

INTRODUCTION

In 1959, Ruby Hutchison organised a meeting at the Sydney Town Hall to form the Australian Consumers Association – what we now know as Choice.

What Ruby was doing, and what many of us continue to do today, is give consumers a voice.

To give them some power. Sometimes that means challenging the power of others.

I was reminded of this just last week, when the organisation I work for, Financial Counselling Australia, received a threat of legal action from a business we've upset.

I know Ruby would have understood.

But if she was here today, she'd look around and say our work still isn't done. And this is sixty years later.

We still have a system, as in her day, where too often the interests of businesses are put first, and the interests of consumers are put last.

And that has to change.

We can envision a world where all of us – business, consumers and government – thrive.

And that is what I am going to talk about tonight.

I'll begin by looking back at some of our history to understand how we've got to this point – what I'm describing as the first three waves of consumer policy development.

And then to look at the future – what I'm calling the fourth wave.

THE THREE WAVES

The first wave – consumer protection

The very oldest conception of how our markets should work was caveat emptor: let the buyer beware.

Caveat emptor is a wonderful concept - it works when there are lots of buyers and sellers in a market and where everyone is equally well informed.

But it wasn't working so well for Ruby and her colleagues 60 years ago.

This was the era when mass marketing first took hold.

It was also the era of false claims and shoddy products, including exploding toasters and flame throwing heaters.

These problems led to what I'm calling the first wave of consumer policy – the “consumer protection” wave.

We saw laws in Ruby's day to address product safety, misleading advertising and fraudulent business behaviour. Those approaches continue today with laws like the National Credit Code and the Australian Consumer Law.

The second wave – the “rational consumer”

The second wave is what I'm calling the rational consumer wave.

This model assumes that when we make decisions about what to buy, we go through a very logical process – we shop around, weigh up the pros and cons, compare prices and think about our short and long term goals.

We march into the marketplace, make informed choices and unlock competition.

This is the framework that led to long disclosure documents and advice like “read the contract” (advice that I am sadly guilty of giving and is of course next to useless).

The Third Wave – Behavioural Science

The third wave, and one wonders why it took so long, is behavioural science.

Behavioural scientists, melding psychology and economics together, made the eminently sensible observation that ordinary people don't always make decisions in the way the rational model would suggest.

The insight of the behavioural scientists is that we should focus on how people actually behave, not on how we'd like them to behave.

We're influenced by social norms - what other people do. We're influenced by our habits, emotions and how decisions are framed. And we shy away from too much choice.

The behavioural science wave has led to policy responses such as deferred sales models and opt in, as well as “nudges” – and, as we all know nudges can be used for either good or evil.

A LITTLE BIT ABOUT THE FOURTH WAVE

And this brings us to the present and fourth wave – what I’m calling the people-centred wave.

So why people-centred?

Because we have to move beyond narrow conceptions of “consumer interest” or “business interest” to behaviours that work in the interests of the community as a whole.

But before we go into detail of what a people-centred wave could look like, I want to share some of my observations about why we need it.

OBERVATIONS

Observation 1 - We continue to fail people who are vulnerable

My first observation is that despite our best efforts, we continue to fail people who are vulnerable.

Australia is supposed to be the place of the fair go, but if you’re poor, or English isn’t your first language, or you didn’t get much of an education or you lost your job or you’re living on a pension, or you’re drowning in debt – it is anything but.

There are thousands of Australians in just these circumstances. And these are the people targeted by unscrupulous businesses.

So why aren’t we having a Royal Commission into payday lenders? Or consumer lease providers? Or debt agreement administrators? Or the scammers targeting remote Aboriginal communities?

Mainly because our laws, and our political processes, favour those who are richer, more powerful and with a stronger voice.

And change therefore is so, so slow. We’re continually playing a game of regulatory whack a mole.

Observation 2 - We blame individuals for their own poverty – 436 words

My second observation, is that too often we blame individuals for their own poverty and disadvantage.

Just over a month ago, Queensland’s Courier Mail newspaper ran a front page story about payday loans.

The article included the story of Trina Begg, who is a single Mum to four children. Trina had borrowed \$600 to fix her car. That one payday loan trapped Trina in a cycle of debt for the next five years.

Many of us were delighted with the coverage - telling the truth about these harmful and predatory products is what we need in our ongoing campaign for stronger laws.

But what also struck me were some of the reader's comments.

Mike said:

Just waiting for the interest rates to rise and (let's) see what damage that is going to cause to all those who never did their homework properly.

Suzanne said

A fool and their money is easily parted. You can't legislate for people to have common sense.

Whenever there is a story about someone experiencing financial hardship the reaction of many people is to blame the victim.

In short hand terms – they're lazy, they're crazy or they're stupid.

I think this is really, really sad.

We can't make assumptions like this without any basis.

Without even attempting to understand what it might be to walk, just briefly, in another person's shoes.

To see what another person sees, to know what they know and to feel what they feel.

This blaming mindset might seem innocuous – in fact, these assumptions play out in ways that are anything but.

The Queensland Government recently put more money into financial counselling services. Great.

But here's the issue - the program is called "Better Budgeting".

That inane language says the problem is all yours, buddy.

Similarly, I've lost track of the times our program, financial counselling, is described in Ministerial press releases and so on as about "helping people to manage their money". If only it was that simple.

Nothing to do with life events like losing your job, persistent disadvantage, lack of services, complex financial products or fundamentally insufficient income.

Observation 3 - We don't understand the structural causes of poverty

And that leads me to my third observation: we don't adequately understand one of the most important things about living in poverty – that the experience itself makes it harder to make anything but short-term decisions.

Interestingly, what the science of scarcity shows is that if any of us were living in poverty, the same thing would happen to us.

And I would hazard a guess, that in those circumstances, any of us could easily end up with a payday loan.

This idea comes from research by Harvard economists Sendhil Mullainathan and Eldar Shafir.

Let's look at an example of scarcity that most of us can relate to.

Imagine you have an immovable deadline – for a report say or a looming exam. Writing that report or studying for that exam becomes your only focus. As the deadline looms, your world contracts. Other tasks are left undone - emails left unread, television turned off, decisions about booking next year's holiday – all you think about is the deadline.

This is an example of time scarcity and many of us can relate to that. Under conditions of scarcity like this, our mental bandwidth – our ability to focus on other things – reduces dramatically.

What the research shows is that money worries and poverty have exactly the same impact – they replicate conditions of scarcity and reduce our cognitive bandwidth.

Sugar cane farmers in India were given a series of cognitive tests before and after the annual harvest. Before the annual harvest they are very poor and many have taken out loans and pawned goods. After the harvest they are comparatively rich.

The study found that the cognitive capacity of the farmers was nine to 10 points lower before the harvest than after it.

That's equivalent to moving from superior intelligence to average, and from average intelligence to below average.

Another way to think of it is to realise that a drop of that magnitude, is the equivalent of pulling an "all nighter".

Imagine now that you're living on a Centrelink income. Your time horizon is when the next fortnightly payment is due - it's the only deadline that matters. There's \$50 left in the bank and that has to get you through the next five days.

You're not sure how you're going to pay the electricity bill – its now a week late. You're not sure how you'll find money for school uniforms - as well as rent and food. The real estate agent has just told you that you'll need to find somewhere else to live as the owner wants to sell the property. And the school has just rung because your middle child is having problems.

When your time horizon is just a few days and with so many other things going on in your life, your planning horizon is not next month or next year, its now.

A short term payday loan is going to seem like a really good answer.

You're not lazy, crazy or stupid. You're just human.

So let's be honest with ourselves. We can tell ourselves that we wouldn't behave that way: the reality is, we'd probably all do the same.

Observation 4 - We don't understand how our own biases play out

My fourth observation is meant to challenge each of us personally. Why do we persistently blame individuals for their own poverty and disadvantage? Why do we tell them to just get better at managing their money?

The answer is not all that pleasant: it's at least in part because of our own unexamined biases and belief systems.

One of those biases is that we don't think that the poor are like us.

The evidence for that by the way comes from brain scans of people shown pictures of others who are clearly well off and people who are clearly destitute.

So many of the words we use to describe people who are vulnerable have loading: "poor", "gambler", "victim" - they evoke deep, and if we're honest, negative responses.

Another reason is that many of us also believe in what is called the "just world" hypothesis: that by and large the world is a fair place and we get what we deserve.

That's a really reassuring view to hold as it gives you a sense of control. And it is reassuring to think you're the architect of your own success.

But it can mean we can be judgmental about people who haven't done so well. And we very rarely think about the role our own advantage has played in our own life stories.

Because the truth is that if life is a race, we don't all start in the same place.

Observation 5 - We keep trying to skirt around self interest – let's just accept it

My fifth and final observation, and I want to spend a bit of time on this, is that when we look at how business really behaves, we keep dancing around the issue of self-interest versus the community interest.

Let's just accept that Adam Smith was right: self-interest is at the heart of a market economy.

And accept that **it isn't** translating, using some invisible hand, into the community interest.

Once we do that, we'll be much freer to really address the problems that self-interest raises.

A number of years ago, Delia Rickard said something to me I've always remembered: "where you sit, is where you stand". Stop and think about it: "where you sit is where you stand".

A moment ago I talked about the science of scarcity, explaining that in situations of say time or money scarcity, most of us will behave the same way. The same is true in business. Good people don't always do good things.

People in big business in particular are torn. There is a relentless drive to deliver returns to the business owners, and often monetary incentives are aligned to that as well.

At the same time, I believe that most people really do want to do the right thing. That's why they're torn.

What's happened is that we've tried to reconcile the two forces: the drive for the bottom line and the community or public interest – by trying to weld some fancy fretwork on to the self-interest scaffolding.

- Initially, we had CSR – corporate social responsibility – sometimes described as enlightened self-interest.

But isn't there something fundamentally wrong with the idea that you're only being ethical, in order to increase your profit?

- Another iteration is the concept of "shared value". The problem it seems to me is that most of the shareholders don't want to share.
- And even more recently, we have large companies seeking to find their social purpose – because they know it is more than profits.

It's an understandable and welcome response, but again one that is unlikely to fundamentally change behaviour – at least without something more.

So that was the response from business. What has been the response from government, the community and regulators? More and more regulation. I wonder sometimes if there is such a thing as peak regulation.

The problems we are grappling with as a community – the lack of trust in our institutions being one of the biggest – is that good people have put their interests or the interests of their business – above that of their customers and the community.

That's the reason we're having a Royal Commission into the banks. It isn't the baddies so much, as the way we've structured the system. Good people, might want to do good things, but they can't.

The solution is to address the structural causes.

What we need is clarity.

Clarity on what the moral, ethical and professional foundations should be.

Clarity about putting in place incentive systems that line up with customer outcomes, not sales targets.

And clarity about putting in place a structure, that makes it clear that community interest, has to triumph over self-interest.

FOURTH WAVE

So this brings me to the fourth wave.

What I'm calling the "people centred" wave.

Not "consumer centred" - because "consumer" can be such an amorphous term. Its an "us and them" term.

We still need elements of all three of the preceding waves:

- consumer protection with its focus on product and service safety
- the rational consumer with its focus on making markets work through choice and information; and
- behavioural science with its focus on how people behave in complex environments.

A people centred wave is exactly as it sounds.

At its heart is a recognition that we live in a community and our collective aims – business, government and the consumer sector – are to advance our common interests.

I'm going to run through four principles of what a people centred wave might look like.

Principle 1 – empathy and kindness

The first principle is kindness and empathy.

If we were just a little kinder to each other, we would do so much more for people who are experiencing vulnerability.

And we would understand that poverty and disadvantage is not primarily an individual failing, but a structural one.

We need to walk in the shoes of Trina Begg, the single mum of four from the Courier Mail, who took out a payday loan. We need to understand how hard it must be to make ends meet each week.

I'm convinced that Mike and Suzanne, the people we met earlier who were so critical of Trina, would change their mind if they'd sat down in the kitchen with her and really understood her situation.

So, how do we make this happen?

The most important thing is to consciously get away from our desks and from our comfortable world views.

It isn't rocket science – we simply need to go and talk to people. And be prepared to change our minds. It means building empathy into the policy development processes.

It could mean coming and listening to some calls on the National Debt Helpline to understand how some people are grappling with whether to pay their utility bill or buy food.

Or it could mean travelling to a remote Aboriginal community to understand why it is that scammers have a field day.

I'm convinced that this change alone would have far reaching consequences on public policy and the way businesses behave.

Principle 2 – fixing self interest

Principles 2 and 3 are both aimed at addressing the tension between self-interest and community interest.

Principle 2 is about adopting new business structures.

That's challenging when our shareholder model is so well entrenched. But the evidence so clearly shows that it isn't working the way it should.

For a start, we need more social enterprises - businesses that have a social purpose and not just a commercial one.

Perhaps slightly less challenging, we may be able to solve some of the inherent tension in the existing model by following what they've done in the UK, and making changes to the Corporations Act.

This would allow directors to explicitly take into account the interests of other stakeholders, including customers, employees and the environment.

Principle 3 – responsibility based regulation

The third principle, is also about the tension between self-interest and community interest.

But its bigger and broader than that as well – its about trying to get in front, so we're not always chasing our tails playing regulatory catch up.

And its about allowing good people to actually do good things.

I've dubbed it responsibility-based regulation.

Essentially we reverse the onus of that oldest of dictums, caveat emptor.

But rather than buyer beware, we make sellers responsible for customer outcomes. And for demonstrating that good outcomes are being achieved.

How?

We'd need a set of high level principles about what customers could expect from a business. They'd be things like:

- Suitability - That the customer gets the right product and a fair deal – and that they **remain** in this situation
- Comprehension - That customers understand the fees and how the thing works
- Do no harm - That the products and services don't leave you worse off

Businesses would be responsible for measuring all of these things.

And they would have to demonstrate that the large, large majority of their customers did get suitable products and they remained suitable, that they understood them and they didn't leave them worse off.

These results would be shared with the regulator and there would also be periodic, independent, external audits.

Just to be clear, I'm not suggesting this approach for my local flower shop. But it would work in today's complex markets: financial services, energy, health.

Principle 4 – a strong consumer movement

The final principal is that we need a strong consumer movement.

As John F Kennedy said in 1964, when setting out the Consumer Bill of Rights, consumers are the largest group in society, but also the group whose views are not heard.

That is as true today, as it was then.

I am so proud of what the consumer movement has achieved in Australia. Of how we shape policy debates and change minds.

But as Ruby said, our work is not yet done.

SUMMARY – approx.

So to summarise, that is what I mean by a fourth wave:

- Empathy and kindness;
- New business models;
- Responsibility-based regulation; and
- A strong consumer movement.

If we rode this wave, then what would happen is not just good for the consumer interest, it's not just good for the business interest, it's good for the community interest.

You may not agree with my conceptualisation of the fourth wave. That's fine – I see it as something that is evolving.

But I think all of us will agree that we need new approaches.

What my job tonight has been is to challenge our thinking, to help us look at current problems in new ways.

And to think about the people whose views are not always heard.

LAST POINT

And finally, I want to finish with my grandchildren.

Now that might sound funny, as I don't have any yet. But hopefully they'll magically arrive one day!

All of us want to leave the world a better, and a kinder place, for our grandchildren. For the people who come after us.

That has been the overriding purpose of my life.

And its why I've devoted 30 years of my life to the consumer movement.

And every moment has been worth it.

Thank you for the privilege of being asked to deliver the 2018 Ruby Hutchison Memorial Address.

