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The Better Business Bureau: Over Three-Quarters of a Century of Service to the Consumer and Business Communities

by John W. Cooley*

Introduction

Approximately one hundred years ago, the seeds of industrial growth in the United States began to flourish. Homesteaders poured west to claim lands; great railroads spanned the continent; and open-hearth fires glowed in the steel mills that pounded out the sinews of a burgeoning nation. It was the age of the industrial titans, and the chief concern of many Americans was to apply their energies to exploiting the continent, and each other.

Unrestrained commerce with a philosophy of *caveat emptor* (let the buyer beware) prevailed. It was the buyer's responsibility to avoid being swindled. Goods were advertised in a free-wheeling, P. T. Barnum style, without regulation or standards. The con men of the day advertised "Complete Sewing Machines for 25 cents," and mailed out twelve needles to the innocent buyers who rose to the bait. A "bona fide" offer of a genuine, steel-engraved portrait of General Grant for 25 cents turned out on receipt to be a one-cent stamp. But these frauds were minor compared to the concoctions of alcohol compounds or opium derivatives sold to a trusting public as cure-alls "for man or beast." And then, guileless investors in land or stock promotions seldom received so much as a needle or a one-penny stamp for their money. Honest businessmen advertised cautiously, if at all, fearful lest the public associate them with fraudulent promoters of patent medicines, oil stocks, gold mines, and land speculation.

In 1872, Congress voted "Fraud Order" powers to the U.S. Postmaster General enabling postal inspectors to go after the mail swindlers. This move had little impact on deceptive advertising. Legitimate mail order commerce, however, was in danger of floundering on the shoals of dishonesty and mistrust.

Then, in 1909, Samuel C. Dobbs, sales manager of the Coca Cola Company and later president of the Associated Advertising Clubs of the World, launched a crusade for honesty in advertising. By 1911, the crusade was gaining impetus. John Irving Romer, publisher of *Printers Ink*, a leading trade publication for the advertising industry, persuaded a lawyer friend of his to

draw up a model statute to deal with sharp practices, fraud, and deception in advertising. Known as the "Printers Ink Statute," the law has since been adopted by most states in one form or another, making dishonest advertising illegal. In the same year, the Advertising Men's League of New York formed a "vigilance committee" to fight dishonesty in advertising. In 1912, the organization branched out into a National Vigilance Committee, and, by the end of the year, most large cities had established such committees. This resulted in the formation of "The Better Business Bureau" ("BBB"). Today, 200 Better Business Bureaus exist nationwide, with an additional sixteen operating in Canada. Over the years, the Better Business Bureaus have forged for themselves a well-earned reputation for the protection of the consumer in initiating and maintaining ethical standards in advertising and selling practices, and for the encouragement of self-regulation in the business community.

I. Primary Objectives of the BBB

The objectives of the Better Business Bureau today are three-fold:

- To protect the buying power of the consumer;
- To encourage honesty in business;
- To inform the public how to do business so that the consumer can buy intelligently and gain maximum satisfaction from his or her purchases.¹

The BBB accomplishes these objectives in various ways, but primarily through consumer education and consumer complaint processing.

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A. Consumer Education

The BBB educates the consuming public by several methods including: (1) operation of an Inquiry Center; (2) publication and distribution of a "Consumer Resource Book;" (3) distribution of brochures and pamphlets on a variety of consumer topics; and (4) BBB Tel-Tips. Each of these methods will be described in more detail below.

1. Inquiry Center

Typically, the ten incoming lines of an Inquiry Center are staffed by five people, who have computerized information on more than 15,000 companies at their fingertips. They can also provide information on an additional 60,000 less active companies. In order to provide information to an incoming caller, the Chicago office of the BBB has developed a number of relevant file information statements to expedite the process of handling more than 800 phone calls received each business day. One narrative states: "According to our files, this company has a satisfactory business performance record to date. Please understand that a Bureau report is neither an endorsement, nor a guarantee of satisfaction."² The caller would also be informed when the Bureau file was opened on the company in question, or the date the company started business along with the report date. A satisfactory business performance record means that the company has cooperated with the Bureau by: supplying background information about the company principals; furnishing requested information regarding the accuracy of any advertised or selling claims; correcting any advertising or selling practices which failed to meet established guidelines; giving reasonable response to, and settlement of, customer complaints received in the past two years; and assuring the company has not been subject to governmental action within the past two years as a result of its customer relations practices. Additionally, a company's membership of the BBB/Chicago will be included in the report.

If a company does not have a satisfactory business performance record, the caller is given the specific reasons why, e.g., it may have "a record of unanswered complaints." In some cases, the information available to the Bureau on a given company or industry is too detailed to brief over the phone. In such situations, a written report is sent to the inquirer providing available file information. That a company has a written report on it, however, should not be considered either a negative or positive reflection on the company.

Other means of obtaining information on a specific company exist at the BBB, but those vary from company to company and generally do not include the statement of a company having a satisfactory or unsatisfactory business performance record. In those cases, the specific number of complaints received, if any within a stated period of time, is reported to the caller.

When no information is available on a given company, the caller is advised of that fact, and is further informed that absence of BBB information is neither a statement of approval nor disapproval. Generally, it means that neither sufficient inquiries nor complaints have been received from either the business community or the general public to warrant the preparation of a report.

2. The Consumer Resource Book

The Consumer Resource Book is a major, new effort of the BBB to educate a broad portion of the U.S. population on consumer topics. Consisting of well over a hundred pages of useful consumer information, a BBB company membership roster, and member and other merchants' advertising, localized versions of the book are scheduled to be distributed without cost to all homeowners, businesses, and other locations in Buffalo, New York; Topeka, Kansas; San Francisco, California; Denver, Colorado; Spokane, Washington; Orlando, Florida; and Des Moines, Iowa. It has already been distributed to a large population of homeowners in the Chicago, Illinois area. While the BBB does not endorse or recommend any company, product, or service contained therein, the book is intended to furnish consumers with useful information to assist them in exercising their own judgment and in making informed buying decisions.

Among other topics, the Consumer Resource Book describes the BBB's services, including the Inquiry Center, complaint procedures, arbitration procedures, educational material, and BBB Tel-Tips. It also provides information on a variety of potentially deceptive sales situations (including automobile, buying clubs, door-to-door selling, home furnishings and appliances, home heating, home improvements, insurance, mail order, medical quackery, and warranties). A very informative section of the book advises the consumer of various frauds and schemes to watch out for (bait and switch, land sales, model homes and referral sales, phony gems, pigeon-drop, public notice sales, pyramid and investment schemes). Also helpful is a listing and abbreviated explanation of eight consumer protec-

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tion laws under which consumers might bring a claim. The listing includes:

1) The Magnuson-Moss Warranty Act which helps a consumer if a product does not perform as it is supposed to and the consumer is unable to get a satisfactory repair or replacement during the warranty period.³

2) The Equal Credit Opportunity Act which prohibits discrimination against a consumer in any credit transaction on the basis of sex, marital status, race, color, age, national origin, religion, or receipt of public assistance income.⁴

3) The Truth in Lending Act which requires creditors to give consumers a clear written statement of credit costs so they can compare credit terms.⁵

4) The Fair Credit Billing Act which establishes a procedure for prompt handling of billing disputes concerning credit and charge accounts.⁶

5) The Fair Credit Reporting Act which requires credit bureaus and firms which furnish insurance or employment reports to tell consumers what is in their file, to reinvestigate disputes, and to insure the accuracy of the information.⁷

6) The Fair Debt Collection Practices Act which prohibits debt collectors from harassing consumers when trying to collect debts, or from using unfair collection practices.⁸

7) The Consumer Leasing Act which requires companies that lease personal property—such as cars, furniture, and appliances—to tell consumers the actual cost and the terms of their leases in a prescribed manner.⁹

8) The Hobby Protection Act which requires that sellers of imitation political collectibles—for example, buttons and posters—mark the items with the calendar year in which the items were manufactured. In addition, coins, tokens, paper money, or commemorative medals must be labeled as copies.¹⁰

Throughout, the narrative portion of the Consumer Resource Book provides helpful illustrative examples of what the consumer should or should not do when making purchases.

3. Brochures and Pamphlets

The BBB has numerous brochures and pamphlets available for distribution to consumers at a nominal cost. A few of the available topic areas are:

Apartments—Tips on Renting	Tips on Financial Planners
Auto Insurance	Energy Saving
Automatic Transmission	Franchises (How to Get One)
Buying a New Home	Funeral Tips & Planning
Buying a New Car	Furniture—Tips on Buying
Buying a Used Car	Health Insurance
Buying a Phone	Health Spas
Car Repair	Hearing Aids
Care Facility—Long Term	Home Computers
Nursing Home	Home Fire Protection
Central Air Conditioning	Home Improvements
Computer Careers	Special Education Services
Condos & Co-Ops	Telecommunications
Consumer Credit	Telephone Service Information
Consumer Problems of the	Tires
Elderly	Travel Packages
Employment Services	Water Conditioners
Encyclopedias	

4. BBB Tel-Tips

In some areas, the BBB provides a consumer telephone information service in addition to brochures and pamphlets. This service offers over 150 pre-recorded messages on topics of interest to the consumer including: automotive, banking, financial, food, health and personal, home remodeling, construction and maintenance, real estate, retail sales, retail services, and frauds and similar schemes.

B. Consumer Complaint Processing

1. General

One of the most visible services of the BBB is complaint processing. BBB/Chicago handles approximately 18,000 written complaints each year, many through mediation (a neutral third party helping the two sides to reach a negotiated settlement) or arbitration (a decision by the neutral third party). Complaints are received about the purchase and sale of products or services. In order to expedite the compilation of the information needed to process the complaints, a form is available upon request. Along with the complaint form, the instructions regarding its completion and processing are mailed to the complainant. Because the Bureau is interested in assisting each person in reaching a resolution of his or her complaint, every individual complaint against the complained-of company is processed.

If the matter is not readily resolved, the Bureau will attempt to mediate the problem with both parties, usually by telephone and/or mail. Should these efforts prove unsuccessful, arbitration will be offered to both parties as a means of resolving the unsettled complaint. By

processing complaints, the Bureau establishes a customer relations file on a given company, and obtains necessary information about specific industry problems. By using this information, the BBB can work with a particular company or industry, and thereby eliminate the cause of the complaint, so that future consumers will not experience the same difficulty. During the past four years, more than 82% of the complaints brought to BBB/Chicago's attention were resolved satisfactorily through one of these methods of complaint processing.

2. Arbitration of Complaints

Arbitration is a service provided and administered by the Bureau, whereby a business and its customers, who have not reached a satisfactory conclusion through the Bureau's regular mediation procedure, may submit their dispute to an impartial third party, the arbitrator, for resolution. Presently, BBB/Chicago has a pool of 350 trained, volunteer arbitrators.

Arbitration proceedings are private, are not precedent setting, are speedy (average time less than two hours), do not require legal counsel, offer on-site inspection (optional to the arbitrator), and give the customer and business the opportunity to present their position to an impartial third party. Additionally, the hearing is held at a time and place convenient to all parties, and the decision is binding and enforceable under state law.

As the final dimension in complaint handling, arbitration offers both parties an alternative to the court system with the same degree of conclusiveness as a decision rendered in court. The flexibility and speed of the arbitration process has been praised by many, including former U.S. Supreme Court Chief Justice Warren Burger, who urged the expansion of such arbitration programs. Chief Justice Burger singled out the BBB system as "a fine example of the kind of mechanism needed to settle minor disputes out of court."¹¹

The Better Business Bureau Mediation/Arbitration Program is being written into an increasing number of manufacturers' warranties, and is offered by several major domestic and foreign automobile manufacturers, including all General Motors divisions, American Motors, Jeep, Honda, Volkswagen, Nissan, Peugeot, Audi, Renault and Saab. This program is called AUTO LINE. Under the terms of the manufacturer's warranty, purchasers of new and used autos, who have a problem which the manufacturer has not resolved to their satisfaction, may re-

quest the dispute be submitted to the BBB. The manufacturer is bound by its warranty to go into arbitration, if the Bureau's mediation efforts prove unsuccessful.

In automotive cases, the arbitrator's decision is always binding on the manufacturer, but the customer retains the option of accepting or rejecting the decision. Once accepted by the customer, the award is binding and enforceable. If a customer rejects an award, he is left to his own recourse, including the court system. A mediation/arbitration program similar to AUTO LINE is also available to the home remodeling industry (REMODEL CARE).

3. Statistics

The charts below reveal BBB/Chicago statistics on complaint processing for the years 1985-1987 and on operations data (including arbitration hearings) for the years 1984-1987.¹²

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OPERATIONS DATA JANUARY 1-DECEMBER 31

	1987	1986	1985	1984
Daily Average	1,273*	1,114*	1,060	1,023
Total Instances of Service	306,655*	281,900*	255,480	246,650
Closed Written Complaints	19,887*	18,100*	16,909	16,366
Complaints Settled (%)	84*	84*	84	80
Arbitration Hearings	712	584	390	352
Tel-Tips Messages	12,765	12,900	14,263	14,653
Ad Review Actions	445*	380	528	1,027

*Estimated

STATISTICAL COMPLAINT ANALYSIS TOP INDUSTRIES JANUARY 1-DECEMBER 31

Industries	1987*		1986		1985	
	Complaints	% Settled	Complaints	% Settled	Complaints	% Settled
Franchised Auto Dealers/Manufacturers	7,432	96	6,325	96	6,018	97
Mail Order Companies—Other Than Magazines	1,965	82	1,895	83	1,805	83
Service Companies Misc.	1,105	73	915	71	894	71
Automobile Repairs	1,069	59	910	57	780	58
Home Remodeling Contractors	790	56	760	56	748	56
Magazine Sales	760	79	732	79	605	78
Travel Agencies	786	88	721	90	582	90
Retail Stores Misc.	492	70	486	69	464	68
Home Furnishing Stores	436	71	439	71	397	69
Department Stores	391	98	349	98	335	98
Dry Cleaning/Laundry	309	48	255	47	229	47
Roofing Contractors	296	64	254	64	226	40
Automotive Miscellaneous	295	54	251	52	217	65
Heating & Central Air Conditioning	265	53	198	52	190	52
Insurance Companies/Agencies	257	88	196	88	186	89
Gasoline Service Stations	229	61	194	62	176	64
Real Estate Sales & Rental	181	66	168	65	170	65
Appliance Service	178	66	159	56	165	56
Manufacturers/Producers	176	87	158	86	158	86
Television/Electronic Servicing	164	68	157	69	157	69

*Estimated

II. Consumer Responsibilities

Although the BBB is dedicated to educating the consuming public and to protecting it against unfair and deceptive business practices, it also recognizes that the consumer, in addition to having rights, has certain responsibilities to the individuals and companies with whom he or she does business. As the BBB points out, knowing how to complain as a consumer is an art, and the consumer has responsibilities when he or she complains. For example, the BBB advises the consumer:

1. Save all documents associated with the products you buy, including sales receipts, repair records, contracts, guarantees and warranties, model numbers and serial codes, cancelled checks or other proof of payment, copies of promotional material, and any information concerning a contract you may have had regarding the product (time, date, person, facts given and received, etc.).

2. In the event of a problem, first contact the store where you made the purchase, having all relevant information handy. State facts clearly and concisely, and be patient; give the retailer a chance to respond. The situation may be annoying and inconvenient, but getting angry may frustrate the situation. Be reasonable.

3. If your first contact was by phone, briefly confirm in writing any agreements or information received, noting the time and date of the conversation and the name of the person with whom you spoke. Keep a copy of this letter for your records.

4. If your first contact is by letter, address it to a company's consumer representative or its owner or manager. Enclose copies of all supporting information and documents, and include the information mentioned above in #3. Keep a copy. Timing of the letter could become important if it is sent during a warranty period.¹³

Conclusion

Almost an octogenarian, the Better Business Bureau is still as vibrant and resourceful as ever in educating and protecting the interests of both consumers and the business community. Through its mediation/arbitration program, it also protects our legal system by precluding thousands of consumer complaints, some of a very minor nature, from flooding our already overburdened courts and administrative agencies. The BBB has truly earned its reputation as both a friend of the people and a friend of the courts.

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1. BETTER BUSINESS BUREAU OF CHICAGO & NORTHERN ILLINOIS, INC., THE BETTER BUSINESS BUREAU'S CONSUMER RESOURCE BOOK 5 (1988).
 2. *Id.* at 14.
 3. 15 U.S.C. §§ 45, 46, 49, 50, 52, 56, 57a to 57c, 2301-2312 (1982 & Supp. IV 1986).
 4. 15 U.S.C. §§ 1691-1691f (1982 & Supp. IV 1986).
 5. 15 U.S.C. §§ 1601-1613, 1631-1646, 1661-1667 (1982 & Supp. IV 1986).
 6. 15 U.S.C. §§ 1601, 1602, 1637, 1666-1666j (1982 & Supp. IV 1986).
 7. 15 U.S.C. §§ 1681-1681t (1982 & Supp. IV 1986).
 8. 15 U.S.C. §§ 1692-1692o (1982 & Supp. IV 1986).
 9. 15 U.S.C. §§ 1601, 1640, 1667-1667e (1982 & Supp. IV 1986).
 10. 15 U.S.C. §§ 2101-2106 (1982).
 11. BETTER BUSINESS BUREAU OF CHICAGO & NORTHERN ILLINOIS, INC., *supra* note 1, at 16.
 12. BETTER BUSINESS BUREAU OF CHICAGO & NORTHERN ILLINOIS, INC., DEMANDING TIMES: 61ST ANNUAL REPORT.
 13. BETTER BUSINESS BUREAU OF CHICAGO & NORTHERN ILLINOIS, INC., *supra* note 1, at 15.
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