

The National Swedish Board for Consumer Policies

The Consumer Ombudsman

FUNCTIONS, ORGANISATION, ACTIVITIES

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ACQUISITIONS

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The functions of the National Board for Consumer Policies and the Consumer Ombudsman

On 1 July 1976 the National Board for Consumer Policies and the Office of the Consumer Ombudsman were merged to become a new authority. At the same time a new and extended Marketing Act entered into force.

The work of the two organisations has been combined in the new authority, which will have a wider field of responsibility because of the passing

of the new Marketing Act. The Director-General of the National Board for Consumer Policies also holds the position of Consumer Ombudsman.

The National Board for Consumer Policies, the central administrative authority for consumer questions, has been charged to assist consumers and to improve their position on the market.

THE NATIONAL BOARD FOR CONSUMER POLICIES WITH THE CONSUMER OMBUDSMAN CARRIES OUT ITS FUNCTIONS

by investigating the situation of consumers and by focusing attention on consumer groups that are in a weak position for various reasons,

by examining the supply of goods and services on the market and by carrying out inquiries and making tests,

by supervising the marketing of firms and the terms on which they make sales, and where necessary, by intervening in accordance with the provisions of the Marketing Act and the Unfair Contract Terms Act,

by drawing up guide-lines for marketing and the design of products and by exerting an influence on the trade to make it adapt its activities to the needs of consumers,

by informing consumers about facts and conditions which are of importance to them and by helping them to use their resources in the best possible way,

by encouraging and participating in consumer education and by supporting research within the National Board's area of activity,

by making other bodies aware of consumer problems which call for measures that are outside the province of the National Board,

by promoting the development of consumer activities by the local authorities and by being responsible for regional consumer activities,

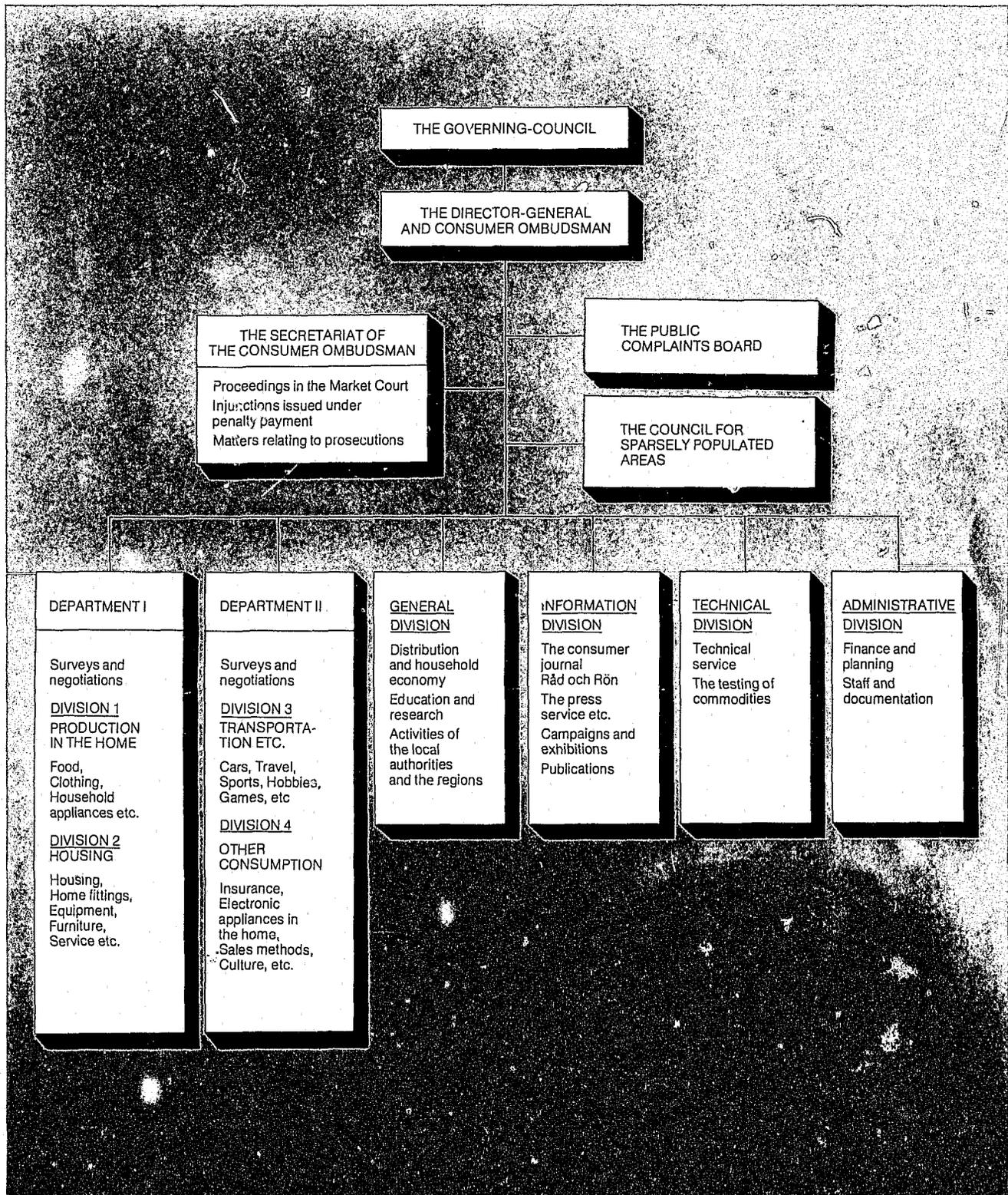
by being responsible for carrying out work on a trial basis within the Public Complaints Board.

The organisation of the National Board for Consumer Policies

The National Board is Headed by a Governing-Council of 12 members, whose chairman is the Director-General of the National Board. The Governing-Council includes representatives of consumers and of wage- and salary-earners (3), of business (2), the political parties (2), the local authorities (1), the staff of the National Board (2)

and the Director-General of the National Food Administration. The Board has an annual budget of about 30 million Sw. Crs. and employs about 275 persons.

The chart below shows how the National Board for Consumer Policies is organised.



Survey and negotiations departments

These departments are concerned with conducting surveys and with negotiations largely on the basis of the Marketing Act and the Unfair Contract Terms Act. The departments consist of four divisions:

1. **Production in the home: The provision and preparation of food, clothing, household Appliances and other domestic aids.**
2. **Housing: The economics and law of housing, the planning of a home and its fittings, furniture and lighting, the care and upkeep of a home, housing services.**
3. **Transportation etc.: Cars and other vehicles, public transport, package tours, sports, hobbies, games.**
4. **Other consumption: Insurance, bank services, credit purchases, electronic appliances in the home, health, culture, special sales methods, such as mail-order sales, and other fields which cannot be classed under Divisions 1-3.**

These four divisions deal with problems arising from the purchase and use by consumers of commodities, services etc. These problems may relate to commodities which are harmful or which do not function well, or to badly done repair, etc. They may also relate to misleading marketing, unfair contract terms, etc. In addition, the divisions are to take up matters concerning household economics and the rationalisation of housework.

These problems may be brought to light in various ways: the National Board may be notified of them by consumers and by businessmen, its attention may be drawn to them by the Home-Management Advisors and the Consumer Counsellors in the provinces and it may discover them itself when keeping a general watch over the market. So as to obtain some conception of the needs and requirements of consumers, the National Board for instance examines goods and services in relation to the environment in which they are used. The National Board also carries out interview surveys and follows up research results, official reports and statistics.

In addition, these divisions have been instructed to draw up guide-lines for marketing and product design by firms. These guide-lines are the National Board's foremost instrument for influencing manufacturers and other traders. The guide-lines are usually worked out in cooperation with the relevant trade organisations and individual firms. They can relate to undesirable marketing practices, the marking of instructions for the care of a commodity, the design of products from the safety aspect, etc. These guide-lines are published in a special series in a code of regulations which the National Board issues.

The terms of the standard contracts used by private, public and local authority enterprises are examined by the sections with a view to ensuring that any provisions which they may deem unreasonable for consumers are changed or removed.

As a rule, the divisions take up negotiations with the business world if they want to influence marketing practices, the design of products or the terms of contracts. In the majority of cases the National Board comes to a settlement with the other party. If this does not prove possible, a case coming under the provisions of the Marketing Act or the Unfair Contract Terms Act may be transferred to the Secretariat of the Consumer Ombudsman for possible submission to the Market Court. The outcome of a negotiated settlement can also be safeguarded by a prohibitory or information injunction (see below).

The National Board tries to solve problems that do not relate to the application of legislation – for instance various questions concerning household management – by suggesting changes in the rules in force in the various fields, by informing consumers, by bringing its influence to bear on education on consumer matters, etc.

THE MARKETING ACT

This Act only relates to actions by a firm or some other trader when marketing goods, services etc. Therefore it does not cover the advertising of opinions and political propaganda, which are protected by the Freedom of the Press Act.

Undesirable Marketing Practices (§ 2)

According to § 2 (in the previous Marketing Act, § 1) any commercial marketing practices may be prohibited if they are contrary to accepted business practices or are undesirable in some other way. This section of the Act is to protect consumers and traders against misleading advertising and can be invoked when, for instance, an advertiser promises too much about a commodity or attracts customers with a price which he later fails to maintain.

There is an important principle, “the reverse burden of proof”, inherent in § 2. By this principle, the person responsible for any marketing practice must be able to prove the correctness of the information, claims and promises set out in his advertisements, packaging, advertising material, etc.

Advertisements should include information (§ 3)

Firms and other persons engaged in marketing may be enjoined, in advertising or in any other form of marketing, to provide information that is of special importance to consumers, such as particulars about the price or nature of the goods or services. For instance a firm may be charged to mark a warning on its product, or to make it known in an advertisement, on the packaging or in some other way, that a commodity will not stand a certain kind of usage.

Prohibition of harmful or useless goods (§ 4)
Where there is a special risk that a commodity may harm a person or property, its sale or hire may be prohibited. It is possible in this way to forbid the sale of, for instance, a household appliance which could harm the user or of an unsuitable life-jacket. Goods which clearly prove to be unusable (not fit for their main purpose) may also be prohibited. For instance a "washing-machine" whose washing effect is practically nil may not be sold.

THE UNFAIR CONTRACT TERMS ACT

This Act has been drawn up to protect consumers against unreasonable contract terms used by traders, especially in standardised contract forms (sales contracts, order forms, guarantee certificates). Forms of this kind are usual in the sale of

consumer durables such as cars, boats, domestic appliances, television sets and books. They are also used in the sale of services such as package tours, and in the hiring of movables such as cars. (This Act does not cover real property or the services provided by banks and insurance companies. It has been suggested that the Act should be extended to cover real property, too.)

According to the provisions of this Act if the terms of a contract unreasonably favour the seller at the expense of the consumer, these terms may be prohibited. Such terms might be a clause giving the seller alone the right to decide whether the commodity in question is faulty. Another example is a contract in which the seller alone reserves the right to raise an agreed price if this is called for by any eventuality whatsoever.

The secretariat of the Consumer Ombudsman

The Secretariat of the Consumer Ombudsman comes directly under the Director-General of the National Board for Consumer Policies in his capacity as Consumer Ombudsman. The Secretariat issues injunctions whose breach is subject to a penalty payment, brings actions in the Market Court and deals with matters relating to prosecutions.

PROHIBITION INJUNCTIONS AND INFORMATION INJUNCTIONS

In matters of minor importance the Consumer Ombudsman can himself issue prohibition injunctions and information injunctions where he thinks fit.

In the case of a prohibitory injunction, the Consumer Ombudsman forbids a trader, in writing, to carry out a certain marketing practice, to sell or to hire to anyone a certain (harmful or unsuitable) commodity, or to use any unreasonable terms in a contract.

Where an information injunction is concerned, the Consumer Ombudsman enjoins a trader to inform consumers, in his marketing, of certain matters.

Failure to comply with an injunction always incurs a penalty payment. If a firm accepts an injunction, the prohibition or the enjoinder gets the same legal force as a decision of the Market Court.

ACTIONS IN THE MARKET COURT

If a matter cannot be resolved by negotiation or by the approval of an injunction, the Consumer Ombudsman may bring an action in the Market Court.

In such a case the Ombudsman recommends the Court to forbid the trader to continue the criticised marketing practices, or to hire to anyone a harmful or useless commodity. Where the case concerns the requirement that certain information should be included in an advertisement, the Consumer Ombudsman recommends the Court to enjoin the party concerned to provide such information.

In cases relating to the provisions of the Unfair

Contract Terms Act, the Consumer Ombudsman recommends that the trader should be forbidden to use the contract terms in question.

If the Market Court sanctions the Ombudsman's recommendation, it issues a prohibition or an injunction against a trader and normally lays down a conditional penalty payment provision. There is no appeal against judgments of the Market Court.

If a case involves an important principle and if the Consumer Ombudsman wishes to make it a precedent, he may take the case to the Market Court even though it could have been settled by negotiation.

LEGAL PROCEEDINGS IN AN ORDINARY COURT OF LAW

When a trader fails to comply with a prohibition or an injunction, his case may be examined – on the application of a public prosecutor – by an ordinary court to see whether his infringement of these orders makes him liable for a penalty payment.

A trader may be sentenced to a penalty of a fine, or of imprisonment, for certain actions. The latter chiefly relate to intentionally misleading descriptions which are likely to affect the demand for a commodity, service etc.

In such an instance – having the permission of the Consumer Ombudsman – a public prosecutor may initiate legal proceedings against a trader in an ordinary court of law.

An action that incurs a penalty is also deemed "undesirable" in accordance with the provisions of section § 2 and, in such a case, that section of the law may be invoked instead.

DECISIONS CAN BE MADE QUICKLY

If immediate intervention is essential, the Market Court may issue an interim decision if so requested by the Consumer Ombudsman. This means that an immediate prohibition or information injunction may be imposed on a trader pending a final judgment on the matter by the Court.

The General Division

This division has as its objectives the influencing of certain general functions that are of importance to consumers, particularly in the longer term. These functions include the distribution of goods, education on consumer questions, and the consumer activities of the local authorities and of the regions.

The division consists of three units, one for each of the following areas of responsibility:

1. **Distribution and household economy**
2. **Education and research**
3. **Consumer activities carried out by the local authorities and the regions.**

DISTRIBUTION AND HOUSEHOLD ECONOMY

The Distribution Unit deals with matters relating to investment assistance in the form of loans and grants for the re-equipping and erection of general stores in sparsely-populated areas, in the first instance in what is called the "inland development area" (the inland area in the province of Norrland and in the north-west part of Svealand). Financial assistance can be given to local authorities in sparsely-populated areas to enable them to give grants for the home delivery of provisions to consumers. An advisory council, **the Council for the Sparsely-Populated Areas**, advises the National Board on matters relating to financial assistance. The members of the council include representatives of traders and local authorities as well as other persons with special experience of questions concerning consumers, distribution and sparsely-populated areas. This unit also deals with other distribution questions.

In its work on household economy, this unit carries out surveys to show how consumers use their time, money and other resources. This unit also produces material on which information and advice on household budgets can be based.

EDUCATION AND RESEARCH

The Education Unit is responsible for improving the education on consumer questions provided in schools and universities. It works in cooperation with the educational authorities and institutions, for instance arranging with them courses for the further training of teachers and producing its own teaching aids. The National Board also produces

educational material suitable for adult education and arranges courses for teachers in that field. The independent educational associations receive financial assistance for courses on consumer policy.

The Education Unit arranges courses for those employed by the local authorities, and in the regions, to carry out consumer activities. This unit is also responsible for the allocation of grants for research at the universities and the specialised university colleges. These grants are available for projects concerned with consumer-policy problems, chiefly those within the fields of economics, sociology and law.

CONSUMER ACTIVITIES CARRIED OUT BY THE LOCAL AUTHORITIES AND THE REGIONS

The Local-Authority Unit follows up and analyses the work of the local authorities and advises them on how to expand their activities. This unit works closely with such organisations as the popular movements and with the Swedish Association of Local Authorities.

This unit coordinates the services which the National Board provides for the local authorities and the regions by supplying them with information and advisory material.

A large number of the local authorities already have Consumer Counsellors, who advise consumers before they make purchases or claims, and supply them with information on their legal right in various fields. In the first instance consumers are supposed to take their problems to the Consumer Counsellor in their local authority. Where necessary, these Counsellors can pass these problems on to the National Board and they can also help people lodge complaints with the National Board or with the Public Complaints Board.

There is at least one Home Economics Advisor on the staff of each County Administration. These Home Economics Advisors give consumer advice to the local authorities and to individual consumers in local-authority areas which do not provide a consumer-counselling service. The National Board itself deals with regional consumer affairs, but the Home Economics Advisors come organisationally under the County Administrations.

The Information Division

The Information Division provides information services for the National Board, the aim of its work being to make people more widely acquainted with circumstances that have a bearing on consumer policy. This division has a whole series of information channels at its disposal.

The consumer journal called **Råd och Rön**, "Advice and Results", is written directly for the general public. It contains up-to-date market

surveys and purchasing advice, informs consumers of their rights and obligations and similar matters.

The Press Service is in charge of contacts with the mass media. This unit also issues its own journal called **Konsument - rätt & ekonomi**, "Consumer Law and Economy", which is oriented towards those in marketing and anyone else in business who is interested, and towards lawyers,

teachers and other persons concerned with passing on information. The Press Service also disseminates information internally within the National Board itself.

The Campaign Unit is responsible for information campaigns primarily aimed at the general public. It may publish announcements or arrange

exhibitions etc. on such matters as prices, the planning of homes and the legislation relevant to consumer policy.

The Publications Unit issues handbooks, reports and other printed matter both for the general public and for other target groups.

The Technical Division

This division investigates and tests different consumer products. Its work can vary from the examination of a doll to see if it is safe to the complicated testing of household durables.

This division has general technical resources and may be consulted on technical matters by the other sections. In addition, it has specialised laboratories for the measurement and description of the properties of various products and their effi-

ciency, safety, noise level and running costs. The Technical Division has specialised in such fields as the testing of washingmachines and dishwashers, tumbler driers and kitchen fans. It is also working on several projects whose aim is to find improved methods of saving energy in the home.

This division also tests commodities on behalf of firms.

The Administrative Division

This division is responsible for the National Board's central administration. It deals with such questions as those relating to staff, finance, premises and documentation. It also coordinates the

National Board's planning and budgeting functions and is responsible for certain other questions of a general nature.

THE PRINCIPLE OF PUBLIC ACCESS TO OFFICIAL DOCUMENTS

In principle, all documents at governmental authorities are open for access to the general public; this means that anyone has a right to acquaint himself with their contents.

However it may be necessary for a trader to supply the National Board with particulars about business or operational matters which he does not want to have made public. In such a case, he can make a request that these matters should be kept confidential.

Some of the results of the tests carried out by the Technical Division may also be classified as confidential.

The Public Complaints Board

At the request of individual consumers, the Public Complaints Board settles disputes between buyers and sellers, chiefly concerning defects and shortcomings in goods and services. The decisions of the board take the form of recommendations. The Complaints Board is an independent decision-making body and there is no appeal against its judgments. It does not consider disputes between private individuals or between traders. Nor may the Complaints Board take up a complaint concerning property or concerning services of a type such as consultations with doctors, dentists or lawyers.

Before the Complaints Board will consider a dispute, the purchaser himself must have sought redress from the seller. A judgment of the Board consists of a recommendation to the parties to settle a dispute in a certain way. Most firms comply with such a recommendation.

The Complaints Board bases its recommendations on certain regulations, such as those in the Sale of Goods Act and in the Consumer Sales Act. Where the Board has deemed that a complaint by a consumer is admissible and where the seller does not comply with its recommendation, one of the parties may submit the case to an ordinary court of law. This can be done relatively simply and cheaply since the passing of the Act on Simplified Procedure in Small Claims.

The Public Complaints Board is divided into ten sections. The first nine cover the following branches: travel, motor vehicles, domestic appliances and electronic equipment for the home, pleasure craft, textiles, footwear, leather and insurance. The tenth is a general section.

Each section has a chairman and 4 - 10 members. A lawyer who is qualified to serve as a judge sits as impartial chairman. The other members are drawn equally from consumers and the business world.

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THE CONSUMER OMBUDSMAN
(KONSUMENTVERKET • KO)**

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END