a complaint is probably when the provider decides not to meet a customer's demands, for example if the provider decides that a certain claim from the customer is not covered by the terms of his insurance policy. The customer should not in this situation be left uncertain how to make a complaint. It would therefore be appropriate for the provider routinely to explain to the customer how to act if he wishes to make a complaint.

9.6 THE CONSEQUENCES OF FLAWED COMPLAINT PROCEDURES

Several problems may arise if the supplier's procedures for handling complaints are flawed.

Lack of adequate procedures often leads to inefficient handling of complaints, which obstructs a system where complaints could otherwise be answered objectively and correctly without any delay. It might also have a negative effect on public trust in the financial markets if suppliers are unable adequately to handle complaints from dissatisfied consumers.

9.6.1 CONSUMERS/CUSTOMERS

The first to suffer if a supplier has inadequate procedures for handling complaints is the complainant. This may have an effect on the amount of time it takes for the supplier to handle a complaint and also have repercussions on the quality and extent of the investigation required.

If suppliers do not have procedures for successfully handling complaints and identified contact points for customers, problems raised by customers may escalate. If for example the customer is not given proper help and guidance from the supplier it may lead to disputes that could easily have been avoided. The customer is then forced to turn to an external body to get the dispute resolved, which means that other bodies' resources have to be used to handle questions that properly should have been handled by the supplier.

The ultimate consequence of inadequate handling of complaints is that the customer suffers a financial loss, especially where complaints are time-limited, for example under the terms of a guarantee or warranty.

9.6.2 SUPPLIERS

Complaints ought to be a valuable resource for suppliers/product providers rather than being treated as time-consuming interruptions. The information contained in complaints shows what customers think of the services provided and helps the supplier to become aware of problems at an early stage. Furthermore, a customer who feels that he or she has been well treated after making a complaint may become a loyal customer for life.

As pointed out above, a customer who is not pleased with the way he or she is being treated after making a complaint will probably turn to an external body. The supplier will then lose essential information

that may be contained in the complaint. That reduces the supplier's opportunity to correct flawed procedures or services early on, leaving scope for more dissatisfied customers and further complaints.

9.7 CODES OF PRACTICE

One way to minimise the problems faced by consumers is to ensure that suppliers provide information concerning the handling of complaints and improve their routines in this respect. It is of great importance to public trust in the financial markets for firms to have efficient and fair procedures for handling complaints.

A first step could be to encourage self-regulation. The contents of the codes that deal with suppliers' complaint procedures are far too sparse. Codes ought to have a definition of a complaint and an assurance that suppliers have set up formal complaint procedures in writing that include appropriate procedures for:

- a. co-ordinating the handling of complaints;
- b. ensuring that information from complaints of general interest is reported to the firm's management;
- c. informing consumers about how to make a complaint;
- d. indicating contact points at which consumers can lodge a complaint; and
- e. setting up internal controls to ensure that complaints are properly dealt with.

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- a comparison between the UK and Swedish systems
Discussion paper, November 1999
- 1999:7 Financial firms and markets ***
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