Michael Funke

Regulating a Controversy
Inside Stakeholder Strategies and Regime Transition in the Self-Regulation of Swedish Advertising 1950–1971
Abstract

This thesis concerns the development of the self-regulation of advertising in Sweden from 1950 until 1971. Self-regulation was initiated in the 1930s due to a business desire to regulate fair competition in marketing, and while it initially was a minor operation, the 1950s and 1960s were characterized by extensive development. When self-regulation was overtaken by state policies in 1971, it included several interlocking systems, of which parts survived the introduction of the state regime. The thesis’ aim has been to analyze how the rapid regime transitions in the self-regulation regime can be understood.

The existing literature identifies four major transitions that occurred during the studied time period. To understand them, the thesis has studied the policy processes leading up to these transitions. Focus has been on the business interest organizations that controlled the regime and their regulatory strategies. Theoretically, the analysis has departed from the hypothesis that tensions between these organizations, due to their members’ different market interests and varying levels of exposure to regulation and public badwill, to a significant degree informed their strategic choices as well as policy outcomes.

The results show that the policy processes preceding the regime transitions were characterized by internal tensions, whereby organizations representing advertisers, and to a lesser degree media carriers, due to their members’ higher level of exposure to regulation and public badwill, successfully supported stronger market policing, while ad agencies, being less exposed, as well as a peak industry organization for the proliferation of marketing largely opposed such measures, preferring a more lenient regulation. However, due to increased exposure to regulation and bad will, the ad agencies finally abandoned their opposition and took the lead in regulatory innovation through the introduction of an extensive clearance program that survived the launch of the state regime, becoming a key component in the co-regulatory structure that followed.

**Keywords:** advertising, advertising criticism, advertising regulation, advertising history, advertising industry, affluent society, business, business associations, business history, business interest organizations, business studies, competition, consumer, consumer politics, consumer history, consumerism, co-regulation, corporatism, economic history, history, interest groups, market regulation, marketing, marketing history, marketing regulation, marketer, policy studies, policy process, political economy, political science, postwar, regime, regulation theory, self-regulation, market self-regulation, self-regulation history, stakeholder, Sweden

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<th>Full Form</th>
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<tr>
<td>Aby</td>
<td>Anmälningsbyrån för Marknadsföringsåtgärder – The Bureau for Marketing Complaints</td>
</tr>
<tr>
<td>AF</td>
<td>Annonsbyråernas Förening – The Swedish Association of Advertising Agencies</td>
</tr>
<tr>
<td>AG</td>
<td>Annonsgranskare – Ad inspector</td>
</tr>
<tr>
<td>ARU</td>
<td>Ansvarig reklamutgivare – Publisher of Advertising</td>
</tr>
<tr>
<td>BBB</td>
<td>Better Business Bureaus</td>
</tr>
<tr>
<td>DRA</td>
<td>Delegerad reklamansvarig – Delegated Advertising Controller</td>
</tr>
<tr>
<td>DSM</td>
<td>Den Svenska Marknaden – The Swedish Market</td>
</tr>
<tr>
<td>EAAA</td>
<td>European Association of Advertising Agencies</td>
</tr>
<tr>
<td>FPU</td>
<td>Folkpartiets ungdomsförbund – Liberal Party’s youth section</td>
</tr>
<tr>
<td>GK</td>
<td>Granskningskommittén – The Inspection Committee</td>
</tr>
<tr>
<td>HFI</td>
<td>Hemmens Forskningsinstitut – The Institute of Home Research</td>
</tr>
<tr>
<td>IU</td>
<td>Informationsutskottet – The Information Committee</td>
</tr>
<tr>
<td>ICC</td>
<td>Internationella Handelskammaren – The International Chamber of Commerce</td>
</tr>
<tr>
<td>KBM</td>
<td>Konsultbyrå för Marknadsrätt – The Marketing Law Consultancy</td>
</tr>
<tr>
<td>KF</td>
<td>Kooperativa Förbundet – The Cooperative Union and Wholesale Society</td>
</tr>
<tr>
<td>KI</td>
<td>Statens Institut för Konsumentfrågor – The National Institute of Consumer Information</td>
</tr>
<tr>
<td>KO</td>
<td>Konsumentombudsmannen – The Consumer Ombudsman</td>
</tr>
<tr>
<td>KöpmF</td>
<td>Sveriges Köpmannaförbund – The Swedish Retail Federation</td>
</tr>
<tr>
<td>LO</td>
<td>Landsorganisationen i Sverige – The Swedish Trade Union Confederation</td>
</tr>
<tr>
<td>LRF</td>
<td>Lantbrukarnas Riksförbund – The Federation of Swedish Farmers</td>
</tr>
<tr>
<td>MD</td>
<td>Marknadsrådet sedermera Marknadsdomstolen – The Market Court</td>
</tr>
<tr>
<td>MP</td>
<td>Member of Parliament</td>
</tr>
<tr>
<td>NMD</td>
<td>Näringslivets Delegation för Marknadsrätt – The Trade and Industry Committee on Marketing Law Policy</td>
</tr>
<tr>
<td>NIR</td>
<td>Nordic Copyright Protection – Nordiskt Immateriellt Rättskydd (tidskrift)</td>
</tr>
<tr>
<td>NO</td>
<td>Näringsfrihetsombudsmannen – The Competition Ombudsman</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Name</td>
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<tr>
<td>--------------</td>
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<tr>
<td>NOr</td>
<td>Näringslivets Opinionsnämnder – The Committees of Business Practice</td>
</tr>
<tr>
<td>NOp</td>
<td>Näringslivets Opinionsnämnd – The Council on Business Practice</td>
</tr>
<tr>
<td>NR</td>
<td>Näringsfrihetsrådet – The Competition Council</td>
</tr>
<tr>
<td>ON</td>
<td>Opinionsnämnden för reklam – The Swedish Council on Advertising Practice</td>
</tr>
<tr>
<td>RA</td>
<td>Riksarkivet – The Swedish National Archives</td>
</tr>
<tr>
<td>REN</td>
<td>Reklamens Etiska Nämnd – The Council on Advertising Ethics</td>
</tr>
<tr>
<td>RLF</td>
<td>Riksförbundet Landsbygdens Folk – The Swedish National Rural Union</td>
</tr>
<tr>
<td>Saco</td>
<td>Svenska Akademikers Centralorganisation – The Swedish Federation of Professional Associations</td>
</tr>
<tr>
<td>SAF</td>
<td>Svenska Annonsörers Förening – The Swedish Advertisers’ Association</td>
</tr>
<tr>
<td>SAAF</td>
<td>Svenska Auktoriserade Annonsbyråers Förbund – The Swedish Society of Recognized Advertisement Agencies</td>
</tr>
<tr>
<td>SAP</td>
<td>Sveriges Socialdemokratiska Arbetareparti – The Swedish Social Democratic Party</td>
</tr>
<tr>
<td>SARF</td>
<td>Sveriges Annons och Reklambyråers Förbund – The Swedish Association of Advertising Agencies and Consultants</td>
</tr>
<tr>
<td>SEK</td>
<td>Swedish Crowns (currency)</td>
</tr>
<tr>
<td>SFRF</td>
<td>Svenska Försäljnings- och Reklamförbundet – The Swedish Sales and Advertising Federation</td>
</tr>
<tr>
<td>SKARF</td>
<td>Svenska Kompetensauktoriserade Annonsbyråers Förbund – The Swedish Association of Competence Authorized Agencies</td>
</tr>
<tr>
<td>SL</td>
<td>Sveriges Lantbruksförbund – The Swedish Federation of Farmers’ Associations</td>
</tr>
<tr>
<td>SMF</td>
<td>Sveriges Marknadsförbund – The Swedish Marketing Federation</td>
</tr>
<tr>
<td>SRF</td>
<td>Svenska Reklambyrå Förbundet – The Swedish Federation of Advertising Agencies</td>
</tr>
<tr>
<td>SvRF</td>
<td>Svenska Reklamförbundet – The Swedish Advertising Federation</td>
</tr>
<tr>
<td>TCO</td>
<td>Tjänstemännens Centralorganisation – The Swedish Central Organization of Salaried Employees</td>
</tr>
<tr>
<td>TU</td>
<td>Svenska Tidningsutgivareföreningen – The Swedish Newspaper Publishers’ Association</td>
</tr>
<tr>
<td>TUN</td>
<td>Tidningsutgivarnas Utbildningsnämnd – The Newspaper Publishers’ Association’s Committee of Education</td>
</tr>
<tr>
<td>VDN</td>
<td>Varudeklarationsnämnden – The Institute for Informative Labeling</td>
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Preface

History thus corroborates the teaching of the conception that only in the maturity of reality does the ideal appear as counterpart to the real, apprehends the real world in its substance, and shapes it into an intellectual kingdom. When philosophy paints its grey in grey, one form of life has become old, and by means of grey it cannot be rejuvenated, but only known. The owl of Minerva takes its flight only when the shades of night are gathering.

Hegel

The owls are not what they seem.
The Log Lady

It’s all in the day’s work.
Dr. Benway

Live and Learn.
The Cardigans

Four quotes, one from a famous philosopher, two from fictitious characters stemming from the minds of David Lynch and William Burroughs and one the song title a well-known Swedish pop band, get to summarize years of academic work poured into writing this thesis. The interplay between them goes something like this: The first two address the academic context. True knowledge of the world is reserved for the historian – the rest is guesswork. However, historical sources are fickle, so beware: your knowledge might still end up as speculation. The last two are about life: Sticking it out during a bad day like ol’ Dr. Benway is necessary, because in the end, the work you put into something equals the results you get out of it. And, finally, with Nina Persson’s and Ebbot Lundberg’s heartfelt vocals in this wonderfully defiant song on the difficulty of learning from your mistakes echoing in the back of my mind: wisdom may be a hard-earned prize, but perhaps the most important thing we can acquire… so why not at least keep trying?

That said, having juggled triumphs, defeats, doubts and countless dreary days of just plain hard work, I am now very thankful to have reached the end of the line: it is done.
To recount or describe the academic journey that now lies behind me is not easy. For it has not only been a journey of the mind, but also of the soul and the body. One person started this – another stands at the finish line. But needless to say, a preface does not really afford one the space or place to delve too deeply into existential self-analysis. So let’s just conclude that while many things change, a few still remain. In the latter category is my gratitude to the people who in various capacities have been involved in my life, professionally or otherwise, during this time. My sincere thanks go to my essay tutor as a student at the Department of History, Stockholm University, Ph.D. Bo Persson, and professor Klas Åmark at the same department, as well as Anders Ericson, CEO of the Swedish Advertisers’ Association, who encouraged me to continue with a Ph.D after my initial interest as a student in analyzing advertising within the context of the Swedish postwar political economy. My head tutor during the writing of this Ph.D. thesis, associate professor Dan Bäcklund, and my two assisting tutors – initially professor Ylva Hasselberg, and then Ph.D. Magnus Eklund – are sincerely thanked for their dedicated work, expertise and helpfulness in guiding this thesis to fruition. I am forever in your debt. My sincere appreciation to those who took it upon themselves to critically examine the manuscript at various formal stages to allow it to progress a step further closer towards its public defense: Associate professor Peder Aléx did this when the work was about half way through, associate professor Daniel Nohrstedt lent his opinions to a first rough draft of a finished manuscript, and associate professor Peter Hedberg and professor Jan Ottosson took on the crucial reading and clearance of the final manuscript. Thanks must also be extended to Stefan Schwarzkopf, David Clampin, PerOla Öberg, Maggie Levenstein, Pernilla Jonsson, Fredrik Sandgren, Carina Gråbacke, Lilli-Anné Aldman, Mats Morell, Maths Isacson, Kersti Ullenhag, Lars Magnusson, Mats Larsson, Raoul Galli, Olle Frödin, Erik Lakomaa, Oscar Broberg, Karsten Ronit, Tony Porter, Tony Prosser, Marianne Dahlén, Ulf Bernitz, Gustav Sjöblom, William Keep, Klara Arnberg, Ulf Bernitz, Niklas Stenlås, Jean J. Boddewyn, Johan Wejryd, Christopher Lagerqvist, Nikolas Glover, Johan Bergman, Keith Jakee, Michael Howlett, Todor Arpad and Jens Ljunggren for commenting on articles, papers at conferences or other forms of work-in-progress and/or helping out with various research related queries. No small thanks are extended to Lynn Karlsson, who diligently and creatively proofread my manuscript, which really lifted the quality of the text. I bow to your wisdom!

A grateful thank you is extended to the Ridderstad Foundation and the Helge Ax:son Johnson Foundation, which both were kind enough to help finance the completion of this project, as well as to the organizers of the Swedish History Days (De Svenska Historiedagarna), who generously funded my presence at their 2008 conference in Greifswald. I also wish to thank all those that helped me with finding the rich historical sources that were essential for the realization of this project: the Swedish National Archives in Arminge and Marieberg, the
Centre for Swedish Business History, the Swedish Marketing Association, the Swedish Advertisers’ Association, the Swedish Newspaper Publishers’ Association and the Swedish Association of Communication Agencies.

A sincere thank you to Tom Petersson, Mikael Lönnborg and Henrik Malm Lindberg for giving me the opportunity to publish some articles during these years – I learned much from your editorial work. A thank you must be given to Lars Karlsson for being such a good team player when we drew up and gave a course in market regulation. A thank you is also extended to the many colleagues at the Department of Economic History at Uppsala University, who have supplied me with a stimulating and dynamic social and academic environment. A special thank you to Gabriel Söderberg, my roommate for much of this time – alas, “the booth” is no more, but its spirit lives on! Privately, there are too many to thank, so I must grasp for the Swedish saying “no one mentioned – no one forgotten” to ensure that I do not leave any one out. However, I must mention my significant other, Marie Lennersand. Without your patience, support and understanding I would neither have chosen to begin or carry out this project to completion. I am grateful beyond words.
CHAPTER ONE

Introduction

This thesis concerns the historical development of market self-regulation. More specifically, the aim is to understand the causes behind regime transitions in the self-regulation of Swedish advertising from 1950 until 1971. Market self-regulation can be defined simply as private actors independently controlling their collective conduct based on internal norms. Interest in this form of regulation has grown in recent years. Proponents claim it has several advantageous qualities: being fast, flexible, market sensitive and cost-efficient.\(^1\) It is claimed such rules are more effective than laws because self-regulatory agencies can adapt more quickly to market changes and that self-regulation is not costly since the private actors that uphold it bear the expense.\(^2\) A self-regulatory regime can emerge in different institutional contexts and involve various actors. It always includes producers, but sometimes also representatives of consumers, the state and civil society. Self-regulation can appear thanks to an industry initiative if a state regime is lacking, or be introduced by private actors to try to pre-empt statutory laws.\(^3\)

Although self-regulation is known to have existed since antiquity, the origin of modern regimes featuring codified rules and institutional structures can be traced to the 19th century, and a particular upsurge has been noticeable since the end of the Cold War, for example in the regulation of advertising.\(^4\) This proliferation has been part of an extensive market deregulation, replacing the positive state with a regulatory one, entailing a shift from government to governance. Such changes have in turn made authorities more likely to encourage private actors to take up regulatory duties on their own.\(^5\) The increasing globalization of the 21st century has also played a role. When national state frameworks no longer carry weight, self-regulation has been suggested as better suited for international markets.\(^6\) Since the 2000s, EU directives have proposed increased self-regulatory or co-regulatory measures to implement

Regulations. Regimes are now established in a variety of institutional settings and can be found at regional, national, supranational and international levels. Still, this change has not been solely the subject of praise, as critics claim that private regulation can be prone to regulatory capture by business, resulting in producer-biased implementation. Research on the history of British regulation has also pointed out that regulatory scandal in some areas, such as finance and the medical profession, increasingly led to modern regimes being constrained by state oversight or superseded by state regulation.

Given the diverging views on its suitability and its increasing prevalence, one would expect a growing interest in the development of self-regulatory regimes. However, although some research has been done, in for example the industries of advertising, communication, direct selling, financial markets, construction, accounting, and environmental protection, there are still surprisingly few that have utilized a combination of theoretical models and thorough empirical case studies. Jan Sammeck’s study of three German industries utilizing a supply and demand model modified by transaction cost theory is an exception, as is Karsten Ronit’s encompassing study of state and interest groups’ impact on various self-regulatory regimes in postwar Denmark and Tim Büthe’s analysis of the development of US financial regulations, the latter using a modified principal-agent model. Still, there is no established or dominating theoretical or methodological approach to studying self-regulatory regimes. Therefore further historical research to better understand change in self-regulatory regimes is needed.

Advertising is especially interesting to study in this regard. Theory offers that the self-regulation of advertising can have particularly good chances of creating efficient regimes. Since advertisers are easily identifiable and media clearance procedures before publishing or airing of advertisements can control the majority of ads, some researchers suggest free riders should be a minor problem. Theory also proposes that business has an incentive to create a viable self-regulation of advertising to avoid the state regulation of the industry,

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7 Latzer et al. (2003), pp. 127–133; Riksdagens utredningstjänst (2003), pp. 7–8; Riksdagens utredningstjänst (2010), pp. 12–16.
10 For additional studies, see Latzer et al. (2003), p. 130.
11 Miracle and Nevett (1987); Miracle and Nevett (1988); Schwarzkopf (2008); Dahlberg (2010).
12 Latzer et al. (2003); Latzer et al. (2006).
13 Wotruba (1997).
14 Moran (2003); Dombalagian (2005).
15 Sammeck (2012).
16 Mattli and Büthe (2005); Büthe (2010a).
17 Gunningham (1995); Anton, Deltas and Khanna (2004); Ronit (2012).
19 Ronit (2005); Büthe (2010a); Sammeck (2012).
which is expected to create a slower regulatory process, making business willing to take on the costs of running self-regulation to avoid this.\textsuperscript{20} The fact that self-regulatory initiatives in advertising have been around since the early 20\textsuperscript{th} century further supports the potential of a historical study.\textsuperscript{21} Before the advent of national brands, advertising was produced either by local retailers or by sellers of dubious goods and services such as patent medicines, beauty products and investments. In the latter case, exaggerations or misleading statements were rife. This gave advertising a bad reputation. Nonetheless, as long as it was confined to local and more marginal parts of the market, this did not cause immediate alarm. However, by the end of the 19\textsuperscript{th} century, the growth of mass markets shifted competition from being based on price to product differentiation, brands and marketing. With brand proliferation, advertising became vital for sales. At the same time, statutory regulations were absent or weak and consumer confidence in advertising low, causing increasing public criticism. With a lack of regulation and advertising’s tarnished reputation, self-regulation became a means for business to try to ensure both consumer confidence and fair competition, while hopefully also acting as a pre-emptive measure against unwanted legislation.\textsuperscript{22}

Although there have been quite extensive historical studies of Swedish regulation in other sectors, for example in transportation, communication and finance, these have focused on state regimes, leaving self-regulation understudied.\textsuperscript{23} Advertising self-regulation is no exception to this rule, and the little research that has been done is outdated, lacking in theoretical insights or based on a limited source material.\textsuperscript{24} Employing extensive sources – many never before utilized – the present case study provides the possibility of making a careful tracing of regulatory change in this specific form of market regulation and uncovering the causal factors behind it.

The Swedish case also emphasizes that self-regulation has a history that goes beyond current policy trends. While the Swedish state has supported more market self-regulation since the mid-1980s, a 2010 state survey showed that about a third of the existing regimes of self-regulation came into existence in the 1960s and 1970s.\textsuperscript{25} The regime studied in this thesis also had special importance within both a national and international context. For four decades, it acted as a regulator of fair competition and consumer rights. Its importance is stressed by a 2003 state parliamentary survey on Swedish self-regulation agencies, in which a former regime agency, the Swedish Council on Business Practice (Näringslivets Opinionsnämnd) is described as functioning as “an


\textsuperscript{21} Miracle and Nevett (1988), pp. 16, 38, 40.


\textsuperscript{23} Magnussson and Ottosson (1997); Magnusson and Ottosson (2000).

\textsuperscript{24} See for example Björklund (1967) and Boddewyn (1985b).

\textsuperscript{25} Riksdagens utredningsstjänst (2010), pp. 12–16.
encompassing system for industry self-regulation”. According to some research, Sweden also had, thanks largely to underdeveloped marketing laws, one of the more advanced regimes of advertising self-regulation during the postwar era. It gained great international interest in Western Europe, and self-regulatory reforms in France, Denmark, Norway and Switzerland were inspired by the Swedish regime. Swedish experts active in self-regulation also made significant contributions to the international rules guiding national regimes: The Code of Standards of Advertising Practice, issued by the International Chamber of Commerce (presented in more detail in chapters three and four below).

Moreover, self-regulation in Swedish advertising changed dramatically over the period. Two independent regimes were formed in the 1930s as a result of demands for better regulation of fair competition, as laws regulating advertising were weak and rarely used, and a determination to stave off unwanted state intervention. They were to a significant extent based on deliberations between insiders involved in competitive conflicts and lacked pro-active policing and coercive measures. The regimes were run and funded solely by producers, with self-regulatory agencies’ case proceedings shrouded in secrecy. In 1950, little had altered in their initial makeup, but by 1970 things had changed greatly. The two regimes merged into one in 1957, and a host of other reforms followed during the 1960s, including the addition of consumer representatives and the state as active partners, the introduction of pro-active policing and clearance procedures, more transparency and funding to substantial degree now being supplied by the state. Somehow, the regime had transformed completely in 20 years.

Some of these changes appear to be due to the fact that while seeming to be a great success to an outside observer, in Sweden the regime was at this time highly controversial. Numerous actors across the political spectrum criticized it and remained skeptical about the business community’s ability to self-regulate. The late 1950s and early 1960s saw a highly publicized criticism of advertising from trade unions, the cooperative movement, liberal and social democratic politicians, and consumer activists and public intellectuals, accusing it of being misleading and claiming that self-regulation was biased and inadequate (chapter two). Shortly afterwards, in 1964, trade unions, a state consumer agency and a women’s association were admitted as consumer representatives onto the main self-regulatory agency, The Council on Business Practice. However, criticism of advertising again surged during the late 1960s, emanating from the same actors as before, but with the addition of

29 Björklund (1967), p. 937. Björklund states this happened in 1963, but primary sources reveal that although the decision to admit the consumer representatives occurred that year, this
leftist radicals who had emerged as a contemporary force in public debate. Now advertising was not only accused of misleading the consumer, but also of being an expression of rampant capitalist consumerism, causing the depletion of natural resources and social and economic inequality. Business tried to counter this criticism with arguments that advertising was a necessity in a modern consumer market economy and instituted several reforms of their regulatory regime, such as a pro-active ombudsman-like policing unit in 1968 and pre-publishing clearance of advertisements at the firm level among ad agencies, advertisers and media carriers in 1969–1970. Nonetheless, coming on the waves of this increased criticism of advertising, an extensive state regime for protecting consumer rights was introduced in 1971, including a Market Practices Act, a Consumer Ombudsman and a Market Court. Self-regulation as a more or less independent regulatory regime came to an end. At the same time, the clearance system remained, entering into a co-regulation relationship with the new state regime. Still, a forty year era of self-regulation domination was, despite intense institutional changes, over.

Research on advertising self-regulation regimes in the UK and the US also supply evidence that the self-regulation of advertising at this time was challenged rather than reinforced by the state, as regime transformation in both countries appears to have taken place as a result of trying to placate a negative public opinion and state demands for stronger consumer influence or to downright pre-empt state intervention.

While the evolving attitudes of the public and the state towards self-regulation illustrate potential causal agents for regime change, the market structure itself also must be taken into consideration. Economic history has shown that the industrial revolution galvanized state involvement in market development, leading to several polices aimed at facilitating innovation driven markets. That market changes must be taken into account when studying advertising self-regulation is further motivated by the fact that the industrial sector where advertising was most prevalent, retail, underwent radical modifications after WW II. With increased economic growth lasting more or less for the whole period studied in this thesis, the coming of the Affluent Society made it possible for large parts of the population to enjoy consumer goods that until then had been reserved for the wealthy. Adding to this was the appearance of both new products and new ways of distribution. Small stores with locally produced goods and clerks manning the desk were increasingly substituted with supermarkets based on self-service and packaged brands.


30 Funke (2011a).
33 Miracle and Nevett (1988).
This of course increased demand for advertising, making it a prominent part of the market, the media and public spaces.\textsuperscript{35} The Swedish market was at the time also deregulated to increase competition among both producers and retailers.\textsuperscript{36} These changes would have most likely have impacted on the regulation of advertising.

**Aim of Thesis**

Having made an initial presentation of research objectives, the overall purpose of the study can now be stated. It will be to analyze the causes of regime transitions in the Swedish self-regulation of advertising from 1950 up until its dissolution in 1971.

**What is Advertising?**

This study will mainly focus on the self-regulation of advertising, although some adjacent areas of marketing regulation, such as sales promotion, will be touched upon. Advertising is part of marketing. Marketing denotes all communication mechanisms and techniques used by producers to assist the selling of products and services.\textsuperscript{37} Well known in applied marketing is that a product is marketed with four competitive “P”s: product, price, place and promotion, known as “the marketing mix”. Advertising is part of promotion, which also includes sales promotion, public relations and personal sales.\textsuperscript{38} Advertising has a dual function as consumer information and competitive resource, and Boddewyn has in his definition succinctly captured this essence:

> a form of communication between a firm and its customers, using independent media to communicate positive messages about a good. Firms supply it to generate sales and to counter their competitor’s advertisements, but there is also a demand for advertising because consumers lack information, and much of it comes from advertisements that help lower inevitable “search costs”, that is, consumers’ expenditure of time and money to select what to buy.\textsuperscript{39}

Similar definitions abound in the literature.\textsuperscript{40}

\textsuperscript{36} Lundqvist (2006), pp. 5–6.
\textsuperscript{37} Tufvesson (2005), pp. 10–11.
\textsuperscript{38} Tufvesson (2005), p. 10.
\textsuperscript{39} Boddewyn (2002), p. 178.
Delimitation of Study
The year 1950 is taken as the starting point, as the uncertainty of the first post-war years gave way to an economic landscape characterized by rising standards of living, new patterns of consumption and a prominent market position for advertising. Not long afterwards, the Swedish regime of self-regulation started to undergo a series of transformations which would last until 1971, when the new state regime replaced it as the dominant regulator. That year is therefore chosen as the end point. This time period is also selected as much previous research shows that advertising during the first three postwar decades was subjected to profound debate and policy change not only in Sweden, but in most of the Western world.41

Previous Research on the Self-Regulation of Advertising
Research on the self-regulation of advertising can be grouped in two camps: the static and the dynamic approach. Static research tends not to focus on self-regulation as evolving structures. Descriptive or prescriptive perspectives are common, and research focuses on suggesting improvements to increase efficiency. Internal and external pressures on self-regulation may be discussed, but these factors are seldom, if ever, linked together in explaining change over a longer time period.42 The dynamic approach, in turn, concentrates on changes in regimes and the causal mechanism behind them. An overwhelming majority of this research concern the US and UK, probably because these countries have a long history of organized advertising self-regulation, going back to the early 20th century.43 This thesis deals mainly with the dynamic approach. Research on the pioneering efforts of self-regulation in advertising in the US and UK during the first half of the 20th century suggests both inside and outside pressure as important for the formation of the modern self-regulation of advertising. For example, Rob Baggott and Larry Harrison state that the birth of UK self-regulation in the 1920s had three main purposes: to uphold public credibility, solve internal disputes and – by doing so in the confidential manner of self-regulation – maintain the image of a unified and stable advertising industry.44 However, many researchers tend to stress one

42 Neelankavil and Stridsberg (1980); LaBarbera (1980); LaBarbera (1981); Garvin (1983); Gupta and Lad (1983); Boddewyn (1983); Boddewyn (1985a); Boddewyn (1988); Boddewyn (1989); Boddewyn (1992); Boddewyn (2002); Bian et al. (2011).
43 Hess (1922); Pease (1958); Schultz (1981); Miracle and Nevett (1987); Miracle and Nevett (1988); Pope (1991); Laird (1992); Laird (1998); Pannell (2002); Hansen and Law (2008); Schwarzkopf (2008), pp. 71–112; Beard and Nye (2011); Beard (2012).
pressure over the other as significant for regime change, at least in certain time periods.

Gordon Miracle and Terence Nevett, as well as Kerry Ellen Pannell and Zeynep K. Hansen and Marc T. Law, emphasize inside pressure as a cause for the appearance of self-regulation regimes in the early 20th century. They stress that lack of state regulations and the need of business to create a viable market for advertising growth made it imperative to find ways to manage the growing competitiveness of mass markets. This pushed producers to develop regulation to get rid of “bad apples”; rule breaking firms who threatened the credibility of all advertising. The initial goals of self-regulation were thus to enforce fair competition and bolster consumer confidence in advertising. In the UK, the business organization Advertising Association was formed in 1925. In 1928 it created the Advertising Investigation Department, which had as its task to promote public confidence in advertising by policing the market for unethical advertising that risked undermining it. In the US, the Truth-in-Advertising movement emerged in 1911 and utilized the trade journal Printer’s Ink to formulate self-regulatory rules, the so-called Model Statute. Around this time, the business interests behind the Advertising Clubs of America also formed self-regulatory agencies such as the national Vigilance Committee and local Better Business Bureaus (BBBs) to police the new rules. A National BBB was formed in 1925 to deal with national brands. Producer interests even went as far as lobbying for turning these business rules into laws, which was also done in 43 states. However, implementation was, according to Miracle and Nevett, a failure as the laws stipulated that intent to mislead had to be proven, which was often hard to do. Still, both Pannell and Hansen and Law claim the that the early US initiatives were fairly successful, as the BBBS often only had to threaten to bring cases to the attention of the authorities to get transgressors to comply with regulations. Pannell even emphasizes that when cases were submitted to state authorities, many firms were indicted and convicted in accordance with state laws and regulations.

Daniel A. Pope, Pamela W. Laird, Quentin J. Schultze and Stefan Schwarzkopf to a large extent point to the importance of outside pressure. They maintain that advertising ethics were a vehicle for achieving public good will and aiding in the construction of an advertising ideology that would transform the public view of advertisers as irresponsible con-men to being conscientious professionals in service of society, contributing to economic efficiency and social control. These authors also stress the advertising criticism coming from civil associations and consumer movements and journalists, as well as the

47 Miracle and Nevett (1987); Miracle and Nevett (1988); Pannell (2002); Hansen and Law (2008).
threat of impending state regulations, as reasons for the birth of organized self-regulation. Focusing on the postwar years, most researchers, as for example Miracle and Nevett, Pope and Schultze, conclude that the main causal agent behind regulatory change was outside pressure. According to Schultze, all major reforms of self-regulation in the US since the establishment of the original regime have been driven by heightened public criticism of advertising. Miracle and Nevett and Pope suggest that increased government interest in protecting consumer rights, as well as criticism of advertising by consumer movements and public intellectuals, caused organized business that acted as custodians of the US regime to attempt regulatory reforms in the 1960s. Nonetheless, these failed to produce any tangible results. But by 1971, more coherent reforms were introduced as the BBBs and national level regimes merged to form a single regime with both an investigative and appeals body, the latter including outside stakeholders in a minority role.

According to Baggott and Harrison and Miracle and Nevett, threats from the Labour government to introduce stricter state regulations were influential for postwar reforms in the UK. It made the business actors responsible for the regime fashion a more centralized and formal organization in 1961–1962, with a self-regulatory agency acting as drafter and overseer of an ethics code. But there was no pro-active policing of the market, and only the chair of the regulatory agency was a non-industry member. Threatened again with state intervention in 1973 unless business took a more active role in regulation, a new regime was formed by business interests the following year. It had an enlarged secretariat, with two-thirds of the main regulatory agency’s members being outside stakeholders and the head of the agency appointed after consultation with the Department of Trade and Industry. Independent financing was secured through a levy on advertising space. This regime also added more pro-active market policing in 1978. In general, it is interesting to note that the overall development of the regimes in these Anglo-Saxon countries indicates a shift from insider-run self-regulatory regimes during the first half of the 20th century to regulatory structures increasingly involving outsiders and more policing during the postwar years. This suggests that much regime development can be explained by outside pressure.

However, outside pressure does not by default cause self-regulation regimes to adopt stricter rules. In some cases the state has even openly opposed more stringent forms of self-regulation. For example, at the end of the 1970s, US antitrust legislation put a halt to organized clearance procedures for broadcast advertising. Michael Harker, Debra Harker and Michael Volkov

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discuss how antitrust legislation in Australia during the 1990s interpreted media carrier advertising clearance as a competitive hindrance, forcing it to halt. This destroyed the tripartite structure of the regime, creating a toothless and impractical successor. These two examples illustrate that state objections to self-regulation can not only be based on judging it too weak, but also as excessively intrusive for market competition.52

Outside pressure may also lead to formal changes in the regime that are not mirrored by changes in actual regulation. Robert Crawford and Ruth Spence-Stone highlight a regime initiated in Australia during the 1970s where a substantial presence of outside stakeholders was meant to pre-empt state intervention. After its demise, the successor regime split into two agencies, one for public complaints and one for producer complaints, with outside stakeholders once again part of the former. However, the authors state that both regimes did not receive enough complaints, filtered out the majority of these from agency consideration, and were biased towards business due to weak outside stakeholder participation and powerful insider-biased regime leadership that wanted to use self-regulation to legitimize and dispel “misconceptions” about advertising. One interpretation of these authors’ results would be that the Australian regimes represented outside stakeholders in name only.53

So far, the discussed research largely presents an image of business insiders united by a common set of regulatory interests, and regime development being contingent on attempts to satisfy these or trying to avoid state intervention by answering up to the regulatory demands of outsiders. However, a few studies stand out from the rest by highlighting insider tensions as pivotal for regime development. Otis Pease’s study of the development of US self-regulation of advertising during the first half of the 20th century is one. Taking both inside and outside pressure into account, he concludes that the regime’s main focus lay in regulating fair competition and avoiding unwanted government regulation. Therefore, despite outside pressure on marketers from journalists, the nascent consumer movement and the federal government, the regime was unwilling and unable to protect consumer rights. Unlike Pannell and Hansen and Law, Pease does not think the regime was particularly efficient. Its failure is to some extent traced to inside tensions and implies that power asymmetries between producers contributed to it. While the BBBs were successful in gaining compliance from smaller and less respected businesses in cases that were clear cut, larger national advertisers that were accused of “borderline conduct” did not budge as easily. For that reason, a national commission formed by the BBB movement to police advertising was unsuccessful. In the 1930s there were again attempts to try to fortify the regime with a larger national agency, as local BBBS lacked the resources to tackle these “borderline cases”. This led to the creation of a National Review Committee that was given the specific task

of dealing with such cases. There were also attempts again at creating pro-
active policing, but all the initiatives failed to have any impact, once more due
to vague rules and the regime’s lack of sanctions.  

Schwarzkopf also emphasizes the importance of insider tensions and power asymmetries among producers, as he claims the failure of self-regulation of advertising to establish itself in the UK during the interwar years can be traced to the fact that it did not develop a forceful and stringent policing. He states that smaller press ads for medicine, financial services, employment and the sale of goods were regarded by media carriers as particularly at risk of being misleading or fraudulent. Schwarzkopf explains that by the interwar years the press, while still reliant on smaller advertisers, needed to increasingly attract large brand advertisers. To improve their chances, papers started to screen smaller ads for content that could risk readers’ confidence. Also, the established ad agencies mainly worked for brand advertisers and viewed the smaller ads as both unwelcome competition and a source of badwill towards the industry, making them support tougher policing of these particular ads. A consequence of this was that while smaller ads were increasingly monitored by self-regulation, large brand advertising largely went free from policing.

Other studies that point to the importance of insider conflicts are Fred Beard’s and Beard and Chad Nye’s research on the development of self-regulation of comparative advertising in the US during the 20th century. They show that the dislike of this type of advertising among business insiders due to its supposed effect of creating badwill for the whole industry came in conflict with the growing will of advertisers to use it in increasingly competitive markets. This conflict therefore characterized and underpinned regime development.  

Turning now to previous research on the Swedish case, it should be made clear that it is sparse and limited in scope. However, existing studies indicate a similar development as shown in many of the studies on the UK and US regimes: a movement from self-regulation wholly controlled by insiders to an inclusion of outsiders and more policing during the postwar years. Tom Björklund has done the most extensive empirical research on the historical development of the self-regulation of Swedish advertising as part of a history of Swedish marketing from the 19th century until the 1960s. He discusses causes behind regime development and, unlike his international counterparts, does not attribute regulatory change during the postwar years to the risk of state intervention. The merger of the two regimes in 1957 and the 1964 inclusion of consumer representatives are simply explained as attempts to improve the

54 Pease (1958), pp. 46–85, 87–137.
56 Beard and Nye (2011); Beard (2012).
58 Björklund (1967), p. 937. Björklund states this happened in 1963, but primary sources reveal that although the decision to admit the consumer representatives occurred that year, it
regime’s regulatory efficiency. Despite being useful, Björklund’s research is problematic. While rich in empirical accounts, his chapter on self-regulation is descriptive and often lacks a thorough analytical approach. He has used some of the internal sources that this thesis utilizes, but in what way is not clear, as his text lacks footnotes. There is also the issue of bias, as he from the 1930s until the 1950s had a number of leading positions in the Swedish Advertising Federation (Svenska Reklamförbundet) and The Swedish Sales and Advertising Federation (Svenska Försäljnings- och Reklamförbundet), predecessors to the Swedish Marketing Federation (Sveriges Marknadsförbund). All these organizations were heavily involved in running the self-regulation of advertising. Moreover, as Björklund’s study ends around 1963, it does not cover the lively period between 1963 and 1971, when a number of important reforms were carried out. These are, however, described in some detail in a contemporary article from 1970 by Sten Tengelin, highlighting the introduction of a consumer ombudsman-like unit within the regime, as well as clearance procedures on the firm level among the ad agencies during 1968–1969. Still, he refrains from discussing the process leading up to reforms, other than that inside pressure for industry associational unity, leading to a merger of two business organizations representing the ad agencies in 1968, created the necessary support for the introduction of clearance procedures. Tengelin does, however, present an analytical distinction between self-regulatory agencies that create rules and those that do not, indicating an awareness of the need for classification schemes to better understand regimes of self-regulation.59

In his historical account of the Swedish Retail Federation (Sveriges Köpmannaförbund), former CEO K E Gillberg describes his own organization’s growing interest in the Council on Business Practice as a way to try to cover up for the lack of proper legislation against what the federation considered questionable means of marketing. According to Gillberg, the Retail Federation was successful during the 1960s in getting the council to take a stand against certain kinds of premiums and “free offers”, and also supportive of the 1964 reforms that brought in more weighty consumer representatives. However brief, Gillberg’s account indicates that the federation played a part in regime transition.60 Jean J. Boddewyn has perhaps the most interesting analysis of regime change in the regulation of Swedish advertising in an article on the development of Swedish consumer policies during the 1970s and early 1980s, but he focuses on the new co-regulatory regime that appeared with the introduction of the state regime in 1971. The period before is treated mostly in passing. Boddewyn’s study also suffers from limitations in sources, as the author does not master Swedish, restricting primary sources to a few public documents in English and interviews with key players in consumer politics.

However, he does mention the inclusion of consumer representatives into self-regulation in the 1960s and also gives four reasons why the dominance of advertising self-regulation ended in 1971. According to him, the work of the Swedish self-regulation regime suffered from being under-dimensioned, unable to highlight rising consumer concerns, not being well known among consumers, having a limited capacity to handle large number of complaints and having difficulties in getting non-compliers to adhere to rules.\textsuperscript{61} Much like the research on contemporary UK and US regime development, Boddewyn awards outside pressure a decisive role. He emphasizes that the advent of the state regime was preceded by a “leftist turn” in the ruling Swedish Social Democratic Party (Sveriges Socialdemokratiska Arbetareparti, SAP). The party, and the extended labor movement it was part of, started to equate advertising with manipulation and presented demands for stronger state control of marketing, finally leading to the introduction of a new extensive state regime, causing business interests upholding the regime to terminate the Council on Business Practice and self-regulation as an independent regime.\textsuperscript{62}

Boddewyn writes that mounting public pressure on advertising in media at the end of the 1960s and early 1970s made organized business assume an accommodating stance towards the state, contributing to the creation of a co-regulatory regime. He basically has a positive view of this, surmising that corporatist structures helped to make co-regulation successful, as it gave business a formal influence over state regulation and consumer policy guidelines.\textsuperscript{63} However interesting these inferences are regarding the causes behind the demise of Swedish self-regulation as an independent regime, the fact remains that Boddewyn’s conclusions are mainly built on a few secondary sources, which themselves present very little information on the historical development of the regime until its abolishment in 1971.\textsuperscript{64} Nevertheless, my own studies of the Swedish advertising debate during the late 1960s and early 1970s concur that external pressure on advertising was intense and regarded as a serious threat by several business interest associations that were part of

\textsuperscript{61} Boddewyn (1985b), pp. 147, 150–153. The reasons for self-regulation failure were basically the ones given by the government while preparing the new marketing law in 1969. However, evidence is scant and limited to a single survey on advertising ethics in the weekly press during 1967–68 commissioned by the Advertising Committee, an official state investigative committee. Prop. 1970: 57, pp. 26–27, 58–59.


\textsuperscript{63} Boddewyn (1985b), pp. 140, 160–162.

\textsuperscript{64} Boddewyn (1985b), pp. 152–153, 160–161. Boddewyn’s sources on the Swedish regime of advertising self-regulation and the reasons for its demise are mainly Thorelli and Thorelli (1977) and Bernitz and Draper (1981). While both have interesting coverage of the development of postwar Swedish consumer policies, the parts on self-regulation are very brief and do not contain any detailed analysis of regime development. Thorelli and Thorelli (1977), pp. 196–200, 219; Bernitz and Draper (1981), pp. 21, 110.
or close to the advertising industry, lending backing to Boddewyn’s overall conclusions on regulatory development.65

In conclusion, previous research on advertising self-regulation brings up both inside and outside pressure as causes for regime development, but while there seems to be disagreements on which of these was most important during the first part of the 20th century, most studies agree that outside pressure was pivotal for progress in the first three postwar decades. Another discernible trend is what appears to be an evolvement from insider controlled regimes with limited or constrained success in policing to ones with larger outsider presence and more forceful policing by the late 1960s and 1970s. An interesting aspect is that only a few researchers have bothered to explore the potential importance of insider tensions and power asymmetries among business insiders for regime change, but their results have shown these factors were highly influential, indicating both an understudied and important explicatory element. A similar statement can be made regarding the limited research on how the actual practice of a regime compares to its formal goals. The fact that Swedish research has more or less omitted analyzing these factors also indicates that the present study should address these issues when analyzing regime transition in postwar Swedish advertising self-regulation.

Theoretical and Methodological Perspectives

The Dynamic of a Self-regulation Regime

The fact that market self-regulation is dependent on the initiatives of producers invokes the question what particular gains and benefits motivate producers to self-regulate. Gupta and Lad propose that producers think self-regulation will help increase market growth, strengthen barriers of entry, lessen the risk of substitute products and diminish the influence of buyers and suppliers. However, the authors stress that external pressure can also be a causal factor, for example when producers create or reform self-regulation due to threats of government regulations, consumer boycotts or a wish to counter unfriendly social trends such as environmentalism and consumer activism.66 While a number of studies have emphasized the importance of achieving public legitimacy and trust as a key goal of self-regulation67, Anil K. Gupta and Lawrence J. Lad, Thomas R. Wotruba and Sammeck believe the underlying rationale is producers’ desire to stimulate industry profitability.68

65 Funke (2004); Funke (2011a).
67 Sammeck (2012), pp. 15.
Sammeck emphasizes that legitimacy in itself cannot be the main goal, as the purpose of firms is not firstly to be legitimate, but profitable. He therefore suggests that collective self-regulation among producers in an industry helps eliminate transaction costs that are too high to bear by individual firms, such as negative spill-over effects from one rule-breaking firm resulting in collective badwill for the whole industry, as well as unfair competition stemming from an unregulated market – effects that could impinge negatively on consumer confidence and market efficiency, factors that are of vital importance for profitability.69

As stated, critics have suggested that regulation taken on by those subject to it makes for regulatory capture. In his theoretical overview of self-regulation, Anthony I. Ogus refers to a number of reasons why theory suggests such a regime might end up biased. From a legal perspective, self-regulation entails the acquirement of power by groups not answerable to the state through constitutional channels. The ability of such groups to construct rules may amount to a misuse if they do not have democratic legitimacy. These negative effects may worsen if the rules have an effect on third parties. Further, if the regime includes policy formulation, rule interpretation, adjudication and enforcement as well as rule-making, this stands in opposition to fundamental notions of the separation of powers. From an economic perspective, criticism of self-regulation has focused on how it can obstruct market competition by creating barriers to entry, thus increasing prices and awarding rents to producers backing the regime. For example, standards may be defined more to grant utility to suppliers than to satisfy consumer demands. The hope of receiving such compensation may entice producers into allocating resources to convince legislatures to give them self-regulatory powers – therefore incurring social deadweight loss.70

However, unlike state rules, self-regulation does not have absolute coercive powers at its disposal, and defectors do not face the prospect of legal retaliation. Regulatory capture thus always runs the risk of dissatisfaction leading to defection, rendering the regime less useful for those in control of it, and regimes have failed due to such issues.71 This indicates that a regulatory capture model, which views business as one collective actor fighting for influence over regulation with the state and consumer organizations, is too one-dimensional, as internal tensions are overlooked. For a regime to work, insiders must accomplish effective organization amongst themselves, indicating that successful outcomes are more about creating coordination between enough market firms to overcome collective transaction costs than capture by a single group.

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Nonetheless, while a transaction cost perspective and the need for cooperation to lower them can explain why regimes form, other theoretical perspectives are needed to analyze long term development. The fact that regimes are often upheld by a multitude of producers with potentially diverging interests and power positions has made theorists suggest that regimes might become unstable. Gupta and Lad propose that self-regulatory regimes are more likely to function if industry trade associations exist, and that intra-industry co-ordination is more important for success than inter-industry co-ordination. The more fragmented an industry is, the harder it will be to create viable self-regulation, as various firms have different and at times conflicting interests. According to the authors, power relations between firms, associations and self-regulatory agencies are crucial for regime make up. The more powerful a particular firm or an association is, the more influence it will have on rules, and, of course, the reverse will be true if it lacks this power. Increasing asymmetries of power make workable self-regulation less likely. If powerful firms or associations take increasing control to suit their market interests, firms or associations that are not part of this group and thus experience a diminished influence will be tempted to abandon the regime and even prefer state intervention to safeguard their interests.\(^{72}\) As shown in the previous section, only a few studies tend to highlight these factors, suggesting that they are understudied. That the Swedish postwar self-regulation regime analyzed in this thesis was upheld by a multitude of business interest organizations from many walks of industry indicates an increased risk of it being subjected to internal tensions.

A problem facing self-regulation is free riders – producers that do not contribute to the regime or even follow its codes may still profit from the projected image of business as a responsible market actor. If free riders become too frequent, the regime risks becoming costly for those upholding it and may lose legitimacy in the eyes of both producers and other non-business actors.\(^ {73}\) As mentioned before, some authors, such as Boddewyn and Simon Ashby, Swee-Hoon Chuah and Robert Hoffmann, claim free riders, due to the public nature of advertising, should be rare in advertising self-regulation.\(^ {74}\) Still, with advertising often being criticized in public,\(^ {75}\) this indicates that business insiders can be particularly vulnerable to the spill-over effects of badwill due to the behavior of individual firms, as a single well-publicized transgression can garner negative publicity for the whole industry. Heightened competition could also lead to marketers’ abandoning high standards, increasing the numbers of transgressors and free riders. Free riders will therefore, regardless of their numbers, be a goodwill problem. While these internal tensions are

\(^{72}\) Gupta and Lad (1983), pp. 419–422.

\(^{73}\) Sammeck (2012), pp. 31–32.


central, the fact that inside stakeholders also have to handle external pressure on the regime due to outsiders’ suspicion of regulatory bias, leading to demands of better representation for consumers’ interests or even state intervention, presents the researcher with a potentially complex web of causal agents when analyzing regime change.\(^\text{76}\)

A deeper understanding of how the self-regulation of advertising developed in postwar Sweden thus firstly entails being clear on what incentives insiders might have to self-regulate; here profitability should be regarded as the primary goal, while fair competition, outsider legitimacy, goodwill and pre-empting state intervention are means of achieving this goal. A second point is that a regime is expected to become unstable if it includes many insider organizations that have different and perhaps conflicting market interests, leading to defections. A third important aspect is that both the effects of inside and outside pressure on the policy process of self-regulation must be assessed to get a fair notion of the causal mechanism behind it.

**Method**

The study will utilize mainly qualitative methods, though quantitative data will be used to identify growing pressure on the self-regulatory agencies by compiling yearly statistics on cases and activity. It must be emphasized that the thesis will not be a study of cases or verdicts by the regulatory councils, but of the policy processes guiding the development of the regime itself. This will be done by analyzing the regulatory reform strategies of various business insiders in relation to actual regime change.

**Actor Categorization: Stakeholder Theory and the Exposure Hypothesis**

Regime transition will be studied by focusing on key actors with vital interests in regulation and who can be expected to have a decisive influence over regime change. These actors will be termed *stakeholders*. Stakeholder theory puts emphasis on actors that have a particular interest in a certain activity: in this case advertising. Edward R. Freeman’s well-known definition concludes that stakeholders are “all of those groups and individuals that can affect, or are affected by, the accomplishment of organizational purpose”.\(^\text{77}\) Although the number of stakeholders can be large, a common differentiation is between *inside stakeholders* who take part in a market activity and *outside stakeholders* who are affected by it.\(^\text{78}\)


\(^{77}\) Freeman (1984), p. 46.

The analysis centers on the regulatory strategies of inside stakeholders and more precisely on the business interest associations that were responsible for the regime, therefore from here on defined as the regime’s *principals*. A regime principal is in this thesis defined as an organization that has formal power and responsibility in upholding and defining the policy of the self-regulation regime. The focus on this group of insiders is motivated by the fact that business interest associations and their member companies create, uphold, develop and comply with market self-regulation, and, as such, it cannot exist without them. They should therefore have both the largest stake and key regulatory control, with decisive influence on regime development. This simple conclusion is mirrored in the empirical case, where for instance Björklund discusses how the two Swedish regimes for advertising self-regulation were created independently by a number of prominent business interest associations in the 1930s and remained dominated by them even after the inclusion of outside stakeholders in the 1960s. A complete list of regime principals and the organized interests they represented, including their Swedish names, is provided in Appendix A.

The insider organizations behind the first two Swedish regimes can in turn be divided into roughly two groups. One consisted of organizations whose tasks made advertising a key issue for them. These insiders will be termed *advertising affiliated organizations*. An organization in this group with particular influence over self-regulation was the peak business organization for marketing: The Advertising Federation. It was the creator and sole principal of the larger of the two regimes founded in the 1930s that existed until the 1957 merger. The federation was formed in conjunction with the regime to give insiders an organization that would provide legitimacy and act as a business representative when promoting and discussing advertising and marketing with outside stakeholders. The federation had as its main purpose to be responsible for overall business PR-efforts for marketing, or as stated in its program: “to serve Swedish business by creating a public understanding of the importance of advertising in sales and manufacture”, and it did so mainly through educational, informational and regulatory efforts. The federation changed its name in 1952 to the Sales and Advertising Federation to emphasize its increasing preoccupation with not only advertising but sales practices as well, and in 1967 again to the Marketing Federation (Sveriges

Marknadsförbund)\textsuperscript{84}. Other key organizations in this group were the Swedish Advertisers’ Association (Svenska Annonsörers Förening), which looked after the advertisers’ collective interests in the advertising industry, and organizations that represented different facets of that industry: the Swedish Newspaper Publishers’ Association (Svenska Tidningsutgivareföreningen), which organized the daily press, and the Swedish Association of Advertising Agencies (Annonsbyråernas Förening) and its successor the Federation of Swedish Advertising Agencies (Svenska Reklambyrå Förbundet). The last three organizations contributed to regime transition by launching major clearance initiatives during 1969–1970.\textsuperscript{85}

Another group of insider organizations mainly represented the broad interests of producer and distributors, whose main interest in advertising lay in their role as advertisers. They represented both large and smaller businesses in manufacture, retail and wholesale. These included the Swedish cooperative movement, which unlike many of its counterparts in other countries acted as a both a producer and distributor of goods. Although their tasks did not make them indifferent to advertising issues, many of the members of these organizations had their routine interests in advertising and particularly the advertising industry looked after by the Advertisers’ Association, which was created specifically to do so. This would indicate that their interest in influencing advertising policies and advertising regulation would be contingent on whether they felt these had serious consequences for production and distribution. These insiders will be termed \textit{production and distribution affiliated organizations}, and before the 1957 merger they were principals of the smaller of the two regimes formed in the 1930s (chapter two and three). Of these, the Federation of Swedish Industries (Sveriges Industriförbund)\textsuperscript{86}, the Swedish Retail Federation\textsuperscript{87} and the Federation of Swedish Wholesale Merchants and Importers (Sveriges Grossistförbund)\textsuperscript{88} and the Cooperative Union and Wholesale Society (Kooperativa Förbundet)\textsuperscript{89} were particularly powerful and well-connected. Thanks to their influential societal position, they were made official representatives of Swedish business on the boards of the competitive and consumer oriented state agencies that sprang up in the 1950s and 1960s. This indicates that these organizations had both the political legitimacy and interest to influence the regulation of the consumer market (chapter two). Their positions were part of a growing structure of state-sponsored corporatism that permeated much of the Swedish political economy.

\textsuperscript{84} Svenska Försäljnings- och Reklamförbundets verksamhetsberättelse 1952. SFRF; Sveriges Marknadsförbund verksamhetsberättelse 1967–1968. SMF. Sveriges Marknadsförbunds arkiv.
\textsuperscript{86} Söderpalm (1976); Karlsson (2001); Matti (2003).
\textsuperscript{87} Kylebäck (2004), pp. 49–51.
\textsuperscript{88} Gillberg (1983); Kylebäck (2004), pp. 51–52.
\textsuperscript{89} Ruin (1960); Kylebäck (2004), pp. 125–127.
Corporatism is here defined as a principle of organizing a political economy whereby selected interest groups are given exclusive rights to take part in the policy process in exchange for using their power over members’ opinions to discipline them to accept and abide by policy decisions. Further indicating the significance of corporatism in regime development is the fact that all of the outsiders acting as consumer representatives – peak trade unions and a women’s association – on the self-regulatory agency the Council on Business Practice held the same position in state agencies dealing with consumer and competitive policies. The fact that many of the insider principals that had started out backing the smaller regime, as well as all outsiders’ who were part of the self-regulation regime, shared a corporatist context, while insider principals with intimate ties to the advertising industry lacked this connection, indicates differences in power and regulatory traditions among groups of insiders in Swedish self-regulation that warrant a closer look when analyzing regime transition.

Regarding insider principals, the spotlight will be on the aforementioned business organizations, as sources indicate these in varying degrees actively sought to influence regulations. Moreover, as made clear by the previous exposition, inside stakeholders will not be regarded as one cohesive unit. There are, as suggested earlier by Gupta and Lad, theoretical arguments supportive of inside stakeholder relations often being conflictive and dynamic, making it harder to achieve regime consensus. For example; as buyers and sellers of advertising, advertisers, media carriers or ad agencies have potentially clashing market interests. As buyers, advertisers are reliant on advertising for increasing market exchange by getting more consumers to notice their products and for competing with other brands. Among sellers, media carriers are dependent on advertisements as a main source of income, while ad agencies have a similar financial dependency from producing advertising. These industry groups all want an expansive advertising market to further their profits, but also have opposing market interests relating to the price of advertising, with advertisers seeking lower prices, and ad agencies and media carriers higher ones.

Previous research on Swedish advertising history does indeed give proof of such insider conflicts and also indicates that these industry groups dominated Swedish advertising. During the postwar years, the major ad agencies and

90 Rothstein (1992); Hermansson, Svensson and Öberg (1997), see especially pp. 368, 378.
92 Bernitz et al. (1970), p. 44.
93 See also Polonsky et al. (2002); pp. 119–123; Kassinis and Vafeas (2002), pp. 402–404.
94 While it could be argued that media brokers should be included, they had at the time of covered by this study no strong organization behind them and were not involved in self-regulation. One reason for this was that during most of the studied time period, their function was to a significant extent carried out by ad agencies; Gustafsson (1974), pp. 1–4, 62; SOU 1972:7, pp. 135, 142–143, 145–146.
media carriers were embroiled in a serious disagreement with the advertisers regarding an advertisement cartel. Since the 1920s, it the cartel had given a select number of ad agencies organized in the Association of Advertising Agencies the right to procure and produce advertisements for papers belonging to the Newspaper Publishers’ Association, de facto a large part of the Swedish press. Upholding the cartel was the main duty of both organizations, and the former actually was created for this purpose. As prices were controlled by the cartel, the agencies instead competed with service. Another organization that came into being for the same reason was the Advertisers’ Association, which initially set out to control press circulation figures. But from the 1940s, advertisers wanted to abolish the cartel and by the 1950s had, through the Advertisers’ Association, enlisted the help of state authorities to do so. The media carriers and the ad agencies did their best to stall closing down the cartel, leading to a protracted period of ten years of negotiations before it started to be dismantled in the mid-1960s.95

There is reason to believe that the market conflicts between these particular industry groups can extend to self-regulation. Media carriers, advertisers and ad agencies are all named as responsible for published ads in the international code of conduct, The Code of Standards of Advertising Practice, during the time studied,96 but the majority of complaints usually concerned advertisers.97 This is owing to the fact that the responsibility for a transgression firstly falls on the advertisers, who has decided on and paid for the marketing of their product; secondly on the media carriers who should refrain from printing or airing objectionable ads; and thirdly on the ad agencies that produce the ad, but do so on the direct order of the advertiser.

Because of the public nature of their advertisements, advertisers are readily identified by competitors and the public.98 This, and the fact that advertisers constitute the majority of business actors on the market, should result in them being involved in the majority of competitive conflicts, regardless if these are due to an expanding market allowing for the entry of more competitors, or a market contraction with increased competition for shrinking market shares. This position would make them very aware of market regulation and a major stakeholder in influencing it to avoid badwill issues that could risk profitability by lowering consumer confidence and even bring about state intervention. That advertisers view regulations as a way to safeguard consumer confidence and pre-empt state intervention is supported by the empirical research discussed previously on the development of advertising self-regulation in particularly the US and UK. This would make advertisers more willing to support stricter regulation in order to avoid changes that could potentially threaten their profits.

95 Gustafsson (1974).
97 Näringslivets Opinionsnämnd (1963), pp. 5–6.
Media carriers are also expected to be somewhat sensitive to regulation for similar reasons. Although they, unlike advertisers and ad agencies, are less likely to have their brands figure directly in advertising criticism, media carriers rely on presenting popular content; indeed, having a reputation for doing so is integral for justifying why advertisers should pay to have their ads carried in a particular media outlet. Most media carriers are also dependent on being associated with good taste, high quality and truthfulness. Consequently, they would want to avoid publishing or airing questionable or controversial advertising content, and thus would be prone to use self-regulation to achieve this end. The last group industry group, however, the ad agencies, are not particularly exposed on the consumer market, as their role in advertising production is known mostly only to their clients and perhaps their clients’ competitors. This would mean that ad agencies to a much lesser extent are subjected to badwill issues and regulatory conflicts than advertisers and even media carriers, making them less concerned with advocating stricter regulation to protect their market interests. Also, the ad agencies dependence on creative freedom for competitive reasons would give them profit motives to resist a stricter regulation of advertising, as this could end up restricting that freedom and lowering profits.

Taking these contexts into account, it is possible to formulate an exposure hypothesis. According to this hypothesis, all three industry groups would favor self-regulation over state regulation, as the former affords them greater control over desired conditions for profitability; however, differences in exposure to regulation and badwill would make some of them more prone to favor either permissive or stricter regulation. Advertisers and perhaps to a lesser extent media carriers would for this reason be more inclined to support stronger controls of advertising in order to regulate fair competition, increase consumer confidence in advertisements and lessen the risk of state intervention. In contrast, ad agencies, being more in the background, but at the same time for competitive reasons financially dependent on creative freedom, would be less keen on expanding regulation. This dependence on creative freedom would of course be even stronger if competition between ad agencies was not based on price but service, as was the case during the cartel era of Swedish advertising. Research on advertising practitioners also indicates that ad agency professionals have lower levels of ethical reasoning in a professional setting compared to other occupations, weighing the financial consequences for themselves and the client over ethical consideration in advertising content.

99 Schwarzkopf’s research on interwar British self-regulation of advertising confirms these objectives, as the press was increasingly concerned with regulating classified ads, which were thought to be particularly at risk in being misleading or fraudulent, to attract the attention of larger brands as buyers of advertising space. Schwarzkopf (2008), p. 86.


The need to take this hypothesis into account when studying advertising self-regulation is underlined by the fact that these three industry groups have been designated by researchers as key actors in the creation of a self-regulation regime. Regulatory coordination between them is defined as a tripartite system, considered necessary to establish a functioning regime strong enough to successfully police the market. Media carriers have a central role in such a system, as they exercise their ability to stop the publishing of deviant advertising. If these three industry groups have different preferences regarding how severe or strict self-regulation should be, this could present a problem in creating or upholding such a coordinated system.\textsuperscript{102}

Outside stakeholders, even when participating in running a self-regulation regime, will be treated as context — an external pressure that business has to take into account. Available sources basically only note that consumer representatives were added to the Swedish regime in 1964, implying this was due to insider initiatives.\textsuperscript{103} Nevertheless, it must be stressed that the regulatory decisions of insiders governing the regime cannot be made without taking outsider response into account. Sammeck concludes that “stakeholders are all those groups, without whose contribution the company could not be operated successfully…the contribution of stakeholders is imperative if the firm wants to operate at a level of (subjectively) optimal efficiency.”\textsuperscript{104} Thusly, not taking outsider demands on business practice into consideration can be detrimental for profitability. Research suggests that outsider influence can be pivotal in shaping the strategies of inside stakeholders, especially if these have considerable power resources and claims that are regarded as legitimate.\textsuperscript{105} Outsider interest will increase if there is public knowledge of the industry coupled with social and political controversy that will make regulation an important community issue. Tony Prosser states that “it is rare indeed for a regulatory system involving major conflicts between values to be unaccompanied by direct forms of legal rules and sanctions. This is what distinguishes self-regulation in areas such as broadcasting content from ‘technical’ self-regulation, for example setting industry standards which may be disputed but do not raise major moral and social concerns.”\textsuperscript{106} The literature on advertising regulation confirms that advertising is indeed a controversial market segment and self-regulation frequently regarded as aimed at winning

\textsuperscript{102} Boddewyn (1992), pp. 6, 11; Harker, Harker and Volkov (2001), pp. 9, 14.
\textsuperscript{104} Sammeck (2012), pp. 14.
\textsuperscript{105} Eesley and Lenox (2006), pp. 765–766.
\textsuperscript{106} Prosser (2008), p. 100. Prosser’s definition of self-regulation in this article includes what this thesis would classify as co-regulation, i.e. a regulatory regime where rules are upheld wholly or partly by business but created by the state.
acceptance among outsiders and as a way to pre-empt unwanted state regulations.\textsuperscript{107}

The inclusion of outsiders in the Swedish regime may thus very well have been the result of trying to accommodate powerful outside pressure on the regime. Baggott proffers that disagreements between insiders and outsiders on advertising self-regulation should be expected. This follows on insiders emphasizing earnings and considering self-regulation as a way to gain public acceptance, while outsiders focus on defending consumer rights even if this means lower profits. Outsider apprehensions are also fostered due to the fears of limited government capability to create policy and a lack of public accountability.\textsuperscript{108} Empirical studies illustrate that governments have intervened in advertising regulation due to both economic and consumer policies, with the latter being most prominent, often motivated by concerns for vulnerable groups, misleading advertising and dangerous and unhealthy products.\textsuperscript{109} Outside stakeholders will be made up of collective actors in the form of trade unions, political parties, consumer movements, women’s associations and state authorities, and individual ones such as consumer activists, journalists and public intellectuals. These will be presented in more detail in chapter two. The distinctions between inside and outside stakeholders will serve to identify and separate inside pressure for regime change from outside pressure. Inside pressure will be identical to pressure for change coming endogenously from the activities of inside stakeholders regardless of what outsiders might do, with outside pressure for change clearly coming exogenously from outside stakeholders.\textsuperscript{110}

Research Questions

Having presented the aim of the thesis and elaborating on the methodological approach, the following research questions can be formulated:

1. How can regime transition in the self-regulation of advertising in Sweden from 1950 until 1971 be interpreted in relation to the actions of the regime’s inside stakeholders?
2. How did differences in interests and power resources between various groups of inside stakeholders affect their choice of strategic action, as they sought to influence the self-regulation regime?


\textsuperscript{108} Baggott (1989), pp. 446.

\textsuperscript{109} Baggott and Harrison (1986), pp. 147–148.

How to Approach the Analysis of Regime Change

Studying regime change over time by focusing on actors involved in the regime invariably leads to a discussion of which theoretical tools and concepts should be used. One key issue is how to analyze and define the policy process. Although the stages heuristic model for describing the policy process as made up of a number of consecutive stages – usually agenda setting, problem definition, decision-making, implementation and evaluation – has been widely used in the analysis of state regimes, self-regulation regimes present it with a number of methodological challenges.¹¹¹

Tony Porter and Karsten Ronit point out that a self-regulation regime usually lacks formal rules for how the policy process should be conducted, as well as the transparency that characterizes such processes in a state setting. This means that the process can skip a stage or suddenly be aborted. The lack of insight also makes it difficult to trace what is happening in the various stages, although increased transparency can arise, particularly due to outside pressure or a crisis of public confidence in the regime. The authors also assert that outside participation, particularly by the state, in all or some parts of the process makes for what they term a criss-crossing of the policy processes of the state and self-regulation.¹¹² Although the authors finally propose an elaborate, modified version of the well-known stages heuristic model for analyzing the policy process of self-regulation, it is so complex that its applicability in this study – which will utilize an additional number of analytical concepts presented shortly – would make analysis too cumbersome.¹¹³ It suffices to say Porter and Ronit validate that one must consider both interaction between inside stakeholders and interaction between inside and outside stakeholders to properly understand regime change. Therefore the policy process of self-regulation will be simplified as shown in figure 1.1.

Porter and Ronit’s comments lead us to the issue of what methodological approaches works best in studying a regime with such a complicated policy process. Although a supply and demand model has been used successfully in some regime studies, there are constraints with such an approach. According to Büthe, two main limitations exist: firstly, the idea of equilibrium – so central for a supply and demand model – is hard to establish in models of regulation, as the equilibrium in economic models rests on a singular market exchange unit – money. Politics do not contain such a distinct element and its functional measurement in price.¹¹⁴ To Büthe, this “need not categorically inhibit but greatly complicates comparisons and trade-offs between interests and actors in politics and policy-making…[P]ower resources – such as political will, organizational capacity, market size, and material or military assets – lack

¹¹² Porter and Ronit (2006); see especially pp. 43, 63–67.
¹¹⁴ Büthe (2010b), pp. 6–7.
stable conversion rates and are far less fungible than money across scope and domain.”

Therefore, Büthe concludes, one should not expect that a certain demand for regulation will lead to a supply answering up to it, nor that when a supply of regulation is detected does it signify being in line with demand.

Secondly, as Büthe also states, in economic supply and demand models, the buyer of a product is identical to the user, and the purchase is made with the intent to use the product. Thus demand is equated with those using what is demanded. In self-regulation, one has to differentiate between three, at times overlapping, sets of stakeholders: those who demand regulation, those who supply it and thirdly, those who are expected to comply with it. In classic self-regulation the overlap is complete between all three categories, but, as already discussed, outside stakeholders are often part of the equation on some level, making it possible that demands can originate among consumers, while experts can be brought in to create rules, which firms then have to comply with. This creates difficulties in using a strict supply and demand model.

In economic history, research has presented similar criticism of using theories to explain regulatory change that are not properly grounded in a historical-empirical method. Generally, four schools of thought have made an impact on the study of the state’s market function and impact on regulatory development: the normative approach, the positive approach, the transaction costs approach and, more lately, the “institutional” approach.

\[\text{Figure 1.1 Policy Process of Self-regulation}\]

Inside pressure

\(\downarrow\)

Outside pressure

Insider regulatory strategy

(\text{Policy process of self-regulation})

\[\text{Büthe (2010b), pp. 6–7.}\]
\[\text{Büthe (2010b), pp. 6–7.}\]
\[\text{Magnusson and Ottosson (2000), p. 192.}\]
\[\text{Magnusson and Ottosson argue for the first three schools as being dominant during much of the 20th century, but that now the institutional perspective, although used in various ways}\]
The normative approach views regulations as a way for primarily the state to correct for market failures, while the positive approach regards regulations as the outcome of struggles between rent-seeking interest groups fighting for control of the supply of state regulation. The transaction costs approach, as already mentioned, views market actors’ needs to lower market transaction costs as an incentive for regulatory change. The institutional approach, in turn, covers many subfields, but the one that is of interest in this context is historical institutionalism, emphasizing that theoretical methods that do not take detailed historical contexts and trajectories into account are bound to fail in capturing the complexity of change. Regulatory development must be understood through the actions of societal actors – for example the state and various interest groups – and these have to be viewed in relation to the specific institutional and historical context, which can vary greatly over time and in various industry sectors.\(^{120}\)

In economic history, proponents of the institutional approach to understanding development of market regulation have been critical of the other three schools of thought, claiming these tend to underestimate the difficulties in explaining empirical outcomes that do not correspond to their theoretical interpretations. For example, when discussing a number of historical case studies on the development of various Swedish statutory regimes in the network industry, Lars Magnusson and Jan Ottosson stress that contrary to normative and transaction cost theory, the case studies reveal that market actors and the state often contributed to path dependent regime development that did not adhere to either a normative ideal of the state always protecting the public interest or a strict goal of market efficiency\(^{121}\). Nor do the studies decidedly support a positive rational choice interpretation, as the state cannot be said to always have acted solely as an enabler of rent seekers.\(^{122}\)

Kathleen Thelen has emphasized that analysis of institutional change in political economies benefits from using a careful case study with detailed empirical data and a source critical method. Regulatory change can be sudden or incremental, and it can lead to both continuity and discontinuity, she says. Change can also superficially be unapparent, with institutions seemingly persevering in a changing political climate, but in reality slowly morphing into something new altogether. She thus proposes analytical concepts that allow for the capture of the potential intricacy of regime change. She also highlights the importance of structure-actor interaction for regime development, pointing out

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\(^{120}\) Magnusson and Ottosson (1997); Magnusson and Ottosson (2000).

\(^{121}\) Magnusson and Ottosson (1997), pp. 4–5; the article contains further arguments for the risks of using the above mentioned theoretical models, as for example the difficulty in establishing transactions costs ex-ante a reform.

how shifting power relations between members in various political coalitions influence regulatory change. Here the state and various interest groups are of special importance.\textsuperscript{123} Given these arguments, this thesis will argue for a historical-empirical approach, where theory must accommodate itself to make room for the complexities that invariably are part of a specific time period in a specific setting. A model for regime typology to gauge regime change will be presented first, followed by a presentation of the actor agency that is incorporated within model.

**Regime – A Key Concept in Regulatory Analysis**

Before discussing a regime typology, the term “regime” itself needs to be defined. Although is a well-established concept in regulatory studies, there has been a lack of a precise definition. Some researchers have defined regime as a combination of norms, rules and procedures for upholding and regularizing behavior, while others have emphasized that it consists of both these abstract structures and existing agencies and authorities that make sure rules are followed and transgressors punished. I will adopt the latter definition, defining regimes as consisting of both the framework of norms, rules and procedures and the actual bodies that carry out education, information and policing based on these rules.\textsuperscript{124}

**Regime Typology**

To be able to gauge regime transitions, the analysis must have access to a nuanced regime typology. Research on self-regulation has suffered from unclear and narrow distinctions\textsuperscript{125}, but some established categories can however be presented. The most common distinction used in research is between self-regulation, co-regulation and state regulation. *Self-regulation* means that both the creation and implementation of rules is run by producers. *Co-regulation* indicates a state that controls rule-making, but delegates the implementation of regulation to private actors. *State regulation* is regulation controlled by the state in all aspects, from rules to policing and review.\textsuperscript{126} This thesis takes the regime classification of Michael Latzer et al. as a starting point for constructing regime types. Latzer et al. present five ideal types, which are differentiated from each other by varying levels of state influence. The categories are narrow state regulation, broad state regulation, co-regulation, broad self-regulation and narrow self-regulation. They make a distinction between the first two, which are based on the hierarchical principle of the


\textsuperscript{124}Krasner (1983), pp. 3–5.


state, and the last three, which are described as *alternatives to state regulation*. Although this study will focus on self-regulatory regimes, the others deserve mention, as particularly co-regulation can, unless distinctions are clear, be mistaken for self-regulation. While both broad and narrow state regulations define regulation as a sovereign task, co-regulation is run by institutions headed by private actors that lack sovereign tasks. However, policing is done on an explicit unilateral legal basis, with decisive state control through a review of structure, transparency and goals. The dominating influence of the state disqualifies the regime from being classified as self-regulation. Self-regulation is instead defined as a regime where “[n]o statutory regulations govern the activities of self-regulatory institutions.” Still, the authors assert that “there might be some minor state involvement” in self-regulation, therefore suggesting two categories – *broad* and *narrow self-regulation*. Self-regulation in the broad sense “implies a minor state involvement, e.g. in the form of personnel or financial contributions or bilateral contracts” while “self-regulation in the narrow sense includes no state involvement. It is a purely private arrangement with the aim of achieving common regulatory goals.”

Regarding the use of variables for identifying self-regulation regimes, this thesis will use a different approach than Latzer et al. While their focus on the level of state participation to define a regime will be incorporated into my model, this study aims to use an additional four variables to differentiate the three alternative regimes from each other. These variables have been emphasized as important by the literature on self-regulation, but they have not previously been brought together in this way to shape a regime typology. Furthermore, the variables are of two kinds: those that are **decisive** for defining a regime and those that are not necessary but **expected** to accompany it, the so-called ideal value for that specific regime type variable. The latter may thus appear in other regimes, but by doing so they could indicate internal tensions and regime instability.

The five variables consist of the regime attributes of rule control, participation, interests and rights, key task and transparency. Of these, rule control and participation are defined as decisive variables for regime classification, as power over rules and participation allows control over the implementation of interests and rights, key task and transparency, in turn affecting the values of these three variables which are linked to the actual running of the regime.

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127 Latzer et al. (2003), p. 135.
130 To be fair, both Latzer et al. (2006) and Ginosar (2013) propose a number of variables to differentiate between various regimes, but their models either contain too many variables or – as in the case of Ginosaur – limit themselves to co-regulation and are therefore not suitable for this study.
Rule control denotes which stakeholder has a crucial influence over a regime’s rules. In this model, rule control can be held either by insiders or outsiders. This is a decisive variable, as self-regulation always means that insiders have rule control; otherwise the regime would by default be of a co-regulatory or state regulatory type, with the state assuming the control of rules. The value of this variable is thus crucial for separating self-regulation from co-regulation and state regulation. That rule control is important for classifying alternative types of regulation is implied for example by Latzer et al., Julia Black, Boddewyn, David A. Garvin and Ogus.131

Participation denotes what type of actors takes part in running the regime and can in these three regimes either consist of insiders only or insiders and outsiders. Boddewyn states that outsider participation in advertising self-regulation is controversial, as it on the one hand awards these stakeholders a deserved influence and thus makes the regime more legitimate, while on the other hand it can be argued that their inclusion “violates the very principle of self-regulation, and thereby undermines the acceptance of self-imposed rules...by industry members”132. Besides Boddewyn, participation is also stated as an important regime variable by for example Latzer et al., Baggott, Black and Prosser, although they use somewhat different regime concepts. Contrary to Latzer et al., who only refer to the state when dealing with outsider participation, this thesis includes all non-insider actors as potential outsiders.133 In this model, participation is a decisive variable whose value is used to distinguish the two modes of self-regulation – narrow and broad – from each other, as only insiders make up a narrow regime while a broad one also incorporates outsiders. Interests and rights describe in what way the regime protects those of various stakeholders, and can include those of insiders only or those of insiders and outsiders. This variable is always present in discussions on alternative regulations, and criticism of self-regulation often raises the supposed inability of self-regulation to protect the interests and rights of less powerful insiders or less organized outsiders, as for example brought up by Garvin, Baggott, Herbert Rotfeld and Walter Mattli and Büthe.134

Key task indicates whether the main preoccupation of the regime is education and information or policing. Although almost all alternative regimes contain both elements, as for example discussed by Pricilla A. LaBarbera135, the emphasis of one over the other is used mainly to differentiate between narrow and broad regulation, with the former emphasizing education and information

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and the latter policing. Policing will here be defined as encompassing both the rules of regulation, as well as the implementation of rules by monitoring the market and the case processing taking place in self-regulatory agencies. In the typology used in this thesis, the introduction of extensive pro-active policing will be a necessary regime component for the variable of key task to equal policing. The literature includes opposing positions on what value of key task should be considered central, with Scott G. Dacko and Martin Hart and Xuemei Bian et al. putting particular emphasis on policing as essential in a well-functioning regime, while Boddewyn instead points out that education and information must be the focus of self-regulation. To Boddewyn, it is not necessary to catch all offenders to be an efficient regime, as self-regulation does not have the duty or the resources to shoulder the regulatory responsibilities of the state. Effectiveness is instead realized by focusing on cases that can be used as illustrative examples in educational efforts or as precedent in shaping rules.  

Transparency gauges to what degree the workings of the regime are visible for both insiders and outsiders, but particularly the latter. The value of this variable can in this model be of low, medium or high levels. This variable has been highlighted by for example Tony Porter and Karsten Ronit, who state that self-regulation usually has low levels of transparency as a way to safeguard regime unity with respect to outsiders and allow insiders to deal with internal problems privately, but that it can increase, especially if the regime is subjected to outside pressure, and that some transparency is necessary if a regime wants to survive.

A schematic overview of all key regimes and their characteristics is available in Appendix B, but in this section the main focus will be on narrow and broad self-regulation as well as co-regulation. State regulation will be given a more cursory presentation at the end, mainly to contrast its properties with those of alternative forms of regulation.

The three alternative types of regulation regimes are presented in figure 1.2. In narrow self-regulation only producers participate. The regime is consequently expected to create a clandestine regulatory environment that does not encourage transparency and result in low levels of it, as focus is on producer relations for which outsiders are regarded as having no general understanding or interest of. The regime will mainly stand up for the rights and interests of producers. The regime’s insider principals regard self-regulation as a pre-emptive force fostering a collective ethic among producers that minimizes transgressions, allowing for a minimum of state interference in

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market freedom. Policing is thus in this regime expected to be subordinated by

The other type of self-regulation regime, broad self-regulation, crucially
includes the participation of outside stakeholders in a minor fashion, and
formally to a large degree also cares for their interests, although insiders still
have control over rules and regime activities. Through admitting outsiders,
the regime allows for medium levels of transparency. By letting them in, the
regime also takes on the responsibility to protect the interests and rights of both
insiders and outsiders and sees the participation of outsiders as central for this
to succeed. While not negating the importance of education and information,
this constellation puts a stronger emphasis on the policing function as key
task, as a central reason for outside participation often is a desire to improve

Co-regulation has the state as the dominant stakeholder, although it is com-
prised of both insiders and outsiders. This is due to the state setting rules and
performing oversight, while business alone or in cooperation with outsiders
carry out policing. Insiders therefore do not shape the rules. Thus it is not
the value of the participation variable, which in this regime equals that of
broad self-regulation, but that of rule control that is crucial in defining a co-
regulatory regime. In co-regulation, the strong position of the state should
support high levels of transparency, upholding the rights of all stakeholders
and have policing as its key task. Finally, state regulation is here characterized
by the state as the dominant stakeholder and sole participant, shaping and

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{typology_alternative_regimes.png}
\caption{Typology of alternative regimes.}
\end{figure}
policing rules; thus the value of the participation variable becomes decisive for regime classification. This regime is expected to have high levels of transparency, uphold the rights of all stakeholders and have policing as a key task.\textsuperscript{140}

As evident by these regime types, participation and rule control are fundamental and decisive variables in self-regulatory regimes. Still, previous research also indicates that the key task variable is central, with the value of policing being particularly important. Dacko and Hart state that the regulatory effect of regime transition is best studied by focusing on code making, clearance procedures and complaint handling. In relation to the variables in the just presented model of regime typology, code making is closely linked to rule control, while clearance procedures and complaint handling are essential aspects of the key task of policing. In an article that surveys research on advertising self-regulation since 1980, Bian et al. suggest new ways to study regulatory efficiency by focusing on clearance procedures. Thus policing is also expected to be particularly essential to inside stakeholders when deciding upon regulatory strategies, which is hardly surprising as it is closely connected to the actual market performance of the regime.\textsuperscript{141}

A vital aspect of regime transition is the possibility that a change from narrow to broad self-regulation regime could cause a continued transition to co-regulation or even state regulation and that insiders would want to stop such a trajectory. While the co-regulatory viewpoint often stresses the overlap between the interests of inside stakeholders and the state\textsuperscript{142}, the proponents of self-regulation maintain that it must remain under business control\textsuperscript{143}, as too much outside influence will create a regime that does not reflect the business perspective and risks producer defection. As a result, self-regulation in the latter view is mainly a resource for producers, while also serving the public interest to some extent.\textsuperscript{144} Thus insiders are expected to be fearful of regime transition that might lead to a loss of regulatory influence.

Inside Stakeholders’ Regulatory Strategies – Balancing Interests and Risks

The stakeholder tensions discussed above put focus on the significance of understanding insider agency and how regulatory strategy is connected to interests. In this section, therefore, a theoretical model will be offered that defines various strategies by taking these factors into account. As stated, regime transition will be studied through the regulatory strategies of inside

\textsuperscript{141} Dacko and Hart (2005), pp. 5–7; Bian et al. (2011).
\textsuperscript{142} Streeck and Schmitter (1985), p. 129.
\textsuperscript{143} Neelankavil and Stridsberg (1980), p. 3; Boddewyn (1992), pp. 5–7, 12–16.
stakeholders. I will begin by clarifying specific interests that underlie producers’ preferences for self-regulation and how a number of strategies can be deduced from them.

As discussed earlier, producers’ core interests make them strive for market regulation that promotes profitability by managing competition, either by backing or constraining the latter; i.e. regulation can support either competitiveness or cartels. To achieve these objectives, producers strive to control or influence regulation.145 Now, narrowing down the scope to the specific interests that producers have in self-regulation, an essential incentive is that it awards insiders decisive regulatory control, opening up the possibility of creating regulations that maximize profitability conditions. Still, a self-regulation regime must contend with the possibility that outsiders’ interests do not always equal those of insiders and at times risk being in opposition to those of business. For example, consumer rights and the competitive policies of the state might clash with insiders’ views on what makes the market profitable for them.146 A major interest of insiders is that a self-regulation regime should pre-empt loss of consumer confidence and unwanted statutory regulations, which could threaten profitability. With some of the literature emphasizing advertising self-regulation as primarily aimed at defusing pressure from outsiders, there will most likely be demands to accommodate consumer rights within self-regulation to stabilize the regime and increase legitimacy. Still, as stated, a self-regulation regime that is too considerate of outsiders and develops into a regime that producers regard as more of a hindrance than facilitator might risk defection. An important task of a self-regulation regime is thus to balance its actions to garner legitimacy with both outsiders and insiders.147

Regulatory strategies are thus expected to take into consideration both the desired effects and the vulnerability to outside pressure that a particular strategy invites. While control over rules is essential for inside stakeholders, and they will strive to gain or protect this power, the greater the insider influence over regulation is, the higher the exposure of the regime to outsider demands if something goes wrong. Thus there should be a tradeoff between increased insider control of regulations to create desired levels of profitability and vulnerability for a loss of consumer confidence and/or state intervention. Having presented three modes of alternative regulation, this thesis offers that insiders can gain different levels of regulatory control that correspond to varying risks of a loss of consumer confidence and state intervention. This in turn allows us to formulate three general regulatory strategies available

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to them: a narrow regulatory strategy, a broad regulatory strategy and a co-regulatory strategy (figure 1.3).

The narrow regulatory strategy aims for high levels of regulatory control, the broad regulatory strategy for more moderate levels and the co-regulatory strategy for low levels. The narrow regulatory strategy strives for a narrow self-regulation regime, where producer principals have the power to shape and police rules in an environment with little or no state regulation. This awards inside stakeholders the highest level of regulatory control and the desired conditions for profitability. Such a strategy will be a first choice if there is little outside pressure on the regime, and consequently it is primarily shaped by insider demands. However, a narrow regime is very vulnerable for loss of consumer confidence and state intervention if outside pressure should increase, as problems caused by the regime in relation to outside stakeholders will be blamed wholeheartedly on its principals, who are all producers. For example, the propensity to downplay policing in a narrow regime will, if it becomes known that a large number of offences go unpunished, risk accusations of the regime harboring producer bias and an unwillingness to protect consumer rights, risking consumer confidence in advertising and putting pressure on

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148 The importance of risk in the choice of insider strategy is stressed by Ashby, Chuah and Hoffman in their analysis of UK advertising self-regulation, where the choice of regulatory strategies is tied to the perceived risk of state intervention, and strategic action is based on the premise that it will lower this risk. Ashby, Chuah and Hoffman (2004), pp. 99–100
the state to step in. To avoid such a situation, insiders may instead opt for a broad regulatory strategy. This involves some loss of regulatory power and less desired conditions for profitability, as it lets in outside stakeholders into the regime. Still, insiders hope that this will increase consumer confidence and lessen their vulnerability to state intervention, as the presence of outsiders should limit accusations of regulatory bias, thus safeguarding long-term profitability. The regime still entails a fairly substantial level of regulatory control, as non-business actors do not dominate or control rule making. This strategy thus aims for broad self-regulation. Inviting consumer representatives or increasing policing would be consistent with such a strategy. However, there is still a possibility of state intervention, as the state lacks the regulatory control it has in co- or state regulation. Should outside pressure on the regime refuse to disappear despite a broad strategy or be so severe that a narrow regime definitely risks overall consumer confidence and being replaced by a state regime, an option would be choosing the co-regulatory strategy. Such a move would mean that inside stakeholders give up the claim to shape rules, but try to retain influence over their implementation. It would offer them some discretion over actual policing, but leave the state power over rules and activity review. In the case of advertising, this occurred after the implementation of the state regime in 1971, as publishing clearance procedures instituted during the last days of the self-regulation regime continued after the new laws took effect. The co-regulatory strategy thus further lowers the risk of loss of consumer confidence and state intervention, but also formally reduces insiders’ desired conditions for profitability and regulatory control even further than a broad regime.149

Lastly, this actor agency model for insiders must be set in relation to the so-called exposure hypothesis presented previously, i.e. the argument that inside stakeholder groups with direct interests in advertising – advertisers, ad agencies and newspaper publishers – would have different preferences regarding strategy. Insiders representing the advertising agencies would most likely support a narrow regulatory strategy, as they are not the primary target of complaints to the regulatory agencies or of bad will, and they would also object to a broad regulatory strategy with outsider participation and stronger policing, as this would draw interest to them as subjects of regulation and threaten their creative freedom, which is closely linked to the perception of desired conditions for profitability. Likewise, advertisers and media carriers would be more favorable to stricter and more encompassing regulations, as they lead a bigger chance of falling under public scrutiny and also receive the brunt of complaints and badwill that follow on complaints. For them, the high level of desired conditions for profitability that a successful narrow strategy entails must be weighed against the increased risk this means of falling

149 There is always the choice of abandoning alternative regulations altogether and lobbying for state regulation. This strategy is exogenous to the model, as it does not aim for an alternative mode of regulation.
profitability and state intervention if something goes wrong. They would therefore be more open to supporting broad or even co-regulatory strategies. These differences in exposure to regulation and bad will could therefore set the stage for insider conflicts over the suitability of choosing a particularly strategy, with ad agencies opposing broad strategies and co-regulatory moves by advertisers and media carriers.

In conclusion, to be able to gauge the nuances of regime transition within self-regulation, this thesis offers a regime typology that combines an established categorization of regime types with a select number of defining variables whose value/appearance ideally is connected to a specific type of alternative regulation. Further on, the thesis also proposes a theoretical framework for analyzing stakeholder agency connected to the regime typology, where three strategic choices are offered in trying to influence the regime, and where each choice aims at supporting or realizing a specific regime ideal or at least a value of a regime variable that is associated with a specific regime. Finally, the exposure hypothesis suggests varying degrees of support for stricter regulations among ad agencies, advertisers and media carriers due to different levels of exposure to regulation and badwill and the potential effects such exposure might have on profitability and the risk of state intervention.

Sources
The policy process of self-regulation is usually obscured due the fact that the principals and agencies of self-regulation do not answer to the same rules of transparency as the state. Access to internal records is usually restricted or not possible due to a lack of documentation, and this has most likely been a major reason that previous research lacks a thorough analysis of the policy process of self-regulation.150 With internal documents from the regulatory agencies and inside stakeholders made available, that obstacle can largely be circumvented in this study. Primary sources are from self-regulatory agencies and those inside stakeholders that took an active part in reform work. They consist of annual reports, committee minutes and reports, minutes from board meetings and annual meetings, articles in the press, policy programs, yearly reports, official state investigative committees (Statens Offentliga Utredningar, SOU) they participated in, and their formal comments on statutes and legal documents. Much of this material has remained with the business organizations until the present and not been used in research. Sources pertaining to non-business actors will also be assessed, mainly to create a context. Included are committee reports, government bills, parliamentary bills, press articles, books, etc.

Still, there are possible weaknesses with the chosen approach. When studying the period up until the merger of the two self-regulation regimes in 1957, that is 1950–1956, the sources from many of the principals tied to the smaller regime have revealed limited records regarding the self-regulation of advertising, while there is quite a lot of material from the sole principal of the larger regime, the Advertising Federation and its successor the Sales and Advertising Federation. This has the potential of elevating the importance of one regime over another with regard to regime transition. Nevertheless, some of the sources from the smaller regime’s principals that do exist are very useful in the research context, which compensates for the lack of volume. Also a number of the principals of the smaller regime were – although at this time not as formal members of the organization – represented on the board of the Advertising Federation and its 1952 successor, the Sales and Advertising Federation, both peak marketing organizations in business. Some of their views on the merger process thus come through in material from these organizations, as well as in sources documenting the merger process. The sources used will therefore still reflect the regime transition during the first period fairly well. Another potential weakness lies in the choice of studying inside stakeholders that actively sought to influence regulations and basing this choice on empirical evidence of such activity. This of course cannot completely rule out that other inside stakeholders did not leave a mark in the proceedings of the regulatory agencies and acted “in the background”. But as the content of many of these sources were not to be made public, it is fair to assume that such involvement would have left traces in the documentation. There is also a lack of internal sources from parts of the 1950s concerning the central advertising industry organization The Association of Advertising Agencies. However, the representation of this organization on the boards of the aforementioned peak marketing organizations will alleviate this absence. It should also be noted that the production and distribution affiliated organizations tied to the smaller regime overall present a more meager empirical material covering the self-regulation of advertising. This is not so surprising, as they had several other tasks to cover that did not deal with marketing or advertising self-regulation, while the advertising affiliated organizations behind the larger regime saw advertising and its regulation as key policy issues. However, there are a number of interesting sources from some of these organizations that cover adjacent areas such as marketing law and consumer policies, which is useful when analyzing their strategies in self-regulation.

Further, the sources from various business organizations differ in detail depending on the organization and the time frame. While minutes from the 1950s and early 1960s sometimes contain transcribed discussions from the committees and boards, those from the second half of the 1960s and early 1970s are sparser. Here the analysis has to rely more on internal self-regulatory agency reports and comments left on these by the regime’s principals at annual meetings of said principals. This variation in source quality and source type
naturally influences the exposition of empirical material, thereby explaining the somewhat more detailed manner in tracing the regulatory process inside business organizations through analysis of their internal board and committee meetings in the first two chapters, and the larger focus on internal reports emanating from the main self-regulatory agency the Council on Business Practice during the second half of the 1960s and early 1970s. I have also to a large extent been forced to supplement meager existing literature with original research to fashion proper background contexts. This is especially so when covering the Swedish public debate on advertising and the development of state policies affecting marketing in chapter two. It should also be noted that all quotations are translations from the original Swedish, unless stated otherwise.

The Use of Names

It should be noted that some of the titles for a recurring type of primary source such as board minutes, annual reports and formal comments on official state investigative committee reports have in the footnotes been shortened according to a standardized documentary procedure over time, thus deviating somewhat from the actual title of a document, which tends to vary quite a lot and at times be long and cumbersome. This has been done to facilitate comprehension and economize on space while making sure that the modified title used in the reference is easy to pair with the actual title in the source. Some clarification should be made regarding the names of key insider associations analyzed herein, and the use of their Swedish names, which can be found mainly in the footnotes when referencing sources or archives. Some of these business organizations used informal names as well as formal names, changed their names or merged with other associations during the studied period. The Advertising Federation was so named at its inception in 1935 and then changed to the Sales and Advertising Federation in 1952, and again in 1967 to the Marketing Federation, which it retained until the end of the studied time period. The thesis will consequently use different names for this organization depending on the time period analyzed.\textsuperscript{151} The Swedish name of the Advertisers’ Association was during the time of this study, as already mentioned, Svenska Annonsörers Förening, but sources also use the informal Swedish name Annonsörföreningen, and today the organization is renamed Sveriges Annonsörer. The Newspaper Publishers’ Association goes under the formal Swedish name Svenska Tidningsutgivareföreningen, but is often in sources referred to simply as Tidningsutgivarna or by its acronym TU.\textsuperscript{152}


\textsuperscript{152}Nationalencyklopedin (2013).
number of organizations also represented the advertising agencies. Of these, focus will be on the Association of Advertisement Agencies and the Federation of Advertisement Agencies, the latter an organization that was formed in 1968 as a result of the merger between the former and other smaller ad agency associations. The smaller ad agency organizations will be covered briefly in chapter six in conjunction with events leading up to the merger in 1968. The current successor to these organizations is Sveriges Kommunikationsbyråer. To get a better view of the various insider organizations, appendix C provides more detailed data on the most prominent ones, as well as the name changes and mergers that took place between some of them.

The use of organizations’ English names has as far as possible been based on contemporary sources, i.e. these names do not necessarily correspond to the English names used today. In addition, although most of the organizations have the name “Swedish” preceding the descriptive part of their names, this will be dropped once a first presentation of the organization’s name has been made, i.e. the Swedish Retail Federation will after an initial full name presentation be referred to as “the Retail Federation”. Regarding the use of abbreviations, these are not based on the English names of various organizations and entities, but consist of the Swedish ones. To improve readability, the use of acronyms will be restricted to organizations that are well-known in Swedish society as well as in social studies research by their abbreviations, and mainly concern the peak Swedish blue collar trade union the Swedish Trade Union Confederation (Landsorganisationen i Sverige, LO) in which the Swedish acronym for the organization, LO, will be used. A list of acronyms and their full meaning in both English and Swedish is listed in the references section.

As the thesis invariably will have to contend with a large number of organizations and various regulatory bodies, the most frequent names will alternate between the formal name in English and sometimes an informal name. For example, the Swedish Council on Advertising Practice and its successor the Council on Business Practice, key agencies in the self-regulatory regime, will initially when introduced in a section usually be defined by their full name, but can in adjacent sentences be referred to as “the council”, “the business council”, “the advertising council”, “the agency” or “the self-regulatory agency”. The same goes for the organizations representing the ad agencies, the advertisers and the newspaper publishers. These will either be denoted by their formal name or by an informal name – “the organization of advertisers/media carriers/ad agencies”.

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Outline of thesis

The study will proceed as follows: the second and third chapters supply background and context for the empirical analysis. The second chapter contains an exposition of contemporary contexts central to the regime. Within a market context, it will first cover how changes in market structure due to the rise of the Affluent Society in postwar Sweden affected advertising, and how these changes together with the public context of criticism of advertising exerted pressure on the policing capacity of self-regulation. Then, outside pressure will be analyzed within a regulatory context by looking at the development of consumer and competitive state policies and their effect on advertising and marketing. The third chapter recaps the development of Swedish advertising self-regulation from its inception during the interwar years until the beginning of the empirical analysis.

The fourth, fifth, sixth and seventh chapters are empirical studies of the development of Swedish self-regulation of advertising, emphasizing the strategies business principals sought to use to influence regulatory development. Each of these four chapters covers a specific phase of regulatory development. The eighth chapter contains a concluding discussion.
CHAPTER TWO
Advertising and Postwar Sweden

The Market Context

The Affluent Society – A Prerequisite for Modern Advertising

During the 1950s and 1960s Sweden as well as the rest of the West experienced powerful and sustained economic growth. This was due to the combined effects of industrialized mass production and, after decades of war and economic and social instability, the relatively stable peace of the Cold War. The austerity of past years now gave way to “The Affluent Society”. Advances in technical know-how aided product innovation, creating new market segments. Efficiency and productivity rose due to peaceful labor relations, based on a tradeoff of modest wage increases in return for secure employment and rising welfare expenditure. Peacetime meant that international trade resumed and grew, thanks to a removal of restrictions. Pro-active state policies guided by Keynesian ideas of stimulating demand helped kick-start war torn economies and played an important part in underpinning the growth of the economy and consumption. It also contributed to better nutrition and housing, supporting large population increases.¹

With the rise of industry followed an expanding service sector and a shrinking agricultural sector, creating labor demand in urban areas. Swedes now migrated from the countryside to cities, and streams of immigrant workers also arrived from other European countries to fill the needs of the labor market. Of a total population of 6 million in 1935, urban population had by 1965 increased by 2.2 million, while that in the countryside had decreased by about 2 million. This supported a consumption based on urban lifestyles.²

The economic growth of the postwar years meant substantially increased wages, which were divided among a wider section of the populace, creating a sizeable group of mid-income workers, replacing the previous large segment of low-income workers. With such a spreading of wealth and steady economic

growth, private consumption increased by 1.8 percent yearly during the 1950s and by 3.0 percent yearly through the 1960s.\textsuperscript{3}

In the 1950s, bigger market actors in distribution appeared, leading to increased cooperation between producers, wholesalers and retailers. This emphasis on economies of scale and streamlined distribution systems reflected a general concentration of Swedish big business.\textsuperscript{4} During 1960–65, 7,000 grocery stores vanished, while supermarkets spread rapidly across the land, increasing from 200 in 1950 to 5,500 in 1960. This development increasingly put pressure on the small retail businesses that until then had dominated the market. With consumers strolling freely among a multitude of products they were unaccustomed to, brand advertising became important.\textsuperscript{5} This change was reflected in advertised goods, as total advertising volume grew. The share of non-brand food advertising shrank, while that of new brand products rose.\textsuperscript{6}

The new modes of consumption depended on innovative products such as refrigerators, washing machines and cars to store, clean and transport consumer goods. Consumers got used to finding new products at affordable prices, and broken and worn items were therefore replaced instead of mended, which caused criticism from consumer activists as wasteful behavior.\textsuperscript{7} By the end of the 1960s, half of the products offered on the consumer market had not existed before WWII.\textsuperscript{8}

Advertising – Growth and New Concepts

The advent of the Affluent Society had a huge effect on advertising. It exhibited a robust market growth in Sweden during the postwar years. Surveys showed that advertising intensity rose particularly in companies that were part of oligopoly brand markets, indicating price competition was ineffective. On the other hand, not only brand proliferation drove the process, as the introduction of competitive policies in 1953–56 prohibiting resale price maintenance and collusive tendering both allowed and pressured producers to use advertising as a competitive means.\textsuperscript{9} The deregulation also shifted advertising’s focus increasingly from manufacturers to distributors, as retail now was allowed much more aggressive price competition. This had a drastic effect on media carriers, as a third of the daily press newspapers folded between 1950–1970.


\textsuperscript{8} SAP-LO-gruppen i prisfrågor (Skoglundgruppen) (1968), p. 4.

largely due to leading local papers grabbing the lion’s share of this expanding market, leaving smaller competitors no choice but to shut down.\textsuperscript{10}

Taking inflation into account, total real advertising costs rose steadily during the first two postwar decades and nearly tripled between 1950 and 1970, (see figure 2.1). This growth was also mirrored in the advertising agency sector. In Sweden, the majority of advertising was to be found in the press. As most press was local or regional, advertisers for national brands as well as media carriers needed middlemen to help with the dissemination of advertisements. Here the Swedish ad agencies early on established themselves in this role.\textsuperscript{11}

Initially there was a trend of market concentration centered on a smaller group of larger agencies, the so-called “authorized” ad agencies. Authorization refers to the fact that the Newspaper Publishers Association gave these ad agencies a monopoly on their advertising, letting them both procure and produce advertisements, charging a commission fee from newspapers every time an advertisement was published. The lion’s share of ad agency income came from commissions, restricting competition to service instead of price. Thanks to the cartel, the authorized agencies acquired a dominating position

\textsuperscript{10} Gustafsson and Rydén (2001), p. 89.

\textsuperscript{11} Jonsson (1982), pp. 116–118.
on the market well into the end of the 1960s, as advertising was banned from TV and radio. However, the cartel was the subject of probes by the state in the 1950s due to new competitive regulations, and this together with pressure from the advertisers led to its gradual liberalization from the late 1950s until 1965, when crucial aspects of it were abolished after demands from the anti-trust ombudsman. This opened up the market for price competition among ad agencies as revenues shifted from commissions to fees for creative work, making it harder for the large cartel-based ad agencies to be profitable and propelling smaller “creative agencies” to the forefront. The cartel is discussed in more detail in chapter six.12

There are various surveys on the development of the ad agencies, all of which indicate a substantial growth. The aggregated invoicing of all authorized ad agencies rose sharply from 1945 to 1970, increasing almost a tenfold even after being adjusted for inflation.13 Of this income, 85–90 percent came from press advertisements, indicating the prominence of the cartel. Other figures for the authorized agencies support the trend of strong growth. However, it should also be noted that the number of agencies also grew at this time, with cartel-based agencies increasing from 16 in 1950 to 53 in 1970. Profit expansion was thus possibly somewhat offset by increased competition. Still, a survey shows that the 15 largest ad agencies, all being authorized partners in the cartel, accounted for 70 percent of the ad agencies’ total turnover, while also and doubling their own turnover between 1953 and 1960.14

But agencies not part of the cartel-based group of large agencies were also reaping the benefits of strong economic growth. So-called advertising consultants, medium sized or smaller ad agencies that often worked for the cartel-based agencies, also displayed good figures. The number of individual ad agencies in this category also grew from 39 in 1966 to 60 in 1970. Also, an additional 300–400 non-authorized agency existed in 1970 whose turnover is unknown. An effect of this development was an increasing number of advertising professionals in the business. During the postwar period the number of employees rose by an average of 6 percent yearly during 1950–1965. By 1965, 6,568 professionals worked in the industry.15

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New Concepts of Advertising

The growth of advertising in a market characterized by product innovation indicates the possibility of marketing innovation. This was indeed the case. As markets and consumer habits changed, so did marketing and advertising. Schwarzkopf has proposed that a number of different advertising concepts appeared during the modern evolution of advertising, gradually making it more complex. With the coming of mass markets during the late 1800s, marketers assumed that consumers had similar needs, which led to the so-called mass marketing era, during roughly the first half of the 20th century. New advertising concepts based on economies of scale appeared, such as advertising as an aid in mass distribution, advertising as a service instead of a marketing cost, and advertising as a form of propaganda. During the 1930s, the concept of branding management started to be used. It was based on the idea that strong and enduring brands were generated by creating advertisement that was grounded more on a consumer’s associative reactions to products than on their response to technical specifications and performance data.16

The advertising concept of the strategic manipulation of symbols was introduced in the 1950s. This was a refined brand management concept built on the idea that psychological insights into consumers could be used for tailoring advertisements that would engage both emotional and functional needs. Inspired by psychoanalysis and the use of surveys in mapping buyers’ preferences, motivational research used in-depth interviews to uncover the fears and desires that drove consumer choice. The much discussed disguised messages of subliminal advertising were based on a similar premise – that the subconscious was the key to winning the heart of the consumer. Kenth Hermansson has shown that Swedish marketers exhibited interest in using these psychological techniques and discussed them avidly in the trade press. However, belief in these methods had faded by the end of the 1960s, and marketing instead increasingly embraced communication theories that proposed that the effect of advertising was reliant on other social actors discussing ad content, the so-called two-step flow hypothesis, or that an actual purchase was dependent on a preceding number of steps segueing into one another, i.e. the “hierarchy of effects” theory. While previous theories had explained how advertising facilitated consumer action, these discussed the opposite: why it often failed, and how success was linked to outside factors such as social networks.17

Another major shift in marketing in the beginning of the 1960s was the coming of advanced brand management and market segmentation. Until then, manufacturers had dominated markets, but with higher levels of income among more widespread groups, consumer choice started to diversify. Advertising

consequently began to be increasingly profiled towards selected target groups. This change manifested itself in advertising, with a blending of the concepts of mass communication, brand management and the strategic manipulation of symbols. Advertising became more complex and increasingly associated brands with lifestyle values. Schwarzkopf claims that the 1960s saw the arrival of another concept – advertising as noticeable and creative. Now the aim was not primarily to persuade a mass market or to satisfy the more or less perceptible needs of the consumer, but to be seen among other brands in an increasingly competitive brand market. This development ties in with the simultaneous rise of communication theories which pointed to the relative failure of advertising and the difficulty in actually making the consumer go through with a purchase. The highly competitive environment thus amplified pressure on advertising to come up with solutions and highlighted the creative talent of the ad agencies.18

During the first two postwar decades, there was also an increased use of advertising techniques that until then had been avoided, owing to being regarded as ethically dubious. One such technique was comparative advertising, which producers disliked due to its smear-like character and potential for badwill spillover to all producers of a product used in such advertising. Still, with both tougher competition and increasing prospects of profit coming with affluence, it was a tempting solution, and research on the history of the self-regulation of advertising in the US has shown that comparative advertising became more widespread in competitive markets such as car sales after the war, leading to more or less failed attempts at self-regulation to forbid or stop the practice. Björklund gives a similar account and states that while comparative advertising in Sweden had been considered a clear violation of self-regulation during the interwar years, it became more and more widespread after the war. The international Code of Standards of Advertising Practice at the time advised against using comparative advertising, and the Council on Business Practice agency stipulated in 1959 that although comparisons were allowed given that the competitor was not identified and the facts correct, the council did not think direct comparisons between two brands could live up to these standards and counseled against it.19

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The Public Context

Changes in the Public Perception of Advertising – Debates and Criticism

The connection between regime development and public pressure on advertising due to criticism and threats of state intervention has been discussed by research on advertising self-regulation in the US and UK. There such mechanisms contributed to stricter regimes in the early 1960s and early 1970s. It is therefore important to analyze if similar forces were present during regime transitions in Sweden.

The Swedish Postwar Debate on Advertising – the Critic’s Domain

The Swedish debate was part of a larger international trend of criticism of advertising and of the Affluent Society itself. Some of the most important critics within the international context were Vance Packard, John Kenneth Galbraith and Herbert Marcuse, whose works were quickly translated into Swedish. Criticism was delivered in various forms: articles, polemical books, novels and films, and by many different kinds of actors: state officials, political parties, trade unions, cooperative movements, academics, consumer activists, journalists, public intellectuals and artists. The Swedish debate on advertising was particularly intense at the end of the 1950s and early 1960s at the end of the 1960s and early 1970s.

The criticism arising during the first wave of debates was dominated by a consumer market context, while the second had a more pronounced streak of social criticism. A key influence during the first wave was the journalist and author Vance Packard. In his 1957 book *The Hidden Persuaders*, he attacked motivational research and subliminal advertising for compromising consumers’ rights. He accused the advertising industry of using such persuasive psychological techniques to take control over consumers’ preferences and wants. Swedish critics followed suit and accused advertising of being a manipulative and coercive tool, making possible brand competition and brand loyalty and thus causing barriers of entry and price rigidity – this to the detriment of both consumers and competitors. Social criticism was limited

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21 Packard (1958); Galbraith (1959); Galbraith (1967b); Marcuse (1968).
24 Funke (2011b), pp. 1–2, 14–27.
and lacked a wider impact, although works by authors Sven Lindqvist and Rune Olausson and film maker Bo Widerberg gave expression to it.25

Activists associated with consumer research or consumer journalism such as Willy Maria Lundberg, Carin Boalt and Brita Åkerman accused advertising of being shallow and lacking in the information that housewives were dependent on to make the right purchases for the household. Less advertising and more state-supported consumer information was needed to counter the negative effects of advertising, they maintained.26 Public criticism of advertising also emanated early on from interest groups and political parties. In 1955, the peak blue collar trade union the LO and the Cooperative Union and Wholesale Society jointly published The Consumer and Advertising (Konsumenten och Reklamen). In the booklet, it was claimed that advertising often was manipulative and risked draining economic resources by steering consumption into unnecessary and superfluous goods. It therefore had to become more informative and less persuasive. The booklet however refrained from social criticism. This was motivated by the fact that ideological or ethical views tended to dominate the discussion. Views that advertising led to excessive materialism and that advertising in itself was deceptive and ugly were given as examples of highly subjective ideas that the booklet did not wish to become involved with. The booklet emphasized that it was only possible to create a consensus on the most basic level regarding the regulation of advertising, for example making sure that truly deceptive advertising was forbidden or that advertising in scenic spots be prevented.27

The debate initiated in 1957 by public intellectual critic Sven Lindqvist’s book Advertising is lethal (Reklamen är livsfarlig) is often singled out as particularly important, as it was one of the first examples of social criticism and widely publicized. Besides attacking the manipulative nature of advertising, as manifested in motivational research and subliminal advertising, he also accused it of supporting a society obsessed with hedonistic consumption. This criticism was an exception to the general trend, but acted as inspiration to the critics of the second wave. Another well-publicized debate occurred during 1962–63, initiated by articles in the major daily Dagens Nyheter and a book by journalist Åke Ortmark, Betrayal of the Consumers (Sveket mot konsumenterna). Like Lindqvist, Ortmark attacked motivational research and subliminal advertising as examples of consumer manipulation by unscrupulous producers, but otherwise refrained from criticizing advertising in a social context.28

25 Lindqvist (1957,2001); Widerberg (1959, 1965); Olausson (1963); Widerberg (1966); Funke (2011b).
26 Lundberg (1953); Björklund (1967), pp. 957, 962–963.
27 LO-KF Kommittén för distributionsfrågor (1955a).
28 Lindqvist (1957, 2001); Dagens Nyheter (1962); Ortmark (1963).
By the mid-1960s, the intensity of criticism increased in a second wave of advertising debates. Critics from the earlier phase such as Lindqvist, Ortmark, Åkerman and Lundberg returned, now with even sharper attacks. An explanation for this intensification can no doubt be found in the fact that advertising, thanks to continued economic growth, had become increasingly ubiquitous since the debates in the previous decade. There was now simply so much of it around – in newspapers, public spaces and shops – that no one could claim that Sweden had not been transformed into an advanced capitalist consumer society. To critics this was proof enough of the Affluent Society having gone astray. Consequently, criticism of advertising moved increasingly to focus on the social context. Sociologist and philosopher Herbert Marcuse’s *One Dimensional Man* became a key influence. He accused capitalist production of manipulating the “true needs” of citizens, putting culture in the service of creating market demand. Advertising functioned as a tool to accomplish this. The result was a society that was slave to the creed of consumption, in effect crowding out solidarity, creativity and individuality. Taking inspiration from this analysis, a group of radical critics gave the second wave a decidedly political character. Among these were leftist intellectuals such as Lars Anell, Joakim Israel, Göran Palm, Lars Söderström, Torbjörn Tennisjö, Göran Therborn and journalists like Ragnar Hedlund. Criticism of advertising was increasingly aligned with a denunciation of capitalism as a destructive and exploitative force that trampled on sound social values and bred inequality. Particularly students sympathizing with the leftist radical movements embraced this perspective. Social criticism even appeared in official state investigative committees, where for example a report commissioned by the Advertising Committee in 1970 essentially declared advertising undemocratic, as it aided an exploitative capitalist system.

Besides Packard and Marcuse, economist John Kenneth Galbraith also had a significant impact on the Swedish debate, and was particularly important for the increasingly critical position of the labor movement. In his *The Affluent Society* and *The New Industrial State*, he claimed that advertising’s manipulative effect caused a concentration of big business and monopolies with barriers of entry and high prices. In a social context, it contributed to an imbalance between private and public spending, premiering the former at the expense of the latter. The state thus had to intervene to offset this imbalance through

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34 Andrén et al. (1970), pp. 135–141.
an active policy that supported public investment in education, infrastructure and social services. These views were apparent as early as in the joint LO-KF booklet discussed above, but by the 1960s the labor movement as a whole started to largely echo Galbraith’s position, whose ideas had the support of key figures such as chief economist of the trade union the LO, Rudolf Meidner, Social Democratic prime minister Tage Erlander and future prime minister and Erlander’s party successor, Olof Palme. Galbraith’s reasoning was evident in the LO’s 1961 industrial policy program and was given a prominent position when the LO and its partner in the labor movement, the Social Democratic Party, together in 1968 argued for a more active state consumer policy in a report from their joint investigative committee on consumer policy formulation, the Skoglund Group (Skoglundgruppen), and in their joint industrial policy programs of 1967 and 1968. The policy positions of these two key organizations on advertising and advertising regulation will be discussed further in the next section of this chapter, covering self-regulation’s wider regulatory context. However, it should be noted that Galbraith’s views was also referred to in criticism by journalists and academics.

The fact that Swedish advertising and consumption by the late 1960s had attained unprecedented levels made even some insiders question if things were quite all right. Literature released by a business-funded think tank admitted that advertising was one area where business deserved critique, citing a survey that indicated that massive distrust of advertising was due to much of it being exaggerated or misleading. Advertising agency executive Fride Antoni wrote that advertising and other forms of mass communication had become too persuasive and prevalent. This led to information overload, he claimed, as citizens hardly had a chance to escape from a constant bombardment of various messages. Nevertheless, it must be emphasized that both existing literature and insider sources clearly indicate that Swedish business generally tried to defend advertising. Business persons often responded to criticism by calling it uninformed of advertising’s necessity in a modern consumer market. Only a fraction of it could be faulted for being persuasive or even misleading – the majority was relevant product information.

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42 Funke (2011a).
positive effects on society, insiders stressed. It subsidized education through media and events, and countless home appliances and other technical products in the household would not have had such a broad and quick market penetration without it.\(^{43}\) By the late 1960s, business insiders also attempted to counter the increasingly ideological condemnation that accompanied advertising criticism. Social criticism of advertising was now refuted on the grounds that it discussed utopian solutions ill-suited for a modern consumer society. The lack of advertising might not be a problem in agrarian, underdeveloped socialist economies, but it would be in the affluent society of the West. Besides, insiders stated that advertising was part of a market solution that was closely linked to liberal democracy – a system of governing they claimed that the majority of Sweden’s citizens supported.\(^{44}\)

Still, with critics setting the agenda, insiders acted in a reactive mode and were largely unsuccessful in countering critique. Many of them complained that the media seemed to favor the critics. Especially the larger daily papers and public service radio and TV were viewed as inimical to advertising. This reaction was particularly evident during the second wave of debates, when vicious attacks on advertising and industry representatives by radical students in a national TV debate program led to insider attempts to create a united business front against advertising criticism. However, this was aborted due to political concerns of angering the labor movement.\(^{45}\) Contacts with ministers of the Social Democratic government also proved useless in getting the government to back business’ advertising efforts\(^{46}\), as powerful finance minister Gunnar Strång declared advertising ought “to be able to advertise itself on its own”.\(^{47}\) The failure of insiders to win the postwar debate on advertising thus increased outside pressure for the reform of self-regulation of advertising.

Market Changes and Advertising Criticism as Reform Pressure – a Survey on Complaints and Self-Regulation Agency Activity

The expansion of advertising, the deregulation of competitive hindrances, the growing oligopoly brand markets and an ad market moving increasingly into retail were all factors that constituted a breeding ground for fair competition related conflicts on the Swedish consumer market. These developments no

\(^{43}\) Björklund (1947); Tamm (1954); Albinsson, Tengelin and Wärneryd (1964).


\(^{46}\) Funke (2004), pp. 32–33, 49, 61.

doubt presented a challenge for self-regulation of advertising. In addition to this, well-publicized advertising debates made their mark, with critics controlling the discussion. To see if these wider economic and social changes possibly had an impact on the development of the regimes of self-regulation, a short exploratory survey will now follow that looks at the regulatory agencies’ capacity to handle complaints. Both a growing market and ensuing consumer criticism of advertising is expected to have generated a growing number of complaints, forcing the self-regulatory agencies to expand their activities. Quantitative and qualitative data on the activity of self-regulatory agencies point to steps being taken to achieve such an expansion. Looking at the number of incoming cases to the main self-regulatory agencies during 1935–1970, a rising trend is apparent during the postwar decades until the dissolution of the Council on Business Practice in 1971. From 1935 until 1947, cases numbered around 10–25 yearly, but by 1949 they more than doubled from the year before, increasing from 23 to 54, and would then show an escalating trend the following two decades, with a record number of 309 complaints in 1969. That the rising number of complaints constituted a problem is indicated by figures of backlog numbers, which show a fluctuation between 60–100 cases yearly during the 1960s (figure 2.2).

Although the inability of the involved parties to finish necessary preparations that would have enabled the council to deliver a verdict explained a majority of backlog cases, some were also the result of large workloads. Although no numbers exist for the backlog of the larger and smaller regimes of self-regulation before the regime merger in 1957, qualitative sources document that the larger regime’s agency, the Council on Advertising Practice, had a backlog in the mid-1950s and that the complexity of some cases made it hard to finish them in an appropriate period of time.

That the merged regime’s main agency, the Council on Business Practice tried to deal with ever increasing workloads during its existence 1957–1971 is in turn supported by the rise in the number of council members as well as in the number of yearly meetings. While the sudden increase in members between 1956 and 1957 can be explained by the merger of the two existing regimes, the continued growth of members after the merger, more than doubling during 1957–1971 from 35 to 86, makes a case for mounting pressure on the capacity of the Council on Business Practice. This conclusion is reinforced by the fact

48 Backlog figures for the period 1950–1956 are unknown, but given the small number of complaints they are not expected to have been significant. Tengelin, S. “Opinionsnämnden för Reklam – organisation och verksamhet”, DSM 5/1956; Svenska Reklamförbundets verksamhetsberättelser 1947–1951; Svenska Reklam- och Försäljningsförbundets verksamhetsberättelser 1952–1956.


50 Although exact data is not available, sources indicate that committee members and chairs in the smaller NOr regime numbered between 6–7 per committee, with possibly one deputy each. Eberstein (1951a), p. 14; Stockholms Handelskammare (1953), pp. 5–6.
that the number of deliberative meetings of the council also doubled between 1957 and 1970, rising from around 15–20 yearly in the late 1950s and early 1960s to around 30-40 as of the mid-1960s. Another indication of the growing needs of self-regulation is a steady rise in the number of principals. The two regimes existing until 1957 had in total seven principals, with one handling the main regime and the other six the smaller one. With the merger


The period covering 1935–1956 denotes incoming complaints to the Swedish Council on Advertising Practice (ON), while the period 1957–1971 denotes incoming complaints to its successor, the Swedish Council on Business Practice (Näringslivets Opinionsnämnd, NOp). No yearly number for the smaller Committees on Business Practice regime (Näringslivets Opinionssnämnder, NOR) are available, but during its time of existence it handled at most around 40 complaints, so the omission of these do not alter the overall trend. PM angående samordning av opinionsnämndsverksamheten, 14 november 1956. SFRF. Sveriges Marknadsförbunds arkiv.
in 1957, the new Council on Business Practice consisted of 15 principals, all of them producers. By 1963, they were 26, including the addition of four consumer representatives, and by 1969 they numbered 28, due to an increase in insider principals.  

Inside stakeholders were mainly responsible for the upsurge in cases at the self-regulatory agencies until the mid-1960s, as producers and their organizations at this point answered for 90 percent of all complainants. As a result, the trend of a growing number of complaints can largely be attributed to an expanding number of fair competition issues. That inside pressure for reform of self-regulation was mounting is also supported by the major institutional transitions that occurred. Besides the 1957 merger, in 1959–1962 the niche agencies for self-regulation in medication, alcoholic beverages and fund raising merged their offices with the Council on Business Practice, while more producer associations as well as more consumer representatives were admitted to the council in 1964. According to Björklund, a major reason these changes came about was to cope with the increasing number of cases. However, the fact that there were around the same share of consumer complaints, about ten percent, as during the interwar years, notwithstanding a growing postwar market, indicates that consumers, despite the first wave of criticism during the late 1950s and early 1960s, for some reason did not make use of the regime. Boddewyn claims the obscurity of the Council on Business Practice among the public contributed to its downfall. However, at the end of the 1960s an increase in consumer complaints is discernible. Throughout the period 1964–1968 the percentage of consumer complaints started to rise to about 20–25 percent and in 1969 experienced a drastic increase, with 50 percent of complaints traced to consumers. This rise coincided with a sharp spike in the overall number of complaints, with 1969 seeing a record increase of over 100 percent. However, incoming complaints dropped in 1970 compared to the previous year, landing at around 80. This was most likely due to the fact that the Council on Business Practice was slated for termination by the end of 1970. When it entered its last year of service, it had a hefty backlog of around 130 complaints left over from 1969 and for this reason did not


receive any new complaints after the first half of 1970. Still, the agency had to continue working the first three months of 1971 to finish all the cases.\textsuperscript{55}

The rise in consumer complaints during the second half of the 1960s corresponds very well with the second wave of advertising debates during the time of study that peaked during 1968–1970. This development signals that the debate could have functioned as outside pressure, as a failure to handle consumer complaints would in such a climate of heightened criticism risk both declining consumer confidence and state intervention. That this pressure transformed into an institutional transition to a broader regime is also indicated by the fact that extensive reforms in that direction took place at the end of the decade.\textsuperscript{56}

The Regulatory Context

Criticism of Advertising Self-Regulation

Having presented an overview of advertising criticism in the first two decades of postwar Sweden and inferred that a general amplification of advertising criticism most likely acted as outside pressure on self-regulation, it is important to determine whether this criticism also included demands for stronger state regulation and criticism of self-regulation. A survey reveals this was the case, with public criticism of self-regulation coming from individual critics, interest groups, the state and political parties. This occurred during a first wave of advertising debates in the 1950s and with increasing strength and severity during a second wave of advertising debates in the second half of the 1960s.

One group of key critics was made up of lawyers and legal scholars. They generally regarded self-regulation as a futile attempt to try to fill in for the shortcomings of existing marketing laws. As will be discussed in more detail in the following chapter, these laws were few and underdeveloped. Legal professor Gösta Eberstein and judge of the court of appeals as well as Competition Ombudsman (Näringsfrihetsombudsmannen) Åke Martenius both considered it a weakness that Sweden lacked a developed law against unfair competition. More specifically they sought a general clause, i.e. a legal statute that formulates a legal provision in general terms, leaving wide discretion to courts when applying it in legal cases.\textsuperscript{57}


\textsuperscript{56} Tengelin (1970), pp. 112–113, 117, 123–125.

\textsuperscript{57} Eberstein (1951a); Eberstein (1951b); Martenius (1957).
In two articles published in 1951, Eberstein discussed what he saw as a pressing need for legislative reform. He stated that Sweden was the only industrialized nation bar the Soviet Union that lacked a general clause for marketing. He also pointed to the fact that Sweden had signed an international declaration – the Paris Convention for the Protection of Industrial Property – that stipulated that Sweden protect against unfair competition; however that was impossible unless the lawmakers had a general clause to resort to. Eberstein then highlighted the ineffectiveness of self-regulation. He exemplified how legal courts sought the advice of business councils to determine if an act of unfair competition had been perpetrated, but that even when such a council came to the conclusion that this was the case, the lack of a general clause made it impossible for the court to conclude that the law had been broken.58

In a 1957, Martenius wrote that the advent of postwar competitive laws had torn down anti-competitive practices in distribution and pricing, thus increasing competition, but that the lack of simultaneous reforms for the stricter regulation of marketing had left legal authorities without the proper instruments to handle the increase in competitive conflicts in marketing that had followed upon this deregulation. He even implied that businesses had a propensity to avoid legal cases involving marketing, as both plaintiffs and defendants tried to steer clear of the badwill that a public court matter could result in. To make sure that important cases were not withheld justice, he wanted not only a general clause, but also state authorities that would make sure it was implemented though pro-active policing of the market. He proposed that the newly created National Price and Cartel Office (Statens pris- och kartellnämnd) should take on the investigative role that the police had in criminal cases, while the office of the Competition Ombudsman (Näringsfrihetsombudsmannen) should act as an attorney. The last remark was especially important, as Martenius at the time was Competition Ombudsman.59

Among interest groups, criticism came from the major blue collar trade union the LO and the Cooperative Union and Wholesale Society. In the already mentioned 1955 jointly published booklet, The Consumer and Advertising, self-regulation was criticized by the LO for being too weak and without consumer influence. It was necessary to consider stronger regulations, the booklet proposed, citing the state corporatist regulatory regime that had policed competition since the mid-1950s as a blueprint – the same proposal that was made by Competition Ombudsman Martenius two years later. Until then, self-regulation had to become more transparent and include consumer representation.60 In 1957, public intellectual Sven Lindqvist also criticized self-regulation in his book Advertising is Lethal for being inefficient and biased. He blistered the Council on Advertising Practice for having handled

58 Eberstein (1951a); Eberstein (1951b).
59 Eberstein (1951a); Eberstein (1951b); Martenius (1957).
only 600 cases during its 20 years of existence. He advocated stricter state regulation that would forbid brand advertising, leaving only personal ads. In 1963, the journalist Ortmark wrote in *Betrayal of the Consumers* that he considered much advertising misleading and therefore wanted an “advertising attorney” to seek out bad advertising. Unlike Lindqvist, Ortmark gave the impression that he had confidence that a new generation of business leaders could create better self-regulation.

Just as the second wave of advertising criticism contained an even harder and more encompassing condemnation of advertising, the criticism of self-regulation also expanded and became more categorical. By the late 1960s Sven Lindqvist was part of the official state investigative Advertising Committee and advocated a tax on advertising to decrease overall advertising volume, a Consumer Ombudsman to stop bad advertising, and a prohibition against advertising for alcohol, tobacco and medicines. Even Ortmark had given up hope on the self-regulation of advertising, claiming in a 1969 interview that no one in business was interested in improving their ethics. He now saw a state run Consumer Ombudsman and a tax on advertising as more realistic solutions. Ortmark even ventured that a socialization of the advertising industry, making all employees state officials, could be necessary.

By the end of the 1960s, critique of advertising self-regulation also came from consumer activists. In 1968, Åkerman, a key figure in consumer policy and debate, condemned the self-regulation of advertising in her book, *Power to the Consumer* (Makt åt konsumenten). She thought that the Council on Business Practice was insufficient, as its rules did not cover the increasing use of “emotional” advertising that played upon consumer’s insecurities and desires. She also considered that self-regulation in the case of medicines was insufficient, as a plethora of brands existed that used misleading advertising.

The regulatory views of the labor movement, expressed by the LO and the Social Democratic Party, also hardened by the second half of the 1960s. A direct rejection of self-regulation was made explicit in the two organizations’ joint 1968 industrial policy program which concluded that

> so far the state has hesitated to assume the task of intervening with consumer protective measures in the hope that business self-regulation should resolve the issue. But self-regulation has not had the effect one has hoped for and

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time is now ripe for direct intervention against the worst kinds of deviant sales techniques.\textsuperscript{67}

The Liberal Party (Folkpartiet) also directly criticized self-regulation in a 1969 report by a party investigative committee, calling it insufficient and requesting an encompassing consumer law. By the end of the 1960s, the Leftist Communist Party (Vänsterpartiet Kommunisterna), the Centrist party (Centerpartiet, formerly known as Bondeförbundet) and even the Conservative Party (Moderata samlingspartiet, formerly known as Högerpartiet) supported stronger state regulation to curb misleading advertising.\textsuperscript{68} Stronger regulation was also advocated by representatives of radical leftist groups outside of mainstream Swedish politics. Some of these wanted to abolish advertising completely and replace it with a series of consumer information centers, while others were content to wait until a socialist society would make it redundant, while one suggested a prohibition on research and education on advertising at universities.\textsuperscript{69}

Finally, by the mid-1960s official state investigative committees, after having been somewhat appreciative of self-regulation in the 1950s, also started to level criticism. While the 1955 Committee on Price and Efficiency in Retail commended the Council on Business Practice for doing valuable work in improving advertising, the Committee on Recommended Prices stated in its 1966 report that self-regulation was an insufficient regime due to lack of resources and coercive sanctions, as well as being too dominated by business interests. Similar arguments were voiced in the government proposals for a new legal framework of consumer protection created in 1971.\textsuperscript{70}

In sum, while general criticism of advertising indirectly pressured self-regulation, the direct criticism of this form of regulation was surely something that the self regulation regime’s principals must have been aware of, and it therefore likely informed their regulatory strategies.

The Institutional Landscape of the Postwar Consumer Market

As Sweden moved from wartime, characterized by scarce resources, to a booming postwar economy, consumer issues became an important policy subject. This had potential implications for the self-regulation of advertising. The impetus to form self-regulation regimes in the interwar years had come from a producer interest in upholding fair competition and avoiding state intervention, paying mostly lip service to consumer rights. With an ambitious state suddenly launching both new laws and agencies to regulate competitive

\textsuperscript{67} SAP-LOs näringspolitiska kommitté (1968), p. 116.
\textsuperscript{68} Folkpartiet (1969); Bernitz et al. (1970), p. 52; Antoni (1971), pp. 7–8.
and consumer issues, self-regulation of advertising, with its underdeveloped regulation of consumer rights, suddenly faced competition, if not state intervention.

This new regulatory structure manifested itself in two strands of policies, which both were part of a wider economic policy of the Swedish government, which was dominated by the Social Democratic Party. Firstly, the government introduced competitive policies during the first half of the 1950s that were bent on breaking up and penalizing the monopolistic practices that had been common since the turn of the century. The aim was to lower consumer prices on select consumer markets with increased price competition, while protecting some markets, notably the labor market, from the same.71 Consecutive official state investigative committee reports during the 1950s and 1960s suggested reforms to increase price competition.72 In 1953, a new Competition Law (Konkurrensbegränsningslag) prohibiting some forms of unfair competition, mainly in distribution and pricing, was introduced, forbidding organized tendering and resale price maintenance. It was revised and expanded in 1956 and 1966, covering all types of anti-competitive behavior, with exceptions made for the labor market and the public sector. The Competition Law, however, did not replace the law that at the time regulated advertising and other forms of marketing, the 1931 Law on Unfair Competition (1931 års lag med vissa bestämmelser mot illojal konkurrens). The Competition law was complemented with regulatory bodies to uphold it, where the Competition Ombudsman, acted as attorney and the Competition Council (Näringsfrihetsrådet) as court, albeit with a focus on deliberative measures. The National Price and Cartel Office was entrusted with the task of investigating and conducting research into pricing and restrictive competitive practices.73 That advertising could be of interest to these statutory regulatory agencies was indicated by the fact that advertising had been targeted by price controls during the war, which remained in place until 1948. The predecessor to the National Price and Cartel Office, the National Board of Price Control, had tried to impose limits on the volume of advertising of some chemical consumer products in 1950, claiming costs were too high. After loud protests from business interest associations that this restricted market freedom, the demands were rejected by the responsible state authorities.74

Secondly, the government thought that the rapid development of the consumer market with increased advertising and many new products meant that the consumer needed help. In the 1950s, official state investigative committees suggested instituting various agencies that would work with research, product testing and consumer information. Also, demands were made upon producers

74 Björklund (1967), pp. 91–94.
to improve product information. 1951 saw the creation of the Institute for Informative Labeling (Varudeklarationsnämnden). It was privately run, but had funding and approval of its organizational charter and by-laws from the government. In 1957 the National Council for Consumer Goods Research and Consumer Information (Statens Konsumentråd) was instituted, and the semi-private Institute of Home Research (Hemmens Forskningsinstitut) was nationalized and renamed the National Institute of Consumer Information (Statens Institut för Konsumentfrågor). These bodies conducted research, funded external consumer research and organized consumer information programs.75

A major change in the state’s institutional structure for the regulation of competition and consumer issues occurred with the implementation of a new regime of market regulation in 1971. The government justified the reforms by the need it claimed existed for a stronger state regulation of marketing to balance the power of producers. The reform was based on new statutory laws and new state agencies to see them implemented, in effect ending the reign of self-regulation of advertising as an independent regime.76 The reforms included a new Marketing Practices Act (1970 års lag mot otillbörlig marknadsföring), replacing the old marketing law from 1931, and a Market Court (Marknadsrådet AKA Marknadsdomstolen) and a Consumer Ombudsman (Konsumentombudsmannen) that would see to implementation. The new Market Court replaced the Competition Council and incorporated the Competition Ombudsman, as the Competition Ombudsman would function as attorney in competitive cases, while the new Consumer Ombudsman would have the same function in consumer related cases. In conjunction with the launch of this regime the self-regulatory regime’s main agency, the Council on Business Practice, was discontinued as its tasks were basically overtaken by the new state regime.77

Corporatism and Consumer Representation

The purpose of this section is to look at outside stakeholders and state agencies that at the time of study were engaged in policy issues that touched on advertising and advertising regulation, thus with the potential to affect the self-regulation of advertising. Their pressure for advertising regulation manifested itself mainly within the context of consumer policies.78 To understand the institutional structures through which these stakeholders promoted their policy interests in advertising regulation, one must stress the importance of corporatism in the postwar Swedish political economy. Corporatism, in short political power sharing whereby interest groups are given exclusive influence

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on the policy process in return for subjugating or ameliorating their interests to those of the state, dominated the Swedish political economy from the 1940s until the 1980s. A central aspect of this regulatory landscape was the lengthy incumbency and dominance of the Social Democratic Party, from the early 1930s until the mid-1970s, which encouraged the growth of corporatism. In state agencies, board members represented the state and typical corporatist interest groups such as business organizations, trade unions and the cooperative movement. The labor movement’s long hold on political power has led Matthew Hilton, Michele Micheletti, Victor Pestoff and Iselin Theien to describe the postwar consumer policies of the Scandinavian countries as an adaptation of international trends to the Social Democratic government’s wider social, political and economic ambitions, putting more emphasis on market regulation than liberal oriented economies did.

Since the 1930s consumer issues had been raised by established interest groups such as labor unions, women’s organizations and the cooperative movement. After World War II, these groups were co-opted by the state to function as consumer representatives on the boards of state agencies as well as in official state investigative committees. The system of consumer representation even went so far as to include critics of advertising such as Lindqvist, who was made a consumer representative on the official state investigative Advertising Committee during 1966–1974. But influential production and distribution affiliated insider organizations active in self-regulation, such as the Cooperative Union and Wholesale Society, the Retail Federation, the Federation of Wholesale Merchants and Importers and the Federation of Industries, were also represented. This co-opting of key interest groups created a top-down institutional structure that for many years made independent consumer movements redundant and gave insider organizations excellent positions as policy entrepreneurs. The consumer representatives in this structure shared a strong normative view on consumption, dubbed by Peder Aléx as “the discourse of need” (behovsdiskursen). This was based on the assumption that the household had limited resources. Consumption thus had to be thrifty, rational and focus on basic commodities and durable quality goods. Advertising, with its propensity to support brands and leisure
consumption, was consequently viewed with suspicion by organizations such as trade unions and the cooperative movement.86

The consumer representatives were not on an equal footing power-wise, and some had closer relations to the government than others. Initially, the state favored women’s organizations. Pestoff states that the formation of the Institute of Home Research in 1944 was an attempt by the Social Democratic government to unite various women’s associations and make them a viable consumer representative, as there was no established independent consumer movement as in the US.87 This choice was not surprising, as a survey concluded that women were responsible for two-thirds of household purchases in Sweden. The establishment of consumer bodies in both Norway and Sweden in the 1950s was, according to Theien, “presented, and to a large extent perceived, as a particular concession to women.”88 Many consumer researchers were also women; to some of them advertising was the opposite of consumer information, and more of the latter was needed to combat the effects of the former.89

However, internal conflicts inside the Institute of Home Research made the government reconsider its strategy, as the women’s organizations were considered too weak and lacking in unity. From there on, the government put more energy into promoting larger and more economically powerful organizations as consumer representatives, in effect the major trade unions the LO and the Swedish Confederation for Professional Employees (Tjänstemännens Centralorganisation, TCO) and the Cooperative Union and Wholesale Society, which decreased the influence of the women’s associations. When the National Council for Consumer Goods Research and Consumer Information and the National Institute of Consumer Information were created in 1957, the first vice-chairman of the LO became the chairman of the first agency, while the chairman of the TCO was appointed to the same position in the second one. By the time of the introduction of the new state regime in 1971, women’s associations had disappeared as official representatives, and the LO, the TCO and the Cooperative Union and Wholesale Society remained as the three consumer representatives.90

Particularly the LO was involved in policy formation. Thanks to its closeness to the ruling Social Democratic party, the trade union’s comments on official state investigative committee reports often reflected what later would become public policy. The LO’s policies on consumption and competition aimed at macro-economic stabilization. Together with the Rehn-
Meidner model,\textsuperscript{91} an economy policy formulated by the union’s own economists that aimed to uphold wages at “proper” levels – high enough to support the rationalization of industries and low enough to prevent inflation – the interaction of competitive policies favoring real price competition and consumer policies making consumers more informed of prices and quality was supposed to create a situation where blue collar workers, for a modest real wage increase, could buy quality consumer goods at reasonable prices.\textsuperscript{92} The policy makers behind this framework were critical of advertising, as they thought it supported brand loyalty, in effect distorting competition through price and quality and contributing to an imbalance in the consumption of private and public goods.\textsuperscript{93} As already stated, the LO had as early as 1955 proposed that consumers might be better served by state regulation than self-regulation and demanded that the Council on Business Practice be reformed in a corporatist manner by accepting consumer representatives.\textsuperscript{94}

The trade union the LO’s research department under the leadership of chief economist Rudolf Meidner played a key role in the labor movement’s shift towards a more pro-active and market-skeptical consumer policy throughout the second half of the 1960s. During 1967–1968 the LO, together with the Social Democratic Party, formulated consumer policies that would not only rest on improved consumer information and testing, but on increased state regulation of the market. This was based on the conclusion that a continually growing market, characterized by increasing market concentration, brand competition, and new and aggressive ways of advertising, made it impossible for the consumer to make an informed choice and retain consumer sovereignty. Basically, the Swedish consumer market of the 1960s was described as a market failure.\textsuperscript{95}

Advertising was by the trade union specifically highlighted as a problem on the consumer market. Echoing Galbraith’s thinking, the LO claimed that advertising had contributed to the continuation of monopolistic competition and high prices on the market despite the competitive and consumer policies introduced in the 1950s. The Social Democratic Party and the LO now jointly demanded stricter regulation of advertising. The 1968 report from their joint committee, the Skoglund Group, active during 1965–1968, advocated

\textsuperscript{91}Erixon (2010).
stronger state involvement to ensure consumer rights. This included proposals for increased state resources for price surveillance, a Consumer Ombudsman and local trade union dominated consumer committees to police the market, as well as a large central state agency to coordinate these consumer policy efforts.96 The conclusions of the Skoglund Group’s report were in turn reiterated in the two labor movement organizations’ 1967–68 joint programs on industrial policy.97 These new consumer policies can be seen as part of a wider radicalization of the Swedish labor movement that took place during the second half of the 1960s, whereby it wanted to use state regulation to give trade unions more influence over company policies and profits to create a more egalitarian socialist society.98 In his speech at the 1969 congress of the Swedish Metalworkers’ Union (Svenska Metallindustriarbetareförbundet), Prime Minister Tage Erlander highlighted these consumer policies as a cornerstone in the party’s push to erase social inequality:

To make sure that politics that support social equality will have the desired effects, the reforms being made must keep their inherent value. The state therefore has to intervene directly to support the consumer. The aim is to strengthen the consumer’s position in the economy…This task is one of the spearheads of our politics for equality.99

The new state consumer regime in 1971 largely reflected these demands, and the 1972 joint green papers on consumer policies from on the one hand peak trade unions the LO and the TCO, and on the other, the LO and the Social Democratic Party, continued in the same vein, describing consumer policies as a counterweight to producer power and advertising.100 Most business organizations accepted the new consumer regime. However, this acceptance was, according to Boddewyn, due to a mixture of actual support and fear of political reprisals from a radicalized labor movement.101

The TCO and the Cooperative Union and Wholesale Society had cooperated with the LO in formulating consumer policy during the 1950s, for example on behalf of the consumers negotiating on foodstuff prices in the State Agricultural Committee (Statens Jordbruksnämnd) with the producer organization the Federation of Swedish Farmers’ Associations (Sveriges Lantbruksförbund, SL), although the Cooperative Union and Wholesale Society had a closer collaboration in consumer issues with the LO than with

96 SAP-LO-gruppen i prisfrågor (Skoglundgruppen) (1968), pp. 10–11.
98 Malm Lindberg (2014).
100 SOU 1971: 37, p. 149; Lidbom (1971); LO–TCO (1972); SAP-LO:s konsumentpolitiska arbetsgrupp (1972); Hwang (1999), p. 37; Theien (2006b).
the TCO. The Cooperative Union and Wholesale Society shared the LO’s denouncement of traditional profit driven market capitalism. Still, unlike the LO, the consumer movement organization refused to have a formal liaison with the Social Democratic Party and defined itself as politically neutral. It also endorsed free trade and market competition and was represented as a producer on the Council on Business Practice, in official state investigative committees and in comments on reports from these committees, as it owned and operated several industries producing consumer goods. However, at the same time the Cooperative Union and Wholesale Society represented the consumer interest on boards in most state corporatist institutions. That the organization had an ambivalent position on advertising was therefore not surprising. On the one hand, it criticized advertising for being persuasive, but on the other, it used advertising in its capacity of producer and retailer. The Cooperative Union and Wholesale Society tried to solve this impasse by stating that its own advertising was superior, as it strived to only present the information on price and quality that consumers requested; i.e. cooperative advertising equaled consumer information.

Official State Investigative Committee Competition for Influence over Regulation

I have in a previous study analyzed inside and outside stakeholder influence on the official state investigative committees that concerned advertising and marketing during the first two postwar decades. Each group of stakeholders dominated a particular strand of committees, connected over time. By the end of the 1960s, the strand dominated by outsiders received the upper hand in policy influence (figure 2.3).


106 According to Hwang, during the postwar era the Cooperative Union and Wholesale Society (KF) acted as a consumer representative in “central state agencies”; the author only mentions the National Board for Consumer Disputes (Allmänna reklamationsnämnden) and the so-called seven Regulatory Price Committees (prisregleringsföreningar) as boards where it represented the producer interest. Hwang (1995), p. 143–144. Further evidence points to the Cooperative Union and Wholesale Society representing the consumer in all other key state agencies formed during the 1950s and 1960s. For details, see appendix D.


108 Funke (2013a).
The first strand was dominated by insiders and is termed “The Fair Competition Committee Strand”, as it predominately centered on safeguarding fair competition by promoting a mix of self-regulation and statutory regulation. The second strand, dominated by outsiders, is termed the “The Consumer Rights Committee Strand”, as it focused on these, and recommended statutory regulation. While the first committee strand initially dealt with reforming marketing law, by the 1960s the consumer rights strand started to compete in influencing policy and came with its own regulatory suggestions. By the end of the 1960s, these had won the ear of the state, whose proposal for a state regulation of the consumer market in 1969–1970, openly rejected the suggestions of the fair competition committee strand, instead mirroring the demands of the second strand.\(^\text{109}\)

The committees of the fair competition strand attempted to allow ample room for advertising in their policy recommendations, while at the same time trying to make regulation more efficient. Committee participation in the two strands was typical of corporatist principles, with the state and various interest groups represented. In case of the fair competition strand, producer and judicial interests dominated. This was not so surprising, as the committees in it primarily were concerned with investigating and formulation new competitive policies.\(^\text{110}\) The fair competition strand started off with the official


state investigative Committee on Firms and Trademarks (Varumärkes- och firmautredningen) in 1949. The committee was entrusted with finding means to improve trademark law, which was considered outdated and insufficient, and also to discuss how the 1931 Law on Unfair Competition, for the same reasons, could be reformed. However, by the time it had completed its report in 1958, only trademark regulation had been investigated, and the issue of reforming marketing law remained.111 Although the committee early on devoted time to the issue, particularly whether reform should include a general clause on marketing, it had not made any headway. As stated before, some members of the judiciary had argued in support of such a general clause.112

While the committee’s report resulted in the 1960 Law on Trademarks, which strengthened copyright protection, the lack of progress in marketing law reform came under political pressure from Social Democratic and Liberal Party MPs in parliament and the government. This contributed to the reshuffling of this committee into the Committee on Unfair Competition (Utredningen om otillbörlig konkurrens) to complete the task. Its 1966 report did support stronger state involvement in regulating advertising by proposing a more extensive law with a general clause, but nevertheless recommended a continued leading role for self-regulation in formulating and developing regulation.113

One committee that is included in the fair competition strand, even though it had a focus on consumer issues, is the 1963 Committee on Consumer Information (1963 års Konsumentupplysningskommitté). This is due to the fact that the committee in its 1968 report discussed in detail the possible negative consequences consumer information might have for fair competition, suggesting that this could be policed by a self-regulatory agency. The committee had a mixture of representatives from state consumer agencies and organized business, but it is noteworthy that two legal experts active in self-regulation had prominent positions.114 However, neither of these reports had any immediate effect on judiciary reform. It took until early 1970 before the government delivered a proposal for a marketing law and consumer protection that dismissed self-regulation as insufficient and instead championed the state taking control over market regulation.115

111 Eberstein (1951b), pp. 1–2, 6; SOU 1958:10, pp. 9–11.
112 Eberstein (1951a); Eberstein (1951b); Reklamförbundets varumärkeskommitté får härmed avlämnas bilagda yttrande överupptagande synpunkter och önskemål omförutsatt ny lagstiftning angående varumärken och därmed sammanhångande spörmål, 24 april 1950. Till varumärkes- och firmautredningen, april 1959. SFRF. Sveriges Marknadsförbunds arkiv.
To understand this development it is necessary to take into consideration the policy influence of the consumer rights committee strand. Although the committees in this strand had producer representatives, they also included a sizeable proportion of members representing consumers and state consumer agencies. They were generally critical or skeptical of advertising and supported more state regulation. Some members of the judiciary in these committees, echoing the earlier legal criticism of self-regulation in the 1950s, wanted stronger state regulation to solve the weaknesses in the old marketing law. Most importantly, these committees had a consumer perspective and did not pay that much attention to fair competition. A main issue that the consumer rights strand had to deal with was how policy would relate to the clash between the discourse of need and the consumer habits of the Affluent Society, which went far beyond basic requirements. By the 1960s, the discussion on consumer matters had started to center on whether the consumer was to be regarded as strong and independent, just requiring better consumer information, or as weak and in the hands of powerful producers, and thus in need of a stronger and more pro-active state policy that would pressure producers to make the “right” products. The latter view would in the 1960s increasingly dominate this committee strand, thus posing a threat to the regulatory dominance of self-regulation. The 1964 report of the Committee on Consumer Information (Konsumentupplysningsutredningen) stated that increased efforts in consumer research, testing and information were needed on all levels, reflecting the view that consumers on their own were unable to fend for themselves. The critical view on advertising in this committee strand was, however, already nascent by the 1950s. The 1955 reports of the official investigative Committee on the Distribution of Goods (Varudistributionsutredningen) and the Committee on Price Control (Priskontrollutredningen) conveyed an ambiguous view of advertising. On the one hand, brand advertising was described as making distribution of mass production more efficient and product quality more reliable, on the other as standing in the way of sound price competition thanks to its propensity to build oligopoly markets. It was implied that advertising had become the antithesis of consumer information due to the massive expansion of the postwar consumer market – a pervasive, manipulative, and coercive marketing tool that played upon emotional desires. The reports suggested that more consumer information was needed and that a restriction on the number of similar brands was necessary to avoid high prices and macroeconomic waste. Still, the Committee on the Distribution of Goods mentioned the work of the self-regulatory agencies and said that they did a commendable job in making advertising more informative and truthful. 


117 SOU 1964: 4, pp. 73–75; Aléx (2003), pp. 142–143; Theien (2006a); Theien (2006b).

However, two years after these committee reports, bills by MPs from the Liberal Party requested stronger state regulation of misleading advertising. Both the trade unions the TCO and the LO made formal comments on the bills that supported them. In 1958 a Social Democratic MP demanded an official state investigation into the aggregate volume of advertising in Sweden. He implied that it was too high and constituted a large cost. An investigation was needed, he wrote, to come up with state measures to make advertising more useful for consumers and lessen the occurrence of advertising that was costly or misleading. A similar bill appeared in 1963, backed by several Social Democratic MPs. It emphasized that advertising’s effects on consumers was unknown and that an official state investigation had to uncover its potential negative effects and discuss the prohibition of advertising in certain areas. As already stated, these bills contributed to the transformation of the Firm and Trademark Committee into the Committee on Unfair Competition.\(^\text{119}\)

So far the fair competition strand had been entrusted with reforming advertising regulation, but by the time it delivered its 1966 proposal it was clear that the consumer rights strand had encroached on this task. While the 1966 report of the Committee on Unfair Competition recommended a consumer ombudsman, by then the report of the Committee on Recommended Prices (Riktprisutredningen), associated with the consumer rights strand, had already suggested the same solution. This suggestion was backed up by the latter committee’s assessment of the Council on Business Practice as a commendable initiative, but one that lacked both pro-active policing and coercive measures. The Committee on Unfair Competition commented on the previous committee’s policy suggestion by stating that a future consumer ombudsman would have such a wide variety of tasks that it would be hard for this official to actually be able to police the consumer interest. Instead this task could be performed by the already existing Swedish Board of Trade (Kommerskollegium), which would be cheaper and more efficient than creating a new state agency.\(^\text{120}\)

In 1967 trade minister Gunnar Lange decided that a final official state investigative consumer committee, simply named the Consumer Committee (Konsumentutredningen), with the LO and the Social Democratic Party having a strong presence on it,\(^\text{121}\) should go through all the committee reports and formulate a final encompassing proposal for consumer policy. The report from the two organizations’ joint committee on consumer policies, the Skoglund Group, was among these. Despite not being an official state document, the Skoglund Groups’ report was treated as such by the government; it was delivered to the Department of Trade, which then demanded comments on it.


\(^\text{121}\)LO spokesperson on Consumer Policy, Lillemor Erlander, was a member of the Consumer Committee, and the committee’s chair, Thure G. Andersson, was a former MP for SAP, with a background in peak trade union LO; see chapter six.
from several associations and state authorities. The Skoglund Group’s report was very influential, as its proposals not only turned up in the LO’s and Social Democratic Party’s joint 1967–1968 programs on industrial policy, but its ideas of using consumer policies to pressure producers to produce the right kind of goods and the need for a national consumer agency also reappeared in the Consumer Committee. When the first report of the Consumer Committee put forward such proposals in 1969, as well as the idea to create a new large state agency for administering the new consumer policies, it caused a heated public debate. Non-socialist daily papers and periodicals such as Affärsvärlden, Dagens Nyheter, Svenska Dagbladet and Jönköpingsposten condemned it for being unrealistic and highly politicized, while papers close to the labor movement, such as Aftonbladet, Arbetet and Dala-Demokraten, saw it as a necessary reform to strengthen consumer rights. It should also be stressed that the views in the previously mentioned 1969 report from the Liberal Party also crossed over into the state policy process, as a number of Liberal Party bills with a content similar to the report’s were put to the parliament in early 1970.

A cursory look at how the official state investigations affected policy decisions and implementation indicates that the consumer rights committee strand was increasingly awarded more policy influence. In the summer of 1969, a memo from the Justice Department proposed a new state regime for regulation of the consumer market very much in line with the demands forwarded in the consumer rights strand. The Justice Department criticized self-regulation of advertising for being inefficient, lacking proper sanctions and being too much in the hands of business insiders. During the fall of the same year, a formal government proposal was presented that placed the responsibility of regulating the consumer market on the state, consequently requiring new laws and state agencies to uphold them. It was approved by Swedish parliament in the spring of 1970 and became effective as of 1971.

Conclusion

During the postwar years, Swedish advertising went through major changes that affected contexts relevant for the empirical study. A growing consumer market and the advent of the Affluent Society created demand for advertising, causing it to grow rapidly, as well as supporting the introduction and

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125 SOU 1971: 37, pp. 41, 44, 227.
proliferation of various advertising techniques. Furthermore, these changes started an examination of the new consumer lifestyle, where public criticism of advertising played a prominent part. Although producers and other supporters of marketing tried to defend advertising as a necessary component of a modern market, critics had the upper hand, calling it manipulative and at times even a threat to economic and social justice. The strength of their condemnation also grew over time as advertising became even more prolific and invasive, leading to a debate increasingly focused on its purported negative societal effects. With a growing market and increasing criticism of advertising, both inside and outside pressure for reform would be expected. A compilation of data on the number of incoming cases and other regulatory activity of the self-regulatory agencies confirms a rise in both the number of competitive and consumer complaints, with the latter increasing during the second half of the 1960s, indicating a connection to the advertising debate at the time. Still, the data also indicate that inside pressure was significant, with competitive complaints rising steadily during the whole period and consisting of the absolute majority of complaints until the final years of the self-regulation regime.

Furthermore, the self-regulation of advertising had to contend with increased public condemnation, where critics called it insufficient and biased. Adding to this more direct pressure, the regime had to deal with a corporatist regulatory framework in which the Social Democratic government increasingly saw competitive and consumer policies as a crucial part of its overall reform program for a more egalitarian society. This surrounded the regime with new laws and agencies set to regulate the consumer market in a way that increasingly threatened the independence of the self-regulation of advertising. With trade unions and the cooperative movement taking the role of consumer representatives on the boards of these new agencies, business now had to contend with the fact that these groups had formal political power over consumer policies. That some of them, particularly the influential trade union LO, voiced criticism of advertising was a concern. The growing demands from the general public, the trade unions and several political parties during the second half of the 1960s also finally contributed to a state intervention in marketing regulation, resulting in the implementation of an extensive state regime for regulating competitive and consumer issues in 1971.

Summing up, like the postwar history of self-regulation of advertising in the US and UK, the historical context of this study gives ample proof of what can be regarded as increasing outside pressure on the Swedish regime. On the other hand, the literature also indicates that a growing consumer market and ensuing advertising expansion was the source of serious inside pressure as well.
CHAPTER THREE

Advertising Self-Regulation until 1950

Sweden – Early Adopter of Advertising Self-Regulation

As noted earlier, by 1950 Swedish self-regulation of advertising had existed for about two decades. To understand its genesis, we need to take a closer look at the historical context that made self-regulation an appealing option. While the first serious attempts at advertising self-regulation took shape in the US in the 1910s, Sweden was an early adopter. That Swedish business took an interest in the self-regulation of advertising is made evident by the fact that its 40-man-strong delegation at the 1924 London congress of the Associated Advertising Clubs of the World, held under the motto “Truth-in-Advertising”, was the second largest present. Despite its name, the Associated Advertising Clubs of the World was mainly an American association, which had presented a national campaign under the same motto as early as 1911. It had resulted in vigilance committees that policed local US markets and tried to prevent or report dubious advertising. Just like their US counterparts, Swedish businesses needed to regulate fair competition in the growing mass market to clean up advertising’s image and make it an effective tool for their brand advertising.

When describing the Swedish market at the time of the Swedish delegation’s London visit, Björklund singles out advertising for patent medicines, beauty products and financial investments schemes as particularly problematic areas and describes consumers at that time as being “ignorant and easily led”\(^1\). He also stresses how a lack of morals among producers made brand plagiarism and defamation of competitors a common occurrence. Although public criticism of advertising was rare in Sweden during the 1920s, by the end of the decade advertising started to be questioned by some economists, who called it a wasteful market component. Self-regulation of advertising here presented an opportunity for Swedish marketers to strengthen advertising’s legitimacy.\(^2\)

The rising interest in self-regulation in Sweden during the 1920s must also be seen in relation to the failure of business to achieve its regulatory needs through state laws. At the advent of industrialized mass markets in Sweden, regulatory development initially went smoothly, as both the government and

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\(^1\) Björklund (1967), p. 927.

\(^2\) Björklund (1967), pp. 924–928.
business saw the need for the standardized regulation of marketing in the growing international marketplace. The first steps to legislate were also taken with the Trademark Protection Law (Lagen den 5 juli 1884 om skydd av varumärken) in 1884. It was a direct consequence of Sweden adhering to the Paris Convention for the Protection of Industrial Property, which the year before had been signed by most European countries. The idea was to create an international law for patents and trademarks to protect businesses in whatever market they entered. In Sweden, there were also hopes of using the new law as a springboard to develop common Nordic trade legislation. However, after this initial flurry of activity, no major legal reforms in marketing regulation occurred until the 1930s. The literature is somewhat sketchy, but available sources indicate that this lack of progress was the result of conflicting interests among producers. The most enthusiastic backers for more legislation were smaller businesses in trade and crafts, while those less enthusiastic were found in the advertising industry as well as big business. The first group had, since the advent of mass markets, feared increasing competitive pressure from new and larger market actors that capitalized on the marketing and distribution possibilities of mass production. Distributive innovations from the US such as cheap chain stores revolutionized the consumer market by moving into locations away from the city centre, the traditional spot for trade and retail, and closer to where customers lived, allowing the middle and working classes a similar shopping experience that until then had been reserved for the bourgeoisie in posh department stores. These stores also introduced pricing innovation by implementing unitary prices: a handful of prices for all the goods sold by the stores in a chain.

Smaller retail businesses had a hard time competing with the chain stores and accused them of peddling bad quality goods and using misleading advertising. They therefore also lobbied for stronger controls of marketing in hope of staving off competition, wanting the regulation or prohibition of the use of sales, unitary pricing and “free samples”, such as “buy one, get one for free” offers. In Europe, debates raged in many countries about the use of legislation to stop or limit unitary pricing and chain stores. In general most countries rejected these demands. In Sweden, the lack of regulation made market actors in distribution and trade take their own initiatives. The various shortages during WWI led many to form cartels. Despite complaints in the 1920s that these contributed to price hikes and subsequent attempts by the government

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5 SOU 1935: 63, pp. 7–11, 90.
to restrain them, protests from business against such measures assured that legis-
lation remained feeble. During the 1930s, cartels were strengthened as they came to be regarded as the best bulwark against the devastating effects of the economic depression. In retail and wholesale, price competition was restricted through the practice of resale price maintenance.10

But besides cartels, there were also attempts by smaller Swedish businesses to get state regulation that would protect their competitive position. In 1897 and in 1904–1905, Swedish retail and wholesale organizations lobbied for marketing legislation in parliament. These efforts in turn led to the appointment of an official state investigative Committee on Patent Law in 1908 (Patentlagstiftningskommittén). The committee’s 1915 report proposed a number of statutes that would regulate a variety of marketing practices considered by the committee to be examples of unfair competition: for example misleading advertising, premiums, sales, misleading country of origin, disparagement of competitors, leaking of confidential company information and bribery. In particular misleading advertising was singled out as a serious problem. The report had been influenced by German competitive law, particularly Gesetz gegen den unlauteren Wettbewerb from 1909, which consisted of both a general clause to regulate proper business conduct and statutes for specific marketing techniques. The Swedish proposal, however, did not contain a general clause, although a large minority of the committee behind the report wanted this. The absence of such a clause elicited protests from organized retail interests. The committee’s proposal was, on the other hand, also criticized by other business interests for going too far in restricting market freedom. The press and the Newspaper Publishers’ Association claimed its suggestions would restrict freedom of speech.11 As one of the Newspaper Publishers’ Association’s main tasks was to support an expansion of press advertising, something that well into the early 20th century had been hampered by low demand for advertising space, few large advertising budgets and cutthroat competition, it is also likely that the organization viewed extensive legislation of marketing as a potential threat to its members’ long term economic interests.12 Finally, all suggestions of regulating marketing and advertising were dropped in the final parliamentary bill, and the proposal only resulted in the 1919 Law against Leaking Confidential Company Information and Bribery (Lagen den 19 juni med vissa bestämmelser mot illojal konkurrens).13

Still, during the 1920s market distribution became a frequent issue in the Swedish trade press and official state investigations, led on by increased competition on the market. The tough competitive conditions were blamed on high labor costs, low profit margins, too small business units, an excess number

of competitors and an organization of the chain of distribution that awarded middlemen. The organized interests of smaller businesses, mainly the newly formed Retail Federation, but also the Federation of Wholesale Merchants and Importers, made recurring demands during the 1920s and 1930s for various forms of legislation. The Swedish retailers wanted laws against new, larger competitors such as the EPA chain stores, which were blamed for selling cheap substandard goods and turning retail into a monopolistic market. Also, there were recurring demands to regulate unitary pricing, premiums and “buy one, get one free” offers. The Retail Federation claimed that particularly the last form of marketing forced consumers to pay excessive prices, as the cost of the “free good” was included in the asking price.14

The government responded by again initiating a revision of marketing legislation. This eventually resulted in the 1931 Law on Unfair Competition (1931 års lag med vissa bestämmelser mot illojal konkurrens). Still, the law was much weaker than what had been proposed in 1915 by the Committee on Patent Law. The Justice Department, which was responsible for the new law, referred back to the conclusions of the 1915 committee report when it claimed a general clause would lead to legal uncertainties for business and the courts if the latter were entrusted with creating legal precedents. The department also raised the argument that a general clause would necessitate changes in the regulation of the freedom of the press, which was part of Swedish constitutional law. Therefore, the department head wrote, a more limited law with prohibitions against more specific types of marketing was better, at least initially to see how it would work.15 In the parliamentary debate preceding the law, opponents of the general clause also claimed retail interests wanted it to protect small businesses from being subjected to competition from other types of distributors.16 The new law introduced in 1931 contained some prohibitions against specific marketing practices, such as the intentional use of false statements in advertising and the gross misuse of premiums and “buy one, get one free” offers. Offences could result in fines, but only producers were awarded damages. Due to its narrow scope, the law had little effect on market behavior. Its applicability was limited, the statutes vague and prosecutors showed little interest in using it. After three years, merely 50 cases had been initiated and only 14 firms had been faulted for breaking the law. To be sure, in 1942 the law was strengthened with a paragraph that forbade the unfair use of trade marks.17 But the fact remained that at the onset of the 1950s, Sweden, unlike its Nordic neighbors and most of the industrialized European countries, lacked a general clause to regulate marketing.18

16 Martenius (1957), pp. 32–33.
18 Eberstein (1951b), pp. 1–2, 6.
The Retail Federation was dissatisfied with the new law and continued its efforts to bring about a more expansive legislation. Demand from retail and craft interests in parliament to use legislation to limit the expansion of chain stores finally led to the formation of an official state investigative committee, but its 1935 report wholly rejected the idea. The government duly followed the committee’s recommendation, and no legislative measures were proposed. The committee’s reasoning indicates that it saw retail’s demands as a threat to the expansion and rationalization of the distribution sector and that these chain stores represented that very progress. By combining the wholesale and retail function, the stores could increase efficiency in marketing and advertising, the committee stated. In its conclusion, the committee declared that any future legislation on unfair competition would have to be directed at the business community generally or at a specific industry, but should not be used as a tool to stifle market freedom. Of the three committee members, two were marketing academics and one was vice CEO of the Federation of Industries. This indicates that the federation, Sweden’s perhaps most powerful insider organization, which represented the large manufacturers, did not support regulations that in its opinion could constrain the growth of mass markets that its member companies were dependent on. The Retail Federation also publically claimed that the opposition of the Federation of Industries was to blame for the fact that parliament had not instituted a temporary stop for the establishment of more chain store companies during the investigation. But other insider organizations, as the Cooperative Union and Wholesale Society also opposed legal measures against the chain stores for the same reasons as the Federation of Industries. This was perhaps not so surprising, as the cooperative organization was a national market presence in both production and distribution. During the first half of the 20th century, it was also regarded as a chief competitor by smaller independent retailers and wholesalers and their organizations.

1930s: The First Self-Regulatory Agencies

The introduction of the 1931 marketing law made it clear that it was up to the business community to satisfy its regulatory interests in advertising and marketing. Throughout the 1920s and 1930s two parallel regimes of advertising self-regulation were established. Both displayed characteristics typical of narrow self-regulation: the regulatory agencies lacked sanctions and emphasized

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22 Söderpalm (1976).
education and information above policing, based on the assumption that the business community would honor its own rules and that disputes were best solved through negotiations and a minimum of public knowledge. Proceedings from cases as well as verdicts were withheld from third parties as long as the guilty complied with the self-regulatory agencies’ verdicts. The system had no formal pro-active policing component, that is, no ombudsman-like function with the task to find cases and report them to the agencies. The regimes both shaped and policed rules. As a result of these efforts, business insiders had now managed to create a dominant mode of advertising regulation.25

One of these regimes had its roots in the initial organized attempts to self-regulate advertising. Here, the first initiative surfaced in the 1920s with the Institute for Brand Control, (Institutet för varumärkeskontroll). It aimed at curbing brand plagiarism that was common in chemical and technical industries. However, it was not successful and folded in 1927. The year 1929 saw the birth of the Plagiarism Committee (Plagiatkontrollen), also with the task of regulating plagiarism. Like its predecessor, this was a strictly business-oriented unit, run by the trade magazine Business Economy (Affärskononi). The committee lacked means of coercion, but did publish the names of transgressors that refused to withdraw faulty advertising. In 1935, this body was transformed into the Council on Advertising Practice, (Reklamförbundets Opinionsnämnd, AKA Opinionsnämnden för reklam). The council was an upgrade from its predecessor, staffed with business representatives, but also allowing consumers to turn to the body with complaints.26

This regime was upheld by advertising affiliated organizations and thus had close links to the advertising industry. Created simultaneously as the Council on Advertising Practice, the Advertising Federation was the sole principal of the council until its dissolution in 1957. Self-regulation, along with lobbying, information, education and research on marketing were designated as key responsibilities of this new national organization for business interests in marketing. The Advertising Federation had a main office in Stockholm, but depended on the support of local marketing societies (reklamföreningar, later known as marknadsföreningar). This was logical, as the federation was the result of the local marketing societies in Stockholm, Gothenburg, Malmö and Helsingborg agreeing on the need for a peak national organization for the local organizations in particular and the business community’s marketing interests in general. The marketing societies attracted professionals and companies that in some sense were involved in marketing: newspapers, suppliers of public advertising space, ad agencies, printers and marketing executives.

They organized lectures and educational efforts in marketing. According to Björklund, society members were divided into two groups: “sellers” of advertising represented by professionals active in mainly the press, ad agencies, public space advertising and printing; and “buyers” of advertising, represented chiefly by marketing staff in industry, distribution and wholesale. The concern for self-regulation was not completely new to the marketing societies, as the Stockholm society – which actually had used the name “Swedish Advertising Federation” since its 1919 inception – had already been involved in self-regulation together with the Association of Advertising Agencies as board members of the Plagiarism Committee. Tom Björklund, the first CEO of the national Advertising Federation, stated in the 1950s that the low standard of much market advertising and the potential threat of state intervention in the 1930s had made it imperative for organized business to update and strengthen self-regulation. To accomplish this, business needed an organization that could represent it when dealing with outside stakeholders and thus formed the national Advertising Federation.27

According to Björklund, these reforms also grew out of a mounting concern over consumer issues in the 1930s. This made it important to fashion a type of self-regulation that was more public and accessible as a place of redress for consumers. Although the Council on Advertising Practice did allow consumers to lodge complaints, empirical sources indicate that only about 10 percent of complaints came from consumers during the council’s existence.28 This calls into question the importance of consumer rights for the reforms. There is, however, more support for his statement on reforms being a way to pre-empt state intervention. Demands for tighter regulation of pharmaceutical advertising had been presented by an official state investigative committee in 1934. The committee proposed various competitive measures to decrease the costs of pharmaceuticals. Among them was a mandatory clearance procedure for pre-fabricated brand medication. Pharmaceutical advertising was in itself a sizeable part of press advertising, and the trade paper Business Economy projected that regulation had the potential to affect large swaths of advertising space. Despite formal protests from Stockholm’s marketing society and a negative assessment from the National Board of Trade, the new rules were decreed and a special unit set up to pursue clearance. A proposal from Stockholm’s marketing society to take part in the committee was ignored. According to Björklund, the society as well as other business organizations feared the proposed regulation could be the beginning of an extended “advertising


“bureaucracy” that could hit other industries as well. While Björklund does not explicitly connect the 1935 reforms that founded the Council on Advertising Practice and the national Advertising Federation to the 1934 state demands for a clearance procedure for pharmaceutical advertising, it is likely that one reason for business insiders to upgrade the Plagiarism Committee into a nationally supported regime that formally took upon itself to protect consumers’ rights was to limit even more unwanted state regulation. It must also be added that the demands for stronger competitive legislation from retail interests probably also played a part. The new national Advertising Federation – whose main purpose was to promote the acceptance and spread of marketing – had a welcoming attitude towards the changes that were taking place in the consumer market. Professor Gerhard Törnqvist, one of the federation’s founders and noted marketing academic, was a staunch defender of advertising. He considered it socially beneficial, as he claimed it lowered the costs of production and distribution by supporting the growth of brands in mass markets. Törnqvist was part of the official state investigative committee looking into possible legislation to regulate retail chains. In the committee’s report from 1935 Törnqvist argued against this, as he claimed chain stores generally made for more efficient distribution, marketing and pricing than a distribution structure based on the smaller businesses that until then had dominated the market. Consequently, this new regime of advertising self-regulation was probably also meant to serve as a means to pre-empt further legislative ambitions coming from retail.

A second self-regulation regime appeared at the initiative of several production and distribution affiliated organizations. In 1937, a special committee was appointed at the national meeting of the Swedish Chambers of Commerce to probe the need for stronger laws against unfair competition. The committee suggested an expansion of self-regulation to create a national regime for monitoring unfair competition, and this was also accomplished in 1938. The regime consisted of three regulatory agencies, the Committees on Business Practice (Näringlivets Opinionsnämnder, NOr) connected to the local chambers of commerce in the cities of Stockholm, Gothenburg, and Malmö. Together with the three chambers of commerce, a number of established national business organizations became the regime’s principals. These included the Cooperative Union and Wholesale Society, the Swedish Federation of Industries and Crafts (Sveriges Hantverks- och Småindustriorganisation), the Federation of Wholesale Merchants and Importers, the Retail Federation, and the Federation of Industries. The Gothenburg chapter also included the Swedish Shipowners’ Association (Sveriges Redareförening) and the Malmö chapter a representative of the Chamber of Commerce of Jönköping. A central committee was

31 Stockholms Handelskammare (1953), p. 5.
formed by the regime to create uniform statutes for all three local committees. Unlike the other self-regulation regime run by the national Advertising Federation, it was mandatory in this one that the chairman and vice-chairman of these committees had a judicial background and experience as judge. These three Committees on Business Practice had a wider task than the Council on Advertising Practice, handling all kinds of unfair competition issues, as well as covering advertising related disputes. For example, misleading advertising constituted 25 percent of all the cases handled by the Stockholm Committee on Business Practice during 1935–1953. However, only producers and public authorities could lodge complaints. This regime was thus for settling inter-producer relations and did not concern itself with consumer rights. The same rules of secrecy applied as in the other regime – the committees were forbidden to inform anyone outside of the committees of its proceedings or verdicts. In a fashion, one could suspect this regime was to compensate for organized retail interests’ lack of success in getting legislation, but as it also included the Federation of Industries and the Cooperative Union and Wholesale Society as principals, both of which had opposed some of this legislation, it cannot be stated that this was its main purpose. Rather it was created to address the business community’s general needs for competitive regulation that was not covered by the weak marketing law introduced in 1931, of which advertising was one aspect.

During 1935–1956, close to 800 cases were dealt with by the two regimes, and of these about 750 directly concerned advertising. A majority, 674, were handled by the Council on Advertising Practice, making the regime headed by the Advertising Federation the larger one. This regime will thus henceforth be defined as “the larger regime” and the other one as “the smaller regime”. Although more detailed figures on complaints is scant, there is evidence supporting the exposure hypothesis presented in chapter one that advertisers would be more prone to stricter regulation due to being the main target of complaints. Of all complaints received by the Council on Advertising Practice during 1935–1953, only 1 percent was directed at ad agencies, while 92 percent concerned various advertiser interests. The distribution of petitioners paints a similar picture, although the percentage of advertiser interests, 76 percent, is somewhat lower due to the minor presence of other petitioners such as consumers, civil organizations and the state.

The dominance of the Advertising Federation’s regime was further evidenced by the early involvement of its members in the development of the

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Code of conduct issued by the International Chamber of Commerce: rules that national regimes of self-regulation of advertising based their activities on. Gustaf Rosenberg, who had headed the Plagiarism Committee and had been instrumental in its transformation into the Council on Advertising Practice, had as early as at the 1928 World Congress of the Advertising Industry suggested international codes to regulate plagiarism. At its 1935 Paris congress, the International Chamber of Commerce formed a committee on advertising with the explicit intent of formulating an international code of conduct. The following year, the Advertising Federation’s CEO was made a representative on the International Chamber of Commerce’s Comité Publicité, where work soon began on the first code, and in 1937 the Code of Standards of Advertising Practice was instituted. The main articles of the code stated that advertising was an integral part of a free market economy, which was best suited for bringing prosperity, and that the social responsibility of advertising always came first. Retaining the general public’s trust in advertising was imperative, and loss of this had to be avoided. Other articles stated that fair competition was essential and that plagiarism was forbidden. Specific clauses detailed the regulation of the relationship between producers and consumers, inter-producer relationships and rules for media carriers. The code survives to this day. After its inception, representatives of Swedish self-regulation continued to play a pivotal part in the code’s development. When a revision occurred in 1948 that further emphasized the role of consumer rights, it was due to the suggestion of the Swedish representatives on the committee handling the revision. The Swedish representatives also referred to the ten years of experience of running the Swedish Council on Advertising Practice when arguing for the inclusion of these rights. When the International Chamber of Commerce instituted an International Council on Advertising Practice in 1949, Sten Horwitz, then chairman of the Swedish Council on Advertising Practice, was elected its chairman. The Swedish delegates on the International Chamber of Commerce’s Advertising Committee would also continue to play an important part in future revisions of the code.

1940s: Arrival of the First Broad Regimes

Besides insider initiatives that dealt generally with advertising and competitive issues, a number of specialized self-regulatory bodies for the marketing of specific products evolved during the 1940s. They had been created after direct

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threats of state intervention and had broad corporatist features. This is not so surprising, as they sprang up in a time when corporatism was becoming increasingly common in the political economy.\footnote{Rothstein (1992), p. 134.} In 1941 a special self-regulatory body aimed at surveying advertising for medication, the Control Board for Free Medicinal Preparations (Stiftelsen Reklamgranskningen för Fria Läkemedel), was formed. A stricter regulation of medicines had been publicly discussed in Sweden since the late 19th century. Some local voluntary controls of advertising for medicines existed by the turn of the 20th century, and more thorough state regulations started to be discussed from the mid-1930s, leading to the previously discussed decree in 1934 that the State Medical Board perform clearance on advertising for brand medicines sold at pharmacies. That insiders found the issue of regulating pharmaceutical advertising increasingly important is indicated by the fact that a business committee was set up in 1936 on the suggestion of the Advertisers’ Association to survey the market for questionable pharmaceutical advertising. The committee was a joint venture of the two ad cartel organizations, the Newspaper Publishers’ Association and the Association of Advertising Agencies. For a few years, the two organizations published a periodical, The Ad Inspector (Annonsgranskaren), which contained examples of ads to be avoided and was distributed to their members.\footnote{Frick, E., “Näringslivets granskningsnämnd 10 år”, DSM 1/54; Skarstedt, U., “Reklamgranskningens historia”, DSM 4/56; Björklund (1967), pp. 906–921, 943–945; Bernitz et al. (1970), pp. 47–48.}

In 1937 the State Medical Board demanded further mandatory state clearance – this time for the advertisement of non-prescription medications. Tighter regulation was also proposed for nutrition supplements. This was rebutted by the new national Advertising Federation, which now decided to try a pro-active approach to avoid further state intervention. Contacts were taken with the head of the State Institute for Public Health (Statens institut för folkhälsan), which agreed to preside over a large conference in 1938 to try find a solution acceptable to all involved parties. The following year, this resulted in the decision to appoint a joint committee made up of representatives from the Advertising Federation, the Newspaper Publishers’ Association, the pharmaceutical industry and the state to discuss self-regulatory measures. The committee deliberated during 1940 and finally got the medical board to hold off on demands for stricter statutory law and give the self-regulatory initiative a chance. The Control Board for Free Medicinal Preparations was consequently formed the following year. The board had a wide backing from the advertising affiliated and production and distribution affiliated organizations, as well as the medical profession. Organizations as diverse as the Federation of Industries, the Swedish Medical Association, the Advertising Federation and the Newspaper Publishers’ Association supported it. The board itself included medical experts, business people and civil servants. The board’s main task
was to perform clearance on submitted advertisements and monitor those published in the press.\textsuperscript{38}

Similar pressure for clearance from state agencies led to the creation of a corporatist self-regulatory agency in 1948 to regulate the sale and marketing of pesticides, the Control Board for Pesticides (Stiftelsen för kontrollmärkning av bekämpningsmedel). Just as in the previous case, the State Institute for Plant Protection (Statens växtskyddsanstalt) demanded obligatory clearance of market products to protect consumers and limit negative externalities, while business opposed the measures, claiming they would be inefficient. The solution was a broad regime, headed by a representative of the institute. This agency functioned as a clearance unit to which producers voluntarily submitted products. Those that were approved were awarded a label of certification. This system had glitches, as it left out producers that did not submit their products for review. Also, the board only judged marketing from a written assurance that a producer would follow ethical guidelines.\textsuperscript{39} It should be noted that the presence of state pressure for direct intervention in these two industries most likely was intimately connected to the special properties of the products. It was essential that regulation made sure advertisements for medication and pesticides were truthful, otherwise the health of consumers, farmers and crops would be at risk. A regulatory failure of the marketing of such products would have created serious badwill for the state authorities.

Another segment that was threatened with state intervention was the marketing of films. Particularly the use of misleading quotes from reviews on film posters and press ads was criticized. By 1944 state regulation was given serious consideration by the government, but was averted as existing advertising self-regulation was deemed sufficient. Still, film advertisers became more cautious afterwards.\textsuperscript{40}

\textbf{Conclusion}

Looking at the development of advertising self-regulation, by 1950 two main regimes had existed for roughly twenty years. They were both basically of a narrow type. They preferred education over policing, and actual policing was done with the intent to protect the identities of the involved parties from both the public and other competitors. They lacked coercive measures, except “name and shame”, which was only used on unrepentant transgressors. The creation of the dominant and thus larger one of these regimes in 1935 also contributed


\textsuperscript{40} Björklund (1967), p. 945.
to the formation of a national business interest organization that would administer, guarantee and legitimize it: a national Advertising Federation. This indicated a determination to establish a stable and independent regime.

The founding of the regimes can be traced to brand producers needing to protect advertising’s goodwill to survive competition on the growing mass markets, as well as what appears to be clashing regulatory aspirations among insiders. The conflict can be traced to the diverging market interests of on the one hand small businesses in distribution, and on the other, those of the advertising industry and big business. At this time, the majority of organized retail interests consisted of small businesses that felt threatened by increased competition from other forms of distribution such as chain stores. They worked hard to get stronger marketing legislation to protect their competitive position. The advertising industry and big business opposed this, as it was regarded as hindering the growth of marketing and distribution in a more efficient manner. Their opposition slowed down the development of state regulation and finally made for a weak legal reform in 1931 that had no major practical implications for marketing regulation, forcing insiders to provide regulation on their own. Still, self-regulation gave insiders the chance to tailor regulations that suited their particular preferences and hopefully also pre-empt unwanted state regulation. Although not proven, there are indications that the business insiders behind the larger of these two regimes, which had close links to the advertising industry, also hoped their initiative would make it harder for retail and wholesale interests to lobby for a more encompassing law on marketing. This inference can be made given the pro-marketing stance of the regime’s sole principal, the Advertising Federation, and the opposition one of its founders had towards some of the legislative demands of retail interests. However, the creation of the other and smaller regime, which was upheld by production and distribution oriented business organizations, cannot only be seen as a way for retail and wholesale interests to try to compensate for the lack of state regulation they had desired to protect their market position against larger competitors, as the regime also included organizations such as the Federation of Industries and the Cooperative Union and Wholesale Society. These two organizations had opposed some of the regulatory demands from mainly retail, and also represented business interests that conflicted with those of smaller businesses in distribution. Rather this smaller regime addressed general business demands for the regulation of unfair competition that the 1931 law on marketing did not cover.

The new regimes that arose in the 1930s displayed potential structural weaknesses in relation to outside stakeholders. The move of the Advertising Federation to integrate consumer rights into the larger regime’s tasks implied a widening of its responsibility beyond inside stakeholders. But there were potential legitimacy problems, as this largely narrow self-regulatory regime now had made a promise to uphold consumer’s rights without letting consumers take part in running the regime. This institutional set up opened up for outsider
accusations of regulatory bias and failure to live up to consumer expectations. Sources also reveal that only ten percent of the complaints to the regime’s agency, the Council on Advertising Practice, originated from consumers. The other smaller regime had altogether refrained from incorporating consumer rights. However, this made it vulnerable to accusations of not caring for the interests of outside stakeholders at all.

In the 1940s, outside pressure was decisive for the formation of regimes specializing in regulating the advertising of medicines and pesticides. Business here chose a broad regulatory strategy, reaching out to state authorities and suggesting cooperation in exchange for avoiding legislation. These agencies had outside participation, emphasized policing and were accountable to all groups of stakeholders. The fact that pure state regulation was avoided indicates that the business community had found a way of evading state intervention by embedding self-regulation in the corporatist political structures that were increasingly permeating Swedish society. Nevertheless, the two main regimes of advertising self-regulation continued along earlier lines, being dominated by the principles of narrow self-regulation and, as the case of movie advertisements proves, still enjoying enough respect to ward off threats of state intervention.
During the first phase of regime transition, the two regimes of advertising self-regulation were merged into one in 1957. The merger made outsider participation in the regime mandatory for the first time, leading to a formal transition from a narrow to a broad regime. This was an important change, as narrow regulatory strategies aiming to keep the regime a producer-only affair were dominant before the merger took off.

Pre-Merger Reforms – Sticking to a Narrow Regime

The two regimes preceding the merger were still of the same narrow character in the 1950s as when they were formed in the 1930s. No outsiders took part in running self-regulatory agencies, transparency was kept low and education and information was emphasized over policing. Only the upholding of interest and rights could be termed broad, although this was restricted to the regime run by the Advertising Federation, renamed the Sales and Advertising Federation in 1952.¹

Regarding transparency, a central tenet was keeping policing away from public knowledge. The Swedish Council on Advertising Practice supported confidentiality, arguing that public convictions could ruin a competitor’s reputation. It consequently withheld the identities of those involved in cases from third parties. Only defendants that openly defied verdicts had their identities revealed in the trade press. The regimes’ chief instrument of sanction was therefore “name and shame”, based on the presumption that transgressors would not risk losing social standing by refuting a verdict. This tactic seemed effective, as the leadership of the council proudly stated that in only about 2 percent of all cases handled by the agency until it folded in 1957 did transgressors not obey the verdicts and retract their campaign.²

¹ Svenska Försäljnings- och Reklamförbundets verksamhetsberättelse 1952. SFRF. Sveriges Marknadsförbunds arkiv.
The Sales and Advertising Federation also implemented reforms strengthening confidentiality. In a 1954 revision of the Council on Advertising Practice’s statutes, the right to forward verdicts to the other regime was revoked, and confidentiality concerning both the verdict and all proceedings was extended to include not only the members of the council, but involved parties as well. Also, the only pro-active policing component was removed as the federation decided to rescind the right of council members to bring up cases on their own.3 The last reform was explained in the Sales and Advertising Federation’s 1954 annual report as necessary since it was “less appealing that the council act as both judge and complainant”.4 Analysis, however, reveals that the removal of pro-active policing was done due to problems related to confidentiality. The Council on Advertising Practice had initially received complaints and then called for an investigation, masking the identity of the petitioner. However, from the 1950s, the defendant was usually informed of who the petitioner was. Still, the council retained the right to bring up cases on its own to make sure that valid complaints were not held back due to the petitioner’s fear of being subjected to reprisals from the defendant, thus keeping the original petitioner anonymous.5

On the gathering of the Sales and Advertising Federation’s Working Committee on March 25th 1954, both a report that had been commissioned by the committee from legal expert associate professor of law Lars Welamson and a revision of the Council on Advertising Practice’s statutes was discussed.6 Welamson stated that the right for any judicial institution to initiate cases seriously damaged its impartiality and legitimacy. He claimed that under current rules, suspicion could arise that marketers coaxed the council to bring up a case against competitors. By doing so, the marketer avoided being formally cast as a petitioner, which could contribute to the council being denied access to relevant information. This was so, as the council had limited resource for case processing, thus making it the formal task of both petitioners and defendants to supply relevant evidence relating to the case. If one of the actual parties in a competitive conflict was not a formal petitioner, it was potentially easier for it to avoid being forced to provide such material. Therefore professor Welamson proposed that this right of the Council on Advertising Practice to initiate case proceedings on its own be revoked and that the statutes make explicit that both parties in a competitive conflict had complete access to all relevant material. As this measure could mean that some important cases would not end up in the council due to the petitioner fearing market retaliation from the defendant, Welamson thought the council should consider creating a separate pro-active policing unit, mentioning the recently constituted state

3 Arbetsutskottets protokoll, 25 mars 1954. SFR. Sveriges Marknadsförbunds arkiv.
4 Svenska Försäljnings- och Reklamförbundets verksamhetsberättelse 1954. SFR. Sveriges Marknadsförbunds arkiv.
6 Arbetsutskottets protokoll, 25 mars 1954. SFR. Sveriges Marknadsförbunds arkiv.
run office of the Competition Ombudsman as a blueprint. The federation’s Working Committee decided to go along with Welamson’s recommendations and accept amendments to the council’s statutes that withdrew the right for council members to initiate cases on their own. It also strengthened secrecy by prohibiting parties from sharing information on proceedings and the council from letting the other regime have access to council verdicts. However, Welamson’s idea about pro-active policing was ignored, indicating that the larger regime did not want to abandon narrow ideals of keeping policing in the background.

Consequently, while increasing the transparency for the involved parties, the reforms major effect on the regime was that overall transparency was decreased.

The low volume of cases also supports the view that the larger regime stuck to narrow strategies and did not push for more policing. Although the total yearly number of complaints to both regimes started to rise after the war, the Council on Advertising Practice, which took care of the majority of them, received no more than 40–70 per year – hardly a significant number in view of the size of the Swedish advertising market. Although no exact yearly figures for the other regime is available, it handled only 16 percent of all cases 1935–1956 (chapter two). Also significant in interpreting policing as being downgraded during phase one was the fact that the self-regulatory agencies functioned more as arenas of negotiation than judicial institutions. Lack of transparency aided in creating circumstances where producers could enter into gentlemen’s agreements, as no one outside the agencies and the involved parties were privy to proceedings.

The Council on Advertising Practice instead made considerable efforts in promoting education and information. Here its stake in controlling rule formation served as a motivational factor. As pointed out in chapter three, the council’s leadership had a profound influence on the creation of the international Code of Standards of Advertising Practice even before 1950. This influence continued after the war, and during the first phase of regime transition, the 1955 revisions of the code were made at the suggestion of council chairman Gustav Horwitz and its secretary, Sten Tengelin. Both of them were at the time also active on the Committee on Advertising and the International Council on Advertising Practice, administrative bodies at the International Chamber of Commerce in Paris that issued and revised the code.

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of conduct. During the studied time period, there was great interest in other countries in this larger Swedish regime of self-regulation of advertising, and the regime’s leadership kept in regular contact with many of its European counterparts, for example through the International Chamber of Commerce. Self-regulatory reforms in France, Denmark, Norway and Switzerland were partly inspired by its institutional structure.

The leadership of the Swedish Council on Advertising Practice consequently portrayed itself as having a decisive influence on the international code of conduct and Sweden as a role model of advertising regulation. Horwitz maintained that the tireless work of the council had contributed to a “cleaning up” of advertising in Sweden that had progressed further than in other countries. By claiming such a leading position, the council had a reputation to live up to. Accordingly, safeguarding such a reputation entailed securing high levels of obedience to market rules. This had to be accomplished in a narrow regime context. This was done by having cases handled by the Swedish Council on Advertising Practice leading to the establishment of a national regime practice, particularly when formal rules were lacking or difficult to apply. This national practice was then referred to when the Swedish delegates at the International Chamber of Commerce proposed reforms of the Code of Standards of Advertising Practice. This modus operandi of the larger Swedish regime to get adhere to market rules made it essential for the larger regime to provide updated information to marketers on both the council’s practice on a national level and international norms. Reforms and decisions of the council were therefore communicated to market insiders through booklets, the press and lectures.

Detailed articles mainly published in trade periodicals covered the regulation of market practices such as puffery, plagiarism and truth in advertis-
Another issue that was given considerable attention by the Council on Advertising Practice, and serves as a good example of the council’s regulatory strategy, was testimonials. A testimonial is an advertisement that utilizes product endorsements from celebrities or figures of authority, like doctors or royal persons. In a number of articles published in the Sales and Advertising Federation’s periodical *The Swedish Market* (Den Svenska Marknaden) during the first half of the 1950s, Tengelin highlighted their problematic use. He stressed they were unregulated by the international Code of Standards of Advertising Practice and had become a pressing issue in recent years as the council had started getting a lot of cases regarding testimonials. To remedy the situation, detailed accounts of cases settled by the Council on Advertising Practice were presented to readers of the trade periodical, although the identities of the involved parties were masked. Also, in 1952 the council initiated a report documenting the possible misuse of testimonials, as well as product labeling. In both instances the agency made contact with authorities and business organizations to discuss the creation of better rules of conduct, indicating a potential for broad-based participation, although no formal ties with outsiders were established. Around this time the council’s chairman Horwitz and its secretary Tengelin started to work as well on a revision of the international code that would include the regulation of testimonials. In 1955 the new Code of Standards of Advertising Practice, containing provisions on the use of testimonials, was accepted by the International Congress on Advertising in Tokyo. The new code was also approved by the Sales and Advertising Federation’s board meeting on May 17th 1956, where Horwitz stated that the changes had been made thanks to a Swedish initiative. In 1956 he presented the fully revised code in an article in *The Swedish Market* and reiterated that a main addition was a regulation of testimonials, based on national norms of conduct developed through the practice of the Swedish Council on Advertising Practice.

Information and education was also, in the view of the Swedish Council on Advertising Practice, the best way to counter lowered ethical standards.
when competition sharpened. Although the Code of Standards of Advertising Practice in its opening statement made clear that advertising was part of a free market, increased competition could endanger both fair competition and consumer rights. In 1952, the annual report of the Sales and Advertising Federation noted that the self-regulation of Swedish advertising had been increasingly tested due to a more forceful market competition following upon a downturn in the economy. Council chairman Horwitz made a statement in *The Swedish Market* in 1953, saying the council for these reasons was needed more than ever. In a 1954 article in the same periodical, the council’s secretary Tengelin stressed that tougher competition risked making advertising become “suggestive” and less informative, which called for increased education and information on the legal and ethical boundaries of advertising. The international code and the practices of the Council on Advertising Practice were then presented in detail.21

Whereas the theoretical regime variables of participation, transparency and key tasks indicate narrow values in both regimes during phase one of regime transition, the value of the interest and rights variable differed among the two. While the smaller regime’s Committees on Business Practice had a narrow perspective, requiring fees for placing a complaint and only accepting them from producers, the larger regime run by the Sales and Advertising Federation allowed anybody to submit grievances for free.22 That the value of this particular variable in one of the regimes was typical of a broad regime early on is not so surprising, as advertising by its nature is part of the market exchange between producers and consumers. To completely leave out consumers would have risked state intervention on the grounds that they were unprotected. By the 1950s, members of the Council on Advertising Practice also portrayed consumer rights as increasingly on the larger regime’s agenda. In a 1955 festschrift for the Newspaper Publishers’ Association’s representative and council member, Harry Bjurström, former Advertising Federation CEO and Council on Advertising Practice member Ralph Rilton discussed how the Sales and Advertising Federation’s and its predecessor the Advertising Federation’s general purpose had evolved over time to become more socially conscious. That the motto of the federation since 1937 was “Advertising serves society” (Reklamen tjänar samhället) enforced this, Rilton claimed, and added that “advertising must be seen as a servant and co-worker of sales, the distribution of goods, and ultimately it must serve the consumers and society as a whole.”23

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23 Rilton (1955), quotation p. 20.
In the self-regulation of advertising, the increasing focus on the consumer also manifested itself in the development of the international Code of Standards of Advertising Practice. The first edition of the code issued in 1937 emphasized that in a conflict of interest between producers and consumers the interest of the consumers came first.24 The preamble in the revised 1955 edition stated that all marketers had a duty to uphold a sense of responsibility towards the consumer. When Council on Advertising Practice chairman Horwitz presented the fully revised code in *The Swedish Market* in 1956, he wrote that a main change was the strengthening of consumer interests.25

That appearing as a protector of consumer interests was important for the leadership of the Council on Advertising Practice is backed up by internal sources. On April 13th 1955, Horwitz presented the Swedish translation of the revised international code of conduct to the Working Committee of the Sales and Advertising Federation, saying that the main revision had further fortified the provisions from 1948, making the rules more beneficial towards consumers’ interests. During the board meeting on May 17th 1956, Horwitz repeated this statement och singled out new rules for testimonials as especially important in this regard. However, some business members of the board did not feel it was appropriate to emphasize that the market consisted of two groups that had opposing interests and instead suggested using “fellow man” or “buyers-sellers”. Nonetheless, their suggestions were left unheeded.26

However, behind this increasing posturing as a defender of consumers, the Council on Advertising Practice had to face up to the problematic reality that only ten percent of its complaints originated from consumers. This state of affairs had persisted since the inception of the council in 1935. There is no evidence of the council’s leadership ever discussing or evaluating what effects their efforts had on actual consumer participation in lodging complaints. If this was due to a genuine disinterest in what self-regulation’s increasing focus on consumers actually led to is unclear. Nonetheless, the low participation of consumers was clearly a weakness that threatened to taint the image of the council as an able regulator. That the image of being a champion of the consumer was regarded by the leadership of the Council on Advertising Practice as vital for securing the future of self-regulation became apparent in the merger process, which will now be analyzed.

26 Arbetsutkottets protokoll, 13 april 1955; Styrelsens protokoll, 17 maj 1955. SFRF. Sveriges Marknadsförbunds arkiv.
Factors Behind the Merger Process of 1953–1956

Lack of Uniformity in Rules and Conflict over a Petition

The first phase of regime transition’s most significant reform process led to the merger of the two existing regimes of self-regulation in 1957. As stated in chapter three, the larger regime with the Council on Advertising Practice had the Sales and Advertising Federation as its sole principal, whereas the smaller regime and its Committees on Business Practice had several insider organizations filling the same position. Relations were however complex, as many of the production and distribution affiliated organizations that were principals of the smaller regime, including the Retail Federation, the Federation of Wholesale Merchants and Importers and the Federation of Industries, had been represented on the board of the Sales and Advertising Federation since 1950. Nevertheless, it should be noted that the advertising affiliated organizations that dominated the larger regime, the Association of Advertising Agencies, the Advertisers’ Association and the Newspaper Publishers’ Association, had had similar representation on the Sales and Advertising Federation’s board long before them, basically from the start of the federation in 1935. As if to further emphasize that the Sales and Advertising Federation had close links to the advertising industry, these organizations were awarded two seats each on its board, while the other production and distribution affiliated insider organizations were given only one each. A number of seats were also awarded to representatives of the marketing societies that underpinned the Sales and Advertising Federation, at this time 1 seat each for every 250 personal members of their society. It should however be clear that despite being on the Sales and Advertising Federation’s board, these other business organizations, except of course the marketing societies, were at this time not formally part of the federation. Although the idea of making them members of the Sales and Advertising Federation had come up during a revision of the federation’s statutes in 1948, the other business organizations had declined the offer, citing loyalty issues that might come up, for example when being requested to formally comment on state policies.

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27 As stated in chapter three, these included the chambers of commerce in Stockholm, Gothenburg and Malmö, the Cooperative Union and Wholesale Society, the Federation of Industries and Crafts, the Federation of Wholesale Merchants and Importers, the Retail Federation, and the Federation of Industries; Stockholms Handelskammare (1953), p. 5.


The need for stronger cooperation between the two regimes of self-regulation had been discussed as early as 1946, but according to a member of the larger regime’s Council on Advertising Practice nothing was done due to the passivity of the secretary of the smaller regime’s Stockholm Committee on Business Practice. In 1953, the matter was brought up on the board of the Sales and Advertising Federation by two ad agency representatives, recommending that advertising-related cases be passed on from the Committees on Business Practice to the Council on Advertising Practice and that the two regimes would benefit from having representatives in each other’s agencies. Still, nothing formal came out of these suggestions.

Although the two regimes consulted with each other and had similar rules and practice, the fact remained, as pointed out in chapter three, that they based their decisions on different sets of rules and had different procedures for handling cases. Another fact was that there were conflicts of interest on the market between some of these regime principals, conflicts that manifested themselves in tensions on how to reform the self-regulation of advertising. In the spring of 1955, a widely spread public petition appeared, arguing for marketers to be aware of the ethics of using some specific marketing methods. It was signed by the Federation of Industries, the Retail Federation, the Federation of Wholesale Merchants and Importers, the Stockholm Chamber of Commerce and the Federation of Industries and Crafts, all principals of the smaller regime. Initially, the petition stated that Swedish advertising had an international reputation for high standards and that competitive methods were bound to adapt to a changing market, but that some of these could hurt the public’s trust in advertising and marketing as “mainly an informative and for the marketed product sales promoting and in the long run cost effective means of competition.” Recent developments indicated that business had to take extra care when using competitions, premiums and “free samples” such as “buy one, get one free” offers, the petition cautioned. The profuse use of

31 Styrelsen protokoll, 9 februari 1953. SFRF. Sveriges Marknadsförbunds arkiv.
32 Styrelseprotokoll, 23 februari 1954. SFRF. Sveriges Marknadsförbunds arkiv.
33 Cirkulär från Stockholms Handelskammare, Sveriges Grossistförbund, Sveriges Industriförbund, Sveriges Hantverks- och Småindustriorganisation och Sveriges Köpmannaförbund, Stockholm april 1955. SFRF. Sveriges Marknadsförbunds arkiv. One of the smaller regime’s principals that did not figure in the petition was the Cooperative Union and Wholesale Society. A likely reason for its absence is that a key feature of its business model was a premium system for members, with refunds based on the amount of money they spent on cooperative goods (återbäring). Holm (1984), pp. 46, 50–51; Aléx (1994), p. 106.
these was judged to be risky as it could give the impression, however false, that companies had extremely high profit margins.\(^{35}\)

The petition here most likely alluded to a verdict issued on December 9\(^{th}\) 1954 by the smaller regime’s Stockholm Committee on Business Practice, which faulted a campaign by detergent producer Sunlight. According to the verdict, the company had used a competition for advertising in an unethical manner. To enter the competition, the consumer had to buy a packet of Sunlight detergent. Among the prizes were a fully equipped house or, if the winner desired, 100,000 SEK. The committee regarded it as wrong coaxing consumers into buying the detergent by using the lure of big prizes to purchase a product regardless of its intrinsic value or quality and faulted the campaign as being in contempt of proper business practice. The verdict had also, with the acceptance of the involved parties, been made public and attracted the attention of the press and the public.\(^{36}\) Further, the 1955 petition classified premiums – for example trading stamps – as more or less ethically unsound, particularly when aimed at influencing retail staff to order more items of a specific product. The petition reminded readers that the existing marketing law, the 1931 Law on Unfair Competition, explicitly forbade some of these practices.\(^{37}\)

The complainant in the Sunlight case was a regional business federation representing companies in the chemical industry based in southern Sweden, the Southern Swedish Chemical-Technical Producer Association (Södra Sveriges Kemisk-Tekniska Fabrikanftörening), while the defendant, Sunlight, was a brand owned by the multinational corporation Unilever.\(^{38}\) It is not improbable that the underlying reason for the complaint was an apprehension among these competitors that large companies, such as this multinational one, could use “persuasive” advertising on a level beyond smaller competitors’ resources, in effect crowding out other firms by replacing price competition with brand loyalty. Such fears were also voiced by several contemporary economists, stressing the “the market power” of advertising.\(^{39}\) In Sweden, well-known economist, Anders Östlind, expounded this view. Even a key figure in the advertising industry, advertising agency executive Göran Tamm, claimed this type of brand advertising was manipulative and that the industry needed to

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\(^{35}\) Cirkulär från Stockholms Handelskammare,… Stockholm april 1955. SFRF. Sveriges Marknadsförbunds arkiv.


\(^{37}\) Cirkulär från Stockholms Handelskammare,… Stockholm april 1955. SFRF. Sveriges Marknadsförbunds arkiv.


support informative advertising that highlighted essential facts about price and quality for the consumer.\textsuperscript{40} Consequently, although the motivation for backing the petition appeared to be concern for consumer welfare and consumer confidence, there were likely also specific competitive industry interests at stake. The idea that small firms could be at a disadvantage due to the unregulated marketing might of large companies mirrored the fears of some of the petition’s signatories. The Retail Federation, the Federation of Industries and Crafts, and even the Federation of Wholesale Merchants and Importers represented many small businesses in retail, wholesale and crafts.\textsuperscript{41} As discussed briefly in chapter three, these business organizations also had a history of supporting market regulations to safeguard the competitiveness of their members, for example through the creation of various cartels during the inter-war period. When the postwar state decided to deregulate this state of affairs in the early 1950s to increase price competition, the Federation of Wholesale Merchants and Importers and the Retail Federation were either negative towards or wary of the new Competition Law that was enacted in 1953.\textsuperscript{42} As mentioned in chapters two and three, particularly the smaller retailers increasingly feared competition from larger market actors. While the Federation of Wholesale Merchants and Importers after the war embraced reforms to make its market segment more efficient in a market increasingly dominated by larger distribution structures,\textsuperscript{43} the Retail Federation continued to try to shelter its small business members and to lobby for a reform of the existing marketing law, the 1931 Law on Unfair Competition.\textsuperscript{44}

As discussed in chapter three, this marketing law from 1931 was weak and restricted in scope. While it did prohibit certain kinds of free samples, reflecting the regulatory interests of these industries, this was limited to prohibiting the use of trading stamps and “buy one, get one free” deals regarding other products than the one purchased, but not the use of proper free offers or offers of additional items of the bought product. In his extensive study of the development of modern marketing regulation in the West, Ulf Bernitz even goes so far as to say that this law had no real importance for market regulation.\textsuperscript{45} The petition thus indicates that these organizations tried to utilize self-regulation as a quick fix until stronger marketing laws were implemented and that several of the organizations – except maybe the Federation of Industries which had opposed some of the Retail Federation’s earlier legislative attempts – had signed it to protect competitive interests.

\textsuperscript{40}Östlind (1948), pp. 56–65, 80; Funke (2011b), pp. 3–4, 9.
\textsuperscript{41}Kylebäck (2004), pp. 89–92.
\textsuperscript{42}Lundqvist (2003), pp. 41–43.
\textsuperscript{43}Mattsson (1962); Sandgren (2011); Kylebäck (2004), pp. 101, 162.
\textsuperscript{44}Markus and Rydman (1958), p. 231; Gillberg (1983), pp. 65–66.
However, this pitted them against advertising affiliated organizations that had no inclination to stop these practices, either due to fears that stricter regulation could hamper members’ competitive freedom, or due to the opinion that these marketing practices were not a problem, but actually beneficial for market development. Evidence strongly indicates that such conflicts of interest between insiders influenced the policy process that led up to the petition.

On February 1st 1955, the Chamber of Commerce in Stockholm organized a hearing which discussed the aforementioned petition. The invitation included a preliminary version of it. Among the participants were a number of high ranking officials from key principals from the two regimes, many of whom would later play central roles in the development of regime policies. Those gathered could not come to an agreement on the usefulness or the content of the petition. While those representing the Retail Federation and the Federation of Industries and Crafts supported it, the others were more cautious. The representatives of the Federation of Industries said that such a petition could be seen as a sign of weakness and did not think it wise to be too explicit by using examples to describe what should not be permitted. Gillberg from the Advertiser’s Association defended the use of examples, saying they were needed if the petition were to have any effect on marketers. He also emphasized that there was a risk of state intervention unless business demonstrated some restraint in its use of advertising and that a petition might be useful in that regard. Although he here took a position that represented the more defined interests in retail and not the overall interests of all advertisers, this was not so surprising, given that he in 1957 would be elected CEO of the Retail Federation, which he would remain until 1971. By the time he voiced his opinion at this meeting, he had also already been ombudsman of the Retail Federation in 1933–1934.

None of the organizations associated with the larger regime endorsed the petition. The Sales and Advertising Federation’s representatives, led by Horwitz and CEO Lindström, stated that at the present the federation was not in the position to sign it. They also protested against targeting specific marketing practices as disreputable and instead advised a more positive tone, citing the international Code of Standards of Advertising Practice as a basis for ethical conduct. The meeting finally agreed to create a joint committee.

\[\text{Föredragningslista, 1 februari 1955. 1955, G: 50. Stockholms Handelskammare arkiv. CfN.}
\[\text{Protokoll, Stockholms Handelskammare, 1 februari 1955, för diskussion av vissa frågor rörande reklamen. 1955, G: 50. Stockholms Handelskammare arkiv. CfN.}
\[\text{Vem är det 1969, p. 312; Vem är det 1973, p. 325.}
}
which would try to come up with an acceptable version of a petition. Drafts of the petition were sent out during early spring 1955.50

A majority of the Sales and Advertising Federation’s Working Committee were strongly against the petition and voiced this at a meeting on April 4th 1955.51 However, the federation made attempts to influence the content of the petition more to its liking. In a suggested statement, it wrote that there were methods in sales and advertising that were generally acceptable, but in certain circumstances still could be perceived as less desirable, such as premiums and gifts. Given this, the federation stressed the importance of the signatories upholding the code of conduct so as not to tarnish the public’s trust in business. However, the statement ended with the conclusion that

> It is desirable that the free development of distribution is not hampered and that competition remains free. We have therefore not wanted to brand particular methods of sales and advertising as condemnable, but we do want to make our members reflect upon and critically examine new methods of sales and advertising.52

Nevertheless, despite the federation’s willingness to sign the petition if some wording was changed, as well as attempts by its Working Committee to come up with an alternative version and the head of the Council on Advertising Practice and the federation’s CEO discussing the matter with representatives of the smaller regime, changes were not made, and the Sales and Advertising Federation consequently did not sign.53 The Swedish Advertisers’ Association and the Association of Advertising Agencies also objected. In a written statement, the Advertisers’ Association said that although the increasing use of competitions and samples could be problematic, especially when considering public good will, new and inventive ways of marketing were needed to increase market efficiency. For the association, achieving this effectiveness apparently also hinged on satisfying its particular interests as buyer of advertising by lowering the price for marketing:

> To serve its purpose, modern advertising must be dynamic and constantly seek new forms of expression. It is also of great importance that advertising costs, which at present are at much too high levels, are lowered without loss

51Arbetsutskottets protokoll 4 april 1955. SFRF. Sveriges Marknadsförbunds arkiv.
53Arbetsutskottets protokoll 4 april 1955; Cirkulär från Stockholms Handelskammare… Stockholm april 1955. SFRF. Sveriges Marknadsförbunds arkiv.
of efficiency. Thus, the rationalization that has characterized other sectors of business should therefore to a larger extent also apply to advertising.54

Thus it was too early and too heavy-handed to outright ban these methods, the association thought.55 The Association of Advertising Agencies in turn objected to signing a petition that defined the boundaries of advertising, stating that it had long been active in supporting good advertising ethics and that this work had been successful. The petition, the association wrote in its reply, while appearing to take a general stance on improving ethics, seemed in fact to pertain to a few particular advertising campaigns. The Association of Advertising Agencies ended its statement by saying the only authorities it trusted with such a task were the “various bodies created to judge such matters”56, i.e. the existing regime councils. The final version of the petition thus lacked signatures from all the inside stakeholders associated with the larger regime.57

The squabble over the petition illustrates how differing market interests among insiders made it hard to come to an agreement on the self-regulation of advertising and marketing and that these differences to a large degree coincided with which regime insiders were associated with. Those from the smaller regime represented manufacturing, retail and wholesale and had a long history of cartels, perhaps the most powerful type of regulatory business cooperation. Although the Federation of Industries voiced hesitancy over the petition, it did sign it, thus supporting the attempts of the Retail Federation and the Federation of Industries and Crafts to protect their market interests. Those that refused to sign were all advertising affiliated organizations close to the larger regime. Although this industry was dominated by an advertising cartel, fears of regulation leading to restrictions in the creative freedom essential for competition most likely made the organization representing the cartel ad agencies, the Association of Advertising Agencies, balk. The Advertisers’ Association in turn resented the underlying ambition of small businesses to protect their market position by hampering the growth of larger and, according to the Advertisers’ Association, more “efficient” – and for advertisers cheaper – means of marketing and distribution, i.e. super markets and chain stores that could afford to utilize “buy one-get one free” offers and other premiums. It was joined in this assessment by the Sales and Advertising Federation. Although


55 “Uttalande rörande konkurrensmetoder”, Föreningsmeddelanden nr. 5/1955. SAF. Sveriges Annonsörers arkiv.


57 Cirkulär från Stockholms Handelskammare,… Stockholm april 1955. 1955, G: 50. Stockholms Handelskammare arkiv, CfN.
the federation listed supporting good marketing ethics as a key task, its overall objective was to create public support for advertising and marketing.\textsuperscript{58} Thus the federation’s stance strongly suggests that its leadership saw the petition as a threat to the proliferation of marketing that until then was on-going thanks to the existing narrow regimes being permissive of the changing structures of distribution and that the petition’s call for stricter regulation would contribute to hampering this goal.

**Advertiser Demands for Major Regime Transformation**

Perhaps more important for the future of self-regulation, several organizations from the smaller regime and the larger regime’s associate the Advertisers’ Association also used the earlier mentioned insider meeting on the petition to criticize the overall state of affairs in self-regulation. Chairman of the Advertisers’ Association, Allan Enström, did not think the petition was a good starting point for addressing the concerns forwarded in it. He instead pointed to a general deterioration of advertising ethics. There were attempts to cast advertising as a devious market practice thanks to the recent developments inside advertising, he claimed. Here it is possible that he implicated the ad agencies as responsible for these practices, as ad agency owner Frans Lohse, who represented the Association of Advertising Agencies on the board of the Sales and Advertising Federation, protested, saying that he did not share the perception that there had been a recent surge in dissatisfaction with advertising and claiming that much of recent criticism could be traced to a small group of consumer activists. Enström clarified his criticism by saying that self-regulation needed major changes. He wanted a faster processing of complaints and questioned the wisdom of having two regimes, proposing that the existing regulatory agencies ought to be merged into one or have clearly separate tasks. Gillberg, who just as Enström also represented the Advertisers’ Association, also supported a merger and thought there ought to be a public prosecutor who could bring up cases.\textsuperscript{59}

Kurt Söderberg from the Federation of Industries thought that companies took advantage of the fact that the self-regulatory agencies councils did not pro-actively lodge complaints. The companies did so, he explained, by not bringing complaints on their own even though they considered competitors out of line. He therefore suggested that the agencies be authorized to lodge complaints on their own volition. Strengthening the self-regulatory agencies would be a much better measure than a written recommendation whose effect was doubtful, Söderberg stressed. Ingemar Essén from the Federation of Industries and Crafts concurred that a more efficient organization of councils

\textsuperscript{58} Svenska Reklamförbundet – Dess syfte och verksamhet. 1950. SvRF. Sveriges Marknadsförbunds arkiv.

\textsuperscript{59} Protokoll Stockholms Handelskammare, 1 februari 1955, för diskussion av vissa frågor rörande reklamen. 1955, G:50. Stockholms Handelskammare arkiv. CfN.
was needed. The representatives of the principal of the larger regime, the Sales and Advertising Federation, was more muted in their response to this criticism, but its CEO, Eric Lindström, agreed that making the agencies more effective would be valuable, especially by making their practice better known. The meeting ended with a decision to put the existing councils under review.60

The meeting had thus revealed that one of the advertising affiliated organizations close to the larger regime, the Advertisers’ Association, sympathized with a regime reform that would mean more and stricter policing. This may seem unlikely, but given the fact that it represented advertiser interests, something it had in common with for example the Federation of Industries, a powerful insider organization of the smaller regime that also expressed doubts about the petition, the common view among these two organizations is understandable given the exposure hypothesis premise that advertisers are more prone to demand stricter regulation due to their larger exposure to regulation and bad will. Their demands were thus not connected to the competitive interests of those small business organizations backing the petition. However, that the organizations that were positive to the petition – who also had an advertiser interest in regulation – also supported such a more encompassing policing reform of course put additional pressure on the remaining advertising affiliated organizations, particularly the larger regime’s principal, the Sales and Advertising Federation, to accept reforms. The demands for a major overhaul of self-regulation were also strengthened by the fact that the petition issue could not be kept from outsiders, as it was sent out to the press and generated a number of articles in major trade and daily papers. Headlines such as “Trade and manufacture warn of unsuitable advertising methods” and “Systems of bribery banned” and a listing of the organizations backing the petition, making it obvious that the advertising affiliated organizations had not backed regulation of what was cast as almost criminal methods of consumer persuasion.61 The disagreement between the two regimes was now out in the open. Thus, self-regulation could no longer project an image of a united and cohesive insider regime to either insiders or outsiders. The situation made it apparent for both regimes that something had to be done to avoid more damage to self-regulation’s legitimacy. The larger regime accordingly started to warm to the idea of a regime makeover. At a May 11th meeting of its Working Committee, the CEO and the Chairman of the Sales and Advertising Federation were ordered to make contact with the


Stockholm Chamber of Commerce, a key principal of the smaller regime, to discuss the possibility of a more efficient cooperation. Around the same time, more intimate collaboration was also suggested during informal contacts between the Council on Advertising Practice and the Central Council of the Committees on Business Practice. According to Council on Advertising Practice chairman Horwitz, representatives of the smaller regime had been quite keen in establishing closer cooperation. Initially, the Council on Advertising Practice had preferred creating a clearer separation between the two regimes, but then changed its mind and agreed to explore a partnership.

The Council on Advertising Practice Endorses a Merger

By the fall of 1955, the larger regime’s principal the Sales and Advertising Federation decided it had to resolve the matter. The importance of the situation was stressed as the federation’s presidium and six representatives from the Council on Advertising Practice and its secretary met on September 27th, just before a board meeting that would discuss the subject. Although those attending this meeting differed in their views on actual implementation, there was a unanimous agreement that further coordination in self-regulation, preferably through a merger between the two regimes, would be beneficial to the interests of business in general and the federation in particular. It was decided to recommend that the federation’s board continue consultations with the other smaller regime and that a delegation representing the Sales and Advertising Federation should handle negotiations between the two regimes. It was to consist of Horwitz, Tengelin, Bjurström, and Junker. They were all part of the Council on Advertising Practice, but, indirectly, advertiser interests were also represented by Horwitz and Junker, whose professional careers were within firms that bought advertising, and those of media carriers through Bjurström’s participation, who of course also represented the Newspaper Publishers’ Association. Bjurström was not alone among those gathered in representing larger organized business interests. Although those in attendance at the meeting were part of either the Presidium or the council, many had close links to professional business organizations representing advertising agencies, advertisers and media carriers. As discussed in chapter one, these three in-

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63 Styrelsens protokoll, 27 sep 1955. SFRF. Sveriges Marknadsförbunds arkiv.
64 Anteckningar från överläggningar mellan Svenska Försäljnings- och Reklamförbundets Presidium och Opinionsnämnden för reklam, 27 september 1955. SFRF. Sveriges Marknadsförbunds arkiv.
66 At the meeting, Frans Lohse and Leopold G Hersson represented the Association of Advertising Agencies on the board of the Sales and Advertising Federation. Harry Bjurström and Ivar
Industry associations had direct economic interests to protect in advertising. The Association of Advertising Agencies and the Newspaper Publishers’ Associations controlled the cartel that monopolized a large share of the ad market. The Advertisers’ Association represented many advertisers that by this time wanted to reform or abolish the cartel. As shown in chapter two, the Swedish advertising market grew rapidly during the 1950s and 1960s, conferring large profits on all of these groups. Key weaknesses or changes in the regulation of advertising that had a potential to affect the market position of these actors were consequently of great interest to them and their members. Their keen participation in supporting the merger process most likely reflected a concern to get more – or at least retain some – control over self-regulation to protect their market interests. Involvement in the merger process presented an opportunity to achieve that.

Although evidence strongly points to both pressure from several of the smaller regime’s principals and from the Advertisers’ Association of the larger regime, as well as the publicity created by the petition, as key reasons for the start of the merger process, the leadership of the Council on Advertising Practice did not highlight these matters as reasons for reform at the Sales and Advertising Federation’s board meeting later that day. In front of the federation’s board, the council’s chairman Horwitz instead focused on the problematic situation of having two regimes that differed in institutional structure. He stated that despite there having been an exchange of verdicts between the two regimes to avoid diverging conclusions in comparable cases, experience had shown this happened anyway. The verdicts given in these institutions were as a result based on different principles and rules for procedure. Although not mentioned by him, any formal cooperation had been discontinued as the 1954 reform of the Council on Advertising Practice statutes forbade such sharing of information, thus further obstructing uniform decisions. A two man group representing both regimes, consisting of secretary Tengelin from the Council on Advertising Practice representing the larger regime and Körner from the Central Council of the Committees on Business Practice the smaller regime, had written a report suggesting two reform choices: either deepening the interaction between the regimes, making sure they could not be manipulated as easily, or merging them. The report proposed that the merger could be done in two ways. The first would depart from the more or less natural divisions of cases that already existed, with a new agency divided into two sections: one handling advertising cases, which was the specialty of the larger regime’s

Hallvig had the exact same function for the Newspaper Publishers’ Association; Hallvig was that association’s CEO. Allan Enström, finally, had been a representative of the Advertisers’ Association on the federation’s board during 1950–1954 and was as of 1955 chairman of his association. Svenska Annonsörers Förenings verksamhetsberättelse 1955. SAF. Sveriges Annonsörers arkiv. Svenska Annonsörers Förenings verksamhetsberättelse 1950–1951. SvRF. Sveriges Marknadsförbunds arkiv; Svenska Försäljnings- och Reklamförsörjningens verksamhetsberättelse 1952, 1953; Styrelsens protokoll, 23 februari 1954; Styrelsens protokoll, 25 februari 1955. SFRF. Sveriges Marknadsförbunds arkiv.
Council on Advertising Practice, and the other more general matters of fair competition, up to then handled by the smaller regime’s Committees on Business Practice. It would entail the current principals of the two regimes running the organization. The second approach was more radical and aimed to combine the merger with letting in additional business organizations, many part of the Sales and Advertising Federation, as principals and giving them the right to appoint members to the council. Half of the new council’s members would be selected by the principals from the smaller regime, while the other half would be chosen by the larger regime’s Sales and Advertising Federation and other organizations that were represented on its board.\(^\text{67}\)

Horwitz emphasized that the Council on Advertising Practice and the federation’s presidium recommended continued negotiations. The proposed reforms were not an optimal outcome, he stated, but better than remaining with regulatory inconsistencies and loopholes that allowed producers themselves to choose which regime was to handle their complaints. The Sales and Advertising’s Federation’s board members were divided on the proposal; however, in the end, the board gave a go-ahead to continue negotiations and approved of the proposed delegation.\(^\text{68}\)

The merger was met with resistance from the Sales and Advertising’s Federation’s board members who seemed more concerned over the potential loss of the federation’s influence on the future regime than conflicting sets of rules hurting the legitimacy of the self-regulation of advertising in itself. Some meant the Council on Advertising Practice was an invaluable asset the federation could not afford to lose as it supplied good will, was used to attract new members to the federation and gave access to the legal expertise of the Council on Advertising Practice’s secretary. One board member claimed that the activities of the Council on Advertising Practice were the main reason companies joined the federation. Being sole principal also awarded the federation an influential position in self-regulation, which would be lost. There were also comments that alluded to the conflicting insider views on self-regulation policy between the two regimes that had emerged in conjunction with the 1955 petition. One board member stated that in times of diverging views on advertising ethics, it was especially important to retain the federation’s council. Former federation chairman Sven A Hansson concurred and thought it would be extremely dangerous to hamstring advertising. He maintained that such tendencies were ascertainable in the other regime’s Committees on Business Practice, referring to the recent petition for stronger regulation of various marketing techniques.\(^\text{69}\)

\(^{67}\) Styrelsens protokoll, 9 februari 1953; Styrelsens protokoll, 27 september 1955. SFRF. Sveriges Marknadsförbunds arkiv.

\(^{68}\) Styrelsens protokoll, 27 september 1955. SFRF. Sveriges Marknadsförbunds arkiv.

\(^{69}\) Anteckningar från överläggningar mellan Svenska Försäljnings- och Reklamförbundets Presidium och Opinionsnämnden för reklam, 27 september 1955. Styrelsens protokoll, 27 septem-
Those speaking in favor asserted that the federation would retain decisive influence over the new institution and that more principals would bolster its prestige and credibility. Bringing in new principals would also lower costs for administering self-regulation. The importance of making the self-regulation of advertising more respectable by increasing the presence of law experts was stressed: for example, the head of the new body ought to be a legal expert with experience as a judge. This was already the view of the smaller regime’s Committees on Business Practice. Concerning fears that a merger with the other regime would create a stricter regulation, Gösta Bohman of the Council of the Chambers of Commerce, a peak organization for the three chambers of commerce in the smaller regime, replied that the petition’s conservative assessment of regulation did not originate from the Committees on Business Practice and that such views could be countered by increasing the share of the future council’s members from the Council on Advertising Practice. Bohman’s statement indicates that he sought to portray the 1955 petition as the brainchild of specific organized market interests of smaller businesses and not of a united group of business principals. A member of the smaller regime’s Stockholm Committee of Business Practice had also opposed the majority decision in the Sunlight case and had his statement included in the verdict. Thus it is clear that some supporters of the merger from the small regime also wanted to make sure that marketing freedom would not be restricted by reforms of self-regulation.

In general, it appears that critics inside the larger regime were afraid that a merger would lead to the loss of a narrow type of regime, as well as the privileged position of the Sales and Advertising Federation in advertising regulation and the business community at large. Although not openly condoning a broad regime, proponents of the merger inside the large regime – who to a large extent seemed limited to the Council on Advertising Practice and parts of the federation’s merger delegation – at least argued that broader insider participation was needed to guarantee regime survival. As will be shown, arguments for obvious broad regime variables also surfaced inside the larger regime, particularly regarding interests and rights. However, there were no proposals to introduce new rules that would severely restrict competition or cause more policing of the market. This was most likely in line with the federation’s encompassing task to further the spread of marketing, in which a

70 Anteckningar från överläggningar mellan Svenska Försäljnings- och Reklamförbundets presidium och Opinionsnämnden för reklam, 27 september 1955; Styrelsens protokoll, 27 september 1955; Arbetsutskottets protokoll, 29 november 1956; Styrelsens protokoll, 12 december 1956; PM angående samordning av opinionsnämndverksamheten, 14 november 1956. SFRF. Sveriges Marknadsförbunds arkiv.

71 Styrelsens protokoll, 27 september 1955. SFRF. Sveriges Marknadsförbunds arkiv.

more liberal regulation was seen as the best way to accomplish this. In an 1956 editorial in the federation’s trade paper *The Swedish Market*, it was stated that self-regulation was a better alternative than state laws as it “let business breath more freely”73 – a perspective that did not gel with ideas of transforming the regime into a more state-like form of regulatory entity.

**Outside Pressure on Advertising and Self-Regulation**

Although a fear of losing regime legitimacy on the part of insiders was a driving force for the merger, awareness of outside threats played a role as well, as shown by sources from organizations close to the larger regime. As made clear by the discussion on the 1955 petition, the Advertisers’ Association had indicated public bad will and the rise of state intervention as a reason for reforms. The larger regime’s sole principal, the Sales and Advertising Federation had a somewhat more optimistic view on the public standing of self-regulation, at least outwardly. Publicly, it depicted the relationship between self-regulation and statutory regulation as one of state dependence on self-regulation. With state laws lacking or being too weak, business had stepped in and filled the regulatory void. With some pride, it was mentioned that its Council on Advertising Practice was consulted by lawmakers in court cases. With such an advisory capacity, self-regulation portrayed itself as a necessity to outsiders.74 The larger regime was also quick to point out that self-regulation was a better solution than state regulation, as it allowed a combination of market freedom and ethical responsibility.75 On the other hand, internally, pro-merger members argued that the regime in its present state was exposed to state intervention. Letting the current state of affairs in self-regulation persist, one member warned during the Sales and Advertising Federation’s board meeting on September 27th 1955, risked “the creation of a higher authority”76; i.e. the state might intervene.

This vulnerability had surfaced earlier when it became obvious that law reform sooner or later would come. As discussed in chapter two, the Firm and Trademark Committee had worked on reforming the existing marketing law, the 1931 Law on Unfair Competition. A main issue was if the new law would be based on a general clause. A general clause, as already noted, is a legal clause that leaves only general guidelines for its implementation.77 It


75 Linderoth, C. “Reklamens frihet och sanering”, *DSM* 4/56.

76 Styrelsens protokoll, 27 september 1955. SFRF. Sveriges Marknadsförbunds arkiv.

would leave ample room for courts to interpret and develop the legal qualities of marketing, much as the agencies of self-regulation functioned in relation to the development of their rules. Such a clause had, as discussed in chapter three, been rebutted previously by organized press interests and the state, but, as mentioned in chapter two, by the 1950s influential lawyers were openly critical of Sweden being the only democracy without one. One of them, as discussed in chapter two, was law professor Eberstein. His opinion could not be taken lightly as he had a key position in policy development in both self-regulation and the state regulation of advertising. He was active on the Stockholm Committee on Business Practice and had supported the conviction in the Sunlight case, even having a special statement included with the verdict. He was also chairman of the official state investigative Firm and Trademark Committee, instituted in 1949 to reform marketing laws. The committee had early on also considered a general clause for regulating marketing and wanted feedback on this in a questionnaire sent out in late 1949.78

In its comment on the committee’s 1949 questionnaire, the Sales and Advertising Federation advised against a general clause. According to it, courts were not competent to judge business ethics. To do so, they would have to seek the advice of business councils. As these already existed and did a good job, further state involvement was superfluous. Although a general clause would remedy the councils’ lack of coercive measures, it was an unnecessary reform as the Council on Advertising Practice based its decisions on a regulatory framework that was much stricter: the international Code of Standards of Advertising Practice. Also, the federation stressed that the business community feared a general clause would be used to halt new and effective competitive practices by branding them in contempt of good business ethics. The federation’s comment also expressed apprehensions that unscrupulous firms could use a general clause to denigrate their competitors with false accusations.79

However, by 1956 it was clear that the Sales and Advertising Federation and the other insider principals started to prepare for the possibility of a general clause becoming a reality. The merger delegation’s final report from November 14th 1956 stressed that a general clause in a revised marketing law was the subject of an on-going official state investigative committee, and if such a clause were to be created there would be need of an authoritative business council to assist courts. The merger was thus here recommended as a necessary pre-emptive move to secure a place for self-regulation, as


79 Reklamförbundets varumärkeskommitté får härmed avlämnas bilagda yttrande överupptagande synpunkter och önskemål om förutsatt ny lagstiftning angående varumärken och därmed sammanhängande spörsök, 24 april 1950. SvRF. Sveriges Marknadsförbunds arkiv.
the regulatory relationship between business and the state was expected to intensify.80

Besides state laws looming on the horizon, from the mid-1950s insiders also had to contend with the fact that advertising was often discussed in public, as shown in chapter two. In 1953, an exchange between Greta Strömbäck, a member of the Swedish Housewives’ Association, (Sveriges Husmoders Föreningars Riksförbund) and Willy Maria Lundberg and other consumer activists at a public meeting arranged by the Cooperative Union and Wholesale Society received large press coverage. Strömbäck suggested that advertising was consumer information and not, as Lundberg and many others present at the meeting maintained, a manipulation of the consumer. Strömbäck’s views were openly denounced by Lundberg and many others at the event. Several members of the Sales and Advertising Federation’s board reacted strongly to the incident and wanted the federation to initiate some kind of PR-measures to counter it and even contact the powerful Federation of Industries to discuss the matter.81

In general, the larger regime’s principal Sales and Advertising Federation closely monitored criticism and attempted to counter it in different ways. In 1956, it even created a special PR-committee to improve advertising’s public reputation.82 That advertising appeared to have a low standing in Swedish society was something the federation was painfully aware of. Internally, its board also discussed “enemies” of advertising, who according to the federation could be found in many state and municipal authorities.83 As a countermeasure, the federation had put considerable efforts into a survey on the public’s views of advertising, which in 1953 resulted in the publication of a book called Opinions about Advertising (Opinioner om reklam), authored by former federation CEO Rilton and later reissued it in 1956. The book, which was distributed to a wide variety of recipients, including all parliamentary MPs, showed that a majority of the population accepted and understood advertising’s important role for the Swedish economy. Over 90 percent of those interviewed were against a ban on product advertising. Nevertheless, certain segments of the population were critical of advertising, particularly municipal councilors and educators. Politically, those sympathizing with the Farmers’ Party (Bondeförbundet) and

80 PM angående samordning av Opinionsnämndverksamheten, 14 november 1956. SFRF. Sveriges Marknadsförbunds arkiv.
82 Arbetsutskottets protokoll, 13 april 1956. SFRF. Sveriges Marknadsförbunds arkiv.
83 Styrelsens protokoll, 25 september 1951; Arbetsutskottets protokoll, 12 mars 1952. SFRF. Sveriges Marknadsförbunds arkiv.
the Communist Party (Sveriges kommunistiska parti) were most negative, while those sympathizing with the Liberal and Conservative Parties were most in favor of advertising. Social Democrats were somewhat in between these two groups, being neither overtly positive nor negative to advertising. Despite the upbeat tone of the book, it still seemed that the federation had to work harder to convince a large part of the population of the benefits of advertising. That communist sympathizers did not care for advertising was probably to be expected, but that supporters of the largest and ruling political party, the Social Democrats, as well as their coalition partner at the time, the sizeable Farmers’ Party, were negative or not entirely convinced of the advantages of advertising must have been worrying, as these in the role of both consumers and voters could affect marketing’s reach and freedom. This was probably one reason why the Sales and Advertising Federation at this time took part in public meetings, such as the ones organized by the Social Democratic aligned Workers’ Educational Federation (Arbetarnas Bildningsförbund, ABF), and in radio programs discussing advertising. It even contemplated inviting some of advertising’s harshest critics such as Willy Maria Lundberg for a discussion at its annual meeting. Generally, insiders explained advertising criticism as a result of the public’s lack of understanding of what advertising was all about. According to the federation, the solution was to communicate correct information. Still, the business community’s view of advertising as an informative tool that facilitated satisfying consumers’ diversified wants contrasted deeply with that of consumer activists such as Lundberg, the trade unions and even the Cooperative Union and Wholesale Society, which described it as a persuasive force benefitting mainly producers. The fact that condemnation of advertising now came from organized interest groups with ties to the labor movement worried the federation. In a board meeting of the federation in 1955 one board member interpreted mounting public criticism as a sign that Sweden had caught up with developments that had first appeared in the US during the 1930s, when public dissatisfaction with advertising and marketing led to the formation of consumer movements.

The 1955 booklet, *The Consumer and Advertising*, jointly published by the labor movement trade union the LO and the Cooperative Union and Wholesale Society mentioned in chapter two, had made a largely negative assessment of self-regulation (chapter two). An LO legal expert, Bertil Bolin, wrote in the booklet’s chapter on advertising regulation that laws regulating advertising

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84 Reklamforskningskommitténs, protokoll 14 april 1953; Publikationskommitténs protokoll, 1 juli 1953; Arbetsutskottets protokoll, 11 februari 1955. SFRF. Marknadsförbundets arkiv; Rilton (1953,1956), pp. 149–153.
85 Årsmöteskommitténs protokoll, 18 mars 1953; Arbetsutskottets protokoll, 17 september 1954; Arbetsutskottets protokoll, 11 februari 1955. SFRF. Marknadsförbundets arkiv.
86 Rilton (1953,1956), pp. 6–7; Samarbetsnämndens protokoll, 5 maj 1953; Svenska Försäljnings- och Reklamförbundets verksamhetsberättelse 1957. SFRF. Sveriges Marknadsförbunds arkiv.
87 Arbetsutskottets protokoll, 28 oktober 1955. SFRF. Sveriges Marknadsförbunds arkiv.
were inadequate. The current law that regulated marketing, the 1931 Law on Unfair Competition was limited to regulating fair competition and only awarded damages to producers. Bolin also questioned the agencies that acted as self-regulation’s policing units, stating that they lacked sanctions, did not publicize decisions and left puffery unregulated. It was necessary to consider stronger regulations, Bolin concluded, citing the state corporatist regulatory regime that policed competition as a blueprint. Until then, he stated, self-regulation needed to provide better publicity for its decisions and make room for a stronger consumer presence, as many of the issues that ended up at its agencies concerned consumers. The last comment cannot be interpreted as other than a thinly veiled request that the major trade union, being a consumer representative on the boards of competitive and consumer state agencies, be given the same function inside self-regulation.88

As the peak blue collar trade union the LO was Sweden’s most powerful non-business interest group, with close ties to the incumbent Social Democrats, and together with other peak trade union the TCO and the Cooperative Union and Wholesale Society was awarded official status as consumer representatives in the corporatist institutions, the booklet’s policy proposals could not be ignored. Although there is no direct mention of the booklet in insider sources, the larger regime’s Council on Advertising Practice and its principal the Sales and Advertising Federation undertook some PR-measures during 1955–56 to make the council’s work more known and respected among outsiders. For example, the council’s leadership had an article on its work published in the professional periodical for business administrators, The Economist (Ekonomien), during 1955 and another one in the Cooperative Union and Wholesale Society’s periodical for its employees and officials, The Cooperativist (Kooperatören), in 1956. When the Sales and Advertising Federation took part in a series of debates on advertising arranged in 1955 by the Workers’ Educational Federation, the Sales and Advertising Federation’s representatives had been supplied with written speeches that emphasized its self-regulatory work.89 These actions certainly also meant to counter views such as those coming from the LO. Lastly, and perhaps most significantly, the Council on Advertising Practice in 1956 admitted well-known consumer researcher and advertising critic Carin Boalt as member of the council.90 By this time, the merger process was in full swing, so it reasonable to assume the booklet also would have played its part in pressuring insiders to accept

90 Valnämnden får härmed avlämna förslag till styrelens konstituering den 21 februari 1956; Svenska Försäljnings- och Reklamförbundets verksamhet 1956. SFRF. Sveriges Marknadsförbunds arkiv.
reforms, as for example the inclusion of Boalt in the council, that made self-regulation more acceptable in the eyes of outsiders.91

The Merger Process and Regime Transition

The merger process had a profound effect on the regime, and all regime variables used to analyze regime transition were in some measure put into question by it. Regarding key task, the issue was whether to mainly keep to education and information or devote more resources to policing. In a report written by the larger regime’s Council on Advertising Practice secretary Tengelin in September 1955, he stated that even before the 1954 statute reforms, the council had mainly been an institution that accepted complaints from others. He then brought up the pros and cons of forming a pro-active policing unit in the coming regime. It would be a way of increasing the number of cases tried by a self-regulatory agency, but it could also disrupt important practices within the regime. In self-regulation, Tengelin wrote, the normal mode of conducting affairs had been through negotiations. The introduction of an attorney-like institution would risk tilting the norms towards an “accusatory principle”, i.e. making the agency function like a judicial unit. This would place a huge responsibility on self-regulation’s new main agency to make thorough investigations, requiring a massive increase in both manpower and funding. The introduction of such a function might also re-introduce the regulatory ambiguity which the merger was meant to dispel. Although Tengelin did not elaborate on this point, it mostly likely referred to the danger that a pro-active unit would make different judgments than the future agency, risking internal tensions and hurting the legitimacy of self-regulation. Imperative, the report said, was that there be no clearance procedures, i.e. forcing producers to have advertisements approved beforehand. In conclusion, Tengelin thus advised against a pro-active policing unit. Insiders most likely followed his recommendation, as no such unit was suggested or mandated. The report indicates that although Tengelin, together with his Council on Advertising Practice chairman and colleague Horwitz, were at the forefront of reform, policing initiatives were something that risked robbing insiders of certain advantages that only narrow self-regulation could give them, i.e. flexibility and confidentiality that allowed for a looser regulatory implementation and a regime that did not require large amounts of resources to uphold marketers’ rule adherence or public legitimacy. However, shortly after the merger Horwitz stated in the Sales and Advertising Federation’s periodical, The Swedish Market, that it had perhaps been wrong not to include more transparency and a pro-active policing unit in the new regime, as such measures would have facilitated consumer knowledge of the council’s activities. This implied that

he harbored a broad agenda for transparency, as well as for key task, and indicates that the decision not to follow up on such a reform could have been the result of the leadership of the larger regime’s council backing off from such demands due to resistance from other insiders.92

Advertising Affiliated Organizations and the Appointment of Council Members

The participation variable in the regime typology for analysis of regime transition was clearly highlighted during the merger process, and major changes occurred in participation as a result of the merger. One important change in this regard was that the larger regime’s advertising affiliated insider organizations, the Association of Advertising Agencies, the Advertisers’ Association and the Newspaper Publishers’ Association got a larger formal say in running the new regime. They had all displayed an early interest in supporting the merger and were implicitly part of the strategic pro-merger group consisting of the Sales and Advertising Federation’s presidium and members of the Council on Advertising Practice, with the advertisers’ and the media carriers’ organizations represented on the federation’s merger delegation. With advertisers and media carriers according to the exposure hypothesis being more exposed to regulation than ad agencies, their keen involvement is understandable – changes in regulation would most certainly impinge on them, and they wanted to be able to influence developments. That the ad agencies too were concerned and wanted a say, despite their lower level of exposure to regulation, can be interpreted as a wish to make sure that changes in regulation did not injure their favored position or competitive freedom. The fact that a merger would entail that many new insider organizations from the smaller regime would be given influence over the new regime, thus diminishing the regime influence of the advertising affiliated organizations part of the larger one, must also have been important for their interest in taking part in the policy process.

One way for these organizations to gain influence over regulation was of course to get some control over case handing, as this process was used to create precedents. Thus getting the right to appoint a set number of members to future self-regulatory agencies became a primary goal. Here the advertisers and the media carriers had interests in the larger regime that they wanted to protect, while the ad agencies saw a chance to increase their power. During 1935–1956, the ad agency interest had controlled about 18 percent of the seats on the larger regime’s Council on Advertising Practice, while advertisers had held 43 percent of them and media carriers around 12 percent. The rest had belonged to printers, organizations and non-business interests, with the last

category only represented by two members. Advertisers and media carriers had thus together held more than half of the seats, securing a major influence over the inner workings of the council, while ad agencies had controlled less than a fifth of them.93

That ad agencies wanted more control is thus understandable. At the earlier referred meeting between the Sales and Advertising Federation’s presidium and the Council on Advertising Practice on September 27th 1955, the gathered representatives discussed whether the process should result in a full merger with a new regulatory council. The Association Advertising Agencies’ representative Lohse supported a merger and also argued for allowing other advertising affiliated organizations than the Sales and Advertising Federation to appoint members to the future regulatory agency. Though Bjurström from the Newspaper Publishers’ Association sympathized with a merger, he thought that there were advantages in letting the Sales and Advertising Federation continue to select this type of members to the new agency. Enström of the Advertisers’ Association remarked that “direct representation” on the Council on Advertising Practice, i.e. letting other principals into the current Council on Advertising Practice, had been raised before, but refrained from giving his personal opinion on this or the two merger alternatives. The Sales and Advertising Federation’s secretary Rilton emphasized that the good will the federation got from its engagement in self-regulation would be lost if it did not remain as sole principal of advertising affiliated business interests in the new regime. Lohse disagreed and stressed that the federation had an obligation to economize its financial involvement in the future council, making it imperative to get in more principals that would ease its economic commitments to the regime. Moreover, he stated that he had long been angered by the fact that current members of the Council on Advertising Practice were almost impossible to unseat. A change in ranks once in a while would only do some good, Lohse ventured. These demands were not new, as Lohse had made similar statements in 1954 regarding the larger regime’s Council on Advertising Practice, but these had been rebutted by the Sales and Advertising Federation’s Working Committee, with committee members Horwitz and Rilton, who also sat on the Council on Advertising Practice, stating that personal qualifications were more important than allowing for interests groups to influence the council’s member selection.94 With Lohse taking a strong position for the right of other advertising affiliated insider organizations to appoint members to the new regime’s council, it must have been clear to the leadership of the Council on Advertising Practice that the ad agencies now wanted a larger say in running self-regulation. The position of the Advertisers’ Association and the

Newspaper Publishers’ Association was less clear, but obviously they were keen on keeping a decisive influence in the successor regime.

The Conflict over Fees

One of Lohse’s arguments for including more advertising affiliated insiders as regime principals on the new regime was that additional principals would supply more funding. Another cost-efficient measure that was suggested during the merger process was to introduce fees for complaints. As stated in chapter three, the larger regime, unlike the smaller one, allowed complaints to be lodged for free. But demands for fees even inside this regime had arisen a few years before the merger as a solution to keeping up with the rising number of postwar complaints. The Sales and Advertising Federation’s annual report of 1952 pointed out that more than half of all cases in the Council on Advertising Practice had accumulated over the past five years. The growing burden was explained with the recent economic downturn, which increased competition and led to more aggressive marketing. However, as discussed in chapter two, the long-term expansion of the postwar consumer market probably had more to do with the increasing burden on the council than the temporary downturn around the time of the Korean War. The intensified number of complaints put pressure on the capacity of self-regulation. On the Council on Advertising Practice, secretary Tengelin demanded and was granted a raise at the end of 1951 due to an increased work load.95 In 1953 the Sales and Advertising Federation’s board decided to introduce fees for non-members, motivating the decision with a need to cope with costs. Tengelin protested, fearing it would lead to fewer complaints and a diminishing role for self-regulation. However, this reform was not implemented as the statutes of the Council on Advertising Practice did not allow fees.96 Still, members of both the federation’s Working Committee and its board kept arguing for them, with former federation chairman Sven A Hansson being one prominent and ardent supporter.97

In conjunction with the merger process, the Council on Advertising Practice issued reports that concluded that fees were detrimental to self-regulation. A core argument was that fees would drive away consumers from submitting complaints. Consumers rarely had money to spend on such matters, the reports stated, and it was important that self-regulation should cater to them. Letting go of this would invite state intervention. The reports also pointed out that the revisions of the international code of conduct, the Code of Standards of

95 Arbetsutskottets protokoll, 19 december 1951; Svenska Försäljnings- och Reklamförbundets verksamhetsberättelse 1952. SFRF. Sveriges Marknadsförbunds arkiv.
96 Styrelsen protokoll, 20 maj 1953. SFRF. Sveriges Marknadsförbunds arkiv.
Advertising Practice, made in 1948 and in 1955 emphasized self-regulation’s responsibility towards the consumers. These revisions, it was stressed, had been made on the initiative of the Swedish representatives on the International Chamber of Commerce’s committees on advertising.\textsuperscript{98} The leadership of the Council on Advertising Practice articulated here a broad regulatory strategy, invoking the regime’s promise to protect both producer \textit{and} consumer rights by opposing fees, pointing out that such a reform jeopardized the international standing of Swedish self-regulation.

At a meeting of the Sales and Advertising Federation’s Working Committee on January 13\textsuperscript{th} 1956, several of its members argued for a fee, saying these were collected by other business councils. Horwitz strongly resisted these proposals and finally threatened to have the entire Council on Advertising Practice step down if the Sales and Advertising Federation insisted on fees. Faced with this ultimatum, fee supporters backed off. At the decisive board meeting of the Sales and Advertising Federation on February 21\textsuperscript{st} 1956, Council on Advertising Practice and board member Junker bluntly stated that a fee would mean the end of self-regulation. As consumers could not afford it, the council had to ensure their protection by abstaining from fees. By doing so it would avoid being replaced by a state authority. The board reaffirmed the decision of the federation’s Working Committee, and fees were taken off the agenda.\textsuperscript{99} The conflict over fees makes salient the different attitudes within the federation regarding the importance of taking consumer rights into account. Clearly the arguments from the leadership of the Council for Advertising Practice that consumer rights as well as the regime’s legitimacy would suffer with fees did not hit home with all members. In effect, the latter appeared to downplay the regime’s responsibility for outsiders, emphasizing instead its role to regulate fair competition and only backing off when faced with the dissolution of the larger regime’s regulatory agency.

The Blueprint for a New Regime

Although the leadership of the Council on Advertising Practice had won the conflict over fees, the problems of funding remained, together with the demands from the ad agencies to be able to appoint members to the new council. When the final report of the delegation was delivered on November 14\textsuperscript{th} 1956, it seemed a solution was proffered that accepted defeat in the appointment issue in return for gaining better funding, helping to stave off possible future

\textsuperscript{98} Opinionsnämnden för reklam. Rapport till Svenska Försäljnings- och Reklamförbundets arbetsutskott, 31 december 1955; Bilaga 3, Opinionsnämndens synpunkter på anmälningsavgift, 31 december 1955; Sten Horwitz, PM med synpunkter på avgift för anmälan till opinionsnämnden, 9 februari 1956. SFRF. Sveriges Marknadsförbunds arkiv. The representatives the leadership referred to were of course Horwitz and Tengelin (chapter four).

\textsuperscript{99} Arbetsutskottets protokoll, 13 januari 1956; Styrelsens protokoll, 21 februari januari 1956. SFRF. Sveriges Marknadsförbunds arkiv.
demands for fees. The report recommended no less than 16 principals for the new agency, including the former principals from the old regimes and some new ones. Among the new ones were the Council of Chambers of Commerce (Handelskamarrnas Nämnd), representing the interests of the local three chambers of commerce in the old regime (chapter three), the Federation of Swedish Farmers’ Associations and three advertising industry affiliated organizations representing advertisers, media carriers and ad agencies. These latter three appeared to have gained an especially favored position in the new regime. Of the principals that had not been principals in the old regimes, only these three would have the right to appoint members to the new council, one each. Their support for the merger had thus paid off. This was further accentuated in the statutes concerning the new regulatory agency’s organization. The new council would have two sections with eight members in each. In addition, each section would be led by a vice-chairman and the whole council by a chairman, totaling 19 members in all. One section would handle cases relating to advertising, the other more general issues of fair competition. In the first section, “the advertising interests” represented by the advertising affiliated organizations, in effect the Sales and Advertising Federation, the Association of Advertising Agencies, the Advertisers’ Association and the Newspaper Publishers’ Association, would be allowed to dominate, being awarded five of the eight seats.100

Thanks to the special position given to them, the four advertising affiliated organizations retained a strong influence over the self-regulation of advertising. In the section handling more general fair competition matters, they would, however, be in a minority, having been awarded in total only two seats. That the Council on Advertising Practice’s chairman Horwitz was a backer of this idea of giving “the advertising interests” control over the first council section is indicated by his statements at the Sales and Advertising Federation’s Working Committee on November 29th 1956. He said then that giving the organizations representing the advertisers, the media carriers and the ad agencies the right to appoint members to the new council was not due to demands from the other regime, but nonetheless something he thought would be desirable. That the Sales and Advertising Federation was pleased with and had desired this configuration was also apparent, as Horwitz at the same meeting commented that the organizations upholding the smaller regime had been quite generous in allowing for an institutional structure that the larger regime had wanted. Nevertheless, despite the right to appoint council members being limited to a select number of the new regime’s principals, all of them had to supply funding. This solution of course was a strong defense against a resurgence of demands for instating a fee, something the Council on Advertising Practice must have taken into account when finally deciding to back this solution. Economically this was also a considerable improvement

100 PM angående samordning av Opinionsnämndverksamheten, 14 november 1956. SFRF. Sveriges Marknadsförbunds arkiv.
for the Sales and Advertising Federation, which would save up to 15,000 SEK yearly. If the federation decided to retain its own regime, cost were expected to continue to rise.101

Although the merger meant that the Sales and Advertising Federation would keep a strong position in the new regime, being generously awarded the right to select four seats on the new council and also the top financial provider, it was no longer the sole principal of a whole regime. Its counterpart from the smaller regime, the Council of Chambers of Commerce, appointed three seats and supplied a large although decidedly smaller amount of financial backing than the federation, and it was accompanied by several other principals from the smaller regime, among them the Federation of Industries, the Retail Federation, the Federation of Wholesale Merchants and Importers and the Cooperative Union and Wholesale Society. The statutes of the new council also stated that among the four council members chosen by the Sales and Advertising Federation there should be consumer representatives. Unfortunately the sources do not detail the process leading up to this decision, but given that the Council on Advertising Practice had admitted Carin Boalt as a consumer representative in 1956 before the merger was complete, it was not totally unexpected. For the first time, the statutes of a self-regulatory agency mandated the formal representation of consumers in a self-regulation regime. Another important change that strengthened the consumer position was that the new council was to adopt the Council on Advertising Practice’s position on both rules and complaints, basing decisions on the international Code of Standards of Advertising Practice and allowing everyone to lodge complaints for free. This meant that the regulatory inconsistencies and loop holes that Horwtiz had highlighted as a key motive for reforms before the board of the Sales and Advertising Federation would be gone. With one regime under one code, producers could no longer chose which regime to submit complaints to, and consumers were no longer restricted to just one of two regimes. The merger thus eliminated not only regulatory inconsistencies that plagued producers, but also those that had limited consumers’ ability to submit grievances. This outcome thus addressed the challenge to regime legitimacy that the former situation had threatened to create.102 The legal presence on the council would also be expanded, with a judge as the chairman of the council and preferably two other jurists acting as vice-chairs of the sections.

Though an increased number of business organizations in itself did not modify the regime type, the fact that the new regime broadened its representation among insiders probably aided in creating acceptance for letting in a few

102 PM angående samordning av Opinionsnämndverksamheten, 14 november 1956. SFRF. Sveriges Marknadsförbunds arkiv.
outsiders. Although lawyers and consumer representatives would be part of the council, business would have an overwhelming number of member seats, as well as fund the council entirely. The report stressed that “a central concept in the proposed new regime is that active businessmen, as has been the case so far, shall have a decisive influence on the council”. The architects behind the merger, although backing some broad reforms, thus did not want to abandon a central principle of self-regulation – a regime controlled by insiders.

The End of the Merger Process – Safeguarding Insider Control

The final report was discussed by both the Working Committee and the board of the Sales and Advertising Federation in November–December 1956. Reactions from board members were muted, and the few who commented on the proposal were supportive. The merger was finally given the go-ahead by the board on December 12th 1956, and the statutes were accepted by the principals of the new regime on February 5th. By March 12th 1957, the regime was up and running. However, because the Swedish Ship-owners Association declined to join, the founding principals numbered 15, not 16.

The four agencies that had upheld self-regulation in the old regimes were now replaced by a single one, the Council on Business Practice, housed at Stockholm’s Chamber of Commerce, formerly part of the smaller regime. The new council was organized according to the merger delegation’s recommendations and included two consumer representatives, more insider principals, the use of the international code of conduct as a basis for council verdicts and allowing anybody to place a complaint free of cost. The latter reform transferred the rules from the larger regime, but the setup also incorporated features of the smaller one. For example, the chairman of every one of the smaller regime’s Committees of Business Practice had been a legal expert with experience as a judge; this was now specified as a precondition for the chairman, and preferably the vice-chairman, of the new merger agency. The selection of chairs and secretary in the new council indicated that the principals from the two former regimes tried to balance their influence over these crucial council members, who because of their legal or otherwise long experience of regulating marketing of course had an important role in case proceedings. Judge Gunnar Dahlman, senior legal expert and chairman of the Swedish Labor Court (Arbetsdomstolen) as well as chairman of the smaller

103 PM angående samordning av Opinionsnämndverksamheten, 14 november 1956, p. 5. SFRF. Sveriges Marknadsförbunds arkiv.

104 Arbetsutskottets protokoll, 12 november 1956; Arbetsutskottets protokoll, 29 november 1956; Styrelsens protokoll, 12 december 1956; Svenska Försäljnings- och Reklamförbundets verksamhetsberättelse 1957. SFRF. Sveriges Marknadsförbunds arkiv.

regime’s Stockholm Committee of Business, became the new council’s chairman, and his colleague Yngve Samuelsson, vice-chair of the Labor Court and director general of the Royal Insurance Council (Kungliga Försäkringsrådet), one of its two vice chairs. Horwitz and Tengelin from the larger regime also remained in leading positions: the former as the council’s other vice-chairman and the latter as secretary.106

The choice of the two consumer representatives on the new council, Carin Boalt and Ruth Hamrin-Thorell, indicated that the new regime welcomed a stronger consumer presence in self-regulation. Consumer researcher and activist Boalt had criticized advertising for being uninformative and suggestive and was at the time working at the National Institute of Consumer Information. She was not entirely new to the job as she, as stated earlier, had joined the Council on Advertising Practice the year before during the merger process. This of course had allowed insiders to judge if she would be a fitting addition to the new council, and if found to be such, she was perfectly positioned to be part of it. Hamrin-Thorell was a Liberal Party MP who in a parliamentary bill from early 1957 had demanded stricter state regulation of advertising. One of the first tasks of the Council on Business Practice was to write an official comment on her bill, arguing that existing laws were of acceptable strength while also highlighting the new self-regulatory regime.107 Another sign that the new regime strived for an image of representing not only business interests was the inclusion of the Cooperative Union and Wholesale Society and the Federation of Swedish Farmers’ Associations as principals. Although they here represented a producer interest, the first organization spoke for a large segment of consumers, of which many were part of the labor movement. It also represented the consumer interest on many central state agencies (chapter two). The Federation of Swedish Farmers’ Associations represented what at this time was still a sizeable farming community, characterized by small family-owned farms. Being regarded not only as business interest organizations, but as representatives of large social groups as well, these two principals offered the new regime needed legitimacy among outsiders. That one of the council’s two consumer representatives, Carin Boalt, in an interview in *The Swedish Market* stated that although the new regime was clearly a business-run organization, it included “some organizations that represented public interests


to some extent”, then mentioning these two organizations first, supports this interpretation.108

By having a judge, a parliamentary MP, a consumer researcher and a director-general at a state agency all agreeing to take part in the new regime, its insider principals obviously counted on the fact that the participation of these particular outsiders would give the impression that the upgraded regime had state approval and that outsiders now had a chance to influence self-regulation from the inside. However, it is questionable how often such opportunities presented themselves to outsiders. The new consumer representatives were chosen by insiders (the Sales and Advertising Federation) and did not formally represent the cooperative movement, national trade unions or women’s organizations – interest groups that in their capacity of acting for large segments of the consumer collective were given official status as consumer representatives in state institutions. That the new consumer representatives did not represent such outsider interests was acknowledged in public by Boalt in an interview in a 1957 The Swedish Market shortly after the regime got started. She added that her role was to speak on behalf of the consumers solely in the capacity of being one herself. She also stated she thought the new Council on Business Practice had a limited ability to reshape the market to better serve consumer needs for more and improved consumer information, as it only acted after transgressions had been made, but that it could have an inhibiting effect on their being carried out in the first place. Boalt’s statements infers that she was aware of the politics behind choosing her and her colleague instead of consumer interest organizations to sit on the council and that she did not intend to challenge the legitimacy of these organizations. Her views of the council as an imperfect policy tool for consumers must have been disquieting for insiders, as it indicated she would continue pushing for her consumer policies in other arenas regardless of her position in self-regulation. Still, her and Hamrin-Thorell’s influence was limited, as they constituted only two of the council’s 19 members and by being selected by the Sales and Advertising Federation did not represent powerful consumer organizations.109

The merger had thus not responded to the calls made by trade union the LO in the 1955 booklet to admit it and possibly other corporatist consumer interest organizations onto the council. Still, this strategy had trade-offs. On the one hand, such outsider organizations would have posed a bigger challenge to insider control over the regime, a situation which was now avoided, but,
on the other, they would have supplied a much broader, well-known and publically legitimate consumer representation, making it harder to challenge the authority of the regime. With the chosen form of outsider participation, it was questionable how strong a defense it would be against public bad will, decreasing consumer confidence and state intervention, particularly if the consumer interest groups that were shut out continued with their criticism of advertising and with demands for state policies that threatened to constrain marketing freedom.

While the new organization intentionally constrained the influence of consumer representatives with critical views on advertising, the same line of thinking did not appear to apply to the legal experts drafted to chair the council’s work. These were not brought in to act as a counter-point to the business perspective, but as figures of legal authority that would increase the regulatory legitimacy of self-regulation as an independent regime. They therefore had to be sympathetic to the cause. This made it unlikely that insiders would have chosen legal experts like Eberstein or Marteus, who had been critical of self-regulation and supported stronger state regulation. Therefore, the chairs were probably selected in view of their positive perspective on both marketing and the virtues of using self-regulation to control it. That such criteria were important for the choice of chairs is indicated in the interview with the new chairman, Judge Dahlman, in the same issue of The Swedish Market that Boalt was interviewed in. He had already spent a year as chair of the Stockholm Committee of Business Practice and was thus, like Boalt, drafted into self-regulation during the merger process, allowing insiders to both try him out and, if he fitted the bill, position him as a natural choice for the new council. Dahlman seemed to have passed the test: in his statements, the judge seemed to echo the views of the Sales and Advertising Federation that regulation had to take the business community’s needs of marketing innovation and competitive freedoms into consideration. Dahlman initially stated that it was important that the new council had representatives from many walks of life to gain legitimacy as representing the public and the consumer, but then emphasized the business perspective. To assess if marketing disregarded proper business ethics was a difficult and delicate task, he stated, especially given the rich complexity of the dynamic business sector. Judgments had to be made with a respect for the overall long term consequences they would have. This required that a member of the council have certain qualities, the judged stressed. Those making assessments had to be

broad minded and be able to tell the difference between what is unhealthy and damaging for a sound business development and what is [just] new and unaccustomed. But [in all cases] you always have to consider that business is based on free competition.110

Pondering his own role in the council, he stated that it was to weigh the different arguments presented by involved parties in a case, to frame the issues at hand and keep watch over the continuity of the council’s precedence. He emphasized how his experience as a judge in the Swedish Labor Court had proved how invaluable cooperation between judges and “men of practicality” had been for all involved parties. He closed his comment by framing the future of the new regime as part of a long history of successful regulation:

The Council on Business Practice is not an entirely new institution. It has the privilege to build and develop on the best of traditions, which [now] are part of the new council. It is my anticipation that the Council on Business Practice will live up to the expectations placed on it.\(^\text{111}\)

Dahlman’s statements thus portrayed him as a supporter of marketing and self-regulation, as well as the narrow ideals that until then had defined it. During the merger process, Bohman had stated on the board of the Sales and Advertising Federation that the stricter views on regulation in the 1955 petition did not represent the views of the smaller regime’s Committees on Business Practice – Dahlman’s statements indicated that he may have been right. Being a legal expert given the authority to lead the council during case proceedings, Dahlman, together with the other vice-chairs, would have considerable power over the other members, who were business laymen or consumer representatives without a legal background or maybe lacking experience in self-regulation. That such a figurehead of the new regime made such statements about it and its role in the Sales and Advertising Federation’s trade paper showed that supporters of narrow principles had a powerful ally. Moreover, Dahlman would, until his death at the end of 1963, successfully oppose key broad reform attempts, most notably those proposing pro-active policing (chapter five). Finally, as stated, the Cooperative Union and Wholesale Society and the Federation of Swedish Farmers’ Associations may have been seen as the face of social groups, but in the Council on Business Practice they clearly represented the business interests of their members.\(^\text{112}\) Thus the evidence indicates that insider principals, and perhaps especially the Sales and Advertising Federation that appeared to have engineered much of the institutional structure for the new regime, would not allow critical outsiders any real power over self-regulation, while those with a more positive view were specifically drafted to take on leading roles in it.

As made clear in the final 1956 report from the merger delegations, the regime did not want relinquish insider control over the Council on Business Practice:


Practice. Consequently, the addition of the civil servants mainly appears to have been done to help increase the legitimacy of the new regime and protect it from state intervention. Insiders probably hoped they would project an image of consumer power and state patronage without insiders having to make any serious concessions of power to them. So, even though participation now became broad, this was to a large extent a pseudo-change in the participation variable that did not in any significant way alter outsider influence over the regime. With regard to other regime variables used to analyze regime transition, the narrow values were simply unchanged: no pro-active policing was added, and transparency remained low. If this rather concealed narrow strategy was the intention of the reformist camp around the larger regime’s Council for Advertising Practice, Horwitz had publically expressed in *The Swedish Market* shortly after the merger that it had perhaps been wrong not to have pro-active policing and increased transparency, as these functions would have increased consumer knowledge of the new council. This indicates he maybe harbored a more genuine vision of a broad regulatory regime. If that was the case, it is likely that opposition to such policies from more narrowly oriented members on the Sales and Advertising Federation, who voiced fears that the merged regime might become modeled on what they perceived as the stricter regulatory ambitions of the smaller regime, had forced Horwitz to take such ideas off the reform agenda.113

**Conclusion**

The first phase initially exhibited two regimes that were typical of narrow self-regulation. Applying the regime typology presented in chapter one to analyze regime change, regulatory reforms clearly reflected a narrow strategy, tightening up transparency and scaling back policing efforts. The exception was the interests and rights variable, where the leadership of the Sales and Advertising Federation’s regime worked to further consumer rights to bolster legitimacy. However, regulatory loopholes, stakeholder inequalities due to different sets of rules, hurt legitimacy and posed a threat to the future of both regimes. Also, the exposed market position of advertisers and the particular competitive problems of smaller businesses in craft, retail and wholesale added inside pressure for reform. Most likely, outside pressure from consumer activists and the powerful trade union the LO too played a part, leading to fears of state intervention unless some type of reforms were carried out. Taken together, these pressures forced the two regimes to commence negotiations on cooperation, resulting in the 1957 merger.

The merger was initiated in conjunction with the discussions that insider organizations from both the smaller and larger regime had regarding the 1955 petition. The petition suggested tougher self-regulation of various forms of advertising and marketing, mainly competitions and premiums such as free samples and “buy one, get one free” offers. To a large extent, it reflected the particular regulatory demands of insider organizations representing smaller businesses in retail, crafts and probably to some extent wholesale. They felt threatened by market changes that introduced larger actors in distribution and wanted regulations that would limit the marketing capability of these stronger competitors. By restricting costly marketing schemes typical of large market actors such as free samples and “buy one, get one free” offers, they hoped they would retain some of their competitive position. All advertising affiliated insider organizations opposed the petition, which they saw as constraining advertising, and did not sign it. However, when insider organizations from both the smaller and larger regime gathered to discuss the petition during its initial stages, it became clear that the Federation of Industries from the smaller regime as well as the Advertiser’s Association, which was close to the larger regime, were more interested in a general reform of self-regulation of advertising, making policing more effective. In this they were supported by the pro-petition parties as well. More hesitant about such policies were the Sales and Advertising Federation and the Association of Advertising Agencies.

The shifting lines of conflict in the petition are important matter, and regime reform therefore requires some explanation in light of these conflicts. The Advertisers’ Association strongly opposed the petition on the grounds that it only served to protect the competitive position of small businesses, thus standing in the way of a rationalization of the distribution sector that the association saw as beneficial for market development. The Federation of Industries also raised doubts as to its usefulness, although it did sign it. This stance was not surprising, given its earlier resistance to the regulatory ambitions of organized retail, as discussed in chapter three. Still, both organizations wanted a regime reform with more emphasis on policing. This indicates that there existed a common regulatory interest between the Advertisers’ Association and the Federation of Industries. This interest can be explained by the exposure hypothesis presented in chapter one, as the link that united them was that both represented an advertiser interest. According to the hypothesis, advertisers are the industry group that is most exposed to regulation and public bad will and therefore more prone to demand stricter regulation to preempt a loss of consumer confidence and state intervention. Complaints from the Advertisers’ Association about public bad will and problematic business ethics in advertising also support such an analysis. The fact that the main opposition to this view at the insider meeting on the 1955 petition came from a representative of an ad agency also support the thesis, as ad agencies with their lesser exposure to regulation and bad will are less likely to support stronger regulation to avoid competitive restrictions. The more muted negative
position of the Sales and Advertising Federation at the meeting can in turn be explained by the fact that it had stakes in keeping a major position in self-regulation, as being the sole principal of the larger regime was one of its key assets. The organization’s leadership generally opposed stronger regulation of marketing, as it was regarded as constraining. This tied in with its overall purpose to promote advertising and marketing in the public. In that sense, the larger regime’s many narrow characteristics mirrored this overarching view of freedom being more beneficial than regulation. But with several production and distribution affiliated organizations demanding reforms, the federation was under pressure to accept a major overhaul of self-regulation. Additional pressure was most likely added by the fact that the petition was publicized in the media, revealing to outsiders that the business community was not united in its views on self-regulation. These dynamic power politics among insiders and a growing risk of losing regime legitimacy in front of outsiders were most likely instrumental in the realization of the merger process.

The actual merger process got started when the leadership of the larger regime’s regulatory agency, the Council on Advertising Practice, decided to favor a merger. To the regime’s principal, the Sales and Advertising Federation, however, the council’s leadership avoided painting the situation of an insider conflict, instead motivating reforms as a way to get rid of the inconsistencies and regulatory loop holes that two parallel regimes presented. Some board members did, however, refer to insider conflicts when objecting to the merger, stating that they feared that the tendencies towards stronger regulation among insiders in the smaller regime would have too much influence on the new one. Resistance to the reforms came primarily from members of the Sales and Advertising Federation who thought the federation would lose its influential position among insiders once it did not have complete control over a self-regulatory regime. There were also worries that a merger would make the new regime less flexible and permissive than the current one. This fear was based on the perception that several of the smaller regime’s principals had supported stricter regulation by signing the 1955 petition for the regulation of samples and competitions. On the other hand, supporters of the merger, such as the leadership of the Council on Advertising Practice, thought a merger was necessary to strengthen self-regulation in relation to both insiders and outsiders.

Despite these tensions, advertising affiliated organizations cooperated to make sure that they would not lose influence over the new regime. The 1955 petition and the regulatory demands made by the trade union the LO the same year made it clear that there was a risk self-regulation could develop tendencies that limited market freedom or that it even might be replaced by a state regime. Here the Sales and Advertising Federation, the Advertisers’ Association, the Newspaper Publishers’ Association and the Association of Advertising Agencies, of which the last three were directly dependent on advertising as a primary source of income, tried to safeguard their market interests by
joining up with the leadership of the Council on Advertising Practice, together
taking charge of the merger process on behalf of the larger regime. With the
Association of Advertising Agencies arguing that more principals from the
advertising affiliated organizations were needed to fund the regime, the three
organizations managed, probably partly thanks to the wish of the leadership
of the Council on Advertising Practice to find financial alternatives to fees, to
become principals in the new regime and get the right to appoint members to
the new council and, together with the Sales and Advertising Federation, gain
a dominant position in the new Council on Business Practice’s section that
would handle advertising cases.

The merged regime welcomed new insiders as well as outsiders. Still,
merger reforms were tailored to minimize the loss of insider influence over
the new agency, the Council on Business Practice. Of the council’s three
chairs and the secretary, all except one vice-chair had had similar positions
in the former regimes. Insiders also made sure they had exclusive rights to
appoint consumer representatives on the council, for which there were only
two seats. The representatives, a consumer expert and an MP from the Liberal
Party, were chosen by the peak business marketing organization that had run
the former larger regime, the Sales and Advertising Federation. Here insiders
had also made sure to pick not just untried talents, as Boalt, the consumer
expert, had in 1956 been selected to sit on one of the predecessors to the new
council, the Council on Advertising Practice. The professional association
of these new consumer representatives was meant to signal state approval
and state cooperation. Thus the new regime did not open up for the outsider
participation of established interest groups with a broad member base and
state-sanctioned consumer representation, a representation which had been
more or less demanded by labor movement power player, peak blue collar
trade union the LO, in a 1955 booklet jointly published with the national
Swedish cooperative movement, the Cooperative Union and Wholesale
Society. The choice of consumer representatives was consequently in all pro-
bability a strategic move to silence the LO’s criticism that self-regulation
lacked consumer representation, without having to invite it and other powerful
consumer interest groups to join. That the larger regime suddenly saw this
outside pressure for participation as an imminent threat is supported by the
1956 inclusion of Carin Boalt as a consumer representative on the Council
on Advertising Practice. The fact that she stayed on in the same capacity
in the Council on Business Practice and that the merger plans were in full
swing when she was appointed in 1956 indicates that the leadership of the
larger regime at this point did not dare wait for the merger to happen to ensure
that the LO and other powerful interest groups, which recently had acquired
formal status as consumer representatives in state institutions, would be kept
out. That the selection of outsider participants was made to safeguard business
influence over the new regime is also evident in the fact that the consumer
representatives, who were expected to have views diverging from business
insiders, were limited in numbers and chosen so as not to represent any of the powerful corporatist consumer interest organizations, while the legal experts drafted as chairs, meant to represent the authority and legitimacy of business self-regulation, appear to have been screened for having a favorable view of marketing, market freedom and self-regulation. The new council’s chairman even indicated that the narrow ideals would continue to guide the new regime. The participatory reform can thus be defined as being pseudo-broad than properly broad, given that outsiders were not allowed to choose their own representatives.

The fate of other regime variables in the regime typology used to analyze regime transition also points toward a continued narrow regulatory strategy, with no major change in transparency, a dismissal of pro-active policing and continued reliance on information and education to uphold rules (figure 4.1). In that light, the merger reforms seem to have been guided by a “hidden” narrow strategy to preserve as much insider control as possible. While the new merged regime adapted some reforms which analyzed using the theoretical regime variables of participation and interest and rights can be classified as broad, in reality these formal broad qualities of the new regime made little difference in how the regime operated compared to its predecessors. Internal documents from the Sales and Advertising Federation outlining the new regime support such intentions. That the leadership of the federation’s own self-regulatory agency which operated the larger regime during the merger process internally displayed satisfaction that principals of the smaller regime had accommodated many of the larger regime’s wishes when drawing up the framework for the new regime indicates that this leadership of the larger

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<th>Regimes</th>
<th>1950</th>
<th>1950</th>
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<td>Insider</td>
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<td>Participation</td>
<td>Insiders</td>
<td>Insiders</td>
<td>Insiders and “outsiders”</td>
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<tr>
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<td>All stakeholders</td>
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<td>Key task</td>
<td>Education and information</td>
<td>Education and information</td>
<td>Education and information</td>
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<tr>
<td>Transparency</td>
<td>Low</td>
<td>Low</td>
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Figure 4.1. Regime transition during phase one, 1950–1956, from outset of regime configuration until decision making of policy change.
regime may well have been the architect of this strategy. The fact that one of the consumer representatives chosen by the new regime shortly before the merger was brought into the larger regime’s regulatory agency the Council on Advertising Practice strengthens this interpretation.

Still, comments made by a key representative of the larger regime’s regulatory council after the merger, that it had been wrong not to include greater transparency and a pro-active solution in the new regime, point to some advertising affiliated interests constraining reforms, possibly the ad agencies and others that had voiced fears of a stricter regime during the merger process. This is supported by the fact that production and distribution affiliated organizations at the 1955 meeting on the petition complained of advertising bad will and voiced demands for stricter policing and pro-active efforts, while ad agency interests at the meeting denied bad will problems were real, and the Federation of Sales and Advertising did not lend support to these reform proposals. Production and distribution affiliated organizations would therefore be unlikely champions of this strategy. This interpretation is backed up by the fact that several of them, as will be shown in the next chapter, shortly after the merger initiated reform attempts that contained the same demands for policing that they had voiced in conjunction with the 1955 petition, as well as demands for broader consumer representation. The last fact highlights that these insiders had identified a drawback in the limited consumer representation feature by the merged regime. While barring the admission of powerful interest groups such as the LO as consumer representatives avoided possible challenges to insider control over the regime, the new consumer representatives that were chosen in their place lacked the legitimacy and power those groups possessed, putting into question how much goodwill and protection from state intervention they really could provide, especially if the powerful consumer interest groups that had been discarded should continue to criticize advertising and lobby for policies that could constrain marketing freedom.
CHAPTER FIVE
Self-Regulation 1957–1963: Internal Conflicts, Aborted Reforms and Broader Participation

The second phase in regime transition started with the launch of the merged regime in 1957 and ended with the decision in 1963 to admit corporatist interest groups and the state as consumer representatives to the Council on Business Practice the following year. The last move strengthened the change in the value of the participation variable initiated during the merger process by replacing the pseudo-broad regime created in 1957 with one with truly broad participation. However, conflicts between insiders on how to proceed with reforms resulted in a number of reform initiatives being aborted, stripped down or delayed.

New Efforts in Education and Information
The merged regime activated in the spring of 1957 faced a number of challenges. With advertising and consumer issues now being high on the public agenda, while a growing and changing consumer market caused an increase in competition (chapter two), self-regulation had to take on a bigger regulatory responsibility or otherwise risk that the growing consumer policies of the state engulfed it. At the first meeting of the new Council on Business Practice’s principals on February 5th 1957, the principals conceded that the council’s predecessors had not been well-known and that the council needed to develop a plan to gain acknowledged. One of the council’s first decisions was to promote awareness of market rules by printing a booklet containing the international code of conduct, titled after the code: *the Code of Standards of Advertising Practice*, (Grundregler för god reklam), presenting the new council and the 1955 version of the code of conduct. However, to succeed in getting better rule observance, producers needed to get continual information on the council’s work, and the easiest way to do this was to spread knowledge

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of its verdicts. By doing so, producers would be better prepared to avoid faulty advertising and help reduce transgressions. To accomplish this, the Council on Business Practice had to increase openness. In the 1957 April issue of the trade paper, *The Swedish Market*, vice chairman of the new council, Horwitz, had stated that confidentiality in council work might be less effective in the future and that greater transparency would contribute to making the council’s work better known.³ On September 2nd 1958 the council decided to make public in extensio all of its verdicts, although proceedings and identities of involved parties remained confidential.⁴ In 1961 the council decided to make verdicts fully public, although it could decide to keep the identity of involved parties secret. The process leading up to this gradual increase of transparency during the second phase will be discussed later on in this chapter.⁵

Besides allowing for more transparency, the Council on Business Practice also decided to assemble its verdicts in books. In the foreword of the first edition, released in 1963 and compiling cases 1957–60, Tengelin, now promoted from secretary to CEO of the council, wrote that the agency’s activities had reached considerable proportions. During its first four years it had given verdicts in over 220 cases. Although not noted in the book, this was more than a third of the total number of cases that self-regulation had handled until the merger. According to Tengelin, the prolific work of the new council had led to several demands to publish the verdicts, in the hope that spreading the council’s thorough reasoning would have a beneficial influence on business ethics. He also made a point that verdicts as of 1961 were public. This of course put pressure on producers to adhere to the rules, knowing that future editions could include the names of involved parties. To help improve understanding of the council’s practice, the foreword explained how to interpret the wording of the verdicts. The council used a number of standardized formulations, in which the particular circumstances of a case were framed in relation to both the severity of a transgression and the advertisement’s ethical quality. Tengelin made a special point of explaining the meaning of the formulation “not to be regarded as compatible with proper business ethics given the interests of both the business community and the public”. This, he stated, was used when the council was critical of what until then had been regarded as permissible, but now was found wanting. The inclusion of the public in the formulation made clear that the development of the regime’s ethics now had to contend with outsider expectations.⁶

While the new regime now handled cases relating to both advertising and other forms of marketing, the majority of cases concerned advertising.\(^7\) This was reflected in the use of education and information, which centred on such cases. In 1961 the Newspaper Publishers’ Association released the booklet *Proper Business Practice in Advertising. 30 cases based on the Code of Standards of Advertising Practice* (God affärssett i reklam. 30 praktikfäll kring grundregler för god reklam\(^8\)). To illustrate the reasoning of the Council on Business Practice, the booklet discussed 30 cases tried by the council and also included the international Code of Standards of Advertising Practice. The authors were Harry Bjurström and Per Ocklind, the former a Newspaper Publishers’ Association representative active for many years in the Sales and Advertising Federation, the Council on Advertising Practice and now on the Council on Business Practice. The booklet stated that advertisers and ad agencies had a great responsibility to stay updated on ethics and regulations, and its recipients were advertisers, ad agencies and newspapers.\(^9\) These books signaled a new approach in information and education. While articles in trade journals had dominated earlier, the introduction of books made it possible to be more detailed by compiling of the council’s cases in accessible volumes. Books were also a better way than trade papers to reach out to non-business actors and convince them that self-regulation was a viable form of regulation. They also conveyed the message that the Council on Business Practice had an essential role in formulating norms and practice.\(^10\)

The Sales and Advertising Federation also started to draw attention to the importance of formal education to increase an awareness of the rules. The federation had shortly after the merger formed a special committee to look after self-regulation policy.\(^11\) After the debate following on the 1957 release of Lindqvist’s book *Advertising is Lethal*, two members of the committee completed a report on December 17th 1957 discussing solutions to advertising’s goodwill problem. The authors were secretary of the Council on Business Practice Tengelin and Sales and Advertising Federation CEO Gösta Walldén. The Tengelin-Walldén report stated that the goal of self-regulation was twofold:

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\(^8\) Bjurström and Ocklind (1961).


\(^11\) Arbetsutskottets protokoll, 29 november 1956; Tengelin, Sten and Walldén, Gösta. PM angående en ”sanerings- och upplysningskommitté i reklamfrågor”, 17 december 1957. SFRF. Sveriges Marknadsförbunds arkiv.
to spread knowledge of what the true function and moral standing of advertising is, thus limiting unwarranted criticism, and also making sure that advertising that broke the rules would be less common in the future.\(^\text{12}\)

According to the authors, one way to accomplish this was to support educational efforts to make market rules better known. At the time only a short course on marketing law was given at the Institute for Higher Advertising Education (Institutet för högre reklamutbildning, IHR), a private vocational school founded in 1953 through an initiative of the Sales and Advertising Federation. The report suggested a three-level structure of courses in advertising regulation. The highest level would be reserved for business schools; the second level would be more cursory and taught at schools for professional marketing education; while the lowest level would be given at vocational trade schools. Further training could be handled by the marketing societies. The lack of published works on advertising regulation constituted a challenge, the report wrote. The production of textbooks was complicated by the fact that there were no comprehensive legal publications on advertising law. However, no decision appears to have been taken by the Sales and Advertising Federation to help in the production of such books or courses. While educational efforts in general were looked upon favourably, actual costs attached to such projects likely made reforms difficult to realize. Strategies aimed at solving the council’s economic shortages will be discussed later in the chapter.\(^\text{13}\)

The Splitting Up of the Reform Policy Process

During the second phase of regime transition, the policy process started to become complicated, as a number of broad-based initiatives took form. At the beginning of the phase, these originated from individual insider principals and largely failed until a coalition of production and distribution affiliated principals with advertiser interests finally managed to successfully implement a number reforms. Although education and information remained important, there were several attempts aimed at increasing and improving policing, and there arose demands for the participation of more legitimate and powerful outsiders. The initiatives were met with both support and resistance. The various reactions generally confirm the exposure hypothesis, as advertisers and media carriers due to their prominent exposure to bad will and regulation to a much greater extent were positive, hoping reforms would restore consumer

\(^{12}\) Arbetsutskottets protokoll, 29 november 1956; Tengelin, Sten and Walldén, Gösta. PM angående en “sanerings- och upplysningsskommitté i reklamfrågor”, 17 december 1957. SFRF. Sveriges Marknadsförbunds arkiv.

\(^{13}\) Tengelin, Sten and Walldén, Gösta. PM angående en “sanerings- och upplysningsskommitté i reklamfrågor”, 17 december 1957; Arbetsutskottets protokoll, 17 januari 1958; Styrelsens protokoll, 23 januari 1958; Arbetsutskottets protokoll, 18 april, 1958; Arbetsutskottets protokoll, 22 maj 1958. SFRF. Sveriges Marknadsförbunds arkiv.
**Figure 5.1.** Reform attempts by insider principals during phase two, 1957–1963. SFRF (The Sales and Advertising Federation), SAF* (The Advertisers’ Association), KöpmF (The Retail Federation) IF (Federation of Industries) and KF (The Cooperative Union and Wholesale Society).

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<tr>
<td><strong>Purpose</strong></td>
<td>Pro-active policing, better information</td>
<td>Stronger outsider participation, stricter rules</td>
<td>Influence complaints handling, pro-active policing, transparency</td>
<td>Better complaints handling</td>
<td>Better complaints handling, stronger outsider and insider participation</td>
<td>Consumer redress, better policing</td>
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<tr>
<td>SFRF leadership</td>
<td>+</td>
<td>(–)</td>
<td>(–)</td>
<td>+</td>
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<td>Advertisers</td>
<td>+</td>
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<tr>
<td>Regime leadership</td>
<td>(+)</td>
<td>(–)</td>
<td>–</td>
<td>(+)</td>
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<tr>
<td><strong>Outcome</strong></td>
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<td>No results</td>
<td>More transparency</td>
<td>Higher fees, more administrative resources</td>
<td>Increased insider and outsider participation</td>
<td>No results</td>
</tr>
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* SAF was the acronym used by this organization, not to be confused with the same and more commonly known usage of this acronym by the Swedish Employers’ Association (Svenska Arbetsgivareföreningen).

confidence and avert state intervention, while the less exposed ad agencies opposed the measures, fearing they would compromise their competitive freedom by increasingly making their conduct the subject of regulation. However, in some cases, advertiser and media carrier organizations opposed broad reforms due to mistrust of the true intentions behind them, their feasibility or possibly owing to fears of losing influence over the regime. An effect of these internal tensions was that insider organizations with an advertiser interest started initiatives of their own, leading to competing policies and parallel reform attempts. A generalized\(^{14}\) overview of the various efforts is presented in figure 5.1: “+” means a support position for a reform, while “–” signifies opposition. The value “+ –” is given in some instances, implying there were both positive and negative opinions on the proposal. Results displayed inside parentheses means that direct sources backing the conclusion are missing, but that available circumstantial evidence suggests the position. As evident in the

\(^{14}\) The values in the figure should thus be seen as indication of general trends. For details, see the analysis of each reform attempt in this chapter.
chart, the values for advertisers are mainly positive, while a more mixed bag is present in the media carrier category, and a recurring negative value reflects the ad agencies’ resistance to broad reforms.

Policing Reform Attempt in the Sales and Advertising Federation

The first major policing initiative during the second phase was aired in conjunction with the proposal for pro-active policing by Council on Business Practice’s vice chairman Horwitz in the April 1957 issue of Sales and Advertising Federation’s trade paper *The Swedish Market*.\(^{15}\) His comments were in turn accompanied by strong outsider pressure stemming the publication of Lindqvist’s book *Advertising is Lethal* the very same year (chapter two). The book presented outsiders with the toughest and most publicized criticism of advertising and self-regulation to date. Public intellectual Sven Lindqvist’s assault on advertising as a manipulative technique utilized to force consumerism upon people shocked many of them. Marketers were used to criticism demanding better products and more consumer information, but Lindqvist’s condemnation went deeper: he attacked the very Affluent Society that advertising had helped create, calling it devoid of human solidarity and a cause of obsessive materialism. The book was a forerunner of the extensive social criticism that would color much of the advertising debate a decade later (chapter two).\(^{16}\) For insider proponents of self-regulation, it was particularly sensitive that the author directly attacked the former Council on Advertising Practice as a failed agency and singled out self-regulation as an insufficient and biased form of regulation. Lindqvist instead wanted stronger state laws and prohibition of larger ad campaigns. The last demand put also direct pressure on the former council’s principal, the Sales and Advertising Federation, as Lindqvist suggested the peak marketing organization go public with a proclamation that press advertising should be replaced with small text ads and that there was need of more consumer journalism and consumer-led product testing. To add insult to injury, the author also dismissed the conclusions in the Sales and Advertising Federation’s book *Opinions on Advertising* (Opinioner om reklam) that the public supported advertising as a propaganda trick based on a survey with biased questions.\(^{17}\)

To counter Lindqvist’s accusations, the Sales and Advertising Federation first turned to PR-measures. A panel debate on advertising was organized in

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\(^{16}\) Lindqvist (1957, 2001). Lindqvist later commented on his book’s influence on the criticism during the end of the 1960s, stating that leftist radicals found his book too tame and politically unaware and claimed it only discussed the symptoms of capitalism instead of its central core; Funke (2011a), p. 98.

\(^{17}\) Lindqvist (1957, 2001), pp. 6–69,105–111, 117–119; for more on public opinion on advertising, see chapter two.
Stockholm by the federation and included representatives from business, state consumer agencies and academia. Lindqvist, however, was not invited, and in the federation’s public documents there is no direct reference to him. It apparently did not want to give him more attention than necessary. In internal documents, he was specifically named as responsible for putting advertising’s good will at risk. Countermeasures, including self-regulation reform, were here also explicitly related to his attacks. In minutes from the meeting on January 15th 1958 of the Cooperative Committee of the Marketing Societies, whose members constituted the backbone of the Sales and Advertising Federation, Lindqvist’s name came up during a review of the federation’s activity. Federation CEO Walldén stated that producing more effective means of regulation and information were part of the countermeasures in the Lindqvist debate.18 The aforementioned Tengelin-Walldén report was also most likely referenced, as the CEO stressed that “suggestions on how to solve these tasks had been offered in a memo presented to the Working Committee of the federation.”19

Here it is appropriate to point out again that the Sales and Advertising Federation no longer was the sole principal of the regime. However, it was the peak insider organization for marketing and intended to try to retain a dominant position in self-regulation policy. To do so, it had secured powerful positions in the new regime. It was the only principal with the right to appoint four members to the Council on Business Practice, and through the creation of the special committee that would deal with self-regulation policy, it kept a close connection to its former employee in the former larger regime Sten Tengelin, who sat on it.20 This was important, as he had been named secretary of the new Council on Business Practice and as of 1961 became its CEO.21 Lindqvist’s attacks on the federation and its former regime presented it with an opportunity to the take the lead in reform work. By having Tengelin and Walldén come up with reform proposals in their report, the federation signaled it wanted to make the most of the occasion by involving the administrative leadership of the Council on Business Practice as well.

20 Arbetsutskottets protokoll, 29 november 1956; Tengelin, Sten and Walldén, Gösta. PM angående en “sanerings- och upplysningskommitté i reklamfrågor”, 17 december 1957. SFRF. Sveriges Marknadsförbunds arkiv.
To succeed with reducing the amount of bad advertising, the Tengelin-Walldén report stated it was necessary to work with dual strategies: on the one hand, increase education and information efforts, and on the other, find more effective means of surveillance to get unethical advertising off the market. To solve the second task, the report recommended forming a body that would actively seek out questionable advertising. The need for such an institution had come up, it wrote, as the Council on Business Practice did not want to actively pursue questionable advertising as this would muddle the roles of deliberation and accusation. The report recommended hiring a retired journalist to collect dubious advertisements to be analysed by a committee of experienced insider representatives. This committee would in turn look over the material and send suspicious cases to the council and its sister organization for the self-regulation of pharmaceutical advertising, the Control Board for Free Medicinal Preparations. It was emphasized that the committee would not make judgments, and only forward serious offences. The main objective would be to safeguard consumer rights. The report was not explicit as to what sort of advertising the new pro-active policing unit would monitor, but did declare what should not be pursued. Advertising not considered in the report to need stronger policing included ads that were unsuitable, although not in violation of the code of conduct. Called “sneaky nonsense” (lur och larv), such advertisements were described in the report as being based less on facts and more on evocative emotional messages. It was an important subject matter, the authors wrote, as most examples of advertising criticised in public could be traced to this category. The solution lay, however, perhaps more in education than surveillance, they suggested.22

The report was subject to discussions on the Sales and Advertising Federation’s Working Committee and board during the spring of 1958. Two main views here emerged on its policing proposal. Those positive to a proactive policing unit motivated their support with the urgent need to publicly demonstrate that business was taking action to clean up its market activities. Harry Bjurström of the Newspaper Publishers’ Association was especially supportive, arguing that the Sales and Advertising Federation should use the unit to draw public attention to self-regulation and also find ways to regulate the so-called sneaky nonsense, which he regarded as a major problem. Although the Advertisers’ Association appears to have been somewhat absent from this policy process, possibly because the organization at this time was pursuing its own reform agenda, which will be discussed further on in this chapter, its representative Gösta Falk considered it necessary for the Council on Business Practice to receive more complaints, but added that this could just as well be handled by the Sales and Advertising Federation’s marketing societies. However, another prominent Advertisers’ Association representative, its former chairman Allan Enström, clearly opposed the idea. At the annual meeting

22 Tengelin, Sten Gösta Walldén, PM angående en “sanerings- och upplysningskommitté i reklamfrågor” 17 december 1957. SFRF. Sveriges Marknadsförbunds arkiv.
of the Council on Business Practice on May 13th 1958, he publically stated he thought it was wrong of the Tengelin-Walldén report to come with a policing initiative that would be run by the Sales and Advertising Federation, stating this should be handled by the council. 23

Looking at those that opposed the measure during these meetings, the hardest resistance came from members of the cartel-based Association of Advertising Agencies, with Erik Elinder, Frans Lohse and Göran Tamm taking the lead. These three all had top positions on cartel-associated ad agencies24 and did not want more policing. They claimed the reform had a patronising tendency and came across with nanny state ambitions. It was absolutely necessary to avoid creating a judicial-like regulation, they stressed, and emphasized that it could be lethal for self-regulation if the regime developed into a system constrained by legalistic principles. Instead they proposed efforts centered on education and information to create a positive perception of advertising, holding up the American Better Business Bureau (BBB) regime as a role model. Some of those negative to policing reform also defended the use of so-called sneaky nonsense. Lohse thought that it was wrong to avoid suggestive or glamorous advertising because of criticism from parties with an extremely negative view of advertising. The task of advertising was to sell, and thus it was at times warranted to use these marketing techniques. Although the ad agency representatives were the most vocal critics of the proposal, others too objected to the policing initiative. Daily Svenska Dagbladet marketing executive Sten Grytt, representing the Stockholm Marketing Society, thought the Sales and Advertising Federation should not forget that information was one of its central tasks. Bror Zachrisson, headmaster of the Institute for Higher Advertising Education, said it was not possible to start up a regulatory unit until “sneaky nonsense” had been clearly defined and the occurrence of such advertising surveyed.25

At the meetings, secretary Tengelin of the Council on Business Practice tried to calm the critics. The report was only trying to sketch possible venues for solving a complex problem, he stressed. But to make progress it was necessary to focus on concrete issues. He emphasized that the committee responsible for evaluating cases coming from the pro-active unit would be


24 Göran Tamm was CEO of the ad agency Svenska Telegrambyrån, Erik Elinder was CEO of Wilhelm Andersson Annonsbyrå, while Frans Lohse was CEO of Gumaelius; Vem är vem? – Stor-Stockholm (1962), pp. 334, 841, 1275.

large enough to remain anonymous to outsiders. It would on no account pass judgment, only decide if a piece of advertising ought to be forwarded to the Council on Business Practice. He also emphasized it was important that the committee would not engage in any clearance procedures. Tengelin thought the Better Business Bureaus had accomplished much good in the US, but their task was different from that of the suggested pro-active unit. He stated that he was willing to consider a Swedish BBB and also conceded that there were advantages in being able to go public with criticism of “sneaky nonsense”. The matter of “sneaky nonsense” advertising was, however, not to be the pro-active unit’s concern, barring cases that risked causing serious damage to public wellbeing.26 The secretary thus tried to reassure those that supported a narrow view of regulation that policing would be done in a delicate, confidential and restrained manner. It should be noted that sources do not document if Tengelin’s involvement in this initiative was sanctioned by his employer, the Council on Business Practice. Still, it is doubtful whether he would have stood behind the reform unless he had gotten a positive signal from the council’s chairs. Consequently the council leadership most likely approved of the proposal.

The reform views of the Sales and Advertising Federation’s board members must be seen in relation to the organizational context. Pro-policing supporter Bjurström sat on the board as a representative of the Newspaper Publishers’ Association. While the association was not the target of that many complaints for self-regulation, it was still exposed to public bad will; the other key susceptibility that the hypothesis suggests would make an industry group more prone to back stricter regulation. This vulnerability manifested itself in the Newspaper Publishers’ Association’s problems with advertorials. An advertorial in this specific context means an unintended advertisement for a product in editorial text, due for example to the article being based on a press release, or an advertisement that in style and structure imitates editorial text. According to the association, advertorials were both an ethical and economic problem, as they compromised the press’ reputation for delivering objective and trustworthy editorial content and also robbed it of advertising income. In 1955, the Newspaper Publishers’ Association formally decided on principles for regulating advertorials. It delegated to its regional sections to create charters to do so, as the freedom of the press made it impossible for the national association to formulate too strict statutes on the matter. This was to some extent implemented. The association also created a central Advertorial Committee (Textreklamkommittén) that would keep an eye on how things developed. In 1960, the association launched an investigative committee to look into how effective regulation had been, concluding there was awareness among members, but that the problem still persisted. Besides controls for advertorials, newspapers also had a publishing clearance system whereby all

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26 Arbetsutskottets protokoll, 17 januari 1958. SFRF. Sveriges Marknadsförbunds arkiv.
advertisement was checked before publishing, with special attention given to ads for medicines, health, home and beauty products, personal ads, rented housing, loans and sales.27

By the time their representative on the Sales and Advertising Federation’s board, Bjurström, argued for the policies in the Tengelin-Walldén report, the Newspaper Publishers’ Association had thus already developed an internal regime of self-regulation with policing as an integral part. Consequently, the association regarded efficient policing as a necessary component of effective self-regulation, without which there could be serious consequences for both profits and legitimacy. The association’s increased support for policing can also be traced to outside pressure from the public debate. Although negative attitudes towards advertising tended to focus on advertisers, the press also received criticism. In his book Advertising is Lethal, advertising critic Lindqvist questioned its impartiality due to its financial reliance on massive advertising and wanted a prohibition on larger ads. Although this was a farfetched suggestion, Lindqvist was joined in this critique by economist Anders Östlind, who suggested that brand advertising be replaced by trade fairs in which products would only be accompanied with relevant consumer information. Östlind had also been given ample space in the 1955 report of the official state investigative Committee on the Distribution of Goods to present his idea.28 With advertising being the single most important source of revenue for its members, the association thus had reason to improve its moral standing to pre-empt restrictions. That the Newspaper Publishers’ Association took public criticism of advertising as a legitimate and serious complaint is evident in the booklet Bjurström had co-authored with Ocklind in 1961:

Do you believe in advertising? Most consumers will probably not give an unconditional “yes” to that question. This might be due to the fact that the design of an advert isn’t always perceived as inspiring confidence. It might also depend on the fact that the promises of the advert haven’t always been delivered after the offered product has been scrutinized. Is that the way we want things? No! Even if we pride ourselves on high standards in advertising in this country there is still a lot that can be done to increase the standing of advertising.29

Bjurström’s strong support for the Tengelin-Walldén report’s proposal for more effective and pro-active policing was thus in line with the growing self-regulatory activity of his association.

Although the Advertisers’ Association was not as vocal in its support of the Tengelin-Walldén report’s proposal as the media carriers’ organization, Falk did state that the regime needed to receive more complaints and that a policing initiative from the federation could be helpful. The Advertisers’ Association’s

27 Svenska Tidningsutgivareföreningen (1961); Bjurström and Ocklind (1961), p. 11.
representatives had, in conjunction with the insider meeting on the 1955 petition, made clear that the association wanted more and stricter policing, even proposing a pro-active attorney. Still, the Advertisers’ Association’s former chairman Enström’s comments showed that there were parts of its leadership that did not think that the Sales and Advertising Federation was the right organization to carry out such a reform, possibly due to its known support for a narrow regime and a minimum of policing (chapter four). This distrust will be further discussed in the following section on the association’s own reform initiative.

The loudest opposition to these policing reforms came from ad agency leadership figures such as Elinder, Lohse and Tamm. As shown in chapter three, ad agencies received a minimal number of complaints, and their use of self-regulation agencies as petitioners themselves was equally low. This more or less left them with ample room to create advertising without receiving complaints. Tighter regulation could mean a loss of this privileged position. With qualms of creative freedom being restrained by pro-active policing and new rules limiting “sneaky nonsense”, their hostility towards the reform is not surprising.

There were also specific competitive considerations for the cartel-associated ad agencies that could have made them oppose this reform. Stronger regulations that would hit cartel-based ad agencies publically would weaken their market position. By 1958 the cartel was under pressure, as negotiations between the ad agencies and the newspapers, the advertisers and the state agency the Competition Ombudsman had forced the cartel parties to formally allow more agencies to become authorized, i.e. eligible to be part of the cartel. Although the cartel-based agencies accepted this, they did their best to stall the entry of new agencies, claiming there had to be a waiting list (chapter six). A stricter type of self-regulation that could result in the criticism of cartel-based ad agencies would have been ammunition for ad agencies that had long been shut out of the cartel, allowing them to argue that the traditional cartel agencies were incompetent. It is also clear that the ad agencies regarded self-regulation not only as a tool to regulate fair competition and keep them off the regulatory radar, but also as a means to ward off state regulation. This was openly declared at a 1959 board meeting of the Association of Advertising Agencies. In a key reference to the Council on Business Practice, it was stated that “to the business community it is essential that this agency can deliver its full potential, as it is our best safeguard against far reaching laws.”

Thus the Association of Advertising Agencies’ members were not keen on having the regime it viewed as a bulwark against state intervention incorporate features they considered typical of legal institutions. That the ad agency representatives made the argument during the Sales and Advertising Federation’s internal discussion of the report that it was vital not to transform

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30 Styrelsens protokoll, 23 sep 1959. AF. Sveriges Kommunikationsbyråers arkiv.
self-regulation into a regime patterned on judicial structures supports this interpretation. In conclusion, the behavior of the ad agency representatives is also in line with the exposure hypothesis that ad agencies are less exposed to regulation and bad will, but dependent on creative freedom for competitive reasons – and therefore do not support stronger regulation.

In the end the majority of the Sales and Advertising Federation’s board members, despite Council on Business Practice CEO Tengelin’s assurances, sided with those opposing the measure. A pro-active policing unit, while not completely ruled out, was put on ice, while a small group was given the task of investigating a Swedish version of the Better Business Bureaus. A report by the federation’s board member and ad agency executive Tamm proposed that a Swedish Better Business Bureau should concentrate on producing informative pamphlets on good marketing for various industry segments. Nevertheless, members of the federation’s board and working committee could not agree on how such a Swedish BBB would function or relate to the tasks of other business organizations. Particularly Bjurström of the Newspaper Publishers’ Association thought Tamm’s proposal was a watered down version of the Tengelin-Wallidén report. The board also decided that the Institute for Higher Advertising Education, under the direction of its teacher and board member John Örtengren, should carry out a small survey to determine the prevalence of “sneaky advertising”. Further, a student at the Stockholm School of Business (Handelshögskolan i Stockholm) was to make a study of public criticism of advertising to sort out the various arguments used. It was also decided that a committee appointed by the board should look into the possibility of merging the administrative function of the Council on Business Practice and two niche agencies. The last decision set in motion a policy process that ended with the corporatization of the Council on Business Practice in 1963 and will be analyzed later in this chapter.\(^{31}\)

While sources do not document how the final vote on the Sales and Advertising Federation’s board went, the statutes of the federation stated that board decisions were made with simple majority, i.e. a one vote margin for the winning side, and if there was a stalemate, the acting chairman of the meeting held the right to decide the vote.\(^{32}\) Although not all those supporting the idea to mothball the pro-active policing proposal were representatives of ad agencies, it is possible that the staunch opposition of board members and ad agency executives Elinder, Lohse and Tamm gave them the necessary backing to push back the proposal. The organization that represented the market interests of these three men, the Association of Advertising Agencies, was also held in high regard by the Sales and Advertising Federation. The


\(^{32}\) Svenska Försäljnings- och Reklamförbundets stadgar, godkända av årsmötet 4 juni 1957. SFRF. Sveriges Marknadsförbunds arkiv.
federation’s chairman would state in the mid-1960’s that it could not bypass the Association of Advertising Agencies in an important policy issue “due to the simple reason that AF constitutes an important, energetic and self-sacrificing group of members.” Also, as discussed earlier, the federation had a formal task of supporting the proliferation and wider public acceptance of marketing’s importance. It had earlier opposed more encompassing state regulation with the argument that this risked hampering marketing and marketing innovation. It was consequently not surprising that many in the federation opposed measures that could be associated with what was typical of state regulation – a pro-active policing component. The ad agency’s opposition to the Tengelin-Walldén proposal can be traced to such reasoning.

The presentation of the report at the Sales and Advertising Federation’s annual meeting on June 13th 1958 signalled that opponents of the broad initiative had gained the upper hand, as all regulatory measures were cast within an education and information context. Regulatory reform was presented under the heading “Taken and planned PR-measures”. The springtime discussions were summed up in a short, cursory and non-descript fashion. The federation’s special committee on self-regulation policy’s Tengelin-Walldén report was mentioned, but nothing was said of its proposals. It was merely stated that it had covered the issue of “cleaning up” advertising and resulted in the formation of a committee that was working with regulatory reform. The results of the Institute for Higher Advertising Education survey on the prevalence of “sneaky nonsense” in advertising were also revealed. They indicated that between 3.1 and 4.7 percent of the ads in the press could be referred to this category, repudiating the notion of the reformers that claimed “sneaky nonsense” constituted a major problem that warranted more policing.

A Swedish version of the Better Business Bureau was also briefly brought up as a way to safeguard rule compliance. In the 1958 annual report of the Sales and Advertising Federation, the work of the Tengelin-Walldén report was mentioned in passing, although it was stated that it had aimed at increasing policing and the number of complaints to the Council on Business Practice. The annual report then said that the Better Business Bureaus had been brought up as a solution the problems of self-regulation policing, while no reference was made to the proposed pro-active unit. It was also stated that the BBBs had not yet been realized. No further mention of a report on a Swedish Better Business Bureau turned up in sources within the next years, nor any report or

33 AF (Annonsbyråernas Förening) was the Swedish acronym för the Association of Advertising Agencies.
memo on creating a pro-active unit of self-regulation. Both of these initiatives consequently ended in failure.

The First Reform Initiatives of Advertiser Interest Groups

The Advertisers’ Association – Seeking Broader Consumer Participation

As shown above, the Advertisers’ Association had lent some support to Wall-dén’s and Tengelin’s policing initiative, but had also been skeptical of whether the Sales and Advertising Federation was the right party for implementing such reforms. Therefore, it is not surprising it the Advertisers’ Association launched an ambitious reform initiative of its own. Two driving forces were the association’s CEO Lars Wiege and its board member K E Gillberg. Gillberg was at the time also CEO of the Retail Federation, and a seasoned figure in professional business organization leadership (chapter four), while Wiege was a young former civil servant of the Swedish Finance Department who had been recruited as CEO in 1954.36

Although the Advertisers’ Association had previously opposed the stricter regulations proposed in the 1955 insider petition on the grounds that they would harm market growth (chapter four), some of its members also thought there were instances when the lack of regulation could cause similar problems. During 1957–58, a number of articles in the association’s trade paper, *Info*, highlighted the increased advertiser concerns with advertising’s badwill and called for marketers to display better ethics and self-regulation to become more effective.37 A major incentive for doing this was the prospect of increased consumer confidence and the rising profits this could result in. In a guest editorial in *Info*’s March 1957 issue, Lage Ekvall, marketing executive of the Swedish subsidiary of Phillips and one of the association’s members on the Council on Business Practice, stated that he had made an appeal at a Swedish national advertising industry congress the summer before that something had to be done to improve the social standing of advertising. Despite encouraging comments, no action had been taken. Ekvall wrote that the Liberal Party’s youth section (Folkpartiets ungdomsförbund, FPU) now publically associated advertising with “raunchy entertainment, sex and criminality”38, while prominent advertising critic Sven Lindqvist was allowed to spread his scathing criticism in *Vå*, the membership paper of one of the country’s largest advertisers – the Cooperative Union and Wholesale Society. Advertisers, advertising agencies and media carriers needed to pour their

energies into improving the reputation of advertising, he wrote. And the payoff for doing so was not firstly to advance the prestige of advertising industry, he stressed, but to increase turnover for Swedish business with around 500-600 million SEK yearly.\textsuperscript{39}

Given these pressures the Advertisers’ Association started to craft its own reform plan. This development can be traced back to April 1956, when the association’s board stated that advertising had a low standing among the public, state officials and certain organisations. The business community was partly to blame, the board claimed, as bad advertising doubtless existed. Something had to be done to increase both the quality of advertising and improve its good will, it concluded. The board decided that the association should raise the issue at the next board meeting of the Sales and Advertising Federation. A few months later, on June 26\textsuperscript{th} 1956, the board of the Advertisers’ Association noted that the Sales and Advertising Federation had initiated some PR efforts and that the board would wait and see what these led to. The association’s board now emphasized that an improvement in advertising’s good will was contingent on advertisers doing their best to keep high standards and refrain from producing advertising that lowered consumer confidence. It also thought that the Council on Business Practice should be made more efficient in acting against misleading advertising. In the fall of 1956, it was evident that the Advertisers’ Association was not satisfied with the federation’s efforts. On October 24\textsuperscript{th} 1956, its board decided that the association should try to get articles in support of advertising’s good will published in a number of companies’ employee papers.\textsuperscript{40}

At the same board meeting, on a recommendation from board member and Retail Federation CEO Gillberg, it was also determined that the Advertisers’ Association’s CEO Wiege should contact a number of non-business organizations to invite them for a discussion on how to improve advertising’s standing. Among those organizations suggested were peak blue collar trade union, the LO, and the larger of the two peak white collar trade unions, the TCO, as well as the Swedish Housewives’ Association, the Federation of Swedish Farmers’ Associations (Sveriges Lantbruksförbund, SL) and the Cooperative Union and Wholesale Society. The appeal for insiders in talking to these outsider organizations lay not only in the fact that some of them formally represented consumers in the corporatist political economy, but also that their members made up such a large share of the nation’s consumers, consumers that the advertisers were dependent on for profits and growth. At the time, the professional groups these organizations represented constituted up to 90–94 percent of the working population, of which around 75 percent were workers and professional employees. Of these, 75–80 percent of the workers and 50

\textsuperscript{39} Ekvall, L. “Varieté, Sex, Kriminalitet”, \textit{Info} 3/1957; Näringslivets Opinionsnämnds verksamhetsberättelse 1960.

\textsuperscript{40} Styrelsens protokoll, 4 april 1956; Styrelsens protokoll, 26 juni 1956; Styrelsens protokoll, 24 oktober 1956. SAF. Sveriges Annonsörers arkiv.
percent of professional employees were union members. It must also be stressed that although the cooperative movement, Cooperative Union and Wholesale Society, represented consumers and defined itself as a consumer organization, the fact that it also was heavily involved in the production of goods meant that it also represented producer interests, which it did for example in the Council on Business Practice. Consequently, at this time a significant organized social movement that only dealt with consumer concerns did not exist. The choice was thus limited to organizations that, although primarily representing other interests, by now had claimed the right to be recognised as consumer interest groups or represented large number of consumers (chapter two).

Most likely the Advertisers’ Association reasoned that if these organizations would agree to form a program for better advertising ethics, they could also get their members to become more positive to advertising, lending a major hand in restoring consumer confidence in it. The capacity of these organizations to influence their members’ perception of advertising was made clear by the fact that the LO and the Cooperative Union and Wholesale Society had, in conjunction with the publishing of their critical booklet on advertising in 1955, adapted a special version of it for study circles to be held by their members. This version even included a manual for structuring the discussion, proposing what questions and themes needed to be covered. Besides possibly holding the key to improved consumer confidence, the Advertisers’ Association must have realized these organizations could also help in preventing state intervention. Representing so large swaths of the working population also gained these outsiders seats on state agencies and in state committees, and some of them, such as the trade unions the LO and the TCO as well as the Cooperative Union and Wholesale Society, were now official representatives of the consumer collective when state policies were formulated in such arenas (chapter two). The Advertisers’ Association probably saw it as particularly important to get these three organizations to be more welcoming towards the needs of business for marketing, hoping this would lessen public criticism and the probability of unwanted state regulation. With the Cooperative Union and Wholesale Society already on board with self-regulation and as an owner of several industries and brands dependent on advertising, the two trade unions must have been especially appealing to approach.

However, such contacts were not realized until a year later, about six months after the Lindqvist debate took off. Most likely, the Advertisers’ Association decided that the debate made it urgent to go through with them. The first took place in the fall of 1957. The association then appeared to have decided to make initial contacts with the LO and the key state agency responsible for the formation of consumer policy, the National Council for Consumer Goods

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42 LO-KF Kommittén för distributionsfrågor (1955a); LO-KF Kommittén för distributionsfrågor (1955b); LO-KF Kommittén för distributionsfrågor (1955c).
The contacts were at first informal, but included high ranking officials from all parties and both Ekvall and Wiege from the association. The Advertisers’ Association’s December 11th membership newsletter stressed that it placed great importance on these contacts, which would hopefully contribute to a better understanding of advertising. Furthermore, to demonstrate a willingness to acknowledge bad advertising, the newsletter continued that better ethics would only be possible if advertisers of their own volition make advertising worthy of consumer trust by abstaining from unhealthy, misleading and exaggerated advertising and from such advertising measures that could evoke offence.

A similar message was presented in the Advertisers’ Association’s 1957 annual report, where it was noted that the association felt it was important to inform the public of misconceptions that existed about advertising as well as to improve and stop that which did merit criticism. The report also motivated the above contacts by the need to show how serious the association took the task of informing about good advertising and getting rid of the bad.

Despite the Advertisers’ Association having initial exchanges with key outsiders at the end of 1957, no further interaction seems to have taken place during the next six months. However, by June 1958, serious negotiations had suddenly started. A possible explanation is that the advertisers were reluctant to go further until the outcome of the aforementioned 1958 Tengelin-Walldén reform initiative was known. When it became clear by the late spring that it would fail, the association resumed contacts, now with a purposeful and explicit broad reform strategy for self-regulation. By this time it was also clear that the threat of state intervention remained. Although the bills put forth in 1957 by MPs from the Liberal Party in the Swedish parliament had apparently been handled by having one of the MPs become a consumer representative on the new council (chapter four), a second bill put forth by Social Democratic MP Erland Carbell in January 1958 showed that consumer oriented politicians continued to criticize advertising and to urge stricter regulation. He wanted an extensive state investigation to analyse if there was too large volumes of advertising, as it was a costly market mechanism, echoing Galbraith’s criticism of advertising contributing to an imbalance in private and public spending (chapter two). Carbell was also clear that he thought legislation could be used

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43 For more information on the National Council for Consumer Goods Research and Consumer Information, see Appendix D.
45 “Annonsörföreningen diskuterar reklam med LO och konsumentrådet” Föreningsmeddelande 10/1957. SAF. Sveriges Annonsörers arkiv.
46 Svenska Annonsörers Förenings verksamhetsberättelse 1957. SAF. Sveriges Annonsörers arkiv.
to outlaw unnecessary and ethically bad advertising. Both the peak trade unions the LO and the TCO had also supported stronger regulations and more state activity in analyzing the pros and cons of advertising in their comments on the 1957 bills. These developments must have made it clear to the association that it quickly needed to engage in a dialogue with these powerful organizations.47

In a meeting with the LO and the National Council for Consumer Goods Research and Consumer Information, Advertisers’ Association CEO Wiege proposed both widening participation and stronger policing. He suggested that the trade union and the state consumer agency, and possibly other organizations as well, become consumer representatives on the Council on Business Practice and that there was need for additional rules of conduct for marketers to address the Swedish context. When reporting back to his board on June 13th and 17th 1958, Wiege relayed that he had recommended that the Council on Business Practice have an equal distribution of consumer and producer representatives. This was quite a radical change, as only two of the current nineteen council members represented consumers and these were appointed by the Sales and Advertising Federation. Advertisers’ Association board member and Retail Federation CEO Gillberg approved of Wiege’s proposals, but added that the consumer representatives had to be carefully selected and should not be allowed to take part in fair competition cases. He also suggested that Wiege discuss the matter with the TCO, the peak trade union for white collar workers, which also held a position as consumer representative on state boards. By suggesting such a radical change, it is evident that the association was not satisfied with the pseudo-broad outsider participation that had been created through the merger and now wanted a solid broad participation by the same consumer interest groups that held this position in the extended political economy and the consumer market itself.48

Unfortunately sources do not document if these contacts were made, but by including the National Council for Consumer Goods Research and Consumer Information in the tripartite talks, the Advertisers’ Association had contacts with the TCO. This state consumer agency with its corporatist board of consumer representatives, various state experts and some insiders here offered a short cut to the key organizations Gillberg had proposed should be contacted.49 However, sources document that the association called specific members of the National Council for Consumer Goods Research and Consumer Information’s board to one of the first meetings on November 14th 1957. While these did include the TCO’s representative and one from the Federation of Swedish Farmers’ Associations, no other insiders that were on the board, such as the Retail Federation and the Federation of Industries, were present. Why that was the case is not known, but the selected members all represented

49 Åkerman, B. Ett nytt forskningsråd. Sociala meddelanden 11/1957; Appendix D.
consumers or experts, the kind of members on the state consumer agency’s board whose participation was crucial for the Advertisers’ Association’s project of increasing advertising’s good will. Evidence thus suggests that although only three organizations took part in contacts, others were probably, through their membership of the consumer council’s board, part of this on some level as well. The fact that the association chose to invite the LO separately from the National Council for Consumer Goods Research and Consumer Information, despite the trade union having two representatives on the state agency’s board, also shows the special importance the association had allotted to getting the trade union’s support.\(^{50}\)

The LO’s participation was crucial for a number of reasons. First, unlike the self-regulation regime’s current “consumer representatives” who only represented themselves, it was the largest trade union in the country thanks to its 1.4 million members.\(^{51}\) Second, the LO was an outspoken critic of advertising and self-regulation, and, third, it was the most powerful non-business interest group, with close ties to the Social Democratic government. If the Advertisers’ Association would become successful in getting the LO’s support, it could get the backing of a large part of the consumer collective, helping to restore consumer confidence in advertising, while hopefully also getting rid of one of its most powerful critics in public debate and supplying the regime the legitimacy it needed to be seen as protector of consumer rights, avoiding state intervention. That the association wanted to be on good terms with the LO is indicated by the fact that when it decided to make contact, it was requested that among the delegates be at least one representative from the company owned by the Cooperative Union and Wholesale Society. This was the result of the fact that the Cooperative Union and Wholesale Society was a member of the association that had close ties with the labor movement and a cooperation on consumer policies with the LO (chapter two). The National Council for Consumer Goods Research and Consumer Information was in turn crucial as a partner as it had a key position for formulating state consumer policies. Its inclusion in self-regulation would probably increase insiders’ ability to influence this policy to become more business friendly and respectful of self-regulation.\(^{52}\)

Judging by its CEO Wiege’s overall offer, the Advertisers’ Association, in its pursuit of more powerful and publically accepted consumer representatives,

\(^{50}\) Arbetsutskottets protokoll, 28 november 1957; Arbetsutskottets protokoll, 27 juni 1958. Statens Konsumentråds arkiv 1957–72, RA; Appendix D.


\(^{52}\) Styrelsens protokoll, 9 september 1957. SAF. Sveriges Annonsörers arkiv; The Cooperative Union and Wholesale Society (Kooperativa Förbundet, KF) was accused by non-socialist parties to be part of Social Democracy, to which it always responded it was neutral in party politics. However, the labor movement and the cooperative movement did have intimate ties in some respects, as many KF members were members of the Social Democratic Party, and parts of the Cooperative Union’s leadership were also incorporated in the party’s leadership. See Ruin (1960), pp. 133–170.
was willing to turn the Council on Business Practice into a corporatist institution, where the interests and policy influence of producers and consumers would be at least formally balanced. While the Advertisers’ Association at this point had no corporatist representation on the boards of state agencies, a number of production and distribution affiliated organizations, such as Gillberg’s Retail Federation, did, in for example the National Council for Consumer Goods Research and Consumer Information (chapter two), where the LO also was represented. Knowing that the CEO of the Retail Federation backed these attempts probably increased a sense of possibility. With that in mind, the Advertisers’ Association had approached the LO and the state consumer agency.

This broad regulatory strategy was not without historical precedent. As discussed in chapter three, corporatist niche agencies within self-regulation had appeared in the 1940s to pre-empt demands for state regulation of medicines and pesticides. With corporatism having progressed even further by the end of the 1950s, this solution for preserving self-regulation was not farfetched. The response of the LO and the National Council for Consumer Goods Research and Consumer Information to the Advertisers’ Association’s advances was positive, and a joint tripartite committee was formed by the three organizations on June 5th 1958. During the fall, the Advertisers’ Association continued pushing for reform of the Council on Business Practice in talks with the two parties, and Gillberg, CEO of the Retail Federation, noted that his organization’s board had discussed the problem of members not being notified when competitors were faulted by the Council on Business Practice. It was decided that the Advertisers’ Association would approach his federation as well as the Federation of Wholesale Merchants and Importers and the Federation of Industries to examine these matters – all production and distribution affiliated organizations with positions as producer representatives in state corporatist institutions.

Despite their willingness to invite the LO to sit on the council, the Advertisers’ Association was aware of the political power play that could follow by welcoming such an influential organization. It did not want to relinquish more authority than necessary to the trade union, and in a revealing statement at a board meeting, Retail Federation CEO Gillberg said it had to act to break up LO’s hold on defining the consumer. Here he probably referred to the idea of the consumer as a weak market actor manipulated by advertising, a concept that LO and other critics had expounded (chapter two). He stressed it was important to also invite other consumer organizations to take part in the discussions, and mentioned The Swedish Housewives’ Association, which was not part of the labor movement. The decision to contact production and

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53 Appendix D.
54 Åkerman, B. Ett nytt forskningsråd. Sociala meddelanden 11/1957; Appendix D.
55 Styrelsens protokoll, 10 oktober 1958. SAF. Sveriges Annonserörs arkiv.
distribution affiliated insiders on the Council on Business Practice to raise the issue of reform must be seen as a strategy to create a strong insider counterpart to the trade union. By making sure that outsider participation would also include interest groups not too close to the labor movement, and that insiders experienced in interacting with the LO in state agencies present a united front against ideas and policies regarded as inimical to business interests, the Advertisers’ Association consequently made steps to limit the influence of the LO.56

The tripartite committee produced a short report later in 1958, which concluded that the code of conduct was sufficient in its present state, but that consumer representation on the Council on Business Practice needed to be revised. Unfortunately the report has not been found, and sources do not reveal if the Advertisers’ Association’s CEO Wiege’s suggestion of giving half the council’s member seats to consumer representatives made it into the final report, but regardless, it is clear that the association strived to get established consumer interest groups into the regime. The report thus buried the idea of stricter policing through new rules, settling on broader participation instead. These recommendations did not lead to any action however. There is also no record of any contact with the other three insider associations as suggested by Retail Federation CEO Gillberg, so it is not known if these were actually made.57 That the strategic move of the Advertisers’ Association had reached an impasse following the tripartite report is supported by the fact that after 1958 the contacts changed in content, with the advertisers now devoting time trying to convince the LO to support a key policy goal of the association: the introduction of commercial television. Nor is any mention made of advertising debates in the association’s minutes or annual reports during the immediate years after the report.58

If the miscarriage of the Advertisers’ Association’s strategy was due to conflicts with or opposition from other insider organizations is not clear, but this might very well have been the case. Until now, self-regulation reform had been handled by the regulatory agencies in conjunction with their principals. By initiating talks on its own, the association implied dissatisfaction with the established policy process and a distrust of the Sale and Advertising Federation’s role in it.59 A major reason that the Advertisers’ Association did not

56 Styrelsens protokoll, 9 februari 1953. SFRF. Sveriges Marknadsförbunds arkiv; Styrelsens protokoll, 26 januari 1959; Styrelsens protokoll, 13 juni 1958; Styrelsens protokoll, 10 oktober 1958. SAF. Sveriges Annonsörers arkiv; Pestoff (1988); Nationalencyklopedin (2015c).

57 Styrelsens protokoll, 10 mars 1959. SAF. Svenska Annonsörers arkiv.


trust the Sales and Advertising Federation was that it thought that the “sellers of advertising” — that is the media carriers, the ad agencies, public advertising space providers and printers — dominated it. When discussing measures to increase the public standing of advertising in 1959, Advertisers’ Association board member Gunnar Gaddén stated the Sales and Advertising Federation was not fit for handling this issue as it largely represented the interests of sellers of advertising, which made it unsuitable for the task. According to him, the Advertisers’ Association was the natural caretaker of this duty. It was said in a board meeting that advertisers needed a stronger presence in the federation’s marketing societies and had to work to get members active in them. The already mentioned criticism of former Advertisers’ Association chairman Allan Enström that it was wrong to allow the federation to take control of a pro-active policing initiative suggests a similar view. 60

These statements are also in line with the exposure hypothesis, in that the buyers of advertising, being more exposed to regulation and bad will, did not trust the less exposed sellers’ judgment or dedication to regulation. Also, if Gaddén’s description of the federation was correct, it is likely that organizations such as the Newspaper Publishers’ Association, the Association of Advertising Agencies and the Federation of Master Printers would have objected had they known of Advertisers’ Association CEO Wiege’s plan for allowing half of the Council on Business Practice’s member seats to go to powerful outsider organizations. This would have left little room for advertising affiliated organizations, given that they would have to share insider representation on the council with production and distribution affiliated organizations. The Sales and Advertising Federation and the other advertising affiliated associations would definitely have lost the privileged position that the statutes of the merged regime had given them. For the same reasons, the Council on Business Practice’s leadership would probably have objected to the reforms too, given that Horwitz from the Sales and Advertising Federation sat as one of the council’s vice-chairs and the council’s chairman Dahlman’s earlier demonstrated stance for a narrow regime (chapter four).

The Retail Federation – Self-Regulation as a Temporary Solution

The Advertisers’ Association was not the only insider principal that exhibited discontent: the Retail Federation was also displeased and wanted swift reforms, forwarding criticism that echoed some of what had been discussed in the Advertisers’ Association. That similar reform demands came from these organizations was no coincidence, as the Retail Federation’s CEO K E Gillberg also sat on the board of the Advertisers’ Association where he, as shown, was very active in pushing for change. He consequently acted as a driving force for reforms in both. As discussed earlier, organized retail interests had sought

60 Styrelsens protokoll, 6 februari 1956; Styrelsens protokoll, 10 mars 1959. SAF. Sveriges Annonsörers arkiv; Björklund (1967), pp. 781–783.
a stronger and more encompassing marketing law on unfair competition for a long time. This was done in the hope it would protect their small business members against bigger market actors in retail that increasingly pressured them due to the structural changes in distribution following on the expansion of mass markets and brands. Here the federation sought stronger control of the marketing associated with larger competitors, such as “buy one, get one free” offers and other premiums (chapter three).

As shown in chapter two, these market changes intensified during the first two postwar decades. The Retail Federation also considered that recent state regulation meant to increase competition had been unjustly applied, having a minor impact in most industries, but a major one in retail. This, its chairman said at federation congress in 1958, was due to the fact that it was easier to apply the new laws in retail than in other industries. More competition in retail thus meant an amplification of unfair competition, the federation stressed. It now made efforts to lobby the Swedish parliament to push for a new marketing law. In fact, the federation claimed internally that the bills demanding stronger regulation of marketing put forth in 1957 by a two liberal MPs – of which one, Ruth Hamrin-Thorell, soon thereafter was drafted as consumer representative to the Council on Business Practice – hade come about after it had contacted the MPs.61

Given these interests, the Retail Federation tried to utilize the new regime of self-regulation in its regulatory ambitions. At the annual meeting of the Council on Business Practice’s principals on May 13th 1958, its CEO Gillberg stated that his organization had contacted state authorities, wanting stronger laws to regulate unfair competition. However, in the meantime, the Council on Business Practice was at the disposal of the business community. The Retail Federation’s CEO for example suggested that a pro-active “attorney” should help the council and that the council had to be more open about its case handling.62 Although the meeting ended with a decision to let the economic committee look into more transparency, other issues were ignored. Just a few days later, on May 22nd, the board of the Sales and Advertising Federation also decided to say no to a pro-active unit proposed by the Tengelin-Walldén report.63 Gillberg, however, criticized the council in public.64 This resulted in a meeting between the council’s presidium and representatives of the Retail


Federation, including Gillberg, on September 17th 1958. While reiterating his remarks from the annual meeting and making clear that he thought stronger laws were needed, as self-regulation was insufficient to come to grips with certain aspects of unfair competition, he was more specific about why he wanted a number of reforms in the current regime. Unlike the former three Committees of Business Practice, he stressed, the present council did not represent different industry interests, but a general ethical position of the business community. This caused internal conflicts when rulings reflected a wider interest, but not that of a specific industry. He suggested that industry organizations be given lists of upcoming cases so that they would be able to raise issues in cases that concerned their industry. Another representative of the federation remarked that advertising professionals were guaranteed majority representation in one of the Council on Business Practice’s two section, thus giving it the necessary industry competence. That the council’s secretary gave consultation while also taking part in case proceedings was also troublesome to Gillberg, as advice could be used in a devious way by producers that were accused of misconduct. According to him, the AB Adaco company had in a misleading manner referred to advice from the secretary when justifying its actions. The Council on Business Practice’s chairman, Dahlman, defended his council’s actions. That verdicts that did not reflect specific industry concerns caused debate between council members was something the chairman had never experienced, and he pointed out that the merger had come about to create an authoritative council acting as a point of reference for legal courts. The council secretary’s consultation had to be handled with care, but it could not be wrong to give advice. The matter of the AB Adaco case had been settled, and the company’s legal representative had apologized. To conclude, the federation’s reform proposals did not gain support from the Council on Business Practice. That Gillberg at the meeting made the point that some of his suggested reforms would demand more financing, but that it would be hard to get more funds from his federation because of its negative attitude to the council, based on some of the council’s decisions and organization, was probably not helpful in this regard.

The Retail Federation’s reform attempts culminated when it sent a letter dated March 1st 1960 to the Council on Business Practice, in which it stated that the current order of self-regulation had existed for so long that it was time to consider changes. It then listed the reforms it sought, most reiterations of past demands. The council produced a reply signed by its chairman Dahlman that was sent out to the principals before the annual meeting on November 16th 1960. The Retail Federation’s reform demands were discussed in detail.

A proposal to widen the group of insider principals was accepted, but the council cautioned that the number of members should not be increased, as an effect would be that they would serve less time on the council. A longer term of office was essential, as it claimed that experience had shown that the capacity for council members to fulfil their duties was contingent on frequent work. A pro-active attorney unit was not something the council approved of. The council directly questioned whether such a unit was compatible with self-regulation based on business participation, also claiming it would impair the ability to present a unified and authoritative business response. A number of further arguments against it followed. If a producer plaintiff should turn to the attorney instead of the council, it would be more difficult to weigh up evidence in a case. A producer could also regard the attorney’s actions as an implicit decision to fault the company, putting its prestige on the line. This could make firms more apt to defend their actions instead of submitting to the deliberation that the current process offered, where discretion and confidentiality made it easier for parties to admit wrongdoings. If the attorney omitted submitting a complaint for a particular advertisement, the advertiser and other marketers could interpret this as a silent approval. The council also spelled out that an attorney could invite state intervention:

Misgivings have also been expressed that if such an attorney were created, thus “institutionalizing” monitoring and policing, this could, in a more acute situation... encourage state authorities to transfer such activities to a state body.67

This was emphasized by a reference to judge of appeals and Competition Ombudsman Martenius’ 1957 article in the periodical Balance (Balans), discussed previously (chapter two). As highlighted in the council’s letter, he wanted a revised law for unfair competition containing a general clause, with his office acting as an attorney.68 That the council’s leadership described pro-active policing as being opposed to the principle of self-regulation and an invitation for state intervention also echoed the arguments forwarded by the ad agency representatives against the Tengelin-Walldén report, indicating that on the matter of policing the council had decided to cling to the narrow view that self-regulation was defined by education and information rather than policing, with the latter to be conducted in a restrained, confidential and deliberative manner. In fact, fear that a pro-active unit could be transformed into a state agency was not without merit, as the state had increased its efforts in consumer policies by the end of the 1950s, while public criticism of self-


regulation had appeared as well, coming from both public intellectuals and legal scholars (chapter two).

Regarding the idea that industry organizations would be consulted when cases came up that concerned them, the Council on Business Practice stated it carried out such consultations when necessary. However, to institutionalize this presented a number of obstacles. With limited administrative resources, such a procedure would make it harder to speed up the case process. It would also be difficult to decide which of all the principals were to be consulted. The idea of sending out case lists to allow insiders to assess if they wanted to be consulted was regarded as being impractical and could potentially compromise the case process. Also, the statutes did not allow for outside parties to be privy to the case process. The council concluded it was best to allow it to contact insider organisations in cases when it saw fit to do so. The proposal to increase publicity was met with appreciation. The council agreed it would be good if it received more recognition and proposed that verdicts be made public – although it could still decide to make some verdicts confidential if sufficient reasons arose. Also, the case proceedings were to remain confidential. The council proposed that all verdicts be made public as of January 1st 1961 and that they were to be accompanied by press releases that summarized the cases. However, the council would need the services of a publicist to do this, which required financial resources. The council also emphasised it was working on publishing all its cases in accessible books. Regarding the need to speed up the case handling process, it stated that recent reform that had pooled the administrative resources of the council and the other two smaller niche agencies, as well as the advent of an extra lawyer, would hopefully accomplish this. At the annual meeting of the Council on Business Practice’s principals on November 16th 1960, the exchange of letters between the Retail Federation and Judge Dahlman was brought up, and the majority of the principals decided to go along with the council’s suggestion for more openness. However, none of the other Retail Federation’s proposals were accepted.

The Retail Federation’s unilateral reform strategy thus ended with very limited success. Although its CEO Gillberg now was more successful than when involved in the Advertisers’ Association’s attempt during 1957–1958, only demands for transparency resulted in change – demands that had earlier come from within the council itself. The council’s leadership had successfully rebutted most of the federation’s proposals. Although the federation now had refrained from explicitly demanding that the council condemn competitions and various premiums – sales and advertising practices it opposed for

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competitive reasons – the proposal to allow specific industry interests a larger say in cases that concerned them did imply that the federation hoped reforms would give it a greater possibility to influence such cases to the federation’s liking. The council’s refutation of this demand indicated that it, with the support of many other insider principals, opposed these regulatory interests of the Retail Federation. This conclusion is strengthened by a speech held by the Council on Business Practice’s chairman Dahlman at the annual meeting of the principals on January 26th 1962. In it he stated that cases involving premiums and competitions had become more common. He admitted that conflicts of interests in the retail sector were the basis for different opinions among council members on how to handle such matters. Nevertheless, he emphasized that the council’s position was not to judge a specific mode of distribution, but the ethical standpoint of a particular case. Also, the council had no desire to counter what state laws considered competitive hindrance, the chairman explained, and added that it shared this standpoint with a clear majority of the Swedish business community.71 The last remark suggested that the council’s decision to stop most of the retail federation’s reform proposals was supported by both the advertising industry and advertiser interests. These probably judged that the purpose of reforms was the same as with the 1955 petition: to hold back competition from larger market actors in retail that threatened the Retail Federation’s small business members, thus hindering what these organizations regarded as a needed rationalization of the retail market (chapter four). The media carriers’ position is harder to grasp as they were not involved in the 1955 petition, but they would probably have been cautious about giving too much influence to an insider organization whose regulatory agenda included constraining marketing which affected press advertising. Council chairman Dahlman may also personally have played a role. As shown in chapter four, he supported marketing innovation and free competition and on those ground would probably have been wary of the intentions of the Retail Federation and opposed reforms. The rejection of pro-active policing could also have been due to insiders agreeing with Dahlman’s arguments that it would invite state intervention.

Advertiser Interest Groups Finally Prevails

Advertiser Fears of Consumer Policies
Increasing outside pressure was of importance for the most successful reform attempt during phase two, the expansion of both insider and outsider representation on the Council on Business Practice in 1964. As discussed in chapter two, a number of state consumer agencies had come into being during

the second half of the 1950s. They were entrusted with the task of monitoring price levels as well engaging in consumer information, research and testing. The postwar labor movement was skeptical of the free market’s ability to satisfy consumer wants, and, as the 1950s wore on, a consumer policy based on stronger state intervention started to coalesce. These tendencies would increase by the 1960s and finally result in extended state consumer policies by the turn of the decade. This critical view manifested itself by calling advertising a hindrance rather than a facilitator of consumer sovereignty and in demands for stronger state regulation. Proposals for consumer policies that entailed a stronger control of price setting and quality control were articulated in state reports, and Galbraith’s idea of advertising as contributing to a waste of resources was being brought up by policy makers in the labor movement. These arguments against advertising were also ventilated in public. After the Lindqvist debate in 1957, a similar flare-up of negative public opinion occurred in conjunction with the Örtmark debate in 1962–1963, and in 1963 a group of Social Democratic MPs again presented a parliamentary bill similar to that proposed by Social Democratic Party colleague Carbell in 1958, demanding a state investigation into the social and economic effects of advertising (chapter two). With advertiser insiders being more exposed to regulation and the risks of bad will than media carriers and ad agencies, several of them regarded these tendencies as a threat to their interests on the consumer market. Advertisers were also suspicious of consumer journalism, which they regarded as often inimical to business and marketing. Consumer information aired on television and in radio programs was described in 1961 at a board meeting of the Federation of Wholesale Merchants and Importers as having a negative bias and being used to drum up public opinion against business, which had repeatedly been highly critical of these programs. In 1959, similar complaints had been voiced at the board meeting of the Advertisers’ Association, but this time directed at the weekly press. The board decided to contact the leadership of the Bonnier Group, at the time the largest actor in weekly press and publishing, and demand that business representatives be allowed to comment on such articles. Some insiders now saw it as imperative to create an institutional structure that could both cooperate and compete with state policies and consumer journalism in influencing consumers’ perception of the role of business in the Affluent Society.

The Federation of Industries became a key player in formulating this business response to these increasingly marketing critical standpoints. It was the most powerful business organization in Sweden and acted as a political lobbyist for its members; of which many were large export companies whose

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74 Styrelsen protokoll 17 november 1959. SAF. Sveriges Annonserers arkiv; Larsson (2001).
strong postwar growth to a large degree made the Swedish Affluent Society possible.\textsuperscript{75} By 1959, the federation had noticed that consumer research and consumer information were increasingly carried out by state agencies and that their activities were successfully communicated to the public. Business, however, the federation’s board concluded, had not been as active in making the public aware of its perspective on consumer issues, for example the costs that it put into improving quality and ensuring product innovation. This needed to change, and business had to become better at getting this across to the public, the board stressed.\textsuperscript{76}

Still, the Federation of Industries not only wanted business efforts to be noticed, but also to prohibit policies that threatened to stymie or compete with marketing. In its 1956 comment to a government memorandum on consumer policies, the federation strongly opposed that consumer policies should include judgments of approval for specific products by relating quality to price. The comment was also critical to making the Institute of Home Research – which was partly funded by a number of interest groups that included business and the state – a wholly state-run affair, especially as the motivation for this was that it would “be independent of producer interests” and “gain a more authoritative position”. The federation implied that consumer polices could easily be politicized, and it emphasized that consumer information had to retain the complexities that were part and parcel of good consumer research:

It is important not to give in to the often proposed demand that public information should be strongly simplified and popularized. There is a danger that such information does not live up to the requirements of comprehensiveness and objectivity, thus causing inconvenience for both the public and business.\textsuperscript{77}

A concern about what might become of these policies was shared by the Federation of Wholesale Merchants and Importers. In a presentation of state consumer agencies before the federation’s board on March 7\textsuperscript{th} 1961, board member Åke Sahlin stated that consumer policies were part of the state’s aim to monitor price and wage levels.

Mainly the LO…makes state authorities create new agencies that look after consumers’ interests and give them information about goods…There has been a tendency in agencies that handle these issues to create discord between on the one hand consumers and on the other producers and trade…It is in the interest of business that consumer information is not focused on fault-finding…My proposal is thus that business carefully monitor ongoing consumer information


\textsuperscript{76} Styrelsens protokoll, 12 september 1962. A 1: 36. Sveriges Industriförbunds arkiv. CfN.

and intervene with consumer information of its own when the situation calls for it.78

Like the Federation of Industries, Sahlin also warned that state consumer information could become a real problem if it let a state agency weigh the quality of a good against its price and recommend consumers to buy specific brands at certain stores. He suggested the federation form a special consumer committee to follow these issues, and the board concurred.79 Some of these views were reiterated in a long article in the Federation of Industries’ trade paper, *The Federation of Industries’ Bulletin* (*Industriförbundets meddelanden*) in 1962 by its representative on the National Council for Consumer Goods Research and Consumer Information, executive Östen Fagerlind. In his article, Fagerlind urged business to take a more pro-active stance in consumer policies so consumers would be more familiar with business efforts and conditions.80 Journalist Åke Ortmark had also in his book, *Betrayal of the Consumers* (*Sveket mot konsumenterna*), also suggested that the Federation of Industries start a section devoted to consumer information. In 1962, such a unit was also created within the federation, with Lars Berg as head. During this time, the federation’s Distributive Committee also held regular meetings with the national consumer council, indicating a will to further influence the state’s consumer policies.81

The sudden interest among production and distribution affiliated organizations to engage in consumer policies must be seen within the context of their main interest in them – to be able to market their products in a competitive market environment. What these insider organizations appeared to fear was that their own means of influencing consumers – advertising and brands – could receive competition from consumer campaigns and consumer journalism. Here there apparently existed an apprehension that these had the potential to affect or even challenge the marketing process itself by placing themselves as an impartial judge on the market, bolstered by the strong criticism that had arisen against brands as supporting oligopolies and replacing price competition with brand competition. While producers openly competed with each other through advertising to increase sales and consumers seemed aware of this, consumer information was regarded as objective and as being in the service of consumer rights, giving it an edge over advertising when it came


80 Fagerlind, Ö. “Konsumenten och näringslivet”, *Industriförbundets meddelanden*, mars 1962; Appenix D.

81 Statens Konsumenträds verksamhetsberättelse 1962/63. Statens Konsumenträds arkiv. RA; Berg kept working professionally for prominent corporatist affiliated organizations even after leaving this position; in 1969 he moved on to work as CEO of the KF in-house advertising agency Svea Reklambyrå. *Vem är det* 1977, pp. 75–76.
to credibility. If it were to become important for consumer choice, advertisers could end up at the mercy of what these campaigns said about their brands. Given that comparative advertising had long been the subject of controversy among insiders (chapter one and two), it was not surprising that for the state to take up a similar function under the guise of consumer information made insiders fearful. Such fears now drove them to discuss countermeasures to limit the reach of such consumer information or at least make sure it was not based on biased opinions and a lack of understanding of business efforts and costs.

**The Problematic Behavior of the Sales and Advertising Federation**

Production and distribution affiliated organizations must have realized that besides forming new insider institutions, control over existing ones that dealt with marketing ethics was just as important for consumer policies with a business point of view, especially if consumer information and testing were to increasingly challenge the veracity of the producers’ own version of consumer information: advertising. The most established insider institution that dealt with upholding the legitimacy of marketing was of course the Council on Business Practice. Given that criticism of advertising was a main subject of the consumer debate and that even self-regulation had in recent years been criticized in public, advertiser control over council policy to help limit attacks on advertising and defend its legitimacy must have appeared to be a central issue. That the advertising affiliated organizations had a strong influence over the council thanks to the statutes guaranteeing them a majority in the advertising and marketing section constituted an obstacle to this goal, although the presence of the Advertisers’ Association in this group gave voice to their concerns. Advertiser demands for more stringent policing had not materialized due to ad agency opposition in the Sales and Advertising Federation and the council’s leadership blocking reforms that advertisers saw as necessary for safeguarding marketing legitimacy. The problem with the federation was further exacerbated by the fact that it acted as the face of organized business in public. In this way its staunch defense of advertising contributed to keeping the debate tense and, as shown, gave advertising critics such as Lindqvist ample opportunities to criticize the federation and paint it and business as not caring for the consumer, denying the problems caused by advertising.82

Although the Sales and Advertising Federation had tried to construct a more consumer friendly image in 1962 by recruiting a CEO with a background in the Liberal Party and business think tank Centre for Business and Policy Studies (Studieförbundet Näringsliv och Samhälle, SNS), Göran C–O Claesson,83 many in the advertising industry were not convinced of his suitability. Claesson openly declared that he welcomed debate on advertising

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and consumer issues, and tried to portray advertising and consumer information as two complementary market functions that were dependent on each other. Nevertheless, criticism emerged as Claesson organized a series of debates with advertising critic Åke Ortmark, in which he showed understanding for some of Ortmark’s remarks. The close involvement of the federation in the debate was criticized by marketers in the ad agency trade paper, *the Advertising Industry Review* (Resumé), and the federation’s own paper *the Swedish Market* for being too respectful and permissive towards Ortmark. Some of the federation’s board and working committee members also felt that publicity only benefitted advertising critics.

It should also be stressed that several of the larger production and distribution affiliated insider organizations were, unlike those affiliated with advertising, an established part of corporatism. They sat on the boards of many postwar state agencies as producer representatives, where they interacted with outside stakeholders, such as the LO, that criticized advertising and self-regulation in public. This afforded them the possibility to have discussions with outsiders away from the public debate they felt powerless to win, increasing the chances of reaching solutions based on deliberations that were to their liking. Here the public strategy of the Sales and Advertising Federation was perceived to be a problem. Behind closed doors, members from advertiser organizations openly expressed dissatisfaction with it. At a summit meeting between leadership figures from the Sales and Advertising Federation, the Advertisers’ Association and the Federation of Industries, the Sales and Advertising Federation was asked to educate businesses in the importance of standing up for consumer information that took business efforts into account. However, the Federation of Industries made it clear that it should be entrusted with formulating and leading business consumer policies. Lars Berg, who headed the federation’s consumer information section, claimed that it had established itself as an authority on consumer policy. He asserted that the section had a good rapport with marketing academics, the Cooperative Union and Wholesale Society and state agencies and committees and that

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the Federation of Industries was represented on the boards of several state agencies. The head of the National Price and Cartel Office had even quoted booklets produced by his section verbatim during lectures, Berg went on. He criticized the Sales and Advertising Federation for its lack of ability to exert policy influence, claiming that the 1963 committee on consumer information had said it could not listen to the Sales and Advertising Federation due to its connection to the advertising industry. This state of affairs made the peak business organization for marketing impossible as a representative of broader business interests in the consumer debate, while his consumer unit inside the Federation of Industries, on the other hand, with its broad contacts, had both weight and legitimacy when acting in public.\(^{87}\)

At the meeting, the Advertisers’ Association’s CEO Wiege complained that the Sales and Advertising Federation always parroted the same message in defense of advertising. Advertising did not need defending, it sufficed to present information of the factual circumstances surrounding it, he stressed. Although the Sales and Advertising Federation’s CEO Claesson and Chairman P.A. Sjögren claimed they had good contact with state authorities, Sjögren was also unwilling to distance his organization from the advertising agencies. The chairman stated that he considered the Association of Advertising Agencies an important part of the federation, which he, unlike the other organization representatives at the meeting, did not want to not exclude from some of the policy proposals that were discussed at the meeting.\(^{88}\)

The minutes from the meeting illustrate that the Federation of Industries and the Advertisers’ Association clearly thought that it would be best for the Sales and Advertising Federation to avoid public debate and stick to a background role as educator where it could do more good than damage for business legitimacy. Although this meeting took place on November 30th 1966, almost three years after the 1964 reforms, discussions among advertiser insiders on the importance of formulating a business consumer policy was, as shown, evident as of 1959, and the Federation of Industries’ consumer information section had under the leadership of Berg begun in 1962. The desire to take the lead in formulating a business response to state consumer policies and criticism of the Affluent Society was therefore most likely in place at the time of the 1964 reforms. Also, internal criticism of the Sales and Advertising Federation’s focus on public debate was forwarded in 1963 in conjunction with the Ortmark discussion. Consequently, it is probable that the Federation of Industries by then thought it had to dislodge the Sales and Advertising Federation and its supporters in the advertising industry from


their prominent positions in the Council on Business Practice to safeguard its consumer policies.

**Economic Reforms – the Federation of Industries Takes Control**

Actions taken by the Federation of Industries and other production and distribution affiliated organizations from 1959 and up to the 1964 reforms indicate an ambition to take control over self-regulation’s policy formation. The first sign of this was the Federation of Industries’ role in upgrading the Council on Business Practice’s case handling capacity. Despite comparatively low numbers of complaints, the council was ill equipped to deal with the rise in actual cases that did occur. Here the council’s chronic shortage of finances constituted a major obstacle. This was not a new problem, as the scarcity of funds in the two former regimes had been a major reason for the merger. The principals had hoped that the pooling of resources into one regime would enable self-regulation to cope with the growing workload. However, it soon became obvious these expectations were met with disappointment, as the growing consumer market ensured that the number of cases continued to rise. By 1963, the amount of complaints handled by the Council on Business Practice had doubled since its inception (figure 2.2).

Thus from its very start, the new regulatory council thus continued to be plagued by the same problems of inadequate case handling capacity as its predecessors. On January 20th 1959, the Council on Business Practice’s Economic Committee decided to grant the agency’s chairman and secretary the right to temporarily hire judicial staff to aid the secretary. It also emphasized that a planned pooling of the administrative resources of the council and the Control Board for Free Medicinal Preparations should be speeded up. However, the committee was then informed that the Federation of Industries had on its own, through its administrative executive Sven Åsbrink, initiated an investigation into solving the council’s capacity needs by uniting the administrative resources of both of these agencies and a smaller self-regulatory agency that controlled public donations to relief organizations, the Business Council for Control of Public Donations and Donation Advertising (Näringslivets Granskningsnämnd för gåvor och understödsannonser). The Council on Business Practice thus decided to await Åsbrink’s findings.

A meeting was held at the Federation of Industries’ office on June 8th 1959 with several principals of both the Council on Business Practice, the Control Board for Free Medicinal Preparations and the agency for regulating public donations attending. Nils Köhler from the Cooperative Union and Wholesale Society expressed worries over the fact that the Council on Business Practice was falling behind with case processing, eliciting concurrences from

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90 Näringslivets Opinionsnämnd. PM i organisationsfrågan, 29 augusti 1958. F5: 78. Svenska Tidningsutgivareföreningens arkiv. RA.

many of the other representatives. The gathered principals agreed that the decreasing amount of work in the niche agency for controlling public donations to relief organizations and the increasing work in the council motivated more funding for the council and less for the niche body.91 Åsbrink’s report was finished by September 10th 1959 and proposed that the Business Council for Control of Public Donations and Donation Advertising also share office space and administrative personnel with the Council on Business Practice and the Control Board for Free Medicinal Preparations. It also suggested increases in the annual membership fees paid by the principals. These would be used to hire an extra lawyer.92 The administrative merging of these self-regulatory agencies also did take place, and a few years later also including a self-regulatory agency for control of alcohol advertising (chapter two).

The proposal regarding economic contributions indicates that the Federation of Industries was beginning to flex its muscles with respect to the Sales and Advertising Federation. While most principals paid a few thousand SEK in yearly funding, and in the reform proposal had their contributions increased by about 1,000 SEK, the Sales and Advertising Federation would have to raise its annual financial support of the council from 15,000 to 21,700 SEK. Even compared to the suggested contributions for the Council of Chambers of Commerce and the Federation of Industries, where the former would pay 14,500 SEK and the latter 11,600 SEK, the Sales and Advertising Federation would have a much larger economic burden.93 Whereas the federation accepted a special responsibility for the regime and was awarded more formal influence over the Council on Business Practice than any other single principal, Åsbrink’s proposal still elicited protests, and the Sales and Advertising Federation’s CEO made it clear at the meeting on June 8th 1959 that the federation was unwilling to pay more. On December 8th 1959, the board of the Sales and Advertising Federation decided to allow an increase of their funding only in exceptional circumstances. Figures for contributions show that this did not happen, as it continued to pay around 15,000 SEK during 1960–1961.94 While the federation protested, other insiders such as the Advertisers’ Association and the Association of Advertising Agencies accepted the measures, perhaps due to the moderate rise in fees suggested

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on their part. Although sources do not confirm it, the same can most likely be said of the Newspaper Publishers’ Association, whose proposed increase in financial support was modest as well.\textsuperscript{95} It took until the annual meeting of the principals on November 16\textsuperscript{th} 1960 to find a durable solution for economic contributions. That the Sales and Advertising Federation was angered by the treatment it had suffered is also indicated by the fact that it did not send a formal representative to this meeting. On Åsbrink’s suggestion, the meeting decided that fees would increase in proportion to the current share of each principal’s contribution to the council’s budget.\textsuperscript{96}

**United Advertiser Efforts Finally Succeeds**

Regardless of these reforms, the major prize for the Federation of Industries and other supporters of broader reforms was the participation reforms of 1964. That they were successful was in no small part due to cooperation among production and distribution affiliated organizations. Such cooperation had been suggested by the Retail Federation’s CEO Gillberg during the Advertisers’ Association’s reform attempt, but records do not reveal if that happened. Such collaboration was now facilitated by the fact that reform friendly organizations among advertisers as well as among media carriers and even a reform friendly representative of the Sales and Advertising Federation had since the start controlled the Council on Business Practice’s powerful Economic Committee. The committee had five members, with the council’s chairman always being one and the others representing four of the council’s principals. In conjunction with the formation of the new regime, four powerful principals from the two preceding regimes were selected as principal representatives. From the smaller regime came the Federation of Industries and the Council of the Chambers of Commerce and from the larger the Newspaper Publishers’ Association and the Sales and Advertising Federation.\textsuperscript{97}

These four principal organizations would keep their grip on the committee for the duration of the regime’s existence, as all of them retained their seats until the council was decommissioned in 1971. This hold also extended to a personal level. Of the chosen representatives, Kurt Söderberg from the Federation of Industries and Ivar Hallvig of the Newspaper Publishers’ Association both sat on the Economic Committee from the council’s inception until it folded in 1971. Of the others, Olof Leffler of the Chambers of Commerce sat from 1960 until 1971, while Junker of the Sales and Advertising Federation remained from 1957 until 1970, the year he died. It was thus on all accounts a very stable group. This stability was in turn a sign of the power

\textsuperscript{95} Styrelsens protokoll, 21 september 1959. SAF. Sveriges Annonsörers arkiv; Styrelsens protokoll, 23 sep 1959. AF. Sveriges Kommunikationsbyråers arkiv.


these insider principals had, as they were re-elected every third year by the council’s principals. Söderberg had voiced support for pro-active policing in conjunction with the 1955 petition (chapter four) and Hallvig had backed economic reforms to make case handling more efficient. Leffler’s previous position on reform is not as well-known, but being CEO of the Stockholm Chamber of Commerce (Stockholms Handelskammare) as well, he had been responsible for that organization’s signing the 1955 petition (chapter four). It is also noteworthy that the committee representative whose principal was associated mainly with narrow regulatory ideals was Bengt Junker from the Sales and Advertising Federation. Junker had a number of personal qualities that must have facilitated cooperation with the other three representatives. As CEO of dairy product manufacturer Margarinbolaget AB, he had an advertiser interest and also had a previous involvement in the Council on Advertising Practice, where he had showed sympathy for broad reforms by supporting its chairman Horwitz in the conflict over fees during the merger process by referring to the necessity of protecting consumers (chapter four). Committee members also had comparable professional traits that facilitated a sense of cohesion. All held or had held positions as CEO or vice CEO in their business organizations, and most were jurists. Some had also been or were active on official state investigative committees, among them the insider dominated official state investigative committees discussed in chapter two. Being administrative leaders within a corporatist context, they were probably keen on good relations with other important corporatist actors. Finally, the fact that the Association of Advertising Agencies was shut out from the Economic Committee further increased the chance of using it to launch broad policies.

The 1964 reforms had their roots in the fact that the 1959 reforms had not managed to do away with the council’s capacity problems. While placing more financial resources at the disposal of the Council on Business Practice, the Åsbrink reform package did not solve the issue of coping with the growing number of complaints. As the council consisted of members who worked more or less for free, there was a need not only for more money, but for manpower as well. Increasing the number of principals was one of the topics of the

102 Svenska Försäljnings- och Reklamförbundets verksamhetsberättelse 1959. SFRF. Sveriges Marknadsförbunds arkiv.
annual meetings of the Council on Business Practice in both 1961 and 1962. By the latter meeting, the Retail Federation was so fed up with the inaction that it had submitted its leave of the council as of December 31st 1962. This was however withdrawn once the annual meeting of the council’s principals on January 26th decided to let the Economic Committee appoint an internal investigative committee to unconditionally review the council’s organization.\textsuperscript{103}

The council’s internal investigative committee had members with previous experience of the merger process.\textsuperscript{104} However, more interesting to note is that broad-leaning representatives from three production and distribution affiliated organizations took control of it. Besides the leadership of the Council on Business Practice in the form of its vice-chairman and soon-to-be chairman Yngve Samuelsson\textsuperscript{105} and CEO Sten Tengelin, whose presence made sure that the committee was sanctioned by the council’s leadership, the internal committee incorporated lawyer and Cooperative Union and Wholesale Society ombudsman Nils Köhler, K E Gillberg, CEO of the Retail Federation, as well as Kurt Söderberg, vice CEO of the Swedish Federation of Industries. That the Federation of Industries had a crucial role is indicated by the fact that Söderberg was the only member of the Economic Committee who also took part in the investigation.\textsuperscript{106}

The composition of the Council on Business Practice’s internal investigative committee needs to be commented on in the light of the previous failed reform attempts by the Retail Federation. Gillberg, Köhler and Söderberg had all on previous occasions supported reforms to expand the policing capabilities of the council. However, given the staunch resistance by the council and its chairman, Dahlman, to the Retail Federation’s recent reform attempts and the fact that neither the Federation of Industries nor the Cooperative Union and Wholesale Society were particularly sympathetic to its regulatory agenda, the Retail Federation’s inclusion needs to be addressed. The federation had threatened to leave the council due to the lack of reforms, which would have


\textsuperscript{104} PM angående samordning av opinionsnämndverksamheten, 14 november 1956. SFRF. Sveriges Marknadsförbunds arkiv.


dealt a blow to the legitimacy and authority of self-regulation. It only relented when the council promised an investigative committee into the council’s organization. Giving it a seat on this committee was probably necessary to convince the federation to withdraw its decision to leave the council. The presence of the other reform-driven organizations that did not share the federation’s overall regulatory agenda indicates that these also wanted to make the most of the occasion for their own reasons, while at the same making sure the committee would not be turned into a vehicle for the Retail Federation’s competitive agenda. Like the presence of these three insiders, the absence of the advertising affiliated insider organizations that controlled the Council on Business Practice’s section specialized in advertising also needs to be commented upon. The Advertisers’ Association, the Association of Advertising Agencies, the Newspaper Publishers’ Association and the Sales and Advertising Federation were all left out. This suggests that the Economic Committee planned broad reforms and did not want any internal opposition from the narrow-leaning advertising and marketing interests in these organizations. That a whole industry segment, whose actions took up most of the council’s policing, was completely left out sent a strong message from production and distribution affiliated insiders that they would not accept any opposition this time.\(^\text{107}\)

The Council on Business Practice’s internal investigative committee’s report was completed in May 1963. It showed that the three organizations behind it clearly intended to take a larger role in running the Council on Business Practice, at the expense of the advertising affiliated organizations. The report proposed bringing in more principals and making some of those already inside more active. The last matter referred to the fact that only about half of the principals appointed members. The answer would be to let more principals do so.\(^\text{108}\) Eleven insider associations had been allowed to select members according to the 1957 statutes, whereas now twenty-two were given that right. Three principals, the Federation of Industries, the Federation of Retail and the Cooperative Union and Wholesale Society, were also given the right to appoint more members to the council. These could now chose three each, while the 1957 statutes had allowed only one per organization. The change was motivated by the fact that these three organizations now shared a workload on the council equal to that of the Council of Chambers of Commerce, which had three seats. Whatever the truth of this, the change is significant, since it meant that the three insider principals that controlled the investigative committee granted themselves a wider representation on the


council – a clear sign of their strong desire to take more control over the council and its activities. The Council of the Chambers of Commerce retained its right to appoint three members, but the Sales and Advertising Federation went down from four to three. The Association of Advertising Agencies, the Advertisers’ Association and the Newspaper Publishers’ Association that had been awarded one member each in the 1957 council statutes kept this right, but were now joined by a large number of other insider organizations with the same member privilege, of which a clear majority had advertiser interests. Thus, thanks to these reforms, advertiser interests in production and distribution were clearly taking control over the regime.109

The loss of the Sales and Advertising Federation’s right to appoint four members to the council was in turn directly linked to the internal investigative committee’s proposal to widen consumer representation.110 While seven additional insiders had joined the regime as principals since the merger in 1957,111 no expansion of consumer representation had occurred after the Sales and Advertising Federation at that time had been given the right to appoint these. The internal investigative committee did not think it satisfactory that the federation in this manner controlled the selection of consumer representatives. Although the committee did not elaborate on its negative stance towards the current mode of selecting consumer representatives, it probably held this view for the same reasons that the Advertisers’ Association had wanted to do away with this appointment procedure during their reform attempt in 1957–58 – that they were not satisfied with the pseudo-broad participation that came about due to the 1957 merger and wanted a true broad participation by allowing in consumer interest groups that represented a large share of the consumers and also had the power to directly influence state policies vital for marketing. The investigative committee’s proposed change in consumer representation reflected such a game plan, as the report proposed to bring in the three peak trade unions, the LO, the TCO and the Swedish Federation of Professional Associations (Sveriges Akademikers Centralorganisation, SACO), as well as


the Swedish Housewives’ Association to represent the consumers. These organizations would be given one representative each, while two seats would be awarded to the state consumer agency National Council for Consumer Goods Research and Consumer Information, the same key policy state agency the Advertisers’ Association had approached in 1957. The decision was most likely underpinned by the fact that the three insider organizations that were represented on and by all accounts controlled the investigative committee: the Cooperative Union and Wholesale Society, the Federation of Industries and the Retail Federation all had interacted since 1957 with all of the proposed consumer representatives, possibly barring SACO, on the board of the National Council for Consumer Goods Research and Consumer Information. This already existing formal corporatist cooperation on consumer policies between these specific insiders and outsiders probably reassured the committee’s insiders that extending that cooperation to the Council on Business Practice was the right choice. Also, the fact that the three insider organizations on the internal investigative committee were the only insider principals of the Council on Business Practice’s to sit on the National Council for Consumer Goods Research and Consumer Information during the whole of the studied time period probably also added to their perception that it was natural that they assume the same leading positions in a broadened regime of self-regulation. Consequently, through this proposal and the decision to increase their own representation on the council, the Federation of Industries, the Retail Federation and the Cooperative Union and Wholesale Society openly challenged the Sales and Advertising Federation and those parts of the advertising industry, especially the ad agencies, favoring a narrow regime for control over the regime.\(^\text{112}\)

Another reform that also pointed to an advertiser strategy of taking control of the Council on Business Practice was a reorganization of the council’s sections. The use of two sections as stipulated by the council’s 1957 statutes, where advertising affiliated organizations controlled the one handling advertising and the production and distribution affiliated organizations dominated the section that handled broader issues of unfair competition, was abandoned. Now the council was to consist of three sections with no more than thirteen members per section. In each, the three business organizations that had controlled the council’s internal investigative committee, as well as the Council of Chambers of Commerce and the Sales and Advertising Federation were guaranteed one seat each, while consumers were to have at least two. The remaining six members were not specified, but it is clear that the advertising

affiliated organizations no longer enjoyed a formal majority when deciding over advertising cases. With consumer representatives guaranteed two seats per section and the Advertisers’ Association being sympathetic to broad reforms, broad-minded advertiser insiders had a fairly good chance of winning cases even if narrow-leaning members from the advertising affiliated organizations opposed convictions on the grounds that they infringed on marketing freedom. On the other hand, outsiders on the council had no chance to win over insiders if a case split members into camps along those lines.113

An outcome of reforms was that the Council on Business Practice would grow in size and manpower. However, consumer representatives would not challenge business domination, as now twenty-two insider principals that together had the right to select 33 members to sit on the council would make sure that the five outsider organizations and their six council members remained in a clear minority. The Advertisers’ Association’s CEO Wiege’s earlier suggestion to give half of the seats to consumer representatives was not realized. Nor was there any suggestion of a pro-active function. As a consequence, the reforms would not bring about a significant shift in the power balance between insiders and outsiders or any fundamental change in how regime policing operated.114 Still, it is possible that the reformers made concessions to the narrow-leaning insider organizations that controlled the advertising section of the council that limited the scope of reforms. However, this cannot be established by the sources.

The Council on Business Practice’s internal investigative committee’s proposals were accepted at the council’s annual meeting on May 30th 1963 and enacted as of January 1st 1964. A brief discussion occurred at meeting shortly before the decision was taken. The production and distribution affiliated Federation of Wholesale Merchants and Importers as well as the Advertisers’ Federation stressed their satisfaction with the reforms. The only objections came from representatives of two media carrier organizations, the Newspaper Publishers’ Association and the Association of Swedish Trade Journals (Föreningen Svensk Fackpress). They suggested there were other organizations besides the large trade unions that could represent the consumers and proposed that a journalist organization would be a suitable choice. This was however voted down by the meeting.115 At the Sales and Advertising

Federation board meeting on December 3rd 1963, it was matter-of-factly noted that the federation had lost one representative on the council and that it no longer would be selecting the consumer interest. No protests or discussions are recorded in the federation’s board minutes, only a recognition that the two former consumer representatives had done a good job and a hope that the changes would not mean that the board would no longer be kept informed about the “valuable personal experiences of the work inside the Council on Business Practice” – possibly a reference to the fact that Carin Boalt would remain on the council, but now as a representative of the state.\textsuperscript{116}

The power dynamics of the regime’s principals had now undergone a radical adjustment. As the more exposed advertisers and media carriers now repeatedly sought broad strategies to curtail bad will, boost consumer confidence and hinder state intervention on the market, it was clearly becoming harder for the less exposed ad agencies and other supporters of a narrow regime to stop them from doing so (chapter four). The advertising affiliated organizations had lost their influential position to the production and distribution affiliated insiders organizations firmly rooted in corporatist political structures. This had in turn enabled the latter group to bring in a sizeable group of outsiders to represent consumers, all of them established interest groups with millions of members constituting a large part of the consumer collective and acknowledged by state institutions. By succeeding in getting these organizations to accept the same position in the main agency of self-regulation of advertising, the reformers managed to give the regime a much stronger and more legitimate consumer representation than had been the case up till then.\textsuperscript{117}

A Second Policing Attempt Inside the Sales and Advertising Federation

In 1963 the Sales and Advertising Federation again tried to carry out a unilateral initiative. The knowledge that the impending policy proposal brewing inside the Council on Business Practice was in the hands of advertisers, as well as the heightened public debate on advertising in 1962–63 led on by Ortmark (chapter two),\textsuperscript{118} indicated to the federation that it needed to try to come up with its own policy initiative to fortify its position as the regime’s key principal.

A driving force behind this second initiative was the federation’s new CEO Göran C-O Claesson. Besides having a willingness to debate critics, Claesson also saw a potential for self-regulation reform to sway public opinion in favor of his organization. In an internal federation memorandum from February 4th 1963 discussing the production of a PR-film for advertising, he thought the Sales and Advertising Federation would be more successful if it

\textsuperscript{116} Arbetsutskottets protokoll, 3 december 1963. SFRF. Sveriges Marknadsförbunds arkiv.

\textsuperscript{117} Arbetsutskottets protokoll 3 december 1963. SFRF. Sveriges Marknadsförbunds arkiv.

\textsuperscript{118} Although Ortmark’s book was released after the KUFOs process came to an end, he had initiated a debate in 1962 by writing articles in daily press that attacked the advertising of petrol companies. The debate was thus in full swing even before the book’s release (chapter two).
step by step introduced measures that the public would perceive as improvements of advertising and its ability to serve society. We would for example get a lot of good publicity if we instituted an agency with a function similar to the Competition Ombudsman. We have the Council on Business Practice, but lack a body that systematically brings cases that business has an interest in seeing settled.119

These ideas resurfaced a few months later in an internal federation committee working on a major re-organisation of the whole Sales and Advertising Federation called KUFOS. The KUFOS Committee had been ordered to present a reform package to be decided on at the federation’s annual meeting in June 1963. It gathered together several members of the federation’s leadership, with Claesson as secretary and P. A. Sjögren, soon to be chairman of the federation itself, chairing it.

The KUFOS Committee’s report discussed the possibility of an “Advertising Attorney” who would seek out advertising to bring before the Council on Business Practice. However, despite Claesson’s support for such a unit, the report toned down such ideas:

against this attorney-like institution the argument has been raised that it has the questionable character of an institution of the state. In the area of economy it is almost impossible to in advance decide what should be allowed and what should not. Even harder is to handle this type of activity in a private regime and maybe risking that the actions taken against a company will end up rejected in a public court.120

The report echoed earlier criticism within the Sales and Advertising Federation against such broad-based policing solutions, indicating that the narrow ideals of self-regulation still had a dominating grip on its policy thinking. The federation saw self-regulation as decidedly different from state regulation. It could thus not equate an attorney with a regime that to them rested on narrow regime ideals such as producers internalizing common values. The general idea was instead to activate the federation’s local marketing societies into becoming part of a wider “early warning system”. The KUFOS Committee suggested creating local vigilance committees at these societies under a central aegis in Stockholm – an idea that had surfaced during the discussions on the Tengelin-Walldén report in 1958. Still, reformers tread a careful path so as not to anger supporters of narrow ideals. There were arguments about the necessity of making sure the committees would work in a quiet manner and not challenge the authority of the Council on Business Practice or acquire the


120 Kommittén för utredning av förbundets organisation, målsättning, struktur och stadgar, Till Marknadsföringens tjänst, Preliminär och konfidentiell rapport inför AU:s sammanträdé den 23 april 1963. SFRF. Sveriges Marknadsförbunds arkiv.
qualities of a pro-active institution.\textsuperscript{121} A vigilance committee was presented as having four tasks: 1) spreading knowledge of self-regulation to producers; 2) gathering information and delivering policy suggestions to the federation; 3) receiving complaints from producers as well as consumers; 4) informing companies responsible for questionable advertising that their campaign risked producing an “unsuitable reaction from the public” and, lacking a response, forwarding the matter to the Council on Business Practice.\textsuperscript{122}

Just as in previous attempt at reforming policing, the proposal caused discussion on the board of the Sales and Advertising Federation. Supporters felt that the vigilance committees were a needed addition. Opponents objected to policing, but were open to more education and information. The Newspaper Publishers’ Association’s and the Advertisers’ Association’s representatives were generally sympathetic, stating that self-regulation was in need of more policing resources. Ad agency representatives such as Elinder and Lohse and some members of the Sales and Advertising Federation’s leadership were sceptical. Particularly the federation’s Ralph Rilton\textsuperscript{123} tried to paint the reform as in the same mold as the earlier policing reform attempt in 1958, stating that pro-active policing had been rejected before by both the federation and later by the principals of the Council on Business Practice. Rilton stated that the vigilance committee risked creating two systems of self-regulation, placing insiders in the same problematic situation as before the merger. However, this discussion did not create the same clear-cut camps between advertisers and media carriers on the one side and ad agencies on the other as the previous reform attempt in 1958 had. The initiative of having the marketing societies with no prior experience shoulder regulatory responsibility made even regular policing supporters such as the Newspaper Publishers’ Association’s Bjurström and the Advertisers’ Association’s Falk conclude that it was questionable if the reform was feasible and that it definitely had to be cleared by the Council on Business Practice and all its principals. There were worries that such a risky project could create problems for the regime, and even supporters proposed a trial year to evaluate the committees’ effectiveness. The marketing societies themselves largely rejected the idea on the grounds that they lacked both the capacity and competence to do the job.\textsuperscript{124}

At a board meeting of the Sales and Advertising Federation on May 13\textsuperscript{th} 1963, ad agency owner Erik Elinder, who had opposed the previous policing reform attempt inside the federation in 1958, acted as chair as the issue was

\textsuperscript{121} Kommittén för utredning av förbundets organisation, målsättning, struktur och stadgar, Till Marknadsföringens tjänst, Preliminär och konfidentiell rapport inför AU:s sammanträde den 23 april 1963. SFRF. Sveriges Marknadsförbunds arkiv.
\textsuperscript{122} Styrelsens protokoll, 13 maj 1963. SFRF. Sveriges Marknadsförbunds arkiv.
\textsuperscript{123} Ledamöter i Svenska Försäljnings- och reklamförbundets styrelse för perioden 1963–1964. SFRF. Sveriges Marknadsförbunds arkiv.
\textsuperscript{124} Arbetskommitténs protokoll, 23 april 1963; Styrelsens protokoll, 13 maj 1963; Samarbetsnämndens rapport från ordföranden, 15 maj 1963. SFRF. Sveriges Marknadsförbunds arkiv.
discussed. He summarized by stating that the policing aspects entailed changes so complicated and difficult to assess that it was necessary to remit these issue to the Council on Business Practice and all its principals. At the same time there was interest in starting a trial run of the committee based on its proposed PR-functions. The board recommended the federation’s annual meeting to concur with the launch of a trial committee basing its actions on these, i.e. giving it an exclusive task of education and information. The initiative had thus been watered down, robbing it of policing features. At the Sales and Advertising Federation’s annual meeting on June 11th 1963, the federation’s CEO Claesson argued that the introduction of the vigilance committees would be a boon to the consumers and be seen as a positive gesture from the federation. Many members were critical, wondering why a new body of self-regulation was needed when the Council on Business Practice already existed, and why the federation should run it. The meeting finally decided to grant permission for a trial run. Such a committee was also created by the board at its meeting on October 15th 1963, but no activities are documented, and it appears that it did not become operational. Due to the apparent failure of the initiative, it is not known how the Council on Business Practice would have reacted to the idea, but the fact that important council members that also sat on the federation board, such as Bjurström, Falk and Rilton were sceptical on the grounds that the reform could bring more harm than help to self-regulation as a whole, makes it likely that the council’s leadership would have expressed doubts as well.

Overall, the failure of the KUFOS Committee’s initiative shows that despite having a more corporatist-inclined CEO to support reforms described as being in the spirit of self-regulation, many members were not willing to increase policing and definitely not to be responsible for upholding it.

**Conclusion**

During the second phase of regime transition, reform activity remained high thanks to increasing outside pressure from advertising criticism that threatened consumer confidence and possible state intervention and inside pressure in the form of a growing number of complaints, which challenged the regime’s handling capacity. Moreover, a shortage of funds and manpower also continued to undermine the regime. Generally, a number of initiatives

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125 Arbetsutskottets protokoll, 23 april 1963; Styrelsens protokoll, 13 maj 1963. SFRF. Sveriges Marknadsförbunds arkiv.

were carried out to increase and improve policing. However, due to internal conflicts between insiders, these met initially with no or very limited success until the 1964 reforms. To a large extent, these conflicts can be explained by the exposure hypothesis. In keeping with the hypothesis that advertisers are more exposed to public bad will and the risk of losing consumer confidence and therefore more inclined to back stricter regulations to avoid this, it was advertisers that mostly initiated or supported these policing initiatives during phase two, while media carriers, being, according to the hypothesis, somewhat less exposed, also lent their support; however ad agencies, as the hypothesis’ predicts, being least exposed and dependent on lenient rules for competitive freedom, opposed them. Still, at times conflicts over policing did not follow these patterns, as generally reform friendly organizations withdrew their support for policing initiatives. This was not due to them having adopted a stance against policing, however, but rather due to suspicions that reforms were not being presented in earnest or simply not appear to be workable due to lack of resources and competence (figure 5.1).

The first policing attempt during phase two was made within the Sales and Advertising Federation. As the federation and the former larger regime of self-regulation it had presided over until the 1957 merger of it and the other smaller regime were directly attacked in the same year by public intellectual and advertising critic Sven Lindqvist in his much publicized Advertising is Lethal, the federation suddenly had both an obligation and an opportunity to formulate a policy response that would reinforce its position as a key principal of the new regime. In close cooperation with the new leadership of the Council on Business Practice, the federation proposed reforms that would increase efforts in both education and information and policing.

The federation’s suggested policing reforms largely split insiders into different camps along the lines predicted by the regulatory exposure hypothesis. Sources reveal that the Advertisers’ and Newspaper Publishers’ Associations backed the policing efforts, while the Association of Advertising Agencies objected to them. The Newspaper Publishers’ Association had already created internal routines for policing, with advertising publishing clearance routines for certain sensitive product categories and controls to stop advertorials that threatened their profitability and public trust in editorial content. The press was also singled out as a problem by advertising critic Lindqvist due to its reliance on advertising. Hence due to both inside and outside pressure, The Newspaper Publishers’ Association regarded more policing as an integral solution to regulatory problems. The Advertisers’ Association held a low profile during the process, but stated it wanted the new Council on Business Practice to receive more complaints, although this might also be achieved by utilizing the Sales and Advertising Federation’s marketing societies. A key member of this association also expressed doubts as to the federation’s suitability as a caretaker of pro-active policing. As it had presented ideas for more and even pro-active policing during the process leading up to the 1955 petition, the Advertisers’
Association was not in opposition to more aggressive policing, but most likely did not trust the narrow-leaning federation to come up with sufficient reforms. Strong opposition to these ideas came from the less exposed ad agencies, who claimed pro-active policing would turn self-regulation into a rigid state-like form of regulation, far from the deliberative and insider friendly principles of self-regulation, which for them meant education and information more than policing. Being, according to the exposure hypothesis, less exposed to bad will and regulation, more policing would rob them of this privileged position, possibly incurring regulations that would have negative consequences for their competitive freedom. Therefore the ad agencies opposed the suggested reforms and instead proposed further efforts in education and information. The reform proposals were finally watered down and never implemented, indicating that ad agencies and other supporters of a narrow regulatory strategy still held sway over the Sales and Advertising Federation.

The Advertisers’ Association was not satisfied with this outcome. It regarded bad advertising as a growing problem directly linked to sinking profits, low consumer confidence in marketing and slow market growth. The absence of progress in reforms and its dislike of the Sales and Advertising Federation being responsible for running the pro-active policing unit contributed to the Advertisers’ Association making a unilateral reform move in 1957–58. It initiated deliberations with the national blue collar peak trade union the LO and the National Council for Consumer Goods Research and Consumer Information on how to improve the public standing of advertising. The choice of outside partners was no coincidence, as the LO represented millions of members whose approval as consumers was vital for the Advertisers’ Association’s member companies, and it was also an important critic of advertising in the public debate as well as a formal consumer representative on various corporatist state agencies and committees. The National Council for Consumer Goods Research and Consumer Information, meanwhile, had a key responsibility in formulating the government’s new ambitious consumer policies. The Advertisers’ Association was thus not satisfied with the pseudo-broad participation in the unified self-regulation regime created by the 1957 merger and wanted it replaced by a stronger broad consumer presence. Despite ambitious goals of inviting a sizeable group of consumer representatives onto the Council on Business Practice and presenting stricter ethical guidelines, the initiative petered out into nothing. While no known cause can be proven, the fact that the Advertisers’ Association decided on a go-it-alone strategy that challenged the Sales and Advertising Federation’s and other advertising affiliated organizations’ influence over the Council on Business Practice possibly contributed to the lack of success.

Another reform driven insider organization that pursued a similar broad strategy at the same time as the Advertisers’ Association was the Retail Federation. The timing of the two initiatives was no coincidence, as the CEO of the Retail Federation also sat on the board of the Advertisers’ Association
and was instrumental for both reform initiatives. Pressured by increased competition due to both economic fluctuations and structural market changes since the late 19th century, organized retail interests had sought a revised marketing law to protect the interests of smaller retail businesses from new and bigger competition for a long time. The Retail Federation regarded the Council on Business Practice as a flawed agency that could not protect its interests and thought the new regime afforded it too little influence over council activities. It suggested that the council to refer cases of interest to industry organizations such as itself, the creation of an attorney function to make sure that precedent cases were dealt with, that the handling process be speeded up and that the verdicts of the council be made public. However, the council leadership resisted all of this except demands for more transparency, citing both practical objections and matters of principle, for example that an advertising attorney risked damaging the authoritative agency of the Council on Business Practice and that a system of internal reference would slow down the handling of complaints. The lack of reforms made the Retail Federation finally resort to drastic measures, as it decided to leave the Council on Business Practice in 1962. The federation only recanted once the council’s principals decided to appoint an internal committee that same year to investigate the council’s organization.

A more cooperative effort for reforms took shape during 1962–1963 under the leadership of the Federation of Industries that in 1959–1960 had spearheaded economic reforms in the regime. Together with particularly the Retail Federation and the Cooperative Union and Wholesale Society, it pushed for changes similar to those that the Advertisers’ Association had wanted. With a rise in outside pressure thanks to the advertising debate initiated by public intellectual Lindqvist in 1957–1958 and journalist Åke Ortmark during 1962–1963, as well as recurring demands from Social Democratic MPs for the state to investigate and constrain marketing, advertiser interests had a strong incentive to reform. Also, evidence proves that the Federation of Industries and the Federation of Wholesale Merchants and Importers now saw the Social Democratic government’s consumer policies as a possible threat to business interests, as consumer information and testing were regarded as having the potential to lower consumer confidence in marketing and interfering with brand competition. They therefore wanted to create business consumer policies that would limit these effects and cast their efforts in a more positive light.

With advertising facing increased challenges from both public criticism and state consumer information, it therefore became imperative for these insider organizations to not only create new structures within organized business, but to upgrade and take control over existing ones that had a bearing on marketing ethics. The Council on Business Practice was of course the key component. The Sales and Advertising Federation was a problem here, as it had considerable influence over the council, together with the other advertising affiliated organizations, and had stopped or stalled attempts at increasing policing in
self-regulation. Advertiser insiders by now regarded the federation as a biased industry representative of the advertising industry that could not command public legitimacy in the wider debate on advertising or consumer matters and made matters worse by acting as a staunch defender of advertising, fanning the flames of debate that advertiser organizations felt only benefitted critics of advertising and marketing due to a media bias. Advertisers therefore had to make sure that they increased their influence over the council at the expense of the advertising industry in general and the federation in particular and find ways to dampen public debate.

Having producer representatives on the boards on several state agencies meant that the production and distribution affiliated organizations were no strangers to using corporatist channels of communication, which allowed them to interact and deliberate with advertising critics outside of the public debate. They now revived the Advertisers’ Association’s strategy to get an increased, stronger and politically more legitimate consumer representation in the self-regulation regime and its council. In 1962, thanks to the presence of reform friendly members on the Council on Business Practice’s powerful Economic Committee, insider principals, the Federation of Industries, the Retail Federation and the Cooperative Union and Wholesale Society, were able to take control of a key investigative policy committee inside the council that in the spring of 1963 proposed broad reforms in participation. These were accepted the same year and put in effect 1964. A key change was that the Sales and Advertising Federation no longer was allowed to select consumer representatives to the Council on Business Practice. By removing the federation’s right to do this and instead allowing peak trade unions, a women’s organization and a state consumer agency to appoint these representatives, insider reformers succeeded in replacing the comparatively weak individual consumer representatives selected by the Sales and Advertising Federation with stronger and politically legitimate interest groups, replacing pseudo-broad participation with true broad participation. These new outsider groups that now stood for the consumer interest on the council represented a large part of the consumer collective and were firmly entrenched in the corporatist political economy where they represented consumer interests. Also, a key state agency in formulating the government’s consumer policy, the National Council for Consumer Goods Research and Consumer Information, was now onboard. Hopefully the presence of these new outsiders would help improve consumers’ confidence in advertising and contribute to stalling unwanted state regulation.

At the same time the reform proposal of 1963 also increased insider representation on the council, by letting in more members from insider organizations that had previously not been represented on it. It also boosted the number of council members from the three insider organizations that had controlled the council’s investigative committee behind the proposal, indicating their will to both wrest control over the council from the advertising
industry and to make sure that the new powerful consumer representatives did not have too much influence over council business. That they were able to do this suggests that the Sales and Advertising Federation and its supporters lacked the power to challenge this concerted effort, although it is possible that the federation was able to stall other perhaps even less wanted reforms and limit the power of the new consumer organizations in exchange for agreeing to accept the participatory reforms. That such a deal could have been made is supported by the fact that these reforms were in parts nowhere as radical as those previously proposed in 1958 by Advertisers’ Association CEO Wiege, who had recommended that half of the members on the Council on Business Practice should represent the consumers. When these participation reforms were carried out in 1964, consumer’s represented less than a fifth of the members on the council. Also, there was no pro-active policing in the reform mix, despite being a key demand during the earlier reform attempts by the Retail Federation, one of the organizations that lay behind the 1964 reforms. However, there are no sources that can corroborate that any explicit deal was made. Regardless of their background, the reforms made sure that insiders retained a decisive control over the regime.

The end of the second phase of regime transition thus meant an internal transformation of the regime, with production and distribution affiliated insider principals representing retail, distribution and production taking over as the regime’s power players. These developments are in line with the regulatory exposure hypothesis, with advertiser and media carrier interests being more exposed to regulation and public badwill, thus pushing for tougher regulation, while ad agency interests, strong in the Sales and Advertising Federation and even parts of the leadership of the council, resisted attempts for more policing. The Sales and Advertising Federation made a second unilateral attempt to institute major self-regulation reforms in 1963. This indicated it realized it could not stop the growing advertiser influence over the Council on Business Practice, but that the federation’s reform initiative, creating a string of vigilance committees that would work to support the council, could award the federation a continued special position in the regime. Due to the unwillingness of the federation’s marketing societies to shoulder this responsibility and the skepticism of its viability from the federation’s board members who usually were ardent supporters of policing, the attempt fizzled out. The federation had thus failed during phase two at launching two reform initiatives and also had its special influence over the Council on Advertising Practice severely reduced.

In the case of regime transition during phase two, there was still limited change in regime variables used in the regime typology for analysis of regime transition. While reformist-oriented organized insider organizations were able to transform the Council on Business Practice into a broader agency and strengthen the broad character of participation, the key task of the regime remained narrow as no pro-active policing was introduced. This outcome can
be tied to the fact that the introduction of pro-active policing was anathema to particularly the advertising agencies, as they perceived it as a threat to their creative and competitive freedom. They opposed all such policing efforts and instead suggested reforms involving education and information. It is possible that their staunch opposition to this could have led to a deal between the advertising industry and advertiser interests making the reformers that controlled the council’s internal investigative committee refrain from including policing in reforms to avoid an open insider conflict over the 1964 reforms. However, there are no sources to corroborate such a deal or, if it existed, that it included dropping pro-policing reforms. Another aspect that could have made the 1963 reformers hold back on pro-active policing was that they shared the worries expressed by the leadership of the Council for Business Practice in conjunction with the Retail Federation’s reform attempts in 1960: that creating a pro-active policing unit would make the regime so similar to a state agency that it could tempt the state to come in and take over such an institution. It is possible that this argument created doubts that were enough to have reformers back off from proposing them.

Figure 5.2. Regime transition during phase two, 1957–1963, from outset of regime configuration until decision making of policy change.

<table>
<thead>
<tr>
<th></th>
<th>1957</th>
<th>1963</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Regimes</strong></td>
<td>Council on Business Practice</td>
<td>Council on Business Practice</td>
</tr>
<tr>
<td><strong>Rule Control</strong></td>
<td>Insider</td>
<td>Insider</td>
</tr>
<tr>
<td><strong>Participation</strong></td>
<td>Insider + “outsider”</td>
<td>Insider + outsider</td>
</tr>
<tr>
<td><strong>Interests and rights</strong></td>
<td>All stakeholders</td>
<td>All stakeholders</td>
</tr>
<tr>
<td><strong>Key task</strong></td>
<td>Education and information</td>
<td>Education and information</td>
</tr>
<tr>
<td><strong>Transparency</strong></td>
<td>Low</td>
<td>Medium</td>
</tr>
</tbody>
</table>
The third phase in regime transition started with the implementation in 1964 of the broad participatory reforms decided upon the previous year and ended in 1968 with sweeping reforms that changed the overall structure of the regime, introducing extensive policing reforms and pushing towards a transition to a fully-fledged broad regime.

Council on Business Practice Reforms: Efficiency and Pre-empting State Intervention

Throughout the third phase of regime transition, the Council on Business Practice continued to add more principals but this time, unlike during the second phase, only insiders. By 1968, five more business organizations had joined since the 1964 reforms, totaling twenty-seven in all. New regime principals were awarded one member each on the council, and no major changes in the distribution of seats were made during the period, except that the Swedish Federation of Industries and Crafts was upgraded from having one to two seats, further strengthening the presence of production and distribution affiliated principals. The new organization of the council in three sections also meant that the reformed council became dominated by production and distribution affiliated organizations and the new consumer representatives, just as predicted in chapter five. As the 1963 reform decision indicated, the Council on Business Practice was now definitely the center of the policy process, with the Sales and Advertising Federation’s failed reform attempts during the previous phase having robbed the federation of its previous position as a leading insider arena for this type of activity. Broad minded reformers from production and distribution affiliated insider organizations, together with like-minded advertising affiliated organizations such as the Advertisers’ Association and the Newspaper Publishers’ Association, were safely entrench-
ed in the council’s influential Economic Committee. Quite tellingly, the consumer representatives of the agency were left out of this forum.3

The increased power of this group of insiders was also reflected in their financial responsibility. Having paid relatively small sums before 1964, they now became the top contributors to the Council on Business Practice. Although the Sales and Advertising Federation and its successor organization the Marketing Federation continued to be major contributors, the others were all production and distribution affiliated organizations: the Committee of Chambers of Commerce, the Cooperative Union and Wholesale Society, the Federation of Industries and the Retail Federation. While most other principals now contributed 1,000–10,000 SEK yearly, these latter five organizations paid in the bracket of 20,000–50,000 SEK each. By the end of the period, the newly formed and broad reform-driven Federation of Swedish Advertising Agencies started to donate at an equal level. The fact that consumer representatives were not obliged to contribute economic means and did not do so probably contributed to them not being part of the Economic Committee, mirroring their minor influence over the council.4

Inside pressure for reform increased thanks to a familiar problem that started to become critical: the regime’s inability to tackle the ever rising number of complaints. As pointed out in chapter two, the consumer market experienced strong growth during the first postwar decades, and advertising growth was particularly fast during the 1960s. With more market activity going on, it would have been strange if complaints had not increased. However, as also mentioned in chapter two, a majority of complaints came from marketers at least well into the mid-1960s, and even by 1969, when consumer complaints constituted 50 percent of a record number of 310 complaints, marketers were responsible for the other half. Combined with innovative marketing and a willingness on the part of marketers to use advertising techniques that previously had been regarded as unethical, comparative advertising, “buy one, get one free” offers, negative option billing5 and misleading claims about guarantees now became increasingly common. While not outright forbidding negative option billing, the Council on Business Practice cautioned against it, stipulating rigorous declarations of what legal rules applied. When it came to “buy one, get one free” offers, the Council on Business Practice accepted these if the offers clearly stipulated the conditions for receiving the “free” offer. However, in verdicts it objected to the use of descriptions such as “for

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3 Negative option billing is the practice of presenting potential customers with a product and then charging them for the product unless they specifically decline it. FCC Memorandum Opinion and Order, August 15, 1996.
free” or “gift” when these implied that the consumer did not have to buy another product to get it and also stated that such phrases had a potentially strong psychological effect on more careless consumers, making the “free” product seem a much bigger bargain than it really was.6 Particularly the use of “buy one, get one free” offers angered some insider organizations. In 1966 both the Retail Federation’s CEO Gillberg and Bjurström of the Newspaper Publishers’ Association sent letters to the council complaining that such methods abounded despite several verdicts and statements by the council condemning their misuse. They demanded that advertisers and ad agencies be more careful weeding them out, as they was so common in press advertising that it put a huge workload on the papers’ internal clearance procedures. Gillberg and Bjurström concluded that the Council on Business Practice had to make a forceful effort to stop these transgressions.7

However, there were obstacles to making self-regulation’s policing more effective and respected by marketers. One was the fact that there was no unified view among principals of the Council on Business Practice on one of the new marketing techniques: trading stamps. The Federation of Retail was alarmed when it became evident in 1963 that these were to be introduced in Sweden. This controversial system was based on retailers distributing stamps to customers who, when collecting enough of them, could exchange them for a wide variety of goods, even quite expensive durables. Often a company that specialized in issuing stamps and supplying premium goods cooperated with select retailers.8 In the fall of 1963, the Retail Federation circulated a translation of an article from British periodical, District Bank Review, to members. It stated the stamps had become very popular among consumers, but claimed that due to the long-term commitment and costs they entailed, the stamps left retailers vulnerable and without decisive control over their business. The article also linked the emergence of the stamps to postwar changes, with larger stores needing new modes of competition. The Retail Federation’s members, who by and large were smaller businesses, thought trading stamps could have a very negative impact on their competitive position, with one member claiming the stamps would create “an inferno” if introduced. The Retail Federation sent out a petition against the stamps in early 1964, but only the Federation of Wholesale Merchants and Importers and the Federation of Industries signed it.

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Due to demands from the latter organization, it explicitly stated that premiums issued by retailers and manufacturers were legitimate means of competition.\(^9\)

During the fall of 1963, one of two companies wanting to introduce stamps in cooperation with retailers claimed that the Council on Business Practice had approved them. In a written statement, the council’s secretary Tengelin denied this, but did concede he had given his personal opinion and come to the conclusion that if there was sufficient information on the monetary worth of stamps and premiums, he saw no reason why they constituted a breach of proper business conduct.\(^10\) The matter came to a head when the council in a verdict issued March 11\(^{th}\) 1964 approved of the advertising campaign for stamps by the two companies, but faulted their actual stamp initiatives on the grounds that they lacked such information on the stamps’ monetary worth. This implied that had it been included, the companies would not have been faulted. The decision was taken by the council in plenum, a procedure reserved for cases of special importance. Still, a significant minority, a fifth of the council’s members, opposed it and presented a separate statement, claiming it was too early to dismiss the attempts as these had not yet been implemented. Among those opposing the decision were all council members from the Cooperative Union and Wholesale Society, one of three from the Sales and Advertising Federation and all from the Association of Advertising Agencies and the Swedish Insurance Federation. That representatives from the advertising affiliated organizations opposed the council’s verdict is understandable given their general support for marketing, but the opposition of the Cooperative Union and Wholesale Society was probably due to cooperative movement having a premium system for members based on the amount of money they spent on purchases. On those grounds it probably was wary of restraining similar types of marketing. While the council reforms implemented in 1964, in which the Retail Federation had played an instrumental role, did not contain stricter rules for premiums, the fact it and all of the new consumer representatives now backed the council’s verdict implied that the federation had stood behind the 1964 reforms in the hope of achieving a verdict like this, as at least the LO and TCO shared a negative view on premiums.\(^11\)

News media reported that the Council on Business Practice could not give a general statement about whether trading stamps were against proper business


practice. It was also reported that one of the faulted companies would adjust its marketing to satisfy the council, to which the complainant replied that he would present a new complaint, and the council adding that unforeseen aspects of the actual stamps could necessitate further demands for improvement. The dissenting council views were also discussed in detail in the 1966 report of the official state investigative Committee on Unfair Competition.\(^\text{12}\) The trading stamps matter thus portrayed the new expanded broad regime’s policing as indecisive and conflict-ridden, putting its authority into question: the direct opposite effect of what the 1964 reforms had aimed to achieve.

Another obstacle to increasing the policing efforts of self-regulation was that the Council on Business Practice’s case handling capacity was lagging at critical levels. Despite the addition of new principals and the participation on the council of those insider principals that until recently had not been active, the number of complaints to process remained a challenge. A record 177 complaints were received in 1964. The following year, the amount went down somewhat, mainly due to the council adopting a stricter policy on which complaints to accept, but then rose again in 1967 and 1968. The council was unable to process them fast enough, and by the end of each year unsolved errands numbered around 50–100. Besides formal complaints, the council also had to deal with roughly 2,000 yearly queries on advertising regulation, mostly from producers (chapter two). The increased workload made it necessary for the council to employ additional staff, causing further budget strains. By the mid-1960s it regularly engaged two to four additional part-time jurists per year. Also, as the chair and the vice-chairs of the council were paid for their services, the increased workload meant the council had to raise their reimbursements. Despite higher yearly fees for the principals, financial backing remained inadequate and administrative staff was more or less on permanent overtime.\(^\text{13}\) Insider principals were becoming unhappy with the situation and started to complain. At the end of 1964 the Advertisers’ Association sent a letter to the council requesting faster case processing. In 1967 the Association of Advertising Agencies decided to make similar requests, also demanding more resources for preventive work.\(^\text{14}\)


The annual meeting of the Council on Business Practice’s principals’ in 1965 concluded that the complaint handling process, despite recent reforms, was falling behind. It appointed a committee to find ways to improve it.\(^\text{15}\)

The high number of complaints showed that a tenet in self-regulation – rule adherence – was wavering. This was serious for narrow regime proponents, as one of their major arguments for limited policing was that the regime’s main purpose was to educate and inform producers of what rules applied. Once this was done, they claimed, the majority of marketers would adhere to them, leaving limited policing efforts to deal with the remaining small group of transgressors. But although the Council on Business Practice and other insider organizations continued to put efforts into information and education, the Advertisers’ Association for example distributing the international code of conduct in both its membership newsletter and paper \textit{Info}\(^\text{16}\), rule adherence remained dissatisfactory. Council CEO Tengelin stated in a hearing held by the Sales and Advertising Federation’s PR-Committee on September 25\textsuperscript{th} 1964 that while both self-regulatory and statutory rules were satisfactory and continued to be revised to suit changing market conditions, producers’ knowledge of them was sadly limited. Spreading awareness of council practice was a key mission, he stated, and added that doing this through the publication of Council on Business Practice rulings was not enough to accomplish the task. If this situation had arisen due to actual unawareness or intentional transgressions by firms not facing more serious repercussions than a public reprimand by the Council on Business Practice is unknown, but the complaints coming from the press and trade interests of repeated transgressions despite council rulings and declarations indicate that some firms were acting against their better judgment.\(^\text{17}\)

At the 1966 annual meeting of the Council on Business Practice’s principals, council CEO Tengelin reported that although the quantity of complaints seemed to recede, allowing the postponement of reforms for their handling, the number of queries was rising. The latter indicated a continued low awareness of the rules. In fact, newspapers had to spend considerable time keeping out questionable advertising, and Bjurström’s and Gillberg’s previously mentioned letters demanding stronger regulatory action were added to the proceedings.\(^\text{18}\) Having failed at displaying a unified position on trading


\(^{17}\) PR-Kommitténs protokoll nr 2 1964/65, 25 september 1964. SFRF. Sveriges Marknadsförbunds arkiv.

stamps, while being faced with increasing transgressions of the rules for advertising and marketing that had already been established, the council was in need of a solution that allowed it to act in a more decisive manner and get marketers to abide by its rulings. Consequently, the annual meeting decided on initiating a committee to come up with ways to solve these issues. Committee members were appointed on September 30th 1966 by the council’s Presidium and the Economic Committee and included representatives from the Newspaper Publishers’ Association, the Sales and Advertising Federation, the Advertisers’ Association, the Swedish Book Printer’s Association, the Association of Advertising Agencies and council CEO Tengelin. Thus the Bjurström Committee, christened after its chairman Harry Bjurström, who had been a strong reform supporter since the 1950s (chapters four and five), was formed to deal with these urgent challenges.19

The Bjurström Committee delivered its report in March 1967. It repeated council CEO Tengelin’s statements that the development of market rules was satisfactory, but that producer knowledge was deficient. In general, defendants convicted of transgressions by the Council on Business Practice ceased with improper advertising, but the effect of a single ruling on market behavior was minimal. The report had come to the conclusion that mainly using education and information to create rule adherence was not working. While not completely repudiating their usefulness, it emphasized that a combination of more efficient education and information and policing was needed to have a significant impact on marketers’ market behavior. In fact, the report stated that the Council on Business Practice’s attempt at both keeping up with the demands of education and information and policing made it harder for the council to handle either task. Regarding policing, the Bjurström Committee blamed the extended process time for each case on the council’s propensity to devote too much time on various queries. It needed to be freed from this burden. The solution lay in creating separate administrative bodies for information that worked to reach marketers and their organizations. The Bjurström Committee here differentiated between a lack of general information, which was a main reason for the problems facing the Council on Business Practice, and a shortage of specialized information, which covered evolving market practice. An effort had to be made to spread general information to all active marketers, while specialized information should be geared towards jurists and the company leadership.20

The Bjurström Committee also recommended constructing a sanction system based on media carrier participation, where publications would refuse

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to take on advertising condemned by the council. With a new marketing law expected to take hold in 1968, the likelihood that advertising would soon be judged by state courts increased the need for better adherence to rules, the report stressed. Here it reckoned with the regime increasingly being forced to cede rulemaking to the state and that self-regulation had to strengthen itself to allow insiders to retain as much influence as possible. While the overall regulatory strategy of the report clearly was broad, this observation implied that insiders had also started to prepare for a larger role for the state, which could necessitate a switch to a co-regulatory strategy. As usual, a key hindrance to reforms was costs. The committee report bluntly stated that the institutional innovations required more money and had now become a pressing necessity. In a note accompanying the committee’s report, chairman Bjurström also highlighted issues that had been raised by the committee, but not included in the memorandum, as they were regarded as outside of its scope. These included offering firms clearance service for a substantial fee, creating a fast lane in the council for special cases, an instruction manual for how to formally compose a complaint to the Council on Business Practice and trying to get Swedish news syndicate TT News Agency (Tidningarnas Telegrambyrå) to stop masking the identity of faulted parties when it referred to council verdicts. The note thus implied that in its efforts to achieve greater rule adherence, the Bjurström Committee was keen on expanding reforms beyond what had been proposed in the report.21

To make sure that these issues would not be left out, a second internal committee was appointed by the Council on Business Practice – the Junker Committee. It was named after its chairman Bengt Junker from the Marketing Federation, a longtime member of the Council on Business Practice’s Economic Committee and a supporter of broad reforms (chapters four and five), and had a similar associational representation as its predecessor. The Junker Committee focused on making case processing more efficient. Its report was delivered on December 7th 1967. It recommended case handling be separated into two strands. More complicated ones, particularly those that qualified as precedents, would be handled by the whole Council on Business Practice in a careful and meticulous manner. Simpler cases could be managed more routinely, involving a smaller group consisting of the council’s chairman or a vice chairman and two other council members, preferably one representing the producer interest and the other the consumer interest. Cases of special significance or that aroused public attention would also need quicker treatment. The committee suggested the creation of a “fast lane” for these. For the first time since the ill-fated 1958 Tengelin-Wallåden report, the Junker Committee

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also recommended that the Council on Business Practice be reinforced with a pro-active policing unit that would mainly act as a consumer representative and take on cases important for consumers. The unit would involve a handful of people led by a jurist. Besides the mandatory insiders, it would, just like the Council on Business Practice, include outsiders to represent the consumer interest, and perhaps a journalist. It would focus on sophisticated and innovative marketing, such as “buy one, get one free” offers, negative option billing and misleading claims about guarantees. In that sense, it was a response to the demands made by the Newspapers Publishers’ Association and the Retail Federation to find ways to constrain the increasing use of such marketing. The Junker Committee also supported the Bjurström Committee’s proposal to fashion a special body to target specific groups with information on rules. To conclude, both the Bjurström and Junker Committees were bent on major reforms that would strengthen broad qualities in policing, while at the same time re-enforcing education and information.

Low Consumer Usage and a Dissatisfied Trade Union

The proposal that a policing unit would especially cater to consumer concerns must be seen in relation to outside pressure. Some of this criticism – for example that the regime did not concern itself with consumers’ rights – was hard to deflect, as self-regulation had not succeeded in becoming something familiar to consumers. While producers used the Council on Business Practice to settle competitive conflicts, consumers rarely lodged complaints. This was problematic, as the regime had taken upon itself to protect them. The code of conduct even stated that this was self-regulation’s most important objective. Aware that this state of affairs did not strengthen its legitimacy as an upholder of consumer rights, the council had worked hard to become better known, mainly through having its verdicts published in the press. However, during the 1964 PR-committee hearing held by the Sales and Advertising Federation mentioned earlier, Council on Business Practice CEO Tengelin reported that complaints coming from consumers still accounted for only ten percent of the total amount, although this was somewhat mitigated by the fact that fair competition issues often concerned consumer rights too. Nevertheless, although he did not mention it, the percentage of consumer complaints had remained at this level since the inception of self-regulation in the 1930s. Tengelin stated that increased consumer activity was desirable, but that filling

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22 Utredning angående Näringslivets Opinionsnämndes arbetsformer och sättet för att väcka talan hos nämnden samt om förbättrad information och bättre uppföljning av nämndens avgöranden avsedd att behandlas vid extra stämma med nämndens huvudmän den 18 december 1967. E1: 104. Svenska Annonsörers Förenings arkiv. RA.

out a complaint was a complicated process that took time. He stressed that lessening formal demands for what constituted a properly filled out complaint to the Council on Business Practice was not an option, as this would only result in incomplete complaints, forcing the council to complete the complaint and thus making a lot of extra work for the already strained agency. Referring to his experience on one of the council’s predecessors, the Council on Advertising Practice, before that agency in 1954 had banned its members from initiating case proceedings on their own (chapter four), Tengelin claimed such a burden would also reinforce the perception that the Council on Business Practice was biased towards the petitioner. So while the self-regulation of advertising regime was faced with a low number of consumer complaints, it had no easy solution.24

That consumers did not utilize the self-regulation of advertising contributed to trade union the LO voicing dissatisfaction shortly after its decision to take part in running the regime. This was serious for insiders, as this trade union’s presence constituted a cornerstone in a broad regulatory strategy that sought consumer confidence and protection from state intervention by accepting outsider interest groups that represented many consumers and had a strong standing as consumer representatives in the corporatist state as principals onto the Council on Business Practice. Having the LO, the most powerful non-business interest group in Sweden, as a principal was supposed to supply solid protection against such unwanted changes as state intervention, particularly as the LO had a substantial influence on the Social Democratic government’s policy. That the organization now started to express criticism and doubts on the efficiency of the council was not encouraging. At the same Sales and Advertising Federation hearing that Tengelin attended in 1964, a number of key players in consumer politics and self-regulation were interviewed on advertising and advertising ethics. Among them were the LO’s influential chief economist, Rudolf Meidner, head of the LO research department since 1960 and at the time chairman of the National Council for Consumer Goods Research and Consumer Information, and Eric Pettersson, also member of the LO research department and the LO representative on the Council on Business Practice. At the hearing, Meidner voiced a negative and distrustful view of advertising, stating that “unacceptable violations and transgressions of the consumer’s rights were common occurrences in the world of advertising”.25

He also had little faith in advertising being ethically sound just because an ad was not convicted in court. There were plenty of advertising techniques, such as puffery, that were not against the law but still misleading, he thought. According to him, the best aid for consumers in confronting advertising was the insight that it was always biased towards marketers’ interests. Meidner’s

long-term solution to the advertising problem was state consumer information and education, which would make consumers immune to false and misleading advertising, while pressuring the industry to improve the quality of advertisements. Regarding self-regulation, Meidner gave ambiguous answers. He thought it was a good initiative, especially since consumers had become represented, but that he did not think the trade unions would be interested in funding the regime. This referred to the fact that the consumer representatives did not contribute to the Council on Business Practice’s budget, something which caused recurring complaints from insider principals, who demanded that efforts be made to make them do so. Meidner also said it was a pity so few consumers made complaints to the council and that he saw an opportunity for other consumer-based initiatives. He suggested a consumer committee monitor bad advertising, although it would refrain from passing judgment, leaving this to the council. This proposal was reminiscent of a one delivered a few years later by the Social Democratic Party and the LO joint committee on consumer matters, the Skoglund group (Skoglundgruppen) (chapter two). Meidner’s trade union colleague on the Council on Business Practice, Pettersson, also expressed criticism, stating that engaged consumers would demand that the council increase its capacity and that it needed to process complaints faster. He thought more state subsidies were needed to make the agency live up to its responsibilities. However, he implied this might discredit it in the eyes of marketers, leading to a lessening of the business community’s will to abide by council verdicts. As stated in chapter two, during phase three of regime transition, the LO together with the Social Democratic Party later publically criticized self-regulation as a failure in their joint 1967–68 industrial program and proposed extended state consumer policies. These policies received public backing from their top leadership and resulted in the 1971 state regime (chapter two).

Intense Activity in State Committees to Formulate Consumer Policy

Increasing talk of creating a state run Consumer Ombudsman to prosecute bad advertising was another sign of a more active state policy. The authors of Advertising and Consumer Information (Reklam och Konsumentupplysning), a polemical book on consumer issues and advertising published in 1965 by

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business-associated figures Göran Albinsson, Sten Tengelin and Karl-Erik Wärneryd, had suggested such a pro-active policing unit in self-regulation. However, as made clear in chapter two, the outsider dominated official state investigative Committee on Recommended Prices then endorsed a similar institution within a statutory context in its 1966 report, motivating the reform with an assessment of self-regulation as ineffective due to its lack of pro-active policing and coercive means. As stated before, Swedish Minister of Trade Lange thought the issue warranted further investigation and in 1967 initiated another official state investigative committee – the Consumer Committee – to come to a final decision. This committee had a heavy presence from labor movement, with its chairman Thure G. Andersson being a former MP for the Social Democrats and active in the LO, and also including the LO’s consumer spokesperson Lillemor Erlander, Social Democratic Party affiliated Jan Odnhoff and two officials from the National Council for Consumer Goods Research and Consumer Information. Erlander and Ohndoff had also both been involved in the LO’s and the Social Democratic Party’s joint 1967–1968 programs on industrial policy, which were critical of both advertising and self-regulation and demanded more state intervention on the consumer market (chapter two).

Here it is worth noting that Minister of Trade Lange at this time thought another official state investigative committee on consumer issues was needed despite the official state investigative 1963 Committee on Consumer Information about to deliver a report. The fact that this committee, just as the previously mentioned official state investigative Committee on Unfair Competition, had a substantial presence of insiders from the self-regulatory regime (chapter two) possibly made the Social Democratic government appoint an additional official state investigative committee that had a stronger labor movement presence, given the importance the labor movement now placed on its consumer policies. Internal sources from the Federation of Industries from 1969 indicate that the federation, which was represented on the Consumer Committee, viewed it as dominated by policy makers from the labor movement which had an even more radical approach than the government, threatening to introduce consumer policies that would severely constrain market freedom. That a committee minority led by the LO’s consumer spokesperson Erlander in the final 1971 report of the Consumer Committee objected to the proposal that business representatives would be given about half of the seats on the board.

29 At the time, Tengelin was CEO of the Council on Business Practice, Wärneryd, professor of economic psychology at the Stockholm School of Business, and Albinsson active at the Industrial Institute for Economic and Social Research (Industriens Utredningsinstitut, IU). Albinsson, Tengelin and Wärneryd (1965), p. 2.


of the suggested National Consumer Board (Konsumentverket), and instead demanded a majority of consumer representatives, also lends support to the interpretation that the LO at this point wanted to restrict business influence over consumer policy.32

Insider Strategies to Stall State Consumer Policies

That the official state investigative committees the Committee on Unfair Competition and the 1963 Committee on Consumer Information had close ties to insiders is evident by looking at its participants, which included leading jurists, academics and reformist members from the Council on Business Practice.33 Through their participation in the statutory policy process, these insiders sought to influence state policies in such a way that they would continue to give self-regulation a strong position as market regulator. As presented in chapter two, the 1966 report of the Committee on Unfair Competition recommended additional statutory rules in the form of a general clause in marketing law that would prohibit certain competitive practices. However, the report underlined a continued central role for self-regulation in formulating practice and dealing with borderline cases. It concluded that self-regulation’s flexibility and understanding of business requirements made it better suited than a state authority to satisfy the dynamic market’s need for marketing innovation. The 1963 Committee on Consumer Information in turn in its 1968 report recommended the formation of a new self-regulatory agency that would control consumer information in the same way as the Council on Business Practice.


33 Starting with the official state investigative Committee on Unfair Competition, its chairman Yngve Samuelsson was also chair of the Council on Business Practice and part of its Presidium, while the council’s CEO, Sten Tengelin, was brought in as a legal expert along with professor of business Ulf af Trolle, who had previously helped the Sales and Advertising Federation write comments on official state investigative committee reports. The secretary of the committee, jurist Hans Bergqvist, became the chairman of the Bureau for Marketing Complaints (Anmälningsbyrån för Marknadsföringsåtgärder), a pro-active unit in self-regulation formed 1968. Key business members were K E Gillberg, CEO of the Retail Federation, Harry Wennberg, chairman of the Sales and Advertising Federation and Nils Köhler from the Cooperative Union and Wholesale Society, who also represented his organization on the Council on Business Practice. The official state investigative 1963 Committee on Consumer Information had Åke Sundquist as chair. He was Competition Ombudsman 1961–69 and from 1970 CEO of the Swedish Federation of Wholesale Merchants and Importers and vice-chair of the successor to the Council on Business Practice, the NMD. Ulf af Trolle was also part of the committee and Tengelin and Bergqvist were associated as experts. Arbetsutskottets protokoll 20 juni 1955; Arbetsutskottets protokoll, 28 oktober 1955. SFRF: Sveriges Marknadsförbunds arkiv: SOU 1966:71, p. 10; SOU 1968:58, p. 7; Protokoll ordinarie huvudmannastämma Näringslivets Opinionsnämnd, 11 mars 1968. Protokoll och årsberättelser 1957–1971. Näringslivets Opinionsnämnds arkiv. CfN; *Vem är det* 1969, pp. 85, 312, 526, 830, 909, 968 943,1006; Protokoll sammanträde per capsulam, 8 mars 1971. NMD. Svenska Annonsörers Föreningars arkiv, E1: 136, RA; *Vem är det* 1977, p. 972.
Practice regulated advertising. It would protect consumers from erroneous information and producers from “economic slander” that risked damaging companies’ reputation. Taken together, the policy recommendations of these two committees would, if accepted, continue to give self-regulation if not a dominating then at least a very important role in market regulation.

While making sure that insiders supportive of self-regulation took part in state committee work was one way for the proponents of the regime to try to influence the state policy process and the future of self-regulation, they also attempted to influence the formal comments of insider organizations’ to the policy proposals made in the reports of these state investigative committees. The comments were part of a referral system that by this time was an integral part of the statutory policy process in Sweden, and corporatist principles that by now dominated the Swedish political economy made it more or less mandatory to let a large number of various interest groups comment on policy suggestions. Therefore, a forceful business response in these comments to unwanted policy proposals could be important to stop such policies. Here the flexible format of the policy process of self-regulation became a resource for quickly fashioning a united insider response. At the annual meeting of the Council on Business Practice’s principals on May 18th 1967, it was decided that the previously mentioned internal council committee, the Junker Committee, would besides its main task of coming up with reform suggestions to make the council’s complaint handling process more effective, also look into how coming changes in state regulation would impinge on the self-regulation regime. It would particularly analyze how the creation of a Consumer Ombudsman in conjunction with a new marketing law could come to affect the council’s work. The Junker Committee produced a memorandum on June 30th 1967, which declared that Minister of Trade Lange’s decision to launch another official state investigative consumer committee indicated that the government would await its findings until deciding upon a revision of marketing law. The memorandum described the Junker Committee’s position on a state run Consumer Ombudsman as negative, due to the fact it would give such a state institution the choice of bringing cases to either the Council on Business Practice or a state court. The memorandum stressed that the Junker Committee questioned whether such a state agency would have an interest in presenting a case before the council.

Still, the Junker Committee’s memorandum concurred with the message now coming through various official state investigative committee reports that it in principle would be suitable if a law on marketing could engender a state

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34 Hermansson et al. (1999), pp. 31–34.
agency to represent the public interest. However, at the moment, the memorandum stated, it was unclear how a new marketing law would be implemented. Although self-regulation and the statutory regulation of advertising consisted of two separate regimes, it was likely that a revised law on marketing would mean that the Council on Business Practice would have to give verdicts in cases tried by law, although it was possible that courts would handle the obvious offenders while the bulk of cases, particularly those more difficult to judge, would end up with the council. This was now the case in Norway and Finland, where new marketing laws had left the actual running of regulation in the hands of self-regulatory business councils, but equipped regulation with the force of law as a last resort. Given the unclear situation in Sweden, the memorandum emphasized, it would be good for self-regulation to try to develop and experiment. The memorandum then brought up the Junker Committee’s proposal to create a small policing unit and the Bjurström Committee’s to institute bodies working with information on market rules and suggested that all state initiatives would have to wait until an assessment was made of the effects of these proposed reforms within the self-regulation regime. Not long after the memorandum was written, in their formal comments on the report from the Committee on Unfair Competition, all insider principals of the self-regulation regime accepted the report’s suggestion of a revised marketing law including a general clause, while many also supported the report’s view of a continued leading role for self-regulation. Some insider comments also recommended further investigation before taking a decision on the creation of a state run Consumer Ombudsman. These views in the comments were consequently closely aligned with those presented in the Junker Committee’s memorandum, which indicates it had influenced insiders’ policy position in these matters. The Marketing Federation and the Newspaper Publishers’ Association even referred to the memorandum in their comments, with the former organization including it with their reply to the report.37

The Retail Federation’s comment on the report from the Committee on Unfair Competition, however, did not concern itself very much with the future of self-regulation. Instead it was focused on discussing its interests for specific marketing laws to protect its members’ competitiveness. The federation stressed that it was not satisfied with the committee’s proposal that premiums such as trading stamps and “buy one, get one free” offers only would be regulated by the general clause, and demanded specific statutes that in principle forbade them. The federation’s comment declared that these forms of marketing numbed the consumers’ sensibility for the importance of price,
quality and service in competition. It also claimed that while these marketing ploys might lower costs for suppliers, total expenditure for business – due to increasing costs of administration and diminishing returns – would rise, impeding development of more effective distribution. This stance was in line with earlier statements made by the federation, as discussed in chapters four and five. The comment did not offer any explicit support for self-regulation and only referred to the Council on Business Practice when claiming its slow case processing made it harder to stop misleading advertising. The federation’s resistance was accentuated by the fact that its CEO, K E Gillberg, as a business representative on the Committee on Unfair Competition, together with one other of the committee’s members, were allowed to present these negative views which dissented from the majority of the Committee on Unfair Competition, in a special section in the committee’s report. However, it should be noted that Gillberg did not make any critical statements in the report on the committee majority’s proposal that self-regulation should be allowed a significant function in the future regulation of marketing.  

The Retail Federation’s policy recommendation in its comment received limited backing from other insiders. Basically only the Cooperative Union and Wholesale Society agreed that competitions, premiums and “buy one, get one free” offers often could be classified as misleading for consumers and that it was satisfactory that the general clause could be used against them. However, having a bonus system of its own based on the volume of purchases, the cooperative movement quickly added that such regulation should not be used against legitimate marketing inventions that were necessary for a free competition, and also stressed that it desired that self-regulation continue to shoulder a bigger responsibility for actual regulation. Nevertheless, there were outsiders critical of advertising’s value for consumer satisfaction who shared the federation’s views, as peak trade unions the LO and the TCO made similar demands in their comments. This made the Federation of Industries publically state that the arguments raised by these organizations against new forms of marketing were exaggerated or downright false, stating such marketing innovations, contrary to its critics’ claims, actually lowered prices and supported a more efficient and competitive consumer market.

Pro-Active Policing and more Education and Information

The views of the Retail Federation aside, the discussed measures revealed that insiders active in self-regulation now sensed a real threat to the regime and acted to safeguard it. Just as the Bjurström report, the 1967 Junker Committee memorandum presented a scenario in which insiders would increasingly lose control over rule making. The memorandum and the subsequent inside stakeholder comments were accordingly a concerted insider effort to stall state intervention, thereby allowing self-regulation to rapidly implement reforms before the state could execute similar measures. This was a mix of broad and co-regulatory strategies that, together with trying to influence key official state investigative committees from the inside, aimed to pre-empt or limit the power of future state regulation of the market. That time was of the essence as the Junker Committee’s report was sent out to the Council on Business Practice’s principals on December 7th, 1967, just a few weeks before the December 18th extra annual meeting of the council’s principals would decide on the proposals made by it and the Bjurström Committee.42

At the 1967 December meeting of the council’s principals, they decided to back most reform proposals, leading to an amendment of the statutes of the Council on Business Practice. The new statutes mirrored the reformers’ desire to speed up case handing. The statutes now stated that complainants and defendants would have to submit case material in a reasonable time, and if they failed to do so, a case could be dismissed. The council was also given the right to issue an interim decision for defendants to cease and desist with marketing even before a formal verdict was produced when it was obvious that grave transgressions of ethics had occurred. Still, the reform did not equip the Council on Business Practice with any new formal means of sanctions. The lack of sanctions was increasingly regarded as a problem, and at the meeting, the representatives from the Association of Advertising Agencies, the Newspapers Publishers’ Association and the Federation of Wholesale Merchants and Importers all complained about this. However, although a sanction system involving the media carriers was not created, it was decided that the council should try to make agreements with them not to publish advertising faulted by the agency. In 1970, Tengelin claimed in an article in legal periodical Nordic Copyright Protection (Nordiskt Immateriellt Rättskydd, NIR) that most papers abided by such demands.43

The Council on Business Practice’s new statutes also confirmed that the production and distribution affiliated inside stakeholders behind the 1964

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council reforms, who through them had formally secured a dominating position through an increase of the number of their members, made sure to keep this advantage. In the new statutes that specified how the Council on Business Practice was to be reorganized in small and large sections, it was stated as mandatory that the 11 member strong larger section have a member each from the production and distribution affiliated Federation of Industries, the Retail Federation, the Cooperative Union and Wholesale Society, the Council of the Chambers of Commerce, as well as one from the Marketing Federation, two from the organizations representing consumers and an additional six unspecified members. Unlike the 1963 statutes, the 1968 amendments also clearly defined member representation when the council met in plenum to decide on especially important cases. In such cases, the statutes stipulated that at least 21 members were required and that of these, the four previously mentioned production and distribution affiliated organizations and the Marketing Federation ought to have two members each and consumer interests four. The 1968 amendments consequently clearly affirmed that the advertisers had stronger formal member representation on the council than the advertising industry and the Marketing Federation.44

As the regulatory modifications were quite extensive, implementation had to await the alteration of Council on Business Practice statutes as well as wholly new ones for the coming units. This was accomplished at a meeting of the council’s principals on March 11th 1968. Interestingly enough, one of the issues that had been discussed, but not resulted in a formal proposition by the Bjurström Committee – some kind of clearance service– was now suggested by a delegate from the Association of Advertising Agencies at the meeting. This proposal was however discarded. It is nonetheless noteworthy, as this business organization unilaterally decided to launch such a function about eight months later. The process behind this decision will be analyzed in more detail later on in this chapter. Anyhow, the support of the council’s principals for its internal investigative committees’ proposals resulted in the introduction of two new self-regulatory units on July 1st 1968: the Bureau for Marketing Complaints (Anmälningsbyrån för Marknadsföringsåtgärder), which would police the market for cases to steer to the Council on Business Practice, and the Information Committee (Informationsutskottet), which would spread knowledge on market rules to marketers. The Bureau for Marketing Complaints would be headed by a lawyer and include two consumer representatives from the National Council for Consumer Goods Research and Consumer Information, and two marketer representatives. That the producer representatives both were executive marketers with close ties to the Sales and Advertising Federation, one even being former Sales and Advertising Federation CEO, Gösta Walldén (chapter four), indicated that narrow leaning

advertising affiliated organizations wanted to make sure the new unit was not used to constrain advertising and marketing more than necessary. The pro-active policing unit also followed the Council on Business Practice’s principle of having strong broad outsider representation by making sure the National Council for Consumer Goods Research and Consumer Information, which was represented on the Council on Business Practice, also was given similar representation on this new self-regulatory agency. The Information Committee, however, only had business affiliated members, including four business executives and a marketing academic, and was headed by Harry Bjurström of The Newspaper Publishers’ Association.45

By this time, it was also clear that the self-regulation regime’s corporatist affiliation with the state not only granted it legitimacy, but also state subsidies. The National Council for Consumer Goods Research and Consumer Information provided considerable support, pledging 42,000 SEK for the second half of 1967 and the first half of 1968. Besides contributing a large sum for general activities, the state agency also gave money for special projects. It pledged 15,000 SEK to help finance the printing of books documenting Council on Business Practice verdicts and even 1,800 SEK to the Council on Business Practice’s CEO Tengelin to finance attendance at a conference in Cambridge. In connection with the reforms, the state agency’s contributions were crucial, as it gave 7,000 SEK to the Information Committee and 20,000 SEK to the Bureau for Marketing Complaints, guaranteeing trial runs for a year each. However, it is notable that the National Council for Consumer Goods Research and Consumer Information had said no to the Council on Business Practice’s request for funds covering a trial run of three years. While this was not motivated in the decision to grant funds, the state agency’s statutes practically awarded a decisive majority of seats to consumer representatives and state consumer experts. Its decision to only award funding for one year could indicate that the state agency’s consumer oriented leadership, with the LO’s chief economist Rudolf Meidner at the helm as chairman, had plans for introducing an encompassing state regulation of the consumer market, and therefore saw no point in granting extended financing to a self-regulation regime it felt had no future. Other actions by the National Council for Consumer Goods Research and Consumer Information also suggest such considerations as it initially decided to postpone a decision whether to finance the Information Committee, but immediately granted one year for the pro-policing Bureau for Marketing Complaints. Two other of the state agency’s board members, one from the LO and consumer activist Willy Maria Lundberg, also formally

objected to the agency granting 15,000 SEK for the book printing project. The fact that the National Council for Consumer Goods Research and Consumer Information did grant some money probably reflected the fact that both the LO and the state consumer agency felt an obligation to support reform initiatives in the self-regulation regime that currently strengthened consumer rights. Had they opted not to give funds at all, insiders would have had a powerful argument in the on-going public debate – that they wanted to improve the plight of consumers, but were denied funds to do this by the self-regulation regime’s powerful consumer representatives that at the same time had the audacity to call self-regulation inefficient. Given that the labor movement had made a declaration in its 1967 industrial program that self-regulation was inefficient, the state agency could still have denied funds on these grounds. But to do so when the self-regulation regime tried to improve its policing on behalf of consumers could have generated bad will. Moreover, the government had not yet finalized its new consumer policies. This meant that although the labor movement by now had set its sights on stronger state regulation of marketing, it would take some time before implementation because of the state policy process that had to precede it. These factors could have thus influenced the National Council for Consumer Goods Research and Consumer Information to grant limited funds to the reforms made by Council on Business Practice to temporarily “fill the gap” until a state regime took over. In any case, the decision to limit the time span of state financing to a mere year effectively made the broad regulatory strategy put forth by insiders less likely to succeed.46

During the spring of 1968, Council on Business Practice CEO Tengelin also produced a manual for lodging complaints to the council to help facilitate case processing. The initial version was sent out to members of the council and its principals for evaluation. Advertisers’ Association CEO Wiege commented that the example used in the manual involving two marketers in a competitive case ought to be changed to a consumer submitting a complaint. He considered the original example to be too close to a manipulative complaint lodged for the sole reason of smearing the competitor’s reputation, something Wiege did not want to encourage because he felt the council had had enough of this type of complaint. His reaction indicates the growing importance of outside pressure, by wanting to frame the reform as a service to consumers – not to highlight inter-business bickering.47

The Advertisers’ Association’s CEO’s concern was not unfounded, as an advertising case in 1967 generated both public embarrassment and bad will.

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for the Council on Business Practice. In the complaint, the petitioner stated that a campaign for menswear was misleading as it used puffery in the tag line “finally a men’s brief with room for a man!”, zeroing in on the use of the word “finally”, as if such briefs had not existed before. The Council on Business Practice then received a letter from the campaigning firm that stated that the accusation was ludicrous and that there was ample evidence that the complaining firm had made use of similar puffery slogans. This exchange might have been easily forgotten had not the complainant been Sten Horwitz’s firm, by now a grand old man of self-regulation and a key figure on the Council on Business Practice. When the verdict arrived in 1968 and cleared the accused firm of any wrongdoing, the cleared firm went to the press with the case, which dubbed the affair “the men’s briefs war”. Journalists sought out several of the insider leadership to ask if Horwitz would have to step down from the Council on Business Practice. Although he remained, the affair embarrassed the council and those trying to give it legitimacy as an able regulator.48

One Last Try at Involving the Marketing Federation

The internal committee activity at the Council on Business Practice made the 1967 successor of the Sales and Advertising Federation – the Marketing Federation – once again try to capitalize on insider demand for reforms to improve its position in the regime by again attempting to launch its own regulatory structure. Previous efforts by the federation to do so in 1958 and 1963 had been unsuccessful, and the failure of the latter attempt had coincided with the corporatization of consumer representation on the Council on Business Practice, forcing the Marketing Federation’s predecessor to give up its privilege to appoint these. The federation had as a result definitely lost its top position in influencing self-regulation policy. Claesson was still the Marketing Federation’s CEO and now decided to use the council’s renewed reform agenda for making one more bid at getting the federation involved. In a 1967 letter to the federation’s board and the marketing societies in Stockholm, Malmö and Gothenburg, he explained that its participation in ongoing policy revisions at the Council on Business Practice had made it natural to ask if the federation could run some of the suggested institutions. Foremost this concerned a network of vigilance committees that would work to spread information about sound advertising, making sure the verdicts of the council were followed and that companies abided by rules. The main difference in this reform proposal compared to the one made in 1963 by the KUFOS committee (chapter five) was that these vigilance committees would actively seek out advertising they thought broke the rules, but not be open for

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public complaint. Instead they would work “in the background,” feeding the Council on Business Practice with interesting cases and having a preventive function once they became known in the business community.49 The marketing societies accepted the proposal after some revisions by Council on Business Practice CEO Tengelin. At the extra annual meeting of the principals of the Council on Business Practice in December 1967, Claesson pledged that the vigilance committees would be realized. However, the scale of operation was soon downsized, as no marketing society was willing to run these committees, citing the same reasons as for backing down on the KUFOS proposal – lack of resources and relevant skills. Instead one central committee and local scouts reporting to it would be formed. But these were most likely never put into action, as there is no mention of them in sources. Therefore, this turned out to be another failed reform for the Marketing Federation and consequently did not award the federation a stronger position in self-regulation.50

The Ground Breaking Reforms of the Ad Agencies

As stated in the chapter’s introduction, the Council on Business Practice was not the only arena of reform during the third phase. Reforms were also developed within the Swedish Association of Advertising Agencies and its successor organization, the Federation of Swedish Advertising agencies. In late 1968, the latter decided to tailor a combination of post-production policing and advertising publishing clearance procedures, the latter based on extensive member participation. This was no doubt the most ambitious reform in regime history and definitely contributed to changing the value of the self-regulation regime’s key task variable from education and information to policing. These organizations thus made decisive contributions to completing the transition to a broad regime.

The Loss of the Cartel – Crucial Game Changer

Given the resistance to policing from ad agency representatives discussed in chapter five, the reform contributions of their organizations seem a bit surprising. To understand the specific pressures that made them reconsider their position, a closer look at the ad agencies’ changing market context is warranted. As stated in chapter two, the Association of Advertising Agencies took part in an advertising cartel giving its members “authorization” to


50 Arbetsutskottets protokoll, 17 oktober 1967; Arbetsutskottets protokoll, 29 november 1967; Arbetsutskottets protokoll, 1 februari 1968; Samarbetssäomnden 1–2 april 1968. SMF. Sveriges Marknadsförbunds arkiv.
exclusively procure and produce advertisements for papers that were members of the Newspaper Publishers’ Association. The cartel had its origin in newspapers trying to coax advertisers into the Swedish press market at the beginning of the 20th century, as many major manufacturers still did not see the merit of press advertising. Assisting the press in this as both producers of advertising and procurers of advertising space were the ad agencies. As press advertising caught on, the cartel increasingly became a tool for its members to expand their power over the advertising market by controlling price competition. The cartel covered much of the national press and the large cities of Stockholm, Gothenburg, Malmö and Helsingborg. Further on, the right to receive commissions on ad procurement in the local press was also included. The main income for the ad agencies came from receiving commissions from the newspapers for its procuring work. The cartel agreement prohibited ad agencies from sharing commissions with advertisers. With commission levels being set by the cartel, competition was based on service rather than price. Many authorized ad agencies therefore grew into sizable companies that offered a mix of ad production, statistics, research and media brokerage. However, since the implementation of the Competition Law in 1953, the cartel had been accused of constraining competition and had been the subject of a probe by the Competition Ombudsman since 1954. This probe was supported by the Advertisers’ Association which, seeking a more competitive advertisement industry, wanted the cartel scaled down or dissolved. This caused a complicated series of negotiations between the upholders of the cartel, the advertisers and the new state authorities responsible for competitive regulation, the Competition Ombudsman and the Competition Council.51

Responding to these pressures, the cartel parties eased off on the rules for agency authorization in 1955, and in three years, the number of authorized agencies doubled. As a result of the negotiations, the conditions for taking part in the cartel, as well as formal authorization, were again further liberalized in 1958, allowing more agencies as well as so-called advertising consultants to be authorized. This was accomplished through the Newspaper Publishers’ Association ceding power over authorization to a special council under the auspices of the Council of Chambers of Commerce. As a consequence, the number of authorized agencies grew. This created friction in the ad agency industry, as members of the Association of Advertising Agencies were reluctant to allow new agencies to join the association. These were thus put on a “waiting list” by the association, as it claimed membership was for “full-service” agencies, referring to the fact that the cartel members were large firms taking on a variety of tasks connected to marketing. This was an untenable situation. In 1965 the prohibitions for in-house agencies and for ad agencies to rebate commissions to the advertiser were removed after pressure from the Competition Ombudsman. Also, the exclusive procuring function for ad

agencies was terminated, creating in turn authorization for media brokers. The subsequent negotiations inside the cartel the following year also forced down commission levels. From autumn 1966, every authorized agency was welcomed as a member in the Association of Advertising Agencies, and this organization would initiate cooperation with the two other, smaller ad agency associations. This collaboration was followed by a merger of the two smaller associations in 1967 and then a merger of this new organization and the Association of Advertising Agencies in 1968 to form one national organization for ad agencies: the Federation of Swedish Advertising Agencies.\(^{52}\) From 1965 and onwards, ad agencies also increasingly started to get paid for creative work. With the stable commission system of income from the old cartel increasingly being replaced by fees, competition switched from service to price.\(^{53}\)

In 1967, a reform formally removed authorization from granting access to the cartel, instead turning it into a professional seal of approval. Nonetheless, the right to procure advertisements and receive commissions for this was limited to those ad agencies the Newspaper Publishers’ Association considered robust enough financially and professionally. These received the classification “nominated agency” through a special council controlled by the association. By 1970, 53 of the 103 existing authorized ad agencies had been nominated. During 1968–1970, 15 new authorized agencies were formed, while 5 were terminated. While these numbers indicate a potential for industry growth, the structural changes on the market favored smaller ad agencies that had no need of authorization or nomination. By 1970 an estimated 300–400 of these agencies existed.\(^{54}\)

Initial Failure as Causal Agent

At the end of 1964 it was apparent that the ad agency cartel risked being dismantled or at least weakened. In an attempt to strengthen the position of its ad agencies in a situation where they would be facing harder competition from non-member agencies, the Association of Advertising Agencies launched an extensive ad campaign. In the ads, it was claimed that leading Swedish companies used the services of the association’s members not because they represented 80 percent of all advertising produced on the market, but because of their ethical and qualitative superiority. The expression “trading up to an AF-agency” was commonplace among companies on the rise that needed professional marketing services, the ad stated.\(^{55}\)


\(^{55}\) Annonsbyråernas Förening, “Varför anförtros reklamen för landets ledande företag åt AF-byråer?”, annons publicerad i \textit{Info} 5b/1964; Gustafsson (1974), pp. 57, 61–63. AF (Annons-
The ad encountered internal opposition from various members of the Association of Advertising Agencies who called it irresponsible and misleading, and some designated to work with the campaign refused to do so. But what was worse, it was reported to the Council on Business Practice by ad agencies that were not part of the association and by an organization that represented many of these: the Swedish Society of Recognized Advertisement Agencies (Svenska Auktoriserade Annonsbyråer Förbund). The claims in the ad were untrue and unsubstantiated, the petitioners stated. There were ad agencies that were not part of the Association of Advertising Agencies that worked for major companies, and there was no proof that these had low ethical standards. The expression “trading up to an AF agency” was a blatant fabrication that did not correspond with reality, they asserted. The petitioners stressed that the ethical transgression made by the ad campaign was particularly grave, being perpetuated by an organization that as part of the Council on Business Practice hardly could claim it was ignorant of ethical codes. The ruckus caused by the formal complaints to the council forced the Association of Advertising Agencies to abort the campaign. In its verdict, the Council on Business Practice also agreed with petitioners that the association had broken ethical rules by making false and misleading claims about competitors in its campaign.56

The Advertisers’ Association reported on the incident by claiming it was to be expected that ad agencies ignored the international code of conduct. The condescending tone reflected the self-image of the Advertiser’s Association as an ethically superior group. This sense of self was important for the organization’s leadership, which saw it as crucial to improve public legitimacy for itself and the business community as a whole. As discussed in chapter five, the Advertisers’ Association considered advertising bad will to be a cause of both lower profits due to falling consumer confidence and an increased risk of state intervention. In a newsletter published 1967 that condemned the use of sexuality in advertisements, the association wrote that

the members of the Advertisers’ Association are to be regarded as the elite among advertisers. The amount of transgressions perpetrated by members is quite low compared to that of other companies. However, the board of the Advertisers’ Association has wanted to emphasize that members do not appear at odds with public opinion by using improper expressions and allusions in press ads and other forms of advertising.57

To emphasize the point, the next article announced that a translated copy of the new edition of the international Code of Standards of Advertising Practice accompanied the newsletter, and that recipients were to place it among other important association material and make sure to destroy previous versions of

byråernas Förening) was the Swedish Acronym for the Association of Advertising Agencies.  
the code. With such ambitions for ethical superiority, a functioning regime of self-regulation, where members were well aware of rules and followed them, became vital for the Advertisers’ Association. However, if the ad agencies that advertisers were dependent on for the production of ads still persisted with non-compliance, the regulatory efforts of advertisers were undermined. This problematic situation thus provided ample incentive for the leadership of the Advertisers’ Association to keep both members and ad agencies in line. That the Advertisers’ Association by the mid-1960s wanted to exert pressure on the ad agencies and their organizations to increase rule adherence was signaled by its trade paper *Info*, which published and commented on advertising considered of questionable quality. In 1967, an ad by jeans maker Wrangler that included a man painting the buttocks of a nude girl was reprinted and criticized as being in bad taste, particularly as it was directed towards young people. The article ended by pointing a guilty finger at the ad agencies, stating:

By the way, what does the spokesman or spokesmen for the ad agencies that claim that it is the agencies that always have fought for good taste in advertising have to say?59

With the debacle caused by the ad campaign in 1964 and the Advertisers’ Associations’ criticism of the ad agencies’ ethical conduct, the Association of Advertising Agencies was under pressure to solve an escalating crisis of legitimacy. At this stage, the latter association also felt sidestepped when it came to having policy influence on the regime. A reason for this was that it was not regarded by its business peers as a champion of ethics and industry legitimacy. In a historical analysis of Swedish marketing by former Advertising Federation CEO Tom Björklund, the Marketing Federation and its predecessors as well as the Advertisers’ Association were described as working for the advancement of advertising’s efficiency and ethics, while this was not the case with the Association of Advertising Agencies or the Newspaper Publishers’ Association, since they according to Björklund “foremost served their members’ or member companies’ private interests”.60

The Sales and Advertising Federation’s CEO Claesson also stated in a 1964 issue of the Association of Advertising Agencies trade paper, *Advertising Industry Review* (Resumé), that the Association of Advertising Agencies was perceived by non-business actors as a special interest group for the advertising industry, while the Sales and Advertising Federation represented a wide spectrum of the business community and was regarded as taking a social and economic responsibility. (Interestingly, as stated in chapter five, the Federation of Industries made a similar comparison between itself and the

Sales and Advertising Federation, calling the latter a biased interest group for the very same industry.) The Association of Advertising Agencies was also not invited to the 1966 meeting on consumer and advertising policy referred to in chapter five that gathered the Sales and Advertising Federation, the Federation of Industries and the Advertisers’ Association. That others seemed to dismiss the ethical contributions of the Association of Advertising Agencies was something the association was quite aware of. For example, it noted that it had not been asked to comment upon on important reports from official state investigative committees, and in 1969 Bertil Klinte, CEO of the Federation of Advertising Agencies and former CEO of the Association of Advertising Agencies, openly lamented that other business organizations had not wanted to co-operate on good will measures earlier on. Thus, given the precarious situation after the 1964 ad campaign fiasco and being regarded by many other industry associations as a minor organization, the Association of Advertising Agencies now hoped that the development of an internal self-regulation structure would strengthen its legitimacy and policy influence.61

The actual reform initiatives were in no small part due to Fride Antoni. Co-owner of ad agency Antoni & Gehlin Annonsbyrå, he was by the mid-1960s a member of the board of the Association of Advertising Agencies and the Council on Business Practice and had previously been part of the Sales and Advertising Federation’s Publishing Committee.62 He had, as shown in chapter five, as early as 1958 asked the Association of Advertisers to spearhead an industry initiative to improve the standing of advertising. Antoni was a vocal opponent of the association’s failed 1964 PR-campaign and would during the second half of the 1960s and the early 1970s write articles in the trade press as well as books discussing consumer politics, the social effects of advertising and marketing ethics. Although an advertising industry professional, he was often self-critical, stating that advertising had lost its moral ground and was out of touch with public sentiments. By the mid-1960s, he had acquired a position as an authoritative figure on advertising ethics. In May 1965 he led an Association of Advertising Agencies seminar discussing how self-regulation rules ought to be policed to ensure compliance. At the meeting, association chairman Göran Tamm emphasized the importance of improving ethics, outlining it as a main challenge for the association. It was crucial members uphold standards in their dealings with other partners, be it


consumers, clients or staff, he stressed. Here he considered it necessary to estab-
ilish a closer co-operation with the Advertisers’ Association. Overall, Tamm
underlined that the Association of Advertising Agencies needed to strengthen
its capability to influence state policies and the advertising debate. 63

Following these pointers from the leadership, on November 1st 1965 the
board of the Association of Advertising Agencies approved Antoni’s proposal
for an ethics committee to structure internal rules for members, as well as
bodies to supervise them. In a report outlining its tasks, he stated that the
ethical program needed to be carried out both on a general and specific level.
On a general level, a new international code of conduct was necessary as
current norms were dated. The code was under revision at the International
Chamber of Commerce, with Council on Business Practice CEO Tengelin
involved in the process, but it would take at least a year or two before
changes would be implemented. With the association wanting to act quickly,
Antoni did not think it should wait for official confirmation of the revised
rules. Instead, he recommended that a committee made up of Sten Tengelin,
Professor Karl-Erik Wärneryd and a representative of the Advertisers’ Asso-
ciation and the Association of Advertising Agencies formulate interim rules.
Wärneryd’s participation signaled that the association wanted to project it was
serious about the reforms, as he held the chair in economic psychology at
the Stockholm School of Economics, a position created on the initiative of
the Sales and Advertising Federation in the 1950s. The committee in charge
of formulating provisional rules would also be responsible for creating the
instructional charter for a policing body. Antoni suggested a “Committee of
Opinion”, which would monitor that members complied with rules. On a
more specific level, he argued for rules guiding interaction between member
agencies, between ad agencies and their clients and between the ad agencies
and media carriers. Here as well it would be necessary with special committees
to oversee that rules were followed and act as a court of arbitration when
doubts arose. 64

The report made clear that the Association of Advertising Agencies was
aware of the complaints coming from the Advertisers’ Association that the ad
agencies did not live up to their ethical responsibilities and that Antoni thought
the ad agency association had to do something to improve the situation. In the
report, he stated that he strived for a fundamental shift in liability for uphold-
ing the code of conduct:

The current international code of conduct puts the responsibility of rule
adherence firstly on the advertiser, secondly on the ad agencies and thirdly
on the media carrying the advertisement. I want to have accountability to a
larger extent rest the ad agencies of the Swedish Association of Advertising

63 Styrelsens protokoll, 8 mars 1965; Utkast till anförande vid AF:s extra medlemsmöte i Ty-
lösand den 17 och 18 maj 1965. AF. Sveriges Kommunikationsbyråer arkiv.
64 Styrelsens protokoll, 1 november 1965; Antoni, Fride, Förslag till handlingsprogram beträf-
fande AF:s etiska normer, 1 november 1965. AF. Sveriges Kommunikationsbyråers arkiv.
Agencies, not the least due to complaints from the Advertisers’ Association that ad agencies take this task too lightly.65

He suggested that every agency of the association should sign its advertisements. If that was done, and a public complaint arose, it would be easy for both consumers and marketers alike to turn to the proposed committee of opinion. It could then settle obvious matters on its own and delegate more difficult ones to the Council on Business Practice. The reforms, Antoni stressed, “would act as a preventive measure against the now increasing demands for a ‘public attorney’ against bad advertising.”66 Consequently, as was also the case with reforms of the Council on Business Practice, the threat of a state Consumer Ombudsman also acted as a pressure for regulatory transformation in the Association of Advertising Agencies.

Antoni’s policy suggestions strongly indicate the relevance of the exposure hypothesis in interpreting regime transition in Swedish advertising self-regulation. The fact that he highlighted that advertisers blamed the ad agencies for advertising’s bad will and suggested that ad agencies should sign their advertisements so the public could identify which ad agency was responsible for a campaign correlate well with the idea that ad agencies were less exposed to regulation due to the fact that their involvement in advertising production was shrouded from public knowledge. Antoni’s reform solution suggested the ad agencies give up this sheltered position to the benefit of both advertisers and ad agencies. These would then shoulder accountability together. This would in turn improve relations between the two industry groups. Better regulation would also advance advertising’s overall legitimacy, thus bolstering consumer confidence and decreasing the risk of state intervention. Still, it must be emphasized that a major reason he proposed that the association’s ad agencies give up some of their protection from public exposure was that they to a large degree already had lost it through the failed ad campaign in the press – therefore new strategies were needed.

The Association of Advertising Agencies accepted an interim code of conduct for members on April 4th 1966. It was based on amendments to the international code of conduct, the Code of Standards of Advertising Practice, that at the time were under revision by the International Chamber of Commerce. A key upcoming revision in the international code was that the ethical responsibility of the ad agencies was accentuated, in line with the intentions of the association’s interim rules. The association however decided that a formation of a Committee of Opinion was to be discussed further, and a specific group was given the task to do this in co-operation with Tengelin at the Council on Business Practice. The same applied for the

specific rules regarding interaction with various clients, as the association’s board thought these required negotiations with various business partners and their organizations. This matter was delegated early on to a small working committee that did not include Antoni.67

During the spring of 1966, Antoni and the Association of Advertising Agencies’ CEO Bertil Klinte worked on a proposal for comprehensive ethical rules for the association. An internal report summarized the suggested reforms, which were then approved by association’s annual meeting on June 13th 1966. The report made it clear that consumer issues were now at the forefront of the public debate. In its preamble, the report quoted President Kennedy’s famous and influential address on a Consumer Bill of Rights from 196268. The bill asserted that the consumer had the right be protected against misleading advertising and get all the facts to make an informed market choice. The preamble also alluded to the fact that the strong growth of the postwar market had made the advertising industry so expansive that it was no longer possible to count on personal networks or gentlemen’s agreements for regulation to be sufficient. This made it imperative to find other ways to increase rule adherence and consumer confidence. The report emphasized that advertising was ultimately dependent on the public’s trust and that no marketing that broke this trust could be allowed:

This simple rule cannot be enough underlined today, as a complete overview of advertising no longer is possible, and we are more than ever dependent on the loyalty and sense of conscientiousness of [advertising industry] professionals.69

The new rules emphasized that those ad agencies that were members of the Association of Advertising Agencies should follow the new internal code of conduct not only to the letter, but also in spirit. The ad agencies were obliged to make sure employees had a good knowledge of market rules, the new rules stated, and to say no to unethical marketing plans suggested by clients. If a campaign was reported to the Council on Business Practice, the involved agency would be forced, together with the advertiser, to answer to the Council. The ad agencies would also be required to follow guidelines from the association’s Ethics Committee (Annonsbyråernas Förenings Etiska Nämnd), a unit approved by the board on May 24th 1966 and constituted at the association’s annual meeting. The Ethics Committee’s members would be the regular and deputy representatives of the association at the Council on Business Practice, as well as the association’s lawyer and heads of various associational sub committees. The CEO of the association would be secretary,

67 Styrelsens protokoll, 4 april 1966; Styrelsens protokoll, 24 maj 1966. AF. Sveriges Kommunikationsbyråers arkiv.
68 AF:s etiska normer del 1, yrkesetik, antagna av föreningen vid årsmötet 13/6 1966. AF. Sveriges Kommunikationsbyråers arkiv; see also Kennedy (1962); Theien (2006b), p. 29.
69 AF:s etiska normer del 1, yrkesetik, antagna av föreningen vid årsmötet 13/6 1966. AF. Sveriges Kommunikationsbyråers arkiv.
and the committee would also have the right to call in relevant expertise. Antoni and CEO Klinte were both made members.70

Although the acceptance of the reforms proposed at this point indicates that the Association of Advertising Agencies now supported stricter self-regulation, implementation appears to have been something of a failure. The Ethics Committee did work on formulating codes regulating the responsibilities of ad agencies towards consumers during the fall of 1966, but it is unclear if they were ever used. Nor does it appear that the Committee of Opinion and the suggestion that ad agencies sign their advertisements ever materialized. The association’s reaction to the 1967 revision of the international Code of Standards of Advertising Practice also made clear that there were limits to how much liability it was willing to accept. The new code had been acknowledged by the International Chamber of Commerce in November 1966, and the association had received it for review on March 15th 1967. Although most insider organizations had no major objections to the revisions, the Association of Advertising Agencies expressed worries about their legal implications. A key issue was whether the revised rules that further emphasized the ethical responsibilities of ad agencies could force them to pay damages to consumers. This was generally not possible under the existing regulations, as the existing marketing law, the 1931 Law on Unfair Competition, only awarded compensation to competitors. Consumers could only receive compensation if an advertisement was linked to a crime such as fraud. The association had law professor Lennart Vahlén look over the revisions, and he did not find anything that increased legal accountability. The association consequently accepted them.71 One specific type of self-regulation connected to client relations that did come into being was the foundation of an advertisement committee together with the Newspaper Publishers’ Association. As the old cartel started to disintegrate, the two needed new rules for handling business. They therefore formed a committee that would oversee their agreements. Some of these related to ethical considerations, such as how to handle advertorials. Both Sten Tengelin and Fride Antoni were again involved.

Consequently, the first steps had been taken by the Association of Advertising Agencies in crafting a system of regulation to improve relations with both insiders and outsiders. While the association’s members had tried to stop reforms in the Sales and Advertising Federation that advocated stricter rules or stronger policing, the public debacle that followed on the faulted campaign in 1964 had dragged the ad agencies into the regulatory limelight and created bad will. Referring to the exposure hypothesis, the sheltered position that the ad agencies had enjoyed was removed, necessitating some kind of action to restore faith and legitimacy. Although the creation of a

70 Styrelseprotokoll 24 maj 1966; AF:s etiska normer del 1, yrkesetik, antagna av föreningen vid årsmötet 13/6 1966. AF. Sveriges Kommunikationsbyråers arkiv.
policing regulatory body was either suppressed or postponed in these first attempts, a committee was at least created to continually develop ethical rules. Unlike the unilateral reforms proposed by the Advertisers’ Association and the Sales and Advertising Federation, this scheme conformed to existing Council on Business Practice activities, as new rules were based on the coming adjustments of the code of conduct. The association’s Ethics Committee would also have to include members active on the council. The reforms also stressed that the new structure had to be based on co-operation between ad agency and advertiser organizations, indicating a will to mend fences with the latter. The scheme was thus anchored within the existing self-regulation regime and its principals, while at the same time giving the Association of Advertising Agencies a more prominent and respected position.

The Introduction of Clearance Policing

The first steps during 1965–1966 were followed by dramatic organizational changes among the ad agencies. After having initiated discussions of cooperation in 1964, once the future of the cartel seemed bleak, and then taken co-operative measures during 1965, the Association of Advertising Agencies merged on May 30th 1968 with the Swedish Association of Competence Authorized Agencies, creating the Federation of Swedish Advertising Agencies. The merger brought together 80 of 100 authorized ad agencies in one common organization. Somewhat later in the fall the same year, an educational and research body was founded, the Advertising Agencies Development Institute (Reklamens utvecklingsinstitut, RUI). It had the Federation of Advertising Agencies as its financial guarantor. The institute would be run on a commercial basis, letting the federation avoid high membership fees and concentrate on relations with non-associational actors.

A few months after the merger, at an extra annual meeting on December 19th 1968, members of the Federation of Advertising Agencies approved of an expanded and in many ways new type of self-regulation, to a large extent based on publishing clearance procedures. The reforms had been presented at the federation’s board meetings on December 3rd and December 19th 1968, and no protests were raised. These restructurings too were the brainchild of Fride Antoni, who, backed up by the new federation’s Ethics Committee (Svenska Reklambyrå Förbundets Etiska Nämnd), had written a proposal during the fall

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72 SKARF was formed in Jan 1967 through a merger of the two other smaller ad agency associations; the Swedish Society of Recognized Advertisement Agencies (SAAF) and the Swedish Association of Advertising Agencies and Consultants (SARF). Styrelsens protokoll, 15 oktober; Styrelsens protokoll, 5 november 1964; PM. Avskrift ang. samarbetet mellan AF, SAAF och SARF, Stockholm, 27 januari 1966. AF. Sveriges Kommunikationsbyråers arkiv; Gustafsson (1974), pp. 57, 67.

of 1968. In it, three reasons were given for the imminent need of more reforms. Firstly, there existed bad advertising on the market. However, much of this was the result of ignorance of market rules, so part of the solution lay in educating the ad agencies. The report here suggested similar efforts in education and information as discussed by the previously mentioned Bjurström and Junker committees. Secondly, there was money to be saved if bad advertising was stopped before it was set loose on the market, as advertisement that was convicted of breaking the rules forced the advertiser to remove and replace it. And thirdly, the damage was already done once an advertisement breaking the market rules was published, as admittance of wrongdoing rarely made up for the loss of public opinion. Therefore, the report concluded that using publishing clearance procedures before presenting an advertising campaign was the most effective manner to pre-empt rule transgression and thereby gain increasing industry legitimacy. These arguments for clearance procedures were quite opposite from the policy evaluation made by ad agencies in the 1950s, when increased monitoring of market activity was refuted on the grounds that it would stand in the way of marketer freedom and profits. Now profits were associated with having stricter policing, the same argument that had been forwarded by advertisers in the late 1950s. Thus, thanks to the Federation of Advertising Agencies drawing similar conclusions on the relationship between regulation and profitability as those that had been made by representatives of the Advertisers’ Association in the late 1950s, the two advertising affiliated organizations approached a consensus on a crucial reason for self-regulation reform. This in turn lends support to the theoretical arguments made in chapter one that profitability is the key interest in upholding self-regulation.74

The federation’s meeting accepted these arguments and agreed to create a clearance program, in which an Advertising Publisher (Ansvarig reklamutgivare) at every member ad agency who would review advertisements beforehand to make sure they followed the rules. The newly founded Advertising Agencies Development Institute would take on the responsibility of educating them. The meeting also approved of an advisory bureau that ad agencies could turn to. This body, the Marketing Law Consultancy (Konsultbyrån för Marknadsrätt), was to be staffed by trained jurists and for a fee deliver confidential legal advice to marketers on the ethical and judicial aspects of a particular campaign. The Federation of Advertising Agencies would guarantee the new legal bureau’s first year of activity economically, but it would be formally associated with the Council on Business Practice. Further, the meeting agreed to introduce a delivery clause that made sure that federation’s members would not take advertisements that broke rules. It also permitted the establishment within the Federation of Advertising Agencies of a post-production policing.

unit, the Inspection Committee, (Granskningskommittén). This unit would supplement the work of the Ethics Committee by scanning the market for members’ advertising suspected of breaking rules. If such was found and the advertisers did not agree to withdraw it, it would report to the federation’s Ethics Committee. The committee would in turn be authorized to recommend that the federation’s board deliver warnings or, if the transgressor continued to refuse to cease with faulty advertising, evict the advertising agency from the federation. The Ethics Committee would however always ask the advice of the Bureau for Marketing Complaints or the Council on Business Practice before issuing a warning or advocating expulsion. The meeting also decided to seek the co-operation of the Council on Business Practice as well as of the Advertisers’ and Newspaper Publishers’ Associations in stopping advertisements that had been convicted by the council. This position was similar to that of the previously discussed Bjurström committee, but, again, it is uncertain to what extent it was implemented. Still it must be emphasized that, contrary to the policing reforms of the Association of Advertising Agencies in 1965–66, that to a large degree had been stalled, the majority of these new reforms were implemented the following year on a massive scale. The major reason for this change in both the scope and pace of implementation was a drastic increase in outside pressure for regime change.75

Public criticism of advertising, as stated in chapter two, again intensified at the end of the 1960s. However, insiders seemed unwilling to openly admit that this had affected regulatory strategy. In the presentation of the sweeping regulatory changes in the Federation of Advertising Agencies’ annual report for 1968–1969, the harsh public criticism of advertising immediately preceding the reforms was mentioned, but downplayed. The report stated that the timing of reforms might suggest to the casual observer that they were a precautionary maneuver by the federation to contain bad will. However, this was not true, the annual report claimed, since the reforms had their roots in ambitions formulated in 1965 by the Ethics Committee of the former Association of Advertising Agencies. That these reforms had not borne fruit until now was explained by the fact that implementation hinged on industry unity among ad agencies, which had not been possible before the organizational merger in 1968. Tengelin offered a similar argument when he described the current state of self-regulation of advertising in the second issue of the 1970 edition of Nordic Copyright Protection (Nordiskt Immateriellt Rättsskydd), stating that

the psychological and organizational premises for reforms came into being with the foundation of the Federation of Advertising Agencies.  

Although a broad national organization for Swedish ad agencies surely simplified making the reforms workable, the internal documents of the Advertising Association Agencies leading up to the reform package of 1965–1966 do not mention a problem of implementation due to the lack of an all-encompassing ad agency organization, and initial reform proposals do not contain any proposals for advertising publishing clearance. The introduction of the clearance principle as means of regulation appears for the first time in 1968. Instead, internal sources linked the imminent need for reforms to outside pressure. While discussing reforms at a board meeting of the Federation of Advertising Agencies during the fall of 1968, Antoni began by presenting examples of advertising criticism and won approval from a board member for his reforms as an apt answer. In a report from the federation’s Ethics Committee outlining the reform package, the cause of advertising criticism was linked to both rising volumes of advertising and insider negligence of rule adherence, making radical reforms unavoidable if the federation wanted to avoid unwanted state regulation. The report’s preamble, most likely written by Antoni, clearly indicated that it thought current advertising was out of step with moral values and had to evolve to gain public acceptance. Although the report stated that Sweden’s economic system would not function without some form of state regulation, competition on the market was basically free. But these freedoms could only exist if business took responsibility through self-regulation and self-discipline. Misuse of these, the preamble stressed, led to state intervention; therefore the preamble solemnly declared that “[t]he Federation of Swedish Advertising Agencies wishes to introduce a new and more efficient regime of advertising policing based on voluntary efforts.”

The report then stressed that contemporary advertising was subject to more serious criticism than ever before. This was partly due to the growing volume of advertising and the conformity of advertising, but much of it also was a consequence of growing resistance against consumerism. The preamble concluded that views that Galbraith had introduced in his book, The Affluent Society, ten years earlier were now commonplace, and self-regulation reform was presented as a question of life and death for the industry.

All talk of our industry being too little, our resources too small, that others must help us or that we are not the right party for these tasks are only evasions meant to hide the true nature of things: that forceful action taken by us is nothing less than a question of survival.


Nevertheless, the report’s more long-term visions, which proposed massive efforts in mapping advertising criticism into relevant and irrelevant statements, then using the relevant ones to formulate a new advertising ethics more in line with social trends, did not result in any policy decision. In conclusion, the evidence does not support the official version of how the radical reforms of 1968 came about. Although organizational unity was important for creating a self-regulation structure that could count on a large group of supportive members, the perception of extreme external pressure from public criticism and the state authorities, due to the negligence of marketers in upholding rules, emerges as the primary cause for reformers pushing the makeover. Consequently, the origin and possibilities of the reform movement can partly be traced to inside pressure on the regime, but the actual timing and composition of reforms owed more to pressure coming from the outside.\textsuperscript{79}

Taking a general view of regime transitions, the reform package was mainly a continuation of a conversion to a broad regime that had been initiated by the merger process in the mid-1950s. Particularly its emphasis on all-encompassing policing finally realized the transition of the value of the key task variable from education and information to policing. But the novel idea of a clearance procedure in a sense united education and information with policing, as the Advertising Publishers of the clearance program were specifically trained to be able to identify faulty advertising. Still, education and information was subordinated by policing, as the training was done to enable administrative policing. This shifted focus from marketers monitoring their competitors, highlighting instead self-improvement at the firm level. This was a classic tenet of narrow self-regulation, which surely helped in getting acceptance of measures from narrow-leaning members who were skeptical of more policing. Still, the Federation of Advertising Agencies’ new Inspection Committee would police the market, necessitating assurances it would do so in close co-operation with the Council on Business Practice to avoid the risk of failure and the lack of legitimacy that the KUFOS\textsuperscript{’} proposal, discussed earlier in chapter four, suffered from. Nevertheless, other aspects were decidedly narrower in character, with producer-only participation and low levels of transparency, as the actions of the Advertising Publishers and the Marketing Law Consultancy were shielded by business confidentiality. However, as participation and transparency, just like education and information, were subordinated to the clearance program and did not affect the otherwise growing transparency of the Council on Business Practice, they cannot be viewed as contrary to the growing trend of regime transition in a broad direction. Also, the new regulatory structures were not a challenge or an alternative regime to the Council on Business Practice, as they accepted the council’s authoritative position and sought its close co-operation. Instead,

\textsuperscript{79} SRF:s Etiska Nämnd. Underlag för föredragning och eventuella beslut vid SRF:s extra medlemsmöte 19 december 1968. AF. Sveriges Kommunikationsbyråers arkiv.
they were meant as a support structure that would help increase ad agency rule adherence.

Conclusion

The third phase of regime transition was particularly busy. Several ambitious reforms strengthened the broad appearance of self-regulation, especially the replacing of education and information with policing as a key task. While outsider participation had formally made the regime broad, the lack of pro-active policing basically made it function more or less as its predecessors – counting on education and information to safeguard that producers did not break rules. This dependence on education and information was augmented by the fact that the regime lacked coercive measures to back up verdicts. But now policing initiatives coming from both the Council on Business Practice and the newly formed Federation of Advertising Agencies were accepted, including far-reaching pro-active measures. By the end of the phase, all regime variables reflected typical broad features. More specifically, in 1968 the Council on Business Practice added both a special committee coordinating education and information, the Information Committee (Informationsutskottet), and for the first time a pro-active policing unit, the Bureau for Marketing Complaints, which would look for cases to steer to the Council on Business Practice, emphasizing consumers complaints. The bureau, in keeping with the corporatist structure of the Council on Business Practice, had both insiders and outsiders and was led by a lawyer.

The same year, the new peak association for advertising agencies, the Swedish Federation of Advertising Agencies decided on an ambitious system of policing, to be launched in 1969. It included pro-active components, and most significantly, a publishing clearance program. The latter was built on the concept that every member ad agency would have an Advertising Publisher (Ansvarig reklamutgivare) to look over campaigns before they were launched. Another innovation was the Marketing Law Consultancy, a lawyer-run consulting agency initially funded by the federation that on a commercial basis would assist advertising publishers when they ran into difficulties deciding if advertisements were ethically correct. This legal agency would, just as the individual firms conducting clearance, do its work with complete confidentiality. However, as this level of self-regulation did not involve any definite judgments, this lack of openness cannot be said to be of such a stature that it made the overall value of the transparency variable narrow. During the third phase, the successor to the Sales and Advertising Federation – the Marketing Federation – also made a reform attempt in 1967. This time, its leadership proposed that an institution be created similar to that in its earlier reform attempt in 1963, the KUFOS proposal, i.e. the federation’s local marketing societies would take it upon themselves to look for and report questionable advertising. However,
a major change compared to the KUFOS proposal was that these vigilance committees would only work in the background and not cater to consumer complaints, delivering complaints to the Council on Business Practice. Just as with the previously failed efforts, the federation’s members objected to taking on regulatory duties they felt incapable of carrying out. Although a decision was taken to institute reforms, records show no signs of implementation. This failure made it clear that the peak organization in marketing no longer had a decisive influence over regime policy, although it appears it did manage to take on insider representation on the Bureau for Marketing Complaints.

In general, reform work during the third phase signified shifting relations between key insider organizations. Reform strategies indicate that the strained relationship concerning self-regulation between broad advertiser interests and media carriers on the one hand and ad agencies on the other underwent a radical transformation. Both groups now came to the conclusion that a combination of education and information and extensive policing was necessary for successful regulation. Above all, the lack of efficient policing was seen as problematic. Inside pressure for a more stringent regime came to the fore. The rapid proliferation of marketing methods such as premiums, competitions and “buy one, get one free” offers and negative option billing had made the Retail Federation and Newspaper Publishers’ Association demand that the Council on Business Practice take swift action, as much of these ended up in press advertising, straining the internal clearance efforts of the papers. However, there were obstacles to achieving better policing. One was that there were disagreements between regime’s principals on the use of premiums. The Retail Federation sought to use self-regulation to stop the introduction of trading stamps, considered the most aggressive of competitive premiums and a threat to their small business members. This was only partially successful, as the Council on Business Practice faulted initial efforts to introduce stamps, but refused to condemn them in principle. The council verdict was also opposed by a significant minority of its members, something which was made public. News media and official state investigative committees also portrayed the council as indecisive on the matter. The affair cast doubt on the legitimacy of the newly expanded broad regime’s policing, quite the opposite of the intention behind the 1964 reforms. The council, on its part, was also having its usual problems of keeping up with a rising number of complaints and queries from producers. The reform-minded insider organizations that had taken control over policy formation in the Council on Business Practice at the end of phase two now explained the low level of rule adherence as a result of both willful deception and ignorance of the rules. With the regime seen as conflicted and indecisive in policing of trading stamps and unable to successfully regulate those areas where it did have a definite opinion due to producer negligence, there was need for reforms that would make it more decisive and efficient at policing. Reformers on the council therefore spearheaded a combination of
pro-active policing and education and information, resulting in the creation of the Information Committee and the Bureau for Marketing Complaints.

By the third phase, outsider pressure started to increasingly preoccupy inside stakeholders. Consumer involvement in self-regulation had after 30 years of organized activity remained at minimal levels, as only ten percent of incoming complaints originated from consumers. This made it hard for the regime to claim it protected consumer rights and easy for its opponents to condemn it for not doing so. Still, the share of consumer complaints now started to rise, indicating a growing consumer awareness of the regime. The advertising debate was also turning tense by the end of phase three, again garnering bad will for insiders and risking lowered consumer confidence. More statutory rules now also seemed imminent, what with official state investigative committees discussing a revised marketing law and creating a state controlled Consumer Ombudsman. There was political pressure coming from the labor movement, which now publicly disowned the legitimacy of self-regulation. Insider reformers more or less counted on self-regulation being forced to accept an encroaching state regulation that could constrain its reach. Reforms were thus not only meant to make self-regulation more efficient, but also present it with opportunities to prevent or at least influence future state regimes. Here insiders set their hope to their ability to influence key official state investigative committees in giving self-regulation a major role in the coming regulatory landscape. Both broad and possible co-regulatory measures were discussed, where insiders hoped the former would succeed, but were prepared to utilize the latter. The reform friendly insiders on the Council on Business Practice tried to limit the reach of state institutions by continuing a corporatization of self-regulation, making sure its new Bureau for Marketing Complaints had representatives from a state consumer agency. Although this strategy appeared to have failed somewhat, with the LO early on signaling its disappointment with the regime and consumer principals not contributing fiscally, the cooperation of the National Council for Consumer Goods Research and Consumer Information in funding both the Council on Business Practice and its new supporting units compensated somewhat for this. Still, the state agency’s limiting of financial support for the new bodies to one year implies that it acted against the long-terms strategies of insider principals and in support of the consumer policies of the labor movement that by now criticized self-regulation and emphasized more state regulation.

At about the same time as these reforms were carried out, the ad agencies presented an extensive internal insider clearance program of advertisements. Their sudden turn to such a pro-active policing initiative can be attributed to a gradual reevaluation of self-regulation that commenced in the mid-1960s. Initially, inside pressure was a key factor. With the advertising cartel upheld by the Association of Advertising Agencies and the Newspaper Publishers’ Association falling apart, threatening the competitive position of the old cartel ad agencies, the ad agency organization decided in 1964 to initiate a
PR-campaign in the press for its members. It was hoped it would give them a better competitive position. Initially this failed dismally as the ad campaign that underpinned the PR-initiative portrayed its members as ethically and professionally superior to other ad agencies, for which it was faulted by the Council on Business Practice for promoting misleading advertising. The Advertisers’ Association lost no time in criticizing the ad agency association for this debacle, stating that the ad agencies were to blame for much of advertising’s bad will.

Having not enhanced but worsened its ethical standing in the business community, the Association of Advertising Agencies was under intense pressure to come up with ways to improve its members’ legitimacy. Putting developments within the context of the exposure hypothesis, the association and its ad agencies had now lost their protection from exposure to regulation and bad will in a most embarrassing and public manner. Thus they no longer had the same strategic advantages or interests in blocking reforms as before. The association therefore started to outline a long-term overhaul of its ethical and self-regulatory commitment. It decided the best way to do this was to create a new self-regulatory structure that would serve members in their actions in the advertising industry.

One way for the Association of Advertising Agencies to safeguard success for its reforms was to make a sincere effort to mend fences with the advertisers and make sure that established regime structures accepted their regulatory structures. Main reformer Fride Antoni tried to do this by having the Association of Advertising Agencies taking on some of the blame for bad advertising and the public badwill that followed it, and making sure that the reforms, unlike the failed attempts within the Marketing Federation and its predecessors, would not be perceived as a parallel or competitive structure to the Council on Business Practice. While the Marketing Federation also failed because of internal resistance to the idea of members en masse policing each other, the ad agencies’ final success after an initial period of hesitancy in reform implementation can probably be tied to the absence of such schemes. Instead, the reforms consisted of policing through mandated self-improvement – a classic principle of self-regulation. By making information and education efforts a large, but subordinated part of policing, ad agencies’ acceptance of reforms was made easier than if they had been based on classic post-production market policing, although some elements of the new reforms, such as the Inspection Committee (Granskningskommittén), could be classified as such.

That these reforms were finally carried out must in some sense also be attributed to the fact that the various ad agency associations in 1968 decided to merge and form the Swedish Federation of Advertising Agencies. This new organization created the possibility to produce reforms that would involve a large part of the ad agency business. Yet, internal documents from the Federation of Advertising Agencies indicate that the radicalism of these reforms, as well as the timing of their acceptance among members, in the end
owed much to the massive outside pressure stemming from rising criticism of advertising and increasing proposals for state regulation. This time, the ad agencies were not spared criticism. Due to the loss of their sheltered position, they had consequently, thanks to a combination of inside and outside pressure, been forced to transform themselves into regulatory champions. By introducing an encompassing clearance program at the firm level, the industry group that had long been the strongest opponent of policing policies was suddenly the center of reform activity.

Figure 6.1. Regime transition during phase three, 1964–68, from outset of regime configuration until decision making of policy change.

<table>
<thead>
<tr>
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<th>1964</th>
<th>1968</th>
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<tr>
<td><strong>Regimes</strong></td>
<td>Council on Business Practice</td>
<td>Council on Business Practice</td>
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<tr>
<td><strong>Rule Control</strong></td>
<td>Insider</td>
<td>Insider</td>
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<tr>
<td><strong>Participation</strong></td>
<td>Insider + outsider</td>
<td>Insider + outsider</td>
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<td><strong>Interests and rights</strong></td>
<td>All stakeholders</td>
<td>All stakeholders</td>
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<tr>
<td><strong>Key task</strong></td>
<td>Education and Information</td>
<td>Policing</td>
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<td><strong>Transparency</strong></td>
<td>Medium</td>
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CHAPTER SEVEN

The last, fourth, phase in regime transition was characterized by dramatic changes, that began with the implementation of comprehensive policing and educational reforms in 1969 and finished with the folding of the Council on Business Practice in 1971 due to the introduction of far-reaching state regulation that same year. Although the winding down of the council signaled the end of a 35-year era of self-regulation, the new regulatory landscape did not leave insiders entirely without influence as they managed to both transform the Council on Business Practice into a new type of insider agency and retain the clearance programs, in effect creating a co-regulatory regime.

The Final Days of the Council on Business Practice

The last phase of regime transition kept testing the Council on Business Practice. In 1969 the council registered a record number of 310 complaints. This was more than double the amount it had received on a yearly basis during the 1960s. The reason for this swift upsurge is not immediately clear, although the launch of the council-affiliated pro-active policing unit, the Bureau for Marketing Complaints, in the summer of 1968 contributed to some of it. However, as mentioned in chapter two, a growing number of consumer complaints appeared throughout the second half of the 1960s. By 1969 they made up half of all grievances. In a 1970 interview in the trade paper, The Swedish Market, council CEO Tengelin suggested that the sudden increase was related to the intensified public debate on advertising. As shown in chapter two, this was a reasonable conclusion, what with the second wave of advertising debates raging at the time.1

By the fourth phase the council had six full-time employees, of which five were lawyers, and a number of part-time employees, many of them lawyers. The council’s budget had swollen considerably during the second half of the 1960s to accommodate this staff expansion, but was still not sufficient. The CEO and the administrator at the office were permanently overstretched, with the former putting in 600 hours and the latter 350 hours overtime per

year. According to an internal report on budgetary planning, the Council on Business Practice exceeded its projected budget of 285,000 SEK for 1969 by 33,000 SEK. The report also suggested that costs for 1970 would surpass the projected budget by 35,000 SEK. The council thus entered the last phase of regime transition with a massive influx of complaints, a severely overstretched staff and a serious budget deficit.

The Final Blow to Self-Regulation – A Comprehensive State Regime

Although the market context consequently continued to exert inside pressure on the regime, it was outside pressure coming from the wider regulatory context that had decisive importance during the fourth phase of regime transition. The plan for an extensive state regime for market regulation was revealed in the summer of 1969. As the projected date of regime implementation was January 1st 1971, the whole process would take place during a period of about 18 months. This in turn had consequences for insider regulatory strategies. Therefore the process will be described in some detail, covering prior insider and outsider strategies in the state policy arena, to supply necessary context for the subsequent analysis of insiders’ strategies for self-regulation.

The first signs that the government had decided on a new law on marketing came when the Justice Department sent out a memorandum June 30th 1969 to various insider associations. According to the memorandum, a new marketing law with a general clause would replace the 1931 Law on Unfair Competition. The clause would be accompanied by three special statutes that specifically forbade misleading advertising, as well as certain kinds of premiums and “buy one, get one free” offers. The law would be administered by two new state bodies, of which the first would have an attorney function and the second act as a specialized market court. The attorney would mainly deal with false and misleading advertising, while the court in turn would consider cases that had a bearing on both the suggested marketing law and the existing Competition Law, which did not regulate marketing. Significantly, the memorandum made no mention of self-regulation. However, it was clear that it supported a much stronger pro-active involvement of the state in regulation than the report from the official state investigative Committee on Unfair Competition had done.
After the Justice Department presented the reform package at a hearing on August 26\textsuperscript{th} 1969, insiders became worried. An internal memorandum from the Federation of Advertising Agencies reported that changes might be made to the proposed statutes, but that the Justice Department appeared quite resolute, especially regarding the general clause and a proposed statute on misleading advertising. Commenting on developments, the Marketing Federation’s Working Committee in turn stated that the organization had to work to try to prohibit a state regime where it would be impossible to appeal a decision made by a specialized court.\textsuperscript{6} A version of the proposal dated November 10\textsuperscript{th} 1969 was sent out for referrals. A final bill with some minor changes due to referral comments was presented by the Minister of Justice on March 13\textsuperscript{th} 1970 and approved by Parliament in May 1970. The new law, the Marketing Practices Act, went into effect on January 1\textsuperscript{st} 1971, with the accompanying agencies, the Consumer Ombudsman and the Market Court, starting work the same day.\textsuperscript{7}

The Justice Department’s tone and attitude in the paperwork preparing the new regime differed considerably from that of the earlier official state investigative Committee on Unfair Competition, which had originally been entrusted with the law reform. While the latter, with its many insider-affiliated members, had held up advertising as an integral part of the modern market and displayed a respectful tone when discussing self-regulation, the Justice Department now described advertising and self-regulation more as liabilities than assets. Advertising was basically singled out as a key problem to be addressed by the new state agencies. This of course implied that self-regulation had failed and had to be replaced – an opinion that had recently been voiced outright before in the discussed Social Democratic Party’s and the LO’s joint industrial program (chapter two and six).\textsuperscript{8} Here the Justice Department followed the same line of reasoning. Although it acknowledged that self-regulation had made significant contributions, commending the International Code of Standards of Advertising Practice, the Council on Business Practice and recent policing reforms such as the Bureau for Marketing Complaints and the Advertising Publishers,\textsuperscript{9} the self-regulation regime was found wanting when it came to consumer needs. This lack of protection was essential, the department stated, and the aim of the revised law was therefore to protect consumer rights. The department criticized the Council on Business Practice

\begin{itemize}
  \item \textsuperscript{8} SOU 1966: 71; SAP-LOs näringspolitiska kommitté (1968), p. 116; Justitiedepartementet 16.9.69 PM angående ny lagstiftning om reklam och marknadsföring. SMF. Sveriges Marknadsförbunds arkiv; Prop. 1970: 57.
  \item \textsuperscript{9} Justitiedepartementet, 16.9.69 PM angående ny lagstiftning om reklam och marknadsföring, p. 2–3. SMF. Sveriges Marknadsförbunds arkiv; Prop. 1970: 57, pp. 58–59, 150.
\end{itemize}
for lacking both administrative means and coercive powers to stand up for these rights. It faulted the self-regulation regime for not being able to spread public knowledge of its rulings and for being dominated by business interests focusing on fair competition. These interests, the Justice Department implied, were already safeguarded by the current Competition Law, which in turn would be strengthened as the Market Court would have more coercive powers than the Competition Council it would replace. The department also stressed that consumer policies were based not just on fair competition, but on pressuring producers into making the goods that the consumer needed with regard to type, quality, and price. Policies had a duty to make the consumer more aware of the rational aspects of a purchase and safeguard that irrational distractions did not cloud judgment. The last statement was a thinly veiled description of advertising, revealing that the Justice Department regarded it as being more of a manipulative than informative market function in relation to consumers. To back up its claims that self-regulation had failed in safeguarding consumer rights, the documents referred to a recent survey by the 1967 official state investigative Committee on Advertising. The survey demonstrated that between 11–18 percent of all ads in selected press during 1967–1968 broke the rules of the Council on Business Practice, as did 20–27 percent of those in the weekly press. As will be shown later on, these figures angered some insiders and led them to question both their accuracy and relevance.

The Justice Department criticized the Committee on Unfair Competition’s report for recommending that self-regulation continue to play a main role. The report had proposed a general clause and some special statues, but refrained from the establishment of special courts and agencies to administer them. Justice Minister Lennart Geijer stated that the committee thus only went halfway in consumer protection. A new marketing law was commendable, but the absence of policing institutions made for an inept proposal. By doing so, the committee allowed self-regulation to keep one step ahead of legislation, making the latter a second rate regime, the minister claimed. Geijer stressed that to realize the state’s policy ambitions the new law needed proper policing institutions:

It is my fundamental standpoint that the state should be responsible for the upholding of good ethical standards of advertising and marketing. The legislation should be as advanced as needed to make sure it is the basis for the construction of good ethical norms, and the creation of norms should be a task assigned to public agencies. Sufficient coercive means and sanctions should be put at their disposal.

Therefore the marketing law was accompanied by a Consumer Ombudsman and a Market Court. The central task of the ombudsman would be to survey

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advertising in the press. The law’s general clause would allow the state agency to bring cases before the market court, which could order producers to cease and desist with marketing or risk a hefty fine for being in contempt of court. The three specific statutes were applicable in a regular court of law and were judged as criminal offences leading to either jail for a maximum of one year or heavy fines. However, only the Consumer Ombudsman could forward cases to a criminal court. Consumers would have to lodge complaints to the ombudsman, while organizations representing consumers and producers would have the right to do so directly to the market court. The new regime was clearly meant to have stronger coercive means at its disposal than the existing one.13

Despite its scathing criticism of self-regulation, the bill did allude to the international Code of Standards of Advertising Practice as filling an important function. While a marketing law with vague general clause without a rich legal precedent could initially endanger legal rights, the proposed clause ran no such risks, the Justice Minister wrote, as it had the vast practice of the Council on Business Practice as reference:

The general clause can right from the start be given a strong foundation if one utilizes the existing system of self-regulation as a point of departure in its implementation. This system...represents an especially high ethical standard and should be able to function as a platform for legal practice in marketing. This will simplify producer’s preliminary assessment [of advertising], and another advantage is that one will get somewhat of a guarantee for rather uniform international rules, as the core of self-regulation’s norm system is comprised of international rules for advertising.14

However, despite this apparently positive reliance on the legacy of self-regulation, it was soon made clear that the new regime would not remain in its debt forever. When Justice Department legal counsel, Anders Knutsson, discussed the impending bill on February 3rd 1970 at a meeting of the Swedish Association for the Protection of Industrial Intellectual Property (Svenska föreningen för industriell rättsskydd), he emphasized that the new state regime would continually develop its practice, focusing on consumer rights, and that this would have consequences for marketing practices, perhaps prohibiting marketing that at the moment was legitimate.15

Insider Reactions to the Law Proposal

Although all insider organizations’ formal comments on the Justice Department’s proposal generally accepted the new regime, there were complaints. Regarding the relationship between self-regulation and the new state regime,

they made the point that the former had come into being due to the absence of state interest in reforming existing marketing laws. That some of these insiders, particularly the Sales and Advertising Federation, had earlier resisted the inclusion of a general clause in marketing law was not mentioned now. Instead, self-regulation was described as having done its best to cover for this legal absence. The Advertisers’ Association claimed that it had reacted numerous times to the lack of sanctions in self-regulation and that the 1968 reform initiative of the Federation of Advertising Agencies, which it supported, had aimed in the long run to implement such measures. The statements by the government officials involved in drafting the new law that faulted self-regulation for not having effective regulation were thus unfair. Many stressed that they thought it was irresponsible that the proposal disregarded the importance of market efficiency and competition for legislation. That the Justice Department’s memorandum allowed comments on how the future agencies would be constructed, but not on the legal statutes, also angered some. The Marketing Federation wrote that this made the system of referral by those affected by policy changes meaningless. The Federation of Advertising Agencies had a similar complaint in a rough draft of its comment, conveying its “surprise and regret over the fact that the law itself was not remitted in a regular fashion” and that shortage of time was not a sufficient reason for omitting this step in the policy process. However, in the federation’s final draft this was left out, as well as a sentence reminding the department it was three years ago that the official state investigative Committee on Unfair Competition had delivered its policy recommendations. This revision of the final comment indicated that some insiders did not dare to question how the state handled these policies. As shown in chapter two, the ruling Social Democrats had publically made it clear that stronger state regulation of the consumer market was top priority, and some insiders probably calculated that opposition at this stage would risk even more state intervention. This interpretation is supported by Boddewyn’s conclusion that insider acceptance of the new marketing law was due to a mixture of actual support and fear of political reprisals from a radicalized labor movement. That such fears existed is backed by the fact that a coordinated business effort to launch a counter PR offensive defending advertising at this time did not materialize, due to some insiders not wanting to risk open conflict with the labor movement.

The Federation of Industries, backed up by the Federation of Wholesale Merchants and Importers and other unnamed insider organizations as well as the Marketing Federation, lamented that the new law did not, as intended by the official state investigative Committee on Unfair Competition, synchronize with marketing law reforms in other Nordic countries. This could result in legal practice in Sweden diverging from that of its neighbors, which was problematic given the trade that existed between them. But there were also other reasons why the insiders of self-regulation might have objected to this, although this was not stated in their comments. While self-regulatory agencies in the other Nordic countries had been allowed to continue to “implement” the new laws, the Swedish reform introduced specific state agencies to uphold the law that made the Council on Business Practice redundant. A major strategy of the insider-dominated Committee on Unfair Competition had been to try to safeguard a continued vital role for the Council on Business Practice in rule formation even after the advent of new laws on marketing. Swedish insiders, unlike their Nordic counterparts, now lost an opportunity to influence legal practice in this way.\(^\text{20}\) As could be expected given their long desire for stronger marketing laws, The Retail Federation’s comment displayed satisfaction with the new law and its accompanying agencies. Nevertheless, the federation complained that some regulation of premiums and “buy one, get one free” offers would be handled by a special court relying on fines and cease and desist orders instead of criminal statutes. This would make it harder for regulators to stop transgressions, the federation warned.\(^\text{21}\)

With resolute government backing for the new law leaving little room for business to sway the state policy process, insiders were forced to come up with new ways of influencing the coming regulation. One weakness of the law proposal was the lack of substantial empirical material to back up policy suggestions for stronger regulation of the consumer market. A single survey of the ethical quality of advertising in the monthly and weekly press by the official state investigative Committee on Advertising was basically the only tangible evidence upon which the government proposal based its advertising criticism. Several insider comments criticized what was portrayed as the Justice Department’s sloppiness in relying on the questionable results of the survey. The comments of the Marketing Federation, the Advertisers’ Association and the Federation of Wholesale Merchants and Importers stated that the survey was not up to sufficient scientific standards. The Advertiser Associations’ even stressed that the survey itself had emphasized that it was not suitable for statistical generalizations. It had moreover been completed


before the introduction of the Advertising Publishers’ clearance program and was therefore not a useful means to gauge the current situation.22

The fact that prominent business members had taken part in the survey also created internal tensions. The sub-committee within the official state investigative Advertising Committee responsible for the survey had included consumer representatives from state consumer agencies and jurists, but also insiders with experience from the Council on Business Practice, such as council CEO Tengelin and Wiege, CEO of the Advertisers’ Association. The surveyors had used the international code of conduct when selecting ads that were considered in breach of good business practice but, unlike the Council on Business Practice, had not summoned advertisers or ad agencies to defend themselves. On at least one occasion, Wiege, in a letter to another business leader, defended the reasoning in faulting a specific advertisement, refuting a claim by another insider that an identical ad had previously been cleared by the Council on Business Practice. Still, the Advertisers’ Association caveat in their formal comment on the Justice Department’s memorandum that the survey had stated it was not to be used as proof of general market conditions indicates that the association decided to put the blame on the Justice Department.23

The ad agencies felt particularly singled out by the survey, and the Federation of Advertising Agencies decided on a major PR-offensive. Once again, key federation reformer Fride Antoni was a driving force. He thought the survey was crude and unrefined, as advertisements with minor errors had been grouped together with those that suffered from serious flaws. He and federation CEO Stefan Melesko proposed that the federation release a book where the 205 advertisements described as unethical would be discussed in detail and the severity of offenses would be graded using three measurements: minor offense, some offense and grave offense.

In May 1970, shortly after the passing of the new law, the Federation of Advertising Agencies published such a book.24 While lacking a formal author, inside sources indicate that Antoni was a key figure.25 The book printed and commented upon the survey’s empirical evidence. After applying the chosen method of measurement, about 13 percent of the ads were found to suffer from minor offenses, while 70 percent exhibited some offense of ethical rules, and only 17 percent could be considered grave offenses. The book lamented that the faulted ads had not been made public by the Justice Department and stated

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that there was a need to highlight the importance of using empirical examples in a correct way. It is not improbable that the Federation of Advertising Agencies hoped the publication would influence law implementation to better reflect its interests. That it was distributed to most government departments and all members of the parliament, as well as many interest groups, political parties and members of the press, supports this conclusion.26

Another book with similar intentions was published by Antoni in 1971.27 It discussed the implementation of the coming marketing law by using it to analyze transgressions in 55 advertisements. The 55 cases were ordered according to the statutes of the international code of conduct. Antoni stressed that several of them had been handled by the Council on Business Practice, of which some had become precedents. By using a combination of the coming law and the international code of conduct in the book’s analysis of rule transgressions, Antoni attempted to safeguard the legacy of self-regulation by trying to establish that the new law was completely dependent on the long-term work of the Council on Business Practice. To emphasize this, he printed the previous quote of Justice Minister Geijer on the usefulness of self-regulation as a legal precedent twice. By getting the book out just as the new state regime was becoming operational, he most likely anticipated that it could function as an “instructional manual” for the inexperienced state officials who would populate the Consumer Ombudsman and the Market Court. A review in the association’s trade paper the Advertising Industry Review (Resumé) commended him for getting the volume published before the court had started to formulate practice from its own precedents.28 Although these examples paint a picture of the Federation of Advertising Agencies being particularly active in trying to influence the coming regime, empirical analysis of insider strategies will demonstrate that other insiders were just as active. However, these did resort to this type of overt PR efforts, but on trying to create a co-regulatory structure that allowed for future insider efforts in marketing regulation.

After a first year of activity had passed, insider apprehensions that the state policies would strangle marketing freedom seemed exaggerated. After the launch in 1971, the state regime attracted substantial media coverage, which contributed to a vast amount of complaints. During its first eight months of activity, the Consumer Ombudsman received 1,500 – almost as many as the Council on Business Practice had gotten from its inception until 1969. By the end of the year, the state agency had received about 2,950. Most originated from consumers, consumer organizations, other organizations and state agencies. About one fifth came from marketers and concerned fair competition. Taking advantage of their large capacity in comparison with self-regulation agencies, the new regime’s state agencies made considerable

27 Antoni (1971).
headway. Still, they held back on the use of coercive powers, preferring to rely on deliberation. Of the 650 cases handled by August 1970, about 325 had been concluded through negotiations. Many complaints were regarded as lacking in substance. Only ten had been transferred to the Market Court, and of these six to seven had caused the body to issue a prohibition of cease and desist with a penalty of fines unless heeded. No case had been reassigned to criminal courts. In its reasoning, the Consumer Ombudsman had also made substantial use of the experience of the Council on Business Practice. Although 300 cases originating from marketers were far more than had been dealt with by the council in a single year, legal experts thought that the Consumer Ombudsman prioritized consumer errands, but also that negotiations had become an important part of its modus operandi. This last fact of course gladdened insiders, as court cases could be costly and result in public bad will. It also continued self-regulation's tradition of favoring confidential negotiations over open confrontation, something insiders must have seen as promising. If the initial signs of an insider friendly state regime for regulation of marketing in some way were the result of the PR-strategies cannot be established, but as the following analysis will show, there are indications that the state at least welcomed insider attempts at regulatory cooperation.29

Co-regulatory Transformation Begins

By 1969, the Council on Business Practice reforms had been in effect since the previous summer, including the pro-active policing unit, the Bureau for Marketing Complaints, and the information and PR co-ordination entity, the Information Committee (Informationsutskottet). The bureau had been quite busy and throughout 1969 delivered 50 complaints to the council. The council had agreed with most of them, and reported firms had after contacts immediately changed their advertising. Most cases pertained to misleading advertising, but negative option billing, misleading claims of guarantees, premiums and “buy one, get one free” offers as well as comparative advertising were also covered. The unit consequently appeared to live up to the aspirations of its architect, the Junker committee: pro-active policing was now an integrated component of regime activities.30

But besides policing, the Council’s on Business Practice’s internal investigative committees had also emphasized the importance of making education and information more efficient to help the council’s policing and accomplish

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better rule adherence. The Information Committee had been entrusted with coordinating these tasks. In its annual report from November 7th 1969, the committee stated that it had taken an active role in supporting the Federation of Advertising Agencies in planning the Advertising Publishers’ clearance program and the subsequent educational courses for these at the Advertising Agencies Development Institute and had also discussed similar efforts with the Newspaper Publishers’ Association. As several members of the committee were heavily involved in the creation of the Advertising Publishers, cooperation had been rather effective. By this time, the intentions of the Justice Department’s law proposal were known, so education and information were tailored to deal with the coming regulatory landscape. In the report, the Information Committee proposed three key tasks: 1) to support the spread of information and education related to the new Advertising Publishers’ clearance program; 2) to analyze which informational efforts were needed to cope with the coming regulatory landscape; and 3) to discuss how media carriers could be involved in regulating advertising. That the time for presenting policy proposals that fell by the wayside was now definitely over was evident, as all of these issues were effectively tackled by insider institutions during the fourth phase of regime transition.31

The End of the Council on Business Practice

A significant change due to the state regulatory package was the decision to close down the Council on Business Practice. As soon as it became obvious that a new Marketing Practices Act would overtake the function of the council and the Bureau for Marketing Complaints through a Market Court and a Consumer Ombudsman, the principals of the self-regulation regime started to prepare for dismantlement. At a September 15th 1969 meeting of the executive committee of the Stockholm Chamber of Commerce – part of the Council of Chambers of Commerce – it was stated that coming laws would mean reassessing the activities of the council.32 On September 18th 1969, a board meeting of the Advertisers’ Association decided that the council ought to be closed down when the new marketing law was implemented.33

Even the leadership of the Council on Business Practice concluded that times were changing and that self-regulation had to adapt to new circumstances. In a key memorandum outlining the future for insider self-regulation written November 11th 1969, council CEO Tengelin stated that rules formation would be overtaken by the state once the Consumer Ombudsman and the

33 Styrelsens protokoll, 18 september 1969; Styrelsens protokoll, 27 november 1969. SAF. Sveriges Annonsörers arkiv.
Market Court became operative and that there would be no room for the Bureau for Marketing Complaints once this happened. He suggested that the council might continue, but then as a policing agency upholding new state rules. In general, Tengelin stressed that it was important that business efforts in regulation did not try to copy the work of the coming state agencies. As the new marketing law shared the same principles as self-regulation, there were according to Tengelin no ideological obstacles against striving for a harmonization of business and state efforts in regulation. He here saw a better future for the clearance programs than the post-production based agencies.34

The Federation of Industries to the Rescue

That the Federation of Industries now took an active role in influencing the future of organized business efforts was not surprising, taking into account that it had been a driving force since the late 1950s in the production and distribution affiliated organizations that had taken control of self-regulation policy and welcomed powerful outsider organizations to increase regime legitimacy. In late 1969, it organized a series of meeting with the principals of the self-regulation regime to discuss how and if business could take a united position on the new law proposal and what to do with self-regulation. Unfortunately no records of these meetings have been found, but Tengelin’s memorandum was discussed at least one of them, so its policy suggestions were well-known by the federation.35 Around this time, the federation’s board also discussed what the new consumer policies might mean for business. Fears were voiced that the Social Democratic government, due to both media pressure emanating from the wider public consumer debate as well as the political left’s growing focus on consumer issues as a key policy question, was drifting dangerously close to implementing policy reforms that at worst would seriously compromise market freedom and create a dysfunctional and isolated planned economy. Even if that could be avoided, the creation of state authorities to implement a stricter regulation of marketing would lead to an increased state meddling in the free market. The federation’s representative on the National Council for Consumer Research and Consumer Information, Harald Westling, had left the council in 1968, leaving a letter of resignation where he expressed his deep misgivings on the anti-business sentiments he thought were seeping into the consumer debate. There was agreement that the Federation of Industries had to act in some way to counter what was perceived as policies hostile to business. Some of the federation’s board members

suggested that it highlight the potentially disastrous consequences for foreign trade that could come with increasing control of the consumer market and try to go on the offensive by presenting a view of the consumer as capable and strong. The meetings stressed that the federation had to act to contain certain policy suggestions from state committees, but nevertheless prepare itself to find ways to interact with the coming state agencies. At an internal board meeting on October 15th 1969, Anders Mallmén echoed the conclusions in Tengelin’ recent memorandum and said that the activities of the Council on Business Practice and other self-regulatory bodies had to be reassessed by the principals.

On December 3rd 1969, the Council on Business Practice’s principals gathered at an extra annual meeting to discuss the future of the self-regulation regime. As various memorandums from the Justice Department had been disseminated by then, the date for the implementation of the new marketing law and its agencies was known. There was unanimous agreement that the Council on Business Practice and the Bureau for Marketing Complaints would not be able to continue once the Market Court took office in 1971. However, there existed less accord on how much longer the council should be active, or, for that matter, why. The council’s leadership, consisting of chairman Samuelsson and CEO Tengelin, focused on the council’s regulatory capacity and public responsibility as determining factors. Tengelin believed that in light of the huge number of complaints already made during 1969, the agency should cease with accepting new ones by May 30th 1970 and spend the rest of the year to finish existing cases. Samuelsson thought the council should avoid creating a regulatory vacuum on the consumer market and receive complaints until the end of the year. Mallmén from the Federation of Industries and Antoni of the Federation of Advertising Agencies highlighted the role the council had in influencing upcoming state regulations and its potential for forming the future for insider regulatory efforts even after the state took over control of marketing regulation. Antoni stressed that it was vital that as many cases as possible that looked to become precedents were completed before the demise of the Council on Business Practice and that these quickly were made public. Mallmén stated that the time for liquidation should not be set until early 1970,

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when an internal committee appointed by the Federation of Industries to look into the future of self-regulation would have finished its work.\(^\text{38}\)

At the end of the meeting it was decided that the Council on Business Practice should continue its work until the end of 1970, that a system of prioritizing complaints would be considered, and that the council should intensify its communication with external parties and try to establish a co-operation with the Consumer Ombudsman in dealing with complaints. The last decision referred to the fact that the state agency would be deployed six months ahead of the new marketing law. The idea was thus that its officials would serve on the council, something which according to the final annual report of the Council on Business Practice covering 1969–1971, “would be to the benefit of both agencies.”\(^\text{39}\) Antoni’s and Mallmén’s co-regulatory approach accordingly seemed to have had some leverage. This revealed a nascent co-regulatory strategy, as cooperation with the Consumer Ombudsman would have presented insiders with an opportunity to influence the work of the future state agency. While both their organizations accepted the end of the council, they were keen on finding new ways to influence coming regulation – letting the experienced council lend a hand to the new state agency would be a start. The Council on Business Practice thus soldiered on during the next year. However, as the Consumer Ombudsman did not become active until the very end of 1970, the council missed the chance of interacting with the state agency. The council decided to not accept any more complaints except those that had the nature of precedents as of June 1970, but still had to continue on its own well into March 1971 to finish its work.\(^\text{40}\)

The Trade and Industry Committee on Marketing Law Policy

By the time the Council on Business Practice finally ceased to deal with complaints, a decision had been taken to create a successor – the Trade and Industry Committee on Marketing Law Policy (Näringslivets Delegation för Marknadsrätt). In his memorandum from November 11\(^{\text{th}}\) 1969, council CEO Tengelin had stressed that future business efforts in regulation had to be coordinated in insider agencies to secure agreement between insiders on principals’ policy issues. He also mentioned tasks such as a common insider


policy on state regulation, advice, and formation of internal rules and a court of arbitration. The new insider agency mirrored many of these demands and was an outcome of a policy recommendation made by the aforementioned insider special investigative committee created under the auspices of the Federation of Industries during the fall of 1969 to deal with the closing down of the Council on Business Practice. The main issue facing the committee was if an insider organization similar to the Council on Business Practice should continue to represent the marketing interests of the whole business community. Just as the Council on Business Practice’s Economic Committee before it, this committee gathered key administrative business leaders with stakes in advertising regulation. Thanks to the prominent role of some of the advertising affiliated organizations in recent reforms, they were once again part of the inner policy circle. The Advertisers’ Association CEO Wiege was a member, and former Federation of Advertising Agencies’ CEO Klinte chairman. By April 1970, Klinte had submitted a proposal for a new insider organization that would handle and coordinate business policy regulation of the consumer market. It would be responsible for information and educational efforts, for arbitration between producers and for the coordination of the business community’s policy on marketing. The new insider agency would receive financial backing from business organizations acting as its principals, who could choose between three levels – 5,000 SEK, 10,000 SEK or 15,000 SEK. For many potential principals, this would be a significant reduction compared to what they paid to the Council on Business Practice. Particularly the information function was seen as central and needed to be organized to become efficient. Further, there was also strong support for retaining the Marketing Law Consultancy to interpret, advise and inform on the new marketing law.

On May 21st 1970 an interim board for the successor agency to the Council on Business Practice was constituted to write statutes and select board mem-

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bers. It consisted of representatives from the Advertisers’ Association, the Federation of Industries, the Federation of Advertising Agencies, the Stockholm Chamber of Commerce and Åke Sundquist. Sundquist was Competition Ombudsman and a judge of appeal and in 1970 was made CEO of the Federation of Wholesale Merchants and Importers. The interim board would try to persuade the council’s CEO Tengelin to sign on as CEO for the new agency. However, this was initially unsuccessful, as he decided to say yes to an offer to begin at the office of the Market Court. Still, it was considered essential that the new insider agency start up in conjunction with the implementation of the Marketing Practices Act the following year. The Trade and Industry Committee on Marketing Law Policy thus constituted itself on December 18th 1970, with 16 former principals of the Council on Business Practice taking on the same position in the new agency. The statutes basically followed Klinte’s outline, and until a new CEO could be found, Iwan Ahlström of the Federation of Wholesale Merchants and Importers accepted executive responsibilities. After a while, Tengelin decided to become CEO of the agency, beginning as of 1972. This change of heart came about as his sojourn at the Market Court was cut short when he decided to leave his post February 18th 1971. He claimed his departure was due to having been denied professional tasks promised to him beforehand by the Justice Department. Tengelin would stay on as CEO of this insider organization until 1986.44

Many familiar figures from the leadership of the Council on Business Practice emerged on the new insider agency’s board. Former chairman of the council, Yngve Samuelsson, became chairman and Åke Sundquist vice chair. Other members represented the Federation of Wholesale Merchants and Importers, the Advertisers’ Association, the Federation of Swedish Farmers’ Associations, the Council of Chambers of Commerce, the Federation of Swedish Industries, the Federation of Swedish Advertisement Agencies and the Association of Newspapers Publishers. Most, if not all, of these representatives had previous experience from self-regulation within the Council on Business Practice. Many of the insiders behind the Trade and Industry Committee on Marketing Law Policy had also been part of the influential policy arenas of the council, such as its Economic Committee.45 These insider organizations


that took control of this new agency also attained authority over state policy as they by and large were chosen as producer representatives on the boards of the Consumer Ombudsman and the Market Court.\textsuperscript{46} Three regular producer seats on the court were given to the Federation of Industries, the Federation of Wholesale Merchants and Importers and the Retail Federation. The deputy seats were held by the same three associations, as well as by the Federation of Swedish Farmers\textsuperscript{47} (Lantbrukarnas Riksförbund, LRF), the Federation of Industries and Crafts, the Advertisers’ Association and the Federation of Advertisement Agencies. A similar distribution of business and consumer representatives occurred on the board of the Consumer Ombudsman.\textsuperscript{48} These organizations had consequently coordinated their influence over the Trade and Industry Committee on Marketing Law Policy with their representation on the state agencies that the Trade and Industry Committee on Marketing Law Policy would deliberate with. Still, some had to settle for less than desired positions. The Federation of Advertising Agencies was adamant that it have a seat on the board of the proposed Market Court. However, the Departments of Trade and Justice refused this, stating they wanted broader insider organizations on board. The ad agency association finally had to settle for a deputy seat. This signaled that the advertising industry in the state’s eyes was a lightweight compared to organizations that represented distributors and manufacturers, again indicating the power that the production and distribution affiliated principals had gained by having been producer representatives on the boards of state agencies for decades.\textsuperscript{49}

\textbf{Trying to Adapt to the New Regulatory Landscape}

While the new state regime caused newly formed self-regulatory bodies as the policy advisory agency the Council on Advertising Ethics (Reklamens Marknadsförbunds arkiv; Styrelsens protokoll, 3 februari 1971. AF. Sveriges Kommunikationsbyråers arkiv; \textit{Vem är det} 1985, p. 1055.

\textsuperscript{46} The ten board members on the court had been officially selected on December 29th 1970. Four were legal experts on consumer and competition policies, three more represented producers and the last three consumers. The consumers were represented by a member each from the LO, the TCO and the KF. All three were former principals on the Council on Business Practice, but with the KF switching roles, as it had been a producer representative on the council. Föreningsmeddelande 3/1971. SAF. Sveriges Annonsörers arkiv.

\textsuperscript{47} The Swedish Federation of Farmers was formed in 1971 through the merger of the two previous major farmers’ organizations, the Federation of Farmers’ Associations (Sveriges lantbruksförbund) and the Swedish National Rural Union (Riksförbundet landsbygdens folk); Nationalencyklopedin (2015d).

\textsuperscript{48} Föreningsmeddelande 3/1971. SAF. Sveriges Annonsörers arkiv. By 1985, the Federation of Industries and Retail Federation still had representation on both the Market Court and the successor to the Consumer Ombudsman, the Board for Consumer Policies (Konsumentverket), while the Federation of Wholesale Merchants and Importers had representation on the latter state agency. Pestoff (1984); Boddewyn (1985b), pp. 143, 146; Pestoff (1988), p. 16.

Etiska Nämnd) and the post-production policing oriented units the Inspection Committee and the Bureau for Marketing Complaints to be indefinitely mothballed or shut down,⁵⁰ the advisory body for advertising publishing clearance, the Marketing Law Consultancy, was kept intact and given expanded responsibilities. According to the wishes expressed in Council on Business Practice’s CEO Tengelin’s earlier memorandum, the Trade and Industry Committee on Marketing Law Policy now took on the role as the consultancy’s principal, wanting it to assume a crucial function in the interaction with the state agencies. Here the Trade and Industry Committee on Marketing Law and the Consumer Ombudsman shared mutual interests. Consumer Ombudsman Heurgren had stated at the Federation of Advertising Agencies’ annual meeting on November 18th 1970 that he was positive to intimate contacts with the Marketing Law Consultancy, for example when it needed input from the Consumer Ombudsman to formulate a recommendation to a client. On February 3rd 1971, Federation of Advertising Agencies’ CEO Melesko reported that the consultancy’s CEO, Jonas Modig, would review newsletters from the ombudsman and make weekly visits to its office to gather information. Afterwards, he would compile this in bulletins that the Trade and Industry Committee on Marketing Law Policy would distribute to its principals, who in turn informed their members. The Federation of Advertising Agencies trade paper, the Advertising Industry Review (Resumé), would perform a similar function, commenting regularly on ombudsman action.⁵¹

That the co-regulatory strategy behind the new insider agency was a successful choice is suggested by the fact that the Consumer Ombudsman was positive to co-operation. The Trade and Industry Committee on Marketing Law Policy soon became a central organization for negotiation and referral.⁵² While the office of the Consumer Ombudsman worked to remit possible transgressions of the Marketing Practices Act to the Market Court, it also negotiated settlements with marketers, thereby pre-empting a court case. In an effort to make this more effective, the ombudsman office started to issue guidelines for marketing. The Trade and Industry Committee on Marketing Law Policy acted as a referral and negotiator. Initially it opposed the guidelines, stating that it was up to the Market Court, not the Consumer Ombudsman, to shape legal

practice. However, as the ombudsman was bound to submit guidelines for comments from relevant organizations and authorities, the Trade and Industry Committee on Marketing Law Policy would regularly be consulted, with Tengelin having a key position in contacts. That the Consumer Ombudsman leaned on the collected practice of the Council on Business Practice and the International Chamber of Commerce’s code of conduct, the Code of Standards of Advertising Practice, when formulating guidelines further facilitated cooperation, as did the ability of the insider agency’s principals to make sure that member companies adhered to guidelines. While the Trade and Industry Committee on Marketing Law Policy’s outward function to a large degree was transparent, its dealing with arbitration in competitive conflicts returned to narrow concepts, as the whole process was shielded by confidentiality. The Trade and Industry Committee on Marketing Law Policy thus both adapted to the new co-regulatory demands for openness and cooperation and reintroduced some of the concealment that had characterized the workings of the narrow regimes. The transition into co-regulation thus did not entail a corresponding shift in the attribute of transparency from medium to high.

Reforms and Loss of Unity among Insiders

Still, this re-configuration of marketing regulation did not come without a loss of insider unity. Although a number of important business organizations signed on as principals for the Trade and Industry Committee on Marketing Law Policy, there was a drop in numbers compared to the Council on Business Practice. For obvious reasons, the latter’s four consumer representatives no longer remained, but that the Marketing Federation and the Retail Federation had opted out of joining the new insider agency was more problematic. The Advertisers’ Association’s CEO Wiege reported to his board on January 29th 1971 that, to the dismay of the new agency’s principals, the two had refused to join. A conflict over financial responsibilities for the Council on Business Practice was an important factor in these defections, but also that both organizations had for some time been skeptical of the regime.

56 Styrelsens protokoll, 29 januari 1971. SAF. Sveriges Annonsörers arkiv.
The first financial controversy centered on the fact that on December 3rd 1969, the Council on Business Practice’s principals had agreed that they would cover the running costs of the Council on Business Practice throughout 1970. But as the agency was forced to remain operational until the spring of 1971, many were hesitant to pay, claiming the sum demanded included funding beyond the agreed upon time frame. The matter had to be resolved as the Chamber of Commerce of Stockholm had covered the council’s running costs as of 1970 until the council ceased to operate in March 1971. It now to a significant extent wanted repayment from other insider principals that had also agreed to fund the council. This claim was supported by the annual audit of the council for 1969 and 1970, where the accountant concluded that this was in order. Still, the Retail Federation refused to pay an extra 18,000 SEK to cover the extended period of activity. In a letter from its CEO K E Gillberg to the Council on Business Practice, he relayed that the federation’s board expressed “great surprise over the big additional sum of payment and decided to limit it to 6,000 SEK”. The Retail Federation’s representative at the annual meeting of the council’s principals on November 29th 1971 also strongly protested against paying the demanded amount. Nevertheless, the council chairman and others replied that unforeseen costs in conjunction with decommissioning an agency had to be tolerated and that covering costs for 1970 included those arising from active duty even after the year had ended. Sources indicate that the Marketing Federation’s board also strongly objected to these demands. In a letter to the Council on Business Practice, the federation’s board stated it did not want to grant the council’s Economic Committee freedom of responsibility at the annual meeting of 1971 (which the federation did not attend). It also unanimously rejected the council’s economic demands, refusing to include the claimed debt of 23,400 SEK in its balance sheet for 1971/72. In the end, it appears that most principals paid, although it is unclear if the Association of Trade Journals, the Marketing Federation and the Retail Federation did so.


Besides opposing these demands, both organizations had been dissatisfied with the regime in general. The Marketing Federation and its predecessors had gone from being a top policy organization in the self-regulation of advertising to becoming increasingly marginalized. Several failed attempts to launch unilateral reform initiatives and the loss of influence over the Council on Business Practice thanks to the aggressive take-over action of other insider principals once part of the smaller regime had left the federation increasingly frustrated. Some members openly stated their disdain for the broad features that now defined the regime. In 1969, one Marketing Federation representative on the Council on Business Practice wrote a letter to his federation’s board announcing that he was leaving his position at the council, and in the same letter also wryly commented that that the council had become obsessed with statutory modes of regulation.\(^{60}\) While the Marketing Federation and its predecessors had traditionally been responsible for much of the educational efforts in marketing, the decision of the professional advertising industry organizations involved in the clearance program to take responsibility for all the educational efforts of their members robbed the federation, which as a peak marketing organization did not represent a specific professional industry category, of an opportunity to play a part in the implementation of these reforms. Nevertheless, the federation made an attempt to cooperate with PR and educational efforts for the ad agencies’ clearance program, but this was also cut short due to the other involved insider organizations accusing the federation of mismanaging its role. This will be discussed further on in the chapter.

Given this, the Marketing Federation decided to abandon its active involvement in self-regulation and focus on broader information and educational efforts in marketing and influencing public opinion. The new federation CEO who took office in 1968, Jan Gillberg, also lacked his predecessor Claesson’s long involvement in self-regulation. With a background in the Conservative Party, he instead had a keen interest in the public debate on advertising and marketing. He saw a role for the federation in countering the ideological criticism that insiders thought often characterized this debate. To do this effectively, he thought members needed to be both better informed of arguments for marketing, as well as become familiar with new communication techniques to match the critics’ able use of them. The Marketing Federation consequently started to develop various educational and informational services. *The Swedish Market* continued to be published, but the federation now also produced a large number of seminars, booklets and reports on various aspects of marketing, including regulation. It also offered a course in marketing economics and a fully equipped TV-studio that was used to

\(^{60}\) Brev från Gunnar. O. Nittzell till Sveriges Marknadsförbund, 21 april 1969. SMF. Sveriges Marknadsförbunds arkiv.
train company personnel to produce their own information material.\textsuperscript{61} It is also noteworthy that the Marketing Federation not only declined to be part of the Trade and Industry Committee on Marketing Law Policy, it also lacked representation on the new consumer state agencies. Why this was so is not known, but new CEO Gillberg’s staunch opposition to what he saw as a leftist turn in Swedish politics and public debate which colored the federation’s attitude to the new law might have played a part in this. Its formal comment on the Justice Department’s memorandum, co-signed by him and the federation’s chairman, was perhaps the most acerbic and critical of all insider comments, hardly making to state authorities regard it as seem an attractive corporatist partner in the new state regime.\textsuperscript{62}

The reason for the Retail Federation’s lack of interest in continuing with insider regulation was the opposite of that of the Marketing Federation. Unlike the latter, organized retail interests had considered self-regulation a second rate solution to its regulatory interests. The Retail Federation sought, as discussed in previous chapters, stronger regulation of particular marketing methods it considered a competitive disadvantage for its members. Foremost, it had wanted restrictions on premiums and “buy one, get one free” offers. This was made clear in its comment on the Committee on Unfair Competition’s report. Once the new law provided for such regulation, the Federation saw little use for self-regulation. In his letter regarding the council’s demand for extra payments, Retail Federation CEO K E Gillberg emphasized his organization’s strong support for the new state regime as a major reason for the disinterest in new insider initiatives:

\begin{quote}
We would also like to remind the council of the position we have taken due to the new situation arising thanks to the new law on marketing. In our opinion, the activities of the Consumer Ombudsman and the Market Court have created new conditions for countering unfair competition. Our direct contacts with these authorities have – at least so far – given us satisfactory possibilities to look after retail interests.\textsuperscript{63}
\end{quote}

That the Retail Federation continued to be a lobby group for a distinct segment of the retail industry is confirmed by sources. When its board in 1968 discussed if retail chains would be good members, it was declared that the

\begin{footnotesize}
\textsuperscript{61} Förslag till uttalande, i anslutning till Sveriges Marknadsförbunds årsförhandlingar onsdagen 21 maj 1969 har förbundsstyrelsen beslutat göra följande uttalande; Protokoll 1 1969/70 fört vid konstituerande sammanträde med styrelsen den 21 maj 1969; Förslag till berättelse om Sveriges Marknadsförbunds verksamhet 1969/70; Förslag till berättelse om Sveriges Marknadsförbunds verksamhet 1970/7; Protokoll nr.1 1972/73 vid ordinarie möte med representantskapet, 15 juni 1972. SMF. Sveriges Marknadsförbunds arkiv; Sveriges Marknadsförbund (1973); Gillberg (2008); Funke (2011a), pp. 101–102.


\end{footnotesize}
majority of the federation’s members mainly saw it as representing small independent businesses. One board member stated outright that it was impossible to let in the retail chains, as these were the main competitors according to him. This competition was increasingly pressuring members. In 1969, federation CEO Gillberg described how they were being squeezed between the increasing growths of various retail chains. A lengthy internal report on the future for retail in the 1970s also pinpointed how the number of small independent stores had sharply declined since the 1950s, while supermarkets and department store chains had expanded.

As acknowledged previously, a major federation incentive for law reform was that a prohibition or at least a tighter regulation of premiums such as “buy one, get one free” and various free samples and competitions would reduce competitive pressure from larger companies that unlike small businesses could afford to use this type of marketing. This interpretation is supported not only by the federation’s reasoning, but by statements made by the Federation of Industries. This peak organization for mainly larger manufacturers supported the new types of marketing that organized retail wanted to stop. It regarded the Retail Federation’s position as a desperate survival attempt by small businesses that no longer could compete. In its comment to the memorandum on the new law, the Federation of Industries implied that these new modes of marketing were something that larger retail actors could afford as they were able to buy large stocks of products at bargain prices. The federation argued that various premiums did not raise costs, but lowered them, as it was a cheaper way of marketing products – particularly new ones – than traditional advertising. It thus meant that this type of marketing constituted “a singularly tough competition for traditional channels of distribution” and prohibition would only “hold back competition by preserving traditional forms of distribution and profit margins. All this means higher prices for the consumer”, the Federation claimed. The last sentences referred to the fact that, until recently, smaller businesses had dominated in retail, but that new and, according to the Federation of Industries, more effective means of distribution were taking over. Here the federation opposed regulatory measures that would impede this development.

A reasonable interpretation is therefore that the Federation of Industries regarded the organized retail interest in the new marketing law as purely a way for small business members to get a competitive edge by robbing larger firms

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of marketing that the smaller ones could not afford. Internal statements support this interpretation. At a board meeting of the Federation of Industries on February 18th 1970, Lindh, who sat on the official state investigative Consumer Committee, said that there were problems with the Retail Federation, as it did not care for the wider market consequences that the Federation of Industries feared if the policies formulated in this official state investigative committee were to be realized. He stated that he saw a natural explanation for this in the fact that members of the Retail Federation were the victims of a structural trend on the market where they constituted a business form that was ripe for being done away with due to the increasing effectiveness of the retail trade.68 Lindh thus implied that small business oriented insider organizations were prone to support more state regulation of the consumer market. He even claimed that the Retail Federation and the Federation of Swedish Farmers’ Associations – another organization representing mainly small family-owned farms – even supported the dreaded ideas of “producer pressure” that the Social Democratic leaning factions of the Consumer Committee wanted, i.e. that state consumer agencies would be allowed to control not only products on the market, but have a say if a certain product was desirable given the supposed normative needs of the consumers.69 Given this situation and the fact that it had wanted new laws regulating marketing since the 1950s, it’s the Retail Federation’s disinterest in continuing with organized insider efforts once this law was in effect is understandable.70

Rapid Growth and the New Purpose of the Publishing Clearance Procedure

The Federation of Advertising Agencies’ reforms discussed in chapter six had been created owing to both inside and outside pressure. They thus aimed at elevating the competitiveness of the federation’s ad agencies after the demise of the cartel, as well as generally improving advertising’s public legitimacy and pre-empting state intervention. By 1969 the federation faced the challenge of implementing the reforms. Firstly, the Inspection Committee needed to get off the ground, to assist the Council on Business Practice and the Bureau for Marketing Complaints in shoring up post-production policing to quickly improve rule adherence, as it would take some time before the Advertising

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70 Sources do, however, show that the Retail Federation at least by the early 1980s had joined the NMD. Gillberg (1983), p. 78.
Publishers and their clearance procedures became operational. This project received a boost when the Advertisers’ Association early in the spring of 1969 showed interest in participating. This organization was keen to support better adherence to ethics among ad agencies as well as among its own. One reason for this was that the Advertisers’ Association hoped the system would make it harder for advertisers to switch ad agencies if the agency refused to go through with a campaign for ethical reasons. The two advertising affiliated insider organizations agreed that they would share the burden in financing and running the committees, contributing an equal number of members.71

The Inspection Committee became operational in April 1969, with four members and four deputies. It set its sight on press advertising, where a major share of ads occurred. After a year, it had contacted marketers about 275 ads that it considered in breach of the rules. Around 300 additional cases were handled the following 12 months. The committee had also specifically scrutinized advertising from the chemical-technical industry and the automobile industry. In a presentation of the Inspection Committee in a Federation of Advertising Agencies booklet discussing the ad industry challenges of the coming 1970s, the federation claimed that most members abided by the committee’s complaints and changed or withdrew their ads. Those that were in doubt had contacted the consulting Marketing Law Consultancy for further advice, the consultancy thus taking on the advisory function initially reserved for the Association of Advertising Agencies’ Ethics committee (chapter six). The booklet also claimed that the number of errands handled by the committee far surpassed those of the Council on Business Practice. The Inspection Committee thus lent robust support to self-regulation’s policing capacity.

The Federation of Advertising Agencies’ had on its part recruited appeals court judge Gustaf Petrén as chairman of the Council on Advertising Ethics, a new advisory body that would focus on being at the forefront of public debate and rule policy, which the federation would run together with the Advertisers’ Association. Petrén’s first task was to write a letter of instruction for the Inspection Committee, while Antoni was busy writing statutes for the Council on Advertising Ethics. Nonetheless, the Federation of Advertising Agencies exhibited some hesitancy regarding Antoni’s reform proposal to use internal sanctions against members who broke rules. It turned down his suggestion of excluding members that did not abide by the recommendations and decisions of the federation’s new regulatory agencies to instead rely on threatening such unrepentant ad agencies with public announcements. Still, the Federation of Advertising Agencies had every intention to make the new regime work. During the fall of 1969 the board of the federation sent out a dispatch to all CEOs and section chiefs of all member companies to emphasize that an effort be made to better adhere to the new rules and routines. Also, it was decided

71 Styrelsens protokoll, 28 januari 1969; Protokoll sammanträde jourhavande styrelsen för Svenska Annonsörers Förening, 6 mars 1969; Styrelsens protokoll, 23 april. SAF. Sveriges Annonsörers arkiv.
that the federation would ask the Council on Business Practice to publish the names of the ad agencies responsible for advertisements that were faulted by the council.\textsuperscript{72}

The implementation of the Advertising Publisher program was difficult as it was based on establishing publishing clearance on a firm level. There had to be a knowledgeable Advertising Publisher at every member company checking on ads beforehand. Initially, the ad agencies did not need to have a trained employee to fill this position. But after complaints from key members of the federation’s leadership in the fall of 1969 that the lack of mandatory education risked the initiative’s legitimacy, it was decided that the selection of non-trained Advertising Publishers would be allowed only until July 1\textsuperscript{st} 1970. From thereon, all would have to undergo a course with exams at the Advertising Agencies Development Institute to become certified. Also, the Advertising Publisher would be required to take regular courses and keep up with the decisions of the Consumer Ombudsman and the Market Court.\textsuperscript{73} The course provided extensive knowledge of statutory and self-regulatory rules in marketing, competitive practices, and intellectual property and trademark law.\textsuperscript{74} The first one was launched in January 1969 and was thereafter given continually. By the summer of 1970, it had been given 11 times, with around 40 pupils each time. Around 300 had by then passed, which meant that about 30 percent failed. This figure made Klinte, at the time head of the Advertising Agencies Development Institute, comment in a federation booklet that “as the mathematically interested can see, the percentage of failings has been relatively high.” The federation thus did its utmost to portray the clearance program as a serious endeavor that would make real difference.\textsuperscript{75}

The Marketing Law Consultancy had been made part of the Council on Business Practice’s institutional structure. However, operationally it had been created to support the Advertising Publishers by assisting them in determining the ethical and legal status of ads. It consequently had to be ready when the first Advertising Publishers became active. The consultancy was approved at the Council on Business Practice’s annual meeting of principals on April 18\textsuperscript{th} 1969 and was operational by May 1969. At the beginning of 1970 it had to hire additional staff in its Stockholm bureau and open branch offices in


\textsuperscript{74}The ARU course at RUI was comprised of 11 seminars, with both practical and theoretical aspects, ending with a written exam. Eight teachers were engaged in tutoring, and two experts independently graded exams. Svenska Reklambyrå Förbundet (1970a), pp. 24–25.

Gothenburg and Malmö. Working as a consulting firm, all documentation was classified and clients could count on total discretion. The consultancy had a strong standing in the self-regulation regime’s policing, as every federation agency had to abide by its decision.76

The Information Committee had stated in its 1969 annual report that an important aspect of making the clearance program and other recent regulatory measures successful was communicating them to the advertising industry. The Federation of Advertising Agencies made sure the Advertising Publisher initiative was publicized in PR-booklets, annual reports and press articles. But the federation also got other insider organizations on board. In the early spring of 1970, the Marketing Federation and the Federation of Advertising Agencies agreed that Fride Antoni of the Federation of Advertising Agencies and Jonas Modig of the Marketing Law Consultancy should visit a number of the Marketing Federation’s marketing societies and outline the reforms. This co-operation, however, went sour. Soon after the agreement, Antoni and Modig accused the Marketing Federation of supplying outdated background material and being responsible for double bookings. Nevertheless, the Marketing Federation shortly thereafter produced a compendium that detailed the bill for the new marketing law and the clearance programs. The collaboration between the Federation of Advertising Agencies and the Newspaper Publishers’ Association was smoother. The Educational Committee of the latter organization, TUN (Tidningarnas utbildningsnämnd), hosted a special meeting on September 22–23rd 1969 called “The Loss of Public Confidence in Advertising”. The proceedings from the meeting were released as a booklet by the committee and included a presentation of reforms by the Federation of Advertising Agencies’ CEO Melesko.77

Summarizing thus far, it is clear that the Federation of Advertising Agencies went to great lengths to quickly create a legitimate and well-known system of marketing policing. It had even made sure that while the clearance program was under construction, new post-production policing units would pitch in to try to speed up producer adherence to rules even before the Advertising Publisher clearance program became fully operational. Their efforts also had effect, as the Advertising Publisher program was given a positive evaluation by the Justice Department.78

However, the dynamic development of the reform scheme was faced with an uncertain future as it became known during the second half of 1969 that an

extensive state regime for marketing regulation was waiting in the wings. This challenge led to different outcomes for various parts of the reform project. While, as already stated, the policy oriented Council on Advertising Ethics and post-production policing unit the Inspection Committee seized to be active, the clearance programs began to expand. As early as April 18th 1969, Folke Beronius from the Federation of Advertising Agencies commented on his organization’s clearance program and stated at the Council on Business Practice principals’ annual meeting that “eventually all [types of] media will take part in this form of self-regulatory activity, covering the whole field.”

In the earlier mentioned memorandum from November 11th 1969, Council on Business Practice CEO Tengelin also strongly recommended business to put future regulatory efforts into the clearance programs and expand them beyond the ad agencies, as the state apparently would concentrate on post-production regulation, leaving clearance to insiders. A major insider incentive for clearance procedures was also the fact that transgressions could now have serious legal consequences. By 1970 it was apparent that the new law could make a company CEO responsible for criminal offences if a campaign ended up convicted by one of the law’s special statutes. As possible punishments included a jail sentence and heavy fines, this was an uncomfortable scenario, as many companies were of such a size that it was impossible for the CEO to have knowledge of all marketing efforts.

Due to such new legal risks, the Advertisers’ Association appointed a committee in the spring of 1970 to look into the possibility of instating a program analogous to that of the Advertising Publishers’. It then decided to do so, and created the Delegated Advertising Controllers (Delegerad reklamansvarig). This concept was based on an interpretation of the new marketing law that it would be possible to delegate legal responsibility to someone else in the firm, given that this person was informed and capable of identifying transgressions. The association quickly organized a massive educational campaign for member companies. It set up one-day seminars at five Swedish cities during the fall of 1970 with the aim of getting as many controllers trained as possible before the new law was implemented. Once the seminars had been held, the

association also created a list of all Delegated Advertising Controllers and sent a copy to the Consumer Ombudsman and the Market Court, projected to be updated every three or six months. These efforts to get the clearance initiative sanctioned by state authorities paid off, as the office of the Consumer Ombudsman stated it looked favorably on it. By the end of the year, the association claimed that most member company CEOs had handed over legal responsibility to a Delegated Advertising Controller, usually the head of the marketing department. The Newspaper Publishers’ Association made a comparable attempt during the fall of 1970 when it organized seminars to train Ad Inspectors (Annonsgranskare) for member papers. The course was aimed at various managerial positions in marketing departments, as well as CEOs, publishers and editor-in-chiefs. Unfortunately, not much is known about the extent or success of this program.

From A Broad to Co-Regulatory Strategy

Looking at causes for the intense regulatory activity during the last phase of regime transition, outside pressure seems increasingly the main culprit, with reforms trying to pre-empt laws or at least influence the direction of the coming state regime. That the establishment of the Advertising Publisher programs and the 1968 reforms centered around the Council on Business Practice were meant to prohibit harder statutory laws on marketing was clearly stated in a memorandum drafted by the Newspaper Publishers’ Association sometime in 1969. The memorandum stated that facing a new Swedish or possibly Nordic law on marketing practice, a number of reform initiatives from organizations representing the ad agencies, the advertisers and the newspaper publishers had been implemented to sharpen self-regulation and avoid tougher laws than those at the present. However, despite these measures the memorandum stated that it was “highly unlikely that this will succeed. The government seems to already have set its mind on a specific new attorney function, the Consumer Ombudsman.”


84 Tidningarnas Utbildningsnämnd. Utbildning av annonsgranskare m fl. 1970, Svenska Tidningarnas Utbildningsnämnd, Stockholm. ÖÖ Bihang VIII: 1, Tidningarnas utbildningsnämnd (TUN). RA.


86 Pressens självsanering. Lagstiftningsinitiativ inom tryckfrighetsrättens och reklamens/marknadsföringens område aktualiserade utbyggnad av olika självsaneringsorgan i Sverige. The
The memorandum concluded that more forceful state action against advertising was to be expected. The changes presented business with a difficult situation that could no longer be avoided, and it would have to carry on as best it could. 87 Despite the letter’s defeated tone, the last days of self-regulation also tell another more upbeat story regarding insider regulation efforts. By the time the memorandum from the Justice Department outlining the new state regime had arrived, insiders had realized that their chances of avoiding stricter state regulations were very slim. At this point there was a reverse in strategy regarding policing, with insiders switching from a broad regulatory strategy aimed at pre-empting state regulation to a co-regulatory one.

In his memorandum from November 11th 1969, Council on Business Practice CEO Tengelin proposed that business establish close contacts with the new state agencies and expand the clearance programs. Thus he suggested a co-regulatory strategy. 88 The transformation of the Council on Business Practice regime that took place during the fourth phase of regime transition clearly indicates that many insider principals agreed with his conclusion and quickly changed strategy. Most likely, they hoped this would give them some influence on the evolving practice of the new regime. The change is apparent as soon as insiders judged the new set of laws as inevitable. Insider’s formal comments on the Justice Department memorandum presenting the new law and its accompanying agencies reflected this new approach, perhaps most succinctly put in the ending of the Federation of Wholesaler Merchants and Importers’ formal comment from December 30th 1969, co-signed by federation’s vice CEO and future deputy CEO of the Trade and Industry Committee on Marketing Law Policy, Iwan Ahlström. The comment underlined that importance of developing close cooperation between the Consumer Ombudsman, the Market Court and the business community and stressed that implementation of the new laws had to be based on such cooperation to avoid unnecessary constraints in market freedom. On self-regulation he stated that:

The business community will continue its activity in this area in such a manner suitable after the implementation of the law. Given this, possibility for developed cooperation should thus be good. 89

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87 Pressens självrensning. Lagstiftningsinitiativ inom tryckfrifhetsrättens och reklamens/marknadsföringens område aktualiserade utbyggnad av olika självsaneringsorgan i Sverige. Svenska Tidningsutgivares Förenings arkiv. F 5: 64. RA. TU (Tidningsutgivarna) is the Swedish acronym for the Newspaper Publishers’ Association.
This strategy of striving for regulatory cooperation between insiders and outsiders was not entirely a wild gamble on the part of insiders. In its documents preparing the new law, the Justice Department had stated that “voluntary contributions from the business community will henceforth also be of essential significance.” Insiders were thus encouraged to continue with regulatory efforts. Still, if these were to have any influence on the larger scheme of things was up to them. One thing that gave insiders an advantage in realizing such a goal was that there was still ample time until the new state regime went into effect. Research on policy processes has highlighted the importance of time as a key variable in explaining policy outcomes and actor strategies. By manipulating a process, either slowing it down or speeding it up, actors can increase their chances of breakthroughs while making it harder for competing policies. Insiders’ regulatory strategies during last phase of regime transition are good examples of this. By utilizing the time lag between the presentation of the marketing new law in 1969 and the actual implementation of the regime a year and a half later, insiders were able to come up with an updated version of self-regulation that was adapted to the coming regulatory landscape. Hence the fervent reform activity during 1970 to present the state regime with a new and fitting business partner. In his 1971 book on the coming law, Federation of Advertising Agencies reformer Antoni underlined that although it was not possible to be sure how it would be applied or develop, he had concluded that once the law was implemented insiders would be ready, as the business community by then would have made considerable new efforts in self-regulation. However, analysis shows that insiders not only wished to be more capable of meeting the new demands placed on them, they also wanted to influence the implementation of the new state regime. That the advent of state regulation now was perceived not only as a constraint, but as a possibility to try to match or even compete with the state in regulation as well was echoed by the Federation of Advertising Agencies’ Chairman H. Patric Bergman. In the April 1970/March 1971 annual report of the federation he stated that:

The business community should be the one to take initiative [for regulations] instead of being forced to abide [after new regulations are a fact]…we should…complete all the measures that we otherwise will be forced to comply with through state intervention and state restriction.

The decision to transform the Council on Business Practice into the Trade and Industry Committee on Marketing Law Policy and have the Marketing Law Consultancy establish a close relationship with the Consumer Ombudsman


Schmitter and Santiso (1998); Goetz and Howlett (2012).


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also reflected the switch to a co-regulatory strategy. Nonetheless, the policing efforts of the clearance programs were of crucial importance for the successful coalescing of a co-regulatory structure. As the attempt at using the liquidation process of the Council on Business Practice to engender cooperation with the Consumer Ombudsman failed, policing through publishing clearance became a key asset in influencing the state regime. Although they were created to support and expand the capabilities of self-regulation, the clearance programs were not dependent on it to function. The key principle was that clearance procedures would facilitate adherence to any regime, regardless of who set the rules. Insiders thus now tried to influence the state regime into functioning as an ally and an extension of their goals. In the fall of 1969, when the Federation of Advertising Agencies’ reforms were discussed at the special meeting on the loss of public confidence for advertising hosted by the Newspaper Publishers’ Association’s educational committee, they were presented by Federation of Advertising Agencies’ CEO Melesko as having the goal of putting the new Consumer Ombudsman “out of work.”94 A co-regulatory strategy was also openly declared in an internal memorandum of the Federation of Advertising Agencies from January 27th 1970. When discussing a special issue of the federation’s trade paper *the Advertising Industry Review* (Resumé) on the impending law and self-regulation, the memorandum stated that an article published in the paper on the Marketing Practices Act would mainly try to show how well our own system for production control [of advertising] through ARU95 fits into the future pattern [of state regulation] and safeguards our initiative. Even in the future the effect of regulation will be highly dependent on how well we are able to make the ARU-system work.96

More evidence of this change in insider strategy is evident in the formal insider comments on the memorandum on the impending new state regime from the Justice Department. Many mentioned the Advertising Publisher program and stated that business expected the new state agencies to supply the program with detailed accounts of their practice to facilitate its running. The Federation of Advertising Agencies comment in particular declared that administrative personnel in state agencies needed firsthand experience of marketing ethics. According to the federation, the best way to acquire this would be for staff of these agencies to take part in the work of the Council on Business Practice during 1970 and participate in the same training as the Advertising Publishers. The clearance procedure was thus depicted as an important part of future advertising regulation, a “fact on the ground”, which the new regime needed to successfully regulate the market. Insiders here

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95 ARU is the Swedish acronym for Advertising Publisher (Ansvarig reklamutgivare).
96 Riktlinjer för ett program från SRF i anledning av Reklamutredningens rapport om reklamens normenlighet. 27 januari 1970. SRF. Sveriges Kommunikationsbyråers arkiv.
tried to emphasize the interplay between their clearance policing and state efforts in education and information, while downplaying the post-production policing carried out by the Consumer Ombudsman and the Market Court. The Federation of Advertising Agencies comment put this bluntly in affirming that the main task of the state regime could not be to chase offenders, but to work in a preventive mode through practice formation and dissemination of practice to producers, helping pre-empt bad advertising. As this was the approach of the Advertising Publisher program, such emphasis made clear the ambition to tie the operational capacity of the Consumer Ombudsman and the Market Court to it.97

The co-regulatory strategy was also reflected in international contacts. At the end of 1969, the Federation of Advertising Agencies was suddenly caught up in a problematic situation due to a letter from the international peak advertising industry organization, the European Association of Advertising Agencies, of which it was a member. Although the original letter has not been found in Swedish archives, the Federation of Advertising Agencies reply from January 13th 1970 indicates that the European organization had criticized the proposed Swedish Marketing Practices Act as an ideological tool of the Social Democratic government. The international peak organization also appeared to have taken a stand for self-regulation as the best way to regulate advertising and free market competition as the preeminent method to organize the consumer market. This was now, according to the European Association of Advertising Agencies, threatened by the coming law, which would lead all Swedish advertising to be considered misleading, until proven otherwise. In its reply letter to the international organization, the federation stated that

the reasons behind the legislation in Sweden – whether of an ideological nature or not – seem to us professional practitioners of advertising and marketing to be irrelevant. What matters is the aim and the practical end results – protection of the consumer.98

The Federation of Advertising Agencies also refuted the idea that free competition existed in the real world, stating that it was always subject to legislative measures and local rules of one kind or another. While it noted the political interpretation placed by the European Association of Advertising Agencies on the new Swedish laws and state agencies, the federation could, as representing a non-political professional interest, not find that this was its concern. It also said it supported self-regulation as preferable to state law, but that it did not share the European peak organization’s opinion that

voluntary control systems were necessarily more efficient than legislative measures. The federation also claimed that new marketing laws would enable serious advertising professionals to better deal with those few colleagues in the industry who regularly transgressed rules and created problems for the majority of serious advertising practitioners. The Federation of Advertising Agencies stressed that it supported the stance of its delegates at a recent European Association of Advertising Agencies’ conference in Milan to reject the European peak organization’s approach. The federation ended its letter by referring to a draft resolution on consumer protection against misleading advertising by the Council of Europe Working Party no. 1, sent by the European peak organization to the federation on December 11th 1970. The resolution stated that it was up to local and national organizations to implement the principles of the resolution “in the light of their special problems, experiences and traditions.”

The exchange of letters revealed the conundrum facing the Federation of Advertising Agencies and its members on the eve of the introduction of an extensive state regime whose consequences were unknown. On the one hand, it was prepared to criticize some aspects of the state new regime and try to dampen its potential severity by suggesting cooperation with clearance procedures and other types of insider-run regulation. On the other, however, the federation was not willing to challenge its legitimacy outright or condemn the new state regulation within a political context. This would most likely have made it impossible to suggest or implement a symbiosis of the state regime with insider clearance policing. Therefore it did not want to be dragged into a battle with the government because an international peak industry organization associated Swedish self-regulation with free competition and its marketing law with a socialist stifling of producer rights. Boddewyn comes to a similar conclusion regarding overall business strategies when discussing Swedish consumer policy during the 1970s and early 1980s. Referring to Hirchmann’s theory of actor choice, he states that organized Swedish business largely chose “voice” and “loyalty” over “exit” when confronting the new regulatory landscape.

Consequently, by taking a conciliatory approach and applying a co-regulatory strategy, insiders betted on having more influence on regulation through participation than by attacking it. As already discussed in conjunction with the transformation of the Council on Business Practice, the initial reaction from the state appeared to validate the strategy. The head of the Consumer Ombudsman agency, Consumer Ombudsman Sven Heurgren, responded positively to the Advertisers’ Association’s Delegated Advertising Controller initiative when contacted by Advertisers’ Association CEO Wiege in September 1970. When Heurgren visited the annual meeting of the Federation of Advertising


Agencies on November 18th 1970, he gave assurances that he thought both the Advertising Publisher program and the Marketing Law Consultancy were very good initiatives, and that his office would establish close contacts with them once they got started. In trade paper Advertising News (Reklamnyheterna), Heurgren also made appreciative statements of both the advertisers’ and the ad agency associations’ recent regulatory efforts, adding that it was advantageous that there existed people who knew the new marketing law and worked to implement it. He also received backing for this stance from the government, as Carl Lidbom from the Justice Department, one of the architects of the new law, wrote in legal journal Swedish Legal Review (Svensk Juristtidning) in 1971 that he wanted to emphasize that the Consumer Ombudsman would save coercive measures for situations when all deliberation had failed. He also stated that the ombudsman “shall cooperate not only with organizations that represent the consumers, but very much so also with business.” The co-regulatory strategy thus seemed to get off to a good start.

Another piece of evidence that the co-regulatory strategy paid off was a statement in the 1971 issue of the Advertising Industry Review (Resumé) that reviewed Federation of Advertising Agencies reformer Antoni’s book on the new marketing law. The review described him as being worthy of praise for being the first in the advertising industry to realize that the labor movement’s consumer policies would change conditions for marketing. Without his work in the Federation of Advertising Agencies and the Council on Business Practice, it concluded, there would have been less advertising goodwill and the new laws even stricter. A few years later, in 1973, Federation of Advertising Agencies CEO Lars G. Johansson made similar statements in the same trade paper, concluding that these self-regulation reforms had been invaluable in establishing business organizations as reliable and trustworthy partners in the eyes of the state authorities.

The initial insider optimism over the new regulatory landscape would, however, gradually dissipate, as the office of the Consumer Ombudsman became tougher in its ambitions to regulate marketing in the early 1970s, while new laws and policy proposals from the official state investigative Advertising Committee went against business interests. Trade press would increasingly start to describe the state regime as a hindrance for marketing and part of a state agenda to suppress a market economy.

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102 Svenska Annonsörers Förening verksamhetsberättelse 1970. SAF. Sveriges Annonsörers arkiv.
Conclusion

The major development during the fourth phase of regime transition, the downfall of the self-regulation regime in 1971, can be traced to a number of causes. One factor was – again – lack of resources for handling complaints. During 1969, a record number of complaints arrived, swamping the office of the Council on Business Practice. Despite numerous previous efforts to fortify its capacity, the council was unable to keep up with developments. Given the situation, criticism from Justice Department lawmakers that the council was unfit to uphold consumer rights due to a shortage of resources, lack of coercive powers, failure to make its rulings well known and the domination of business interests could not be easily refuted. Although reforms during phase three certainly had pushed policing as key task – a fact which was formally acknowledged by the state – they were nevertheless condemned by state officials for being too little, too late and too biased. Changes steering the regime into becoming a fully-fledged broad regime were at this point not enough to placate the government. It should also be clear that insider attempts to pre-empt a state regime by trying to influence key official state investigative committees, discussed in more detail in the previous chapter, failed. During the final phase of regime transition, it became evident that this strategy would not work, as the state discarded the suggestions from these committees and instead proposed a law reform that was more in line with the labor movement’s consumer policy.

As the new state policies replaced the Council on Business Practice with established state corporatist institutions where insiders had a less dominant representation, insiders saw a need for an heir to the Council on Business Practice. As a result, a majority of insider principals supported a transformation of the Council on Business Practice into a new type of agency, more suited to function in the new regulatory landscape. The Trade and Industry Committee on Marketing Law Policy was consequently formed to represent collective business marketing interests. It quickly established corporatist interaction with state authorities, was referred to for comments when the Consumer Ombudsman considered institutional reforms and later on negotiated with the ombudsman on various producer guidelines. While regime change meant insiders lost power over market rules and market practice, the Trade and Industry Committee on Marketing Law Policy retained some insider influence through the corporatist structure that gave it a deliberative role in policy formation. This role was reinforced by the fact that several business principals on the committee also represented business on the boards of the new state agencies, the Consumer Ombudsman and the Market Court, enabling them to coordinate the marketing policies of the new insider agency with those of the state. Besides being a regulatory partner for new state agencies, the Trade and Industry Committee on Marketing Law Policy also provided arbitration in competitive conflicts between marketers, continuing
in the deliberative vein of its predecessor. Unlike the work of the Council on Business Practice, however, these cases were shielded in secrecy. Insiders thus took the opportunity to re-create the closed business environment that had been typical of the narrow regimes to avoid negative public exposure. Therefore the value for transparency remained at a medium level in the new Swedish co-regulatory regime, despite its ideal value being high.

While the advent of the state regime caused the demise of post-production and rule policy structures such as the Council on Business Practice, the Bureau for Marketing Complaints, the Council on Advertising and the Inspection Committee, it had the opposite effect on the clearance programs. A major reason for this was that the clearance system was not dependent on the creation or control of rules to be valuable. As a form of clearance policing, it only concerned itself with rule adherence and worked regardless of what rules were issued or who controlled them. The new marketing law only meant extra outside pressure on the Federation of Advertising Agencies to quickly implement its clearance program. Having about 18 months to accomplish reforms before state regulation took hold, insiders utilized the time frame between the presentation and implementation of the state regime to quickly enlarge the initiative. The improved relations between the ad agencies and the media carriers and the advertisers following on the extensive reform program of the Federation of Advertising Agencies now contributed to the clearance system quickly expanding to also include programs by the advertisers and the media carriers. During 1970, the Newspaper Publishers’ and the Advertisers’ Associations instituted their own clearance programs. This created a publishing clearance system that covered the three major groups of insider actors on the consumer market – a tripartite structure that the literature on advertising regulation has proposed as the most effective way of making self-regulation work. By the time the state regime was in place, insiders could consequently present themselves as a reliable and serious regulatory partner. This mandated a switch from a broad regulatory to a co-regulatory strategy, abandoning attempts to save the broad regime and instead trying to get state agencies to cooperate with insider agencies and the clearance programs. This seemed to get off to a good start, as the head of the new Consumer Ombudsman office welcomed the clearance programs and proposed close contacts with these new insider agencies set to monitor the reforms. As a consequence, these last minute insider initiatives, and particularly the clearance programs, saved insiders from having self-regulation replaced by a pure state regime.

Still, the transition from a broad self-regulatory regime to a co-regulatory one caused some insiders to defect. Superficially, this was related to internal conflicts connected to a squabble on the financial responsibilities for winding down the Council on Business Practice. With the council demanding a larger payment from principals than expected, both the Marketing Federation and the Retail Federation took serious offence and refused to pay. Both organizations also decided not to partake as principals in its successor agency. However,
there were deeper and more long running issues that affected their stance. That the Retail Federation decided not to participate was mainly due to its long negative perception of self-regulation as a way to solve competitive problems in marketing. The federation instead championed stronger marketing laws, and once these were implemented, it lost interest in self-regulation. In addition, the powerful position that corporatism awarded the Retail Federation on the boards of the new state agencies of the state regime for marketing regulation, combined with the increased competitive market its members encountered in the 1960s, most likely were essential for the federation to abandon self-regulation.

The Marketing Federation, on the other hand, had gone from being one of the most influential insiders on self-regulation policy to becoming increasingly marginalized after the 1957 merger. It had failed to get a number of reform packages off the ground, while production and distribution affiliated organizations increasingly took control of the self-regulation regime. This marginalization continued with the introduction of the clearance system. As a peak organization, it had no given function in the system, while advertising affiliated organizations representing media carriers, advertisers and ad agencies were essential for its formation and continuation. The federation thus decided to focus on PR work, influencing policy though public debate and defending what was perceived as an attack on marketing and liberal democracy led by a radicalized labor movement.

In conclusion, the last phase of regime transition terminated a decade of self-regulation transformation that had made the regime evolve into an in-

Figure 7.1. Regime transition during phase four.

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<th>1969</th>
<th>1971</th>
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<tr>
<td>Regimes</td>
<td>Council on Business Practice + Clearance programs.</td>
<td>State regime + Clearance programs + Trade and Industry Committee on Marketing Law Policy</td>
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<tr>
<td>Rule Control</td>
<td>Insider</td>
<td>Outsider</td>
</tr>
<tr>
<td>Participation</td>
<td>Insider + outsider</td>
<td>Insider + outsider</td>
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<td>All stakeholders</td>
<td>All stakeholders</td>
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<td>Key task</td>
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<tr>
<td>Transparency</td>
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creasingly broad regime. However, in the end, a determined government set on introducing extensive legal and administrative measures cut its existence short. But thanks to the appearance of clearance policing and the decision to restructure the Council on Business Practice into the Trade and Industry Committee on Marketing Law Policy, insiders were able to maneuver the new state regime into accepting a co-regulatory structure for policing and, to some extent, even allow insider influence on rulemaking.
CHAPTER EIGHT
Regime Transition in Self-regulation:
Summary and Conclusions

This thesis concerns the historical development of self-regulation. More specifically, the aim is to understand the causes behind regime transitions in the self-regulation of Swedish advertising from 1950 until 1971. The self-regulation of advertising in Sweden came into being in the mid-1930s, thanks to a number of business interest organizations. The aim was to fill in for the absence of the state regulation of marketing that business desired and pre-empt state regulations it did not want. Initially, two similar regimes of self-regulation were formed. The larger and dominant one was controlled by advertising affiliated organizations, with a peak business organization for marketing – the Advertising Federation, later renamed the Sales and Advertising Federation – as principal. With the exception of the federation, these organizations represented various advertising interests among advertisers and advertising industry groups, such as ad agencies and media carriers. The other, smaller regime had a number of organizations that represented manufacturing, retail and wholesale as principals whose main interest in advertising was as advertisers. These are here classified as production and distribution affiliated organizations. Many of their members, however, also had a presence in the other regime thanks to the Advertisers’ Association, which looked after their interests in the advertising industry, mainly by interacting with organizations that represented the ad agencies and media carriers. While self-regulation during the first two decades was a modest operation reliant on education and information rather than market policing, the 1950s and 1960s were characterized by far-reaching and continual development. During this time the two regimes merged into one, participation from both inside and outside stakeholders increased, and rules of regulation and policing evolved and were extended. When self-regulation was superseded by state policies, it had completely changed in appearance. By then, it included several interlocking systems, of which significant parts survived the introduction of the state regime, contributing to the establishment of co-regulation. This historical fact has been the point of departure for the empirical analysis carried out here – how can the rapid regime transitions in the postwar era be understood?

The existing literature allows us to identify four major regime transitions that occurred in 1957, 1964, 1968–69 and 1971. The first of these was the 1957
merger of the two interwar period regimes, centered around a main regulatory agency, the Council on Business Practice (Näringslivets Opinionsnämnd). This ushered in a number of new insider principals in the self-regulation of advertising, mainly affiliated with the advertising industry. Also, two consumer representatives were now made part of the council, albeit appointed by the business organization, the Sales and Advertising Federation. The second transition took place in 1964, when consumer representation was both broadened and strengthened as three peak trade unions, the LO, the TCO and the SACO, as well as the Swedish Housewives’ Association and the National Council for Consumer Goods Research and Consumer Information, were brought onto the Council on Business Practice, replacing those consumer representatives selected by the Sales and Advertising Federation. To further emphasize the change, the first four organizations were also made principals of the regime. A third transition occurred during 1968–69, with the most significant reform being the introduction of a pro-active policing Consumer Ombudsman-like agency that reported cases to the Council on Business Practice and a clearance program instituted on the firm level for ad agencies. A final and fourth change occurred during 1971, when insiders behind the regime adapted to the introduction of state consumer regulations by replacing the Council on Business Practice with the Trade and Industry Committee on Marketing Law Policy (Näringslivets Delegation för Marknadsrätt). This agency deliberated with state authorities on the implementation of state policies and also functioned as a court of arbitration for competitive conflicts. Furthermore, insiders continued with the clearance programs, which at this point also included the advertisers and the press.

The thesis has dealt with the policy processes leading up to these four points of transition. To uncover the processes, I have departed from an actor perspective, arguing with the support of both empirical and theoretical literature that the focus should be on the actions of the business interest organizations – the inside stakeholders of the regime – that usually create, uphold and develop self-regulation. This decisive influence makes it crucial to uncover their role in the policy process, and the analysis has therefore centered on regime change as contingent on their agency. I have also tried to further the development of a methodological and theoretical approach that allows for both a more detailed account of regime transition in self-regulation, as well as a better understanding of which factors and interests are central for insiders when discussing and formulating policy strategies. To accomplish this, I have suggested a theoretical model with a number of variables for analyzing transition between regulatory regimes, as well as an actor-centered approach that divides those with an interest in regulation into two groups – inside and outside stakeholders. Insiders are made up of producers – in their capacity as actors on the consumer market also known as marketers – while outsiders are represented by consumers, civil society and the state. Of these, inside stakeholders are deemed the most central for regime development, as
they create and uphold the regime. Summing up, the thesis focuses on the formation of inside stakeholders’ regulatory strategies, and how these can be tied to their market interests and varying levels of exposure to regulation and public badwill. This model is presented in detail in the first chapter.

Briefly, the regime typology presents three alternative modes of regulation: narrow self-regulation, broad self-regulation and co-regulation. Each regime is ideally classified by looking at the value of five variables: rule control, participation, interests and rights, key task and transparency. Of these, rule control and participation are decisive variables, i.e. these two variables must possess the ideal value for a regime to be classified as narrow, broad or co-regulatory, while the others have an ideal value for a specific regime type that is expected, but not mandatory for classification. A narrow regime is dominated by insiders who control rules and run the regime. Outsiders do not participate, and the regime mainly defends the interests and rights of insiders, has education and information as the key task and has a low transparency. A broad regime is also dominated by insiders, who control rules, but outsiders do participate, the interests and rights of both insiders and outsiders are defended, policing is a key task and transparency is at medium level. A co-regulation regime is to a large degree constrained by outsiders as the state governs rules and can subject policy implementation to review. Nevertheless, implementation is in the hands of insiders. The interests and rights of all parties are upheld, while policing is a key task and transparency is high. Regarding strategies, three ideal types are suggested that all strive for a particular form of regime: a narrow, broad and a co-regulatory strategy. Insiders’ strategic choice is informed by the trade-off between insiders’ wish for high levels of regulatory control and the desired conditions for profitability that come with it on the one hand, and, on the other, the increasing heightened risk of vulnerability to loss of consumer confidence and state intervention that come with increasing levels of insiders’ regulatory control if regulatory problems arise. In short, a narrow strategy affords high levels of desired conditions for profitability and regime control, but also high levels of vulnerability to loss of consumer confidence and state intervention, a broad strategy has medium levels of all variables, and a co-regulatory strategy low levels.

Finally, and crucially, there is a third part of this theoretical model that is a hypothesis especially developed for analyzing changes in advertising self-regulation that are thought to be dependent on a factor that previous research in advertising self-regulation has indicated is important, but empirically less studied: tensions and power asymmetries among insiders. According to this exposure hypothesis, the main industry groups affected by marketing regulation of advertising are advertisers, media carriers and the advertising agencies. Although all are expected to generally support any of the three regime types of alternative regulation before state regulation, as these afford greater chances of the desired conditions for profitability, they are thought to differ on what type to favor due to varying levels of exposure to regulation
and badwill. Advertisers and media carriers dominate the advertising market as their profit motives underwrite their large demand for advertising. Their brands and media outlets are quite visible and well-known to the public. Due to this, advertisers and to a lesser extent media carriers are more exposed to being subjected to regulation, as well as badwill, than ad agencies, whose market role in advertising is much smaller and not that well known to the public. This would make the first two industry groups, and perhaps particularly the advertisers whose brands are common targets of advertising criticism, keener on creating a stricter and expanded form of alternative regulation to avoid falling consumer confidence and state intervention, conditions expected to affect their profitability in a negative way. They are therefore expected to be more open for broad self-regulation and even co-regulation, especially if they actually face falling consumer confidence and state intervention. In turn, the advertising agencies, with a more sheltered market position and a competitive dependence on creative freedom, would due to their decreased exposure to regulation and badwill be more inclined to support narrow self-regulation.

Results of the Empirical Analysis

The thesis has centered on two research questions: a) how regime transition can be explained by insiders’ regulatory interests and strategies, and b) how the development and choice of these strategies can be understood. The second question requires answers to the following important queries: whether there were different strategic choices among insiders, and if so, how are these explained? Also, did these change over time, and if so, why? To answer, I begin by addressing the overall importance of inside and outside pressure. Then, I shift attention to the policy processes preceding the regime transitions and analyze how the motives and actions of various inside stakeholders influenced them.

The results indicate that insiders’ regulatory strategies were shaped by both inside and outside pressure for regime change. A recurring inside pressure on the regime was the expansive consumer market that thanks to postwar economic growth kept getting bigger, increasing demand for marketing and leading to more competitive conflicts, which generated an increase in complaints regarding advertising. This forced self-regulation agencies to persistently expand their case handling capability. Insiders repeatedly tried to increase financing for regime agencies, and after the 1957 merger there was also a continual addition of more regime principals to get extra manpower on the Council on Business Practice.

This brings us to outside pressure. By the mid-1950s, an increasingly vocal criticism of advertising made itself heard. Critics included public intellectuals, politicians, economists, consumer activists, journalists and trade unions. Advertising was accused of misleading consumers and having
both economically and socially negative effects by acting as a spearhead for oligopolistic brand markets and obsessive materialism. Many demanded stricter state regulation of advertising. During the second phase of regime transition, this became more and more worrying for insiders, and the 1963 decision to include trade unions, a women’s association and the state as consumer representatives can be interpreted as a broad regulatory strategy aimed at appeasing critics who derided the industry for being careless and considered self-regulation a biased and ineffective affair. A similar explanation can be offered for insiders finally choosing to implement massive pro-active policing efforts as a second wave advertising criticism, this time even more vocal and politically radical than before, pounded Swedish business during the end of the 1960s and beginning of the 1970s.

However, while such more general references to inside and outside pressure are often used to interpret change in the self-regulation of advertising, for example by Baggott and Harrison, Hansen and Law, Miracle and Nevett, and Pope, they are too simplistic as a causal explanation for specific transitions taking place over a long time period, especially in a regime involving many inside stakeholders. For example, they do not answer the question of why the Swedish business community, despite criticism of not living up to protecting consumer rights, refrained from policing in a more encompassing and ambitious manner until the very end of the studied time period. Nor does they explain why there seemingly was such a haphazard regime development, with periods of calm followed by a flurry of reform activity, and why certain insider groups presented an initiative at a given time, for example the clearance procedures that were launched by the ad agencies in the late 1960s. To answer these questions, the study has taken a closer look at the policy processes leading up to regime transitions. A detailed analysis of these is available at the end of each empirical chapter and will not be repeated here. Instead I will discuss in a more general manner how one can explain regime change in the postwar Swedish self-regulation of advertising. Four main results are highlighted:

1) Insiders were not heterogeneous and did not always share the same interests. This created conflicts over regulatory policy, which had a major influence on regime transitions.

2) With multiple inside stakeholders with opposing regulatory preferences vying for control over policy, power relations among them were pivotal for both failure and success.

3) A consequence of internal tension were hybrid regimes.

4) Key task rather than participation was at the center of policy tensions among insiders.
Insider Tensions Defined Regime Transitions

Gupta and Lad suggest that intra-industry coordination is more vital for a self-regulation regime to be successful than inter-industry coordination, implying that many insider principals from various industries can lead to conflicts and regime instability. However, it is important to understand how industry preferences come into play when tensions arise among insiders. The key to understanding regime transitions in self-regulation lies in interpreting the interests and interaction between the three main industry groups: advertisers, media carriers and advertising agencies. While having business dominated self-regulation govern fair competition and act as a shield against state intervention generally found broad support among most insiders, analysis shows that growing tensions between advertisers and media carriers on the one hand and ad agencies on the other became a key factor in regime transition. These tensions can be given a plausible interpretation using the exposure hypothesis. Advertisers and to some extent media carriers in the Swedish postwar consumer market were clearly exposed to market regulation and public badwill and reacted to what they perceived as risk factors for their profitability: falling consumer confidence and an increased risk of state intervention. They therefore increasingly supported more encompassing and invasive regulations to boost consumer confidence and avoid unwanted state regulation. At the same time the ad agencies, not being as exposed due to lack of public knowledge of their activities, but dependent on creative freedom for competitive reasons, were less inclined to do so.

Although the two Swedish regimes initially had mostly narrow characteristics from their inception up until the start of the studied time period, by the first phase of regime transition differences in strategy had emerged. While the larger regime, unlike the smaller one, had incorporated interests and rights for consumers, the fact remained that it rested on education and information to uphold rules. The Sales and Advertising Federation had, besides its stewardship of the regime, also a chief responsibility to facilitate the spread and development of marketing. Here the federation adopted the position that marketing benefitted from regulatory freedom, and the narrow regime therefore served the higher purpose of supporting this freedom. Thus the leadership of the regime’s self-regulatory agency, the Council on Advertising Practice, worked hard to strengthen formal consumer rights, but did not do the same for policing initiatives. In fact, before the merger process, the larger regime curtailed the little pro-active policing that existed and also tightened secrecy in an effort to fortify the regime in relation to insiders. However, with advertisers feeling the pressure of badwill due to a rising criticism of advertising and at the same time wrestling with the competitive challenges and opportunities that came with a growing consumer market, the smaller regime initiated broad reform proposals that would make self-regulation a more policing-oriented regime.
Tensions due to these differences among insiders emerged in 1955 during discussions over a petition to constrain premium marketing. Several of the production and distribution affiliated principals of the smaller regime, as well as the Advertisers’ Association from the larger one, wanted a more policing-oriented regime, while narrow-leaning insiders of the larger regime such as the Sales and Advertising Federation and the Association of Advertising Agencies tried to downplay their concerns over badwill and state intervention by holding up the narrow qualities of their own regime. Nonetheless, thanks to the leadership of the larger regime coming to the conclusion that the two regimes, due to differences in rules and policing, created problems of legitimacy for self-regulation, a merger came about in 1957, leading to the creation of one regime under the leadership of the Council on Business Practice. Sources also indicate that particularly the narrow-leaning Sales and Advertising Federation was given influence over designing the new regime and acted to limit the influence of broad reforms. The federation tried to build public legitimacy by appointing various state officials, giving the perception that the new regime had state approval. However, the two judges chosen as chairmen of the new council appear to have been selected on the basis of their friendly views on marketing and self-regulation, while consumer representatives, expected to be critical of advertising, were limited to only two of the council’s sixteen member seats. Despite earlier calls from the peak trade union the LO for self-regulation to include consumer interest groups such as itself, the new unified regime also decided to let the Sales and Advertising Federation appoint consumer representatives to the Council on Business Practice. The federation chose a parliamentary MP from the Liberal Party and a consumer researcher. As both only represented their personal views as consumers, their addition did not lead to outsider principals joining the council. So while the regime formally turned broad, its essence remained very much narrow. The change in the participatory variable can thus more accurately be classified as pseudo-broad, rather than truly broad.

It is consequently salient that while the new regime, although in a constrained fashion, represented the interests of consumers and let them participate in running the new regime, there was no radical change in rules, transparency or policing. This was noted by contemporaries; as the former chairman of the larger regime’s main regulatory agency shortly after the merger publically stated that this institutional composition was a mistake, as the new regime probably would have benefitted from more transparency and policing. The fact that the reforms made regarding interests and rights and participation in conjunction with the merger did not change actual regulation very much, letting the new regime function more or less as those that existed before it, indicated that it was possible to get insider consensus on reforms that, while formally changing the appearance of the regime, did not result in any actual alteration in policing or transparency. This of course allowed the less exposed advertising agencies to remain so, indicating that the exposure hypothesis lends an explanation to
this divergence in variable transition. But with especially advertisers and to a lesser extent media carriers experiencing growing pressures from competitive conflicts and public bad, these industry groups were in need of regulatory improvements that went beyond those that were made through the merger, in order to stave off falling consumer confidence and state intervention that threatened their profitability. To accomplish this, self-regulation now had to convince outsiders that it was an efficient and pro-active regime aimed at improving the ethics of marketers.

Thus, during the second phase of regime transition, advertiser and to some extent media carrier interests increasingly formulated a broad strategy, arguing for more transparency, broader participation, increased policing and new rules, while mainly ad agency representatives fought against this. The latter were to a large extent supported by the leadership of the Council on Business Practice, particularly its first chairman, who displayed support for narrow regime principles, and parts of the Sales and Advertising Federation that thought too much regulation would constrain marketing and marketing innovation.

A core argument of those protecting narrow values was that these constituted the true principles of self-regulation. To them, self-regulation was in essence a business-only affair that used education and information to help peers internalize business ethics to control their market behavior. Especially policing was singled out as being against the credo of self-regulation. A regime that focused on policing carried the responsibilities and stringency of a legal system, something self-regulation’s limited resources could not uphold and therefore should not involve itself in, they argued. Policing was thus in a narrow regime constrained by having very little or no pro-active activity, secret case proceedings reliant on extensive cooperation from involved parties and a focus on deliberation and negotiation. In a sense, supporters of more market policing did not oppose these core values per se, but rather argued from a state of necessity. Putting education and information first was no longer enough: something more had to be done to protect both the market and the regime. Further policing and truly broad participation was the way to go, they argued. These conflicts mirror the different normative principles of narrow and broad self-regulation, as for example discussed by Prosser and Boddewyn.¹ Narrow self-regulation generally rests on the idea that insiders are reliant on freedom from regulation to achieve market efficiency. Only insiders can properly define regulation to suit their needs, thus making it necessary to limit policing and keep outsiders who do not understand insiders’ needs out of the regime. Broad self-regulation, on the other hand, is built on the idea of regulatory efficiency and fairness being accomplished through collaboration with outsiders. While such normative principles might imply that a regime is built on idealistic or ideological assumptions that are hard to abandon, the fact that profitability is

¹Boddewyn (1983); Boddewyn (1985d); Boddewyn (1992), pp. 5–7, 12–16; Prosser (2008); Prosser (2010).
the overarching motivation for self-regulation (chapter one) allows for various principles to come into conflict if certain industries conclude that one principle is less successful than another in safeguarding those profits. In this case, many exposed advertisers obviously felt that narrow self regulation by now was less capable of protecting their business interests, while less exposed ad agencies and other insiders still thought it was the best way to achieve this.

Initially insiders backing narrow strategies were able to prevent broad initiatives. Despite a rising public criticism of advertising and the backing of media carriers and to some extent advertisers, the ad agencies managed to stop policing reforms in the Sales and Advertising Federation in 1958. That the narrow-leaning federation again had taken care to limit the reach of these proposed reforms by tailoring them to be under federation control, with a very discrete and limited impact on market activities, did not satisfy the ad agencies, who called the reforms a threat to self-regulation’s flexible quality and instead proposed more efforts in education and information. The Advertisers’ Association, on the other hand, felt it was wrong that the Sales and Advertising Federation, which it saw as dominated by advertising industry groups such as ad agencies and media carriers, should continue to have a large influence over self-regulation policy. It thought more policing was sound, but did not trust that the narrow-leaning federation would do a good job running it. In 1957–1958 the Advertisers’ Association therefore negotiated unilaterally with the peak trade union the LO and the influential state agency for consumer policy, the National Council for Consumer Goods Research and Consumer Information, regarding reforms. It proposed stricter rules for marketers and offered half of the seats on the Council on Business Practice to these organizations as well as to other corporatist consumer interest groups, such as the peak trade union the TCO and the Swedish Housewives’ Association.

Although sources are sparse on the Advertisers’ Association’s motives, it was most likely attracted to recruiting these outsider organizations to self-regulation for three specific reasons. First, unlike the current consumer representatives who did not have the formal backing of any organization, the trade unions in particular were mass organizations that represented a sizable share of the nation’s consumers, whose acceptance of and belief in advertising was central for advertisers. Furthermore, as the LO as well as other outsider organizations with numerous members were represented on the board of the National Council for Consumer Goods Research and Consumer Information as well as on other key state agencies dealing with competition and consumer market regulation, their acceptance of self-regulation would implicitly mean that these outsiders and their members also gave the regime legitimacy, further boosting the number of consumers it could claim to represent. Making these two outsiders principals of the regime would instil better consumer confidence in marketing efforts and in a more convincing manner give the impression that consumers had an influence over the regime and that it protected their rights. Secondly, the LO had been critical of advertising and
self-regulation. To improve consumers’ rights, the trade union had suggested broader consumer participation and stronger state involvement in regulation. As the LO constituted one half of the labor movement that through the other half, the Social Democratic Party, dominated the government, the Advertisers’ Association must have hoped that getting them on board would aid in pre-empting state intervention. Third, National Council for Consumer Goods Research and Consumer Information was the leading state agency for formulating consumer policies. Having it part of self-regulation must have been important if insiders wanted to influence consumer policy to become more friendly towards advertising and self-regulation.

Thus, the Advertisers’ Association wanted to replace the pseudo-broad regime that had come about through the 1957 merger with a truly broad regime, where outsiders would be given a stronger position and help provide legitimacy and public acknowledgment. However, despite a positive response from the two outside stakeholders, nothing came of this attempt. Sources are scare, but it is likely that other advertising affiliated insider organizations, representing the advertising industry as well as the Sales and Advertising Federation, and the leadership of the Council on Advertising Practice would have objected to allowing such a large and powerful presence of consumer representatives known to be critical of advertising.

The Retail Federation’s reform attempts during 1958–1960 also failed to a large extent, as the leadership of the Council on Business Practice refused all of them except granting more transparency. Sources are limited, but the failure was probably due to the federation wanting both pro-active policing and that council members should have a stronger influence on specific cases they deemed important for the industries they represented. The first demand had earlier been opposed by the narrow-leaning ad agencies during the policing reform attempt within the Sales and Advertising Federation in 1958, and the Council on Business Practice’s chairman now once again objected to it on similar grounds: that such an institution was too close to a statutory mode of regulation and could even tempt the state to take over control of regulation. Lack of sources makes it hard to pinpoint the position of various insiders on this attempt, but the reforms were most likely also opposed by a diverse group of insiders, including the Sales and Advertising Federation, the advertising industry organizations and the production and distribution interests of big business. These probably suspected that the Retail Federation sought to use reforms to stop or limit various retail premiums and competitions to protect the competitive position of the federation’s small business members against larger retail actors. This group of insiders thought, unlike the Retail Federation, that this type of marketing was beneficial for the rationalization of the retail sector and did not want to create regulations that hindered it. Therefore they would not have supported the initiative.

However, by the end of the second phase of regime transition, thanks to mainly advertiser initiatives coming from the production and distribution
affiliated organizations, increased broad reforms in interest and rights and participation came about in 1964. Consumer interests and rights and participation were augmented as the Sales and Advertising Federation was stripped of its right to appoint consumer representatives to the Council on Business Practice, allowing instead peak trade unions, the LO, the TCO and the SACO, and the Swedish Housewives’ Association to do so. Even the state was made a consumer representative, although it did not become a regime principal. The motives for getting these particular organizations onto the council were not openly discussed, but should have been the same as the Advertisers’ Association’s: making the regime more legitimate in relation to outsiders. Like the Advertisers’ Association, these reformers with advertiser interests wanted to increase the number of consumer representatives on the council and replace the two consumer representatives selected by the Sales and Advertising Federation with new ones appointed by mass organizations whose many members constituted a significant part of the consumer collective and who also represented the consumer interest when consumer and competitive policies were formulated in the corporatist structures of the political economy. Such representatives would give outsider participation a truly broad character and help increase consumer confidence and pre-empt state intervention. Nevertheless, although reformers now made sure that consumer representatives were given a much stronger and larger presence on the council, they still had a minor position, as insider principals outnumbered them by far, in that the advertiser organizations now also increased their share of council members, effectively becoming the dominating insider force in the main agency of self-regulation. Just as before, a mounting public criticism of advertising in debates and consumer journalism pressured self-regulation. Some advertiser principals, particularly the production and distribution affiliated Federation of Industries, had also identified risks in state consumer policies that they thought could harm brand competition. If state-run consumer information and testing started comparing products and recommending what brands to buy, advertisers feared it would introduce a form of state-sanctioned comparative advertising, a phenomena that many insiders disliked and self-regulation cautioned against. Insiders wanted consumer policies to have more emphasis on business efforts to innovate, pointing out that such innovation incurred costs that consumer had to pay for. They therefore tried to launch more business-friendly consumer policies. In that process it was important to gain control over the self-regulation regime, as it was a key institutional structure handling the most criticized aspect of insider activity on the consumer market – advertising.

During the third and fourth phases of regime transition, outside pressure in the form of reports from the labor movement and official state investigative committees became significant. These regarded self-regulation as insufficient and proposed an extensive state regime to regulate consumer issues. Soon after joining the self-regulation regime, the LO clearly indicated to insiders
that it did not view the Council on Business Practice as an adequate solution
to regulating advertising and protecting consumer rights. Inside pressure also
persisted, as the market grew and cases continued to flood the council. Some of
these stemmed from newer forms of marketing, such as “free offers”, that the
Council on Business Practice criticized for at times being used in a misleading
manner. Organized retail and media carrier interests pushed for regulating this
type of marketing harder as they claimed so much of it found its way into press
advertising. One of these new marketing techniques, trading stamps, caused
internal tensions. The Retail Federation struggled to get the self-regulation
regime to prohibit their introduction on the Swedish market as it feared they
would threaten the competitiveness of their small business members. While
the Council on Business Practice faulted the first attempts to introduce trading
stamps in 1964, it did not forbid them in principle, and the verdict split the
council, as one fifth of its members opposed the decision publically. News
media and official state investigative committees also portrayed the council as
indecisive and conflict-ridden on the matter, thus questioning the legitimacy
and authority of the regime – a blow to the aspirations of those behind the
1964 reforms. The self-regulation regime was thus unable to decisively
address a new and controversial form of marketing while also appearing inept
at stopping marketing it did object to, such as “free offers”. This put pressure
on the new broad regime to come up with solutions.

Self-regulation consequently evolved into a regime that increasingly came
to rely on policing. Following up on the policy preferences of the advertiser
and media carrier interests that now dominated it, the Council on Business
Practice launched a series of internal investigative committees to propose
further broad reforms. In 1968, this led to the creation of a pro-active polic-
ing unit and expanded education and information efforts. It was also decided
that media carriers would agree not to publish ads that had been faulted by
the council, giving the self-regulation regime some coercive powers. Further,
perhaps a bit surprisingly, the ad agencies decided to launch an ambitious
policing system of their own. A reason this came about was that the major
ad agencies, which dominated the ad market thanks to their participation in
an advertising cartel of the daily press, suddenly found themselves more ex-
posed to regulation and badwill. Initially, a fear of tougher competition due
to a disintegration of the cartel made them more interested in using ethics as
a competitive asset. However, their attempt to portray themselves as morally
and professionally superior to other ad agencies in a major newspaper cam-
paign was reported by competitors to the Council on Business Practice, which
in 1965 faulted them for misleading advertising. Having been robbed of their
sheltered position and tossed into the public limelight as having anything but
high standards, the major ad agencies were forced to win back the approv-
al of both outsiders and insiders. Their answer was an extensive unilateral
reform package that would convince others they were serious about ethics.
After a hesitant start, characterized by extensive policy formulation but little
implementation, developments were speeded up because of increasing outside pressure from the state and growing public criticism of advertising. First, existing ad agency organizations merged into one major organization in 1968: the Federation of Advertising Agencies. The same year, the federation decided to embrace extensive pro-active policing, as evident by the far-reaching and innovative clearance program. By doing so, this industry group that until then had mostly opposed regulatory change, suddenly found itself being in the vanguard of regulatory reform.

As a result, more concerted efforts in regime reform were possible once the advertising agencies became more exposed to regulation and bad, giving them the same regulatory incentives as advertisers and media carriers. This development thus does not repudiate, but confirms and nuances the exposure hypothesis, as it stresses that once ad agencies lost their sheltered position, their regulatory strategies would most likely start to resemble those of advertisers and media carriers. The ad agencies’ embracement of policing fostered a new spirit of cooperation, facilitating the spread of the clearance program to advertisers and media carriers. Thus, when faced with the inevitability of a state regime, all three industry groups were able to rally behind a co-regulatory strategy, holding up the clearance system as a natural component in the new regulatory landscape. This was successful, and the final fourth transition thus avoided a complete state takeover. Thanks to the spread of the clearance programs to the media carriers, the Swedish regime also lived up to the tripartite system of self-regulation, which stipulates equal involvement by ad agencies, advertisers and media carriers to successfully uphold regulation. Theory has held up this system as necessary for successful advertising self-regulation, and particularly emphasised that media carriers carry out policing duties through clearance. In fact, the Swedish version of this system was even more airtight, as besides media carriers, both advertiser agencies and advertisers created similar clearance programs.

One matter that must be addressed in conjunction with diverging insider interests is the fact that the Retail Federation acted in a way that goes against theoretical predictions. Contrary to the fundamental idea that insiders always try to protect self-regulation and avoid state intervention, the federation openly declared to other insiders as early as 1958 that it sought state laws and regarded self-regulation as an inefficient regime. While it did engage in reform work and supported broad reforms, for the Retail Federation this was still a provisional structure that reflected the ambitions it had with legal reform, i.e. a pro-active policing-oriented regime. While many other insider organizations also supported law reform to update the existing marketing law, the 1931 Law on Unfair Competition, they wanted self-regulation to continue to shoulder the main regulatory responsibility. They desired that laws and courts should allow self-regulation to retain control of established regulatory practice by turning to its self-regulatory agencies for advice when in doubt whether a case constituted a breach of proper business practice or not. Courts would function
as a last resort when self-regulation’s lack of coercive means did not deter unrepentant transgressors. The ambition to keep insider power over actual regulation was mirrored in the 1966 proposal of the official state investigative Committee on Unfair Competition, which did not suggest special state agencies to uphold a new marketing law. Instead, the committee proposed that this task be left to the Council on Business Practice and, if necessary, existing state courts. When the 1971 regime change made it clear that the state had now taken over regulation of the market and that this strategy had failed, insiders still tried to keep some influence over the implementation of the state regime by forming the Trade and Industry Committee on Marketing Law Policy and having it deliberate with state authorities on rules and guidelines for the consumer market issued by the state authorities. Therefore, their actions do not constitute a clear break with the theorized behavior of insider principals trying to protect self-regulation. However, the Retail Federation explicitly stated it did not see any reason to take part in this work once the new marketing law was in effect, claiming all of its interests were well served by it and the state agencies created to enforce it.

An explanation for the Retail Federation’s break with expected behavior can mainly be found in the modern history of Swedish retail development. The federation represented small businesses that since the late 19th century had suffered from an intense competitive climate, which was exacerbated by the market entry of larger chain stores and mail order firms. Small retail businesses had a propensity to seek state regulation to protect their competitive position against larger retail actors. The Retail Federation concluded that new laws could help ease competitive pressure and saw a ban on premiums such as trading stamps and “buy one, get one free” offers – costly marketing that benefitted mainly larger retail firms– as desirable. That the federation supported reforms within the Council on Business Practice to tighten their regulation mirrored these interests. Thanks to the support from outside stakeholders such as the LO and the TCO, which felt that premiums basically misled consumers into believing they made bargains, stricter laws regulating premiums were also enacted in conjunction with the introduction of the new marketing law in 1971, the Marketing Practices Act. The Retail Federation was also awarded representation on the new state agencies created to uphold the law. While not decisive for its decision to prefer laws over self-regulation, the fact that the federation knew it would be able to influence implementation of the new laws from the inside must have reinforced its regulatory strategy.

The results indicate that insiders’ competitive interests can affect their support for self-regulation, making them abandon it and seek state laws if they think that laws will better protect them from competition. They also suggest that corporatism, while being described by the literature as fertile for broad self-regulation given its overarching principles of cooperation and deliberation

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1 Schmitter and Streeck (1981, 1999); Streeck and Schmitter (1985).
might at the same time encourage regime defection in insiders subjected to competitive threats, as it affords them influence over the implementation of state regulation.

**Insider Power Relations Key to Both Failure and Success**

As Gupta and Lad emphasize in their discussion on self-regulation, changing power relations between insiders drive developments in self-regulatory regimes. When a particular firm, producer organization or even regulatory agency grows stronger, it will have more influence over regime policy. This may lead to internal tensions and even defections by weaker parties that do not feel that their interests are represented. This case study has given ample evidence of such mechanisms. While it is apparent that the smaller regime was upheld by a number of influential production and distribution affiliated organizations, the advertising affiliated organizations backing the larger regime had a dominant position until the 1957 merger. This set the scene for a protracted power struggle, in which first advertiser and to some extent media carrier organizations seeking broad reforms increasingly found themselves on one side and advertising agencies and the Sales and Advertising Federation on the other, supporting a narrow strategy.

Why the Sales and Advertising Federation supported a narrow strategy cannot be explained though the exposure hypothesis, as the federation formally did not represent an explicit industry group, being a peak business organization for marketing interests. However, having established itself as an organization that for decades had supported the proliferation of marketing and marketing innovation and that had controlled its narrow self-regulation regime to make sure it underpinned the marketing freedom the federation thought beneficial for the growth of marketing, it is not strange that it did not deliver unison support for the broad initiatives of stricter policing and the participation of outsiders who were outspoken critics of advertising. Evidence also suggests that the Sales and Advertising Federation’s leadership placed a high value on the contributions of ad agencies and did not want to go against them in this matter. The ad agencies also had a number of representatives on the federation who worked hard to protect their interests, as evident in the 1958 struggle over the federation’s proposal for policing reforms. Moreover, the federation organized professionals in marketing, for example marketers in various companies, who possibly had a more liberal view on advertising than the leadership of the production and distribution oriented companies and their organizations, who perhaps had a broader perspective on the dynamics of the consumer market and were more aware of the risks of failing consumer confidence and the state intervention that might be the result of a weak or permissive regime of self-regulation.

Pressure from advertiser interests in both regimes was instrumental in the 1957 merger, indicating that the narrow-leaning advertising affiliated organi-
izations such as the Sales and Advertising Federation and the Association of Advertising Agencies that backed the larger regime did not dare oppose them outright on this matter. However, after the merger, some of the production and distribution affiliated organizations, as well as the Advertisers’ Association, were quickly dissatisfied with the new regime’s performance as well as their level of influence over it, and became increasingly worried about outside pressure. The advertising industry and the Sales and Advertising Federation had secured a strong influence in the new regime and were allowed to dominate the handling of cases that dealt with advertising. Some of the advertiser affiliated principals did not think this served advertiser interests. Production and distribution affiliated insiders with a core advertiser interest now wanted decisive influence over regime policy. The powerful Federation of Industries, perhaps the most influential Swedish business organization at this time, also regarded the Sales and Advertising Federation as a marginal organization that was biased towards the advertising industry, making it unfit as a united face for organized business in marketing. The Federation of Industries and other production and distribution affiliated principals were at this point also active as producer representatives on the boards of state agencies. Recognized as such by the state, they must have seen it as natural that they and their consumer counterparts in these regulatory state structures should have similar roles in the self-regulation regime.

While the Sales and Advertising Federation after the merger continued to act as if it had a decisive responsibility for the regime, its failure to follow through on internal reform proposals, as well as to come to grips with increasing badwill towards advertising, made advertiser interests, through the efforts of the Retail Federation as well as the Advertisers’ Association, initiate unilateral reform attempts during the second phase of regime transition to get more control over regime policy. Initially, these failed, for reasons already discussed. Here it suffices to add that one reason for failure was probably a lack of concerted and cooperative insider efforts, which must have made it harder to defeat opposition to the reforms.

However, as discussed, by 1963 advertiser interests in the shape of three production and distribution affiliated organizations made a successful cooperative effort to implement reforms that increased both insider and outsider participation on the Council on Business Practice. That the powerful Federation of Industries now increasingly took an interest in reform, first shown by its involvement in spearheading administrative changes to make the regime more financially robust in 1959, probably facilitated this cooperation, which most likely was essential for overcoming resistance from narrow-leaning insiders. Another reason for success was that the reformers got support from the council’s reform-driven Economic Committee. Analysis shows that by the early 1960s it had become the regime’s power center with regards to self-regulation policy formulation. The committee had reform-friendly representatives from both production and distribution and advertising affiliated organizations and was
basically controlled by the same group of individuals for the remainder of the regime’s existence. The committee also lacked representation from the narrow-leaning ad agencies, facilitating its capability to support and suggest broad reforms. Thanks to this constellation, in 1962 the Economic Committee was able to appoint an internal investigation committee on the council whose members representing insider principals all represented the advertiser interest through three production and distribution affiliated organizations known for supporting broad reforms – the Federation of Industries, the Retail Federation and the Cooperative Union and Wholesale Society. The internal investigative committee’s reform suggestions were also accepted by the Council on Business Practice in 1963, and put into effect the following year. Due to the reforms, the formal influence of the Sales and Advertising Federation and the other advertising industry organizations over the regime diminished, while that of those representing advertiser interests grew enough to let them now dominate the policy of the Council on Business Practice. The Sales and Advertising Federation lost the right to appoint consumer representatives. These were instead replaced by members from powerful outsider mass organizations that were formally defined as consumer representatives in the corporatist political economy and with whom the production and distribution affiliated reform organizations on the council’s internal investigative committee had already interacted with in state structures such as the National Council for Consumer Goods Research and Consumer Information, the key state agency for consumer policy. An influx of more insider representatives on the reorganized Council on Business Practice from principals that until then had not had members on it also thinned out the power of the narrow-leaning insider organizations, as most of these newcomers did not have ties to the advertising industry. Also, the three production and distribution affiliated organizations on the council’s investigative committee clearly showed that they wanted decisive power over the regime, as their reforms increased the number of their own members on the council. Still, the fact that the investigative committee’s actual reforms did not include any special influence for specific industries on cases that concerned them and lacked pro-active policing indicates that the Retail Federation, although part of this winning constellation, was constrained by the Federation of Industries and the Cooperative Union and Wholesale Society, which did not support its agenda of using regulations to further the competitive interests of its members. It is also not unthinkable, although no sources can confirm it, that a deal was struck between reformers and narrow-leaning advertising affiliated organizations such as the Association of Advertising Agencies and the Sales and Advertising Federation, whereby the latter accepted reforms and refrained from staging open opposition in return for reforms not introducing pro-active policing and limiting the number of outsiders to a minority position. It is of course also possible that the three organizations behind the reforms did not themselves desire such a strong consumer presence on the council as had previously been sought by the Advertisers’ Association in 1958. In
any case, the major outcome for power relations was that the reforms gave advertiser interests, and particularly the production and distribution affiliated organizations, control over the new regime and greatly reduced the influence of the advertising industry and the Sales and Advertising Federation. The leadership of the federation and its 1967 successor organization, the Marketing Federation, made two more reform attempts, the first in 1963 and the second in 1967, which suggested that the federation’s local marketing societies should run bodies that would aid in policing. It was hoped the reforms would help regain some of the federation’s influence over the regime. However, both failed due to lack of support from a large group of insiders: ad agencies, advertisers, media carriers and the federation’s own marketing societies all objected to these reforms, arguing that limited competence in the marketing societies would make them practically unworkable and consequently only risk hurting the regime. The peak marketing organization’s power over policy was thus increasingly marginalized.

During the third phase of regime transition, principals with advertiser interests would, together with the media carrier organization, the Newspaper Publishers’ Association, dominate policy formation until the reform initiative of the ad agencies in 1968–1969. By having their new industry-encompassing organization, the Federation of Advertising Agencies, launch various policing efforts to monitor existing advertising as well as introducing clearance procedures at the firm level, the marginalized ad agencies that had lost out in the power struggle over the Council on Business Practice had by then become the vanguard of policy reform.

The last phase of regime transition illustrates a comeback of sorts in self-regulation for the advertising affiliated organizations, and especially the advertising industry, as the new strong industry-encompassing Federation of Advertising Agencies took the lead in developing policing, with the introduction of clearance programs to be carried out by members being particularly innovative and influential. Both the Advertisers’ Association and the Newspaper Publishers’ Association soon created similar clearance programs for their members. Still, one advertising affiliated organization – the Marketing Federation – did not experience a renaissance. Being sidelined on the Council on Business Practice by broad-minded insiders and lacking a purpose in the clearance system probably played an important role in its decision not partake in running the successor to the Council on Business Practice – the Trade and Industry Committee on Marketing Law Policy. However, by and large the decisive action by the advertising organizations during the tail end of the self-regulation era created a balance of power between advertiser and advertising industry interests. The former group controlled the post-production aspect through the Trade and Industry Committee on Marketing Law Policy, while especially the ad agencies played an important role in the clearance system. The two groups of principals no longer dominated separate regimes or struggled for influence over a single one. Instead, they now presided over two
complementary subsystems that presented an encompassing structure of insider regulation which fit in quite well in the new co-regulatory landscape.

One aspect of insider power relations that should be addressed is that between members and the leadership of business interest organizations. Streeck and Schmitter have highlighted the point that tension between members and leadership due to diverging interests is a key mechanism in organizational dynamics. Members, on the one hand, want their market interests to be a top priority, while the leadership, especially in corporatist economies, also seeks to establish good relations with other collective actors such as the state and key interest groups. This can create conflicts, for example when leadership accepts agreements or regulations in deliberation with other actors that members feel goes against their interests.\(^3\) The outcome of this study indicates that such dynamics were influential in the regime transition of Swedish self-regulation. The failed reforms of the Sales and Advertising Federation in 1963 and its successor the Marketing Association in 1967 were clearly the result of a strong resistance among members to use the local marketing societies to police the market, despite strong pressure from the leadership to do so in the hope that reforms would regain the federation’s initiative in policy formation and create goodwill. This type of “peer policing” did of course occur between competitors, but the reforms proposed that members without any experience were to take part in organized policing. Fears that this would lead to mistakes, more badwill and a tarnished reputation for self-regulation, as well as objections to making policing a key task, made federation members shy away from the idea, and the reforms were never implemented.

A comparable explanation must also be attributed to the Federation of Advertising Agencies’ success with the clearance reforms, as this initiative sanctioned by the federation’s leadership got support from its members. This approval can be traced to the innovative idea that this form of self-regulation did not base its modus operandi on policing peers, but on individual censorship, as clearance policing was managed by every firm looking over their advertisements before putting them on the market. By having the federation supplying organized education, the system also avoided incompetence. The clearance system was thus based on self-improvement, a basic principle of narrow self-regulation, something members could accept much more easily than having to police peers. In that sense, the ingenuity of the system created a most severe form of policing, but without flooding the Council on Business Practice with cases. It was also done discreetly and without transparency, both traits being typical of a narrow regime, which must have appealed to ad agencies that were strong backers of the narrow form of self-regulation. Members’ acceptance of the clearance programs can thus be traced to the reform’s ability to combine the policing ideals of the broad regime with the insider only/self-improvement values of the narrow one.

\(^3\) Schmitter and Streeck (1981, 1999); Streeck and Schmitter (1985).
Internal Conflicts Contributed to Hybrid Regimes

Transitional phases in self-regulation show regimes exhibiting a mixture of narrow and broad characteristics for a long period. Only at the very end did self-regulation become fully broad, and then it changed quickly into a co-regulatory regime (figure 8.1). Attempts at increasing transparency were unsuccessful until the second phase of regime transition, and rules only changed with revisions of the International Code of Standards of Advertising Practice; efforts to change rules on a national level did not occur until the major reforms taking place during the third and fourth phases. The strong resistance from mainly the ad agencies against policing contributed to it not becoming a key task until the very end of phase three. On the other hand, a much earlier acceptance of broad values in interest and rights and participation occurred in phases one and two. Still, as discussed in the analysis in chapter four, the reforms taking place in conjunction with the 1957 merger of the two regimes into one made for a hollowed-out outsider presence. Also, no changes were made in transparency or key task. So while the first transition formally made the regime broad, it was in reality pseudo-broad. Although outsider participation was strengthened and transparency increased to medium levels during the second regime transition in 1964, insiders continued having decisive control over the regime. Policing did not come through as a key task until 1968–1969, at the end of the third phase.

Regime’s Key Task Crucial for Insider Policy Tensions

The long struggle over the key task defined much of the interaction between insider principals. While not chosen as a decisive variable in the theoretical regime typology model used to analyze regime change, as either of its two possible values, education and information or policing, can be the value of the key task variable in both narrow and broad regimes, it is obvious that together with rule control, key task was regarded as central for insider principals. While rule control did not cause any substantial internal conflicts, not counting the resistance of the Retail Federation to self-regulation itself, the conflict over policing shows that the value of the key task variable was regarded by insiders as having a most important effect on actual regulation. This is interesting, as models for classifying various alternative forms of regimes often stress participation as a defining variable for regime classification. Again, this outcome of the regulatory policy process was most likely due to the fact that broad reforms in policing to a much larger degree than those in participation implied real consequences for the actual regulation of the market, having a much larger potential for affecting profitability than the other variables. As policing was kept low during the first three phases, there was considerable market freedom for marketers. However, on the downside, this also meant an increasing number of rule transgressions and even a growing number of
Figure 8.1. Overview of regime transition in self-regulation, 1935–1971.

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Rule Control</strong></td>
<td>Insider</td>
<td>Insider</td>
<td>Insider</td>
<td>Insider</td>
<td>Insider</td>
<td>Outsider</td>
</tr>
<tr>
<td><strong>Participation</strong></td>
<td>Insider</td>
<td>Insider</td>
<td>Insider + “outsider”</td>
<td>Insider + outsider</td>
<td>Insider + outsider</td>
<td>Insider + outsider</td>
</tr>
<tr>
<td><strong>Interests and rights</strong></td>
<td>All stakeholders</td>
<td>Insiders</td>
<td>All stakeholders</td>
<td>All stakeholders</td>
<td>All stakeholders</td>
<td>All stakeholders</td>
</tr>
<tr>
<td><strong>Key task</strong></td>
<td>Education and information</td>
<td>Education and information</td>
<td>Education and information</td>
<td>Education and information</td>
<td>Policing</td>
<td>Policing</td>
</tr>
<tr>
<td><strong>Transparency</strong></td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>Medium</td>
<td>Medium</td>
<td>Medium</td>
</tr>
</tbody>
</table>
cases, as the positive effects of tighter regulation did not materialize. The risk for state intervention started to rise as consumer confidence in advertising appeared low and a growing number of outsiders came out in favor, citing the weak performance of the regime. This led to an increased broad strategy from the more exposed advertisers, in an attempt to ward off this threat by reforming participation to include outsiders; this did not have any lasting effect. When policing reforms did come through, it was too late. If the self-regulation regime had initiated policing reforms earlier, it would most likely have been harder for outsiders to claim the regime was negligent of its regulatory duty. However due to fears of stronger policing constraining the marketing efforts of for insiders on the market as well as its challenge to core normative principles, narrow-leaning insiders resisted this, and policing reforms were delayed until the very end of the studied time period.

Theoretical Implications

As stated in chapter one, participation and rule control are often used in the theory on self-regulation and other alternative forms of regulation as variables to distinguish self-regulation from co-regulation and state regulation. However, utilizing only these two variables will not let us really see how a particular regime is constructed, how efficient it is or who is in control of it. The employment of several regime attributes allows a more fine-tuned analysis of regime transition, and this thesis has greatly benefitted from using such a regime typology. Combining this with a model for actor strategies and utilizing both external and internal insider sources reveal that the formal qualities of a regime do not always reflect the intentions of stakeholders. For example, although change from narrow to broad self-regulation can take place when using participation as the decisive variable, the addition of the other variables allows for a more exact analysis of the change’s implications for actual regulation. As was the case in Swedish self-regulation in advertising, a formal change to a broad regime happened quite early, as the 1957 merger incorporated outsiders into the regime and also included the interests and rights of consumers. The broad quality of participation was then strengthened by the 1964 reforms, which greatly increased outsider presence, and through the 1968 launch of the pro-active policing unit, the Bureau for Marketing Complaints, as well as the introduction of the clearance program in 1969. Transparency was also generally increased from the second phase onwards, although the arbitrary role of the Trade and Industry Committee on Marketing Law Policy introduced in 1970 was a step back in this regard, keeping outsiders away from internal producer conflicts. Thus there was no shift in this attribute from medium to high, as described by the theoretical model.

All this would indicate that insiders used a broad regulatory strategy to make the self-regulation regime successively a stronger regulator of the
market. However, analysis of the policy processes leading up to these regime transitions shows that insiders did not want to relinquish more control over the regime than necessary. For example they agreed to consumer representatives, but initially only allowed an insider organization to select them and limited their numbers to a fraction of the total amount of council members. They also made sure that the judges who were made chairs of the main self-regulatory agency were friendly to marketing and self-regulation, thus creating a regime that best can be described as more pseudo-broad than truly broad. A similar stance is evident when looking at the strategies ending with the 1963 insider decision to invite powerful consumer interest groups as consumer representatives to the regime. Although this strategy cannot be classified as anything but broad, insiders still remained a dominant majority and outsiders were left out of influential reform work. A contributing factor was most likely that outsiders were not part of the Council on Business Practice’s Economic Committee, which in effect controlled much of the regime’s policy formulation, as they, unlike insiders, did not finance the council. This gave the new consumer representatives an inherently weak position. That the powerful trade union the LO quickly lost interest in the self-regulation regime and by the mid-1960s continued to pursue extensive state solutions for regulation indicates that outsiders were not satisfied with the outcome of reform. In the end, this imbalance between insider and outsider influence probably contributed to the breakdown of the regime. Thus not only formal participation, but the degree of participation, as well as the strategic intents of insiders when allowing outsiders to partake, must be assessed to get a proper idea of what a change in participation really means. The conclusion that the outward appearance of self-regulatory regimes may not completely mirror their inner workings ties in well with the analysis done by Crawford and Spence-Stone on the historical development of regimes of advertising self-regulation in Australia, where insiders officially supported reforms that had broad characteristics, but in the actual functioning of the regime downplayed some of these aspects and continued with what can be termed narrow regime practices, making the regime pseudo-broad, that is, broad “in name only”.4

Another important result of the study is that the key task is a critical variable for evaluating the actual reach, efficiency and impartiality of self-regulation and that a change in its value points to a transformation of the regime that can have real implications for market regulation. Also, the key task can be of central importance in analyzing the actual change in policing taking place in a transition from self-regulation to co-regulation, i.e. rulemaking passing from self-regulation to the state. Here the last phase of regime transition from broad self-regulation to co-regulation indicates that the state, despite having policing resources at its disposal, at least initially preferred deliberation over coercive measures, while it at the same time encouraged insider initiatives such as the

4Crawford and Spence-Stone (2012).
clearance programs to continue and initiated deliberations with insiders on rule formation in so-called product guidelines. This suggests the state regime at this point decided to rely on the publishing clearance programs for policing and give insiders a say in rule creation, which illustrates that this particular co-regulatory regime at least initially allowed significant insider influence.

The regime variable rule control has also proven important for understanding insider actions, as insiders usually strive to preserve it. Giving up rule making is therefore usually the last concession insiders are willing to make when faced with reforming self-regulation, as it would mean a loss of self-regulation itself. There is strong evidence of this in the study, where insiders fought for rule control even when advocating reform in statutory laws, hoping the Council on Business Practice would be left to interpret and develop legal precedents. Still, it must be stated that the prime motive for self-regulation given by theory is profitability, thus putting a limit on how desirable such a form of regulation is to insiders. In other words, if an insider perceives that self-regulation does not promote profits, or even might be hurting them, it might indeed consider other forms of regulation deemed more effective in upholding profits, which is evident in the behavior of the Retail Federation.

Finally, the exposure hypothesis has been invaluable to analytically point out the importance of insider tensions for regime development, confirming the proposal made in chapter one that the limited research on the importance of this factor for the development of the self-regulation of advertising indicates that it is something future research needs to focus more on to understand regime transitions in alternative forms of regulation. The empirical findings of this study have validated the theoretical proposition that that the ad agencies, being the group of insiders least exposed to regulation and public badwill while also dependent on creative freedom as a key competitive resource, will try to stall stronger regulations, while those that are more exposed to regulation and dependent on consumer confidence for profits – the advertisers and perhaps to a lesser extent the media carriers – will adopt a contrary position and support stronger regulations, hoping to also avoid unwanted state regulation by doing so. Nonetheless, the study has also shown that changes in both the market and the wider regulatory context can force usually less exposed ad agencies to become more so, causing their regulatory strategy to align with that of advertisers and media carriers and encouraging them to accept or even seek stronger regulations to improve their market condition. Summing up, the results of this study lend strong empirical support for Gupta and Lads’ theoretical conclusion that self-regulatory regimes should be expected to be shaped by insider tensions due to differing interests among producers, as well as Dacko and Hart’s that code making, clearance procedures and complaint handling are key components when analyzing self- or co-regulation regimes.\(^5\)

APPENDIX A

Principals of Advertising Self-Regulation Regimes 1950–1971

Committees of Business Practice 1938–1956 (Näringslivets Opinionsnämnder)

Principals

The Cooperative Union and Wholesale Society (Kooperativa Förbundet)
The Swedish Federation of Industries and Crafts (Sveriges Hantverks- och Småindustriorganisation)
The Swedish Federation of Wholesale Merchants and Importers (Sveriges Grossistförbund)
The Swedish Retail Federation (Sveriges Köpmannaförbund)
The Federation of Swedish Industries (Sveriges Industriförbund)

The Swedish Council on Advertising Practice 1935–1956 (Reklamförbundets opinionsnämnd, AKA Opinionsnämnden för reklam)

Principal

The Swedish Advertising Federation (Svenska Reklamförbundet), from 1952 renamed the Swedish Sales and Advertising Federation (Svenska Försäljnings- och Reklamförbundet)

1 Contemporary English names taken from Örtengren and Åhlin (1966) and Gullberg (1977). Swedish names in parentheses.
2 Stockholms Handelskammare (1953), p. 5.
The Swedish Council on Business Practice 1957–1971
(Näringslivets Opinionsnämnd)

+ = founders

Inside Stakeholders and their period of principalship

The Council of the Chambers of Commerce 1957–71 (Handelskamrarnas Nämnd) +

The Swedish Federation of Industries and Crafts 1957–1971 (Sveriges Hantverks- och Småindustriorganisation) +

The Federation of Swedish Wholesale Merchants and Importers 1957–1971 (Sveriges Grossistförbund) +

The Swedish Retail Federation 1957–1971 (Sveriges Köpmannaförbund) +

The Federation of Swedish Industries 1957–71 (Sveriges Industriförbund) +

The Swedish Sales and Advertising Federation 1957–71 (Svenska Försäljnings- och Reklamförbundet), as of 1967 renamed the Swedish Marketing Federation (Sveriges Marknadsförbund) +

The Swedish Advertisers’ Association 1957–71 (Svenska Annonsörers Förening) +

The Swedish Association of Advertising Agencies 1957–68 (Annonsbyråernas förening) +, as of 1968 merged with other ad agency organizations into

The Federation of Swedish Advertising Agencies (Svenska Reklambyrå Förbundet) 1968–1971

The Swedish Association of Advertising Agencies and Consultants 1963–67, (Sveriges Annons- och Reklambyråers Förbund) as of 1967 merged with other smaller ad agency organizations into


The Swedish Newspaper Publishers’ Association 1957–71 (Svenska Tidningsutgivareföreningen) +

1 Not all principals joined at the beginning of the Council on Business Practice in 1957. The founders consisted of 15 insider organizations. Thereafter additional principals were added, particularly from the early 1960s and onwards, while some fell away. The consumer representatives were all added in 1964. However, of the 15 associations that formed the council, all remained until the end, as did most of those that joined later; Näringslivets Opinionsnämnds verksamhetsberättelser 1957–71. Näringslivets Opinionsnämnds arkiv.
The Council of Swedish Traffic Companies 1957–68 (Svenska Trafikföretagens råd)
The Association of Swedish Trade Journals 1957–1971 (Föreningen Svensk Fackpress) +
The Swedish Banks’ Association 1957–1971 (Svenska Bankföreningen) +
The Cooperative Union and Wholesale Society 1957–71 (Kooperativa Förbundet) +
Association of Swedish Travel Agents and Tour Operators 1969–1971 (Svenska Resebyråföreningen)
The Cooperative Technical Association of Travel Agents 1969–71 (Föreningen Researrangörernas Tekniska Samarbetsorganisation)
The Swedish Federation of Master Printers 1957–71 (Svenska Boktryckareföreningen) +
Swedish Insurance Federation 1957–1971 (Svenska Försäkringsbolags Riksförening) +
The Federation of Swedish Farmers’ Associations 1957–71 (Sveriges Lantbruksförbund) +
The Swedish Savings Banks’ Association 1967–71 (Svenska Sparbanksföreningen)
The Swedish Baking Industries Association 1961–63 (Sveriges Bageriidkares Förening)
The Swedish Association of Auto Dealers and Service Shops 1964–1971 (Motorbranschens Riksförbund)
The Swedish Publishers’ Association 1964–1971 (Svenska Bokförläggareföreningen)
The Federation of Swedish Commercial Agents 1964–71 (Svenska Handelsagenters Förbund)
The Swedish Petroleum Institute 1964–71 (Svenska Petroleum Institutet)
The Swedish Hotels’ and Restaurants’ Association 1964–71 (Sveriges Hotell- och Restaurangförbund)

**Outside stakeholders and their period of principalship**

The Swedish Confederation of Trade Unions 1964–1971 (Landsorganisationen i Sverige, LO)
The Swedish Federation of Professional Associations 1964–1971 (Svenska Akademikers Centralorganisation, SACO)

The Swedish Central Organization of Salaried Employees 1964–1971 (Tjänstemännens Centralorganisation, TCO)

The Swedish Housewives’ Association, 1964–1971 (Sveriges Husmodersföreningars Riksförbund) as of 1969, the Housewives’ Federation Home and Society (Husmodersförbundet Hem och samhälle)\(^5\)

The National Council for Consumer Goods Research and Consumer Information 1964–1971 (Statens Konsumentråd)\(^6\)

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\(^5\) Nationalencyklopedin (2015c).

\(^6\) The state agency was not a principal, but had the right to appoint two members to the council. Stadgar för Näringslivets Opinionsnämnd, antagna 30 maj 1963; Stadgar för Näringslivets Opinionsnämnd, antagna 11 mars 1968; Näringslivets Opinionsnämnds arkiv.
### APPENDIX B.

**Classification Schemata for Regulatory Regimes**

<table>
<thead>
<tr>
<th>REGIME VARIABLES</th>
<th>REGIME TYPOLOGY</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Decisive value</td>
<td>Narrow self-regulation</td>
</tr>
<tr>
<td><strong>Expected value</strong></td>
<td></td>
</tr>
<tr>
<td><em><em>Dominant</em> stakeholder</em>*</td>
<td>Insider</td>
</tr>
<tr>
<td><strong>Rule Control</strong></td>
<td>Insider</td>
</tr>
<tr>
<td><strong>Participation</strong></td>
<td>Insider</td>
</tr>
<tr>
<td><strong>Interests and rights</strong></td>
<td>Insiders</td>
</tr>
<tr>
<td><strong>Key task</strong></td>
<td>Information and education</td>
</tr>
<tr>
<td><strong>Transparency</strong></td>
<td>Low</td>
</tr>
</tbody>
</table>
APPENDIX C

Important organizations and regulatory bodies

Main regulatory structures within self-regulation¹

The Institute for Brand Control (Institutet för varumärkeskontroll)
1920(?)—1927.
Regulation of advertisements in the chemical industry.

Plagiarism Committee (Plagiatkontrollen)
1929–1935
Regulation of plagiarism. Run by trade paper Business Economy (Affärssekonomi AB).

The Swedish Council on Advertising Practice (Reklamförbundets Opinionsnämnd, as of 1951 renamed Opinionsnämden för reklam)
1935–1957
Self-regulatory agency of the larger regime run by the Advertising Federation and successor the Sales and Advertising Federation.

Committees on Business Practice (Näringslivets Opinionsnämnder, NOr)
1938–1957
Business committees based at the chambers of commerce in the cities of Malmö, Göteborg and Stockholm. Part of the smaller regime of self-regulation run by the three chambers of commerce and several business organizations, among them the Retail Federation, the Federation of Wholesale Merchants and Importers, the Federation of Industries, the Cooperative Union and Wholesale Society and the Council of Chambers of Commerce.

Council on Business Practice (Näringslivets Opinionsnämnd, NOp)
1957–1971
Self-regulatory agency formed after the merger of the two regimes in 1957. With several business interest organizations as principals from the start, but as of 1964 also including consumer interest organisations as principals.

¹Sources referenced in chapters 3–7.
The Bureau for Marketing Complaints (Anmälningsbyrån för Marknadsföringsåtgärder, Aby)
1968–1971
A pro-active policing unit created to function within the merged regime.

The Information Committee (Informationsutskottet)
1968–1971
A coordinated information unit created to function within the merged regime.

The Inspection Committee (Granskningskommittéen)
1969–1971
A pro-active policing unit created by the ad agency association the Federation of Advertising Agencies.

The Swedish Federation of Advertising Industries’ Ethics Committee (Svenska Reklambyrå Förbundets etiska nämnd)
1969–
An internal policy formulation and advisory unit for the Inspection Committee.

The Council on Advertising Ethics (Reklamens Etiska Nämnd)
1969–1971
A regulatory policy formulation and advisory unit and run jointly by the Federation of Advertising Agencies and the Advertisers’ Association.

Advertising Publisher (Ansvarig reklamutgivare, ARU-systemet)
1969 –
Publishing clearance by ad agencies that are part of the Federation of Advertising Agencies.

Delegated Advertising Controller (Delegerad reklamansvarig, DRA-systemet)
1970 –
Publishing clearance by advertisers that are part of the Advertisers’ Association.

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It is unclear if this body as of 1971 was discontinued permanently, just mothballed for a period of time or later morphed into another body (chapter seven). A similar self-regulatory body, the Council on Market Ethics (Marknadsetiska rådet, MER) was formed in 1989; Riksdagens utredningstjänst (2003), p. 58.
Ad Inspectors, (Annonsgranskare, AG-systemet)  
1970 –  
Publishing clearance in daily papers that are part of the Newspaper Publishers’ Association.

Marketing Law Consultancy (Konsultbyrån för Marknadsrätt, KBM)  
1968 –  
Assists marketers with legal advice in publishing clearance. Created on the initiative of the Federation of Advertising Agencies but with the Council on Business Practice as principal, a role later overtaken by the Trade and Industry Committee on Marketing Law Policy.

The Trade and Industry Committee on Marketing Law Policy  
(Näringslivets Delegation för Marknadsrätt, NMD)  
1970 –  
The successor agency to the Council on Business Practice. Main task to have a coordinative role for business marketing interests, particularly in relation to state policies and to function as a court of arbitration for the settlement of competitive conflicts. Principal of the Marketing Law Consultancy.

Advertising Affiliated Organizations

Peak Organizations in Marketing

The Swedish Advertising Federation (Svenska Reklamförbundet, SvRF)  
1935–1952  
**Background:** Formed in 1935 as a peak business organization for marketing. It was structured around local marketing societies that had been in existence since the early 20th century, which were also the founders of the Federation. Members consisted of individual members, companies and local marketing societies. Other business organizations were represented on the board of the federation, but were not actual members. It changed its name to The Swedish Sales and Advertising Federation in 1952.

**Main task:** To supply business members with information, education, knowledge and regulation of advertising and marketing, as well as representing wider business interests by working for the proliferation and public acceptance of marketing.

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3 Björklund (1967); Gustafsson (1974); Carlberg (1999) as well as sources referenced in chapters 3–7.
Place within self-regulation: Sole principal for the larger self-regulation of advertising regime based around the Council on Advertising Practice, also founded in 1935.

The Swedish Sales and Advertising Federation \((Svenska Försäljnings- och Reklamförbundet, SFRF)\)
1952–1967

Background: Formed in 1952, a successor organization to the Swedish Advertising Federation. The name change was motivated with the need to better mirror the broad quality of marketing, as well as the growing membership of sales professionals. Business organizations represented on the board of the federation were made members in the late 1950s.

Main task: To supply business members with information, education, knowledge and regulation of advertising and marketing, as well as representing wider business interests by working for the proliferation and public acceptance of marketing.

Place within self-regulation: Sole principal for the self-regulation regime based around the Advertising Council, also founded in 1935. One of several principals of the regime formed in 1957, based around the Council on Business Practice.

The Swedish Marketing Federation \((Sveriges Marknadsförbund, SMF)\)
1967–

Background: Formed in 1967, a successor organization to the Swedish Sales and Advertising Federation that was basically the same kind of organization as its predecessor.

Main task: To supply business members with information, education, knowledge and regulation of advertising and marketing, as well as representing business in marketing.

Place within self-regulation: One of several principals of the regime formed in 1957, based around the Council on Business Practice. No previous history as principal.

Advertising Agency Organizations

The Swedish Association of Advertising Agencies \((Annonsbyråernas Förening, AF)\)
1919–1968

Background: Formed in 1919.

Task: Represented the ad agencies’ part of the advertising cartel, instituted in 1923. In that year, the Newspaper Publishers’ Association and the Association of Advertising Agencies struck a deal that only allowed the association’s agencies to produce and procure advertising space for advertisements in the Newspaper Publishers’ Association’s papers. In return
for work, the ad agencies received a commission every time an advertisement was published. The ad agencies took the complete economic risk when they agreed to make and place an ad on behalf of an advertiser. The ad agencies were only paid commissions from the newspapers and not by the advertisers themselves. Restrictions were later added that forbade the ad agencies from working with other media outlets and non-member papers.

**Place within self-regulation:** One of several principals of the regime formed in 1957, based around the Council on Business Practice. No previous history as principal, but a member of the Marketing Federation and predecessors.

**Swedish Society of Recognized Advertisement Agencies (Svenska Auktoriserade Annonsbyråers Förbund, SAAF)**

1958–1967

**Background:** Created in 1958 as a result of negotiations between the Advertisers’ Association, the Newspaper Publishers’ Association and the Association of Advertising Agencies on the authorization procedure for ad agencies’ part of the advertising cartel. Authorization had previously been limited to the ad agencies that were members of the AF. In 1958 the rules on authorization were loosened up, allowing more ad agencies to be authorized. The Swedish Association of Advertising Agencies, however, was reluctant to admit these as members, so they organized themselves in the Swedish Society of Recognized Advertisement Agencies.

**Task:** To represent the interests of newly authorized agencies though the new rules of authorization coming into effect in 1958.

**Place within self-regulation:** No known representation as principal in any regime.

**The Swedish Association of Advertising Agencies and Consultants (Sveriges Annons och Reklambyråers Förbund, SARF)**


**Background:** Year of foundation unknown.

**Task:** To represent the interests of non-authorized ad agencies.

**Place within self-regulation:** Represented as principal on the Council on Business Practice regime as of 1963.

**The Swedish Association of Competence Authorized Agencies (Svenska Kompetensauktoriserade Annonsbyråers Förbund, SKARF)**

1967–1968

**Background:** Founded on January 1st 1967 through the merger of the Swedish Association of Advertising Agencies and Consultants and the Swedish Association of Competence Authorized Agencies.

**Task:** To represent the interests of newly authorized ad agencies not having been admitted to the Swedish Association of Advertising Agencies.
**Place within self-regulation:** Represented as principal on the Council on Business Practice regime as of 1968.

**The Swedish Federation of Advertising Agencies (Svenska Reklambyrå Förbundet, SRF)**  
1968–1986  
**Background:** Founded in the summer of 1968 through the merger of the Swedish Association of Competence Authorized Agencies and the Swedish Association of Advertising Agencies.  
**Task:** To represent the interests of the ad agencies.  
**Place within self-regulation:** Represented as principal on the Council on Business Practice regime as of 1968.

Advertiser Organizations**

**The Swedish Advertisers’ Association (Svenska Annonsörers Förening, SAF)**  
**Background:** Formed in 1924 as an association for advertisers.  
**Main task:** To make sure that the media carriers, in this case the daily press, stuck to fair competition. This meant it monitored and collected circulation figures for newspapers. From the mid-1940s, the association would actively seek to roll back the Advertising Cartel through negotiations with the cartel partners and the new post-war state authorities set to regulate competitive policies.  
**Place within self-regulation:** One of several principals of the regime formed in 1957, based around the Council on Business Practice. Represented on the board of the Marketing Federation and its predecessors.

Media Carrier Organizations**

**The Swedish Newspaper Publishers’ Association (Svenska Tidningsutgivareföreningen, TU)**  
**Background:** The Swedish Newspaper Publishers’ Association was formed in 1898 to look after the economic interests of its daily newspaper members in relation to advertisers and advertiser agencies.  
**Main Task:** Look after the interest of daily newspapers in the ad agency cartel.  
**Place within self-regulation:** One of several principals of the regime formed in 1957, based around the Council on Business Practice. Represented on the board of the Marketing Federation and its predecessors.
Production and Distribution Affiliated Organizations

The Swedish Retail Federation (Sveriges Köpmannaförbund)

Background: Founded 1918. Merged with the Federation of Wholesale Merchants and Importers and the Commercial Employers’ Association (Handels Arbetsgivareorganisation, HAO) in 1997 to form the Swedish Trade Federation (Svensk Handel).

Main Task: To represent the interests of smaller retailers.

Place within self-regulation: One of several principals in the smaller Committees of Business Practice regime during 1938–1956. One of several principals of the regime formed in 1957, based around the Council on Business Practice. Represented on the board of the Marketing Federation and its predecessors.

The Federation of Swedish Wholesale Merchants and Importers (Sveriges Grossistförbund)

Background: Founded 1922.

Main Task: To represent the interests of wholesalers.

Place within self-regulation: One of several principals in the smaller Committees of Business Practice regime during 1938–1956. One of several principals of the regime formed in 1957, based around the Council on Business Practice. Represented on the board of the Marketing Federation and its predecessors.

The Federation of Swedish Industries (Sveriges Industriförbund, IF)

Background: Formed in 1910.

Main Task: To look after overall interests of the industrial sector, mainly through lobbying, investigation and committee work.

Place within self-regulation: One of several founding principals of the smaller Committees of Business Practice regime founded in 1938. One of several principals of the regime formed in 1957, based around the Council on Business Practice.

The Cooperative Union and Wholesale Society (Kooperativa Förbundet, KF)

Background: Founded 1899.

Main Task: Production and distribution of cooperative goods.

Place within self-regulation: One of several founding principals of the smaller Committees of Business Practice regime founded in 1938. Consumer representative on postwar state agencies, but also representing a producer in-
interest when taking part in or commenting on official state investigative committees. One of several principals of the regime formed in 1957, based around the Council on Business Practice.

Chambers of Commerce

The Council of the Chambers of Commerce (Handelskamrarnas Nämnd)

Background: Formed in 1939.

Main Task: To safeguard the general interests of local Swedish chambers of commerce.

Place within self-regulation: Not a formal principal of the smaller Committees of Business Practice founded in 1938, but still associated with the regime. One of several principals of the regime formed in 1957, based around the Council on Business Practice.

Key Non-Business Organizations within Self-Regulation

Trade unions

The Swedish Confederation of Trade Unions (Landsorganisationen i Sverige, LO)

Background: Founded in 1898.

Main Task: Employee bargaining for employees in blue collar trades. With the Social Democratic Party, which dominated post-war Swedish governments, part of the labour movement.


The Swedish Federation of Professional Associations (Sveriges Akademikers Centralorganisation, SACO)

Background: Founded in 1947.

Main Task: Employee bargaining for white collar employees.


6 Kjellberg (1983); Johansson and Magnusson (1998); Nationalencyklopedin (2015c); Sources referenced in chapters 3–7.
The Swedish Central Organization of Salaried Employees (Tjänstemännens Centralorganisation, TCO)

**Background:** Founded in 1944.

**Main Task:** Employee bargaining for white collar employees.

**Place within self-regulation:** One of several principals in the Council on Business Practice regime created in 1957. Admitted as a consumer representative to the NOp in 1964.

Women’s Organization

The Swedish Housewives’ Association (Sveriges Husmodersföreningars Riksförbund)

**Background:** Founded in 1919. Changed its name to Riksförbundet Hem och Samhälle in 1999. Represented on the board of the Marketing Federation and its predecessors.

**Main Task:** Information, education and research on domestic work.

**Place within self-regulation:** One of several principals of the regime formed in 1957 based around the Council on Business Practice (Näringslivets Opinionsnämnd, NOp). Admitted as consumer representative to the NOp in 1964.
APPENDIX D

Insider Representation on the National Council for Consumer Goods Research and Consumer Information (Statens Konsumentråd)

Producers were represented on a number of post-war state agencies dealing with competitive and consumer issues. However, the state agency that was most vital for the self-regulation of advertising – as the empirical analysis shows – was the National Council for Consumer Research and Consumer Information, active as of 1957 until it was decommissioned in 1973. The agency was invited by insiders in 1957 to join the Council on Business Practice and as of 1964 was represented by two members. As a member, it also contributed significant financing to the council. This key state policy agency was given the task to formulate consumer policies and also allocate funding for consumer information and research. It had fifteen board members, of which seven were to represent consumer and employee interests, and at least three those of business. From its inception in 1957 until 1971 – the end of the studied time period – insiders were represented by members who were part of or associated with the Retail Federation, the Federation of Industries, the Cooperative Union and Wholesale Society and the farmer organizations, the Federation of Farmers’ Associations (Sveriges Lantbruksförbund, SL) and the Swedish National Rural Union (Riksförbundet Landsbygdens Folk, RLF). Of these, only the first four were principals on the self-regulation regime. Also, the Cooperative Union and Wholesale Society, while representing producers in self-regulation, here formally represented the consumer interest. In the

1 Pestoff (1988); Lundqvist (2003). For details on agencies, see chapter two; on board membership in these agencies, see Sveriges statskalender 1956–1971, [137, 820, 840].
4 Hwang states that the KF represented the producer interest in state committees and comments on these, and the consumer interest on all central post-war state agencies, referring to Pestoff. Pestoff lists six state agencies responsible for consumer policies from 1981, in which the KF represented consumers. These include the National Consumer Board and the National Price and Cartel Office. As the first body in the early 1970s succeeded the agencies centered on consumer information and testing created in the 1950s, and the second was created simultaneously as them, we must infer that the KF was a consumer representative on the National Council for Consumer Research and Consumer Information and also on the National Institute of Consumer Information; Pestoff (1984), pp. 57–62; Pestoff (1988), p. 10; Hwang (1995), pp. 143–144.
following presentation of their representatives on the state consumer agency, the names of board members and their period of activity on the council are referenced in footnote five, while other more specific sources that identify the organizational belonging of each member is made in footnotes referenced to each member.

**Self-regulation Inside Stakeholders represented on the National Council for Consumer Research and Consumer Information 1957–1971**

**The Swedish Retail Federation**  
Gottfrid Tjärnfors 1957–60  
Karl Axel Bengtsson 1961–64  
Karl Gustaf Kanderup 1965–1970  
Nils Fernqvist 1971

**The Federation of Swedish Industries**  
Östen Fagerlind 1957–1962  
Göran Tegner 1962–1965  
Harald Westling 1965–1968  
Gunnar Hellman 1969–1971

**The Cooperative Union and Wholesale Society**  
Harry Hjalmarsson 1957–62  
Nils Thedin 1963–1968  
Turid Ström 1968–1971

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9 Although sources are missing that confirm his organizational belonging, Fernqvist clearly replaces Kanderup and is, just like him, listed as an executive. This suggests he also represented the Retail Federation; *Sveriges statskalender* 1970–71 [820].


12 Styrelsens protokoll 20 januari 1965. Sveriges Industriförbunds arkiv. Westling was made a member of the federation’s board in 1965, the same year he took over the council seat from Tegner. *Vem är det* 1969, p. 1018.

13 Sveriges Industriförbunds valnämnd protokoll 18 december 1968; Styrelsens protokoll 18 december 1968. Sveriges Industriförbunds arkiv.


The Federation of Swedish Farmers’ Associations
Bo Åstrand 1957–60

The Swedish National Rural Union
Paul Grabö 1960–71

Ástrand was at this time active at Jordbrukets utredningsinstitut, whose principal as of 1950 was the Federation of Swedish Farmers’ Associations. Åkerman, B. Ett nytt forskningsråd. Sociala meddelanden 11/1957; Vem är det 1969, p. 1075; “Sveriges Lantbruksförbund”, Svensk Uppslagsbok, http://svenskuppslagsbok.se/76903/sveriges-lantbruksforbund/.

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\[1\] This archive had not been ordered or documented at the time of data collection. The referred sources were at the time placed in four free standing red cartons the size of a A4 document at shelf position 3414: 0803, bearing the titles “NOp 1970, 1–15, “NOp protokoll 1970, 16–28”, “Protokoll 1959 17/59 Års. O. EO I”, and “NOp verksamhetsberättelser m.m. II”. To simplify the reference procedure, an overarching term is used in references describing the material and its time span: “Protokoll och årsberättelser 1957–1971”.

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