

Consumerism and Environmental Policy: Moving Past Consumer Culture

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INTRODUCTION

The 1992 United Nations "Earth Summit" in Rio de Janeiro

promised to make the world more aware of the problems and potential solutions related to the environment and economic development. The Summit conferees developed an ambitious package of proposals called "Agenda 21," which was intended to "mark[] the beginning of a new global partnership for sustainable development."¹ As a general matter, Agenda 21 received significant attention from the press and from academics, but Agenda 21's specific proposal to change consumption patterns has received only scant attention.²

To the extent that law and policy literature has addressed the Agenda 21 proposal on consumption at all, it has focused on measures such as eco-labeling, assessing the full life-cycle of products, reducing wasteful packaging of materials, and encouraging recycling at the consumer level. Seeking at most to create a preference for environmentally sound products, advocates for a change in consumption habits have addressed the ways in which we satisfy our wants and needs in the marketplace but have failed to question the origin of these wants and needs. None of the legal literature has attacked the problem of unsustainable consumption by analyzing the way of thinking that promotes it or by challenging consumers to ask whether they ought to engage in given acts of consumption at all. Instead, environmental policy has accepted consumers' desires as being immutable even though the destructive consequences of fulfilling them have become undeniable.

In this regard, the literature on altering consumption shares a basic flaw with other environmental protection strategies employed or suggested up to this time, namely, an over-emphasis on technical solutions and a neglect of cultural ones. A reason for this neglect may be that an inquiry into our desires would be too unscientific to be addressed by a field dominated by legal reasoners, technicians, and scientists. Another reason may be that this area of inquiry requires a generalist's approach that is less respected in this age of specialization. Or perhaps the problem of over-consumption is considered simply intractable.³

Most likely there is a more fundamental reason for neglecting to address critically the set of values that underlie our consumer choices. An inquiry into consumer choice would necessarily challenge the modern, liberal, market-based norms that drive the

1. *Report of the United Nations Conference on Environment and Development: Vol. I, Agenda Item 21*, at 13, U.N. Doc. A/CONF.151/26/Rev.1 (1993) [hereinafter *Rio Conference Report*].

2. See *id.* at 34.

3. See *supra* notes 304-07 and accompanying text.

global economy. According to these norms, which are grounded in utilitarian philosophy, individuals exercise freedom and autonomy by choosing what is best for them; once this choice is made, individual preferences have equal validity. This value system is one of the cornerstones of our market-based economy and is implicitly accepted in environmental law and policy. Nevertheless, regardless of the powerful position this value system holds in our society, it is deeply flawed. This Article examines these flaws as they are made manifest in modern culture.

These flaws in utilitarian market values infect environmental policy in at least two respects. First, liberal market values have a tendency to discount the ethical aspects of economic behavior, particularly with regard to consumption. While some level of consumption is necessary and desirable for human survival and comfort, in the industrial world nearly every economic activity contributes to environmental degradation. The benefits of any act of consumption therefore must be weighed against the environmental consequences that inevitably result. Conventional and proposed approaches to environmental protection, which continue to regard consumer choice as sovereign, tend to obscure this moral dilemma. By not treating consumption *per se* as problematic, existing approaches to environmental protection have failed to weigh the benefits of consumption against its ecological consequences. Hence, environmental protection policies have failed to recognize that the ecological impact of fulfilling a given desire may make the fulfillment of that desire altogether invalid.

Second, by acquiescing to the utilitarian view that a market exists simply to give people what they happen to want, environmental policies—both conventional and proposed—fail to take advantage of the fact that people often want things that are not good for them. The utilitarian doctrine of want-satisfaction teaches that by virtue of the individual's knowledge of her own best interests, freedom to fulfill one's desires according to one's individual tastes and preferences will necessarily lead to personal happiness.⁴ In other words, everyone is supposedly the best judge of their own interests. But this view tends not to acknowledge such concepts as educated choices or better preferences, but rather tends to accept the existence of a preference as sufficient proof of its validity.

4. See Jeffrey Friedman & Adam McCabe, *Preferences or Happiness?* Tibor Scitovsky's *Psychology of Human Needs*, 10 *CRITICAL REV.* 471, 475 (1996).

Utilitarian market values acknowledge that a given preference is better than another only when someone actually changes preferences and the new preference supersedes the old. Hence, the market is said to exist in order to give people what they happen to want, rather than what they ought to want.

Environmental policy should attempt to mitigate the ecological ill-effects of the utilitarian doctrine. Consumer culture not only negatively impacts the environment, but frequently leads us either to seek fulfillment of the wrong desires or to seek fulfillment of the right desires in the wrong way. Consumer culture also fails to account for philosophies in which the fulfillment of desire is not considered the central constituent of a well-lived life. To our detriment, we have developed a culture in which consumption is regarded as an end in itself and moral standards that might present other worthwhile ends are ignored or discounted.

As a result, our reasons for consuming are often untenable. Indeed, our adherence to consumer ideals not only destroys precious environmental resources, it creates a degraded condition of living sorely in need of improvement. Hence, environmental policy should aim not only at encouraging people to satisfy a given want in different ways, but also at directing people to question whether they ought to have that want at all. In this way, people may, in some instances, refrain from certain acts of consumption altogether.

Consumers have both ecological and non-ecological incentives to reduce their consumption of goods. By failing to utilize these incentives, environmental protection policies have overlooked a potentially effective tool for achieving sustainable consumption. This Article illustrates a number of ways in which law and policy can diminish consumerism's hold on the minds of America. But perhaps more importantly, this Article shows how current laws and policies reflect the same faulty assumptions that underlie our marketplace behavior.⁵

Part I briefly illustrates how the environmental perils faced today are linked to the industrial economy and outlines both current and proposed approaches for dealing with these problems. Part II describes the meaning of consumer culture by defining the term and exploring its historical and cultural

5. An understanding of the assumptions underlying our legal system is crucial to addressing the problem of consumption because conceptions of what law is tend to legitimate our economic behavior. See Duncan Kennedy, *A Symposium of Critical Legal Study: The Role of Law in Economic Thought: Essays on the Fetishism of Commodities*, 34 AM. U. L. REV. 939 (1985).

development. Part III criticizes current and proposed approaches to environmental protection for their failure to address the cultural forces that help create and increase the demand for goods and services within the economy. This Part also criticizes these approaches for subscribing to the same value-free, utilitarian philosophy underlying the consumer culture. Part IV argues that consumer culture not only fails to make good on its promise of a happy and fulfilling life but undermines possibilities of living such a life; therefore, it is in society's best interest to abandon the consumer mentality. Part V presents alternatives to consumer culture by which people can both lead better lives and mitigate the effects of the industrial economy on the environment. This Part also explores why this inquiry largely has not been pursued elsewhere in environmental law and policy literature. Finally, Part VI makes specific proposals for reducing environmental damage by making cultural changes in how individuals conceive of their role in the marketplace.

I

ENVIRONMENTAL PROBLEMS AND WAYS OF DEALING WITH THEM

A. *Industrial Economy and the Environment*

Most of the world's environmental problems are either directly or indirectly attributable to the development of the industrial economy in the world's most wealthy nations.⁶ For example, wealthy industrialized nations, though constituting only one-fifth of the world's population, account for four-fifths of the world's consumption of fossil fuel and metal mineral resources.⁷ The industrial economy is also largely responsible for creating greenhouse gases that cause global warming,⁸ the reduction of ozone in the upper atmosphere,⁹ acid rain,¹⁰ human exposure to toxic substances,¹¹ the contamination of the world's fresh water supply,¹² and smog.¹³ In short, "the major cause of

6. See TIM JACKSON, MATERIAL CONCERNS: POLLUTION, PROFIT AND QUALITY OF LIFE 7, 20, 22 (1996).

7. See DANIEL SITARZ, AGENDA 21: THE EARTH SUMMIT STRATEGY TO SAVE OUR PLANET 38-39 (1993).

8. See generally Thomas E. Graedel & Paul J. Crutzen, *The Changing Atmosphere*, SCIENTIFIC AMERICAN, Sept. 1989, at 60.

9. See *id.* at 63-64.

10. See *id.* at 60-61.

11. See *id.* at 61.

12. See generally J.W. Maurits la Rivière, *Threats to the World's Water*, SCIENTIFIC AMERICAN, Sept. 1989, at 82.

the continued deterioration of the global environment is the unsustainable pattern of consumption and production, particularly in industrialized countries."¹⁴

The scale of industrial activity has increased tremendously in the last century. The world's industrial production has risen by a factor of 100 in as many years.¹⁵ Since the middle of the last century, energy use has risen by a factor of 80.¹⁶ The strain placed upon energy resources as a result of this increased activity is unsustainable at this rate. Every day the worldwide economy burns an amount of energy the planet required 10,000 days to create, while twenty-seven years worth of stored solar energy is burned and released by utilities, cars, houses, factories and farms.¹⁷

Heavy industry is not alone in causing environmental problems. Light manufacturing, retail stores, restaurants, and office buildings all occupy open space, threaten wetlands and wildlife habitat, and require highways and roadways that produce these same effects. Increased vehicular traffic to and from these facilities contributes to air and noise pollution, and each further requires raw materials for construction and energy for maintenance.

When the environmental effects of the industrial economy are measured on a per capita basis, the picture appears even more bleak. The average American consumer "produces twice his weight per day in household, hazardous, and industrial waste, and an additional half-ton per week when gaseous wastes such as carbon dioxide are included."¹⁸ Every American consumes about 36 pounds of resources a week, while 2,000

13. See Graedel & Crutzen, *supra* note 8, at 61.

14. *Rio Conference Report*, *supra* note 1, at 34. One study indicates that in some cases "economic growth has been accompanied by a change in the composition of output and a change in the methods of production that more than compensates for the increased scale of activity." Gene M. Grossman, *Pollution and Growth: What Do We Know?*, in *THE ECONOMICS OF SUSTAINABLE DEVELOPMENT* 19, 41 (Ian Goldin & L. Alan Winters eds., 1995). The key factor in this improved environmental protection is the policy response of government. See *id.* at 43. Grossman concedes that such improvement may result merely from the rich nations' ability to import pollution intensive goods from poorer nations rather than to produce such goods at home. *Id.* Even so, it does not follow from the fact that there is a correlation between economic activity and environmental protection that people may consume without injuring the environment. This correlation simply indicates that richer people demand better environmental protection from industry.

15. See William C. Clark, *Managing Planet Earth*, *SCIENTIFIC AMERICAN*, Sept. 1989, at 47, 50.

16. See *id.*

17. See PAUL HAWKEN, *THE ECOLOGY OF COMMERCE* 21-22 (1993).

18. *Id.* at 12.

pounds of resources are discarded to support that consumption.¹⁹ As Paul Hawken points out, the word "consumer" is somewhat of a misnomer in light of the ecological disvalues that are *produced* as a result of consumer behavior.²⁰ Not surprisingly, there is now a "global consensus among governments that current impacts of consumption are not sustainable."²¹ Part I.B summarizes approaches that have been taken in attempting to solve this problem.

B. Conventional Approaches to Addressing Environmental Problems

It was not until the 1960s that the United States government realized that it must address the environmental consequences of industrialism.²² During an era spanning from the mid-1960s to the 1970s, the government implemented an avalanche of legislative activity to protect the environment. Some of the statutes enacted, such as the Clean Air Act,²³ the Clean Water Act,²⁴ and the Resource Conservation and Recovery Act,²⁵ concentrate on controlling pollution from its source.²⁶ Others, like the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA),²⁷ require owners, generators, and transporters of hazardous waste to pay for the cleanup of hazardous waste after it has already entered the environment. These environmental statutes also subject responsible parties to liability for damages to natural resources. Other acts intended to protect the public and the environment from chemical damage include the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),²⁸ the Toxic Substances Control Act (TSCA),²⁹ as well as various regulatory schemes covering food additives, pesticides, chemicals in the workplace, and the manufacture of new

19. See *id.* at 37.

20. See *id.* at 12.

21. James Salzman, *Sustainable Consumption and the Law*, 27 ENVTL. L. 1243, 1247 (1997). Salzman defines sustainable consumption as "a level of consumption which causes a level of environmental impact over time that does not degrade basic ecosystem services . . ." *Id.* at 1246.

22. See Michael C. Blumm, *Studying Environmental Law: A Brief Overview and Readings for a Seminar*, 12 J. ENERGY NAT. RESOURCES & ENVTL. L. 309, 312 (1992).

23. 42 U.S.C. §§ 7401-7671q (1994).

24. 33 U.S.C. §§ 1251-1387 (1994).

25. 42 U.S.C. §§ 6921-6939e (1994).

26. See Blumm, *supra* note 22, at 315.

27. 42 U.S.C. §§ 9601-9675 (1994).

28. 7 U.S.C. §§ 136-136y (1994).

29. 15 U.S.C. §§ 2601-2692 (1994).

chemicals.³⁰

Congress has also enacted environmental laws designed to protect and preserve certain designated wildlife and lands. For example, under the National Parks and Recreation Act,³¹ both Congress and the Secretary of the Interior have set aside numerous national parks to conserve scenery and wildlife and to promote public access to nature.³² In addition, laws have also been enacted for the preservation of national forests,³³ wildlife refuges,³⁴ wild and scenic rivers,³⁵ and wilderness areas.³⁶ Specific species are protected as well by, among other statutes, the Marine Mammal Protection Act³⁷ and the Migratory Bird Treaty Act.³⁸ Lastly, the Endangered Species Act (ESA)³⁹ forbids hunting, importing, and selling endangered species.⁴⁰ The ESA also protects habitats that are critical for the survival of listed species.⁴¹

All of these laws, which together constitute the conventional approach to managing environmental problems, are designed to mitigate the impact of industrialized society on the natural environment. These laws tend to rely on a command and control approach to regulation that comprises three basic principles which are ultimately unable to ensure environmental protection. The first principle underlying the conventional approach is the belief that it is possible to concentrate and contain environmental contamination. That is, it is the belief that contaminants can be kept in one place and prevented from leaking out into the environment or across borders.⁴² The second principle is the belief that it is possible to dilute and disperse contaminants through the environment such that they no longer become a threat.⁴³ The third is that it is possible to

30. See generally Blumm, *supra* note 22, at 321.

31. Pub. L. No. 95-625, 92 Stat. 3467 (1978) (codified as amended in scattered sections of 16 U.S.C.).

32. See Blumm, *supra* note 22, at 322.

33. See National Forest Management Act of 1976, 16 U.S.C. §§ 1600-1614, 472a, 521b (1994).

34. See National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. §§ 668dd-668ee (1994).

35. Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271-1287 (1994).

36. See Wilderness Act, 16 U.S.C. §§ 1131-1136 (1994); see also Blumm, *supra* note 22, at 322.

37. 16 U.S.C. §§ 1361-1421h (1994).

38. 16 U.S.C. §§ 703-711 (1994).

39. 16 U.S.C. §§ 1531-1544 (1994); see also Blumm, *supra* note 22, at 323.

40. 16 U.S.C. § 1538(a)(1) (1994).

41. 16 U.S.C. § 1533(a)(1)(A) (1994).

42. See JACKSON, *supra* note 6, at 43.

43. *Id.*

regulate pollution adequately by focusing on pollutants at the "end of the pipe."⁴⁴ Statutes based on this philosophy are designed to stop emissions leaving the factory by placing filters, scrubbers, separators, and purifying devices at the end of emission pipelines.⁴⁵ Conservation and preservation laws embody a form of these three principles in that they attempt to create a strict but obviously permeable boundary between what should remain pristine and what may be vulnerable to the ill-effects of an industrial economy.

Even though these conventional approaches have met with substantial success, statutes based on these principles are not adequate to ensure environmental health. In general, they attempt to mitigate pollution only after it has been created. But as the volume of pollution increases, it becomes less and less feasible to concentrate and contain it, to dilute and disperse it, or to capture it at the end of the pipe. Indeed, processes based on these principles may themselves create new environmental hazards.⁴⁶ Hence, the conventional approach to managing the environment has been criticized for being merely "ameliorative and corrective" rather than a large-scale force restructuring the economy such that less environmental waste is produced.⁴⁷

C. *Proposed Approaches to Addressing Environmental Problems*

In response to the shortcomings of the conventional approach to environmental protection, another set of approaches exist that I call "proposed" approaches because they either have not been implemented or have only been implemented on a small scale. Some proposed approaches seek to restructure the market in such a way that potential polluters have an incentive not to pollute. These market-based approaches have found their way into conventional regulation in the form of permit-trading systems, whereby industry is able to earn money by selling off pollution permits that they do not use.⁴⁸ In general, however, the idea of using market forces to prompt industry to emit a socially acceptable amount of pollution has not been widely implemented. Another class of proposed approaches takes a preventive approach to pollution by reducing the misguided

44. Cf. *id.* at 48-51.

45. *Id.* at 49.

46. See *id.* at 49-51.

47. See William D. Ruckelshaus, *Toward a Sustainable World*, SCIENTIFIC AMERICAN, Sept. 1989, at 168.

48. See generally 42 U.S.C. §§ 7651b-7651e (1994).

dependence upon clean-up technologies, disposal sites, remediation, and "blind faith in nature's assimilative capacity."⁴⁹ One preventative approach is designed to alter the processes by which goods are manufactured by making the manufacturing process more efficient and less resource-intensive. Green consumerism is another preventative approach. This approach seeks to create preferences among consumers for environmentally friendly brands, hence attempting to deal with pollution and environmental degradation by minimizing the acts that engender it.

1. *Market-Based Approaches: Internalizing Externalities*

Economists often argue that an economic system is inefficient when it fails to internalize the external costs of making, using, or disposing of products or services.⁵⁰ Because the market "treats the resources of the atmosphere, the oceans and the other commons as free goods,"⁵¹ pollution, resource depletion, and other environmental hazards are then externalized to the broader community, which must then "shoulder[] the costs in the form of damages to health, property and ecosystems."⁵² According to classical economic theory, the solution is to incorporate environmental costs into prices through the "polluter pays" principle.⁵³ This means that industries—and consumers in the form of increased costs that industry passes on to them—pay the full price of protecting the environment from the harmful effects of their activities.⁵⁴ Such environmentally sound pricing incorporates the environmental costs of generating waste, creating pollution, and consuming energy, materials, and natural resources.⁵⁵

Green taxes are another example of a market-based approach for internalizing externalities.⁵⁶ They also seek to incorporate the cost of resource depletion and environmental

49. JACKSON, *supra* note 6, at 55-56.

50. See, e.g., Robert U. Ayres & Allen V. Kneese, *Production, Consumption and Externalities*, in *THE ECONOMICS OF THE ENVIRONMENT* 282, 282 (Wallace E. Oates ed., 1992); Jim MacNeill, *Strategies for Sustainable Economic Development*, *SCIENTIFIC AMERICAN*, Sept. 1989, at 163.

51. MacNeill, *supra* note 50, at 163-64.

52. *Id.* at 163.

53. See *id.*

54. See *id.* at 163-64.

55. See *Rio Conference Report*, *supra* note 1, at 39; see also Salzman, *supra* note 21.

56. See Thomas Sterner, *Policy Instruments for a Sustainable Economy*, in *ECONOMIC POLICIES FOR SUSTAINABLE DEVELOPMENT* 1, 9 (Thomas Sterner ed., 1994).

pollution into the price of products that benefit from them. Green taxes have been levied on lead in gasoline, sulfur in fuel, waste oil, pesticides, fertilizers, plastics, packaging materials, CFCs, gravel, sand, and even aircraft noise.⁵⁷ By incorporating the costs of negative externalities, like the consumption of natural resources or the emission of pollution, green taxes seek to provide incentives for environmentally responsible behavior.⁵⁸

2. *Reducing Energy and Raw Material Input*

Another proposal for curtailing the ecological impacts of the industrial economy is to reduce the energy and raw material content of units of production.⁵⁹ This is accomplished by altering the processes by which goods are made such that less pollution or waste is created in manufacturing the product. Raw material inputs can also be reduced by redesigning the end product and substituting environmentally harmful materials for other materials that do less harm to the environment.⁶⁰ This method is thought superior to standard environmental regulation because not only do companies often save money, but the environmental benefits "extend back to the beginning of the production cycle."⁶¹

3. *Proposed Approaches that Address Consumption*

Although most consumption activities have an indirect effect on the environment, environmental problems in developed countries have been associated mostly with production in the industry, agriculture, or energy sector.⁶² Consequently, "the decisions made by households and individuals in the final consumption phase have largely been neglected."⁶³

James Salzman is seemingly the only legal scholar who has seriously addressed the issue of sustainable consumption. He suggests that, through "take-back programs," producers should be required to take responsibility for the environmental impacts of their products throughout the product's entire life cycle—even after the product reaches the consumer and is disposed of.⁶⁴

57. *See id.*

58. *See id.*

59. *See, e.g.,* JACKSON, *supra* note 6, at 56; MacNeill, *supra* note 50, at 162.

60. *See* JACKSON, *supra* note 6, at 76.

61. MacNeill, *supra* note 50, at 159.

62. *See* LESTER R. BROWN ET AL., STATE OF THE WORLD 1997, at 242 (1997).

63. *Id.*

64. *See* Salzman, *supra* note 21.

Salzman also advocates the use of eco-labeling and price incorporation (that is, internalizing externalities).⁶⁵ But he frames the problem not as one of wants and needs within a consumer culture, but as one of price and information failures within the market.⁶⁶ Similarly, the United Nations Rio Conference Report also suggests that in order to correct unsustainable consumption patterns, governments ought to develop methodologies for assessing the environmental impacts and resource requirements of products throughout the full life cycle of the product.⁶⁷ Through consumer education and eco-labeling, the report urges that the results of these assessments should be transformed into clear indicators that assist individuals and households in making environmentally informed choices.⁶⁸

Another consumption-oriented approach to addressing environmental harms caused by industry is "green consumerism." This approach emerged in the late 1980s and attempts to encourage consumers to buy environmentally sound goods by informing them of the ecologically destructive effects of the manufacture or use of the products they buy. Green consumerism has been somewhat successful in allowing consumers to express a preference for environmentally sound products in the marketplace. Indeed, the popularity of books like *50 Simple Things You Can Do to Save the Earth*, which sold 3.5 million copies in the United States, and *The Green Consumer*, which became a best-seller in the United Kingdom,⁶⁹ suggests a willingness on the part of consumers to let ecological considerations guide their actions.

II

CONSUMER CULTURE

Despite the partial successes of conventional and proposed approaches to mitigating the environmental impacts of industrialized society, these approaches neglect to address consumer demand or alter the consumer culture generating this demand. Rather, all except green consumerism treat consumer choice as sovereign. Even green consumerism fails to address the

65. See *id.*

66. See *id.*

67. *Rio Conference Report*, *supra* note 1, at 38.

68. See *id.* at 38-39.

69. See ALAN THEIN DURNING, *HOW MUCH IS ENOUGH?: THE CONSUMER SOCIETY AND THE FUTURE OF THE EARTH* 139 (1992) (discussing books such as these and their impact on "informing the consumer class").

underlying causes of overall demand, seeking only to create preferences for environmentally friendly goods. Before fully analyzing these shortcomings, however, it is first necessary to develop an understanding of consumer culture, the factor they ignore.

Measured in constant dollars, people in the world have consumed as many goods and services since 1950 as all previous generations put together.⁷⁰ But massive consumption does not necessarily indicate the existence of a consumer *culture*. At the most basic level, "culture" refers to all learned behaviors in a particular society, and accounts for variations in customs, values, and beliefs.⁷¹ A culture can also be understood as a "framework for thoughts, actions and behaviors, imparting meaning to the vast majority of all that we . . . do."⁷² Interpreted another way, culture defines what is worthwhile and what is not: "Cultures . . . incorporate beliefs about the ends of life."⁷³ As such, *consumer* culture makes consumption an end in life, imparting value and importance upon acts of consumption.

The basic premise supporting the concept of consumer culture is that often people consume merely because it is part of their culture to do so. This premise cannot be accurate, however, if consumer behavior is motivated only by needs over which humans have little control, such as the need for food, clothing, and shelter. In that case, any attempt at reducing overall consumption would be indefensible, and environmental management would necessarily be confined to developing measures that minimize the ecological impact of satisfying these unavoidable desires. Further, if consumer behavior is the result of our need to create a comfortable existence for ourselves, or of our need to be happy through fulfilling psychological longings, then a discussion of reducing overall consumption for the sake of the environment must take into account the disbenefits that would result from such a reduction in human comfort and happiness.

However, people do not consume only what they need. Nor is it true that people consume only when products make life more comfortable or convenient for them, or when consumption

70. *Id.* at 38.

71. See Janeen Arnold Costa, *The Social Organization of Consumer Behavior*, in CONTEMPORARY MARKETING AND CONSUMER BEHAVIOR: AN ANTHROPOLOGICAL SOURCEBOOK 213, 216 (John F. Sherry, Jr. ed., 1995).

72. *Id.*

73. JOHN O'NEILL, *ECOLOGY, POLICY AND POLITICS: HUMAN WELL-BEING AND THE NATURAL WORLD* 92 (1993).

improves their psychological state, making them happier. Those in consumer culture utilize goods and services for a number of reasons unconnected with need, comfort, or even the improvement of a psychological state. People often consume for cultural and ritualistic reasons or to satisfy fundamental emotional needs that have been associated with the act of commodity exchange. The consumer culture has made consumption an end unto itself tending to dominate other, perhaps more appropriate, ends.⁷⁴

A. *The Historical Development and Critique of the Consumer Culture*

The phenomenon of consumer culture is well documented in the academic literature.⁷⁵ By the late 19th century, "legions of publicists promoted, celebrated, or condemned the centrality of consumption in Americans' lives."⁷⁶ As early as 1899, Thorstein Veblen articulated some features of a new consumerist ethic in his book *Theory of the Leisure Class*.⁷⁷ Culture critic and historian T.J. Jackson Lears stated that Veblen mocked the practices of "pecuniary emulation" and "conspicuous consumption," condemning them as morally bankrupt but socially functional.⁷⁸ According to Lears, society had moved away from a producer ethic in which people valued work, sacrifice, and savings, to a consumer ethic, in which individuals valued leisure, hedonism, and spending.⁷⁹

By the middle of the twentieth century, consumer culture seems to have been firmly entrenched in American Society. In 1959, Richard Nixon touted the superiority of the American way of life in his "Kitchen Debate" with Nikita Krushchev by pointing out that "44 million families in America own 56 million cars, 50 million television sets, 143 million radio sets, and . . . 31 million of those families own their own homes."⁸⁰ In the words of retailing analyst Victor Lebow, the enormous postwar productive

74. See John F. Sherry, Jr., *Marketing and Consumer Behavior: Into the Field*, in CONTEMPORARY MARKETING AND CONSUMER BEHAVIOR, *supra* note 71, at 3, 8.

75. See, e.g., Richard Wightman Fox, *Epitaph for Middletown: Robert S. Lynd and the Analysis of Consumer Culture*, in THE CULTURE OF CONSUMPTION 101, 103 (T.J. Jackson Lears ed., 1983).

76. Richard Wightman Fox & T.J. Jackson Lears, *Introduction*, in THE CULTURE OF CONSUMPTION, *supra* note 75, at vii, ix.

77. THORSTEIN VEBLEN, *THE THEORY OF THE LEISURE CLASS: AN ECONOMIC STUDY IN THE EVOLUTION OF INSTITUTIONS* (London, MacMillan 1899).

78. See Fox & Lears, *supra* note 76, at ix.

79. See *id.* at x.

80. *Id.* at ix-x.

capacity of the mid-twentieth century seemed to demand "that we make consumption our way of life, that we convert the buying and use of goods into rituals, that we seek our spiritual satisfaction, our ego satisfaction, in consumption."⁸¹

While aspects of consumer culture were being celebrated by some, other commentators were critical of the important role which consumption began to play in American life. C. Wright Mills, Paul Baran, Paul Sweezy, and Herbert Marcuse viewed the emphasis on consumption as a form of captivity.⁸² But ironically, according to Lears, consumerism seems to have arisen out of the wishes and instincts of society's dominant elites. It was mostly the class of white, male, educated, and affluent Americans who filled the professional/managerial stratum of corporations, government, universities, professional associations, and media that made the emergence of consumer culture possible.⁸³ This new stratum, in combination with an emerging national marketplace, facilitated the bureaucratic organization of society in which large institutions began to influence people's lives.⁸⁴

Lears argued that the consumer culture took root when bureaucracy linked with a moral shift away from the Protestant ethos of perpetual work, compulsive saving, civic responsibility, and salvation through self-denial. At this point, a new therapeutic ethos arose stressing self-realization⁸⁵ and embracing a set of values that sanctioned frequent leisure, compulsive spending, apolitical passivity, and a permissive morality of self-fulfillment.⁸⁶

According to Lears, this new therapeutic ethos represented a response to feelings of "unreality" among the nineteenth century bourgeoisie.⁸⁷ As the managerial class moved into the cities and utilized modern conveniences, it insulated itself from primary, firsthand experience, and felt as though it was unable to "plunge into 'the vital currents of life'."⁸⁸ As early as 1909, "commentators were lamenting 'the Era of Predigestions,' which

81. DURNING, *supra* note 69, at 21-22.

82. See Fox & Lears, *supra* note 76, at x.

83. See *id.* at xi.

84. See generally *id.* at xii.

85. See T.J. Jackson Lears, *From Salvation to Self-Realization: Advertising and the Therapeutic Roots of the Consumer Culture, 1880-1930*, in *THE CULTURE OF CONSUMPTION*, *supra* note 75, at 1, 3-4.

86. See *id.* at 3.

87. See *id.* at 6.

88. *Id.* at 7.

had rendered vigorous, firsthand experience obsolete."⁸⁹ The educated bourgeoisie in the late nineteenth century began to yearn for an experience of intense "real life" as opposed to the life within mass institutionalized society which mediated primary experience. Reality became "something to be sought rather than merely lived."⁹⁰

Feelings of unreality among the managerial and professional class were also fostered by the existence of a nationalized economy consisting of large, interdependent corporations.⁹¹ This, and the anonymity of the city, eroded the sense of selfhood and diminished feelings of personal autonomy.⁹² These feelings of unreality spread throughout the social strata as the elites pondered the coming of a mass society.⁹³ Writing in 1909, a writer for the *Atlantic* captured the mood of the time: "As a whole, we have lost the capacity for separate selfhood."⁹⁴ The foundations of the consumer society had been laid.

B. Definitive Aspects of Consumer Culture

1. The Reification of Images

The insulation from primary experience and the longing for real experience that emerged in twentieth century America made individuals especially vulnerable to a consumer culture which promised satisfaction of these longings through commodity exchange. The feelings of unreality in society "helped to generate longings for bodily vigor, emotional intensity, and a revitalized sense of selfhood."⁹⁵ These new emotional needs fostered the development of a therapeutic ethos of self-realization.⁹⁶ And in pursuit of a sense of "real" life, people turned to the marketplace of goods because advertisers promised that their products "would contribute to the buyer's physical, psychic or social well-being" and implicitly threatened that a buyer's "well-being would be undermined if [that buyer] failed to buy [the product]."⁹⁷

This phenomenon of disengagement from primary

89. *Id.*

90. *Id.* at 6.

91. See DAVID RIESMAN, *THE LONELY CROWD* xix (2nd ed. 1961).

92. See Fox & Lears, *supra* note 76, at 6-7.

93. *Id.* at 8.

94. *Id.*

95. *Id.* at 10.

96. See *id.* at 11.

97. *Id.* at 19.

experience, which has helped to give rise to the consumer culture, has emerged along with the ascendancy of life as lived through symbols. Since the beginning of the twentieth century, people have been increasingly surrounded by the symbol of things, rather than the thing itself. Through exposure to the media, individuals not only see numerous physical entities before ever experiencing them, but they see numerous simulated expressions of emotion and experiences before actually experiencing or witnessing the real thing itself. For example, it is more likely that we will see numerous weddings portrayed on television before we ever actually see real people get married. We also may see *more* of the simulated thing than the real thing. For example, many of us may have seen more scripted conversations on television than we have experienced in real life. The fact that symbols dominate our experience in the world suggests that these symbols can take on an importance and meaning that differs from the real thing they symbolize.

One result of this is that commodities are easily used as symbols for the satisfaction of primary or fundamental longings that the product, standing on its own apart from the symbolism attached to it, would never be able to satisfy. The most salient feature of consumer culture is that "the characteristics of commodities become reified into . . . symbols that are disengaged from the particular and immediate needs of everyday life."⁹⁸ Thus, a "product is not simply a physical entity but a bundle of attributes which promise certain satisfactions, physical, social, psychological, economic, to the buyer."⁹⁹ This promise is made by creating a certain image for a product that appeals to psychic needs rather than the more pragmatic needs served by the product's technical performance. Through creating these "images," modern marketing "has now moved on from being the creator of the image that *helps* sell the product. Today, advertising is the product."¹⁰⁰

Charles Revson, owner of Revlon Inc., illustrates this phenomenon well: "In the factory we make cosmetics. In the store we sell hope."¹⁰¹ In helping to promote Revson's idea, Theodore Levitt, a marketing scholar at Harvard University's

98. Fox & Lears, *supra* note 76, at xiv-xv.

99. N. CRAIG SMITH, MORALITY AND THE MARKET: CONSUMER PRESSURE FOR CORPORATE ACCOUNTABILITY 168 (1990) (quoting GORDON R. FOXALL, STRATEGIC MARKETING MANAGEMENT 71 (1981)).

100. ERIC CLARK, THE WANT MAKERS 23 (1988).

101. Theodore Levitt, *The Augmented-Product Concept*, in CORPORATE STRATEGY AND PRODUCT INNOVATION 148, 149 (Robert R. Rothberg ed., 1976).

Graduate School of Business, noted that manufacturers now offer not just the generic product rolling off the assembly line, but "glamour, personal fulfillment and sex appeal."¹⁰² Levitt urged companies to realize that products serve purposes other than need or comfort, and emphasized building the "element of excitement" into products as a means of differentiating otherwise generic goods.¹⁰³ As an example of this psychological approach in marketing, Levitt often referred to a statement made by a shoe company president: "People no longer buy shoes to keep their feet warm and dry. They buy them because of the way the shoes make them feel—masculine, feminine, rugged, different, sophisticated, young, glamorous, 'in.' Buying shoes has become an emotional experience. Our business now is selling excitement rather than shoes."¹⁰⁴

The selling of products through "image" arose because of industry's realization that image-based advertising helps insulate a product from the competition that results from improvements in technical performance. Stuart Agres, a director of strategic planning at a large New York marketing firm, explained that the reason for selling products on the basis of image rather than technical merit is that rapid technological changes can mean that a product does not hold its advantage for long.¹⁰⁵ Because a product can easily lose its edge if a competitor designs something better, selling on the basis of image makes a product more competition-proof since its image is independent of any actual attributes of the product.¹⁰⁶

Levitt was not the first to encourage image-based marketing strategies. In the early twentieth century, Claude Hopkins and Albert Lasker became enormously successful advertisers by employing the "Reason Why" approach.¹⁰⁷ With this approach, Hopkins and Lasker "refused to appeal to a buyer's reason by listing a product's qualities; on the contrary [they] addressed non-rational yearnings by suggesting the ways his client's product would transform the buyer's life."¹⁰⁸

The premise of the "Reason Why" approach is similar to that of Revson and the president of the shoe company. All presented

102. *Id.*

103. *See id.* at 154, 156. Consider the General Motors Pontiac slogan, "We Build Excitement."

104. *Id.* at 156.

105. *See* CLARK, *supra* note 100, at 24.

106. *See id.*

107. *See* Fox & Lears, *supra* note 76, at 18.

108. *Id.*

a product that would supposedly make a person's life richer and more fulfilling in a way that did not depend upon any special quality or attribute of the physical product itself. They associated their products with "imaginary states of well-being,"¹⁰⁹ and consumer satisfaction became something manufactured by advertising rather than something dependent solely on the utility of a product.

2. *The Market as the Primary Means of Satisfying Desires*

Perhaps because of the association between satisfying psychic needs and consuming goods, society turned to the marketplace as a primary means of addressing its wants and needs. William Leiss argues that modern Euro-American societies are characterized by individuals who tend to interpret feelings of well-being more and more exclusively in terms of their "relative ability to consume."¹¹⁰ Leiss suggests that commodity exchange tends to become "the exclusive mode for the satisfaction of human needs, displacing friendships and family relationships, engagement in political or community activities and so on."¹¹¹ Opinion surveys confirm that this encroachment of consumerism into all areas of life is an attribute of consumer culture. For example, in the world's two largest economies, Japan and the United States, people increasingly measure success by how much they consume.¹¹²

Consumption is not only regarded as a means to achieve personal fulfillment. The most commonly accepted measure of national well-being is the gross national product, which is nothing more than a measurement of the value of all the goods and services consumed in that society.¹¹³ The fact that we measure a nation's well-being according to how often money changes hands demonstrates the power of the consumer culture to interpret all well-being in terms of commodity exchange.

A further aspect of consumer culture is that consuming goods and services is now intertwined and conflated with an individual's identity and self-esteem. A 1987 study concluded that British youngsters were obsessed with consumption

109. *Id.* at 19.

110. William Leiss & Stanley J. Shapiro, *Symbolism, Consumption, and the Quality-of-Life*, in *MARKETING AND THE QUALITY-OF-LIFE INTERFACE* 153, 155 (A. Coskun Samli ed., 1987).

111. CELIA LURY, *CONSUMER CULTURE* 50 (1996) (discussing Leiss' argument).

112. See DURNING, *supra* note 69, at 22.

113. See generally TIBOR SCITOVSKY, *THE JOYLESS ECONOMY: THE PSYCHOLOGY OF HUMAN SATISFACTION* (rev. ed. 1992).

because they saw brands as an expression of who they were.¹¹⁴ In *Marketing To and Through Kids*, Selina Guber and Jon Berry suggest various methods by which marketers can put this information to use. They argue that the “work” of a youth is defining his or her own identity—deciding who he or she is.”¹¹⁵ Accordingly, the authors note that the choices youths make in life are part of the process of self-definition, and that particular brands can be “part of that process.”¹¹⁶ For Guber and Berry, a child’s process of self-definition—the “work” of their youth—is an opportunity to train them to consume: “Each decision that aligns them with a brand of toothpaste or cereal . . . becomes an exercise in self-definition. The brand becomes part of their identity.”¹¹⁷

Other marketing experts agree that “based on an individual’s self or group identity, she or he may be more likely to consume products that societally represent a cohesive identity.”¹¹⁸ Thus, consumers create an identity for themselves by buying products that, taken together, represent some identity or role.¹¹⁹ Advertisers stand ready to exploit this axiom. In the mid-1990s, Music Television (MTV) ran an advertisement in the business section of a number of newspapers featuring a young man in standard “twenty-something” garb. The caption read, “Buy this 24-year old and get all his friends absolutely free. . . . He knows what car to drive and what credit cards to use. And he’s no loner. What he eats, his friends eat. What he wears, they wear. What he likes, they like.”¹²⁰ As social researchers McCracken and Pollay conclude—and as MTV is no doubt aware—“objects of the market-place are . . . ‘communicators’ with which we inform our fellows of the particular social identity we have chosen to assume.”¹²¹

According to Alan Durning in his best-selling book, *How Much Is Enough?*, consumption can also become a means of achieving external feelings of being socially accepted.¹²² He

114. See CLARK, *supra* note 100, at 186.

115. SELINA S. GUBER & JON BERRY, *MARKETING TO AND THROUGH KIDS* 22 (1993).

116. *Id.*

117. *Id.* at 22-23.

118. Costa, *supra* note 71, at 219.

119. See LURY, *supra* note 111, at 17.

120. Thomas Frank, *Alternative to What?*, in *COMMODY YOUR DISSENT: SALVOS FROM THE BAFFLER* 145, 150-51 (Thomas Frank & Matt Weiland eds., 1997).

121. Leiss & Shapiro, *supra* note 110, at 166 (quoting G.D. MCCracken & R.W. POLLAY, *ANTHROPOLOGY & THE STUDY OF ADVERTISING* (1982) (unpublished paper, University of British Columbia, Canada)).

122. DURNING, *supra* note 69, at 40.

claims that often "consumption is motivated by this desire for approval: wearing the right clothes, driving the right car, and living in the right quarters are all simply ways of saying, 'I'm O.K. I'm in the group.'"¹²³ Sociologist David Riesman observes that the modern person is especially susceptible to using consumption as a mode of acceptance because that person reacts strongly to the need for approval from others. He describes the modern person as "other-directed," for whom contemporaries are the primary source of direction.¹²⁴ For them, the "need for approval and direction from others . . . goes beyond the reasons that lead most people in any era to care very much what others think of them."¹²⁵

Other-directed people may use consumption, rather than character, intelligence, or integrity, as a means of gaining the respect of his peers and equalizing his stature relative to that of his contemporaries. Hence, other-directed people are especially vulnerable to consumer culture, writes Riesman, because their "eye[s] [are] very much on the Joneses."¹²⁶ Indeed, other-directed people constitute one of the psychological classifications corporate marketers use to target and formulate advertising campaigns.¹²⁷

The 1990s have presented another form of consumerism based on social acceptance that is more sophisticated, but no less insidious, than forms of consumerism that existed in decades past. According to economist Juliet Schor, "lifestyle aspirations are now formed by different points of reference."¹²⁸ Today, people no longer compare themselves to their neighbors, but to co-workers and, more significantly, to their "peers" on television.¹²⁹ Television shows tend to portray characters who are more wealthy than the people who watch the shows, with the result that the standard of living to which people aspire is ratcheted upwards. People overspend by setting unattainable consumption goals, inevitably leaving them disappointed.¹³⁰ Another result is that peoples' perceptions of what they "need" tends to increase. In a recent survey, 27% of all households

123. *Id.*

124. RIESMAN, *supra* note 91, at 21.

125. *Id.* at 22.

126. *Id.* at 24.

127. *See* CLARK, *supra* note 100, at 171.

128. JULIET B. SCHOR, *THE OVERSPENT AMERICAN: UPSCALING, DOWNSHIFTING, AND THE NEW CONSUMER* 4 (1998).

129. *See id.* at 4-5, 80-82.

130. *See id.* at 5.

making \$100,000 or more claim they cannot afford everything they "need"; in the \$50,000 to \$100,000 range, nearly 40% claim the same thing.¹³¹

The drive to consume in order to achieve social acceptance is especially prevalent among children. According to research by Guber and Berry, peer pressure can play a large role in a child's decisionmaking: "[a]lmost everything—including the clothes they wear, the toys they play with, the shows they watch on TV, and the food they pack in their lunches—can be a medium of communication of how [children] perceive themselves and their relationship to others."¹³² Thus, "[w]earing the same styles of clothes can be an expression of feeling a part of the group."¹³³ Put another way, this illustrates the potential for capitalizing on the other-directedness of American youth.

Commodities can also become a mode through which individuals relate to others. Karl Marx criticized market societies because, in his view, commodities come to stand in for, and often replace, relationships between people.¹³⁴ For instance, "a husband may be expected to . . . express the emotional caring for his wife through the purchase of gifts, of romantic dinners, of weekend vacations, of flowers."¹³⁵ Corporations marketing to children are well aware that the longing for friendship or human company can be appealed to in such a way that commodities take on a role that might otherwise be filled by a living person. Gene Del Vecchio, author of *Creating Ever-Cool: A Marketer's Guide to a Kid's Heart*, writes that,

Because children seek cool attitudes, brands should strive to attain attitudes via depth of personality. Children can easily ascribe personality traits to Nike, Disney, McDonald's, and others. Such personality traits will vary, of course, depending on the nature of the brand and the *emotional needs it satisfies*. Importantly, this depth of personality is an aura that rises above mere product attributes and *creates a strong bond between the child and the brand*.¹³⁶

Del Vecchio's theory suggests that children can develop relationships with corporations much as they might develop

131. See *id.* at 6.

132. GUBER & BERRY, *supra* note 115, at 25.

133. *Id.*

134. See KARL MARX, *Capital: An Analysis of Capitalist Production*, in CAPITAL AND OTHER WRITINGS 13, 205-07 (Max Eastman ed., The Modern Library 1959); KARL MARX, *The Communist Manifesto*, in CAPITAL AND OTHER WRITINGS, *supra*, at 315, 324.

135. Costa, *supra* note 71, at 220.

136. GENE DEL VECCHIO, *CREATING EVER-COOL: A MARKETER'S GUIDE TO A KID'S HEART* 123 (1998) (emphasis added).

relationships with friends or relatives. Indeed, he acknowledges that marketers use their knowledge of child psychology to "develop brands that created a relationship with the child by fulfilling emotional needs."¹³⁷

C. Advertising and Consumer Culture

1. Advertising and its Place in Society

To fully understand the features of consumer culture, the full scope of advertising's role in American society must be considered. Economically, advertising beneficially facilitates commerce and exchange; socially, advertising too often detrimentally affects culture and creates unnecessary environmental harm. According to Paul Hawken, "it deceives young and old alike into purchases that are inappropriate, unnecessary, or wasteful, feeding the frenzy of consumption that is responsible for civilization's overshooting present carrying capacity."¹³⁸

With the average adult seeing 21,000 commercials a year,¹³⁹ advertising is a powerful force shaping society. Several surveys indicate a positive relationship between heavy exposure to advertising and "acceptance of commercial claims, belief in ads, and the desire for advertised products."¹⁴⁰ A good case study for the power of marketing is Coca-Cola's campaign in Harlem, New York. There, by "weaving [its] brands into the fabric of the community," Coca-Cola raised its overall volume sales by 35% last year, with some retailers reporting an increase of 100%.¹⁴¹

Further, United States producers and merchants currently spend 2½% of the Gross National Product on advertising.¹⁴² From 1950 to 1990, advertising expenditures in the United States rose from \$198 per capita to \$495.¹⁴³ In fact, corporations spend more money on advertising than is spent on all of secondary education in America.¹⁴⁴ Children are a significant

137. *Id.* at 34.

138. HAWKEN, *supra* note 17, 132.

139. *See id.* at 131.

140. CLARK, *supra* note 100, at 201.

141. The Coca-Cola Company, 1998 Annual Report (visited May 24, 1999) <http://www.cocacola.com/annualreport/1998/always/always_02.html>.

142. *See* SCROVSKY, *supra* note 113, at 5.

143. *See* DURNING, *supra* note 69, at 120. Durning also notes that total global advertising expenditures between 1950 and 1988 increased from an estimated \$39 billion to \$247 billion, a rate far greater than economic output. *See id.*

144. *See* HAWKEN, *supra* note 17, at 131.

target market for advertisers. In 1995, advertisers spent \$550 million on reaching children, and succeeded at exposing the average child to 30,000 television commercials.¹⁴⁵

Corporations obviously believe that they are getting something for their advertising expenditures. But what is it? More importantly, what does advertising indicate about the characteristics of American culture? Two schools of thought exist regarding the power of advertisement to create preferences among consumers. One holds that people in industrial societies are molded virtually from birth to become consumers, and that advertising is one of the most important factors in this process.¹⁴⁶ The other maintains that advertising cannot force upon consumers items they do not want in the first place. The rationale is that "[i]f the product does not meet some existing desire or need of the consumer, the advertising will ultimately fail."¹⁴⁷ In fact, the answer is probably somewhere in the middle. In a kind of feedback loop, advertising can form consumer wants at the same time as consumer wants inform the content of advertising.¹⁴⁸

Regardless of which view is correct, it can still be said that advertising reflects people's desires and the psychology that creates them. Moreover, the point is not so much that advertising manufactures artificial and false desires, but that it is both the cause and product of a culture in which consumption is either regarded as an end in itself or conflated with other, more fundamental, values. Whether advertising utilizes or creates the psychological states conducive to consumption, advertisements reveal aspects of consumer culture. Indeed, social researchers have contended that "in contemporary society advertising has taken over from other social agencies the tasks of transmitting beliefs, values, and behavioral codes that in earlier times were incorporated in myths, proverbs, and rituals."¹⁴⁹ Thus, "[e]ven critics within the industry believe that

145. See *TV-Free America* (visited Feb. 26, 1999) <<http://www.tvfa.org/stats.html>>.

146. Cf. PAUL A. BARAN, *THE POLITICAL ECONOMY OF GROWTH* xvii (1962). See generally David Kiron, *Overview Essay*, in *THE CONSUMER SOCIETY* 229 (Neva R. Goodwin et al. eds., 1997).

147. BARAN, *supra* note 146, at xii (quoting ROSSER REEVES, *REALITY IN ADVERTISING* 141 (1961)).

148. See T.J. Jackson Lears, *From Salvation to Self-Realization*, in *THE CULTURE OF CONSUMPTION*, *supra* note 75, at 1, 4.

149. Leiss, *supra* note 110, at 166 (quoting G.D. McCracken & R.W. Pollay, *Anthropology & the Study of Advertising* (1982) (unpublished paper, University of British Columbia, Canada)).

anthropologists can use advertising as a Rosetta Stone for interpreting evolving lifeways."¹⁵⁰

Different advertising slogans that have been used to sell Coca-Cola, for example, confirm the observations made by commentators about what constitutes the consumer culture. Claims that Coke is the "real thing" have persisted throughout the history of this product's advertising.¹⁵¹ These claims play on the modern sense of unreality observed by Lears and others. Some of Coca-Cola's other slogans also exploit and help to create certain modern vulnerabilities. The slogan "Coke adds life," used from 1976-79,¹⁵² exploits the feeling of modern industrial culture that one is outside the currents of life. The slogan "Have a Coke and a Smile"¹⁵³ suggests that people may seek personal happiness by drinking Coca-Cola. "Catch the Wave"¹⁵⁴ exploits the "other-directedness" of modern society by implying that if one does not drink Coke, then one is missing out on what everyone else is doing. Finally, one of the most famous Coca-Cola advertisements, in which football player "Mean Joe Greene" gives a little boy his jersey after the boy offers Greene a drink of Coke,¹⁵⁵ shows the use of a product to relate to other people.

Advertising campaigns for other products also demonstrate and confirm aspects of the consumer culture. An advertisement for the Oldsmobile Aurora asks, "Is what you drive a reflection of who you are, or is who you are a reflection of what you drive?" This demonstrates the use of a product to define identity. Another company is more blatant, using the simple slogan, "I am Esprit." Advertisements for Smirnoff vodka state "Can a vodka be pretentious?— absolutely." This advertisement tries to impart a human quality to a mere object and also implies that one's choice of product is a reflection of who one is. In Toyota's "Oh, What a Feeling" advertisement campaign, people jump for joy at having bought a new car. This is an example of selling the experience of extreme joy rather than the product itself.

Ultimately, advertisements such as these condition people to seek emotional and psychic fulfillment through consumption of material goods. Indeed, according to Claude Bonnae, co-founder of a large American advertising company, "conditioning" customers is one technique that an advertising agency "should

150. Costa, *supra* note 71, at 305.

151. See THE COCA-COLA COMPANY, FACTS, FIGURES AND FEATURES 8-9 (1996).

152. See *id.* at 9.

153. See *id.*

154. See *id.*

155. See *id.*

never forget."¹⁵⁶ But unpacking these advertisements is far from simple. With regard to the Toyota advertisement, for example, buying a truck is certainly likely to bring a person joys that are not based merely on the product itself. The truck can be used to visit friends and relatives or to explore the country. But this is probably not what the advertisers really intend to sell. An alternative interpretation is that they hope to attach joyfulness to the product for its own sake. The advertisement does not require consumers to ask whether purchasing the truck will allow the consumer to visit people or places. Rather, the advertisement is designed to persuade the consumer that the simple act of buying the truck will yield exaltation and joyfulness.

Other advertisements portray products as necessary accessories to emotional fulfillment. Many sport utility vehicle advertisements feature a couple "getting away from it all" to seek peace and tranquility in a natural setting. Credit card advertisements often feature people finding out-of-the-way spots where they can relax and repose. But none of these advertisements question the basic reason for why these people feel such a need to "get away from things," which is most likely that they are working hard to buy the many things the consumer culture tells them they need. Advertisements never admonish the consumer to spend less and work less. Indeed, they merely try to convince the consumer that even getting away from things requires an expenditure of money and a further act of consumption.

2. *Our Incredulity*

Advertising claims may seem ridiculous when one critically views them. Merely drinking Coca-Cola does not make life "go better."¹⁵⁷ Granted, Coca-Cola may satisfy the thirst for a soft drink or provide a desired "caffeine buzz"; but Coca-Cola's advertisements really promise more than that. The same is true of the Toyota advertisements. Buying a Toyota yields at best ersatz exaltation, at least in so far as the advertisement plays a role in generating the joy that is felt.

In fact, once the true message from these advertisements is distilled, it is hard to fathom why anyone finds them believable. As Riesman asks, "Why isn't it possible that advertising as a whole is a fantastic fraud, presenting an image of America taken

156. CLARK, *supra* note 100, at 89.

157. See THE COCA-COLA COMPANY, *supra* note 151, at 9.

seriously by no one, least of all by the advertising men who create it?"¹⁵⁸ Riesman's sessions with his students seem to confirm his suspicions. "When I ask them if they believe the ads themselves, they say scornfully that they do not. And when I ask if they know people who do, they find it hard to give examples. . . . Yet the advertisements must be reaching somebody, the students insist."¹⁵⁹ According to Eric Clark, research surveys confirm that when asked about the power of advertising, most people "agree that it works, but not on them."¹⁶⁰

Despite the fact that supposedly no one believes advertisement claims, corporations persist in advertising their products. Indeed, according to a former chairman of a large advertising agency, companies no longer debate whether or not the buying public is influenced by advertising—"it's a proven success that advertising works."¹⁶¹

Hence, the debate lies mostly with the buying public itself. According to Riesman, hypocrisy abounds in most of the public's condemnation of advertising. "[B]etween the advertisers on the one hand and the novelists and intellectuals on the other, [Americans] have assumed that *other* Americans were materialistic, while not giving sufficient credence to their own feelings."¹⁶² The same unconscious hypocrisy seems to exist regarding social status. "American consumers are often not conscious of being motivated by social status and are far more likely to attribute such motives to others than to themselves. We live with high levels of psychological denial about the connection between our buying habits and the social statements they make."¹⁶³ Thus, while 70% of surveyed respondents described the average American as "very materialistic," only 8% felt that they themselves were materialistic.¹⁶⁴

This contradiction is aptly reflected in the use of irony in today's advertisements. Tom Vanderbilt observed that "[n]owadays, when presented with . . . lessons in the advertised life, American consumers react with fairly instinctual irony. The young especially, we are told, have developed an ability to shrug

158. RIESMAN, *supra* note 91, at 228.

159. *Id.*

160. CLARK, *supra* note 100, at 13.

161. *Id.* at 16.

162. REISMAN, *supra* note 91, at 229.

163. SCHOR, *supra* note 128, at 19.

164. *See id.* at 83.

off advertising And yet they still buy products."¹⁶⁵ This is because advertising has managed to "co-opt[] critics by not taking itself too seriously" and has "seized upon irony as the cultural in-joke of the century."¹⁶⁶ For instance, Nike now acknowledges in recent television commercials that the ads are a "shameless" act of self-promotion; but this self-conscious candor is designed to make consumers accept the act of self-promotion and excuse its shamelessness. As Vanderbilt asks, "As everyone stands around winking and nudging, why does no one see fit to question irony itself?"¹⁶⁷

Thus, it may be true that even as one condemns advertising, one may yet subscribe to its message. This seems to be the aim of an advertising campaign designed for Sprite which asserts that "Image is Nothing." These advertisements, which encourage consumers to feel superior to those persuaded by celebrity product endorsements, ironically invite one to drink Sprite in order to show the world that one cannot be duped by advertising. Calvin Klein's advertisement slogan "Just Be" is ironic for the same reason. It seems to counsel the consumer to lead a simple life unconcerned with image consciousness. The rub is that to live this way, consumers are supposed to buy Calvin Klein clothes to show just how unconcerned they are with image.

This hypocrisy seems natural when people are bombarded with advertising messages yet hear little or no other messages to counteract them. A person may be able to view a particular advertisement, dissect it for meaning, and conclude that its message is silly. But a person cannot do that for all of the 3,000 advertising messages that person is exposed to each day.¹⁶⁸ Moreover, cultural forces which might otherwise counteract the message of advertising have diminished as consumerism has taken hold. Children now spend forty-three times more minutes watching television than engaging in meaningful conversation with their parents.¹⁶⁹ Communication among neighbors and relatives has also dwindled as consumerism and mass media has gained prominence and commanded society's attention.¹⁷⁰ As the avenues by which we might learn to be critical of consumer values have closed off, the messages of consumerism encounter

165. Tom Vanderbilt, *The Advertised Life*, in *COMMODIFY YOUR DISSENT*, *supra* note 120, at 127, 131-32.

166. *Id.* at 132.

167. *Id.*

168. See DURNING, *supra* note 69, at 118.

169. See *TV-Free America*, *supra* note 145.

170. See DURNING, *supra* note 69, at 42-43.

little resistance.

III

CRITICISM OF CONVENTIONAL AND PROPOSED APPROACHES TO ENVIRONMENTAL MANAGEMENT

A. *Neither Conventional nor Proposed Approaches Adequately Address Demand*

By failing to curtail the demand for goods and services generated by consumerism, environmental policy has so far missed a valuable opportunity for protecting the environment. This shortcoming is significant because the demand for goods and services is the root cause of environmental impacts resulting from the industrial sector and from the disposal of household waste. Demand is also responsible for environmental impacts due to transportation networks and urban sprawl attributable to the proliferation of malls and shopping centers.¹⁷¹

Yet conventional approaches to environmental protection do not attempt to decrease overall demand, let alone address consumerism. Although demand would seem a natural target for any environmental policy, conventional environmental protection policies merely seek to mitigate the impact of industry as it meets the demand for what it offers. Proposed approaches to environmental protection strive to correct deficiencies in the conventional approach, but suffer from the same defect. Although increased prices resulting from internalizing externalities has some effect on the demand for consumer goods, environmental measures that raise prices do no more than discourage people from buying goods if they cannot afford them. Price increases do not encourage people to buy less where they could do otherwise.

Green consumerism also fails to adequately target reduction in demand. Because it does not treat consumption *per se* as problematic, green consumerism suggests that consumers can "have their cake and eat it too." In fact, proponents of green consumerism promise that "[b]y choosing carefully, you can have a positive impact on the environment without significantly compromising your way of life."¹⁷²

Hence, green consumerism should not be confused with the sort of actions this Article advocates. Green consumerism tends

171. See *id.* at 6.

172. JOHN ELKINGTON & JULIA HAILES, *THE GREEN CONSUMER* 5 (1990).

to ignore the fact that *all* consumer activity in the industrial world has some negative impact on the environment. Admittedly, individuals who consume, for example, locally-grown organic foods, have a less destructive impact on the environment relative to other people who seek to satisfy the same need by purchasing conventionally grown food. But it is hard to imagine an act of consumption in the industrial world that has a net positive impact on the environment. Even locally grown organic goods require machines and trucks for harvesting and distribution, refrigeration for storage, and packaging materials. Hence, the question should always be whether a given product is worth all its attendant environmental downsides. In the case of food and other necessities, it usually is. But this surely cannot be said for all of the things people buy. In contrast to the basic notions behind green consumerism, this Article argues that consumers ought to consume less, not just consume differently.

It is, of course, impossible to refrain from consuming at all. Environmental considerations must often yield to our need for such things as nutrition and shelter from the elements. It is similarly undesirable to refrain from consuming when consuming makes life more comfortable, provides amenities, or facilitates worthwhile activities. Nonetheless, beyond this level of consumption, it remains the case that our reasons for consuming are often untenable, and that if those reasons were thought through, we would choose in many instances not to perform the act of consumption that we contemplate.

B. Current Approaches to Environmental Problems Miss a Potentially Effective Tool for Reducing Ecological Harm

To the extent people buy things because of consumerism, it represents a discretionary, changeable portion of the massive demand for goods and services provided by the industrial economy. Indeed, the less obvious the need for an item, the more it seems to depend on advertising and reification for its sales.¹⁷³ Hence, any reduction in demand from consumerism must come from parts of the economy that are less essential and that exist due to rises in income. Because ecological damage disproportionately rises as income rises,¹⁷⁴ targeting reduction in demand would have a significant effect on ecological damage.

Consider, for instance, the benefits that might be reaped by

173. See CLARK, *supra* note 100, at 30.

174. See DURNING, *supra* note 69, at 52.

minimizing demand for Coca-Cola soft drinks, which are perhaps the ultimate example of products whose demand is based primarily on images generated in advertising.¹⁷⁵ In 1995, Coca-Cola sold 305 billion 8-ounce servings of soft drinks,¹⁷⁶ and Coca-Cola now sells over a billion servings per day.¹⁷⁷ The number of cans sold by Coca-Cola in 1995 was 117.4 billion and the number of bottles was 81 billion.¹⁷⁸ Since each empty can weighs .04 ounces,¹⁷⁹ Coca-Cola retailed 146,800 tons of aluminum in 1995.

Although most aluminum waste in the United States is recycled,¹⁸⁰ the use of aluminum in cans of Coca-Cola products still has substantial ramifications for environmental degradation since aluminum is one of the most expensive and polluting metals to produce.¹⁸¹ Further, even if all Coca-Cola aluminum beverage containers were recycled, ecological harm still occurs because recycling requires energy and an infrastructure for collection. The aluminum used to produce and distribute Coca-Cola may also affect human health. Aluminum can leach into drinking water and has been connected to Alzheimer's disease, Parkinson's disease, and central nervous system disorders.¹⁸²

Coca-Cola's use of plastic containers also has negative consequences. It is estimated that Americans go through 2.5 million plastic beverage containers each hour.¹⁸³ Some are recycled but the rest go to landfills. Even those that are recycled must be collected, melted down, and reformed. Moreover, production of plastics is a highly toxic process. Of the twenty chemicals whose production generates the most hazardous waste, five of the top six are chemicals commonly used by the

175. See generally CLARK, *supra* note 100, at 23.

176. See THE COCA-COLA COMPANY, 1995 ANNUAL REPORT 5, 34 (1996). Coca-Cola sold 12.7 billion "unit cases," and there are 24 8-ounce servings in one unit case. See *id.*

177. See The Coca-Cola Company, *The Next Billion* (visited May 22, 1999) <<http://www.thecoca-colacompany.com/investors/billion.html>>.

178. Because statistics essential to this calculation were unavailable in Coca-Cola's publications, this argument assumes that Coca-Cola's by-package distribution is roughly the same as Pepsi's. PepsiCo. sold 70% of its product to retailers in 1995, and 30% to restaurants and fountains. See PEPSICO, INC., 1995 ANNUAL REPORT 5 (1996). Assuming that the amount sold to retailers consisted of bottles and cans, 55% of retail sales were cans while 38% were bottles. See *id.*

179. The author weighed a can himself.

180. See THE COCA-COLA COMPANY, THE COCA-COLA COMPANY & THE ENVIRONMENT: EXPANDING THE SPIRIT OF REFRESHMENT 8 (1997).

181. See ELKINGTON, *supra* note 172, at 44.

182. See *id.* at 13.

183. See *id.* at 8.

plastics industry.¹⁸⁴ Finally, recycling plastics is not a perfect solution since plastic generally cannot be recycled more than once.¹⁸⁵

Coca-Cola's fleet of 27,000 trucks should also be considered.¹⁸⁶ Since burning one gallon of gasoline produces about twenty pounds of carbon dioxide, the gas that contributes to global warming, reducing demand for Coca-Cola would also reduce the impact of Coca-Cola's trucks. Coca-Cola's fleet contributes to other environmental problems as well. Exhaust from the vehicles creates smog, and air conditioners in the trucks emit chloroflourocarbons that contribute to ozone depletion in the upper atmosphere.¹⁸⁷ The trucks also require oil, antifreeze, brake fluid, and transmission fluid, all of which contain hazardous substances and all of which pose disposal problems.¹⁸⁸ The batteries from these trucks, which contain lead and sulfuric acid constituting serious threats to the environment,¹⁸⁹ must be disposed of when they are expended. Finally, when the life of these trucks is over, the trucks themselves must be disposed of. This would mean, among other things, contributing to the approximately 200 million tires thrown away each year in the United States.¹⁹⁰

Plants, warehouses, and office buildings are also necessary to distribute Coca-Cola to all those who want it. Each of these physical structures represents the destruction of open space, and possibly wildlife habitat, that need not have occurred had consumers made a value judgment against drinking Coca-Cola soft-drinks. The many acres of land necessary to grow soft drink ingredients such as sugar is also significant. Cultivating these raw ingredients may cause soil erosion and create run-off pollution contaminating water supplies with pesticides.

Finally, the \$1.58 billion Coca-Cola spent on advertising in 1997¹⁹¹ represents money that could have been spent on more important and worthwhile enterprises. This figure represents not mere money but numerous hours of personal effort and creativity that could have been devoted to other activities.

184. See, e.g., *id.* at 36.

185. See *id.* at 38.

186. See THE COCA-COLA COMPANY, 1994 ANNUAL REPORT 20 (1996).

187. See ELKINGTON, *supra* note 172, at 72.

188. See *id.*

189. See *id.* at 70.

190. See, e.g., *id.* at 9.

191. See The Coca-Cola Company, *Notes to Consolidated Financial Statement* (visited May 24, 1999), <<http://www.thecoca-colacompany.com/investors/notes.html>>.

Choosing to buy Coca-Cola soft drinks obviously involves much more than just the decision of whether or not one desires the product enough to justify the personal, monetary expense. One should also consider whether Coca-Cola soft drinks are worth all the environmental impacts that are incurred in the manufacturing, distributing, and marketing of those products. Yet considerations such as these infrequently find their way into the decisions that the consumer culture would have us make.

C. Reducing Demand is More Efficient Than Conventional or Proposed Approaches

Although reducing demand could never be the sole means of environmental protection, to the extent it can be employed it is a far more effective method of environmental protection than regulating industry or creating incentives not to pollute. Regulation may reduce the amount of pollution caused by a given industry, factory or economic practice; but from an ecological perspective, it is better that the regulated entity not exist at all. The same is true of the price internalization approach. Even if environmental costs are reflected in the price of a particular product, the environment is better off if the product never existed. Reducing demand has the potential to totally eliminate environmental downsides to a limited amount of economic activity, as well as to reject the necessity to regulate that activity in the first place.

Moreover, insofar as policy seeks to reduce demand through a change in cultural belief, demand reduction has one other advantage over regulating industry or incorporating "true costs" into the price of goods. Reducing demand is simple. Measuring the amount of pollution a company may "safely" emit is a notoriously difficult task because uncertainty is particularly acute in environmental issues.¹⁹² In fact, rarely does a clear, correct answer exist to this question. Generally, the best that the government can do is arrive at a highly uncertain risk assessment that attempts to gauge the probability that a certain harm will result, and then manage pollution in light of that probability.¹⁹³ The attempt to price ecological harm encounters similar difficulties since both green taxes and other environmental cost incorporation measures must attempt to set safe exposure levels and requires a large bureaucratic apparatus

192. See PETER S. MENELL & RICHARD B. STEWART, ENVIRONMENTAL LAW & POLICY 102 (1994).

193. See *id.* at 100.

to perform the tasks involved.

D. Conventional and Proposed Approaches Refrain from Making Normative Judgments About Consumer Behavior

The failure of conventional and proposed approaches to address the consumer culture reflects their implicit acceptance of the proposition that consumer activities within the marketplace are morally incommensurable. That is, regardless of whether a given industry is subject to conventional or proposed methods of environmental protection, the question raised by either is never *whether* the industry is entitled to create ecological disvalue but only *how much* disvalue the industry is permitted to create. Conventional approaches answer the latter question through command and control regulation, while proposed approaches tend to answer it through prevention or market incentives. But neither approach asks whether a given industry, even if regulated, should be entitled *at all* to produce the ecological disvalues that are associated with the industry.

Thus, with the exception of green consumerism, both the conventional and proposed approaches to environmental management fail to make normative value judgments about the products or industrial activities whose harmful effects they seek to minimize.¹⁹⁴ In other words, no matter how important or seemingly trivial a product may be to the economy or to people's lives, the tendency is to place exactly the same environmental restrictions on its creation and distribution. For example, plastic is regulated in the same way whether it is used to make life-saving syringes or grocery store bags. Similarly, aluminum used to make airplanes is regulated in the same manner as aluminum used to make cans of Coca-Cola. This failure to make normative judgments means that environmental law and policy treat the mere existence of a consumer want as sufficient justification for the ecological disvalue its satisfaction entails. In the present social system, a consumer's expressed desire is given validity in the marketplace regardless of the reason for its existence. Environmental policy is indifferent to whether a purchase represents a necessary expenditure or profligacy.

Environmental policy must no longer refrain from criticizing consumer behavior and its effects. Rather, depending on the benefit rendered, policymakers must be willing to determine that some ecological disvalues are justified and others are not.

194. See Salzman, *supra* note 21, at 1261.

Further, policymakers must not subscribe to the notion that ecological disvalue is necessarily justified by the mere existence of consumer desire.

This position contradicts modern liberalism and welfare economics. The view that the state should hold some consumer wants as better than others may be interpreted as "illiberal and at worst totalitarian."¹⁹⁵ Indeed, the prospect of what might be termed "eco-fascists" telling people what they should and should not buy is unsettling. But that is not the position this Article advocates. Rather, the state should reserve normative ecological judgments on consumer behavior for situations in which a sufficient consensus can be reached to justify a differentiation among products based on weighing their benefits against their ecological costs.

Examples of such regulation are rare, but not non-existent. Some government statutes ban the use of certain chemicals in products, or ban products based on the ecological disvalue that its use or manufacture entails.¹⁹⁶ Due in part to solid waste problems, the City of Berkeley, for example, has outlawed the use of polystyrene foam in restaurant food packaging and requires at least fifty percent of such packaging to be recyclable or degradable.¹⁹⁷ Berkeley also regulates the sale, use, and recycling of products that utilize ozone-depleting compounds.¹⁹⁸ These laws show that governments are not entirely ambivalent toward consumer choice.

But the notion that the state should exercise value judgments regarding products and product manufacturing is not the main thrust of the argument. Rather, government should encourage people to make sound decisions as to whether the product they seek to buy really is worth its environmental costs. More to the point, the government should encourage consumers to question whether the desire they seek to satisfy really is best satisfied through economic exchange, or if it is indeed appropriate at all.

There are two reasons why government should emphasize this approach. The first is practical. Legislatures can only go so far to create a hierarchy of wants. For most products, it is impossible to tell (from a policy point of view) how much something is worth relative to the damage it does to the

195. O'NEILL, *supra* note 73, at 5.

196. See Salzman, *supra* note 21, at 1261; see also *infra* Parts VI.D & VI.E (discussing proposals based on this approach).

197. See BERKELEY, CAL., CODE, § 11.60.030, § 11.60.040 (1988).

198. See *id.* § 11.62 (1991).

environment. This difficulty results from the fact that most measurements of worth must derive from the subjective tastes and preferences, and unique psychological state, of the consumer. For example, Person A may buy a new car because A has no means of transportation and cannot otherwise get to work. But person B may live a block away from work and own several cars, and may buy a new car merely because he became tired of the old one. In this case, the government could not regulate the process of manufacturing that car according to the relative importance of the end product because the importance of the product depends on the individual circumstances of the consumer. Hence, regulating products according to use is viable only in the few instances where classifications of the social value of different end uses can be easily made. This determination cannot be made for most economic transactions.

The second and more important reason is ethical. Even if policymakers hold certain end-products or wants to be objectively better than others, the interests of liberty demand that it is best not to employ the coercive force of the state in making normative valuations of consumer behavior. That is, it is preferable that people arrive at that conclusion on their own and adjust their behavior accordingly.

But therein lies the major failing of environmental law and policy as it relates to consumerism—law and policy facilitate and legitimate a value-free approach to purchase behavior *even among consumers who are free to exercise judgment*. As stated above, the notion of freedom from tyranny, which is fundamental to this society, rightly demands that we hesitate to employ the coercive violence of the state. This may be one reason why legislatures refrain, for the most part, from trying to dictate to people the kind of mundane, everyday decisions they can make in the marketplace. But just because the state refrains from outlawing certain harmful activities does not mean that the state should fail to voice an opinion about them. And it certainly does not mean that people themselves should fail to exercise critical judgment in making decisions they are free to make.

By failing to express the appropriate opprobrium for consumerism, government has implicitly condoned it. This has two deleterious consequences. The first is that consumers rarely realize that an ethical obligation falls upon them by virtue of the fact that their economic activity inevitably has a negative effect on the environment. A consumer ought to consider, for example, whether drinking Coca-Cola is really worth all the attendant ecological consequences resulting from the production of the can

of Coke he is about to drink.¹⁹⁹ Yet, environmental laws and policies mostly fail to admonish consumers to even question whether the products they buy are worth all such attendant ecological disbenefits.

Another and more important result of the failure of environmental policy to criticize consumer behavior is that it has facilitated a culture in which consumers are unaccustomed to questioning whether the desires they seek to satisfy in the marketplace are really the best desires for them regardless of ecological concerns, or whether the market can really give them what they are looking for. The goal of environmental law and policy should be to encourage individuals to question their actions and to make them skeptical of the decisions they make in the marketplace. The point is not that all consumption is bad, or that one should not be excited at buying something that will improve the comforts and conveniences of one's life. Nor is the point that people ought to refrain from buying goods for merely psychological reasons. Instead, people need at least to ask whether they are seeking their satisfaction in the right place, in the right way, and for the right reasons. This is the best way to ensure that industrial impacts upon the environment are incurred from the consumption of items essential to a good life and not from items that are misperceived to lead to happiness and satisfaction. The goal then is to eradicate the culture which encourages and compels people to consume mindlessly. The first step in showing that this goal is attainable is to show that consumer culture does indeed lobby people to consume for reasons that are indefensible or even detrimental.

IV

CONSUMPTION DOES NOT FULFILL ITS PROMISE; IT IS IN PEOPLE'S INTEREST TO ABANDON THE CONSUMERIST PARADIGM

This Article has demonstrated the ecological consequences of consumption and has shown that consumption is driven by cultural forces as much as by need or convenience. In other words, consumption has always been "a cultural as well as an economic process."²⁰⁰ Because consumption is often unrelated to convenience or need, an opportunity exists to reduce society's overall consumption and thus, to reduce the ecological harms that result from consumption. However, change "will not be attained simply because the arguments for change are good or

199. See *supra* Part III.B.

200. LURY, *supra* note 111, at 51.

because the alternatives are unpleasant. Nor will exhortation suffice. The central lesson of realistic policymaking is that most individuals and organizations change when it is in their interest to change."²⁰¹

At first blush, it may appear debatable whether it is in people's interest to change their habits of consumption. Merely buying products for reasons unrelated to need or comfort does not by itself suggest that those reasons are illegitimate. Arguably, such reasons manifest the fact that society is healthy and capable of moving beyond material needs. Consuming commodities may then be considered a mode of satisfying "higher" needs and desires. If so, then the culture of consumption might be considered a constructive force. Any ecological consequences of maintaining that culture should then be weighed against the benefits of using consumption to facilitate the higher purposes commercial goods serve.

This Part of the Article illustrates the flaws in that argument. The culture of consumerism fails on its own terms because it does not fulfill its promises of satisfaction and fulfillment. In fact, consumer culture actually impedes true fulfillment of the needs and wants it promises to satisfy. This Part demonstrates that the consumer culture counsels people to make poor economic decisions about how to sate their longings and poor decisions about what longings should be sated in the first place. Indeed, the consumer culture interferes with the introduction of alternative ways of thinking such that people remain ignorant of activities that, though they do not end in a market transaction, may nonetheless be more fulfilling and meaningful than those activities that the consumer culture fosters. Hence, regardless of the ecological consequences of consumption, people in consumer societies still have a strong incentive to alter the presumptions underlying their behavior.

A. *Consuming Makes Us Happy?*

The consumer culture promises that spending yields happiness. The assumption underlying consumerism is that "the higher one's income, the more one can spend, and the more one spends, the more satisfied one should be."²⁰² But how well does consumer culture deliver the goods?

Psychological studies show only a weak relationship between

201. Ruckelshaus, *supra* note 47, at 168.

202. SCROVSKY, *supra* note 113, at 133-34.

consumption and happiness.²⁰³ One study has shown that the number of people in the United States reporting themselves to be "very happy" has remained constant since 1957 even as personal consumption expenditures have doubled.²⁰⁴ Moreover, during the period from 1946 to 1970, per capita income rose 62% yet the proportion of those who consider themselves very happy, fairly happy, or not too happy had hardly changed at all.²⁰⁵ Further, a 1974 study that involved many different nations of differing levels of wealth failed to find any link between material prosperity and happiness.²⁰⁶

Nevertheless, the shortcoming of consumerism is not simply that it fails to fulfill its promise of a happy life. Consumerism fails further because it actually impedes the attainment of such a life. Two primary sources of fulfillment, social relations and leisure, have waned as consumer culture has come into being.²⁰⁷ Since mid-century, the pursuit of other sources of satisfaction, such as informal visits between neighbors and friends, family conversation, and time spent at family meals, have all diminished in the United States.²⁰⁸

Another way in which consumerism impedes the fulfillment of its own promises is that it creates an economy geared toward providing comfort at the expense of stimulation. "We have unwittingly fallen into the habit of identifying a high standard of living with a high level of comfort, neglecting stimulation or pleasure as a source of satisfaction and assuming that the more comfort we have the better off we must be."²⁰⁹ The result is ennui and extreme boredom.²¹⁰ Yet, Tibor Scitovsky claims that people's need for stimulation is at least as great as their need for comfort.²¹¹ This conclusion is echoed by Mahalyi Csikszentmihalyi, who finds that some rewarding activities usually require a large investment of energy but yield little or no conventional rewards such as money or social status.²¹² Csikszentmihalyi finds that activities yielding profound satisfaction are not those associated with comfort and work-

203. See, e.g., DURNING, *supra* note 69, at 23.

204. See *id.* at 39.

205. See SCITOVSKY, *supra* note 113, at 134-35.

206. See DURNING, *supra* note 69, at 39.

207. See *id.* at 23.

208. See *id.* at 42.

209. SCITOVSKY, *supra* note 113, at 152.

210. See Friedman & McCabe, *supra* note 4, at 472-73.

211. See SCITOVSKY, *supra* note 113, at 15-25.

212. See JOSEPH L. SAX, MOUNTAINS WITHOUT HANDRAILS, 55 (1980) (citing MAHALYI CSIKSZENTMIHALYI, BEYOND BOREDOM & ANXIETY 196 (1975)).

avoidance but those that demand heightened concentration and total engagement.²¹³

Attempts to alleviate our boredom by consuming goods only exacerbate the problem. The consumer mentality has the effect of "disposing us toward consuming relatively simple, ineffective stimuli rather than more difficult, 'cultural' forms of excitement."²¹⁴ This explains the preference in the consumer culture for watching television, shopping, or driving for pleasure, over more complex stimuli such as listening to music, creating or viewing art, or reading literature and history.²¹⁵

Stimulation is only one of the many goods and services that, as Scitovsky demonstrates, are not accounted for by the monetized market. "Private non-market goods and services range all the way from the food produced and consumed on the spot by farm households to that advice which parents and in-laws used to give and which in today's world more often goes through the market, being dispensed by social workers and psychoanalysts."²¹⁶ Another group of non-market goods not accounted for by the market are conversation and the matching of wits and skills.²¹⁷ Further examples of non-monetary benefits neglected in the cash economy are those of preparing food, eating, and working. "Most of our labor-saving preparations and processed foods contribute to taking the interest, variety, subtlety, and enjoyment out of our diet."²¹⁸ Scitovsky also notes that the economy does not count work itself as a source of "goods" and indeed, treats it as something either to be avoided or engaged in only as a means to achieve some other more primary good.²¹⁹ Scitovsky contends, however, that work itself can and should be a primary source of pleasure.²²⁰

B. Consumerism Traps People in a Cycle of Working and Spending That Impedes Pursuit of More Fulfilling Activities

Another aspect of the consumer culture problem is that in

213. See *id.* at 56-57. The fact that these activities are engaged in as a result of an internal drive, rather than the promise of an external reward, is also important to Csikszentmihalyi's conclusion that they are more satisfying than other types of activities.

214. See *id.* at 474.

215. See *id.*

216. SCITOVSKY, *supra* note 113, at 86.

217. See *id.* at 83.

218. *Id.* at 189.

219. See *id.* at 89-102.

220. See *id.* at 211.

pursuing consumer ideals, people become trapped in a cycle of working and spending that prevents them from engaging in more fulfilling activities. Juliet Schor calls this the "work-and-spend cycle."²²¹ She points out that since 1948, the level of productivity of the American worker has more than doubled; that is, we could now produce our 1948 standard of living in less than half the time.²²² Yet over this time the work week has increased rather than decreased.²²³ The amount people work in modern society is not typical of other societies throughout history. In fact, the average time a modern person spends working generally exceeds the average time a person spent working before the Industrial Revolution.²²⁴

Thus, though the consumer society promises increased leisure and convenience, today we actually enjoy less genuine leisure time. The more so-called "labor-saving" machinery we employ, the less leisure time we have.²²⁵ The paucity of leisure time is particularly acute in America. People in France, Germany, and Great Britain take on average twenty-two working holidays a year, while people in America take only ten.²²⁶ "Americans are workaholics, say the sociologists, addicted to the need to make money and to feed their insatiable appetite for Stuff."²²⁷

This work-and-spend cycle, devoted to consumerism, is complemented by the leisure activities in which Americans engage. America's most popular leisure activity is watching television, where mass culture and advertising are "tutor[s] in consumption."²²⁸ In the average American home the television is on for six hours and forty-seven minutes a day.²²⁹ Children in that average home will watch 1,680 minutes per week of television, as compared to spending only 38.5 minutes engaged in meaningful conversation with their parents.²³⁰ After television, the next most popular American leisure activity is

221. JULIET B. SCHOR, *THE OVERWORKED AMERICAN* 112 (1991). A recent poster in San Francisco put it succinctly: "Working to pay off the car, so that I can drive to work to pay off the house, so that I can rest and be ready to work again."

222. *See id.* at 2.

223. *See id.*

224. *See id.* at 47.

225. *See* DURNING, *supra* note 69, at 47.

226. *See The American Way of Leisure*, *THE ECONOMIST*, Mar. 1, 1997, at 36.

227. *Id.*

228. RIESMAN, *supra* note 91, at 189.

229. *See TV-Free America*, *supra* note 145.

230. *See id.*

shopping.²³¹ Research has shown that the more people watch television, the more they spend;²³² thus, the work-and-spend cycle, devoted to consumerism, is rounded out by what are supposed to be leisure activities, which are also devoted to consumerism.

C. *Consumer Culture Results in Alienation and Disempowerment*

Consumer culture also results in self-alienation.²³³ To illustrate this point, consider the typical scenario of when a commodity is used to relate to others, to assert group membership, or to define the individual. Advertising and mass culture present to the consumer an image associated with a product. The consumer decides to project this image to others. But this image comes from outside the individual rather than from within the individual. The image is not an organic product of his own individuality. Instead, it is a mass-produced, pre-fabricated way of being specifically engineered to promote sales for that good. Moreover, it can be appropriated by anyone choosing to buy that product. The supposed definition offered by the product is thus a lie, in that it says nothing unique about the individual consumer. In fact, defining one's self in terms of a product is impossible because of the plurality of the human condition—the fact that “nobody is ever the same as anyone else who ever lived, lives or will live.”²³⁴ To the extent someone relies on mass-produced, homogenized consumer goods to communicate to the world who they are, they betray the individuality and uniqueness that is necessarily a part of being a person.

The importance of an organic self-definition—one that is not conditioned by artificial factors external to the individual—is illustrated in the research of psychologist Carl B. Rogers:

While [Rogers'] patients were eminently responsive to conventional fashions and expectations . . . they were also deeply unsatisfied precisely because their behavior failed to answer the question, “who am I, and how can I get in touch with this real self underlying all my surface behavior?” He found that his patients began to change and to experience profound satisfaction only as they turned to activity that was

231. See DURNING, *supra* note 69, at 131-32.

232. See SCHOR, *supra* note 128, at 80.

233. See, e.g., HANNAH ARENDT, *THE HUMAN CONDITION* 210 (1958); RIESMAN, *supra* note 91.

234. ARENDT, *supra* note 233, at 8.

founded on their own personalities and their inner resources, rather than on standards set for them externally.²³⁵

Rogers' research indicates not only how self-alienation may result from the artificial definitions of selfhood that the consumer culture thrusts upon the individual, but also how the consumer culture actually impedes the living of a satisfactory life despite its promise of happiness and fulfillment. By fostering a psychology that defines selfhood in terms of external factors such as the acquisition and display of consumer goods, the consumer society renders people incapable of attaining the contentedness it promises.

The consumer culture also results in alienation from others. This is due in part to its effect of depriving people of the possibility for genuine communication and eroding the meaning of words, emotions, and mental states. Philosopher Hannah Arendt writes that some matters can only exist in the realm of the private: "For instance, love . . . is killed, or rather extinguished, the moment it is displayed in public."²³⁶ Yet advertising continually promises you will "love" some new product, instrumentally bringing that emotion into the public sphere where it is then degraded. Campbell's soup advertisements, for instance, portray a mother feeding her son Campbell's soup as a way of expressing her love for him. As such messages associate brand names with the expression of fundamental emotions, they impede authentic relations between people by interfering with the meaning of words and concepts that facilitate such relations.

The alienation from self and from others fostered by the consumer culture may not be unintentional. According to Jonathon Rowe of San Francisco's progressive think-tank Redefining Progress, "loneliness makes people buy."²³⁷ Rowe indicates that a survey of studies in the *Wall Street Journal* showed that most people go to malls not to acquire certain items, but because they perceive a visit to the mall as a way of "alleviating loneliness," "dispelling boredom," and "relieving depression."²³⁸

As consumerism impedes the development of a fulfilling personal life, it impedes the development of a fulfilling public life

235. SAX, *supra* note 212, at 58 (citing CARL B. ROGERS, ON BECOMING A PERSON (1961)).

236. ARENDT, *supra* note 233, at 51.

237. Jonathon Rowe, *Down Among the Economists* (visited May 17, 1999) <<http://www.adbusters.org/campaigns/economic-rowe.html>>.

238. *Id.*

as well. Václav Havel identifies the consumer culture's oppressive nature, emphasizing its ability to prevent people from realizing their potential for moral and political freedom, and thus for realizing their potential to increase the dignity with which they live. For Havel, consumerism is a method of disempowerment and debasement. He writes:

By nailing a man's whole attention to the floor of his mere consumer interests, it is hoped to render him incapable of appreciating the ever-increasing degree of his spiritual, political and moral degradation. Reducing him to a simple vessel for the ideals of a primitive consumer society is supposed to turn him into pliable material for complex manipulation. It is intended to nip in the bud the danger that he might conceive a longing for one of the innumerable, unforeseeable roles which his manhood fits him to play by imprisoning him within the wretched range of parts that he can perform as a consumer²³⁹

Although certain characteristics of the consumer culture permit consumerism to become a political tool for the same type of centralist state Havel condemns, Havel argues that the degradation created by consumerism can occur in a democratic society as well as an oligarchic one. Because of the effects of consumerism, Americans and other Westerners are "incapable of defending concerns about their own identity or preventing their superficialization or transcending their concerns about their own personal survival to become proud and responsible members of the *polis*, making a genuine contribution to the creation of its destiny."²⁴⁰ In this way, consumerism interferes with the development of critical rights such as economic decision sharing, free participation in political life, and free intellectual advancement.²⁴¹

Thus, whether or not people have a right to engage in the economic, political, and intellectual life of their country, the effect of consumerism is always to prevent this type of participation. Even in a democracy, an individual's "activity is reduced to choosing between the advertised life offered by Brand A or Brand B, proudly trumpeting their individuality in this 'consumer democracy' by putting either the Coca-Cola or Pepsi-

239. VÁCLAV HAVEL, *Letter to Dr. Gustáv Husák*, in *LIVING IN TRUTH* 3, 12 (Jan Vladislav ed., 1986).

240. VÁCLAV HAVEL, *The Power of the Powerless*, in *LIVING IN TRUTH*, *supra* note 239, at 36, 116.

241. See HAVEL, *Letter to Dr. Gustáv Husák*, in *LIVING IN TRUTH*, *supra* note 239, at 3, 13.

Cola poster on their wall."²⁴²

Indeed, the market even becomes "synonymous with democracy: Since it gives the People what the People want, the market is, by definition, the incarnation of the People's will."²⁴³ This collapse of political freedom into consumer freedom can be found for instance in Southwest Airlines' new slogan, "A Symbol of Freedom." Indeed, all sorts of commercials have seized upon this concept of promising freedom and liberation through consumption.

But while the transactions they propose may indeed lead to a form of freedom, noticeably absent in these messages is any hint of freedoms that tend not to foster the sale of goods and services. Among these freedoms are the freedom of worship, the freedom to spend time away from work with one's loved ones, the freedom to vote or speak one's mind, and the freedom that comes from developing one's critical judgment and ability to think. These types of freedoms are neglected in a consumer society that can conceive only of freedom as the ability to access and select from the fruits of the marketplace.

Though the market seeks to be the main instrument through which we satisfy our wants, a great deal of that which contributes to people's satisfaction is left out of our marketplace calculations. Hence, we "lack . . . an understanding of the economy's place in the total scheme of human satisfactions."²⁴⁴ This lack of understanding is consciously fostered by those who market products based on the promise that emotional and psychic needs can be fulfilled primarily through the acquisition of commodities. Authors who market to children have even suggested that children can form emotional bonds with certain brands that have been advertised as having a personality.²⁴⁵ Yet, psychologists and other commentators have shown that the market is a poor choice for fulfilling these needs.²⁴⁶ Perhaps this is the reason why "many of us . . . have a sense that our world of plenty is somehow hollow—that, hoodwinked by a consumerist culture, we have been fruitlessly attempting to satisfy with material things what are essentially social, psychological and

242. Tom Vanderbilt, *The Advertised Life*, in *COMMODY YOUR DISSENT*, *supra* note 120, at 127, 135.

243. Thomas Frank, *Closing Salvo: Dark Age*, in *COMMODY YOUR DISSENT*, *supra* note 120, at 255, 260.

244. SCRROVSKY, *supra* note 113, at 80.

245. See generally DEL VECCHIO, *supra* note 136.

246. See generally *supra* notes 204-19 and accompanying text.

spiritual needs."²⁴⁷

D. Consumerism and the Moral Crisis

Václav Havel wrote that a person's "truly free and authentic assertion in this world" is one of the prerequisites for moral and spiritual fulfillment.²⁴⁸ The vehicle for authentic assertion in this world is culture, the main instrument for society's *self-knowledge*.²⁴⁹ Culture, as Havel understands it, is the medium in which we are known to others and others are known to us, a "specific field of human activity, influencing the general state of mind . . . and at the same time continually subject to its influence."²⁵⁰ For culture to flourish, writes Havel, there must be truth.²⁵¹ The mendacity of the consumer culture destroys possibilities for erecting the kind of culture Havel describes²⁵² by confusing and conflating fundamental psychic needs with desire for consumer goods.

This mendacity is also evinced in the way that the consumer culture undermines values that threaten our obsession with commodity exchange. Consumer culture creates an aesthetic of banality calculated "not to excite people with the truth, but to reassure them with lies."²⁵³ "[G]uided by the principle that everything must be slick, trivial and predigested," the aesthetic of banality creates a "profound crisis of human identity brought on by living within a lie, a crisis which in turn makes such a life possible."²⁵⁴ According to Havel, this crisis of identity brought on by consumer culture leads to "a *deep moral crisis in society*."²⁵⁵

This moral crisis arises because the consumer culture adheres to and promulgates a philosophy that is uniquely suited to maximize commodity exchange, forcing out values that do not support consumption. In advertising, for example, values that do not support commodity exchange are never represented unless they are somehow associated or intertwined with consumption. Values such as friendship or familial affection appear in advertising because they can be used instrumentally

247. DURNING, *supra* note 69, at 23.

248. HAVEL, *supra* note 239, at 4, 16.

249. *See id.* at 16.

250. *Id.*

251. *See id.*

252. *See id.*

253. *Id.* at 19.

254. *Id.* at 18; *see also* HAVEL, *The Power of the Powerless*, in *LIVING IN TRUTH*, *supra* note 239, at 36, 62.

255. *Id.* at 62 (emphasis in original).

to sell a product. But values such as self-restraint, religiosity, asceticism, or the love of contemplation—values that often do not result in consumption and are in fact often a threat to consumption—rarely appear and are often mocked.

The philosophy underlying consumerism is best illustrated by considering how the consumer mentality defines what it means to be a human being. In the market, a person is a bundle of wants and needs. To the market, the essential constitutive element of a person is desire—or more precisely, unfulfilled desire, or lack. The essential constitutive *activity* of a person is therefore fulfillment of desire or satisfaction of wants. In addition, the desires that consumerism seeks to nurture tend to be appetitive and physical—the kind that are most easily satisfied through the exchange of commercial goods. Hence, the human being, to the market, is essentially egoistic—concerned only with his or her personal welfare or survival and with the “free expansion of his vital desires.”²⁵⁶ He is “homo economicus, the isolated little integer of self-seeking, who strives to get as much as possible and give as little in return.”²⁵⁷

This egoistic and appetitive definition of a human being is promulgated in advertising, particularly in advertisements targeting children. In Eggo waffle advertisements, children scheme to steal waffles from their parents who are cooking them in a toaster. Family members end up grabbing at the waffle and a minor dispute results. The advertisement conceives of the child as a fundamentally desirous being willing to disregard even family members in order to get what the child wants. Similarly, advertisements for Sugar Pops cereal show children exclaiming, “Gotta Have My Pops.” These advertisements also portray instances in which children must choose between considering other people and “having their Pops.” Of course, the choice is always the same—they have their Pops. Another cereal commercial features a wild but humanoid creature making its way through a forest only to arrive at a convenience store where it grabs after a box of Fruit Loops. This advertisement appeals to the animalistic side of our nature, the side that is moved primarily by hunger and that disregards rules about when it is appropriate and when it is not appropriate to satisfy desires.

Perpetuating this degenerate conception of humanity, the consumerist mentality does not require people to ask whether their wants and needs should yield to those of others. Nor does

256. JOSÉ ORTEGA Y GASSET, *THE REVOLT OF THE MASSES* 58 (1957).

257. Rowe, *supra* note 237.

it require that people ask whether the satisfaction of these wants and needs may lead to unethical consequences. And it certainly does not require that people ask whether there are higher desires—such as the longing for human company and genuine social interaction—that might not culminate in an act of consumption, but that a person might find worthwhile nonetheless. Rather, the only inquiry the market requires an individual to make is whether he or she has the means to satisfy his or her appetite as it exists in the here-and-now. As Sprite commands us, “Obey Your Thirst.”

Since consumer culture cordons off values that threaten it, individuals may never be exposed to alternative philosophies that do not promote commodity exchange. Hence, people may never develop or become aware of the desire for meaningful conversation, the desire for gaining an understanding of humankind's place in the scheme of existence, the desire for genuine expressions of affection, the desire for developing critical judgment, or the desire to gain wisdom or a knowledge of history. Although these desires can never be fully satisfied, pursuing them nevertheless yields rewards that often exceed the satisfactions that can be gained in commodity exchange. Yet these desires are rarely introduced in the scheme of consumer culture.

Moreover, in a mental climate dominated by consumerism the idea is never raised that motivations other than desire should guide our endeavors. Most advertising is premised on the notion that raw desire is the emotion that should govern human action. Advertising rarely suggests that people might act out of duty, obligation, or recognition of a morally redeeming course of action. Thus, a large component of what is usually thought of as morality is missing from the consumer culture.

Of course, many important desires and needs are fulfilled through commodity exchange. But the consumer culture provides no context within which acts of commercial exchange ought to occur. It offers no concept of the proper role commodity exchange ought to play in a well-lived life. Rather, the consumer culture expands its role and appropriates other values for its own purposes.

Indeed, the consumer culture often wages war on values that present a threat to its existence. For example, a Pepsi One advertisement portrays a man disrupting a college classroom to draw attention to the product. He eventually stands on a desk and pours cola into the mouths of one of the students. This advertisement can be viewed as an assault on both social norms

and the ideal of education. Another example is the Budweiser beer commercials in which guests at a wedding appear to be telling the groom how happy he is making everyone by marrying his beloved. It turns out, however, that the guests are just thanking the best man for handing out the Budweiser, and at one point, the groom leaves his wife at the altar to get a bottle for himself. Here Budweiser is trying to replace the values of love and marriage with the desire for beer. A further example is the advertisement in which Westerners approach Buddhist monks and offer them a soft drink. The monks, who symbolize a life of other-worldly asceticism, succumb to the desire for soft drinks and end up partying with their visitor-tempters. The message is that nothing is so sacred that it should overcome the craving for consumer products. These advertisements consciously assault values that threaten to undermine the culture of consumerism. Perhaps this is one reason for Marx's comment that capitalism had "drowned the most heavenly ecstasies of religious fervor . . . in the icy water of egotistical calculation."²⁵⁸

Given that consumer culture cordons off and undermines values hostile to commodity exchange, it is easy to see how Havel's deep moral crisis arises. The consumer mentality gives people "no feeling for their great historical duties"²⁵⁹ but rather encourages the consumer's impression that "everything is permitted to him and that he has no obligations."²⁶⁰ Hence, the consumer "has no roots in the order of being [and] no sense of responsibility for anything higher than his or her own personal survival."²⁶¹ In such a condition, the consumer "comes actually to believe that he is the only one that exists, and gets used to not considering others."²⁶² The consumer mentality therefore leads to an erosion of morality in that "people treat others in the economy as things rather than as people," perhaps even leading to people treating themselves as thing-like.²⁶³ Indeed, civilization itself is eroded, since "[c]ivilisation is, before all, the will to live in common" and "[a] man is uncivilised . . . in the degree in which

258. MARX, *The Communist Manifesto*, in CAPITAL AND OTHER WRITINGS, *supra* note 134, at 323.

259. ORTEGA Y GASSET, *supra* note 256, at 51.

260. *Id.* at 58-59. Ortega y Gasset uses the term "mass man" but the similarities between his "mass man" and the modern consumer are such that one term is exchangeable for the other.

261. HAVEL, *The Power of the Powerless*, in LIVING IN TRUTH, *supra* note 239, at 36, 62.

262. ORTEGA Y GASSET, *supra* note 256, at 59.

263. See Kennedy, *supra* note 5, at 968.

he does not take others into account."²⁶⁴

In addition to the moral and psychological toll it can impose, consumerism's self-seeking definition of humanity also has tangible health effects. "The evidence is growing . . . that nonphysical factors weigh heavily in what people experience as bodily health—and especially relationships with other people."²⁶⁵ According to Jonathon Rowe, "study after study has shown that people who care about others, have good marriages, and get involved in their communities, tend to live longer and experience less disease."²⁶⁶

Consumer culture is not just a phenomenon by which we all buy more than we ought to. It is a specific mentality and way of thinking that invades life at nearly all levels. It is a national creed and a condition of living. As such, its detrimental effects must be viewed in terms of possible alternatives so that we can have a better idea of whether the creed of consumerism warrants change.

V

ALTERNATIVES TO THE CONSUMER CULTURE

A. *People Must Satisfy the Right Wants in the Right Ways*

Because the consumer culture actually impedes the realization of the happy life it promises, people have an interest²⁶⁷ in eradicating consumerism. This means that although altruism may go some way toward motivating people to consume less,²⁶⁸ policymakers seeking to address the problem of artificially inflated levels of consumption need not rely on appeals to altruism or even enlightened ecological self-interest in order to get people to reduce consumption. The emptiness of consumerism can motivate people to reduce consumption regardless of ecological considerations.

264. ORTEGA Y GASSET, *supra* note 256, at 76.

265. Rowe, *supra* note 237.

266. *Id.*

267. Since this Article argues that it is in people's interest to abandon the consumer culture, it is important to note that that claim is not based on the narrow view of self-interest conceptualized in utility theories. Although this Article argues that consumerism fails to provide the utility (happiness) it promises, it also argues that it fails precisely because it falls short on ethical grounds for which utility may not be the proper "interest" we should seek.

268. In a 1989 survey, three quarters of consumers say they are willing to spend more money on products packaged with recyclable or biodegradable materials. See ELKINGTON, *supra* note 172, at 6. This indicates at least some degree of willingness to sacrifice in the name of ecology.

In order to take advantage of this motivation, a clear set of values providing an alternative to the consumer ideal must be articulated.²⁶⁹ This cultural force must counteract the messages of advertising and mass culture by encouraging people to question whether they *ought* to want what they want. Individuals must learn to want the right things and to seek to satisfy these wants in the right ways. The idea is not to impose upon people some objectively defined "right" way of living, but to introduce the concept that there are alternative modes of living that may be better for people. As Tibor Scitovsky suggests, the cause of modern consumer malaise is that "we seek our satisfaction in the wrong things, or in the wrong way, and are then dissatisfied with the outcome."²⁷⁰ The goal, then, is to solicit individuals to question the basis of their desires, to discover for themselves whether their judgments are sound, and to discern for themselves what is right for them. This approach has a firm basis in moral philosophy. As Augustine wrote, "Happy is the man who, in the course of a complete life, attains everything he desire, *provided he desire nothing amiss.*"²⁷¹

This suggestion challenges basic assumptions of the liberal market economy, which rests upon neo-classical theories of utility and want-satisfaction. In these theories, "economists assume that the consumer is rational; in other words, they assume that whatever he does must be the best thing for him to do, given his tastes, market opportunities, and circumstances, since otherwise he would not have done it."²⁷² As a result, the economist's approach tacitly assumes that consumers know what they are doing and are doing the best they can, such that the economist's only task is to ensure that the economy delivers what the consumers want.²⁷³ Hence, neo-classical utilitarianism rests upon two fundamental propositions: that all motives can be reduced to the pursuit of individual pleasure (or the maximization of utility), and that each individual should be the sole judge of his or her satisfaction.²⁷⁴

This formulation has a number of consequences for the consumer culture. Most importantly, it provides no basis upon which to make a choice and no standards by which to evaluate

269. See Ruckelshaus, *supra* note 47, at 169.

270. SCITOVSKY, *supra* note 113, at 4.

271. See MORTIMER ADLER, A VISION OF THE FUTURE 91-92 (1984).

272. SCITOVSKY, *supra* note 113, at xii.

273. See *id.* at 5.

274. See Frank Ackerman, *Foundations of Economic Theories of Consumption: Overview Essay*, in THE CONSUMER SOCIETY, *supra* note 146, at 149, 152.

the moral implications of economic decisionmaking. In utilitarianism, the fact of better or worse choices is established only through choice itself. Amartya Sen addresses this problem when he writes that the "well-established tradition in modern economics of defining utility in terms of choice, and at the same time insisting that it must also have a particular content in terms of what is maximized," results in an inconclusive tautology.²⁷⁵ One responds to the question, "What should I choose," by answering, "Whatever is most valuable."²⁷⁶ Yet, what is most valuable is defined merely as "That which I choose."²⁷⁷ Thus, utilitarianism is problematic in that an individual cannot determine the right choice before it is chosen. The absurdity uncovered by Sen's observation demonstrates that any notion of value must have reference to some criteria other than choice. As Kant similarly observed, we cannot tell what we ought to do from what we in fact do.²⁷⁸

Hence, in a consumer culture people make demonstrably bad choices in part because they have no criteria for making choices in the first place. Choice is sovereign in consumer culture—and in environmental law and policy—because anything chosen is by definition considered good unless and until something else is chosen that supercedes the initial choice. In environmental law and policy, this doctrine means that once a want is expressed in the marketplace, that want has the same validity as any other want regardless of the reason for its existence. In society, a culture is created in which people affirm the desires they happen to have and thus tend to disregard standards that may lead to the betterment of their condition. Indeed, this culture tends not to admit of the concept of betterment or improvement at all.

This condition is best seen in the reaction of corporate officials to criticism about the products they sell. Corporate spokespersons frequently respond to such criticism by saying that they are "just giving people what they want." This can have the effect of foreclosing further debate on the issue since consumer desire is seen as self-justifying. Yet something seems wrong with that. Individuals somehow feel that even if hoards of people want Disney to build a theme park at Manassas, Disney still should not build that park. And even if the majority of

275. UTILITARIANISM AND BEYOND 12 (Amartya Sen & Bernard Williams eds., 1982)

276. *Id.* at 12-13.

277. *Id.* at 13.

278. See IMMANUEL KANT, GROUNDWORK OF THE METAPHYSIC OF MORALS (H.J. Paton trans., Harper & Row 1964) (1785).

people want to watch afternoon talk show hosts embarrass and humiliate their guests, it still seems that this is something they should not do. This gnawing feeling is attributable to the fact that choice alone is not sufficient to establish the validity of action. Rather, there must be some more objective standard of rectitude to which we must appeal if we want to do the right thing.

The problem is not cured by assuming that if people had perfect information, they would make the "right" decisions. Even if a choice is made on the basis of perfect information, the mere choosing is still said to create goodness, according to the utilitarian account of human behavior. Hence, even in a world of perfect information, some criteria other than choice is needed to figure out which information is worth acting on and which information is not.

Nor can utilitarianism circumvent the problem by formulating a definition of desire wherein everything we will is deemed a desire. This definition is tautological. If what we will to do is that which we ought to do, then utilitarianism might claim that we desire to do what we ought to do. As such, everything that we will would be considered a product of desire, regardless of whether it comes from a need to fulfill a perceived moral duty or from a more egoistic, appetitive motivation. But by collapsing the willing of what we ought to do into the pursuit of individual pleasure (the utilitarian definition of desire), utilitarianism has the effect of once again making different choices morally incommensurable. Once "willing what I ought to do" is equated with the pursuit of individual pleasure, there is no way to judge whether my pursuit of pleasure through doing what I *ought* to do is any better than my pursuit of pleasure by doing what I *ought not* to do. If I forego doing what I ought to do, then at most I have made an error in judgment by pursuing the wrong form of pleasure. I certainly have not done anything bad or evil. Thus, equating desire with the will does not solve the basic problem that in order to do the right thing, some outside criteria is needed by which to will things.

The bottom line is that choice alone cannot establish that which we ought to do. Yet, the paragon consumer is one who affirms every choice he makes as "good" merely because it is his choice. The consumer "accustoms himself not to appeal from his own to any authority outside him. He is satisfied with himself exactly as he is [H]e will tend to consider and affirm as good

everything he finds within himself: opinions, appetites, preferences, tastes."²⁷⁹ Hence, the consumer is not accustomed to questioning her own preferences, but to treating those preferences as sovereign and valid merely because she happens to have them. But as this Article has argued earlier, what people want is not necessarily what is good for them. In fact, satisfaction of people's wants often leads to demonstrably bad results.

Hence, consumer behavior should not be evaluated only in terms of varying degrees of intensity of otherwise incommensurable preferences. That is, consumer behavior should not be judged solely according to the willingness-to-pay principle. Rather, consumer behavior can and must be judged according to some set of external principles as well. The utilitarian notion that freedom means no more than the ability to get what one happens to want must be counteracted. Consequently, like the early advocates of park preservation that Joseph Sax writes about in *Mountains Without Handrails*, educators must seek to "persuade the majority to be distrustful of their own instincts and inclinations, which . . . are reinforced by alienating work and the dictates of mass culture."²⁸⁰ People need to pay attention to "what they ought to want as well as to what they now want."²⁸¹

The arts, philosophy, literature, and culture generally can provide an arena in which people abandon the facile assumption that what they want in the here-and-now is necessarily valid. An alternative to the consumer culture would be that which provides a higher authority by which to judge the wants and perceptions people happen to have.²⁸² The cultural alternative to consumerism would provide "standards to which our fellow-men can have recourse" and a "principle[] of legality to which to appeal."²⁸³

Sen also argues for a moral revival in economic thought. He claims that economics has been primarily concerned with logistical or "engineering" issues rather than with "ultimate ends and such questions as what may foster 'the good of man' or 'how should one live'."²⁸⁴ He laments the distance that has grown between ethics and economics, and he is especially skeptical of

279. ORTEGA Y GASSET, *supra* note 256, at 62 (emphasis removed).

280. SAX, *supra* note 212, at 51.

281. *Id.*

282. See ORTEGA Y GASSET, *supra* note 256, at 72.

283. *Id.*

284. AMARTYA SEN, ON ETHICS AND ECONOMICS 4 (1987).

the narrow view of self-interest upon which neo-classical utility theory is premised. This view of utility theory—that rationality entails the maximization of self-interest—has “substantially impoverished” modern economics because it necessarily precludes an “ethics-related” view of motivation.²⁸⁵ Sen’s critique of the dominance of utility theory in modern economics parallels the critique of environmental law and policy offered here. Sen’s critique also suggests that law and policy must concern itself with economic theory since the narrow view of self-interest which dominates modern economics also dominates consumer culture, and both are impoverished by a lack of ethical consideration.²⁸⁶

B. Ethical Critiques

This Article, of course, cannot hope to provide a comprehensive review of the critiques and debates involving all of the philosophical underpinnings of consumer culture. However, it does attempt to provide an outline of philosophies useful in conceiving of superior alternatives to the utilitarian ideology that underlies consumer culture.

One place to start is to consider what it means to live a good life. This Article has already alluded to the conditions that make people happy, though it did so in terms of illustrating the fact that consumer culture cannot fulfill them. It was evident from that discussion that leisure time and social relations were among the things that yield happiness.²⁸⁷ The ability to relax and enjoy friendships and family relations, to engage in hobbies, or to appreciate nature, and to find stimulation in things that challenge one, are all elements contributing to a happy life without making the consumption of goods a central feature of the activity. While these activities may require the consumption of certain goods and services, consumption here is not an end in itself but is secondary and subordinate to the more worthwhile enterprise.

However, while happiness as a subjective state is the traditional goal of utilitarian ideology,²⁸⁸ it is not necessarily the stuff of a “good” life. Indeed, from a philosophical standpoint the major difficulty and frustration of the modern era is the utilitarian reduction of good and evil to the “greater or less

285. *Id.* at 15.

286. *See supra* notes 284-85 and accompanying text.

287. *See supra* notes 203-08 and accompanying text.

288. *See* Frank Ackerman, *Foundations of Economic Theories of Consumption*, in THE CONSUMER SOCIETY, *supra* note 146, at 149, 153.

satisfaction of desires."²⁸⁹

Philosophy presents a number of approaches to this problem, one of which is offered by Aristotle. "The neo-Aristotelian approach in virtue ethics has emerged as the most promising way to conceptualize human well-being and the good life and assess current American consumption."²⁹⁰ The Aristotelian conception of well-being is that:

[W]ell-being should be characterized not in terms of having the right subjective states, as the hedonist claims, nor in terms of the satisfaction of preferences as modern welfare economics assumes, but rather in terms of a set of objective goods a person might possess, for example friends, the contemplation of what is beautiful and wonderful, the development of one's capacities, the ability to shape one's own life, and so on.²⁹¹

According to David A. Crocker, neo-Aristotelian notions would help to create an ethic of "conscientious consumption . . . that promotes, secures, and expresses the diverse constituents—both self- and other-regarding—of a good human life."²⁹² Hannah Arendt's writings on Aristotle also provide some guidance. To Aristotle, writes Arendt, the good life was:

not merely better, more carefree or nobler than ordinary life, but of an altogether different quality. It was "good" to the extent that by having mastered the necessities of sheer life, by being freed from labor and work, and by overcoming the innate urge of all living creatures for their own survival, it was no longer bound to the biological life process.²⁹³

Consequently, money was not a good to be maximized but a necessary evil to be minimized. As Plato said, "[W]e are compelled to gain money for the sake of the body. We are slaves to its service."²⁹⁴ Because the body fills us with "passions and desires and fears," it leaves us no attention for philosophy, which is an activity of the soul rather than the body.²⁹⁵ While demands of the body result merely in animalistic desires, philosophy

289. See CHARLES TAYLOR, *HEGEL* 540 (1975).

290. David A. Crocker, *Consumption, Well-Being, and Virtue*, in *THE CONSUMER SOCIETY*, *supra* note 146, at 14, 17; see also Martha Nussbaum, *Non-Relative Virtues: An Aristotelian Approach*, in *THE QUALITY OF LIFE* 242-69 (Martha Nussbaum & Amartya Sen eds., 1993).

291. O'NEILL, *supra* note 73, at 3.

292. Crocker, *supra* note 290, at 17.

293. ARENDT, *supra* note 233, at 36-37.

294. PLATO, *Phaedo*, in 1 PLATO 201, 231 (Harold North Fowler trans., Harvard University Press, 1995).

295. *Id.*

represents the highest calling of humanity. Accordingly, money and the goods money buys are not ends in themselves; at most they make proper living possible by satisfying bodily needs.

Arendt argues that merely because a person is wealthy or able to enjoy leisure time does not mean that that person is free from biological life processes such that one is living a good life. Thus, even if consumer culture could fulfill its promises, it still would not lead to a good life in Arendt's eyes. The spare time of the *animal laborans*, which is Arendt's term for the modern person:

is never spent in anything but consumption, and the more time left to him, the greedier and more craving his appetites. That these appetites become more sophisticated, so that consumption is no longer restricted to the necessities but, on the contrary, mainly concentrated on the superfluities of life, does not change the character of this society.²⁹⁶

For Arendt, the key is to master the biological life processes in order to live a life within the *polis*. The *polis*:

is not the city-state in its physical location; it is the organization of the people as it arises out of acting and speaking together, and its true space lies between people living together for this purpose, no matter where they happen to be It is the space . . . where I appear to others as others appear to me.²⁹⁷

In Arendt's *polis* "the central concern of all citizens was to talk with each other."²⁹⁸ Arendt's *polis* bears many similarities to Havel's idea of culture, which is society's source of self-knowledge²⁹⁹ and the arena in which people achieve a "truly free and authentic assertion in this world."³⁰⁰ In other words, both the *polis* and Havel's culture are places in which one is known and by which one knows himself through his interactions with other members of the social and political community.

Note, however, that Arendt's *polis* is distinct from the modern conception of political life, which is dedicated primarily to administering to the necessities brought on by biological processes.³⁰¹ To Arendt, the modern conception of politics, because it is concerned with mere biological processes, does not

296. ARENDT, *supra* note 233, at 133.

297. *Id.* at 198.

298. *Id.* at 27.

299. See HAVEL, *supra* note 239, at 16.

300. *Id.* at 4.

301. See ARENDT, *supra* note 233, at 28.

embrace the good life.³⁰² Indeed, in modern times, politics and the "household"—the instrument by which one masters the biological processes—become blurred to the point that it is "impossible to perceive any serious gulf between the two realms."³⁰³

Note also that Arendt's good life is fundamentally at odds with consumer culture because her good life requires mastery of the appetite whereas consumer culture and utilitarian philosophy require only the satisfaction of appetite. For similar reasons, the two notions of freedom are fundamentally at odds. For Arendt, freedom means cultivating one's humanity. Constant pursuit of appetite satisfaction constitutes slavery because the appetite arises out of our animalistic nature, the part of us that is antithetical to our humanity. These appetitive, animalistic desires must be satisfied in order to provide our basic needs for food, shelter and clothing. But whereas the consumer culture seeks to expand the province of these desires, satisfaction of such desire is only a baseline for Arendt. Once these desires are sated, the next proper step is to pursue the higher desires that arise from our humane, as opposed to animalistic, character. On the other hand, liberal market ideals portray freedom as the very ability to satisfy any desire one has, regardless of whether it constitutes a base or elevated desire. Hence, the liberal market philosophy equates our humanity with our animality in a way that would seem vulgar to Arendt.

Other relevant critiques exist; however, the important point is that there are alternatives to consumer culture that should be developed and promulgated.

C. *Reasons Consumer Culture may be a Neglected Field in Legal Academia*

Although a reduction in consumer activity would yield substantial benefits for environmental protection, few environmental management discussions other than green consumerism address demand at all. And virtually none of the literature on changing consumption patterns addresses in depth the values that underlie these patterns. Indeed, legal academics attempting to address the problem of environmental protection may believe that our cultural attachment to consumption is so entrenched as to not be worth considering. James Salzman,

302. See *id.* at 29-30.

303. *Id.* at 33.

whose work on sustainable consumption concentrates on correcting price and information failures in the market, notes that 93% of American teenage girls claim that shopping is their favorite activity. In the face of this statistic, he concludes that "[i]n a land where consumer is king, there is little place for discussing limits to growth or 'how much is enough.' Thus, a basic reason the law currently does little to address levels of consumption is that it flies in the face of strongly held cultural values."³⁰⁴

Salzman's opinion ignores the fact that any constraints on the economy in favor of the environment are value choices that diminish our ability to consume. As such, political acceptance of even his strategies would rely on the flexibility of the very values he views as immutable. Further, Salzman disregards the fact that when teenage girls refer to "shopping" they do not necessarily mean "consuming." Teenagers frequent malls because malls are places they can interact socially; the actual act of purchasing goods often has little to do with it.³⁰⁵ In this case, the problem is not that the values of consumerism are intractable, but that they are intertwined and confused with other, more fundamental values like those of friendship and social interaction.

Further, the view that consumerism is unassailable does not take into account the feelings of misgiving about our consumer culture that many Americans share today. Discontent with the consumer lifestyle has grown more and more widespread. Recent opinion polls show that 82% of Americans agree that "most of us buy and consume far more than we need."³⁰⁶ Moreover, Juliet Schor's work reveals a growing awareness of and dissatisfaction with the work-and-spend cycle of American life. For example, a nascent anti-consumerism movement has sprung up in the Seattle and Portland areas. People involved in this movement aspire to a low-spending, alternative lifestyle.³⁰⁷ Finally, a number of groups have organized to combat the consumer culture. These groups include the Center for the Study of Commercialism, *Adbusters* magazine and its "Buy Nothing Day," the Cultural Environment Movement, TV-Free

304. Salzman, *supra* note 21, at 1269.

305. See *supra* note 238.

306. International Institute for Sustainable Development, *Sustainable Consumption and Production* (visited Feb. 27, 1999) <http://www.iisd.ca/linkages/consume/mer_5.html>.

307. See SCHOR, *supra* note 128, at 139.

America, Un-plug!, and the Center for a New American Dream.³⁰⁸ The growing number of these types of groups indicates a potential for change in cultural values.

There is a need for more scholarship on the subject of our choices in the marketplace, and the proper place of the market in our public and private lives. The educational arena is one of the few enclaves in this society that still strives to insulate itself from commercial interests. It seeks to free itself from the constraints that lead other sources of thought to favor messages and philosophies that result in commercial exchange. The avenues by which people may once have received messages that check or provide a context for commercial exchange—namely families, neighbors, and churches—have become less important media for communication as the commercial and mass media have taken on a more prominent role in our mental environment. As the commercial media increases its hegemony over our mental culture, it is more and more important that education provide a balance to the biases in the media's messages.

VI

PROPOSALS FOR REDUCING CONSUMPTION

To encourage people to reduce their level of consumption, government must foster the ethic of responsible consumption and see that institutions are conducive to implementing this ethic.³⁰⁹ Government must also cultivate among people the sense that they are more than just producers and consumers. Moreover, in its own regulation of business, government must abandon the value-free approach to consumption. The following are specific policy proposals for how government might fill this role.

A. *Eliminate the Tax Write-Off for Advertising and Fund Uncommercials*

Government can help to mitigate the harmful effects of advertising in several ways. For example, advertising expenditures are fully subsidized by taxpayers since they are treated as deductible from corporate profits.³¹⁰ Congress should eliminate this tax write-off currently given to companies for their

308. See Juliet B. Schor, *What's Wrong with Consumer Capitalism?*, CRITICAL REV., Fall 1996, at 507 n.16.

309. See Ruckelshaus, *supra* note 47, at 169.

310. See SCHOR, *supra* note 128, at 165.

advertising expenditures. According to Juliet Schor, advertising expenditures have "skyrocketed in recent years and now stand at more than \$2,000 per family."³¹¹ Schor suggests that eliminating this write-off would not be unpopular; indeed, she claims that 65% of the public already agree that there should be fewer advertisements on television and 80% agree that prime-time advertising should be limited.³¹²

In addition, Congress should devote funding toward the creation of television "uncommercials" and "subvertisements." Uncommercials and subvertisements attack the consumer mentality by counteracting some of the messages given to the public through advertising.³¹³ Some uncommercials have already been made and run on television by Adbusters and the Media Foundation, each of which are organizations devoted to diminishing the influence of consumerism in our culture. One uncommercial, for example, features a man watching television. The camera pans around the man's head and declares, "The Product is You: Cast Off the Chains of Market-Structured Consciousness." Major television networks often refuse point-blank to even consider selling airtime for these messages. This spot was produced by The Media Foundation, but attempts to air it on CBS have stalled.³¹⁴ Another uncommercial, which promotes National Buy Nothing Day, features a pig that transforms into the geographic shape of the United States as the camera pans outward. The next scene features a trash heap. This ad aired on CNN but has been rejected by NBC.³¹⁵

Uncommercials could be financed by increased revenue generated by eliminating the tax write-off for corporate advertising or by placing a tax directly on advertising itself. A similar scheme has already been implemented by the state of California through Proposition 99. This Proposition imposes a 25 cent tax per pack of cigarettes to provide funding for a health-education campaign.³¹⁶ One advertisement funded by Proposition 99 is a parody of the Marlboro billboards. It features two cowboys riding at dusk on the open range. The caption

311. *Id.*

312. *See id.*

313. *See* Adbusters, *Adbusters TV Uncommercials* (visited June 23, 1998) <<http://www.adbusters.org/uncommercials/index.html>>.

314. *See* Adbusters, *Adbusters TV Uncommercials, The Product is You* (visited June 23, 1998) <<http://www.adbusters.org/uncommercials/product.html>>.

315. *See* Adbusters, *Adbusters TV Uncommercials, Buy Nothing Day* (visited June 23, 1998) <<http://www.adbusters.org/uncommercials/products/spot.html>>.

316. *See* American Cancer Society, *Prop 99 Case Statement* (visited June 23, 1998) <<http://www.ca.cancer.org/prop99/casestat.html>>.

says, "Hey Bob, I sure miss my lung." Such counter-ads seem to have been effective. Although not solely attributable to these counterads, smoking in California has declined 27%, or three times faster than the national average, since the passage of Proposition 99.³¹⁷

The California experience demonstrates that public-interest advertising can be effective as a means of counteracting the harmful messages promulgated by industry through commercial advertisements. Given the effect of advertising in shaping the national consciousness, government ought to require a thorough balancing out of the commercial messages found on the public airways. Commercial broadcasts ought to be regulated in a manner which takes into account the negative impact of television advertisements on culture.

B. Reinstate Commercial Limits for Broadcast Television Stations

In 1984, the Federal Communications Commission (FCC) abolished limits on commercials for broadcast television. Its rationale for this deregulation was that market forces would set acceptable limits; but this has not been the case according to the Center for Media Education.³¹⁸ In its comments to the FCC, the Center charges that deregulation has harmed the public by taking up broadcast space which could better be used to serve the public; deceived viewers; encouraged viewers to be especially interested in acquiring material goods for themselves to the detriment of other aspects of life and the general society; increased advertiser involvement with program content, thus undermining the integrity of broadcast material; and directed program length commercials at children.³¹⁹ The Center explained that "Commercialism encourages people to be concerned with purchasing as many goods and services as possible. Carried to excessive levels, commercials contribute to greater pollution and environmental degradation; personal financial difficulties; health problems related to excessive drinking, smoking and poor diet; and disinterest in government and society at large."³²⁰

To remedy these harmful ills, the Center suggested that the

317. See Journal of Health, Politics, Policy and Law, *Abstract* (visited June 18, 1999) <<http://www.pitt.edu/~jhpl/abtrayn.html>>.

318. See Center for Media Education, *Limitations on Commercial Time on Television Broadcast Stations* (visited June 11, 1998) <<http://www.epn.org/cme/comments.html>>.

319. See *id.*

320. *Id.*

FCC study commercial practices on broadcast television in order to comply with its custodial duty to maintain the airwaves for the interest of the public and not the private interests of the licensees.³²¹ In addition, the Center proposed that the FCC require stations to make records available to the public when necessary to determine the amount of commercial matter broadcast on their stations. The Center also admonished the FCC to update sponsorship identification rules and to revise its definition of program length commercials directed at children.³²² All of these proposals would go some of the way toward reducing the impact of the artificially inflated levels of demand has on the environment.

C. Create a Market for Working Hours

Frugality and sacrifice are far from necessary to reduce the demand which drives industrial activity. There are strong indications that the institutional framework in which the modern American worker finds herself is strongly biased in favor of a work-and-spend cycle which workers themselves do not desire. In opinion polls and collective bargaining positions, workers consistently express a "strong desire for additional leisure time and a willingness to trade pay increases for it."³²³ Yet, workers also report that they do not have that option.³²⁴ In short, there is no market for working hours.³²⁵

Juliet Schor illustrates a number of avenues by which a market for working hours may be instituted. One idea is to require firms to set standard hour levels salaried employees will work.³²⁶ If the employee works more than this amount, the firm would have to compensate her with money or, preferably, with time.³²⁷ Another approach is to make part-time work more feasible.³²⁸ This would involve ensuring that part-time workers receive a share of health insurance and other fringe benefits. Yet another option is job-sharing programs in which multiple people might share work that would otherwise be performed by fewer people.³²⁹

321. *See id.*

322. *See id.*

323. DURNING, *supra* note 69, at 114.

324. *See id.*

325. *See* Schor, *supra* note 308, at 495.

326. *See* SCHOR, *supra* note 221, at 142.

327. *See id.* at 142-43.

328. *See id.* at 145.

329. *See id.* at 146.

D. *Abandon the Gross National Product as an Indicator of Welfare*

The value-free approach to consumption is best illustrated, and indeed epitomized, by our use of the Gross National Product to indicate the wealth of the nation. The problem with GNP was aptly described by Robert F. Kennedy:

The gross national product includes air pollution and advertising for cigarettes, and ambulances to clear our streets of carnage. It counts special locks for our doors, and jails for the people who break them And if the gross national product includes all this, there is much that it does not comprehend. It does not allow for the health of our families, the quality of their education, or the joy of their play. It is indifferent to the decency of our factories and safety of our streets alike. It does not include the beauty of our poetry or the strength of our marriages, the intelligence of our public debate or the integrity of our public officials. . . . The gross national product measures neither our wit nor our courage, neither our wisdom nor our learning, neither our compassion nor our devotion to our country. It measures everything, in short, except that which makes life worthwhile.³³⁰

Government should abandon the GNP as a measure of well-being and adopt instead a measure that attempts to differentiate between economic activities that represent a decrease in actual welfare and those that do not. Use of the GNP as an economic indicator legitimates value-free consumerism. By abandoning GNP, government not only has an opportunity to measure well-being more accurately but also to encourage conscientious consumption by expressly rejecting the value-free approach to consumption. Numerous groups, including *Redefining Progress*, have originated alternative measures of social welfare; the government should adopt some such measure.

E. *Ban Harmful Practices and Substances According to the Use to Which They are Put*

Presently, environmental policy regulates industrial processes in a manner that ascribes no particular value to the end use for which the manufactured product is intended. In other words, a plastic that is used to make, for instance, toys, dashboards and syringes, receives exactly the same regulatory treatment regardless of the kind of product the plastic is used

330. JACKSON, *supra* note 6, at 179.

for. An alternative approach would be to disallow the use of harmful substances or processes when the end-product is not deemed to be worth the ecological disvalue it creates. This approach would differentiate between end-products based on the importance of that product. Under an approach that does not refrain from making normative judgments about end-products, the plastics manufacturer may be permitted to use a given dangerous chemical when making syringes, but not when making toys. This would not amount to a ban on toys, but a ban on certain methods of making toys. Similarly, the use of aluminum in Coca-Cola cans may be deemed excessive, but the use of aluminum for airplanes may not. Or the use of pesticides for lawn care may be deemed unlawful, but the use of the same pesticide may be lawful for agriculture.

The use of dyes in clothing is another example in which a value-based regulatory approach to the production of consumer goods could be utilized. A legislature may ban certain methods of dyeing clothes on the basis that, when compared to overall benefit, the usual method of dyeing clothing is not worth the ecological disvalue it creates. The dyeing of clothes usually involves the use of aniline and other toxic dye-stuffs, as well as mordants and heavy metals that fix the dyes.³³¹ Thus, legislatures might ban the use of heavy metals and other toxics in the dyeing of clothes, but not for other uses deemed more essential to the economy. Clothing makers would not be banned from affixing any color at all to clothes—they would merely be required to avoid certain practices and substances that were not deemed ecologically worthwhile.

The point is that legislatures should no longer acquiesce to the liberal market notion that merely because a consumer is willing to spend money on a product, the consumer is entitled to create the ecological disvalue that results from fulfillment of the consumer's want. Legislatures should make at least some normative judgments as to which wants are worth fulfilling and which are not.

F. Educate

Government should foster an environmental ethic through public education campaigns that encourage people, when making decisions whether or not to consume, to weigh the ecological harm that inevitably results from most consumption.

331. See HAWKEN, *supra* note 17, at 149.

Eco-labeling on products, for example, is a good beginning because it not only provides information useful in making decisions among products, it also serves as a constant reminder that almost every product carries hidden costs.

Most importantly, however, government should take some responsibility to educate individuals to be citizens rather than mere consumers. Through education campaigns in schools and on the public airways, government should encourage people to question the consumerist messages that advertising and mass culture offer the public. Education can encourage people to consciously define and question what it means to live well and introduce students to alternate conceptions of good living. It ought to challenge people to ask whether their humanity consists in satisfaction of desires and appetite or whether it consists in something more than that. Improved education can help the nation avoid the "golden future in which there is no longer any difference between what people are told they want and what they think they want."³³²

As it stands, however, formal education has failed to "do more than instruct the masses in the technique of modern life."³³³ Consequently, it has been criticized as becoming "more and more a training in production skills and less and less a preparation for the enjoyment of life."³³⁴ This has largely been the result of crowding out liberal, humanistic education in favor of science and technology.³³⁵ By gearing the curriculum more toward the liberal arts,³³⁶ students may have more of a basis to critique the consumer culture into which they are born. By helping people define their conception of a good life in a way that relies less on consumption, government can harness the powerful motive of self-interest to reduce the negative impacts of industrial society on the environment. Because the liberal arts are essentially concerned with ends of existence and not merely the means to securing existence, that field seems uniquely able to address the problem of unsustainable consumption patterns at the problem's most fundamental level.

Such education is perfectly consistent with the pluralistic notions of good that liberalism embraces. Far from seeking to define wants and preferences for people, it would help people

332. Gary Groth, *A Dream of Perfect Reception*, in *COMMODIFY YOUR DISSENT*, *supra* note 120, at 183, 193.

333. ORTEGA Y GASSET, *supra* note 256, at 51.

334. SCRIVOVSKY, *supra* note 113, at 229.

335. *See id.*

336. *See id.* at 247; *see also* Friedman & McCabe, *supra* note 4, at 475.

form wants and preferences themselves by providing them with the full range of options about how to live. This education would merely provide a counterweight to the thousands of attempts at brainwashing viewed every day in the form of advertisements on television, on billboards, and in magazines.

Through proper education, government can facilitate a truly free market. Indeed, one of the assumptions made about the hypothetical perfectly competitive market is that everyone within the market possesses perfect information. This should include access to information regarding the environmental impacts of goods. It should also include resources that help consumers understand the impact that the consumer culture has had in shaping their tastes and preferences. Educational campaigns can ensure that consumers are fully informed not only about decisions they make in the marketplace but about whether to enter the marketplace at all. Further, these campaigns can ensure that consumers realize that their decisions shape society, giving consumers the ability to choose what that society should be like.

CONCLUSION

Today the impact of our economic behavior on global ecology is far too great to allow the values and assumptions underlying consumerism to go unscrutinized. In addition to the technical and scientific solutions that have traditionally been employed and suggested so far, we must wrestle with the mindset that gave rise to the ecological problems of the industrialized world in the first place. Indeed, the environmental perils we face force us to confront basic moral issues that concern not only our relationship to ecology, but that also raise the question of how best to conduct our lives. In meeting this challenge, we have an opportunity to refashion human societies to live sustainably. We also have a chance to better the moral conditions of our existence which, after all, make the living of life worthwhile.