Consumerism: The Issue of Dual Pricing

Dual Pricing – A Consumer Right?

Outlines advantages of unit pricing to consumers and responsibilities of food retailers and manufacturers in providing this information to consumers. Also relates the Massachusetts experiences.

Perhaps I should tell you the function of the State Consumers' Council of the Commonwealth of Massachusetts before I get into the core of this issue.

The Council is the first statutory body of its type in the United States and has been in operation since 1964. It is authorized and directed by law to represent the consumers' interests as the people's advocate in the governmental structure, as well as in the marketplace. In effect, the Council is an ombudsman or watch dog in the field of consumer protection. The Council is composed of thirteen unpaid members and the Executive Secretary is the salaried officer of the Council. The Council is responsible for the passage of the first Truth-in-Lending bill in the United States which led to the enactment of the Federal Truth-in-Lending law. It is also responsible for a host of other Massachusetts consumer protection measures such as the credit bureau control act, the credit card control act, an act requiring that retail food stores maintain a scale to reweigh packaged goods, a strong truth in advertising statute, the new unit or dual pricing law, to name a few.

I recite this short history so that you can see this pattern led us to consideration of dual or unit pricing legislation. Furthermore, the obvious obstruction of industry forces to the full implementation of the Federal packaging law brought this matter to a head as far as the Council was concerned. During the summer months of 1969 we began gathering information on this problem of unit pricing. Incidentally, Massachusetts already has three commodities that are required by law to be unit priced --- prepackaged meat, fish and poultry. In October, 1969, while the Council was continuing its consideration of this matter, Governor Francis W. Sargent requested a formal position or advice on this issue of unit pricing from the Council, as is the Governor's prerogative under the Council's statute. The Council made a determination that it was feasible to have a unit pricing law to cover lists of packaged commodities to be determined by the Council with the requirement that there be posted in a conspicuous place the price per pound, pint or other unit of measurement of contents and total sales price. The basic exemption was any packaged commodity whose net weight is one whole unit or two whole units with the retail price marked on the package.

The fundamental reason why the Council adopted this position is quite simply that the consumers have not received full information about the relative price of the same product even within the different sizes of the same brand of product. In my view, unit or dual pricing is a method by which the consumers are able to examine their brand and other buying loyalties as to price. What we are trying to do in Massachusetts is to develop a pause that will refresh the consumer's pocketbook.

Dermot P. Shea
Executive Secretary, Consumers Council
The Commonwealth of Massachusetts
Boston, Massachusetts
The American consumers since the post World War II era have been subjected to and manipulated by a formidable combination of the awesome power of the food manufacturers and retailers. What happened was that the food manufacturers developed a Monroe Doctrine approach toward the retailers who, for various marketing reasons and pressures, joined this unholy alliance that has not been healthy for the food industry and the consumer. In the course of this post war development one of the techniques used to confound the consumer is a proliferation of package sizes along with the resulting variation in measurement of contents, whether it be by fraction of ounces or what have you. It suddenly became important to the food manufacturer to engage in deceptive packaging in the way of weight or size because of the extra nickels and dimes they would make or the enormous breakage as it were to use a rack track expression. Certainly marketing surveys showed how easily the consumer could be so confused. The Consumers' interests, therefore, were no longer the paramount concern but rather the sharp merchandising techniques to split the consumer from his dollar became the concern of food manufacturers who have dominated this duo relationship. This is simply a sophisticated way of putting the butcher's thumb on the scale. The result has been the same as far as giving the consumer less value for his dollar by misleading or concealing price through these techniques.

Incidentally, I think the most tragic commentary on our food retailing today is the fact that only in dog and cat food will you find the full information necessary as to the nutritional value of their products. I hope our food manufacturers, through the pressure of consumer groups and food retailers, will force the disclosure of the nutritional value and numbers of servings of food products. You might be interested in learning that the Council is filing legislation to provide for consumer code dating information on articles of food to insure such food is wholesome and fit for human consumption. Many of our progressive food retailers feel that the public is entitled to the code dating information. The food manufacturers have been playing the game "I've got a Secret" for too long. We feel it is about time the consumers of the Commonwealth were told the secret and that the code dating information be given to the public.

Recent developments in the food retail field give me hope that the retailer is now beginning to recognize that he has too closely identified with the food manufacturer's interest and not close enough to his customer. This is becoming evident in some of the consumer oriented programs undertaken by national and regional food chains. It is evident in the cooperation the State Consumer's Council received and is receiving in the experimental efforts to develop practical and inexpensive methods of unit pricing techniques. During the legislative battle for the enactment of this measure I was advised by many food retailers that they would oppose the unit pricing law as they would prefer to have it done on a voluntary basis. This, of course, we would not permit because there would be a discrepancy of effort between many of the food retailers which would lead to indifference and failure of such a program; therefore, our legislative draft took into account the problems of the retail food industry as a whole by authorizing the State Consumer's Council, after public hearings, to phase in lists of commodities and to issue appropriate regulations as to the enforcement of the unit pricing law. Even before the enactment of this legislation, I requested on behalf of the Council the assistance of the food retailers to institute unit pricing in advance of the passage of this law. Four large retail chains did so -- Star Market, Stop & Shop, First National and Food Mart. Since the passage of this law we have received a commitment by the members of the Massachusetts Retail Grocers Association to also do everything to cooperate with us. Many other retail stores are now experimenting with unit pricing. We will have a series of conferences which eventually will lead to a public hearing the first of next year to formalize the methods of unit pricing to be used. The statute is deliberately designed to give latitude.

What should be the objectives of unit pricing?

(1) To give the necessary information to those consumers who feel price is of considerable importance as a buying criterion as a means to impose that criterion.

(2) To give additional information to those consumers who have a low motivation to use price as the only criterion, such as the consumer who uses a brand name as his buying criterion. By making it easier to facilitate price information, these consumers will now have the opportunity
Unit pricing is not intended as the only consumer buying criterion but rather to make for easier judgments on the price of products. Consumers will now be able to compare product performance per unit price.

In any discussion of consumer rights we must turn to the question of evaluation of public policy such as legislation, its success or its failure. In effect, does it work or does it not work? I can only go by the Truth-in-Lending Act in Massachusetts. Six months after its passage the Federal Reserve Bank of Boston had a study done and released it stating that Truth-in-Lending was not working because the people did not understand it or take advantage of the annual rate of interest requirement to comparison shop for credit. Now the problem with this study was it was too soon after the enactment of the statute. The Massachusetts Banking Department and the Council first had to educate the financial institutions, as well as retailers, as to requirements of the law. How could the public possibly know what an annual rate of interest was when they had never been trained or given the opportunity to make a value judgment on this question of interest rates, as well as dollar amount? Within three months after this study I requested from the Federal Reserve Bank of Boston statistics on consumer loans in the same comparative period. It showed that commercial consumer bank loans had increased along with the mutual savings banks of the State while the finance companies' loans had actually declined 1%. The point I am making is that public policy or any sound market research requires that any program be judged by comparing actual consumer behavior with the intended consumer behavior that the public policy intended. The trouble with some of the surveys on unit pricing that have been made is that they have been designed to obtain the way people think they behave, not the way they actually behave in the marketplace for behavior constitutes what people do, not attitudes which constitute opinion and rationalization.

I believe what we really have done in Massachusetts is to give an opening to