THE CONSUMER IN AUSTRIAN ECONOMICS AND THE AUSTRIAN PERSPECTIVE ON CONSUMER POLICY

AUKE R. LEEN

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The cover photo shows Carl Menger (left), the founder of the Austrian school of economics, and a friend fishing.

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FOREWORD

The research for this thesis and the writing of it has been a long and winding road. There are many people I am grateful to for giving me the encouragement to keep traveling along the way.

It all began more than ten years ago while I was working for the Dutch Ministry of Economic Affairs in the Department of Consumer Protection. Thanks to the heads of the department P.J.M. Bauduin and J. Koopman I came in contact with Professor W.A.A.M. de Roos, my first promotor. Then for some reason I cannot remember anymore, call it serendipity, I read Hayek's famous article on the meaning of competition—and the world was never to be the same again. Realizing that I was no longer the right man in the right place, I moved to Leiden University. Very sadly, Professor De Roos died of a heart attack. Thanks to Professor J.A.H. Maks I not only began writing my thesis in English, but was brought into contact with Professor I.M. Kirzner of New York University. Kirzner's theory of the market as a process became the basis of this whole thesis. He invited me to spend the spring semester of 1990 at New York University. Articles in part II are the result thereof. At Leiden University Professor J.J.M. Theeuwis and B.C.J. van Velthoven became my coaches in writing. Articles in part III are the result. My thanks also go to K. ter Horst, the secretary of the department of general economics at Leiden University, she is still coaching me as far as curing my lack of knowledge of lay-outing the thesis. Being able to teach history of economic thought, including Austrian economics, I moved part time to Wageningen University, where Professor H. Folmer urged me to finish my thesis. Without his encouragement and support I am not sure if I would have done so. W.J.M. Heijman, my co-promotor, suggested it take the form of a collection of articles. He also suggested the addition of an article on the Austrian perspective on products liability. And so, eventually, I finished my thesis. I never thought it would look like this. To my genuine surprise it is a collection of articles, partly in English partly in Dutch, and some direct photo copies too.

Without the interest and loving support of my wife and four daughters, I would not have been able to complete the work. They encouraged me to siege the chance to travel all over

the world while working on it, beginning in 1990 with my stay as a research scholar in New York for months and ending most recently in 1999 with a stay in the Czech Republic for weeks to teach the history of economic thought. In between were visits to dozens of cities for lecturing and meetings, mostly in the United States, with on my way nearly always a short stop in my beloved New York City.

To all of you I give my sincere thanks. May God bless you all.

INTRODUCTION[1] AND OUTLINE

Lack of international competitiveness is often seen as a central problem for the economy. Competitiveness, as the Cuomo Commission on Competitiveness says, "is the primary determinant of our ability to maintain our standard of living and our traditions of opportunity and inclusion" (Cuomo, 1992, p. 5). Whatever competitiveness means, certainly it involves entrepreneurship. So, to rebuild economic strength, a government focuses attention on the business sector. But why the businessman, why not the consumer too? In the market the consumer matters. James Steuart, a predecessor of Adam Smith, described this in 1767 as double competition. "Double competition is what is understood to take place in almost every operation of trade; it is this which prevents the excessive rise of prices; it is this which prevents their excessive fall. While double competition prevails, the balance is perfect, trade and industry flourish" (Steuart, 1767, p. 264). Or, as Smith put it, next to competition among sellers there is competition among buyers. "When the quantity of any commodity which is brought to market falls short of the effectual demand, all those who are willing to pay the whole value of the rent, wages, and profit, which must be paid in order to bring it thither, cannot be supplied with the quantity which they want. Rather than want it altogether, some of them will be willing to give more. A competition will immediately begin among them, and the market price will rise [...]" (Smith, 1776, p. 159). The market in a capitalistic economy is a two-sided process. When producers do not compete, it is similar to a planned economy, such as that of the former Soviet Union. When consumers do not compete, it is a bit like the old caste society in India. Free entry to different groups of consumers is not possible. When one side of the market process fails, the economy becomes rigid and less competitive.

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[1] The introduction is part of a paper presented at the International Conference of the Global Business and Technology Association, Montego Bay, Jamaica, West Indies, April 1-4, 1999. The full paper is published in *Emerging Global Issues in the Next Millennium*, Charles Little, Nejdet Delener, Stanley J. Lawson (eds), St. John's University: Jamaica, NY, 1999, pp. 166-176.

What of the modern Western world? Steuart and Smith wrote more than two hundred years ago. Do consumers still compete? I believe producers "attempt to outdo, outprice, outproduce, and outmaneuver each other" (Kamerschen *et al.*, 1989, pp. 47-8). Doubtless, producers behave as rivals. But what about rivalry among consumers? I see consumers as fellows, not rivals. Rivalry among consumers seems to have disappeared from the economic scene. In today's mass markets there is little bidding up of the price of a limited supply. The bidding up of prices is confined to buying a house or a piece of antique at an auction—something that generally happens only once or twice in a lifetime. Maybe the most obvious reason for the absence of competition among consumers is consumer sovereignty, a basic normative idea of economics. "[It] is the principle that what is produced, how it is produced, and how it is distributed are to be determined by consumer preferences expressed through individual choices in a free market" (Penz, 1986, p. 5). Compare economic and non-economic competition. What do they have in common? Both involve contestants and judges. In non-economic competition, for example, in democratic politics, an election is a competition in which the candidates are the contestants and the voters the judges. Similarly, "in most markets, the sellers are the contestants—they take the initiative in offering bargains—while the buyers act as judges, selecting bargains they consider superior and rejecting those believed to be inferior" (Abbott, 1955, p. 105). So, in economic competition too, only the contestants, the producers, compete. The judges, the consumers, select. In mainstream neoclassical theory the consumer is the sovereign, way above all earthly competition.

But, perhaps the consumer is actually the opposite of a king. This could explain the absence of competition among consumers. Lester Thurow suggests that parts of society are no longer consumer-driven, but producer-driven. We can no longer speak of consumer economics but rather producer economics. The goal is not to maximize consumption. "Individuals may rationally decide to have fewer consumption goods in their home environment to have more production goods in their work environment. ... A higher standard of living at work may even be more important than a higher standard of living at home." (Thurow, 1992, pp. 118-9). Men compete at work. "Belonging, esteem, power-building, winning, and conquering are all human goals just as important as maximizing consumption and leisure. Work is where one achieves such goals" (Thurow, 1992, p. 118).

In the producer society there is less competition among consumers. Alvin Toffler, however, believes that we live neither in a consumer nor in a producer society, but somewhere in the middle. We are at the threshold of a "prosumer" society: the reintegration of the consumer into production. "And wherever the gap between consumer and producer narrows, the entire function, role, and power of the market is brought into question" (Toffler, 1980, p. 276). Toffler speaks of a trans-market civilization. New forms of competition might arise, for instance, between a traditional, licensed electrician producing for exchange and an unlicensed prosumer producing for use. The consumer has no role because he no longer exists. He has changed into a prosumer.

Next to these broad cultural notions there are some more down-to-earth market reasons for the lack of competition among consumers. Suppose competition has run its full course. Prices are then in equilibrium and there is no need to compete. However, when prices are above equilibrium, there are surpluses; the layman's impression when walking through a supermarket. And whenever there is a surplus, it is the producer who competes—not the consumer. However, if there is excess demand, should the consumer compete? This need not be so. Even when prices are below equilibrium, thus causing excess demand, the producer competes. Why? The consumer is a jack-of-all-trades buyer, the producer a specialized seller. Their degree of specialization differs. So, when producers and consumers exchange information, the producer "enjoys far more scale economics in the communication process than the buyer. A single advertisement can get a message to numerous potential buyers at a very small cost per recipient" (Heflebower, 1967, p. 179). In contrast, who will notice the advertisement of a single consumer for all the goods he wants in the middle of the total demand? As a result the search costs are higher for the consumer than for the producer. For the consumer they could be too high; the producer searches and competes. Moreover, in modern markets, competing products are non-homogeneous. Consumer products have changed since the days of Smith. Then they were simple and basic, now they are varied and manufactured. Producers have learned to control quality. "[I]n the economy of today, at any rate the advanced economies, most of the products sold to the consumer ... are largely supplied on customer markets, not the auction markets of classical theory or anything like them" (Phelps, 1985, pp. 383-4). The producer has to discover the diversity of buyers' preferences. The raw materials producer of the old days

did not have to do that. Today, producers take the initiative and compete; consumers gain by waiting for prices to be formed.

Finally, not only quality *per se*, but quality uncertainty is a reason. Goods can be subject to contested exchange. "An exchange is contested when some aspect of the good exchanged possesses an attribute which is valuable to the buyer, is costly to provide, is contractually unspecifiable, and hence requires endogenous enforcement" (Gintis, 1989, p. 68). In markets of consumer goods the non-contractual aspect of the good is its quality. How can the consumer assure a certain quality? He has the power of non-renewal of exchanges through time. For the threat of non-renewal to be effective, the consumer must offer the producer an enforcement rent: a premium added to the price paid. Prices of consumer goods are above equilibrium. The price is not bid down and the producer competes again.

There certainly seems to be ample grounds for there being no competition among consumers. But perhaps we are looking for the answer at the wrong place. I began with the notion of competition as it is used by the man in the street: active rivalry. I then looked at the way a neoclassical economist describes it as perfect competition: a form of nightcap competition at best. The approach is reminiscent of the old joke about the man who is standing under a street light looking for his keys when another man offers to help him. "Where did you drop them?" the helper asks. "Across the street," the man answers. "Then why are you looking here?" "The light is better." So, to answer the question of whether consumers compete it is better to keep to the notion of competition as rivalry and see where it leads.

In the Austrian tradition in economics, competition (defined as rivalry) and entrepreneurship are two sides of the same coin. Looking at competition and entrepreneurship in the Austrian way emphasizes the importance of the specific knowledge of time and place. It stresses the importance that every individual—consumer and producer alike—can take advantage of them. In other words, Hayek's notion of competition and his emphasis on knowledge of time and place is important for the consumer. As far as the circumstances of time and place go—the consumer is the expert. But it must be remembered that the consumer is very elusive. As soon as he becomes entrepreneurial he often changes from an entrepreneurial consumer to an entrepreneurial producer. In other words, entrepreneurial opportunities tend to appear within the context of a specific time

and place. So a decentralized economy that allows individuals to act on their own entrepreneurial insights, and rewards them for doing so, produces an environment in which entrepreneurship is stimulated. And since entrepreneurial insights also lay the foundation for additional entrepreneurial insights, the growth process of our economy is sustained (Holcombe, 1998, p. 46 and 54). This takes us back to the problem faced by the Cuomo Commission. So it seems the Austrian tradition is the place to look for an answer. This is not quite true however. There is a particular oddity in the Austrian tradition that I have to look at first.

For Austrian economists, classical economists were at fault because they were only able to explain the actions of the businessman. Classical economists completely neglected the rationality on the part of the consumer. They failed to find the law of marginal utility. "The famous formula 'to buy on the cheapest and to sell on the dearest market' makes sense only for the businessman. It is meaningless for the consumer" (Mises, 1990, p. 41). It was precisely this limitation that the Austrian subjective theory of value was able to overcome (Mises, 1976, p. 147 and 175). To a certain extent, however, modern Austrian economists, like the classical ones, have also lost sight of the consumer. The consumer is conspicuous by his absence in the analysis of the feasibility of economic calculations in monetary terms, as well as in the elucidation of the market as a dynamic process of entrepreneurial discovery. The feasibility of monetary calculations is discussed only for rational production. The elucidation of the market process, modern Austrian economics uses the methodological makeshift of an entrepreneurial producer and a non-entrepreneurial consumer.

This study has two aims. First, to analyse the role, calculative and entrepreneurial, of the consumer in Austrian economics. Second, to show the implication for consumer policy of Austrian economics in general and the Austrian consumer in particular. Part I serves as a general introduction to older and modern Austrian economics. It especially addresses the question of how the role of the consumer became lost in modern Austrian economics. Part II analyses the theoretical underpinnings of the calculative and entrepreneurial behaviour of the consumer. Part III discusses the question as to what extent the Austrian concept of the market process leads to a different judgement of and vision on consumer policy as opposed to the traditional neoclassical one.

REFERENCES

- Abbott, Lawrence. *Quality and Competition.* New York: Columbia University Press, 1955.

- Cuomo Commission on Competitiveness. *America's agenda: Rebuilding economic strength.* Armonk, N.Y. and London: Sharpe, 1992.

- Gintis, Herbert. "The Power to Switch: On the Political Economy of Consumer Sovereignty." In *Unconventional Wisdom: Essays in Honor of John Kenneth Galbraith,* Samuel Bowles, Richard C. Edwards, and William G. Shephard, eds, New York: Houghton Mifflin, 1989, pp. 68-80.

- Heflebower, Richard B. "The Theory and Effect of Nonprice Competition." In *Monopolistic Competition Theory: Studies in Impact,* R.E. Kuenne, ed., New York: John Wiley, 1967, pp. 117-201.

- Holcombe, Randall G. "Entrepreneurship and Economic Growth." *The Quaterly Journal of Austrian Economics,* Summer 1998, Vol. 1, Number 2, pp. 45-62.

- Kamerschen, David R., McKenzie, Richard B., and Nardinelli, Clark. *Economics.* Boston: Houghton Mifflin Company, 1989.

- Mises, Ludwig von. *Epistemological Problems of Economics,* Princeton: New York, 1976.

- Mises, Ludwig von. *Economic Freedom and Interventionism, An Anthology of Articles and Essays by Ludwig von Mises,* edited by Bettina Bien Greaves, Irvington-on-Hudson, New York: The Foundation of Economic Education, 1990.

- Penz, G. Peter. *Consumer sovereignty and human interests.* Cambridge: Cambridge University Press, 1986.

- Phelps, Edmund S. *Political Economy.* New York: Norton, 1985.

- Smith, Adam. *The Wealth of Nations.* Harmondsworth: Penguin Books, (1776), 1974.

- Steuart, Sir James. *An Inquiry into the Principles of Political Economy.* New York: Augustus M. Kelley, (1767), 1967.

- Thurow, Lester. *Head to Head.* New York: William Morrow, 1992.

- Toffler, Alvin. *The Third Wave.* New York: Bantam Book, 1980.

Part I. THE CONSUMER IN AUSTRIAN ECONOMICS

Chapter 1. Austrian economics: what's in a name?

Chapter 2. Praxeology

Chapter 3. The missing consumer: the socialist calculation debate

Chapters 1 and 3 (in an earlier and abbreviated version) were presented at the Workshop "New Perspectives in Austrian Economics", Max-Planck-Institute for Research into Economic Systems, Jena, Germany, August 7-8, 1998. Chapter 3 was presented as a part of a larger paper at the International Conference on Entrepreneur and Entrepreneurship at the Dawn of the 21th Century, Athens Institute for Education and Research, Athens, Greece, May 29-31, 1998.

1. AUSTRIAN ECONOMICS: WHAT'S IN A NAME?

In the 1880s German professors attached the epithet 'Austrian' to the economic theories of Menger, Böhm-Bawerk and Wieser. The pejorative epithet was bestowed by disdainful German economists. Why use such an epithet, and what was the reason for their disdain?

1.1 A geographical and pejorative label

The theories were first put forward by three Austrians, holding chairs at the universities of Vienna, Innsbruck, and Prague. In 1871 Carl Menger published his *Grundsätze der Volkswirtschaftslehre* (Principles of Economics), a book usually recognized as the origin of the Austrian School of Economics. But until the end of the seventies there was no Austrian School: there was only Menger. Later he was joined by two younger economists, brothers-in-law, Eugen von Böhm-Bawerk and Friedrich Wieser. [Böhm-Bawerk married Wieser's younger sister Paula in 1890.] Both of whom became enthusiastic supporters of the new ideas put forward in Menger's book.

The pejorative overtone of the predicate Austrian was because new modes of thinking were not associated with Austria. "For people who were not familiar with economics, the predicate 'Austrian' as applied to a doctrine carried strong overtones of the dark days of the Counter-Reformation and of Metternich. To an Austrian intellectual, nothing could appear more disastrous than a relapse of his country into the spiritual inanity of the good old days" (Mises, 1969, p. 14).

1.2 Clash over methods

German economists attached the smear to Menger and his followers because, for them, Austrian economics meant backwardness. The Germans and Austrians both attacked classical economics, the former appealing to an alleged modern historical approach. Menger, however, although also wanting to rebuild the foundations of economic science, retained the abstract, theoretical character of economics. This clash of methods is known as the *Methodenstreit*. In the end, the clash over methods seemed one of precedence and the relative importance of historical research over against analytic tools. Later commentaries interpreted the whole quarrel as one "of wasted energies, which could have been put to better use [...to be] settled by allowing every type of work to find the place to which its weight entitled it" (Schumpeter, 1954, p. 814).

For Ludwig von Mises, the founder of modern Austrianism, on the other hand, it was "a complete misunderstanding of the meaning of the debates concerning the essence, scope, and logical character of economics to dismiss them as the scholastic quibbling of pedantic professors. The real issue was the epistemological foundations of the science of human action and its logical legitimacy" (Mises, 1966, p. 4). At stake was the value and usefulness of economic theory. The real motivation of the "Prussian Historical School, the self-styled 'intellectual bodyguard of the House of Hohenzollern'" (Mises, 1966, p. 4), said Mises, was to make coercive government intervention in the free market respectable. The Historical School could not demolish by means of the abstract methodology of the Classical School, the latter's conclusions towards laissez faire. It had to resort to another, empirical methodology to sustain its toleration of government intervention. Because for the Historical School there were no economic laws transcending mere description of the circumstances of individual time and place, there were no inconvenient economic laws for government to violate.

1.3. Subjectivism

1.3.1 Older Austrians

What did the German Historical School object to in the Austrian theory? And which the modern profession—as far as Mises's methodology is concerned—still does not like. In the words of Mark Blaug: "his [Mises, A.L.] later writings on the foundation of economic science are so cranky and idiosyncratic that we can only wonder that they have been taken seriously by anyone" (1980, p. 93). It does seem that Blaug at least has changed his opinion, as he recently declared: "I have come slowly and extremely reluctantly to view that they [the Austrians] are right and that we have all been wrong" (Blaug/Marchi, 1991, p. 508; cp. Blaug, 1993, p. 1571).

Menger's theory turned the value theory of the classicals upside down. The classical Ricardian theory held that cost of production determines the normal value of consumption goods. In contrast, Menger's theory held that the value of consumption goods ultimately determines the cost of production. The end gives the means its importance, not *visa versa*. Labor is not the source of value, but a means to value. Value should no longer be seen as being governed by past resource costs, but as an expression of judgements concerning future usefulness in meeting consumer wants (Kirzner, 1987, p. 146). Menger's theory came to be known as the subjective theory of value. The classical objective value theory was a second best solution to the problem of how prices are determined. Classical economists "were fully aware of the fact that prices are not a product of the activities of a special group of people, but the result of an interplay of all members of the market society" (Mises, 1966, p. 62). But because of the problems encountered in the famous value paradox, they only considered the activities of the producer.

The puzzle of the value paradox was that in exchange, diamonds are more highly valued than water, although the latter is more useful. Because the classical economist were unable to solve the puzzle, not utility but labor costs became the kernel of their value theory. Goods are not valued for their usefulness. Utility, and so the consumer, was ignored. Political economy, as John Stuart Mill said, looks at the production and distribution of

wealth, but not at its consumption. "We know not of any laws of the consumption of wealth as the subject of a distinct science: they can be no other than the laws of human enjoyment" (Mill, 1844, p. 132). This restricted theory led to the misconceptions that (1) there is a distinction between production catering the needs of the consumer and production guided by the profit motive of the producers, and (2) in the act of exchange goods of equal (labor) value are exchanged. The misconceptions were later used by Marx and the Marxists in their fight against the market economy.

The Austrians solved the paradox by suggesting that no individual on the market ever faces the choice between water and diamonds as a class. Prices arise in connection with definite amounts of goods, and the greater the quantity of a good anyone possesses, the less he will value any given unit (the law of diminishing marginal utility). Value has nothing to do with broad classes of men or of products. Consequently, the reason water sells so much cheaper than diamonds is that the number of liters of water is enormously greater than the number of carats of diamonds. The value and the price of a liter of water will be far less than that of a carat of diamonds. And if one were in the impossible position of having the choice between all water and all diamonds, one would rate water first and diamonds second, disproving the existence of the paradox.

By offering a more satisfactory theory of value, the subjective or marginal theory of value was more comprehensive than the classical theory, which last one emphasized the activities of the producer. Value is in the mind of the individual, who chooses and maximizes, for whatever reason, his profit or utility. Market demand flows from the valuations of the consumer. The expected demand sets the market supply of the producer. The interaction of demand and supply sets the market price.

1.3.2 Modern Austrians

Israel Kirzner (1986, p. 134 and 152) describes modern Austrianism as an authentic extension of Menger's older static subjectivism: a consequent dynamic subjectivism. In modern Austrianism, that post-World War II continuation of the Austrian tradition, the two central figures are Mises and Friedrich Hayek. Both authors focus on market adjustment processes. Kirzner, building his theory as Mises and Hayek did, believes that one of the

greatest failures of neoclassical equilibrium analysis is that it assumes that an equilibrium is actually brought about. For instance, in a disequilibrium would-be buyers who have returned home empty handed should learn that it is necessary to outbid other buyers, and buyers who have paid high prices should discover that they could have got the same goods at lower prices (Kirzner, 1973, p. 14). Consequently the real problem for modern Austrians is to describe the possible realization of an equilibrium as the result of "the systematic way in which plan revisions are made as a consequence of the disappointment of earlier plans" (Kirzner, 1962, p. 381).

Neoclassical equilibrium theory cannot describe endogenous changes in the end-means framework. Its maximization scheme is unfit for the task of generating systematic modifications of choices. It suffers from a discontinuity in the succession of decisions. Only an exogenous change in the data, e.g., in tastes, in technology, or in information can generate a new decision; a decision that is unexplainable in the original framework. Without exogenous changes there is no 'choice-theoretic' explanation as to why yesterday's plans are replaced by today's.

Mises and Hayek made it possible to describe adjustment as a systematic sequence of decisions. Mises's extension of subjectivism was to describe the individual decision unit not only as maximizing, but also as finding out the relevant ends-means relationship. This opened the way for incorporating learning into our understanding of market processes. Hayek's extension of subjectivism was to describe precisely the process as one of learning by discovery (Kirzner, 1986, p. 147; cf. Kirzner, 1985, p. 26)).

Endogenous change in the ends-means relationship is possible with the entrepreneurial element in each individual market participant: alertness (Kirzner, 1967, pp. 793 -794 and 1973, pp. 70-72). Alertness is the propensity of knowing where to look for information (Kirzner, 1973, p. 68), "the propensity [...] toward fresh goals and the discovery of hitherto unknown resources" (Kirzner, 1973, p. 34). A disequilibrium situation points to market ignorance, from which emerge profitable opportunities, entrepreneurial alertness exploits (Kirzner, 1979, p. 30). Alertness gives a more realistic image of human action and makes possible the description of the market as a unified discovery process. To sum up in the words of Kirzner: "What drives the market process is entrepreneurial boldness and

imagination; what constitutes that process is the series of discoveries generated by that entrepreneurial boldness and alertness" (Kirzner, 1997a, p. 73).

"[The] 'alertness' view of the entrepreneurial role rejects the thesis that if we attribute genuine novelty to the entrepreneur, we must necessarily treat entrepreneurially generated market events as not related to earlier market events in any systematic way. The genuine novelty [...] attribute[d] to the entrepreneur consists in his spontaneous *discovery* of the opportunities marked out by earlier market conditions (or by future market conditions as they would be in the absence of his own actions)" (Kirzner, 1985, p. 11). "[These] entrepreneurial discoveries are the steps through which any possible tendency toward market equilibrium must proceed" (Kirzner, 1985, pp. 11-12).

1.4 Austrians and neoclassicals compared

Walras and Jevons are the two other well-known contributors to the marginal subjective value theory. From the modern Austrian perspective, Menger's writings in embryonic form contain insights that have been left out, or lost from mainstream neoclassical Walrasian and Jevonsian (Marshallian) economics (Kirzner, 1989a, p. 232). The differences refer to (1) the subject of, (2) the place of process analysis in, and (3) the epistemological character of economic theory.

1.4.1 The equilibrium situation or the equilibrating process

For modern Austrians, the main difference between the neoclassical market model and their own is that in theirs, adjustment processes and market disequilibria are central. Adjustment copes with dispersed knowledge and lack of it. The central point of their approach is the incurable ignorance of most of the particular circumstances which determine the course of society. In contrast to the neoclassicals, for the modern Austrians, correct foresight, full knowledge, is not a precondition for the attainment of equilibrium, but the defining characteristic of the state of equilibrium. "The statement that, if people know everything, they are in equilibrium, is true simply because that is how we define equilibrium" (Hayek, 1949, p. 46). In the modern Austrian market model, action does not—as is mostly the case in the

neoclassical model—primarily follow from an optimal choice in a given ends-means relation. At the centre of the modern Austrian market model is the process of conceiving the ends-means relationship. In the words of the modern Austrians, the change in market model contains a change "from a 'mechanical' Robbinsian [after Lord Robbins, neoclassical] economizer to Mises's [modern Austrian] *homo agens*" (Kirzner, 1973, p. 72). "[*Homo agens*] is not merely engaged in computing the patterns of means allocation that will most faithfully reflect the hierarchy of given ends [like Robbins's calculating agents]. *Homo agens* is actively seeking out the best course of action, he is venturing, innovating, exploring, searching" (Kirzner, 1967, p. 792).

The discontinuity in the succession of decisions in the neoclassical market model shows that the neoclassical maximizer does not choose at all. "[T]he replacement of one set of given ends by a second set occurs *before* (or at least *outside*) [... neoclassical] choice itself" (Kirzner, 1986, p. 142). "The very circumstance that the 'chosen' course of action is seen as already inexorably implied in the given configuration of preferences and constraints, of ends and means, makes the choice 'mechanical' or 'automatic' - and thus not a true choice at all. True choice surely requires the realistic possibility of more than one alternative" (Kirzner, 1986, p. 139). Choices are not only concerned with merely selecting the highest out of an array of given and ranked alternatives, but also embrace the perception and evaluation of the alternatives identified as relevant (Kirzner, 1989b, p. 18).

There is a sharp distinction between neoclassical search theory and discovering relevant means and ends. In neoclassical search "[t]he searcher knows what he is looking for, and he knows where to look for it. [...] In the case of discovery, on the other hand,] the discoverer discovers something he did not know existed, or something, the ready availability of which he had not realized" (Kirzner, 1989b, p. 27). Search wipes out known ignorance. Discovery wipes out utter ignorance—one is unaware one does not know.B u t the process of discovery is not completely unpredictable. For modern Austrians the outcome "may emerge as a result of the alert grasping of a hitherto unnoticed opportunity." In neoclassical equilibrium theory, on the contrary, the outcome is "*either* the fully expected result [...] of deliberate plans, *or* the fortuitous expression of pure luck" (Kirzner, 1989b, p. ix and 30).

The central point of the Austrian approach is man's incurable ignorance. "Thus entrepreneurial activity [...] undoubtedly involves uncertainty and the bearing of risk" (Kirzner, 1973, p. 78; cp. Kirzner, 1985, pp. 40-67). This point is emphasized in the last chapter on product liability.

1.4.2 Processes: the start or the end of the analysis

The neoclassical economist often starts with a simplified static model. Processes are studied as the outgrow of some higher order of (mostly) technical sophistication. For modern Austrians, however, the distinction between process and situation is not a choice between two independent subject matters of economics. For them the process elements "are central and essential for understanding markets and not merely refinements to our knowledge" or matters of embarrassment (Kirzner, 1989a, p. 234). Process, discovery, and uncertainty are essential for everyday economics. "It is not that markets work in spite of the open-ended uncertainty surrounding human action, but rather that they work *precisely because* of this quality of human action. The open-ended uncertainty of the environment itself provides the scope and possibility for an entrepreneurial process of competitive discovery" (Kirzner, 1989a, p. 234).

2. PRAXEOLOGY

Subjectivism characterizes not only, the substance, but also the method of Austrian economics. The subjectivistic method, first explicitly written down by Mises, and to a lesser extent by Hayek, is called praxeology. A name, the logic of action, introduced by Mises that characterizes the verbal axiomatic-deductive method of Austrian economics (Lachmann, 1976, p. 56).

2.1 The older roots of praxeology

The term praxeology itself is a very old one (for a historical overview see Jan Zieleniewski, 1971). Today the term is used next to the Austrian of a Polish school of praxeology. This last school built on ideas from the first half of this century of its founder Tadeusz Kotarbiński, and was further develop by Oskar Lange. Later I give some of the differences between the two schools.

Mises found the ideas for the praxeological method in the writings of some classical economists and older Austrians (Rothbard, 1980, p. 29). In fact, it is claimed that the praxeological method was the implicit one of the economic profession until the 1950s (Hoppe, 1988, p. 9 and 11). Think of such economists as Jean-Baptiste Say, Nassau W. Senior, and John E. Cairnes. What unites them is (1) that they distinguish between the natural and human sciences; (2) that they do their economic theorizing with verbal logic from certain self-evident premises; and (3) that they are reluctant to use mathematics and statistics in their economic theories. In the words of Cairnes: *"The economist starts with a knowledge of ultimate causes.* He is already, at the outset of his enterprise in the position with the physicist only attains after ages of laborious research" (1875, p. 87). And as Say says: "Political economy [...] is composed of a few fundamental principles, and of a great number of corollaries or conclusions, drawn from these principles [...] that can be admitted

by every reflecting mind" (1964, p. xxxvi). Also: " Such persons [...] have not been able to enunciate these [economic, A.L.] questions into analytical [mathematical, A.L.] language, without divesting them of their natural complication [...] of which the consequences [...] always essentially change the condition of the problem, and pervert all its results" (Say, 1964, p. xxxvi). And finally, as Senior says: [The science of economics, A.L.] "depends more on reasoning than observation [...]. His [of the economist, A.L.] premises consist of a few general propositions, the result of observation, or consciousness, and scarcely requiring proof, or even formal statement, which almost every man, as soon as he hears them, admits, as familiar to his thoughts" (Senior, 1872, p. 5 and 3).

Böhm-Bawerk, too, follows the same method in his famous paper of 1914 'Control or Economic Law'. In answer to the question whether human laws or human coercion of any kind permanently and successfully neutralize or overwhelm economic law, he says. "I shall have to start with self-evident trivialities which are close at hand. I shall merely present them in a certain connection and lead them into certain conclusions, equally so manifest that they merely need to be formulated with full clarity and purpose" (1962, p. 153).

2.2 The modern Austrian roots of praxeology

Praxeology starts from the fundamental, self-evident axiom that men act by virtue of their being human. It is based on a form of introspection shared by everyone and on the same form used for logical and mathematical truths. Human beings try to exchange a poor situation for a better one. Things that do not act purposefully are not classified as human beings. A human being that does not act, in other words does not behave rationally, changes into a plant, vegetates. "Human action is necessarily always rational. The term 'rational action' is therefore pleonastic [...] The opposite of action is not *irrational bahavior*, but a reactive response to stimuli on the part of the bodily organs and instinct " (Mises, 1966, p. 20 and 19). "Scientifically, the only people who are irrational are people who are out of their minds, people who are crazy" (Greaves, 1984, p. 14). For the same reason we distinguish purposeful and reflex behaviour. The last does not imply human choices. It can be interpreted through the natural sciences.

To say that animals act, that they have an instinct, is not based on knowledge but on a lack of it. We can only know the world around us in two ways: causally or teleologically. If we see animal behaviour that we are unable to explain causally, we use teleological notions suitable for describing human behaviour. The quasi-teleological way is the only way left to us. But nothing is said of the cause of the action (Mises, 1940, pp. 29-30; Rothbard, 1962, p. 435, note 5).

As a Kantian, Mises describes the fundamental axiom as a priori to all experience. It is a part of "the essential and necessary character of the logical structure of the human mind" (Mises, 1966, p. 34). "Our science considers only the essential. It views action [...] as formal construction" (Mises, 1976, p. 13). In this respect, praxeology is like logic and geometry. To find the essence of a phenomenon we need concepts that will guide research and can be used for the analysis of results. In the words of the German philosopher Martin Heidegger: "Basic concepts determine the way in which we get an understanding beforehand of the area of subject-matter underlying all the objects a science takes as its theme, and all positive investigation is guided by this understanding. [...] Laying the foundation for the sciences in this way is different in principle from the kind of 'logic' which limps along after, investigating the status of some science as it chances to find it, in order to discover its 'method'. Laying the foundation, as we have described it, is rather a productive logic—in the sense that it leaps ahead, as it were, into some area of Being, discloses it for the first time in the constitution of its Being, and, after thus arriving at the structure within it, makes these available to the positive sciences as transparent assignments for inquiry" ([1927] 1962, pp. 30-31). Or as Mises said: "It is not at all clear what the obstinate denial of the apriori is to achieve. [...] What sense does it make to assert that we gained this category [for instance the categories of negation or means-ends, A. L.] by experience if we do not know to what other results other experiences could have led?" (1978, p. 126).

For Rothbard as an Aristotelian, however, the fundamental axiom is "so broadly based in common human experience that once enunciated [...it becomes] self-evident and hence do not meet the fashionable criterion of 'falsifiability'" (Rothbard, 1976, p. 25). "The fact that men act by virtue of their being human is indisputable and incontrovertible. To assume the contrary would be an absurdity" (Rothbard, 1962, pp. 1-2).

Praxeology has a few broadly empirical axioms, such as that individuals vary in tastes and abilities, that human beings find leisure as a valuable good, and that people learn from experience (cp. Dolan, 1976, p. 7). The axiom that people learn from experience is of fundamental importance to the description of the market as a systematic sequence of economic states. Its broadly empirical character is based on the general inclination man to be alert to opportunities. "The process by which facts are hammered into human consciousness is not wholly ungoverned by the logic of human action" (Kirzner, 1979, p. 30). Although we recognize that people err, we assume that man tends to notice those facts that constitute possible opportunities for gainful action. "The market process emerges as the necessary implication of the circumstances that people act, and that in their action they err, discover their errors, and tend to revise their actions in a direction likely to be less erroneous than before" (Kirzner, 1979, p. 30).

Praxeology consists in the verbal elaboration of the logical implications of the fundamental and subsidiary axioms of human action. It has the following form:

1. Suppose A - the axiom of human action.
2. If A, then B; if B, then C; if C, then D and so on - the rules of logic.
3. That is why we state the truth of B, C, D, and so on (Rothbard, 1962, p. 63).

The only test of an economic theory is the truth of the evident premises and the logical analysis build on it. Praxeology is based on the fundamental fact that individuals act. We deduce, save logical errors in the deductive process, true conclusions from a true axiom.

To sum up, the apriori postulates are (1) all men seek to improve their situation from their own point of view; (2) the factors available for improving men's situations are scarce; and (3) men make mistakes (Greaves, 1884, pp. 10-12). Some deduced postulates, to be explained further on, are (1) all men are rational beings; (2) all human action takes time; (3) all human actions have consequences; and (4) men choose actions they believe will best improve their situation (Greaves, 1984, pp. 14-16).

2.3 Praxeological concepts of action

Time permeates every action in the real world. If all wishes could be instantly satisfied, there would be no reason to act. The moment one decides to act, to reach to a certain goal,

the goal can only be reached later in time. Everyone that acts must necessarily distinguish the time before and the time after his act. Logic, mathematics, and praxeology are all examples of apriori sciences. What distinguishes praxeology from the other two is time. The last are based on a timeless world, while praxeology cannot do without it. (Mises, 1940, pp. 76-77).

To act implies a belief that actions will make a difference and that the situation after the action will be better than the one before. It also implies that het actor has no full knowledge of the future, for if he did, none of his actions would make a difference. To act also implies that the means are scarce in relation to the goal. They are limited in relation to the possible ends they can serve. If they were abundantly available, there would be no reason to act. Abundantly available means, such as air, though indispensable, are no true means, because they are not the object of action. They do not, like time, have to be allocated. The distinction between free goods like in most cases air and economic goods is irrelevant to the praxeologist (Mises, 1940, p. 66; Rothbard, 1962, p. 6).

This all sounds similar to the definition of economics Lional Robbins gave in his book *An Essay on the Nature and Significance of Economic Science*. "Economics is the science which studies human behaviour as a relationship between ends and scarce means which have alternative uses" (1935, p. 16). No wonder, for Robbins tells us in the preface of the book (p. xvi) of his indebtedness to Mises, although Murray Rothbard called Robbins's methodology "a watered-down version of Misesian praxeology" (1989, p. 53). However, in the course of time, the conditional sale of method and object of economic science has been lost. Nearly all (text)books recall Robbins's definition, but hardly any his aprioristic method.

2.3.1 Valuation

Every human being has his preferences; he is not indifferent towards his environment. Every time he acts, he chooses, he prefers one thing to another. He must choose, make valuations, because things are scarce. Man lives in a world of quantities: the relations between cause and effect are quantitative. If this were different, if certain things could deliver unrestricted services, they would never be scarce and be valued as a mean. As

Rothbard said: "Individual valuation is the keystone of economic theory. For, fundamentally, economics does not deal with things or material objects. Economics analyzes the logical attributes and consequences of the existence of individual valuations" (1956, p. 224). The individual valuations of the consumer permeate the whole production process. First they are related to the direct satisfaction of means, then to the consumption goods themselves, and later to the production goods. [Without money, however, this valuation process is impossible. This was Mises's starting point of the famous socialist calculation debate I examine later]

Individual valuations show themselves in the acts of choice. The scale of valuations of the ends is transposed to those of the means. Austrians have a so-called "demonstrated preference" concept. The difference with Samuelson's "revealed preference" notion is not that his notion is based on a given scale of preferences that lies at the basis of action, but that Samuelson's scale stays the same as action unfolds in time. It can be reconstructured from the revealed actions. For the praxeologist, the scale of preferences exists only at the moment of choice. Choice demonstrates preferences, but will never contradict them, or be measured by them. It is absurd to "attempt to arrive at a consumer's preference scale not through observed real action, but through quizzing him by questionnaires" (Rothbard, 1956, p. 228; cf. Lachmann, 1966, p. 161). There is no guarantee that he is telling the truth. There is a difference between talking about values and actually choosing values.

2.3.2 The marginal unit

In a transaction, that is the change of a poor situation for a better one, we value the things we exchange. The value we give to a certain thing is purely subjective. What is relevant are the units at the margin. For human action marginal does not mean a very small amount but the relevant amount. Every relevant unit for a certain action is the marginal one. If speaking about eggs, for instance, the relevant unit is one egg. For boxes of six eggs, however, it is a box. In both cases we can speak of a marginal utility. Both utilities are marginal, but in no way is the utility of one the sum of the other. A praxeologist sees no total utilities; all utility is marginal. The core concept is the variable marginal unit, the relevant unit for the situation looked at. From this it follows that marginal utility is

unmeasurable. If someone says the opposite, for the praxeologist this is a typical example of mathematical techniques taking over from economic content and going along the wrong track. The mathematician, implicitly supposes that "marginal" in marginal unit equals "marginal" in differential analysis. There, indeed, the total of something is the integrand of the marginal units of that something, which implies that the value of a sixth unit is equal to the difference between the value of six minus that of the preceding five units (Rothbard, 1956, p. 233).

To sum up, valuation always relates to the supply in a certain unique situation. The supply, by definition, consists of homogeneous units every one of which can be exchanged for every other. The law of decreasing marginal utilities holds. Marginal utility is a subjective valuation and has no relation to the objective qualities of goods. If the latter should be the case, then it is possible that the marginal utility increases or decreases if the number of units increases. Take again the example of eggs. Suppose for baking a cake you need five eggs. Then it could be that if we increase the number of eggs of one to four marginal utility decreases. It would increase, however, as we add the fifth egg.

2.3.3 Indifference curves

John Hicks, who popularized Francis Edgeworth's invention of the indifference curve in economics, describes an indifference curve as follows. Two commodities and their related utility can be illustrated graphically, by measuring the amounts of the first commodity along one axis and the amounts of the second commodity along the other. An indifference curve connects all points that represent goods combinations having the same total utility ([1939], 1946, p. 13).

Austrians are unhappy with indifference curves. I think there are two reasons. One of them is found in modern Austrianism. The other one is almost forgotten, but can be found in older Austrianism. Austrians describe economics as a science of human action. Action entails two things. (1) "Acting man chooses between various opportunities offered for choice. He prefers one alternative to others" (Mises, 1966, p. 94). (2) "Action is an attempt to substitute a more satisfactory state of affairs for a less satisfactory one. We call such a wilfully induced alteration an exchange" (Mises, 1966, p. 97). So the two sides of the one

coin of human action are preference and exchange. The modern-Austrian reason for denouncing indifference curves is expressed in terms of preference. The forgotten reason is expressed in terms of exchange.

2.3.3.1 Indifference and preference

Rothbard gives the most elaborated denunciation of indifference curves in terms of preference (1956, pp. 236-238; 1962, pp. 265-268; cp. Salin, 1996). Economic action involves choice: given preference. So, when an individual values two things equally, "they cannot be alternatives for choice, and are therefore not relevant to action" (Rothbard, 1962, p. 267). The reason is based on Mises's first characterization of human action: preference. If someone is really indifferent to two alternatives, he is unable to choose. No one acts in a choice that cannot be demonstrated. In human action, however, every action is based on a choice in which something is valued above something else. "What distinguishes the Austrian School and will lend it immortal fame is precisely the fact that it created a theory of economic action and not of economic equilibrium or non-action" (Mises, 1978, p. 36).

I distinguish between what interests a psychologist and what a praxeologist. The psychologist is interested in how and why preferences are formed. For him it is of interest to know if someone is very certain or almost indifferent to two alternatives. But praxeology, a logical science, is based on the existence of human action. The praxeologist wants to understand the universal form of human action, not its concrete content. He is interested in preferences as far as they show themselves in human choice. He is uninterested in the psychology, the intensity, of it. It is unimportant whether the choice is made by flipping a coin in the air or whether it is based on a strong preference. The praxeologist looks at human action. He ignores the psychological states that lead up to an action. "In the praxeological terminology the proposition: man's unique aim is to attain happiness, is, tautological. It does not imply any statement about the state of affairs from which man expects happiness. [...] [T]he incentive of human activity is always some uneasiness and its aim always to remove such uneasiness as far as possible, the is, to make the acting men feel happier" (Mises, 1966, p. 15; cp. 1940, p. 68). Economics starts where psychology stops. Action is a formal construction. This pure form—what Hayek called the

ground for the existence of human science (Hayek, 1942, p. 288)—gives the laws of economic science.

For a praxeologist, the fable of Buridan's ass proves neither the relevance of the notion of indifference for human action nor that indifference shows itself in action. In the fable the ass cannot choose, between two equally attractive bales of hay. It has, however, not two but three options. It can choose one or other of the bales of hay, or choose neither and die. This last option will certainly be valued lower than the other two. He sets the choice for the two bales of hay in a random fashion (Rothbard, 1962, p. 267). The last also answers Robert Nozick (1977, p. 370) who claims Austrians need indifference. They need it to prove for example the law of decreasing marginal utility. I spoke just of a homogeneous supply of goods and implied that since all goods are the same, man is impartial about them. Walter Block (1980, p. 424) solves the problem as follows. The situation before and after the action must be separated. Before the action all units of a certain supply are homogeneous. They can be substituted for one another and are of equal value. But in that situation, indifference is no praxeological concept but a psychological one. However, for an act to take place, a choice has to be made, and so the units are no longer equal. This is the first, modern Austrian reason against the notion of indifference. Now the second, older Austrian one.

2.3.3.2 Indifference and exchange

Between the wars there were several economic circles in Vienna. One was a circle around Mises's *Privatseminar,* another was one around Hans Mayer. One member of the Mayer Circle was Leo Schönfeld-Illy. Both Mayer ([1932], 1994, pp. 206-217) and Schönfeld-Illy disliked indifference curves. What interests me is the reason Schönfeld-Illy gave for opposing indifference curves. His analysis of indifference curves focuses on the problem of whether such curves reflect the basic characteristics of an economic exchange. Our world is one of scarcity. At the moment of exchange, we compare the utilities of the goods attained with the utilities of the goods given up (1924, p. 44-45; 1948, p. 51). Exchange entails that to get one thing (1) something else has to be given up, (2) at the same moment. In an indifference curve, total utility, U, is a function of all the goods, i.e., x and y, one

possesses: U = F(x,y). Marginal utility is the change in total utility brought about by the smallest change in the quantity of one of the goods, given the quantity of the other good. (They are the first partial derivatives $\partial F/\partial x$ and $\partial F/\partial y$; Hicks, [1939], 1946, p. 305). This leads to the following (somewhat outdated) mathematical formulation of an indifference curve

$$\frac{\partial F}{\partial x}dx + \frac{\partial F}{\partial y}dy = 0$$

What are the arguments—and that interests us—of the two marginal utility functions, $\partial F/\partial x$ and $\partial F/\partial y$? Both marginal utilities are functions of the quantities of the goods the consumer possesses and can use later. Consequently, both functions show a decreasing slope. The greater the quantity of each good, the smaller its marginal utility. Schönfeld-Illy is dissatisfied with this description of the act of exchange; it is illogical. To describe action (exchange) the objects being exchanged need to be compared. This is not the same as describing the final result of the exchange. No indifference curve shows action to be sequential and non-synchronic. The arguments in the marginal utility functions must be those quantities that are the objects of the action. At least one of the goods should be the cost of the exchange, i.e., the quantity of goods to be given up (Schönfeld-Illy, 1948, p. 73 and 79). "The value of the price paid is called costs. Costs are equal to the value attached to the satisfaction which one must forego in order to attain the end aimed at" (Mises, 1966, p. 97). For those discarded goods, the marginal utility functions must show an increasing—not a decreasing—slope, and its arguments are the quantities of goods given up, not the one gained by the exchange (Compare Chapter 5.3). There are also two sorts of marginal utility: positive ones, what is gained, and negative ones, what have been given up, what it costs (Schönfeld-Illy, 1948, p. 52).

However, there is more. To state the partial derivative of, for example x, the other variable, y, must be held constant. Functions c.q. experiments in physics satisfy this precondition of partial derivation. In the function v = f(t,p), expressing the dependence of the volume, v, of a substance, the dependent variable is a function, f, of temperature, t, and pressure, p. The method of a scientific experiment, changing the temperature, while holding pressure, p, constant, equals the logical principle of the differential method (Schönfeld-Illy, 1948, p. 83). But physics gives an inadequate description of economic

exchange. For in exchange every performance demands, in one form or the other, a compensation at the same time. In economics, an individual does not increase his economic goods without at the same time decreasing some other (Schönfeld-Illy, 1948, p. 84). Every economic act is conditional on "the instant of the transaction and under the conditions which this instant offers him" (Mises, 1966, p. 204).

What I have said applies also for the ceteris paribus condition: it is an unworkable notion for exchange. Exchange cannot be split up in time by way of partial derivatives. If one thing changes, other things change too. What the mathematical representation of an indifference curve expresses is like someone who first finds something and then loses something else. He compares in his "action" the marginal utilities of the goods he possesses after the "transaction" has taken place. As Mayer said: "In essence there is an immanent, more or less disguised, fiction at the heart of mathematical equilibrium theories: that is, *they bind together in simultaneous equations, non-simultaneous magnitudes operative in genetic-causal sequence as if these existed together at the same time.* A state of affairs is *synchronized* in the 'static' approach, whereas in reality we are dealing with a *process.* But one simply cannot consider a *generative process* 'statically' as a *state of rest*, without eliminating precisely that which makes it what it is" ([1932], 1994, p. 92). To state the partial derivatives, the marginal utilities, with the help of the ceteris paribus condition is invalid.

Moreover, most goods are related goods, they are the complements or substitutes of one another. This is something that an indifference curve, as opposed to Marshall's utility curves for one good, was supposed to show in the first place. Consequently, only the full marginal utility of a good is relevant for consumer demand. The consumer never looks at the marginal utility of a car alone, but always at the complementary necessary gas too. This also holds, *mutatis mutandis*, for the goods the consumer has to give up (Schönfeld-Illy, 1948, p. 90). As Hicks concludes: "It is a very curious consequence [...] that the indifference diagram, which Pareto took up as a means of throwing light upon the problem of related goods, proves to be of little direct use for the particular problem" (Hicks, [1939] 1946, p. 45).

To conclude, partial differentiation is an unworkable description of economic exchange. The differentiation in two phases, exemplified in the indifference curve equation, is no real

possibility. Meanwhile, for the mathematical economist it is hardly possible to resort to total differentiation. For him partial derivatives are necessary for stating the prices of the different goods. This is done by using the formula that equates the price ratio to the marginal utility ratio (Schönfeld-Illy, 1948, p. 88). For Mayer, when "all wants differing in kind or quality are not reciprocally present to one another, then the postulate of the law of equal marginal utility becomes impossible in the real world of the psyche" ([1932], 1994, p. 81). He compares the forced synchronization of utility estimations with the situation of "It is as if one were to express the experience of aesthetic value of hearing a melody—an experience determined by successive experiences of individual notes—in terms of the aesthetic value of the simultaneous harmonization of all notes of making up the melody" ([1932], 1994, p. 83).

If I want to describe human action, i.e., action at the one moment of exchange, then indifference curves are irrelevant. Exchange entails that: (1) benefits and costs are to be compared, and (2) they are to be compared at the same moment in time. What has to be compared in exchange are the marginal utilities of the goods received with those given up. Logically, it is contradictory in exchange to compare the marginal utilities of the goods we posses (though not for a description of the equilibrium situation after the exchange has taken place).

2.4 Praxeological laws

For the praxeologist, economic science implies laws. Laws implied by the relation between means and ends, e.g., the law of decreasing utility, and by the use of money as an intermediary with the exchange of goods, e.g., Gresham's law. Mises had no problem with the idea first, of the existence of eternal and universal laws, and, second, that these laws cannot be deduced from historical facts. For him the great question was how these laws were possible. In other words, how economic science is possible (Meyer, 1981, p. 37)?

All economic laws are implied by the existence of human action and our notion of it. The opposite of an economic law, if correctly deduced from self-evident axioms, is unthinkable. Of course we can say it, just as we can say that one plus one is three. But we cannot think it. And, since the Austrians consider the praxeological not the logical apriori,

as far as their laws of human action go, the opposite cannot be done in action either. In other words, to disprove a praxeological law means moving in a circle. What is seen is the character of a self evident axiom. This is called the boomerang principle. Suppose someone wants to refute the axiom of human action: man employs means to attain chosen ends. "For doing so, he is ipso facto a person making a conscious choice of means in attempting to arrive at an adopted end: in this case the end, or goal, of trying to refute the notion of action" (Dolan, 1976, p. 28).

"Laws of physical nature," as Kirzner says, "are inferred from the observation of sequences of physical events. Economic laws [...] are founded on our understanding of the influence that a given event will have upon the actions of individuals" (1963, p. 4). They refer "to the essential and necessary character of the logical structure of the human mind" (Mises, 1966, p. 34; Cp. 1940, p. 16).

2.4.1 The law of decreasing returns

As an example of what a neoclassical and an Austrian economist say of laws I want to look at the law of decreasing returns. Economists consider the law of fundamental importance. "One of the most fundamental economic theories—and one on which many other major theories depend—is the well-known law of Diminishing Returns" (Katouzian, 1980, p. 56). Hicks ([1939] 1946, p. 84) says that if we are deprived of this law "the threatened wreckage is that of the greater part of general equilibrium theory", and Stigler (1966, p. 122) says that "The discovery of this law [...] was one of the heroic advances in the history of economics."

First I give the content of the law and the neoclassical proof of it. This is followed by the praxeological which shows the law is used whenever man acts. The proof needs no empirical verification.

2.4.1.1 What the neoclassicals say

The law holds that when one or more factors are held constant, there will come a point beyond which the extra output from additional units of the variable factor will diminish. In

other words—stated not in marginal but average terms (cp. Stigler, 1966, p. 130)—if the amount of a certain complementary factor is held constant the variable one will always have an optimum: the highest average return.

How does a neoclassical verify the law? It is a law based on experience; daily experience and empirical research suggest the law. Take for example, the combination of labor and a certain capital good. One way of explaining the law is to point at the advantages at the beginning of specialization (efficient work organization and better adaptation of the labour factor on the capital good) and later at the effect of overcrowding. Of course it can also be look at the other way around. Instead of starting with experience, starting with theory. Axioms and conditions for equilibrium, including the law of decreasing return, can be postulated and then examined to see if they make sense. "So far we are taken by geometry; but now it is necessary to inquire whether the equilibrium conditions thus arrived at are in fact plausible conditions" (Hicks, [1939], 1946, p. 82; cp. p. v). This recourse is impossible for the praxeologist. As I hope to show for the praxeologist every statement makes sense for itself. The mathematician, however, often interprets a statement later on. Then there is Joan Robinson. She describes the law as a tautology (1954, pp. 330-331). Production factors are different by definition: they are imperfect substitutes. This gives us the content of the law: the extent to which we can substitute one factor for the other has a limit. If the law does not apply, the production factors are wrongly classified. The same reason is used to prove the law of demand for instance when goods are non-homogeneous. When the price increases, and there is also an increase in the quantity demanded, then the goods are non-homogeneous. The higher priced good was, in the eye of the beholder, of a better quality—and that is what counts.

Stigler concludes his proof of the law by saying that the law of decreasing returns is an empirical law, not a tautology (1966, p. 129, and 138). To prove it, however, is impossible. Examples that demonstrate the law, prove nothing. How many instances would confirm the law? Moreover, if an example should ever be found to disprove it, then it can always be said the law speaks about ultimately decreasing returns. For Stigler the most convincing proof of the law is that until now no economist has ever been able to prove the opposite—and became famous in doing so (Stigler, 1966, p. 23 and 138). For the praxeologist, however, if this last were possible, the economist would have proven the non-

existence of human action: human beings. So the one Stigler is looking for would not gain immortality but just the opposite (compare the end of Chapter 12). Why is this so and what does a praxeological proof looks like? The law is neither a disguised definition nor an uncertain hypotheses. There is a third possibility; it is a self-evident proposition.

2.4.1.2 What the Austrians say

Praxeology has nothing to do with psychology (why and how people adopt ends) or technology (how to achieve ends). Just as the law of decreasing utility needs no psychological proof—for instance that the tenth cup of coffee tastes less pleasurable than the ninth: Gossen's law of the saturation of wants—the law of decreasing returns needs no technological proof.

Men act. They try to exchange a poor situation for a better one. For this they make use of whatever they find around them. Some goods satisfy directly. Others need preparation before they can be used. For the production of these last, more than one good is necessary. Suppose the good in question is a cup of coffee in my hand, while sitting behind my desk. If the cup of coffee is in the kitchen then, to produce the good, I need (1) the cup of coffee; (2) the transport to the desk; and (3) time. If all I need is one factor, the cup of coffee, I would have to suppose that the cup of coffee moves from the kitchen to the desk in some magical way and in an instant. Such a situation would be a paradise on earth; action would no longer be necessary.

Let me take a closer look at the concept of means. Means are found in the world around us, and involve the notions of quantity and quality. For human action this is a given. Because everything has only a limited action, things can become scarce, thus becoming a mean. Because the actions of different things are unequal, they can be classified in different quality classes. Think of the classification of the factors of production: nature, labour, and capital. For human action itself, however, the concepts of quantity and quality have only a limited meaning. If man acts, he places a value on the world around him. He either prefers it or rejects it. But this is done ordinally not cardinally. Satisfaction comes always from one sort or quality. Coffee, a visit to Disneyland, and a painting of Rembrandt are all valued on one scale of value. Action knows different degrees of importance, but no

quantity or quality. Hence, as far as the world around us is concerned there is the marginal and total return of the law of decreasing returns. This cannot be said of the law of decreasing utility. In a world without quantities, adding or subtracting (as if total utility is the sum of the marginal utilities) is useless. Only the notion of marginal utility can be used.

The just-said implies the law. If the quantitative action of goods is recognized before we see a good as an economic good, this implies that the combination of complementary goods must have an optimum (Mises, 1940, p. 96). In other words, because there is more than one factor of production, this implies that the average return of every production factor must have a maximum or a minimum (Rothbard, 1962, p. 30). Take a product P that can be produced with three complementary factors of production: X, Y, and Z. The supply of the goods can be given quantitatively and leads—in nature—to quantitative measurable results. So it can always be said that x units of X, together with y units of Y and z units of Z, give p units of P. Now if units y and z are held constant, then units x and p can vary. The value of x which gives the maximum of p/x, the largest average return, is the optimum. The law says that if the amounts of the complementary factors are held constant then the variable production factor always has an optimum.

Let me as a thought experiment think of the opposite of the law. "The specific method of economics is the method of imaginary constructions. This method is the method of praxeology. [...] The main formula for designing of imaginary constructions is to abstract from the operation of some conditions present in actual action. Then we are in a position to grasp the hypothetical consequences of the absence of these conditions and to conceive the effects of their existence. [...] It is, to be sure, a method difficult to handle because it can easily result in fallacious syllogisms. It leads along a sharp edge; on both sides yawns the chasm of absurdity and nonsense. Only merciless self-criticism can prevent a man from falling headlong into these abysmal depths" (Mises, 1966, p. 236 and p. 237; Cp. 1940, p. 227 and 228). If there is no optimum then, if X rises, the average product will rise infinitely. But if p/x can rise indefinitely, because x increases, this means that every amount of P is made possible just by increasing X. Every decrease in Y and Z can be substituted by X. This means that X is a perfect substitute for the factors Y and Z. As long as X is plentifully available, the scarcity of these factors is of no concern. There would

also be only one production factor. But as in the example of a cup of coffee, production needs more than one factor of production. In other words, the action of the production factors Y and Z is unlimited. Even the smallest amount of Y and Z would be sufficient. Y and Z would no longer be economical goods. However, something that has an unlimited effect is, for instance, our knowledge of a causal connection, e.g., the recipe for making coffee. It does not loose its utility, its use is unlimited and for that reason, no object of human action. It resembles air. A human being does not ever have to choose between a known recipe and the utility of a certain good (Mises, 1940, p. 96; Rothbard, 1962, p. 9). But if he acts, if he behaves rationally, keeps the amount of a certain complementary factor constant, then the variable factor has always an optimum.

2.5 The different parts of praxeology

Economics is the most developed part of praxeology, which contains the apodictically true axiom of human action that is enough to deduce a large part of economic theory. A small number of subsidiary axioms, such as there are a variety of human and natural resources, and leisure is a consumer's good, are necessary to deduce the rest of economic theory.

Rothbard (1951, pp. 945-946; cp. 1962, p. 80) describes the various types of human action.

A. The theory of the isolated individual (Crusoe Economics)
B. The theory of voluntary interpersonal exchange (Catallactics, or the Economics of the market)
   1. Barter
   2. With medium of exchange
      a. On the unhampered market
      b. Effects of violent intervention with the market
      c. Effects of violent abolition of the market (Socialism)
C. The theory of war-hostile action
D. The theory of games
E. Unknown.

Economics, war, and games all are examples of human action. The way men approach each other, however, differs. In war, men are enemies, and in games too, the intention is to defeat the other player, sometimes in cooperation with other players, according to rules. Psychologically, it is possible to see economic competition as a battle too. But the praxeologist sees great differences. For him, competition is a social process of cooperation. In it the tasks of society are divided. Not a dictator but the consumer decides who best will fulfil his wishes. How to serve someone best, that is the question. (Mises, 1966, p. 117 and 1976, pp. 89-90). The term catallactics in economics hints at this cooperation. It not only means to exchange, but also to become a part of the community: to change from an enemy into a friend (Hayek, 1982, II, p. 108).

Parts A and B (economics) in Rothbard's scheme are the most developed parts of praxeology. Part C was developed by the Polish praxeologist Kotarbiński. I give an example of this Polish praxeological thinking. It illustrates the principles of economics and the art of warfare and brings them back to general praxeological principles. Historically the different ways of using money as a means of payment continuously improve. First there was direct barter, then coins, then paper money and so on. Instead of someone getting the actual possession of something, he gets the assurance that he can posses it. Applying the praxeological principle of potentiality, a specific activity is substituted by the potentiality to do it. For warfare this means that instead at attacking the enemy directly, one tries to persuade him to give up his position by the threat of attack. One replaces a specific action, with the same result—but cheaper—by the showing it can be done (Kotarbiński, 1964, pp. 304-305). The Polish praxeologists emphasize the differences between the Austrian ideas of praxeology and their own (Zielenieuwski 1971, p. 359). For them, praxeology is the science of efficient human action. The praxeologist gives utility maximizing principles (Kotarbiński, 1964, p. 298). They do not recognize the apriori character of the praxeological theorems. For Rothbard, however, Oskar Lange, in his later work shows great similarity with that of Mises.

2.6 Praxeology versus the natural sciences

For Austrians, economic theory is absolutely true; testing is meaningless. The Austrian methodology stands against the logical positivist one that is inspired by the natural sciences. Again, as was the case in the clash with the Historical School, the Austrians are accused of being unscientific. This time, however, the criterium is not that there can be no economic laws transcending the mere description of the particular circumstances of time and place, but that economic laws can only be established tentatively, by testing empirically (verifying or falsifying) the consequences. But "[b]ecause this [Austrian] view of the analytical basis for economic theory places so much emphasis on an unobservable—the purposefulness held to actuate human behavior—it follows that the epistemological character of the discipline, and hence the method appropriate to it, differs sharply from those relating to the physical sciences" (Kirzner, 1982, p. 3). In the natural sciences one explains the known with the unknown, in the social sciences one explains the unknown with the known (Hayek, 1967, p. 5 and 9). In other words, in the natural sciences, after the observation of known facts hypotheses are formulated. The hypotheses are verified (falsified) by predictions made on the bases of the hypotheses. This method fits the physical facts, facts that are homogeneous, replicable, and controllable under laboratory conditions. The social sciences begin with the explaining axioms. Human beings are the explaining causal factors. "If molecules acted purposefully, no physicist would dare ignore the information which he could derive *from this fact alone*. Because molecules do not, as far as the physicist is aware, act purposefully, the physicist is at liberty to confine his inquiries to the explanation of empirical phenomena" (Kirzner, 1962, p. 385).

The foundation of Austrian economics is the existence of individual human action: the primary fact of human consciousness. It is possible to see if something is or is not based on purposeful human action. A physical event is seen in a different way from a purposeful human action. Explanations of the difference between the natural and the social phenomena cannot be dismissed on apriori grounds.

Formerly, anthropomorphism, the understanding of the world *ex analogia hominis*, went too far in its ideal of explanation. For instance, when a stone rolls off a mountain, it is not

moved by gravity, but by its own will: it wants to do it. It is also unnecessary to make the mistake the other way around, as the natural sciences (the model for present day neoclassical economics) tend to do. There is a fundamental methodological dualism. Because of the complexity of the facts, social scientist cannot verify theories in the same way as natural scientists can. Historical facts are heterogeneous, not replicable, and are the result of complex causes.

What then is the relation between economics and reality? The modern Austrian answer is threefold. First, Austrian economics is concerned with purposeful human action, a reality not touched by the natural sciences. Second, to pose the question is itself the result of the preoccupation in modern economics with the method of the natural sciences. The natural sciences distinguishes between thoughts and the outside world. But in the social world actions are planned. To understand human action means looking at the praxeological thought that lies at the basis of it. The reality that is the object of economics, human action, comes from the same source as human thinking. Action and reason are congeneric and homogeneous. They can even be seen as two different aspects of the same thing (Mises, 1966, p. 39). Third, the predictions, says Mises, of the modern Austrians are not that much different from the ones of the natural scientist. The latter is not a fortune-teller either. Successful predictions do not tell what will happen, but say what will happen if certain preconditions are satisfied (Mises, 1961, p. 131). The natural scientist can explain that if H and O are combined in certain proportions the result will be water. But he cannot predict how many scientists will combine H and O at a certain point in the future. In the same way, the Austrian economist predicts, with absolute certainty, that if the demand of butter rises and the supply stays the same, the price of butter will rise *ceteris paribus*. But the theoretical economies cannot predict if the price of butter will rise.

Economic theory, "where relevant, is applied to help to explain the facts. The facts thereby *illustrate* the workings of the law" (Rothbard, 1976, p. 36). In order to explain complex historical facts, however, the economic historian must use more than just economic theory. He must, for example, use technology, physics, and psychology too. I will give another example related to prediction. Suppose the praxeological law: "If the supply of a medium of exchange increases; and if the demand for that medium remains the same; then, the purchasing power of that medium will decline." How can an economic historian

apply this law? First, he must determine if there has been a rise in prices. Then he has to try to explain it by using this praxeological law, asking whether there has been an increase in the supply. If the answer is positive, then he can assert three truths.

"A. It is a historical fact that the purchasing power of the medium X has declined to such and such an extent.

B. It is an historical fact that the supply of the medium X has increased to such and such an extent.

C. The praxeological law just mentioned. It is therefore concluded that a significant cause of the decline, A, was the increase in supply, B" (Rothbard, 1951, p. 944).

The work of the historian is to give the relevant application of the theory. This applies also to the art of prediction. Historical facts are the complex result of many causes. Many sciences can also be used. But the historical facts neither corroborate nor test the laws. They only illustrate them.

2.7 Praxeology versus quantitative economics

You do not have to be a praxeologist to question the usefulness of mathematics and econometrics for economics. For now I want to focus on the arguments used by praxeologists, although the arguments he uses can also be used by others—however, with a twist in the tail. For instance, recognition of the complexity of historical facts and the consequences of it for carrying out experiments, allow different conclusions to be made. One conclusion is that it is not a science; it is only possible to describe historical and institutional facts. However, since an aposteriori science of economics is impossible, it is also possible to conclude—as the praxeologist does—that economics is an apriori science.

2.7.1 Mathematical economics

What is the main objection of the Austrians to the use of mathematics in economics? For Walras and Jevons, marginal utility, income, and price influence each other simultaneously. This interdepence can be studied with equations. Menger in his economics had no use for equilibrium and functional relations. He used genetic-causal relations. The needs of the

consumer determine the value of the consumption goods which, in their turn determine the value of the producer goods. The individual valuation of the consumer permeates the whole production process, first the direct satisfaction of needs, then consumer goods and later the producer goods themselves. Order in the variation of certain magnitudes needs to be established as do explainations of the phenomena. The first case involves the natural sciences, the second the social sciences. In the first, the entities themselves are not the cause of their behaviour. The objects are determined by the discovery of quantitative laws and the interaction between them. But as far as human behaviour goes, free will and human choice are fundamental. The universal aspects of this sort of behaviour must be analyzed logically. There are no functional quantitative relations between variables. The human mind causes certain actions that cannot be traced back to other forces (Rothbard, 1960, p. 166 and 1962, p. 279).

The use of mathematics in economics began with the introduction of marginal utility. It seemed particularly suitable for the use of differential calculus. At the same time, however, it showed up a difference between the three founders of marginalism: Menger on the one hand and Walras and Jevons on the other. Why would it be more general and precise—two of the acclaimed advantages of the mathematical form (cf. Niska, 1959)—to use mathematics instead of common language? As example I use the notion of marginal utility, put forward by Karl Menger (1973), the mathematician son of Carl Menger.

(I). Using verbal logic, the Austrians say that for every good the utility of a larger quantity is larger (or, at any way not smaller) than the utility of a smaller quantity. The marginal utility of that larger quantity is smaller (or at anyway not larger) than the marginal utility of the smaller quantity.

(II). Using mathematical terminology, the neoclassicals say that if q is the quantity of a good and μ its utility, then

$\mu = f(q)$, $d\mu/dq = f'(q) > 0$ and $d\mu^2/dq^2 = f''(q) < 0$

Comparing I and II shows that the mathematical formulation gives less information than the Austrian. The mathematical formulation needs to make the additional supposition of differentiability: individuals have to find infinite small changes relevant. A supposition that clearly has nothing to do with the reality we live in. "Action does not deal with physical or metaphysical units which it values in an abstract academic way; it is always faced with

alternatives between which it chooses" (Mises, 1949, p. 120). The Austrian formulation is more general, and can be applied to situations where the mathematical can not.

Comparison of I and II also illustrates the point that it is not necessarily true that the mathematical form reveals hidden assumptions. In fact it is the opposite (cp. Dolan, 1976, p. 23). The Austrian form is of the same "mathematical" precision as the mathematical one. To say that "every arbitrary real number plus one equals one plus that number" is fully equal to saying that "x + 1 = 1 + x". Karl Menger says that one has compared "expressions in formulae to a trip across America by railroad, and verbal formulations to a transcontinental walk" (1973, p. 19). He, however, concludes "Thus if one wants to compare the two methods to crossings of a continental, then [...] one must not say that the first is by foot and the second by train, but rather that the first is unencumbered while the second is a crossing with unnecessary and obnoxious baggage" (1973, p. 20).

So again, what are the advantages of substituting symbols for plain words in economics? (Egger, 1978, p. 28). There is the economy of fewer words, the exactness in the definition of symbols, and the rigor of proof. For this last the whole package of mathematical theories available at this moment can be used. When is it an advantage to have this? To answer the question I compare the proofs of the praxeologist and natural scientist. In the natural sciences the argument is generally that some words at the beginning and at the end of the article are needed, with pages of symbols in the middle. Indeed mathematics has its use if only the result counts. The premises are hypothetical and it is pointless to make every step meaningful in the process towards the conclusion. If nature has a mathematical structure, then mathematics is the key to it. The book of nature can be read if its language is understood: mathematics. In the natural sciences, the axioms and deductions from them are formal and receive their interpretation operationally as far as they can explain and predict the facts. But for the praxeologist it is the opposite: axioms are known and meaningful. Every step in the verbal deductive process has meaning. Verbal propositions have a meaning of their own, mathematical formulations do not. The language of economics is verbal. Of course, mathematics is a language too. But there is a difference between "x - y = z" and assets minus debs is capital. It is a problem of order here (Egger, 1978, p. 38, note 25). The advantage of verbal language is that it can express the essence of an economic phenomenon. Mathematical formulations are always quantitatively precise,

but unable to portray qualitative differences. Every step in the market process depends on human decisions which are mental, qualitative and unmeasurable.

I want to take a closer look at verbal deduction. One of the most important models for the deduction of logical implications is the so-called thought experiment. For the economist it equals the laboratory experiment of the natural scientist. Since the variables in the social world cannot be held constant, the economist uses his imagination to do it. Economic laws have a *ceteris paribus* character. For instance, if we have an image of what it means not to act, we can form an image of what it means if we do. If the former, the individual is completely satisfied or does not see how the means he has can change the unsatisfying situation. But the comparison between a thought and a laboratory experiment is inadequate. The experiments of the praxeologist can never be opposed to reality or be measured by it. They aim at a level of thinking that reality says nothing about. If thought experiments and reality are brought into contact with each other, it is the thinking that must be investigated, not reality. The question is not whether the picture represents reality but whether the assumptions of the picture are identical to our understanding of the human action.

For the most part, however, the *ceteris paribus* clause is a way of escape for every test. The conclusion must be that the clause is a useful abstraction in the deductive chain of economic reasoning as exemplified in a thought experiment. But it is impossible to formulate *ceteris paribus* falsifiable hypotheses which relate to reality. Other things being equal, no one observes the law of demand.

To conclude, first, for Austrians the most important objection to the use of mathematics in economics is the fear that economic phenomena are treated analogously to natural ones. If man becomes a complicated machine and machines start thinking, market processes as they happen in the real world tend to get lost. Entrepreneurial creativity is noticeably absent. Mathematics ignores the most essential characteristic of human beings—the alpha and the omega of the social market process. Second, for the praxeologists, mathematical economics must at best, either be cut away by Ockham's razor (Rothbard, 1963, p. 65 and 1976, p. 22), or judged by the words of Mises "*Vestigia terrent*": mathematical formulations puts people off (Mises, 1976, p. 116). As Böhm-Bawerk says, if you start with $d/dx\ \varphi(x)\ dx + d/dy\ \psi(b-y)\ dy$, the reader does not understand it anymore and puts the book away (Kauder, 1957, p. 412). "But, "as Rothbard says, "the really important thing

is *not* that nonmathematicians cannot understand them; the cruxial point is that mathematicians cannot contribute to economic knowledge" (1962, p. x).

2.7.2 Praxeology versus econometrics

The econometrist fills empirically and tests the mathematically expressed hypotheses. He tries to discover economic laws and solve problems of human action by the use of statistical data of the past. According to praxeological thinking the econometrist makes two mistakes. First, economic theories do not need empirical testing. Economic theories are necessary true because they are deduced, using verbal logic, from self-evident axioms. Second, the econometrist assumes, at least for the moment, a stable relationship. A stable relationship, however, can only be seen with hindsight, but by then it is a historical fact.I f this is the situation, the mathematically expressed hypotheses loses much of its charm. In physics the preference for its use is based on the existence of certain constants. But what if there are only variables: historical data, and no constants? The use of a system of equations, so convenient with many variables, loses its use. To speak of variables when there are no invariables makes no sense. The popular notion that statistics can prove anything is inapplicable to human behavior. In fact, you cannot prove anything about human behavior with it. All statistics are history, sometimes economic history, but never economics (Mises, 1977, p. 97).

The reason for the distinction between the quantitative and qualitative method in the natural and social sciences is based on its distinctive objects. The objects of the first do not act, choose or change their opinion and choose again. The research can be repeated time and again with increasing quantitative precision. For the praxeologist, however, economics is a qualitative science. Economics is a science based on the ideas, valuations, and actions of individuals. The subject of economic science is not the tangible world around us; it is human action based on individual valuations. Valuation does not measure anything, it only subsumes in a scale of value. Human action has no standard of valuation; no measuring can be done. Prices are not measured with money but are only expressed in it (Mises, [1912], 1971, p. 15). If this were not true, there would never be human action. If the valuation places A equal to B, then no trade takes place. Production and exchange do not

happen because valuations are equal, but because they differ. In the prospective judgements of both buyer and seller, every exchange creates new additional value. The econometrist focuses on the objects exchanged; for him the market consists of endless sequences of exchanges. "From the subjective perspective, however, it becomes possible (if indeed not imperative) to recognize the market process as involving processes of mutual discovery [...] on the part of the market participants. It becomes possible to recognize scope for superior entrepreneurial vision into the future [...]" (Kirzner, 1998, p. 585).

In economics, theory is often stated in statistical quantities based on monetary values, e.g., price indices and the measure of the Gross National Product. For the description of human action, however, these are unfruitful. Human behavior based on individual valuations has no common measure. Macro economic measures ignore the application of the subjective and marginalist theory of value to money. "It is a relapse to the thinking of ages in which people failed to comprehend praxeological phenomena because they were committed to holistic notions. [...]. Modern economics does not ask what 'iron' or 'bread' is worth, but what a definite piece of iron or bread is worth to an acting individual at a definite date and a definite place" (Mises, 1966, p. 400). There is another reason why Austrians do not value quantification. Menger believed that economics does not investigate quantities but essences, e.g., the essence of value, rent, or profit. Verbal language has the advantage over mathematical language in that the former can express the essence of economic phenomena. For Mises economics looks at the pure form of human action.

As well as quantities, econometrics also aims at prediction. I have already said why the traditional way of prediction is invalid in economics. But why should prediction be desirable in the first place? In the positive science of economics of the Chicago school, testable predictions take the centre of the stage. As the positivist says "The meaning of a statement is given by the method of its verification." A notion can only be understood if it is somehow related to sensory experience. To speak of essences, as the Austrians do is also very problematical. How can essences be tested by sensory observation or have any meaning at all? But for Austrians, the aim of science is not to predict, but to grasp the meaning of necessary connections. A prediction with the help of a black-box, e.g., macro-economics without a micro-economic foundation is unsatisfactory. Economics enables men to predict the qualitative effects to be expected form the adoption of specific policies. But

such predictions cannot be quantitative as there are no constant relations in the valuation which determine, guide, and alter human relations.

This also sheds light on the proper role and value of the economist. If, for example, the government does not intervene in the market, the role of the economist is to explain why. The businessman is much better equipped to predict the future demand for something like butter than the economist. The theoretical concepts and laws of the praxeologist allow him to interpret reality. He can act with a greater chance of success. But if the government *does* intervene in the market, the practical use of the economist increases. For then, for example, the rise in the demand for butter is certain and its consequences are looked for (Rothbard, 1960, p. 257).

To conclude, for the praxeologist, econometrics is at best a useful form of economic history. But it is of no use for economic theory. As Hayek said, "[...] we know so much detail about economics, our task is to put our knowledge in order. We hardly need any new information. Our great difficulty is digesting what we already know. We don't get much wiser by statistical information except by gaining information about the specific situation at the moment" (Hayek, 1994, p. 145).

3. THE MISSING CONSUMER: THE SOCIALIST CALCULATION DEBATE

Although the consumer was central to Menger's thought, (cf. Menger, 1923), the consumer is not for modern Austrian economics. The consumer became lost somewhere between Menger's contribution to Austrian economics (the way in which all value springs off from the final valuation of the consumer), and the modern Austrian contribution (the process through which the consumer's valuation translates in production decisions).

From the beginning Austrian economists were polemical writers. Menger fought the Historical School, Böhm-Bawerk fought the Marxists, and Mises and Hayek had their own clash with the Socialists. And, today, modern Austrians fight the mixed economy (cp. De Soto, 1998, pp. 88-89). No wonder Austrians say the "debate over economic calculation under socialism [... was] a catalyst in the development and articulation of the modern Austrian view of the market" (Kirzner, 1988, p. 1; cf. Rothbard, 1980, p. 27). The socialist calculation debate in the interwar period began with Mises's denial of the feasibility of calculating costs rationally or of allocating factors of production efficiently in a socialist economy. For most economists the debate ended with the answer of Lange and Lerner to 'play at' market prices: centrally promulgated given prices.

The calculation debate brought to the fore two modern Austrian insights (Taylor, 1980, p. 23). First, without market determined monetary prices, rational calculation is not possible in a centralized economy. Subjectivism entails the contention that values should not and cannot be calculated or measured directly. They are calculated with the results of individual valuations: money prices. They do not measure value but they express it. Consequently, the pivotal point is the necessity of a market for the means of production. "For a long time, the misconception that costs determined prices prevented economists from recognizing that it was prices that operated as the indispensable signals telling producers what costs it was worth expending on the production of the various commodities and services, and not the other way around" (Hayek, 1978, p. 2). Second, without market-determined monetary prices, a centralized economy lacks ability to promote discovery.

"The most impressive aspect of the market system is the tendency for [...] opportunities to be discovered" (Kirzner, 1985, p. 30). Prices expressed in money show price discrepancies. Through the possibility of monetary profits, they stimulate the discovery of valuable concrete information.

I do not plan to go into whether one or both insights was the crucial point more than 50 years ago, in the calculation debate. Rothbard (1988, p. 37) and Salerno (1990, p. 45) represent the calculation insight; Kirzner, (1985, p. 129; 1989b, p. 66) and Lavoie (1985a and 1985b) the discovery insight. Though both insights are theoretically compatible they differ in their consequences for the feasibility of a socialistic system. The calculation insight believes socialistic calculation to be fundamentally impossible. A socialist system has no markets, so calculation cannot be based on market prices (Rothbard, 1988, p. 37). The discovery insight, believes socialist calculation to be fundamentally flawed. The scope for entrepreneurial decisions is available only for the central planner. In a market economy with its decentralized decision-making, however, entrepreneurial decision-making has a widespread scope (Kirzner, 1989b, p. 94; cf. Rothbard, 1988, p. 78, note 28).

I suggest that a direct consequence of the focus on the central planner in the calculation debate is that modern Austrians discuss both insights from the point of view of the producer. They discuss the first insight, (that in a socialist society rational calculation is impossible), explicitly as a problem of the calculation of the means of production (Salerno, 1990, p. 439). How can a central planner rationally calculate costs or allocate factors of production efficiently? The modern Austrians discuss the second insight, (a socialist society lacks ability to promote discovery), by way of the methodological makeshift of an entrepreneurial producer and a non-entrepreneurial consumer (Mises, 1966, p. 253; Kirzner, 1973, p. 41). Though alertness is in principle present in every action, in their elaborations the modern Austrians give it to the producer (cf. Rothbard, 1985, p. 282; Ekelund & Saurman, 1988, p. xx; Pasour, 1989, p. 95). So alertness is called the entrepreneurial element. Consumers are passive, non-alert, Robbinsian maximizers. See for instance how Austrians look at advertising. One of the roles of advertising is "getting the Robbinsians [the potential consumers] to see the availability of [...] opportunities" (Kirzner, 1973, p. 148). Advertising differs from changing the consumer's taste or providing information

(non-entrepreneurial knowledge) for him. Advertising (an entrepreneurial device) makes the consumer aware of available opportunities, regardless of his level of alertness.

Just as Mises did before him (1966, pp. 251-256), Kirzner motivates the identification of alertness with the role of the producer in the market process as "purely for simplicity for analysis" (Kirzner, 1967, p. 797 and 1973, p. 18 and 41). In addition, he says that the identification makes sense if we consider the "near-inevitability of an entrepreneurial role's, being filled by the producer" (Kirzner, 1973, p. 72). Although I do not discuss whether or not the identification makes the analysis less complicated, I do ask if it makes 'sense' to give the entrepreneurial element to the producer? Kirzner looks for the answer in the roles of the market participants. He distinguishes consumers, resource owners, and producers. Producers, converting resources into commodities are *alert* to price discrepancies between the price paid for a product on the resource markets and the price got for it on the final product markets. Alertness to price discrepancies, however, is a form of entrepreneurial behaviour. In society, there is 'a built-in group of entrepreneurs' (Kirzner, 1973, p. 18). Otherwise, the essential difference between consumers and resource owners on the one hand and producers on the other is that producers do not have to possess any means. The pure producer gains are caused by a certain alertness to price discrepancies. We can think of all consumers and resource owners as pure Robbinsian allocators, something which is unthinkable for all producers. For a pure producer, alertness is a *conditio sine qua non* (Kirzner, 1973, p. 39).

3.1 But what about the consumer?

In the modern Austrian discussion about calculation and entrepreneurship, the sovereign consumer—the one who determines by his buying or abstention from it what should be produced in what quantity and of what quality—moves backstage as the personification of the ends. But if the market is a competitive-entrepreneurial process of discovery there is more to be said of him. Something that is of relevance to subjectivistic notions of the market process. Is there no relevant distinction between the calculations of the producer and those of the consumer? And, perhaps the methodological makeshift of a Misesian entrepreneur and a Robbinsian consumer, both used for the elucidation of the market

process, is spun out too long? See the way Kirzner introduces his reason for focusing on the entrepreneurial producer. He speaks of men who "are able to see where a good can be sold at a price higher than that for which it can be bought" (1973, p. 14). Which is exactly the position the older Austrians challenged in the first place; the actions of the businessmen the classical economist could already explain. Therefore I suggest giving entrepreneurship—the alertness towards new means and ends—to the consumer too. The one whose behaviour, for the first time in the history of economics, the Austrians explain. This consumer is a real living human being seen from the point of view of consumption. He is the market's sovereign king.

I think Kirzner's idea of entrepreneurship as a process of error correction suits the consumer, even more perhaps than it suits the producer (cp. Part II, Chapter 4, note 10). Why? Buchanan and VanBerg distinguish a cross-sectional from an intertemporal divergence between different parts of the market (1991, p. 321). But, if the creativeness of the human mind is emphasized they believe it is difficult to ascribe error correction to an intertemporary world. "What sense does it make [If the market is an open-ended process. A.L.] to describe today's failure to possess tomorrow's knowledge as *error*?" (Buchanan and VanBerg, 1991, p. 321). Human choices, if real, that is inherently creative, could have been different and have had different effects. For a cross-sectional situation, however—the world of ignorance the consumer of final products faces—it is legitimate to say we correct an error of what is already out there, what is waiting to be discovered.

This is not to say of course that discovery of intertemporal "errors" is not important. The point is "Can we, without stretching the use of language too much, describe this situation as an error?" However, to conclude with the words of Kirzner, in an interview in the Austrian Economics Newsletter (1997b, pp. 3-4), "Philosophically, all this may be so. But it doesn't matter for the sake of the metaphor I have chosen. *Ex post* we have to recognize that when an innovator has discovered something new, that something was metaphorically waiting to be discovered. "[I]n a more fundamental sense, he is correcting an already existing discoordination. He is redirecting resources that are already misplaced."

I resume my argument and programme for the following studies on the consumer in Austrian economics and the Austrian perspective on consumer policy. What I think is unperceived in modern Austrian economics is the entrepreneurial consumer. Who is he?

First, he is the final consumer who tends to buy or not to buy according to the valuations he places on the offered commodities. But, second, final consumers are entrepreneurs too "in that they search for better trade possibilities" (Reekie, 1984, p. 54). "This is the same as saying that as long as there is ignorance in the economy there will be profit opportunities: there will be trades available at more convenient terms, there will be arbitrage opportunities, there will be different goods to produce, better technologies to use, more efficient organizational forms to adopt, and so on" (Thomsen, 1992, p. 17). As the Austrians always say, market phenomena—each and every market transaction, each and every real world market decision—reflect the entrepreneurial activities of *all* market participants. Entrepreneurship refers to those who are alert to the existence of previously unknown profit opportunities.

Of course, like resource owners and consumers, entrepreneurs are an abstraction of economic theory too. In that usage the entrepreneur is a businessman who plans, organizes, and directs an enterprise. But what interests me here is that, to some extent, all individuals are entrepreneurial. I follow this idea up in Part II, where I examine entrepreneurship, and in (Part III), where I look at what consumer policy , the government policy to improve consumer position on the market does to the consumer's entrepreneurship.

REFERENCES

- Blaug, M. (1980), *The Methodology of Economics*, Cambridge and London: Cambridge.
- Blaug, M. and N. de Marchi (eds) (1991), *Appraising Economic Theories*, London: Edward Elgar.
- Blaug, M. (1993), "Book Review of Steel. D.R. 'From Marx to Mises: Post-Capitalistic Society and the Challenge of Economic Calculation'," *Economic Journal*, Vol. 103, November, p. 1570-1571.
- Block, W. (1980), "On Robert Nozick's 'On Austrian Methodology'," *Inquiry*, December, pp. 397-444.
- Böhm-Bawerk, E. von ([1914], 1962), "Macht oder ökonomisches Gesetz?" in: *Shorter Classics of Eugen von Böhm-Bawerk*, Volume I, South Holland, Ill.: Libertarian Press, pp. 139-199.
- Buchanan, J.M. and V.J. Vanberg (1991), "The market as a creative process," in: *The Philosophy of Economics,* D.M. Hausman (ed.), New York: Cambridge University, 1994, pp. 315-335.
- Cairnes, J.E. (1875), *The Character and Logical Method of Political Economy*, 2d ed., London: MacMillan.
- Dolan, E.G. (ed.) (1976), *The Foundations of Modern Austrian Economics*, Kansas City, Kans.: Sheed and Ward.
- Egger, J.B. (1978), "The Austrian Method," in: *New Directions in Austrian Economics,* L.M. Spadaro, (ed.), Kansas City, Kans.: Sheed and McMeel.
- Ekelund, R.B. and D.S. Saurman (1988), *Advertising and the Market Process*, San Francisco: Pacific Research Institute for Public Policy.
- Greaves, Percy L. ([1973] 1984), *Understanding the Dollar Crisis*, New York: Free Market Books.
- Hayek, F.A. (1942), "Scientism and the Study of Society," *Economica*, N.S., August, pp. 267-291. Reprinted in: Hayek (1952).
- Hayek, F.A. (1949), *Individualism and Economic Order*, London: Routledge & Kegan Paul.

- Hayek, F.A. (1952), *The Counter-Revolution of Science*, Glencoe, Ill.: Free Press.
- Hayek, F.A. (1967), *Studies in Philosophy, Politics and Economics*, London: Routledge.
- Hayek, F.A. (1978), "Coping with Ignorance," *Imprimis*, Vol. 7, No. 7, July, pp. 1-5.
- Hayek, F.A. (1982), *Law, Legislation and Liberty*, London: Routledge & Kegan Paul.
- Hayek, F.A. (1994), *Hayek on Hayek*, London and New York: Routledge.
- Heidegger, M. ([1927] 1962), *Sein und Zeit*, Tübingen: Max Niemeyer. Translated as *Being and Time* by Macquarrie J. and E. Robinson, London: Camelot Press
- Hicks, J.R. ([1939], 1946), *Value and Capital*, Oxford: Clarendon.
- Hoppe, H.H. (1988), *Praxeology and Economic Science*, Auburn, Alabama: Ludwig von Mises Institute.
- Katouzian, H. (1980), *Ideology and Method in Economics*, London: MacMillan.
- Kauder, E. (1957), "Intellectual and Political Roots of the Older Austrian School," *Zeitschrift für Nationalökonomie.*
- Kirzner, I.M. (1962), "Rational Action and Economic Theory," *Journal of Political Economy*, Vol. LXX, August, pp. 380-85.
- Kirzner, I.M. (1963), *Market Theory and the Price System*, Princeton, N.J.: Van Nostrand.
- Kirzner, I.M. (1967), "Methodological Individualism, Market Equilibrium and Market Process," *Il Politico* 32, pp. 787-798.
- Kirzner, I.M. (1973), *Competition and Entrepreneurship*, Chicago: University of Chicago Press.
- Kirzner, I.M. (1979), *Perception, Opportunity, and Profit. Studies in the Theory of Entrepreneurship*, Chicago: University of Chicago Press.
- Kirzner, I.M. (1982), in I.M. Kirzner (ed.), *Method, Process, and Austrian Economics: Essays in Honor of Ludwig von Mises*, Lexington, Mass.: Lexington Books, pp. 1-5
- Kirzner, I.M. (1985), *Discovery and the Capitalist Process*, Chicago: University of Chicago Press.
- Kirzner, I.M. (1986), "Ludwig von Mises and Friedrich von Hayek: The modern Extension of Austrian Subjectivism," in: N. Leser (ed.), (1986), *Die Wiener Schule der Nationalökonomie*, Vienna: Böhlau.

- Kirzner, I.M. (1987), "Austrian Economics," in: *The New Palgrave, A Dictionary of Economics*, Eatwell, J., Milgate, M., Newman, P. (eds), London: MacMillan, pp. 145-151.
- Kirzner, I.M. (1988), "The Economic Calculation Debate: Lessons for Austrians," *The Review of Austrian Economics*, Volume 2, pp. 1-18.
- Kirzner, I.M. (1989a), "The Use of Labels in Doctrinal History: Comment on Baird," *Cato Journal*, Vol. 9, no. 1, pp. 231-235.
- Kirzner, I.M. (1989b), *Discovery, Capitalism, and Distributive Justice*, Oxford and New York: Basil Blackwell.
- Kirzner, I.M. (1997a), "Entrepreneurial Discovery and the Competitive Market Process: An Austrian Approach," *Journal of Economic Literature*, Vol. XXXV, March, pp. 60-85.
- Kirzner, I.M. (1997b), Interview in: *Austrian Economics Newsletter*, "The Kirznerian Way," Spring, pp. 1-8.
- Kirzner, I.M. (1998), "The Nature and Significance of Economic Education," *The Freeman*, Vol. 48, No.10, October, pp. 582-586.
- Kotarbiński, T. (1964), "Praxiology and Economics," in: *On Political Economy and Econometrics, Essays in Honour of Oskar Lange.*
- Lachmann, L.M. (1966), "Die geistesgeschichtliche Bedeutung der österreichische Schule in der Volkswirtschaftslehre," *Zeitschrift für Nationalökonomie*, XXVI. Bd., Heft 1-3, pp. 152-167.
- Lachmann, L.M. (1976), "From Mises to Shackle: An Essay on Austrian Economics and the Kaleidic Society," *Journal of Economic Literature*, Vol. 14, 1976, pp. 54-62.
- Lavoie, D. (1985a), *Rivalry and Central Planning: The Socialist Calculation Debate Reconsidered*, New York: Cambridge University Press.
- Lavoie, D. (1985b), *National Economic Planning: What is Left?*, Cambridge, Mass.: Ballinger.
- Mayer, H. ([1932], 1994), "The Cognitive Value of Functional Theories of Price: Critical and Positive Investigations concerning the Price Problem," in Kirzner, I.M. (ed.). *Classics in Austrian Economics,* London: William Pickering.
- Meyer, W. (1981), "Ludwig von Mises und das subjectivistische Erkenntnisprogramm," *Wirtschaftspolitische Blätter*, 4, pp. 35-50.

- Menger, C. ([1871], 1950), *Grundsätze der Volkswirtschaftslehre*, Vienna: Wilhelm Braumüller. Translated by Dingwall, J. and Hoselitz, B.F. as *Principles of Economics*, Glencoe, Ill.: Free Press.

- Menger, C. (1923), *Grundsätze der Volkswirtschaftslehre*, 2 ed., Vienna: Hölder-Pichler-Tempsky.

- Menger, K. (1973), "Austrian Marginalism and Mathematical Economics," in: *Carl Menger and the Austrian school of economics*, J.R. Hicks and W. Weber (eds), Oxford: Clarendon Press, pp. 38-60.

- Mill, J.S. (1836), "On the Definition of Political Economy and the Method of Investigating Proper to It," repr. in: *Collected Works of John Stuart Mill,* vol. 4., Toronto: Toronto University.

- Mises, L. von (1940), *Nationalökonomie. Theorie des Handelns und Wirtschaftens*, Genf. Reprinted, 1980, München: Philosophia Verlag.

- Mises, L. von ([1949], 1966, 3rd Edition), *Human Action*, Chicago: Contemporary Books.

- Mises, L. von (1960), *Epistemological Problems of Economics*, Princeton: New York.

- Mises, L. von (1961), "Epistemological Relativism in the Sciences of Human Action," in: Schoeck, H. and Wiggens, J.W. (eds), *Relativism and the Study of Man*, Princeton, N.J.: Van Nostrand.

- Mises, L. von (1969), *The Historical Setting of the Austrian School of Economics*, New Rochelle, N.Y.: Arlington House.

- Mises, L. von ([1912], 1971), *The Theory of Money and Credit*, Irvington-on-Hudson.

- Mises, L. von (1976), *Epistemological Problems of Economics*, Princeton: New York.

- Mises, L. von (1977), "Comments about the Mathematical Treatment of Economic Problems," *Journal of Libertarian Studies*, Vol. 1, no.2.

- Mises, L. von (1978), *Erinnerungen von Ludwig von Mises,* Stuttgart: Fisher, [Translated by H.F. Sennholz as *Notes and Recollections*, South Holland, Ill: Libertarian Press.]

- Niska, V. (1959), "The Role of Quantitative Thinking in Modern Economic Theory," *Review of Social Economy,* September, pp. 151-173.

- Nozick, R. (1977), "On Austrian Methodology," *Synthese*, Vol. 36, pp. 353-392.

- Pasour, E.C. (1989), "The Efficient-Markets Hypothesis and Entrepreneurship," *The Review of Austrian Economics*, Vol. 3, pp. 95-107.

- Reekie, W.D. (1984), *Markets, Entrepreneurs and Liberty: An Austrian View of Capitalism,* Brighton, Sussex: Wheatsheaf.

- Robbins, L. (1935), *An Essay on the Nature and Significance of Economic Science,* London, MacMillan.

- Robinson, J. (1954), *The Economics of Imperfect Competition,* London: MacMillan.

- Rothbard, M.N. (1951), "Praxeology: Reply to Mr. Schuller," *American Economic Review,* December, pp. 943-946.

- Rothbard, M.N. (1956), "Toward a Reconstruction of Utility and Welfare Economics," in: *On Freedom and Free Enterprise*, M. Sennholz (ed.). Princeton: Van Nostrand.

- Rothbard, M.N. (1960), "The Mantle of Science," in: *Scientism and Values*, H. Schoeck and J.W. Wiggens, New York: Van Nostrand.

- Rothbard, M.N. (1962), *Man, Economy and State*, Princeton, N.J: Van Nostrand.

- Rothbard, N.N. (1963), *America's Great Depression,* Kansas City, Kans.: Sheed and Ward.

- Rothbard, M.N. (1973), "Praxeology as the Method of Economics," in: M. Natanson, *Phenomenology and the Social Sciences*, Evanston: Northwestern University Press, pp. 311-341.

- Rothbard, M.N. (1976), "Praxeology: The Methodology of Austrian Economics," in: Dolan E.G. (ed), 1976.

- Rothbard, M.N. (1980), *The Essential Ludwig von Mises*, Auburn, Alabama: Ludwig Mises Institute.

- Rothbard, M.N. (1985), "Professor Hébert on Entrepreneurship," *Journal of Libertarian Studies*, Vol. VII, no. 2, pp. 281-286.

- Rothbard, M.N. (1988), *Ludwig von Mises: Scholar, Creator, Hero.*, Auburn, Alabama: Ludwig von Mises Institute.

- Salerno, J.T. (1990), "Ludwig von Mises as a Social Rationalist," *The Review of Austrian Economics*, Vol. 4, pp. 26-54.

- Salin, P. (1996), "The Myth of the Income Effect," *The Review of Austrian Economics*, Vol. 9, No.1, pp. 95-106.

- Say, J.B. (1964), *A Treatise on Political Economy*, Transl. by Biddle C.C., New York: Kelley.

- Schönfeld-Illy, L. (1924), *Grenznutzen und Wirtschaftsrechnung*, Wien. Reprinted in 1982 with a introduction of Kurt R. Leube, München and Wien: Philosophia Verlag.

- Schönfeld-Illy, L. (1948), *Das Gesetz des Grenznutzes, Untersuchung über die Wirtschaftsrechnung des Konsumenten*, Wien: Springer Verlag.

- Schumpeter, J.A. (1954), *History of Economic Analysis*, New York: Oxford University Press.

- Senior, N.W. (1872), *Political Economy*, 6th ed. London

- Soto, de J.H. (1998), "The Ongoing Methodenstreit of the Austrian School," *Journal des Economistes et des Etudes Humaines,* Vol. 8, Numéro 1, Mars, pp. 75-113.

- Stigler, G.J. (1966), *The Theory of Price*, New York: MacMillan.

- Taylor, T.C. (1980), *The Fundamentals of Austrian Economics*, London: The Adam Smith Institute.

- Thomsen, E.F. (1992), *Prices and Knowledge*, London and New York: Routledge.

- Zieleniewski, J. (1971), "Remarks of a Polish Praxiologist on the subject of a paper by C. Gutiérrez," *Theory and Decision*, 1, pp. 359-368.

Part II. THE CONSUMER: ENTREPRENEURIAL AND CALCULATIVE

Chapter 4. Böhm-Bawerk's Goods Characteristics Reactivated for Modern Austrians

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Böhm-Bawerk's Goods Characteristics Reactivated for Modern Austrians

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It is not just a hackneyed formula but the heart of modern-Austrian economics[1] to describe "Austrian" economics as the "less-known themes of the Austrians". Ask any economist to explain this characterisation and he is likely to answer "subjectivism" and "market processes". By this he probably has in mind the two contentions that an economic theory "systematically recomposes market phenomena in terms of typical structural components of everyday decision making" (O'Driscoll and Rizzo, 1986, p. 252) and that "the appropriate starting point for a theory... is... the pattern of market adjustments set in motion by conditions of disequilibrium" (Kirzner, 1967, p. 788). In this contribution* I analyse one of the less-known, almost forgotten, themes from the subjectivistic Austrian tradition and show its implications for modern Austrian ideas on market processes.

After an introductory section, I state and interpret Menger's and Böhm-Bawerk's characterisation of goods in the second and third sections. This consists of my "less-known theme", taken from the subjectivistic Austrian tradition. In the fourth and fifth section, I state and interpret the theories in modern Austrian thought about market processes. Section six shows how useful the less-known theme actually is for the solution of a paradox that arises. The last section contains a summary and a conclusion.

Less-known Themes of the Austrians

Let us first consider subjectivism. Perhaps our first thought is the often-quoted statement of the present mentor of modern Austrianism, Friedrich Hayek, "that every important advance in economic theory during the last hundred years was a further step in the consistent application of subjectivism" (Hayek, 1952, p. 31). Thus formulated means, of course, that the Austrians' greatest enemy was "objectivism", i.e. the objective theory of value. According to a remark made by Carl Menger, which is also often quoted, this fault was even made inside the Austrian camp in the works of Eugen von Böhm-Bawerk (Schumpeter, 1954, p. 847, note 8). Though, according to Ludwig von Mises, for Böhm-Bawerk this was probably only a question of stylistic habit, inherited from Böhm-Bawerk's own "objectivistic" economic childhood; stylistic faults to which even Menger sometimes fell prey (Mises, 1928, pp. 167, 171). So — again according to Mises —

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it is better to turn to the more clearly stated views of the epigones (Mises, [1928] 1981, pp. 174, 178). One of my aims, however, is to prove exactly the opposite. In a way there is still something to be learned from Austrian founding fathers like Böhm-Bawerk.

Let me therefore extract from the subjectivistic tradition in general and from Böhm-Bawerk's writings in particular the point that I want to discuss. One of the first questions encountered in economics is, according to Menger, what makes a thing a good (Menger, 1950, p. 48). The answer, from a subjectivistic point of view, reads like this. "[G]oods-character is nothing inherent in goods... but merely a relationship between certain things and men" (Menger, 1950, p. 52). In his *magnum opus, Grundsätze der Volkswirthschaftslehre* ([1871] 1950), Menger gave four essential characteristics of goods. In this way he was trying to define the essence of a good. Ten years later Böhm-Bawerk, in his *Habilitationsschrift, Rechte und Verhältnisse vom Standpunkte der volkswirtschaftlichen Güterlehre* ([1881] 1962), added a fifth characteristic; the condition that individuals must possess knowledge of how to utilise the thing (*Gebrauchskunst*). Böhm-Bawerk's additional, essential characteristic of goods is our "less-known" theme of the Austrians.

In the history of economic thought the difference between Menger's and Böhm-Bawerk's characterisations of goods, like Böhm-Bawerk's book itself, has almost been forgotten. In most cases the difference is not even noticed (e.g. Amonn, 1911, p. 266). If mentioned it is characterised as a sign of Böhm-Bawerk's objectivism at its worst (Endres, 1987, p. 294), perhaps one of those slips of the pen in the old objectivistic habit, mentioned earlier by Mises or, probably at its best, only a passing remark. Böhm-Bawerk himself, in a remark characteristic of his general attitude towards Menger, said that he supplemented Menger's findings "only in one minor respect" (Böhm-Bawerk, 1962, p. 41). In his *magnum opus, Kapital und Kapitalzins*, of 1884, he did not make the explicit distinction any more. In this essay I want to investigate if Böhm-Bawerk's own and other people's negative verdict on this is correct. Or have I come across a "new" forgotten theme of the Austrians?

To answer this last question positively the theme from the Austrian tradition should be of value to modern Austrian thought. Does it solve problems which might otherwise remain insoluble? Does it throw a different light on the facts? These questions implicitly ask for a fundamental idea because it explains so much and has been used in nearly all economic theories (Mayer, 1927, p. 1272). Fundamental ideas make the basic characteristics of the subject matter under investigation intelligible. All subsequent investigations have been based on it and have made use of these basic characteristics. No wonder the goods concept is, for the Austrians, often the starting point of their investigations.

The second characterisation of modern Austrian thought is the central position of market processes in their economic theories. Some preliminary reflection will show that on a fundamental level there is at least a certain unexploited subject matter which leads to a lack of balance in Austrian thinking on this point. In market processes, "the drive and alertness needed to identify which ends to strive for and which means are available" (Kirzner, 1973, p. 68) is of central importance. This element is called the entrepreneurial element, an element present in all

decision making. Still, when it comes to the point, the Austrians impute the entrepreneurial role only to the producer (Kirzner, 1973, p. 72), in spite of the fact that the ultimate king of the Austrians in market processes is without doubt the consumer. If this king rules he must also occupy the centre stage in market processes. Although in theory the Austrians give the consumer all the power, in practice they deny him this authority and delegate the fundamental market role to the producer. The central question of this essay is therefore what light Böhm-Bawerk's subjectivistic goods concept sheds on the untouched subject of the entrepreneurial behaviour of the consumer. As, I hope to show, this situation can be seen as a lack of balance, even as a paradox inside Austrian thought.

Menger and Böhm-Bawerk on Goods Characteristics

Menger, in his *Principles*, gave four characteristics of goods. He described them by stating the standard ends-means relationship of economics as follows. People have needs. The only way in which these needs can be satisfied is by means of a causal process. What things, to be called useful things (*Nützlichkeiten*), can satisfy the needs in such a causal process? Two conditions must be fulfilled: (1) a human need must exist and (2) the thing must have useful properties, to satisfy this need. If this causal process is recognised and if there is control over these useful things, the thing is not only useful but also a good. This leads to two further conditions: (3) knowledge of the causal relationship and (4) the power of disposal over the thing (*Verfügungsmacht*) (Menger, 1950, p. 52).

These four characteristics were the culmination and more or less the end[2] of a lively discussion in economic thought about the goods character of a thing. However the parallel discussion about the categorisation of goods continued. In that discussion the question was which things are to be subsumed under the goods concept[3]. Böhm-Bawerk in his *Rechte* stated five goods characteristics. In comparison with Menger's four conditions he added a fifth[4], that individuals should also know how to utilise the useful thing (*Gebrauchskunst*, Böhm-Bawerk, 1962, p. 42).

Why did Böhm-Bawerk add this fifth condition? He must have had good reasons for it. Austrian thinking is not usually very lighthearted about essences. Goods characteristics belong to the Austrians' essentialism. Böhm-Bawerk himself played down his divergence from Menger by only stating his reasons in a footnote. In this he said that the knowing-how condition cannot be included in both Menger's and his own condition relating to the command of the thing. He gave two reasons for this: (1) the knowing-how condition is too subjective and (2) it would stretch language usage too much to include knowing-how as a part of the condition on the command of the thing (Böhm-Bawerk, 1962, p. 42, note 2).

How do we classify and what light can be shed in this classification on the difference in goods characterisations between Menger and Böhm-Bawerk? To answer these questions I have made use of the second reason, or actually hint, in Böhm-Bawerk's explicative footnote. The first reason, here considered as an extension of the second, is discussed in the sixth section.

The best way to explain Böhm-Bawerk's fifth characteristic is first to differentiate it from the third, common characteristic. Second, to use the stated classification

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for analysing Menger's implicit concept of knowing how to utilise a thing. Put differently, this means how must Menger's fourth characteristic be interpreted to include the whole or part of Böhm-Bawerk's fifth characteristic? I have called Menger's knowing-how condition "implicit" because in the posthumously published (second) edition of his *Principles* there is a remark that the knowledge of how to utilise a thing should be classified under the power of disposal condition (Menger, 1923, p. 17).

Both Menger and Böhm-Bawerk put forward the condition, in their third characteristic, that people must have knowledge of the causal connection between a useful thing and a need. They must have the knowledge that such a situation exists. The knowledge of how to use a thing on the other hand refers to a form of knowing-how. This knowing-how aspect states what it is for someone to have the know-how to be able to perform certain tasks. It refers to the possession of certain skills. So we get the difference between a theoretical knowing that something is the case and a practical knowing how to do things.

Interpretation of the Goods Characteristics

At this point I want to make use of the famous elucidation of these two concepts, as made by the British language philosopher Gilbert Ryle (1945, 1949)[5]. According to his views the two concepts ought to be clearly distinguished in view of their appropriate logical uses. If this is not done, then what is called a category-mistake is made. A mistake which is comparable to the mistake by somebody who asks where the university is after a tour of the grounds of the university in which he has been shown a number of colleges, libraries, playing fields and museums. "He was [by asking the question] mistakenly allocating the University to the same category as that to which the other institutions belong" (Ryle, 1949, p. 18).

Why are these two logical spheres, the supposed appropriate logical uses of these two concepts, so completely different? For Ryle, knowing-how referred to a certain observable regularity in the behaviour of a person. The concept does not refer to a certain possession of knowledge-that, neither does it signal the occurrence of special (theoretical) internal acts of thought. We do not have to know-that before we know-how. "The crucial objection to the [what Ryle called] intellectualist legend[which means trying to reassimilate knowing-how to knowing-that] is this. The consideration of propositions is itself an operation the execution of which can be more or less intelligent, less or more stupid. But if, for any operation to be intelligently executed, a prior theoretical operation had first to be performed and performed intelligently, it would be a logical impossibility for anyone ever to break into the circle" (Ryle, 1949, p. 31). Knowing-how has the character of a disposition and not the character of a certain occurrence. Compare the disposition of "speaking loudly" which is in itself not "loud".

This distinction that Ryle made in the use of the different kinds of categorical concepts is of foremost interest in expanding on Böhm-Bawerk's concern that it would stretch language too much if one included knowing-how as part of the condition which states command of the thing. Böhm-Bawerk's fifth characteristic of knowing-how, in the light of Ryle's classification[6], cannot, as an extrapolation of the difference between knowing-how and knowing-that, logically be put under

the condition which states factual command over the thing. In language we make a distinction between a (physical) state of things and a mental disposition. The condition of command as used by Menger clearly refers to a certain entity at our disposal.

Nevertheless, in the second edition of his *Principles*, Menger said that knowing-how can be classified under the command of a thing. So we can ask the question as to how to interpret the command condition to make this happen. To answer this it is necessary to look at how Menger used the command condition. For Menger the command of a thing appeared in the description that he gave of the production process of goods, the process of converting higher into lower order goods. Menger's first law on goods character concerned the causal connection between goods: "The goods-character of goods of higher order is dependent on command of corresponding complementary goods" (Menger, 1950, p. 58). If the command condition was to "include" a form of knowing-how, then, for Menger, it had to be that aspect of knowing-how which stated a capacity or skill, of the producer. The producer could bring off certain things, he could actually produce the goods. He had control over the necessary complementary goods.

To illustrate the explicit condition of knowing-how in the context of a production process would be completely out of the question for Böhm-Bawerk. According to him, in a second and, for our problem, very illuminating footnote, the possibility of multiple uses of higher order goods and especially the existence of barter in our society, both change the order of a good, the place a good occupies in the causal nexus of goods, for a concrete individual who has control over the good. Like the conditions of need and knowing-how the essential prerequisites for a thing to become a good, show themselves precisely in these situations, in a very watered-down version (Böhm-Bawerk, 1962, p. 101, note 2)[7].

Producer and Consumer, the "Austrian" Paradox

The second characteristic of the modern Austrians mentioned above concerns their vision of the workings of the market. To explain this let me compare the standard Neoclassical, Walrasian market model with the, barely standard, neo-Austrian model. The main difference between these models, according to the Austrians themselves, is that in the neo-Austrian market model, market processes and not market equilibria occupy a central position. In these market processes, dispersed knowledge and lack of knowledge are of fundamental importance. In the Austrian market model, action does not follow primarily from an optimal choice in a given ends-means relation, as is mostly the case in the Neoclassical market model. At the centre of the Austrian market model stands the process of conceiving the ends-means relationship. This gives us the fundamental idea of alertness in Austrian economic thinking. Alertness is the propensity of knowing where to look for information (Kirzner, 1973, p. 68), "the propensity... toward fresh goals and the discovery of hitherto unknown resources" (Kirzner, 1973, p. 34). Stated in neo-Austrian terminology, the change in market models contains a change "from a 'mechanical' Robbinsian[8][Neoclassical] economiser to Mises' [neo-Austrian] *homo agens*" (Kirzner, 1973, p. 72). "[*Homo agens*] is not merely engaged in computing the patterns of means allocation that will most faithfully reflect the

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hierarchy of given ends [like Robbins's calculating agents]. *Homo agens* is actively seeking out the best course of action, he is venturing, innovating, exploring, searching" (Kirzner, 1967, p. 792).

We are now able to describe the earlier mentioned, unexploited subject in neo-Austrian thinking, somewhat forcefully as follows. Although human action is a property of every human being and alertness is theoretically a function of every action, not everyone has the same alertness. In practice, the neo-Austrians assign alertness to the producer, calling it the entrepreneurial element. Kirzner speaks of "the near-inevitability of an entrepreneurial role's being filled by the producer" (Kirzner, 1973, p. 72)[9]. The consumer is a Robbinsian maximiser. This is rather startling in the light of the interpretation by Mises of the core of Austrian thinking.

Mises claimed that Classical economists were at fault because they "were able to explain only the action of businessmen and were helpless in the face of everything that went beyond it" (Mises, [1928] 1981, p. 175). Classical economists completely neglected rationality on the part of the consumer. This role was taken over by the producer. It was precisely this starting point of Classical economics, from the actions of the businessmen, that the Austrian theory was able to overcome. Yet, is this not the same failure, only in a modern, disguised form?

How can this situation be explained? First of all it is possible that I have overstressed the situation. Kirzner (1973, p. 72) says that it is only "an analytical convenience" or "an analytical device" to give the producer the fundamental market role. If these reasons are valid, then we have yet another unexploited subject in Austrian thought, the entrepreneurial behaviour of the consumer. Still it is a rather odd result in relation to the historical starting point of Austrian thought. But, second, Kirzner also speaks about the fact "that the analytical treatment of consumers... as Robbinsian is not wholly unrealistic" (Kirzner, 1973, p. 184) or, "the lack of alertness of the other market participants". Also are not his policy conclusions, e.g. in the case of advertising (Kirzner, 1973, p. 148), based on this, in Mises' words, "methodological makeshift" (Kirzner, 1973, p. 39, note 6). It appears then that we have found a paradox in Austrian thought. The Austrians, on the one hand, have never disputed that the central leading role in the market is played by the consumers (Mises, [1928] 1981, pp. 175-6)[10], but, on the other hand, they have assigned a unique dynamic market role to the producer. But is not competition fundamentally a two-sided process, not only between producer and producer but also between producer and consumer and among consumers? In the rest of this contribution I deal with the solution of this paradox. The discussion incidentally also gives a possible answer to that unexploited subject of Austrian thought, the entrepreneurial behaviour of the consumer.

Ryle and the "Austrian" Paradox

To solve this paradox I first interpret the concept of alertness by means of what I have already said in the third section about the goods characteristics. In that section I elucidated the differences between knowing-how and knowing-that. The fundamental concept of alertness has been described by Kirzner as "knowing

where to look for knowledge rather than knowledge of substantive market information" (Kirzner, 1973, p. 68). Alertness, "the elusive analytical category", then clearly becomes a form of knowing-how, a mental quality. Alertness, the "propensity to know where to look for information", is a disposition which expresses itself in practice as the capacity or skill of the producer to bring about certain things. Alertness and the capacity aspect of the command condition are two sides of the same coin. They both bring about or create the ends-means relationship as far as it depends on the category of knowing-how.

After interpreting the alertness concept with what should by now be the familiar classification of knowing-how and knowing-that[11], I am in a position to give two possible "solutions" for the paradox. In this section I discuss what we might call Ryle's solution. In the next section I present what might be called Böhm-Bawerk's solution. In Ryle's solution the paradox can be seen as a true paradox, in Böhm-Bawerk's solution, on the other hand, the paradox is seen as a false paradox.

What does Ryle's solution look like and what are its implications? If we confront the two approaches, the Misesian producer and the Robbinsian consumer, with each other we find two clearly distinguishable, irreducible approaches; on the one hand a dynamic market concept, seen as the tendency to perform a certain activity (a knowing-how) and on the other hand a static market concept, seen as the possession of a certain knowledge (a knowing-that). The market may be seen as a capacity to perform certain tasks, to sort something out, or as a theory, a stock of cognitive knowledge. Both descriptions of the market have parallels and differences. It is possible to speak of learning a certain activity, as well as learning a certain stock of knowledge, although learning-how differs from learning-that. "We can be instructed in truths, we can only be disciplined in methods" (Ryle, 1945, p. 14). We can ask for the reasons why someone accepts a proposition, but we cannot ask this if someone's skill is at stake. So a distinction is made between the market conceived as a disposition and conceived as a set of knowing-that. Knowing-how is made clear through actions, not through internal or external *dicta* (which is knowing-that).

This interpretation of the categories, while stating the paradox, reveals that the question the paradox tries to solve is a meaningless one. It is an example of a category mistake. So to conjoin or disjoin them has no sense. Compare the conjunction, "She came home in a flood of tears and a sedan-chair" with the distinction, "She came home either in a flood of tears or else in a sedan-chair" (Ryle, 1949, p. 23). From this point of view the whole discussion in the literature between the distinction of a static or a dynamic market model (i.e. the static consumer's role and the dynamic producer's role) may be seen as a discussion on the question whether the preference should be given to fruit or to an apple. From the traditional point of view, from which the paradox originated in the first place, this discussion was seen as involving the difference between apples and oranges.

Consequently the first possible solution (Ryle's) to the paradox is that the transition of the Austrians from a static (Robbinsian) to a dynamic (Misesian) model of the market was, at the same time, a change in the kind of categories used. This change in the type of categories used is such that, by elucidation of that

change, it loses its paradoxical character. This conclusion is opposed to the statement that this transition is, as it has traditionally always been, open to discussion.

Böhm-Bawerk and the "Austrian" Paradox

What is meant by Böhm-Bawerk's solution to this paradox in modern Austrian thought? First, I recapitulate my position and second, I look at Böhm-Bawerk's second reason for introducing his "fifth" goods characteristic, which says that the knowing-how condition was too subjective to be headed under the command condition.

We have seen that Böhm-Bawerk's explicit concept of knowing-how as shaped in Menger's implicit concept of knowing-how has found its counterpart in the modern Austrian theory about market processes. In Austrian thought it relies on the propensity of alertness. This property is *de facto* given to the producer. Thereby we get the paradoxical situation that modern Austrianism has to deny in practice what it sustains in theory. The core role in the market is for the producer and not for the consumer. This is a rather strange conclusion. For it puts things back in the same position as described by Mises 60 years ago. Even more astounding, it was precisely this position which the Austrians tried to discount with their subjectivism.

I now want to turn to the question of what Böhm-Bawerk's solution looks like. What is so subjective about knowing-how (Böhm-Bawerk's second reason) that it can neither be taken under the command condition nor coincide with the above-mentioned "implicit" (producer's) capacity aspect of the command condition? To answer this question I look at someone who stimulates the disposition of knowing-how (alertness). How can such acts be qualified? "We use abusive names like 'charlatan' and 'quack' for the frauds who pretend to be able to bring things off, while we use the abusive word 'hypocrite' for the frauds who affect motives and habits" (Ryle, 1949, p. 128).

From the given qualifications concerning dissatisfaction with the displayed behaviour, it is possible to take a more differentiated approach to the concept of knowing-how (alertness). I differentiate between a tendency to act or react in a certain manner, and a capacity to be equipped to get something right. Compare the difference between proneness and competence. " 'Tends to' implies 'can', but is not implied by it" (Ryle, 1949, p. 126). A tendency concerns a proneness, in which the source is of interest, in contrast to a capacity, a skill, in which the method is of interest. This difference coincides with the different roles that can be ascribed to the consumer and the producer in the market process. The consumer is asked why he believes something, whereas the producer is asked how he knows something and what his method has been. The fraudulent behaviour of the "hypocrite", for instance, is often a problem in market research; the consumer wants to give a socially accepted answer. To ask the consumer the wrong question (alertness being understood as a capacity aspect, which the Austrians are inclined to do) and the possible silence following that question, does not signal a lack of alertness but signifies the aforesaid different understanding of this concept by producer and consumer. Böhm-Bawerk's concept of knowing-how is thus

interpreted as being broader than the implicit capacity aspect of the producer as incorporated in the command condition by Menger. Böhm-Bawerk's explicit concept includes the subjective aspect of a tendency, the liability to a certain tendency which is pre-eminently applicable to the role of the consumer in the market process[12]. Consequently, the paradox is a false paradox. Both producer and consumer are alert.

I have implicitly given at least one answer to the unexploited subject of the entrepreneurial behaviour of the consumer. I have stated the logical domain of the categories to be used, with what other propositions they are consistent and inconsistent, what propositions follow from them and from what propositions they follow[13].

Summary and Conclusion

This contribution can be summarised as follows. After an introductory section I signalled in my second and third section a difference between Menger and Böhm-Bawerk in their answer to the question of what turns a thing into a good. On top of the four conditions stated by Menger, Böhm-Bawerk added a "fifth" prerequisite for a thing to become a good — the condition that individuals must know how to utilise a thing. In a footnote Böhm-Bawerk gave two reasons for his difference with Menger on why it was impossible for him to include his own fifth characteristic under Menger's condition of the power of disposal over the thing. I elucidated the first reason, that it would stretch the language too much, by distinguishing between the conditions of knowing how to utilise a thing and knowing that a thing has certain useful properties. In this I referred to the interpretation of this distinction given by Ryle. The two concepts each belong to a different category of concepts, with different logical uses. My interpretation also showed, as did Menger's in the second edition of his *Principles*, that the concept of knowing-how can "implicitly" be covered by the command condition as the capacity aspect of production. I obtained this result, interpreting the knowing-how condition analogous to the use which Menger makes of the command condition.

In sections four and five I analysed the fundamental idea of the modern Austrians for market processes, the alertness concept. This alertness concept is, as interpreted by the modern Austrians, in fact a form of knowing-how. It has the content of a capacity aspect for the producer. But what about the fundamental market role in Austrian thought of the consumers? I found that this situation can be interpreted in three ways. First, it signals an as yet unexploited subject of Austrian thought, the entrepreneurial behaviour of the consumer. The "methodological makeshift" of a Misesian producer and a Robbinsian consumer by the modern Austrians is spun out too long by the modern Austrians. This is certainly the most harmless explanation for Austrianism, but begs the question of how the consumer can behave entrepreneurially without being a producer. The second and third interpretations came to the fore when this still uncharted subject of Austrian thought was interpreted as leading up to a certain lack of balance in the presentation of their ideas on the roles of producers and consumers in market processes. This unbalanced view can even be interpreted as a paradox; the consumer is sovereign in theory but not in practice. For both visions (an unexploited

subject versus a paradox) I found evidence in the work of Kirzner. The paradox can be solved in two ways and that gave me my second and third interpretation. The second interpretation was that the situation loses its paradoxical character if the role of producer and consumer is seen as a form of knowing-how respectively knowing-that. I called this Ryle's solution. But if true, this would contradict the Austrian statement that their market model is closer to reality than the standard Neoclassical market model.

I suggested that the other way the paradox could be solved was by restating it as a false problem. The description given of the roles of consumer and producer did not fit. This was the road I followed in the sixth section. The consumer is also alert, but in a different way from the producer. To illustrate this point I turned to Böhm-Bawerk's second reason, that the knowing-how aspect is too subjective to be covered by the command condition. Together with another footnote by Böhm-Bawerk, in which he stressed that knowing-how should not be elucidated in a production context, I asked the question of what is subjective to knowing-how and fits the consumer. To answer this question I turned again to Ryle, and differentiated between a tendency and a capacity aspect of knowing-how. This tendency aspect fitted the role of the consumer perfectly.

The conclusion of this essay is that whatever may be said of Böhm-Bawerk's objectivism, in his fifth goods characteristic he was much more subjective than his contemporaries and epigones. Böhm-Bawerk's goods characteristic solves a certain imbalance which can even be interpreted as a paradox in the modern Austrian conception of alertness (the entrepreneurial role in market processes). The concept of alertness can be used to characterise the role of the producer as well as in its subjective aspect *par excellence*: the aspect of a tendency, the role of the consumer in market processes. So Böhm-Bawerk's fifth goods characteristic can be called a "less-known theme of the Austrians" in the sense of being of interest to modern Austrian economics.

Notes

1. I use the terms modern Austrian, neo-Austrian and "Austrian" as synonyms in this essay. They all refer to economic research conducted by a specific group of economists, like Israel M. Kirzner (1930), Ludwig M. Lachmann (1976), and Murray N. Rothbard (1926).
2. I use Alter (1982, pp. 152-3) to give a plausible explanation why just these four characteristics are the "end" of economic thought on goods characteristics for the Austrians in general and for Menger in particular. Alter refers to the Aristotelian character of the foundations of Menger's economic theory, a statement which can be extended to Austrianism in general (Smith, 1986, p. 9). The four necessary and jointly sufficient conditions to make a thing into a good are, according to Alter, "nothing else but an instance of Aristotle's four causes operating in the realm of immaterial objects".
3. The central question of Böhm-Bawerk in his *Rechte* also lies in this field. Do property rights and commercial relations have a goods status?
4. For expository reasons I call Böhm-Bawerk's fourth condition his fifth. This is in comparison with the other four, identical conditions, stated by both Menger and Böhm-Bawerk.
5. From a methodological point of view this essay can be introduced in the words of Friedrich von Wieser as follows: "It is one of the most urgent, tedious and ungrateful tasks of economics to derive from colloquial speech fundamental ideas on the economy in general and the goods concept in particular. We have to sharpen our scientific concepts relentlessly and without

losing touch with the deepest intuitions about the meaning of the language. This must be done at a moment when science itself is still in its initial stages and cannot yet formulate the essential characteristics. These characteristics can only be known after science has done its job. It is almost impossible to avoid being scholastic or dialectical" (Wieser, 1900, p. 926). Which is hoped to be something else than "The ridiculous 'method' of trying to analyse a phenomenon by hunting for the meaning of a word" (Schumpeter, 1954, p. 536).

6. The question can be asked as to how the five characteristics of Böhm-Bawerk fit into Alter's explanation of Menger's four characteristics (see note 2). The question disappears as soon as it is realised that knowing-how is a dispositional concept and not the description of another cause. "The sense in which we 'explain'... is not that we infer to occult causes, but that we subsume under hypothetical... propositions" (Ryle, 1949, p. 49, cf. p. 113).
7. "The strange phenomenon of 'utilization by way of exchange' simply reveals here a feature which is apparent in many other aspects of the nature of goods, the vexatious power of causing supposedly well-defined characteristics to fade and become obliterated — a power which has so often caused economists in general to surrender to what Robinson calls 'the role of the inevitable supernumerary' " (Böhm-Bawerk, 1962, p. 101, note 2).
8. The person meant is Lord Lionel Robbins.
9. This entrepreneurial element has been most fully developed inside the modern Austrian tradition by one of its present leading exponents, Israel M. Kirzner. The concept was handed over to Kirzner by Mises. "In the Austrian view of the market [according to Kirzner], its most important feature is (and was) the dynamic entrepreneurial-competitive discovery process" (Kirzner, 1988, pp. 5-6). According to Kirzner (1973, p. 84) it is, apart from Mises, especially Hayek who should be honoured for developing this view of the market process (Kirzner, 1967, p. 788; 1988, p. 8).
10. Not withstanding this fact, the description given of the average consumer in the works of Mises can hardly be called flattering. Mises speaks of "The hosts of inferior people", "The inferiority of the multitude" and "These dull beneficiaries" (Mises, 1962, pp. 112-13). These words must certainly have weakened Kirzner's resistance to give to the producer the fundamental market role. On the other hand it must be said that it is especially the definition by Kirzner of the concept of alertness as distinct from Schumpeter's, which is so well adapted to the part played by the consumer in the market process; "the entrepreneur is to be seen as responding to opportunities rather than [which is the case by Schumpeter] creating them" (Kirzner, 1973, p. 74).
11. In Austrian thinking the differences between knowing-how and knowing-that is widely known and considered of fundamental importance. It functions mainly as an argument of the Austrians against the efficiency of a central planning system. Knowing-how cannot be communicated to and therefore used by a central authority.
12. See Böhm-Bawerk's reluctance (as cited at the end of the third section and in note seven) to illustrate knowing-how in a "production" context.
13. The pejorative terms with which Mises describes the consumers (see note 10) do not contradict this conclusion, but rather reinforce my interpretation. For it is exactly a quality of tendency verbs, stating that a person tends to act or react in certain ways and which do not imply that anything is brought off, that they can be qualified by such adjectives as "fanatical", "stupid" and "childlike". On the other hand none of these qualifications are applicable to capacity verbs, which express that a person is equipped to bring things off, or to get things right (Ryle, 1949, pp. 128-9). Probably the best attitude for an economist to take towards these pejorative terms has already been given by Mises. "There is little sense in distinguishing between economic and other motives [error, ignorance, incapacity, laziness, neglectfulness]... if one starts with the action of the marginal consumer and not with that of the businessman... One can see how ridiculous such scholastic distinctions are. The maxims of the businessman cannot be applied to the action of the consumers, which, in the last analysis, governs all business" (Mises, [1928] 1981, p. 176).

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References

Alter, M. (1982), "Carl Menger and *Homo Oeconomicus:* Some Thoughts on Austrian Theory and Methodology", *Journal of Economic Issues*, Vol. XVI No. 1, pp. 149-60.

Amonn, A. (1911), *Object und Grundbegriffe der theoretischen Nationalökonomie*, Franz Deuticke, Vienna.

Böhm-Bawerk, E. von (1881), *Rechte und Verhältnisse vom Standpunkte der volkswirtschaftlichen Güterlehre*, Innsbruck, Austria; Verlag der Wagnerschen Universitäts-Buchandlung, translated by G.D. Huncke as "Whether Legal Rights and Relations are Economic Goods", in *Shorter Classics of Eugen von Böhm-Bawerk*, Vol. I, Libertarian Press, South Holland, Illinois, 1962.

Endres, A.M. (1987), "The Origins of Böhm-Bawerk's 'Greatest Error': Theoretical Points of Separation from Menger", *Journal of Institutional and Theoretical Economics*, Vol. 143, pp. 291-309.

Hayek, F.A. (1952), *The Counter-revolution of Science*, Free Press, Glencoe, Illinois.

Kirzner, I.M. (1967), "Methodological Individualism, Market Equilibrium and Market Process", *Il Politico*, Vol. 32, pp. 787-98.

Kirzner, I.M. (1973), *Competition and Entrepreneurship*, University of Chicago Press, Chicago.

Kirzner, I.M. (1988), "The Economic Calculation Debate: Lessons for Austrians", *The Review of Austrian Economics*, Vol. 2, pp. 1-18.

Mayer, H. (1927), "Gut", in Elster, L., Weber, A. and Wieser, F. (Eds.), *Handwörterbuch der Staatswissenschaften*, 4e Auflage, Gustav Fischer, Jena.

Menger, C. (1923), *Grundsätze der Volkswirthschaftslehre*, 2nd ed., Hölder-Pichler-Tempsky, Vienna.

Menger, C. (1950), *Principles of Economics*, translated by J. Dingwall and B.F. Hoselitz, Free Press, Glencoe, Illinois.

Mises, L. von (1928), "Remarks on the Fundamental Problem of the Subjective Theory of Value", in *Epistemological Problems of Economics*, translated by G. Reisman, New York University Press, New York, 1981.

Mises, L. von (1962), *The Ultimate Foundation of Economic Science*, Van Nostrand, New York.

O'Driscoll, G.P. and Rizzo, M.J. (1986), "Subjectivism, Uncertainty and Rules", in Kirzner, I.M. (Ed.), *Subjectivism, Intelligibility and Economic Understanding*, Macmillan, London.

Ryle, G. (1945), "Knowing How and Knowing That", *Proceedings of the Aristotelian Society*, NS, Vol. XLVI, pp. 1-16.

Ryle, G. (1949), *The Concept of Mind*, Hutchinson, London.

Schumpeter, J.A. (1954), *History of Economic Analysis*, Oxford University Press, New York.

Smith, B. (1986), "Austrian Economics and Austrian Philosophy", in Grassl, W. and Smith, B. (Eds), *Austrian Economics*, Croom Helm, London.

Wieser, F. von (1900), "Gut", in Conrad, J., Elster, L., Lexis, W. and Loening, E. (Eds), *Handwörterbuch der Staatswissenschaften*, 2e *Auflage*, Gustav Fischer, Jena.

Part II. THE CONSUMER ENTREPRENEURIAL AND CALCULATIVE

Chapter 5. De dynamiek in het marktproces: de ondernemende producent versus de ondernemende consument

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De dynamiek in het marktproces: de ondernemende producent versus de ondernemende consument

door A.R. Leen*

In zijn boek *Competition and Entrepreneurship* geeft Israel M. Kirzner een tweetal redenen waarom de 'entrepreneurial role' in het marktproces toegewezen kan worden aan de producent. De motivering is kennelijk overtuigend. Sinds het verschijnen van dit boek in 1973, waarmee de 'revival' van het neo-Oostenrijkse denken in de economie begon, wordt binnen het neo-Oostenrijkse denken veelal slechts lippendienst bewezen aan Ludwig von Mises' stelling dat een ieders handelen 'ondernemend' is.

In dit essay wil ik nagaan of Kirzners opvatting vanuit een procesperspectief op de markt wel zo vanzelfsprekend is als zij wellicht op het eerste gezicht lijkt. Hiertoe zal ik gebruik maken van het werk van de 'oude' Oostenrijker Leo Schönfeld-Illy.

De opbouw van het betoog is als volgt. Allereerst passeren de twee door Kirzner gegeven redenen de revue. Vervolgens wordt Kirzners ingang tot een procesopvatting van de markt vergeleken met die van Schönfeld-Illy. Tot slot ga ik uitgebreid in op Schönfeld-Illy's redenen waarom de ondernemende rol in het marktproces evenzeer toegewezen dient te worden aan de consument.

1. Kirzners ondernemende producent

De neo-Oostenrijkers leggen in hun economische theorievorming de nadruk op aanpassingsprocessen in plaats van op de gebruikelijke marktevenwichten. Het startpunt van de analyse is niet de configuratie van evenwichtsprijzen en -hoeveelheden, maar het aanpassingsproces van prijzen en hoeveelheden zoals dat voortvloeit uit een situatie van onevenwichtigheid. Deze aandacht voor aanpassingsprocessen is in de ogen van de neo-Oostenrijkers een van de elementen uit het 'oude' Oostenrijkse denken die in de traditionele micro-economie op de achtergrond zijn geraakt.

De neo-Oostenrijkers analyseren het marktproces als een direct uitvloeisel van individuele menselijke handelingen waarin wordt gepoogd van een minder naar een meer bevredigende situatie te geraken. Ieder menselijk handelen bestaat in hun ogen uit twee componenten: 1. het vaststellen van een doel-middelrelatie en 2. het maximalisatieproces binnen deze relatie.

Bezien vanuit de dynamiek in de marktprocessen staat het concipiëren van de doel-middelrelatie centraal. De mens is alert ten opzichte van nieuwe doeleinden en het ontdekken van tot nu toe onbekende hulpbronnen. De neo-Oostenrijkers zelf spreken over

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de overgang van een 'mechanical Robbinsian [naar Lord Robbins, neo-klassieke] economizer' naar 'Mises' [neo-Oostenrijkse] *homo agens*. (Kirzner, 1973, blz. 72). In deze laatste actor zijn beide elementen – maximalisatiestreven en alertheid – verenigd.

Hoewel alertheid, zoals hiervoor gesteld, in principe in ieders handelen aanwezig is, wordt dit element in de praktijk van de neo-Oostenrijkse analyse aan de producent toegewezen. De neo-Oostenrijkers noemen het element van alertheid dan ook het 'entrepreneurial' element. Consumenten worden beschouwd als passieve, niet-alerte, 'Robbinsian maximizers'. Eén van de functies van reclame bijvoorbeeld is 'getting the Robbinsians [de potentiële consumenten] to see the availability of . . . opportunities' (o.c., blz. 148). Reclame maken is een 'entrepreneurial device', dat erop gericht is de beschikbare alternatieven onder de aandacht van de consument te brengen, ongeacht diens eigen niveau van alertheid. Dit houdt iets anders in dan de smaak van de consument veranderen of hem informatie (een vorm van 'nonentrepreneurial' kennis) verschaffen.

Deze identificatie van alertheid met de rol van de producent in het marktproces wordt door Kirzner gemotiveerd als zijnde 'purely for simplicity for analyses' (Kirzner, 1967, blz. 797 en 1973, blz. 18 en 41). Deze identificatie is bovendien zo gek nog niet, gezien de 'near-inevitability of an entrepreneurial role's being filled by the producer' (Kirzner, 1973, blz. 72).

Of de keuze inderdaad de analyse van marktprocessen simpeler maakt blijve voorlopig nog even buiten beschouwing. Waarom is het echter 'zo gek nog niet' het ondernemend element uit het handelen bij de producent te situeren? Voor het antwoord op deze vraag bekijkt Kirzner de rollen van de diverse marktdeelnemers. Hij onderscheidt consumenten, eigenaars van produktiefactoren en producenten. Producenten, die hun activiteiten ontplooien door grondstoffen om te zetten in eindprodukten zijn gespitst op prijsverschillen tussen de totaal betaalde prijs per eenheid produkt op de grondstoffenmarkten en de te verkrijgen prijs op de produktmarkten. En deze alertheid, waarvoor in principe geen eigen middelen vereist zijn, is juist een vorm van ondernemend handelen. Er valt in de maatschappij als het ware 'a built-in group of entrepreneurs' (o.c., blz. 18) te onderkennen.

Anders geformuleerd: Het essentiële verschil tussen consumenten en eigenaars van produktiefactoren enerzijds en producenten anderzijds is daarin gelegen dat de producenten niet noodzakelijkerwijze over eigen middelen behoeven te beschikken. Louter en alleen op grond van een zekere alertheid ten opzichte van prijsverschillen valt er voor de 'pure' ondernemer winst te behalen. Kortom, het is denkbaar dat alle consumenten en bezitters van produktiemiddelen 'pure Robbinsian allocators' zijn, maar voor alle producenten is dit ondenkbaar. Immers, voor 'pure' ondernemers is alertheid een *'conditio sine qua non'*.

2. Kirzners en Schönfeld-Illy's ingang tot marktprocessen

Voor Kirzner, die voortbouwt op het werk van Mises en Friedrich Hayek, is de grootste fout van de evenwichtsanalyse dat zij als vanzelfsprekend aanneemt dat een evenwicht daadwerkelijk tot stand komt. Het werkelijke probleem is namelijk om het eventuele totstandkomen van deze evenwichtssituatie als een uitvloeisel van een logisch ge-

sloten (systematisch) proces te beschrijven. Voor de beschrijving van dit proces voldoet het optimalisatiekader van Robbins niet. Daarmee vallen immers geen endogene veranderingen in de doel-middelrelaties te beschrijven. In het neo-klassieke allocatiemodel bestaat een discontinuïteit tussen elkaar opvolgende beslissingen. Slechts een exogene verandering in omstandigheden of in smaak, of het aan het licht komen van nieuwe informatie kan een nieuwe beslissing genereren, die echter onverklaarbaar is in termen van het oorspronkelijke doel-middelkader. Zonder exogene veranderingen is er geen verklaring waarom de plannen van gisteren vervangen worden door die van vandaag.

Endogene veranderingen in de doel-middelrelatie zijn mogelijk met behulp van het element van alertheid (Kirzner, 1967, blz. 793-794 en 1973, blz. 70-72). Het ontbreken van een marktevenwicht duidt op het bestaan van een gebrek aan kennis over de markt. Deze 'onkunde' doet echter winstgevende mogelijkheden ontstaan, waarop alerte ondernemers inspringen (Kirzner, 1975, blz. 30). Het element van alertheid geeft dus niet alleen een meer realistisch beeld van doelgericht menselijk handelen maar maakt tegelijk het beschrijven van de marktwerking als een gesloten proces mogelijk.

Op dit punt aangekomen is het van belang terug te grijpen op het werk van de 'oude' Oostenrijker Leo Schönfeld-Illy (1888-1952).[1] Schönfeld-Illy wordt binnen het neo-Oostenrijkse denken nauwelijks genoemd. Dit mag toch wel enige verwondering wekken daar hij in een tweetal boeken (1924, 1948) min of meer die problematiek als de kern van de economische theorie beschrijft die ook Hayek in zijn geschriften uit de jaren dertig en veertig beschrijft en die de neo-Oostenrijkers als baanbrekend voor hun inzicht in de werking van het marktproces beschouwen. Voor Hayek is de kern 'a problem of the utilization of knowledge which is not given to anyone in its totality' (Hayek, 1945, blz. 78) en Schönfeld-Illy zegt: 'Es handelt sich um die laufende Determinierung eines vielgliedrigen und weitläufigen Systems, dessen Daten grundsätzlich nur als subjektive Erwartungen gegeben . . . und grundsätzlich nicht in die Hand eines einzigen Rechners . . . zu bringen sind' (Schönfeld-Illy, 1948, blz. 208 en 1924, blz. 29).[2]

Schönfeld-Illy introduceert zijn ingang tot een procesopvatting in de economie als volgt. Hoe komt, vraagt hij zich af, binnen een bestaande doel-middelrelatie het in de theorie gepostuleerde optimale resultaat tot stand? Voor de consument betekent dit concreet de vraag: Hoe vindt in de praktijk het proces plaats om uit de data, waaronder de eerste wet van van Gossen, het resultaat, dat is geformuleerd als de tweede wet van Gossen, af te leiden (Schönfeld-Illy, 1924, blz. 204-205 en 1948, blz. 3-4). Voor de beschrijving van dit proces introduceert Schönfeld-Illy een nadere specificatie van het

1. De naam van deze auteur was oorspronkelijk Leo Schönfeld, maar toen de Nazis Oostenrijk bezetten was hij gedwongen zijn naam te veranderen in Illy (Kauder, 1965, blz. 73).
2. Niettegenstaande een lovende boekrecensie van Hayek (1925) noemt in de tegenwoordige tijd alleen Ludwig M. Lachmann in waarderende zin het werk van Schönfeld-Illy (Lachmann, 1966, blz. 162 en 1986, blz. 240).
   Een inhoudelijke en vervolgens een meer persoonlijke reden waarom Schönfeld-Illy binnen het neo-Oostenrijkse denken niet wordt genoemd: 1. Schönfeld-Illy start zijn analyse met het optimalisatieproces binnen een gegeven doel-middelrelatie; dit is echter voor de neo-Oostenrijkers van weinig primair belang. 2. Mises, de grondlegger van de neo-Oostenrijkse beweging, moest niets hebben van Hans Mayer, de opvolger van Wieser (Mises, 1978, blz. 61-62 en 65), een man die door Schönfeld-Illy echter hoog geschat werd (Schönfeld-Illy, 1948, blz. 5, 187 en 215).

grensnutbegrip, zoals hij dat bij Frierich Wieser aantreft. Essentieel is, dat de kenmerken die Schönfeld-Illy aan zijn grensnutbegrip toeschrijft overeenkomen met die welke Kirzner gebruikt voor zijn alertheidbegrip. De kenmerken van het daadwerkelijke optimalisatieproces binnen een gegeven kader van middelen en doeleinden blijken gelijk aan de kenmerken die nodig zijn om een verandering in een gegeven doel-middelrelatie te genereren, waarover meer in de volgende paragrafen. Als Schönfeld-Illy in zijn analyse het kader van een gegeven doel-middelrelatie verlaat, kan hij zijn grensnutbegrip zonder meer gebruiken bij het beschrijven van een allereerst te bepalen doel-middelrelatie (Schönfeld-Illy, 1948, blz. 32-321).

Schönfeld-Illy beoogt, evenals Kirzner, met zijn analyse niet alleen een realistischer beeld van het allocatieproces op individueel niveau weer te geven, maar hij acht zijn analyse ook van toepassing op het marktproces in zijn totaliteit. Zijn grensnutbegrip levert Schönfeld-Illy de mogelijkheid om het marktproces als een causaal-genetisch proces (een eenrichtingsproces van handelen op basis van individueel nut naar prijzen) te beschrijven, in afwijking van de neo-klassieke functionele evenwichtstheorieën (de simultane oplossing van wiskundige functies).

3. Schönfeld-Illy's grensnutbegrip

Schönfeld-Illy analyseert de economische calculaties (de 'Wirtschaftsrechnung') van de consument. Hoe vindt deze nutscalculatie plaats, gegeven de onmeetbaarheid van het nut? Schönfeld-Illy onderscheidt drie principes die voor de oplossing van dit probleem 'erforderlich und prinzipiell ausreichend sind' (Schönfeld-Illy, 1924, blz. 40-50). Het eerste principe luidt dat het in de calculatie niet om het totale nut als zodanig, doch slechts om de verandering van het totale nut gaat ('Prinzip des Einzelnutzens'). Het tweede principe luidt dat, gegeven de schaarste, een verandering in het totale nut altijd vergeleken kan worden met een andere verandering in het totale nut ('Prinzip des Vergleichens von Leistung und Gegenleistung'). Het derde, en voor ons belangrijkste, principe is het zogenaamde 'Prinzip der ökonomischen Relevanz'. Dit principe heeft betrekking op het probleem 'dass es Nutzengrössen gibt, die weder recht angeschlagen noch miteinander verglichen werden können und die . . . im regelmässigen Ablauf des Wirtschaftes tatsächlich nicht angeschlagen und nicht miteinander verglichen werden' (o.c., blz. 21-22). In het kader van dit derde principe past Schönfeld-Illy's interpretatie van Wiesers grensnutbegrip. Met deze interpretatie lost Schönfeld-Illy, zoals hij zelf zegt, een inconsistentie in het denken van Wieser op.

Wat is namelijk bij Wieser het geval? De omschrijving van het grensnutbegrip heeft bij deze auteur betrekking op de fase van het economisch handelen waarin dit handelen reeds voltooid is. 'Der Grenznutzen erhält sein Masz von der geringsten unter den wichtigsten Verwendungen . . . wenn die höchste Ausnützung des Vorrates und die sorgfältigste Sichtung der Bedürfnisse vorausgesetzt wird' (o.c., blz. 75). De omschrijving van de functie van het grensnut binnen het economisch handelen, heeft bij Wieser daarentegen betrekking op het stadium waarin er juist nog economisch gehandeld dient te worden. 'Alle Verwendungen, die an Wichtigkeit unter ihm stehen, sind verboten . . . alle die über ihm stehen oder ihm gleichkommen, sind erlaubt' (o.c. blz. 75-76). Wat geeft echter de garantie, vraagt Schönfeld-Illy zich af, dat in de laatste, voltooide fase

van het economisch handelen nog al datgene aanwezig is wat tijdens het daadwerkelijk economisch handelen is gebruikt, en derhalve in een op deze voltooide fase geënte begripsomschrijving is opgenomen?

Volgens Schönfeld-Illy luidt de correcte definitie van het grensnutbegrip, in overeenstemming met zijn functie in het economisch handelen: 'Der Grenznutzen einer bestimmten Gutsmenge für einen bestimmten Konsumenten ist der an der jeweiligen Verfügungsgrenze dieser Gutsmenge stehende und für diese gesamte Gutsmenge bezüglich der jeweils erwogenen Verfügung ökonomisch relevante Nutzen einer wirtschaftlichen kleinsten Teilmenge' (Schönfeld-Illy, 1948, blz. 67). De inhoud van deze definitie wordt begrijpelijk door Schönfeld-Illy's interpretatie van Wiesers 'Grenzgesetz'.

Wiesers 'Grenzgesetz' geeft het antwoord op de vraag: Wat is de totale waarde van een deelbare hoeveelheid goederen voor een consument? In de literatuur vinden wij hier tegenover elkaar de opvatting van Wieser en Eugen von Böhm-Bawerk. Wiesers 'Multiplikationstheorem des Wertes' luidt dat alle eenheden van een voorraad goederen met het grensnut vermenigvuldigd dienen te worden om de totale waarde te bepalen. Böhm-Bawerk stelt hiertegenover dat men met meer dan een eenheid van een goed niet meer dan eenmaal in één en dezelfde behoefte voorziet, maar verschillende behoeften bevredigt. Zijn opvatting luidt dan ook dat de waarde van een voorraad goederen gevonden wordt door de nutswaarde van de verschillende eenheden bij elkaar op te tellen ('Integrationstheorem des Wertes') (o.c., blz. 7-9), anders zou de totale waarde van een voorraad goederen worden onderschat.

De formulering van Wieser heeft in de literatuur weinig navolgers gekregen. Schönfeld-Illy geeft echter een specifieke interpretatie aan Wiesers 'Multiplikationstheorem', waarbij hij zich overigens op Wieser zelf beroept. De interpretatie van Schönfeld-Illy luidt als volgt: Het object van de grenswet is de subjectieve in geld uitgedrukte vraagprijs van de consument voor alle eenheden van de voorraad van een bepaald goed (o.c., blz. 41). Deze prijs ('die Vorgestalt des Preises') vervult een vertaalfunctie 'tussen' de prijs die daadwerkelijk op de markt tot stand komt en het onmeetbare grensnut.

Deze vertaling van het grensnut in de subjectieve vraagprijs brengt ons weer terug naar het 'Prinzip der ökonomischen Relevanz'. Dit principe stelt de economische relevantie van een grens voor het geheel, 'dasz der nämliche Kaufpreis auch für alle übrigen gleichen Teilmengen dieser Gutsmenge . . . wirtschaftlich zulässig ist, *a fortiore*: weil der Nutzen dieser übrigen Teilmengen höher ist als der Nutzen dieser Grenzteilmenge und somit der für die Grenzteilmenge wirtschaftlich gerechtfertigte Kaufpreis für die übrigen Teilmengen erst recht gerechtfertigt sein musz' (o.c., blz. 59-60). '[D]ie kumulative Geltung des Grenznutzens' (o.c., blz. 60) maakt een wezenlijke verkorting van het rekenproces mogelijk en maakt problemen, die volgen uit het feit dat van vele zaken het nut niet te geven is, oplosbaar. 'So wie zum Beispiel die ihr Brot einkaufende Arbeiterfrau . . . bei ihrem Einkauf nicht daran zu denken braucht und nicht daran denkt, dass ihre Familie ohne dieses Brot verhungern könnte' (o.c., blz. 60).

Het voorgaande – het onderscheid tussen de functie van het grensnut en het grensnutbegrip in een evenwichtssituatie – roept, wederom, sterke reminicenties op aan Hayeks wijze van probleemstellen, die door Kirzner wordt overgenomen. In zijn artikel 'The Meaning of Competition' (1946) maakt Hayek het onderscheid tussen concur-

rentie, opgevat als een proces, èn als een toestand. De grote fout die met het vooropstellen van de evenwichtssituatie (en het enten van het concurrentiebegrip op deze situatie) wordt gemaakt, is, dat het de toestand als reeds bestaand aanneemt, waarvan de verklaring zou moeten aantonen, dat zij het resultaat van het concurrentieproces is. Concurrentie is voor Hayek naar haar aard een dynamisch proces, waarvan de voornaamste kenmerken als niet bestaand worden beschouwd indien men de veronderstellingen maakt, die aan de statische analyse ten grondslag liggen (Hayek, 1946, blz. 94).

Hayek en Schönfeld-Illy zoeken de inspiratie voor hun opvattingen in de dagelijkse praktijk van de gewone zakenman (Hayek, 1946, blz. 92) respectievelijk de doorsneeconsument (Schönfeld-Illy, 1924, blz. 197-198 en 1948, blz. 9 en 200), met dit verschil dat de zakenman volgens Hayek zich er heel goed van bewust is wat daadwerkelijke concurrentie inhoudt (een proces van onderlinge wedijver). De doorsneeconsument baseert daarentegen volgens Schönfeld-Illy zijn economisch handelen in de praktijk op onbewuste vanzelfsprekendheden (Schönfeld-Illy, 1924, blz. 197 en 200; 1948, blz. 247). Dat de consument maar één prijs biedt voor elke eenheid van een voorraad goederen is voor Schönfeld-Illy een voorbeeld van zo'n vanzelfsprekendheid die een bewijs behoeft (Schönfeld-Illy, 1948, blz. 42).

4. De dynamische, verwachte vraagprijs

Wat is echter die subjectieve geldelijke vraagprijs waar iedere consument voor zich zelf mee rekent? Want 'wer wirtschaftet, der rechnet selbst' (Schönfeld-Illy, 1948, blz. 194). Ieder economisch handelen is op de toekomst gericht (Schönfeld-Illy, 1924, blz. 6 en 62). De subjectieve vraagprijs van de consument is daarom een verwachte prijs. Hoe kan het ook anders? Voeren de economische handelingen van de consumenten te zamen met andere factoren niet eerst tot het totstandkomen van de daadwerkelijke prijs op de markt? (Schönfeld-Illy, 1948, blz. 238). Voor de consument geldt 'das Prinzip der erwarteten Daten in der Wirtschaftsrechnung', er zijn voor de consument geen onveranderlijke, ondubbelzinnig gegeven data (o.c., blz. 202-203 en 207). De consument leert door schade en schande (o.c., blz. 210 en 237), van de opgedane ervaringen en past zijn gedrag (verwachtingen) met behulp daarvan aan (o.c., blz. 222-223 en 264).

Schönfeld-Illy kenschetst de verwachte vraagprijs ook als een dynamische vraagprijs. Hiermee bedoelt hij dat de consument bij het vaststellen van deze vraagprijs niet los van de bestaande marktsituatie opereert. De prijs die een consument voor een goed wil betalen en waarmee hij op de markt opereert is immers niet zijn uiterste subjectieve prijs die hij voor het desbetreffende goed over heeft. Van deze prijs is hij zich meestal niet eens bewust. Bovendien zou zij hem geen enkele 'winst' laten (o.c., blz. 241). Evenals de aanbieder zijn prijs 'auf die gegenwärtig von seinen Konkurrenten geführten Angebotspreise und auf die daran voraussichtlichen Aenderungen stützt' (o.c., blz. 229), betrekt de consument zijn prijs 'nach den Verhältnissen der Grenzkäufer des Marktes' (o.c., blz. 244). De rijke koper betaalt naar de maatstaf van de arme koper ('der ökonomische Relevanz der Grenznutzen der Grenzkäufer für die Höhe des Kaufpreises aller Käufer') (o.c., blz. 245 en 289).

De hierboven geschetste opvatting van Schönfeld-Illy over de inhoud van het prijsbegrip is analoog aan Kirzners 'alertness' en het daaraan gekoppelde prijsbegrip: 'the idea of a price that does not reflect and express entrepreneurial judgment and hunch is virtually a contradiction in terms' (Kirzner, 1988, blz. 6). Kirzner onderschrijft dan ook Mises' stelling dat er 'nothing automatic or mechanical in the operation of the market' is (Von Mises, 1949, blz. 332).

Aldus zien wij dat volgens Schönfeld-Illy de opvatting van Kirzner als zou de consument een 'pure Robbinsian maximizer' zijn niet juist kan zijn. Het is dus niet 'near-inevitable' om speciaal de producent de 'entrepreneurial role' toe te wijzen maar 'in-evitable' om aan een ieder deze rol toe te kennen, inclusief de consument.

Voor Schönfeld-Illy heeft de subjectieve, dynamische, in geld uitgedrukte vraagprijs niet alleen interne invloeden op het economisch handelen van de consument, maar ook externe invloeden op de gehele markt. Zoals wij bijvoorbeeld met betrekking tot het 'Grenzgesetz' zagen, is de prijs van de grenseenheid niet alleen bepalend voor de prijs van de overige eenheden van een voorraad goederen, maar is, naar analogie, de marginale koper ook bepalend voor de prijzen die de overige kopers betalen (Schönfeld-Illy, 1948, blz. 65-66). Op het niveau van de gehele markt levert de verwachte vraagprijs ook een oplossing van wat wel de 'ökonomische Determinationszirkel' wordt genoemd. Hiermee wordt bedoeld de wederzijdse, wederkerige afhankelijkheid van de variabelen in de zogenaamde functionele evenwichtstheorieën ('Preisveränderungstheorie'). De cirkelredenering luidt dat enerzijds de marktprijzen uit de waardeschattingen van de economische subjecten volgen, maar dat anderzijds voor de totstandkoming van deze waardeschattingen het bestaan van gegeven prijzen vereist is. Immers, in een niet-additieve nutsfunctie is het nut van een bepaald goed onder andere afhankelijk van het bezit van andere goederen, dat op zijn beurt weer afhankelijk is van de prijzen van die goederen (o.c., blz. 184). Anders geformuleerd: in de bijzondere theorie over het consumentengedrag zijn de prijzen gegeven, in de algemene prijstheorie (waarvan de bijzondere theorie toch een wezenlijk onderdeel is) zijn de prijzen daarentegen de onbekenden van het systeem (o.c., blz. 187). Voor Schönfeld-Illy berust deze Gordiaanse knoop op een verwisseling van de verwachte met de daadwerkelijk betaalde prijs (o.c., blz. 214). Wij hebben met een causaal-genetisch proces ('Preisbildungstheorie') van doen, waarin producenten en consumenten op basis van bestaande feitelijke prijzen – uitgaan van een geheel prijsloze wereld is niet nodig en volkomen irreëel – met verwachte, in onderlinge concurrentie bepaalde (o.c., blz. 215, 229 en 245), prijzen werken, 'der sich erst später tatsächlich erfüllende Zweck tritt in Gestalt seiner subjektiven Erwartung als Zweckursache Kausal vor das wirtschaftliche Überlegen und Handeln des Subjekts' (o.c., blz. 213). Beide partijen leren van hun ervaringen (bijvoorbeeld, het goed blijkt voor de consument niet te koop voor de verwachte prijs; de producent blijft met een voorraad onverkoopbare goederen zitten) en passen hun gedrag aan (o.c., blz. 222). Dit levert een proces in de tijd op dat niet veel anders is dan 'the modern Austrian view of the market as a competitive-entrepreneurial process of discovery' (Kirzner, 1988, blz. 1).

5. Samenvatting en conclusies

Kirzner onderscheidt het maximeren binnen een gegeven doel-middelrelatie van het vaststellen van deze relatie. De 'Robbinsian maximizer' kan slechts de eerstgenoemde functie vervullen, Mises' *'homo agens'* beide functies. De consument fungeert in Kirzners analyse als een 'pure Robbinsian optimizer'.

Schönfeld-Illy die evenals Kirzner een procesperspectief op de markt hanteert, komt naar aanleiding van zijn analyse van het consumentengedrag tot een tegenovergestelde opvatting. De consument blijkt – zelfs binnen het 'Robbinsian' kader – dezelfde elementen nodig te hebben welke Kirzner buiten dit kader, in het concipiëren van de doel-middelrelatie, situeert. De onmeetbaarheid van een nut dat zelfs niet eens vergeleken kan worden met een ander nut wordt in het economisch handelen zoals dat in de praktijk geschiedt, omzeild met behulp van het principe van de economische relevantie. Dit principe, waarvan Wiesers wet van het grensnut een voorbeeld is, leidt bij Schönfeld-Illy tot een opvatting over de rol van prijzen in het handelen die gelijk is aan die van Kirzner.

Tevens is Schönfeld-Illy van mening dat de door hem geschetste dynamische rol van de consument onmisbaar is voor een marktproces in de zin van een causaal-genetisch proces.[3]

Wij kunnen concluderen dat Kirzners beide motieven om de dynamische rol in het aanpassingsproces alleen aan de producent toe te kennen principieel onjuist zijn. Het argument van de 'analytical convenience' (Kirzner, 1973, blz. 18) gooit het kind met het badwater weg. Deze versimpeling doet ons in ieder geval ten dele in de wereld van de functionele evenwichtstheorieën belanden. Het argument van de 'near-inevitability of an entrepreneurial role's being filled by the producer', is op zichzelf wel juist, maar geldt evenzeer voor de andere marktpartijen.[4]

Hiermee is het concurrentiebegrip zoals ook de neo-Oostenrijkers dat opvatten verder verduidelijkt. Concurrentie is niet alleen een proces van onderlinge wedijver tussen producenten om de gulden van de consument maar vooral een tweezijdig proces tussen producent èn consument (Kirzner, 1963, blz. 110). Concurrentie is een proces dat zich enerzijds afspeelt tussen de producenten en consumenten en anderzijds binnen de beide groepen afzonderlijk.

3. '. . . die Nachfrage mit dem sie hervorrufenden erwarteten Nutzen und Grenznutzen der Güter ist das erste und letzte Glied, das Alpha und Omega, in der Reihe der Preisverursachungen, sie ist die treibende und die entscheidende Kraft, die Dynamis des Ganzen' (Schönfeld-Illy, 1948, blz. 231).

4. Hebben de neo-Oostenrijkers weinig moeite om de voorkeur voor aanpassingsprocessen in plaats van marktevenwichten bij de 'oude' Oostenrijkers terug te vinden, voor wat betreft de in marktprocessen centraal gestelde rol van de producent ligt dit moeilijker. Kirzner komt in zijn onderzoek naar de rol van de producent bij Menger tot een negatief resultaat en noemt dit paradoxaal (Kirzner, 1979, blz. 71).

Literatuur

- Hayek, F.A. (1925), 'Boekrecensie van Leo Schönfeld: Grenznutzen und Wirtschaftsrechnung', in: *Archiv für Sozialwissenschaft und Sozialpolitik*, 54, Bd, Tübingen, Herdrukt en vertaald in: F.A. Hayek (1984), *Money, Capital & Fluctuations*, Londen, blz. 183-189.
- Hayek, F.A. (1945), 'The Use of Knowledge in Society', in: F.A. Hayek (1949).
- Hayek, F.A. (1946), 'The Meaning of Competition', in: F.A. Hayek (1949).
- Hayek, F.A. (1949), *Individualism and Economic Order*, Londen.
- Kauder, E. (1965), *A History of Marginal Utility Theory*, Princeton, New Jersey.
- Kirzner, I.M. (1963), *Market Theory and the Price System*, New York.
- Kirzner, I.M. (1967), 'Methodological Individualism, Market Equilibrium and Market Process', *Il Politico* 32, blz. 787-798.
- Kirzner, I.M. (1973), *Competition and Entrepreneurship*, Chicago.
- Kirzner, I.M. (1975), 'Hayek, Knowledge, and Market Processes', in: I.M. Kirzner (1979).
- Kirzner, I.M. (1977), 'The Entrepreneurial Role in Menger's System', in: I.M. Kirzner (1979).
- Kirzner, I.M. (1979), *Perception, Opportunity, and Profit. Studies in the Theory of Entrepreneurship*, Chicago.
- Kirzner, I.M. (1988), 'The Economic Calculation Debate: Lessons for Austrians', *The Review of Austrian Economics*, Volume 2, blz. 1-18.
- Lachmann, L.M. (1966), 'Die geistesgeschichtliche Bedeutung der österreichische Schule in der Volkswirtschaftslehre', *Zeitschrift für Nationalökonomie*, XXVI. Bd., Heft 1-3, blz. 152-167.
- Lachmann, L.M. (1986), 'Austrian Economics under Fire: The Hayek-Sraffa Duel in Retrospect', in: W. Grassl and B. Smith (eds.), *Austrian Economics*, Londen.
- Mises, L. von (1949), *Human Action*, Yale.
- Mises, L. von (1978), *Erinnerungen*, Stuttgart/New York.
- Schönfeld-Illy, L. (1924), *Grenznutzen und Wirtschaftsrechnung*, Wenen.
- Schönfeld-Illy, L. (1948), *Das Gesetz des Grenznutzes, Untersuchung über die Wirtschaftsrechnung des Konsumenten*, Wenen.

ENGLISH SUMMARY OF CHAPTER 5: DE DYNAMIEK IN HET MARKTPROCES: DE ONDERNEMENDE PRODUCENT VERSUS DE ONDERNEMENDE CONSUMENT

THE DYNAMICS INSIDE THE MARKET PROCESS: THE ENTREPRENEURIAL PRODUCER VERSUS THE ENTREPRENEURIAL CONSUMER

In his book *Competition and Entrepreneurship,* Israel M. Kirzner argues that the entrepreneurial role in the market process can be assigned to the producer. The motivation apparently is decisive. Since the publication of the book in 1973, which played a great role in the revival of neo-Austrian thought in economies, neo-Austrians have only payed lip-service to Ludwig von Mises's thesis that all action is entrepreneurial. But is the oblivion of the entrepreneurial consumer as obvious from a process point of view as it looks like on first sight? To investigate this I used the work of the older Austrian, Leo Schönfeld-Illy.

Schönfeld-Illy is hardly mentioned in the neo-Austrian tradition. This may come as a surprise. In two books (1924, 1948) he more or less describes the same issues as being the core of economic theory as Hayek did in his writings of the thirties and forties. Yet neo-Austrians frequently refer to Hayek as the one who pioneered their views on the operation of the market. However, in the old days, apart from a favorable book review by Hayek (1925), to my knowledge only Ludwig Lachmann has ever spoken with any appreciation of Schönfeld-Illy (Lachmann, 1966, p. 162 and 1986, p. 240). There are at least three reasons why Schönfeld-Illy is hardly mentioned today by neo-Austrians. (1) Schönfeld-Illy started his analysis with the maximalization process within a given ends-means framework. A given framework, however, is just about the opposite of the process with which neo-Austrians start their analysis. (2) Mises, the founder of the neo-Austrian movement, had no use for Hans Mayer (Mises, 1978, pp. 61-62 and 65), a man highly esteemed by Schönfeld-Illy (Schönfeld-Illy, 1948, p. 5; p. 187 en 215). This high regard was reciprocal

(Mayer, 1954, p. 3). (3) Few of Schönfeld-Illy's work have been translated into English, the language of the neo-Austrians.

For Hayek the core of economics is "a problem of the utilization of knowledge which is not given to anyone in its totality" (Hayek, 1945, p. 78). For Schönfeld-Illy "the problem is the continual determination of a multipartite and circumstantial system, of which the data fundamentally are given only as subjective expectations... and fundamentally cannot be brought into the hands of one calculator"(Schönfeld-Illy, 1948, p. 208 and 1924, p. 29). Schönfeld-Illy develops the central idea of his process analysis by using Friedrich Wieser's marginal utility idea, and resembles Hayek's discussion of competition. For Schönfeld-Illy, Wieser's definition of marginal utility relates to a situation in which action is already completed. Wieser's description of the function inside economic action of marginal utility, however, relates to the situation from which economic action has to start. Now Schönfeld-Illy asks: "What is the guarantee the last stage of economic action contains all those things we use during the actual economic action and consequently are contained in a conceptual definition grafted upon this completed stage?" (Schönfeld-Illy, 1924, p. 77).

Posing the problem as the distinction between the function of marginal utility out of equilibrium and the definition of marginal utility in equilibrium, agrees with the problem formulated by Hayek in the forties as one of the central elements of neo-Austrian thought. In his article "The Meaning of Competition" (1946) he differentiates between competition as a process and competition as a situation. The greatest error in postulating an equilibrium situation and defining competition as a situation is that one "assumes the situation to exist a true explanation ought to account for as the effect of the competitive process." For Hayek "competition is by its nature a dynamic process whose essential characteristics are assumed away by the assumptions underlying static analysis" (Hayek, 1946, p. 94).

Kirzner and Schönfeld-Illy place their view on processes in relation to Jevons' Law of Indifference. This law states that "in the same open market, at any moment, there cannot be two prices for the same kind of article" (Kirzner, 1979, p. 157). Kirzner sees his process analysis as a solution to the problem of "how during the course of the process, many prices converge, as entailed by Jevons' Law of Indifference, toward a single price" (Kirzner, 1979, p. 20). For Schönfeld-Illy, Jevons' Law refers to the indifference *des Marktpreises* and marginal utility refers to the indifference *des Nachfragepreises.* Just as for Kirzner, the

single market price needs to be explained, so for Schönfeld-Illy the one price the consumer calculates for each unit of a stock of goods needs an explanation. Both men question a self-evidence in the theory as they find it. In the end, however, for Schönfeld-Illy too, marginal utility is an intermediary and part of the explanation of the process which results in Jevons' Law of Indifference. (Schönfeld-Illy, 1948, pp. 41-42, p. 230 and p. 296).

Like Kirzner's analysis, Schönfeld-Illy's analysis not only aims at a more realistic description of the allocation process at the individual level, but has consequences for the analysis of the market process at the level of society, too. The marginal utility idea gives Schönfeld-Illy the opportunity to describe the market process as a causal-genetic process (a one direction process of action going from individual utility to prices); a process that is at variance with neoclassical functional equilibrium theories (the simultaneous solution of mathematical functions). Schönfeld-Illy analyses the economic calculations of the consumer—the problem of how to employ scarce means in the best way to produce the results wanted most. The peculiar problem of consumer calculations, which also demands its special discussion in economic theory, is how to bring the immeasurable utility in a motivated, efficient way into the monetary calculation process. Utility and marginal utility are only present in the calculations of the consumer (Schönfeld-Illy, 1924, pp. 13-14 and 1948, p. 1). For Schönfeld-Illy "the demand for goods with the expected utility and marginal utility which it reveals, is the first and last, the alpha and the omega, in the chain of the origin of price, it is the driving and decisive force, the dynamics of it all (Schönfeld-Illy, 1948, p. 231).

For Mises, too, economics is concerned with the question of how calculable action is possible. (Mises, 1940, p. 186). "No other distinction is of greater significance ... than that between calculable action and incalculable action" (Mises, 1966, p. 199). Mises makes a distinction between the calculations of the producer and the consumer. The producer "should buy in the cheapest market and sell in the dearest market. In buying and selling [he] should know no other goal than the greatest monetary profit". The consumer, however, places utility at the centre of his calculations (Mises, 1960, pp. 174-179). But after signalizing the distinction between the calculations of the producer and the consumer, Mises and the neo-Austrians lose sight of the consumer part of the distinction. The consumer retains the solution of the famous value paradox as the basis of the valuation

process. Human action in the form of only buying decisions (consumers), but also of only selling decisions (resource owners) becomes of subsidiary interest. The entrepreneurial role in human action is confined to the producer: his actions between the input and the output markets.

Since utility is immeasurable, what principles can substitute for an actual numerical calculation process (Schönfeld-Illy, 1924, p. 40 and p. 56)? Schönfeld-Illy's view about this function of marginal utility as a dynamic, expected demand price is analogous to Kirzner's alertness and related price concept. Kirzner endorses Mises' thesis that "there is nothing automatic or mechanical in the operation of the market" (Mises, 1966, p. 335). "The idea of a price that does not reflect and express entrepreneurial judgement and hunch is virtually a contradiction in terms" (Kirzner, 1988, p. 6).

I conclude that for Schönfeld-Illy, Kirzner's view of the consumer as a pure Robbinsian maximizer cannot be true. It is not inevitable to ascribe the entrepreneurial role to the producer, but on the contrary, inevitable to confer this role on everyone, including the consumer. With this result it is not really remarkable that Neo-Austrians on the one hand have no difficulty in recovering a preference for the older Austrians for adjustment processes instead of market equilibria, but on the other hand, have more difficulty in recovering the central position of the producer in adjustment processes. In his search for the entrepreneurial role in Menger's system, Kirzner finds a negative result and speaks of a paradoxical result (Kirzner, 1977, p. 71).

Part II. THE CONSUMER: ENTREPRENEURIAL AND CALCULATIVE

Chapter 6. The short-cut approach to consumer calculations: a neo-marginalist solution

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THE SHORT-CUT APPROACH TO CONSUMER CALCULATIONS: A NEO-MARGINALIST SOLUTION

*Auke R. Leen**

INTRODUCTION

In economic textbooks, the presentation of the standard model of consumer choice is often followed by a disclaimer: 'People aren't that smart' (Parkin 1990: 167) or 'We consumers are not expected to be wizards' (Samuelson and Nordhaus 1989: 451). But, suppose the present-day economist's model is not only a formal model that helps thinking but reflects the reality of the maximization process of the consumer too. Then, what wriggles most? It is neither the beginning nor the end. We all intuitively accept the start: a budget constraint and a set of preferences (including Gossen's first law of decreasing marginal utility). Didn't economists in the early phases of the history of economics think that Gossen's first law signified a real-world psychophysical phenomenon: the so-called Weber–Fechner law? We also accept the result: the optimal allocation of goods (Gossen's second law of equi-marginality). No, what wriggles most as highly unrealistic is the maximization process that lies in between both Gossen's laws. Whatever it is the consumer does, it certainly is not solving a Lagrangean function: the constrained maximization of a utility function. Indeed, consumers can't be that smart.

From a theoretical point of view, to compute the marginal utilities a consumer has a lot to do. First, one has to line up all the alternatively possible combinations of goods one can get. Second, one has to assess the needs that successive units of the various goods can satisfy. Third, one has to find out at what point in the row satisfaction breaks off. See for instance the Mengerian Table 6.1. It shows the marginal utility that a consumer derives from various amounts of food and cloth. Each physical unit of food or cloth costs \$1. Suppose a consumer's budget is \$4; how much of each good should one buy? Table 6.1 shows that, if rational, one would allocate \$3 to food and \$1 to cloth.

The problem of how to abbreviate economic calculation was one of the

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Food		*Cloth*	
Quantity	*Marginal utility*	*Quantity*	*Marginal utility*
4	4	0	0
3	5	1	5
2	8	2	4
1	10	3	3
0	0	4	2

core problems for the neo-marginalists. The neo-marginalists were a generation of economists of the Austrian school of economics. They worked from the early 1920s until the end of the 1940s. The first generation was the founder Carl Menger; the second generation, his two heralds Eugen von Böhm-Bawerk and Friedrich von Wieser; the neo-marginalists, Hans Mayer, Paul Rosenstein-Rodan and Leo Schönfeld-Illy are the third generation. For them, marginal utility was not only the solution to a problem but also gave rise to this new problem. Marginalism, the solution to the well-known value paradox, posed the problem of finding an overall goods allocation with its astonishing amount of individual comparisons. Economic theory had to be in congruence with reality.

The abbreviation problem was overlooked by the English and French co-inventors of marginalism. For them, because of the mathematical mould of their theories, the problem was a mathematical one: solving a Lagrangean function. In the classical objective value theory, too, the problem had no place in the core of economics and could be neglected by the theoretical economists. Value was given with outside labour costs. With subjective use value, however, this changed. At least for the Austrians, value had to be calculated by each person. The problem was further aggravated with the transition from a cardinal to an ordinal utility concept; it changed from a quantitative to a qualitative one, which was even more difficult to handle. The problem becomes even more complex if we use a household production function. For then the consumer has to state not only the needs to be fulfilled by the goods themselves but also by their intermediate products.

In this paper, first I give the logical development of the idea of taking short cuts (abbreviations) in consumer calculations; it is related to the role of marginal utility in equilibrium and disequilibrium. Second, a first formalization is given of taking short cuts in an intertemporal model of consumer choice. Saving and consumption patterns are explained for different groups of consumers.

SHORT CUTS IN EQUILIBRIUM

According to Böhm-Bawerk (1886: 74–77), experience shows that calculations do not give us much trouble. Why? First, we do have a lot of practice.

THE SHORT-CUT APPROACH TO CONSUMER CALCULATIONS

We are great virtuosi in our value calculations. Calculations, after all, do not have to be more exact than is worthwhile. Second, we have all sorts of reliefs, e.g. our memory, things we have learned from other people and our everyday routines. All the reliefs can be used as long as our situation does not drastically change. This is practically the case for most of the people most of the time.

Rosenstein-Rodan asked: how do we find the initial equilibrium situation that holds on in the first place and is of relevance if nothing changes? His answer was that we cannot create this situation *uno actu*, it is the result of a historical process of trial and error. If, however, we are in equilibrium, the attained marginal utilities fulfil their function as a short cut without which there simply could be no rational economic conduct. The marginal utilities are the *sine qua non* for any real-world economic calculations.

> The utilities of the new uses [changes in allocation] which are contemplated are compared with past marginal utilities in these uses; if they are larger, the new uses are expedient, if smaller, the new uses are not expedient. The marginal utility in different need classes (kinds of uses) thus fulfils a watch-dog function with respect to consumption.
>
> (Rosenstein-Rodan 1927: 85)

The complementarity of utilities seems to pose a problem. Even with a relatively small change in the data, it suggests that the whole economic plan has to be revised; one is forced to go through all calculations again and again each time a situation changes. This, according to Rosenstein-Rodan, is not so. A consumer, usually, does not substitute a house for a car but a hamburger for a cheeseburger. The layers of goods allocation are the marginal ones; complementarity is the lowest and the utilities are the smallest. Small changes in the data have no great repercussions. Mayer, the successor of Wieser, added the time element to the watch-dog function of marginal utility. Generally, a consumer plans the purchase of goods not for one but for more than one time period (Mayer 1922: 15). All consumers have to ration their supply of goods so that it lasts until new goods become available. The Mengerian table has to be multiplied for each time period. Consequently, if the consumer's horizon is one time period, the marginal utility of a stock of goods appears only once: it is unique. If, however, the consumer's horizon is more than one time period, the same marginal utility appears more than once. This is due to the periodical repetition of the same needs (Mayer 1922: 17–18).

In short, for the neo-marginalists the essential function of marginal utility was to abbreviate economic calculations. To apply the abbreviated procedure we need (a) an initial equilibrium situation, and (b) relative constancy of needs and ends.

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Short cuts in disequilibrium

Almost unnoticed by the other neo-marginalists, Schönfeld-Illy changed the use of the consumer's abbreviation procedure. He was dissatisfied with a theory that described small changes in equilibrium only, and not how the equilibrium came about. His favourite examples of budget allocation were students who receive their first income after graduation, people who marry and start a family, and immigrants in a foreign and strange country (Schönfeld-Illy 1948: 125–126 and 321). For him, marginal utility as an instrument of abbreviation is not only used in equilibrium but in disequilibrium too. Abbreviation is no longer linked with small changes but with abrupt, great changes in means and ends.

Schönfeld-Illy developed his use of marginal utility from what he thought was an inconsistency in Wieser's thought. Wieser, the brother-in-law of Böhm-Bawerk, took the definition of marginal utility from the last stage of calculation. 'The measure of marginal utility is got from the least useful of the most important uses . . . conditional on the highest use of the supply and the most careful inquiry of the needs' (Schönfeld-Illy 1924: 75; cf. McCulloch 1977: 254). On the other hand, he drew the description of the function of marginal utility from the situation that actually starts calculation. 'All uses that stand below are forbidden . . . all uses that stand above or are equal are permitted' (*op. cit.*: 75). Schönfeld-Illy wondered whether the last stage of calculation contains all the things that have been used during the start. Isn't a definition based on the last stage too narrow? What is the correct definition of marginal utility consistent with its function?

A consumer rarely deals with a single good. A consumer calculates mostly with stocks of goods that contain many different intensities of utility. For a consumer the marginal utility of a stock is the utility of the economically smallest part of the stock. It lies at the margin of use of the stock and is of relevance to the whole stock with regards to the plans one has for using it. For the price a consumer is willing to pay for a good at the margin of a stock, based on its marginal utility, has an economic relevance for all other units. 'A fortiore: for the utility of these other units is higher than the utility of the marginal unit and therefore the same, marginal price paid for the other units certainly must be justified' (Schönfeld-Illy 1948: 60). The cumulative validity of the subjective demand price makes it possible to shorten the calculation process: we do not have to state and compare the other utilities anymore. Buying bread, a parent does not think, nor needs to think, that the family might die without it. The possibility of abbreviation is a direct result of Gossen's first law of decreasing marginal utility. Marginal utility becomes an instrument in a process of trial and error; it is used to discover the optimal consumption pattern (Schönfeld-Illy 1948: 67 and 126).

In short, marginal utility fulfils two special roles. It acts no longer only as

a watch-dog that precludes all utility under it and sustains all utility above it. Its function, too, is its economic relevance: the relevance of the economic use at a margin for a whole. More correctly, its function can grow from economic relevance only, to being watch-dog too.

A FIRST MODEL OF CONSUMER ABBREVIATION

To show the difference between the abbreviating role of marginal utility in equilibrium and disequilibrium, I select three groups of consumers. First, consumers who are in disequilibrium by choice, and second, those who are in disequilibrium by necessity. Examples of the first group are trendsetting consumers; examples of the second, immigrants on arrival in a foreign country and people who marry and start a family. All these consumers are discovering what their optimal allocation looks like. The third group are the familiar consumers from the traditional theory of consumer choice. They are the well-established consumers, who are in equilibrium by definition.

I model the abbreviating role of marginal utility as a habit-forming process. A good not only provides immediate satisfaction but also affects the marginal utility derived from subsequent consumption. The familiar results of habit formation (cf. Stigler and Becker 1977; Becker and Murphy 1988; Chaloupka 1991) are used and reinterpreted as follows. In a simple intertemporal model of consumer choice a household maximizes the utility function

$$U = U(Z_t, Z_{t+1}, \ldots, Z_{t+n}) \tag{6.1}$$

where Z_t stands for the composite commodity from which utility is directly obtained in period t. The commodities are produced in a household production function

$$Z_t = Z(X_t, T_t, S_t) \tag{6.2}$$

with a composite market good X_t, the consumer's time allocated to calculation T_t, and the consumer's human capital specific to calculation skill S_t. All other inputs of time and (human) capital are ignored. I assume that

$$\frac{\partial Z_t}{\partial X_t} > 0, \quad \frac{\partial Z_t}{\partial T_t} > 0, \quad \frac{\partial Z_t}{\partial S_t} > 0$$

and also that

$$\frac{\partial^2 Z_t}{\partial T_t \partial S_t} > 0$$

S_t is produced through learning by doing: consumers learn to calculate by calculating. It accumulates the effects of earlier commodity allocation. A simple investment function is chosen:

$$S_t = S\ (Z_{t-1},\ Z_{t-2},\ \ldots,\ E_t) \tag{6.3}$$

E_t registers education and other human capital relevant for calculation, i.e. abbreviation skills. I assume that

$$\frac{\partial S_t}{\partial E_t} > 0, \text{ and } \frac{\partial^2 S_t}{\partial Z_{t-v} \partial E_t} > 0,\ v = 1,\ 2,\ \ldots$$

The ratios of the marginal utilities and the shadow prices, the marginal costs of adding a unit of the composite commodity, set the optimal allocation of consumption over time

$$\frac{MU_{Z_t}}{MU_{Z_{t+n}}} = \frac{\frac{\partial U}{\partial Z_t}}{\frac{\partial U}{\partial Z_{t+n}}} = \frac{\pi_{Z_t}}{\pi_{Z_{t+n}}} \tag{6.4}$$

The term π_{Z_t}, the shadow price, is the full price of commodity Z_t. It can be deduced from the first-order condition of the maximization of the utility function (6.1) subject to the combined time and budget constraint

$$\sum \frac{pX_t + wT_t}{(1+r)^t} - \sum \frac{wT_t^* + b_t}{(1+r)^t} = 0$$

where w is the wage rate, r the interest rate, b the non-wage income and T^* the total available time (absence of time preference is presupposed). The shadow price consists of two parts: the full money price of the composite commodity,

$$\frac{p\partial X_t}{\partial Z_t} + \frac{w\partial T_t}{\partial Z_t}$$

and the change in the discounted money value of future time inputs from the effect of the production of Z_t on subsequent S,

$$- w \sum_{i=1}^{n-t} \left(\frac{\partial Z_{t+i}}{\partial S_{Z_t+i}} \Big/ \frac{\partial Z_{t+i}}{\partial T_{Z_t+i}} \right) \cdot \frac{dS_{Z_t+i}}{dZ_t} \cdot \frac{1}{(1+r)^i}$$

where n is the length of life (cf. Stigler and Becker 1977: 79, n. 5); to be simplified to

$$\pi_{Z_t} = \frac{p\partial X_t}{\partial Z_t} + \frac{w\partial T_t}{\partial Z_t} - A_t \tag{6.5}$$

If S is a beneficial habit, $\frac{dS_{Z_t+i}}{dZ_t} > 0$ and A_t becomes positive, consumption of Z decreases the price of consumption at a later point in time. If S is a harmful habit, however, $\frac{dS_{Z_t+i}}{dZ_t} < 0$ and A_t becomes negative, consumption of Z increases the price of consumption at a later point in time. In other words, the marginal utility of time allocated to calculating $\frac{\partial^2 Z}{\partial T_i \partial S_i}$ increases by the consumption of Z if S is a beneficial habit; it decreases if S is a harmful habit.

DIFFERENT SAVING AND CONSUMPTION PATTERNS

How does the model explain the consumption and saving patterns of the selected consumers? For well-established consumers, the ones we know from traditional economic theory, the last term of equation (6.5), A_t, is zero. The price is the familiar marginal cost formula. These consumers are in equilibrium by definition: they move from one equilibrium to another and make marginal comparisons only. Marginal utility functions as a watchdog. To develop an abbreviation skill is neither intended nor necessary: they have it already. The relative price of consumption now and in the future does not change.

For those who are in disequilibrium by choice, our trendsetting consumers, calculation can be short-sighted (myopic) or far-sighted. When short-sighted, just as with the well-established consumers, A_t is zero. Only this time, one is short-sighted because one does not want to be far-sighted. When far-sighted, A_t is negative. Trendsetters do not see the allocation process as a positive investment. On the contrary, after the discovery of a new consumption pattern, human capital specific to abbreviation loses its value. For the trendsetter, abbreviation is a harmful habit. Abbreviation breeds a habit one does not want to have; it takes time and energy to get rid of it.

For the short-sighted trendsetter, the future price rises. For the trendsetters who see their abbreviation skill as a harmful habit the value of saving in future inputs is negative. The full shadow price rises; it is cheaper to consume now than in the future. The rise is greater for the far-sighted than for the short-sighted consumer, since for the latter the future harmful effects are not discounted at all. With an inelastic demand curve for the commodity, however, for the short-sighted as well as for the far-sighted trendsetter, the consumption of goods and time spent on calculating does not fall in the future. An inelastic demand curve seems a realistic assumption. Trendsetting can only be shown by conspicuous consumption. The abbreviating role of marginal utility as a short cut in calculations results in consumption as a harmful rational addiction: an increase in present consumption raises future consumption.

For far-sighted consumers who are in disequilibrium by necessity, e.g. our immigrants, A_t is positive. The abbreviating role of marginal utility as a

short cut in calculations results in consumption as a beneficial addiction. In other words, the marginal utility of time allocated to figuring out the present composite commodity increases by the growth in calculating capital. The relative price of consumption now declines versus the price in the future. If the demand curve is sufficiently elastic, consumption will rise and savings decline. A long-run elastic demand curve is likely; these consumers are not yet spending much.

Now, let me look at the producer's problem: who are the most susceptible to the advertising of new goods? Advertising of new goods lowers the search costs, but it also makes human capital obsolete. The investment function can show the influence of advertising on human capital through a depreciation rate, δ, of human capital specific to abbreviation, S_t:

$$S_t = S\,(Z_{t-1}, Z_{t-2}, \ldots, E_t, \delta) \tag{6.6}$$

For the well-established consumers who have the biggest investment in human capital, δ is strongly negative. The ultimate abbreviation skill, i.e. marginal utility as a watch-dog, is their defining characteristic; without it they cannot exist. For consumers who are in disequilibrium by necessity, although δ is still negative, the odds at stake are much lower. By trial and error, immigrants and young couples are still discovering their optimal consumption pattern. For trendsetters, who are in disequilibrium by choice, the fact that human capital specific to abbreviation becomes obsolete is either of no concern, if they are short-sighted, or, in the case of abbreviation as a negative addictive good, a positive fact. δ is zero for the short-sighted and positive for the far-sighted trendsetter.

Because for all groups the relative prices change, saving and consumption patterns will change too. Well-established consumers buy the least new goods, short-sighted trendsetters buy more, and far-sighted trendsetters with a positive depreciation rate buy the most new goods. As time goes by, immigrants and just-married couples buy fewer new goods.

CONCLUSION

First, all this reminds one of the present-day work of Herbert A. Simon. He, too, bases his theory on certain limitations of the human mind described as 'bounded rationality'.

> The capacity of the human mind for formulating and solving complex problems is very small compared with the size of the problems whose solution is required for objectively rational behaviour in the real world - or even for a reasonable approximation to such objective rationality.
>
> (Simon 1957: 198)

The difference, however, between Simon and Schönfeld-Illy is that the simplifying devices of Simon result in a lack of optimality, but those of Schönfeld-Illy do not. Simon's consumers calculate solutions that are good enough. Schönfeld-Illy's consumers calculate solutions that are optimal.

Second, I can get the same results by introducing the present-day notions in addiction literature of tolerance and reinforcement (Chaloupka 1991: 723). Tolerance means that the utility from a given amount of consumption is lower when past consumption is greater, $\frac{\partial Z}{\partial S} < 0$. Reinforcement means that increases in past use raise marginal utility of current consumption, $\frac{\partial Z}{\partial T \partial S} > 0$. A habit is addictive by definition. It is called a beneficial addiction if $\frac{\partial Z}{\partial S} > 0$ and a harmful one if $\frac{\partial Z}{\partial S} < 0$. For an addiction it is a necessary and sufficient condition that reinforcement exceeds tolerance. This means that, given time preference, σ, and the depreciation rate, δ,

$$(\sigma + 2\partial) \frac{\partial^2 Z}{\partial T \partial S} > - \frac{\partial^2 Z}{\partial S \partial S} \tag{6.7}$$

(Becker and Murphy 1988: 680).

For the abbreviation problem the notions of tolerance and reinforcement are not easily intuitive to interpret. The notions of a positive and negative habit in terms of marginal utility, and the elasticity of demand, however, are straightforward to understand. So I stick to the terminology of Stigler and Becker's original article.

Third, the way I handled abbreviation may strike some readers as rather old-fashioned at its best or completely wrong at its worst. Isn't one of the blessings of modern economic theory that it is not expected to be a description of reality? Shouldn't one look for the implications of utility-maximizing theory for observable behaviour (Stigler 1965: 153)? I believe, however, that the paper proved there is still something to be gained from looking at the neo-marginalist phase of the development of utility theory. It gave us just what we wanted: testable predictions.

In other words, I did not take marginal utility as a shorthand but as a short cut. It was no shorthand for, but a short cut in, actual consumer calculations.

REFERENCES

Becker, G.S. and Murphy, K.M. (1988) 'A Theory of Rational Addiction', *Journal of Political Economy* 96: 675–700.

Böhm-Bawerk, E. von (1886) 'Grundzüge der Theorie des wirtschaftlichen Güterwerts', *Jahrbücher für Nationalökonomie und Statistik*, Bd. XIII, NF: 1–82.

Chaloupka, F. (1991) 'Rational Addictive Behavior and Cigarette Smoking', *Journal of Political Economy* 99: 722–42.

McCulloch, J.H. (1977) 'The Austrian Theory of the Marginal Use and of Ordinal Marginal Utility', *Zeitschrift für Nationalökonomie* 37:249–280.

Mayer, H. (1922) 'Untersuchung zu dem Grundgesetz der wirtschaftlichen Wertrechnung', *Zeitschrift für Volkswirtschaft und Sozialpolitik*, NF II: 1–23.
Parkin, M. (1990) *Economics*, Wokingham: Addison-Wesley.
Rosenstein-Rodan, P. (1927) 'Marginal Utility', *Handwörterbuch der Staatswissenschaften*. Reprinted in Alan T. Peacock, Ralph Turvey, Wolfgang F. Stolper, and Hans Liesner, (eds) (1960) *International Economic Papers*, no. 10, London and New York: Macmillan: 70–106.
Samuelson, P. A. and Nordhaus, W.D. (1989) *Economics*, New York: McGraw-Hill.
Schönfeld-Illy, L. (1924) *Grenznutzen und Wirtschaftsrechnung*, Wien. Reprinted with an introduction by Kurt R. Leube, München and Wien: Philosophia Verlag, 1982.
Schönfeld-Illy, L. (1948) *Das Gesetz des Grenznutzes, Untersuchung über die Wirtschaftsrechnung des Konsumenten*, Wien: Springer Verlag.
Simon, H.A. (1957) *Models of Man*, New York: John Wiley & Sons.
Stigler, G.J. (1965) *Essays in the History of Economics*, Chicago: University of Chicago Press.
Stigler, G.J. and Becker, G.S. (1977) 'De Gustibus Non Est Disputandum', *American Economic Review* 67: 76–90.

Part II. THE CONSUMER: ENTREPRENEURIAL AND CALCULATIVE

Chapter 7. Platvloerse neo-marginalisten

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8. PLATVLOERSE NEO-MARGINALISTEN

Auke R. Leen[1]

Friedmans paradox

Wat is het marginale nut? Is het het nut van de laatste eenheid of de verandering van het totale nut door het gebruik van een extra eenheid? Volgens Milton Friedman, in zijn *Price Theory*, is het het laatste. De eerste betekenis leidt tot een paradox: het druist in tegen ons dagelijks taalgebruik. Want, stel wij hebben voor ons een schaal met gelijke sinaasappels. Daar alle sinaasappels gelijk zijn, moet ook het nut van iedere sinaasappel gelijk zijn; iedere sinaasappel is ons om het even. Omschrijven wij marginaal nut als het nut van de laatste sinaasappel dan is dat ook het nut van iedere andere, willekeurige sinaasappel. Het totale nut is dan gelijk aan het aantal sinaasappels maal het marginale nut. Dit lijkt geen goede manier om marginaal nut te omschrijven. Het totale nut is immers gelijk aan het aantal sinaasappels maal het gemiddelde nut. Deze omschrijving van gemiddeld nut is in overeenstemming met ons dagelijks taalgebruik. Marginaal nut, volgens Friedman, moet worden omschreven als de verandering van het totale nut: het nut van de laatste sinaasappel plus de verandering in het nut van de voorafgaande sinaasappels als er een extra sinaasappel wordt gebruikt (Friedman, 1976, p.36).

Neo-Marginalisten

Friedmans opvatting vindt algemeen ingang in de economie. Toch is er tenminste één groep economen geweest die het tegendeel heeft beweerd: de neo-Marginalisten. De neo-Marginalisten waren een generatie economen uit de Oostenrijkse school die werkten vanaf het begin van de jaren twintig tot einde van de jaren veertig: De eerste generatie, de stichter Carl Menger; de tweede generatie, zijn

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beide herauten Eugen von Böhm-Bawerk en Friedrich von Wieser; de derde generatie de neo-Marginalisten Hans Mayer, Paul Rosenstein-Rodan en Leo Schönfeld-Illy.

Voor de neo-Marginalist is marginaal nut, zonder dat dit voor hem een paradox oplevert, wel het nut van de laatste eenheid. Niet het marginale, maar het totale nut is voor hem het probleem. Het is voor een consument een onmogelijkheid om het totale nut van een voorraad goederen te bepalen. Wat hij echter wel kan, is de verandering van het totale nut bepalen. Het is deze verandering die het nut van ieder goed bepaalt. Het bepalen van het nut van ieder goed in de betekenis van zijn eigen, afzonderlijke nut is onmogelijk. Nuttigheden beïnvloeden elkaar wederzijds en hangen af van de toestand op een bepaald moment (Schönfeld-Illy, 1924, p.3 en p.41). Er bestaat voor de neo-Marginalist geen tegenstelling tussen het nut van de laatste eenheid en de verandering van het totale nut.

Böhm-Bawerks Integrationstheorem versus Wiesers Multiplikationstheorem des Wertes

Maar ook blijft, voor tenminste twee leerlingen van Wieser, de waarheid behouden van de regel: het totale nut van een voorraad is gelijk aan het aantal goederen maal het marginale nut. Hoewel Friedman er niet expliciet naar verwijst, is de regel al een oude bekende. Aan het einde van de vorige en het begin van deze eeuw streden Böhm-Bawerk en Wieser er al over. Ook toen ging het om de bepaling door een consument van de totale waarde van een voorraad goederen. Volgens Wiesers *Multiplikationstheorem* des Wertes moet je om de totale waarde van een voorraad goederen te bepalen alle eenheden met het bereikte marginale nut vermenigvuldigen. Böhm-Bawerks *Integrationstheorem des Wertes*, daarentegen, stelt dat de totale waarde van een voorraad de optelling is van het nut van de afzonderlijke eenheden. Praktisch iedereen gaf Böhm-Bawerk gelijk. Immers, Wiesers theorema onderschat de totale waarde van een voorraad. Verschillende eenheden van een voorraad bevredigen verschillende behoeften en niet één en dezelfde behoefte meerdere malen.

Mayer en Schönfeld-Illy gaven ieder een eigen interpretatie van Wiesers theorema. Zij trachtten het theorema van hun leermeester te verklaren vanuit de feitelijke situatie van een consument die voor het probleem staat een voorraad goederen te waarderen. Mayer introduceerde het tijdsaspect van het rekenproces en Schönfeld-Illy de beperktheid van de rekencapaciteit van de consument.

Mayers interpretatie: het tijdsaspect van het rekenproces

Om de marginale nutten te bepalen, staat een consument vanuit een theoretisch gezichtspunt voor een schier onmogelijke opgave. Hij moet alle combinaties bepalen van de goederen die hij kan krijgen. Zo ook moet hij de behoeften bepalen die de verschillende eenheden van een voorraad kunnen bevredigen. Vervolgens moet hij uitvinden bij welke hoeveelheid van ieder goed de consumptie moet worden beëindigd.

Hoe dit rekenproces te bekorten was een van de kernproblemen voor de neo-Marginalisten. Marginaal nut was niet alleen de oplossing van een probleem maar gaf ook aanleiding voor een nieuw probleem. Het marginalisme, de oplossing van de bekende waardeparadox, stelde het probleem van het vinden van een optimale goederenallocatie met zijn enorme hoeveelheid van individuele vergelijkingen. Want, volgens de neo-Marginalisten, dient de economische theorie in overeenstemming te zijn met de alledaagse praktijk. Dit staat in directe tegenstelling met de moderne opvatting van wat een economische theorie is. Van haar wordt immers niet meer verwacht dat zij een directe beschrijving van de alledaagse praktijk is; het gaat om de implicaties van de nutsmaximaliserende theorie voor het waarneembare gedrag.

Het probleem van het grote aantal calculaties was niet als zodanig gesignaleerd door de Engelse en Franse mede-ontwerpers van het marginalisme. Gezien de wiskundige vorm van hun theorieën was het probleem een rekenkundig probleem: het oplossen van een Lagrange functie (het maximeren onder randvoorwaarden van een nutsfunctie). In de klassieke objectieve waardeleer was er ook al geen plaats geweest voor het calculatieprobleem. Waarde werd immers bepaald door van buiten gegeven arbeidskosten.

Böhm-Bawerk gaf het eerste Oostenrijkse antwoord. Uit de praktijk blijkt dat het ons helemaal niet zoveel moeite kost. Op de eerste plaats hebben wij veel ervaring. Wij zijn grote virtuosen in onze waardecalculaties; calculaties die ook niet exacter behoeven te zijn dan zij aan waarde opleveren. Op de tweede plaats hanteren wij allerlei versimpelingen van het rekenproces: vuistregels, ons geheugen, de dingen die wij van andere mensen hebben geleerd en onze alledaagse routines. Al deze hulpmiddelen kunnen wij gebruiken zolang onze situatie zich niet drastisch wijzigt, wat het geval is voor de meesten van ons gedurende het grootste gedeelte van ons leven (Böhm-Bawerk, 1886, pp. 74-77).

Rosenstein-Rodan vroeg zich af: Hoe vinden wij die oorspronkelijke evenwichtssituatie die in de uitgangspositie van belang is en relevant is als er verder niets verandert? Zijn antwoord was dat wij het evenwicht niet ogenblikkelijk kunnen realiseren. Het is het resultaat van een proefondervindelijk historisch proces. Als wij het echter hebben bereikt, vervullen de bereikte marginale nutten een functie in het rekenproces zonder welke er in het geheel geen rationeel eco-

nomisch gedrag mogelijk is. De marginale nutten zijn de *sine qua non* voor ieder daadwerkelijk rekenen. Het nut van de nieuwe uitgaven die worden beoogd, wordt vergeleken met de oude marginale nutten. Als zij groter zijn, zijn zij voordelig, als zij kleiner zijn, zijn zij dat niet. Het marginale nut van de verschillende uitgaven vervult een waakhondfunctie met betrekking tot de consumptie (Rosenstein-Rodan [1927], 1960, p. 85).

Mayer betrekt de waakhondfunctie van het marginale nut op een consument die voor meerdere perioden tegelijk plant. Iedere consument moet zijn voorraad goederen zodanig in de tijd verdelen dat zij toereikend is tot nieuwe goederen beschikbaar zijn. Als het rekenproces van de consument één periode beslaat, komt het marginale nut maar één keer voor: het is uniek. Als het, daarentegen, meerdere tijdsperioden beslaat, verschijnt hetzelfde marginale nut meerdere malen. Dit tengevolge van de periodieke herhaling van dezelfde behoeften (Mayer, 1922, pp.17-18). Het meerdere malen voorkomen van het marginale nut in Wiesers theorema is hiermee in overeenstemming. Het bevat geen paradox.

Schönfeld-Illy's interpretatie: het verkorten van het rekenproces

Schönfeld-Illy ging nog een stapje verder met de invulling van het marginale nutsbegrip. Hij was ontevreden met een theorie die slechts kleine veranderingen rond het evenwicht kon beschrijven en niet de weg waarlangs dat evenwicht tot stand komt. Zijn favoriete voorbeelden van budgetallocatie betroffen studenten die, na afstuderen, hun eerste inkomen ontvangen, mensen die gaan trouwen en een gezin stichten en emigranten die in een ver en vreemd land arriveren. Voor hem was marginaal nut als een instrument van versimpeling niet alleen van toepassing in evenwicht maar ook bij onevenwichtigheid. Versimpeling van het rekenproces wordt niet langer in verband gebracht met kleine veranderingen, maar met abrupte, grote veranderingen in middelen en doeleinden (Schönfeld-Illy, 1948, pp. 125-126 en p. 321).

Schönfeld-Illy's idee over het versimpelen, verkorten, van het rekenproces in een situatie van onevenwichtigheid is zijn interpretatie van Wiesers *Multiplikationstheorem*. Hij tracht weer te geven wat Wieser bedoelde, maar kennelijk zijn tijdgenoten niet duidelijk kon maken. Het *Multiplikationstheorem* heeft betrekking op de subjectieve vraagprijs van de consument. De vraagprijs wordt uitgedrukt in geld en heeft betrekking op alle eenheden van een voorraad goederen. Voor iedere eenheid van een voorraad hanteert de consument dezelfde prijs. Deze prijs functioneert als een intermediair tussen de prijs die op de markt tot stand komt en het niet in een getal uit te drukken marginale nut.

Dit gebruik van het marginale nutsbegrip noemt Schönfeld-Illy het principe van de economische relevantie. Het principe stelt de economische relevantie van het gebruik aan de marge voor een geheel. De prijs die relevant is voor de marginale eenheid heeft een economische relevantie voor alle andere eenheden van een voorraad, *a fortiori*: daar het nut van deze andere eenheden hoger is dan het nut van de marginale eenheid. Die prijs, die ook voor de andere eenheden wordt gerekend, is daarom zeker gerechtvaardigd. De cumulatieve relevantie van de subjectieve vraagprijs maakt het mogelijk het rekenproces te verkorten: we hoeven die andere nutswaarden niet meer te bepalen en te vergelijken. Deze mogelijkheid is een direct gevolg van Gossens eerste wet van het dalend grensnut. Het grensnut wordt een instrument in een proefondervindelijk proces; het wordt gebruikt om de optimale allocatie te vinden.

Conclusie

Schönfeld-Illy's problematiek herinnert sterk aan het werk van Herbert A. Simon. Ook hij baseert zijn theorie op beperkingen van de menselijke geest, die hij 'bounded rationality' noemt. De capaciteit van de menselijke geest om complexe problemen te formuleren en op te lossen is erg klein in vergelijking met de problemen die moeten worden opgelost, wil er van objectief rationeel gedrag in de werkelijke wereld sprake zijn - of zelfs maar van een redelijke benadering van deze objectieve rationaliteit (Simon, 1957, p. 198). Het verschil tussen Simon en Schönfeld- Illy is dat de versimpelingen van Simon wel, maar die van Schönfeld-Illy geen vermindering van de optimale oplossing ten gevolge hebben. De consumenten van Simon berekenen oplossingen die goed genoeg worden geacht. Die van Schönfeld-Illy berekenen oplossingen die optimaal zijn.

Voor de neo-marginalisten vervult het marginale nut een tweetal functies. Het is, ten eerste, een waakhond die elk hoger nut toelaat en elk lager nut afwijst. Niet alleen in deze maar ook in toekomstige tijdsperioden. Ten tweede heeft het een economische relevantie: de relevantie van het economisch gebruik aan de marge voor het geheel. Het maakt een onmisbare verkorting van het rekenproces mogelijk. Beide functies volgen uit de nadruk op de alledaagse praktijk van het rekenproces van de consument. Hiervoor is binnen Friedmans methodologie geen plaats. Vandaar ook Mayers en Schönfeld-Illy's platvloerse interpretaties van de regel die stelt dat de totale waarde van een voorraad gelijk is aan het aantal produkten maal het marginale nut.

Literatuur

Böhm-Bawerk E. von, 1886. Grundzüge der Theorie des wirtschaftlichen Güterwerts. *Jahrbücher für Nationalökonomie und Statistiek*, Deel XIII.N.F.

Friedman M., 1976 (1962). *Price Theory*. Aldine, Chicago.
Mayer H., 1922. Untersuchung zu dem Grundgesetz der wirtschaftlichen Wertrechnung. *Zeitschrift für Volkswirtschaft und Sozialpolitik*, N.F., Deel II.
Rosenstein-Rodan P., 1960 (1927). Marginal Utility. In: Alan T. Peacock, Ralph Turvey, Wolfgang F. Stolper and Hans Liesner, *International Economic Papers*, no. 10. MacMillan, London.
Schönfeld-Illy L., 1982 (1924). *Grenznutzen und Wirtschaftsrechnung*. Philosophia Verlag, München.
Schönfeld-Illy L., 1948. *Das Gesetz des Grenznutzes, Untersuchung über die Wirtschaftsrechnung des Konsumenten*. Springer, Wien.
Simon, H.A., 1957. *Models of Man*. Wiley, New York.

ENGLISH SUMMARY OF CHAPTER 7: PLATVLOERSE NEO-MARGINALISTEN

BANAL NEO-MARGINALISTS

What is the marginal utility? Is it the utility of the last unit, or the change in total utility brought about by using the last unit? For Milton Friedman, in his *Price Theory*, it is the latter. He believes that the former leads to the paradox of marginal utility being the opposite of the way everyday language is used. Take for example a number of identical oranges. Since all oranges are the same, the utility of each one must be the same too. One is not preferred to another. If marginal utility is the utility of the last orange, this is the utility of every other orange too. Total utility would be equal to the number of oranges multiplied by the marginal utility. This does not seem to be a good description of marginal utility. Total utility is the number of oranges multiplied by their average utility. This accords with everyday use of language. Marginal utility for Friedman is the change in total utility: the utility of the last orange plus the change in utility of all the previous oranges used (Friedman, 1976, p. 36).

The way Friedman describes marginal utility is the way most economists do. However, one group of economists, the neo-Marginalists do not agree. For them marginal utility is the utility of the last unit. The problem is not marginal utility but total utility. The consumer is unable to determine the total utility of stock of goods. What he can do, however, is determine change in the stock, and this change determines the utility of each good. To determine the utility of each good separately is impossible. Utilities influence each other and depend on the situation (Schönfeld-Illy, 1924, p. 3 and p. 41). The neo-Marginalist sees no antithesis between the utility of the last unit and the change in total utility.

Two of the pupils of Wieser, however, retained the truth of the rule that the total utility of a stock of goods equals the number of goods multiplied by the marginal utility. Though

Friedman does not explicitly refer to this rule, it is also an old one. At the end of the last century and the beginning of the present Böhm-Bawerk and Wieser quarrelled over it. The question then too was how to determine the total utility of a stock of goods. In his *Multiplicationstheorem des Wertes,* Wieser maintained that the total utility of a stock of goods can be obtained by multiplying all units with the attained marginal utility. However, Böhm-Bawerk in his *Integrationstheorem des Wertes*, maintained that it was obtained by adding the utility of each good separately. Almost every one agreed with Böhm-Bawerk. Wieser's theory underestimates the total utility of a stock of goods. Different units of a stock of goods satisfy different wants—not the same want all the time. Neo-marginalists Mayer and Schönfeld-Illy both gave their own interpretation of Wieser's theory. Both tried to explain it from the point of view of a consumer who faces the problem of estimating the value of a stock of goods. Mayer focused on the time aspect of the calculation process, Schönfeld-Illy on the limited capability of the consumer to calculate.

Mayer looked at the function of marginal utility as if a consumer has to plan his expenses for several time periods in advance. Every consumer has to portion his goods over different time periods till new goods become available. If the consumer looks at one time period, marginal utility functions once: it is unique. If, however, calculation involves more than one time period, the same marginal utility appears more than once; the same wants are repeated periodically (Mayer, 1922, pp. 17-18). Therefore Wieser's use of the same marginal utility more than once is not paradoxical, but is in accordance with the situation. Schönfeld-Illy expanded on the use of marginal utility. He was unsatisfied with a theory that could only explain small changes around an equilibrium situation in the behavior of the consumer, but could not explain its attainment: the way the equilibrium situation arises. His interpretation of Wieser's theory was to simplify or shorten the calculation process in a situation of disequilibrium. He tried to explain what Wieser intended to say, but could not make it clear to his contemporaries.

For the neo-Marginalist the idea of marginal utility is two-fold. First, it functions as a watchdog: it lets every good with a higher utility pass, but retains every good with a lower utility. Not only in the present time period, but also in every future one. Second, it has an economic relevance: the relevance of the use at the margin for the whole. It shortens the consumer's calculation process. Both functions follow if we look at the day-to-day

calculation process of the consumer. To look at the realism of the assumptions is of course not necessary in Friedman's positive methodology. If we do, however, we come to both Mayer's and Schönfeld-Illy's rather banal interpretation of the rule that states that the total value of a stock of goods equals the number of products multiplied by the attained marginal utility.

Part III. THE AUSTRIAN PERSPECTIVE ON CONSUMER POLICY

Chapter 8. Creativity, Entrepreneurship, and Consumer Policy

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Creativity, Entrepreneurship, and Consumer Policy

*Auke R. Leen**

I. "New Things" of Centesimus Annus Ask for Creativity and Entrepreneurship

With his ninth encyclical *Centesimus Annus (CA)* Pope John Paul II pays homage to the hundredth anniversary of *Rerum Novarum (RN)*. In *CA* John Paul II extends the thoughts over the market economy of his predecessor Pope Leo XIII to the "new things" of our time. A central feature of modern time is the growing importance of human beings in production processes. In early times natural fertility of land was the most important production factor. Later capital, i.e., machines, took over this role. In our time human beings are central, their creativity and entrepreneurship are paramount in production processes (John Paul II 1991, pp. 26-27). Not all people, however, do have the means to participate effectively and in a way worthy to their humanity in modern production processes. Consequently, John Paul II makes a plea for more creativity and entrepreneurship at all levels, especially the lower levels, within a firm.

If more creativity and entrepreneurship is demanded of human beings in their capacity as wage-recipients (producers) there is no reason to deny this to them in their capacity as wage-spenders (consumers). Are there not, as John Paul II in *CA* stresses, other new things of our advanced society: the rise of a consumption mentality and problems in choosing new needs and new ways of satisfying them (John Paul II 1991, p. 30)? Consumer decisions are central in modern society. Besides, consumption and production are not words pointing to a classification of real living human beings. Consumption and production are analytical categories of action. A human being is no split personality; he is one and indivisible; he is a consumer in the same way as he is a producer. So the questions arise (1) how does capitalism allow for the creativity and entrepreneurship of the consumers? And (2) can consumer policy enhance or does it, just the opposite, only stifle consumer's creativity and entrepreneurship?

II. The Capitalistic Market Economy Is Detrimental to Creativity and Entrepreneurship

In his book *The Joyless Economy, An Inquiry Into Human Satisfaction and Consumer Dissatisfaction*, Tibor Scitovsky argues that capitalism is detrimental to the creativity and entrepreneurship of the consumers. Of course it can be maintained that if people want variety, capitalism can supply it. Is not the market but a huge voting-machine in which the dollars spent by the consumer can be counted as votes? This may be true, and is captured in the notion of consumer sovereignty, but mass production also entails the notion that "almost nothing gets produced that cannot be produced in the thousands" (Scitovsky 1976, p. 7).

The essence of capitalism is mass-production. The division of labor in a capitalistic market economy makes possible an enormous increase of productivity. Economics of scale imply that commodities can be more cheaply produced for many people than for few. In order to make a profit sellers will try to cater to desires which everybody shares. These desires are the more simple ones. The tastes of the crowd are imposed on the whole society, which leads to standardized and homogeneous products. "The monotony of mass-production work is fully matched by the monotony of its product" (Scitovsky 1976, p. 249).

Following Scitovsky, it appears that not only the market economy but also market theory plays down the consumers yearning for novelty. Economic theory is built on a one-sided psychological image of man. Psychologists postulate an optimum level of arousal (level of excitement) caused by stimulation. Deviations from the optimum level in an upward direction cause feelings of tension, fatigue and oppression. Deviations from the optimum level in a downward direction cause feelings of emptiness and boredom. Deviations lead to attempts to restore the optimum level of stimulation.

Arousal reduction has become less problematic in a rich, capitalistic society. There is a lot of what Scitovsky calls comfort: specific needs which are satisfied. Economists have restricted their theoretical approach to arousal reduction caused by feelings of pain, hunger, thirst, coldness, and heat. "[T]he economist's model of consumer behavior . . . comes closest to that half of the psychologist's theory" (Scotovsky 1976, p. 30). But the capitalistic society still has a much more general lack of novelty and stimulation. This second important motive of human behavior with respect to consumption, i.e. the longing for new things, for stimulation and variety, is neglected. The fact that the mass market does not stimulate the consumer has serious consequences. "The yearning for new things and ideas is the source of all progress, all civilization; to ignore it as a source of satisfaction is surely wrong" (Scitovsky 1976, p. 11).

III. Consumer Policy Emphasizes Maximization

If, as Scitovsky mantains, the capitalistic market economy fails in stimulating creativity and entrepreneurship, what role does consumer policy play in enhancing

creativity and entrepreneurship? What are the roots and essence of consumer policy?

A. The Roots

Since the early beginnings of economic science the welfare of the consumer takes a central position. Economic processes start and end with consumers. Consumption is, according to Adam Smith, the sole end of all production. The interest of the producer ought to be attended to only so far as it may be necessary for promoting that of the consumer. Policies to strengthen the functioning of the market, however, did concern the consumer only indirectly or, if directly, on an ad hoc, temporary base. We may think of rationing devices in situations of extreme scarcity or the prescription of certain product qualities, e.g. food quality, in the case of dangerous products. From the 1960s onward, however, the aim of consumer policy is a systematic and direct improvement of the position of the consumer in the market.

The motivation for consumer policy is based on either one or both of the following reasons. First, consumer sovereignty is absent in present-day society. The will of the consumers is no longer fundamental for production decisions. Second, in choosing, consumers are confronted with a highly complicated, nontransparent market. The consumer faces a situation of information shortage as well as one of information overload (Imkamp 1986, p. 235).

The first reason goes along the following lines. Full sovereignty of the consumer implies a complete servitude of the producer to the consumer. The consumer king, however, is capricious and unpredictable in his behaviour. To secure their capital investments, producers try to plan production and distribution. Through all kinds of sales effort the producer tries to secure its existence. The consumer feels his impotence. He feels himself played upon by the producer. Consumer sovereignty becomes an empty word.

The second reason emphasizes that the consumer also feels a certain discomfort in choosing from all the available, constantly growing and changing, products and services. The present-day consumer is confronted with a rich but, by its magnitude and variation, nontransparent assortment of goods. Product information is mainly given by the producers and is, consequently, one-sided. In choosing the consumer is stifled by information dependence. The market for consumer goods is highly nontransparent.

Consumer policy tries to answer these feelings of impotence and discomfort. The first reason, lack of consumer sovereignty, gives rise to a top-bottom motivation of consumer policy. Aims are deduced from certain basic values or needs of the consumer (Kuhlmann 1990, p. 60). Consumer policy becomes the protection of individual rights in the economic context. Taken from President Kennedy's presidential address of 1962, these rights are (1) the right to safety, (2) the right to

be informed, (3) the right to choose, and (4) the right to be heard. The implementation of these rights must restore the equality in the producer-consumer relationship.

The second reason, consumer feelings of discomfort, gives rise to a bottom-top motivation of consumer policy. Inductive methods show consumer complaints. In aggregated form they build up the aims of consumer policy. One of the purposes of the inductively formed aims is to restore the market transparency of the consumers. Consumer policy tries "to insure that all consumers obtain what they really want (were they fully informed), subject to the limitation of their income" (Maynes 1979, p. 97).

B. The Essence

What measures are taken to strengthen the position of the consumer on the market? Some measures are primarily aimed at changing the behavior of the producer, others at changing the behavior of the consumer. In both fields measures try to protect or inform the consumer. The overall aim of the measures is to secure that no unreasonable physical and economic risks fall on the consumer.

For physical safety, protection means bans on certain dangerous products and, for other less dangerous products, technical standards specifying acceptable safety standards. For economic safety, protection means, e.g., regulation of the information content of advertising, or regulation of one-sided producer formulated standard contracts. Furthermore, there are subsidies for comparative testing, mandatory informative labelling, and quality certification (Thorelli and Thorelli 1974, p. 2). All these measures aim at better consumer information: they try to increase the market transparency for the consumer.

The common denominator of all measures is that somehow the ends-means relationship is supposed to be already known to consumers and government officials. The essence of consumer policy is (1) to increase the efficiency of the known (household) production process, and (2), in cases of conflict between certain ends from an individual or social perspective, to influence the ends of the consumer household. But given a socially accepted hierarchy of ends these latter policies are in a certain sense also only trying to ensure the efficiency of the household production process (Kuhlmann 1990, pp. 5-6).

Consumer policy tries to reduce the known transaction costs of a consumer transaction in terms of physical and economic risk.

The government claims to know which products are unequivocably dangerous and ought to be banned and what the minimally acceptable safety standards are. The government also claims to know the standard price, standard quality, standard contract terms, the relevant product characteristics in comparative testing, and the relevant product characteristics for the product labels.

The theoretical motivation behind consumer policy is taken from the predominant, standard neoclassical market model. In neoclassical theory the consumer is a maximizer: action follows from an optimal choice in a given and known ends-

means relationship. Maximization includes situations of measurable uncertainty that can be reduced with search. Because, in reality, the consumer is confronted with an information gap as well as, just the opposite, an information overload, the essence of consumer policy is to direct or restrict the choices of the consumers. Prices per standard quantity and comparative testing, for instance, increase the market transparency for the consumer and direct the choices of the consumers. Laws putting limits to interests rates or prescribing standard rules, on the other hand, restrict the choices of the consumers.

In other words, consumer policy tries to realize the conditions of the neoclassical market model in terms of full knowledge, market transparency, and the homogeneity of goods. It is captured within a given and known ends-means relationship.

IV. Erring People Depend on Creativity and Entrepreneurship

Next to the well-known neoclassical market model there is the far less-known Austrian market model. At the centre of this market model is the process of conceiving the ends-means relationship. The consumer and producer are more than mere calculators, they are venturing, innovating, exploring, and searching for new means and new ends.

The essential difference between the neoclassical and Austrian market model is the different understanding of the concept of error and the role of error itself in a market economy. Contrary to the neoclassical market model, consumer problems are not always to be attributed to inadequate resources or to a faulty institutional structure. There is also the possibility of sheer error: opportunities costlessly available are overlooked. Let us take a closer look at older and modern Austrian economics to see how the concept of an erring individual has developed.

A. Austrianism: a Geographical and Pejorative Label

In the 1880s German professors attached the epithet 'Austrian' to the economic theories of Menger, Bohm-Bawerk, and Wieser. It was a pejorative epithet bestowed by disdainful German economists. Why was it a pejorative epithet, and what was the reason for their disdain?

As far as the epithet Austrian relates to a geographical area it is justified because of the historic fact it was founded and first elaborated by three Austrians, holding chairs at the universities of Vienna, Innsbruck, and Prague. In 1871 Carl Menger published his *Grundsätze der Volkswirtschaftslehre* (Principles of Economics). Until the end of the seventies, however, there was no Austrian School: there was only Carl Menger. Later on Menger was joined by two younger economists, brothers-in-law, Eugen von Bohm-Bawerk and Friedrich Wieser. They became the enthusiastic supporters of the new ideas put forward in Menger's book.

The pejorative overtone of the predicate Austrian was the result of another historic fact: never before had any new mode of thinking originated in Austria. "For people who were not familiar with economics, the predicate 'Austrian' as applied to a doctrine carried strong overtones of the darkdays of the Counter-Reformation and of Metternich. To an Austrian intellectual, nothing could appear more disastrous than a relapse of his country into the spiritual inanity of the good old days" (Mises 1969, p. 14).

The German economists attached the smear to Menger and his followers because for them Austrian economics meant backwardness. Both the Germans and the Austrians attacked classical economics. The Germans were appealing for an alleged modern historical approach. Menger, on the contrary, although he wanted to rebuild the foundations of economic science too, retained the abstract, theoretical character of economics. The clash over methods is known as the *Methodenstreit.*

B. Older Austrians

Menger's theory turned the value theory of the classicals upside down. The classical Ricardian theory held that the normal value of consumption goods was determined by their cost of production. Menger's theory, on the contrary, held that the cost of production itself is ultimately determined by the value of consumption goods. Labor is not the source of value, but is a means to value. Value was no longer to be seen as governed by past resource costs but as expressing judgements concerning future usefulness in meeting consumer wants (Kirzner 1987, p. 146). In making these judgements, Menger, according to William Jaffé, describes man not as a "lightning calculator" but as a "bumbling, erring, ill-informed creature, plagued with uncertainty, forever, hovering between alluring hopes and haunting fears, and congenitally incapable of making finely calibrated decisions in pursuit of satisfactions" (Jaffé 1976, p. 521). Menger's theory came to be known as the subjective theory of value.

The classical objective value theory was a second best solution to the problem of how prices are determined. Classical economists "were fully aware of the fact that prices are not a product of the activities of a special group of people, but the result of an interplay of all members of the market society" (Mises 1966, p. 62). But because of the problems encountered in the famous value paradox they considered the activities of the producer only.

According to the Austrians, value is in the mind of individual man, who chooses and maximizes, for whatever reason, his profit or utility. From the interaction of the valuations of the consumers flows the market demand. The market supply of the producers is determined by the expected demand. The interaction of demand and supply determines the market price. By offering a more satisfactory theory of demand, the subjective or marginal theory of value was more comprehensive than the classical theory, which last theory emphasized the activities of the producer only.

C. Modern Austrians

In modern Austrianism, the post-World War II continuation of the Austrian tradition, the two central figures are Ludwig von Mises and Friedrich Hayek. Israel Kirzner (1986 p. 134 and 152) describes modern Austrianism as an authentic extension of Menger's older static subjectivism: a consequent dynamic subjectivism. Mises and Hayek focus in their theories on market adjustment processes. For Kirzner, building his theory along the lines of Mises and Hayek, one of the greatest failures of neoclassical equilibrium analysis is it takes for granted that an equilibrium is actually brought about. For instance, in a disequilibrium would be buyers who have returned home empty handed should learn that it is necessary to outbid other buyers, and buyers who have paid high prices should discover that they could have obtained the same goods at lower prices (Kirzner 1973, p. 14). The real problem is to describe the possible realization of an equilibrium as the result of "the systematic way in which plan revisions are made as a consequence of the disappointment of earlier plans" (Kirzner 1962, p. 81).

Neoclassical equilibrium theory cannot describe endogenous changes in the end-means framework: its maximization scheme is not fit for the task to generate systematic modifications of choices. The allocation model suffers from a discontinuity in the succession of decisions. Only an exogenous change in the data, e.g., in tastes, in technology, or in information, can generate a new decision, a decision unexplainable in terms of the original framework. Without exogenous changes there is no 'choice-theoretic' explanation why yesterday's plans are replaced by today's.

Mises and Hayek made it possible to describe the adjustment process as a systematic sequence of decisions. Mises' extension of subjectivism was to describe the individual decision unit not only as maximizing but also as finding out the relevant ends-means relationship. This opens the way for incorporating learning into the understanding of market processes. Hayek's extension of subjectivism was precisely to describe the market process as one of learning by discovery (Kirzner 1986, p. 47; cf. Kirzner 1985, p. 26).

Endogenous change in the ends-means relationship is possible with the entrepreneurial element in each individual market participant: alertness (Kirzner 1967, pp. 793 -794 and 1973, pp. 70-72). Alertness is the propensity of knowing where to look for information (Kirzner 1973, p. 68), "the propensity ... toward fresh goals and the discovery of hitherto unknown resources" (Kirzner 1973, p. 34). A disequilibrium situation points to a situation of market ignorance. From the ignorance emerge profitable opportunities. Entrepreneurial alertness exploits (Kirzner 1979, p. 30). Alertness gives a more realistic image of human action and makes possible the description of the market as a unified discovery process.

"[The] 'alertness' view of the entrepreneurial role rejects the thesis that if we attribute genuine novelty to the entrepreneur, we must necessarily treat entrepreneurially generated market events as not related to earlier market events in any systematic way. The genuine novelty ... attribute[d] to the entrepreneur consists

in his spontaneous discovery of the opportunities marked out by earlier market conditions (or by future market conditions as they would be in the absence of his own actions)" (Kirzner 1985, p. 11). "[These] entrepreneurial discoveries are the steps through which any possible tendency toward market equilibrium must proceed" (Kirzner 1985, pp. 11-12).

V. Austrians and Neoclassicals Compared

It is well known that there are two other contributors to the marginal subjective value theory: Leon Walras and William Stanley Jevons. In the modern Austrian perspective there are insights to be found in embryonic form in Menger's writings which are not absorbed in, or came to be lost from, mainstream neoclassical Walrasian and Jevonsian (Marshallian) economics (Kirzner 1989a, p. 232).

The differences refer to (1) the subject of, (2) the place of process analysis in, and (3) the epistemological character of economic theory.

A. The Equilibrium Situation or The Equilibrating Process

According to modern Austrians, the main difference between the neoclassical and Austrian market model is that in the modern Austrian market model adjustment processes and not market equilibria occupy a central position. In adjustment processes dispersed knowledge and lack of knowledge are of fundamental importance. Correct foresight, full knowledge, is not a precondition for the attainment of equilibrium but the defining characteristic of the state of equilibrium. "The statement that, if people know everything, they are in equilibrium, is true simply because that is how we define equilibrium" (Hayek 1949, p. 46).

In the modern Austrian market model, action does not primarily follow from an optimal choice in a given ends-means relation, as is mostly the case in the neoclassical market model. At the centre of the modern Austrian market model one finds the process of conceiving the ends-means relationship. The change in market model contains a change "from a 'mechanical' Robbinsian [after Lord Robbins] neoclassical economizer to Mises's [modern Austrian] *homo agens*" (Kirzner 1973, p. 72). "[*Homo agens*] is not merely engaged in computing the patterns of means allocation that will most faithfully reflect the hierarchy of given ends [like Robbins' calculating agents]. *Homo agens* is actively seeking out the best course of action, he is venturing, innovating, exploring, searching" (Kirzner 1967, p. 792).

The discontinuity in the succession of decisions in the neoclassical market model indicates that the neoclassical maximizer does not choose at all. "[T]he replacement of one set of given ends by a second set occurs *before* (or at least *outside*) ... [neoclassical] choice itself" (Kirzner 1986, p. 142). "The very circumstance that the 'chosen' course of action is seen as already inexorably implied in the given configuration of preferences and constraints, of ends and means, makes the choice 'mechanical' or 'automatic' - and thus not a true choice at all. True choice surely requires the realistic possibility of more than one alternative" (Kirzner 1986,

p. 139). Choices are not only concerned with merely selecting the highest out of an array of given and ranked alternatives, but also embrace the perception and evaluation of the alternatives identified as relevant (Kirzner 1989b, p. 18).

To discover what are the relevant means and ends must be distinguished sharply from neoclassical search theory. In neoclassical search "[t]he searcher knows what he is looking for, and he knows where to look for it.... [In the case of discovery, on the other hand,] the discoverer discovers something he did not know existed, or something, the ready availability of which he had not realized" (Kirzner 1989b, p. 27). Search is concerned with wiping out known ignorance. Discovery is concerned with wiping out utter ignorance: one does not know that one does not know.

The process of discovery is not completely unpredictable. For modern Austrians there is the possibility that the outcome "may emerge as a result of the alert grasping of a hitherto unnoticed opportunity." In neoclassical equilibrium theory, on the contrary, the outcome is "*either* the fully expected result of deliberate plans, *or* the fortuitous expression of pure luck" (Kirzner 1989b, p. ix and p. 30).

B. Processes: The Start or The End of The Analysis

The neoclassical core of economic theory is the simplified static model. Processes can be studied as the outgrowth of some higher order of, mostly, technical sophistication. For modern Austrians, however, the distinction between process and situation can not be characterized as one of a choice between two, independent subject matters of economics. For modern Austrians the process elements "are central and essential for understanding markets and not merely refinements to our knowledge" (Kirzner 1989a, p. 234) or matters of embarrassment. Process, discovery, and uncertainty are essential for everyday economics. "It is not that markets work in spite of the open-ended uncertainty surrounding human action, but rather that they work *precisely* because of this quality of human action. The open-ended uncertainty of the environment itself provides the scope and possibility for an entrepreneurial process of competitive discovery" (Kirzner 1989a, p. 234).

C. Methodology

Subjectivism not only characterizes the substance but also the method of Austrian economics. The subjectivistic method, first explicitly written down by Mises and to a lesser extent by Hayek, is called praxeology. A name, the logic of action, introduced by Mises as characterizing the verbal axiomatic-deductive methodology of Austrian economics (Lachmann 1976, p. 56). The ideas for this method Mises found in the writings of some classical economists and older Austrians (Rothbard 1980, p. 29). It is claimed that the praxeological method was the implicit method of the economics profession till the 1950s (Hoppe 1988, p. 9 and p. 11).

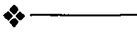
Praxeology starts from the fundamental, self-evident axiom that men act by virtue of their being human. Human beings try to exchange a less for a more preferred situation. Mises, as a Kantian, describes the fundamental axiom as a priori to all experience. It is a part of "the essential and necessary character of the logical structure of the human mind" (Mises 1966, p. 34). For Murray Rothbard, as an Aristotelian, on the other hand, the fundamental axiom is "so broadly based in common human experience that once enunciated ... [it becomes] self-evident and hence does not meet the fashionable criterion of 'falsifiability'", (Rothbard 1976, p. 25). Praxeology consists in the verbal elaboration of the logical implications of the fundamental axiom of human action. There are a few subsidiary axioms. The most important of these broadly empirical axioms are, that individuals vary in tastes and abilities, that human beings regard leisure as a valuable good, and that people learn from experience. We deduce, except for logical errors in the deductive process, true conclusions from a true axiom. "Our science considers only the essential. It views action.... as [a] formal construction" (Mises 1976, p. 13). In this respect, praxeology models sciences like logic and geometry.

The subsidiary axiom that people learn from experience is of fundamental importance to the description of the market as a systematic sequence of economic states. Its 'broadly empirical' character is based on the general propensity of man to be alert to opportunities. "The process by which facts are hammered into human consciousness is not wholly ungoverned by the logic of human action" (Kirzner 1979, p. 30). After recognizing that people do err, we assume at least a tendency for man to notice those facts that constitute possible opportunities for gainful action. "The market process emerges as the necessary implication of the circumstance that people act, and that in their action they err, discover their errors, and tend to revise their actions in a direction likely to be less erroneous than before" (Kirzner 1979, p. 30).

VI. The Forgotten Consumer

The consumer was central to Menger, no doubt about that (cf. Menger 1923), but the consumer is not central for modern Austrian economics. Somewhere in the trajectory between Menger's contribution to Austrian economics, the way in which all value in economics springs off from the final valuation of the consumer, and the modern Austrian contribution, the process through which consumer valuations are being translated in production decisions, the consumer got lost.

I think the main reason for the oblivion of the consumer is that the Austrian discovery insight is discussed by way of the methodological makeshift of an entrepreneurial producer and a non-entrepreneurial consumer (Mises 1966, p. 253; Kirzner 1973, p. 41). But when is this methodological makeshift (Mises 1966, p. 253) raised? Though alertness is in principle present in every action, in their elaborations the modern Austrians ascribe it to the producer (cf. Rothbard 1985, p. 282; Ekelund & Saurman 1988, p. xx; Pasour 1989, p. 95). Accordingly, alertness



is called the entrepreneurial element. Consumers are passive, non-alert, Robbinsian maximizers. For instance, one of the functions of advertising is 'getting the Robbinsians [the potential consumers] to see the availability of ... opportunities' (Kirzner 1973, p. 148). Advertising differs from changing the consumer's taste or providing information (non-entrepreneurial knowledge) to him. Advertising (an entrepreneurial device) makes the consumer aware of available opportunities, regardless of the level of his alertness.

So we get the following paradoxical situation. For Austrian economists, classical economists were at fault because they were able to explain only the actions of the businessman. Classical economists completely neglected the rationality on the part of the consumer. It was precisely this limitation of classical economics, explaining only the actions of the businessman, that the Austrian subjective theory of value was able to overcome (Mises 1976, p. 147 and p. 175). To a certain extent, however, modern Austrian economics, just as the classical economists before them, has lost sight of the consumer, too. The consumer is absent in the elucidation of the market as a dynamic process of entrepreneurial discovery.

The oblivion of the consumer in modern Austrian economics is, as we saw, fully matched by the analysis of creativity and entrepreneurship in *CA*. *CA*, too, asks for entrepreneurship of human beings in their capacity as wage-receivers, only.

Jozef Solterer, in an article from 1950 "The entrepreneur in economic theory" and a bookreview of Mises' book *Human Action* from the same year (1950b), describes economics, just like the modern Austrians, as the science of human choice and human action (Solterer 1950a, pp. 14-15). Solterer distinguishes three classes of choice. The first class is to buy or sell and is studied in the theory of pure competition. The class corresponds to what the Austrians call the act of maximizing inside a given ends-means relationship. The second class is to choose to build a structure. A structure that would not exist without the acting person. Solterer and the Austrians call the second class the entrepreneurial aspect of choice. Solterer also distinguishes a third class of choice: the task to assign the total product without remainder to the agents who helped produce it. To each of these types of choices Solterer attaches "the name of a virtuous procedure: the first, honesty [commutative justice]; the second, responsibility [social justice]; the third, fairness [distributive justice]" (Solterer 1950a, p. 19). To pursue explicitly the concept of virtuous action distinguishes Solterer's from Mises' conception of economics (Solterer 1950a, p. 15). But Solterer, too, applies the concept of entrepreneurship explicitly to the producer only and not to the consumer (Solterer 1950a, p. 19).

To sum up, Austrian economics sees man as an erring individual, who has the propensity of entrepreneurship: the propensity to notice the implications of earlier errors. With the propensity of entrepreneurship endogenous corrections of earlier errors and market processes can be described. Capitalism, seen as a dynamic process and populated with erring individuals, depends on creativity and entrepreneurship. If error correction is the essence of the market process then people are necessarily endowed with entrepreneurship. Consequently, in Austrian economics,

in contrast to Scitovsky's analysis, stimulation and novelty are of the essence of the market process. But, just like *CA* and Solterer, the concept of entrepreneurship is worked out for the producer only.

VII. Consumer Policy Is Detrimental to Creativity and Entrepreneurship

How does the Austrian vision of the market process relate to consumer policy? To be more specific: What is the impact of consumer policy upon the perception by consumers and producers of the available array of opportunities? Consumer policy "may effect what it is that decision makers *discover* to be the situation in which they act" (Kirzner 1985, p. 94). It is these consequences that must be taken account of, in terms of costs, in each assessment of the likely consequences of consumer policy.

To describe the ways in which discovery problems may hamper consumer policy I use the same four headings as Kirzner (Kirzner 1985, p. 137).

A. The Undiscovered Discovery Process

A consumer problem does not necessarily point to the necessity of government intervention. The market is a discovery process: genuine inefficiencies can be relied upon in the future to generate market processes for their own correction. But the systematic tendency for imperfect knowledge to be spontaneously improved upon is not an instantaneous one. In Austrian economics time is not the problem but part of the solution.

What are, for instance, the market responses to the information asymmetry between producers and consumers? Of course sellers, as specialized producers, know more about their services than non-specialized buyers possibly can. Also, sellers, by knowing more about the quality of their service than consumers, are able to manipulate consumers. This led George Akerlof to his prediction that in equilibrium in the market for used cars, only 'lemons' will be offered for sale (Akerlof 1970, p. 490). The government's answer to the problem of how to protect the public health or safety is often in the form of occupational license or governmental organizations of certification.

But there are also many free market responses to the alleged market failures: producer supplied guarantees, private information services, producer provided quality screening services, and all forms of non-governmental organization of certification. Besides, there are many information surrogates that keep consumers adequately informed: repeatedly purchasing certain services, drawing on the experience of friends, relatives, and neighbors, or inferences drawn from the length of life of firms offering services. To conclude: "if consumers are able to check the veracity of suppliers in any manner, laissez-faire market equilibrium can support [contrary to Akerlof's assertion] high quality" (Young 1987, p. 18). Besides, consumers who prefer lower-priced, lower-quality service will be worse off with

licensing, because such suppliers will not be permitted to practice and in this way the poor subsidize the lower information search costs of the rich (Young 1987, p. 21).

In this respect one must notice that even in a nontransparent market like the illegal drugs market there arise institutions which lower the transaction costs of both producer and consumer. A drugs supplier faces high selling costs. It is not easy for him to make selling efforts; there is certainly no room for direct advertising. And, if caught, he runs into high costs in terms of imprisonment and income forgone. For the consumer, too, there are high buying costs. He faces high search costs, high costs in the form of uncertainty over the quality of the goods, and in cases of fraud, there is no law to protect him.

In this disequilibrium situation coordination between buyers and sellers and transaction volume are low. One can expect that some entrepreneurial people try to make some profit as middleman in creating an information market. "We need not," as Kirzner also says, "wait for evidence on the way information comes to spread through a society. We can, instead, employ our logic of choice to identify, within disequilibrium markets, the opportunities for gain that disequilibrium conditions themselves create. Postulating a tendency for such opportunities to be discovered and exploited, we can then explain the way such gradual discovery of opportunities in turn gradually alters the pattern of opportunities presented in the market as the process unfolds" (Kirzner 1979, p. 33). We can be sure of that element in human decision making which Kirzner calls the entrepreneurial propensity in human action: alertness. Alertness is "the propensity . . . toward fresh goals and the discovery of hitherto unknown resources" (Kirzner 1979, p. 34).

As Harald Kunz demonstrates the middleman tries to reduce the high costs for both producer and consumer. He offers information the consumer of drugs needs, and the drugs supplier likes to be spread. For the producer, the middleman separates the market of drugs supply from the market of drugs selling. For a fee, he creates an information market which lowers the selling costs of the supplier. Because he is no drugs supplier, the middleman himself does not face high imprisonment costs. At the same time, he lowers the search costs for the consumer. Both supplier and consumer value the middleman, as he reduces the transaction costs for both of them (Kunz 1985, pp. 93-103).

The self interest of all parties concerned ensures that such a market can exist. The middleman will not share his information about where to buy drugs with too many people. Otherwise the drugs supplier can be sold out when a buyer arrives. The information will be exclusive. If the middleman wants to stay in the market he must be reliable not only in his information on where to buy but also on product quality. The more reliable the middleman is, the more he can charge his customers. The other way around, the supplier has to be truthful about quantity and quality of his drugs to his middleman, otherwise he will loose business. Better quality

commands a higher price for the supplier and a higher fee for the middleman. The result will be that (1) the market will be more coordinated and the transaction volume will be higher than otherwise would be the case; (2) an experience good becomes more or less a search good; and(3) quality does not deteriorate; there is even a stimulus to increase quality.

Clarence Ayres, in a book review of Mises' *Epistemological Problems in Economics*, opposed Mises' condemnation of the mixed economy. Ayres denied the "automaticity" of the self-regulating purely capitalistic economy (Ayres 1961, p. 200; cp. Solterer 1950b, p. 128). As the drugs example showed, by spelling out more clearly the concept of human choice, as the modern Austrians do, part of Ayres critique can be met. "To commence an analysis of choice after a particular ends-means framework has been declared known and relevant, is [indeed] to deal with choice in a manner that renders it completely mechanical. The *creativity* of choice, the element that makes action human, has been left out" (Kirzner 1979, p. 148). The market process, however, depends on creativity, entrepreneurship, and the discovery of hitherto unknown ends and means. An activity that lies between pure luck and rational calculation.

B. The Unsimulated Discovery Process

How do government officials know what prices to set or qualities to require? In the absence of the pure profit incentive, market opportunities which present themselves in the form of potential profit opportunities are not likely to be discovered by the regulators. "It is doubtful in the extreme if ideals such as benevolence or patriotism can be relied upon, in general, to enable a potential discoverer to identify his own personal interest with that of the discovery of an opportunity for a reallocation of resources desirable for society" (Kirzner 1985, p. 33). The discovery process of the market cannot be simulated by regulatory activity.

Because in consumption the consumer always captures the profit himself, at first sight it looks as if the consumer's alertness is stimulated irrespective of the market form. The relevant information will always be of benefit to the potential discoverer. In a regulated market, however, things are a bit more complicated.

Regulators and consumers in a regulated economy focus on the efficiency of the given and known household production process for which traditional incentives, e.g., lowering the search costs are of help. Consumers in a non-regulated economy, however, are next to the efficiency of the transformation process alert to the discovery of genuine errors: to expect the unexpected. Government regulation of producer decisions, however, takes possible surprises out of the open-ended surroundings of the consumer. Consequently, it is to be expected that a consumer in a regulated market (government takes care of me) is less alert to new ends and new means than the consumer in an unregulated market. Profit inspired diversity in consumer goods and services stimulates the consumer. The consumer's alertness is switched on by the fact that there may be something lurking around the corner. Something he is hopeful or something he is fearful of.

C. The Stifled Discovery Process

Government regulation, e.g., price and quality restraints, tends to bar entry by potential new competitors. A price restraint does not merely block the upper reaches of a given supply curve but also may inhibit the discovery of as yet unsuspected sources of supply. Next to the discoordination generated by imposed prices in markets for existing goods there is the effect that such ceilings may inhibit the discovery of as yet wholly unknown new products (Kirzner 1985, p. 143). To stick to the example of the drugs market. Think of such 'undiscovered' uses of marijuana as paper, fuel, building materials, clothing, animal food, and a protein source for humans.

At this point one must remember that competition is a two-sided process taking place between producers and consumers and within each group. The likelihood that regulation may discourage, hamper, and even completely stifle the discovery process of the unregulated market counts for producers as well as for consumers.

The Austrian methodological makeshift of a Misesian entrepreneurial producer and a Robbinsian non-entrepreneurial consumer, used for the elucidation of the market process, is at this point of no help and leads to wrong policy conclusions. If the methodological makeshift is not removed then the Austrians do not have valid arguments against those forms of consumer policy which try to increase the market transparency of the consumer. For then there are no valid arguments against passing on to the consumer comparable and relevant product characteristics for the existing supply of products. When the methodological makeshift is not removed, it is possible from an Austrian perspective to make a plea for quality certification as a form of collective (public) good (Hayek 1982, III, p. 44). It is also possible to defend the subsidization by the government of comparative testing by consumer organizations (Kaufmann 1985, p. 24).

From the Austrian vision, however, on the functioning of the market in general, these policies can only be rejected. The question is, what are the relevant product characteristics, and how are these characteristics changed over time (cf. Rothbard 1970, pp. 43-47; O'Driscoll & Rizzo 1985, p. 105 and p. 236)? The consumer, too, discovers new unexpected ends (new forms of utility) to old and new means. It is not always the case that the role of the producer "consists in relieving the consumer of the necessity to be his own entrepreneur" (Kirzner 1973, p. 136). The situation can also be the other way around. The producer hires a trendwatcher. Someone who looks out for what a trendy consumer discovers.

D. The Wholly Superfluous Discovery Process

Measures taken by government officials to protect the consumers are likely to open up new avenues for entrepreneurial gain: they introduce a different disequilibrium situation. This new disequilibrium situation will generate its own

discovery process with its own wholly unexpected and even undesired final outcomes, e.g. enterprising bribery and corruption of the regulators.

To sum up, I presented a less obvious drawback of policies to protect the consumer. The Austrian understanding of the market economy provides a novel angle for a critique of the regulated consumer. Regulatory restrictions interfere with the spontaneous discovery process that the unregulated market tends to generate. In order to give a full appreciation of the market as a competitive-entrepreneurial discovery process it was necessary to emphasize the entrepreneurial role of the consumer.

For modern Austrians consumer policy stifles the profit or utility incentive that converts a socially desirable opportunity (an opportunity that transcends an existing framework of perceived opportunities) into a personally gainful one. These 'conversions' are the steps of the discovery process through which any possible tendency toward market equilibrium must proceed. So, we end up with about the opposite of what consumer policy intends. Is not the ultimate aim of consumer policy to better the possibilities to satisfy needs by means of consumption? To asses the results of consumer policy as a social policy it is necessary to look at the entrepreneurial behavior of the consumer and the producer.

VIII. Conclusion

What picture does the capitalistic market economy give us if we extend some of the "new things" pointed at in *CA* from the producer to the consumer? What does creativity and entrepreneurship entail for the consumer in a capitalistic market economy?

For Scitovsky not only economic analysis but the capitalistic market economy, too, has no room for entrepreneurship, for the yearning for novelty by the consumer. Economic analysis is based on a psychological model of man which emphasizes arousal reduction in cases of depreviation. Arousal stimulation in cases of lack of novelty is forgotten. The capitalistic mass market is detrimental to novelty, it leads to homogenized and standardized products. Only the rich can buy variety. Consumer policy, framed within a given ends-means relationship, is of no help either. It tries to realize the conditions of the neoclassical market model and only looks for error correction inside a given and known ends-means relationship.

Austrian economics extends the concept of error and error correction. Error is no longer confined to maximizing decisions inside a given ends-means relationship, but is extended to the creative, entrepreneurial process of conceiving the ends-means relationship. In that way, it makes room for creativity and entrepreneurship.

Consequently, what *CA* asks of the modern market economy, and Scitovsky could not find in it, is spelled out in modern Austrian economics. It is the entrepreneurial element in human decision making. Error correction is the result, not only, of new information purposefully searched for, or, just the opposite, sheer luck but can also be the result of alertness: creativity and entrepreneurship. What

the capitalistic market process depends on, is nothing but, entrepreneurship. For Austrians neoclassical inspired consumer policy is detrimental to the entrepreneurship of the consumer.

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References

Akerlof, George A., "The Market for 'Lemons': Qualitative Uncertainty and the Market Mechanism," *Quarterly Journal of Economics*, 1970, *84*, 488-500.

Ayres, Clarence E., "Epistemological problems of economics," *Southern Economic Journal*, 1961, *28*, 199-202.

Ekelund, Robert B. and Saurman David S., *Advertising and the Market Process*, San Francisco: Pacific Research Institute for Public Policy, 1988.

Hayek, Friedrich A., *Individualism and Economic Order*, London: Routledge & Kegan Paul, 1949.

_____. *Law, Legislation and Liberty*, London: Routledge & Kegan Paul, 1982.

Hoppe, Hans-Hermann, *Praxeology and Economic Science*, Auburn Alabama: Luwig von Mises Institute, 1988.

Imkamp, Heiner, "Zur Operationalisierung des individuellen Informationsdefizits von Verbrauchern," *Hauswirtschaft*. Wiss., 1986, *34*, 232-235.

Jaffé, William, "Menger, Jevons and Walras De-Homogenized," *Economic Inquiry*, 1976, *14*, 511-24.

John Paul II, *Centesimus Annus* (Dutch edition), Utrecht: Secretariaat R.K. Kerkgenootschap, 1991.

Kaufmann, Peter J., *Passing off and Misappropriation in the Law of Unfair Competition*, Weinheim: V.C.H. Verlag Gesellschaft, 1985.

Kirzner, Israel M., "Rational Action and Economic Theory," *Journal of Political Economy*, August 1962, *70*, 380-85.

_____. "Methodological Individualsm, Market Equilibrium and Market Process," *Il Politico*, 1967, 32, 787-798.

_____. *Competition and Entrepreneurship*, Chicago: University of Chicago Press, 1973.

_____. *Perception, Opportunity, and Profit. Studies in the Theory of Entrepreneurship*, Chicago: University of Chicago Press, 1979.

_____. "Comment: X-Inefficiency, Error, and the Scope for Entrepreneurship", in M.J. Rizzo (ed.), *Time, Uncertainty, and Disequilibrium*, Lexington: Lexington Books, 1979.

_____. in I.M. Kirzner (ed.), *Method, Process, and Austrian Economics: Essays in Honor of Ludwig von Mises*, Lexington, Mass.: Lexington Books, 1982.

_____. *Discovery and the Capitalist Process*, Chicago: University of Chicago Press, 1985.

_____. "Ludwig von Mises and Friedrich von Hayek: The modern Extension of Austrian Subjectivism," in N. Leser (ed.), *Die Wiener Schule der Nationalökonomie*, Vienna: Bohlau, 1986.

_____. "Austrian Economics," in: *The New Palgrave, A Dictionary of Economics*, ed. by Eatwell, J. Milgate, M. Newman, P., London: Macmillen, 1987.

_____. "The Use of Labels in Doctrinal History: Comment on Baird," *Cato Journal*, 1989a, *9(1)*, 231-35.

_____. *Discovery, Capitalism, and Distributive Justice*, New York: Basil Blackwell, 1989b.

Kuhlmann, Eberhard, *Verbraucherpolitik, Grundzuge ihrer Theorie und Praxis*, München: Franz Vahlen, 1990.

Kunz, Harald, *Marktsystem und Information*, Tubingen: J.B.C. Mohr, 1985.

Lachmann, Ludwig M. "From Mises to Shackle: An Essay on Austrian Economics and the Kaleidic Society," *Journal of Economic Literature*, 1976, *14*, 54-62.

Maynes, Scott E. "Consumer Protection: The Issues," *Journal of Consumer Policy*, 1979, *3*, 97-109.

Menger, Carl, *Grundsätze der Volkswirtschaftslehre*, Vienna: Wilhelm Braumuller, 1871. Translated by J. Dingwall and B.F. Hoselitz as *Principles of Economics*, Glencoe, I11.: Free Press, 1950.

_____. *Grundsätze der Volkswirtschaftslehre*, 2 ed. Vienna: Holder-Pichler-Tempsky, 1923.

Mises, Ludwig von, *Human Action*, Chicago: Contemporary Books, [1949], 1966, 3rd Edition.

_____. *The Historical Setting of the Austrian School of Economics*, New Rochelle, N.Y.: Arlington House, 1969.

_____. *Epistemological Problems of Economics*, Princeton: New York, 1976.

O'Driscoll, Gerald P. and Rizzo, Mario J., *The Economics of Time & Ignorance*, New York: Basil Blackwell, 1985.

Pasour, E.C., "The Effient-Markets Hypothesis and Entrepreneuship," *The Review of Austrian Economics*, 1989, *3*, 95-107.

Rothbard, Murray N., *Power and Market*, Kansas City: Sheed Andrews and McMeel, 1970.

_____. "Praxeology: The Methodology of Austrian Economics," in E.G. Dolan (ed), *The Foundations of Modern Austrian Economics*, Kansas City: Sheed & Ward, 1976.

_____. *The Essental Ludwig von Mises*, Auburn, Alabama: Ludwig Mises Institute, 1980.

_____. "Professor Hebert on Entrepreneurship," *Journal of Libertarian Studies*, 1985, *7(2)*, 281-86.

Scitovsky, Tibor, *The Joyless Economy*, Oxford: Oxford University Press, 1976.

Solterer, Josef. "The entrepreneur in economic theory," *Review of Social Economy*, 1950a, *8*, 10-19.

_____. "Bookreview of Ludwig von Mises' Human Action," *Review of Social Economy*, 1950b, *8*, 123-33.

Thorelli, Hans. B. and Thorelli, Sarah V., *Consumer Information Handbook: Europe and North America*, New York: Praeger, 1974.

Young, David S., *The Rule of Experts*, Washington: Cato Institute, 1987.

Part III. THE AUSTRIAN PERSPECTIVE ON CONSUMER POLICY

Chapter 9. Government Regulation of Advertising: Good or Bad?

Chapter 9 was originally published in *Journal of Consumer Policy 14*, pp. 449-457, 1992.

Auke R. Leen
Government Regulation of Advertising: Good or Bad?
A Comment on the Paper by Kassarjian and Kassarjian in JCP, Volume 11, September 1988

ABSTRACT. Kassarjian and Kassarjian (1988) present some interesting results on the impact of regulation on advertising. They state three hypotheses that are partly confirmed by the facts. The theory behind the three hypotheses is not explicitly stated. In this paper I will first try to reconstruct the implicit theory. Secondly I will give a completely opposing theory and show that it can explain the same facts. The resulting evaluation of the government regulatory programme is negative as opposed to Kassarjian and Kassarjian's evaluation.

In an interesting article "The Impact of Regulation on Advertising: A Content Analysis" Harold Kassarjian and Waltraud Kassarjian (1988) present "the results of a formal content analysis of claims made in advertisements ... before (1970), during (1976), and after (1984) the spurt of regulatory activity in the US." In the midst of the 1970's the Federal Trade Commission (FTC) pursued an advertising substantiation programme. Advertisers had to have available all documentation, proof, and substantiation for claims that purported to be based on objective evidence. Under the programme, false or deceptive claims might lead to a law suit. The results of the content analysis are presented as tests of three hypotheses on how advertising claims change as a result of government regulation. The hypotheses are partly confirmed by the facts. Kassarjian and Kassarjian's conclusion is that "the advertising substantiation programme was moderately successful." "In 1976 consumers were provided less information, but it was of better quality than in 1970. However by 1984 the various trends seem to suggest that advertisers are returning to their pre-regulation ways."

In this comment I will try to make explicit the theory that is behind Kassarjian and Kassarjian's hypotheses. If the character of

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the goods is taken into consideration, I can show that from a diametrically opposed theory, alternative hypotheses can be deduced that are confirmed by the facts too.

THEORIES BEHIND THE FACTS

The implicit theory of Kassarjian and Kassarjian is as follows. Advertising is partly deceptive and partly manipulative. Without government regulation this situation will continue. With government intervention (the FTC substantiation programme) producers will change, based on a cost-benefit analysis, the content of their ads. "[I]ndustry [can] avoid the expense and adverse publicity of a governmental investigation and trial." In some cases the content will change from claims that could have been scientifically verified (sounds verifiable but no evidence is presented) to more inherently verifiable claims (the evidence itself is presented). In some other cases the content will change to vague but safe puffery (literal verification is not possible). These three claims (sounds verifiable, evidence presented, and puffery) constitute the types of advertising claims analyzed in Kassarjian and Kassarjian's paper.

To put it bluntly, consumers are implicitly assumed blithely to consume goods of questionable quality. Consumers ignore or underestimate risks; producers use advertising partly as a means to mislead the consumers. Advertising can manipulate consumers into taking action they otherwise would not have taken: Consumers need government protection.[1]

I contrast this view with the theories of, e.g., Stigler (1961), Nelson (1970, 1974), and Kirzner (1973) (for a general overview of the alternative theories, see Ekelund and Saurman, 1988). The authors claim advertising is a good like any other good. It is supplied by the producer at a level of quality demanded by the consumer. Advertising lowers the search costs of the consumer for all three types of advertising claims analyzed in Kassarjian and Kassarjian's paper. On the whole the consumer gets the type and quality of advertising he wants and is willing to pay for.

To put it bluntly, again, consumers are assumed to make choices in such a way as to yield them the largest expected benefit. Consumers can manage the risks of their personal environments, they know what is best for them and cannot be fooled all the time. Con-

sumers assess the kind of advertising they get from a cost-benefit point of view: It lowers the full prices, which includes the search costs, of the products they buy. Advertising is an essential part of the competition process: It makes the product known to the consumers. Consumers are not passive actors but by-and-large act in their own self-interest.

FRAUD

What does the alternative theory imply about the occurrence of fraud, i.e., the deceptiveness in claims in which the attribute sounds verifiable and which government regulation is supposed to mitigate?

One would expect the amount of fraud for the products investigated by Kassarjian and Kassarjian to be not very high. The targeted products for substantiation under the FTC programme are antiperspirants and pet foods. A control group consists of the comparable products skin lotion and prepared foods. The goods can be characterized as low priced mass-products. I deduce the following three points.

Firstly, the amount of information requested by consumers will be rather low (Laband, 1986). For the products the learning-by-doing effect is great; losses are not substantial. For both producer and consumer an extensive use of ads is not worth the cost. Through repetitive sale, the amount of fraud will soon be brought to a minimum.

Secondly, claims that could have been scientifically verified but for which no evidence is presented will not be very numerous. The goods are so-called "experience" goods for which quality claims are not as essential as for "search" goods. For experience goods quality can be experienced only after the product has been bought. For search goods quality can be discovered and tested before the good is actually bought.

Thirdly, most of the claims will be inherently verifiable or a sheer hyperbole. To reach the consumers nation-wide, the lowest common denominator will be necessary. Advertising will be rather simple and universal. It is to be expected that the number of potentially deceptive claims (claims that sound verifiable in laboratory or survey) will be low.

Consequently the decline in number of claims in which the

attribute sounds verifiable, as it happened under the FTC substantiation programme, will probably be a real loss in valuable informative claims. This given the fact that it will not be fraud that declines. The hard-core of claims in which the attribute sounds verifiable is reduced.

HYPOTHESES AND FACTS

I state Kassarjian and Kassarjian's hypotheses followed by my own hypotheses as I deduce them from the alternative theory.

Hypothesis 1: Number of Attribute Claims Made

Kassarjian and Kassarjian's first hypothesis is that "the number of claims made in 1976 advertisements would be less than those made in 1970, and would once more increase in 1984. The effect would be more pronounced in those industries that were required to provide substantiation then in similar, but non-targeted industries" (pp. 271—272). Kassarjian and Kassarjian come to the hypothesis on the basis of the increasing costs for producers to substantiate a certain claim, e.g., as the result of the negative news in cases of an investigation by the FTC. The relevant cost-benefit ratio changes.

The hypothesized U-shaped curve for the number of claims, however, did not emerge. Except for pet foods, the number of claims did not decrease between 1970 and 1976. However, the long run effects of regulatory activity was that advertisers made fewer claims.

What hypothesis follows from the alternative theory? I distinguish between the short and long term. Since advertising is a necessary part of competition and cannot be dispensed of, producers will in the short term, for the same cost-benefit reason as given by Kassarjian and Kassarjian, substitute less for more effective claims of advertising (Ehrlich & Fisher, 1982). Less effective should be interpreted as less demanded by consumers, e.g., less eye-catching for the consumers and therefore less attractive for the producers. In the short term the total number of claims will therefore be about the same.

In the long term, producers will resort to other means of conveying this type of claim, e.g., sales talks or product demonstrations in shops. Consumers might revert to a form of mouth-to-mouth adver-

tising, given the fact that the sort of information lost by the reduction in claims in which the attribute sounds verifiable is still demanded by consumers. In the end the total number of claims will go down.

The long term negative trend in the number of claims is reinforced by the following circumstances. Firstly, if the number of claims drops, competition will slow down. Consequently, in the long term, fewer new product improvements and corresponding claims will be made.

Secondly, because research has to be done, "scientific" advertising is costly. As there is always the possibility that regulation will come back, research investments become more risky. The length of time a producer can profit from them will become shorter. Even if regulation stops, the entry barrier for "scientific" advertising will be greater.

The second circumstance also contains a reason why, in the short term, the number of scientific claims will stay the same, even rise modestly in the non-targeted industries. There are still gains to be made. Research costs are already made, they are sunk costs (Kessides, 1986). It is to be expected that the marginal returns for "scientific" advertising in the non-monitored goods increase. Some consumers are not aware which goods are monitored and which are not. We could call this the "bandwagon-effect" for the non-monitored goods. Consequently the amount of (effective) fraud may remain the same or even rise. For producers who want to deceive, though the costs are higher, also the gains at stake do rise; consumers, who will believe that there is no fraud any more, now that the government has taken care of it, will be less alert of existing fraud.

The alternative hypothesis is: The number of claims made in 1976 advertisements will be more or less the same as those made in 1970, and would *decline* in 1984. For the non-targeted industries even a slight *rise* in the number of claims made in 1976 can be expected.

Except for pet foods (the only good that confirmed Kassarjian and Kassarjian's hypothesis), my hypothesis is better confirmed by the facts. Maybe for pet foods the costs of substitution of "scientific" information by the other two types of claims were too high (the returns too low).

Hypothesis 2: Verification of Claims

The second hypothesis of the Kassarjian and Kassarjian paper,

presented by them as a three way split is as follows: "Industries from which substantiation was demanded would have handled verification of claims in one of two extreme ways: either by providing inherent verifiability and verifying evidence, or, at the other extreme, by making non-verifiable vague claims or puffery. It was assumed that by 1984 after the cessation of regulatory activity, the trends would reverse" (p. 272).

As described in the foregoing section such results are to be expected and are not different for my opposing theory: a U-shaped curve for claims that sound verifiable and inverse U-shaped curves for the inherently verifiable claims and puffery.

What differs, however, is the interpretation of the hypothesis. What in Kassarjian and Kassarjian's theory is a favourable development, the decline in "claims that sound verifiable but in which the evidence [is] not presented and undoubtedly not available" (p. 281), is in the opposing theory a real loss in valuable information claims.

The facts confirm the hypothesis better than Kassarjian and Kassarjian assume. Most of the exceptions can be explained by a peculiarity of Kassarjian and Kassarjian's presentation of the facts.

Because the number of claims are given as a percentage, as opposed to what Kassarjian and Kassarjian assert (pp. 277 and 282—283), no straightforward conclusions about causality can be made. For instance, if in the case of two types of claim, which sum up to one hundred percent, one of the claims goes up in absolute number while the other remains the same, then as a percentage, the second claim will go down. But this last phenomenon has nothing to do with causality. Two exceptions to the hypothesis can be explained as having its source in the arithmetic "trap."

1. Contrary to the percentage rise, antiperspirants claims in which evidence is presented in ad or which are inherently verifiable go down in absolute number — a fact that confirms the hypothesis. The effect happens because the total number of claims, on the basis of which the higher percentage is calculated, sharply declines between 1976 and 1984.

2. Contrary to what was expected the percentages of puffery claims of skin lotions and prepared foods rose between 1976 and 1984. In absolute number, however, they went down. This can be explained, again, by the overall decline in number of claims.

The contradictions between the hypotheses and the facts are not

real. The hypotheses are even better corroborated by the facts than the authors imagined.

Hypothesis 3: Number of Informational Cues

Kassarjian and Kassarjian's third hypothesis is "Advertising within industries from which substantiation was requested would provide a lower level of informational cues in 1976 than they had in 1970. By 1984 the number of information cues would again rise. Further, in 1976 these ads would be less informative than advertisements from industries without substantiation orders" (p. 273).

The facts confirm part of the hypothesis. By 1976 "the targeted industries were giving less information to consumers . . . while the non-targeted industries were providing significantly more information." By 1984 "[a]ntiperspirants and skin lotions had significantly fewer informational claims than in 1976, while pet and people food remained more or less the same . . ." (p. 282).

Following the total reduction in claims (Hypothesis 1) the number of informational cues will decline, too. A cue, however, is not the same as a claim; it stands to a claim as a genus to a species. In an earlier paper, Healey and Kassarjian (1983) found less claims than cues. A claim is a statement or assertion about an attribute describing what the advertised product is or does. For instance, for antiperspirants the product attributes mentioned are wetness control, odour control, comfort (ease of use), ingredients, etc. A cue, on the other hand, says something about the level of informativeness of the advertisement. The cues, i.e., the evaluative criteria, are the factors that could potentially be used in intelligent decision making. We can think of price, value, quality, and performance.

There is, however, a difference between a cue and a claim that is of importance to the interpretation of the decline in the number of informational cues in the alternative theory. From the perspective of competition an essential informative characteristic of advertising is to let people know that the product is there. The consumer has to see that there is a product before the product in a certain sense even exists. This informational claim, however, is not counted as an informational cue by Kassarjian and Kassarjian. So, when through regulation "scientific" claims are substituted by inherently verifiable claims or vague claims, the change often will be from an informa-

tional cue to a claim which just states that there is a product and which is not counted as an informational cue. Consequently the decline in level of informativeness will be more nominal then real.

The alternative hypothesis is: The number of informational cues will decline between 1970 and 1976, a trend which will be sustained in the long run. The facts given by Kassarjian and Kassarjian confirm the hypothesis.

TWO FINAL REMARKS

To conclude:

In the alternative theory, the effect of government regulation is the opposite of what Kassarjian and Kassarjian assert. The situation without government intervention is optimal. Consumers are getting and producers are supplying the quality of advertising that is demanded. Advertising has nothing to do with fraud or deceptiveness but is a matter of attractiveness. Attractiveness is essential for the competitive market process.

To say the least, the whole issue is tricky. Every set of facts can be explained, especially after they are known to us, by different, even opposing, theories. On the other hand, facts can never prove a theory, they can only falsify it. What remains are two opposing theories that both explain the same facts.

REFERENCES

Ehrlich, I., & Fisher, L. (1982). The derived demand for advertising: A theoretical and empirical investigation. *American Economic Review, 72*, 366—388.

Ekelund, R. B., & Saurman, D. S. (1988). *Advertising and the market process.* San Francisco: Pacific Research Institute for Public Policy.

Healey, J. S., & Kassarjian, H. H. (1983). Advertising substantiation and advertiser response: A content analysis of magazine advertisements. *Journal of Marketing, 47* (Winter), 107—117.

Kassarjian, H. H., & Kassarjian, W. M. (1988). The impact of regulation on advertising, *Journal of Consumer Policy, 11*, 269—285.

Kessides, I. N. (1986). Advertising, sunk costs, and barriers to entry. *Review of Economics and Statistics, 68*, 84—95.

Kirzner, I. M. (1973). *Competition and entrepreneurship*, Chicago: University of Chicago Press.

Laband, D. L. (1986). Advertising as information: An empirical note. *Review of Economics and Statistics, 68*, 517—521.

Nelson, P. (1970). Information and consumer behavior. *Journal of Political Economy, 78*, 311—329.

Nelson, P. (1974). Advertising as information. *Journal of Political Economy, 81,* 729—754.
Stigler, G. (1961). The economics of information. *Journal of Political Economy, 69,* 213—215.

ZUSAMMENFASSUNG

Staaliche Regulierung der Werbung: gut oder schlecht? Ein Kommentar zum Beitrag von Kassarjian und Kassarjian in JCP, Band 11, September 1988. Kassarjian und Kassarjian untersuchen in ihrem Beitrag die Wirkung von staalicher Regulierung auf die Qualität von Werbeaussagen, insbesondere was das Ausmaß an Irreführung betrifft. Die Autoren stellen drei Hypothesen auf, die durch die präsentierten Daten teilweise bestätigt werden. Insgesamt ziehen die Autoren die Schlußfolgerung, daß staatliche Regulierung ziemlich erfolgreich war. Der Autor dieses Kommentars bewertet nun dieselben Daten anders und präsentiert für sie eine alternative Erklärung. Der Unterschied zwischen den beiden Erklärungen ergibt sich daraus, daß seine Erklärung sich aus einer Theorie ableitet, die der implizierten Theorie von Kassarjian und Kassarjian genau entgegengesetzt ist. Nach seiner Theorie ist die Situation ohne staatliche Eingriffsmöglichkeiten optimal. Konsumenten bekommen und Anbieter liefern diejenige Qualität der Werbung, die nachgefragt wird. Werbung ist eine Sache der Attrativität und Gegenstand eines wettbewerblichen Marktprozesses. Nach dieser Theorie können die Erfolge staatlicher Interventionen ausschließlich negativ, d.h. ineffizient, sein und nicht, wie Kassarjian und Kassarjian geltend machen, negativ oder positiv oder irgendwo dazwischen.

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Reply

The authors of the original article, Harold H. Kassarjian and Waltraud M. Kassarjian, have sent the following reply:

"As much as we would like to present a rejoinder, we simply feel that there is nothing much to add. Every set of facts can be explained by different, even opposing, theories. Our data stand as they were presented. We have one interpretation, the author proffers another. It is up to the reader to decide which one of us is correct."

Part III. THE AUSTRIAN PERSPECTIVE ON CONSUMER POLICY

Chapter 10. Does it exist and can we use it: competition among consumers?

Chapter 10 was originally published in *Archives of Economic History, Vol. IX,* No 1-2, 1998. The paper was presented at the Austrian Colloquim, New York University, New York, USA, October 1996. The paper was also presented at the Austrian Scholars Conference, Ludwig von Mises Institute, Auburn, Alabama (USA), April 4-5, 1997.

DOES IT EXIST AND CAN WE USE IT: COMPETITION AMONG CONSUMERS?
(Pricing a real novelty: the Austrian point of view)

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> *The attainment of those initial sales is often the hardest part of marketing a new innovation... One of the most important strategic goals of pricing, especially when the product is innovative, is to obtain trial (Nagle 1987, p. 139 and p. 196).*

I. Introduction

You do not doubt there's competition among producers. But among consumers? And with competition I mean what it once meant in economic science and still means in everyday language: active rivalry. Of course when you -as a consumer- look in the mirror you see things you do and don't like. And, maybe, one of the things you don't like, is that urge in you to keep up with the Joneses. That's rivalry for sure. And then there's the way you behave when you buy you weekly groceries: you try to get in the shortest line with your shopping cart. That's rivalry too.

The first form of rivarly is well known. It's studied by the sociologist and one of the principles of marketing. Doesn't advertising heighten conspicuous consumption? The second form is, since the days of Adam Smith, studied by the economist: the laws of supply and demand. If there's a shortage, you did up the prices -or what ever it takes to compete: a quick move with your shopping cart for instance.

That second form of rivalry -is it still active today? I want to look at ec-

onomics: the market process, not sociology: the behavior of conspicuous consumers. Except for my shopping cart behavior every Thursday, and when buying or selling a house once or twice in my life, I nearly never feel that I have to compete. There's enough for everyone; the producer competes (Udell 1964, p. 45; Dickson 1992, p. 71; Hunt and Morgan 1995, p. 8).

But then so what if there is or isn't competition among consumers? First, suppose there isn't. Is, in the modern market, competition one-sided? First, suppose there isn't. Is, in the modern market, competition one-sided? Do, as a rule, only producers compete? Second, suppose there is competition among consumers. If we know the why and is thereof, maybe we can use it in marketing too. Are you -as a producer- using competition among consumers?

II. Free entry: the why and is of competition among producers

Let's start at the beginning. Why is competition a problem among consumers but isn't among producers? For the producer the question isn't difficult to answer -if he doesn't, he's out of business in no time. He offers a product that competes with others. Something we can see and is independent of the market situation. A shortage, a surplus, or an equilibrium - the producer competes. To sell a product in a world of scarcity and change it has to be the best.

And if there's free entry, the why implies the is of competition. A condition Smith was already aware off. "The exclusive privileges of corporations, statutes of apprenticeship, and all those laws which restrain, in particular employments, the competition to a smaller number than might otherwise go into them, have the same tendency, though in a less degree. They are a sort enlarged monopolies..." (Smith [1776] (1974), p. 164).

I give another answer. It isn't based on something we can see, but on a deduction from a self-evidence- man act: we try to improve our situation. What's otherwise the use of acting? We search for new ends and means - the entrepreneurial element in human action. The self-evidence is the fundamental axiom of the Austrian School of economic thought. But "[e]ntrepreneurial activity from being competitive? Israel Kirzner says, "is always competitive and ... competitive activity is always entrepreneurial"

(Kinzer 1973 p. 94). For what would stop entreprenewrial activity from being competitive? "Competition ... is at least potentially present so long as there exist no arbitary *impediments to entry*. So long as others are free to offer the most attractive opportunities they are aware of, no one is free from both the urge and the need to compete" (Kirzner 1973 p. 97). And if a competitor seeks to outdistance his rivals this means transcending, entrepreneurially, a given ends-means relation.

III. Competition among consumers: the why not

But competition among consumers isn't that obvious. the billboards on Times Square show the consumer as a sovereign king, way above all down-to-earth competition. To speak of a chocolate or steel king, however, is misleading. For the producer, pride comes before a fall. The producer competes, the consumer chooses. Serving-the-customer is a basic normative idea of our society.

In other words, if the consumer doesn't compete, he isn't out of "business" in no time. "[T]he masterful housewife," as Wesley Mitchell said, "cannot win away the husbands of slack managers as the masterful merchant can win away the customers of the less able" (Mitchell 1912, p. 274). The Amish in Pennsylvania, who are living the way their ancestors did, are still alive. The producer has to please someone else, the consumer only himself. If no one may steal a march on me, free entry is absent.

What's the answer of the Austrians-making, again, a deduction from a self-evidence? Aren't their central ideas: discovery, entrepreneurship, and alertness? Ideas bound up with competition. And didn't the older Austrians put the consumer instead of the producer at the center of their theory? Value was no longer governed by past resource costs but by judgements concerning future usefulness in meeting consumer wants.

Acting implies -as we saw- entrepreneurship: choosing ends and means. But the ends and means aren't given, they have to be discovered. Being human, however, both producer and cosnumer err. Choosing implies making errors. An error isn't always a calculation mistake, solved with better calculation. Either is it always the result of a lack of knowledge, solved with knowledge that exists and we can search for. There's

also the possibility of a entrepreneurial error: an opportunity-costlessly available- is overlooked. We don't see the ten-dollar bill laying in front of us-for free. And it's the correction of these errors that interests the Austrians. Errors solved with the entrepreneurial element in each of us: alertness. Alertness is "the propensity ... toward fresh goals and the discovery of hitherto unknown resources" (Kirzner 1973, p. 34).

But now the Austrians have the same problem. Thought the consumer discovers, errs, and is alert the quetion still is: Why should he do this rivalrously? The answer isn't as obvious as it was for the producer. There are differences in free entry. In theory the producer can fulfil his entrepreneurial role without any means. He acts in between two markets: a buying and a selling market. Pure arbitrage is possible. Entry is free; rivalry is fierce. The consumer, on the other hand, acts in a buying market only. He has to possess means, entry isn't free.

IV. Competition among consumers: the why

Let's not give up our discussion of the market. There's rivarly when a consumer looks over his shoulder. He wants to know what opportunities others are about to embrace in order to embrace an at least as attractive one. Discovery and adjustment are two-fold. It is explicit rivalrous behavior: I try to steal a march on my fellow consumers. But it also includes - as is said for the producer- various, hardly secondary, degrees of cooperation and copycat behavior. "[I]mitation can be an extremely entrepreneurial act, particularly if it entails the opening of new markets for the innovative product" (Baumol 1993, p. 157; cp. Hunt and Morgan 1995, p. 8). "I remember him [Sam Walton, the founder of Wal-Mart] saying over and over again: go in and check our competition... If you get one good idea, that's more than you went into the store with, and we must try to incorporate it into our company" (Walton 1993, p. 81). Why does this count for the consumer as well?

Firts, if I look at what others do, and at least not make a worse offer, I increase my chances to gain. I use the knowledge of others and gain by buying what everyone else does, through lower prices, a greater efficiency.

Second, I am not only hopeful of the gains I get if I imitate, but, just as

important, fearful of the losses if I don't. Suppose I stick to my consumption pattern. Consumption patterns, however, change. Heating is no longer done by coal but by gas. Getting coal becomes difficult and expensive.

Third, I feel a certain urge to watch others. If I don't, the gains are lower: I will give up potential utility. Still not to use a washer is an example.

Consumers cooperate and imitate. If you want to survive, you have, if not to set, at least to confirm a trend. Trends, fashions, and fads are the expressions of a competitive error-solving process. They are the work of the producer as well as of the consumer. In disequilibrium, imitation can be a way to discover opportunities. The risk, the cost, of doing everything on one's own may be too great. For the producer, "imitation may by able to achieve a given increase in productivity far more cheaply, in terms of real resources consumed in the process, than can be done by innovative effort" (Baumol 1993, p. 165). For the consumer, imitation replaces single high-cost consumers by groups of low-cost consumer. Consumers join together into retail cooperatives or different competing trends.

Competition isn't a contest with one winer. Less successful consumers aren't eliminated; they are removed to a more modest place. Competition among consumers is niche competition. There's a place for everyone-even for the Amish. Niche competition, Lester Thurow says, is win-win. Competiton among consumers in the old days and the exception I noted in these days are forms of head-to head competition. "Head-to head competition is never win-win, at best it is win-lose, and everyone can see it as potentially lose-lose" (Thurow 1992, p. 58).

V. Disequilibrium: the is of competition among consumers

Now we know why consumers compete. They do it because they make errors, and try to correct them-disequilibrium phenomena. A disequilibrium points to market ignorance. From the ignorance emerge profitable opportunities competitive-entrepreneurial alertness exploits (Kirzner 1979, p. 30). All that's necessary to let this happen, is that we live in a disequilibrium: a world of change. Which of course we do. So the why and is of competition among consumers are the same. There's competition at all times and places. Competition among consumers isn't bound up with a

shortage. Just as competition among producers isn't with a surplus.

What about free entry? Is there no role for it here as there was for it in competition among producers? Sociologically and psychologically there are costs to change a consumption pattern. I am not looking, however, for a change in prefernces. What Veblen describes can of course -as I did in the beginning- be called competition but it doesn't fit in here, it's sociology. Likewise Robinson Crusoe had to be competitive. Competitive he had to be towards his own ideas. Ideas competing for recognition (Dewey 1933, p. 103). But that's phychology and not my interest either. Nor, assuming stable preferences, I am looking for a change in relative prices or in income that could explain a change in consumption. I am looking for a competitive market process set in motion by unexploited opportunities. So again: What about free entry?

It all depends on how one looks at it. Though for the producer entry is free for pure arbitrage it isn't for imitaiton. For the producer imitation is stifled by patent protection-patent litigaitons enough. A protection that's unknown to the consumer. The producer has an advantage in arbitrage, equalizing prices, the consumer in imitation, equalizing utilities.

VI. The marketing mix

Indeed the end of the bidding up of prices by consumers since the days of Smith is one thing. But as long as they make entreprieneurial errors they compete when they try to solve them. The question is: if there are entrepreneurial errors and consumers try to solve them competitively, how to use this for pricing?

Why pricing? Because of all the P's of marketing, pricing is less thought of from the point of view of competition among consumers. A producer prices a product from as little as possible to whatever the traffic will bear. He thinks about costs, competitors, and -in modern marketing- especially customers. Product, place and promotion, however, don't only put the customer first, but use competition too. Not only, just as pricing does, do they use competition among producers. Aren't there cooperative, adaptive, opportunistic, and predatory prices (Nagle 1987, p. 86)? But they also use competition among consumers. They use the first form

of rivarly, I noted in the beginning: to keep up with the Joneses. And they try to stimulate the consumer's entrepreneurial alertness. "*The advertiser* [for istance] *has, as it were, injected a pleasant surprise into the world of the consumer.* The consumer finds that his world, his range of options, is a little richer than he dared anticipate" (Kirzner 1988, p. xx).

Price, in the 1970s, was the last P to include the consumer: his price sensitivity (Nagle 1987, p. xi; cp. Monroe 1990, p. 368). The emphasis, however, still is on the price-sensitive consumer per se: his entrepreneurial alertness -not on his competitive- entrepreneurial alertness. The reasons is probably the one I started with. Today, competition among consumers -the bidding up of prices- in dormant. So, if it doesn't exist, and there's nothing else to replace it, what's there to be used?

To put it differently. Pricing tries to harvest the value the other P's sow the seeds of (Nagle 1987, p. 1). "[P]rofits, not just sales, ...[are] the objective" (Hunt and Morgan 1995, p. 11). We know, however, that a price creates value too. A high price can fill status needs. But there's another way to create value-use the competitive-entrepreneurial consumer. Price can be used as an instrument of communication. It brings to the attention: it creates value for competing consumers. Then price doesn't only harvest but sows the entrepreneurial process too. It induces immediate overt behavior by strengthening the announcement of the offer (cp. Waterschoot and Bulte 1992, p. 89).

VII. Pricing a real novelty

I look at the introduction of an innovative new product - a real novelty. Something that's a potential mass product. How to price if there isn't a market yet? That's where entrepreneurial consumers come in. Then the consumer's entrepreneurship, the discovery of new means and ends, is paramount. The product has to be discovered, information diffused. The producer needs all the help he can get. Just as in the days of Smith, he can use competing buyers. Then it couldn't hurt, either, to bring the buyers together and organize the bidding.

Pricing a new product is one of the most difficult pricing problems. "The newer the product, the greater the uncertainty associated with the

important, fearful of the losses if I don't. Suppose I stick to my consumption pattern. Consumption patterns, however, change. Heating is no longer done by coal but by gas. Getting coal becomes difficult and expensive.

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everyone considers you a leader, a trend-setter, the surest way to keep that position is to play monkey. The best strategy is to follow the trend once it's adopted by the majority. In their eyes you can't loose. So, again, in economic competition the winner doesn't take it all. There's a place for everyone-even for the imitating trend-setter. Our problem becomes: If the innovators some-times, somehow don't lead, but imitate the imitators, how to reach the imitators - your future mass market?

Finally, the third strategy, to set a neutral price, doesn't look that great either. It's a passive strategy. It's one you use because of the default of the other more activist ones. And it's a negative strategy. It's the surrender of price to the other P's (Nagle 1987, p. 120). Still, it's the strategy I propose. However, I add some promotional pricing. Something that makes it the better world of the other two. The emphasis on and the sharp dichotomy between a skimming and a penetration price -as is used in the marketing literature (Dean 1976, p. 147; Kotler 1964, p. 44; Monroe 1990, p. 292)- clarifies. But not without a cost.

VIII. The rule of competitive-entrepreneurial pricing

When you want to use competing consumers, what price tactic to add to that neutral price? In other words, if the utter ignorance of means and ends creates entrepreneurial errors, how to use them for pricing? I give the rule of competitive-entrepreneurial pricing.

A competing consumer is error-solving. He's alert to price signals and watches others. By doing that and at least not to offer a worse bid he increases his chances to gain and minimizes those to lose. The producer can use this. For the producer the trick is to make it look as if the price signals a trend. For this, a simple sweepstake will do. The tactic might be to give a gift to every one hundredth who orders with a certain mailorder house, buying a product hitherto not sold by post. Or, to give a lottery ticket to every buyer who books a trip to a new destination with a certain travel agency. These tactics simply suggest that the buyer - isn't alone. He's riding a trend: solving an error. This is the rule of competitive-entrepreneurial pricing.

It's essential not to give the gift to everyone. Give it every one hun-

dredth buyer, or -if it's a prize- make the chance to win one out of thousand. Otherwise it looks, at worse, as an ordinary cut in prices, valid for everyone-without any suggestion of a trend, at best, as the tactic of selling a new product with a gift of known value. The last, indeed, helps selling the first. You're speeding-up the discovery process. Just as you speed-up the consumer's economizing process by making the sale for a limited period or as long as supply lasts. It's better, however, to compare the rule with pricing a known product below the equilibrium price. The resulting signs of a shortage: waiting lines, delays in delivery, and the ticket scalper signal a trend too-not, however, of an unknown bu of a known product.

Why settle on the neutral price? It signals the right value. A skimming price, almost by definition, would be contradiction. First, the happy few aren't interested in vulgar lotteries for the many. Second, the innovators aren't generally a random sample of buyers (Nagle 1987, p. 139). A lottery, however, picks the winners at random. They innovators know that. So, it has little appeal to them. And a penetration price isn't necessary. For the consumer the gains are still pure discovery gains. Gains to be compared with the old way of spending. They aren't to be mixed up with the gains by economizing that are possible later on. Try to ride the trend. Don't throw money away by cutting prices.

IX. How the goevernment stifles entreprineurial pricing

In pricing, next to costs, competitors, and customers there's of course the law. This doesn't seem to be a problem. Isn't, at least since the signing of the Sherman Act in 1890, the government one of the staunch defenders of competition? But though we all know of her trying to improve with anti-trust policy competition among producers, we never hear of her doing the same for competition amongs consumers. In general the latter is thought to be taken care of, first, by the sheer number of buyers: there are many. Second, by a policy to create a more equal distribution of income. Just as on the producer's side of the market, big firms, oligopolies, are suspect, so too on the consumer's side, the big spenders, the wealthy oligarchy. But there's more. There are the specific regulations of the Federal Trade Commissions (FTC). Unfair or deceptive prices are forbidden

(Monroe 1990, pp. 405-406). The producer must be able to compete; attempts to manipulate the competitive structure are forbidden. The consumer must be able to express his wishes; he isn't to be misled.

For the FTC the rule of competitive-entrepreneurial pricing looks deceptive. So it ought -at least potentially- to be banned. By a gift, you lure the consumer to buy a good who's value is unknown to him. And will, indeed the future price -the one without the gift- be unchanged? A gift, to make it worse, only a few will have. It seems the buyer is misled. That, however, can't be. It aren't calculation or knowledge errors we're talking about. Then, indeed, you can lower the consumer's price sensitivity when you make comparison with competing offers difficult. The producer, for instance, uses calculation problems by pricing his eau de toilette 1.25 oz $17 instead of, as his competitor does, 1.50 oz. $20. And doesn't he use knowledge problems by pricing his firtilizer the same as his competitor? Claiming, however, that his fertilizer lasts twice as long. But does it (Nagle 1987, p. 61-62)?

Here, however, it's new ends and means we are talking about. That's what the market is trying to find out. We aren't talking of products that are known and have substitutes, products which aren't that new (Tellis 1986, p. 151-2). The regulations of the FTC stifle the discovery process. A process set in motion by competitive-entrepreneurial pricing.

X. Conclusion

The good news is that on pricing a real novelty you don't walk alone. Indeed, you have to start from scratch, but you can use competition among consumers in sprending the news. Of course you are serving the customer, but that doesn't mean he can't help you to deliver the message. Where trends are conceived, consumers compete. They discover -create- the market for you. Trends aren't sold by competing producers, they are bought by competing consumers.

How do you do it? By passively relying on word-of-mouth recommendation? No, you can take the steer: You let the consumer know that he, too, isn't walking alone. Give him a lottery ticket when he buys your product. Now he knows, there's a chance he'll be a winner out of say-

indeed-thousand other buyers. Then you give him value for money even before uses your product.

Competition among consumers doesn't only help the producer. It helps the consumer to compete: to correct errors, too. Just as competition among producers helps the producer. "[I]f our story," Walton says in his autobiography, "doesn't prove anything else about the free market system, it erases any doubt that spirited competitions is good for business - not just customers, but the companies which have to compete with one another too. Our competitors have honed and sharpened us to an edge we wouldn't have without them" (1993, p. 242).

The government has nothing to do with this tactic. It can't be deceptive. There's, simply, nothing to be deceptive of yet. You help the consumer to discover new ends and means. To ban it the government stifles the discovery process the market is. In pricing new goods the government isn't the solution to spreading information the consumer might value. She's -again- part of the problem: holding him ignorant.

REFERENCES

Baumol, William J. *Entrepreneurship, Management, and the Structure of Payoffs.* Cambridge: The MIT Press, 1993.

Dean, Joel. "Pricing Policies for New Products", *Harvard Business Review*, 54 (November - December), 1976, 141-53. A reprint from: *Harvard Business Review*, 18 (November), 1950, 45-56.

Dewey, John. *How we think.* Lexington, Mass.: D.C. Heath, 1933.

Dickson, Peter Reid. "Toward a General Theory of Competitive Rationality," *Journal of Marketing*, 56 (January), 1992, 69-83.

Dixit, Avinash K. and Barry J. Nalebuff. *Thinking Strategically.* New York: W.W. Norton, 1991.

Gabor, André. *Pricing, Principles and Practices.* London: Heinemann, 1977.

Hunt, Sheldy D. and Robert M. Morgan. "The Comparative Advantage Theory of Competition", *Journal of Marketing*, 59 (April), 1995, 1-15.

Kirzner, Israel M. *Competition and Entrepreneurship.* Chicago: University of Chicago Press, 1973.

Kirzner, Israel M. *Perception, Opportunity, and Profit.* Chicago: University of Chicago Press, 1979.

Kirzner, Israel M. "Foreword," in: *Advertising and the Market Process.* By Robert B. Ekelund and David S. Saurman. San Francisco: Pacific Research Institute For Public Policy, 1988.

Kotler, Philip. "Marketing Mix Decisions for New Products", *Journal of Marketing Research* (February), 1964, 43-9.

Mitchell, Wesley C. "The Backward Art of Spending Money", *American Economic Review*, 1912, 269-81.

Monroe, Kent B. *Pricing, Making Profitable Decisions.* New York: Mc Graw-Hill, 1990.

Nagle, Thomas T. *The Strategy and Tactics of Pricing.* Englewood Cliffs, N.J.: Prentice-Hall, 1987.

Oxenfeldt, Alfred R. *Pricing Strategies.* New York: AMACOM, 1975.

Smith, Adam. *The Wealth of Nations.* Harmondsworth: Penguin Books, (1776), 1974.

Tellis, Gerard J. "Beyond the Many Faces of Price: An Integration of Pricing Strategies," *Journal of Marketing,* 50 (October), 1986, 146-60.

Thurow, Lester. *Head to Head.* New York: William Morrow, 1992.

Udell, Jon G. "How Important is Pricing in Competitive Strategy?" *Journal of Marketing* 28 (January), 1964, 44-8.

Walton, Sam. *Sam Walton: Made in America.* New York: Bantam Books, 1993.

Waterschoot, Walter van and Christophe Van den Bulte. "The 4P Classificaiton of the Marketing Mix Revisited", *Journal of Marketing,* 56 (October), 1992, 83-93.

Part III. THE AUSTRIAN PERSPECTIVE ON CONSUMER POLICY

Chapter 11. Produktaansprakelijkheid

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4
Produktaansprakelijkheid

4.1 Inleiding

Onderwerpbepaling

Eind jaren '60 werd een Amsterdamse huisvrouw verwond door een flesje tomatenketchup. Enkele weken nadat zij een flesje van het merk Heinz had aangeschaft, spatte het flesje uit elkaar toen zij het op volstrekt normale wijze wilde openen. De vrouw, die een bril droeg, kreeg een groot aantal scherven in haar linkeroog. Zij sprak de fabrikant aan om schadevergoeding, maar had daarbij weinig succes.

Een ander geval betrof een lekkende beddekruik. Een baby werd kort na de geboorte door de kraamverzorgster in een met een kruik verwarmde wieg gelegd. Toen de baby ongewoon hard ging huilen, inspecteerde de kraamverzorgster de wieg en ontdekte dat de kruik niet goed sloot. Heet water was uit de kruik in de wieg gelekt. De baby werd met brandwonden naar het ziekenhuis gebracht. De fabrikant Jumbo die de kruik had gemaakt, moest zich verweren in een proces. Rechtbank en Hof wezen de vordering af. De Hoge Raad kwam in zijn arrest echter tot een tegenovergestelde uitspraak.

Bovenstaande voorbeelden zijn met andere, soortgelijke voorbeelden aan te vullen. Als beddekruiken lekken, flessen exploderen, wie draait er dan voor de schade op: de producent, de consument, beide of de gemeenschap in haar totaliteit?

Dit hoofdstuk gaat dus over produktaansprakelijkheid. De bedoeling is een economische analyse te geven van het produktaansprakelijkheidsrecht.[1]

We spreken van produktaansprakelijkheid als we een producent aansprakelijk willen stellen voor de schade die voortvloeit uit de omstandigheid dat hij een ondeugdelijk produkt op de markt heeft

1. Te zamen met het in hoofdstuk 2 aangehaalde artikel van Coase uit 1960 vormt een artikel van Calabresi over de onrechtmatige daad het startpunt van de "new law and economics" (Guido Calabresi, "Some Thoughts on Risk Distribution and the Law of Torts", *Yale Law Journal*, volume 70, maart 1961).

gebracht. Wij laten hierbij de contractuele aansprakelijkheid van de leverancier - de tussenpersoon van wie het slachtoffer een produkt geleverd kreeg - buiten beschouwing. Het bestaan van een directe contractuele band tussen slachtoffer en producent was lange tijd een noodzakelijke voorwaarde wilde er überhaupt van het bestaan van aansprakelijkheid van de producent sprake zijn.

Belang van het onderwerp

Het onderwerp produktaansprakelijkheid heeft zich in Nederland in de afgelopen jaren in de nodige belangstelling mogen verheugen. Reden voor deze belangstelling was naast de gegroeide onvrede met het systeem van produktaansprakelijkheid zoals dat tot voor kort in Nederland in zwang was, de in 1985 vastgestelde richtlijn van de Europese Gemeenschap over de harmonisatie van het produktaansprakelijkheidsrecht binnen de Gemeenschap. We lichten de twee genoemde redenen nader toe.

Voor de jurist zijn de twee grootste euvels van het tot voor kort vigerende aansprakelijkheidssysteem enerzijds de enorme administratieve kosten verbonden aan de werking van het systeem (zoals de proceskosten) en anderzijds het niet-compenseren van het slachtoffer bij het ontbreken van schuld van de producent. De gebrekkige bescherming van de consument vormde voor de Europese Gemeenschap een van de redenen om het produktaansprakelijkheidssysteem nader onder de loep te nemen. Uiterlijk op 30 juli 1988 diende er op grond van de EG-richtlijn een nieuwe, wettelijke regeling met betrekking tot produktaansprakelijkheid tot stand te zijn gebracht.

Naast de bescherming van de consument is voor de Europese Gemeenschap het harmonisatie-aspect van belang. De Europese Gemeenschap streeft ernaar in 1992 één gemeenschappelijke markt tot stand te hebben gebracht. Onder een gemeenschappelijke markt wordt verstaan een vrij verkeer van goederen, personen, diensten en kapitaal. De verschillende produktaansprakelijkheidssystemen in de diverse lidstaten werken concurrentievervalsend en vormen een belemmering voor het vrije goederenverkeer. De bedoelde concurrentievervalsing treedt op doordat de kostenfactoren - door de verschillen in produktaansprakelijkheidsregels - niet in alle lidstaten even zwaar wegen. Op de laatst genoemde reden van de Europese Gemeenschap zal in dit hoofdstuk niet nader worden ingegaan.

Paragraafindeling

Zoals al is aangegeven, is het doel van dit hoofdstuk het geven van een economische analyse van (de ontwikkeling in) het produktaansprakelijkheidsrecht. De opbouw van het hoofdstuk is als volgt. In **paragraaf 4.2** wordt een aantal begrippen geïntroduceerd en toegelicht. Het gaat daarbij allereerst om de twee stelsels van produktaansprakelijkheid,

schuld- en risico-aansprakelijkheid, die in dit hoofdstuk op hun efficiëntie worden geanalyseerd. Vervolgens gaan wij nader in op de soorten kosten - alsmede hun onderlinge relatie - verbonden aan de preventie en de compensatie van schade. In **paragraaf 4.3** beschrijven wij de onderscheiden benaderingen van jurist en econoom van het rechtsinstituut produktaansprakelijkheid. In **paragraaf 4.4** schetsen wij - allereerst onder een tweetal stringente veronderstellingen - de efficiënte regeling van produktaansprakelijkheid. De gemaakte veronderstellingen, het bestaan van risico-neutraliteit en het ontbreken van transactiekosten, laten wij vervolgens vallen. In **paragraaf 4.5** bekijken wij, aan de hand van een voorbeeld, in hoeverre in de Nederlandse rechtspraak en de ontwikkeling daarvan een achterliggende economische logica te herkennen valt. **Paragraaf 4.6** geeft een samenvatting van het behandelde.

4.2 Begripsbepaling

Op grond van de EG-richtlijn uit 1985 zijn wij in Nederland onlangs van een systeem van schuldaansprakelijkheid overgegaan op een systeem van risico-aansprakelijkheid, waar het de aansprakelijkheid van de producent voor schade door gebrekkige en daardoor gevaarlijke produkten betreft[2]. Deze verandering lichten we in het onderstaande kort toe.

Schuldaansprakelijkheid

Het systeem in Nederland ten aanzien van produktaansprakelijkheid was tot voor kort een stelsel van **schuldaansprakelijkheid**. Onder het vigerende recht diende degene die door een gebrekkig produkt schade leed, behalve het gebrek, de schade en het oorzakelijk verband tussen beide, in beginsel ook schuld van de producent te bewijzen. Waarbij het wel zo was dat in veel gevallen de producent moest bewijzen dat hem geen verwijt trof. Zo kon Heinz de rechter overtuigen dat in het produktieproces geen fout was gemaakt. Hetgeen de beddekruikfabrikant Jumbo echter niet lukte. Dit leidde ertoe dat het slachtoffer bij het ontbreken van een foutieve gedraging van de producent niet werd gecompenseerd.

Risico-aansprakelijkheid

Met name het bewijs van schuld van de producent was onder het systeem van schuldaansprakelijkheid voor de benadeelde moeilijk te

2. Vgl. de invoering van art. 1407 a t/m j BW bij wet van 13 september 1990 (inwerkingtreding 1 november 1990), Stb. 487.

leveren. Een oplossing voor dit probleem is minder zware eisen te stellen aan de bewijslast. Als een uiterste consequentie wordt het schuldvereiste als zodanig geschrapt, wanneer het gaat om schadeclaims tegen producenten van gebrekkige produkten. Een produkt is gebrekkig, ondeugdelijk, indien het niet de veiligheid verschaft die men ervan mag verwachten.[3] We spreken dan over een systeem van schuldloze aansprakelijkheid of **risico-aansprakelijkheid.** Bepaalde personen worden dan aansprakelijk gesteld voor de schade, ongeacht of hen een verwijt treft voor het ontstaan van de schade. Deze aansprakelijkheid is gewoon een risico dat men loopt wanneer men handelend gaat optreden. Dit betekent dus dat de producent aansprakelijk kan worden gesteld voor schade veroorzaakt door een gebrekkig produkt, zonder dat de benadeelde het moeilijke bewijs van schuld van de producent behoeft te leveren.

In de Europese richtlijn is voor een systeem van risico-aansprakelijkheid gekozen. Dit systeem diende dan ook in Nederland te worden gerealiseerd. Door invoering van risico-aansprakelijkheid wordt de rechtspositie van de consument - hij behoeft het moeilijke bewijs van de schuld van de producent niet meer te leveren - sterk verbeterd.

Ongevalskosten

We bekijken de twee voorbeelden die in de inleiding gegeven zijn nader op de kostenaspecten. Het eerste dat opvalt is dat de slachtoffers door middel van een juridisch proces compensatie zochten voor de door hen geleden schade. Dat ging echter gepaard met hoge proceskosten (in het Jumbo- of lekkende-beddekruik-arrest verliep de rechtsgang via Rechtbank en Hof naar Hoge Raad). Kenmerkend is dan ook dat in het tweede voorbeeld, de lekkende beddekruik, - zulks in verband met het feit dat de Gemeente in diens rechten jegens Jumbo was gesubrogeerd - het niet het slachtoffer zelf was, maar de Gemeente Amsterdam (het ziekenfonds), die het proces aanspande. Kennelijk beschikte deze laatste over ruimere financiële middelen en een langere adem.

Vervolgens zijn er de kosten, die het bedrijf moet maken om een deugdelijk en ongevaarlijk produkt op de markt te brengen. Zo slaagde Heinz, die per jaar zo'n drie miljoen flesjes tomatenketchup produceert, er in de rechter te overtuigen dat elk van die flesjes voor het verlaten van de fabriek grondig is gecontroleerd.

Wij onderscheiden de door ongevallen in de maatschappij veroorzaakte kosten dan ook in drie categorieën, te weten kosten van het voorkómen van schade **(primaire ongevalskosten)**, kosten van het vergoeden van schade **(secundaire ongevalskosten)** en de bijko-

3. Voor een nadere juridische begripsbepaling verwijzen we naar een recent artikel van R. Dekkers in *Ars Aequi* 1987, pp. 610-620, "Het wetsvoorstel produktaansprakelijkheid."

mende kosten, zoals de genoemde proceskosten (**tertiaire ongevalskosten**).

Reductie van de ongevalskosten

In het streven naar efficiëntie - waarover in paragraaf 4.4 meer - speelt het terugdringen van de totale ongevalskosten een belangrijke rol. In de uitwerking van deze doelstelling treedt de relatie tussen de zojuist genoemde kostencategorieën op de voorgrond.

De reductie van de primaire en secundaire ongevalskosten in combinatie kan tot op zekere hoogte tegenstrijdig genoemd worden. Dit wordt duidelijk als de primaire en secundaire kosten tot hun kern, preventie en compensatie, teruggebracht worden. Een volledige compensatie, bijvoorbeeld verkregen door een volledige verzekering tegen schade, kan strijdig zijn met een op preventie gerichte verdeling van het risico over de mensen. Consument en producent kunnen in het eerste geval namelijk onvoorzichtiger gaan handelen. Voor beide dekt de volledige compensatie, verkregen door de verzekering, immers de schade. Dit is een voorbeeld van moreel risico. De kans op het ontstaan van een gebeurtenis is afhankelijk van de eigen gedragingen. Deze eigen gedragingen zijn op hun beurt afhankelijk van de vraag of iemand verzekerd is of niet (zie hoofdstuk 3).

Zoals genoemd zijn er ook de kosten die voortvloeien uit (de reductie van) de primaire en secundaire kosten. De werking en toepassing van het produktaansprakelijkheidsrecht vormen op hun beurt namelijk ook zelf weer kosten voor de maatschappij. Deze tertiaire ongevalskosten hangen af van de efficiëntie van de administratieve en juridische behandeling van de twee eerst genoemde kostensoorten. De grootte van deze tertiaire kosten is als het ware een controle van de wijze waarop primaire en secundaire kosten worden opgevangen.

Overigens kan opgemerkt worden dat in het streven naar efficiëntie de vermindering van ongevalskosten geen absolute regel is. Ongevalskosten kunnen noch moeten te allen koste vermeden worden. Sommige risico-dragende activiteiten worden immers getolereerd, omdat het nut van de betrokken aktiviteit het daaraan verbonden ongevallenrisico ver overstijgt. Wij zijn niet bereid alle autoverkeer te verbieden ook al is dat de enige zekere methode om verkeersongelukken uit te schakelen. Het komt er op aan de ongevalskosten af te wegen tegen het nut van de risico-dragende activiteit. In de economische terminologie spreekt men van de **optimalisatie van het risico**.

We kunnen deze optimalisatie van het risico als volgt illustreren. Gesteld kan worden dat geen produkt geheel ongevaarlijk is. Zo is er bijvoorbeeld bijna geen geneesmiddel zonder bijwerking. De vraag is alleen welke bijwerkingen van een bepaald geneesmiddel nog aanvaardbaar zijn. Die tolerantiegrens ligt voor de pil aanmerkelijk lager

dan voor chemotherapieën, die dienen om de gevolgen van dodelijke kankers te beperken. Ook een kleine auto is in onze maatschappij niet onaanvaardbaar gevaarlijk. Een kleine auto stelt de bestuurder bij een frontale botsing echter wel aan een aanzienlijk grotere kans op lichamelijk letsel bloot dan de standaard Amerikaanse slee. Kennelijk overtreffen de baten van dit produkt (de lage prijs en het lage benzineverbruik) de kosten (het grotere risico op lichamelijk letsel bij ongevallen).

4.3 De verschillende invalshoeken van jurist en econoom

Wat is het kenmerkende van de economische benadering van produktaansprakelijkheid? Zo op het eerste gezicht lijkt het kostenaspect toch alom tegenwoordig in de juridische discussie rond produktaansprakelijkheid. Voor de consument wordt het immers gemakkelijker en daarmee goedkoper - nu hij het moeilijke bewijs van de schuld niet meer behoeft te leveren - zijn schade op de producent te verhalen. En voor de producent staan toch de verhoogde aansprakelijkheidskosten en de mogelijkheid tot verzekeren centraal. Een antwoord op deze vraag naar het eigene van de economische benadering van het recht vinden wij door de verschillende kijk op aansprakelijkheid van jurist en econoom te expliciteren.

Compensatie versus preventie

Voor de jurist is het aansprakelijkheidsrecht in de eerste plaats een instrument van **compensatie** van de door de slachtoffers geleden schade. Als de jurist vanuit dít gezichtspunt een beroep doet op de econoom, kan dat bijvoorbeeld een beroep zijn dat erin bestaat uitleg te vragen over de schadebegroting. Vergelijk de zo juist met betrekking tot de juridische discussie rond produktaansprakelijkheid genoemde traditionele kostenaspecten.

Als de econoom zich daarentegen gaat begeven op het terrein van het aansprakelijkheidsrecht dan denkt hij in eerste instantie niet aan de vergoeding van de schade. Waar de econoom aan denkt is "Hoe voorkomen wij ongevallen?". Zijn vraag luidt: "Hoe kunnen wij de ongevalskosten zoveel mogelijk minimaliseren, rekening houdend met het nut van de risico-dragende activiteit?"

Het gaat de econoom in de eerste plaats om de **preventieve** functie van de aansprakelijkheidsregels. Voor de jurist gaat het om de vergoeding van de kosten van het slachtoffer nadat het ongeval heeft plaats gevonden. Economen hanteren daarmee een benadering "ex ante", terwijl juristen hoofdzakelijk een benadering "ex post" hanteren. Wij kunnen dus concluderen dat de econoom en de jurist voor wat het produktaansprakelijkheidsrecht betreft niet op eenzelfde vraag een

verschillend antwoord geven. Veeleer hebben wij te maken met een verschil in vraagstelling.

Efficiëntie versus rechtvaardigheid

Wij kunnen de verschillende invalshoek van jurist en econoom ook als volgt formuleren. Het uitgangspunt van de econoom is de stelling dat het produktaansprakelijkheidsrecht het beste begrepen kan en moet worden op grond van een economische redenering die is gebaseerd op het efficiëntie-criterium. De expliciete juridische benadering is veelal gebaseerd op begrippen als rechtvaardigheid en billijkheid. Denk bijvoorbeeld aan de Robin-Hood-achtige gedachtengang die stelt dat de beste manier om het schaderisico toe te bedelen erin bestaat de schade te leggen op diegene die ze het best kan dragen, dat is degene die de sterkere economische machtspositie bekleedt.

De hierboven geschetste tegenstellingen tussen econoom en jurist - ex ante/ex post; efficiëntie/rechtvaardigheid - zijn echter minder stringent dan zij op het eerste gezicht lijken. Zo kan de jurist, bij zijn beslissing over de verdeling van de schadelasten, het effect op toekomstig gedrag van deze beslissing - gegeven de precedentwerking - niet buiten beschouwing laten. Om dezelfde reden is de econoom ook geïnteresseerd in de beslissing inzake de verdeling van de schadelasten.

4.4 Efficiëntie van produktaansprakelijkheidssystemen

4.4.1 Inleiding

In deze paragraaf beoordelen wij verschillende produktaansprakelijkheidssystemen op hun bijdrage aan de maatschappelijke efficiëntie. Bij onze analyse zullen wij allereerst uitgaan van de veronderstellingen van risico-neutraliteit en van het ontbreken van transactiekosten.

Risico-neutraliteit (vergelijk paragraaf 3.2.3) impliceert dat het verwachte nut van verschillende onzekere inkomensposities overeenkomt met het nut van het verwachte inkomen. Anders gezegd, betrokkenen zijn niet bereid een risico-premie te betalen om een stuk onzekerheid kwijt te raken; ze hebben geen behoefte zich te verzekeren. Voor onze analyse betekent dit dat we ons (voorlopig) niet hoeven te bekommeren om de risico-houding van de betrokkenen, en kunnen volstaan met aandacht voor verwachte kosten en opbrengsten.

De veronderstelde afwezigheid van transactiekosten impliceert (vergelijk paragraaf 2.3.3) dat alle betrokkenen kosteloos over alle relevante informatie kunnen beschikken, en dat ze zonder kosten contracten kunnen afsluiten en de naleving daarvan verzekeren. In concreto betekent dit dat we er (voorlopig) van zullen uitgaan dat alle

betrokkenen over volledige informatie beschikken, en dat de tertiaire ongevalskosten nul zijn.

In latere subparagrafen zullen we de gemaakte veronderstellingen verzachten. In paragraaf 4.4.4 laten we de veronderstelling van risico-neutraliteit vallen. En in paragraaf 4.4.5 gaan we in op de transactie-kosten die met de verschillende produktaansprakelijkheidssystemen verbonden zijn.

Voorts gaan we er in eerste instantie vanuit dat alleen de producent, via de door hem betrachte zorgvuldigheid bij ontwerp en fabricage van het produkt, invloed kan uitoefenen op de kans op een ongeval met het produkt. In paragraaf 4.4.6 zullen we nader stilstaan bij de mogelijkheid dat ook de consument invloed heeft op de ongevalskans.

In paragraaf 4.4.7 besteden we aandacht aan overwegingen van billijkheid en risico-spreiding.

In een aparte sectie, paragraaf 4.4.8, bekijken we tenslotte de mogelijkheid om af te zien van een produktaansprakelijkheidsregeling en in plaats daarvan de schade als gevolg van ongevallen met gebrekkige produkten te dekken via een sociale zekerheidsregeling.

4.4.2 Afbakening van de efficiëntie-analyse

Bij een analyse van de bijdrage van de produktie en het gebruik van risico-volle produkten aan de maatschappelijke **efficiëntie** is een tweetal aspecten in het geding. In de eerste plaats is dat de omvang van de produktie. Daarbij gaat het om de afweging van het nut van (extra eenheden van) het produkt tegenover de kosten. Omwille van de efficiëntie (vergelijk hoofdstuk 2) dienen in deze afweging alle relevante kostenaspecten meegenomen te worden; naast de directe produktiekosten dienen dus ook alle ongevalskosten in de beschouwing betrokken te worden. Als niet alle kosten in de afweging worden betrokken lijkt het produkt goedkoper dan het feitelijk is, en wordt er van het produkt meer geproduceerd en geconsumeerd dan met het oog op efficiëntie goed is.

In de tweede plaats is voor efficiëntie vereist dat, ongeacht de omvang van de produktie, steeds zodanig te werk wordt gegaan dat de (totale) kosten op het laagst bereikbare niveau terechtkomen. Zo niet, dan is er sprake van verspilling. Voorts zal het produkt duurder zijn dan eigenlijk nodig is, zodat er minder van wordt geconsumeerd dan eigenlijk mogelijk en gewenst is. Er is dan sprake van inefficiëntie.

De vraag die wij ons bij elk produktaansprakelijkheidssysteem nu zullen stellen is of de regeling ervoor zorgt dat in de afwegingen rondom produktie en aankoop van een produkt alle relevante kosten in de beschouwing worden betrokken, en of dat zodanig gebeurt dat de totale kosten worden geminimaliseerd. Indien dat het geval is zal in

een goed werkende markteconomie (vergelijk hoofdstuk 1) ook de keuze van de omvang van de produktie en afzet efficiënt geschieden. Dit laatste aspect hoeven we dan verder niet expliciet aan de orde te stellen.

Centraal staat dus in het vervolg de vraag of produktaansprakelijkheidsregelingen er voor zorgen dat bij risico-volle produkten alle kosten worden meegewogen, en of die kosten op het laagst haalbare niveau uitkomen. Als we deze vraag positief kunnen beantwoorden, is voldaan aan de voorwaarden voor efficiëntie.

4.4.3 Produktaansprakelijkheid en het Coase-theorema

Een getallenvoorbeeld

Welk systeem van produktaansprakelijkheid verdient vanuit een oogpunt van efficiëntie de voorkeur? Om het antwoord op deze vraag te krijgen werken wij ons eerste voorbeeld over het "exploderende" flesje tomatenketchup uit de inleiding verder uit. We kleden het voorbeeld daartoe met getallen aan (zie tabel 4.1).

Het is aannemelijk te veronderstellen dat het mogelijk is - tegen hogere kosten - flessen te ontwerpen respectievelijk te produceren waarvan het explosiegevaar geringer is. Omwille van de eenvoud beperken we ons in eerste instantie tot twee niveaus van zorg. ZI is het oorspronkelijke niveau van zorg en ZII staat voor het verhoogde niveau van zorg.

Tabel 4.1 Twee niveaus van zorg

Niveau van zorg	Produktie-kosten per eenheid	Kans op een ongeval	Geldelijke schade bij ongeval	Verwachte schade	Volledige kosten per eenheid produkt
ZI	f 0,20	1/100.000	f 100.000,-	f 1,00	f 1,20
ZII	f 0,25	1/200.000	f 100.000,-	f 0,50	f 0,75

De tabel brengt tot uitdrukking dat de directe produktiekosten toenemen, indien een verhoogd niveau van zorg en controle wordt aangehouden tijdens het ontwerpen en de fabricage van een flesje. Door de betrachte grotere zorgvuldigheid wordt evenwel de kans op exploderen van een flesje gehalveerd, zeg van 1/100.000 naar 1/200.000. Indien we er verder van uit gaan dat de schade die wordt aangericht bij het exploderen van een flesje, kan worden begroot op f 100.000,-, kan bij beide niveaus van zorg de verwachte schade worden berekend. Optellen van de produktiekosten en de verwachte schade geeft de totale

kosten per eenheid produkt. De totale kosten blijken bij niveau van zorg ZII lager te zijn (f 0,75) dan bij ZI (f 1,20); de produktiekosten zijn weliswaar 5 cent hoger, maar de verwachte schade valt 50 cent lager uit. Vanuit efficiëntie-oogpunt verdient ZII dus de voorkeur.

Het effect van het produktaansprakelijkheidssysteem

Laten we nu achtereenvolgens eens bekijken wat er zal gebeuren bij een produktaansprakelijkheidssysteem gebaseerd op risico-aansprakelijkheid, een systeem gebaseerd op schuldaansprakelijkheid, en een situatie waarbij de producent in het geheel geen aansprakelijkheid draagt. Let wel, wij doen dit onder de beide veronderstellingen van risico-neutraliteit en het ontbreken van transactiekosten (met name wordt het bestaan van volledige informatie aangenomen).

Bij een systeem van risico-aansprakelijkheid draait een producent bij ieder ongeluk voor de schade op. De producent wordt daarom bij ieder niveau van zorg met de volledige kosten geconfronteerd. Gezien de kosten uit onze tabel zal hij besluiten bij een niveau van zorg ZII te produceren. Aldaar zijn zijn kosten het laagst. Iedere producent die op niveau ZI gaat produceren zal door producenten die op niveau ZII produceren uit de markt worden geconcurreerd.

Stel dat in geval van een systeem van schuldaansprakelijkheid de producent aansprakelijk is bij een niveau van zorg ZI. Dat klinkt redelijk omdat de producent wel degelijk grotere zorgvuldigheid had kunnen betrachten. We nemen verder aan dat bij ZII de producent geen blaam treft. Wat betekent dit voor de afweging van de producent? Zijn kosten per eenheid produkt bedragen bij ZI f 1,20 (de produktiekosten plus de verwachte schade in verband met zijn aansprakelijkheid) en bij ZII f 0,25 (alleen de produktiekosten; geen aansprakelijkheid). De producent zal dus in beginsel opteren voor ZII. De marktwerking zorgt er vervolgens voor dat de prijs van het produkt op de markt f 0,25 wordt. De consumenten zullen - onder de aanname van volledige informatie - voor het met zorg ZII geproduceerde produkt de volledige prijs berekenen. Omdat ze weten dat de producent niet aansprakelijk is voor eventuele schade, zullen ze naast de marktprijs van f 0,25 ook rekening houden met de verwachte ongevalskosten van f 0,50. De lage marktprijs zal hen er dus niet toe verleiden te veel van het produkt te kopen.

Indien de producent in het geheel niet aansprakelijk is voor de aangerichte schade, komen alleen de directe produktiekosten voor zijn rekening. Hij zal dus een zekere voorkeur hebben voor produktie met een zorgniveau ZI. Bij afwezigheid van een systeem met produktaansprakelijkheid weten de consumenten dat zij zelf geheel voor de schade opdraaien. Onder de aanname van volledige informatie zullen

zij toch de volledige prijs calculeren. Ze onderkennen dat voor een met zorg ZI geproduceerd flesje in de winkel weliswaar een lagere prijs betaald hoeft te worden, maar dat alles te zamen genomen het gebruik van een dergelijk flesje duurder uitkomt dan van een met zorg ZII geproduceerd produkt. Er zal kortom alleen vraag zijn naar flesjes van zorgniveau ZII. Dat gegeven zijnde zullen producenten alleen flesjes met zorgniveau ZII produceren.

Overzien wij nu het voorgaande, dan blijkt ongeacht de keuze van het systeem van produktaansprakelijkheid het uiteindelijke resultaat hetzelfde te zijn (keuze van zorgniveau ZII); het resultaat correspondeert bovendien met de efficiënte oplossing.

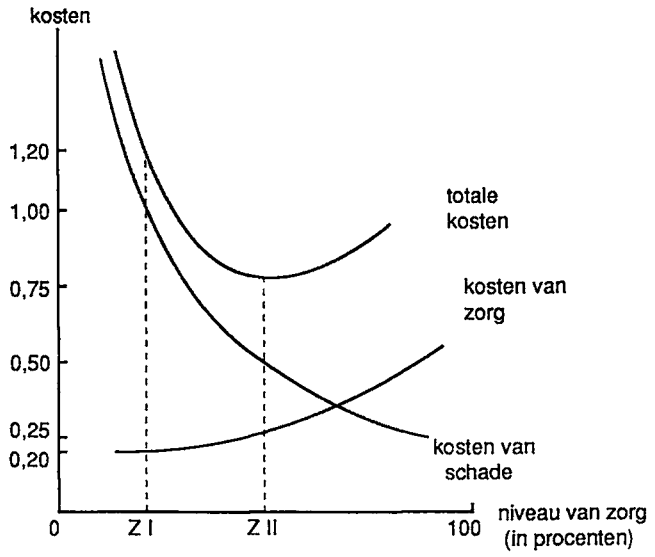
Wij zien hier, kortom, het Coase-theorema uit hoofdstuk 2 weer terug.

Het efficiënte niveau van zorg

Wij hebben ons tot nu toe beperkt tot een eenvoudig getallenvoorbeeld met twee niveaus van zorg. We kunnen de analyse ook veralgemeniseren en een continuüm aan zorgmogelijkheden veronderstellen. Zie figuur 4.1. De met ZI en ZII aangeduide niveaus van zorg corresponderen met die van tabel 4.1.

De betrachte zorgvuldigheid in de produktie - preventie van ongevallen - wordt als een percentage gezien. Een nul-percentage van zorgvuldigheid betekent dat er geen aandacht wordt geschonken aan de gevolgen - in de zin van berokkende schade - van het op de markt brengen van het produkt. Een percentage van honderd procent in de betrachte zorgvuldigheid betekent dat er geen kosten uit de gevolgen van het op de markt brengen van het produkt kunnen voortvloeien, die niet te voorkomen waren geweest. De eerste situatie - een nul-percentage van zorg - brengt slechts betrekkelijk geringe (produktie)kosten voor de producent met zich mee, terwijl het tweede geval - honderd procent zorg - zeer hoge kosten voor de producent met zich mee brengt. Dit is tot uiting gebracht in de curve "kosten van zorg". De kosten van schade hebben een spiegelbeeldig verloop. Naarmate grotere zorgvuldigheid wordt betracht bij de fabricage van het produkt, zal de ongevallenkans en daarmee de verwachte schade afnemen. De totale kosten bestaan uit de kosten van zorg en de kosten van schade. De optelling van de beide afzonderlijke kostencurven leidt tot de U-vormige totale kostencurve.

Het optimale niveau van zorg is ZII. Het laagste niveau van de totale kosten bepaalt het efficiënte niveau van zorg: meer zorg uitoefenen betekent weliswaar minder verwachte schade, maar hogere kosten van zorg; minder zorg uitoefenen betekent weliswaar lagere kosten van zorg, maar grotere verwachte schade. Efficiënt is dat niveau van zorg dat de laagste totale kosten met zich brengt.



Figuur 4.1: Het efficiënte niveau van zorg
De betrachte zorgvuldigheid in de produktie van een in potentie gevaarlijk produkt is als een percentage afgezet op de horizontale as. Naarmate grotere zorgvuldigheid wordt betracht nemen de kosten voor de producent van ontwerp en fabricage van het produkt toe (de "kosten van zorg"-curve); tegelijk nemen de ongevallenkans en - daarmee - de verwachte schade als gevolg van het gebruik van het produkt af (de "kosten van schade"-curve). Efficiënt is dat niveau van zorg waarbij de totale kosten (zorg plus schade) minimaal zijn. Dat is bij ZII.

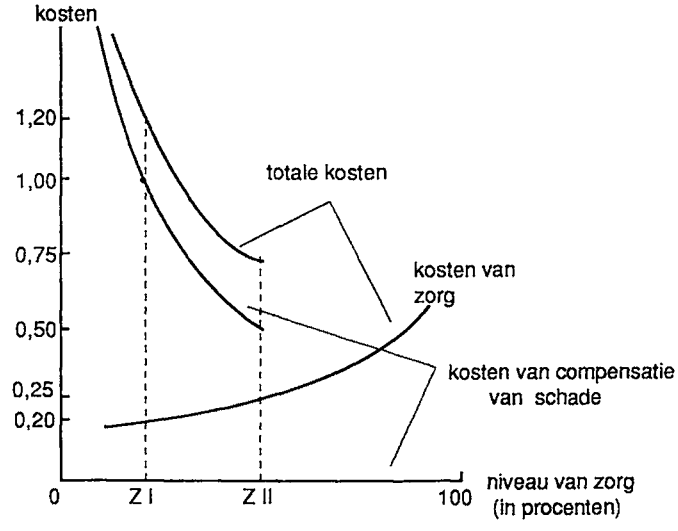
Nogmaals het Coase-theorema

Met behulp van de bij het getallenvoorbeeld gehanteerde logica valt eenvoudig na te gaan dat ook in het meer algemene geval van figuur 4.1 de uiteindelijke keuze van producenten en consumenten zal vallen op het efficiënte zorgniveau (ZII), ongeacht het geldende systeem van produktaansprakelijkheid.

Bij risico-aansprakelijkheid weet de producent dat de kosten van zorg èn de kosten van schade, anders gezegd: de primaire èn de secundaire ongevalskosten, voor zijn rekening komen. Het minimum van de totale kosten voor de producent wordt bereikt bij zorgniveau ZII; zie figuur 4.1. De marktprijs van het produkt zal gebaseerd zijn op het bijbehorende kostenniveau, zodat de consument een correct signaal krijgt omtrent de (minimale) volledige kosten van het produkt.

Bij schuldaansprakelijkheid hoeft de producent alleen maar de kosten van schade te vergoeden, indien hij onvoldoende zorg heeft betracht. Vanaf zorgniveau ZII treft de producent geen blaam voor

eventuele ongelukken. Het kostenplaatje voor de producent wordt nu weergegeven door figuur 4.2. Tot ZII komen de kosten van zorg èn van schade voor rekening van de producent, vanaf ZII alleen nog maar de kosten van zorg. Het minimum van de totale kosten voor de producent wordt bereikt bij ZII. De producent kiest voor zorgniveau ZII. Het (minimum) kostenniveau bedraagt f 0,25, en dat zal onder volledig vrije mededinging ook de marktprijs worden. De volledig geïnformeerde consumenten kennen echter de kosten van schade, en weten dat die voor hun rekening komen; zij kennen dan de volledige prijs van het produkt, en zullen er niet te veel van kopen.



Figuur 4.2: Het kostenplaatje voor de producent bij schuldaansprakelijkheid
Bij schuldaansprakelijkheid hoeft de producent alleen maar schade te vergoeden indien hij onvoldoende zorgvuldigheid heeft betracht, met andere woorden tot ZII. Vanaf ZII is de schade voor rekening van de consument.
Tot ZII bestaan de totale kosten voor de producent dus uit de kosten van zorg plus de kosten van schade. Vanaf ZII bestaan de totale kosten voor de producent alleen nog maar uit de kosten van zorg.
Het minimum van de totale kosten voor de producent wordt bereikt bij ZII.

Tenslotte, bij afwezigheid van enigerlei vorm van aansprakelijkheid heeft de producent alleen te maken met de kosten van zorg. Het kostenminimum voor de producent wordt dan bereikt bij zorgniveau 0. Volledig geïnformeerde consumenten zullen echter niet alleen afgaan op de op de kosten van zorg gebaseerde prijs van het produkt, maar daar de kosten van schade bij optellen die voor hun rekening komen. Zij zullen de met zorgniveau 0 geproduceerde eenheden produkt dan

ook links laten liggen, en alleen maar met zorg ZII geproduceerde eenheden vragen. Bij zorgniveau ZII zijn namelijk de volledige kosten voor de consumenten minimaal. Producenten kunnen de met weinig zorg en lage kosten geproduceerde eenheden produkt aan de straatstenen niet kwijt, en zullen overstappen op het wat duurdere zorgniveau ZII waarvoor wel een afzetmarkt bestaat.

4.4.4 Risico-aversie

In het voorgaande is aannemelijk gemaakt dat onder de gemaakte veronderstellingen (risico-neutraliteit en het ontbreken van transactiekosten) het uiteindelijke resultaat efficiënt is, ongeacht de keuze van de produktaansprakelijkheidsregeling. Wij laten in deze subparagraaf allereerst de veronderstelling van risico-neutraliteit vallen.

Verzekeringen

Welke consequenties heeft het loslaten van de veronderstelling van risico-neutraliteit voor het gedrag van producenten en consumenten? Laten we veronderstellen dat beiden risico-avers zijn.

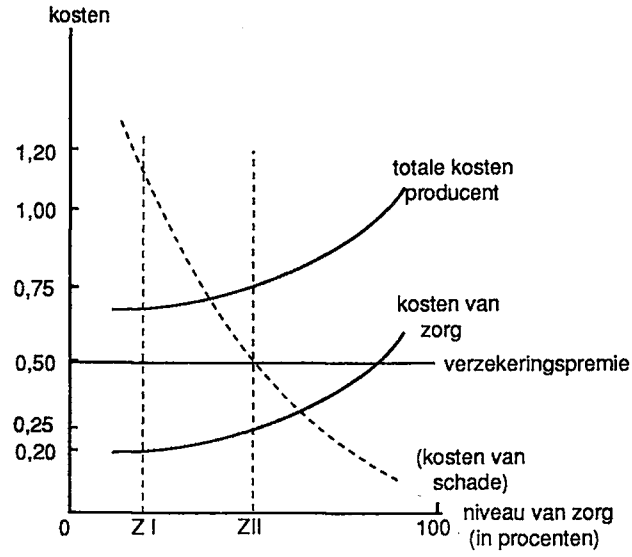
We weten uit hoofdstuk 3 dat risico-averse personen zich graag willen verzekeren tegen risico. Ze zijn bereid daarvoor een premie te betalen die even hoog is als het verwachte schadebedrag; de premie mag eventueel zelfs wat hoger liggen. Indien er geen bijzondere (informatie)problemen zijn, zal volledig vrije mededinging op de verzekeringsmarkt er voor zorgen dat de verzekering ook wordt aangeboden en dat de premie (in ieder geval op de lange termijn, en afgezien van administratiekosten bij de verzekeraar) gelijk wordt aan het verwachte schadebedrag.

Laten we deze kennis uit hoofdstuk 3 nu toepassen in onze efficiëntie-analyse van de verschillende produktaansprakelijkheidssystemen. We nemen daarbij figuur 4.1 weer als uitgangspunt.

Uniforme premie

Bij risico-aansprakelijkheid zullen risico-averse producenten zich wensen te verzekeren tegen eventuele schadeclaims. Laten we in eerste instantie aannemen dat de verzekeringspremie gebaseerd is op de gemiddelde ongevallenkans in de bedrijfstak en de daarbij behorende verwachte schade (zeg f 0,50 per eenheid produkt). Het kostenplaatje voor de producent wordt dan weergegeven door figuur 4.3. De "kosten van schade"-curve uit figuur 4.1 is verdwenen en vervangen door een "verzekeringspremie"-lijn. De producent betaalt een bepaalde verzekeringspremie per eenheid produkt; de eventuele schadeclaims worden gedekt door de verzekering.

Welke gedragslijn zal de producent nu volgen? Heel eenvoudig: de producent zal zorgniveau 0 kiezen. Zijn totale kosten zijn dan het laagste. Doordat het produkt met weinig zorg wordt gefabriceerd,



Figuur 4.3: De producent verzekert zich tegen schadeclaims
Een risico-averse producent zal zich bij risico-aansprakelijkheid willen verzekeren tegen eventuele schadeclaims. Indien de verzekeringspremie - bijvoorbeeld gebaseerd op de gemiddelde ongevallenkans in de bedrijfstak - geen rekening houdt met de door de producent betrachte zorgvuldigheid, zal de producent kiezen voor niveau van zorg 0. Zijn totale kosten zijn dan minimaal. (De schadeclaims komen voor rekening van de verzekeraar.)

neemt het aantal schadeclaims van consumenten fors toe. Aangezien de consumenten echter volledig schadeloos worden gesteld door de verzekeraar, zullen zij het produkt rustig blijven kopen.

De problemen mogen nu duidelijk zijn. In de eerste plaats komt er geen efficiënt resultaat tot stand; het betrachte niveau van zorg is 0 in plaats van ZII. In de tweede plaats lijdt de verzekeraar grote verliezen omdat de premie-opbrengsten onvoldoende zijn om de kosten van schade te dekken. Beide problemen hangen ten nauwste samen en worden veroorzaakt door het optreden van **moreel risico**. Indien de producent volledig verzekerd is tegen een vaste premie, heeft hij er geen belang meer bij om tegen hoge kosten van zorg zorgvuldigheid te betrachten.

De hierboven geschetste situatie is natuurlijk geen lang leven beschoren. De verzekeraar zal als reactie op zijn verliezen zijn beleid moeten aanpassen. Hij zou kunnen overwegen de premie te verhogen. Dat leidt tot stijgende premie-opbrengsten, zodat het verlies inderdaad zou kunnen worden weggewerkt. De inefficiëntie van het gekozen

niveau van zorg wordt daarmee echter niet uit de weg geruimd. Zolang de premie een vast bedrag per eenheid produkt is, blijft voor de producent gelden (vgl. figuur 4.3) dat het in zijn belang is het niveau van zorg te reduceren tot nul.

In een wereld van volledig vrije mededinging en volledige informatie blijft het ook hier niet bij. In de eerste plaats zullen er, naarmate de verzekeringspremies stijgen, producenten opstaan die besluiten zich maar niet te verzekeren en zorgniveau ZII aan te houden. Per saldo kunnen de (risico-averse) producenten dan zoveel goedkoper uit zijn, dat zij het zelf moeten dragen van risico voor lief nemen. In de tweede plaats zal er in de kringen van de verzekeraars als reactie op het optreden van moreel risico wat veranderen. Het ligt voor de hand dat zij hun premies afhankelijk zullen maken van de door de producenten betrachte zorg (vgl. paragraaf 3.5.1). Er treedt **premiedifferentiatie** op. Naarmate producenten meer zorg betrachten, zodat de verwachte schade lager wordt, wordt de te betalen premie per eenheid produkt verlaagd. Idealiter - dat wil zeggen, onder volledig vrije mededinging op de verzekeringsmarkt, en indien verzekeraars inzicht hebben in het feitelijk door de verzekeringsnemers betrachte niveau van zorg - wordt de premie zelfs precies gelijk aan de verwachte schade.

Volledige premiedifferentiatie

Laten we verder aannemen dat de markt voor verzekeringen goed werkt, zodat bij ieder niveau van zorg de te betalen premie gelijk is aan de verwachte schade. Tot welke conclusies leidt ons dat?

De "kosten van schade"-curve in figuur 4.1 gaf aan wat de verwachte schade is van eventuele ongelukken met het produkt; afhankelijk van de produktaansprakelijkheidsregeling komt de schade van een ongeluk voor rekening van de producent of de consument. Verzekeren tegen dit risico kan, zoals we net hebben aangenomen, tegen een premie die afhankelijk is van het niveau van zorg en gelijk is aan de verwachte schade. De verzekeraar zal bij deze premiestelling noch winst, noch verlies maken. Afhankelijk van wie aansprakelijk is, zal de risico-averse producent respectievelijk consument zich tegen deze premie graag verzekeren.

De uiteindelijke keuze van het niveau van zorg door producenten en consumenten zal dan gebaseerd worden op de "kosten van zorg"-curve uit figuur 4.1 en een "verzekeringspremie"-curve (voorzover van toepassing, afhankelijk van wie aansprakelijk is). Deze "verzekeringspremie"-curve valt echter, gezien de premiestelling, volledig samen met de "kosten van schade"-curve. Maar daarmee zijn we volledig terug bij de uitgangspunten van de efficiëntie-analyse van de verschillende produktaansprakelijkheidssystemen in de vorige subparagraaf. De conclusie zal dan ook dezelfde zijn, namelijk dat ongeacht het

produktaansprakelijkheidssysteem geproduceerd wordt op zorgniveau ZII.

Samenvattend hebben we in deze subparagraaf laten zien dat ook bij risico-aversie, mits de markt voor verzekeringen goed werkt, het uiteindelijke resultaat efficiënt is ongeacht de keuze van de produktaansprakelijkheidsregel.

4.4.5 Transactiekosten

We laten nu ook de veronderstelling van het afwezig zijn van transactiekosten vallen. Naast het optreden van tertiaire ongevalskosten (waarover later meer), is voor onze analyse met name van belang dat we er niet langer van kunnen uitgaan dat alle betrokkenen volledig zijn geïnformeerd.

Dit betekent in de eerste plaats dat een verzekeraar waarschijnlijk niet exact kan weten welk niveau van zorg een producent feitelijk betracht, respectievelijk niet precies kan doorzien tot welke risicogroepen verschillende eenheden van een bepaald produkt behoren. Daarmee zijn we bij het uit hoofdstuk 3 bekende probleem van adverse selectie, en moet worden betwijfeld of een volledige verzekering tegen produktaansprakelijkheidsrisico's zal kunnen bestaan. Door in het vervolg risico-neutraliteit te veronderstellen kunnen we dit probleem buiten beschouwing laten (maar zie paragraaf 4.4.7).

In de tweede plaats betekent onvolledige informatie dat met name de consument geen of onvoldoende kennis heeft om de ongevallenkans en de te verwachte schade van een met een bepaalde mate van zorgvuldigheid geproduceerd produkt te doorgronden.

Zoekprocessen

De transactiekosten die betrekking hebben op het verkrijgen van informatie over een produkt door de consument zijn relatief hoog. Natuurlijk kent de producent zelf, beter dan ieder ander, de eigenschappen van zijn produkt. De consumenten zijn grotendeels van hem afhankelijk wat de informatieverstrekking betreft. De producent zal echter de neiging hebben om met name de positieve aspecten van zijn produkt te benadrukken. Veel kosten dienen dan ook door de consument te worden gemaakt om zich een volledig beeld van het produkt te kunnen vormen. Wij kunnen het zoekproces van de consument naar informatie grafisch weergeven. Zie figuur 4.4.

De figuur brengt tot uitdrukking dat het verzamelen van informatie, het zoeken van het beste produkt tijd en dus geld kost. Daar staat tegenover dat naarmate de consument meer informatie vergaart en langer zoekt, hij een meer verantwoorde keuze zal kunnen maken; hij zal minder gauw een miskoop doen, minder gauw met een schadepost worden geconfronteerd. Het zoeken en vergaren van informatie levert

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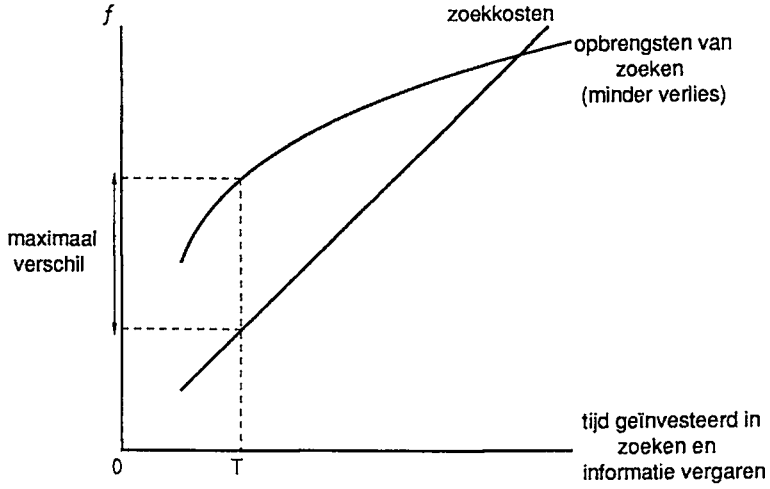

Figuur 4.4: Optimale zoektijd
Het vergaren van informatie teneinde een verantwoorde produktkeuze te maken kost tijd en geld. Aan de andere kant neemt de kans op het kopen van onbruikbare, gebrekkige, en gevaarlijke produkten af; dat betekent een voordeel voor de consument. De zoektijd is optimaal, daar waar het verschil tussen de opbrengsten en de kosten van zoeken maximaal is, dat wil zeggen bij T.

dus ook wat op, namelijk een verminderd verlies als gevolg van miskopen en schade. Het lijkt redelijk te veronderstellen dat de eerste uren die worden besteed aan zoeken, de consument van de ergste miskopen zullen weerhouden. Additionele zoekactiviteiten zullen verhoudingsgewijs minder nieuwe, belangrijke feiten aan het licht brengen, en dus minder opleveren.

Uit de figuur kunnen we het antwoord afleiden op de vraag hoe lang het nog lonend is om informatie te vergaren. De optimale tijdsduur van zoeken in verband met produktrisico's ligt - zoals bij ieder ander goed of dienst - daar waar het verschil tussen de totale opbrengsten en de totale kosten zo groot mogelijk is. Anders geformuleerd: het optimale punt ligt daar waar de kosten van een extra zoekinspanning gelijk zijn aan het daarmee verkregen voordeel in de vorm van een verminderd verlies door miskopen, schade e.d. In figuur 4.4 is de **optimale zoektijd** T.

Uit bovenstaande analyse volgt dat van een rationele consument zeker verwacht kan worden dat hij wat tijd en geld zal steken in het

vergaren van informatie en het zoeken van een geschikt produkt. We mogen echter niet verwachten dat de consument volledig geïnformeerd zal zijn over alle eigenschappen van de door hem gekochte produkten. De kosten van het verwerven van de ontbrekende informatie overtreffen de mogelijke opbrengsten.

Efficiëntie-analyse

Laten we er nu vanuit gaan dat de consument geen of weinig kennis heeft van de ongevallenkans en de te verwachten schade van het door hem te kopen produkt. Wat heeft dat voor consequenties voor onze efficiëntie-analyse van de verschillende produktaansprakelijkheidssystemen?

Bij risico-aansprakelijkheid verandert er eigenlijk niets. De producent is volledig aansprakelijk; hij zal alle bij hem ingediende schadeclaims dienen te honoreren. Van deze producent mag redelijkerwijs worden aangenomen dat hij wel over alle relevante informatie met betrekking tot zijn eigen produkt beschikt. Hij zal dan ook, uitgaande van de door hem te dragen kosten van zorg en kosten van schade (vgl. figuur 4.1), kiezen voor het laagste totale kostenniveau. Hij opteert dus voor zorgniveau ZII, het efficiënte zorgniveau. En doordat de marktprijs de volledige kosten van het produkt weerspiegelt, zal de consument een vanuit efficiëntie-oogpunt correcte afweging maken met betrekking tot de te kopen hoeveelheid.

Bij schuldaansprakelijkheid verandert er wel iets, zij het niet voor de producent. De producent is aansprakelijk tot zorgniveau ZII, en houdt tot dat zorgniveau rekening met de kosten van zorg en de kosten van schade. Vanaf zorgniveau ZII is de producent niet aansprakelijk, en heeft hij alleen met de kosten van zorg te maken. Kortom, voor de producent blijft figuur 4.2 van kracht. Hij opteert voor ZII, het efficiënte zorgniveau. Bij ZII is de producent niet aansprakelijk; zijn kosten bestaan alleen uit de kosten van zorg. De marktprijs van het produkt zal onder volledig vrije mededinging dan ook alleen deze kosten van zorg weerspiegelen.

Het probleem ligt nu bij de consumenten. Zij kennen wel de marktprijs van het produkt. Indien zij echter niet volledig geïnformeerd zijn omtrent alle eigenschappen van het produkt, zullen zij zich onvoldoende de te verwachten schade als gevolge van ongevallen en gebreken realiseren. De consumenten onderschatten, met andere woorden, de volledige kosten van aankoop en gebruik van het produkt. Vanuit efficiëntie-oogpunt zullen de consumenten dan te veel eenheden van het produkt kopen.

Samenvattend zal het in de produktie betrachte zorgniveau efficiënt zijn; de omvang van de consumptie is daarentegen inefficiënt.

Tenslotte bekijken we het geval dat de producent in het geheel geen aansprakelijkheid draagt voor eventuele schade. De producent heeft alleen te maken met de primaire ongevalskosten, de kosten van zorg. Deze kosten zijn minimaal bij niveau van zorg 0. Op zich zullen producenten dus voor dit inefficiënte zorgniveau kiezen. De marktprijs van het produkt zal dan om twee redenen laag zijn: èn omdat de kosten van schade niet voor rekening van de producent komen, èn omdat weinig zorg betracht is bij de fabricage.

De vraag is nu of en in hoeverre consumenten in staat zijn de produktiebeslissing van de producenten bij te sturen. Bij volledige informatie hoefde dat geen probleem te zijn zoals we in paragraaf 4.4.3 hebben geconstateerd. Bij onvolledige informatie ligt dat anders. De consumenten zullen waarschijnlijk onvoldoende inzicht hebben in de ongevallenkans en de te verwachten schade van het aangeboden produkt. En zij zullen weinig kennis hebben van de alternatieve produktiemethoden. Daardoor zullen consumenten zich onvoldoende realiseren dat een met grotere zorgvuldigheid (en dus met hogere kosten van zorg) gefabriceerd produkt weliswaar qua aanschafprijs wat duurder zal zijn dan het aangeboden produkt, maar per saldo (inclusief de kosten van schade) goedkoper zal uitvallen. En in de tweede plaats zullen consumenten, doordat ze de volledige kosten van het aangeboden produkt onderschatten, hiervan meer kopen dan vanuit efficiëntie-oogpunt goed is.

Kortom, indien de producent in het geheel geen aansprakelijkheid draagt voor zijn produkt, zal zowel het bij de produktie aangehouden niveau van zorg als de omvang van de consumptie inefficiënt zijn.

In tegenstelling tot hetgeen we eerder hebben geconcludeerd is in geval van onvolledige informatie de efficiëntie van het uiteindelijke resultaat wel afhankelijk van het gekozen produktaansprakelijkheidssysteem. Alleen onder risico-aansprakelijkheid blijken het niveau van zorg en de omvang van de consumptie te voldoen aan het efficiëntiecriterium. Onder schuldaansprakelijkheid zal de omvang van de consumptie inefficiënt zijn, en bij afwezigheid van aansprakelijkheid van de producent zijn zowel het zorgniveau als de omvang van de consumptie inefficiënt.

Tertiaire ongevalskosten

Bovenstaande efficiëntie-analyse leidt tot een voorkeur voor risicoboven schuldaansprakelijkheid; over afwezigheid van aansprakelijkheid hebben we het maar niet eens. Deze voorkeur wordt nog versterkt als we bedenken dat in een wereld met transactiekosten de tertiaire ongevalskosten (kosten van procesvoering, administratie e.d.) niet buiten beschouwing mogen worden gelaten. Deze kosten zijn nihil indien de producent geen enkele aansprakelijkheid draagt; pro-

cederen is zinloos. Ze zijn betrekkelijk gering onder risico-aansprakelijkheid, omdat de producent weet dat hij toch gehouden is tot vergoeding van de schade; alleen de hoogte van de claim kan ter discussie staan. De tertiaire ongevalskosten zijn daarentegen zeer hoog onder schuldaansprakelijkheid, waar de producent pas gehouden is tot compensatie wanneer kan worden aangetoond dat hij onvoldoende zorgvuldigheid heeft betracht. Bij schadeclaims zal de producent het dan vaak op een proces laten aankomen, met alle kosten van dien (proceskosten, advocatenkosten, deskundigenkosten).

Het moge duidelijk zijn dat hoge proceskosten (op zich) geen bijdrage leveren aan het maatschappelijk welbevinden. Ook om deze reden lijkt risico-aansprakelijkheid dus de voorkeur te verdienen boven schuldaansprakelijkheid.

4.4.6 Zorg van de consument

Voordat wij tot een afronding van onze efficiëntie-analyse van produktaansprakelijkheidssystemen kunnen komen, dienen wij eerst nog stil te staan bij de mogelijkheid dat niet alleen de producent maar ook de consument invloed heeft op de ongevallenkans. Want hoezeer ook bepaalde ongelukken zich onttrekken aan iedere beïnvloeding door het slachtoffer, er kan toch gesteld worden dat vele ongelukken voorkomen hadden kunnen worden.

In een van de beroemdste gevallen van produktaansprakelijkheid, de - inmiddels uit de handel genomen - ontploffende Exotafles, speelde het beroep op onzorgvuldig gedrag van de consument een centrale rol. In de zomer van 1967 raakte de toen éénjarige Wimmie Meijer gewond aan een oog toen naast hem op de grond een fles Exota explodeerde. Het kind moest een oog missen en de vader besloot de limonadefabrikant aansprakelijk te stellen voor de schade. De fabrikant zocht de schuld voor de explosie overal behalve bij zichzelf. De explosie zou, zo suggereerde hij, zijn veroorzaakt doordat de moeder van Wimmie de fles na de aanschaf in een hobbelende kinderwagen had vervoerd en deze vervolgens onder een bank in de koelte had neergezet.

Om terug te komen op ons voorbeeld van de tomatenketchup; daar nam de rechter aan dat niet de producent maar de consument zelf er iets geks mee had gedaan waardoor de ketchupfles was ontploft. Reden om in dat geval geen schadevergoeding toe te kennen. Ook in ons voorbeeld van de lekkende beddekruik stelde de fabrikant Jumbo zich aanvankelijk op het standpunt dat er aan zijn kruik niets mankeerde, maar dat de kraamverzorgster die gewoon niet goed had dichtgedraaid en de gebruikelijke voorzorgsmaatregelen niet had genomen.

Invloed van de consument op de ongevallenkans

Zijn wij tot nu toe vooral argumenten tegengekomen die suggereren dat het systeem van risico-aansprakelijkheid efficiënt zou zijn, anders wordt het als we ook rekening houden met de mogelijkheid van moreel risico aan de kant van de consument.

Zolang de consument zelf op moet draaien voor eventuele schade, zal hij ongetwijfeld de nodige zorgvuldigheid betrachten. Dat is het geval indien de producent in het geheel geen aansprakelijkheid draagt, maar ook onder een systeem van schuldaansprakelijkheid omdat de producent er dan voor kiest, zoals we eerder hebben geconstateerd, om een niveau van voldoende zorg aan te houden.

Bij een systeem van risico-aansprakelijkheid, daarentegen, is de producent volledig aansprakelijk voor schade. Omdat eventuele schade toch vergoed wordt, heeft de consument geen prikkel meer om zich de moeite te getroosten voorzichtig te zijn. De consument zal de neiging krijgen bepaalde risico's te aanvaarden die hij zou mijden als ze voor eigen rekening kwamen. Er is, met andere woorden, sprake van moreel risico.

Als gevolg van de verminderde zorgvuldigheid zal het aantal ongelukken en schadegevallen (onnodig) toenemen. Dat is niet efficiënt. Omdat het aantal schade-uitkeringen toeneemt, zal de producent verder gedwongen worden de prijs van zijn produkt te verhogen. Dat remt het gebruik van het produkt (onnodig) af, en ook dat betekent efficiëntie-verlies.

De conclusie moet zijn dat voor wat betreft het zorgniveau van de consument een systeem van risico-aansprakelijkheid leidt tot inefficiëntie.

Het moreel-risico-probleem aan de kant van de consumenten kan worden opgelost door - in ieder geval een deel van - de aansprakelijkheid bij deze groep te leggen. Men kan dan denken aan een systeem van schuldaansprakelijkheid, maar dat leidt weer op andere punten tot inefficiënties (zie boven).

Men zou ook aan de regel van risico-aansprakelijkheid de clausule kunnen toevoegen dat de consument voldoende zorg dient te hebben betracht. De consumenten zullen waarschijnlijk het belang van voldoende zorg wel onderkennen, en voldoende zorgvuldig optreden. De producenten zijn dan verder aansprakelijk zoals onder risico-aansprakelijkheid, met alle voordelen vandien. Ook deze regeling is echter niet zonder problemen, omdat de tertiaire ongevalskosten omvangrijk zullen zijn. Producenten zullen bij schadeclaims namelijk geneigd zijn om de rechter te laten toetsen of de consument inderdaad voldoende zorg heeft betracht.

Nu we zover gekomen zijn met onze analyse dat we moeten concluderen dat elk produktaansprakelijkheidssysteem voor- en nadelen heeft in termen van efficiëntie, lijkt het verstandig om de keuze van de produktaansprakelijkheidsregeling nog van een aantal andere kanten te belichten. In paragraaf 4.4.7 staan we stil bij overwegingen van billijkheid en van risico-allocatie. In paragraaf 4.4.8 bekijken we of voor produkt-risico's in plaats van een produktaansprakelijkheidssysteem een sociale zekerheidsregeling ingevoerd zou kunnen worden.

4.4.7 Billijkheid en risico-spreiding

In het nu volgende bezien wij de vraag of inderdaad - zoals onder een systeem van risico-aansprakelijkheid - de schade terecht moet komen bij de producent. Wij bespreken allereerst een traditioneel juridisch en vervolgens een economisch argument.

Billijkheid

Een juridisch voor de hand liggende reden om de schade bij de producent te leggen zou de billijkheid kunnen zijn. De beste manier om de schade toe te rekenen zou erin bestaan de schade te leggen op diegene die haar het beste kan dragen, dat is degene die de sterkere economische machtspositie bekleedt. We zouden ook kunnen zeggen dat het billijk is dat de producent de kosten moet dragen van de schade die hij veroorzaakt. Een econoom kan hier echter de volgende kanttekening bij plaatsen. Als het er kennelijk om gaat een inkomensherverdelende maatregel te nemen - in de zin van het leggen van de lasten op de sterkste schouders -, dan dient dit te geschieden door beter daartoe aangepaste technieken. Het instrument van de belastingheffing is hiertoe natuurlijk uitermate geschikt. Want wat zal er naar alle waarschijnlijkheid gebeuren? De ondernemer zal trachten de aldus opgelopen kosten in de prijs van het produkt door te berekenen. Er zal dus een inkomensherverdeling plaatsvinden, maar gedeeltelijk tussen de consumenten onderling, hetgeen niet was bedoeld.

Risico-spreiding

Een economisch gefundeerde reden waarom de schade terecht zou moeten komen bij de producent is dat deze bij uitstek degene is die voor een verdere verdeling van de schade kan zorgen en wel over al de afnemers van zijn produkt.

Onder een stelsel van schuldaansprakelijkheid blijft de schade in principe daar waar ze valt, tenzij zij veroorzaakt wordt door een onrechtmatige daad van een derde. In dat geval wordt de schade op deze laatste gelegd. Bij risico-aansprakelijkheid zal de producent de te verwachten schade per eenheid produkt (of, indien hij zich kan verzekeren, de premie per eenheid produkt) verwerken in de bepaling van de prijs van het produkt. Er is sprake van risico-spreiding. De

prijsstijging weerspiegelt als het ware de verzekeringspremie die de koper moet betalen.

Het argument van de risico-spreiding kan met name een rol spelen als er geen verzekeringen voor produktrisico's bestaan, en de consumenten risico-avers zijn. De consument zal van een produkt veelal maar een betrekkelijk gering aantal eenheden kopen; bij een gebrek of ongeval wordt hij onevenredig zwaar getroffen. De producent zal vermoedelijk, en vooral als het om de onpersoonlijke figuur van een vennootschap gaat, minder risico-avers zijn dan de gemiddelde consument. Verder zal een producent, naarmate het om grotere aantallen produkt gaat, gemakkelijker als zijn eigen verzekeraar kunnen optreden. Uit de opslag op de prijs van iedere eenheid produkt kan de producent een fonds vormen waaruit hij de voorkomende schadeuitkeringen financiert. Indien het om een massa-produkt gaat zullen de inkomsten van dit fonds goed gelijk oplopen met de uitkeringen.

Het maatschappelijk welbevinden lijkt bij de onder risico-aansprakelijkheid optredende verdeling van de risico's goed gediend. De risico-averse consumenten hoeven geen risico te dragen. De producenten dragen wel risico, maar zij zijn waarschijnlijk minder risico-avers en kunnen, zeker bij massa-fabricage, als hun eigen verzekeraar optreden.

Wij kunnen ons overigens wel afvragen welke gevolgen een omslag van compensatiekosten over alle gebruikers kan hebben ten aanzien van levensnoodzakelijke produkten, zoals sommige genees- en levensmiddelen. In verband met de grote risico's die een producent loopt bij aanwezigheid van gebreken in deze produkten, zou een omslag van kosten als hiervoor bedoeld tot hoge prijzen voor de produkten kunnen leiden. Dit kan maatschappelijk gezien - we zijn dan weer terug bij het (niet-economische) billijkheidsargument - ongewenst worden geacht. Men zou namelijk kunnen stellen dat compensatiekosten van dergelijke levensnoodzakelijke produkten niet mogen rusten op de groep consumenten van de produkten, maar door de gemeenschap als geheel behoren te worden gedragen, dat wil zeggen dat de overheid de desbetreffende producent zou dienen te vrijwaren voor aanspraken wegens produktschade. Wij zouden bij dit laatste kunnen denken aan een vorm van collectieve verzekering, zoals deze op dit moment bijvoorbeeld in Nieuw-Zeeland bestaat.

4.4.8 Aansprakelijkheid als sociale zekerheid

Voortdenkend in de richting van minimalisatie van de individueel geleden schade door een maximale spreiding van het risico, valt het niet a priori in te zien waarom de spreiding niet tot een nog grotere groep zou zijn uit te breiden. Waarom het risico niet te spreiden over de gehele bevolking naar het voorbeeld van wat met risico's gebeurt in

een stelsel van sociale zekerheid? Met dit laatste systeem wordt in vergelijking met risico-aansprakelijkheid niet alleen het schuldsysteem maar het gehele aansprakelijkheidssysteem verlaten. De allocatie van de ongevalskosten zou in een dergelijk stelsel niet meer gevalsgewijs en ex post op de producent neerkomen maar collectief en ex ante worden geregeld. Door middel van het instellen van een fonds, dat wordt gevoed door de bijdragen van producenten en consumenten, zouden de gelden waarmee de produktslachtoffers betaald moeten worden, verkregen kunnen worden. Het gaat hierbij niet om een theoretisch model. Sinds 1974 is dit systeem in werking in Nieuw-Zeeland.

Welke kosten zijn vanuit een economisch gezichtspunt aan een dergelijk stelsel verbonden? Voor een algemene beschouwing van het stelsel van sociale zekerheid verwijzen wij naar hoofdstuk 6 in dit boek. In dit hoofdstuk betrekken wij de kenmerken van een dergelijk stelsel slechts in zoverre zij van belang zijn voor ons onderwerp van produktaansprakelijkheid.

Allereerst kunnen wij verwijzen naar hetgeen wij eerder over de verhouding preventie en compensatie te berde hebben gebracht. Aan de reductie van de secundaire ongevalskosten is, zoals wij zagen, geen exclusieve betekenis toe te kennen. Was dit wel het geval dan zou inderdaad een of andere vorm van sociale verzekering de aangewezen weg kunnen zijn. Daarbij valt tevens te constateren dat de tertiaire ongevalskosten verbonden aan het beheer van sociale fondsen per uitgekeerde gulden veel lager zijn dan onder een schuldaansprakelijkheidssysteem. De laatste kosten zijn hoog door de hoge proceskosten die nodig zijn om de onrechtmatigheid te bewijzen.

De reden waarom ook de primaire ongevalskosten een rol spelen is gelegen in het karakter van de hier besproken risico's. Ongevallenrisico's hebben dit gemeen dat zij doorgaans aan een identificeerbare oorzaak toe te schrijven zijn en dat zij derhalve beter vermeden kunnen worden dan andere, moeilijker localiseerbare risico's, zoals het ziekterisico. Naarmate de vermijdbaarheid een grotere rol speelt komt ook meer belang toe aan de preventie, aan de reductie van de primaire ongevalskosten. Waar het kan is het beter te voorkomen dan te genezen.

Wat kunnen wij zeggen over de vraag naar en het aanbod van produkten onder dit stelsel waar de belastingbetaler als het ware aansprakelijk is? Het valt immers onder een dergelijk systeem te verwachten dat, daar noch de producent, noch de consument zich over aansprakelijkheid hoeven te bekommeren, onzorgvuldig gedrag met betrekking tot het ontwerp en gebruik van produkten relatief goedkoop wordt voor deze personen. Als consequentie zullen zowel de vraag als het aanbod van onveilige produkten toenemen. Nu de consument niet meer zelf

aansprakelijk is, worden gebrekkige produkten voor hem minder onaantrekkelijk, terwijl ook de kosten om gebrekkige produkten te verkopen zullen dalen en daarmee het aanbod zal toenemen. Er zal een verschuiving optreden in de richting van de produktie en het gebruik van meer onveilige produkten. Daarmee lijkt het idee van maximale risico-spreiding zijn doel voorbij te schieten.

4.4.9 Samenvatting en conclusie

In deze paragraaf hebben we verschillende produktaansprakelijkheidssystemen op hun bijdrage aan de maatschappelijke efficiëntie onderzocht. We hebben daarbij aandacht besteed aan het door producenten en consumenten betrachte niveau van zorg, aan de omvang van de consumptie, aan de allocatie van de risico's, en aan de tertiaire ongevalskosten.

In eerste instantie hebben we het geval bekeken dat aan een aantal stringente voorwaarden is voldaan. Met name hebben we verondersteld 1. dat de transactiekosten nul zijn (volledige informatie; geen tertiaire ongevalskosten), en 2. dat alle betrokkenen risico-neutraal zijn (respectievelijk dat de markt voor verzekeringen goed werkt en iedereen zich kan verzekeren tegen produktrisico's). Onder deze omstandigheden bleek de keuze van het produktaansprakelijkheidssysteem (risico-, schuld- of geen aansprakelijkheid van de producent) niet van invloed op de efficiëntie van het uiteindelijke resultaat.

De gemaakte veronderstellingen zijn zeker niet realistisch. Consumenten zíjn niet volledig geïnformeerd over de kwaliteiten van de door hen gekochte produkten; proceskosten zijn niet nul; verzekeringen tegen produktrisico's bestaan niet of maar ten dele; en de gemiddelde consument is risico-avers, en meer risico-avers dan de gemiddelde producent.

Laten we de eerder gemaakte veronderstellingen vallen, dan blijkt geen van de produktaansprakelijkheidssystemen op alle onderzochte aspecten even bevredigend te functioneren. Bij geen aansprakelijkheid zal het door de producent gekozen niveau van zorg te laag zijn, zal de omvang van de consumptie vanuit efficiëntie-oogpunt te hoog zijn, en zullen de consumenten het produktrisico moeten dragen. Er zijn ook pluspunten: de consument zal voorzichtigheid betrachten, en de tertiaire ongevalskosten zijn nihil.

Bij schuldaansprakelijkheid zal het door producent èn consument aangehouden niveau van zorg efficiënt zijn. De omvang van de consumptie zal echter te hoog zijn, het produktrisico komt voor rekening van de consumenten, en de tertiaire ongevalskosten zijn hoog.

Bij risico-aansprakelijkheid, tenslotte, zal de producent een efficiënt zorgniveau aanhouden, zijn de tertiaire ongevalskosten laag, en draagt de producent het produktrisico. Minpunten zijn dat, voorzover

de consument door zijn gedrag de ongevallenkans kan beïnvloeden, het niveau van zorg van de consument te laag zal zijn evenals de omvang van de consumptie van het goed.

In algemene zin gesproken is het dus niet mogelijk één produktaansprakelijkheidssysteem zonder meer als het beste, het meest efficiënte aan te wijzen.

Daarbij komt dat het vervangen van produktaansprakelijkheid door een sociale zekerheidsregeling voor produktschade geen geslaagd idee lijkt. De risico-spreiding is dan weliswaar maximaal en de tertiaire ongevalskosten zijn minimaal. Maar daar staat tegenover dat zowel de zorg van producenten als van consumenten onvoldoende zal zijn, en de omvang van de consumptie van gebrekkige en risico-volle produkten te hoog.

Gegeven dat niet één produktaansprakelijkheidssysteem er uitspringt, blijven we met het keuzeprobleem zitten. Dat zou wellicht op te lossen zijn door een nadere kosten-batenafweging te maken van de verschillende onderzochte aspecten. Het maken van een dergelijke kosten-batenafweging is echter een, zo al niet onmogelijke, dan toch in ieder geval heel moeilijke taak, waar wij ons hier verder niet mee zullen inlaten.

Een meer praktische, zij het onvolmaakte, benadering zou zijn om naar een aantal belangrijke elementen te kijken, een inschatting te maken van hun effecten, en de aansprakelijkheid bij die partij te leggen die het beste in staat lijkt de som van alle kosten laag te houden, die het eenvoudigste kosten kan vermijden. Belangrijke elementen die een rol zouden moeten spelen, zijn: het informatieniveau van consumenten (kan van consumenten redelijkerwijs worden verwacht dat ze voldoende zijn geïnformeerd?); de omvang van de produktie (kan de producent redelijkerwijs als zijn eigen verzekeraar optreden?); de invloed van de consument op de ongevallenkans (kan de consument met het produkt erg veel fout doen?); en de tertiaire ongevalskosten (kan het voeren van processen worden vermeden?). Ook bij deze meer praktische benadering is echter niet gezegd dat het oordeel eensluidend zal zijn.

In de volgende paragraaf kijken we naar wat toepassingen.

4.5 Toepassing van de economische analyse van produktaansprakelijkheid

In het voorgaande zijn met behulp van de economische theorie verschillende produktaansprakelijkheidssystemen op hun bijdrage aan maatschappelijke efficiëntie beoordeeld. Interessant is nu om te bezien

of bij de ontwikkeling/beweging in het recht argumenten met betrekking tot economische efficiëntie een rol spelen.

In deze paragraaf besteden wij daartoe wat uitvoeriger aandacht aan ons tweede voorbeeld uit de inleiding, de lekkende kruik. Hiertoe gaan wij als volgt te werk. Tijdens de procesgang van Rechtbank via Hof naar Hoge Raad kwamen, op grond van verschillende motieven, verschillende uitspraken inzake de aansprakelijkheid van de producent tot stand. Wij stellen ons nu de vraag of deze uitspraken in overeenstemming zijn met een, zo niet expliciete dan toch minstens impliciete, achterliggende economische logica.

Vervolgens bekijken wij of de algemene ontwikkeling inzake produktaansprakelijkheid van een aansprakelijkheid die is gebaseerd op schuld, naar een aansprakelijkheid die is gebaseerd op risico, ook een economische achtergrond kan hebben.

4.5.1 De lekkende beddekruik: het Jumbo-arrest

Rechtbank

We bespreken de totstandkoming en achtergronden van het arrest van de Hoge Raad van 2 februari 1973, Jumbo of lekkende beddekruik (NJ 1973, 315) en beginnen daartoe bij de uitspraak van de Rechtbank.

De Rechtbank achtte de kruikenfabrikant niet aansprakelijk. Het lekken van de kruik was in de visie van de Rechtbank te wijten aan de nog **onvolkomen stand van de techniek**. Het verschijnsel dat kruiken soms lekken, en dan met name het soort kruiken waar het hier om ging met een zogenaamde patentsluiting, was volgens de Rechtbank een feit van algemene bekendheid.

We kunnen ons bij deze motivering de vraag stellen of het economisch efficiënt is de producent niet voor schade uit een eventueel ongeval aansprakelijk te stellen. Wij hebben van doen met een inherent gevaarlijk produkt. Gegeven de stand van de techniek is de gevaarlijke eigenschap onverbrekelijk verbonden met de eigenschap die het produkt nuttig maakt in de ogen van de consument. Dit gevaar is de consument bekend, respectievelijk de kosten om deze kennis te vergaren zijn voor de consument gering. De preventiekosten zijn voor de consument dus bijzonder laag. Voor de producent overtreffen de preventiekosten - bijvoorbeeld in de zin van meer research naar veiligere kruiken - al gauw de reductie in de verwachte schadekosten. De kans op een ongeval is volgens de rechtbank namelijk bijzonder laag. Deze kans wordt bepaald door de lage kans dat de kruik zelf gaat lekken en - aangezien een ieder hiermee op de hoogte is - de zorgvuldige wijze van omgaan met kruiken door de gebruikers. Gegeven deze situatie is het ontbreken van aansprakelijkheid optimaal. Het verlaagt bovendien de administratieve kosten inzake procesvoering (tertiaire ongevalskosten); er valt immers niets te claimen.

Ook de allocatie van de middelen wordt door de aansprakelijkheid op deze wijze te regelen verbeterd ten opzichte van bijvoorbeeld een systeem van risico-aansprakelijkheid. De consumenten kunnen zichzelf namelijk in groepen onderverdelen al naar gelang hun verschillen in verwachte schadekosten of preventiekosten. Grosso modo zijn er twee groepen te onderscheiden. In de meeste gevallen is het gevaar dat door lekken van een kruik brandwonden ontstaan niet groot. De gebruiker merkt tijdig dat de kruik lekt en trekt zich terug. Dit wordt echter anders wanneer de kruik gelegd wordt bij een baby of bij iemand die zich niet kan terugtrekken. We lichten dit nader toe aan de hand van een voorbeeld; zie tabel 4.2.

Tabel 4.2 Twee groepen van consumenten

Groep van consumenten	Waarde (nut) van het produkt	Verwachte schade	Produktie-kosten
A	f 1,40	f 0,50	f 0,20
B	f 1,40	f 1,50	f 0,20

Er zijn zoals gezegd twee groepen van consumenten van, naar we zullen aannemen, gelijke grootte, A en B. Groep A heeft lage te verwachten schadekosten (de volwassen gebruikers die zich terug kunnen trekken bij lekkage). Groep B heeft hoge te verwachten schadekosten (baby's en mensen die zich niet terug kunnen trekken). Als de producenten niet in staat zijn tegen redelijke kosten te bepalen voor welke groep, A of B, de gekochte kruiken bestemd zijn, rekenen de producenten onder een systeem van risico-aansprakelijkheid iedere consument dezelfde prijs van f 1,20. Deze prijs bestaat uit f 0,20 produktiekosten en f 1,00 om de te verwachten schadeclaims uit te betalen (0,50 x f 0,50 + 0,50 x f 1,50). De consumenten in beide groepen kopen het produkt. Voor beide is er een positief verschil tussen het nut (de waarde voor de consument is f 1,40) en de prijs (f 1,20) van het produkt.

Toch is dit resultaat inefficiënt. Het zou maatschappelijk gezien beter zijn als alleen groep A en niet groep B de kruik zou kopen. De sociale kosten van het produkt voor de consumenten uit de laatste groep bedragen namelijk f 1,70 (f 0,20 + f 1,50) en niet f 1,20. Deze sociale kosten overtreffen de baten van het produkt à f 1,40.

In het geval dat de producent geen aansprakelijkheid draagt, daalt de prijs naar f 0,20. Groep A blijft het produkt kopen, misschien zelfs meer, terwijl groep B de consumptie zal staken. Zij zijn immers - althans bij dit produkt - volledig op de hoogte van de gevaren aan het gebruik van een kruik verbonden. Dit leidt tot het gewenste resultaat,

omdat groep B in feite een netto-verlies van f 0,30 op het produkt leidt. Groep B kan voor het beoogde doel beter naar een ander produkt omzien.

Intermezzo - Het ontwikkelingsrisico

In het bovenstaande hadden wij te maken met een produktgebrek, waarover de consumenten bij het op de markt komen van het produkt al kennis hadden. We spreken over een onvolkomen stand van de techniek. Al zal de producent er nog een hele dobber aan hebben om bij voortduring van alle ontwikkelingen op de markt op de hoogte te blijven. Hoe staat het echter met die gebreken aan een produkt waarover wij pas geruime tijd na introductie van dat produkt op de markt kennis krijgen?

In het oorspronkelijke EG-voorstel inzake de richtlijn over produktaansprakelijkheid was het voor de ondernemer niet mogelijk zich te beroepen op - wat Amerikanen noemen - "the state of the art defence". Anders gezegd, er was aansprakelijkheid voor het **ontwikkelingsrisico**. Het gaat daarbij om het risico dat achteraf blijkt dat nieuw ontwikkelde produkten, al bij hun introductie op de markt, schadeverwekkende eigenschappen bezaten. Dit komt echter pas door de voortschrijdende wetenschappelijke en technische kennis aan het licht. Deze kwestie was een van de grootste twistappels bij de onderhandelingen over de richtlijn. Zo kan er bijvoorbeeld - bij het niet uitsluiten van aansprakelijkheid van ontwikkelingsrisico's - gewezen worden op de nadelige effecten op investeringen in de medische sector met betrekking tot de ontwikkeling van nieuwe medicijnen en medische apparatuur. Het risico en de kosten verbonden aan het ontwikkelen van nieuwe produkten zouden zo hoog worden dat ondernemingen liever bij de oude vertrouwde produkten blijven.

Dit is ook de reden waarom veel staten binnen de VS latere verbeteringen in een produkt weigeren te aanvaarden als bewijsmiddel voor het bestaan van een gebrekkig produkt. De gedachte hierachter is dat dit de fabrikanten zou ontmoedigen om verbeteringen door te voeren. Zo geldt ook in de EG-richtlijn dat een verscherping van de veiligheidsnormen, bijvoorbeeld door middel van wettelijke voorschriften, nádat het produkt in het verkeer is gebracht, het produkt als zodanig niet gebrekkig maakt.

Tevens kan met betrekking tot het ontwikkelingsrisico overwogen worden dat de aansprakelijkheid niet zover behoeft te gaan, dat de producent in feite een verzekeraar wordt van alle hem bekende en onbekende nadelen, die uit een normaal gebruik van het produkt voortvloeien. De EG-richtlijn heeft immers niet verzekering maar aansprakelijkheid als onderwerp.

Tenslotte hebben de innovatievriendelijke pleitbezorgers van uitsluiting van het ontwikkelingsrisico binnen de Europese Gemeen-

schap aan het langste eind getrokken. En wordt er dus een uitzondering op het beginsel van de risico-aansprakelijkheid gemaakt. Ook het BW heeft zich hierbij aangesloten: artikel 1407a lid 1 sub e, zij het met een zware bewijslast voor de producent.

Hof

Terug naar de beddekruik. Na de Rechtbank was het de beurt aan het Hof om zich uit te spreken over de aansprakelijkheid van de fabrikant.

Anders dan de Rechtbank legde het Hof in zijn afwijzing de nadruk op de **wijze van gebruik** van het produkt. De kraamverzorgster had zorgvuldiger kunnen handelen. Zo was het mogelijk geweest de kruik met minder warm water te vullen, de kruik op een nog veiliger afstand te leggen en regelmatig te controleren. Deze maatregelen dringen eens te meer daar wij hier met een groep personen te maken hebben voor wie de kruik bestemd is, namelijk baby's, die zich niet licht zullen terugtrekken bij lekkages.

De vraag vanuit een economisch gezichtspunt luidt wie het goedkoopste een ongeluk kan vermijden. Dat is in dit geval duidelijk de kraamverzorgster. Als kruiken inherent gevaarlijk zijn geldt dit zonder meer en bij een produktiefout, gegeven de al betrachte zorgvuldigheid door Jumbo, idem. De producent doet in deze situatie als het ware een beroep op de door ons in paragraaf 4.4.6 geformuleerde geclausuleerde risico-aansprakelijkheidsregel.

Hoge Raad

Toen de kwestie van de aansprakelijkheid van de producent uiteindelijk aan de Hoge Raad werd voorgelegd, kwam deze tot een aan Rechtbank en Hof tegenovergestelde uitspraak. De Hoge Raad achtte de fabrikant wel aansprakelijk.

De Hoge Raad ging in op het feit dat het hier een **concreet gebrek** betrof. De schroefdraad van de dop paste niet geheel op die van de kruik. Er was sprake van een fout in een van de onderdelen van de kruik.

De consument kan weinig doen om de fout, van dit onderdeel van het door hem gekochte produkt, te onderkennen; hiervoor is een grote mate van technische kennis vereist. De producent kan dit echter wel, en in ieder geval makkelijker en goedkoper; hij beschikt over de noodzakelijke expertise. Het is dus efficiënt om de producent aansprakelijk te stellen. Dit geeft de producent tegelijk de stimulans om researchinspanningen te ontplooien om defecte onderdelen beter op te kunnen sporen.

Het voorgaande overziende kunnen we constateren dat aan de uitspraken van Rechtbank, Hof en Hoge Raad een economische logica niet kan worden ontzegd. Indien verondersteld mag worden dat de consument

voldoende geïnformeerd is of zou kunnen zijn over de onvolmaaktheid van een produkt, dan wel indien de consument door het betrachten van normale voorzichtigheid ongelukken kan voorkomen, is het alleszins redelijk de producent niet zonder meer aansprakelijk te houden. Indien echter de consument niet geacht kan worden over die informatie te beschikken, of indien het om een fabricagefout van de producent gaat, ligt het voor de hand om de producent aansprakelijk te houden, zoals uiteindelijk ook gebeurde.

In aansluiting op het bovenstaande voorbeeld stellen we in de rest van deze paragraaf de meer algemene kwestie van de overgang van schuld- naar risico-aansprakelijkheid aan de orde.

4.5.2 De ontwikkeling van schuld- naar risico-aansprakelijkheid

Tot slot van dit hoofdstuk bezien wij de vraag of de ontwikkeling van schuld- naar risico-aansprakelijkheid - zoals deze zich in Nederland en de rest van de wereld voltrekt - in zijn algemeenheid op basis van een economische redenering valt te beschrijven.

Deze ontwikkeling kan verklaard worden vanuit de **groeiende complexiteit** van het goederenaanbod. In de vorige eeuw waren de meeste consumptiegoederen eenvoudig van aard, in de zin dat hun kwaliteit tegen lage kosten was vast te stellen. Het betrof meestal goederen bestemd voor dagelijks gebruik. In deze situatie was het even goedkoop voor de consument als voor de producent om een ongeluk te voorkomen. Het had dan ook weinig zin om de producent aansprakelijk te stellen.

De tegenwoordige consument heeft echter te maken met technisch veel gecompliceerdere artikelen en een verhoudingsgewijs geringe technische kennis. Vergelijk de tijd dat de mensen grotendeels op de boerderij leefden en zelfvoorzienend waren. Toen hadden de meeste mensen nog kennis van de paar dingen die zij buiten het eigen bedrijf om kochten. De tegenwoordige consument koopt echter niet alleen meer goederen die dagelijks gebruikt worden maar ook duurzame consumptiegoederen. Van beide is de technische complexiteit groot. Ook de dagelijkse, simpele goederen van weleer worden veelal ingeblikt, voorzien van kleurstoffen en conserveringsmiddelen, verkocht. De asymmetrie die daardoor is ontstaan in de (kosten van) informatievoorziening wijst in de richting om de aansprakelijkheid daar te leggen waar de kosten om ongevallen te voorkomen ook het laagst zijn, te weten bij de producenten.

Overigens kan hier ook aan een veel gehoorde andere economische motivering worden gedacht. Deze redenering luidt dat opkomende industrieën - bijvoorbeeld in ontwikkelingslanden - hun schadelast nog niet volledig kunnen dragen en met een systeem van schuldaansprakelijkheid zijn gediend. Het omgekeerde geldt voor industrieën in geïndustrialiseerde landen; aldaar is er geen grond meer

aanwezig om de industrie te beschermen - en aldus indirect te subsidiëren - tegen het dragen van haar volledige kosten.

4.6 Samenvatting

1. Recht is in beweging; het produktaansprakelijkheidsrecht bevestigt die regel wel zeer in het bijzonder. In dit hoofdstuk belichten wij de ontwikkelingen in het produktaansprakelijkheidsrecht vanuit een economisch gezichtspunt.

2. Wij spreken van produktaansprakelijkheid als wij een producent aansprakelijk willen stellen voor de schade die voortvloeit uit de omstandigheid dat hij een ondeugdelijk produkt op de markt heeft gebracht. Wij kunnen daarbij een onderscheid maken in een systeem van schuld- respectievelijk van risico-aansprakelijkheid van de producent.

3. In een economische benadering van schade zijn drie kostencategorieën van belang: het voorkomen van schade (primaire ongevalskosten), het vergoeden van schade (secundaire ongevalskosten) en tenslotte de bijkomende kosten als gevolg van administratie, procesvoering e.d. (tertiaire ongevalskosten).

4. Als wij het hebben over een reductie van de schade springt het onderlinge verband tussen de kostencategorieën in het oog. Een reductie van de compensatiekosten (secundaire ongevalskosten) gaat veelal gepaard met een stijging van de preventiekosten (primaire ongevalskosten). Economen spreken dan ook over de optimalisatie van het risico.

5. Het produktaansprakelijkheidssysteem dat - gegeven de restrictie van de tertiaire kosten - de schadelast zó toewijst dat de som van de compensatiekosten (secundaire ongevalskosten) en de preventiekosten (primaire ongevalskosten) het laagst is, leidt tot het efficiënte niveau van zorg. Vanuit efficiëntie-oogpunt is verder de omvang van de consumptie van belang (zijn in de afwegingen omtrent de te produceren en te consumeren hoeveelheid van het produkt wel de volledige kosten meegenomen?). Tenslotte verdient de allocatie van het risico aandacht (bestaat er een verzekering tegen produktrisico's; zo niet, wie draagt dan het risico, en wie is het minst risico-avers, de producent of de consument?).

6. Bij nadere beschouwing blijkt het heel moeilijk, zo niet onmogelijk, om aan te geven welk van de produktaansprakelijkheidssystemen (het meest) efficiënt is. Meer praktisch is de regel dat het recht diegene die de som van schade- en preventiekosten het laagst kan houden, aanmoedigt deze maatregelen ook te nemen, door aan hem de schadelast toe te wijzen.

4.7 Literatuur

A. Mitchell Polinsky, *An introduction to law and economics*, Little, Brown and Company, Boston and Toronto, 1983.
Hoofdstuk 13 geeft een inleiding in de efficiëntie-problemen van produktaansprakelijkheidsregelingen.

Guido Calabresi, "Some thoughts on risk distribution and the law of torts", *Yale Law Journal*, vol. 70, 1961.
Het in de inleiding genoemde artikel. Is nog steeds lezenswaardig. Calabresi onderzoekt de vraag wat nu precies wordt bedoeld met de term risico-spreiding. Wordt daarmee bedoeld: 1. een zo breed mogelijke spreiding over personen en in de tijd; 2. het dragen van de lasten door de economisch meest draagkrachtigen; of 3. dat bedrijven dienen op te draaien voor de schade die zij veroorzaken?

Richard A. Posner, *Economic analysis of law*, Little, Brown and Company, Boston and Toronto, 2nd ed., 1977.
Guido Calabresi, *The costs of accidents: a legal and economic analysis*, Yale University Press, 1970.
Deze boeken geven de twee meest gezaghebbende opvattingen over de efficiëntie van de verschillende produktaansprakelijkheidssystemen. Het laatste boek gaat met name ook in op de door ons gehanteerde driedeling in kostencategorieën.

ENGLISH SUMMARY OF CHAPTER 11: PRODUCTAANSPRAKELIJKHEID

PRODUCTS LIABILITY

Chapter 11 is about products liability, and gives the mainstream neoclassical view. In the Netherlands, products liability was and is a point of interest. There is a certain discontent with the way it functions and with the European Union guidelines for its harmonization. The system of liability that functioned before the middle of the 80s had, on the one hand, high administrative costs and, on the other hand, the disadvantage that victims often got no compensation if negligence of the producer could not be proven. As well as the poor compensation the victims received, a further reason was that different products liability systems in the Union are detrimental to a free flow of goods between the countries: the creation of one internal market. The chapter first it introduces two different concepts of products liability and three cost concepts—and the relation between them—that are relevant for the prevention and compensation of damages. Further it describes the different ways an economist and a lawyer look at products liability. The next part describes the neoclassical efficiency perspective on products liability, first by making the restrictions of risk neutrality and the absence of transaction costs. The third part looks at products liability if the consumers are not risk neutral and there are transaction costs. The final part gives an economic explanation for the development in the Dutch system of products liability.

The development in the Netherlands was from a system of negligence to one of strict liability. The aim was to improve the position of the consumer on the market. Under strict liability, the consumer does not have to prove negligence on the part of the producer. Accidents give rise to three sort of costs: primary costs which are those involved in preventing an accident; secondary costs which are those of compensating the victim; and tertiary costs which are the juridical costs of running the liability system. An efficient liability system tries to minimize the total sum of the costs. If costs are minimized, a relation can be seen between them. To reduce primary (prevention) and secondary

(compensation) costs at the same time can be a problem. For instance, full compensation (that is a complete insurance of accident costs) can lead to moral risk. Moreover, the aim cannot be a complete reduction of risk, that is of accident costs. For some activities the benefits are far greater than the costs. There is an optimum amount of risk. For instance, though a big car is generally safer than a smaller one, a smaller one can still be more efficient. The benefits of its lower price and fuel efficiency are greater than the costs of an injury in the case of an accident.

In general the economist and the lawyer have a different perspective on products liability. For the latter, liability primarily has to do with the compensation of the accident costs of the victim. If the lawyer asks the economist for advice it is for instance about the amount of the accident costs. If the economist looks at liability, however, he looks at the prevention of accidents. His question is how to reduce the accident costs. But he also looks at the benefits of the risky activity. In other words, for the economist, products liability has to do with efficiency. For the jurist it has to do with equity and justice. An example of the latter is the deep pocket rule. However, the difference between exante (prevention) versus expost (compensation), and efficiency versus justice is not as strict as it seems at first sight.

By using rather strong restrictions, it is possible to look at different systems of liability from the point of view of efficiency. Assume risk neutrality, the absence of transaction costs (full knowledge, no tertiary accident costs, the market for insurances works optimal), and only the producer being able to influence the chance of an accident. For the neoclassical, production is efficient if all costs are part of the decision process. First, I look at the costs of prevention and compensation. If there is full knowledge it does not matter which system of liability is chosen. Either risk, negligence, or even no liability at all lead to the same optimal result, which is the one predicted by the Coase theorem. Total costs in all three systems are as low as possible. If there is no assumption of full knowledge, the choice of a system of liability becomes important, from an efficiency point of view. If there is risk liability the optimal result does not change. With a negligence rule, however, the amount of consumption is inefficient. Consumers can buy too much of a good. If there is no liability at all, both the level of care of the producer and the amount of consumption are inefficient.

The economist's preference for strict liability is enforced if tertiary costs are also taken into account. If there is no liability at all they are, of course, zero. If there is risk liability they are low. Only the amount of compensation is a point of discussion. If there is a negligence rule they are in general very high. For every case it has to be proven that the producer did not take the necessary amount of precaution.

In general, if the restrictions are dropped, none of the systems of liability works optimally. This as far as the level of care taken by producers and consumers, the amount of consumption, the allocation of risk, and tertiary accident costs go. If there is a no-liability rule, on the one hand producers do not take enough care and consumption will be too high. On the other hand, however, consumers will take precautions and there will be no tertiary accident costs. If there is a negligence rule, producers and consumers will take the efficient level of care. There will, however, be too much consumption and tertiary costs will be high. If there is a system of risk liability, the producer will take the efficient level of care, and tertiary accident costs will be low. If, however, the consumer can influence the chance on an accident, he will take less prevention than is optimal.

Since, in general, no system is efficient in all aspects, a practical solution would be to look at the different costs: (1) to guess what elements are relevant in a particular situation; (2) to look at their effects; and (3) make that party liable for ways of lowering the costs, or preventing them, who can actually do it. Elements to look at would be whether consumers are being properly informed, whether the producer can insure his production, whether the consumer can take his own precautions using the product, and whether juridical costs be can be minimized.

Part III. THE AUSTRIAN PERSPECTIVE ON CONSUMER POLICY

Chapter 12. Austrian Thoughts on Products Liability

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12. AUSTRIAN THOUGHTS ON PRODUCTS LIABILITY

12.1 The neoclassical way: strict liability

Products liability, part of tort law, deals with harms arising from commercial products. It is mostly about physical injuries to the consumer's life and property, caused by defective or unreasonably dangerous products. The previous chapter looked at the development of products liability from the neoclassical point of view. In this chapter I want to answer the question of what does an Austrian system of products liability looks like. For the neoclassical, the development seemed to be driven by a cost-benefit calculus based on standard criteria of efficiency. Mainstream law and economics in its positive dimension supposes that the liability system itself and every change in it are efficient, or that in its normative dimension it addresses the issue of how legal rules might be formulated to maximize the value of production. The judge, using one of the most famous formulas in the economic analysis of law, the so-called Hand Formula after Judge Learned Hand (cp. Cooter and Ulen, 1988, pp. 360-362), balances expected accident costs against the costs of making the product safer. A defendant is guilty of negligence if P times L is greater than B. Where P is the probability, a loss will occur, L is the value associated with the loss, and B the cost associated with preventing it.

What was the development in liability the neoclassicals can explain? For the United States, Richard Epstein in his 1980 book on modern products liability law distinguishes three stages. From roughly 1850 till the end of the first World War the burden was upon the consumer. He had to ferret out and correct all manner of product weaknesses and deficiencies. Otherwise, there was the fear of grave administrative complications. The courts threatened to be overwhelmed by the sheer task of going through a full post-accident inquest, in an ever-growing number of cases on how all the parties performed. There also was the fear of adverse social consequences: the economic ruin of the producer. Till the end of the 60s the burden of loss was evenly distributed between producer and consumer.

There was a balance between the dual constraints of substantive justice and administrative need. A negligence rule imposed an obligation to satisfy a legal standard of care, usually defined as a reasonable level of care. Today the producer bears the burden. The philosophical premises underlying the notion of liability have changed fundamentally. Administrative necessities and contractual models for setting liability are now not given much weight. Liability is a matter of public law models of regulation, such as risk spreading (producers act as insurers by spreading the cost of the accident across consumers through higher product prices) or deep pockets. In this third stage strict liability dominates. It makes the injurer bear the cost, regardless of the extent of his precautions. No legal standard of precaution is relevant to the assignments of costs.

It has been said that the notion of strict liability is a misnomer. The Hand Formula is still often used to determine liability. See, for instance, the design defect test. Since the 1970s, courts instead of focusing on whether a product has isolated manufacturing defects, ask whether the products themselves are defective in design. The cost-benefit analysis asks if the benefits to the user of an improved safer design exceed the costs of providing such a safer design. If this condition is met, then the firm should be liable for an inadequate level of safety. In general the change in the system of liability has worked to expose the manufacturer, distributor, and retailer to ever greater liability. The consumer, once regarded as an essential and responsible link in the chain of product use, is now more the object of legal protection and less a bearer of independent responsibilities (Epstein, 1980, p. 6). Suppose the mainstream way of looking at torts in general and products liability in particular is the only one. Then, in a certain sense, the same analogy applies as that what Hayek said about the neoclassical notion of perfect competition (see Part I). He said that full knowledge is not a defining element of perfect competition but of the situation when it has run its full course. Here too, in a sense, the neoclassical position is self-defeating. Tort cannot be committed in general equilibrium. Perfect knowledge of the future rules torts out. "Even an intentional tort could not occur, for a perfectly foreseen tort could surely be avoided by the victim" (Rothbard, 1979, p. 93). In other words, with full knowledge, the market (prices) leads to the efficient outcome, no matter whether there is or is not a system of products liability (Velthoven and Van Wijck, 1997, p. 208: cp. Rizzo, 1980, p. 291; and

Wonnell, 1986 p. 514). What then of the real consumer who acts in a world of genuine surprise? What does an Austrian system of products liability look like?

12.2 The Austrian way: strict liability revisited

Austrians (Christainsen, 1990; Cordato, 1992; Rizzo, 1985; Rothbard, 1982, Teijl and Holzhauer, 1997, p. 157) are said to prefer a system of strict liability. Why? Austrians prefer abstract rules: stable rules the government cannot change at will. Rules enhance the chances of an order in which individuals pursue and attain their goals. "[I]n order to pursue goals and make plans it is necessary to have a system of property rights that is clearly defined and that each individual can count on into his foreseeable future. Any involuntary alteration of a given property rights structure will necessarily interfere [...]"(Cordato, 1980, p. 402). Property rights are the spheres of freedom of action by each individual. Two axioms are basic to the system of property rights. One, every man is a self-owner. He has the absolute jurisdiction over his own body (the axiom of self-ownership). And two, each person justly owns whatever previously unowned resources he appropriates or "mixes" his labor with (the axiom of "homesteading") (Rothbard, 1982, pp. 60-61).

Strict liability, indeed, circumscribes an explicit cost-benefit analysis of the judge. The injurer bears the cost of accidents he causes, regardless of the extent of his precaution. No legal standard of precaution is relevant to the assignment of costs. But, says Steve Hanke (1985), it brings it back later. For a cost-benefit analysis is not used at the time liability is assigned, it is an integral part again in seeking the form of compensation to be paid (Hanke, 1985, p. 894). The judge has to determine whether damage payment or specific performance—the promiser has to perform as promised—is the appropriate remedy. For an Austrian, however, specific performance, as far as subjectivism goes, will always be preferred. Rights are to be honored independent of utilitarian cost-benefit considerations. No judge-made efficient breach of contracts is possible. Moreover, as far as compensation goes, Austrian subjectivism is useless. Someone else cannot decide on subjective cost. Compensation is an issue of corrective justice and rests on ethical premises of just compensation—principles of right and wrong (Cordato, 1992, p. 106; cp. Rizzo, 1979a). Ethics is no value-free "positive" discipline.

To sum up, for an Austrian, liability is "analyzed in terms of institutional efficiency—the certainty and stability that these rules impart to the social framework" (Rizzo, 1980a, p. 291). Strict liability fits in naturally. Costs and benefits do not have to be balanced. Negligence, however, always needs a balancing of interests. We need a particular hierarchy of means and ends. For the Austrians, tort is based on ethics not economics (Rothbard, 1979, p. 95; cp. Arnold, 1982). He who causes harm should compensate the victim.

Austrians reject dynamic change in the law on the basis of economic efficiency; they prefer a static, stable system. Appropriate rules of the game, i.c. on products liability, however, are necessary. As Hayek said: "Competition is a procedure of discovery [...]. To operate beneficially, competition requires that those involved observe rules" (1988, p. 19). Competition is not unconditional, but is conditional competition subject to certain constraints. So the question becomes how competition and entrepreneurship can be conditioned in their working properties by alternative rules for products liability.

Is strict liability the only Austrian approach possible? I want now to highlight the Austrian elements of subjectivism and entrepreneurship and see where they take us.

12.3 Contracts: back to the future

For liability to be Austrian it should be able to cope with subjectivism and entrepreneurship. These cannot be ignored, although some believe that it is impossible to incorporate them in a system of liability. Subjectivism should lead to a system in which all compensation is astronomically high. Why not punish someone who makes a scratch on my car with capital punishment (De Geest, 1994, p. 496, cp. p. 491)? But what is the alternative? Notions of objective specificity and precision widely used in the natural sciences have no place into a science of human action. Facts deployed in social science are merely opinions: they never exist as a consistent and coherent body. It is better to adhere to Hayek who said "it is probably no exaggeration to say that every important advance in economic theory during the last hundred years was a further step in the consistent application of subjectivism" (1952, p. 31).

It is said (De Geest, 1994, p. 497) that certain things, such as encouraging entrepreneurship seem to follow in the Austrian tradition almost as if they belong to a

logical category. Without there being any discussion or motivation, as if no other costs, such as transaction costs exist at all, or are important. In a sense, this is true; it is praxeology we are talking about. But that does not mean it is not a reasoned conclusion, reached by verbal-deductive logic. To speak of Austrianism means to speak of individualism and subjectivism. Human action is based on individual purposes; gains and losses are personal, non-comparable, and non-additive. Cost comparisons done by an outside observer are impossible. How can this element be incorporated into a system of liability. Fortunately, "[j]ust as most intentional assaults involve assailants and victims who already know each other well, most unintended injuries occur in the context of commercial acquaintance [...]" (Huber, 1988, p. 5). Accidents are part of the realm of human cooperation, and not of unchosen relationship and collision. In other words, accidents are part of consent (private choice) not of coercion (public choice). If this is the situation, what comes to the fore as the element to focus on is the implicit or explicit contract made. It "allows us to weight the risks and benefits of our actions in the objective coolness of the beforehand rather than in the emotional heat of the aftermath" (Huber, 1988, p. 226). The best protection against accidents are not measures taken after an accident happens but "in the freedom to make considered, binding choices beforehand" (Huber, 1988, p. 18). Private choice and individual consent—both deliberately made—are what it is all about. We make a distinction between harmful acts and tortious ones. What makes the difference is consent, or lack of it. Not all harmful acts are torts. No harm is done to one who is willing. A person who comes willingly to a risky situation assumes the risk of his activities and cannot blame someone else later for the accident. Parties allocate risks and responsibilities in any way they choose. First party insurance, specified compensation, and assumption of risk prevail over liability-driven compensation.

However, are not transaction costs too high to make contracts? First, transaction costs are costs like any other. We live in a world of costs. Everybody wants them lower, just as every consumer wants prices to be as low as possible. Second, of course people cannot contract with every firm individually. Firms will compete in offering different packages of liability. As standard contracts are developed, transaction costs go down. Third, it is surely not possible to find a measure of efficiency—as the neoclassicals are inclined to do—from a world without transaction costs. What judges are asked to do is to allocate when

transaction costs are prohibitive high. But that is the same as the hypothetical markets I spoke of earlier in the so-called calculation debate (O'Driscoll, 1980, p. 356; Rizzo, 1979b, p. 87; cp. Huber, 1988, p. 220). Indeed, it is the old problem again: "Can we do without the market?" Austrians emphasize the division of knowledge and its growth. Freedom of contract is necessary, not because it produces perfect efficiency, but because it produces more efficient outcomes than judicial intervention does. The system encourages the full use of human knowledge.

Next to subjectivism, Austrianism also implies entrepreneurship. It has to be stimulated. If contract is the norm, people suffer or enjoy the consequences of their decisions. One is alert; entrepreneurship is encouraged. New things can be discovered, and we can be genuinely surprised. Strict liability implies coercion and less choice. But what is needed is not less but more choice (Huber, 1988, p. 224). A system of tort says no. The only freedom left is not to discover, not to innovate. Contract gives the individual the freedom to make his own private choices. It stands against the judge's public choice under a system of strict liability.

People have the freedom to take or limit liability through exante agreements. They have the opportunity through voluntary exchanges (the contracting process) to use their property rights. Circumstances change and people are different. That is why an exchange, if voluntary, always benefits the exchanging parties. Strict liability in modern product law, however, negates any attempt to limit liability through agreements. "[...T]he concept is associated with the nearly complete abandonment of contract and the idea that the plaintiff should never bear the costs of his or her actions" (Cordato, 1992, p. 101). The world, however, is one of error and risk: genuine surprise. How can a contract with its implied distribution of liability be just if it is based on the erroneous valuation of one or both of the partners? But the market process is all about the correction of error. Entrepreneurship depends on error, of which we are never fully aware. The question is, "Is the error—yes or no—induced by one party, either positively or tacitly, on the basis of which consent is fraudulently obtained?" (cp. Kirzner, 1979, p. 217). Genuine error, however, is completely different. Genuine error and its counterpart genuine surprise are unexpected. Such a possibility is never imagined. The correction of these errors should be seen as a gain; as something that was not there before—for better or worse. The possibility of genuine error

is the spark that switches on entrepreneurial alertness. For both consumer and producer it is the core of the market process (Kirzner, 1989, p. 107).

The solution of Christainsen (1990), however, for incorporating entrepreneurship will not do. He wants the courts to carry out the process of discovery. Not a governmental monopoly, but a private legal process of discovery. Courts have to compete to attract customers. "[J]udges use the knowledge embedded in customs and precedents, knowledge that is dispersed among millions of people and tested by centuries of experience" (Christainsen, 1990, p. 497). The consumer, however, cannot hire an entrepreneur and let him do the work. Entrepreneurship is no scarce resource in the usual sense. If so, indeed, potential entrepreneurs must be rewarded to offset the costs of exercising entrepreneurship. Until, however, "an opportunity *has* been discovered, no one knows how much to offer as an incentive for its discovery [...] (Kirzner, 1989, p. 28). "To hire an 'entrepreneur' is to be an entrepreneur—simply shifting the problem back to the incentives that might galvanize *this* latter entrepreneur into action" (Kirzner, 1989, p. 27). Still, the notion of discovery is correct, but let the individuals do it themselves. Why not bring liability back to the law of contracts—back, so to speak, to Epstein's stage one? Why not a contractual solution? This is the route I take in this thesis.

12.4 The hapless victim: *caveat emptor*

But this brings back the old notion of *caveat emptor*, "Let the buyer beware!" The rule that has prevailed since time immemorial, or at least since the fifteenth and sixteenth centuries (Huber, 1988, p. 22). However, since the seller was bound by the terms of the deal too, the rule would more correctly have read *caveat emptor et vendor.* Also the whole idea of contract law of making people keep to their agreements and promises, is rooted in a notion of consumer protection.

We have an innate sympathy, however, against the notion of *caveat emptor.* Indeed Adam Smith spoke of sympathy as one of the driving forces of the market. The invisible hand produces order. It manifests itself in two ways: first, in our sympathy for our fellowman and, second, in competition among producers and consumers. Both forces control our self-interest. And indeed, the most powerful agent in the change in tort law,

from *caveat emptor* to the notion that the buyer should never bear the costs of his action, has been sympathy (Huber, 1988, p. 190). "Who can fail to be angered by the devastating injury to a young child, or by the maiming of a woman in the prime of her life, or by the slow suffocation of a retired factory worker? Every accident was recharacterized as an assault, the victim then being invited to make a bid for our sympathy in court" (Huber, 1988, p. 191).

Contract law, however, seems to be returning to the dark days of the Middle Ages; back in time to when capitalism started. It negates the fundamental trend in todays society, that forms the basis of liability, of a growing innate sympathy. Perhaps sympathy was too expensive in the old days, but today society can afford to help its fellowmen. Contract law places a heavy burden on the weak, ordinary consumer: the hapless victim of an accident. Who is he? Everyone. People are ignorant of most dangers and no experts on products liability. It cannot be only the dullards who need protection. For "then the question becomes: How can one justify a comprehensive ban rather than a ban applicable to the dullards alone?" (Higgs, 1994, p. 8). But then, who and on what basis will select the dullards?

How then does the market protect us? First, suppose we know we are ignorant. If the producer knows more, the development of goodwill (and fear to lose it) of the producer can be an answer. The producer protects us out of self interest; he wants to see us again, we pay him more. Personal relations can be the solution—not the problem. A solution not found in the neoclassical ideal of perfect competition (cp. Wonnell, 1986, p. 522. For other ways of how the market protects people, see the first two chapters of Part III). Second, what about the standard contracts I just mentioned? Of course, no one has to start from scratch and do all the work himself. But what about weak bargaining power, especially if no standard contracts are available? In a market economy this will never be a problem. As Böhm-Bawerk demonstrated in his article "Control or Economic Law?" ([1914] 1962), competition provides an alternative to bargaining: the range of indeterminacy where bargaining is necessary tends to narrow as competition becomes more vigorous (cp. Wonnell, 1986, p. 538). The weak consumer is protected by the competitive process; his bargaining skills are not that important. Or perhaps the market is not all that close to bargaining. As Kirzner says, the market, first and foremost, is a process in which not

bargaining but the alert grasping of new profit opportunities followed by the erosion of them takes centre stage. Third, the world will change. At this moment "[w]e no longer have a functioning law to encourage and enforce the settlement of accidents before hand, through deliberate choice, private insurance, and specified compensation or assumption of risk" (Huber, 1988 p. 222). But this does not mean that the situation cannot change.

Is there no easier way to get the same result: the protection of the consumer? Jevons already said that no "consumer wants to buy putrid sausages, poisonous pickles, dangerous guns, or fraudulent plate" (1882, p. 43). He concluded that consumer protection should rely on the government inspector who is a far better judge than the individual purchaser. "*Laissez faire* policy might still be maintained if everybody understood his interests. But the very point of the matter is that ignorant people cannot take precautions against dangers of which they are ignorant" (1882, p. 42). For Jevons there were no hard-and-fast rules, every case had to be treated in detail upon its merits. It is all very well, he said, "to argue about what people ought to do; but if we learn from unquestionable statistical returns that thousands of hapless persons do, as a matter of fact, get crushed to deaths, or variously maimed, by unfenced machinery, these are calamities which no theory can mitigate" (1882, p. 2). And so, "the first step is to throw aside all supposed absolute rights or inflexible principles" (Jevons, 1882, p. 9). If the consumer is not the best judge of what he wants, the result will be that "[b]y degrees inspectors will make their way into our houses to see that our drains are in good order, our rooms well ventilated, our kitchen boilers safe, our cisterns clean, our children at school" (1882, p. 40). Although, he was aware that a lot of the laws supposed to protect the consumer "were mere class laws, intended to support the pride of an aristocracy by restraining the tastes of the lower classes" (1882, p. 40).

Carl Menger (1994), however, at about the same time, in his lectures to Crown Prince Rudolf of Austria, gave priority to the market. For him, the government never knows best. It is better to rely on the dispersed wisdom of even the most ordinary people. "Government cannot possibly know the interest of all citizens, and in order to help them it would have to take account of each of the diverse activities of everybody" (Menger, 1994, p. 111). Even in the case of a severe famine, the best the government can probably do to help is to alert people "to the impending danger with informative brochures in plain language" (Menger, 1994, p. 195).

But still if society knows less and the government knows more, why not take a short-cut and let the government ban dangerous products right away? In other words, if we posses imperfect information and have a limited capability of processing complex information—which no doubt we have—would it not be expedient to let the government ban dangerous products? Is working through markets really necessary? The problem is to decide what will guide the government in its decision making. Next to all sorts of public choice failures—regulators, for instance, usually assume the worst in each situation (Higgs, 1994, p. 7)—there are also noted Austrian failures of social cost-benefits analysis. Social aggregation is impossible. The consumers themselves evaluate their welfare and demonstrate it in their actions.

But there is more. Consumers exchange goods to improve their position. Goods, however, have a risk dimension, just as they have colour and quality. Life's risks cannot be avoided, but have to be coped with one way or another. To restrict choice to goods without (for the sake of the argument let us suppose this is possible) or a lower risk dimension makes no one better off, and some or all worse off. Why? First, people who prefer risk are worse off. We all make a different trade-off between price, quality, and risk. Second, no one will be better off. Choice is always prospective. Even if someone is disappointed with the product later on, and regrets having bought it, at the moment of choice his range of freedom shrinks. He is worse off. It is through disappointment that the market works; that is how we learn. Choosing not only implies regret, but also being surprised by correcting genuine errors.

To let an expert choose is no solution. It would mean the end of the market economy. Indeed, some know more than others. But "[i]f consumer choice were to be permitted only to consumers whose knowledge, whether of risk or any other dimension, equalled or exceeded that of all other persons, then persons in general would not be permitted to choose anything for themselves, and no genuine market order could exist" (Higgs, 1994, p. 7). Who determines who knows best, not just of one but of all qualities of a product? Who can give the comprehensive judgement of a good? The market cannot be surpassed. Actions show the preferences and knowledge of the individuals.

12.5 The utter stranger: negative externalities

For the sake of the argument, we could say that parties in an exchange can contract all damages between themselves. But what about the innocent bystander, the utter stranger? He certainly cannot; he is no partner in the exchange. As I showed earlier, as far as products liability goes, the stranger is the exception to the rule. It is unnecessary to build our whole system of products liability around him, as some Austrians, by advocating a system of strict liability, are inclined to do. But still he is the exception we have to look for. In other words, what about negative externalities? For the neoclassical, negative externalities arise because the private and the social net product differ. The normative conclusion follows that with positive or negative externalities, the market leads to sub-optimal results. If externalities are positive, output is less than the Pareto optimal amount. If they are negative, output is greater than it. Through the provision of subsidies or the imposition of taxes, the policy remedy is to try to induce the market to conform to the optimal amounts. The optimal situation is the one that results from a competitive equilibrium in the absence of transaction costs.

As I have already pointed out Austrians disagree with this Pareto norm of optimality. First, the market is an open-ended process in time. A static, timeless Pareto optimum is no meaningful measure of performance for actual market processes. In Part I of this thesis I argued that the market is first and foremost a process, not a state or an institution that facilitates exchange. Second, all costs and benefits are inherently private. It is impossible to say that externalities generate a divergence between private and social cost or benefits. As with all costs, externalities are experienced subjectively; they cannot be added together to arrive at a measurement of social cost (Cordato, 1992, p. 7). Third, the regulator does not have the necessary information to calculate a divergence between social and private costs. If he could get the information without the actual market process, the process of discovery would no longer be needed (cp. Rizzo, 1980b, p. 641). But there is no efficient non-market resource allocation. This was the insight the Austrians tried to bring to the fore in the socialist-calculation debate, that began with the question "Is an efficient non-market

resource allocation possible?" Market based prices are necessary to signal scarcity, to transmit knowledge, and to stimulate discovery.

For Austrians, policy relevant externalities are those that involve a conflict of property rights that are not clearly defined or enforced. External costs "are failures to maintain a fully free market, rather than defects of that market" (Rothbard, 1962, p. 944). For Mises, all negative externality problems "could be removed by a reform of the laws concerning liability for damages inflicted and by rescinding the institutional barriers preventing the full operation of private ownership" (Mises, 1966, p. 658). The problem is that resources are allocated by non-owners. The same is true for example for the problem of air pollution. No one has a right to clean air; no law protects against pollutants emerging from natural processes. But there is a right not to have air invaded by pollutants generated by an aggressor. For an Austrian, terms as "reasonable" air pollution or balancing of equities are out of the question. If someone causes pollution, he is an aggressor. Damages should be paid in accordance with strict liability, unless the polluter was there first (the principle of homesteading) and had already polluted the air before the other property was developed (Rothbard, 1982, p. 77).

Positive externalities do not in general involve a conflict in the use of property. So, for Austrians, positive externalities are not the inversion of negative ones. External benefits are not viewed as either market or institutional failure. They are an unintended benefit of the market. I cannot conclude that the resulting prices and quantities are sub-optimal. "These outcomes simply reflect the freely made decisions of market participants to trade or not to trade under one of an infinite number of cost-benefit relations" (Cordato, 1992, p. 19). If someone takes an action to his own advantage and a third party benefits, he does not have the right to ask others to subsidize him. In the extreme this will result in the good, such as a public good as consumer information, not being produced at all. Free riders reduce the effective demand almost to zero. For the neoclassical, an excise subsidy must encompass the market output. But, as well as asking that no property rights be violated, the Austrian would ask how much free information is enough before allowing individuals to make their own decisions. Who decides then when consumers are well enough informed?

This makes it look as if the Austrian and Coasian traditions have much in common. Both, indeed, blame the standard Pigouvian analysis for ignoring the importance of

property rights. But the similarity is superficial. For Coase, prices are equilibrium prices. If the transaction costs are high, the judge should mimic the Coasian theorem results. If the transaction costs are low, regardless of who bears the costs *ex ante*, parties will bargain. The result will maximize the combined value of the product they produce.

As already shown the Austrian objections to this procedure are (1) knowledge is decentralized, (2) values are subjective, and (3) not all prices are equilibrium prices. But the way the Austrian regards property rights differs from the Coasian one too. The judge should not decide who should have the property rights—but who already has them. For Coase, rights are a variable to be granted by the judge on the basis of who stands to benefit most or to lose least from a particular rights assignment (Cordato, 1980, p. 401). For Austrians, what is necessary is not cost-benefit analysis, but for instance a closer look at contractual arrangements. If the owner of a right is known then strict liability comes to the fore, strictly enforcing property rights. Not the internalization of costs, as the Pigouvian goal would be, gives rise to this rule. For Austrians, strict liability is based on the prima facie notion of he who causes harm is liable. Causation is an integral part of strict liability. For Coase, however, the notion of causation is almost irrelevant. The optimal allocation is achieved by whoever has the property rights.

For the innocent bystander who has—no doubt—a right to his life and just property, strict liability fits in naturally. The property right is one of integrity for physical violence. Every one has a right to have the physical integrity of his life and property inviolated. No property rights are violated if, for instance, a better and cheaper product comes onto the market. The consumer as well as the producer who possesses the old product cannot ask for any damages. "[N]o one has the right to protect the value of his property, for that value is purely the reflection of what people are willing to pay for it. That willingness solely depends on how *they* decide to use their money. No one has a right to someone else's money [...]" (Rothbard, 1982, p. 62). In this theses, however, we look at physical violence.

To sum up. Since people are in contact with each other beforehand, for most product related accidents, contract law will do. The general rule is buyer and seller beware. If people are not in contact beforehand (the case of the utter stranger) then a wrong, a tort, is done, and strict liability is the answer. At no stage in dealing with accidents a third party

have to calculate (subjective) costs. At no stage does the market process of discovery (entrepreneurship) have to be stifled.

REFERENCES

- Arnold, Roger A. (1982), "Efficiency vs. Ethics: Which Is the Proper Decision Criterion in Law Cases?" *The Journal of Libertarian Studies*, Winter, pp. 49-57.
- Böhm-Bawerk, Eugen von ([1914] 1962), "Control or Economic Law?", repr. in: *Shorter Classics of Eugen v. Böhm- Bawerk*, South Holland, Ill.: Libertarian Press.
- Christainsen, Gregory B. (1990), "Law as a Discovery Procedure," *Cato Journal*, Vol. 9, No. 3, pp. 497-530.
- Cooter, Robert and Thomas Ulen (1988), Law and Economics, HarperCollins
- Cordato, Roy E. (1980), The Austrian Theory of Efficiency and the Role of Government," *The Journal of Libertarian Studies*, Fall, pp. 393-403.
- Cordato, Roy E. (1992), *Welfare Economics and Externalities In An Open Ended Universe: A Modern Austrian Perspective*, Boston: Kluwer.
- Epstein, Richard A. (1980), *Modern Products Liability Law*, Westport: Quorum Books.
- Geest, Gerrit De (1994), *Economische analyse van het contracten- en quasi-contractenrecht (Een onderzoek naar de wetenschappelijke waarde van de rechtseconomie)*, Antwerpen: MAKLU.
- Gordon, David (1993), "Toward a Deconstruction of Utility and Welfare Economics," *The Review of Austrian Economics*, Vol. 6, No. 2, pp. 99-112.
- Hanke, Steve H. (1985), "Rules Versus Cost-Benefit Analysis In The Common Law: A Comment," *Cato Journal*, Vol. 4, No. 3, pp. 893-896.
- Hayek, Friedrich von (1952), *The Counter-Revolution in Science*, Glencoe, Ill.: Free Press.
- Hayek, Friedrich von (1988), *The Fatal Conceit: The Errors of Socialism.* London and New York: Routledge.
- Higgs, Robert (1994), "Banning a Risky Product Cannot Improve Any Consumer's Welfare (Properly Understood), with Applications to FDA Testing Requirements," *The Review of Austrian Economics*, Vol. 7. No. 2, pp 3-20.

- Huber, Peter W. (1988), *Liability, The Legal Revolution and Its Consequences,* New York: Basic Books.

- Jevons, William S. (1882), *The State in Relation to Labour*, London: MacMillan.

- Kirzner, Israel M. (1979), *Perception, Opportunity, and Profit*, Chicago: University of Chicago Press.

- Kirzner, Israel M. (1989), *Discovery, Capitalism, and Distributive Justice*, New York: Blackwell.

- Menger, Carl (1994), *Carl Menger's Lectures to Crown Prince Rudolf of Austria*, E.W. Streissler (ed.), Aldershot: Edward Elgar.

- Mises, L. von ([1949], 1966, 3rd Edition), *Human Action*, Chicago: Contemporary books.

- O'Driscoll, Gerald P. (1980), "Justice, Efficiency, and the Economic Analysis of Law: A Comment on Fried," *Journal of Legal Studies*, pp. 355-366.

- Rizzo, Mario J. (1979a), "Economic Costs, Moral Costs, or Retributive Justice: The Rationale of Criminal Law," in: Gray, Charles M. (ed). *The Cost of Crime*, London: Sage.

- Rizzo, Mario J. (1979b), "Uncertainty, Subjectivity, and the Economic Analysis of Law," in: Rizzo, Mario J. , *Time, Uncertainty, and Disequilibrium*, Lexington: Lexingtonbooks, 1979, pp. 71-89.

- Rizzo, Mario J. (1980a), "Law amid Flux: The Economics of Negligence and Strict Liability in Tort, *The Journal of Legal Studies*, Vol. IX (2), pp. 189-318.

- Rizzo, Mario J. (1980b), "The Mirage of Efficiency," *Hofstra Law Review*, Vol. 8, pp. 641-658.

- Rizzo, Mario J. (1981), "The Imputation Theory of Proximate Cause: An Economic Framework," *Georgia Law Review*, nr. 15, pp. 1007-1038.

- Rizzo, Mario J. (1985), "Rules versus Cost-Benefit Analysis in the Common Law," *Cato Journal*, Vol. 4. No. 3, pp. 865-884.

- Rothbard, Murray N. (1962), *Man, Economy and State*, Princeton, N.J: Van Nostrand.

- Rothbard, Murray N. (1979), "Comment: The Myth of Efficiency," in: Rizzo, Mario J. , *Time, Uncertainty, and Disequilibrium,* Lexington: Lexingtonbooks, 1979, pp. 90-96.

- Rothbard, Murray N. (1982), "Law, Property Rights, and Air Pollution," *Cato Journal*, Vol. 2, No. 1, pp. 55-99.

- Teijl, Robert and Holzhauer, Rudolf W. (1997), *Wisselende perspectieven in de rechtseconomie*, Gouda Quint.

- Velthoven, Ben C.J. van and Van Wijck, Peter W. (eds.) (1997) *Recht en Efficiëntie*, Deventer: Kluwer,

- Wonnell, Christopher T. (1986), "Contract Law and the Austrian School of Economics," *Fordham Law Review*, vol. 54, pp. 507-543.

SUMMARY AND CONCLUSION

In this thesis I examined the place of the competitive-entrepreneurial consumer in Austrian economic thought. For a neoclassical economist, competition among consumers is hard to find. For an Austrian economist, however, it is a necessity. The introduction puts forward the problem that although an Austrian economist believes that everyone—the consumer included—acts entrepreneurially, in his elucidation of the market process he gives the role of entrepreneur to the producer only.

In Part I, "The Consumer in Austrian Economics" I looked at the questions (1) What is Austrian economics? (2) What is the Austrian methodology? and (3) What about the consumer in Austrian economics? The first chapter explains the name Austrian. Although it indeed began in Austria, today it has nothing to do with that country. The term Austrian means a way of looking at the subject and the method of economic science. The perfectly-competitive model of mainstream economics is replaced by the notion of the entrepreneurial-competitive market process. The second chapter looks at the method of Austrian economics: praxeology. It is the verbal elaboration of the logical implication that men act. The title of Mises's book "Human Action" sums it up. Purposes direct all conscious human action. Every human act exchanges something possessed for something preferred. All human action attempts to change the future. The chapter examines what this means for the Austrian perspective on some basic economic notions of human action and non-action (valuation and indifference curves), and economic laws (the law of decreasing returns). Economists use their minds to deduce conclusions; experience in human action is history and only history. There is a sharp difference between Austrian and mainstream neoclassical economics; the latter is often mathematically moulded and econometrically tested, the former never.

Chapter Three looks at the reason why the consumer is missing from Austrian economics. By emphasizing the importance of (often hidden) dispersed knowledge and the feasibility of the producer being able to calculate—as against a government's ability to calculate and collect all the necessary data—the consumer got lost. This all took place in

the so-called socialist-calculation debate that raged between the two world wars. The consumer was never to be found again in Austrian economics. He is absent in the elucidation of the market as a dynamic process of entrepreneurial discovery, as well as, in the analysis of the possibility of economic calculation in monetary terms. The latter is discussed only in terms of production, and in the former modern Austrian economics uses the methodological makeshift of an entrepreneurial producer and a non-entrepreneurial consumer. Just like the classical economists before them, the Austrians neglect the rationality of the consumer.

In Part II, "The Consumer: Entrepreneurial and Calculative", I examined the question "What does the calculative and entrepreneurial consumer look like?" I have attempted to recompose market phenomena in terms of the typical components of everyday decision making. This is done for the ordinary businessman, as well as for the average consumer. Chapter Four discusses a lesser-known theme of the Austrians. Menger in his *Grundzätze*, gave four characteristics of goods as answer to the question of what makes something a good. Böhm-Bawerk in his *Rechte und Verhältnisse* added a fifth: individuals should also know how to use a thing. I used this fifth characteristic to throw light on the consumer: his form of alertness and entrepreneurship inside the market process. With the help of Ryle, I looked at a notion of alertness that suits the producer and at one that suits the consumer. Alertness is a form of knowing-how that can be differentiated for the producer as a capacity (competence) and for the consumer as a tendency (proneness). According to Ryle, although both can be simulated, we use the abusive word 'charlatan' for the fraud who pretends to be able to bring things off, and the abusive word 'hypocrite' for the one who effects motives and habits.

Chapter Five draws on the work of Schönfeld-Illy. Kirzner distinguishes maximization inside a given ends-means framework from the determination of the framework. The Robbinsian maximizer can perform only the first role. Mises's *homo agens* can do both. In Kirzner's methodological makeshift, the consumer acts as a pure Robbinsian maximizer. However, inside a Robbinsian framework of given ends and means, the consumer needs the same element of alertness that Kirzner locates in the determination of the framework. The consumer avoids the problem of the immeasurability of utility and shortens the calculation process with the help of three principles. The first is the separate utility of a good. Though

the consumer's aim is to reach the greatest utility, he does not and cannot calculate total utility as such, but only the changes in total utility, changes brought about by adding goods to the ones already used. These changes give the total utility of each good separately. The second principle is *quid pro quo*. Changes in total utility do not give the consumer numbers in which he can calculate. What he can do is compare the changes with other changes. The third is economic relevance. The price relevant for the marginal part has an economic relevance for all other units of the stock of goods. These three principles form the basis of Schönfeld-Illy's theory on the role of prices (that is alertness) in the calculation process of the consumer.

Chapter Six expands on the calculation process of the consumer addressing the question of how the maximizing process of the consumer can be described from a subjective point of view, that is in terms of the components of everyday decision-making. The mathematical mould of neoclassical theory means that for the neoclassical the problem is a mathematical one: the solving of a Lagrangean function. From a theoretical point of view, a consumer has a lot of work to do in computing the marginal utilities. First, he has to line up all the alternative combinations of goods available, then he has to assess the needs successive units of the various goods can satisfy, and finally he has to find out at what point in the row of units satisfaction breaks off. It is impossible, however, to make all the necessary calculations. In reality the consumer has to take a short-cut. The notion of taking a short-cut can be formalized inside the neo-classical model by focusing on the notion of marginal utility: the way it functions in equilibrium and disequilibrium. Saving and consumption patterns are explained for two groups of consumers: (1) the well-established consumers, the ones we know from traditional economic theory, and (2) the trendsetting consumers, who are in disequilibrium by choice. The latter are either short-sighted or far-sighted.

Chapter Seven looks at the notion of marginal utility to answer the question of how a consumer calculates the total value of a divisible amount of goods. Wieser's *Multiplicationstheorem des Wertes* says that to get the total value, all units of a stock of good have to be multiplied by the attained marginal utility. Böhm-Bawerk's *Integrationstheorem des Wertes* says that the total value of a stock of goods is the sum of the utilities of the different units. Because Wieser underestimated the total utility of a stock of goods, his formulation found few followers. Schönfeld-Illy's interpretation of marginal

utility, that of the economic relevance of a margin for the whole, gives an answer as to why Wieser's description could be true. Schönfeld-Illy solves an inconsistency in the thinking of Wieser, who took the description of marginal utility from the situation in which the calculation was already completed. However, he draws the description of the *function* of marginal utility from the situation in which calculation begins. Schönfeld-Illy wonders whether the last stage of calculation contains all the things used during the actual calculation process and, that consequently are contained in a conceptual description grafted upon the final stage.

In Part III, "The Austrian Perspective on Consumer Policy", I looked at consumer policy in general, and advertising (the way it functions and can be used to introduce a new product) and products liability (from a neoclassical and Austrian perspective) in particular. Chapter Eight introduces the notion of consumer policy and its link with creativity and entrepreneurship. It especially addresses the question of how the Austrian vision on the market process relates to consumer policy. In other words, what the impact of consumer policy is upon the perception by consumers and producers of the available array of opportunities. To describe the ways consumer policy hampers discovery I used Kirzner's four notions of the undiscovered, the unsimulated, the stifled, and the wholly superfluous discovery process. I concluded that the Austrian notion of the market provides a novel angle for a critique of the regulated consumer. Regulatory restrictions interfere with the spontaneous discovery process the unregulated market tends to generate. Consumer policy stifles the incentive that converts a socially desirable opportunity (an opportunity that transcends an existing framework of perceived opportunities) into a personally gainful one.

Chapter Nine demonstrates that there is room for the praxeological method in economics. Empirical facts cannot discriminate between two opposing hypotheses on advertising. (1) Advertising is partly deceptive and partly manipulative. Without government regulation this situation will continue. (2) Advertising is a good like any other good. The consumer gets the type and quality of advertising he wants and is willing to pay for. Advertising is an essential part of the competition process, making the product known to the consumers. Consumers are not passive actors but by-and-large act in their own self-interest. Chapter Ten expands on advertising by looking at pricing a real novelty. Competition among consumers can be used to spread the news. Where trends are conceived

consumers compete, creating the market for the producer. Trends are not sold by competing producers but are bought by competing consumers.

Chapters Eleven and Twelve look at products liability (that is harms arising from commercial products) from the mainstream neoclassical point of view and from the Austrian one respectively. For a neoclassical, costs are objective and are known to the judge, who, by using the so-called Hand Formula, balances expected accident costs against the cost of making the product safer. A defendant is guilty of negligence if P times L is greater than B. Where P is the probability, a loss will occur, L is the value associated with the loss, and B the cost associated with preventing it. For an Austrian, however, since costs are subjective and knowledge cannot be centralized, contract law seems to be the best. In other words, it is the old rule of *caveat emptor,* "Let the buyer and seller beware". The parties can then arrange the expected costs and benefits beforehand from their own subjective point of view and entrepreneurial insights. The utter stranger (who is no partner in the exchange) whose property rights are violated—there are so-called negative externalities—can claim compensation. The amount of compensation is for the judge on ethical grounds, and not the economist, to decide.

On the basis of the first three parts of this thesis, what have neoclassicals and Austrians to say to each other? What is the outcome on the consumer in Austrian economics and the Austrian perspective on consumer policy (cp. Kirzner, 1997, and De Soto, 1998, pp. 78-79)?

The methodological analysis in Part I shows that neoclassicals and Austrians do not have much to say to each other. Theories that do not need testing and are always true are out of the question in the standard neoclassical methodology of empirical falsification. Verbal logic, aprioristic-deductive reasoning leaves room for subjectivism and entrepreneurship, both of which the market process depends on. In other words, the claim of the Austrians that prediction is impossible—because what happens depends on knowledge yet to be created in an entrepreneurial process (to find out things we are not even aware of that we

don not know them: to correct genuine errors)—stands against quantitative prediction as a sought and known objective of the neoclassical. The analysis of consumer behavior in Part II shows that neoclassicals and Austrians do not have to say much to each other. For an Austrian, the consumer is a creative entrepreneur who stands in the midst of a dynamic process. For a neoclassical, he is a *homo economics* who makes rational choices based on constraint maximization in a given and known ends-means relation. The analysis of consumer policy in Part III shows that neoclassicals and Austrians do not have to say much to each other. For an Austrian, the knowledge the government should act on is subjective, dispersed, and changes all the time. Objective scientific knowledge alone is not enough; there is also the practical and purely subjective knowledge of place and time. For an Austrian, the government's role is to protect the property rights of the individual. If his property rights are involved, the judge decides on ethical grounds; economics is not involved. For a neoclassical, however, there is a complete knowledge of means and ends, though decorated with known uncertainty. Costs are objective and can be measured by a third party.

But is there nothing positive to be said about the neoclassical-Austrian connection? The Austrian revolution was and still is part of a larger tradition (see Chapter 1). It not only started in the 1870s with Menger, but with Jevons and Walras too. All three wanted to theorize. All three wanted to explain market regularities as the outcome of the rational choices of individuals subject to constraints. All endorsed the existence of economic laws showing systematic consequences to our actions. For Mises the notion of economic law is not only the core of classical economics but of neoclassical economics too. All neoclassicals want to explain the undesigned regularities of the market order as the outcome of the meaningful choices of individuals. Therefore Austrians are still part of the economic orthodoxy of neoclassical economics, although they are no longer part of the mainstream Walrasian and Marshallian branch. In other words, to a certain extent we can say that the language differs: formalistic precision in mainstream neoclassical versus verbal elaboration in Austrian economics. The latter reinforces most of the former's conclusions. I would argue that it is partly a difference in methodology: a different road is taken to reach the same conclusions (see for instance the law of decreasing returns in Part I). Of course, an Austrian would say that it is not only the language that differs, but the problem

situation too. For him, subjective assessment and entrepreneurship are part of the richness of the empirical world. Both, however, crowd out formalism with its implied form of narrow rationalism and supposition of full availability of information, whether deterministic or probabilistic. Subjectivism and entrepreneurship cannot be analyzed with formal tools without transforming their essence. Simplification has its price.

Therefore, what the neoclassical can learn from the Austrian is that there is more in the world of the theoretical economist than only the economics of perfect competition. There is the competitive-entrepreneurial process of discovery (see Part I). A neoclassical tends to underestimate the learning capacity of individuals (see Part II), while, at the same time, overestimating the economic knowledge of the government. Negative externalities for instance are part of ethics not economics (see our Part III). Nevertheless, a neoclassical economist would counter this by saying that although what an Austrian says on subjectivism and entrepreneurship is very interesting, unless it is stated in formal proof it remains just that—an interesting idea and no more.

Applied welfare analysis (see Part III), however, unlike theoretical economics does not belong to a field where the Austrian and mainstream economist meet all that easily. For the Austrian, if subjective value and the open-ended market process are taken seriously, individual rankings cannot be fused together, and there is no end-state to mimic. There is no norm (taken from a pattern of imagined omniscience) for assessing policies. For the Austrian since sheer ignorance is not incorporated, mainstream welfare economics has no place for those acts of entrepreneurship the equilibrative discovery process depends on. Not only allocative efficiency but speed and accuracy with which the economy identifies and overcomes waste and discoordination are important too. However, compared to more heterodox forms of economics, Austrians and neoclassicals share the importance both give to *laissez faire*. The Austrian belief in it, compared to mainstream neoclassical economics, is strong. This study's emphasis on subjectivism and entrepreneurship reinforces this belief. The tendency towards greater awareness that leads to equilibrium is fuelled by producers as well as consumers (see Part II). Profit opportunities provide the incentive for both. There is a tendency for entrepreneurial errors to be corrected—not to be made. There is a tendency to be right. There is more to gain from greater awareness than from diminishing awareness;

a tendency a changing government policy often frustrates. A certain environment of stability is necessary to overwhelm the forces of disequilibrium.

In other words, Austrian economics reinforces the mainstream belief in a spontaneous equilibrium. Not to the extreme of there always being an equilibrium, but certainly more than there never being an equilibrium. The consumer corrects errors too. Since the consumer is no producer, the Kirznerian notion of entrepreneurship as something correcting an already existing situation waiting to be discovered, fits him. He too gets his "profit" for overcoming ignorance through alertness.

If the just-said is true, the biggest problem for the Austrians is not that their theory is unrealistic or irrelevant, that it gives an inaccurate description of the social world or misunderstands the forces at work. No, their biggest problem is to explain why economists disagree. If theorizing is based on apodictally true premises, only to be stated to be seen as true, the rest being pure deduction, why do not all economists—including the neoclassicals—agree? But even Austrians differ. This is one problem the neoclassicals and Austrians share. As the former emphasize prediction and the latter verbal logic, both have questions to answer. The neoclassical has to explain why if he is so clever in making predictions, he is not rich. And the Austrian has to show why, someone so clever at making deductions does not have all economists agreeing with him.

Finally, is there really no point where Austrians and neoclassicals fully meet as far as the consumer goes? Yes there is. If the neoclassical is right, it follows that with the appropriate policy, consumers can be satisfied. Full knowledge excludes errors in buying: the consumer's nirvana. However, if the Austrian is right, this would mean the end of human action (and economics). The basic premise of the Austrians is "man act". We act if we are dissatisfied; when satisfied, action stops. "Some people sometimes say that they would like to know [...] what the prices are going to be in the stock market next weak. Actually, we do not want to know the future. If you, or I, or anyone could know the future, this would mean it was set and we could no longer act to change it. All human activity is an attempt to change the future. [...] if we had everything we wanted, there would be no reason to live. When the day comes that you have everything you want, let me know, I shall make arrangements to come to your funeral, because you will be dead" (Greaves, 1984, p. 6).

A perfect public policy would therefore solve the problem of the consumer for both neoclassical and Austrian. Either he would be in the consumer's nirvana or be vegetating in a state of non-action like a plant. Which does not make much of a difference: in both cases he would be dead.

We are back at the essence of Austrian economics I began with: the subjectivistic character of choice. For a neoclassical, a fully informed and satisfied consumer is possible. For an Austrian, since choice is essentially purposeful and entrepreneurial, it is an impossibility. Human choices, if real (that is inherently creative) could have been different and have different effects. A situation of full knowledge, a given framework of ends and means, excludes. "[I]ndividual choice," says Kirzner, "is always made with one's antennae alertly switched on to notice opportunities (that already 'exist', or that may be created) worth pursuing even through the mists of an uncertain future" (1982, p. 21).

REFERENCES

- Greaves, Percy L. ([1973] 1984), *Understanding the Dollar Crisis*, New York: Free Market Books.

- Kirzner, Israel M. (1882), "Lionel Robbins' Nature and Significance, Fifty Years Later," in: *Economic Research Reports, C.V. Starr Center for Applied Economics,* New York University, May, 1982.

- Kirzner, Israel M. (1997), "Entrepreneurial Discovery and the Competitive Market Process: An Austrian Approach," *Journal of Economic Literature*, Vol. XXXV, March, pp. 60-85.

- Soto de, Jesus H. (1998), "The Ongoing Methodenstreit of the Austrian School," *Journal des Economistes et des Etudes Humaines*, Vol. 8, Num. 1, Mars, pp. 75-113.

SAMENVATTING EN CONCLUSIE

De introductie brengt ons van waar we staan naar waar de these over gaat. Het onderwerp is de concurrerende-ondernemende consument in het Oostenrijkse economisch denken. Voor een neoklassieke economist is concurrentie tussen consumenten in de huidige maatschappij moeilijk te vinden. Voor een Oostenrijkse economist daarentegen is het een noodzakelijkheid. De introductie stelt het probleem, dat, hoewel voor een Oostenrijker iedereen, inclusief de consument, ondernemend handelt, de Oostenrijker in zijn beschrijving van het marktproces dit slechts toeschrijft aan de producent.

Deel I van de these heeft als titel "De consument in het Oostenrijkse economisch denken". In de drie hoofdstukken waaruit het deel bestaat, worden de vragen beantwoord: (1) Wat is het Oostenrijkse economisch denken? (2) Wat is de Oostenrijkse methodologie? en (3) Wat is de rol van de consument in het Oostenrijkse economisch denken?

Het eerste hoofdstuk van deel I verklaart het voorvoegsel Oostenrijks. Inderdaad het begon in Oostenrijk. Vandaag de dag heeft het echter niets meer met dit land van doen. Oostenrijks bedoelt te verwijzen naar een manier van kijken naar het onderwerp en de methode van de economische wetenschap. Het marktmodel van volkomen concurrentie uit de standaard economie wordt vervangen door dat van de markt als een ondernemend-concurrerend proces.

Het tweede hoofdstuk brengt ons naar de Oostenrijkse methode van economie beoefening: de praxeologie. Het is de verbale uitwerking van de logische implicaties van het feit dat mensen handelen. De titel van het boek van Mises *Human Action* geeft dit ook weer. Doeleinden bepalen al het bewuste menselijk handelen. In elke handeling ruilen we altijd iets wat we hebben voor iets waar we de voorkeur aan geven. Al het menselijk handelen poogt de toekomst te veranderen. We kijken naar wat dit betekent voor (1) het Oostenrijkse perspectief op enige fundamentele begrippen van menselijk handelen en niet-handelen (het waarderen van goederen combinaties in zijn algemeenheid en het indifferent zijn ten opzichte van bepaalde goederencombinaties in het bijzonder), en (2) economische

wetten (de wet van de afnemende meeropbrengsten). In de economie kunnen we slechts ons verstand gebruiken om conclusies af te leiden; in de leer van het menselijk handelen is de ervaring, de empirie, slechts geschiedenis. Er bestaat een scherp onderscheid tussen het Oostenrijkse en het neoklassieke economisch denken. Het laatste wordt vaak wiskundig vorm gegeven en econometrisch getest. Voor de eerste, daarentegen, is dit niet nodig dan wel onmogelijk.

Hoofdstuk drie kijkt naar de oorzaak van het ontbreken van de consument in het Oostenrijkse denken. Door het benadrukken van het belang van (vaak verborgen) kennis die verspreid aanwezig is en de mogelijkheid van calculeren door de producent—beide ten opzichte van de potentie van de overheid tot het verzamelen van alle noodzakelijke gegevens en de mogelijkheid tot calculeren—verdween de consument uit het beeld. Dit alles vond plaats tijdens het socialistisch-calculatie debat zoals dat woedde tussen de beide wereldoorlogen. De consument werd later nooit meer terug gevonden. De consument is afwezig in de beschrijving van de markt als een dynamisch ondernemend ontdekkingsproces. Hij is ook afwezig in de analyse van de mogelijkheid van calculeren in termen van geld. Dat laatste wordt slechts bekeken vanuit de productiekant. Voor het eerste gebruiken de Oostenrijkers de methodologische hulpconstructie van een ondernemende producent en een niet-ondernemende consument. De Oostenrijkers verwaarlozen, evenals de klassieke economen voor hen, de rationaliteit van de consument.

Deel II heeft als titel " De calculerende en ondernemende consument". In de vier hoofdstukken waaruit het deel bestaat, wordt de vraag beantwoord: "Hoe ziet de ondernemende en calculerende consument eruit?" We proberen marktverschijnselen te herleiden tot componenten van alledaagse besluitvorming. Dit wordt gedaan voor zowel de zakenman als consument.

Hoofdstuk vier bespreekt een minder bekend thema uit het Oostenrijkse denken. Menger in zijn *Grundzätze* geeft vier goederenkarakteristieken. Dit om de vraag te beantwoorden "Wat maakt van een ding een goed?" Böhm-Bawerk in zijn *Rechte und Verhältnisse* voegde er een vijfde aan toe: individuen moeten ook weten hoe het ding te gebruiken. Ik gebruik deze vijfde karakteristiek om de rol van de consument te verduidelijken: *zijn* vorm van alertheid en ondernemerschap in het marktproces. Met behulp van Ryle kijk ik naar een begrip van alertheid dat geschikt is voor de producent en een die geschikt is voor de

consument. Alertheid is een vorm van kennen die er voor de producent uit bestaat over een daadwerkelijke mogelijkheid te beschikken en voor de consument tot het hebben van een neiging (bijvoorbeeld het kunnen genieten van klassieke muziek). Beide kunnen worden gesimuleerd. We gebruiken echter het negatieve woord charlatan voor de fraudeur die pretendeert iets tot stand te kunnen brengen, terwijl we het negatieve woord hypocriet gebruiken voor iemand die pretendeert over bepaalde motieven of neigingingen te beschikken.

Hoofdstuk vijf maakt gebruik van het werk van Schönfeld-Illy. Kirzner maakt een onderscheid tussen het maximaliseren binnen een gegeven kader van doeleinden en middelen en de bepaling van dat kader zelf. Robbins' maximaliseerder kan alleen het eerste doen. Mises' *homo agens* kan beide. In Kirzners methodologische hulpconstructie handelt de consument slechts als een Robinsiaanse maximaliseerder. Het blijkt echter dat binnen het kader van Robbins (van gegeven doeleinden en middelen) de consument hetzelfde element van alertheid nodig heeft als Kirzner plaatst in de bepaling van dat kader. De consument lost het probleem van het onmeetbare nut op en verkort tevens het calculatieproces met behulp van drie principes: het principe van (1) het afzonderlijke nut [Hoewel het doel van de consument het bereiken van het hoogste nut is, kan hij niet het totale nut op zich zelf berekenen maar slechts de verandering daarin. Veranderingen ontstaan door goederen toe te voegen aan de al gebruikte goederen. Deze veranderingen geven het nut van ieder goed afzonderlijk.]; (2) *quid pro quo*, [Veranderingen in het totale nut geven de consument geen getallen waarmee hij kan rekenen. Wat hij wel kan, is de veranderingen met elkaar vergelijken.]; en (3) de economische relevantie [De prijs die relevant is voor de marginale eenheid heeft een economische relevantie voor alle andere eenheden van de voorraad goederen]. De drie principes zijn de basis voor de theorie van Schönfeld-Illy over de rol van prijzen—dat wil zeggen alertheid—in het calculatieproces van de consument.

Hoofdstuk zes werkt het calculatieproces van de consument verder uit. Het behandelt de vraag "Hoe valt het maximalisatieproces van de consument te beschrijven vanuit een subjectivistisch perspectief?" Dat wil zeggen "Hoe het valt maximalisatieproces te herleiden tot de elementen van het alledaagse besluitvormingsproces?" Omdat de neoklassieke theorie wiskundig wordt vormgegeven, is het probleem voor de neoklassiek wiskundig van aard:

het oplossen van een Lagrange vergelijking. Vanuit een puur theoretisch perspectief moet de consument veel doen om alle marginale nutten te berekenen. Hij moet alle mogelijke goederen combinaties op een rij zetten. Vervolgens moet hij de behoeften die de verschillende eenheden kunnen bevredigen op een rij zetten. Ten slotte moet hij bepalen tot waar de bevrediging doelmatig is. Het is echter onmogelijk om alle noodzakelijke calculaties in de praktijk ook daadwerkelijk uittevoeren. De consument verkort het rekenproces. Dit verkortingsproces kan binnen een neoklassiek kader worden geformaliseerd. Daartoe kijk ik naar het marginale nutsbegrip: de manier waarop het functioneert in het evenwicht en daar buiten. Spaar- en consumptiepatronen worden verklaard voor twee groepen van consumenten: (1) de al gesitueerde consumenten. (De consumenten die we al kennen vanuit de traditionele theorie), en (2) de trendsettende consumenten. (Trendsetters die zich door eigen keuze buiten het evenwicht bevinden. Deze laatsten beschikken over een al of niet vervooruitziende planningshorizon.)

Hoofdstuk zeven kijkt naar het marginaal nutsbegrip om de vraag te beantwoorden "Hoe berekent een consument de totale waarde van een aantal eenheden van een zelfde goed?" Het *Multiplicationstheorem des Wertes* van Wieser stelt dat de totale waarde berekend kan worden door alle eenheden met het bereikte marginale nut te vermenigvuldigen. Böhm-Bawerks *Integrationstheorem des Wertes* stelt daarentegen dat de totale waarde van een voorraad goederen de som is van het nut van de afzonderlijke eenheden. Omdat Wiesers theorema de totale waarde van een voorraad goederen onderschat, heeft zijn theorema weinig navolgers gevonden. Schönfeld-Illy's interpretatie van het marginale nutsbegrip—zijn begrip van economische relevantie: de relevantie van een marge voor het geheel—geeft een interpretatie die er voor zorgt dat Wieser wellicht toch gelijk kan hebben gehad. Schönfeld-Illy lost met zijn interpretatie een inconsistentie in het denken van Wieser op. Wieser haalt de beschrijving van het marginale nutsbegrip uit een situatie waarin de calculaties al zijn geschied. De functie van het marginale nutsbegrip haalt hij echter uit een situatie waarin het calculeren nog moet beginnen. Schönfeld-Illy vraagt zich af of de laatste fase van calculatie wel al die elementen bevat die zijn gebruikt tijdens de daadwerkelijke calculatie, en vervolgens dus ook zijn vervat in de begripsmatige omschrijving van die laatste fase.

Deel III heeft als titel "Het Oostenrijkse perspectief op het consumenten beleid". In de vijf hoofdstukken waaruit het deel bestaat, wordt gekeken naar het consumentenbeleid in het algemeen en in het bijzonder naar reclame (de wijze waarop reclame functioneert en kan worden gebruikt om een nieuw product te introduceren) en productaansprakelijkheid (vanuit een neoklassiek en Oostenrijks perspectief).

Hoofdstuk acht introduceert het consumentenbeleid en het verband daarvan met creativiteit en ondernemerschap. Het gaat in het bijzonder in op de vraag "Hoe hangt de Oostenrijkse visie op het marktproces samen met de mogelijkheid van een consumentenbeleid?" Meer in het bijzonder "Wat is de invloed van het consumentenbeleid op de perceptie door consument en producent van de beschikbare alternatieven?" Met behulp van vier begrippen die Kirzner ook gebruikt (het onontdekte, het niet na te bootsen, het tegengewerkte en het volkomen overbodige ontdekkingsproces), beschrijf ik de manier waarop het consumentenbeleid het ontdekkingsproces tegenwerkt. Ik besluit met te concluderen dat het Oostenrijkse idee van de markt ons een nieuwe invalshoek verschaft voor een kritiek op de gereguleerde consument. Regelgeving staat op gespannen voet met het spontane ontdekkingsproces welke een ongereguleerde markt oproept. Consumentenbeleid werkt de prikkel tegen welke een sociaal gewenste verandering (een mogelijkheid die een gegeven kader van waargenomen mogelijkheden overstijgt) vertaalt naar een persoonlijk winstgevende mogelijkheid.

Hoofdstuk negen toont aan dat er ruimte is voor de praxeologische methode in de economische wetenschap. Empirische feiten discrimineren niet tussen hypothesen die het tegenovergestelde beweren over reclame. (1) Reclame is (gedeeltelijk) misleidend en manipulerend. En (2) reclame is een goed zoals ieder ander goed. De consument krijgt het type en de kwaliteit van reclame waarvoor hij kan en bereid is te betalen. Adverteren is een essentieel onderdeel van het concurrentie proces. Zij maakt het goed bekend bij de consument. Consumenten zijn geen passieve actoren maar handelen *grosso modo* in hun eigen belang.

Hoofdstuk tien werkt adverteren verder uit door naar de prijsstelling van een volkomen nieuw product te kijken. Concurrentie tussen consumenten kan worden gebruikt om het nieuws te verspreiden. Waar nieuwe trends worden ontdekt, concurreren consumenten. Zij

ontdekken, creëren de markt voor de producent. Trends worden niet verkocht door concurrerende producenten; zij worden gekocht door concurrerende consumenten.

De hoofdstukken elf en twaalf kijken naar productaansprakelijkheid: schade die ontstaat door het gebruik van consumptiegoederen. In hoofdstuk elf vanuit het gezichtspunt van de neoklassieke economist en in hoofdstuk twaalf vanuit het gezichtspunt van de Oostenrijker. Voor een neoklassiek zijn kosten objectief en bekend bij de rechter. De rechter, die de zogenoemde Hand-formule gebruikt, vergelijkt de verwachte ongevalskosten met de kosten die nodig zijn om het product veiliger te maken. Een beklaagde is schuldig aan nalatigheid als P keer L groter is als B. Hier staat P voor de kans dat een ongeluk plaatsvindt, L voor de hoogte van de verwachte schade en B voor de kosten die moeten worden gemaakt om het ongeluk te voorkomen. Voor een Oostenrijker daarentegen—daar kosten subjectief zijn en kennis principieel niet gecentraliseerd kan worden—is het contractrecht de aangewezen plaats om schade te regelen. Hier geldt de aloude regel van *caveat emptor*, laat de koper op zijn hoede zijn! In het contractrecht kunnen de partijen zelf, vooraf, vanuit eigen ondernemende inzichten en subjectieve inschattingen, de verwachte voor- en nadelen met elkaar vergelijken. En in zoverre een volkomen vreemde schade lijdt (hij die geen partner in het koopproces is) en zijn eigendomsrechten worden geschaad—met andere woorden er zijn negatieve externaliteiten—kan hij een schadevergoeding eisen. In die situatie geldt de regel van strikte aansprakelijkheid. Hoe hoog de schadevergoeding echter dient te zijn, dient de rechter primair op ethische niet op economische gronden te beslissen.

Wat is het resultaat—in zoverre de neoklassiek en de Oostenrijker elkaar iets te zeggen hebben—van de voorafgaande drie delen over de consument in het Oostenrijkse denken en het Oostenrijkse perspectief op het consumentenbeleid (cp. Kirzner, 1997, and De Soto, 1998, pp. 78-79)?

Uit de methodologische analyse in deel I blijkt dat neoklassieken en Oostenrijkers elkaar niet veel te zeggen hebben. Theorieën die niet getoetst behoeven te worden en altijd waar zijn, zijn ondenkbaar in de standaard neoklassieke theorie met haar eis van empirische falsificatie. Verbale logica laat ruimte voor subjectivisme en ondernemerschap. Beide

karakteristieken zijn essentieel voor het marktproces. Met andere woorden, de claim van de Oostenrijkers dat voorspellen onmogelijk is—wat er gebeurt hangt immers af van kennis die nog gecreëerd moet worden in een ondernemend proces (het ontdekken van dingen waarvan we niet eens weten dat we ze niet weten)—staat haaks op het doen van kwantitatieve voorspellingen als een gezocht en bekend doel van de neoklassieken.

Uit de analyse van het consumentengedrag in deel II blijkt dat neoklassieken en Oostenrijkers elkaar niet veel te zeggen hebben. Voor de Oostenrijker is de consument een creatieve ondernemer die staat in het midden van een dynamische proces. Voor de neoklassiek is hij een *homo economicus* die rationele keuzes maakt. Keuzes die zijn gebaseerd op een proces van maximalisatie binnen een gegeven kader van doeleinden en middelen.

Uit de analyse van het consumentenbeleid in deel III blijkt dat neoklassieken en Oostenrijkers elkaar niet veel te zeggen hebben. Voor een Oostenrijker is de kennis op basis waarvan de overheid zou moeten handelen subjectief, verspreid en aan een voortdurende verandering onderhevig. Objectieve wetenschappelijke kennis alleen is niet voldoende; er is ook de praktische en volkomen subjectieve kennis van plaats en tijd. Voor een Oostenrijker bestaat de rol van de overheid eruit de eigendomsrechten van het individu te beschermen. Of en wiens eigendomsrechten er geschonden worden, beslist de rechter op ethische gronden; de economie heeft hier weinig mee van doen. Voor een neoklassiek, daarentegen, beschikken we over een volledige kennis van doeleinden en middelen, en voorzover dit het geval is, is deze kennis omgeven door bekende onzekerheid. Kosten zijn objectief en kunnen worden gemeten door een derde partij.

Maar laat ons de feiten nog eens op een rijtje zetten. Valt er niets positiefs te zeggen over het verband tussen een neoklassieke en een Oostenrijkse economist? De Oostenrijkse revolutie in het economisch denken, waar het eerste hoofdstuk van deel I mee begon, was en is immers nog steeds een deel van *een* en de zelfde grotere traditie. Het begon in de 1870s niet alleen met Menger maar ook met Walras en Jevons. Alle drie de grondleggers wilden theoretiseren; alle drie wilden marktverschijnselen verklaren als het resultaat van individuele keuzes gebonden aan beperkingen. Allen onderschreven het bestaan van economische wetten: er zijn systematische consequenties van onze handelingen. Voor Mises was het bestaan van economische wetten niet alleen kenmerkend voor de klassieke maar

ook voor de neoklassieke economie. Alle neoklassieken willen de niet van te voren geplande regelmaat van de markteconomie verklaren als het resultaat van bewuste keuzes van individuen. Daarom vormen de Oostenrijkers nog steeds een deel van de economische orthodoxie van de neoklassieke economie. Hoewel zij niet langer deel uitmaken van de Walrasiaanse en Marshalliaanse hoofdstroom.

Met andere woorden, tot op zekere hoogte kunnen we stellen dat slechts de taal verschillend is: formalistische precisie van de neoklassieke versus verbale deductie van de Oostenrijkse economist. De laatste versterkt de meerderheid van de conclusies van de eerste. Gedeeltelijk is het dus een verschillende methodologie: een verschillende weg om de zelfde conclusies te bereiken (Denk bijvoorbeeld aan de wet van de afnemende meeropbrengsten in deel I).

Hoewel een Oostenrijker aan deze overeenkomst natuurlijk onmiddellijk zou toevoegen "Het is niet slechts de taal die verschilt, maar de probleemsituatie doet dat ook." Voor hem maken subjectivisme en ondernemerschap beide deel uit van de rijkheid van onze wereld. Beide echter laten geen ruimte voor formalisme met het daaraan verbonden eng rationalisme en de veronderstelling van de volledige beschikbaarheid van informatie hetzij volledig dan wel omgeven met bekende onzekerheid. Het is onmogelijk om subjectivisme en ondernemerschap met formele gereedschappen te analyseren zonder niet tegelijk hun essentie te veranderen. Simplificatie heeft haar prijs.

Wat de neoklassiek van de Oostenrijker kan leren is dat er meer in de wereld van de theoretisch economist is dan het model van volkomen concurrentie. Er is eerst en vooral het concurrerend-ondernemend proces van ontdekking (Zie Deel I). Een neoklassiek heeft de neiging om de leercapaciteit van het individu te onderschatten (Zie deel II), maar overschat daarentegen de economische kennis van de overheid. De hoogte van een schadevergoeding, zo deze achteraf dient te worden vastgesteld, is een ethisch niet een economisch probleem (Zie deel III).

Het antwoord van de neoklassiek op de zojuist genoemde conclusies zou zijn, "Het is alles zeer interessant wat een Oostenrijker over subjectivisme en ondernemerschap zegt, maar, tenzij formeel bewezen, blijft het slechts een interessant idee—niets meer."

Toegepaste welvaartsanalyse daarentegen (deel III) is niet een terrein—zoals de theoretische economie—waar de Oostenrijker en neoklassiek elkaar makkelijk de hand

zouden kunnen schudden. Voor een Oostenrijker, die subjectieve waarderingen en het open marktproces serieus neemt, kunnen individuele waarderingen niet bij elkaar worden opgeteld en is er ook geen uiteindelijke evenwichtssituatie die door de overheid kan worden nagebootst. Er is geen norm—genomen uit een idee van volledige kennis—om het beleid aan te toetsen. Voor een Oostenrijker—daar echte onkunde niet is geïncorporeerd—is er binnen de traditionele welvaartseconomie geen plaats voor die handelingen van ondernemerschap waar het evenwichtsproces juist op steunt. Niet alleen allocatieve efficiëntie maar ook de snelheid en nauwkeurigheid waarmee problemen worden geïdentificeerd, verspilling worden bestreden en een gebrek aan coördinatie wordt oplost, zijn belangrijk.

Vergeleken met heterodoxe stromingen binnen de economie delen de Oostenrijkers en de neoklassieken het belang dat zij beide hechten aan *laissez faire*. Het Oostenrijkse vertrouwen daarop is vergeleken met de neoklassieken sterk. Een vertrouwen dat deze studie met haar nadruk op subjectivisme en ondernemerschap versterkt. De tendentie tot kennis die bijdraagt aan het evenwichtsproces wordt gevoed door zowel de producent als de consument (Deel II). Winstmogelijkheden zijn voor beide de stimulans. Er is een tendentie dat echte fouten worden hersteld—niet worden gemaakt. Er is een tendentie om het bij het juiste eind te hebben. Er valt meer te winnen van een grotere dan van een kleinere kennis. Deze tendentie wordt door een al maar veranderend overheidsbeleid tegengewerkt; een zekere omgeving van stabiliteit is nodig om de krachten die een evenwicht oproepen hun werk te laten doen.

De Oostenrijkers, met andere woorden, versterken het traditionele geloof in een spontaan evenwicht: niet het extreem van evenwicht altijd, maar zeker sterker dan het tegenovergestelde van evenwicht nooit. De consument herstelt echte fouten. Daar hij geen producent is, is Kirzners idee van ondernemerschap—een al bestaande situatie van onkunde wordt gecorrigeerd, wacht er op om ontdekt te worden—perfect op hem van toepassing. De consument krijgt ook zijn "winst" als hij onkunde door alertheid overwint.

Als het voorafgaande juist is, is het grootste probleem voor de Oostenrijkers niet dat hun theorie onrealistisch of niet relevant is: een inaccurate beschrijving van de sociale werkelijkheid geeft of de maatschappelijke krachten miskent. Het grootste probleem is "Hoe komt het dat niet alle economisten hiermee instemmen?" Als de theorievorming is

gebaseerd op apodictisch ware premissen, die slechts uitgesproken behoeven te worden om direct als waar te worden aanvaard—en het vervolgens slechts pure deductie is—waarom stemmen dan niet (inclusief de neoklassieke) alle economisten met elkaar in? Maar zelfs de Oostenrijkers verschillen onderling. Deze situatie delen de Oostenrijkers met de neoklassieken. Daar de eersten verbale deductie en de laatsten het doen van voorspellingen benadrukken, hebben beiden de volgende vraag te beantwoorden. Voor de neoklassiek, "Als je zo slim bent in het maken van voorspellingen hoe komt het dan dat je niet rijk bent?" Geparafraseerd voor de Oostenrijker, "Als je zo slim bent in het maken van verbale deducties hoe komt het dan dat niet alle economisten het met je eens zijn?"

Tenslotte, is er dan werkelijk geen punt waar de Oostenrijker en neoklassiek overeenstemmen voorzover het de consument betreft? Dat is er wel. Als een neoklassiek gelijk heeft, volgt dat met het juiste beleid de consument tevreden gesteld kan worden. Volledige kennis sluit fouten bij de aankoopbeslissing uit: het nirwana van de consument. Als dit zo is, betekent dit echter voor de Oostenrijker dat al het menselijk handelen en daarmee de economie zou ophouden te bestaan. Het fundamentele uitgangspunt van de Oostenrijker is immers dat mensen handelen. We handelen omdat we ontevreden zijn. Als we volledig bevredigd zouden zijn, zou al het menselijk handelen stoppen. "Soms zeggen mensen dat ze graag de prijzen [...] op de aandelenmarkt van de volgende week zouden willen weten. In feite willen we de toekomst helemaal niet kennen. Als jij, of ik, of ieder ander de toekomst zou kennen, zou dit betekenen dat deze al bepaald is en we niet langer kunnen handelen om deze te veranderen. Al het menselijk handelen is een poging om de toekomst te veranderen. [...]. Als we alles zouden hebben wat we willen, zou er geen reden zijn om te leven. Als de dag komt dat je alles hebt wat je wilt, laat het me weten, dan zal ik voorbereidingen treffen om naar je begrafenis te komen, omdat je overleden zult zijn" (Greaves, 1984, p. 6).

Een perfect overheidsbeleid zou dus de problemen oplossen voor zowel de neoklassieke als Oostenrijkse economist. We zouden ons volgens de neoklassiek in het nirvana van de consument dan wel volgens de Oostenrijker in het rijk der vegeterende planten bevinden (een toestand van niet-handelen). Wat niet veel uitmaakt—in beide gevallen zijn we dood.

We zijn weer terug bij de kern van de Oostenrijkse manier van economie beoefening: het subjectieve karakter van de keuze. Voor een neoklassiek is een volledig geïnformeerde

en bevredigde consument een mogelijkheid. Voor een Oostenrijker—daar een keuze in essentie doelgericht en ondernemend is—is het een onmogelijkheid. Menselijke keuzes zouden, als ze echt zijn—dat is creatief—zouden ook anders kunnen zijn geweest en tot andere resultaten kunnen hebben geleid. Een situatie die volledig kennis—een gegeven kader van doeleinden en middelen—uitsluit. "De keuze van een individu," zegt Kirzner, "wordt altijd gemaakt met de antenne alert gericht op het ontdekken van mogelijkheden (die er al zijn, of die nog gecreëerd moeten worden) die het waard zijn om nagestreefd te worden zelfs in het licht van een onzekere toekomst" (1982, p. 21).

Curriculum Vitae

Auke Rein Leen is op 25 februari 1953 geboren te Rotterdam. In 1971 behaalde hij het HBS-B diploma aan het Christlijk Atheneum te Arnhem. Hij studeerde economie (diploma 1979) en wijsbegeerte (diploma 1982) aan de Erasmus Universiteit te Rotterdam. Tijdens beide studies was hij werkzaam als student-assistent methodologie van de economie en vervolgens ethiek van de economie. Ook was hij werkzaam als docent economie I en II aan het VWO en het economie avondonderwijs aan volwassenen. Vanaf 1981 was hij verbonden aan het HBO, Akademie Diedenoort, als docent (gezins) economie te Wageningen. Vervolgens was hij enige jaren werkzaam als plv. hoofd van de Hoofdafdeling Financiële Consumptie Vraagstukken van het Ministerie van Economische Zaken te Den Haag. Vanaf 1987 is hij verbonden als universitair docent aan de vakgroep algemene economie aan de Universiteit van Leiden en vanaf 1991 tot heden ook aan de Universiteit van Wageningen.