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'Second-hand Car Dealer Licensing in Scotland: Issues and
Implications for Consumer Policy'

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Abstract

This thesis investigates the operation of a system of second hand car dealer licensing introduced to Scotland in 1982. The aim is to assess whether or not this policy is having a beneficial impact upon the experiences of second hand car purchasers in Scotland.

The second hand car trade exhibits a number of characteristics of market failure with respect to consumer's interests. The complexity of the product and the infrequency of purchase make information about both product and dealer particularly difficult to obtain and evaluate.

One regulatory response to consumer problems in this market is to licence second hand car dealers. This approach has been adopted in a number of other countries notably, Canada, Australia and some states of the US. The policy has provoked a great deal of debate about the achievement of consumer benefits associated with information and standards as opposed to producer benefits associated with restrictions to entry and mobility.

In the Scottish case the power to licence second hand car dealers was delegated to Scottish district councils who were

able to take advantage of considerable discretion in designing, implementing and operating their own licensing system. When seen from a national perspective, this delegation has led to a number of undesirable consequences.

This thesis presents two major findings. The first is that district councils in Scotland have largely neglected their licensing systems. As a result the licensing of second hand car dealers in Scotland is only partially operative. The second is that second hand car dealer licensing in Scotland is having no impact upon the purchase experiences of consumers.

There are two implications of these findings. First, without a fully operational system no evaluation of licensing as a policy is possible. Secondly, far from being unaffected by this partially operating system, consumers are worse off than without licensing. This raises issues for consumers, district councils and policy makers.

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Chapter 1 The Market Mechanism

1.1 Introduction

The fact that economic resources are scarce immediately implies that there must be some mechanism to ensure that those resources which are available are allocated efficiently. This is not just in a static sense but in response to the changing requirements of members of the economy. Some resources are so plentiful as to completely satisfy all demands, for instance air and light. By contrast the great majority of resources are not so abundant and demands made upon these can only be partially met. The economic interdependence of individuals in society turns the problem of allocating scarce resources into a social problem. The solution is for individuals to organise their economic activity in some way to ensure that the allocation process is operated so that individuals receive the resources they desire. Such organisation could be the adoption of a single central director who allocates according to need. Alternatively, it could be the adoption of a system which allocates according to the ability to pay or produce. Whatever form of organisation is adopted there is an underlying assumption that the reason why individuals organise themselves is to accrue some benefit. This will increase the well being of all individuals so organised.

1.2 Economic Relations

Individuals benefit by taking part in economic relations. Trading or exchange is beneficial because they have not the capacity to produce all that they require themselves and through exchange they can gain what they cannot produce. However, once individuals are producing not for their own consumption but for consumption by others there is a need for some method whereby people can indicate what they require and what they no longer need. In a simple economy this is achieved by a market where individuals meet and exchange goods and services. In a more complex exchange environment such as that which prevails in developed economies, the requirement is for a mechanism which directs the production and distribution of economic resources according to the aggregate preferences of individual consumers. In this way resources are not wasted in producing goods and services that are not wanted. In a world where individuals' needs and desires are constantly changing the task of the economic organisation is also to ensure that production is quick to respond to the changing requirements of consumers so that resources are allocated to production in the most efficient way over time. If this is not the case then the primary objective of economic organisation, to provide individuals with the goods and services they require has not been met and such organisation has not provided any benefit.

1.2.1 The Effect of Competition

In the pursuit of personal satisfaction the action of one individual may have a detrimental effect upon the possible attainment of satisfaction for others in a situation where resources are limited. The introduction of conflict into the attainment of personal satisfaction appears at first sight to suggest that economic organisation embodies a notion of survival of the fittest. But, in the context of market exchange, conflict and competition for resources can lead to a perfectly harmonious solution to the problem of resource allocation. Such a mechanism induces selfish individuals to maximise their own well being and by so doing brings the economy to a point where every individual's well being is being maximised. People do not need to be aware of the effects of their actions upon others in this system since as long as free markets operate everywhere in the economy, it is the unhindered pursuit of private well being which ensures a societal solution to the problem of resource allocation.

The mechanism described is a perfectly competitive market economy based upon a price system. This form of organisation gives all resources in the economy a price. Individuals receive income from work and can spend this income on purchasing whatever resources they wish. The market mechanism registers their purchases in aggregate form and directs production by providing a profit

incentive to producers to satisfy the aggregate wishes of individuals.

1.3 The Perfect Market

Even before the publication of the Wealth of Nations by Adam Smith, unhindered or perfect competition based upon the price system was assumed to be the most desirable form of economic organisation. The belief was based upon both political as well as economic grounds. Economic theorists developed the idea of unconstrained action by individuals put forward in liberal ideology to construct an ideal model of an economy. In this perfect market model consumers' wants and desires are at the forefront of all other requirements. This situation where consumers control the economy through their decentralised decisions is a situation known as consumer sovereignty. This concept was first described as early as 1936 but was loosely defined by Rothenberg(1968) and Lerner(1972). Simply, whatever the consumer demands of the system, the market will provide if the consumer has the means to pay.

This model, to achieve such an efficient resource allocation did assume certain things about the prevailing economic environment. Without these assumptions the model would not operate properly and could not solve the allocation problem. These conditions

lay the theoretical foundations upon which perfect competition is based. It is assumed that:

1. A market exists for all goods and services produced in the economy. Whilst there are goods available every consumer will want to purchase them since individuals are assumed to always want more.
2. Each producer and each consumer is assumed to be a price taker in all markets. No consumer or producer possesses any form of market power.
3. Products within a category are homogeneous and cannot be differentiated other than by price.
4. Production is characterised by freedom of entry and exit.
5. Perfect information is possessed by both consumers and producers. The market is an integrated whole, not segmented by limitations on information acquisition and analysis.
6. There is an instantaneous market equilibrium. The perfect market absorbs all inputs and arrives at an equilibrium price without any cost. This is achieved by constantly and instantly matching demand and supply. .

Based upon these assumptions the model for the competitive economy relies upon two key sets of actors. The interaction between these two sets of people in pursuing consumption and production leads to the attainment of an equilibrium in the economy, a solution to the allocation problem.

1.4 Consumption and Production

The operation of the perfectly competitive market is characterised by two opposing forces, those of demand and supply. Each is associated with the two groups of economic actors, producers and consumers. Producers demand resources and supply goods, consumers supply labour and demand products. Each market has a supply of a certain commodity and a demand for it. The amount of each depends upon the prevailing price. Simply, if the price of a commodity is higher than the value attached to it by those who want it then a purchase will not take place. Similarly if the cost of supplying a commodity is greater than the value attached to its supply then the commodity will not be available. The ability of markets to arrive at a position where these criteria are matched without external interference is the strength of perfect competition. Whatever the features of a particular market, the mechanism will arrive at an equilibrium point. This model will be examined in more detail through two market analyses, consumption and production. In this way economic reality and economic theory can be compared.

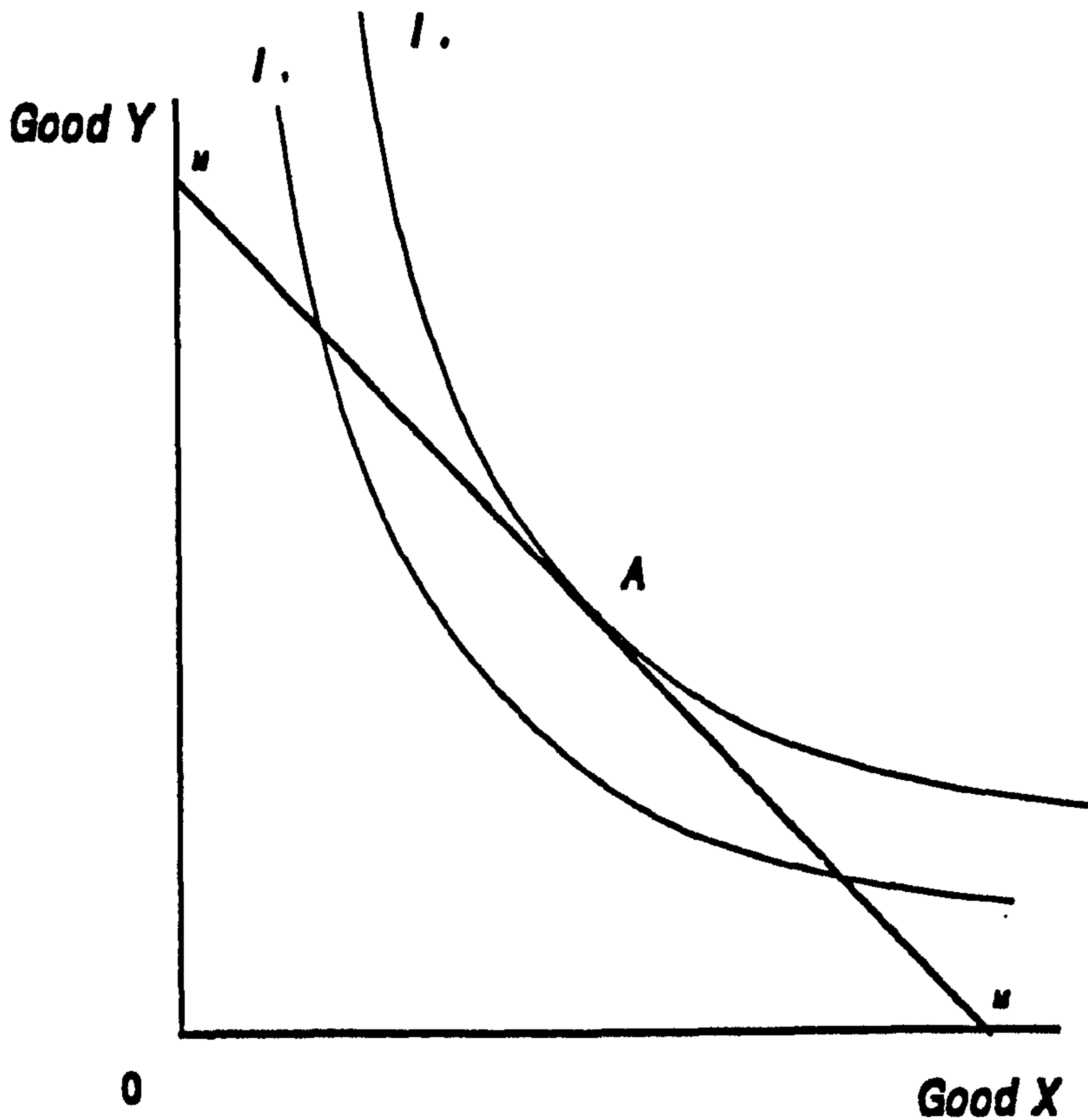
1.4.1 Consumption

It is assumed that individual rational consumers desire to purchase goods from which they obtain satisfaction. The consumer gains satisfaction from purchasing a

combination of goods available in the economy, the more goods that can be purchased the greater the satisfaction. For the purpose of analysis this situation is represented by an economy with just two goods. The locus of all combinations of these two goods from which the consumer derives the same level of satisfaction forms an indifference curve. An indifference map is a collection of a number of indifference curves corresponding to different levels of total satisfaction see Figure 1.1.

There are a number of assumptions about these curves which will not be dealt with here except to say that the curves are convex to the origin and cannot cross. A consumers' income with which to purchase these two goods and so derive satisfaction is given by the number of hours worked multiplied by the hourly wage rate. Because the goods have a price the individual seeks to maximise his or her individual satisfaction for a particular level of income bearing in mind the relative prices of the goods on offer. Formally the consumer is maximising utility ($\text{Max } U = f(X, Y)$) subject to the constraint of their budget ($\text{Income } M = P_x \cdot X + P_y \cdot Y$).

Figure 1.1 Indifference Map for an Individual Consumer



The possible combinations of products X and Y available for a given level of income and product prices is represented by a straight line known as the budget constraint, shown as line MM in Figure 1.1. The slope of any indifference curve at a particular point is the marginal rate of substitution of one commodity for the other. The marginal rate of substitution is defined as the number of units of one commodity that must be given up for an extra unit of the other commodity so that

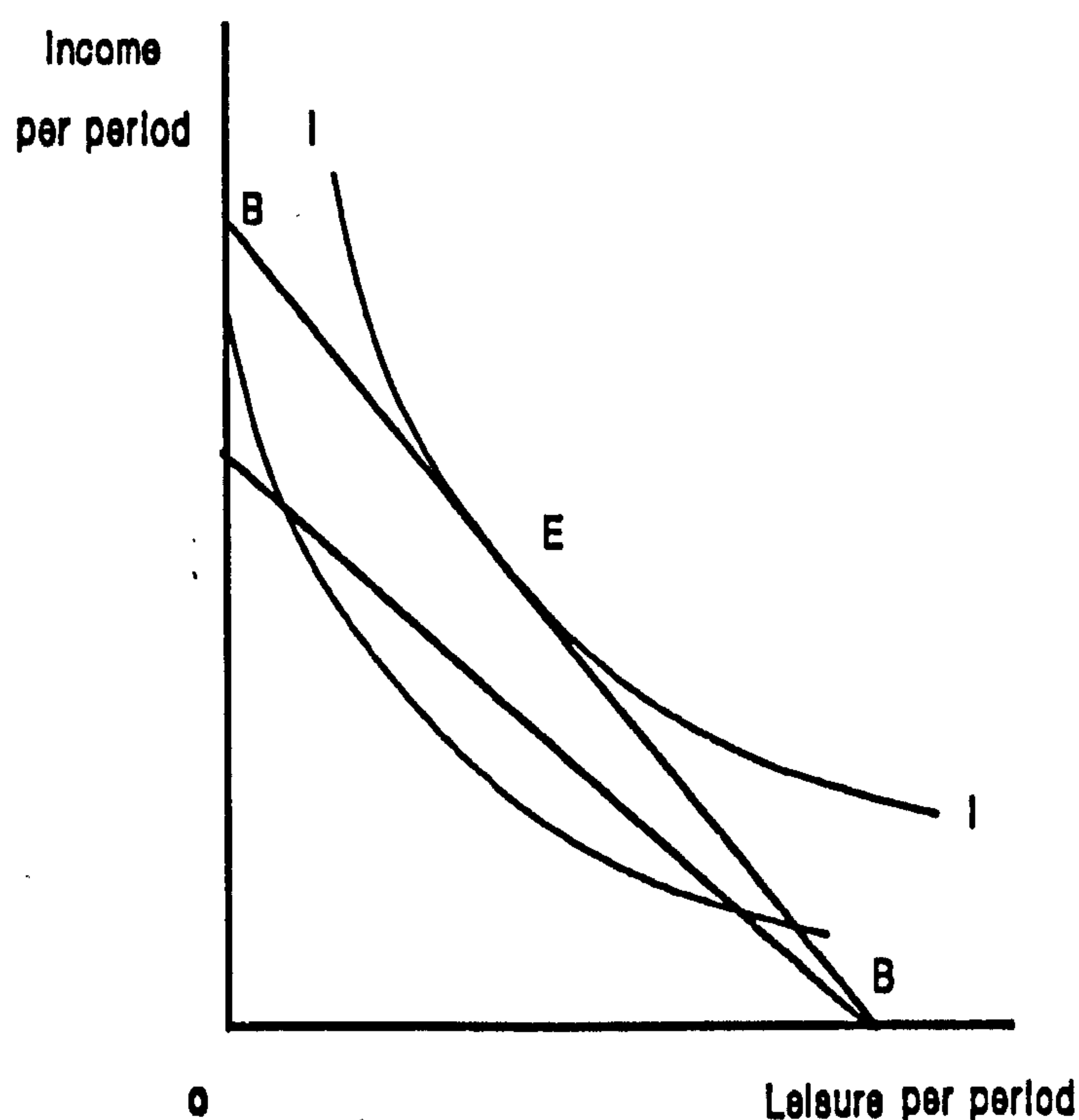
total satisfaction remains the same. For a consumer to be in equilibrium utility must be maximised. This is where the slope of the indifference curve is equal to the ratio of the prices for the products, ie where the budget constraint is tangential to the highest indifference curve (point A in Figure 1.1). Formally, for any utility maximising individual i where the prices of goods X and Y are P_X and P_Y :

$$(1) \quad MRS_{XY} = - \frac{\frac{U_i}{X_i}}{\frac{U_i}{Y_i}} = - \frac{P_X}{P_Y}$$

Of prime importance when considering consumption is the amount of income the consumer has available to purchase goods X and Y which defines the budget constraint. An individual's income is derived from selling their own labour to producers. In selling their labour individuals have a choice to make about how to allocate their time between earning income(M) and taking leisure(l) since both are desirable. This choice can also be analysed using indifference curves where the axes of the indifference map are income and leisure as shown in Figure 1.2. Any one indifference curve shows combinations of income and leisure which are equivalent to the individual. The slope of the indifference curve

is the marginal rate of substitution between income and leisure. The further the curve is from the origin the higher the level of utility.

Figure 1.2 Individual Supply of Labour



As stated above the income (M) obtained through work is a function of the hours worked (h) and the wage rate per hour (w), formally $M=wh$. Assuming that the individual must spend a certain amount of time sleeping and eating

the amount of leisure taken will always be greater than zero. For any given wage rate (w), (assuming that there is no unearned income) the budget constraint shows the income level that can be obtained by working a particular number of hours at a given wage rate. The slope of the budget constraint is equal to the wage rate. The higher the wage rate the higher the slope of the budget constraint since the same number of hours achieves a higher level of income.

It is assumed that the individual maximises utility $U(M, l)$ subject to the budget constraint determined by the wage rate (w). This is achieved where the budget constraint is tangential to the highest indifference curve. At this point:

$$MRS_{Ml} = - \frac{d_l}{d_M} = - \frac{\frac{U}{l}}{\frac{U}{M}} = w \quad (2)$$

These two conditions, equations (1) and (2) above, describe the equilibrium consumption of goods and the equilibrium selling of labour. It is assumed that all individuals in the perfectly competitive market behave precisely as stated. When these conditions are achieved the individual is at equilibrium, ie has achieved maximum utility.

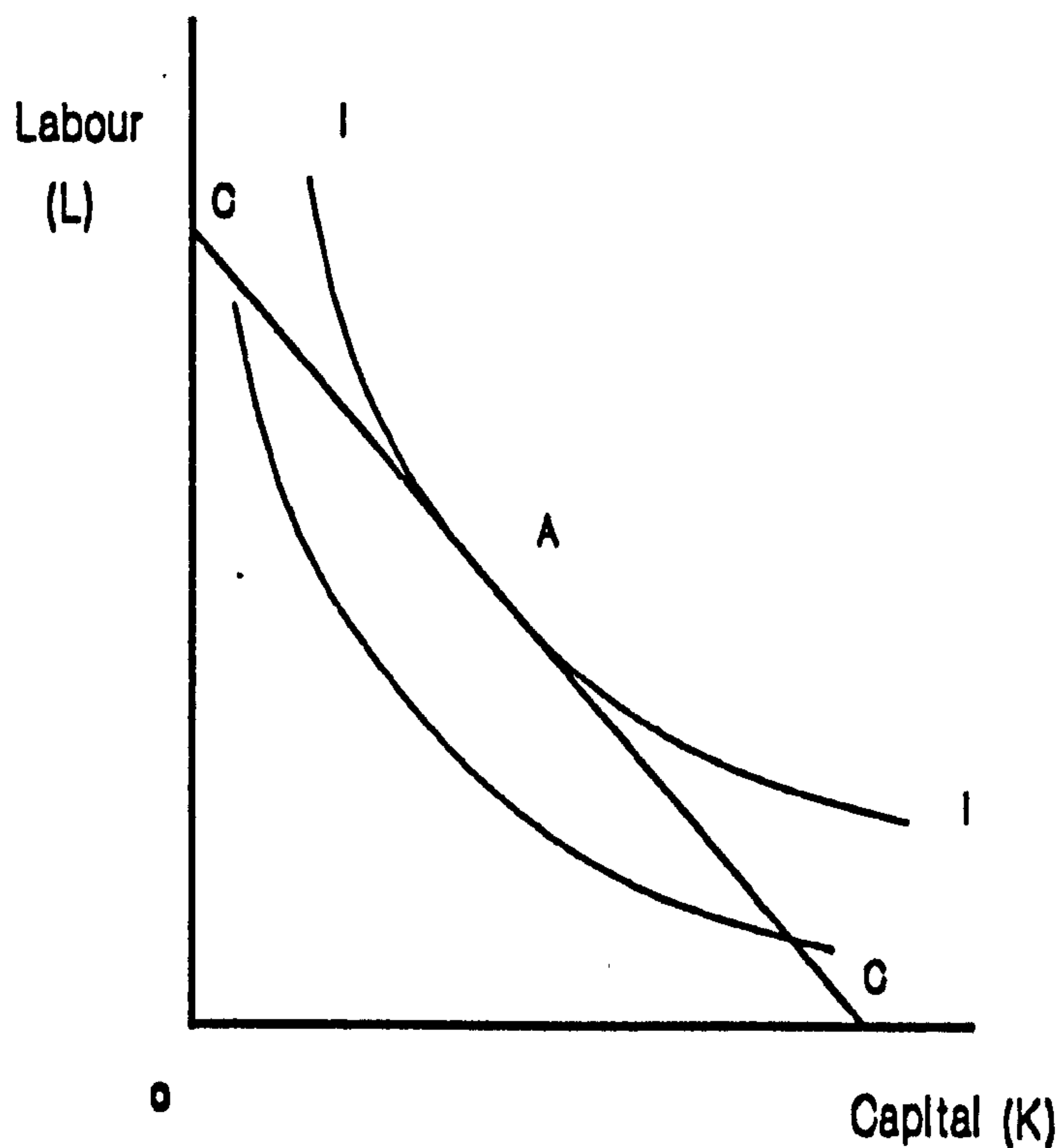
1.4.2 Production

The second market analysis concerns production of the commodities that are consumed. A firm is a technical unit of the economy which produces commodities. An entrepreneur heads the firm and decides how much and what commodities to produce. He then gains the benefit through profit or bears the loss. The entrepreneur transforms inputs, the raw materials of production into goods subject to the technical constraints of his production function. The over-riding objective of the entrepreneur is to maximise profit.

In the previous analysis the consumer maximised utility for a given income. In production the producer determines the output which maximises profit, and then minimises the cost of this output. Assume that production is a function of just two inputs defined as capital(K) and labour(L). The entrepreneur allocates the two inputs to produce a certain level of output. The locus of points of combination of the two inputs to produce a certain level of output is a production isoquant. An isoquant map is a collection of isoquants corresponding to different levels of production (see Figure 1.3). This curve is analogous to the consumer's indifference curve and has similar theoretical assumptions, they are also convex to the origin and do not cross. The entrepreneur purchases the two factors of

production in the open market at the market price. Given the profit maximising output level the entrepreneur chooses the optimal capital and labour combination to minimise costs. The constraint is therefore a function of the market price of these factors. This is represented by an isocost line, CC in Figure 1.3 which shows the minimum cost of producing the profit maximising output Q_1 .

Figure 1.3 Production Isoquant Map



The slope of the isocost line is the ratio of prices of the two factors capital(K) and labour(L), or (P_K, P_L) . Assuming that the factor prices for capital and labour are given, a profit-maximising entrepreneur would seek to minimise cost subject to the profit maximising output level which is at a point where the isocost line is tangential to the production isoquant Q_1 . The rate of substitution between the two factor inputs for any production level is the marginal rate of technical substitution (MRTS). For cost minimization the MRTS must be equal to the ratio of the productivity of the two factors (the marginal product (MP)) and factor prices (P_L, P_K) . Where the good produced is X then for any producer (A) of good X:

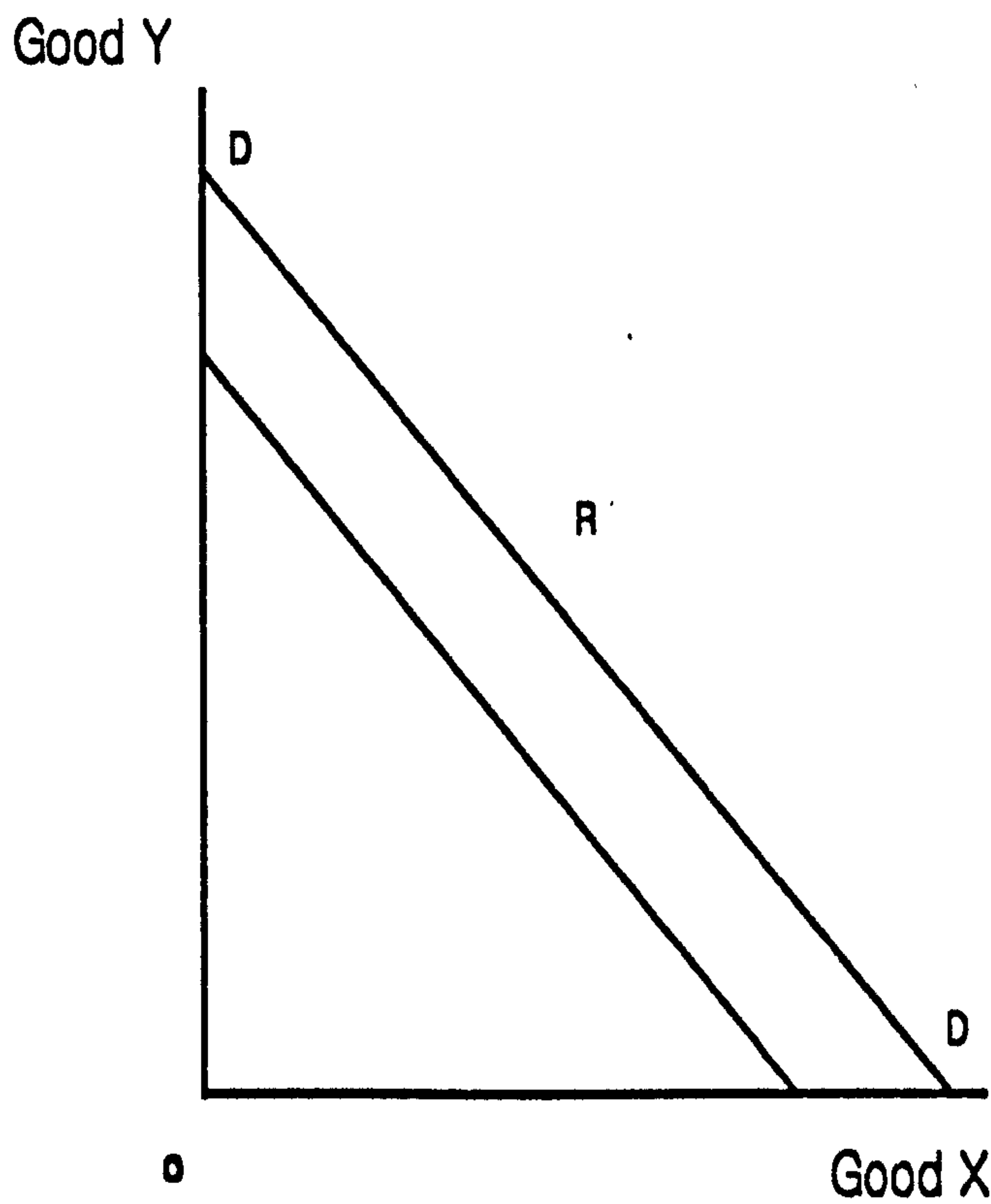
$$(3) \quad MRTS_{LK} = \frac{MP_L}{MP_K} = \frac{\frac{X^A}{L^A}}{\frac{X^A}{K^A}} = \frac{P_L}{P_K}$$

A similar formulation is appropriate to any producer of good (Y).

Given that firms utilise all available factors of production, and firms produce both X and Y products, the level of output for each product has to be defined, that

is the product mix for each firm. The locus of points of production for different levels of X and Y which use up all the available resources of the firm is the production possibility curve.

Figure 1.4 Factor Mix for Producer of Goods X and Y



The optimal combination is one which yields the highest revenue. This is found using an isorevenue line which is the locus of points of combinations of goods X and Y which yield the same revenue. This is represented by the line DD in Figure 1.4. The slope of the isorevenue line is equal to the ratio of prices of the products in the market. The equilibrium is found where the given production possibility curve is tangential to the highest isorevenue line (ie point R). This is the point where the amount it is possible to produce provides the highest revenue. The slope of the production possibility curve at any point is the Marginal Rate of Transformation (MRT). This is the rate at which production of one product within the firm can be changed to production of the other product. The MRT is equal to the ratio of the marginal products of labour and capital in the production of good X or good Y. Formally:

$$MRT_{XY} = \frac{MP_{LX}}{MP_{LY}} = \frac{MP_{KX}}{MP_{KY}} \quad (4)$$

The slope of the isorevenue line is equal to the ratio of the product prices therefore the equilibrium point is at a point where:

$$MRT_{XY} = \frac{MP_{LX}}{MP_{LY}} = \frac{MP_{KX}}{MP_{KY}} = \frac{P_X}{P_Y}$$

(5)

At this point (R) the firm achieves the most profitable mix between the products that uses all resources.

The final condition for producer equilibrium is one which defines the optimal total level of output for the firm. Returning to the main assumption, that firms maximise their profits, a firm will not produce an extra unit of output unless the revenue from its sale is equal to or greater than the cost of producing it. If the revenue of the extra unit is greater than its cost to produce then the firm, following the assumption of profit maximisation, must increase output to take advantage of the profit available. The formal assertion of equilibrium output is that marginal cost equals marginal revenue which in turn is equal to price.

$$\frac{MC_X}{MC_Y} = \frac{MR_X}{MR_Y} = \frac{P_X}{P_Y}$$

(6)

1.5 The Perfectly Competitive Equilibrium

When all the above conditions are met then both consumers and producers are maximising their respective satisfactions. The market mechanism through the price system ensures that the achievement of equilibrium by both consumer and producer in the pursuit of personal satisfaction will lead the economy to a position where they are both sustainable. Perfect competition for consumers means that the prices of goods available to them are given and as sellers of their own productive capacity the price they receive is also given by the factor markets. The question is how to allocate income to consumption. Equality at the margin, that is the substitution of more of one product for less of another, is assumed to be equivalent for all consumers despite the different needs and preferences. This provides producers with the information they require through demand to produce according to consumers' desires.

Each producer is assumed to be faced with unlimited demand for his production at the market price. Perfect competition among producers in the purchase of factors of production means that the price of labour and capital are given and the firm employs factors of production such that the marginal cost does not exceed the marginal revenue produced. If the producer increases price to obtain extra profits above the prevailing market price then the assumption of perfect knowledge ensures

consumers know of this and switch their consumption to the products of other firms. If the overall price level were too high then entrepreneurs would be obtaining more than normal profits, this would attract more firms into the industry. Similarly if the price level is too low all producers will not be able to earn sufficient profit and will leave production, therefore reducing supply and increasing price.

All that has been described so far is the way consumers and producers operate in their respective roles within a market. Within the confines of the perfectly competitive model consumers and producers operate harmoniously. Yet, what is needed is some external criteria to measure whether or not the allocation is efficient in satisfying consumers' needs. Formally whether the equilibrium condition of this model describes an optimal resource allocation.

1.5.1 The Assessment of Efficiency

To assess efficiency there needs to be some concept of perfection as a yardstick. Standards of perfection in social science are not easily established. In pure science perfect efficiency can be defined, for instance a perfectly efficient engine is one which transforms all the potential energy of the fuel into movement of the vehicle. Actual engine efficiency is then measured as a percentage of perfect efficiency. However for economic

organisation it is difficult to define a success criterion or indeed a set of success criteria. The root of the problem lies in the fact that each individual in society will assess economic efficiency on the basis of their own personal satisfaction rather than taking into account the aggregate satisfaction of all individuals in the economy. In a centrally planned economy success is measured by the extent to which the objectives of the pre-defined economic plan have been fulfilled and how fast. However for a market economy, any evaluation of success must be based upon the extent to which the economic organisation has fulfilled the wants and desires of individuals in the absence of a consensual economic plan.

One method of evaluating economic efficiency was presented by Vilfredo Pareto (1897). The assessment of the performance of any given method of economic organisation is made by reference to a value judgement: could a change in the allocation of resources be made such that one person be made better off but no one worse off. A situation where it is impossible to make anyone better off without making anyone else worse off is said to be Pareto optimal.

It is only relatively recently with the development of comparative statics analysis that perfect competition has been rigourously examined in the light of such welfare criteria. Work done by Lerner and Lange(1942)

formed the basis of the proof presented by Arrow in the papers of the Berkeley Symposium(1951), that under a broad set of conditions the competitive mechanism is a 'Pareto satisfactory mechanism'. This means that the equilibrium position of a perfectly competitive economy is simultaneously Pareto optimal, where all consumers are optimally satisfied through their consumption behaviour. This proof was developed in Arrow and Debreu(1954).

So far perfect competition has been portrayed as a mechanism that is automatic in achieving an equilibrium, a harmonious solution to all demands made upon the system. By reference to the Pareto criterion, perfect competition can be proven not only to be automatic in operation but to achieve an equilibrium which is Pareto efficient

1.5.2 Pareto Optimality

For the attainment of a Pareto optimal state three conditions must be satisfied: the efficient distribution of commodities among consumers, efficiency in the allocation of factors of production among producers, and efficiency in the allocation of factors between the products made by the producers. Underlying these efficiency criteria are a number of assumptions that are applied to the model in addition to those already accepted.

1. The underlying societal structure is static. In such a time frozen economy, uncertainty cannot exist and all individuals have perfect knowledge. The size of the population is constant and individual utility functions do not change. Technical progress does not exist and there are no other external influences on consumption or production.
2. Each individual's preferences about allocative states of the economy are characterised by selfishness. As Rowley and Peacock (1975) point out, quoting Buchanan (1968) the preference ranking must be defined over the commodity bundle actually received by the consumer and not by commodity bundles allocated to other individuals. In practice the interpersonal comparison can occur but is considered as an externality.
3. Each individual's preference ranking can be represented by a continuous and twice differentiable utility function characterised by strong convexity. (This is the definition of the indifference curve which ensures each equilibrium point is unique).
4. All production functions are continuous, twice differentiable and demonstrate non-increasing returns to scale. (This defines the production isoquant for the producer which is analogous to the consumer's indifference curve.)
5. All individuals and producers seek to maximise utility and profits respectively.

These five assumptions can also be formulated into axioms based upon choice criteria that define the point at which a Pareto optimum solution can be achieved which was used in the analysis by Quirk and Saposnik(1968).

1.5.3 Conditions for the Achievement of Pareto Optimality

To summarise, a Pareto optimal state in the economy can be attained where the following marginal conditions are satisfied:

- (a) The the Marginal Rate of Substitution between any pair of goods X, Y must be equal for all consumers in the economy.

AND

- (b) That the Marginal Rate of Technical Substitution between any two factors of production k, l must be equal in the production of all commodities.

AND

- (c) That the Marginal Rate of Transformation of X, Y for producers must be equal to the Marginal Rate of Substitution of X, Y for consumers.

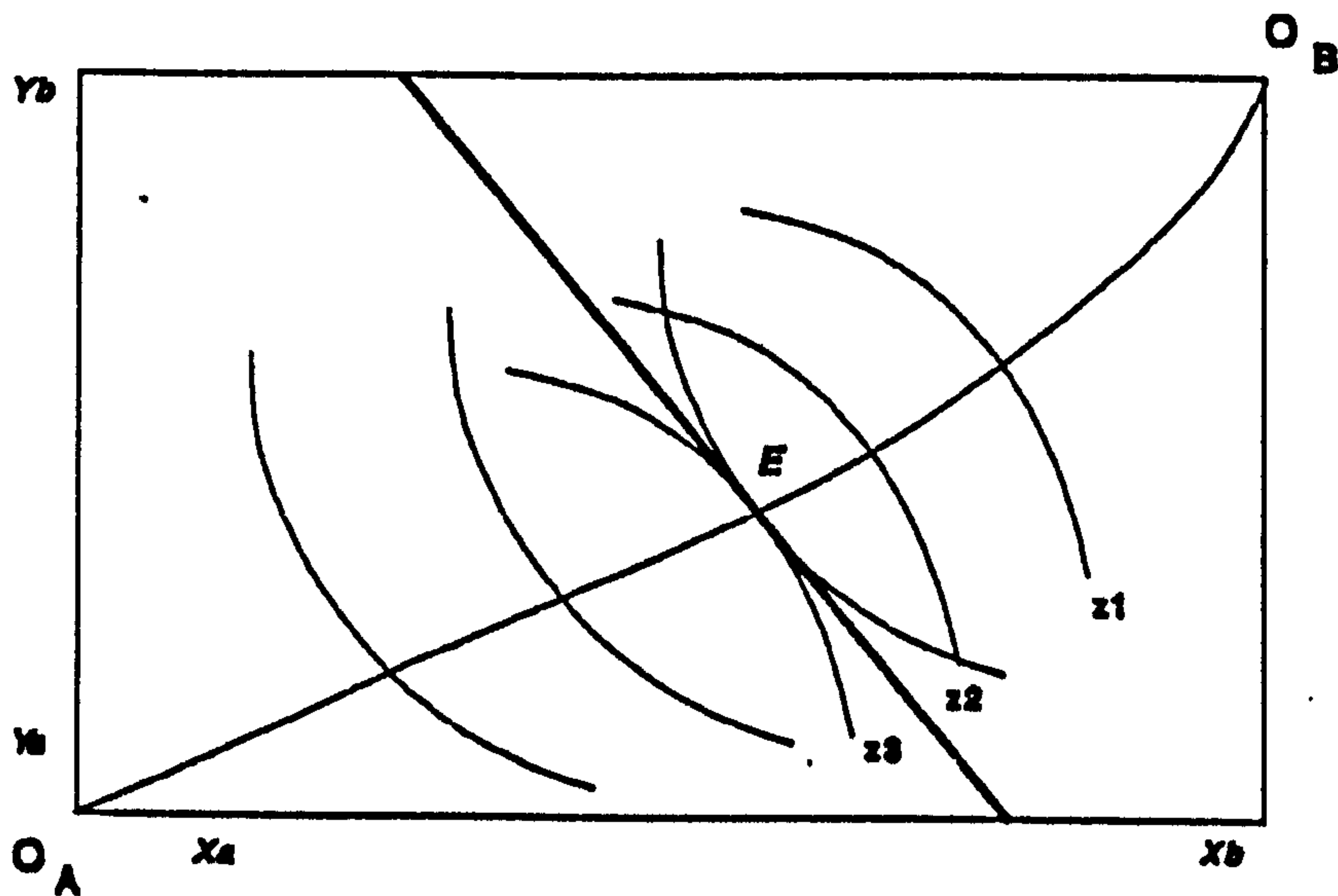
These conditions form the basis of a mechanism which will achieve an efficient solution to the problem of resource allocation. In the next part of this analysis these marginal conditions will be applied to the equilibrium achieved under perfect competition.

1.6 Proof of Pareto Efficiency Solution Under Perfect Competition

In applying the Pareto criterion, the distribution of commodities among consumers is efficient if it is impossible to redistribute the commodities in such a way

that one person is made better off and no other is not made worse off. This situation can be represented diagrammatically for two individuals using a box diagram first described by Edgeworth (1881). The box is formed by superimposing the inverted indifference map of individual A on to the indifference map of individual B, and is shown below in Figure 1.5.

Fig 1.5 Edgeworth Box Diagram Describing Consumer Equilibrium



The dimensions of the box are the total quantity of X in the economy measured along the x axes and the total quantity of Y in the economy measured along the y axes. As a consequence any point within the box describes an allocation of the total X in terms of X_A and X_B , and similarly for good Y. The indifference curves of each individual retain convexity to their respective origins O_A and O_B . The indifference curves of individual A and individual B are tangential at a number of points, the locus of these points is the 'efficiency locus' which is represented by the line $O_A O_B$. Along the efficiency locus the value of X in terms of Y is the same for both individuals.

1.6.1 The Marginal Rate of Substitution

For the consumer, maximising satisfaction requires a choice of a combination of products such that the marginal rate of substitution between them is equal to the ratio of prices (see equation 1). Since all consumers are faced with the same prices and each is assumed to be in equilibrium, then at the Pareto optimal point E in Figure 1.5, where their indifference curves are tangential, it must be true to say that $MRS_{Axy} = MRS_{Bxy}$. By drawing a line tangential to the intersection the allocations of X and Y can be found. If consumers' indifference curves actually intersect then one of them is not on their highest attainable indifference curve. The allocation in this case could be

improved for one without the other being made worse off. Simply one person remains on their indifference curve and the other moves to a higher curve (for example a single move from z_2 to z_3). Formally at the Pareto optimal point E it must be the case that:

$$MRS_A = MRS_B = \frac{PX}{PY}$$

(7)

This is the point where a Pareto optimal distribution of goods between consumers occurs, where the marginal rates of substitution for consumers A and B are equal.

Referring back to equation 1 it can be seen that this is also the formal condition required for an individual consumer to be in equilibrium. Consequently where all individuals are maximising their utility the equilibrium point for the economy is also Pareto optimal.

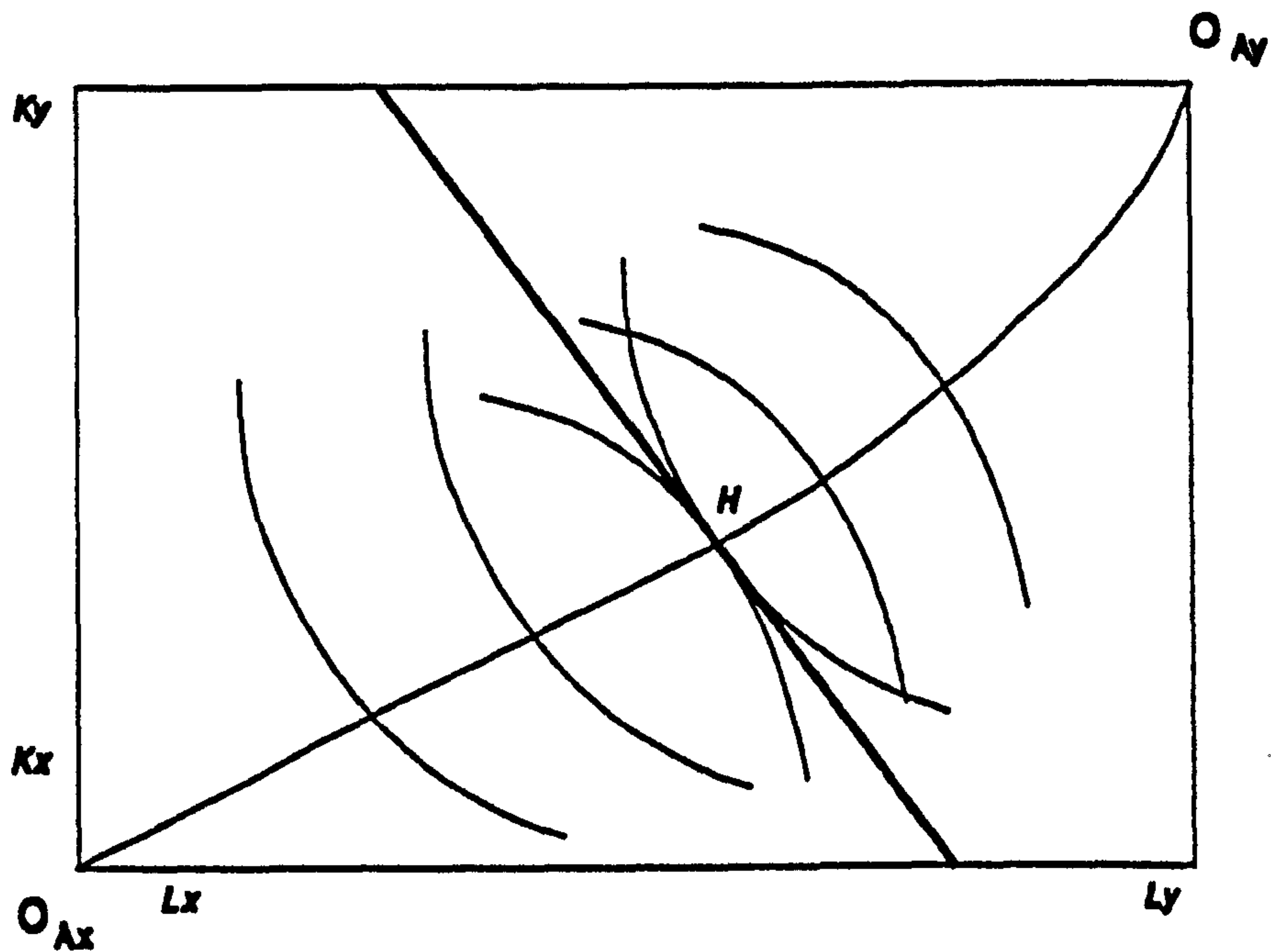
1.6.2 The Marginal Rate of Technical Substitution

The second Pareto requirement is that of profit maximisation by the individual producer. This means that whatever output level the firm may choose it must be

procured at the minimum cost for a given revenue. This is ensured if the firm chooses the combination of inputs labour(L) and capital(K) such that the marginal rate of technical substitution (MRTS) between the two factors is equal for the production of all products. Further, that the MRTS is also equal to the ratio of their prices. Using the Edgeworth box diagram it is possible to represent the production of goods X and Y. The box is shown below in Figure 1.6.

The box represents the total quantities of capital(K) and labour(L) to be allocated between the production of goods X and Y. To achieve the maximum output for any given cost from available factors, the production of good X and Y would need to be on the highest isoquant for each product ie at point H where the production isoquants for X and Y are tangential. The locus of points where the isoquants are tangential is the efficiency locus represented by the line $O_A X O_A Y$. If this were not the case then resources would not be utilised efficiently and profits would not be maximised.

Figure 1.6 Edgeworth Box Diagram For Producer Equilibrium



At point H the marginal rate of technical substitution of capital for labour in producing X ($MRTS(X)_{kl}$) and Y ($MRTS(Y)_{kl}$) is equivalent. Since producers are price takers in the market for factors K and L then at the tangential point the ratio of prices is also equal. Formally :

$$MRTS(X)_{kl} = MRTS(Y)_{kl} = \frac{P_l}{P_k} \quad (8)$$

At this point the second condition is achieved that of equality in marginal rates of technical substitution between products. This has also been established in the perfectly competitive equilibrium condition equation (3). Consequently in production a perfectly competitive economy will have an equilibrium point which is also Pareto optimal.

1.6.3 The Marginal Rate of Transformation

Finally, to ensure that products are transformed as consumers substitute them for one another the marginal rate of transformation between X and Y (MRT_{XY}) for producers must be equal to the Marginal Rate of Substitution of X for Y by consumers (MRS_{XY}). From equation (4) MRT_{XY} for producers is equal to the ratio of marginal products of capital and labour. At the equilibrium point this is also equal to the ratio of product prices. Formally:

$$MRT_{XY} = \frac{MP_L X}{MP_K Y} = \frac{MP_K X}{MP_L Y} = \frac{P_X}{P_Y} \quad (9)$$

This can then be compared to the equation for the marginal rate of substitution for a consumer at their equilibrium point which was derived in in equation (1)

$$MRS = \frac{P_X}{P_Y}$$

With reference to the third condition for a Pareto optimal solution to resource allocation, at the equilibrium point of product mix for a perfectly competitive producer, the marginal rate of transformation is equal to the marginal rate of substitution for the consumer ie the ratio of product prices:

$$MRS = MRT = \frac{P_X}{P_Y}$$

This satisfies the third condition for a Pareto optimal equilibrium.

The perfectly competitive model reaches an equilibrium point where the allocation of resources cannot be improved upon using the efficiency criteria put forward by Pareto. The above analysis proves that the model of perfect competition achieves a Pareto optimal solution to the problem of resource allocation. All consumers' wants, while not completely satisfied, are satisfied optimally, given available resources. Based on this analysis the proposition that free unhindered

competition benefits consumers is irrefutable because of the implied acceptance of the concept of consumer sovereignty. Free competition ensures an optimum welfare for all members of the society. In essence this model is a market structure characterised by a complete absence of conscious rivalry between individuals. All the actors merely respond to market conditions in a way that is beneficial to themselves. This action satisfies individual preferences and aggregate preferences at the same time by directing production toward an efficient solution of the resource allocation problem.

1.7 Criticisms of Analysis

The model of perfect competition as presented here makes some major theoretical assumptions about the prevailing economic environment. For the analysis to achieve all that is theoretically possible the assumptions must be met in their entirety, there is no allowance for approximation. As Lipsey and Lancaster(1956) point out the failure of one condition for perfect competition means that 'first best' Pareto optimality cannot be achieved although there will be a second best solution. The model relies totally upon the defence of the underlying assumptions about the economic environment and about individual behaviour. It is clear that the assumptions are not tenable individually or collectively in the real world. What is observable is a form of competition which approximates this model. The

divergence between the theoretical and the observable economy has a number of implications.

Green and Nore(1977) argue that if the real economy does not operate as the model would predict then consumer sovereignty does not exist and justification for a competitive system diminishes. For, not only is the possibility of an equilibrium doubtful but if achieved at all there is no basis for considering it to be Pareto optimal. One could counter this argument by minimalising the differences, rejecting the complete breakdown of the competitive model in favour of a form of approximation which follows the underlying workings of the model and would be Pareto optimal only in as much as it accurately reflected the theoretical assumptions. Implicit in both arguments is an acceptance that the observable economy does not display the same characteristics as those suggested in the model. The fundamental question is what impact this has upon producers and consumers.

Where one or more of the assumptions of perfect competition are not found there exists a situation known as market failure as described by Bator(1958). The disparity between the model and observable features of the economy has been used as a means of identifying areas where the operation of markets is inefficient. Again inefficiency is a subjective term depending upon how the disparity is viewed. On one hand the existence of market failure removes consumer sovereignty and so

can only be detrimental to consumers. However market failure in a particular market can in reality be beneficial in some circumstances. But whatever the assessment, the real economy does not operate as predicted by the perfectly competitive model and the existence of 'checks and balances' implicit in the model are debatable.

There are potential market failures associated with each of the formal conditions of perfect competition. It is possible to group these conditions as relating to two broad areas, those which characterise the producers' environment and those which are relevant to the consumers' economic behaviour.

1.8 Market Failure in the Producers' Environment

First, the assumptions pertinent to the producers' environment can be re-stated as:

1. The firm is assumed to be price taker in all markets. No producer possesses any form of market power.
2. Industry is characterised by freedom of entry and exit
3. Perfect knowledge exists throughout the economy.

These conditions will be assessed below as the basis for an examination of market failure.

1.8.1 Market Power

Much of the accepted theory and modelling in economics focuses upon the two extremes of the market structure spectrum. Those of perfect competition and monopoly. These two extremes are relatively well specified and the behaviour of participating producers can be predicted using profit maximisation as the principle determinant of behaviour. In the pure competition situation producers are price takers with no price setting discretion and they earn normal profits in the long run. By contrast in a monopoly situation the firm is able to produce at a sub optimal level taking advantage of a price set above marginal cost thereby earning higher or super-normal profit.

By far the largest number of markets facing consumers are neither of these two extreme types but fall into the category of oligopoly (imperfect competition) where a relatively small number of firms share a disproportionately large share of the market. Where imperfect competition occurs the characteristics of the market are less precise and producer behaviour is indeterminate because it is dependent to a degree upon the actions of other producers. These responses may or may not be based upon wholly economic criteria. This market structure gives scope for producers to use market power contrary to the competitive assumptions of the model.

The basis of market power is in price setting discretion. Theoretically the discretion increases as firms operate in increasingly concentrated markets where the extreme discretion is characterised by monopoly. Consequently a fundamental feature of market power is the number of sellers in a particular market. Market concentration has been used as a measure of the degree of potential for market power to be exercised. For instance the seller concentration ratio can be obtained based upon the proportion of sales volume accounted for by for instance the largest four firms. Concentration ratios produced by the OECD and the EEC have pointed to the increasing trend toward concentration in many market sectors. (OECD 1979). This has been explained by Sweezy (1970) as the shift in economic structure from competitive capitalism to monopoly capitalism and as Jones and Pickering (1979) note such a shift has implications for consumers as well as producers.

For consumers, the existence of market power is one of the most serious aspects of market failure. Where price setting discretion is placed in the hands of producers rather than as a function of consumer demand the signalling function of price is distorted to meet producers' rather than consumers' needs. Market power in the hands of producers is emphasized and may be enhanced by the existence of other market imperfections such as

imperfect knowledge, product differentiation and by barriers to entry.

However, this is not to say that market power is solely in the hands of producers. Traditionally consumers have been disadvantaged in the exercise of market power because of the fragmentary nature of their aims which has denied them the benefits of collaboration. Over the last twenty years market power has been identified in the actions of consumer groups in particular the policy of boycotts and the provision of specific product comparisons as identified by Smith(1986) and Box (1986). Market power in this context is not founded upon price setting discretion but on less tangible features of concerted action. In particular, it identifies political and consumer organisations as defining non-economic choice criteria thereby undermining the atomistic nature of consumption decisions because they act in a concerted way.

1.8.2 Barriers to Entry

The second market failure in the producers' environment is the barrier to entry erected by existing producers to protect their position in a particular market. The perfectly competitive model assumes that firms are free to enter and leave production at will in response to the profit earning capacity of production. Additionally, the

entry to profitable markets and the exit from unprofitable markets occurs with no cost. It is apparent that this costless freedom does not exist in reality.

There are three identifiable types of barriers to entry:

- (a) The initial cost of entry
- (b) The existence of economies of scale
- (c) The existence of absolute cost advantage

1.8.2(a) The Initial Cost of Entry

Following the theoretical model, entry and exit should be costless. However, as Leftwich(1979) points out initial entry cost is particularly high for some industrial sectors for instance oil, chemicals or steel. A potential entrant would need to find capital to make entry feasible, the precise amount depending upon the type and the scale of production. The requirement for capital even in the purest market analysis incurs a cost defined by the rate of interest. In reality access to sufficient capital may be the most significant barrier to entry for any new firm attempting to break into a protected market. The ability to secure sufficient return to service the set up cost may also be dependent upon the existing size of the firm, the market concerned and the potential for penetration. The existing producer(s) will have had the ability to discount the

initial set-up cost over the period of existing production. Other cost barriers are associated with technological cost advantages, research and development and experience cost.

1.8.2(b) The Existence of Economies of Scale

Economies of scale as a barrier to entry are defined as a long run reduction in unit cost as the volume of production increases. Where existing producers have achieved economies of scale the opportunity arises for either a reduction in market price for the goods produced or an increase in profit afforded through lower costs. Where the minimum efficient scale for a production unit exceeds 50% of the market capacity, any new entrant would be unable to achieve the scale necessary to secure a sufficiently attractive return to enter.

Further economies of scale can be derived from the impact of indivisibility. For instance, a machine may only be available in certain sizes or capacities. A larger producer may not only be able to keep the machine fully loaded but may be able to spread fixed costs over a larger volume of output.

The existence of economies of scale is not in dispute but it is apparent that the degree of possible economies does vary from industry to industry depending

upon the production technology employed. Economies of scale as a barrier to entry are described in more detail by Bain(1956), Silberston(1962), Pratten(1971), Williamson(1968), and De Prano(1969).

1.8.2(c) Absolute Cost Advantages

The final barrier to entry is the existence of absolute cost advantage. These advantages are accrued through specialist knowledge or techniques. This is amply displayed where producers possess patents and allow other producers into the market at their discretion through the issue of licences and with the payment of royalties. The patent system can be used as an effective and legally enforceable barrier to entry.

These three barriers reinforce the problem of concentration and add considerably to the continuance of oligopolistic competition and the prevalence of market power. For a full discussion of the barriers to entry encountered by new firms see Bain (1956), Bhagwatti (1970), Spence(1977). For a detailed economic analysis see von Weizsacker(1980).

1.8.3 Perfect Knowledge

The third broad market failure to face producers is the absence of perfect knowledge. It is proposed that the

perfectly competitive economy is populated by omniscient individuals. For the producers in this economy the possession of perfect knowledge is paramount because of the importance of identifying profitable production opportunities. Excess profits entice more producers to enter the market, as a consequence all producers in the economy must be fully aware on an up to date basis of profit earnings of all other producers in all other sectors. This assumes of course that profit earnings are the only consideration and that barriers to entry do not exist. If perfect knowledge does not exist then excess profits could be earned in particular markets as excess demand is maintained. Potential entrants are then unaware of profit opportunities.

Another element of perfect knowledge for producers concerns the identification of new market opportunities. The underlying assumption is that producers know what consumers require. They can react immediately to a change in consumer requirements. The only indicator of consumer needs in the model is effective demand which is demonstrated by the actual purchase of existing products. Perfect knowledge assumes that producers know the hidden desires of consumers. In reality this perfect knowledge does not exist and producers have to rely upon test marketing and market research techniques to identify new product opportunities which often incurs cost which is not recouped.

The third effect of an absence of perfect knowledge is in production techniques. Producers are assumed to know the production techniques employed by rival firms. In this way production costs are similar for all producers since only the resources of capital and labour can vary in cost and these are defined by the market. In fact firms are generally unaware of production techniques used by other firms because they are kept secret or patented. In this sense imperfect information in relation to production technology could also be considered as a barrier to entry.

1.9 Market Failure in the Consumers' Environment

There are two major conditions required by the perfect competition model applicable directly to the consumer and their immediate market environment. These assumptions are re-stated:

4. Perfect information is assumed for both consumers and producers. The market is an integrated whole, not segmented by limitations on information acquisition and analysis.
5. Product differentiation does not exist. All products in the economy are homogeneous and consumers cannot distinguish between a producers' products except by price.

1.9.1 Perfect Information

The first and perhaps most contentious assumption in relation to consumers is that of perfect information. On the basis of this assumption the model of the perfectly competitive market ensures that purchase behaviour is a direct response to the relative prices of goods available throughout the economy. Perfect knowledge may be applicable to a simple two good, two producer economy but in situations of millions of products and millions of producers even a minimum level of information about goods available becomes impossible.

Information for the purpose of this analysis is defined by Hughes(1971) as "any stimulus perceived relevant to the decision to buy or consume a product or service". This definition is broad but information as a concept in consumer theory has not achieved a precise definition (except in the mathematical branch of Information Theory). The pure market theory identifies price information as the only stimulus perceived as relevant to a purchase decision. This relevant information is then processed in relation to a preference ordering for all goods which make up a basket of purchases that achieve the maximum satisfaction subject to the individual's disposable income. There are two points to consider in this analysis, the available information and the processing of that information into a decision.

1.9.1(a) Available Information

The information environment in the real economy is much more complex than the model suggests. Individuals are not merely a price/preference response mechanism but are capable of thought and opinion with motivations such as self-image and aspiration. The information available that is relevant to a particular purchase is not restricted to price information. It includes information on durability, performance, suitability as well as sympathy to beliefs held by the individual about themselves.

In today's society the consumer is assailed daily by vast quantities of information. That which is relevant to purchase decisions can come from a variety of sources. Information may come from commercial sources (such as product design, packaging, salespersons, advertising, and shelf displays), or from non-commercial sources (Which magazine, independent assessment, government, or academic research), from social sources (friends, neighbours, family etc) or from individual experience and perception gained as a result of previous action or previously held information. The point is that consumers do not possess information innately; it is either given to them or they search for it. Information about the specific qualities of products are held by producers. This is then imparted to consumers through a

number of commercial routes. By far the most important of these commercial routes is advertising.

The use of advertising has a dual role. The first is one of providing information which is much emphasised by the advertising industry itself and market supporters.

Indeed advertising has been identified by consumers as a source of information for purchasing decisions in a number of studies, Bucklin(1965), Katona and Mueller (1955), Udell(1966) and Nelson(1974). Several studies have tried to measure the information content of advertising but the measurement criteria have been very general and the results have been inconclusive, see Resnik and Stern(1977), Sepstrup(1981) and Marquez(1977). The problem here is that advertisements often omit information in favour of non-rational appeals.

The second role of advertising is much more contentious, that of persuasion. The debate about the persuasive content of advertising material is still going on. It is apparent that advertising contains an element of both hard factual information and other non factual appeals. It is the non factual information which is most contentious in this analysis. As Galbraith (1975) points out, advertising may in fact undermine the rational decision process of consumers in the economy and may be a source of market distortion because of the dilution of information. It is difficult not to get involved in an

argument that encompasses not only economic considerations but also moral and political. Persuasion may not be a negative factor in considering the consumers' market environment where it prevents damage to health or other individuals. Although Foxall(1980) widens the debate by making the point that "persuasion is perfectly legitimate in an open society". However, such a debate cannot distract attention from the disparity of information available to consumers.

1.9.1(b) The Processing of Information

The second consideration relevant to the consumer information environment is processing of information. It has been suggested that the quantity of information in the real economy, whatever the source, will be too much for consumers to process effectively. When this situation occurs the consumer is experiencing information overload. This topic is well covered in the literature, for instance Bettman (1970), Henry (1980), and Jacoby Spelling and Kohn (1974) who concentrate upon individual reactions to information overload. The work of Schroeder et al (1967) attempts to classify the different processing abilities of individuals but with limited effect.

In response to information overload consumers adopt strategies to avoid this situation or minimise its effect. These strategies can be positive where the

individual deliberately seeks out selective information felt relevant or the strategy can be negative, deliberately avoiding information. Information found valuable or acceptable may be adopted whereas information of low value or disagreeable may be rejected. In this way the individual restructures information over time.

The effect of information overload and processing disparity can lead to a situation that Williamson(1975) has described as information impactedness. Individuals do not communicate potentially useful information to each other which leads to a situation where individuals operate within information clusters. The boundaries of these clusters sometimes intersect with other individuals and this interaction can either add to the information held or deplete the information held by contradicting that already possessed. The net effect is to make the consumer environment segmented in terms of the possession of information. Where purchase decisions need to be taken, consumers are very often faced with uncertainty as a function of information deficiency within their boundary. This prompts consumers either actively to seek out information where they perceive that information is needed to reduce perceived risk or alternatively to carry on without it. This view emerged in the work by Klapper (1960) and Grunert (1981).

Finally, information has a short life. Following the market assumption, consumers would have information continually updated. This would take account of price changes resulting from the redirection of production. This is not the case, there is no automatic updating of information in fact consumers appear to retain old information for future use and rely upon this as an alternative to information search. In the absence of updating it is fair to say that consumers operate on the basis of outdated information.

Whatever the reason it is clear consumers do not have perfect knowledge upon which to base purchase decisions.

Because of :

- a) Selective information sourcing
- b) Processing disparity
- c) Product specific information
- d) Information updating delay

The consequences of imperfect information have not been pursued with much rigour although it is clear from work by Maynes et al (1977) that insufficient information leads to consumer dissatisfaction and poor purchasing decisions. This was also identified by Buskirk and Rothe (1970) and Day and Aaker(1970). Indeed research by Maynes and Assum (1982) has concluded that price dispersion of similar products is caused by imperfect information being held by consumers. This proposition

went some way to confirming the work of Devine and Hawkins(1972) which examined price effects after supplying additional information to consumers. Keller and Staelin(1987) make a distinction between quantity of information and quality where improvements in quality increase decision effectiveness but increases in the quantity of information reduce decision effectiveness. Research based upon the implications of consumer information deficits such as that by Morrison and Bronson(1970) has identified economic loss due to imperfect information. Other research such as that by Akerlof(1970) Maynes(1979) Thorelli and Thorelli(1977) and Cave(1985) have approached the problem of imperfect information by pointing out the imbalance of power between consumers and suppliers and identified an information gap leading to price and quality uncertainty. This situation is described by Akerlof(1970) as 'information asymetry'. It has been observed that since communication between suppliers and consumers is organised and initiated mainly by suppliers the information transmitted will be determined by the aims and objectives of business rather than the information needs of consumers. This puts a different light upon the perfect market construct where information flows freely and instantaneously without limit. It identifies the possibility of market power in relation to information which is detrimental to consumer's interests.

1.9.2 Product Differentiation

The second market failure occurs where products are not homogeneous (as assumed) but are differentiated from one another. Essentially product differentiation is the process of making products of the same description different in one or more respects. In the perfect competition model it is assumed that buyers cannot distinguish between the outputs of the various producers. All products are differentiated only to the extent that price may be different and the fact that they may actually be different products. In reality the products of different firms are identifiable, even though they may be similar to other producers' products in all other respects. Chamberlin provides a good description of the nature of product differentiation:

"A general class of product is differentiated if any significant basis exists for distinguishing the goods or services of one seller from another. Such a basis may be real or fancied so long as it is of any importance whatever to buyers, and leads to a preference for one variety over another Differentiation may be based upon certain characteristics of the product itself, such as patented features, trade marks, trade names, peculiarities of packaging etc ... but may also exist with respect to the conditions surrounding its sale"

Chamberlin(1950) p175.

A feature of all product differentiation is the adoption by producers of some method to convey to potential purchasers that the product is better in some way than rival products. One way to achieve this, contrary to

assumptions of how the market operates, is to charge a higher price than competitors which may signal higher quality to some consumers. This has been identified by a number of writers including Wolinsky(1983), Scitovsky(1944), and Monroe(1973). The most usual way of conveying information relevant to product differentiation is through the use of advertising and brand labelling.

The economic rationale for product differentiation by producers is clear. As soon as the product becomes different to that of competitors then the producer acquires price setting discretion and so a degree of market power. The more intense the product differentiation the greater the tendency toward price setting discretion and so to market power. This power can be exploited by the producer to earn more profit up to the point where the cost of differentiation does not exceed the additional revenue obtained.

The market failure approach treats the phenomenon of product differentiation as an undesirable distortion to the competitive mechanism. However as Sherer(1980) and Morris(1980) point out, in reality differentiation may be a legitimate response to consumers' desire for product choice. In many cases consumers demand products which are differentiated from one another as a means of expressing individuality or exclusivity. If this argument is accepted, differentiation is not detrimental

or undesirable but beneficial to consumers in terms of meeting their demands. However, product differentiation may also be a source of confusion to consumers.

Stuyck(1983) highlights the point that the fundamental issue for consumers in relation to product differentiation is deficient information as to the true nature of products' attributes. In conclusion, a distinction must be drawn between differentiation which is detrimental and that which is beneficial. Although this is a conceptual possibility in practice it is very difficult to achieve.

So far the market failures explored have been directly related to the stated assumptions of perfect competition. However, there is a second type of market failure which does not relate directly to the stated conditions of the model; failures associated with externalities and the provision of public goods.

1.10 Externality

The first of these, externalities, is concerned with the effect of costs which are not considered in the model and are therefore external to the analysis. These external effects can be either negative or positive.

A negative externality is one which has detrimental effects upon third parties. For instance, a chemical factory produces a chemical product. As a by-product of

the production process some waste is deposited in the local river causing mild pollution. Because of the way in which production costs are treated in the model the cost to the environment is not part of the production cost and is not therefore included in the cost calculation for the chemical producer. If the cost to the environment were considered by the producer as a production cost then less of the chemical would be produced. Therefore there is an inefficient over-production.

By contrast positive externalities occur where an external effect creates benefit. A commonly cited example is the benefit of education. It is suggested that the private exchange of educational services generates beneficial effects for those not involved in the exchange. An educated society has value for the whole of the economy not just to those educated. A similar example is where the majority of individuals purchase a vaccination. Some people will not purchase the vaccine and not pay for the benefit because the chance of catching the disease is reduced by the actions of others. If the benefits of some product can be had without purchase then the market under produces since a purchase is the only signal for production. Therefore, the market displays inefficiency due to under production.

1.11 Public Goods

Market failure in providing public goods is closely associated with externality. A public good is a good which everyone consumes. Unlike other goods the consumption of a public good by one consumer does not diminish the amount available to any other consumer: for instance uncongested streets, roads, and television signals. These are types of public good where the individual can vary consumption ie there is a choice attached to consumption. A second type of public good is one where consumption cannot be varied such as national defence or clean air.

The problem for the market is how to charge people according to what they consume of these public goods and take into account 'free riders'. Where a person concludes that enough other people will demand the public good provision, they will be able to use the good without demanding it, ie without paying for it. These consumers are free-riding upon the demand of others. The problem is that for goods such as national defence non-payers cannot be excluded from usage. In reality the state pays for public goods and estimates both consumers' preferences and the level of demand. However it must set the price of these goods. The market states that price is set where marginal cost is equal to marginal revenue. The marginal cost of providing national defence for one more person for example is nil.

The market fails to set a price but obviously national defence incurs a cost but it cannot be properly incorporated in the determination of market equilibrium.

1.12 Implications of Market Failure

The observable differences between the model assumptions and the conditions in the economy make it clear that perfect competition cannot exist because the conditions in which it operates are not tenable in the real world. This has a number of implications:

1. If the economy does not in fact exist in the form prescribed by theory it would be fair to say that the operation of a market economy is also not as prescribed by the theory.
2. If the assumptions of the analysis are not met then this casts doubt upon the self regulatory nature of the real world economy and the automatic achievement of a Pareto optimal solution.
3. Consumers cannot rely upon the system to ensure allocative efficiency since consumer sovereignty does not exist.

The fact that the real economy does not display the characteristics of the theoretical construct in no way diminishes the importance of perfect competition. Ever since the concept of a perfectly competitive system was developed it has been used as an ideal state, a situation that describes an economic paradise. It is proven to obtain an equilibrium position where resources are allocated according to the desires of consumers and

that the allocation is the best possible attainable. On the other hand market failure clearly shows that the market mechanism as a form of economic organisation is flawed, the conditions are not universally tenable. This observation has been used to identify a role for an agent external to the market with responsibility for providing what Adam Smith referred to as a 'guiding hand'.

1.13 The Role of Government

If it is accepted that the market cannot provide a completely automatic and self-regulatory system of resource allocation then there is a need for some other mechanism. The role of this mechanism is either to completely replace the market or to provide varying degrees of complement to the market. The complementary role requires a solution to market failures while leaving the essence of the market mechanism untouched and is the role adopted by most democratic governments. This is characterised by the pursuit of policies designed to limit the detrimental effects of market failure in an attempt to promote a form of workable competition. Where the market mechanism is operating efficiently there is no need or at least no economic rationale to intervene. However, where the market is not operating efficiently there is a role for an external agent to intervene. The role of government exists in the sphere between achievable and theoretical.

The role of government can be considered that of market supervisor, the rationale for intervention is where the market response to a demand is inadequate or imperfect. It is also possible that the market will provide socially undesirable products and here there is a rationale for the government to intervene in order to supercede the market mechanism and by implication consumer sovereignty, in the interests of fairness and safety. If the market is not so efficient in providing public goods such as defence, education or protection of people and property the government acts as a supplement to the market.

The three main functions for government based upon this argument are:

1. To provide something that the market cannot or will not.
2. To help the market achieve something by itself by ameliorating market failure.
3. To prevent the market from supplying something that is not desirable in the public interest.

Ramsay (1984) has suggested that these reasons be classified into two underlying rationales for intervention; those based upon efficiency and those based upon equity. This classification provides a basis for the analysis of government intervention.

1.13.1 Intervention in Pursuit of Efficiency

Intervention on the grounds of efficiency is directly concerned with providing solutions to market failures, specifically those outlined above. The aim is to smooth away any barriers to the free operation of markets so that the mechanism itself will achieve the desired objective of an efficient allocation of resources. A successful intervention on the grounds of efficiency would lead to greater social welfare because of a more efficient use by the market of available resources. For consumer markets the concept of imperfect information has received a lot of attention in relation to market efficiency. Indeed consumer policies can be justified in terms of imperfect consumer information since the concept of a well informed consuming public is one which appeals both to consumers themselves and to governments. A second consideration of market efficiency is that of the provision of public goods such as health services and education where market provision is not efficient and direct intervention to provide public goods would be beneficial.

The economic rationale for governments to intervene in the economy is restricted to closing the efficiency gap by pursuing action designed to negate identified market failures. But the observable role of government is much wider than this. It not only encourages the market to

progress in certain areas but also restricts it from others. This means that the efficiency rationale is not a complete justification for intervention.

1.13.2 Intervention in Pursuit of Equity

The second rationale identified is one of equity. Equity in its legal sense is the overriding concept of justice. In the economic context, equity is designed to over-ride the market or indeed market failures in the belief that there are basic human needs which must be met. There may be inequalities between need and the ability to acquire goods to satisfy through normal market transactions. The distribution of resources to members of society to enable them to achieve transactions is one aspect of equity: distributive justice. A second thread of equity is protective justice. As Ramsay(1985) points out, this embodies the view that individuals have a right to regulatory protection in specific instances from the action of the market. Essentially equity requires that the market would need to operate with fairness, honesty in trade and a notion of the public interest. Since these concepts do not appear in the market model the responsibility for ensuring their observance rests with government.

A rationale for intervention closely linked with the concept of equity concerns the political ideology of government. Governments view some inequalities more

seriously than others, depending upon their ideology. The bestowing of rights upon certain sections of the economy in response to direct political pressure may be used by governments to balance interests and reduce conflict either between groups or between themselves and groups. Governments rarely subscribe to the view that policy decisions are taken on this basis but the reduction of conflict and the response to pressure groups is a feature of the policy making process. This also implies that government's judgement of competing issues will change over time.

At different times governments in many European countries, including the UK, have pursued a less market orientated route to economic prosperity. This approach has been characterised by a clear demarcation between those areas where the market is and is not allowed to direct activity. This demarcation has been achieved in the UK through state ownership and other mechanisms which allow the government to by pass the market in the provision of identified necessities.

1.14 Conclusion

The comparison of the model of perfect competition and the real economy have identified areas where the assumptions of the model are not tenable. The economic analysis only accepts government intervention to ameliorate market failure ie to pursue efficiency.

However a broader analysis identifies equity and possibly ideology as rationales for intervention. Whatever the response to the observable deficiencies of the free market, government undoubtedly has a role. In political terms any government must ensure economic prosperity by pursuing policies designed to achieve the most efficient allocation of resources possible. The present governments of the UK and USA have a strong tendency to follow the free market school of thought popularised by among others Friedman (1962) and Hayek(1979) which presents competition as the ideal state, using the benefit to consumers as a justification for removing government presence from large areas of the economy. The promotion of a form of workable competition is seen as a means improving the lot of consumers. In essence the closer the economy matches the theoretical ideal, the better consumers are served by the economic process. This is based upon the assumption that consumers benefit at each incremental move toward free competition.

In the UK there has always been an underlying acceptance that both government and market have a role although in different proportions. Consistently, policies have been pursued which take the market provision as a fundamental basis. These policies have been directed toward the undesirable consequences of identified market failure and these form the basis of a typology of government intervention in markets considered in the next chapter.

Chapter Two: Rationales for Government Intervention

2.1 Introduction

In this chapter the role of government will be examined in the context of market intervention. First, the source of government authority has to be established and this necessarily moves the argument from an economic market model to a social market model since government authority is based upon a socio-political consensus. Having established authority, the rationales for intervention in the market are considered before developing a framework for considering the different forms of intervention in the UK. This analysis is based upon an examination of the various mechanisms commonly used to achieve the objectives of intervention. Such a framework will allow the examination of a specific type of intervention and its impact upon a specific market sector.

2.2 Government Intervention

Government is the only external market institution with the requisite authority to undertake market intervention. Only government is in a position to observe and react to market failure on behalf of all groups within the economy. Its role is to balance the deficiencies of economic behaviour in an effort to secure the optimal allocation of resources. However

governments do not act solely upon economic grounds but are also responsive to social pressure because of the source of their authority. This response to social pressure may in some circumstances cause a conflict of roles. It is possible that in some circumstances intervention may not be restricted to limiting or reversing the impact of market failure. It may extend to limiting or reversing the effects of market allocation in response to social and political pressure. Government is able to do this by virtue of its external market position. The price the market pays for the 'benefit' of intervention is that it cannot dictate, in terms of the market model the motivation of such an external market institution.

2.3 Root of Government Authority

The market philosophy is one of individual responsibility for purchase decisions based upon the free allocation of income. The aggregate effect of this individual behaviour is an efficient allocation of total resources among members of the economy. This philosophy rests upon the delegation of responsibility for efficient allocation from the individual to the market mechanism. This principle of delegation also underlies the process of democratic government with individual responsibility delegated to a governing institution. Because of this similarity the free market and

democratic government are philosophically compatible. As Hayek(1944) points out:

'It is often said that democracy will not tolerate capitalism. If capitalism means here a competitive system based upon free disposal over private property , it is far more important to recognise that only within this system is democracy possible.'

Government authority based upon democracy is as fundamental as the market system of allocation. The ancient Greek idea that people govern themselves is inherent in any democratic political system. This has been given renewed currency throughout the world as the major economic powers have presented democracy as the only legitimate form of government. In its literal sense it is of course impossible in any sizeable community for people to govern themselves and so representative government is accepted as a surrogate for the unattainable ideal. In recognising this approach to democracy there is a reliance upon some form of referendum, a preference for frequent elections and an acceptance that the responsibility of elected representatives is in advancing the cause of their constituents. According to Birch(1975) this populist view of government has never had much adherence in Britain, unlike countries such as Sweden and America. It is not part of the British political tradition that the peoples' representatives should be bound by the wishes of their constituents in making decisions or feel bound to give priority to their opinions. The accepted view is

that the duty of elected representatives is to promote national and party interests before constituents.

In Britain the population do have the power to choose their rulers and exert some small influence upon the operation of government but the people neither have nor expect direct control over government policy decisions. The view which has found much more acceptance in British politics is the legitimate concentration of power in the hands of elected representatives for a given period of time. Authority is invested in Parliament and more precisely in the Government for a period of five years at a time. The population then react to the handling of affairs and the future prospect of policy direction periodically. Between these periods the government is delegated absolute power although it may lack the political means of exercising such power unhindered.

It would be an impossible task to consider the wide range of individual policies pursued by democratic governments throughout the world in response to market failure for a number of reasons. First because each country and each government have their own priorities dictated by the prevailing political view of those elected to govern. Some Governments view the market allocation as sacrosanct and restrict their activities to ameliorating the most obvious inadequacies. Others view the market allocation of resources as a basis upon which to impose their own allocation in response to

social or politically determined priorities rather than those determined by the market. Secondly, there is a time dimension involved. Governments change not only in response to democratic election but also in response to a more enduring social pressure brought about by changes in economic prosperity. Thirdly, government intervention is dynamic in nature. While Governments change and policy emphasis shifts there is a cumulative effect upon the economy of previous interventions. Governments build upon the existing forms of intervention already in place and rarely if ever start from a first position. Therefore it is difficult to identify the impact of individual policies upon the market mechanism.

In order to make the following analyses of types of government intervention useful, a number of assumptions have been made. First, the economy and government considered will be that of the United Kingdom and all descriptive material and examples will be drawn from the UK. Second, that government in the UK has authority based upon a democratic system. Third that there are institutions in place which both protect the government's authority and implement decisions.

2.4 Role of Law in Government Intervention

Before considering types of government intervention it is worth highlighting one element of government intervention which is not considered in economic

analyses. This is the role of law in facilitating and legitimising government action. As early as 1776, Adam Smith suggested that the market system identified a government role in establishing an environment that facilitates market transactions. One of the identified elements of this role was the administering of justice. Inman(1984) suggests that this duty involves the preservation of property rights, ensuring the voluntary nature of markets, and enforcing contracts. In short the government enforces basic rules which enhance the competitive process and which in turn ensure society's welfare. This is an important point for it identifies the legal system as the responsibility of government which it is anticipated will not seek to interfere with the operation of market transactions. However it is clear that government intervention in many cases is based upon the passing of laws which do affect the operation of market transactions. Therefore, whether or not the legal system is an intervention in the economy depends upon whether it is used by government to enhance the competitive environment or directly to affect the nature or process of market transactions. In more recent times government has displayed a tendency toward using the creation, maintenance and protection of legal rights directly to alter market transactions. As such legal rights will be considered as an intervention in the market.

2.5 Objectives of Intervention

Usher(1981) suggests that any intervention by government must be based upon the pursuit of efficiency, equality and equity which is a wider taxonomy than that suggested by Ramsay(1984). This wider categorisation has also been used by Forbes(1986) and provides much greater discrimination in the categorisation of intervention objectives. The political ideology of the government will dictate which of these three objectives is given the greatest weight. However, Harris and Carman(1974) while accepting the importance of these three criteria as the basis of a broad classification, present an analysis of government intervention in the market based upon five observable objectives. Depending upon the mechanism adopted to achieve the objective all policy will display elements of efficiency, equality and equity but in different proportions. The objectives they identify are:

1. Creating a new Market
2. Enhancing an existing market
3. Changing an existing market
4. Preventing a market
5. Substituting a market

2.5.1 Creating a New Market

Government can intervene to create a market for goods or services where previously such a market did not exist. This can be achieved in two ways. First, by releasing products or information not previously available into the market place, secondly, by allowing the exchange of goods or services whose exchange had been previously prohibited. The effect in both cases is the same. An example of this type of intervention was the action of the UK Government between 1979 and 1983, who achieved the creation of a new market by allowing publicly owned Council houses to be sold to tenants under the Housing Act (1981).

2.5.2 Enhancing an Existing Market

Where this objective is pursued, government intervenes to promote or improve market exchange so that outcomes are closer to those which would theoretically be determined by the market. In this case government intervention is not intended to alter market outcomes but is more closely aligned to intervention to reduce or remove market failure. This type of intervention involves an acceptance of a market determined outcome and the encouragement of the market to operate more efficiently. An example is the requirement for information to appear on products enhancing the provision of information to purchasers.

2.5.3 Changing an Existing Market

Action by government to change an existing market is much closer to what is normally expected of market intervention. In this case the objective is to change a market determined outcome in favour of one determined by government. This type of intervention changes the nature of the transaction by altering one or more of its components. This could be achieved by changing the price of goods or services by imposing a tax which artificially reduces demand. The restricting of exchange to certain classes of people (for instance alcohol to those over eighteen years) has a similar impact.

2.5.4 Preventing a Market

In many cases government intervenes to prevent a particular market where under normal conditions such a market would exist. This type of intervention usually involves prohibiting the exchange of particular goods and services. For instance intervention to prohibit a market can be seen in relation to controlled drugs, state secrets and in the employment of children. In this scenario intervention relies upon compulsion in some form to enforce its authority.

2.5.5 Substituting a Market

The substituting of a market by government is achieved where it alone determines allocation, the market is completely replaced by an artificial mechanism for distributing goods or services to individuals. This is usually achieved through some sort of administrative mechanism where the government defines which goods will be allocated in this way and to whom. It may also define the purpose to which goods allocated in this way may be put.

2.6 Forms of Specific Government Intervention

The five aims of government intervention referred to above can be operationalised in many different ways. The precise method adopted can be considered a mechanism which is used by government to achieve certain specified objectives. In general terms these can form the basis of a classification of intervention by government. The taxonomy of six types of government intervention presented here is developed from the work of Harris and Carman(1984). Their analysis is based upon intervention by the United States government and has limited application to the UK. However, despite differences in the detail of intervention the underlying principles are generalisable. As a consequence some of the classifications used by Harris and Carman have been condensed or omitted with new categories added in order

to arrive at a new typology of government intervention for the UK market.

The typology identifies six categories each of which is rationalised with reference to market failures. The categories are intervention in respect of:

1. Legal Rights
2. Information
3. Standards
4. Collective Action
5. Price
6. Direct Action

Under each of these headings a number of objectives are identified with specific mechanisms adopted to achieve these objectives. In addition examples are given drawn from recent UK government action. The purpose of the tables is to summarise the different objectives and mechanisms adopted to intervene in markets.

2.6.1 Intervention in Respect of Legal Rights

Table 2.1 Intervention in Respect of Legal Rights

Objective	Mechanism	Example
Formalising of Exchange	Definition and protection of individual legal rights and liabilities	Common law, Contract law, Statute law
Affecting the nature of recognised transactions	Assigning of transaction costs	Maintenance of financial system. Defining duties of seller.
Affecting the volume of recognised transactions	Allocating legal rights to transact	Professional monopolies, Age limits.

In the circumstances described by the theoretical construct of the free market, for exchange to take place all that is required is the demand for the product or service (the buyer), the supply of that product or service (the seller) and the paying of the market price. The terms of such an exchange are assumed to be negotiated privately between buyer and seller. There is also an implied assumption that the goods were originally the property of the seller and that this property right has been transferred to the buyer when the transaction is complete. Legal rights serve to define all elements of such a transaction. They may define the goods or services exchanged as well as the

parties and their duties in relation to the transaction. Once the transaction has been formalised it is possible for government to affect all transactions which fall into certain categories of definition. For instance it would not be possible to prohibit the sale of alcohol to minors without a legal definition of alcohol as well as a definition of a minor and a definition of what constitutes a sale. Governments have formalised the exchange process through codifying common law, contract law and passing statutes. The identification and establishment of legal rights recognises specific forms of exchange.

The definition of legal rights can also provide an opportunity for the nature of recognised transactions to be affected through the assigning of transaction costs: for instance, the assigning of duties to the seller in a business transaction as opposed to a private transaction. But perhaps the most important transaction cost which can be assigned through the formalising of exchange is price. In a perfect market goods are exchanged with reference to a price mechanism. However the market does not define a common medium of exchange, although undoubtedly one would emerge. In formalising the system of exchange a common or legal tender must also be defined upon which future price controls may be based.

Once the establishment of legal rights has taken place, then government is in a position to affect the volume of transactions. This can be achieved by defining and re-defining to whom the rights apply, in effect creating or removing legal rights. The creation of legal rights can be used to enhance the position of individuals or groups with respect to particular transactions, for instance to allow individuals who had previously been debarred from the transaction to take part. The effect is to increase the number of potential transacting parties. However legal rights can also be used to reduce the number of transacting parties, for instance creating a situation where only those individuals with a specified legal right can transact, where before all persons had the right to transact. Similarly the removal of legal rights can have either beneficial or detrimental effects. The removal of rights can open up a market which was previously only available to a legally specified few, or conversely, removing legal rights can restrict those able to participate ie the withdrawing of a 'right'. Therefore the effect and nature of changes in legal rights are dependent upon the market situation to which they are applied. As such it is inappropriate to classify changes in legal rights purely in terms of creation or removal.

2.6.2 Intervention in Respect of Information

Table 2.2 Intervention in Respect of Information

Table 2.2 Intervention in Respect of Information

Objective	Mechanism	Example
Facilitate Information Exchange	Remove information property rights	Independent product testing
		Audited accounts & company details
Increase overall volume of Information	Require production	Pharmaceutical product trials
	Require disclosure	Product labelling
	Provide information directly	Government safety reports, complaint statistics
Restrict information exchange	Assign information property rights	Confidential records, Official Secrets

Government may intervene in information markets in a number of ways. The prime objective of government intervention in this context is to facilitate information exchange and to encourage the production of information. To facilitate information exchange government can remove the property rights associated with information, in effect putting private information

in the public domain. Without this alteration information about products and services would remain the property of the producer and could legitimately be denied to the buyer. Removing property rights allows for the exchange of information between transacting parties regardless of the source of that information. An information market exists in the UK in the form of comparative product testing performed by the Consumers Association and sold to the public. While this is a form of private intervention since the Consumers Association is a private body it is the removal of property rights by government which allows this market to exist. However, information about products is still somewhat restricted especially in relation to harmful ingredients, additives and preparations.

Government also intervenes in a number of ways to affect the volume of information. Primarily, because of the rationale for intervention, this involves increasing the volume, although the mechanisms are reversible. The first mechanism for increasing volume is by requiring the production of information which would not otherwise be produced: using authority to require individuals to prepare, collate or collect information. An example is the requiring of firms to deposit the results of field tests before pharmaceutical products can be licensed. The second mechanism for increasing the volume of information is by requiring its disclosure. In this situation government is using its authority to enforce

the exchange of information. An example of this is the requiring of producers to label products either with the manufacturer's name or in the case of foodstuffs with lists of ingredients and dietary information. Finally the volume of information can be increased by government directly by generating information itself for the market. This is usually achieved through the collation and dissemination of information via the Central Office of Information although many government agencies exist solely to provide information directly, for instance the Road Research Laboratory, and the Employment Research Unit.

While the most common aim of government intervention is to increase and enhance information provision it should also be noted that the intervention may be to restrict information. This is achieved by reversing the facilitating mechanism and assigning property rights to information. This can be to protect personal or private information such as medical records or bank accounts or to protect the state. In the latter case official secrets are the property of government and cannot be communicated. Beales et al(1981) provide a comprehensive study of informational market failures and policy responses within the United States.

2.6.3 Intervention in Respect of Standards

Table 2.3 Intervention in Respect of Standards

Objective	Mechanism	Example
To define minimum acceptability criteria for market activity	Setting of standards with respect to production	Environmental control, Health and Safety Code
	Setting standards with respect to products and services transacted	Weights and Measures, Composition, Design
	Setting standards with respect to persons	Recognised qualification certification and licensing

Whatever the nature of the standard, the setting of standards per se is a means of differentiating between acceptability and unacceptability in relation to selected criteria. Three objects to which standards are applied have been identified for the purpose of this analysis, production, products and persons.

Fundamentally any mechanism requiring, defining or prohibiting behaviour is an intervention to set standards. Normally the mechanism used to set standards is through the legal framework where enforcement is achieved by making non-standard activity illegal.

However there are other methods to achieve the effect of removing non-standard activity such as the development of standards through market necessity such as voluntarily standardising through the British Standards

Institution so as to enhance exchange. The setting of standards by trade associations or professional bodies is equally valid, which although not government determined may be government encouraged.

Intervention by government to set standards is exceedingly varied and complex. However this complexity is associated with the mechanisms adopted to achieve the objective rather than the objective itself. Each mechanism has a number of dimensions in which the operation of the standard is different in some respect. For instance the standard may set a required outcome leaving transacting parties free in the method chosen to achieve the outcome (for instance in the case of setting product standards). Alternatively standards may directly affect the form of the transaction which has an indirect impact upon the outcome of the transaction (as in setting qualification standards for individuals).

Standards set in relation to production include the required use of certain production techniques, such as those designed to minimise noise and pollution or protect the safety of employees. The setting of standards in relation to products or services produced includes defining performance criteria such as voltage in relation to electrical products or the strength of materials used. Quality standards can be set for products either in relation to the raw materials used in their manufacture (such as gold or silver standards) or

in their performance (as in the case of car safety standards). Design standards are also used though mainly in respect of product safety, for instance car bumpers or childrens' toys.

Intervention to set standards in relation to persons involved in transactions includes the use of legal recognition for selected professional qualifications. Doctors, dentists, solicitors and barristers for instance must obtain legal recognition by passing a government recognised professional qualification before they can legally practice. Government can also intervene to allow only persons holding a licence to practice certain business. This may in some cases be associated with obtaining a recognised qualification or may require the licence holder to conduct business in a certain way. This approach is to ensure a minimum quality of practitioner and in some cases it could be argued that the state education system is an intervention to promote standards via nationally recognised qualifications.

2.6.4 Intervention in Respect of Collective Action

Table 2.4 Intervention in Respect of Collective Action

Objective	Mechanism	Example
To maintain competitive pressure	Restrict industrial concentration	Monopoly and Merger Controls
	Promote industrial concentration	Agricultural Co-operatives
	Restrict anti-competitive activities	Restrictive practices legislation
Control Collective Action	Assigning legal rights to association	Trade Union recognition
	Financial assistance	Funding of consumer organisations
		Tax advantages to charities

Government intervention in relation to collective action can be viewed from either an economic or social perspective. From a purely economic perspective the objective of government intervention is to reduce some forms of collective action since they distort the operation of the market mechanism. As industries concentrate so the opportunities for monopoly power increase. Measures to prevent industrial concentration such as monopolies and mergers legislation are justified upon the grounds of promoting efficiency through competition. Conversely authority can be used to

encourage concentration such as in the case of agricultural co-operatives to gain the benefit from collective action.

Control over industrial structure may not preclude collective action through collective conduct through agreements between different companies. Therefore intervention by government is also aimed at restricting the opportunity for agreements of this kind. For instance requiring the registration of agreements between companies in relation to customers, prices and production. Similarly the recent takeover of Rowntree by Nestle highlighted the possible construction of the market as the European market not the national market. Under this construction one company could legitimately exist as a sole UK supplier.

In some circumstances a recognition that collective action is inevitable leads to intervention by government aimed at securing at least a balance of power between different and economically opposed groups within the economy. This cannot be justified purely in terms of rectifying market failure since it is also as a result of social and political considerations. Protection of the right for unions to organise labour was a result of political and social pressure to promote a balance between the interests of individual workers and a collective management. This intervention could not be justified by purely market considerations since it

promotes collective action. Similarly the tax and financial assistance given to voluntary organisations and charities serve to promote acceptable collective action. It could be argued that the direct funding of consumer organisations such as the National Consumer Council is also a means of securing collective action in direct response to a perceived risk of a power imbalance between transacting groups. This may be the motivation behind the establishment of OFTEL and OFGAS as consumer 'watchdogs' to the recently privatised British Telecom and British Gas organisations.

2.6.5 Intervention in Respect of Price

Table 2.5 Intervention in Respect of Price

Objective	Mechanism	Example
To influence transaction prices	Requiring price disclosure	Petrol prices, Menu prices
	Publishing price information	Price surveys
	Tax and subsidy	Cigarettes, Petrol, mortgage tax relief
	setting price 'reasonableness'	Extortionate credit regulations
To determine transaction prices	Direct price setting	Postal rates, prescription charges.

Intervention by government in respect of price is perhaps the most fundamental market intervention because of the central role played by price in the market

allocation mechanism. There are two main objectives to price intervention. The first is to influence transaction prices, but not directly setting the final transaction price. The first mechanism to influence transaction prices is to require transacting parties to disclose price before the transaction. This mechanism is closely associated with information provision yet the purpose is to influence exchange price not solely to increase the volume of information available. This is most applicable to relations between business and consumer where without price disclosure the consumer would be unable to compare prices between suppliers and so unable to make an informed purchase decision. This was the underlying rationale for legislation to require petrol prices to be displayed outside petrol stations so that motorists can compare prices without stopping. As well as requiring pre transaction disclosure the government in common with intervention in respect of information can publish price information and thereby influence transaction price. This has been achieved through organising monthly publication of market prices for various agricultural products as well as collection and dissemination of the retail and wholesale price indices.

Transaction price can be influenced by government using taxation and subsidy. This mechanism alters the true market price but does not set it. An example is the use of taxation to raise the wholesale price of petrol which

influences retail price but does not determine the price. The reasons for affecting an increase in market price may be collection of revenue or dampening of demand such as in the case of cigarettes or alcohol. Subsidy can be used in the same but opposite way to reduce a market determined transaction price.

A stronger market intervention with respect to price is using authority to set market prices directly either on purely economic grounds to influence demand or on social grounds to reduce market price for particular groups. One example of this is the use of coupons or vouchers in combination with money or making some goods or services free, dental services for pregnant mothers or free prescriptions for older persons. This type of intervention is relatively easy to administer and its effect can be immediate. As such taxation and subsidy feature prominently in most governments' approach to market intervention.

2.6.6 Intervention in Respect of Direct Allocation

Table 2.6 Intervention in Respect of Direct Allocation

Objective	Mechanism	Example
To substitute market allocation	Ownership of production	Nuclear Power
	Rationing	Food, petrol
	Franchise Production	North Sea Oil Licences, TV stations
	Proscribe market allocation	Police, Prisons

The most fundamental intervention in markets by government is where the authority of government is used to over-rule the market allocation mechanism. The government dictates the allocation of resources on criteria other than those associated with market allocation.

The first identified mechanism for achieving a substitution of the market is where the government owns the means of production. This mechanism has been used by successive governments in relation to public utilities and industries which were considered to be of strategic economic importance to the UK economy. In these

circumstances while the market has been substituted because firms are not free to enter production the criteria of market allocation still persist because the government owned sectors perform, to a degree, as private firms. For instance the government's ownership of the Post Office does not mean a free postal service or ownership of British Rail does not mean a free railway system, although theoretically possible. In both cases government ownership has not precluded the criteria used in market allocation yet it does offer the possibility of supply decisions not being determined by purely market considerations.

The mechanism of substituting the market yet allowing market allocation criteria to operate can also be seen where government franchises production. Instead of owning the production it allocates for a fixed term the rights to exploit a particular market. The franchise at renewal can be continued or withdrawn. This system operates in the case of North Sea oil production and in the granting of franchises to independent television production companies. Again a feature of this mechanism is not the apparent removal of market allocation criteria but the potential to do so if the government desired.

One mechanism whereby the market is completely replaced is where the government rations the allocation. This can be achieved by issuing every individual with a voucher

or coupon entitling the holder to a specified amount. This mechanism was used to allocate staple foodstuffs during the 1940's and was suggested as a means of allocating petrol in 1974.

Clearly, in some circumstances government must allocate resources on the basis of criteria entirely contradictory to the market allocation. Market substitution in these circumstances is complete since government authority is used to prevent market provision. Examples of this kind of intervention are difficult to identify because of the prevailing government view that the market should have the opportunity to provide goods and services in all markets. As a consequence, nuclear power once restricted to government provision is to be transferred to the private sector. Provision of a police force and prisons is still restricted to government provision though in the latter case this too may soon be transferred from sole government provision.

The objectives, mechanisms and examples of different types of government intervention considered provide a framework for examining government activity in response to specified market failures.

2.7 Analysis of Forms of Intervention

It is clear from the above analysis that government uses its authority to intervene in markets to achieve a number of objectives and is not restricted solely to tackling observable market failures. Because government authority derives from a socio-political dimension, the market cannot restrict the nature or extent of any intervention. Consequently the form of government intervention is as much dependent upon the philosophy of particular governments as on the perceived magnitude of market failure. The mechanisms for achieving the objectives of intervention are varied and dynamic. As such they should not be viewed as either static or acting in isolation. Government action and the operation of the market mechanism are inextricably linked in the present economic environment, one cannot be viewed without the other. However the general framework presented does allow a useful analysis of government intervention and identifies some of the main policy objectives.

So far government intervention has been considered in a very broad sense and has included intervention in both consumer and producer environments based upon a number of objectives associated with market failure. At this stage of the thesis the focus will be narrowed to consider intervention with a single objective, the provision of consumer protection.

2.8 The Role of Consumer Protection

In common with the forms of intervention outlined above the rationale for intervention in the market in order to achieve consumer protection is based upon a loose adaptation of the market failure approach pursued so far. Ramsay(1984) and (1985) stresses the rationale(s) of efficiency and equity and points to the pursuit of consumer sovereignty as the underlying objective of consumer protection policies. As such, it could be argued that any intervention by government aimed at reducing or eliminating market failure is one of consumer protection. However, consumer protection policy describes any intervention specifically aimed at transactions between business and consumer and is characterised by intervention designed to regulate unfair trading practices and provide greater consumer information. In order to describe this specific form of government intervention two fundamental questions need to be addressed: first in what sense the word consumer is being used, secondly from what do consumers need protection.

In answer to the first question the term consumer means in this context any individual acting as a private citizen who purchases goods or services for the purpose of their own or their household's consumption. The key element here is the distinction between consumer as applied to business, government, groups and individuals

who all consume things at one level or another and consumer as applied to the private individual purchasing goods for their own consumption. It is in the latter context in which "consumer" will be used.

The second question, and one which raises a number of issues is what these individuals need protecting from and what is the role of government in intervening to secure this protection. The first stage in identifying the scope of consumer protection is the recognition and acceptance that consumers have a set of 'rights'. These rights form the basis of an agenda for intervention. In 1985 the United Nations adopted a set of guidelines for consumer protection based upon a set of rights first identified in 1962. While mainly adopted to provide guidance to third world countries they have become generally accepted as the cornerstone of any comprehensive consumer policy, see Harland(1987). These rights are:

1. The protection of consumers from hazards to their health and safety.
2. The promotion and protection of the economic interests of consumers.
3. Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs.
4. Consumer education.
5. The availability of effective consumer redress.
6. Freedom to form consumer and other relevant groups or organisations.

Government intervention to pursue all or any of these objectives can be considered consumer protection policy. The mechanisms to achieve these objectives encompass all forms identified above. Koopman et al (1986) identify the government's role in relation to consumer protection as only basic protection. Additional protection is provided through consumer and business self-regulation with some government responsibility and finally self-regulation with no government involvement. This taxonomy identifies government as providing a structure for consumer protection upon which other forms of regulation can be built. Indeed this relationship between direct intervention and self regulation is a feature of UK consumer protection.

2.9 Conclusion

So far a general framework for considering government intervention has been presented based upon the identification of over-riding rationales. The objectives associated with these rationales can be pursued through a number of individual policies or by pursuing a number in combination. Within this general framework, intervention to pursue consumer protection cuts across all these general classifications since consumer protection encompasses information provision, structural controls, legal rights and so on. This is the root of consumer policy.

It is intervention to protect consumers that provides the basis for the following analysis of intervention within a specific market context and a specific location. These are policies to pursue the objective of consumer protection in the Scottish second hand car market.

Chapter 3 Government Intervention in the Second-hand Car Market

3.1 Introduction

The chosen sector for the following analysis of specific government intervention is that of the second-hand car market in Scotland. This market displays a number of features of market failure associated with deficient information in relation to both the quality and performance of both suppliers and the product. As a consequence of the problems experienced by consumers, this market has been the object of considerable attention by consumer pressure groups and by central government in the pursuit of consumer protection. A number of policies have been pursued to ameliorate the most significant market failures. But these mechanisms have been introduced on an ad hoc basis to deal with specific problems as they arise and do not form a coherent whole. The following study examines the structure and operation of the second-hand car trade and considers some of the existing forms of consumer protection policy. Following chapters evaluate the introduction of a specific consumer protection policy in Scotland aimed at improving consumer protection in this market. It should be noted that there is a considerable private market for second-hand cars but this will not be considered in any detail.

3.2 The Second-hand Car Market

The motor industry is an important sector in most developed economies. Its operation has traditionally been prominent in the industrial strategies of developed nations, not only as a significant component of the manufacturing base but also as the provider of employment for many thousands of people, either directly or through related industries. Because of its prominence the motor industry has been researched by a number of different academic disciplines including historic (Dunnett 1980), sociological (Goldthorpe 1970) and economic analyses (Bhaskar 1979). A feature of this research has been the concentration upon the production, distribution and consumption of new cars. This focus ignores one important feature of the motor industry, namely the existence of a second-hand market which operates alongside the market for new cars.

In order to understand how the second-hand car market operates and its relationship to the new car market it is necessary to differentiate between a new car and a second-hand car. This is not such an easy task as it first appears. One definition of a new car could be that it was a car that had never been driven. However all cars that come off the production line are driven to storage or in distribution and so all new cars have a delivery mileage. An alternative definition could be that a new car is a car that has never been owned by anyone other than the manufacturer or retailer. This is

equally unsatisfactory since it excludes the new cars sold by retailers to other dealers or registered as demonstration vehicles. A better definition would focus upon whether or not the vehicle had a registered keeper. However, this is also unsatisfactory since many suppliers register cars to themselves as a way of meeting manufacturers' sales quotas. The most satisfactory definition of a new car is that it has not been previously registered by a consumer. Therefore it is the number of first time registrations of cars which indicates the number of new cars sold.

New car registrations in the United Kingdom have been increasing steadily over the last ten years according to monthly statistics published by the Society of Motor Manufacturers and Traders. In 1981 the number of new cars registered was 1.48 million, in 1986 this had increased to 1.88 million with registrations exceeding 2.3 million in 1989. Although likely to reduce to between 1.9 and 2 million in 1990 the underlying trend is still upward.

Each new vehicle sold has the potential to be re-sold a number of times. This re-selling process establishes the fundamental link between the new car market and the second-hand car market. Quite obviously a car can be sold many times but it cannot ever be sold as a new car more than once. The total number of used cars in circulation at any one time is therefore a function of

the number of new cars sold in previous years, the length of ownership period for the new car owner and the life of the car. The value of this market is dependant upon, not only the total number of used cars in circulation but the frequency of transactions within any given period, which in turn is dependent upon the ownership periods of subsequent purchasers of new cars. Allowance must also be made for leakage in the system eg cars that are irreparably damaged and scrapped, or exported. This extensive and complex relationship has been modelled by Berkovec(1985) who provides a method of forecasting new vehicle sales based upon used vehicle scrapping and leakage rates.

In this analysis, the definition of a second-hand car is a car which has been previously registered with a consumer. Therefore, changes in registered owners of vehicles provide the only sound basis upon which to approximate the size of the second-hand car market. Based upon information from DVLC, the Motor Agents Association and Glass's Guide there were approximately 5.8 million transactions in second-hand cars in the UK in 1988. Of this number approximately 2.7 million were sold by the motor trade, the remainder are accounted for by private (consumer to consumer) transactions. Data based upon VAT returns puts the value of trade sales of used cars in 1988 at £7.4 billion (British Business 1989). Trade estimates and those generated by this

research put the value of used car sales from retail outlets in 1988 at between .£6 and £8 billion per year.

The characteristics of the second-hand car market make calculation of the total number of second-hand cars very difficult. Despite the size of the second-hand car trade it has received very little attention because of a lack of statistical data and the fragmentary nature of second-hand car distribution. In this distribution channel consumers appear as both market suppliers and as final consumers, and sellers may in some circumstances also operate as buyers. This situation makes the marketing channel extremely confused and difficult to analyse.

3.3 The Supply of New and Used Cars

The motor industry is perhaps one of the most globally orientated production industries. Consequently the new cars sold in the UK come from a number of different countries. Domestic manufacturers supply their cars direct to the domestic retailer network based upon a franchise system. Foreign manufacturers distribute their cars using a concession arrangement. The concessionaire is the representative of the foreign vehicle manufacturer in the UK. Usually retained on time limited contracts, concessionaires are responsible for the import and distribution of the vehicles to the retailers tied to the concessionaire by the franchise system.

Despite the introduction of a concession into the distribution channel for foreign new cars, whatever the source of the vehicle it has to be sold through a franchised car dealer in the UK.

The source of supply for new cars is restricted through the franchise system but for used cars the supply sources are more varied. The first point to note is the existence of dual players in the distribution channel. Consumers are the first set of dual players. All car dealers offer a trade-in facility where the dealer will discount the price of the car sold by the value of any car which the consumer trades-in or sells to the dealer. So the consumer acts as purchaser and as supplier because very often the traded-in car is retained by the dealer and sold on to another consumer. In this framework the dealer too is a dual player acting as seller and as buyer. In addition there is also a trade supply network which revolves around the car auction. Cars received through trade-in which are not retained are disposed of through the auction and these provide a second source of supply for dealers. There are a small number of consumers who purchase from this trade supply attracted by trade as opposed to retail price but without finance, service, or guarantee facilities and no legal rights of redress this is a particularly high risk source of supply for consumers.

3.4 The Distribution of New and Second-hand Cars

The retailing of new cars is not typical of the retailing industry in a number of respects. The first and most important difference is that a potential new car seller (new car dealer) must obtain a franchise from a new car manufacturer before he can sell new cars. Manufacturers will not supply cars to retailers who do not hold one of their franchises. Each manufacturer issues only a limited number of franchises in a particular area. Consequently despite a limited move toward multi-franchise retailing, dealers do not offer a complete range of competing brands. From an individual consumer's point of view this involves a greater degree of physical search with a need to visit a number of retail outlets to be able to see the range of competing products. The franchise system and the conditions attached to franchises by the manufacturers present significant barriers to entry in the distribution of new cars with manufacturers holding tight control over supply and in many cases the operation of the retail outlets.

New car retailing is closely associated with the after-sales service and repair function. This is reinforced by manufacturer's warranty and servicing requirements for the new cars sold, which tie the new car to the retailing garage for all repairs etc in the first one or two years. Emphasized by the franchise system, each franchised retailer is a specialist in selling and

maintaining a particular make of car. All franchised garages sell second-hand cars alongside new cars, there are no businesses which operate solely on a new car basis although there are businesses which operate solely on a used car basis. The only differences will be that some of the purchase facilities supplied by the car manufacturers such as low cost finance or extended warranties will not be available to the second-hand car purchaser. These facilities will be provided by the retailer or in the case of warranties by an insurance company.

The first major difference between the retailing of used as opposed to new cars is that used car sales are not subject to the franchise system. Any dealer can sell used cars of whatever make and in whatever quantity. There are no barriers to entry in used car retailing. Consequently there are a variety of different forms of used car retailing outlet. The first type of outlet is the franchised dealer who sells new and used cars from the same premises with similar service provision for each. The second type of outlet comprises those dealers who do not hold a new car franchise and concentrate solely upon used car selling. These dealers vary from those who emulate the franchised dealer selling from showrooms, through the forecourt dealer selling from a caravan or small office, to the back street dealer very often selling from home. Because they are not managed through a franchise system they locate in high

population areas. One usual feature of the dealer who sells only used cars is the absence of service and repair facilities especially in the latter two categories of the forecourt or back street dealer. Finally if the consumer wishes to purchase a second-hand car they can buy the car direct from the seller without using dealers or auctions. This is the private sale usually through classified advertisements in local or national newspapers. The advantage of this type of sale is that the price is usually considerably lower because there are no business margins to support. There is more diversity in the retailing of second-hand cars than the retailing of new cars because of the control of the latter through the franchise system.

The consumer is faced with a number of choices. In the first instance a decision must be made about whether to purchase a new or used car. If a new car is chosen this will determine the type of retail outlet the consumer approaches, based upon the preferred manufacturer. If a used car is chosen then a choice must be made whether or not to purchase privately (direct from another consumer) or from one of the many retail outlets. Because there is no franchise requirement for used cars, each make of used car could theoretically be obtained from each different type of outlet. To this extent the choice of outlet for a used car purchaser is considerably more varied than that for a new car purchaser.

In choosing a second-hand car the amount and quality of information required is greater than when purchasing a new car. This need for more information reflects the diversity of product and outlet and identifies the underlying problem for consumers in this market and will be considered in more detail below.

3.5 Consumer Problems in the Used Car Trade

The consumer's vulnerability in making purchase decisions in this market is particularly acute. There are substantial risks involved, including the financial risk of buying a car that is fundamentally faulty: the so-called 'lemon'. Consumers in this market are often keen to buy fairly quickly but the product is both complex and highly differentiated. When choosing a new car there is ostensibly no difference between particular cars within each model or manufacturer category. Evaluation takes place upon the basis of model and particular car. For a used car buyer, in addition to the make and model evaluation there is an added dimension which may or may not be recognised; that individual cars within make and model categories are also different. This increases the need for information for purchasers of second-hand cars. This is compounded by the fact that there are few if any reliable indicators of a car's relative value.

Widespread fraud and falsification also contribute to the increasing level of consumer complaints in this market which in 1988 amounted to 13% of all complaints received by Trading Standards and Citizens Advice Bureaux. However, estimates from the Office of Fair Trading and from this research indicate that less than 10% of actual complaints to dealers are ever referred to these agencies so in reality the 85,000 complaints recorded could represent nearly a million per year.

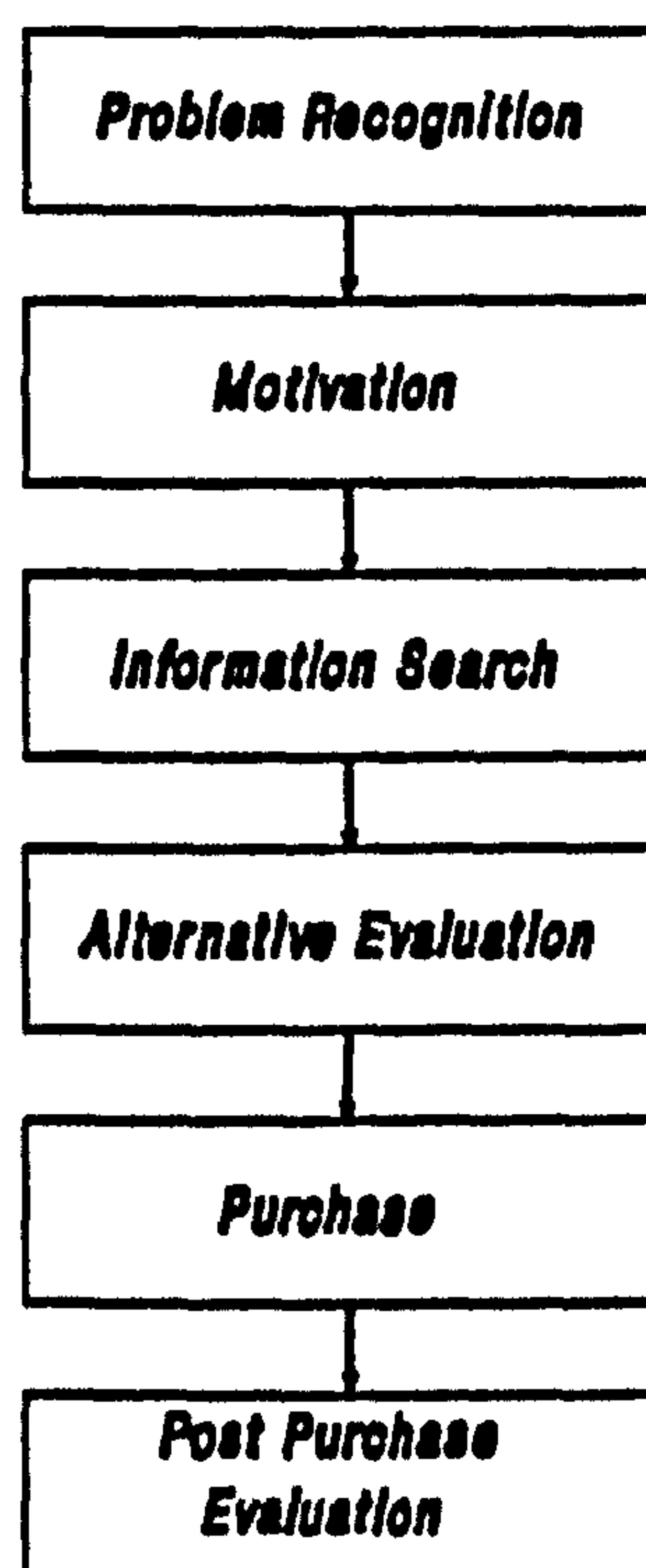
3.5.1 Consumer Purchase Behaviour

To analyse the purchase of a second-hand car, purchase behaviour must be systematised so that comparison between different purchases can take place. This systematisation of consumer buying behaviour considers observable behaviour to be the result of a decision process comprising a number of distinct stages. The exact nature of these stages and the influences upon consumer behaviour at each decision stage are reviewed by Arndt(1986).

The hypothesis of rational, pro-active and foresightful consumer decision making may be flawed in many respects as Foxall(1986) points out, yet as a framework for focussing study, the rational decision model is a useful vehicle. A simplified version of the model first presented by Engel(1966) appears as Fig 3.1. For each decision it is assumed that the consumer follows this

sequential process although depending upon the circumstances, the decision may display different levels of complexity. In this model complexity is dependent upon the level of personal involvement the consumer experiences in relation to the purchase. Where involvement is high the decision process is characterised by extensive information search, exhaustive evaluation of alternatives, and complex choice strategies.

Figure 3.1 Schematic Model of Consumer Decision Process



For the purpose of this analysis the effect of establishing high involvement is to emphasize the consumer's need for information. Bloch and Richins(1983) identify involvement(importance) as being determined by two sets of factors in combination with the individual's personality; first, product characteristics and second the situational context in which the purchase is made.

1. Product Characteristics:

Time commitment
Price
Symbolic Meaning
Performance Risk

2. Situational Context:

Time Pressure
Social Environment
Physical Environment
Purchase Situation
Intended-Use Situation

3.5.2 Product Characteristics

The second-hand car exhibits a number of characteristics which suggest that the consumer's decision making behaviour would display all the features of a high involvement decision. The time commitment to a second-hand car is significant both in terms of the life of the product and the pattern of usage. A second-hand car is also a high priced product and carries with it high levels of risk related to its performance both in terms of its potential safety and also the financial risk associated with a possible 'lemon'. The price/risk relationship in this market was investigated by Hjorth-

Andersen(1988). Finally, a car has a high level of symbolic meaning to the purchaser, it projects an image of the purchaser and an image of the purchaser's lifestyle for others to view.

3.5.3 Situational Context

Classification of a product as prompting either high or low involvement on the basis of situational criteria is inappropriate because while product characteristics remain relatively constant situational characteristics are multi-variate. However, two of the dimensions above, time pressure and intended use situation, are directly related to product characteristics. Time pressure at time of sale is likely in most cases to be minimal because of the amount of time allocated to the purchase. as a whole, second, 'intended use' has close association conceptually with 'symbolic meaning'.

3.5.4. The Role of Risk

Involvement in this context and the associated need for information is highly associated with the degree of perceived risk and as Laurent and Kapferer(1985) point out this element of the purchase is a significant antecedent of involvement.

When buying products and services consumers are often affected by the perception that the particular purchase

involves risk. The nature of the risk is the belief that the purchase has the potential to cause some kind of loss. This loss may be financial, for example the danger of losing money on the purchase because of product failure. It may be physical loss because the product may be unsafe and physically harm or damage the purchaser. The loss may be psychological, associated with the evaluation of the purchase by others, or the loss may be associated with time, for example the time spent responding to product failure and the cost of alternative provision.

Bettman(1973) and Locander(1979) suggest that risk is associated with certain characteristics of the product and of the purchaser. Product features associated with high perceived risk are those with such properties as high price, high technological complexity and newness in terms of purchase frequency. Features of the purchaser associated with high perceived risk are inexperience in product purchase and the attachment of high importance to the product. The purchase of a used car displays these features and can be considered a purchase in which the consumer perceives a high degree of risk. The consumer response to risk is either to search for more information about the product or to look for indicators or clues which approximate more information and therefore reduce risk. In terms of both involvement and risk, the purchase of a second-hand car requires considerable information.

Where information is unavailable consumers respond by invoking the risk reduction strategies. While these are primarily directed at the product the consumer may use non-product information as proxy. Both of these information strategies have limited capacity for reducing actual risk in this market because of both product and situational factors.

3.6 The Consumer Information Problem

The crux of the problem faced by used car purchasers is information asymmetry between the buyer and the seller which was a concept first introduced by Akerloff(1970). In the context of the second-hand car market this is characterised by a situation where the person selling any second-hand car has much more information about its use, condition and probability of future performance than the buyer. Because communication between buyer and seller is organised and initiated mainly by the seller, the exact nature of the information communicated is determined by corporate objectives and not by consumers' information needs. Corporate objectives can be best served in the second-hand car market by restricting detrimental information.

Information about a car can come from a number of sources. However two generalised sources can be identified; its physical condition and information which

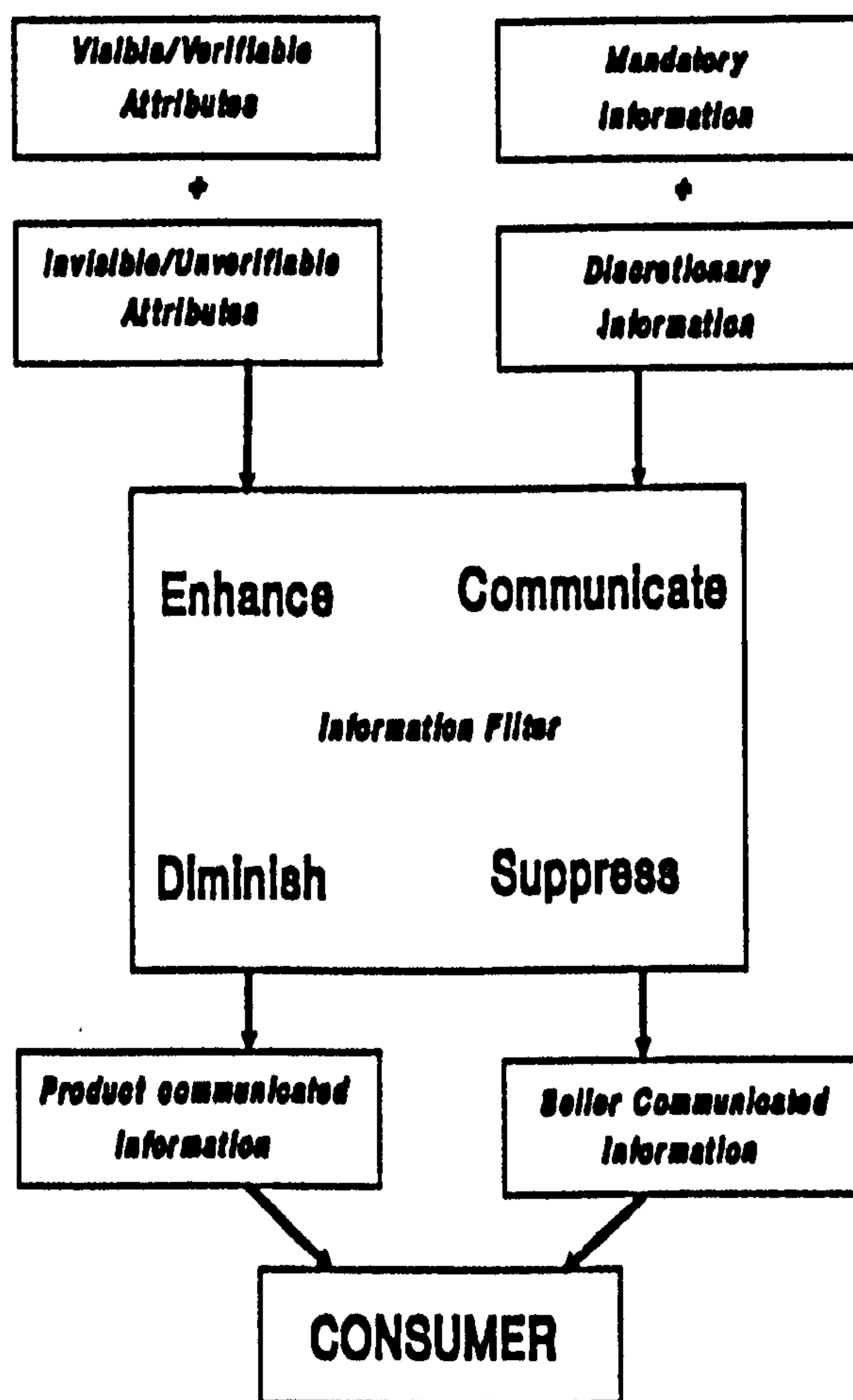
is associated with the product. The physical attributes of the car consist of both seen and unseen elements or more formally visible and verifiable attributes such as the colour, the number of doors, the vehicle make. In addition there are also invisible and unverifiable physical attributes such as condition of engine parts or performance of components.

The associated information can be thought of as either mandatory information or discretionary. Mandatory information would include ownership documents, MOT certificates and Road fund Tax. Discretionary information would include details of the previous owner, repairs and maintenance carried out and also general impressions about reliability and the condition of the car and the circumstances of its purchase by the dealer. In the transaction between a seller, (a second-hand car dealer) and a consumer, information communicated by the attributes of the car both physical and non-physical can be manipulated by the dealer to alter the information communicated to the consumer.

Physical attributes can be enhanced by cleaning, respraying, fitting new upholstery and body trim or even reducing the apparent mileage. Similarly negative attributes can be suppressed via short term engine adjustments; underseal, body filler etc. The associated information provided about the car can also be filtered by prominent attention or by suppression. For instance,

concentration upon the good character of the previous owner, regular servicing etc and suppression of knowledge that the car was originally sold because of reliability problems or an indication that major repairs were imminent. The consumer is presented with a product information package in which very little information is not subject to possible filtering by the dealer in order to achieve corporate objectives. This situation can be represented diagrammatically as in Figure 3.2.

Figure 3.2 Role and Properties of Dealer Information Filter



In assessing the extent of information asymmetry in this market due to the filtering mechanism explained above, some standard must be established with which comparison can take place. The problem is in identifying precisely what consumers' information needs are before any assessment can be made of available information and so the extent of the consumer information deficit. The problem of identifying these needs is well documented. A number of studies, Morris & Bronson (1970), and Maynes (1976) and (1979) have attempted to measure the information deficit in terms of financial loss incurred by not buying products of the highest quality at the lowest price. An approach by Sepstrup (1981) and Resnik (1977) analyses the information content of advertising on the assumption that advertising is the main source of product information for consumers and that any information deficiency causes an information deficit for consumers. The approach taken by Grunert (1984) uses perceived risk as an indicator of information need on the basis that consumers search for information about specific products in an attempt to remove perceived risk. Grunert ranks a number of risks associated with buying a car where bodywork proneness to rust, engine proneness to defects, and limited durability are the highest ranked of 82 risks. The common feature of these risks are that they all relate to future performance of the car and this is where information is most deficient for consumers. With little or no expertise, consumers must rely upon visible verifiable information as well

the information provided by the dealer to make their pre-purchase evaluation. As such some information particularly in relation to invisible or unverifiable attributes such as mechanical condition, is not available to consumers unless provided by the dealer or paid for in the form of an independent survey.

To approximate this information some attributes can be considered predictive attributes for consumers in relation to the car's future performance. It is the filtering of these predictive attributes which offers the car dealer the greatest opportunity to attain seller objectives. Each filtering incurs a cost and that cost can be recouped where the filtered predictive information leads to a reduction in perceived risk and a sale.

Only information with a sufficiently high predictive value would be subject to filtering because of the calculation of relative costs and benefits. Where the sign of the predictive attribute is negative, that is it indicates that the car will not perform adequately in the future, then the information is either suppressed or enhanced. If the sign of the predictive attribute is positive and it suggests that future performance will be adequate then the attribute is enhanced. Information can be categorised according to this predictive dimension and by the propensity for filtering. This is shown in Figure 3.3.

Figure 3.3 Predictive Value and Filtering Potential of Second-hand Car Information

		Predictive Value	
		Hi	Lo
Filtering Potential	Hi	Mileage, Bodywork Condition, Ownership/History.	Price, Accessories, MOT Test.
	Lo	Make of Car, Model of Car, Type of Car.	Engine Size, Seating capacity.

If this construction is accepted, by identifying those attributes which dealers alter most readily it is possible to identify those attributes which in the dealer's mind have the highest predictive value for consumers. Three attributes in particular have a high propensity for alteration by the dealer:

1. The Age/mileage ratio
2. Visible physical condition
3. Previous ownership

3.6.1 The Age/Mileage Ratio

It is generally accepted that an average mileage for a car is between 10 and 12,000 miles per year.

Consequently a one year old car with 30,000 miles displayed is deemed to be a high mileage vehicle. In general the higher the ratio between age and mileage (for cars of the same model) the lower the value of the car. Because mileage is used by both consumers and dealers alike to give some guide to value, one problem for consumers is the practice of 'clocking', turning back the odometer to increase the perceived value of a vehicle. This is especially prevalent in cars which have an exceptionally high mileage but which are relatively new in all other respects. It is estimated that reducing the mileage by 1000 miles adds £100 to the value of the car. There is no certain way of telling whether or not a car has been tampered with in this way except by contacting all the previous owners until a discontinuity is discovered. As a consequence this ratio is extremely unreliable on the mileage side of the ratio. The Office of Fair Trading estimated in 1979 that as many as 50% of ex-company cars had been 'clocked'. In 1987, estimates by ITSA suggest that 22% of second-hand car sold by dealers will have been clocked at some stage in their history.

3.6.2 Condition of Bodywork and Interior

This is the most superficial of ways to assess the value of a second-hand car. It is anticipated that a second-hand car which has been 'looked after' will look like new, in particular with an absence of rust, dented

bodywork panels, and damaged upholstery. It will be characterised by shining paintwork and chrome with clean and fresh upholstery. Unfortunately it is this visible part of the car that can be so easily changed. Dents can be filled, rust sprayed over with paint, upholstery cleaned with chemicals that smell of new car upholstery. This source of information is also unreliable and capable of manipulation.

3.6.3 Previous Owner

Second-hand cars are still sold on the basis of 'one lady owner' and undoubtedly the character of the previous owner is associated with particular levels of car care. Consumers are suspicious of company cars because of the supposed lack of care exercised by non-owner drivers and the high-mileage and high speeds. Traditionally preference was for the private, preferably female, previous owner on the basis that women were more careful drivers. This information about the previous owner can also be manipulated against the interests of the consumer. Fleet cars can be registered in the name of the dealer selling the car, or in the name of the person who used the car rather than the company. However increasingly dealers and consumers are experiencing a reversal in preference with company cars favoured over those privately owned on the basis of the regular servicing and care received by company owned as opposed to privately owned cars.

3.7 Substitute for Information

It has been established so far that objective information about second-hand cars is not only limited but may be subject to manipulation by sellers. As a consequence the search for more information to reduce risk makes little absolute contribution to risk reduction even though it may be perceived by the consumer to be beneficial. An alternative strategy to searching for more information is to search for clues which provide summary information. These clues can be considered substitutes for actual information.

Roselius(1971) has suggested that consumers reduce risk by using risk relievers, such as buying only well known brands, or buying products which have been bought previously and found to be satisfactory. In the second-hand car market these risk relievers, substitutes or proxies of product information, are as likely to consist of an evaluation of the dealer in terms of premises, types of cars sold or elements which constitute dealer reputation as of the car itself.

The absence of complete and reliable information about a second-hand car and the existence of the information filter controlled by the seller puts a great onus upon the integrity of the dealer. Situational factors also become part of the evaluation process for consumers. For instance whether or not the business is 'reputable', whether faults will be disguised and whether complaints

or faults will be dealt with if they arise after purchase. The evaluation of these situational risks by consumers is difficult to assess because individual risk perception may be based upon previous personal experiences and word of mouth communication.

In summary, consumer problems in this market hinge upon access to reliable information. The infrequency of purchase, the high degree of product differentiation and complexity, coupled with the high financial cost characterise a market viewed by many consumers as a lottery. The inadequacy of information on the consumer side of the transaction also presents an opportunity for the unscrupulous through fraud and deception. Finally consumers may face problems in obtaining redress if their purchase proves unsatisfactory but this involves a discussion of the market and non-market responses to these problems which follows.

3.8 Market and Non-Market responses to Consumer Problems in the Buying of Second-hand Cars

There have been a number of market and non-market responses aimed at providing consumers with both more information to improve the efficiency of their choices and protection from deception and fraud to reduce the perceived risk associated with the purchase. In both market and non market responses there are elements of information provision and protection.

3.8.1 Market Responses

The responses generated by the market are in a number of different forms but can be categorised as follows:

- a. Car buying Guides
- b. Warranty and Guarantee
- c. Inspection Services
- d. Code of Practice

3.8.1(a) Car Buying Guides

In response to market demand for more information about second-hand cars a number of car buying guides have emerged. For the most part these guides concentrate upon comparing cars on the basis of cost, size or performance because this data is relatively easy to collect. This information is providing the basis for computerised information retrieval systems based upon reported stock and consumer preferences on a network basis, see Brockhoff(1985). The 'Which?' car buying guides went further by using data on personal experiences to compare cars on reliability and maintenance costs. Research conducted by Friedman(1987) suggests that this type of aggregate experience information is reliable in predicting future experiences with particular models of car for particular problem areas. Information in buying guides also provides information on what to look for

when buying a second-hand car, some of the 'tips of the trade'. In many cases these are based upon the information contained in car buying guides so that particular points are identified in relation to particular makes or models of car. The specialist information sources are complemented by press and media coverage of a more general nature. However it should be pointed out that the number of consumers who consult these sources of information before purchase is extremely small and indeed, given the nature of the product most of this information may be of limited practical use.

3.8.1(b) Warranty and Guarantee

To reduce the risk associated with the purchase of a second-hand car all dealers now offer some form of guarantee that the car will perform satisfactorily for a specified period of time. This has proven particularly attractive to consumers as it provides some degree of security in purchase reducing the potential cost of a bad choice. However the details of a guarantee, what type of product failure is covered by the promise to repair or rectify, are based upon those components which are statistically less rather than more likely to fail. The offer of this type of security is a logical market response to consumer apprehension but is entirely voluntary. This is different to the mandatory warranty

requirements in the US which were investigated by Metzger(1983) and subsequently by Mason(1986).

3.8.1(c) Inspection services

As outlined above the consumer is disadvantaged by not having the necessary expertise to gain access to the unseen part of the vehicle. The market has responded to this by providing expertise. The inspection services are available by hiring independent professional car inspectors either directly or more usually through one of the main motoring organisations. Inspection services by the Automobile Association and the Royal Automobile Club have proved to be successful because they are perceived to be independent of the motor trade. However the cost of such an inspection discourages general usage and is still restricted to under 10% of second-hand car purchasers in the UK. In a recent move some second-hand car dealers are now paying an independent examiner to inspect all their second-hand cars for faults before they are sold. This forms part of the risk reduction strategy characterised in the main by warranties and guarantees. It is a feature of the second-hand car market that consumers are not equally 'lemon' averse and that the use or non-use of these facilities are dependent upon their evaluation of the actual costs and perceived benefits.

3.8.1.(d) Code of Practice

The code of practice is perhaps the most comprehensive and far reaching market response to consumer problems in the motor trade. Because the code of practice goes much further than controlling just information, it includes controls over complaint handling and dealer integrity. As an alternative to a non-market response, codes of practice have a number of advantages both to the trade participants and to the consumer. A code of practice is a set of trading rules by which a group of businesses within an industry agree to abide. The group usually comprises members of a trade association who agree as a condition of their membership to observe a code of trading practice. The purpose of the codes are to increase standards of service and product quality, to provide an effective means of handling consumer complaints and to ensure that consumers are provided with at least a minimum of product information. The content of a code of practice is vetted to ensure that it promotes consumers' interests and not just those of participants. From a market point of view the existence of a code of practice offers an opportunity to avoid legislative control by central government. For the trade association the existence of a code can encourage new members since for participants there are marketing advantages to be gained from advertising compliance with the code. For consumers, code of practice membership is a means of reducing the amount of information required

by providing a standard of consistent if not higher levels of service and information.

Observance of the motor industry code of practice is required of all members of the three main motor trade associations in the UK, the Retail Motor Industry Federation(RMIF) formerly the Motor Agents Association(MAA), the Scottish Motor Trade Association(SMTA) and the Society of Motor Manufacturers and Traders(SMMT). The code provides for minimum service standards for repairs, the provision of comprehensive car warranties, an independent system of arbitration for consumer complaints and the provision of pre-sales information in relation to second-hand cars which details any faults found with the vehicle and any repairs carried out.

However codes of practice in general and the Motor Industry Code of Practice in particular have been criticised for failing to achieve any improvement in trading standards. This assumes that an improvement can be measured in this context, a problem highlighted by Cousins and Pickering(1979). This general criticism raises issues about the suitability of trade associations to administer the codes. First, the only sanction for non-compliance by members is expulsion from the association which conflicts with the recruitment objectives of a trade association. Very few companies have ever been expelled from a trade association. Secondly those companies within the trade association

and observing the code are often not those whose trading behaviour would be improved by code compliance. Those outside the trade association are either unable to fulfil entry requirements or unable to meet the demands of code compliance. Moss and Richardson(1984) point to a general failure of codes of practice to promote product and service quality, provide adequate complaint handling systems or to achieve majority support from industry members. A review of the code by the Office of Fair Trading(1986) pointed to many inadequacies but concentrated upon low compliance rates. Tala(1987) suggests that the weakness of this type of 'soft law' is based upon difficulties in organisation and supervision. To this perhaps should be added compliance which is severely undermined without adequate enforcement and sanction.

3.8.2 Non-Market Responses

Non-market responses to consumer problems in the second-hand car market have concentrated upon intervention with respect to legal rights and intervention to set standards and have not been concerned with any mandatory disclosure of information by sellers or control over market entry.

3.8.2(a) Legal Rights

The legal rights with respect to second-hand cars are the same as those with respect to any goods purchased in

the UK. There are no special legal rights associated with the purchase of second-hand cars. These rights are contained in statute and by virtue of government authority are effectively written into every consumer transaction, between a private individual and a business and cannot be removed. Because these rights apply to such a wide variety of goods they are predictably vague and this inexactitude has meant that the protection they afford in this market is marginal. The Sale of Goods Act 1979 makes it a requirement that all goods sold to consumers should be of merchantable quality, fit for the purpose intended and as described. A failure in any of these conditions causes the sale to become 'voidable' on behalf of the consumer. This means that the consumer may reject the goods and reclaim the cost or be entitled to compensation. At first sight these would appear to be substantial legal rights held by consumers. However upon examination they begin to look less robust and because they are 'post event' and based upon redress have little direct impact upon the market offering.

The first problem is that they apply to sales between business and consumers. In the second-hand car trade there are a number of small back street businesses which do not declare their business status. As such the consumer is deceived into thinking that they are buying from another consumer and so are deceived into thinking that the rights are not applicable. The second problem is in the interpretation of the terms contained in the

legislation. Merchantable quality is particularly nebulous and has caused problems for the courts as well as consumers in seeking a clear understanding in practical terms. For instance is a car which needs repairing 14 times in 9 months merchantable? At present the courts believe that it is because the construction of the legal right is that it applies at the time of sale or reasonably soon after. Similarly the right to a product fit for its purpose and as described has been the subject of different interpretations all of which have diluted the use of legal rights by consumers in this market. It is also a feature of English law (though not Scottish) that the consumer should beware. 'Caveat emptor' is used to put the onus upon consumers' evaluation of products rather than the sellers' disclosure and as a consequence it is notable that there is no right to any information about products from the seller, only that any information supplied is reasonably accurate. This is in contrast to the situation in a number of other countries where there is a legal right for consumers to certain information about the car. These 'disclosure' laws, most prominent in the United States, have also come under some criticism by Grossman(1981), Pratt and Hoffer(1986) and Nicks(1987) who all failed to find evidence that they have contributed to any overall increase in product quality.

3.8.2(b) Standards

The second area of non-market response is the setting of standards. These apply both to the information supplied to a second-hand car purchaser and also to the condition of the vehicle. All descriptive material applied to goods in a transaction between a private individual and a business must be truthful. This control is contained in the Trade Descriptions Act 1968. If information applied to a product either written, verbally applied by the seller or even implied by the seller is false, then the person who communicates the information commits a criminal offence. For instance the mileage which appears on a car is deemed to be a description. Consequently if the mileage has been falsified then the dealer is liable. Similarly if a car is described as having had 'one lady owner' when in fact the owner was the Queen and it was driven by the armed forces, the description is false and the person who communicated that to the seller can be prosecuted. All information supplied by a business to a consumer in relation to goods and some services is covered by this legislation. But again this control over quality only applies to information disclosed voluntarily by the seller and some descriptive information available from the product.

The standard applied to the goods in this market is that the second-hand car be roadworthy. The Road Traffic Act 1961 requires that all vehicles used on the road should have passed a Ministry of Transport test and that they

remain roadworthy. While it is clear that a car which is unroadworthy is also unmerchantable it is not clear whether a car that is roadworthy is merchantable.

3.8.2(c) Enforcement and Advice

Private legal rights must be enforced by the individual and those offered by the Sale of Goods Act(1979) for instance, rely totally upon an individual consumer obtaining enough evidence to take court action against a seller. This area of consumer law is complex and the pursuit of redress becomes daunting. In recognition of this, government through local administration offer free advice to consumers on whether their legal rights have been infringed and the various routes of redress open. This is supplemented by private legal advice from solicitors and independent advice available from Citizens Advice Bureaux which is both central and local government funded. The non-market responses by government are also enforced by local government officers and by the police both of whom prosecute on behalf of the state.

3.9 Conclusion

In total, the measures to protect consumers in the second-hand car trade have provide some degree of protection given the particular circumstances of the market. The feature of consumer protection in this

market is that the non-market responses have been applied not to this specific sector but to all sectors of the economy and all goods. The only market specific (product specific) intervention is the code of practice which is market generated. However, all the present forms of control both market and non-market generated have inherent deficiencies. The information responses, either in requiring disclosure or controlling the quality of voluntarily disclosed information, have proved of little use to consumers because of the lack of adherence in provision. A monitoring survey by the OFT(1986) found a significant lack of adherence to the pre-sales information provision by observers of the code. Similarly where information is provided for instance in the form of a pre-sales inspection report, it is often of little use because of deficiencies in the way consumers make use of it. This was one of the main findings of Pratt and Hoffer(1986) in their study of used vehicle disclosure laws in the United States and is also remarked upon in Anonymous(1984). There is also some debate about the possible information overload caused by requiring product information disclosure, see Grossman(1981). Controls over the quality of the second-hand car are equally ineffectual since they give an 'as is' assessment which does not reliably predict future performance or past history. Because both government and the industry have generated their own responses to consumer problems in this market and with different rationales, while the volume of control is significant,

the substance of the control is undermined by its ad-hoc nature. In response there have been a number of suggested ways in which both market and non-market responses can be consolidated. The duty to trade fairly and safely is one suggested OFT (1987), but this again is economy wide and its effectiveness in dealing with specific markets and specific sets of problems may be limited. In Scotland in 1982 a system of licensing was introduced for second-hand car dealers which at the time of its introduction was heralded as a solution to the consumers' problems in the second-hand car market by both government and industry. The evaluation of this claim forms the basis for the following chapters

Chapter 4 Licensing as a Form of Market Intervention

4.1 Introduction

In responding to consumer problems in the second-hand car market, a number of different policies have been pursued by government. These have been non-market responses via direct intervention in the form of legislation and the encouragement of market responses such as the recognition of voluntary codes of conduct. The following discussion considers occupational licensing as one approach which has the potential to provide a unifying framework for consumer protection in the second-hand car market. This form of control is government regulation of the market for private services. Its application in Scotland to second-hand car dealers is the first of its kind in Europe although a number of non-European countries have adopted licensing for this type of activity. Such an approach has a number of appeals such as the control over product quality and service standards and the provision of more information for consumers. However licensing also has some undesirable consequences including the restriction of competition and the protection of monopoly power which may outweigh the advantages for consumers.

4.2 Definition of Licensing

Licensing is a term which has a number of connotations and is used in a variety of contexts. Licensing can be operated by businesses who allow other businesses to produce their products usually in another country. The originator of the product by giving a licence is signalling assent or permission for the licence holder to undertake a particular activity. Similarly, licensing can be used by governments to permit the development of natural resources such as oil and gas or to allocate resources such as airline routes and radio wavelengths. The power of licensing is that the permission is specifically limited to the licensee and as such the body issuing the licence(s) may restrict the number issued and so restrict the permission to undertake an activity. It is a very specific form of control. The focus of this chapter is upon the licensing of occupations and considers the framework for the licensing of second-hand car dealers in Scotland. Occupational control by government is a specific constraint upon the practice of a specific profession introduced by government or its agencies. It is a form of government control although in many cases the authority is delegated to the professional group itself possibly in the form of a professional association or a professional licensing board.

4.3 Occupational Control by Government

Occupational control in the UK is undertaken by both Government and by professional organisations. The substance and nature of the controls vary from one occupation to another. Friedman(1962) makes a distinction between three different types of occupational control: registration, certification and licensing. Each of the three types is characterised by different levels of control where registration displays the least and licensing the most control.

4.3.1 Registration

Registration is a process where the individual is required to enter their name on a register held by a central organisation either public or private. The addition of the name does not require any test of competence and its use is primarily for the registering body to maintain a list of those practising an occupation rather than to control or restrict in any way who should be able to register. Registration on a voluntary basis is rarely used since it has little benefit to participants. For the registering body compulsory registration may be desirable in the interests of keeping taxation or other centrally held records complete. In some professions such as those operating in the public health arena, 'registered' practitioner implies some test of competence such as

registered nurse. Where there is any test or criteria used to prevent registration this is not a registration system but a certification or possibly a licensing system.

4.3.2 Certification

Certification is a process by which authority is granted to an individual to use some kind of title which implies recognition by the certifying authority. This is on the basis that the individual has achieved some pre-determined level of competence. This competence could be achieved by serving time as an apprentice or passing a set of examinations. Certification does not preclude or bar anyone who is not 'certified' from practising a particular occupation although those who are may be given higher status. For instance in the UK there is a distinction between an accountant and a chartered accountant on the basis of certification.

The effect of certification is to provide information to consumers as to the competence of an individual. It achieves this by grading providers into at least two categories, certified and uncertified. Information about relative degrees of competence adds to market information and can enhance competition by allowing smaller providers to compete in quality terms with larger providers. In addition Wiscusi(1978) and Akerlof(1970) suggest that in markets characterised by

quality uncertainty, high quality providers may be driven out unless there is some means such as certification which allows them to differentiate their product.

However, certification also has a number of weaknesses, in particular the assumption that the achievement of an educational standard ensures an improved quality of delivery for a considerable period of time after certification. In addition there is no mechanism for ensuring that the certified provider is competent across all tasks at all times.

4.3.3 Licensing

Licensing is a process whereby authority is granted to an individual to practice a particular occupation. The issuing of the licence implies some satisfaction of pre-determined conditions set by the licensing authority. An important distinction between licensing and certification is that under licensing those persons who do not hold a licence are prevented from participating since the licensing body uses its authority to prevent unlicensed practice. A further distinction is that under certification the recognition cannot be removed whereas under licensing, permission to practice may be withdrawn and the licensee may have to re-apply periodically for permission to continue to undertake the licensed activity. At present, in the UK there are two distinct

forms of licensing control. These have been termed positive licensing and negative licensing. In the former arrangement, a person must possess a licence from a licensing body in order to trade and if the licence is withdrawn or refused then the person will have to cease trading. The licensing scheme operated under the Consumer Credit Act 1984 by the OFT is an example of a positive licensing system. By contrast The Estate Agents Act 1979 introduced a negative licensing system. Each practising Estate Agent is deemed to hold a notional licence to practice. New entrants are also deemed to hold a notional licence. However the notional licence may be withdrawn or suspended in circumstances of fraud or malpractice. If this occurs then the person is barred from participating in the occupation.

Once in place a positive licensing system relies upon a set of sanctions to ensure compliance. These sanctions range from the mild, such as a small fine or even being reported to the licensing authority, to the severe which is ultimately the withdrawal of the licence to trade. In practice withdrawing a licence may be difficult to justify. If withdrawal will bar the individual or company from continuing to operate completely, there may be social costs to take into consideration. In most practical applications licensing operates on the basis of deterrence. There is always a possibility that the licence could be withdrawn. It should not be implied that there is a high degree of turnover in existing

licensed provision through licence withdrawal. It has been suggested that this deterrent effect motivates businesses to maintain quality and resolve disputes with customers informally and so contributes to meeting licensing objectives. There is no evidence to support this assertion.

4.4 Rationale for Occupational Licensing

Occupational control in Europe has its roots in the medieval guild system which required tests of competence before individuals could pursue a trade in any of the recognised crafts. In West Germany this still exists with a classification of skilled trades for which a test of competence is required. Licensing has developed into one of the most powerful tools of control by government over business activity. It has proliferated throughout Europe, Australia and the USA and is now applied to a variety of occupations and professions and is administered by a variety of organisations on the basis of delegated authority.

In the UK licensing has been far less frequently used by government than in the USA or Canada where there has been a phenomenon described by Gellhorn(1976) as 'the rising new professions'. In his critique of the proliferation of licensing, Gellhorn identifies collections of people employed in semi-skilled or specialised jobs such as hair dressing, undertaking, or

librarianship who aspire to professional status. Licensing is seen as a means to achieve this professionalism, not only because historically entry to the professions was licensed but also because those already practising could enhance their own status by insisting upon entry conditions which they themselves could not meet. There has been less pressure from 'aspiring professions' for licensing in the UK and so there has been little impetus for any proliferation of the licensing of occupations by government over and above that which has a considerable tradition. There are some notable exceptions such as the introduction of licensing of individuals who sell alcohol, the licensing of doctors, pharmacists and others concerned with health. But in the UK, in common with other developed economies licensing has also been applied to other more diverse occupations such as taxi-drivers and market traders.

The rationale for government engaging in the licensing of occupations rests upon the argument that licensing contributes to public welfare or more colloquially 'is in the public interest'. This is a dominant theme in Moore(1961), Rose(1979), Jaffe and Corgel(1984) and Pazderka and Musondo(1984) who all present variations on the public interest argument. Obviously, the exact meaning of 'the public interest' is debatable but when applied to a policy it can be seen as signalling that such a policy (a) achieves a just balance among all the

relevant interests that should be taken into account and (b) that the policy is consistent with generally accepted principles fundamental to the economic, political and legal system. The common thread is that public welfare however defined can be served through the resolution of specific market failures which relate to consumer transactions in identifiable markets. In this way a just balance is achieved between the relevant interests and the resolution is consistent with the pursuit of market efficiency.

4.5 Arguments in Favour of Licensing

Licensing those who participate in an occupation is a mechanism to achieve the resolution of specific market failures over a specified category of transactions. There are three arguments in favour of this solution mechanism; First that the provision of information by suppliers can be controlled both directly through specific requirement and implicitly through the imposition of entry requirements on the occupation. The second argument relates to the setting of quality standards which improve the overall quality of provision. Finally, licensing offers consumers protection from the provision of goods and services that would do them physical or economic harm.

4.5.1 Improved Information

The argument that licensing improves information provision rests upon the assertion that in some markets consumers have insufficient or inadequate information upon which to base their purchase decisions. As a consequence the decisions reached are sub-optimal and so contribute to market failure. This is as a result of the information asymmetry referred to in Chapter 3. The effect of licensing in this context is to improve overall provision both directly and indirectly. The direct contribution is achieved through the existence of entry requirements which set a common minimum standard for practitioners. This can be construed as either an increase in overall information provision implied by consumer knowledge of the entry standard or as a reduction in consumers' need for information necessary to assess different offerings. In either case there is an overall improvement in information provision in the market.

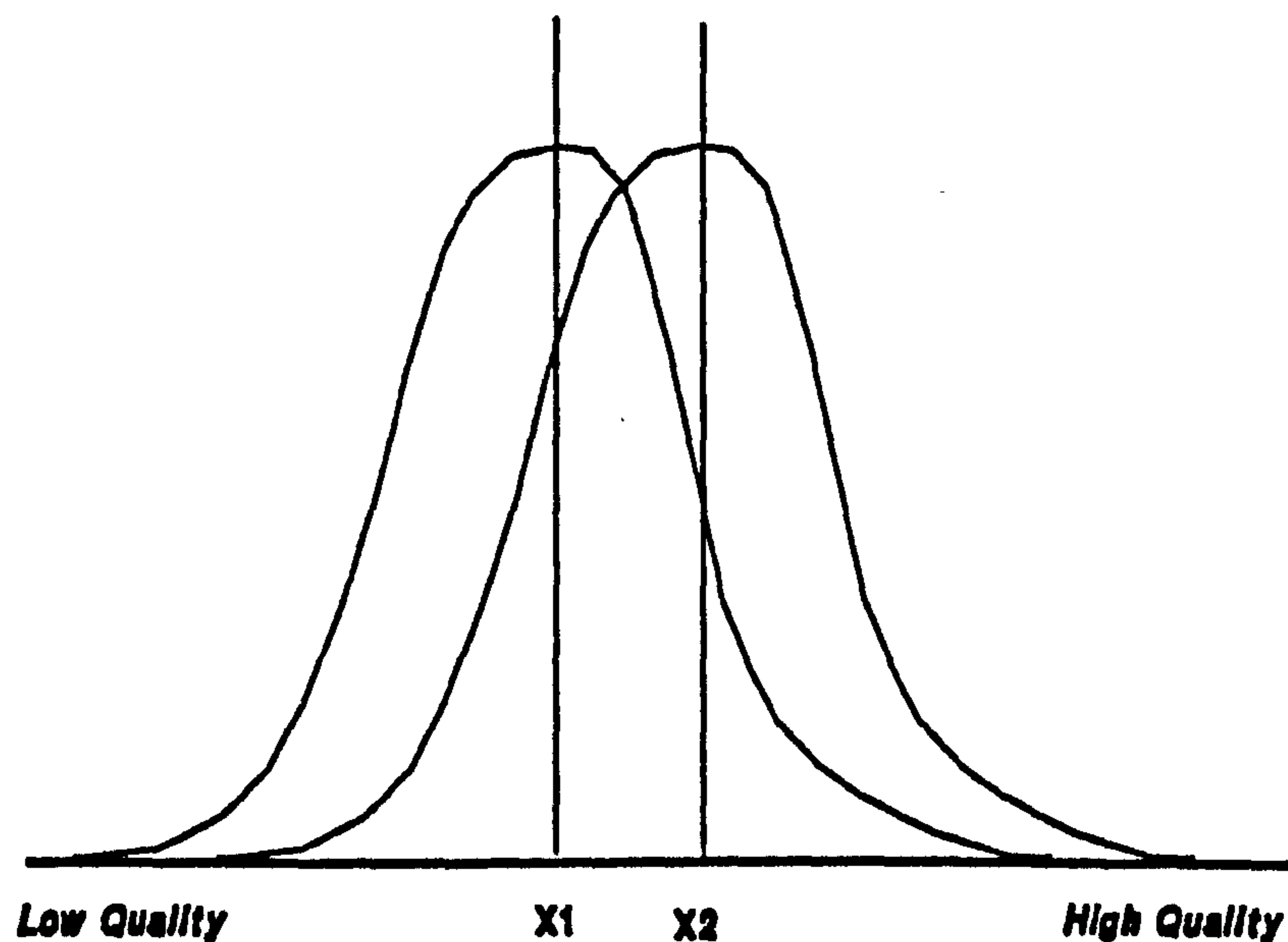
The existence of entry requirements may also have an indirect impact upon the quality of information. It is argued that because licence holders may have to satisfy entry requirements and are subject to the sanction of licence withdrawal they will be less likely to provide misinformation to consumers. In addition, the licensing authority may decide to require licence holders to provide certain relevant information to consumers as a

condition of holding a licence such as the derivation of fees. The licensing authority may also be able to make use of economies of scale in information attached to their position by using the information provided by licence holders during application and re-issue for their own monitoring purposes. This could be used to improve market information or be fed back into re-defining the entry requirements.

4.5.2 Improving The Standard of Provision

The second argument in favour of licensing is the improvement in the standard of provision. This argument was most recently put forward by Dorsey(1980) and Carrol and Gaston(1981) and points to improvements in the quality of service achieved through licensing. It is argued that wherever the licensing standard is set above the level of the lowest quality offered, the average level of quality is improved because the lower quality provision will be excluded. Leland(1980) estimates that the exclusion of the bottom 22% of the quality distribution will increase overall welfare by 9%. In Figure 4.1 a normal quality distribution is assumed with a quality mean x_1 . With imposition of a licensing standard above the minimum already available the mean quality moves to x_2 resulting in a net improvement.

Figure 4.1 Effect of Licensing upon Quality Distribution



A further argument is that consumers are unwilling or unable to correctly evaluate quality because of the information deficiencies associated with asymmetry. In the first case where consumers are unwilling there may be both third party effects and a contribution toward an overall reduction in public welfare, although the second case is more closely associated with asymmetry. The impact of failure to discriminate between low and high quality is that low quality standards displace higher quality standards because the price buyers are willing to pay converges toward an average price across all

quality levels in the market. As a result of this average price in relation to the total quality dispersion, the high quality providers are not adequately rewarded for their offering and as a result either leave the market or reduce the quality of their offering in line with the average available. This phenomenon identified by Akerloff(1970) as 'adverse selection', explains the impact of information asymmetry although it must be stressed that this argument rests upon the existence of a quality/price relationship. The consequence of licensing is to maintain a level of quality above that attainable in a competitive market which displays information asymmetry. The impact of licensing upon quality may be emphasised by 'weeding out' those who feel that they would be unable to meet the standards applied before a system is fully operational. This may have the effect of improving mean quality before licensing is introduced.

4.5.3 Improving Consumer Protection

One of the most widely voiced arguments in favour of licensing is that it protects consumers from:

'incompetent, dishonest, financially irresponsible, unsafe and unsanitary provision'.

Rose(1979) page 190.

Whatever the precise nature of the entry standards set for licence holders, honesty and other measures of good

character are implicit if the public interest rationale is pursued. Licensing would provide protection for consumers against incompetent provision which may injure or damage them and the setting of standards for providers rather than for transactions economises upon enforcement costs. This argument rests upon the reduction of social costs achieved by licensing. Continued transgression of practice standards could be prevented by withdrawing a licence and thereby barring a participant. Without licensing any transgressor could write off the cost of being fined or punished by the state against any benefits accruing from the activity in the knowledge that they could continue to practice. Finally, licensing could provide for easier resolution of complaints by consumers. Specifically, licence holders may be motivated toward settling disputes with customers informally rather than provoking formal complaint to the licensing body or seeking recourse from court action which in turn could jeopardise their licence.

In addition to the benefits to consumers presented by licensing there are also benefits which accrue to government. Licensing can generate a substantial amount of information about the occupation through the generation of complete lists of practitioners and knowledge about some of the more detailed elements of the occupation. This may be of value in future policy design.

4.5.4 Summary of Licensing Benefits

The rationale for the licensing of an occupation is therefore to ameliorate market failure within an identifiable market by:

- i. Improving the overall provision of information in the market.
- ii. Improving the quality of provision by the use of minimum quality standards.
- iii. Protecting consumers from provision that would injure them physically or economically by virtue of insufficient information and low quality provision.

The only rigorous empirical examination of the argument that licensing serves the public interest by ameliorating these specific market failures has been presented by Leffler(1977) in his study of the American medical profession. This work was echoed by Leland(1978) in the results of his theoretical analysis of the impact of licensing. Leffler found that the imposition of varying minimum quality standards through licensing was as a direct result of differences in consumer demand for quality and not explainable by the activities of the profession themselves. As such he establishes a link between quality demanded by consumers and the effects of licensing. His conclusion was that licensing did increase public welfare in a number of cases by reducing

the effects of market failure. Leffler asserts that minimum quality standards of the type associated with licensing are socially desirable where information asymmetry is apparent because these markets reach equilibrium at sub-optimal quality levels. Conceptual exposition of the benefits of licensing have attraction in that consumer problems seem to be addressed directly. However, there is also a body of literature which is critical of licensing and casts doubt upon the attainment of these theoretical benefits.

4.6 Criticisms of Licensing

Associated with the advantages accruing to individuals and social welfare through the use of occupational licensing there are also a number of disadvantages. In particular the rigidity which is introduced into the market. On the supply side this may impose serious social costs, for instance by creating impediments to innovation. On the demand side, changing consumer demand will over time call for different types, standards and configurations of provision. A licensed market may be unable to keep pace with the necessary adjustments.

A further argument is that licensing is pursued not in the public interest but in the interests of the practitioners of the occupations. Licensing is used to create a monopoly situation by reducing occupational provision. As such licensing contributes to, and does

not correct market failure. This would be particularly acute where the demand for the profession was inelastic due to either the absence of alternatives or if the cross-elasticity of demand for alternative provision were close to zero.

Arguments which focus upon the negative effects of licensing can be summarised under the following headings:

- (i) Substitution effects
- (ii) Barriers to entry
- (iii) A reduction in the mobility of practitioners
- (iv) Restrictions on Information
- (v) Cost of administration.

The effects of (i) and (ii) and (v) are tenable arguments against all forms of licensing, the arguments associated with (iii) and (iv) are not necessarily associated with all forms of licensing but have been cited as criticisms of particular licensing systems and as such are worthy of inclusion.

4.6.1 Substitution Effects

The operation of a licensing system assumes that entrants satisfy the entry requirements and correspondingly provide higher quality provision than those who cannot satisfy the entry requirements. However

consumers may still use unlicensed services. The choice facing the consumer is to buy the service provided by the licensed provider, to dispense with the service entirely (perhaps on the basis of increased cost), or to use some substitute service that falls outside the licensed domain. It is not clear whether the net result of these substitution effects will be provision higher in average quality than if the licensing did not exist at all.

4.6.2 Barriers to Entry

Barriers to entry operate by the imposition of costs to potential entrants. As such they have a monopoly effect upon the licensed activity. These costs can be direct costs such as the licence fee or indirect costs such as the cost of meeting licence conditions. In all cases in the UK (with the exception of the negative licensing of estate agents) a licence has attached to it a licence fee. The fee could be a minimal charge or a substantial sum, but it does impose a direct cost on the new entrant. Direct costs have also been identified in situations where the profession require certain equipment or premises to be held. Indirect costs are associated with the meeting of any standards before the licence is issued. There is considerable evidence that indirect costs of entry are manipulated by the licensing authority. Gellhorn(1976) points to the use of residency requirements, which in the US were used in the 1930s to

exclude European immigrants from certain occupations. Maurizi(1974) in his study of doctors in California found evidence that examination pass rates were manipulated according to demand and supply fluctuations in the market for the occupation. Padzerka(1984) analysed the earnings of 20 professions and identified a level of monopoly earnings among licensed practitioners lending support to the monopoly effect of barriers to entry.

4.6.3 Reducing the Mobility of Licence Holders

An argument put forward by Pashigan(1969) and Hoken(1965) is that licensing can lead to a reduction in occupational mobility. In their studies of interstate occupational mobility in the US they found evidence that the lack of reciprocal recognition of licences between states meant that there were barriers to entry in operation within each licensing area. Shepard(1978) examined a similar occupational licensing structure and found evidence that where there was 'non-reciprocity', the occupations operating within the protected environments had significantly higher fees.

4.6.4 Restrictions on Information

Where a particular occupation is prevented through licensing from advertising this has a negative impact upon consumers. Without advertising consumers are likely

to be aware of a limited number of practitioners. This increases their search costs. This may also constitute a barrier to the entry of new individuals or businesses because the new entrant needs a long time to establish a viable customer base through reputation. Any restriction on advertising may also contribute to an increase in price dispersion such as that identified by Benham (1972) in his study of American optometrists.

4.6.5 Administrative Costs

The one practical consideration for government in deciding whether to introduce licensing, is the cost of the administration of the system. In many cases where the professional association will become the administering body this consideration of cost can be passed on for the profession to consider in relation to its own evaluation of benefits arising from the scheme. The determination of whether this cost is passed on to consumers or funded through fees is indeterminate. Where government is to administer the system, especially where it is a national licensing system as in the case of consumer credit licensing, a considerable administrative bureaucracy is needed. The cost of this administration would have to be carried either by government or by the licensees through the licence fee. The balancing of public interest and private interest rationales by government may also include another element which is the

desirability of a large and costly administrative structure which may be politically unacceptable or conflict with government philosophy.

The argument about whether or not licensing is effective from either the practitioner or consumer view point rests upon an evaluation of the balance between the two competing sets of arguments. Undoubtedly licensing has elements of both consumer interest and practitioner interest. On balance the empirical studies which have been carried out tend to give weight to the argument that the effect of licensing is to contribute toward the monopoly interests of the profession rather than the consumer interest although there are some informational benefits to consumers. There has been no systematic attempt to weigh these costs and benefits on a market basis.

The existence of a large number of occupational licensing schemes around the world, especially in the USA could lead to the conclusion that government has been able, on balance, to establish that licensing offers some benefit to consumers. However it would appear that there have been few attempts by regulatory bodies to assess the impact of licensing on either the licensees or consumers. Further there is little apparent consensus on an optimal system design.

For this research licensing systems administered by the state are taken to possess the most clear expression of licensing objectives, first because licensing as an intervention in the market has a rationale albeit disputed. Secondly, those licensing schemes which are administered or operated by government or its agents are assumed to be operating on the basis of public welfare which in this context is the promotion of consumers interests. The purpose is to examine whether or not licensing by government can deliver the consumer benefits which it theoretically offers.

4.7 Government Licensing in the UK

In the UK, licensing conflicts with much of present government ideology. The accepted rule is that business should be free to set up without any form of government prior approval and operate with the minimum of interference. There are a number of exceptions to this general approach to regulation for instance where public health is at stake as in the case of Doctors, Dentists, Nurses and Opticians. The rationale for licensing public health professionals is clearly one of public safety. In addition there are a number of other licensing schemes which operate such as taxis, market and street trading. Most of these licensing systems are operated by local government on the basis of local by-laws. Central government has been happy for these to continue but has not promoted their extension to other activities.

The Monopolies Commission(1970) published the results of its enquiry into the restrictive practices associated with the provision of goods and services by professions. This was the first detailed examination of occupational control by central government. In respect of licensing it identified situations where the monopoly effects were a danger but also where licensing could be defended on the grounds of public interest. This was the first statement of the criteria government used to weigh the arguments for and against licensing. The Commission accepted that licensing was sometimes necessary to protect consumers where the nature of the skills required for practice were such that minimum standards were desirable on the grounds of public safety. It concluded in Part 1 of the report, that restrictions based upon educational qualifications or training were equally unobjectionable. Certain kinds of character tests were acceptable because public interest could be endangered if a whole profession or occupation were brought into disrepute by the activities of a few. Restrictions on prices were considered the most dangerous feature of occupational control since they had the effect of raising prices unnecessarily. Complete freedom to advertise was considered to be a bad thing because consumers could fall into the 'trap of the incompetent' but to prevent price dissemination was adverse to public welfare.

In total the report was a rather ambiguous statement but it appeared at the time to suggest that licensing was a viable policy for government to pursue. The report of the Crowther Commission(1971) into the credit industry recommended licensing as a way of improving upon existing consumer protection. It commented;

"The protective measures in existence at present are all concerned with individual transactions...The more unscrupulous type of credit grantor may well take the view that the occasional check on his malpractices by a determined consumer in an isolated transaction is not a serious deterrent and is outweighed by the financial advantages he may derive from evading the law."

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After the passing of the Consumer Credit Act 1974 which introduced a national licensing scheme, there have been brief periods of activity when licensing again seemed to provide a solution to pressing consumer protection problems such as those in the motor trade, insurance and estate agency.

Since then, government ideology has changed to a position characterised by a reduction of government involvement in business activity. Indeed the Burdens on Business Report(1985) urged government to abandon all control over business. More specifically a recent report by the Adam Smith Institute(1989) recommends the dismantling of all current state licensing including that applying to the credit industry. The present

political climate is therefore not conducive to the introduction of licensing.

4.8 Licensing for the Second-hand Car Trade

Because of the prominence of the second-hand car trade in the type and volume of its consumer problems, licensing has been perceived by those outside government as means of providing consumer protection in this market. The present framework for consumer protection concentrates upon regulating outputs, such as rights of legal redress and criminal sanction. This type of approach is person specific and has a number of flaws. For instance, the negative outcomes from a transaction may be insufficient to take action, or the consumer may lack the information to know that they have the grounds for a civil or criminal action. The specific attraction of licensing is that it is a form of input regulation which is a more efficient form of control in meeting market wide problems.

Specifically, licensing provides a framework within which dealers could be required to provide more information about cars sold and in addition a mechanism which would protect consumers from practitioners who would do them economic harm by manipulating information asymmetry. The proponents of this argument point to Australia where all states have legislation directly

concerned with the motor trade. In New South Wales the Motor Traders Act 1974 introduced a licensing system for second-hand dealers. The system provided for an entry qualification which is a reference to police criminal records to establish whether any criminal record exists which may compromise performance. There is also a financial test of the business to ensure that the dealer could meet the requirements of a statutory guarantee which is also in force. This requires the dealer to provide a guarantee on all vehicles sold for which the business is responsible and bear the cost of guarantee claims. There has been no published evaluation of how successful the scheme has been.

Licensing for second-hand car dealers has also been applied in the USA in the state of Wisconsin. In this application of licensing the dealer is required to comply with the Federal Trade Commission rules on disclosing known defects. The response has been to provide specific information about cars usually in the form of an inspection sheet which itemises the main components of the car and whether they have been replaced or repaired. Licensing authorities can require specific information disclosure as a condition of the licence. This system has been evaluated by McNeil(1979) who studied the impact of disclosure on low income purchasers and by Nevin and Trubeck(1977) although both studies suggested that the regulatory framework in Wisconsin had some severe shortcomings in both the

quality of disclosed information and in the administrative arrangements associated with its operation. In both cases there was a lack of data to explain the issues raised.

The attraction of applying licensing to the second-hand car trade is closely associated with the solution of consumer problems identified in the previous chapter. Licensing may be able to contribute to consumer information by providing minimum standards in the market and may also be used to provide more direct information via information disclosure rules. At least in principle it can meet the major consumer protection objectives in this market. Entry requirements have an important role as they serve a dual function. The provision of more information to the market via this route may reduce the information burden upon consumers. In addition entry requirements may exclude those dealers considered most likely to distort or manipulate information from entering.

4.9 The Application of Licensing to the Second-hand Car Market

Consumer Difficulties in the Used Car Trade(1980), a report published by the Office of Fair Trading highlighted licensing as a possible solution to consumer problems in the second-hand car market but it did add a rider:

" A major factor has been the need to avoid creating public or private sector bureaucracies. We consider that any special licensing or registration regime designed specifically to meet the problems of the used car trade would have to show that there was no effective alternative means of control available, that adequate public or private sector resources were available to operate it and, of course, that it was likely to work"

(p14)

It is apparent that licensing did not have much support in the OFT and this is consistent with the general view of government that there had to be good reasons to institute such a scheme.

A further report by the OFT in 1985 examined consumer problems associated with car servicing and repair work. This report again canvassed the idea of a licensing system for the motor trade:

" A licensing scheme for garages of the kind considered..would ensure that all (or some, as the case may be) of the staff of a garage had minimum training qualifications or experience; that the garage had the minimum prescribed diagnostic equipment and that the garage subscribed to certain commercial standards.. "

(p23)

Yet again the suggestion of licensing held a rider that the costs of such a system in terms of administration would outweigh any benefits. Since these reports from government, licensing has not been seriously pursued. Government has flirted with the idea but never acted

upon it because there was insufficient evidence that licensing would work set against substantial evidence that licensing would be expensive to administer. In the 1985 report the OFT commented upon a piece of legislation which had recently been passed in Scotland:

" Under Sections 9 and 24 of the Civic Government (Scotland) Act 1982, district authorities in Scotland may require second-hand dealers including car dealers to be licensed....The exercise of the powers by some Scottish local authorities could therefore provide an opportunity to test the effectiveness of a licensing scheme as a means of raising standards..and the Office will be watching these developments with interest"

para 7.18 p(26)

Despite the government attitude toward licensing between 1980-85 which can be inferred from the above, legislation had been introduced which allowed for the licensing of second-hand car dealers in Scotland. It is clear from the above that the Government was unsure about licensing, but nevertheless had introduced a system in Scotland in 1982.

4.10 The Licensing of Second-hand Car Dealers in Scotland

The Civic Government(Scotland)Act 1982 cannot be considered a piece of consumer protection legislation. The Act contains a range of parts specifically designed to 'tidy up' the powers of local government in Scotland with respect to a variety of administrative operations,

for example the control of sex shops, minor offences, public processions and property of persons in police custody. In many cases these activities had been in operation before the passing of the Act but on the basis of local by-laws. This legislation codified all existing laws into a single Act of Parliament. However the codification included a number of optional parts in the Act and this prevented local government from taking on board all the new powers contained in the legislation automatically. The first two parts of the Act concerned the licensing of specific activities. These included taxis and hire cars, second-hand dealers, metal dealers and a number of miscellaneous activities such as boat hire business, window cleaners and street traders. These activities were all identified as activities which could now be licensed. The category relevant here is the activity of second-hand dealing.

Scottish local government operates upon a two tier system. The largest administrative units are regional councils of which there are nine. Each comprises smaller administrative units of local government known as Districts. Both Regions and Districts within them are elected bodies and operate with both shared and separate responsibilities. There are 53 District and 3 Island authorities in Scotland. For the purposes of this part of the Act all district and island councils in Scotland have the same status although in reality the island authorities also undertake some regional activities.

Under the legislation all district and island authorities became licensing authorities. However, to activate the powers the district council had to pass a resolution to adopt them and in the case of second-hand dealing must specify within this category of activity which precise types of second-hand dealing now require to be licensed. It is through this mechanism that the licensing of second-hand car dealers was introduced in Scotland. Were it not for some specific references in the Act to features of the motor trade it could be argued that the licensing of second-hand car dealers was not the intention of Parliament yet the licensing of this occupation was clearly an anticipated consequence of the legislation.

4.11 The Administrative Framework for Licensing Second-hand Car Dealers in Scotland

Having adopted the powers to licence second-hand dealers by resolution and specified second-hand car dealing as a licensed activity the district must then design the licensing system. The legislation contains certain design characteristics which had to be incorporated in any system. These design characteristics are related to the documentation, procedural and operational activities.

4.11.1 Documentation

Schedule 1 section 1 of the Act requires that the application for the issue of a licence should be received by the local authority in a specific form and it details the type of information required of the applicant. This includes details of the person (prospective licence holder) and details of the business.

4.11.2 Procedural

Once the local authority has received a licence application with the appropriate fee, a copy of the document must be sent to the Local Chief Constable and in most circumstances to the Fire Officer. At the same time the applicant has to display a public notice at the premises in which the business will take place stating that the application has been made. Similarly the local authority must give public notice that a licence application has been received. The purpose of this is to encourage objections or representations from the public.

The local authority has a set period of time in which to process the application and arrive at a decision as to whether or not a licence should be issued. In reaching the decision the authority must consider whether or not the applicant is a fit and proper person to hold the licence. This applies to individuals, managers or

officers of a company. In addition other criteria have to be considered such as the suitability of the premises, and questions of possible public nuisance, public order or safety. In the event that the licence is not issued then the Act identifies a procedure for an applicant to appeal against such a decision to the licensing board of the district council.

4.11.3 Operational

Licences are allowed to run for a maximum of three years and for any period up to the three year limit. When the licence expires the authority must renew the licence or give reasons for not renewing it. This may be because the circumstances upon which the original issue decision was made have changed. For each licence issued or applied for there is a fee payable. The fee must be set such that the costs of operating the system are met but should not be used to create a profit for the authority. The district can increase their licence fee at any time to keep pace with the increasing costs of providing administration.

The Act also describes a set of conditions which must be applied to all licences issued. Second-hand dealer licence holders are required to keep records about the goods they handle. The detail about precisely what information is required may be specified by the local authority. However, for second-hand car dealers as a

specific category of second-hand dealer, the licence holder must keep a specific record of the vehicle mileage.

Enforcement of these licence conditions is undertaken by 'an authorised officer of the district council'. Any contravention of the licence conditions or any trading within a licensing area is a criminal offence punishable by a fine of £200. In addition, for dealers who contravene licence conditions or who are convicted of other offences which make them no longer 'a fit or proper person to hold a licence' the licensing authority has the power to suspend and/or withdraw a licence. This would have the effect of making the licence holder unlicensed and therefore unable to continue in business. This action also has a specified appeals procedure.

4.11.4 Non-Statutory Characteristics

The documentation, procedural and operational characteristics described above are common to all licensing carried out by district councils. In addition, there is facility in the legislation for districts to introduce a number of their own design features, in particular the exact nature of the procedure used to judge applicants 'fitness' and the attaching of additional conditions to licences issued. The test of any procedure or condition introduced by the district council is that it be 'reasonable'. This provides

enormous scope for districts to design a licensing system that mirrors their own policy objectives.

4.12 Conclusion

The second-hand car market has been presented as a market in which consumer interests, especially with respect to information can be compromised. Licensing as a possible solution to problems faced by consumers in markets with asymmetric information has a number of attractions. However it may also introduce a number of anti-competitive effects. The establishment of a statutory licensing system for second-hand car dealers in Scotland is a form of occupational licensing by government even though the power to licence has been delegated to a local agency. Since the impetus for licensing has come from government such a licensing scheme should provide for the protection of consumers, complementary to the pursuit of the public interest rationales for government intervention.

The compulsory licensing of an occupation as a policy option for government has the ability, in theory at least, to alleviate the problems presented. However there is also a potential cost to consumers of the reduction in competition which the adoption of licensing implies. The licensing system in Scotland for second-hand car dealers provides an opportunity to examine the impact of occupational licensing upon the second-hand

car market for both consumers and practitioners. In addition it allows for an examination of the efficacy of the administrative process for delivering licensing in the market and any problems associated with the legal framework identified in the legislation.

Chapter 5 Methodology

5.1 Introduction

The aim of this chapter is to provide an explanation of the methodological approach adopted in assessing the impact of second-hand car dealer licensing upon consumers in Scotland. The first part of this chapter lays the philosophical foundations of the method, drawing heavily on the realist approach to social science. The second part of the chapter applies the method to second-hand car dealer licensing in Scotland, in particular identifying the major features of the structure in relation to the realist approach. Finally individual methodologies will be developed associated with a number of identified elements of the licensing structure.

5.2 Philosophical Foundation

According to Williams(1981) the major philosophical debate in social science is between proponents of the idealist and realist positions. Each position has clear ideas about the acquisition of knowledge and the nature of reality as applied to social science research. The most influential statement of the idealist approach to knowledge and reality in this context is positivism.

Science is the method through which individuals try to understand, rationalise and predict events in the world around them. For the positivist, science and indeed social science can be condensed and summarised by a number of generalised statements or laws. These general laws attempt to explain relationships between separate, discrete events arising in the natural world. Explanation or prediction is the result of empirical testing or observation of these general laws. As Badcock(1984) states,

" To explain something is to show that it is an instance of these regularities or laws; and predictions consist of the deducing of empirical consequences from such laws" p4.

Observation by individuals is as Popper(1972) notes, dependent upon their own perceptions. Without the accumulation of bias free knowledge based upon 'pure observation' knowledge cannot be advanced further than the limitations of individual experience.

The positivist therefore requires that pure unbiased observation (the cornerstone of scientific method) form the basis of knowledge. Positivists are not concerned with the mechanisms behind observable relationships believing that there are no logical or necessary connections in nature.

The building blocks of the positivist approach to social science are the actions of individuals who operate independently in time and space. The aggregation of

individual action constitutes social phenomena. As

Popper states:

"All social phenomena and especially the functioning of all social institutions should always be understood as resulting from decisions and attitudes of participating individuals"
quoted in O'Neil(1973) p187.

This approach dominated social science methodology up until the late 1960's in the belief that by following the doctrine adopted by natural sciences the results of research would be credible given the prevailing philosophical approach. By the beginning of the 1970's positivism as applied to social science was being attacked on all sides. Three authors provide a summary of the main criticisms. Williams(1981) points to flaws in the basic assumption that social science can be reduced to general laws on the basis that:

1. Social structures do not operate independently of the systems which they govern.
2. Social structures do not exist independently of the individual agent's conception of what they are doing.
3. Social structures are relatively unenduring.

Sayer (1984) in his criticism of positivist methodology points to deficiencies in the deduction of relationships from observed trends since this assumes a 'closed system' with the absence of externality. Finally Allen(1984) points to an untenable reliance of this method on the aggregation of individual events implicit

in the positivist approach. Events are added up with little or no consideration of the underlying relationships between them or why they exist. These criticisms make the use of a positivist approach to the study of policy unsatisfactory since government policy operates within a social structure, is subject to externality and does objectively affect individual behaviour.

The opposing realist philosophy by contrast counters the criticisms levelled at logical positivism by providing a unifying framework within which social structures and the activity of individual agents can be accommodated. The realist approach put forward by Sayer(1984), Badcock(1974), Outhwaite(1979), and Bhaskar(1978) among others, is a significant shift in philosophy from that of logical positivism. The Realist approach is concerned with understanding the processes which have led to specific outcomes or events. This contrasts with the positivist approach which in search of a general rule concentrates upon using quantitative aggregation to identify broad trends, rather than seeking to identify the relationship between process and outcome. The realist approach does not deny the importance of aggregate data nor of quantitative analysis (indeed macro-analysis is an integral part of the realist methodology) but uses it to generate generalisations which are a necessary first step toward a more intuitive understanding. The realist methodology takes the broad

trends and through a process of abstraction seeks to identify mechanisms and causal processes which give rise to a particular event. This is in contrast to the positivist approach which attempts to determine the concrete from the abstract of an event.

The effect of a mechanism from the realist perspective depends upon the conditions in which they work. A small change in conditions is enough to change the operation of a mechanism, ie the same mechanism can produce different results. The relationship between elements of process and outcomes relies upon the strength of causality. The realist view is that causality is not a relationship between discrete events (a simple cause and effect relationship) but the causal powers, or as Sayer calls them 'liabilities', of objects:

"A causal claim is not about a relationship between separate things or events but about what an object is like and what it can do and only derivatively what it will do in any particular situation"

Sayer (1984) p96.

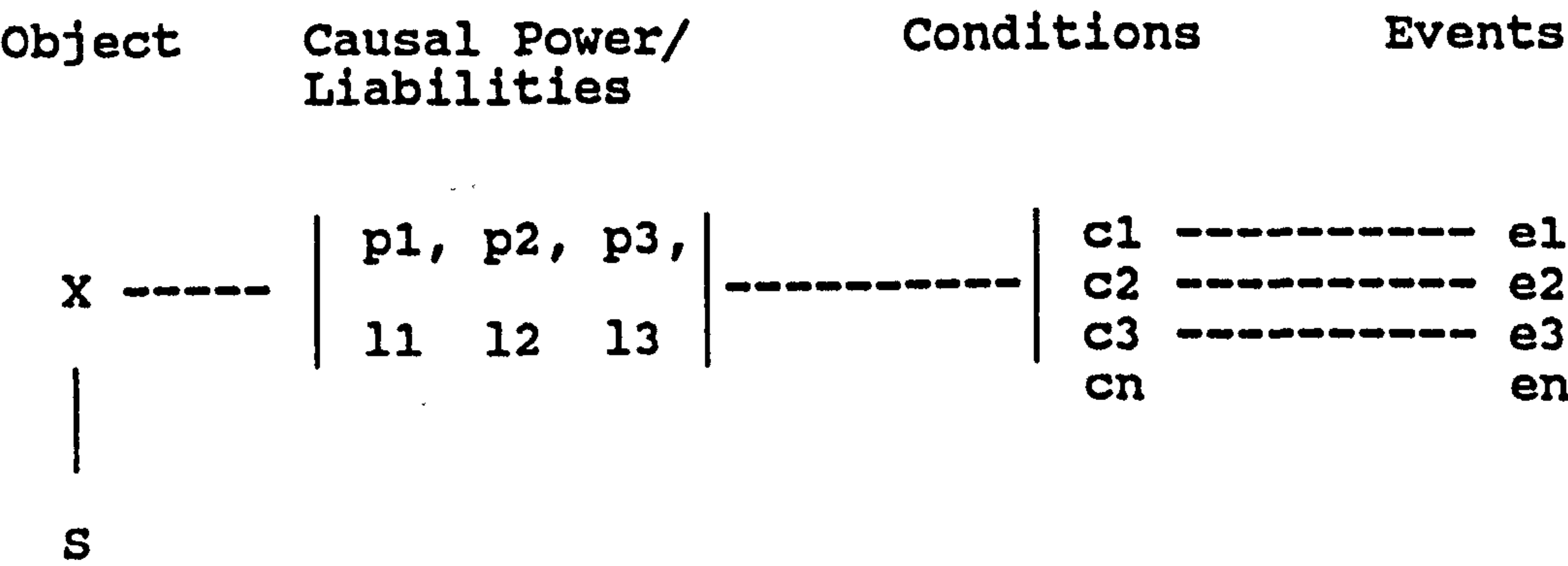
Whether such a causal power is activated depends upon the presence and configuration of conditions. In as much as objects have causal powers it is conditional as to whether they are activated or exercised. Further, when they are activated the effects will depend upon the conditions in which they work. The objects which constitute the conditions also have their own powers.

What is being described here is a method which consists of identifying an object, identifying its causal powers, then looking at the presence and action of conditions upon the mechanism to explain events. It should be noted that this construction holds good only for the set of mechanisms and conditions which apply at a particular time. Implicit in this view is the recognition of process, events feedback into mechanisms although the time frame is not explicitly addressed. This approach has great attraction when considering the impact and operation of policy.

5.3 Encompassing Methodology

The realist perspective is particularly attractive in the analysis of a policy such as the introduction of licensing for second-hand car dealers in Scotland. Such an approach recognises the importance of conditions which mediate between policy objectives and policy outcomes which Kellas(1975) and Hunter and Wistow(1987 and 1988) describe as policy 'means' and policy 'ends'. By contrast a positivist approach, while providing the necessary quantitative rigour common to both, cannot accommodate the roles of structure and mechanism which are so crucial in policy analysis. Using a realist framework presented in Figure 5.1 a methodology for assessing the impact of the introduction of licensing can be developed.

Figure 5.1 The Structure of Realist Causal Explanation



Object X with
Structure S... Possesses Causal
powers p and Lia-
bilities l.....Under specific
conditions c...
will:

- (c1) produce no
change ie
not activated
- (c2) produce change
of type e2
- (c3-n) produce change
of type e3-n

Source Sayer (1984) p98

This approach is applied in order to develop an overall or encompassing methodology for this study. The important features of the realist framework are first the object. In the analysis of second-hand car dealer licensing it is licensing itself as a consumer protection policy which is the object under study. In recognising this, it is contingent that licensing exists within a structure consisting of all consumer protection

policy, a series of policy approaches with common overall objectives which provides a foundation. Secondly, licensing as a specific policy has a number of causal powers and liabilities. If the policy is activated and conditions correctly read, licensing has the power to achieve certain events. Conversely it must also be accepted that if conditions are not accurately read the policy may also have some unintended consequences. In this study it is the causal powers which will be assessed first and an analysis of liabilities at a later stage.

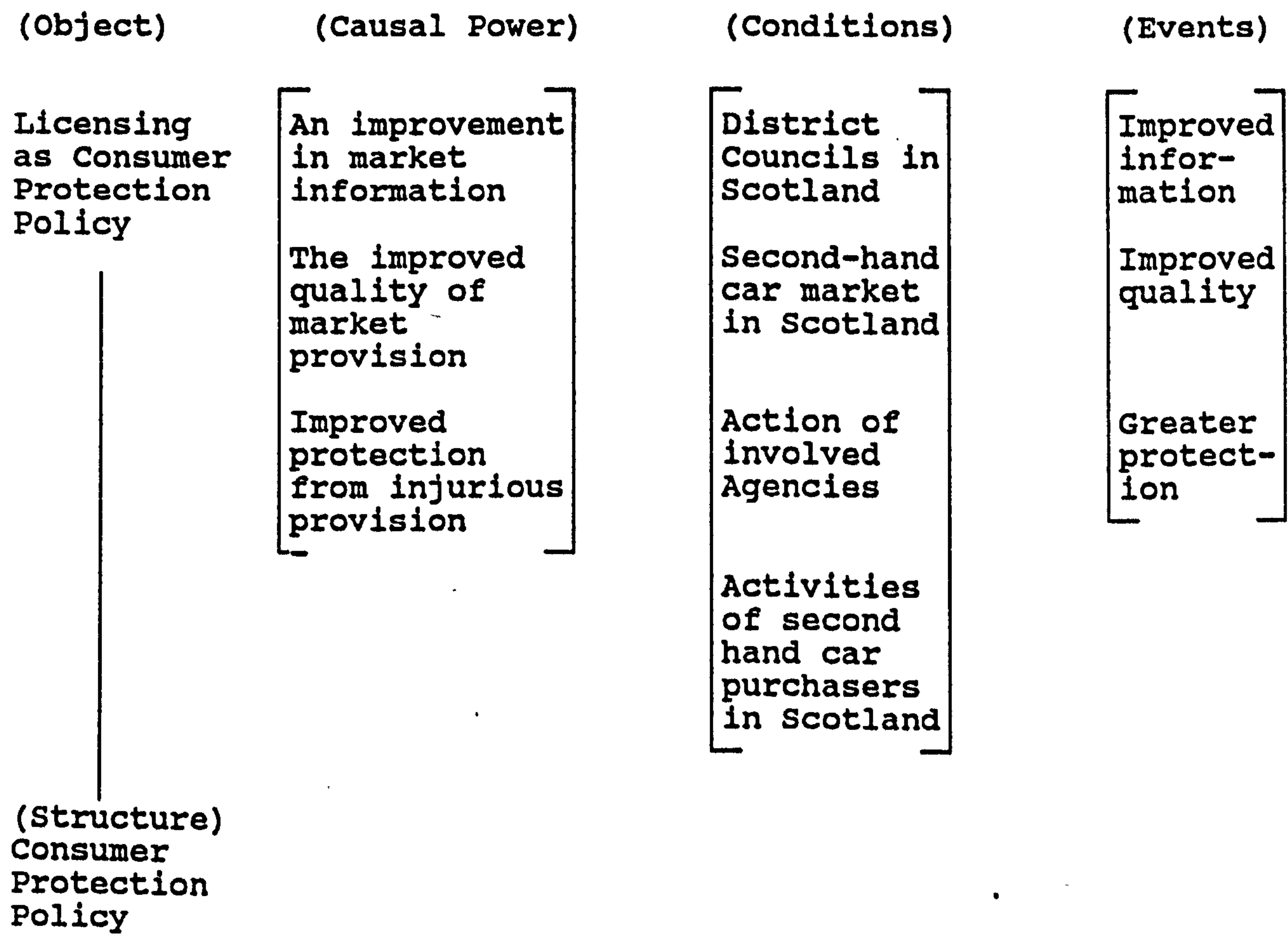
As stated in chapter 4 licensing theoretically has the power to improve the provision of information, improve the quality of provision and protect consumers against injurious provision. The liabilities are the unintended consequences of licensing such as restricting competition in the market. Thirdly, there are a number of conditions which mediate between causal powers and the event. In this model these mediating factors impact upon the process of mechanism-event. In the context of licensing these conditions can be generalised to:

- (a) The district councils in Scotland who are given the power to licence and to design their licensing system.
- (b) The second-hand car dealers themselves in responding to the policy.
- (c) The activity of agencies other than district councils involved in the licensing process.

- (d) The behaviour of second-hand car buyers in the Scottish second-hand car market.

The event in this model is an impact upon the second-hand car market in Scotland, which, at the outset of this study is an unknown. Having established the rationale and possible consequences of licensing second-hand car dealers, in a situation without mediating conditions the causal powers of the mechanism will lead to an event. By assessing the difference between the actual event and the anticipated event a measure of the difference can be arrived at. Such a difference intuitively leads to the conclusion that mediating conditions do indeed exist. The degree of difference is an approximation of the effect of the mediating conditions. In the specific context of licensing these conditions can be generalised and provide a focus for further investigation. This formulation can be shown in a revised version of Sayer's model above by keeping the structure but applying the detail (Figure 5.2).

Figure 5.2 Methodology for a Study of the Impact of Second Hand Car Dealer Licensing in Scotland



5.4 Development of Approach

Licensing as a consumer protection policy and the causal powers associated with it, ie the benefits as well as theoretical liabilities have been explained in Chapter 4. In assessing the impact of licensing, the focus of attention is toward an analysis of the event in Sayer's structure which in this context is changes occurring in the consumer market place. In addition an analysis of the conditions which have mediated between the policy and the event which are outlined in Figure 5.2.

Following this reasoning the methodology consists of four elements of primary research, each with separate methods to investigate the impact of the object condition on the mechanism of licensing.

The four studies aimed at investigating the mediating conditions are:

1. The design and operation of second-hand car dealer licensing by district councils in Scotland.
2. The impact of second-hand car dealer licensing systems operated by district councils upon second-hand car purchasers
3. The impact of second-hand car dealer licensing upon second-hand car dealers.
4. The role of other involved agencies in the operation of second-hand car dealer licensing.

Each of these provides the basis for a unifying framework in which to consider the combined operation of

mediating conditions and with which to understand and assess the impact of this policy upon the second-hand car market in Scotland. In keeping with this general approach it is important to recognise the interdependencies between the identified conditions. The four studies undertaken were not carried out at the same time but were part of a research process. The results from one study had an effect upon the detailed methodology for the subsequent studies. As a consequence each of the following chapters while 'standing alone' containing its own detailed methodology, survey design and analysis of results is linked by a developmental process which makes the order important. Once the four studies have been stated the subsequent chapter will provide a synthesis of each of the individual study chapters before presenting a final analysis of the impact of second-hand car dealer licensing.

5.5 Limitations of Approach

The limitations of this encompassing methodology are associated with the concepts of time, in particular the historical context of policy and the effects of time on the study. In addition are the identification and formulation of the generalised conditions which form a principal part of the analysis. Put simply, any policy does not operate in isolation. It may take time to come into effect and this is true not only of a newly implemented policy but also existing policy. Therefore,

in studying the impact of a particular policy, it has to be recognised that any causal effects identified have to be taken as a statement of 'what is' at a particular time. The whole arena for this kind of study is dynamic, for it is part of a much larger process, that of social, political and economic change. In generalising the conditions applicable to this policy it is clear that they cannot provide a comprehensive statement of all things which impact upon this particular policy. The conditions for investigation have been chosen to provide as comprehensive a statement as possible within practical limitations.

5.6 Conclusion

Where there are four studies (as in this case) each of the components has to be taken as a series of separate statements about the nature and operation of conditions taken at different times in the process. Recognising this, a number of common themes have been built into each study which provide in some small part, a repetition of something appearing in a previous study in an attempt to assess the degree of change over time. In this way it is hoped that the process of abstraction which is at the core of this method will contribute toward a more detailed understanding of the licensing mechanism and allow time effects to be recognised if not controlled.

Chapter 6 Study 1: Licensing Systems Operated by District Councils

6.1 Introduction

In keeping with the overall methodology of the thesis the first requirement is to establish the nature of the conditions which mediate between the object and the event. The object in this case is the policy of introducing the licensing of second-hand car dealers to Scotland. The event is the improvement of consumer protection in the second-hand car trade through a change in the market conditions facing consumers. In this context, the first study is directed toward describing the framework for second-hand car dealer licensing in Scotland. The purpose is to establish the first level of implementation of the policy describing the transition from statute which is the embodiment of policy to administrative reality.

The statute in question is the Civic Government (Scotland) Act 1982 which came into force on the 23 October of that year and gave district councils in Scotland the power to licence certain activities within their authority area including dealing in second-hand goods. Within the broad category of second-hand dealing including dealing in second-hand jewellery, clothing, furniture etc, districts could opt to licence second-hand car dealers. The Act gave district councils considerable discretion in the precise detail of the

second-hand dealer licensing system they introduced. This chapter reports upon a study of the ways in which district councils have applied the power to licence second-hand car dealers which is contained in the Act and investigates the ways in which licensing systems differ between district councils. Specifically the objectives of the study were:

1. To establish which district and island councils in Scotland had adopted the power to licence and had decided to undertake the licensing of second-hand car dealers.
2. To identify the range of licence conditions applied to licences issued in each district in addition to those defined in the statute.
3. To investigate the administrative procedures for the vetting of applicants and the issue of licences including the level of fees.
4. To identify enforcement arrangements for ensuring compliance with the local licensing system.

6.2 Research Approach

There are 56 district and island councils in Scotland, all of whom have the opportunity to undertake the licensing of those activities specified in the Civic Government (Scotland) Act 1982. The first aim of this study was to establish licensing practice throughout Scotland. This required that a census be conducted of every district and island council. There was therefore no sample but a census of all 56 local authorities in Scotland. This study provides the basis of all the

analysis in this thesis since it was in effect a statement of existing licensing practice in Scotland.

6.2.1 Research Method

The information about the licensing practice of individual district councils with respect to second-hand dealers was not held centrally in any form and as a consequence there were no secondary sources of data available from which to compile basic information on licensing activity. There had been no previous studies of the licensing practice of district councils in Scotland under this legislation and so the study required primary data collection.

The type of information demanded a structured approach so that in aggregation, the information collected was comparable. Secondly, there was a need for detailed information especially on administrative structures and licence conditions. Thirdly, there was the question of time. As already mentioned in the encompassing methodology time is an important criterion in the study of policy. This meant that although interviews would have been preferable they could not have been completed within a short enough time frame for the information collected to meet the time and space requirements of the method. The time taken to interview each authority would have meant that the situation was likely to have changed in the first district before reaching the last district.

What was required was a single 'snapshot' of licensing practice. A postal questionnaire was chosen as the most appropriate method for collecting the required data.

In addition, because licensing practice is a key variable in the analysis of the other parts of this investigation it was felt that key information on licensing activity should be collected on a regular basis. To this end a regular six monthly reporting procedure was implemented at the same time as this survey was undertaken. This consisted of a short questionnaire which monitored district council activity by collecting information on the number of licences issued, changes in licensing practice and the withdrawal or suspension of licences. The survey letter also included a request for a copy of published licence conditions and a specimen application form.

6.2.2 Questionnaire Design

Following the objectives of this survey the design of the questionnaire aimed to identify systematically the important features of individual licensing systems. The first crucial piece of information was whether or not the district was in fact licensing second-hand car dealers and, if so, the number of licences which were in force at the time of the survey. A second group of questions concerned the conditions attached to the licences issued. These conditions were an important

means of assessing the relative 'strength' of licensing in terms of their direct impact upon licence holders. The final group of questions concerned the administrative arrangement for the receipt and disposal of licence applications and the information used at each stage of the procedure. The full questionnaire, the accompanying letter and the monitoring questionnaire can be found in Appendix 1.

6.3 Survey Method

The full questionnaire, an accompanying letter and the monitoring questionnaire were sent out to all district and island councils in Scotland during September 1986. Preliminary research had established that the licensing functions of district councils were operated from the administration department and so were addressed to the Director of Administration. Of the 56 questionnaires sent out an initial response of 47 completed questionnaires was received. The missing responses were identified and one month after the questionnaire was sent, a follow up letter was posted to the Director of Administration for each missing district which prompted a further 9 replies. In total 56 completed and usable questionnaires were returned which is a complete census.

6.4 Analysis of Results

The following sections describe the main features of second-hand car dealer licensing in Scotland. This chapter concentrates upon six features of second-hand car dealer licensing which form the basis of comparison between systems. These features are:

1. The adoption of licensing powers
2. Geographic location of licensing districts
3. Administrative arrangements
4. Licence cost
5. Licence conditions
6. Enforcement arrangements

6.4.1 Adoption of Licensing Powers

The licensing provisions of the Civic Government Scotland Act can only be activated after a resolution by the elected members of the District Council. The resolution is minuted and specifies that the powers to licence second-hand dealers are being adopted and which activities within that category are to be licensed. At the time that this legislation was passed, local government was experiencing a reduction in funding from central government. In this financial environment and as a result of the optional nature of the licensing powers, there appeared to be little impetus for districts to adopt the licensing powers other than that generated from individual councillors or officials or external pressure from consumer organisations. The position of central government with respect to the adoption of

licensing was emphasised by a circular from the Scottish Office which stated:

"The Secretary of State shares the view expressed in Parliament that licensing for the optional activities (of which second-hand car dealing is one) should be introduced only where it is shown to be necessary to prevent crime, to preserve public order or safety, or protect the environment. The purpose of licensing is not to restrict trade or competition. In the Secretary of State's view the only prima facie case of almost universal licensing is that of the taxi and hire car trades"

Circular No 6/1983 Appendix A, Para 2.5

Whether or not to adopt licensing was an individual decision for each district. In view of the circular from the Scottish Office, the reduction in funding and the optional nature of the activity, the appearance of both licensing and non-licensing districts was predictable.

At the time of the survey there were 24 district and island authorities who had adopted the licensing powers and who had applied licensing to second-hand car dealers in their area. There were a further four districts who had adopted the powers to licence in principle but had not identified to which activities licensing would be applied. Five authorities had adopted licensing and had systems in operation but did not include second-hand car dealing as a licensed category. The districts which have adopted licensing in principle but do not have an operational system and districts where there is licensing of second-hand dealing but not of second-hand

car dealing specifically, are assumed to be non-licensing districts. The full list of district councils in each of these categories appears as Table 6.1.

Table 6.1 Scottish District Councils Licensing Status

A. Districts Licensing Second-hand Car Dealers

Aberdeen City	Glasgow City
Bearsden & Milngavie	Inverclyde
Clackmannan	Kilmarnock & Loudoun
Clydebank	Kirkcaldy
Cunninghame	Midlothian
Dundee City	Monklands
Dunfermline	North East Fife
East Kilbride	Nithsdale
Eastwood	Renfrew
Edinburgh City	Stirling
Ettrick & Lauderdale	Tweeddale
Falkirk	Western Isles

B. Adopted Licensing but not Identified Second-hand Car Dealers as Licensed Category

Argyll & Bute	Orkney Isles
Kyle & Carrick	Wigtown
Nairn	

C. Adopted Licensing Powers but not Licensing

Clydesdale	Perth & Kinross
Inverness	West Lothian
Motherwell	

D. Non-licensing Districts

Angus	Moray
Annandale & Eskdale	Hamilton
Badenoch	Kincardine
Banff & Buchan	Lochaber
Berwick	Ross & Cromarty
Caithness	Roxburgh
Cumbernauld	Shetland Isles
Cumnock and Doon	Skye and Lochalsh
Dumbarton	Stewarty
East Lothian	Strathkelvin
Gordon	Sutherland

Those districts which had decided to licence second-hand car dealers were asked how many licences they had issued. Since licensing had been available since October 1982 it was anticipated that the number of licences issued would by now give a fair representation of the number of second-hand car dealers in each of the licensing areas. All districts in this survey had introduced licensing schemes prior to September 1984. Table 6.2 shows the number of second-hand car dealer licences issued by each licensing district at year end 1986.

Table 6.2 Second-hand Car Dealer Licences Issued By Each Licensing District

District Council	No. of Licences at end 1986
Aberdeen City	40
Bearsden & Milngavie	3
Clackmannan	7
Clydebank	13
Cunninghame	30
Dundee City	96
Dunfermline	26
East Kilbride	6
Eastwood	5
Edinburgh City	55
Ettrick & Lauderdale	2
Falkirk	10
Glasgow City	35
Inverclyde	21
Kilmarnock & Loudoun	2
Kirkcaldy	66
Midlothian	19
Monklands	4
N E Fife	22
Nithsdale	7
Renfrew	3
Stirling	4
Tweeddale	13
Western Isles	6

The distribution of licences issued does not follow any significant pattern except that areas of high population density appear to have a higher number of licences issued. It was thought that there may be some political basis for the distribution. The argument was based upon a simplistic model that district councils dominated by a right of centre party would be less inclined to become involved in the direct regulation of business in their area, preferring a minimalist approach to business regulation in line with central government ideology. By contrast districts dominated by left of centre parties would be more sympathetic to licensing as a means of protecting consumers from the rigours of a market where consumer information was limited and the economic interests of consumers could be compromised. In fact, of the 24 district councils who operated systems at the time of this study over 58% (14) had a Conservative majority. While this proportion has changed with a larger number of districts now having a left of centre majority party, there has been no significant expansion of licensing practice. Indeed the two districts who have adopted licensing since this study was completed are Conservative and Labour dominated respectively.

6.4.2 Geographic Location of Licensing Districts

Figure 6.1 shows the geographic distribution of districts operating licensing schemes for second-hand car dealers in Scotland.

Figure 6.1 Geographic Distribution of Licensing Districts in Scotland

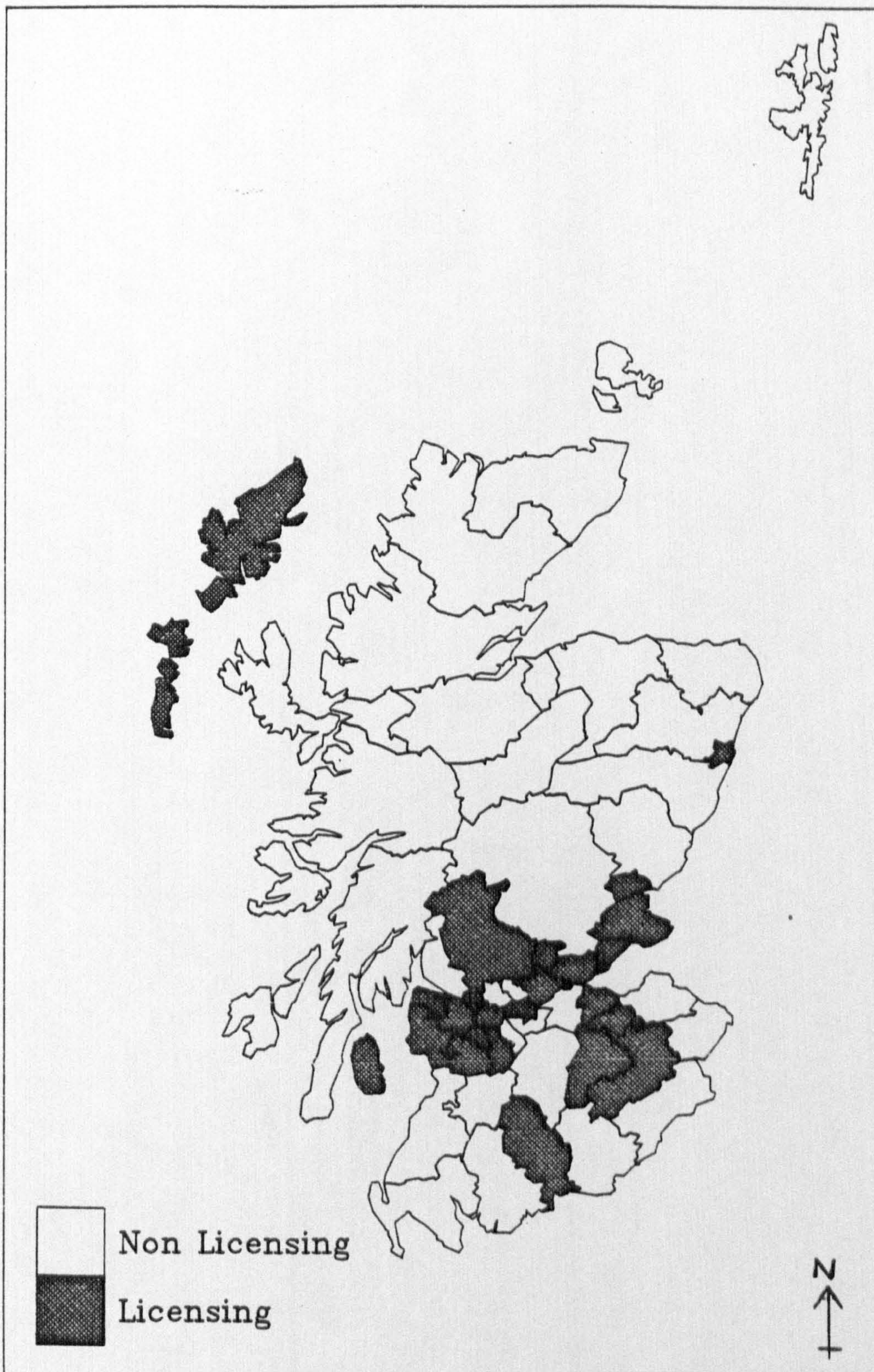
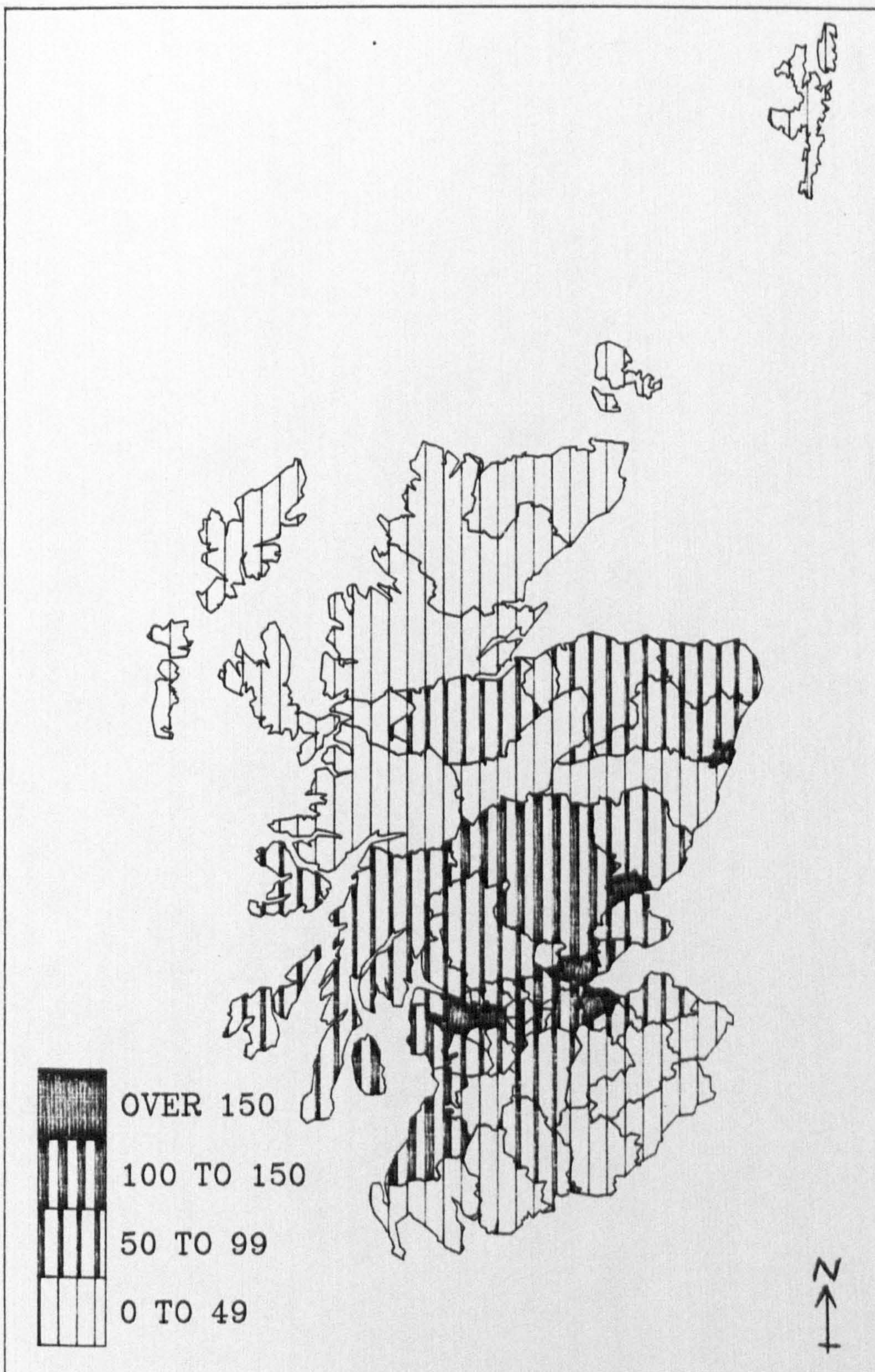


Figure 6.2 Population Density Map of Scotland
(per square kilometre 1989)



Compared to the population density map for Scotland shown in Figure 6.2, the distribution of licensing districts shows a clear concentration in the more heavily populated areas of Scotland. This covers the central population belt between Glasgow and Edinburgh, but also centred upon the major cities of Aberdeen and Dundee. There are exceptions such as Hamilton in Glasgow and East Lothian near Edinburgh. The mean population of licensing districts is 134,533 with a standard deviation of 153,046. For non-licensing districts the mean is 59,390 with a standard deviation of 39,864. In the absence of any data on the volume of transactions involving second-hand car dealers, it is an assumption that these areas of high population density account for a higher than average number of used car transactions than for Scotland as a whole. Census data for car ownership is an imprecise indicator since it takes account of the residence of the owner and not where the purchase was made and consumers often travel to outside their district to purchase. However, it can be concluded that licensing would appear to be operative in the majority of areas where transactions between consumers and second-hand car dealers take place.

6.4.3 Administrative Arrangements

The administrative duties of the licence authority are contained in Schedule 1 of the Civic Government (Scotland) Act 1982. There are a large number of

administrative duties contained here but those which relate to the disposal of applications and the suspension of licences are the most important.

6.4.3(a) Disposal of Applications

When an application is received by the district council on the correct form and with the required fee, the district must send a copy of the application form to the chief constable of Police. In addition, because the activity relates to particular premises a copy of the application form must be sent to the local fire authority. The licensing authority must also give public notice of the receipt of the application for a licence in a local newspaper to allow for any objections or representations to be submitted. Copies of any representations or objections must be sent to the applicant and the authority can set up a hearing to investigate their substance. These administrative arrangements apply to all districts.

In considering the application, the licensing authority may make any other enquiries they think fit and take the information received into account in deciding whether or not to issue a licence. The criteria that must be used in assessing an application is whether the authority believe that the applicant is a fit and proper person to hold such a licence. Licensing authorities were asked to

whom they sent copies of the application form or contacted in order to assess whether or not the applicant is a fit and proper person to hold a second-hand car dealers licence. The results appear in Table 6.3 below.

Table 6.3 Sources of Reference for Assessing Licence Application

Own department to check for previous applications	83%
Fire Authority to check the suitability of premises	88%
Trading Standards Department of regional council	46%
Planning Department to establish permission for business use	29%
Local Police	100%
Environmental Health Department	13%
Local Councillors	8%

All licensing authorities make use of the local police in assessing the fitness of the applicant to hold a licence in accordance with the duties laid down in the Act. What is surprising is the number of authorities who do not consult the fire authority, considering that second-hand car dealing does operate out of specific business premises. The use of local councillors to assess the fitness of an applicant is also worthy of note since this seems to be based upon a purely subjective assessment. It is also interesting to note the local environmental health department as a source of

information. This department does not have any responsibility for, or contact with, the motor trade. Finally trading standards departments are referred to by under half of the licensing authorities. These departments hold all records of consumer complaints and enforce all existing consumer protection legislation relevant to the second-hand car trade in Scotland. It would perhaps be anticipated that the information held by the trading standards departments would be relevant to the decision about whether or not to issue a licence.

Once a decision about the application has been made the authority must send copies of the letter sent to the applicant to both the chief constable and where used, to the fire authority.

6.4.3(b) Licence Suspension

One of the principal sanctions available to a licensing authority is the ability to withdraw a licence to deal in second-hand cars at any time. In the Scottish system this can be done only in four circumstances:

- a) If the licence holder becomes an 'unfit person'.
- b) If the business is being carried on for the benefit of a person other than the licence holder who would be refused a licence.
- c) The activity has caused, is causing or is likely to cause undue public nuisance or a threat to public order or safety.
- d) If a condition of the licence has been contravened.

When one or a number of these criteria is met then the district has a right but not a duty to withdraw a licence. The first stage is to suspend the licence and if the grounds for licence withdrawal are met then the suspended licence is deemed to be withdrawn. The authority must give the licence holder an opportunity to be heard at a licence hearing where the chief constable and any other person relevant to the decision to suspend is present. The licence holder has a right of appeal to the High Court in the final instance.

Licensing authorities in Scotland were asked how many licence applications had been refused and how many had been suspended since the licensing system had been in operation. In only four cases had a licence been refused and these had been on the basis of previous convictions being brought to the attention of the district. No licences had been withdrawn and no suspensions had taken place up until September 1986.

6.4.4 Licence Cost

An important feature of any licensing system is the cost of the licence. Where the cost is prohibitively high the licence cost can be considered as an attempt to restrict entry. In Schedule 1 para 15, the Act lays down broad guidance as to the calculation of cost by the district councils.

"the licensing authority shall....charge such reasonable fees as they may determine....by reference to any factor or factors whatsoever"

The only rider to this is that

"the licensing authority shall seek to ensure that from time to time the total amount of fees receivable by the authority is sufficient to meet the expenses of the authority in exercising their functions"

A number of licensing districts had introduced staged licensing systems which allowed the dealer to choose how long the licence would run with different fees for each period. Others had licences which ran for one year, others where the licence ran for three years. The cost of the licence to the dealer was calculated on a cost per year basis for ease of comparison. A full list of licensing authorities and the licence cost appears as Table 6.4. It can be seen that very few authorities charge the same for their licences on a yearly basis.

The cost of the licence was analysed with respect to a number of different features to test for any association. Correlation between cost and total number of licences issued was investigated but a coefficient of -0.219 suggests a weak association.

Table 6.4 Cost of Licence on Yearly Basis

District Council	Cost of Licence per year 1986 (Pounds per Year)
Renfrew	40.00
Glasgow City	38.30
Bearsden & Milngavie	26.25
Clydebank	26.25
Nithsdale	25.00
Monklands	20.00
Clackmannan	18.30
Dundee City	16.66
Western Isles	16.66
Stirling	16.25
Falkirk	15.00
East Kilbride	12.30
Midlothian	12.30
Kilmarnock	12.00
Cunninghame	11.66
Inverclyde	11.66
Dunfermline	10.00
Kirkcaldy	10.00
N E Fife	10.00
Eastwood	9.00
Edinburgh	8.30
Ettrick & Lauderdale	6.66
Tweeddale	6.66
Aberdeen	1.60

Mean = 15.86
St.dev = 9.27

Further analysis revealed that licence cost bore no association with the total number of licences issued, the extent of enforcement provision, the administrative time taken to process an application or the size of population of the district. It would appear likely that cost is determined with reference to a number of factors exclusive to the individual district councils.

6.5 Licence Conditions

The conditions which a district council applies to the licences it issues are of crucial importance. It is the licence conditions which provide the mechanism for changing the trading behaviour of the second-hand dealers so as to improve the market conditions faced by consumers. The Civic Government (Scotland) Act 1982 provides for three distinct categories of licence condition when applied to second-hand car dealing. The first category is the conditions which are contained in the Act and as such must be applied to all licences issued. The second category is those conditions which appear in the act but districts have discretion as to whether or not, and to what extent, they wish them to apply to licences issued. The final category is conditions which district councils generate themselves. The Act gives district councils the power to apply any reasonable licence conditions they think appropriate. Each of these categories will be considered below.

6.5.1 Statutory Conditions

There is only one statutory condition in relation to second-hand car dealer licences and it provides evidence of the clear intention that this legislation should apply to the second-hand car market. It states:

"A second-hand dealer acquiring a second-hand motor vehicle for the purpose of its resale in the course of his business shall keep a record of the mileage reading on the vehicle's odometer when he acquired it" Sect 24(5) Civic Government Act 1982.

As this is a statutory licence condition it was a feature of the licensing system in all 24 licence authorities, each included it as a condition applied to all licences they issued to second-hand car dealers. This particular condition was one which attracted considerable support from consumer protection agencies during the passage of the bill. It provides a means for enforcement agencies to trace a vehicle's history. It also provides evidence of the vehicle mileage at each transaction making it easier to identify inconsistencies that would suggest that the mileage indication was untrue.

6.5.2 Statutory Conditions with Discretion

The second category of licence conditions are those where the condition appears in the Act, but where there are either (a) facilities which allow the district council to waive the condition or (b) a general requirement only allowing the district to decide upon the detail.

In the first case, section 25(1) requires that:

"a dealer shall not dispose of any item of his stock in trade until the expiry of 48 hours (excluding any time on Saturdays or Sundays) after he acquired it"

Districts are given the discretion as whether or not to apply this condition in the case of second-hand car dealers by section 25(3)

"A licensing authority may, on granting a second-hand dealers licence or at any time thereafter, on application by the dealer and after consultation with the chief constable, order that subsection (1) above shall not apply to the disposal by the dealer of any item, or any specified item or class of items"

Of the 24 licensing authorities 14 or 58% of the total had decided to make use of the power available in section 25(3) and have removed this condition from the licences issued to second-hand car dealers. The reasoning behind this move was that the licensing authority believed that the condition could restrict competition and disadvantage dealers in conducting their business.

The second type of statutory condition with discretion, appears in general terms in the legislation, but allows detail to be decided by the individual licensing districts. Section 24(4) allows the licensing authority

"to attach conditions to a second-hand dealers licence requiring the keeping of records."

The section goes no further in defining the detail of this condition but allows the district to decide:

- (a) The information to be included in these records.
- (b) The form in which the records were to be kept.
- (c) The premises where the records are to be kept.
- (d) The period for which the records are to be kept.

All 24 licensing authorities include as a condition of the licences issued a requirement for the second-hand car dealer to keep records of the vehicles they buy and sell. All districts had similar requirements as to form and the premises where the records must be kept. The major variations occurred in relation to (a) and (d) above, the precise nature of the information required and the period for which it is retained.

In relation to (a) all 24 authorities require the following information:

Date and time of purchase by dealer
 Registration number of vehicle
 Chassis and engine number
 Name and address of purchaser
 Mileage at time of purchase by dealer

Additional information required by only a proportion of the licensing authorities is:

Name and address of supplier of vehicle to dealer
 (21 Districts)

Colour, Make and model of vehicle
 (21 Districts)

Date and time of sale
 (17 Districts)

Mileage at time of sale
 (17 Districts)

In relation to (b) above, the time for which the required records must be retained, 4 authorities require the information to be kept for two years with the remaining 20 authorities requiring retention for three years. The key determinant of the length of time for which the information was to be kept, was the duration of the licence.

6.5.3 Optional Conditions

Schedule 1 Part 5 of the Civic Government (Scotland) Act 1982 gives licensing authorities the power to attach any conditions to the licences they issue which they feel are appropriate. The only test of appropriateness is whether or not the condition is reasonable. It is in respect of these optional licence conditions that district councils have an opportunity to contribute directly toward the protection of consumers buying second-hand cars within their area. The nature of these optional conditions is a useful indicator of the attitude of the district toward the licensing of second-hand car dealers. Because of the large number of optional conditions applied (many of which were administrative details, for example the size of photograph to be submitted with the application) it was necessary to concentrate upon those conditions which directly affected the operations of the second-hand car dealer and potentially the experiences of consumers. As

such, administrative conditions which had an effect only at the time of licence application were excluded. This exclusion focussed study upon two main conditions which directly affected the day to day operations of the dealer. These were first, the requirement for pre-sales inspection reports to appear on vehicles for sale. Second, the requirement that licensed dealers comply fully with the Motor Industry Code of Practice regardless of whether they were members of the trade association or not.

6.5.3(a) Pre-Sales Inspection Reports

The pre-sales inspection report contains information about the condition of a car resulting from a dealer inspection. This report is then displayed with the car when offered for sale and a copy is usually given to the consumer at the time of purchase. The information contained is designed to highlight any faults found with the car and what action has been taken to rectify these faults or the likely cost of such repair work. It also itemises any other work that has been carried out by the dealer prior to the car being offered for sale.

The pre-sales inspection report (PSI) is a feature of legislative control of second-hand car dealing across the world even though empirical evidence of its beneficial effect is limited, see Pratt and Hoffer (1985). The use of pre-sales information of this type

by second-hand car dealers in the UK has met with considerable resistance. Despite a requirement for the use of pre-sales inspection reports on all second-hand cars which appears in the Motor Industry Code of Practice members of the code have consistently ignored the requirement. The Office of Fair Trading(1986) in its monitoring survey for the Code found that only 20% of members always displayed such a report on second-hand cars for sale.

The PSI report contributes to consumer information by decreasing buyer-seller asymmetry and is directed toward those areas of the car which require expert knowledge. Because the information is in standard form it can be used as the basis of any comparison between cars offered for sale. Also, in the event that after purchase, a part fails or repairs need to be carried out, this report can be produced as evidence to a court by either consumer or dealer of work carried out or components replaced.

A total of 14 (56%) of district councils who licence decided to add the requirement for pre-sales information to their licence conditions using the optional conditions facility. In arriving at this decision the district councils took note of representations from the Scottish Consumer Council who encouraged districts to make full use of the optional facility and suggested this condition among others. The Society of Directors of

Administration (SoDA) also circulated a pro-forma for such information in an attempt to standardise the display if districts were to introduce such a condition. A copy of the pro-forma appears as Appendix II.

6.5.3(b) Compliance with the Code of Practice

One of the main disadvantages of codes of practice over legislation as outlined in Chapter 4 is the voluntary nature of the control. The only sanction available to the controlling Trade Association is expulsion which contradicts the aim of the association and will have little impact upon the individual member.

The optional conditions facility in the legislation allows licensing authorities to by-pass the problem of voluntary compliance with the code by making compliance a condition of the licence. The inclusion of code compliance as a licence condition has been achieved in two different ways. The first is to make the condition unequivocal, for instance in this condition designed by Glasgow District Council:

"The licence holder shall adhere to the relevant sections of the Code of Practice for the Motor Industry"

The "relevant sections" refers to a separate part of the code which applies to second-hand car dealers (see Appendix III). The effect is to make voluntary

compliance compulsory since failure to comply with a licence condition can lead to a criminal conviction and/or the licence to trade being withdrawn.

The second way in which the code of practice has been incorporated is less precise, for example in this condition designed by Stirling District Council:

"Where the dealer is a member of a professional or trade association and that body has issued a code of practice, then the second-hand dealer shall comply with the conditions of that code of practice."

This wording is less restrictive. It allows for the condition to be ignored by giving up membership if already a member and provides no incentive to those not already members or those who do not wish to be members to improve their trading behaviour by compliance.

The first method of incorporating a voluntary control as a licence condition avoids the problem of voluntary compliance and provides a sanction for non compliance with the code. However it also presents a number of dangers not least that the nature of the code and therefore the licence condition could be altered externally by the trade association re-writing the code although this would have to be approved by the Office of Fair Trading.

One feature of both the optional conditions described above is that there is a degree of overlap. The code of practice also stipulates that pre-sales inspection reports must be displayed. This implies that pre-sales information reports would not need to be specified if compliance with the code was fully incorporated as a licence condition. The pro-forma for such information, issued by the Motor Agents Association, is different to that supplied by the Society of Directors of Administration. This could result in the information being presented in non-standard forms and the activity of the Society of Directors of Administration serves only to exacerbate this situation.

6.6 Enforcement of Licensing

Any form of regulation is dependent upon the use of authority to enforce compliance. As Hutter(1988) points out this should not be equated with prosecution but should embrace a much wider concept which defines enforcement as the whole process of compelling the observance of both the letter of the law and the broad objective. In the context of licensing it is fundamental that all those who deal in second-hand cars within a licensing area hold a licence. Secondly that those dealers who hold the licence comply fully with the licence conditions. The Civic Government (Scotland) Act 1982 did not impose any specific enforcement duties upon the district councils but did provide powers for the

districts to identify authorised officers. Once authorisation by the district had been given certain powers were afforded such as the right of entry to business premises and the power to inspect the records required to be kept by the Act and the licence.

The licensing districts were asked to whom they had given the authorisation to enforce the provisions of the Act. The responses shown in Table 6.5 indicate a considerable variety of agencies involved in the enforcement of the licensing provisions and for some districts a number of different agencies had been authorised:

Table 6.5 Number of Enforcement Authorisations by District Councils

Local Police	17 (71%)
Licensing Department Staff	11 (46%)
Trading Standards Officers	7 (29%)
Fire Officers	7 (29%)
Environmental Health Officers	3 (12%)

The first feature of the authorisations is that 6 district councils have not authorised anybody to enforce the licensing provisions of the Act. Secondly, the authorisations are interesting when considered in the context of jurisdiction. Trading standards officers operate at a regional level and as a consequence may only be authorised to enforce the Act within the district boundaries and not, as in the case of all other legislative duties within the boundaries of their own

region. Fire Officers and Police also operate at a regional level although they also have offices in smaller administrative units than districts.

Environmental Health Officers are the only district employees in the list of authorised staff who have an enforcement function and who could be considered as an enforcement agency at a district level. A full list of authorisations by district and region appears as Table 6.6. The distribution of enforcement authorisations when considered in terms of regions emphasises the enforcement problems faced by regional staff, in particular knowing which districts are licensing, what conditions apply in each district and whether they are actually authorised to enforce them.

Table 6.6 Authorised Enforcement Agencies for Second-hand Car Dealer Licensing

REGION	DISTRICT	
Borders	Ettrick & Lauderdale	1,4
	Tweeddale	1,3
Central	Stirling	3
	Clackmannan	1,2,3,4
	Falkirk	6
Dumfries	Nithsdale	1
Fife	N E Fife	1,3
	Kirkcaldy	1,2,3,4
	Dunfermline	1,2,3
Grampian	Aberdeen City	1,2
Lothian	Edinburgh City	1
	Midlothian	1,4

Tayside	Dundee City	1,2,4,5
Strathclyde	Renfrew	1,3
	Monklands	1,3,5
	Kilmarnock	0
	Glasgow City	1,2,3
	Eastwood	1,3
	East Kilbride	5
	Inverclyde	1,3
	Cunninghame	0
	Clydebank	0
	Bearsden and Milngavie	0
Western Isles		1,2,4

Key: 0. No Authorisations
 1. Police
 2. Trading Standards Officers
 3. Licensing Department Staff
 4. Fire Officers
 5. Environmental Health Officers
 6. Specially Appointed Enforcement Staff

A distribution such as that above demands a considerable degree of co-ordination among enforcement staff. If the various agencies operate within district boundaries without reference to each other there is little opportunity for uniformity in enforcement activity.

6.7 Policy Implications

A feature of the legislation which introduced the licensing of second-hand car dealers in Scotland is the discretion given to local administrative units. At a fundamental level, district councils can decide whether or not to adopt the powers. The effect, in the absence of any strong guidance from central government, is that

only a minority of districts have adopted the power to licence second-hand car dealers. This first level of variation in the application of the licensing policy is the existence of both licensing and non-licensing districts.

Within each licensing district the legislation also gives discretion in the design and implementation of a licensing system. It allows the district to choose licence conditions on the basis of 'reasonableness'. The study established that there is considerable variation in the conditions applied to licences. These are the most prominent factor in mediating between policy objective and policy outcome in this context since they are the basis of any change in the behaviour of licence holders.

The administrative arrangements also appear to show variation despite the administrative framework being contained in the legislation, in particular the persons to whom reference is made to establish the fitness of a licence applicant. Finally the number of licences issued shows considerable variation. This variation appears to be considerably greater than that accounted for by differences in the distribution of second-hand car dealers. The reason for this could not be explained using the information from this survey.

6.7.1 The Delivery of Licensing Benefits

To re-state the arguments in favour of licensing as a consumer protection policy, three benefits were identified:

1. An overall increase of information either directly by requiring provision by licence holders or indirectly through the imposition of entry standards which will reduce the information burden.
2. An overall increase in the standard of provision.
3. An improvement in the protection of consumers from the provision of goods and services which would do them physical or economic harm by preventing access to 'unfit' individuals.

The legislative framework has led to a situation where there is a small set of common characteristics between the licensing systems and a large set of differences. What is required is to identify the ways in which these consumer 'benefits' are delivered to consumers.

6.7.1(a) Improved information

The provision of information to consumers has been improved directly in some districts by requiring dealers who hold licences to display a pre-sales inspection report on the vehicles they sell. This requirement appears both explicitly as a licence condition and also implicitly where the district requires the dealer to comply with the Motor Industry Code of Practice. The inspection report concentrates upon describing the

condition of vehicle parts which the ordinary consumer does not have the expertise or facilities to assess. The dealer would have this information available to him in respect of every transaction. This condition is designed to reduce the asymmetry of information in transactions between licensed dealers and consumers by improving the efficiency of individual choice.

The indirect improvement in information is as a result of instituting the licensing system. The argument is that if consumers know that licensing is in operation then by buying from a licensed dealer they can reduce their information burden by accepting that the licensed dealer has been 'vetted' by the licensing authority and must comply with licence conditions. Further, that if the conditions are broken or his conduct does the consumer economic harm, the licence can be withdrawn. Therefore the knowledge that licensing is in operation and that the dealer in a licensing area holds a licence is in itself an improvement in the provision of information to consumers.

6.7.1(b) Increased Standards of Provision

The contribution of licensing to increased standards of provision is through controlling the quality of inputs and the quality of outputs. The vetting of licence applicants is an input control. By refusing to issue

licences to individuals who are not deemed fit to trade, low quality dealers are eliminated which increases the overall level of quality. The only direct control over quality of outputs in this market is through the licence condition that requires compliance with the Motor Industry code of practice which does provide minimum standards of provision. It should be noted that the code of practice has only received government approval by containing provisions which are considered able to contribute toward an overall increase in standards for consumers. Therefore, districts which require licence holders to comply with the Motor Industry Code of Practice are seeking an across the board increase in the standard of provision.

6.7.1(c) Improved Protection

This benefit is the most difficult to assess in this market since it must focus upon both the product which is the object of the transaction and on the dealer. The first contribution by licensing to improved protection must be in the vetting of applicants to prevent new applicants or existing licence holders from providing cars which would contribute to the economic or physical harm of consumers. The second contribution is by providing for the withdrawal of a licence to trade in the event of non compliance or behaviour which is deemed to make the licence holder unfit to trade. The contribution to overall protection is contingent upon

the presence of some mechanism for ensuring compliance with licence conditions.

6.8 Conclusion

From the result of the survey of district councils it is clear that the implementation of the policy has allowed considerable variation in policy delivery within each district. This in turn suggests that second-hand car buyers will experience different policy effects. The intervening conditions which mediate between the policy contained in the legislation and the policy delivered to second-hand car buyers consist of two components. First the nature and degree of variation introduced by the district, second the extent to which second-hand car dealers change their behaviour. The combination of these two effects will dictate the extent to which the policy objectives are met.

The next chapter concentrates upon second-hand car buyers to examine how the licensing of second-hand car dealers is affecting purchase experiences. Specifically, it assesses whether there were differences exhibited between buyers in licensing and non-licensing districts.

Chapter 7 Study 2: The Impact of Second-hand Car Dealer Licensing upon Second-hand Car Purchasers.

7.1 Introduction

So far, the argument has concentrated upon the form of the licensing arrangements contained in the Civic Government (Scotland) Act 1982 and the take up of the licensing powers by district councils in Scotland. This chapter focuses upon the outcome of this policy, the 'event' referred to in the encompassing methodology. In particular it discusses the effect of licensing upon the purchase experiences of consumers. By identifying the administrative structure for policy delivery (the object) in the previous chapter and identifying features of actual delivery (as experienced by consumers) in this chapter, it will be possible to identify the nature and the degree of any dysfunction between object and event. This will provide some parameters for an explanation of the mechanisms which cause any detectable difference.

7.2 Developing a Typology of District Councils

In the knowledge that some district councils operate a licensing scheme and others do not, it was felt that a comparative methodology would be appropriate to assess differences in consumer experiences between licensing and non licensing districts. However, because of the degree of variation between systems operated by different districts, it was felt that a greater degree

of discrimination was required. The licensing systems operated by some districts have a greater potential to alter the behaviour of licence holders than others. Therefore, it is necessary to discriminate between different types of licensing system. Such a typology can then be used to discriminate between observed effects in different licensing areas. This is particularly important for assessing the relative impact of licensing upon consumers' purchasing experiences.

There are a number of possible ways in which to categorise districts, indeed one could take any of the variables identified in the previous chapter: cost of licence, number of licences issued, number of referents etc. What is required is a guide to the relative strength of a district's licensing scheme, a measure of its potential ability to change dealer behaviour. However the most direct impact of licensing upon dealers' trading behaviour is through the licence conditions with which dealers must comply. As a consequence, the typology selected is based upon the relative strength of licence conditions.

Dealers who are trading within the licensing district will have passed the required test for fitness to hold the licence and complied with other administrative requirements such as paying the fee, submitting the application form etc. Whatever variations exist in

gaining a licence or in administering the licence system, the licence conditions will have the greatest detectable effect upon dealers' trading behaviour.

The most onerous licence condition, and one which has the widest implications for trading behaviour, is the requirement for licence holders to comply fully with the Motor Industry Code of Practice regardless of whether they are members or not. This is a condition which does not appear in the legislation but is applied by individual districts. The code is designed to ensure minimum standards in vehicle preparation, display, purchase facilities and the handling of complaints post purchase. Districts which include this as a licence condition are categorised as having the highest level of licensing. By contrast districts who rely entirely upon the conditions set out in the Act, principally the requirement to keep records are categorised as having a minimum or lowest level of licensing. Between these two, are districts which have only applied a condition that pre-sales information be displayed upon cars for sale. This is a condition which does not appear in the Act but its effect is restricted and is not as broad as that of the most rigorous condition. These districts are considered to have middle or medium level licensing.

The typology consists of four categories, non-licensing and three licensing categories. These are high level

licensing characterised by the existence of a licence condition requiring compliance with the motor industry code of practice including the pre-sales information component. Medium level licensing is defined as being where only pre-sales information is required in addition to the statutory conditions. Finally low level licensing is where only the statutory conditions apply. These three levels of licensing will be used in comparing the effects of licensing upon consumers with the experiences of consumers in non-licensing districts.

The analysis will concentrate upon comparisons between purchase experiences of consumers in districts based upon both a dichotomous variable ie licensing/non-licensing which groups the three licensing categories together and a disaggregated variable displaying each of the four licensing levels (three plus non-licensing).

7.3 Operationalising Benefits

The argument in favour of licensing as a consumer protection policy hinges upon the three benefits identified in the previous chapter; improved information, improved standards and improved protection. What is required is a set of outcomes under each of these headings which are measurable. These outcomes can then be analysed with respect to licensing activity.

7.3.1 Improved Information

The direct effect of licensing upon improved information in the second-hand car market is characterised by the provision of pre-sales inspection reports on cars for sale in licensing areas. As a consequence, the first measurable outcome of licensing will be the existence of pre-sales inspection reports on cars displayed for sale. This information will appear upon cars purchased from second-hand car dealers in two categories of licensing area: first, where there is a specific requirement to provide pre-sales inspection reports ie in licensing at the medium level. In addition it will appear where the district specifies compliance with the Motor Industry Code of Practice as a licence condition.

Even if pre-sales inspection reports do not appear on the cars for sale, a copy of the report is required to be given to the purchaser. This provides a second measurable component of improved direct information. In addition it would be desirable to assess whether or not the information was in the appropriate format or whether or not the information was of any use in reaching a decision to purchase. However it would not be practical to do so as in the first instance it introduces demands upon consumers' accurate recall and some knowledge of the required format. In the second instance, the assessment of the use of information in coming to a particular decision is at best subjective even without the period of elapsed time between survey and purchase.

In relation to improved direct information provided by licensing the following hypotheses apply:

Hypothesis 1: In licensing districts which require the provision of pre-sales information either directly or indirectly purchasers in that area will see such a report displayed, and/or will receive a copy of such a report at the time of purchase.

In addition to the direct information provided through licensing there is also an indirect information effect. This indirect contribution to consumer information is by providing purchasers with the knowledge that the licensing system exists. In the context of the Scottish system this provides a choice as to whether to purchase from a licensed or unlicensed dealer. The effect of this indirect information is measurable by testing the degree of knowledge exhibited by the respondent about second-hand car dealer licensing. This would include knowing about existence of licensing per se, as well as some understanding of what licensing is or represents in terms of their own purchase choices. Because consumers purchase across district boundaries the second hypothesis can be stated as:

Hypothesis 2: Consumers who purchase from dealers in licensing areas will display significantly more information about second-hand car dealer licensing and have some knowledge of the existence of second-hand car dealer licensing within that district than consumers in non-licensing areas.

7.3.2 Improved Standards

The second proposition put forward is that licensing will lead to an increase in the standard of provision. Standards are usually difficult to assess because of the absence of a basis for comparison in many consumer policy applications. This particular policy application is rare in having a structure which does allow such a comparison. In this methodology there are consumers who have purchased in both licensing and non-licensing areas. The experiences of individuals who purchased from dealers in non-licensing areas can act as an approximation for a control group. These can then be used as a means of assessing differences rather than actual standards. In establishing the criteria with which to measure the differences in the standard of provision it has to be recognised that in this context the standard will have to be related to both the dealer and to the car purchased. With respect to the dealer, included in the questionnaire were questions which asked about the degree of satisfaction with situational criteria such as the premises, the presentation of vehicles, and the helpfulness of staff etc. The purpose of these questions is to establish whether dealers who operate in licensing areas are associated with higher overall satisfaction scores on these situational criteria. Formally, in relation to standards of provision:

Hypothesis 3: Consumers who purchased from dealers in licensing areas will exhibit higher levels of satisfaction than consumers who purchased from dealers in non-licensing districts.

The second component in assessing the standard of provision is the car purchased. There are two ways in which the standard of provision with respect to the car can be measured. The first, synonymous with the situational criteria above is to measure the overall satisfaction score with the car purchased. This was achieved using a seven point rating scale. However in addition, the incidence of complaint about the car can also be used to approximate an objective measure of the standard of provision specifically related to the car. Indeed, any subsequent complaint is likely to have an impact upon the overall satisfaction scores and these need to be considered together.

The use of complaint levels as a means of comparing standards of provision between districts has a number of disadvantages. The first, noted by Morris and Reeson (1977) and Olander(1977) is that voiced complaints may not be representative of the true level of dissatisfaction at a particular point in time, and therefore cannot be taken as representative of standards of provision over the whole market. The second is that the consumer who is dissatisfied with the service offered by the dealer will often not register a complaint but not return to the same dealer again in

future. Third, Morris and Reeson(1978) argue that the voicing of complaint may be due to the assessment by the consumer of the likely benefits of complaining, ie the perceived value of success versus the cost of complaining. However, the work by Pratt and Hoffer(1987), Maurizi(1974) and Leland(1979) among others, have all used complaint levels as an indicator of the standard of provision (or standard of detriment). In the absence of evidence to the contrary it would seem reasonable to assume that complaint voicing is normally distributed across districts. If this is accepted then relative complaint levels can form the basis of a useful comparison between districts.

It has already been established that the second-hand car market is one with high levels of consumer complaint, and the incidence and handling of any subsequent complaint is one factor which is likely to have an impact upon overall purchase experience. This can be stated formally as:

Hypothesis 4: There will be differences in the level of complaints associated with purchases from dealers in licensing areas as opposed to purchases from dealers in non-licensing areas.

Hypothesis 5: The experience of complaining to a dealer in a licensing area will be qualitatively better than when complaining to a dealer not in a licensing area.

7.3.3 Improved Protection

The degree of protection is difficult to assess without detailed information about individual complaint processes. Nevertheless there are general characteristics of a transaction in this market which can be adopted to approximate a measure of protection. These can then be used to assess differences between licensing and non-licensing areas.

When considering consumer protection in a general sense, what is being assessed is protection from economic loss or injury. It could be argued that in the context of the second-hand car market a complaint is in itself a manifestation of economic loss or injury. Often, complaints are resolved by the dealer and the original loss is recompensed. Equally often, complaints are not resolved by the dealer and in this situation the consumer bears the full economic loss or injury. It should be also noted that complaints are very often not justified. Assuming that voiced complaints are normally distributed across districts and that justified complaints are equally normal in distribution across districts, one measure of protection is the number or incidence of complaints which are unresolved. As a consequence the following hypothesis can be stated:

Hypothesis 6: The number of unresolved complaints will be lower where the dealer is operating within a licensing area than when the dealer is operating in a non-licensing area.

When using complaint resolution rate to assess the degree of protection, the existence and role of any guarantee or warranty provided with the car purchased must also be recognised. The warranty or guarantee provided with the second-hand car purchased is an important feature of the purchase for both the consumer and the dealer (see McNeal and Hise(1986) for a specification of exact benefits). A warranty (or guarantee) according to Feldman(1980) is an assurance made by the seller with respect to the quality of the goods he offers. By far the main reason for purchasing from a second-hand car dealer rather than buying privately is the provision of some kind of purchase security, usually in the form of a guarantee. This view is consistent with the work of Shimp(1982) who commented that a product guarantee has the effect of reducing the perception of risk. The exact form of a guarantee for second-hand cars is dependent upon the dealer unlike the situation for new cars where the manufacturer provides a guarantee package often including dealer specific elements. As such, a guarantee provided for a second-hand car is a valid measure of dealer determined protection. Fisk(1973) comments that if a warranty is present it is for one or both of the following reasons (i) the dealer wants to encourage purchase of his product over others or (ii) he wants to minimise the legal liability to his consumers by specifying the precise limit of that liability. In the first instance the encouragement of purchase would be indicated by the

presence of a guarantee as well as its length and in what form it was given. Pursuit of the second reason, limiting liability, would be represented by the absence of a guarantee or a short, non-substantiable guarantee which is usually given verbally.

The guarantee can vary in the context of this study in four ways:

1. The guarantee may or may not be provided.

In some circumstances dealers may refuse to guarantee the car. This is frequently associated with low cost cars or where the dealer knows that the car is likely to fail. The dealer is not legally obliged to provide a guarantee and if this is the case the consumer must rely upon an implied warranty contained in the Sale of Goods Act 1979 that all goods sold to private individuals are fit for their purpose and of merchantable quality.

2. The guarantee given can be given either verbally or in writing.

Some dealers will guarantee the car only verbally and promise to deal with any complaints or repairs within a specified time period. This does not give a great deal of security to the purchaser because the dealer can renege on the promise and there is usually no evidence of the promise which can be used to pursue the dealer legally. As a consequence written guarantees are

preferable since they specify what is and what is not covered and form a legal contractual document.

3. The length of the guarantee may vary.

Based upon the results of this study the length of guarantee applied to second-hand cars varies from 1 week to 24 months or in exceptional cases even longer. The longer the guarantee the greater security afforded to the consumer by the dealer or, alternatively it can be considered as the greater investment by the dealer in the quality of the car.

4. The guarantee may or may not be free.

Some dealers sell a guarantee and pass on the responsibility to a third party. Ideally any guarantee should be free to the customer although it is now common practice to include a guarantee facility nominally paid for in the price of the car. There is no clear indication that charging for the guarantee in this way is a positive or negative reflection upon the degree of protection afforded by the guarantee itself. Equally it is difficult to establish whether the purchaser actually paid for the guarantee through an inflated price or directly. As a consequence this variable is excluded in the analysis. It should be noted that charging for a guarantee either directly or indirectly is a means of

partially externalising responsibility, consistent with the second motivation identified by Fisk above.

The fact that a warranty or guarantee is dealer specific allows some comparison between dealers in licensing and non-licensing areas as to the degree of protection provided by this means. The guarantee can be measured in terms of its form and its length to provide a subjective measure of how 'good' it is. In addition, the content of the guarantee can be assessed with reference to unresolved complaints in terms of whether it is sufficient to cover any eventual complaint about the car. With respect to guarantees, the following hypotheses can be stated:

- Hypothesis 7: The incidence of consumers receiving no guarantee with their car will be lower in licensing areas.
- Hypothesis 8: There will be a higher incidence of written guarantees given to consumers by dealers in licensing areas.
- Hypothesis 9: Guarantees given to consumers of any form will be longer in licensing areas than non-licensing areas.
- Hypothesis 10: The guarantees received by consumers in licensing areas will be associated with higher levels of complaint resolution than guarantees received from dealers in non-licensing areas

7.4 Research Method

So far three benefits accruing to consumers from licensing have been identified. In addition three licensing levels have also been developed and are characterised as high, medium and low level licensing depending upon the nature of licence conditions. To assess whether consumer purchase experiences differ between licensing and non-licensing areas a number of data collection techniques were considered. Because there is no available secondary data which could be utilised in this study primary data collection was considered justifiable.

The primary data collection techniques available were assessed in terms of the information required, the geographical location of the potential participants, ease of administration, likely response rates and cost. On the first and second criteria, a postal survey of recent second-hand car purchasers appeared to be the most attractive method. However, response rates for postal surveys are rarely above 25% and it was felt that the motivation for the return of a questionnaire which asked about second-hand car complaints where such complaints are frequent, might bias the response and subsequently the resulting analysis. Telephone interviews also presented an opportunity but the facilities were not available to cope with the number of telephone calls envisaged. In addition the question content and the length of the questionnaire were

considered inappropriate. Finally, on the basis of the information required and the expected response rate, an interview survey was chosen as the most appropriate data collection technique. However, in order to restrict cost and reduce fragmentation the scope of the survey was limited to the central population belt. This comprises the district councils constituting Fife, Lothian, Central and Strathclyde and Tayside regions. This was justified on the basis that this belt comprises the highest population density and a similar high density of second-hand car transactions.

The next consideration and one relevant to the choice of technique above is the identification of a sample. In this case there is no available list of second-hand car purchasers in Scotland. The source of such information could only come from two sources. First, from the dealers themselves who hold details of their own second-hand car purchasers. Second, from the Driver and Vehicle Licensing Centre (DVLC) who would be notified of change of owner. This could conceivably be used as indicating that a sale had taken place. The first source would have involved the purchase of customer lists from the dealers which is prohibitively expensive and could be unrepresentative. The second source is unreliable since it is only dealer/consumer transactions which are required for this study. Very few dealers register second-hand cars for sale as owned by them and so the previous owner remains on the ownership document until

the sale is complete. As a consequence, DVLC are not notified until the sale has been agreed and accordingly it is impossible to distinguish consumer/consumer transactions from the required dealer/consumer transactions.

Both sources were rejected in favour of a preliminary street intercept to identify consumers who had purchased a second-hand car from a dealer within the previous 12 months and who would agree to a future personal interview in their home on the subject. Because consumers do not necessarily purchase their second-hand car within the district in which they live, careful selection of the intercept points had to be made. Simply selecting a matched set of intercept points in licensing and non-licensing districts would not account for the travelling of consumers outside resident home towns. In addition the number of licensing areas exceeds that of non-licensing areas within the central belt. The greatest coverage was required for the least cost in terms of intercept hit rate, the unit of analysis is the individual consumer and the desired attribute is the purchase of a second-hand car from a dealer. The intercept points were chosen using the following criteria: population density, the number of cars per household and the licensing status of the district. Figure 7.1 shows the selected towns and cities:

Figure 7.1 Selected Intercept Points to Recruit Second-hand Car Purchasers

Region	Location	House-holds 000s	Cars per Household
Strathclyde	* Glasgow City	273	0.35
	* E Kilbride	23	0.43
	* Greenock	20	0.43
	Airdrie	14	0.57
	Cumnock	3	0.61
	Ayr	17	0.70
	Lanark	3	0.74
	* Kirkintilloch	10	0.81
	* Giffnock	11	1.00
	* Bearsden	8	1.19
Fife	* Buckhaven.	7	0.47
	* Kirkcaldy	17	0.61
	* Glenrothes	11	0.74
Central	* Falkirk	13	0.57
	* Alloa	9	0.62
	* Stirling	13	0.64
Tayside	* Dundee City	65	0.51
	Arbroath	8	0.57
	Perth	15	0.61
Lothian	* Edinburgh City	159	0.56
	Tranent	2	0.61
	Livingston	12	0.71
	* Penicuik	5	0.85

* Locations in Licensing Districts

Interviewers were given instructions to intercept over a period of three days approximately equivalent numbers of men and women over 18 years old. The intercept schedule asked for personal details and specifically whether a second-hand car had been purchased within the last twelve months by themselves or anyone in their household. If the criteria of a purchase of a second-hand car from a dealer was satisfied, the respondent was

asked to sign an agreement to a personal call for the purpose of interview at a later date.

7.5 Limitations of Data

While the sample produced by this method cannot be described as 'random' in terms of probability, the selection of sample points was designed so as to approximate on the best possible basis a random sample. Further, the selection of individual participants by professional recruiters, while outside the control of the author, was carried out over three days with no pressure upon recruiters to fill specific quotas. This too was in an effort to approximate randomness. Because the sample was drawn using a technique which could be termed 'non probability' this should not invalidate the data or the results. Indeed Green and Tull (1978) comment that one should not conclude that such samples are inferior to probability sampling or that the samples are less representative of the population under study. A number of techniques were investigated which would indicate how good the resulting sample was in terms of representing the population.

The easiest method of obtaining a measure of how representative the sample was of the population of second-hand car buyers would be to compare a number of characteristics of the sample selected with identified characteristics of the population. In this case this

would determine whether the demographic characteristics of second-hand car purchasers in the sample were similar to those of the population. The census for 1981 (Scotland) does not include information about the purchase of second-hand cars, nor do rate payer (community charge) registers. DVLC were contacted to ask whether a list of Scottish car owners could be provided but the request was rejected. In the absence of any other source of secondary information that is 'better' in the sense of randomness, the technique of random comparison is therefore unavailable.

Another possibility is to incorporate a design factor into the analysis. This is defined by Kish(1965) as 'the ratio of the actual variance of a complex sample to the variance of a simple random sample of the same size'. Again there was no simple random sample of the same size detected and so a design effect could not be determined.

Another limitation of the data is the effect of clustering on the sample caused by the use of intercept points. It could be argued that the purchasers selected using this method would only represent the specific locality. However, the results of the survey suggested that consumers travel a mean distance of 10.46 miles to purchase a second-hand car. It was felt that this geographic dispersion of buying patterns while not providing overlapping clusters does significantly reduce this clustering effect. Accepting the limitations of the

data, in the following analysis it is assumed that the sample approximates a random sample, therefore statistical inference will be made on an approximating basis.

The final limitation associated with this study is the effect of time. As expressed in previous chapters, policy analysis of any kind has to take place within a framework determined by what policies have already been applied to the object of the study. The fact that the code of practice exists, even though it is not observed fully presents a problem in detecting the effects of code compliance through licensing. The existence of the code of practice with which trade association members must comply means that there is already structural differentiation in the offering. Consumers may purchase from second-hand car dealers or from dealers in new and second-hand cars. Both categories of dealer are eligible for membership of the trade association and would be required to observe the code of practice. In relation to the three licensing benefits it would be expected that the dealers who are trade association members would already provide a higher level of service. Unfortunately whether or not the dealer is a member of the trade association is difficult for the consumer to assess. Using the SMTA membership list, the location of member dealers across the districts under investigation was closely associated with population density. A higher number of member dealers were located in high population

density areas. It is assumed that the distribution of members and non members of the code between licensing and non-licensing districts is dependent upon population and that the sampling procedure using intercepts chosen on the basis of population density controlled for this. While the existence of members of the code may reduce the extent of any detectable impact from licensing, the fact that non compliance has already been identified as a significant problem should minimise this effect. However it must be recognised as a limitation at this stage even though the results in later chapters clarify the position.

7.6 Survey Method

Between 21 February 1986 and 27 February 1986 a total of 1230 contacts were made across the selected intercept points. These were screened for error, wrong contact and lack of agreement. Of this number, 1012 individual second-hand car purchasers were contacted during the last two weeks in April 1986. There were 627 successful first time interviews and 385 non-contacts which includes 63 refusals. The non-contacts were subsequently sent a postal reminder which resulted in a further 127 responses of which 12 were unusable. These were added to the first time responses making a total of 785 or 78.5% of the selected sample.

7.6.1 Questionnaire Design

The questionnaire is divided into five sections. The first is designed to collect background information about the individual and the context in which the purchase took place. The second part of the questionnaire deals with the components of purchase including details of the guarantee offered and details of information available about the car purchased. The third part of the questionnaire was covered by a filter question to establish whether or not the consumer had returned to the dealer with a complaint about the car purchased. This section collected details about the nature of the complaint, the process of complaining and how the complaint was handled by the dealer. The fourth part of the questionnaire dealt exclusively with consumer knowledge of licensing and is used in relation to indirect information provision. Finally, the last section contained questions of detail about respondents and their purchase. This included the necessary demographic variables and details of the car, the form of payment and the address of the dealer. The latter was used to categorise the dealer into different districts. In some cases local street maps and district boundary maps had to be used where the dealers premises were close to district boundaries. A copy of the interview schedule appears as Appendix IV.

The completed questionnaires were checked and double coded on to coding sheets to detect error. The checked data was then entered into a data file for analysis. This was carried out on a VAX machine running VMS using SPSSX release 3 and HP9000 running UNIX.

7.7 Sample Description

Before considering the results of the analysis some elementary sample description is required. This information summarises the key demographic and geographic information about the sample.

Figure 7.2 Shows the respondents' purchase location and distinguishes between purchases in (a) licensed and (b) non-licensing areas. The majority of the sample purchased their second-hand car from a dealer operating in a licensing district. This is consistent with the number of licensing districts in the central population belt. As anticipated, purchases took place outside this area mainly in adjoining districts to where the consumers live.

Figure 7.2(a) Frequency of Purchase Location of Sample Respondents in Licensing Districts

District	Frequency	% total sample
Aberdeen	1	.1
Bearsden	7	.8
Clackmannan	16	2.0
Clydebank	1	.1
Cunninghame	5	.6
Dundee	29	3.7
Dunfermline	10	1.3
East Kilbride	8	1.0
Eastwood	5	.6
Edinburgh	83	10.6
Ettrick	1	.1
Falkirk	20	2.5
Glasgow	185	23.6
Inverclyde	39	5.0
Kilmarnock	22	2.8
Kirkcaldy	31	3.9
Midlothian	13	1.7
Monklands	24	3.1
N E Fife	9	1.0
Nithsdale	1	.1
Renfrew	15	1.9
Stirling	31	4.0
	(555)	(70.7)

Figure 7.2(b) Frequency of Purchase Location of Sample Respondents in Non-licensing Districts

District	Frequency	% total sample
Angus	15	1.9
Annandale	4	.5
Berwick	1	.1
Clydesdale	2	.3
Cumbernauld	8	1.0
Cumnock	4	0.5
Dumbarton	28	3.6
East Lothian	17	2.2
Hamilton	8	1.0
Kyle and Carrick	31	3.9
Motherwell	23	2.9
Perth	36	4.6
Stewarty	1	.1
Strathkelvin	9	1.1
Sutherland	1	.1
West Lothian	41	5.2
Wigtown	1	.1
	(230)	(29.3)

While only 21 intercept points were used the distribution of respondents covers 39 districts, some a considerable distance from the central population belt. The demographic profile of the second-hand car purchaser based upon this sample is described in Figure 7.3

Figure 7.3 Demographic Profile of Second-hand Car Purchasers in Sample

		Licensing Districts%	Non-licensing Districts%	%Total per variable
Age	under 25	12	3	15
	25 to 40	36	16	52
	41 to 60	20	9	29
	over 60	2	1	3
	TOTAL	70	30	100
Sex	Male	55	24	79
	Female	15	6	21
	TOTAL	70	30	100
Price	Upto £1500	19	8	27
	1501 to 3500	34	15	49
	3501 to 6000	13	6	19
	over £6000	4	1	5
	TOTAL	70	30	100
Dealer	Franchised	48	20	68
	Non Franchised	22	10	32
	TOTAL	70	30	100

As anticipated the majority of purchasers are between 25 and 40 years of age, predominantly male, paying between £1500 and £3500 for their second-hand car. The

proportion of purchases from franchised as opposed to non-franchised dealers does not show any disproportionate distribution across the sampled districts. The distance between the purchaser's home and the dealer puts the majority of consumers within 10 miles of the dealer's premises although over 8% travelled in excess of 20 miles.

7.8 Analysis of Results

The analysis of results is presented under the three headings outlined above. These examine the extent of information provision, the extent of any increase in standards and the extent of any increase in protection. Because the data collected is categorical, the statistical analysis used to investigate relationships is Chi-square. It should be noted that Chi-square cannot determine causal relationships only relationships which cannot be explained on the basis of the expected probability of cells in a table. The significance of the chi-square statistic is shown as a '1-'figure, ie >95% significant is indicated by values <0.05.

In some of the tables below a correction factor is applied to alter the chi-square calculation. The Yates correction, (Yates 1934), reduces the absolute value of the difference between expected and observed frequencies by 0.5 before squaring. The purpose of the correction is

to adjust the calculation to cope with a binomial distribution and improves the accuracy of the Chi-square statistic. In all 2×2 contingency tables the Yates correction will be applied unless otherwise stated.

Other non parametric statistics are appropriate to determine whether a significant Chi-square is indicative of a specific relationship and the direction of such a relationship. Cramers V gives an adjusted Chi-square which accounts for the number of cells and has a value in the range 0.0 to 1.0 and has the same Chi-square distribution, this is an alternative formulation of the Chi-square statistic. Cramer's V is similar to Phi except it avoids the restriction applied to Phi, that it can only be used on $2 \times n$ contingency tables, as such where there is a $2 \times n$ table, Phi-square will be used as the appropriate statistic, otherwise Cramer's V will be used. In addition, Lambda will be used where appropriate to give an approximation of the strength of any relationship and by calculation with respect to different dependent and independent variables, an indication of direction.

Because the data is categorical the analysis is limited to that based upon contingency tables. However, the analysis is based upon comparisons of groups of consumers each exhibiting different purchase characteristics and each purchase taking place within a district which also has a number of licensing features.

In order to investigate the likelihood of multidimensional interactions a loglinear regression model was also used before detailed analysis of the contingency tables. The full details of this technique are given in Bishop, Fienberg and Holland(1975), as well as Gilbert(1981) and Fienberg(1977). The purpose of using the loglinear approach is to identify interactions at a partial level which may be masked in a normal contingency table. Although individual contingency tables can be broken down into a number of partial or conditional tables, in an analysis of this type the number of tables is enormous. Any detected association between two variables in any particular partial contingency table may be due to the interaction of a third or possibly a fourth term involving interactions between pairs of variables, combinations of pairs, as well as all of the variables. The use of a loglinear model allows the identification of significant combinations by using an iterative proportional scaling technique. Using four variables, licensing status, the incidence of complaint, satisfaction level and knowledge of licensing a four dimensional model was developed on SPSSX. Using the G square statistic which has a similar distribution to Chi-square, no significant interactions were detected among these variables. As a result it was safe to make assumptions based upon the results of the two dimensional contingency tables with respect to each of these four variables without the danger that important underlying interactions were undetected.

7.9 Information Provision

7.9.1 Direct Information

It was hypothesized that there would be a detectable increase in direct information associated with consumers who had purchased their second-hand car in licensing areas which require licensees to display pre-sales information. Specifically they will have seen a pre-sales inspection (PSI) report displayed on the car when on display and/or received a copy of the pre-sales inspection report at the time of completing the transaction.

Using contingency tables the display of information and the receipt of the information were first analysed with respect to the licensing status of the district. The licensing status variable is categorical and defined as having two categories; non-licensing and licensing with PSI required (ie high and medium level licensing). The areas where licensing was in operation but the condition to display pre-sales inspection reports was not present were excluded. The result is shown below in Table 7.1

Although the Chi-square is significant, both Cramer's V and Lambda suggest that the association between the licensing status of the district council (requiring pre-sales inspection reports) and pre-sales information actually being seen on the car is weak.

Table 7.1 Contingency Table for Variable 'Licensing Status of District Council (PSI Required/Non-licensing)' by 'Pre-sales Information Displayed on Cars' (n=574)

PSI Displayed	Licensing with PSI Required		Non-licensing
	YES	4.9%	12.4%
	NO	95.1%	87.6%
	TOTAL	100.0% 348	100.0% 226

Chi-square = 10.67 with 1 df (sig .00108)
 Cramers V = 0.136 (sig .00108)
 Lambda = .048 (with District dependant)

The most notable result from this contingency table is the higher incidence of pre-sales inspection reports in non-licensing areas than in licensing areas where it is a licensing requirement. The small cell residual can possibly be explained by a higher number of code of practice members complying with the code in non-licensing areas.

This result suggests that either the dealers are not displaying the required information or that respondents were unable to recognise the report. To test the likelihood of the latter case, the number of consumers seeing a PSI report is combined with those who had seen any kind of descriptive information about the condition

of the car displayed. A total of 348 people (44%) of the sample purchased their car in areas where PSI was a licence condition. In total 29% of consumers who had purchased from dealers who are required to display this information actually saw a pre-sales information sheet or any other information describing the condition of the car. It would seem that the former scenario is the more likely that dealers in licensing areas are not displaying the required information.

The pre-sales inspection report, while not displayed could be given to the consumer at any time during the transaction. This presents a second opportunity to assess whether licensed dealers are providing direct information. The results are shown in Table 7.2

Table 7.2 Contingency Table for Variable 'Licensing Status of District Council(PSI Reuired/Non-licensing)' by 'Pre-sales Information Received' (n=270)

		Licensing with PSI Required	Non-licensing
PSI Given to Consumer	YES	3.8%	13.2%
	NO	96.2%	86.8%
	TOTAL	100.0% 156	100.0% 114

Chi-square = 8.04 with 1 df (sig .0021)
Cramers V = 0.029 (sig .0021)
Lambda = .01 (with status dependent)

Respondents who had purchased from licensed dealers were asked whether they were given any written information about the condition of the car they had purchased. 34% of the sample (270) indicated that written information was supplied of which 17% (46) identified it as a form of pre-sales inspection report. Of this number only 3.8% (6) respondents had purchased from a dealer in a licensing area where a copy of a pre-sales inspection report was required to be given.

From both these results it is clear that the pre-sales inspection reports are not being displayed upon cars sold in licensing areas where it is required to be displayed. Of the 479 consumers who purchased from dealers in licensing areas only 2% of purchasers saw the report displayed and received a copy at the time of purchase. In terms of the hypotheses, licensing appears to have had no impact on direct information provision.

7.9.2 Indirect Information

The second form of information provision through licensing is the reduction in the information burden upon consumers by the introduction of a minimum standard (considered below). This is an indirect form of information provision to the market where the fact that licensing exists may be seen as a summary of positive dealer attributes by consumers. In investigating this

view, the degree of knowledge about the system is assessed first on the basis that not all purchasers can be assumed to know of the system. Second, attitudes to licensed dealers are measured to assess whether the attitude is positive or negative. Finally whether the consumer knew whether or not that the dealer was operating within a licensing area is identified as a means of assessing whether this was relevant to the choice of dealer.

From the total sample, 38% of second-hand car purchasers indicated that they knew about the system of licensing second-hand car dealers operating in Scotland. When asked about the policy of the district in which they purchased their own second-hand car 65% of this group correctly identified the district council as either licensing or non-licensing. All respondents were asked to rate a licensed dealer against a non-licensed dealer. The results of this question are shown below in Table 7.3.

Table 7.3 Consumer Evaluation of Licensed Second-hand Car Dealer

A much better dealer	13%
A better dealer	40%
Same as others	39%
A Worse dealer	0.3%
A much worse dealer	0.2%
Don't Know	8%

Predominantly, the attitude toward licensing is positive with respondents viewing licensed dealers as better than other dealers. It could be argued that purchasers who did not know of licensing but who answered this question would give significantly different answers to those who did know of the system. However both groups were similar in the distribution of answers, although respondents who knew of licensing were more likely to rank licensed dealers as better rather than much better than other dealers.

As a more general test respondents who knew of licensing were asked whether they would prefer to purchase from a licensed as opposed to an unlicensed second-hand car dealer. 77% of this group indicated that they would prefer a licensed dealer with 20% indicating no preference and only 0.4% preferring non licensed.

The fact that relatively few purchasers knew about the licensing system casts doubt upon the contribution of licensing in terms of the indirect information benefit. Nevertheless, if those consumers who knew of licensing consciously chose to purchase from a licensed dealer then some marginal benefit may be apparent since attitudes towards licensed dealers was positive. Table 7.4 shows the result of the crosstabulation between knowledge of licensing and whether the purchase occurred in a licensing area.

Table 7.4 Contingency Table for Variable 'Whether Consumer Purchased From a Dealer in a Licensing Area' by 'Respondents Knowledge of a Licensing System' (n=785)

		Purchase from Dealer in Licensing Area	
		YES	NO
Knew of Licensing System	YES	36.3%	41.5%
	NO	63.7%	58.5%
TOTAL		100.0% 554	100.0% 231

Chi-square = 1.73 with 1df (sig = 0.18)
 Cramers V = .047 (sig = 0.18)
 Lambda = 0.0

The attitude of the respondents from the previous results were predominantly positive toward the licensed dealer. In addition the majority of respondents would prefer to purchase from a licensed dealer. If licensing was having an impact upon purchase location it would be expected that knowledge of licensing would be a good predictor for purchase within a licensing area. However, the result of the crosstabulation does not suggest any relationship between knowledge of licensing and purchase within a licensing area. There is some dysfunction between attitude and behaviour in this context, some intervening variable which prevents consumers with positive attitude and positive preference from purchasing from a licensed dealer. Possible explanations are that precise information about licensing is limited

and so the perceived benefits of purchasing from a dealer in a licensing area are not sufficiently salient to alter behaviour. Or, it may be the case that licensed dealers are difficult to identify. In the absence of detailed information upon choice criteria in relation to dealer and how this is related to choice of specific car this cannot be investigated further.

It has been established that some districts are licensing and some are not and also that some consumers know of the licensing system and others do not. Respondents have positive attitudes to licensing and toward licensed dealers which suggests that purchase behaviour would be affected by this information. Specifically, respondents would gravitate toward licensing areas. However, there is no evidence to support this contention. Even among respondents who were aware of the system their purchase patterns do not appear to be affected by the licensing policy of the district in which the dealer operates.

Both of these results suggest that improved market information ascribed to licensing policy is not in evidence in the Scottish system of licensing second-hand car dealers. However that is not to say that other benefits, specifically improved standards of provision or improved protection are not present.

7.10 Standard of Provision

The following factors will be considered in relation to the standard of provision with respect to licensing:

In relation to the Dealer:

- (1) Satisfaction with dealer service

In relation to the Car:

- (2) Overall satisfaction with car
- (3) Incidence of complaint

7.10.1 Satisfaction with Dealer Service

The method used to assess the quality of service in relation to the dealer was a measurement of overall satisfaction. This was operationalised using seven dealer specific criteria. Respondents were asked to rank seven criteria: attention by staff, range of vehicles on offer, vehicle presentation, garage facilities, knowledge of staff, overall service and after sales service were used. Each of the criteria was rated using a Likert type scale from 1 to 7 (where 1 was very happy and 7 very unhappy). Individual cross-tabulations between each individual criterion and the licensing status of the district produced no significant associations. It was decided to combine individuals' scores across all criteria to generate a total satisfaction score. The score ranges from 7 (which is 7

items rated 1 for very satisfied) to 49 (which is 7 items rated 7 for very unhappy) This new variable was recoded for analysis using contingency tables into four categories to give a nominal very high satisfaction (7-12), high satisfaction(13-24) low satisfaction(25-36) and very low satisfaction(37-49). The results of crosstabulation using the variable total satisfaction score divided in to four categories tabulated against the variable licensing status (dichotomous and four levels) are shown in Table 7.5 and Table 7.6.

Table 7.5 Contingency Table for Variable 'Licensing Status of District Council (Licensing/Non-licensing)' by 'Total Satisfaction Score' (n=785)

		Licensing Status	
		Licensing	Non-licensing
Satisfaction Score	Very High	40.4%	42.9%
	High	41.3%	39.1%
	Low	14.7%	15.3%
	Very Low	3.6%	2.7%
	TOTAL	100.0 554	100.0 231

Chi-square = 1.576 with 3df sig = 0.664
 Cramers V = 0.064 (sig 0.664)
 Lambda = 0.012 (with Status dependant)

Table 7.6 Contingency Table for Variable 'Licensing Status of District Council (High, Medium, Low and Non-licensing)' by 'Total Satisfaction Score' (n=785)

		Licensing Status			
		Non Lic	Lo Lic	Med Lic	Hi Lic
Satis- faction Score	Very High	42.9%	46.3%	37.1%	35.8%
	High	39.1%	47.8%	44.6%	46.8%
	Low	15.3%	4.8%	15.0%	16.3%
	Very Low	2.7%	2.0%	3.1%	1.0%
	TOTAL	100.0 230	100.0 207	100.0 159	100.0 190

Chi-square = 10.759 with 9df sig = 0.292
 Cramers V = 0.097 (sig 0.292)
 Lambda = 0.021 (with Status dependant)

The distribution of total satisfaction scores using both variable formats for licensing status show no significant differences between purchasers in licensing and non-licensing areas or between different levels of licensing. Over 80% of purchasers were either happy or very happy with the seven dealer specific criteria selected which suggests overall a high degree of satisfaction in this sample.

The satisfaction variable was disaggregated and based upon the assumption that satisfaction could be considered an ordered rather than nominal variable. The mean scores of purchasers in licensing areas were compared with the mean satisfaction scores of purchasers

in non-licensing areas. The difference was tested using a F-test and following Robson(1979) and Blalock(1978) a one tailed test was used since it is hypothesized that the licensed satisfaction score will be higher than the non licensed score. The results of the F-test appear in Figure 7.4 below

Figure 7.4 F-test for Differences in Mean Satisfaction Scores

	Mean	St.D
Satisfaction Score (licensed)	1.75	.775
Satisfaction Score (non-licensed)	1.76	.741

F value= 1.09

One tail probability= 0.283 with 783 df (non significant)

The critical value of F at the 0.05 level is 1.31 and the F value does not exceed this. It can be concluded that the difference in means is not significant or more formally that the two selected groups in all probability are drawn from the same population ie not two different populations; licensed and non licensed.

On the dealer specific criteria selected, no significant differences have been detected between consumers who purchased from a dealer in a licensed area when compared to consumers who purchased in a non-licensing area. The proposition that the quality of provision with respect to the dealer is higher in licensing areas, based upon

the selected criteria and the validity of the analyses, has to be questioned given the lack of evidence. However it may be that the dealer is less important in terms of standard of provision than features of the cars which they sell. This is investigated using two car specific criteria associated with complaint.

7.10.2 Satisfaction with Car

The second measure of the standard of provision is the degree of satisfaction indicated by purchasers with the car purchased. Preliminary analysis indicated that the level of satisfaction was significantly associated with whether or not any complaint was made to the dealer and whether or not such a complaint was subsequently resolved. In addition, satisfaction with the car was significantly associated with the type of dealer from whom the car was purchased which in turn was dependent upon the price paid for the car. The complexity of the cross-tabulations in selecting out different groups of consumers and investigating the series of co-variates to assess the impact of licensing suggested that F-tests would be more appropriate in assessing significant differences in scores on the basis of the licensing status of the district. However, Blalock(1978) warns against using a series of F-tests on groups, suggesting a limitation when used in conjunction with a single paired comparison. As a consequence the analysis is limited to a single comparison; the mean satisfaction

score of consumers who purchased in licensing areas compared with those who purchased in non-licensing areas. The results of this comparison are shown in Figure 7.5

Figure 7.5 F-Test for Difference in Means,
Satisfaction Grouped by Licensed and Non
Licensed Purchase

	Mean	St.D
Satisfaction Score (licensed)	2.17	1.53
Satisfaction Score (non-licensed)	2.22	1.42

F value= 1.17
One tail probability= 0.075 with 783 df (non significant)

The F value is not significant at the 95% level and the hypothesis that these two mean scores are derived from different populations has to be rejected. There is no significant difference between the satisfaction scores between purchasers of cars in licensing as opposed to non-licensing areas.

7.10.3 The Incidence of Complaint

Respondents were asked to indicate whether or not they had complained to the dealer about the second-hand car they had purchased. A comparative analysis was conducted of complaint frequency in each of the different district types using contingency tables. It was hypothesized that a higher incidence of complaints will be associated with a lower quality of provision. In terms of the study,

licensed dealers will be associated with lower complaint levels. However it must be recognised that the relationship is equivocal. If licensed dealers provide more information about the cars they offer, or contribute to a situation where consumers are more knowledgeable about their legal rights, it is possible that licensed dealers would be associated with more rather than fewer complaints. Therefore, as a preliminary stage the incidence of complaint was cross-tabulated with the existence and display of pre-sales information to identify consumers who were associated with more than normal levels of information. Second, the incidence of complaint was cross-tabulated with the reason for buying from a dealer rather than buying privately. This was done to identify consumers who knew that their rights to redress were substantially more when buying from a dealer rather than buying privately. In both cases there was no association present and it was considered valid to reject the argument about the effect of provided information and the level of knowledge about statutory rights in favour of the original assertion.

In keeping with the structure used in previous parts of this chapter the incidence of complaint was analysed with respect to two forms of the licensing status variable, characterised by the dichotomous variable licensing/non-licensing, and the four ordered categories

of licensing. The results of this analysis appear as Tables 7.7 and 7.8 below.

Table 7.7 Contingency Table for Variable 'Licensing Status of District Council (Licensing/Non-licensing)' by 'Returned to Dealer with Complaint' (n=785)

		Licensing Status	
		Licensing	Non-licensing
Complained to Dealer	YES	50.1%	47.4%
	NO	49.9%	52.6%
(TOTAL)		100.0 555	100.0 230

Chi-square = 0.372 with 1df sig = 0.5419
 Cramers V = 0.0
 Lambda = 0.0001

Table 7.8 Contingency Table for Variable 'Licensing Status of District Council (High, Medium, Low, Non-licensing)' by 'Complaint to Dealer' (n=785)

		Licensing Status			
		Non Lic	Lo Lic	Med Lic	Hi Lic
Complained to Dealer	YES	47.4%	52%	55.1%	44.7%
	NO	52.6%	48%	44.9%	55.3%
(TOTAL)		100.0 230	100.0 200	100.0 145	100.0 210

Chi-square = 4.649 with 3df sig = 0.199
 Cramers V = 0.0769
 Lambda = 0.059 (with Compliant dependent)

Although both tables do not show a significant difference between complaint frequency and licensing status, what is surprising is the high number of total complaints to dealers in the sample. It appears that 50% of second-hand car purchasers in the sample have returned to the dealer with a complaint. However the tables are almost symmetric indicating that the incidence of complaint is not different from that which would have been expected. On the basis of this result the hypothesis that dealers in licensing areas are associated with a lower incidence of complaint has to be rejected. Accepting the limitations of this variable as a measure of the quality of provision, licensing appears to have had no impact upon the standard of provision in this market.

7.11 Improved Protection

To investigate the third proposition that licensing will contribute toward improved protection, two criteria were assessed; (1) the nature of any guarantee or warranty provided with the car, and (2) the incidence of unresolved complaints as a measure of economic loss.

7.11.1 Nature of Guarantee or Warranty

Each of the three included variables: (a) existence, (b) form, and (c) length will be analysed with respect to the differing licence status of the district in which

the dealer operates to assess any differences in provision.

7.11.1(a) Existence of Guarantee

Respondents were asked to indicate whether they had received any form of guarantee with the car they had purchased. The incidence of guarantee provision was cross-tabulated with the type of district using both forms of the status variable. First the districts were grouped and divided into licensing and non-licensing districts. Second the district variable was disaggregated to show non-licensing and the three levels of licensing. Table 7.9 shows the results of the first cross-tabulated set, ie using licensing status as a dichotomous variable.

Table 7.9 Contingency Table for Variable 'Licensing Status of District Council (Licensing/Non-licensing)' by 'Guarantee Given on Car' (n=784)

		Licensing Status of District	
		Licensing	Non-licensing
Any Guarantee Given on Car	YES	83.9%	83.5%
	NO	16.1%	16.5%
TOTAL		100.0 554	100.0% 230

Chi-square = .00172 with 1df sig = 0.96
 Cramers V = .005 (sig 0.96)
 Lambda = 0.0

Whether or not a guarantee was given with the car purchased, in either written or verbal form, is not associated with the licensing status of the district in which the dealer operates. This result would suggest that the dealers in licensing areas are not providing more guarantees or warranties than dealers in non-licensing areas. The analysis was repeated using the second form of the licensing status variable. The results of this analysis can be seen in Table 7.10. This allows for much greater discrimination in investigating possible differences between licensing areas. Nevertheless there are no significant differences detected when using the redefined licensing status variable.

Table 7.10 Contingency Table for Variable 'Licensing Status of District Council (High, Medium, Low, and Non-licensing)' by 'Guarantee Given on Car' (n=783)

		Licensing status			
		Non Lic	Lo Lic	Med Lic	Hi Lic
Guarantee Given	YES	70.8%	74.8%	67.3%	64.2%
	NO	29.2%	25.2%	32.7%	35.8%
		100.0 233	100.0 198	100.0 143	100.0 210

Chi-square = 5.912 with 3df sig = 0.1157
 Cramers V = .085 (sig 0.1157)
 Lambda = 0.014 (with Status dependant)

Both tables suggest no significant difference between licensing status and the provision of guarantees for second-hand cars. As such, licensing cannot be said to be increasing the quality of provision in this respect. It is notable that 16% of second-hand car purchasers did not get any form of guarantee with their car. If anything the tendency was for areas with high level licensing to give fewer guarantees. Further analysis of the data, with respect to the price of the car and the type of dealer, did not provide any additional information except that guarantee provision is not dealer type, price or location specific.

7.11.1(b) Form of Guarantee

The second variable with respect to guarantee or warranty is the form of the guarantee, specifically whether it is a written guarantee or a verbal guarantee. In terms of quality, the written guarantee is superior since it cannot be altered at some later date. It defines the nature of the guarantee offered and forms a contractual obligation upon the dealer to honour the guarantee since it is part of the contract of sale. It was hypothesized that dealers in licensing areas will offer significantly more written guarantees. The form of the guarantee was cross-tabulated with the licensing status of the district. This was carried out as above for both the dichotomous licensing status variable

licensing/ non-licensing (Table 7.11) as well as for the variable which consisted of four categories (Table 7.12). It should be noted that in those licensing areas which require compliance with the code of practice, the code states that written guarantees must be given.

Table 7.11 Contingency Table for Variable 'Licensing Status of District Council (Licensing/Non-licensing)' by 'Form of Guarantee Given' (n=656)

		Licensing Status	
		Licensing	Non-licensing
Form of Guarantee	Written	82.3%	85.2
	Verbal	17.7%	14.8%
	TOTAL	100.0 452	100.0 194
Chi-square = .555 with 1df sig = 0.456			
Cramers V = .0008 (sig 0.456)			
Lambda = 0.0			

The results suggest that there is no association between the two variables and as such the proposition that dealers in licensing areas offer more written as opposed to verbal guarantees has to be rejected. The analysis was repeated using the second licensing status. The result shows that the four category variable has no effect on the result above. Non-licensing and low level licensing areas show a tendency to give more written guarantees than other licensing areas.

Table 7.12 Contingency Table for Variable 'Licensing Status of District Council (High, Medium, Low and Non-licensing)' by 'Form of Guarantee Given' (n=663)

		Licensing status			
		Non Lic	Lo Lic	Med Lic	Hi Lic
Form of Guarantee Given	Written	85%	85.6%	71.8%	82.2%
	Verbal	14.9%	14.4%	27.2%	17.8%
	(TOTAL)	100.0 194	100.0 174	100.0 126	100.0 169

Chi-square = 5.912 with 3df sig = 0.1157
 Cramers V = .085 (sig 0.1157)
 Lambda = 0.014 (with Status dependant)

Both tables suggest that there is no significant association between the licensing status of the district and the type of guarantees given to car purchasers. This is consistent with the results in relation to whether the guarantee was given at all. Standard of provision as measured by the form of guarantee is not affected by whether the dealer operates in a licensing area.

7.11.1(c) Period of Guarantee

The third variable with respect to the guarantee given with the car is the length of cover that is offered. In a general sense a longer guarantee period represents a higher level of provision than a shorter guarantee period. It is on this basis that the following analysis should be considered. Without detailed information about

the content of the guarantee it is not possible to come to any conclusions about the quality of cover offered. Nevertheless it was hypothesized in accordance with the thesis of an improved standard of provision that dealers operating in licensing areas would provide longer guarantees of whatever form.

Analysis had established a significant association between the form of the guarantee and the length of the guarantee ie written guarantees were significantly more likely to be longer than verbal guarantees. As a consequence, two groups were selected on the basis of the type of guarantee received to control for this type/length effect. The first sub-group was selected consisting of those purchasers who had received a written guarantee. The length of guarantee received by the members of the group was cross-tabulated with the licensing status of the district defined in terms of licensing/ non-licensing and in terms of the four levels of licensing activity.

This analysis was repeated using a variable consisting of those purchasers who had received a verbal guarantee. The results of the analyses are shown below in Table 7.13 and Table 7.14.

Table 7.13 Contingency Table For Variable 'Licensing Status of District Council(Licensing/Non-licensing)' by 'Period of Guarantee Given' Controlling for Variable 'Received Written Guarantee' (n=549).

		Licensing Status	
		Licensing	Non-licensing
Period of Guarantee	< 1 Month	37.5%	3.6%
	1 month to 6 months	51.5%	32.7%
	>6 months		
	<1 Year	7.3%	58.8%
	> 1 year	3.6%	4.8%
TOTAL		100.0 384	100.0 165

Chi-square = 2.93 with 3df sig = 0.402
 Cramers v = .072 (sig 0.402)
 Lambda = 0.0

The result of the cross-tabulation does not show a significant difference between licensing status and the period of the guarantee given by the dealer. The majority of consumers receive a written guarantee lasting up to 6 months. There is no evidence that dealers in licensing areas as a group give longer written guarantees. The analysis is repeated below using the licensing status variable with four values.

Table 7.14 Contingency Table for Variable 'Licensing Status of District Council (High, Medium, Low, and Non-licensing' by 'Period of Guarantee' Controlling for Variable 'Written Guarantee Received' (n=549).

	Licensing Status			
	Non Lic	Lo Lic	Med Lic	Hi Lic
< 1 month	3.6%	2.0%	3.0%	5.7%
1 month to 6 months	32.7%	34.0%	35.7%	42.4%
> 6 months to 1 year	58.7%	56.4%	51.0%	46.7%
> 1 year	4.8%	7.4%	10.2%	5.0%
TOTAL	100.0 165	100.0 147	100.0 98	100.0 139

Chi-square = 10.867 with 9df sig = 0.284
 Cramers V = .0812 (sig 0.284)
 Lambda = 0.026 (with Status dependant)

The repeated analysis shows no significant distinction in the length of guarantees provided between districts characterised by the four levels of licensing activity. However the existence of Lambda at 0.026 suggests a weak although directional relationship using the licensing status to predict guarantee length. The causal relationship is weak and the association non-significant so no conclusions can be drawn from this. In both cases, there is no significant difference between the length of written guarantee between districts of different licensing status.

The analysis was repeated controlling for those purchasers who had received a verbal guarantee, again using both forms of status variable. The results of the analysis appear in Table 7.15 and Table 7.16.

Table 7.15 Contingency Table for Variable 'Licensing Status of District Council (Licensing/Non-licensing)' by 'Period of Guarantee' Controlling for Variable 'Received Verbal Guarantee' (n=108).

		Licensing Status	
		Licensing	Non-licensing
Period of guarantee	< 1 Month	16.2%	14.2%
	1 month to 6 months	50.0%	60.7%
	>6 months		
	<1 Year	31.2%	21.4%
	> 1 year	2.5%	3.5%
(TOTAL)		100.0 80	100.0 26

Chi-square = 1.284 with 3df sig = 0.728
 Cramers V = .109 (sig 0.728)
 Lambda = 0.0

Table 7.16 Contingency Table for Variable 'Licensing Status of District Council(High, Medium, Low, and Non-licensing)' by 'Period of Guarantee' Controlling for Variable 'Verbal Guarantee Received' (n=108).

		Licensing Status			
		Non Lic	Lo Lic	Med Lic	Hi Lic
Period of G'tee	< 1 month	14.3%	0.0%	25.9%	20.7%
	1 month to 6 months	60.7%	50.0%	44.4%	55.1%
	> 6 months to 1 year	21.4%	50.0%	29.6%	17.2%
	> 1 year	3.5%	0.0%	0.0%	6.9%
	TOTAL	100.0 28	100.0 24	100.0 27	100.0 29

Chi-square = 15.697 with 9df sig = 0.074*
 Cramers V = .22 (sig 0.074)
 Lambda = 0.113 (with Status dependant)

* 50% of cells had Expected Frequency of less than 5

Consistent with the results for the length of written guarantees given to the second-hand car purchasers there is no association between the length of verbal guarantees given and the licensing status of the district in which the dealer operates. It is notable that the majority of verbal guarantees given were for a period of between 1 month and 6 months whereas for written guarantees the majority were for a period of between 6 months and 1 year. There are no indications that protection in licensing districts as measured by details of the guarantee is significantly different to non-licensing districts.

7.11.2 Incidence of Unresolved Complaint

The second variable used to assess the relative amount of protection afforded through licensing is an approximate measure for the quality of the guarantee or warranty offered. This is achieved by assessing whether there are any differences in the number of unresolved complaints between districts of different licensing status.

The first stage is to establish whether the form of the guarantee has any impact upon complaint resolution as this would need controlling for in any analysis of complaint resolution. Finally the experiences of those consumers who were not given a guarantee or for whom the guarantee did not cover the complaint are assessed since this is the true test of dealers' commitment to resolving consumer complaints.

The two forms of guarantee, written and verbal were selected and analysed using a contingency table with respect to the resolution of the complaint. The results of the analysis are shown in Table 7.17 below.

Table 7.17 Contingency Table for Variable 'Form of Guarantee' by 'Complaint Resolved' (n=359)

		Form of Guarantee	
		Written	Verbal
Complaint Resolved	YES	73.8%	55.4%
	NO	26.2%	44.6%
	TOTAL	100.0 294	100.0 65

Chi-square= 7.86 1df sig=.0052

Phi = 0.155

Lambda 0.00

There is a significant association between the type of guarantee received and the resolution of the complaint. Analysis of the residuals suggests a higher proportion of resolved complaints in the written guarantee category than would have been expected. This result adds weight to the earlier assumption that written guarantees are 'better' guarantees. Having established that there is a difference between resolution rates and the different forms of guarantee, the distribution must now be controlled for in analysing differences between districts, the purpose being to assess differences in the content of the guarantees given, either written or verbal.

The first group of respondents was selected on the basis of the type of guarantee they received when purchasing their second-hand car. The complaint resolution rate was

then cross tabulated with the licensing status of the district. The purpose of the analysis is to identify whether there were significant differences in the complaint resolution rate across licensing and non-licensing districts associated with one specific form of guarantee. Using the dichotomous variable for licensing status Table 7.18 shows the results of this analysis for purchasers who received a written guarantee with their car.

Table 7.18 Contingency Table for Variable 'Licensing Status' of District Council (Licensing/Non-licensing)' by 'Complaint Resolved' Controlling for Variable 'Written Guarantee Received' (n=294)

		Licensing Status	
		Licensing	Non-licensing
Complaint Resolved	YES	71.9%	78.6%
	NO	28.1%	21.4%
	TOTAL	100.0 210	100.0 84
Chi-square= 1.05 1df sig=.3045			
Phi = 0.201			
Lambda 0.00			

Despite the larger number of resolved complaint in non-licensing districts the difference between districts on this basis is not significant. Even though the type of

guarantee has been controlled for (to eliminate any differences in the distribution of different forms of guarantee), dealers in licensing areas do not appear to give substantially better written guarantees than dealers in non-licensing areas. The analysis was repeated but on the second selected group of consumers who had received a verbal as opposed to a written guarantee. The results of this analysis are shown below in Table 7.19

Table 7.19 Contingency Table for Variable 'Licensing Status of District Council (Licensing/Non-licensing)' by 'Complaint Resolved' Controlling for Variable 'Verbal Guarantee Received' (n=65)

		Licensing Status	
		Licensing	Non-licensing
Complaint Resolved	YES	55.6%	55.3%
	NO	44.4%	44.7%
	TOTAL	100.0 18	100.0 47
Chi-square= 0.00 1df sig=1.0			
Phi = 0.002			
Lambda 0.00			

The results of the analysis using the verbal guarantee group show a table tending toward symmetry with expected and observed frequencies nearing equality. This indicates that there is very little difference between

complaint resolution rates across licensing and non-licensing districts. Both sets of analysis were repeated using the four category variable for licensing status. In keeping with the results above, no significant differences were detected between the four status categories despite a tendency for higher level licensing districts to exhibit lower resolution rates for both types of guarantee.

On the basis of the assumptions made above dealers in licensing areas are not providing purchasers with guarantees which are 'better' in the sense that they are more likely to result in a satisfactorily resolved complaint. As a consequence, the proposition of improved protection measured through improved guarantees cannot be substantiated.

The final part of this analysis is to investigate a third group of second-hand car purchasers who so far have been ignored. These are purchasers who did not receive any form of guarantee yet returned to the dealer with a complaint. The absence of a time limited guarantee adds an extra dimension to the analysis since it is likely that in the absence of any formal guarantee the dealer would be more willing to resolve complaints the sooner after purchase it is communicated. This is because liability is easier to establish for the consumer. As a result of this, consumers who were not

given guarantees, who subsequently had to complain and who complained within one month of purchase were selected. Using an analysis similar to that above, this group's resolution rate was assessed with respect to the licensing status of the district. The result of this analysis is shown below in Table 7.20

Table 7.20 Contingency Table for Variable 'Licensing Status of District Council (Licensing/Non-licensing)' by 'Complaint Resolved' Controlling for Variable 'No Guarantee Received' (n=26)

		Licensing Status	
		Licensing	Non-licensing
Complaint Resolved	YES	50.0%	66.7%
	NO	50.0%	33.3%
	TOTAL	100.0 20	100.0 6

Chi-square= 0.06 1df sig=0.80
Phi = 0.142
Lambda 0.00

Despite the small size of this group the results of the analysis does not suggest that dealers in licensing areas are any more likely to resolve a complaint without a guarantee than dealers in non-licensing areas. Because of the small number of consumers in the selected group, a number of expected cell values in this 2x2 contingency table were close to 5. With expected cell values of less

than 5 , Chi-square becomes unreliable. This analysis was repeated using the licensing status variable with four levels but the number of reliable cells was less than 40%. The proposition that licensing improves the level of protection afforded to consumers cannot be defended based upon the above results.

7.12 Conclusion

Following the encompassing methodology, the purpose of this chapter was to establish the extent to which there are observable outputs from the licensing system which was instituted by the Civic Government Scotland Act 1982. The methodology in this chapter is based upon comparing consumer experiences in licensing and non-licensing areas. Three propositions were presented which have been used to promote licensing as a viable contribution to the well being of consumers in other markets. These three propositions when tested in the second-hand car market cannot be substantiated. The assessment of each benefit suggests that there are no differences between the purchase experiences of second-hand car purchasers in licensing and non-licensing districts.

The absence of any differences, despite data limitations, suggests a serious dysfunction between the the theoretical benefits associated with this form of market intervention and its market impact. This result

points toward an intervening effect between the policy as envisaged at its introduction and its delivery. It was anticipated that there would be some dysfunction between policy and outcome but the failure to identify any outcome whatsoever in relation to the theoretical benefits was surprising. As a consequence the next stage in the analysis, in keeping with the overall methodology is to investigate the mediating effects in an attempt to assess their importance in understanding and explaining the marked difference between desired and observed effects. The identified mediating structures are the dealers, the outside agencies involved in vetting and enforcing as well as the district councils themselves.

Chapter 8 Study 3 - The Impact of Second-hand Car Dealer Licensing upon Second-hand Car Dealers

8.1 Introduction

The methodology in Chapter 5 identified three interdependent components, the object, the event and an intervening mechanism. So far the object and the event have been investigated. The results suggest that the intervening mechanism consisting of the dealers' response to licensing and the operation of the licensing system by the districts, is providing an obstacle, as yet undefined, to the desired event. As a consequence this chapter investigates the first of these intervening mechanisms or structures between the object and the event ie the second-hand car dealers. By identifying two necessary conditions for the policy to operate, the chapter will be structured around an investigation of whether these conditions are met in the Scottish application. In addition it will assess dealers' experiences and attitudes toward second-hand car dealer licensing.

8.2 Necessary Conditions

In order for licensing to operate certain necessary conditions must be fulfilled. These conditions are applicable to all licensing systems.

1. All dealers within a licensing area must hold a licence.
2. All licensed dealers must comply fully with the licence conditions.

These two necessary conditions will form the basis of the first part of the analysis and are considered in more depth below.

8.2.1 Comprehensive Licence Possession

To deliver the benefits of a licensing scheme, the local authority must first direct resources to producing and maintaining comprehensive licence possession. A fundamental feature of any occupational licensing system is that only licensed providers are legally entitled to supply the market with their services. It is this condition which defines a framework within which the policy of licensing can operate effectively. This is through the application of licence conditions for licence holders and through the vetting procedure to exclude those who are not considered fit to trade. Specifically, comprehensive licensing:

- (a) Defines a framework in which administrative control can take place.
- (b) Defines a framework within which the identifiable benefits to consumers can be delivered.

The existence of dealers who operate within a licensing area without holding a licence presents a number of

problems for the administering district. First, it is difficult to impose authority where there appears to be no sanction. The existence of non licensed dealers removes the deterrent effect of licence withdrawal, (or refusal to issue) which should theoretically debar practising within the licensing area. This removal of sanction from the licensing authority reduces the ability to impose licence conditions among holders who have the real option of ignoring any mandatory changes to their trading behaviour. In addition, it increases the enforcement burden because of the extra cost of identifying licensed dealers who need to comply with conditions. Finally it reduces the administrative benefits of centralised and comprehensive information.

The presence of non-licensed providers within a licensing area also has implications for consumers. This is specifically in relation to the three benefits identified in the previous chapter. The notion of improved information as a result of licensing through the direct provision of information is still tenable even if only some dealers comply. However in relation to indirect information, the presence of non-licensed provision increases rather than reduces the information burden upon consumers. Purchasers would have to know which dealers are licensed and which are not in order to make some assessment of whether the minimum quality standard implied by licensing applied in practice. Second, in relation to the standard of provision,

depending upon the extent of unlicensed dealing, the quality dispersion could increase. This would drive out those dealers required to provide improved quality through licensing due to unfair competition from lower quality unlicensed providers. Finally in relation to improved protection, those consumers who do not have the necessary information to distinguish between licensed and unlicensed provision may assume a minimum standard of provision where none is present and thereby suffer economic loss. This is a situation where unlicensed dealers are free riding upon quality perceptions in the market.

8.2.2 Comprehensive Compliance with Conditions

Comprehensive licensing will go some way toward the improvement of standards of provision by eliminating 'unfit' dealers. However there is a further requirement. This is the application of controls over trading behaviour which provides an additional mechanism for the delivery of benefits to purchasers depending upon the nature of the controls applied. As such the arguments in support of the first condition which are based upon the negative effects of inconsistency can equally apply where there are differences in compliance with licence conditions, even though the overall standard may be marginally higher.

Licence holders who do not comply with the controls over trading behaviour may be able to supply at a lower cost or lower quality by not complying with licence conditions. Specifically, there is an additional cost to licence holders incurred through variations in compliance. Similarly, for consumers, variation in compliance implies an increase in required information in order to discriminate between licence holders who are complying fully and those who are not.

8.3 Aims of Study

These two necessary conditions form the basis of the study of how licensing is affecting second-hand car dealers and whether local licensing systems exhibit the necessary conditions to deliver the benefits of licensing to the consumer. Specifically three questions need to be addressed:

1. To what extent are second-hand car dealers participating in the local licensing system ?

Following the statement of the two necessary conditions above, this question implies a three stage process, first to investigate the incidence of unlicensed trading within the licensing areas, second to establish whether dealers who hold a licence know of the licence conditions which apply to them. The third is whether those who are licensed and know of the conditions are complying with them. At each stage in this process it is

important to identify the reasons for any lack of knowledge or compliance.

2. To what extent are licence conditions having an impact upon the trading behaviour of licence holders ?

This question requires an examination of changes in trading behaviour as a result of licensing. Depending upon the level at which the standard is set dealers will experience differing degrees of modification to their trading behaviour. If the level is set below the standard which already pertains in the market dealers will not have to alter any aspects of their trading behaviour. This in itself would go some way to explaining the lack of observable differences between consumer experiences in the different districts. If on the other hand the standard is set higher than that which pertained in the market before licensing was introduced, there should be some detectable changes in trading behaviour specifically in relation to the operations specified by licence conditions. It is anticipated that some modification in trading behaviour will be detected and that the greatest change will be in those districts displaying high level licensing.

3. What are the attitudes of dealers toward the licensing system ?

The final question is an attempt to evaluate dealer attitudes toward a licensing system. This must include

attitudes of dealers who have first hand experience of licensing as well as those who have no experience. It is anticipated that the nature and degree of any differences in attitude between these two groups will provide an indication of the extent to which licensing has affected dealer perception of this form of regulatory control.

8.4 Research Method

In order to answer the above questions, a survey of second-hand car dealers was considered the most appropriate data collection technique. In keeping with the encompassing methodology it was important to make the survey as comparable as possible to the preceding consumer survey. As a consequence the unit of analysis was the same central population belt comprising of the regions Central, Lothian, Fife, Tayside and Strathclyde and all the included district councils.

The selection of the data collection technique was made with reference to the geographic dispersion of the sample and the nature of the information requested. On the first criteria a postal questionnaire appeared to be the most appropriate. However it was anticipated that the type of information required, which could be considered information about contravening a piece of legislation, made the response rate a critical issue. As a consequence a high number of postal questionnaires was

traded for a lower number of personal interviews in the belief that the total response rate would be significantly improved.

8.4.1 Sample Selection

The identification of the dealer population for the sample presented similar problems to that of the consumer survey. There are a number of incomplete lists of second-hand car dealers such as those who subscribe to Yellow Pages, as well as business rates information and the list of members of the trade association. These sources were rejected as the basis of a complete second-hand car dealer list but retained as reference material. The regional trading standards departments of the identified regions were approached for help in identifying second-hand car dealers within their areas. The rationale was that second-hand car dealer premises are the subject of routine inspection by trading standards staff to check compliance with other pieces of consumer protection legislation. As such they keep and maintain registers of all business premises within their areas. These registers are catalogued according to business type of which motor trader is one.

The lists of dealers were secured and 'overlaid' (to identify duplicate names) with information from the three incomplete sources referred to above. The sample population consisted of 879 names and addresses of

separate second-hand car dealer businesses within the central population belt. Companies which operated outlets in a number of different districts were identified and the main or head office was selected. To take account of the differences in the concentration of dealers in each district, a stratified random sampling method was used to select 360 names and addresses of companies.

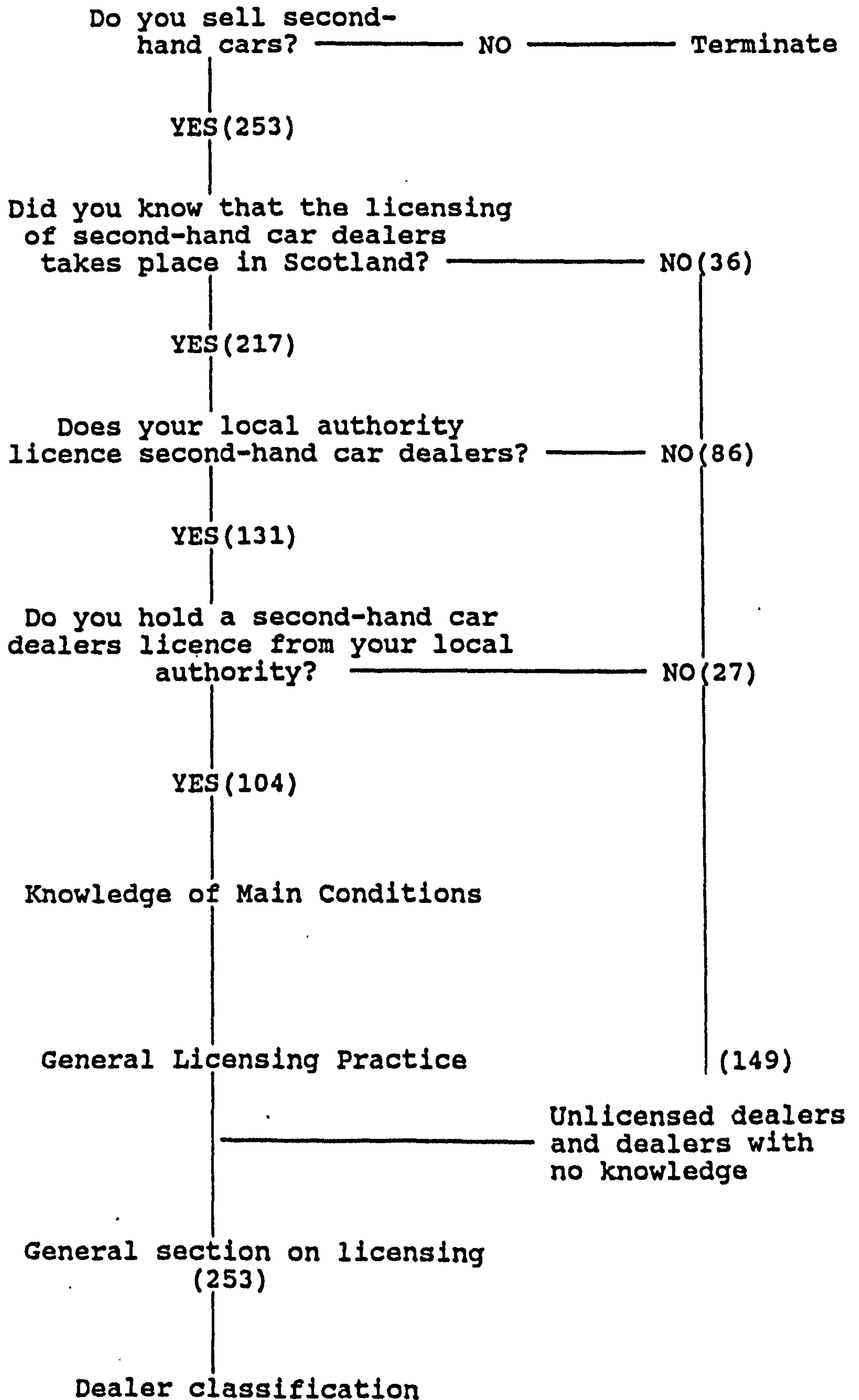
The interviews with sales directors, owners or partners took place during December 1986 and January 1987 at dealers' premises. These interviews produced 253 completed schedules representing a 70.2% response rate. When non-contacts due to business closure are ignored the response rate improves to 85.4%. The non-response was entirely due to dealers' refusal to be interviewed on this subject.

8.4.2 Design of Interview Schedule

The design of the schedule had to take account of the possibility that dealers would have varying degrees of knowledge of the national system and the system operated locally. In addition, a test of knowledge had to be applied to dealers in both licensing and non-licensing areas. To cope with differing degrees of knowledge a three stage filter was incorporated to achieve a selected group of dealers who had first hand experience of licensing. The first filter investigated whether the

dealer had knowledge of a licensing system in Scotland. If the respondent did not, it was logical to assume that they would not know of more detailed information. The second filter asked for knowledge of their local licensing system and finally the third filter asked whether they actually held a licence. Groups were separated for specific questioning on licensing and then re-formed for general prompted questions on attitudes toward licensing and questions to identify a description of the business in terms of size, age, turnover, proportion of new to used cars etc. These variables were included in order to assess the effects of size and volume of cars sold upon responses. The filtering process can be represented diagrammatically in a schematic, this is shown in Figure 8.1. The principal filter stream is the main vertical axis with exit questions which selected the unlicensed or unknowledgeable group. On each axis the number of respondents following the route is given in brackets. A copy of the questionnaire appears as Appendix V.

Figure 8.1 Schematic of Dealer Questionnaire Filters



The completed schedules represented 23 district council areas. The majority of districts within the central population belt are licensing districts and this is reflected in the sample of dealers. Table 8.1 shows the districts from which the respondents were drawn, the frequency of responses associated with each district area and the proportion of the total sample.

Table 8.1 Origin of Respondent Dealers by District

	Frq	% Total
Clackmannan	11	4.3*
Clydesdale	2	0.8
Cunninghame	5	2.0*
Dunfermline	10	4.0*
E Kilbride	2	0.8*
E Lothian	9	3.6
Eastwood	3	1.2*
Edinburgh	36	14.2*
Ettrick	1	0.4*
Falkirk	21	8.3*
Glasgow	29	11.5*
Hamilton	11	4.3
Inverclyde	5	2.0*
Kilmarnock	7	2.8*
Kirkcaldy	19	7.5*
Kyle & Carrick	9	3.6
Midlothian	12	4.7*
Monklands	6	2.4*
Motherwell	12	4.7
N E Fife	9	3.6*
Renfrew	15	5.9*
Stirling	3	1.2*
West Lothian	16	6.3
Total	253	100.0

* Indicates licensing district

The interview asked for the exact location of the business and the address was used in conjunction with

post code maps to identify in which district council area the dealer operated. From this information a licensing status code was added to each schedule to reflect the level of licensing operated by the local district. The data from the completed interview schedules was double coded on to coding sheets and then checked. After verification the data was double entered into a VAX data file for final checking and validation. Analysis was carried out using SPSSX release 3 running on VAX and HP9000.

8.5 Analysis of Results

The analysis of the results will be based upon the three main aims identified above in 8.2. The first is dealer participation, which concentrates upon licence possession, knowledge of, and compliance with licence conditions. Second, is the impact of licensing upon trading behaviour for licence holders and specifically any modification of trading behaviour. Finally there are dealer attitudes toward licensing and the licensing system as applied in Scotland.

Each of these broad areas of investigation contain a number of more specific questions which will be considered in turn. In each case a number of descriptor variables was used relating to the size of the company in terms of volume of cars sold, value of cars sold and number of staff employed. Where these are relevant to

the analysis they will be included. The data, in most cases is categorical and therefore is analysed using contingency tables and appropriate statistics. In contrast to the previous consumer survey the analysis is not concerned primarily with assessing differences between dealers in licensing and non-licensing areas. As a consequence statistical analysis will be applied only where the data is appropriate and interpretation meaningful.

8.5.1 Dealer Participation

8.5.1(a) Licence Possession

The first item in this part of the analysis is the assessment of the degree of knowledge displayed by dealers about the system of licensing second-hand car dealers in Scotland. It was anticipated that a policy such as this would be well known to car dealers because of its potential to regulate directly their activities. 91% of car dealers interviewed indicated that they knew some district councils operated licensing schemes for car dealers. The surprising feature of this result is that 9% of dealers had never heard of licensing and many of them operated within licensing areas. The survey took place within a relatively concentrated area and the number of non-licensing districts is small. The group who did not know of licensing were identified to investigate whether they were drawn from the non-

licensing areas. The results of the cross-tabulation can be seen below in Table 8.2

Table 8.2 Contingency Table for Variable 'Licensing Status of District (Licensing/Non-licensing)' by Variable 'Knowledge of Licensing System in Scotland' (n=253)

		Licensing Status	
		Licensing	Non-licensing
Knew of System	YES	89.7%	72.9%
	NO	10.3%	27.1%
	TOTAL	100.0 194	100.0 59

The results in Table 8.2 indicate a greater level of awareness about licensing among dealers who operate in licensing areas. However there are also dealers who do not know of the system operating within licensing areas. This is an indication of some serious deficiencies in the first of the two necessary conditions. Whether or not the dealer knew of licensing was independent of the size of the company in terms of employee numbers, volume or value of second-hand cars sold.

The group of dealers who did not know of licensing were separated out into a another question stream. The remaining group of 217 dealers who did know of licensing were then asked to indicate whether their local district council operated such a licensing scheme. Again the

responses to this question were analysed with respect to the licensing status of the district in which they operated. The results of this analysis are shown below in Table 8.3

The results show that the majority of dealers can correctly identify the licensing status of their local district council. What is most significant from this table is the relatively large proportion of dealers who either do not know the licensing status of their district council or categorised it incorrectly. Of dealers operating in licensing districts 31.8% could not identify the status of the local district. Similarly 36% of dealers in non-licensing areas could not correctly say whether the district licensed or not.

Table 8.3 Contingency Table for Variable 'Licensing Status of District (Licensing/Non-licensing)' by Variable 'Licensing System in Operation Locally'. (n=217)

		Licensing Status	
		Licensing	Non-licensing
Is System Operating Locally	YES	68.2%	16.0%
	NO	15.6%	64.0%
	Don't Know	16.2%	20.0%
TOTAL		100.0 173	100.0 44

The level of knowledge about licensing among dealers casts serious doubt upon the achievement of the first and by definition the second necessary condition.

The dealers who could correctly identify the status of their district as a licensing district were then selected to answer more specific questions about the operation of their local system. The most important question of this group is to establish whether or not they actually hold a licence. The answer will establish whether there are dealers operating within a licensing area, with knowledge of the system yet without a licence. The results of the question are shown below in Table 8.4

Table 8.4 Contingency Table of Variable 'Licensing Status of District' By Variable 'Hold a Second-hand Car Dealers Licence' (n=131)

		Licensing Status	
		Licensing	Non-licensing
Hold Licence	YES	83.9%	42.9%
	NO	16.1%	57.1%
	TOTAL	100.0 124	100.0 7

The result provides evidence that the first necessary condition for licensing, comprehensive licence holding has not been met. 16% of the dealers interviewed did not hold a licence to deal in second-hand cars even though

they knew that they operated within a district which required them to hold such a licence. A small number of dealers, although a substantial percentage of the total, responded that they did hold a second-hand car dealer licence when in fact the local authority did not operate such a system. A possible explanation is that they knew of the existence of licensing in Scotland but not in any detail and were guessing at the question sequence. From a total of 194 second-hand car dealers operating within licensing areas 104 or 54% actually held a licence.

The group who operated within the licensing district without a licence and knew that they required one were asked why this was the case using an open ended question which was unprompted by the interviewer. The results are shown below in Table 8.5

Table 8.5 Frequency Distribution of Responses for Variable 'Reasons for not holding a licence (n=90)

Thought I was exempt	36%
No one else has one	20%
No one told us to get one	20%
Its voluntary not legally required	16%
Never Felt I needed one	8%

None of the dealers reported that they were actively boycotting the system. All the above reasons for not holding a licence suggest confusion and lack of information about the system being operated. This

related specifically to the extent to which licensing covered their operations and the legal status of licensing, whether it is voluntary or mandatory. These responses point to some serious deficiencies in the system being operated. These were the lack of knowledge about the local system, the apparent lack of enforcement visits and an assessment that other dealers do not hold a licence.

On the evidence produced by this part of the questionnaire the first condition which characterises dealer participation through the holding of a licence has not been met. This provides an initial explanation of the failure in the consumer survey to detect differences in purchase experience among consumers.

The second identified necessary condition is that the dealers who hold a licence must also comply fully with the licence conditions. As a consequence the group of licensed dealers went on to answer specific questions about their knowledge of and compliance with licence conditions. This series of questions provides a second method of assessing dealer participation.

8.5.1(b) Knowledge of and Compliance with Licence Conditions

In order for licensing to affect the trading operations of second-hand car dealers two criteria must be met by

the dealer. First the dealer must know correctly what conditions are applied to the licence held. Second the dealer must comply with those conditions. The typology of district councils developed in the previous chapter was based upon an ordering of the conditions which were applied to licences. The typology used to structure the questions regarding licence conditions to the 104 licensed dealers was on the following basis:

- (i) Low level licensing requires the keeping of records
- (ii) Medium level requires the keeping of records and the display of pre-sales inspection sheets on cars.
- (iii) High level which requires records to be kept, pre-sales inspection reports to be displayed and requires compliance with the motor industry code of practice.

In each case knowledge and compliance is assessed with reference to the characteristics of the host district.

(i) Keeping Records

The first condition is the keeping of records about the cars bought and sold by the dealer. This condition appears in the parent statute and therefore appears as a licence condition in all licensing systems. A total of 80% of dealers knew of such a licence condition, 8% responded that they knew it was definitely not a condition of their licence and a further 12% did not know. In total 20% of licensed dealers did not know that

the keeping of specified records was required as a condition of their licence. A follow up question asked those who knew of the condition whether or not they actually complied with it. A total of 99% indicated that they did keep records of the cars they bought and sold. It should be noted that the question did not specify whether or not these records were kept specifically in response to the licence condition since obviously records of transactions would be kept as a matter of course for tax and accounting purposes.

One interesting feature of the responses to this question is that the percentage of correct responses increased according to the level of licensing, that is to say dealers in low level licensing areas displayed less knowledge than dealers in high level licensing areas. Table 8.6 below shows the distribution of correct and incorrect answers.

Table 8.6 Contingency Table for Variable 'Licensing Status of District (High, Medium, Low)' by Variable 'Keeping Records is a Licence Condition' (n=104)

		Licensing Status		
		Lo Lic (Records)	Med Lic (PSI+Rec)	Hi Lic (CoP+Rec)
Keeping Records is Condition	YES	74.0%	88.9%	100.0%
	NO	9.6%	0.0%	0.0%
	Don't Know	16.4%	11.1%	0.0%
	TOTAL	100.0 73	100.0 18	100.0 13

The distribution of correct answers suggests that licensed dealers who operate in areas of higher level licensing and hold a licence are much better informed about the licensing system than dealers in other areas. This issue will be developed in a later section.

(ii) Pre-sales Inspection Reports

The second identified condition requires the display of pre-sales inspection reports on all cars for sale. This condition applies to dealers who operate in areas which both specifically require pre-sales inspection reports and in those who require compliance with the code of practice. As such this condition either directly or indirectly applied to 29.8% of the 104 licensed dealers. Of this selected group, 19% correctly identified it as a licence condition. 61.3% indicated that this was definitely not a licence condition when in fact it was and 29.8% did not know whether it was or not. The lack of knowledge displayed in relation to the first licence condition is even greater in relation to this second licence condition which in this analysis is assumed to be more onerous.

The licensed dealers to whom this condition does apply and who knew of the condition were asked whether or not they actually displayed the pre-sales inspection reports. Only 3 dealers indicated that they did display

the necessary information. This represents 4.2% of all dealers operating within a district which requires such information to be displayed.

(iii) Compliance with the Code of Practice

The highest level of licensing is that which requires licence holders to comply fully with the motor industry code of practice. As such, dealers in these areas are required to keep records, display pre-sales inspection reports on all cars for sale and to comply with all other requirements of the code. The licensed dealers operating within these areas were asked to indicate whether or not compliance with the code of practice was a condition of their licence. 50%(6) of dealers correctly identified this as a licence condition, 33% indicated that it was not a condition and the remaining 16.7% did not know. Consistent with previous results the second-hand car dealers displayed a considerable lack of knowledge of their licence conditions.

Those dealers who correctly identified the licence condition were then asked whether they fully complied with the code of practice. Four dealers indicated that they did fully comply with the code of practice and two dealers indicated that they did not. The four dealers who indicated that they complied with the code of practice were already members of the code (thereby obliged to comply) before the introduction of licensing.

The two dealers who did not comply were not and had never been members. In total, 9% of dealers who operated within areas which required code compliance indicated they did in fact comply. It should be noted that excluding the dealers' response and a cross reference with information displayed on cars there is no other way of verifying compliance in the absence of specific purchase and complaint records.

One issue raised by the responses is that dealers do not appear to have been told that they needed a licence. This issue was investigated by asking dealers whether they had received a visit, or any literature from the licensing authority informing them of the introduction of the licensing system or any information about the licence conditions. The dealers operating within licensing areas were selected from the sample and 63% had received information about licensing from the local authority. This group was then analysed with respect to licence holding and it was found that 92% held a licence. By contrast, of the group who had not received information from the local authority, only 74% held a licence. These figures suggest that there has been very little communication between the dealers operating in licensing areas and the licence authority, but where that communication had taken place licence possession was much higher. The receipt or non receipt of information was not associated with particular districts. One explanation is that all districts are using incomplete

lists of dealers to target their information activity. As a result licensing districts are failing to communicate with all eligible licensees.

A second external factor which could explain differing degrees of knowledge and compliance, would be the activity of enforcement staff. This is on the assumption that dealers displaying greater knowledge of licence conditions and therefore higher compliance rates (as measured in this survey) would have received a greater number of enforcement visits. Dealers were asked whether anyone had come to their premises to check for compliance with licence conditions. Only 30% of licensed dealers reported that they had received an enforcement visit to check their compliance with licence conditions. The visits were not concentrated within any specific districts but showed a tendency toward the larger dealerships. This tendency was investigated further by reference to a later question about who the dealer thought responsible for enforcement within their district. The result showed that 62% of dealers thought trading standards officers were responsible. In view of the fact that trading standards officers are obliged to visit second-hand car dealer premises in respect of other consumer protection legislation the purpose of the visit may have been confused. As a consequence using enforcement to explain participation was rejected as unreliable in this context.

Patchen(1987) suggests that in considering the effectiveness of a particular policy some assessment must be made of the magnitude and perceived certainty of penalty versus the perceived cost of defiance. As a consequence, an additional factor in explaining compliance in this context is the assessment of the penalty by dealers for not complying. Dealers were asked to indicate what they thought would happen if a dealer were found to be persistently contravening a major licence condition. The responses to this question are shown below in Table 8.7

Table 8.7 Frequency Distribution of Responses for Variable 'Perceived Penalty for Contravention of Major Licence Condition'

Withdraw Licence	9.3%
Suspend Licence	18.7%
Send Warning Letter	40.2%
Warn Dealer Verbally	12.1%
Advise Dealer to Comply	15.9%
Do Nothing	1.9%

The results of this question indicate that nearly 70% of respondents thought the penalties arising from the scenario were small. This suggests that contravention of a major licence condition is not perceived to be very serious. Dealers do not perceive the threat to be serious and many do not perceive the threat of licence withdrawal or a fine to be certain. There were no significant differences in response from dealers

according to the district in which they operate or from dealers of differing size businesses. The Patchett model may also provide some explanation of the low levels of knowledge about licensing as well as low levels of compliance.

The above results cast serious doubt upon dealer participation with respect to licences held as well as knowledge and compliance with licence conditions. It appears that both necessary conditions identified have not been fulfilled. In the absence of comprehensive licence possession and comprehensive compliance the next section concentrates upon dealer evaluations of the impact of licensing upon trading behaviour. The purpose is to assess the impact of licence possession on behaviour over and above the direct impact of licence conditions.

8.6 Impact upon Trading Behaviour

This section of the analysis concentrates upon three key issues in relation to the licensed dealers everyday experiences of licensing. The first of these is the assessment of costs of licence possession over and above the cost of the licence. Hallett(1988) and Patchen(1987) both make reference to the importance of perceived cost in explaining consequent action as opposed to real costs. As a consequence the nature of the perceived

costs of licensing are investigated with respect to dealers in different licensing areas.

It had been argued that dealers in high level licensing areas would perceive higher costs than those in low level areas. In addition, it had been supposed that these costs may be passed on to consumers through higher priced cars and this too is assessed. The analysis of cost is juxtaposed with the assessment by the dealer of the impact of licence possession upon the operation of his or her business, particularly the quality of cars sold but also elements of service. Finally there are the results of two questions concerning perceptions of the overall impact of licensing on their trading operations.

8.6.1 Assessment of Costs Associated with Licence Possession

Dealers were asked to indicate whether or not they incurred any extra costs apart from the cost of the licence in complying with the licence conditions. The purpose of this section is to establish how onerous licence possession is perceived to be. Licensed dealers were asked whether or not they thought they incurred extra costs by holding a licence. The responses showed that 81% of licensed dealers did not think they incurred any extra costs through holding a licence. 17% thought that they did incur cost with 2% uncertain. Within this 17% there was no evidence to suggest that dealers in

higher level licensing areas thought they incurred more costs. Further there was no size effect; smaller dealers were just as likely to indicate that costs were incurred as larger dealers. The 17%(18 dealers) were then asked from where they thought these extra costs were generated. The question identified six areas and provided an opportunity for the respondent to identify any other. As a multiple response question with a small number of respondents, analysis of dealer type by size or licensing district would be inconclusive. Table 8.8 shows a frequency distribution of responses.

Table 8.8 Identified Sources of Extra Costs to Licence Holders. (n=18)

Record Keeping	78%
Vehicle Inspection Reports	39%
Time During Enforcement Visits	41%
Compliance with Code of Practice	18%
Greater Emphasis on Customer	12%
Sheer Aggravation	6%

The source of the extra costs with the highest frequency is record keeping, a feature of all licences. However only 16% of dealers had previously identified this as a licence condition. Similarly, 41% of dealers in this group pointed to time with enforcement staff yet only half of the group had indicated previously that they had received an enforcement visit. The preparation of vehicle inspection reports was identified by 39% of the group but only one dealer who operated in a district

which required such reports said such information was displayed.

Finally, of those dealers who identified compliance with the code of practice as an extra cost generated through the imposition of licensing, none displayed the inspection reports and only two had correctly identified it as one of their licence conditions. Looking at the inconsistencies in the answers about perceived costs it is difficult to come to any reliable conclusions from these questions. It is clear that dealer perceptions of cost do not correlate with actual activity. There is no evidence that the perception of cost is dependent upon the level of licensing being operated or that these costs are being passed on to consumers in the form of higher second-hand car prices. Only 9% indicated that they thought licensing had made their cars more expensive than other dealers.

8.6.2 Assessment of Impact of Licence Possession on Trading Activity

As a general statement dealers were asked to assess the impact of licence possession upon the day to day activity of running their business. The results of this general evaluation are shown below in Table 8.9

Table 8.9 Frequency Distribution of Variable 'Dealer Evaluation of Overall Impact of Licensing' (n=104)

Major Inconvenience	1%
Slight Inconvenience	19%
Unnoticeable	70%
Slight Advantage	9%
Major Advantage	0%
Don't Know	1%

By far the majority of licensed dealers see licensing as having no noticeable impact upon the day to day running of their business. There was some a tendency for larger dealers to see licensing as an advantage but the reasons for this are indeterminate.

The overall assessment was taken a stage further by assessing the impact on three more specific criteria. First, the impact upon the quality of cars purchased and sold. Second, the impact upon customer complaint levels and finally the impact upon eight selected elements of the business.

In respect of the first item dealers were asked whether they believed that licensing would have an effect upon the number of consumer complaints received. 70% of licensed dealers believed that licensing would have no impact while a surprising number, 22% thought that licensing would increase the number of complaints. Unfortunately this question was used as a control for other responses and no follow up reasons were requested.

8% of dealers believed that licensing would decrease the number of complaints.

For the second item dealers were asked to assess whether they thought that licence possession had an impact upon the quality of the cars bought and sold. Dealers act as buyers of second-hand cars at auction and buy vehicles through cars traded-in on replacement vehicles. The effect of licensing upon the quality of cars would be in both the buying and selling activity. This would lead the dealer to buy cars of better quality to reduce the cost of preparation and inspection etc and thereby result in higher quality cars being sold to consumers. However 89% of licensed dealers did not perceive any increase in the quality of cars bought. In addition 84% of dealers did not perceive any increase in the quality of cars sold. There were no significant variations in answers due to dealer size or to location in different licensing areas.

Dealer evaluation of the impact of licensing was also assessed with respect to features of their operations and their assessment of its effect upon the motor trade in general. Table 8.10 shows the frequency distribution of responses to the eight selected items.

Table 8.10 Frequency Distribution for Variable 'Dealer Evaluations of Impact of Licensing on Specific Items. (n=104)

	Beneficial Effect%	No Effect%	Bad Effect%	Dont Know%
Customer Relations	51	46	1	2
Overall Vehicle Quality	43	55	0	2
Protect Reputable Dealer	57	42	0	1
Image of Trade	67	31	1	1
Profitability of Business	11	79	9	2
Overheads of Business	1	73	24	2
Business Expansion	15	78	6	1

The results of questions about the impact of licensing show an important pattern. The items concerned with the relationship between the dealer and the consumer, principally customer relations, the image of the trade and the protection of the reputable dealers from unfair competition are all thought to be helped by licensing. By contrast the operational items, profitability, overheads and business expansion are seen to be unaffected by licensing, possibly because licence conditions are not being observed. From the dealers' perspective licensing appears to be helping their relations with the public while not unduly affecting the day to day operations of their business.

8.7 Dealer Attitudes Toward Licensing

8.7.1 Licensing for Unlicensed Dealers

The final section of the analysis concerns all dealers and draws together the licensed dealers, as well as the unlicensed dealers and those who do not know of the

system, to assess the overall attitude of the trade toward licensing. The purpose of the section is to contrast the attitudes of dealers who have had first hand experience of licensing with those who have not. The first objective was to assess what unlicensed dealers thought about the scope of licensing. This question was asked of the dealers who had been eliminated during the filter questions. This was the only question asked only of unlicensed dealers and there is no comparison with licensed dealers. This group includes dealers who operate in non-licensing areas as well as those who operate within licensing areas but who knew nothing about the local licensing system. The dealers were asked to identify what activities they thought licensing would control. This is a multiple response question with items generated from informal discussions with dealers. Respondents could choose any number of items and as a consequence percentages do not sum to 100. The results shown below in Table 8.11 are taken as a percentage of total responses:

Table 8.11 Responses for Variable 'Non Participant
Evaluation of Activities Covered by Licensing'
(n=147)

	% Total Responses
Compliance with code of Practice	84%
Information on Vehicles Sold	66%
Record Keeping	58%
Type of Credit Offered	41%
Aspects of Customer Service	39%
Cleanliness/Presentation of Cars	33%
Elements of Staff Training	26%
None of These	9%

There appears to be a considerable degree of knowledge about second-hand car dealer licensing among unlicensed dealers. The three main licence conditions are clearly visible as the most frequently identified activities. The responses from larger dealers (operating over 4 outlets) were concentrated in one or two activities, mainly compliance with the code of practice. By contrast 71% of the smaller dealers identified 4 or more activities. This suggests that the smaller dealers see licensing as a more comprehensive form of control. The control over the type of credit offered was the fourth most frequent activity identified. 79% of dealers who identified it as an activity covered by second-hand car dealer licensing already hold a consumer credit licence from the Office of Fair Trading. There appears to be some confusion about how the licences relate to each other.

8.7.2 Participant/Non Participant Attitudes

A series of further questions investigated dealer attitudes toward licensing. Because these questions were asked of all dealers in the sample it is possible to compare responses between the licensed group and the unlicensed group. The first question was a general attitudinal question about whether dealers thought licensing was a good idea or not. The responses were cross-tabulated with whether or not the dealer was

participating or not. As such the dependant variable in the following analyses is dealer participation.

The first comparison between participating dealers and non participating dealers is differences in the responses to the question of impact upon the business. This question has been analysed above in Table 8.9 in relation to licence holders only. It is also repeated here for ease of comparison. Table 8.12 contains all 8 items, cross tabulated with the dependant participation variable. Where the differences between participant and non participant groups are significantly different ie have a significance greater than 95% the value of Chi and Phi is given.

The results of the cross tabulation show a number of interesting disparities between the two groups. The first major difference is that the non participant group appears to overrate the beneficial impact of licensing on all the items analysed. Licensing was perceived by the non participant group to display positive benefits. When compared to the non participant group the pattern of responses is clustered in the no effect category. This difference suggests that those dealers with first hand experience of licensing are aware that licensing is not having the degree of control envisaged by the non participant group. It is this difference between the groups in the 'no impact' category which is crucial to the analysis.

Table 8.12 Combined Contingency Table for Variable
'Participant and Non Participant Dealers' by
'Impact of Licensing on Aspects of Business'
(n=253)

	Participant	Non Participant	Total
Customer Relations:			
Good Effect	51.4	67.1	60.5
No Effect	45.8	27.4	35.2
Bad Effect	0.9	2.7	2.0
Don't Know	1.9	2.7	2.4
* Chi=9.67 3df sig .021 (Phi=.04)			
Vehicle Quality:			
Good Effect	43.9	52.7	49.0
No Effect	54.2	45.9	49.4
Bad Effect	0.0	0.7	0.4
Don't Know	1.9	0.7	1.2
Protection of Reputable Dealers			
Good Effect	57.1	77.4	68.8
No Effect	42.1	21.2	30.0
Bad Effect	0.0	0.7	0.4
Don't Know	0.9	0.7	1.8
* Chi=13.42 3df sig .003 (Phi= .05)			
Image of Trade in General			
Good Effect	66.4	78.8	73.5
No Effect	31.8	17.1	23.3
Bad Effect	0.9	3.4	2.4
Don't Know	0.9	0.7	0.8
* Chi=8.64 3df sig .034 (Phi= .034)			
Impact upon Profit			
Good Effect	11.2	22.6	17.8
No Effect	78.5	65.8	71.1
Bad Effect	8.4	10.3	9.5
Don't Know	1.9	1.4	1.6
Impact upon Business Overheads			
Good Effect	0.9	4.1	2.8
No Effect	72.0	65.8	68.4
Bad Effect	25.2	27.4	26.5
Don't Know	1.9	2.7	2.4
Impact upon Control over Sector			
Good Effect	57.0	69.2	64.0
No Effect	39.3	24.7	30.8
Bad Effect	2.8	2.7	2.8
Don't Know	0.9	3.4	2.4
Impact upon Business Expansion			
Good Effect	15.9	27.4	22.5
No Effect	77.6	64.4	70.0
Bad Effect	5.6	4.8	5.1
Don't Know	0.9	3.4	2.4

There are three statistically significant differences in the table. These relate to customer relations, the protection of reputable dealers and the image of the trade in general. The non-participant group significantly over-rated the contribution of licensing on these three items: specifically that licensing has a beneficial effect upon the image of the trade, and customer relations but at the same time has the ability to protect the reputable dealers from competition. This is in line with the arguments expressed by Moore(1961) and the findings of Gellhorn(1976) who suggested that those who are not members of a licensed occupation over-rate the ability of licensing to protect them from what they view as unfair competition. By contrast the participant group responses are significantly less enthusiastic. An explanation would be their observation that the operation of licensing is severely flawed, that not all dealers are licensed and consequently they are not protected in any sense from competition from 'disreputable' dealers. A second explanation is that consumers appear to have very little information about licensing and as a consequence there is no beneficial effect upon the image of the trade. The final point is that customer relations are not considered to be affected.

The results of the analysis for these three items characterise dealers' attitudes toward licensing. The non participant group see the attractions of a system

which improves their relations with customers and improves their status through protection. The participant group see that it is not working effectively and the impact upon both is less than anticipated.

8.7.3 Future Development of Licensing

In addition to the perceived impact upon aspects of the second-hand car business, participating and non participating dealers were asked to indicate whether they thought the licensing of second-hand car dealers should be developed or extended in any way. A number of scenarios were presented and responses were cross tabulated by participation as shown in Table 8.13

Table 8.13 Combined Contingency Table for Variable
'Participant and Non Participant Dealer' by
Proposed Developments of Licensing (n=253)

		Participant	Non Participant	Total
Keep the System As It Is				
	YES	14.0	13.0	13.4
	NO	77.6	74.0	75.5
	Dont Know	8.4	13.0	11.1
Extend Licensing Across All Scottish Districts				
	YES	77.6	76.7	77.1
	NO	14.0	11.6	12.6
	Dont Know	8.4	11.6	10.3
Extend Licensing to Whole of UK				
	YES	75.7	76.7	76.3
	NO	15.0	11.6	13.0
	Dont Know	9.3	11.6	10.7
Disband Licensing System in Scotland				
	YES	14.0	8.9	11.1
	NO	77.6	80.1	79.1
	Dont Know	8.4	11.0	9.9

The responses to these questions between the two groups are remarkably similar on all aspects which is surprising. The results suggest that dealers in both groups are in the main quite happy with a system of licensing but would prefer to see some changes in future. In particular, the extension to all local authorities and preferably to the whole of the UK. This view is also consistent with the arguments presented in Chapter 4 concerning the participants' demand for licensing based upon the perceived advantages it offers to participants. The dealers who have experience of the system do not want it disbanded, in all probability because the perceived benefits of licensing exceed the perceived cost.

8.8 Conclusion

The first part of this chapter examined the extent to which two necessary conditions identified for licensing to be considered operational are met in the Scottish context. These conditions are the requirement for all eligible licence holders to actually hold a licence, and that all licence holders comply with licence conditions. The meeting of these conditions implies that dealers who are unfit to trade are excluded and that the licensed group have altered trading behaviour dependent upon nature of licence conditions.

The results of this survey provide evidence that unlicensed trading is occurring within licensing areas. The reasons for this are not clear but a number of issues are raised. First, that a large number of dealers do not appear to know about licensing and that a significant number have never been contacted by the licensing authority. The lack of comprehensive licence holding is consistent with the results of the consumer survey where consumer knowledge of licensing was also very low. A second reason is the lack of any visible deterrent for operating within a licensing area without a licence to trade. The survey found considerable confusion over who is responsible for checking whether dealers are complying, non-compliance is perceived by many of the unlicensed dealers to be the norm.

With respect to the second necessary condition, the survey found evidence of substantial avoidance of licence conditions among licence holders. Very few dealers knew precisely what the conditions of their licence implied. This raises issues similar to those above about the lack of information especially that emanating from the licensing authority. If dealers do not know what the conditions of their licence are and there is little evidence of enforcement visits to ensure compliance, it is understandable that there is evidence of non compliance.

By establishing that the two necessary conditions are not met in any of the districts surveyed, the theoretical benefits to consumers cannot be attained. However the benefits to the participant group do appear to be delivered. Participant dealers are clear that licensing as presently operated is having a beneficial effect upon such aspects as the image of the motor trade and the protection of dealers from unfair competition. At the same time the cost to them in terms of modifying their trading behaviour by respecting licence conditions does not appear to be in evidence. As it stands, licensing is unable to deliver the benefits ascribed to it with respect to consumers. However it is able, according to the dealers, to deliver some benefit to participants. This explains the lack of detectable effects of licensing upon consumer's purchase experiences.

The results of the consumer survey suggested that licensing was not having an impact upon the purchase experiences of consumers. The next stage in the analysis is to establish whether the reasons for this lack of evidence were due to the failure of licensing as a regulatory approach or a failure in the mechanism which delivers the policy. The results of this chapter suggest that dealers are not fully participating in local licensing systems which while explaining the consumer survey results also turns the focus of the study toward the remaining intervening mechanism which is the

district licensing authorities who operate licensing in conjunction with other external agents. It is the operation of licensing by district councils as opposed to the administrative framework considered in Chapter 6 which will be considered in the next chapter.

Chapter 9 The Operation of Second-hand Car Dealer
Licensing in Scotland

9.1 Introduction

This chapter concludes the consideration of the four intervening mechanisms identified in Chapter 5. This chapter concentrates upon the relationship between the district councils who operate licensing and the second-hand car dealers. The purpose is to establish whether there are deficiencies in the operation of local licensing systems which would provide some explanation of the earlier findings.

The administrative arrangements for the introduction of second-hand car dealer licensing have been described in a previous chapter. This analysis concentrates upon how the licensing systems are operated on a day to day basis. In particular, it examines the role of two external agencies involved in the vetting of applicants and the enforcement of licence provisions. The analysis is based upon the two necessary conditions identified in the previous chapter, that of comprehensive licence possession and comprehensive compliance with licence conditions. By assessing impediments to the satisfaction of these two conditions, operational factors crucial to the success of the system can be identified

9.2 Aims of Study

The aims of the chapter are to assess the operational characteristics of the second-hand car dealer licensing systems in Scotland. As such, it excludes the non-licensing districts except to identify the rationale for non-licensing which, in the context of Scotland is an impediment to comprehensive licence holding.

In the absence of the two necessary conditions licensing cannot be said to be operating effectively. As a consequence it is not possible to make an objective assessment of the impact of licensing upon consumers in Scotland since the outcomes are as much a result of the form of delivery as the policy itself. The results of the consumer and dealer surveys indicate that the focus must be upon the operational characteristics of the various licensing systems and an examination of factors preventing the achievement of the two necessary conditions. The broad aim of this study is to identify common operational characteristics which intervene in the delivery of the policy. Specifically:

1. What operational factors prevent the achievement of comprehensive licence possession within districts ?
2. What operational factors prevent the achievement of comprehensive compliance with licence conditions among licence holders ?

As well as investigating the common operational characteristics of licensing systems, two other agencies in addition to the district councils need to be considered. When the administrative framework in which licensing takes place was described, two additional agencies, external to the district councils emerged as integral to the operation of licensing. These were the local police and the regional trading standards department. According to the first district survey their role is two-fold: to provide a source of reference about the fitness of potential licensees to trade within the district and to provide enforcement support for the licensing system. These two roles will be also be considered in relation to the two necessary conditions. As a consequence a third aim of this study can be stated:

3. What are the roles of the two external agencies in the achievement of comprehensive licensing and comprehensive compliance with licence conditions ?

These three aims form the basis of the analysis. Under each of these broad aims there are a number of specific issues which emerged during the analysis of the consumer and dealer surveys relevant to each of the three parties: Districts, Police and Trading Standards Departments.

9.3 Issues Relevant to Districts, Police and Trading Standards Departments

9.3.1 District Councils

The first issue in relation to the district councils is to establish the overall objective they assign to their licensing system. Individual district rationales for licensing need to be identified because they are likely to have an impact upon the design and operation of the licensing system. In assessing the rationales some recognition must be made that districts had to decide to introduce licensing. The wording of the Act meant that licensing was not activated unless districts made the choice to introduce it. Such a choice must have been made on the basis of some evaluation of the impact of licensing. These criteria are likely to give an indication of the perceived purpose of licensing and may be relevant in considering operational characteristics.

The second issue arises from the results of the dealer survey in Chapter 8. The results indicated that the majority of dealers do not hold a licence and do not know that their local district operates a licensing system. This implies that communication between authority and dealers both at the time of introduction and during the life of the licensing system is failing to reach its target. As a consequence the issue of communication with prospective licence holders from the time the system was launched needs to be addressed.

The final set of issues arise from the existence of unlicensed trading within licensing areas and the apparent absence of any system to identify unlicensed trading. The results of the dealer survey suggested a great deal of confusion over enforcement, both in terms of who is responsible and the frequency of visits. Therefore the district's arrangements for enforcement of licensing need to be assessed. This question of enforcement is relevant to the second overall aim of this study. As a consequence enforcement provision needs to be assessed in relation to both the identification of unlicensed trading and the identification of non-compliance with licence conditions.

9.3.2 Police Authorities

In the survey of the administrative arrangements for licensing, district councils identified two roles for the Police. The first was the provision of references about the character of potential licensees. The second, was the provision of enforcement, additional to the activities of their own staff. In order to evaluate these two functions the nature of the relationship between the police and the district councils within each administrative area need to be established. Specifically to assess whether the roles identified by the district

councils are synonymous with those perceived by the Police Authority.

9.3.3 Trading Standards Departments

The second external agency identified by the district councils was the Trading Standards Department of the Regional Councils. Two roles were identified by the district councils which are similar to those of the police. The first role is to provide information about potential licence holders in addition to the information provided by the police and second to provide additional enforcement to the district councils's own enforcement efforts. The study therefore needs to establish how trading standards departments see their role.

Specifically the nature and frequency of information passed between the departments and the districts and the enforcement activity which they undertake.

9.4 Methodology

In order to investigate these issues and answer the aims identified above, each of the three parties, licensing districts, police and trading standards departments were approached. It would have been preferable to assess the set of relationships within each licensing district. However, they all display different licensing systems and as a consequence the relationship between districts, dealers and external agents are also expected to vary.

Ideally a total census of licensing authorities and their relationships with external agencies as they operate within each district context would need to be carried out. However such a census presented a number of problems in terms of time and resources since such information would need to be collected via in depth interviews. Further that all interviews would have needed to be conducted by the same interviewer. In addition the information collected would be of little contribution to the argument without extensive analysis of covariates in each system such as the individual relationships between departments, management style, organisational structures and procedures in addition to the sources of variation already identified. As a consequence, it was decided to concentrate upon selected sets of relationships between each of the three parties. Since the dominant party is the district the sets of relationships will be chosen on the basis of the characteristics of the district.

9.5 Research Method

The nature of the information sought suggested that a structured data collection technique was not appropriate in this case. The information sought here was essentially investigative and needed to probe some complex but as yet undefined issues. Both these requirements suggested a qualitative technique and as a consequence an unstructured personal interview was

chosen which would provide the necessary degree of flexibility.

9.5.1 Selection of Districts

The selected sets of relationships between the three parties; district, police and trading standards department would need to be as representative as possible of different types of licensing system. This suggested a structured sampling technique and the selection was made on the basis of the typology of licensing districts developed in Chapter 6. This typology uses four levels of licensing operated by the districts, non-licensing, low, medium and high. It was decided to select districts on the basis of the typology and then identify the responsible police and trading standards departments.

The districts within the central population belt, comprising the regions, Central, Lothian, Strathclyde, and Fife were grouped according to the typology. Each district was then numbered within each group and a sample of twelve districts was drawn randomly, three districts from each group being selected. In addition the appropriate external agency for the area was also identified. The identity of the selected districts and appropriate agencies is shown below in Table 9.1

The selected group of districts and the associated police and trading standards departments were sent a letter asking for an appointment to conduct an interview. The letter to the districts was sent to the Administrative Director or Town Clerk of the district. The licensing function had already been identified as the responsibility of the central administrative function of the district councils.

Table 9.1 Selected Districts and Responsible External Agencies

	District	Police	TSD
Non Licensing:	Cumbernauld Hamilton West Lothian	Strathclyde Strathclyde Lothian	Strathclyde Strathclyde Lothian
Low Level Licensing:	Edinburgh Kirkcaldy N E Fife	Lothian Fife Fife	Lothian Fife Fife
Med Level Licensing:	Clackmannan Dundee Stirling	Central Tayside Central	Central Tayside Central
High Level Licensing:	Eastwood Falkirk Glasgow	Strathclyde Central Strathclyde	Strathclyde Central Strathclyde

The other letters were sent to the relevant Chief Constable and Chief Trading Standards Officer. The selection of these posts was designed to produce a person who could speak on behalf of the organisation, but not necessarily the person in receipt of the letter.

The response to the letter was mixed. Those districts who did not licence refused to co-operate since they did not licence second-hand car dealers and could not see the purpose of an interview. However one authority did agree to be interviewed over the phone. Four authorities did not respond and a follow up letter was sent, but it produced no reply. A phone call to each of the four non-respondents was equally unproductive as these districts said they did not want to participate and they were too busy to speak to anyone about their licensing operations.

As a result only five districts agreed to be interviewed, Stirling, Falkirk, Glasgow, Edinburgh and North East Fife. Although a smaller number than hoped for, these districts were drawn from all three levels of licensing and represented city, urban and rural districts. The characteristics of each of these districts is shown below in Table 9.2.

The reduction in the number of interviews had little impact upon the selection of external agencies.

Strathclyde, Lothian and Central Police agreed to be interviewed as well as Central, Lothian and Strathclyde Trading Standards departments. Tayside Trading Standards refused to be interviewed.

Table 9.2 Description of District Councils Interviewed

	<u>Conditions</u>	<u>Enforcement Authorisation</u>
Falkirk	Records Pre-sales Info Code of Practice	Own Specialist- Officer
Glasgow	Records Code of Practice	Police Trading Standards Own Staff
Stirling	Records Pre-sales Info	Own Staff
Edinburgh	Records	Police
N E Fife	Records	None

The interviews took place during March and April 1988. In each case the interview was tape recorded with the agreement of the interviewee and then transcribed for analysis.

9.6 Analysis of Results

The results of these interviews are not meant to describe the precise operational characteristics of all licensing districts in Scotland. They do however provide clues to some common operational features. With respect to each individual party the analysis will address the key issues identified earlier in this chapter.

In the presentation of results, the information is drawn from transcripts of the interviews and includes general comments as well as specific quotations from the interviewees.

9.7 Results of Interviews with District Councils

9.7.1 Reasons for Introduction of Licensing

There was very little information available as to why the district councils decided to introduce licensing for second-hand car dealers. The reason was that very few of the original staff who were party to the decision were still in post. However three contrasting positions were identified. In the case of Falkirk District there was a recognition that second-hand car purchasers needed protection and the council felt that it had a duty to provide the best possible protection to its constituents. Therefore licensing was introduced solely to provide additional protection for the second-hand car purchasers within the Falkirk area. By contrast the introduction by Edinburgh District was undertaken because of an existing ancient statute concerning the licensing of occupations within the Royal Burgh which was in place before the Act was introduced. The main rationale was to provide some administrative control over provision within the district. The analogy used was the case of taxi licensing which is undertaken in order

to set fare levels and set a standard for entrants. There was an indication that licensing was introduced in order to benefit consumers, specifically in the setting of standards for entrants. In Glasgow the introduction of licensing was undertaken in an attempt to control the theft of vehicles and the resetting of car odometers. These had been identified by the district council as a problem created by 'back street traders' in their area. Licensing was seen as an opportunity for greater control over dealers at the margin of the second-hand car business.

The fact that a number of different reasons were given suggests no clear consensus about the purpose of licensing and as a consequence no clear rationale. This may provide some explanation for the differing licensing systems adopted. However a consistent theme is that licensing provides some benefit, ie the protection of consumers, or a reduction in theft. It could be implied that districts who do not licence do not identify any benefits. This is consistent with the guidance from the Scottish Office referred to in Chapter 6.

The selected districts were also asked why they had attached certain conditions to the licences they issued. None could provide an explanation for the requirement for pre-sales inspection reports. Falkirk which has a licence condition which requires compliance with the code of practice suggested that representations must

have been received from the local trading standards department at the time the system was designed although this was not confirmed. The precise reasons for different licence conditions appeared to have been lost.

9.7.2 Communication with Prospective Licence Holders At The Time of System Introduction

At the time licensing was introduced most districts approached communications with dealers in a very ad hoc manner. In North East Fife for instance the district sent a letter to all dealers listed in the local Yellow Pages telephone directory informing them of the introduction of second-hand car licensing. In Edinburgh and Falkirk advertisements were placed in the local press as public notices. Perhaps the most unusual approach to communication came from Glasgow District. The interviewee stated that the fact that a resolution had been passed by the district council and consequently appeared in the council minutes (which are public documents) was sufficient to inform all second-hand car dealers of the introduction of the system. This was also considered sufficient to inform the public. This view was based upon an assumption that the public had a duty to acquaint themselves with district council business. There was no other communication with dealers by Glasgow district at the time the licensing system was introduced or subsequently.

Glasgow District explained the lack of provision of information both at system initiation and subsequently:

"it would be illegal to invite applications from second-hand car dealers because by doing so the district would be taking upon itself a duty to inform every dealer. If a dealer was omitted he would be able to take legal action against the district for a failure to carry out the duty"

"we couldn't produce leaflets or pamphlets or anything because there is bound to be some error and it would be torn apart by the local sheriff"

This reasoning was also used to explain why Glasgow District Council did not send out reminders to dealers that their licence had expired.

None of the districts interviewed approached the communication of information about licensing methodically. There was no preliminary collation of a list of dealers within their area which they could have collated internally from business rates information and externally from Trading Standards department lists. In addition there was no on-going process of communication with licence holders. This goes some way to explaining the lack of information about licensing displayed by dealers. In addition no district undertook communication programmes to inform consumers about the system.

9.7.3 Identification of Dealers

While communication about the introduction of licensing may have been beneficial the identification of dealers who would need a licence is essential. However it appears that the identification of prospective licensees was similarly ad hoc. In the survey of administrative arrangements among districts it was noted that some districts had issued very few licences. There was a consensus among those interviewed that there was no obligation upon the district to encourage licence applications. The following comments express the consensual view:

"The role of the district is not to invite licence applications but to respond to applications after the applicant has decided they need a licence"

"It is not the duty of the District Council to inform second-hand car dealers that they require to hold a licence. It is up to the second-hand car dealer themselves to decide whether they require one"

This approach by the districts at the inception of the system goes a considerable way in explaining both the lack of knowledge among the dealers and the lack of comprehensive licence holding. Licensing is seen as an administrative function where the district responds rather than initiates.

A second and potentially more serious observation relevant to the identification of potential licensees was that districts did not seem to define second-hand

car dealing in the same way. It was apparent during the interviews that some districts had identified an exclusion clause in the Act. The clause referred to is that which appears as Section 24(3)d of the Civic Government(Scotland) Act 1982, which states:

"A second-hand dealer's licence shall not be required for carrying on a business as a dealer in second-hand goods or articles incidentally to another business not being that of a dealer in such goods."

According to the guidance notes from the Scottish Office (1983) (Scottish Office Circular No6/1983 Appendix A, Para 2.61) this clause should be interpreted as:

"..... for example, where a multiple store takes used articles in part exchange for new articles"

The initial analysis of the Civic Government(Scotland) Act did not identify this as an exclusion clause which would have a bearing upon second-hand car dealer licensing. All motor dealers sell both new and second-hand cars, therefore second-hand car dealing is not incidental to the business. However the interpretation by the district councils of this clause serves only to add to the degree of variation across licensing districts.

Some districts have interpreted this clause as making all dealers who hold a franchise to sell new cars exempt from the licensing provisions of the Act. This is

achieved by considering the second-hand car sales as incidental to the main business of selling new cars. However other districts such as Stirling have taken to a subjective assessment of how much of the business is selling second-hand as opposed to new cars. If the proportion of second-hand cars sold exceeded that of new cars sold then the dealer required a licence. If not then the dealer was exempt. In addition, other districts such as Edinburgh imposed a 20% rule: if the second-hand car part of the business exceeded 20% of the total business then the dealer needed a licence. North East Fife and Glasgow had taken an opposite view that any dealer who sold second-hand cars required a licence as they did not believe the exemption applied to the motor industry.

These differences in interpretation were not based upon objective information about individual licence applicants. The assessment of all districts operating a proportional entry to the exclusion clause was done on the basis of 'personal' knowledge of the dealer's business by the licensing officer. The existence and operation of such an exclusion clause severely undermines the achievement of the first necessary condition for the attainment of an operative licensing system which is the achievement of comprehensive licence holding.

To summarise the points raised above. The communication with dealers within a district at initiation of the system was severely limited. Compounded with the lack of communication is the position adopted by the licensing districts that they do not have a duty to tell dealers that they need a licence but only respond to licence applications after the applicant had decided they needed one. Finally if a district received an application from a dealer whom they perceived to be in an exclusion category they would return the application since the dealer would be exempt.

9.7.4 Enforcement Arrangements

The final issue raised with the district councils interviewed was the arrangement for enforcement. It was noted from the survey of administrative arrangements that districts had nominated their own staff as enforcement staff under the Act as well as other district council staff and external agencies. However the dealer survey found very little evidence of district council staff actually undertaking visits to dealers to check compliance with licence conditions.

At the time of the interviews only one Scottish district council employed their own dedicated enforcement officer to provide enforcement for all the district licensing functions which includes second-hand car dealer

licensing. Since the interviews took place two other districts have now introduced licensing and employed their own enforcement officer. This is clearly inconsistent with the number of districts who indicated that they had authorised their own staff to enforce the local licensing system. Glasgow and Stirling who have authorised their own staff were also of the opinion that these staff had no enforcement responsibility. The following are comments from the interviews:

- Edinburgh District: " The Police are the enforcement agency nominated by the District council to enforce licensing. We leave it up to them and we're quite happy with what they are doing.
- Glasgow District: " Enforcement is not the responsibility of the district in any sense, it is entirely a Police matter.
- North East Fife: " The council leaves it (enforcement) in the hands of the local Police and the Trading Standards Department (pause....) Although come to think of it I'm not sure whether we actually empower them under the Act.
- Stirling District: " The enforcement of licence conditions and the identification of unlicensed trading is entirely a Police function. We haven't got the resources or the manpower to do it.

Districts are divided over how they see their own enforcement responsibilities. However, even Falkirk which operated its own enforcement officer saw the

officer's function as supporting the efforts of the Police and the Trading Standards Department.

The absence of any clear indication by the districts of an enforcement role for themselves puts a heavy burden upon the enforcement activities of the external agencies. The view that districts do not have responsibility for the detection of unlicensed trading and compliance with licence conditions calls into serious doubt their commitment to such a system and provides an explanation of the findings in the consumer and dealer surveys.

9.7.5 Overall Opinion of Second-hand Car Dealer Licensing

All the district councils interviewed indicated that they were quite happy with the operation of second-hand car dealer licensing within their area. However all pointed to the lack of resources especially manpower in administering the system. They indicated particular problems with the legislation which required them to dispose of applications within a specified time period.

The districts appeared to be unaware that the wording of the Act allows them to charge licence fees which cover the full costs of the system, including extra manpower. Glasgow District did concede that the licensing system they operated did not come close to achieving the

objectives originally set. The overall impression given by the interviews was that licensing was seen as an inconvenient administrative burden imposed upon them from above which was being maintained rather than pursued as a priority. The role of the district was only to issue licences in response to applications and some other 'body' was responsible for ensuring the system worked. In all cases the districts referred to the lack of information circulating between district councils and lack of examples of good practice. All districts said that if anyone felt strongly about the subject the council would review their licensing operations but that they received very few complaints about the system from the dealers and none from consumers.

9.8 Results of Interviews with Police

The second party to licensing is the police. Their role, identified by the district survey, was in providing information about the fitness of applicants and providing enforcement. Both these issues were raised with the police as well as their overall view of the licensing of second-hand car dealers. The interviews were with Lothian, Strathclyde and Central Police although the interview with Central Police is not included in this analysis. This interview was curtailed as it became apparent that the Inspector did not know about the licensing of second-hand car dealers by district councils within Central Region. Central Police

were surprised they had been 'implicated' and confirmed that they had not received any information about the operation of the systems from the three districts within the region. There were no standing instructions to police officers and as far as they knew they gave no information about individuals to the district councils.

9.8.1 Vetting of Applicants

Both Strathclyde and Lothian Police have dedicated licensing departments who deal with requests from district councils about the fitness of licence applicants. The information requested relates to all licensing functions such taxi drivers, sex shops and street traders as well as second-hand car dealers. The information they provide is drawn from the Police National Computer and consists only of details about previous convictions. Both police authorities exercise some discretion about precisely which conviction statements are passed on as some are not considered relevant to a licensing application. There is no procedure for sending information to the districts on an on-going basis for instance about any recent convictions of licence holders. The procedure is only adopted at the time of licence issue or licence renewal. The fact that a dedicated licence department exists suggests that the vetting function is at least operating.

9.8.2 Enforcement

Both police forces were surprised that they had an enforcement role in relation to the licensing of second-hand car dealers. Strathclyde Police pointed out that they did not know which districts were licensing and which were not and they did not know what licence conditions were attached to the licences issued. As a consequence enforcement would be very difficult. There was no record of district councils approaching the police authority to ask for enforcement assistance. As a consequence the police in Strathclyde gave no instructions to their officers about second-hand car dealer licensing. Lothian police were unable to confirm whether enforcement took place or not because enforcement criteria were determined at divisional rather than headquarters level. However due to the lack of resources and other more serious demands upon their time it was apparent that licensing was of a very low priority especially since they had no control over the licensing system and were allocated no resources to enforce licensing.

(c) Overall Attitude to Second-hand Car Dealer Licensing

The attitude of the police authorities interviewed was that they recognised the failings of the system presently operated by the district councils. However the

view was that something was better than nothing. In terms of crime prevention the licensing of second-hand car dealers offered enormous potential to control the criminal activities of dealers. It was suggested that licensing should be extended in its interpretation to all persons who trade in second-hand cars and not just those who sell to the public. In addition the vetting procedure should be improved along the lines of the procedure adopted by betting and gaming board licence inspectors. In this case the licensing authority can inspect financial dealings to establish beneficiaries and sources of funds.

9.9 Results of Interviews with Regional Trading Standards Departments

The third important party to licensing external to the district councils is the regional trading standards department. These departments are responsible for the enforcement of consumer protection legislation throughout a region as well as collecting, collating and investigating consumer complaints. In the survey of administrative arrangements for licensing the licensing districts identified this external agency as having responsibility for providing information about licence applicants in addition to that provided by the police. Their role is also to provide enforcement support for the activities of the district enforcement staff. Three interviews were conducted with the Chief Officers of the three appropriate regions; Central, Lothian and

Strathclyde. The interview aimed to assess their role in providing information relevant to the vetting of applicants and their enforcement role, and to establish the attitude of the agency toward the licensing system.

9.9.1 Vetting of Applicants

The vetting procedure takes place when the trading standards department receives a copy of a licence application from a district council within the region. However not all districts who licence send copies of their licence applications and some do not send copies of all the applications they receive. The departments were concerned that they received very few requests for information from their constituent districts.

Upon receipt, the applicant's name is cross-referenced with departmental records to establish whether the department has any record of legal proceedings against the applicant. The information passed to the districts requesting the information is only that which is already in the public domain. The trading standards departments are restricted in the information that they can provide. First, they cannot pass on information which is subjudice. Second they cannot express any opinion about the suitability of the applicant based upon complaints they have received, principally because the complaints may well be unjustified, unrepresentative or malicious.

Third, there is a legal restriction on information the agency can pass on to other outside agencies. This restriction is contained in Trade Descriptions Act 1968. The majority of investigations into fraud or deception in relation to cars are carried out under the powers contained in this Act. These powers are wide-ranging and allow access to most forms of premises, as well as the seizure of goods and documents. Section 28(5) states that:

"If any person discloses to any person-

- (a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this section; or
- (b) any information obtained by him in pursuance of this Act

he shall be guilty of an offence

This section prevents any information obtained in the course of such an investigation from being communicated to an outside organisation. Due to these three restrictions on information, trading standards departments cannot provide any additional information to that of the Police. As a result the vetting procedure operated by the district councils appears to be based solely upon the criteria of criminal convictions. The point was made that the simple statement of a conviction was very often insufficient to convey the full nature of the offence committed. There are procedures in operation which provide information to some districts about

offences which arise during the course of a licence. This information has been used in two instances to call the dealer before a licensing board for a review of his licence. In one instance in Lothian region this procedure has resulted in a licence being withdrawn.

9.9.2 Enforcement Activity

None of the trading standards departments interviewed were authorised to enforce the licensing provisions of the Civic Government(Scotland) Act 1982. The fact that they do not have authorisation means that officially they cannot undertake any enforcement role with respect to licensing. It was made clear by one chief trading standards officer that the Region would be very unhappy to discover that officers were enforcing legislation which did not appear on their warrants. The departments indicated that they left enforcement to the Police. However, unofficially all trading standards officers knew of licensing and would make sure that dealers were aware that they may need a licence if they operated within a licensing district. In addition it was made clear that in the event of the prosecution of a second-hand car dealer the department would ascertain whether a licence was required and inform the Procurator Fiscal if the dealer had been operating without a required licence. This information would, at the discretion of the Procurator, be included as an additional charge. Two

of the departments attended regular briefing sessions between the region and the districts to discuss matters where there was a conflict of interests. There was no recollection of the matter of enforcement of licensing being mentioned.

9.9.3 General Attitude Toward Licensing

A general comment was that the licensing of second-hand dealers had fallen into disrepute because the district councils had not been prepared to "bite the bullet" and impose any sanctions upon dealers who were either unlicensed or not complying with the licence conditions. Together with the Police, the trading standards departments were of the view that the system as presently operated was better than nothing at all but that the system had the potential to be a "major piece of consumer protection legislation". The present system had limited current effectiveness due to the way in which it was being operated by the districts.

The degree of variation between districts caused problems not only for the larger dealers who operated in different districts with different licence conditions but also for any enforcement agency. The absence of standardisation across districts presents a significant impediment to effective enforcement by an outside agency. Any staff would need to know, on a dealer by dealer basis, in which district the dealer operates, the

precise interpretation of the exclusion clause to establish whether a licence is required, and finally what conditions were attached to the licence. As a means of achieving standardisation the trading standards departments were all of the view that licensing would be best operated at a regional level by themselves or an independent body. It was suggested that the move to a higher tier of local government would minimise variation, complement existing consumer protection activity and ensure that the policy was pursued in the interests of consumers. The condition for this shift in the level of responsibility for policy delivery would be adequate resources and the facility for charging licence fees to ensure the system was self-financing was attractive.

9.10 Conclusion

At the beginning of this chapter three broad issues were identified related to the achievement of necessary conditions for licensing to operate. The analysis which followed identified a number of operational characteristics of licensing systems which in the first instance prevent the achievement of an operational licensing scheme and in the second instance explain the wide variation in licensing systems in Scotland.

There are three operational defects common to each district interviewed which contributed to the failure to attain comprehensive licence holding and comprehensive

compliance. The first of these derives from the introduction of the licensing scheme which although a unique event is indicative of future communication techniques. The process of introduction was not carried out in a way designed for maximum impact upon second-hand car dealers. The decision to introduce was inadequately publicised, evidenced by the significant number of dealers who did not know that their local district was licensing. The posting of public notices in local newspapers is a form of communication very common in local government, yet without the use of other sources of information such a medium is clearly inadequate to convey both the purpose of the system and the likely effect upon dealers. The reliance upon published council minutes as the sole means of communication seems designed to inform the least number of people as possible. It would appear that few districts went as far as writing to all second-hand car dealers operating within the district. Even those districts which did communicate directly, did so on the basis of inadequate lists.

The second operational characteristic is the interpretation of the identified exclusion clause. None of the surveys, or discussions with industry representatives, identified a new car dealer who did not sell second-hand cars. This would imply that all dealers are included in the definition of a second-hand car dealer. The interpretation provided by the Scottish

Office from which the government's position can be inferred does not contradict this view. However, the adoption by districts of various 'measures' to define second-hand car dealing presents the most serious flaw in terms of the achievement of licensing objectives. The effect is that districts, without compulsion, are undermining their own systems by introducing an obstruction to the attainment of comprehensive licence holding at local level.

The third operational characteristic is the failure to provide for the adequate enforcement of licensing. It is an anachronism for districts to introduce a licensing system, allocate resources to the administrative operation and yet have no interest in ensuring that unlicensed trading is identified and removed. The reasons for this anachronism appear to be associated with the underlying objectives assigned by the local district. The only district interviewed who identified the protection of consumers as the overriding objective was the only district to have its own operational enforcement staff. This general failure in enforcement in a system which implies, at least in principal, additional costs to licensees, is bound to produce a situation where non-compliance is the dominant feature.

These three characteristics have an amplified effect upon licensing when considered in relation to the two external agencies. The principal identified task of

these agencies is enforcement support. However, the results of the interviews indicate that this support is not forthcoming. It could be argued that even if the arguments about resources and authorisation were absent such support would still not be forthcoming.

When the licensing of second-hand car dealers by districts is considered from an enforcement perspective, the variation in the licensing systems operated in different districts has a number of important implications. The first is that a regional or other external enforcement agency would need to know precisely how the district has interpreted the exclusion clause in order accurately to identify unlicensed trading. Further, the agency would need to know precisely which licence conditions applied in different districts. This would make the enforcement task extremely onerous.

The results of the interviews, while not representative of all licensing districts do point to severe shortcomings in the delivery of licensing by the district councils. Specifically these are: the introduction of local mechanisms which contradict the overall objective of a workable licensing system; and the existence of substantial discretion in the design and operation of licensing systems. The implications of this for consumers, dealers, and government will be addressed in the following chapter.

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Chapter 10 Conclusions and Implications

10.1 Introduction

The licensing of an occupation to control its provision has been applied in a number of different countries and to a number of different occupations. The rationale presented for this form of control has been to protect the public interest but there has been very little evaluation of the impact of licensing upon the purchasers of goods and services. This thesis has developed a rationale for government intervention in consumer markets based upon the existence of specific market failures identified in Chapter 1. It has identified a role for government in offering the regulation of a market to address these market failures.

The second-hand car market displays a number of specific market failures with respect to consumers. In response, a number of different regulatory approaches have been taken by government. This thesis has evaluated licensing in terms of its proposed benefits to consumers in this market, specifically the licensing system introduced in Scotland by the Civic Government(Scotland) Act 1982.

The evidence suggests that licensing as applied to second-hand car dealers in Scotland is having no beneficial impact upon the purchase experiences of consumers. This result has implications for the Scottish

licensing system and also for consumer policy in general.

10.2 Summary of Findings

In order to undertake the assessment of the impact of licensing there was a need to recognise that consumers and second-hand car dealers had different interests each of which could be served through the same policy but that the mediating mechanism was the district councils who design and operate individual licensing systems. The policy of licensing as applied to consumer markets has been presented as a way in which the interests of individual consumers can be protected. Licensing theoretically has the potential to benefit consumers by improving the standard of provision, of information and of protection. However it also has the potential to serve the interests of the licensed group by introducing characteristics of imperfect competition causing barriers to entry which results in increased prices, and a reduction in mobility. The difference between a licensing system which serves licensees' interests rather than the consuming public is dependent upon the operational characteristics of the system.

Unlike many other licensing systems, this specific application was introduced by central government via legislation. The objectives for the licensing of second-hand car dealers were never stated explicitly although a

number of rationales were presented for a market intervention of this type. The underlying assumption was that the introduction of licensing would in some way contribute toward the reduction of market failure in consumer markets. Features of the legislation such as the recording of mileage and the keeping of records supported this contention. As a consequence the introduction of licensing in the second-hand car market was seen by many as a way in which consumer interests could be protected.

Central government introduced licensing to the Scottish second-hand car market via the delegation of responsibility to district councils, the second tier of local government in Scotland. This delegation of responsibility was accompanied by a significant degree of administrative flexibility, ostensibly to allow districts to tailor the policy to serve local circumstances. This administrative flexibility emphasised the role of the district councils as an intervening mechanism which mediated between central government and second-hand car dealers. This mediation had a number of direct consequences. The first consequence was that some district councils decided not to introduce licensing for second-hand car dealers at all. This presented an immediate difference between different areas in Scotland. In addition, the delegation of responsibility by central government also carried with it a great deal of discretion in terms of the

design of local licensing systems. The districts could design and implement their own licence conditions, charge different licence fees, make their own arrangements for enforcement and decide upon what criteria licence applicants should be accepted or rejected. This presented a further source of difference between licensing districts. Accepting that there were differences in the licensing schemes adopted by the district councils in Scotland, these differences were incorporated into the methodology of two key surveys, one of consumers and one of second-hand car dealers. In both cases the impact of licensing was assessed by reference to the non-licensing areas. These provided an approximation of a control group.

The results of the consumer survey compared the purchase experience of consumers in licensing districts with consumers in non-licensing districts. The existence of three specific benefits was assessed. The first was the improvement in information. This benefit is provided either directly through more information on cars or indirectly through knowledge of the licensing system. The second benefit from licensing is the improvement in the standard of provision in the market. In the second-hand car market this applies to the cars sold as well as elements of dealer services. The final benefit is an improvement in protection. This was investigated with respect to economic loss suffered by consumers.

The survey failed to detect any differences with respect to these criteria between licensing and non-licensing areas. In addition there were no differences detected between different designs of licensing system. It was concluded that none of the identified benefits were accruing to second-hand car purchasers.

The results of the dealer survey investigated the extent of dealer participation in licensing. Dealer participation was extremely low. There were significant numbers of dealers operating within licensing areas without a licence and without any knowledge of the licensing system. Even among licence holders knowledge of the system was poor. The majority of licence holders failed to identify correctly their licence conditions. The lack of knowledge and apparent lack of enforcement activity resulted in low levels of compliance with licence conditions and little detectable impact upon trading behaviour.

The lack of any detectable effect upon consumers due to licensing was explained by the lack of participation by dealers. This result highlighted the importance of the district councils and their role in implementing the policy. The results of interviews with district councils suggested that there were deficiencies in both the legislation which introduced the licensing powers and in the design and operation of local licensing systems.

The legislation which provided the administrative framework for licensing contained three deficiencies. First, the optional nature of licensing allowed districts to choose whether or not to adopt the licensing powers. At a time of tighter financial control over local government by central government and the absence of additional resources this allowed over 50% of districts not to implement licensing. Second the flexibility with respect to licence conditions allowed for significant variation in the potential for licensing to affect the trading behaviour of licence holders. The lack of uniformity caused confusion among car dealers, consumers and enforcement agencies. The third weakness was the imprecise drafting of an exclusion clause. The clause allowed district councils to arrive at their own definition of who constituted a second-hand car dealer. A dealer would require a licence in some licensing areas but not in others.

More fundamental to the explanation of operational differences between districts was the absence of any clear objectives for the system. Districts had no rationale for their own system, some seeing it as a means of controlling crime, others as means of protecting consumers. The final explanation for the lack of participation among dealers was the absence of any perceived responsibility by the districts for enforcement. Districts were relying upon agencies external to the district council to provide enforcement

but did not appear to have any mechanism for informing the agencies of this reliance or have any procedure for monitoring enforcement activity within their administrative area to check that this reliance was reasonable.

The results of the surveys indicate that the licensing of second-hand car dealers in Scotland is not being administered effectively. In view of the aim of this thesis this makes it impossible to assess whether licensing as operated in Scotland is a policy capable of having any beneficial impact upon consumers. At this level all that can be assessed is whether or not licensing as applied in Scotland is having any impact upon the market failures identified in the second-hand car market. It cannot be used to assess the potential of licensing per se.

The original proposition was that consumers would benefit from improved information, improved standards of provision and improved protection if licensing operated. The fact that there were no detectable benefits would suggest that consumers are in the same position viz a viz market failure as if licensing did not exist. However, the incomplete application of a policy does not imply that consumers are unaffected by its operation. This phenomenon is described by Wolf(1988) as a situation of non-market failure where government action to alleviate the effects of market failure fails with

implications for consumers who do not benefit from the policy or from the removal of market failure. These effects will be evaluated in terms of the three principal benefits of licensing identified in Chapter 4.

10.3 Specific Implications for Consumers

The first chapter of this thesis presented the model of a perfectly competitive market. It was shown that within the assumptions of the model that such a distributive mechanism would achieve a solution to the allocation of resources in the economy. Further it was shown that such a solution simultaneously met the conditions of a Pareto optimal solution such that there was no individual who could be made better off without another person being made worse off. The intervention of government was rational only where the market mechanism failed to reach equilibrium, a situation of market failure. The second-hand car market was presented as a market which displayed characteristics of market failure with respect to consumers and as such intervention by government in principle was justified. An assumption was made that intervention would be directed at reducing the impact of market failure upon consumers in this market.

The results of the analysis have revealed that licensing as a policy instrument has failed to achieve any detectable impact upon the purchase experiences of consumers in Scotland. On the assumption that market

failure still exists such an intervention has not reduced the impact of market failure and cannot be said to have achieved a Pareto optimal solution to the problems of consumers in this market. One could criticise the Pareto criterion itself as a means of assessing the effectiveness of a policy intervention. McKee(1979) for instance, draws attention to the inherent confusion in using this method to assess group as opposed to individual welfare. In the absence of a Pareto efficient solution this policy should perhaps be evaluated using less restrictive criteria such as efficiency or equity as suggested by Usher(1981) and Ramsay(1984 and 1985). These too can be criticised on the grounds that they do not provide an adequate means of discrimination. For instance they provide no indication of degrees of equity or efficiency. However, the partial operation of the policy in the Scottish market could not be defined as efficient or equitable. An alternative method of assessment presented by Stigler(1971) is that of evaluating net consumer benefit. This compares the benefits of intervening with the costs of not intervening. Using this latter approach, the benefits and costs to consumers derived from licensing can be explored.

10.3.1 Improved Information

The first benefit derived from licensing is improved information. Any increase in the direct provision of information about second-hand cars is an improvement in

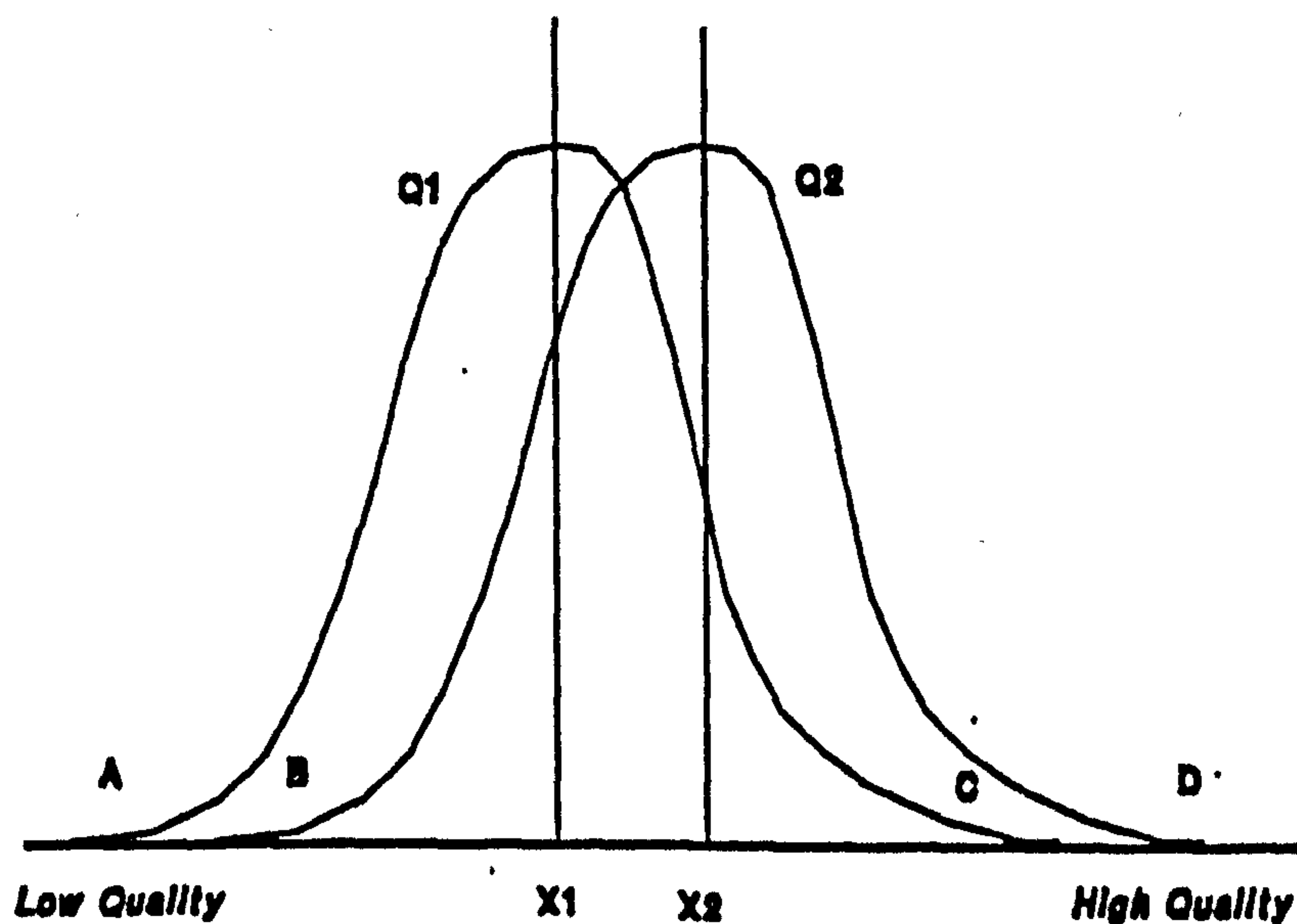
the total amount of information provided in the market. It must be accepted that even one more dealer displaying a pre-sales inspection report due to licensing represents an improvement. However, the indirect information provided through knowledge of licensing and the contribution this makes to reducing the information burden of consumers has an inverse effect when viewed with respect to incomplete licence application. A consequence of having knowledge of licensing which was construed as a benefit could, if such information is incomplete present a cost. Of the 38% of consumers who knew of the operation of licensing, over a third wrongly categorised their local authority as licensing when it did not operate such a system. In addition, this group all identified licensed dealers as much better dealers yet purchased from unlicensed dealers. These consumers could rely upon the information they have, in the mistaken belief that it implies that every dealer is licensed. The existence of both licensed and unlicensed dealers in licensing areas as well as the existence of licensed dealers who are not complying with licence conditions increases the amount of information needed in the market viz a viz dealers. This implies an increase in the information necessary for consumers successfully to differentiate dealers. As a result the potential benefit of indirect information and of improved direct information offered through licensing turns into a cost where licensed and unlicensed dealers operate alongside each other.

10.3.2 Improved Standards

The second proposed benefit delivered by licensing is the improvement in overall standards of provision by the exclusion of dealers who fail to qualify as 'fit' persons to trade. This improvement in the quality of provision in a situation where unlicensed dealers operate and licensed dealers do not comply with licence conditions is doubtful. The purported contribution of licensing is a reduction in the distribution of standards across market provision. This reduction is said to alleviate market failure directly by eliminating low quality provision and indirectly through setting a minimum standard of provision in the market which has the effect of providing standardised information to consumers. This implies that consumers need only differentiate between the quality of provision in the market within the margin bounded by the minimum quality defined by licensing and the maximum quality available. However, the fact that some dealers are licensed and many will have altered their trading behaviour due to licence possession and many will not, may lead to an overall increase in the distribution of quality in the market place. The degree of increase in quality dispersion due to licensing depends upon the difference between pre-licensing quality dispersion and post licensing dispersion. This situation is described below in Figure 10.1. The pre-licensing quality dispersion is

indicated by distribution Q1 between points A and C with a mean X_1 . The proposition is that licensing removes the lower quality provision and increases the mean quality of provision providing for an improvement in quality indicated by the shift in the distribution to a position bounded by points B and D with mean X_2 . With incomplete licence holding some dealers have improved and some dealers have not. As a consequence the quality dispersion in a situation of incomplete licensing is the distribution bounded by points A and D with an indeterminate mean.

Figure 10.1 Effect of Licensing Upon Quality Distribution



As a consequence of the increase in the quality dispersion through partial licensing any overall improvement in standards is indeterminate. This situation does have implications for consumer information in that the degree of differentiation in the quality of market offering implies the need for greater evaluation by consumers. Again incomplete licensing application and participation among dealers increases not reduces the burden upon consumers.

10.3.3 Improved Protection

The final proposed benefit which it is suggested accrues to consumers is an improvement in protection. The reasoning behind this benefit is that dealers who have or are likely to compromise the interests of consumers are excluded by the vetting procedure. In addition any transgression during the period of the licence would lead to the licensee being fined or having the licence removed. In the latter case the dealer would be unable to serve the market. The incomplete application of licensing both within districts and across Scotland allows unlicensed trading to occur. Clearly in these circumstances undesirable dealers cannot be excluded within a district and cannot be excluded across Scotland. As such there can be no overall improvement in protection through the vetting procedure. In addition, the absence of any mechanism for enforcement suggests

that control over the activities of licensed dealers is also absent. The benefit of improved protection is unsubstantiated, but the evidence suggests that the Scottish licensing system cannot deliver increased protection.

10.4 Additional Costs

To the failure to identify any benefits to consumers there must be added a number of additional costs. Dealers are not passing on the direct costs of licensing to consumers by increasing the price of cars they offer. However the costs for consumers associated with this market remain and have not been removed or reduced by the introduction of licensing. These are the indirect costs associated with making poor purchase decisions identified by Sproles(1983) and Morris and Bronson(1970). Specifically these are the costs of search, in terms of time and money as well as the increased probability of a 'poor' purchase in terms of the quality assessment resulting in a complaint.

The most important issue for consumers in relation to second-hand car buying is the reduction of risk. A system which provides for control over entry to the market and is administered by an independent body is an attractive proposition for consumers. It suggests that a purchase from a licensed dealer provides a degree of purchase security. At the same time as the Scottish

licensing system promises purchase security to consumers, it is actually having no impact upon the trading operations of dealers. As such unlicensed dealers are 'free riding' upon the perception of risk reduction offered by a licensing system and specifically by licensed dealers.

The above analysis suggests that the partial operation of licensing is providing no benefit to consumers and in some cases could increase their economic costs. In the absence of net benefits the licensing system operated in Scotland can be considered as contributing to a net reduction in social welfare, where the costs of the policy exceed the benefits.

10.5 Conclusions on the Scottish System

There is no evidence to suggest that the licensing of second-hand car dealers as a policy is unable to meet consumer protection objectives. It is the application of licensing in Scotland which has severely undermined its effectiveness. The administration of licensing by districts is characterised by a lack of co-ordination among licensing authorities, a lack of enforcement of the duties imposed by licensing and a corresponding lack of participation by second-hand car dealers. Faults in the drafting of the legislation and any clear understanding of how the policy would apply to second-hand car dealers has presented district councils with

inadequate guidance. This has been compounded by a lack of resources, a lack of motivation and an inability to secure any licensing objectives. As a result, there is only a small proportion of dealers who could be considered to be participating in licensing. As a consequence licensing has had no detectable impact upon the purchase experiences of consumers and has made no contribution to consumer interests in the second-hand car market. Government intervention in this instance has failed to achieve a net increase in welfare in this market and according to the rationale for intervention the policy cannot be justified either in terms of Pareto efficiency, equity or a net welfare benefit.

10.6 Implications for Policy

There are two central questions as far as policy implications are concerned. The first is in what way can the existing licensing framework be improved so as to achieve a working licensing system. Second, what lessons can be learnt from the Scottish experience about the application of consumer policy in a wider context.

10.6.1 Improvements Within the Existing System

The first improvement to the system must be the achievement of comprehensive licensing. This objective must be pursued by individual districts in terms of securing comprehensive licence holding among dealers

operating within their administrative area. Second this objective must be secured by encouraging all districts to introduce a licensing system. If this can be achieved it will provide a sound basis upon which to effect modifications to the trading behaviour of second-hand car dealers in line with the rationale for government intervention in the market.

The second improvement is to standardise the form and content of licence conditions which will reduce confusion in the market for all parties concerned. For consumers, the standardisation of conditions would reduce the information burden and provide market pressure in securing compliance. This is in addition to any absolute increase in information, standards and protection. This improvement would also provide an incentive to dealers. Many larger companies indicated that there were substantial additional costs involved in operating outlets in a number of licensing districts. Specifically the training of staff and the preparation of vehicles. Uniformity would allow for the introduction of company wide procedures for companies who operate across districts to meet licence conditions thereby reducing the cost of compliance.

If we assume a priori that the benefits of intervention exceed the costs, both of these improvements require a re-assessment of enforcement provision. District councils are able to charge licence fees to cover the

costs of the system. The complaint about a lack of resources could be resolved with respect to this specific responsibility by increasing the licence fees. It would be possible, though perhaps not politically feasible, to charge a sufficiently high licence fee to cover the costs of local enforcement personnel. In the absence of this, there need to be dramatic improvements in communication between district and dealer as well as with any outside agencies to enhance enforcement performance.

It is desirable for administration and enforcement to be at the same administrative level to ensure consistency in activities and to take advantage of economies of information through central recording and centralised monitoring. If it is accepted that licensing is a local government function, this implies that in the interests of uniformity, responsibility for enforcement should be placed at the highest administrative tier in Scotland. This would be at the regional level. This shift in responsibility for enforcement suggests that in the interests of consistency the administration of licensing should also be moved to regional level. If this is accepted the most appropriate agency within regional councils would again be the trading standards departments who already enforce consumer protection legislation relevant to the second-hand car trade.

If this arrangement were to be adopted, it would have a number of benefits. First it would avoid problems associated with restrictions on the passing of information between agencies. Legal restrictions such as that which appears in the Trade Descriptions Act 1968 would not be operative. More important is the potential for introducing the systematic communication of information between those responsible for issuing licences with those responsible for enforcing the licensing system. In addition the placing of responsibility for licensing with an existing consumer protection agency could derive synergy with other consumer protection activities, for instance, the enforcement of consumer credit licensing under the Consumer Credit Act 1974 and the preparation of assurances under Pt 3 of the Fair Trading Act 1973. However this prospect raises issues about the appropriateness of this agency operating licensing especially as they are not viewed by the motor trade as impartial.

The objective of these recommendations is to achieve a licensing system which operates effectively. Once in place such a system could contribute significantly to existing consumer protection in this market. One mechanism which has been used, but not effectively is the citing of the voluntary code of practice for the motor industry as a licence condition. This has the effect of making compliance with a voluntary code

mandatory for licence holders. The voluntary code of practice has been criticised for not having a strong enough deterrent against non compliance, but has also been seen as a useful and flexible method of defining duties and responsibilities in specific industries. The incorporation of voluntary codes into a licensing system has the advantage of providing a deterrent yet does not alter the nature of the control in terms of its flexibility or precision.

A fully operational licensing system could also be used in conjunction with sheriff court and small claims court judgements. This would feed information about successful actions back to the licensing body to be used in the monitoring of licence holders and in the renewing of licences. Or, additionally licence possession or renewal could be made conditional upon the observance of court judgements.

10.6.2 Implications for the Policy of Licensing

The application of licensing to second-hand car dealers in Scotland raises a number of issues for policy makers. The first must be a recognition that delegating responsibility for the implementation of a policy requires some mechanism for co-ordination between the objectives of the delegating authority and the activities of the implementing authority. This problem has been well documented by Browne and Wildavsky(1984),

Montjoy and O'Toole (1979), Thomas(1979) and Marvel(1982). Skelcher et al (1983) make explicit reference to the problems of co-ordination associated with implementation by local government.

In the Scottish case, district councils were given the power to licence with little or no guidance as to why such a policy had been passed by Parliament or guidelines as to how the policy should be implemented. The absence of clear objectives was in conjunction with the delegation of significant discretion with respect to the implementation of the policy. Where the delegation of responsibility is to a single authority, any deviation in implementation or any addition or deletion of objectives can be controlled. However, where the delegation is to 56 different authorities there is considerable scope for deviation, both in terms of objectives and, as a consequence, system design. Berman(1978) believes that considerable discretion for those who implement policy is desirable in recognition of different local conditions. But a number of other authors point to the necessity of some mechanism for the control and monitoring of implementation activities to ensure success. Several heuristics have been presented for policy makers which consist of conditions necessary to achieve the effective delegation of responsibility for the implementing of public policy, see especially Pressman and Wildavsky(1984), O'Toole and Montjoy(1984) and Barrett and Fudge(1981). The work of Bunker(1972) is

particularly relevant in this context. Bunker identified five variables relevant in considering the implementation of public policy by what he describes as 'multi-actors', in this case the district councils. These are the degree to which the delegated organization

- (a) Is consensually clear about its task.
- (b) Is appropriately differentiated into its pertinent sub environment.
- (c) Is integrated by information exchange.
- (d) Has clear knowledge about its performance.
- (e) Is able to make corrective adjustments to its own action.

Using this model it is clear that districts are not consensually clear about their task in relation to the licensing of second-hand car dealers. Similarly they are not differentiated into the pertinent sub-environment, ie historically they have had no consumer protection enforcement functions with respect to the motor trade. The results also indicate a lack of information exchange between the districts and other agencies involved. The absence of any mechanism for monitoring the effects of licensing makes the possibility of corrective action not yet established.

When considering consumer policy in a wider context, uniformity in policy application must be an overriding concern. The legislation which introduced licensing in Scotland was not drafted with uniformity in mind. This

had knock-on effects through the process of implementing licensing.

10.7 Recommendations for Future Research

This research has attempted to evaluate one regulatory application with respect to a specific market, as such it is a specific policy application to a specific market. However, the implications of this research can be developed in a much wider arena.

This thesis suggests that in delegating responsibility for policy implementation, central government must be aware of the impact of existing structures upon the operation of the policy. This approach to policy research, concentrating upon the mediation between policy statement and policy implementation has not been developed with respect to consumer policy yet provides a useful framework for policy analysis. For instance we can use the five criteria set out by Bunker above and also use the considerable theoretical work of Van Horn and Meter(1975, 1979) which concentrates upon policy standards, enforcement and the characteristics of implementing agencies. In the case of second-hand car dealers features of the administration of licensing have reversed the impact of the policy, turning theoretical benefits into practical costs to consumers. The application of general theoretical frameworks for the implementation of public policy to the specific application of consumer policy could be used to design

delivery mechanisms better able to meet consumer policy objectives. This would include a consideration of methods to integrate consumer policy with existing administrative structures as well as examine the role of consumer education in the implementation of consumer policy.

The nature of existing government intervention in consumer markets is almost entirely legislative although increasingly based upon codes of practice. The monitoring of performance of these responses is still undertaken by local government enforcement agencies each operating within its own specific geographical area. Coordinating bodies have been established on the assumption that they will be able to co-ordinate objectives but their success has as yet been unproven. There are significant opportunities to extend this research by looking at spatial variations in the implementation of consumer policy. In particular, this could involve the identification of whether or not the attitudes of responsible agencies have a direct impact upon local trading conditions and apparent local market failures. For instance, the analysis of the role of enforcement staff in their individual interpretation of the objectives of policy and their perception of their role. Preliminary work on the coping behaviours of 'street level bureaucrats' has already been carried out by Weatherly and Lipsky(1977) and Sorg(1983) but in

studies not directly associated with consumer policy and without specific reference to enforcement by local government staff.

Since the survey work for this thesis was published by the Scottish Consumer Council in 1989, a number of developments have taken place. First, the Confederation of Scottish Local Authorities (COSLA) has set up a working party to look into the operation of second-hand car dealer licensing. The working party has still not reported fully but it is likely to recommend to all districts that they introduce a licensing system and come to some agreement about what licence conditions should be applied. In view of this, an obvious development of this thesis would be to re-assess the position in five years' time. Hopefully there would be a comprehensive licensing system in operation at that time which could be evaluated. In addition one district council has adopted a radical approach by inviting consumers to refer complaints directly to them as the licensing authority. This, it is hoped will lead to an association between district council and consumer protection while at the same time generating an information base which can be used in the vetting process.

The second underlying theme of this research has been the nature of consumer problems in the second-hand car trade. The most significant of these is a lack of

information. Licensing along with many other forms of regulation in this market addressed this problem through requiring information to be displayed on cars and by reducing the information burden by introducing a minimum standard of provision. The problem for policy makers is in prescribing exactly what information should be communicated by sellers as a minimum is open to market reaction. Sellers may well ensure that the product or service scores well in terms of the required information. In the case of second-hand cars the pre-sales inspection checklist becomes the minimum check. Similarly in improving standards by vetting applicants the market response is to produce applicants who score well on the fitness criteria. For instance applicants who do not have criminal convictions may act as 'front men' for those who do.

What is required in both cases is a rigorous statement of consumer information needs in order to design appropriate policy responses. But this is an incomplete answer. The results of work by Claxton, Fry and Portis(1974) as well as Katona and Mueller(1955) and Newman and Staelin(1972) all suggest that consumers engage in very little search for information, even for expensive appliances. This has been explained by Stigler(1961) as the outcome of a perceived cost-benefit trade-off. As a consequence more research is needed on the passive acquisition of information and the limits on

the complexity and quantity of information that can be absorbed in this way.

A further implication of the results of this thesis is the importance of providing evidence of the market demand for consumer protection effort. One district stated quite categorically that there were no problems with the second-hand car trade in their area on the grounds that they had never received any complaints from the public. Direct demand for consumer policy has traditionally been delegated to 'consumer organisations' but no assessment has been made of systems which effectively channel consumer dissatisfaction as opposed to consumer complaints. However, consumer dissatisfaction has proved remarkably difficult to measure in an aggregate sense. This thesis used the levels of consumer complaint to provide evidence of consumer dissatisfaction in the second-hand car market. The disadvantages of this approach are well documented pointing to the unrepresentative nature of voiced complaints among other criticisms. However, there are implications for central government activity which is reliant upon such a reactive measure of dissatisfaction. The results of the consumer survey indicated a complaint level in excess of 50% of purchases. However, less than 10% of the complaining group went on to report this complaint to another agency. This suggests a substantial underestimate in official statistics of actual complaints about products and services which implies

that policy makers may be severely underestimating the extent of market failure. This may well be true of other sectors in which the information available to policy makers is severely flawed.

The underlying motives for voicing consumer complaint demands the attention of researchers but there also needs to be a recognition of the role of structures and information systems which could communicate dissatisfaction in an objective manner for the use of policy makers and business alike. The recent launch by Perth District Council of their 'Used Car Charter' invites the communication of complaints and comments from the public direct to the licensing authority and may provide a mechanism for improving information for the administrators of licensing. The effect of this direct and proactive approach needs to be assessed.

10.8 Summary and Conclusion

This research has demonstrated that the licensing of specific activities presents a number of opportunities for consumer protection. However the implementation of the policy through the delegation of responsibility and subsequent neglect by district councils has ensured that the licensing of second-hand car dealers in Scotland is not operating effectively. The future licensing of second-hand car dealers is in the hands of government. Selective repeal of the parent legislation by central

government could improve the existing situation to a point where the activities of local licensing districts would be uniform. Alternatively voluntary agreement between district councils with the involvement of enforcement agencies could achieve a solution in the short term. Only by the coordinated activity of district councils across Scotland can this policy hope to achieve any improvement in the position of second-hand car purchasers.

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APPENDIX I

District Council Questionnaires

BEST COPY

AVAILABLE

Poor text in the original
thesis.

Some text bound close to
the spine.

Some images distorted

Institute for Retail Studies

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ref E/6212/L

Dear Sir

6 February 1987

Used Car Dealer Licensing in Scotland

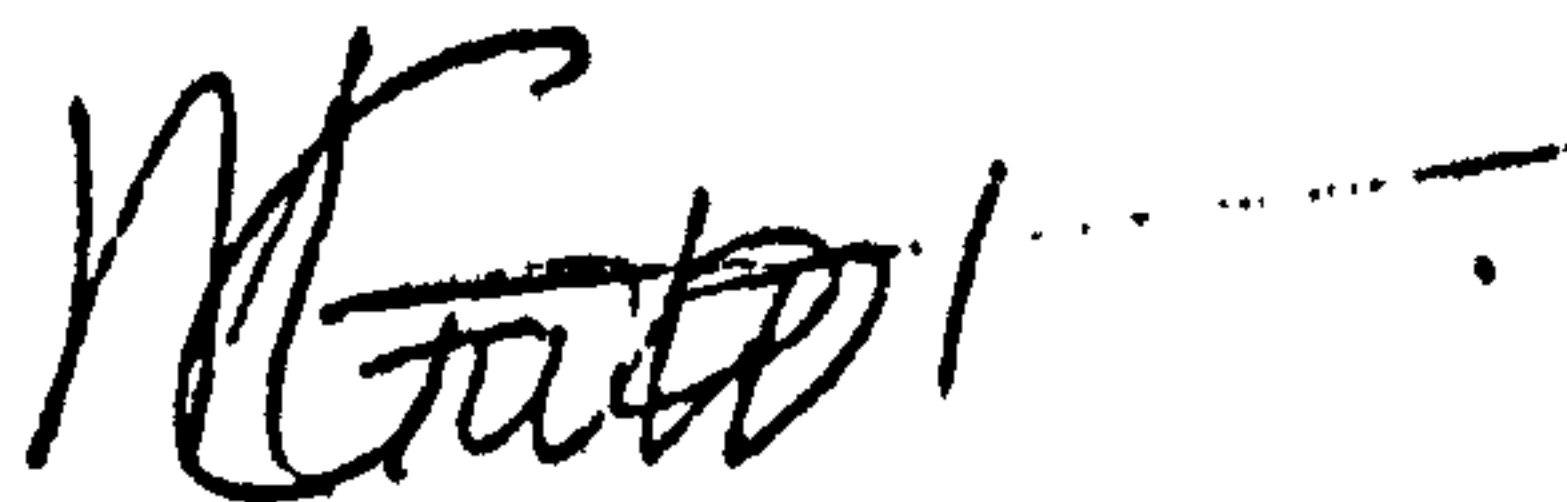
You may remember that I contacted you in August 1986 concerning the operation of your second dealer licensing scheme, in particular Used Car Dealer licensing. This was in connection with a three year study into the licensing systems in Scotland commissioned by the Scottish Consumer Council.

As a continuing up date on the data already obtained, I would be grateful if you could fill in the enclosed numerical questionnaire for the six month period July to December 1986 and return it to me at your earliest convenience. The information would then be added to the data already held to give an up to date picture of the operation of the Civic Government (Scotland) Act 1982.

You may or may not be aware that a working paper has been published by the Institute for Retail Studies on the results of the survey of local authorities in 1985. Second hand Car Dealer Licensing in Scotland: A Survey of Local Authorities, it can be ordered from the above address at price £2.50.

I thank you again in anticipation and can assure you that the information you are providing is of the utmost importance to this project.

Yours faithfully



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Dear Sir

6 February 1987

Used Car Dealer Licensing in Scotland

You may remember that I contacted you in September 1985 concerning the implementation of Used Car Dealer licensing in Scotland under the above Act. At that time you indicated that you may be introducing a system during 1986. As part of a three year study into the operation of used car dealer licensing commissioned by the Scottish Consumer Council. I am writing to ascertain whether you are now engaged in the licensing of Used Car Dealers. If so would you please send me details of the system you are operating such as conditions, cost of licence etc so that you may be included in the study.

As a continuing up date on the data already obtained, licensing authorities are asked to respond every six months by completing a numerical questionnaire. If you are now licensing could you also fill in the enclosed numerical for the six month period July to December 1986 and return it to me at your earliest convenience. The information would then be added to the data already held to give an up to date picture of the operation of the Civic Government (Scotland) Act 1982.

You may or may not be aware that a working paper has been published by the Institute for Retail Studies on the results of the survey of local authorities in 1985. Entitled Second hand Car Dealer Licensing in Scotland: A Survey of Local Authorities, the working paper can be ordered from the above address at price £2.50.

I thank you again in anticipation and can assure you that the information you are providing is of the utmost importance to this project.

Yours faithfully

In respect of the priod January 86 to June 88 please indicate:

1. The total number of applications received from second hand car dealers for licences (excluding renewals)

2. The number of licences issued in respect of these applications

3. The total number of licence renewals from second hand car dealers.

4. The total number of refusals to grant a second hand car dealers licence for any reason.

5. Total number of refusals to grant any category of second hand dealer licence.

6. How many second hand car dealer licences have been withdrawn for failure to comply with conditions etc ?

7. How many licences have been withdrawn from other categories of second hand dealer for the same reason ?

8. How many applications for a second hand car dealers licence have been refused because of an unsatisfactory reference from an outside body ie police, trading standards etc ?

9. Have you had reason to withdraw any used car dealer licences in this period ? If so, how many and for what reason ?

1. How many second hand dealer licences are currently in force in your district ?

.....

How many of these current licences are held by second car dealers ?

.....

2. What is the number of second hand dealer licences issued in the last 12 months to new applicants (not including renewals or temporary licences)

.....

How many of these new licences issued in the last 12 months have been to second hand car dealers (not including renewals and temporary licences)

3. In relation to second hand car dealers please indicate which of the following are conditions of the licence you issue :

☐

(a) that any dealer display a personal identity

☐

(b) that all second hand vehicles be subject to a pre-sales inspection and that the result of that inspection should be displayed in the form of a check sheet on the vehicle at the time of sale.

☐

(c) that records relating to the second hand vehicle be kept by the dealer.

if condition (c) is one that you have indicated your authority requires, please tick those pieces of information listed below are required to be recorded

- ☐ date and time of purchase of vehicle
- ☐ colour, make and model of vehicle
- ☐ registration number
- ☐ chassis and engine number
- ☐ name and address of seller
- ☐ previous owner (as on registration document.)
- ☐ odometer reading on purchase
- ☐ date and time of sale
- ☐ name and address of purchaser
- ☐ odometer reading at time of sale

4. Do you require that any records kept by the second hand car dealer be made available for inspection by an authorised officer of the licensing authority ?

Yes ☐ . No ☐

if yes please indicate by means of a tick which officers your district has authorised to undertake the inspection.

Police Officers
Trading Standards Officers
Officers of the licensing department
Fire Officers
Other (please specify).....
.....

5. Would you say that the processing of an application for a second hand car dealer licence takes longer on average than applications from other second hand dealers ?

Yes ☐ No ☐

Typically how long is the period between the receipt of a completed application and the ultimate issue of a licence ?
(please tick)

	1 week	1 month	3 months	over 3 months
for a second hand dealer	()	()	()	()
for a second hand car dealer	()	()	()	()

6. How much money does a second hand car dealers licence cost ?

.....

for what period is the licence valid corresponding to the price(s) you have indicated ?

.....

7. How many staff hours per week would you say were dedicated to second hand dealer licensing ?

.....

8. When deciding whether or not to grant a second hand car dealer licence, to which sources of information do you refer before making your decision ?

please indicate on a scale of 1 to 5 the relative importance of those sources where 1 is least important and 5 is most important. A '0' would indicate that you do not consult that particular source

	mark 0 or 1 to 5
Own records(previous refusals or applications	()
Fire Brigade	()
Regional Trading Standards Department records	()
Regional or District planning records	()
Police Authority	()
Company registration etc.	()
Tax or VAT office	()
Other (please specify).....	
.....	(5)

9. When licensing was adopted by your authority did ;
(please tick)

all existing dealers become automatically licensed ☐

all dealers become licensed on payment of the appropriate fee ☐

each dealer to whom the resolution applied have to apply using the appropriate forms, give public notice and be subject to the process of approval ☐

some other method apply (please specify)
.....
.....

10. Where a person deals in second hand goods but only as a secondary activity to their main business, would they require a second hand dealer licence in your authority ?

e.g. a large franchised garage selling mainly new cars but some second hand cars, a clothes shop selling some second hand clothes, or a jeweller selling some second hand jewellery.

Yes ☐ No ☐

11. Is there a register of persons who hold licences in your authority ?

Yes ☐ No ☐

Is this register a public document in the sense thst it may be inspected at your office by members of the general public ?

Yes ☐ No ☐

12. Does your authority receive notification of prosecutions against second hand dealers as a matter of course ?

Yes ☐ No ☐

if yes, plesae tick those sources from which you receive this information

- ☐ Police Authority
- ☐ Trading Standards Department
- ☐ Local Courts
- ☐ Other (please specify).....

.....

13. To your knowledge, has a scottish court ever made an order revoking a licence or banning the holder from holding a licence for a licensee in your authority ?

Yes ☐ No ☐

14. How many licences presently in force in your area are restricted in some way ?

.....

Please state what type of restriction is used by your authority i.e. time period for renewal, higher fee, specific place of business, specific second ahnd goods etc.

.....

.....

.....

APPENDIX II

Pre-sales Information Pro-Forma

USED CAR PRE-SALES INFORMATION REPORT

Details of Car:

Cash Price £

Make Model Colour

Engine Capacity Date First Reg. Reg. No.

Odometer Reading

Where the lower box has been ticked the statutory mileage information notice must be displayed alongside the mileage reading.

The reading is CORRECT

☐

The reading is UNVERIFIED

☐

REQUIRES REPAIR OR REPLACEMENT

Either YES or NO to be deleted. If YES, list faults and state repairs or replacements required.

Brakes (inc. servo)	YES/NO	
Wheels and Tyres (inc. spare)	YES/NO	
Steering (inc. power system)	YES/NO	
Suspension	YES/NO	
Engine (inc. ancillaries)	YES/NO	
Cooling System	YES/NO	
Clutch/Torque Convertor	YES/NO	
Gear Box (inc. auto or overdrive)	YES/NO	
Transmission (inc. final drive and drive shaft)	YES/NO	
Electrical System	YES/NO	
Body, Trim and Understructure	YES/NO	

Signed

Name

Date

Status of person making
this Statement

For (e.g. Body corporate)

IF YOU BUY THIS CAR IT IS IN YOUR INTEREST TO KEEP THIS REPORT

APPENDIX III

Code of Practice for the Motor Industry

Code of Practice for the Motor Industry

Introduction

This Code of Practice was originally drawn up in 1976 by the Society of Motor Manufacturers and Traders (SMMT), the Motor Agents Association (MAA) and the Scottish Motor Trade Association (SMTA) in consultation with the Director General of Fair Trading to govern the conduct of manufacturers and dealers in relation to the supply of new and used cars, petrol, parts and accessories and car servicing and repair, and embodies principles which have been observed by the majority of the industry for many years. Improvements have now been agreed which are incorporated in this revised edition. It will be brought up to date from time to time as the occasion demands.

The principles set out are not intended to interpret, qualify or supplant the law of the land, and are not intended to be applied on non-consumer sales.

The associations concerned regard it as a duty laid on their members that they will accept the Code in its entirety. A customer who feels dissatisfied with the treatment he has received from a member will be able to submit his grievance to the conciliation and advisory service operated by the relevant association.

It should not be overlooked that the customer also has his part to play. It is only by co-operating fully with those who make, sell and service cars that the customer can get the maximum benefit from his purchase. In particular, by maintaining his car in accordance with the manufacturer's instructions; by observing any warnings given in the handbook; and by giving as much information as possible to anyone servicing it, he can ensure he gets the best possible use out of his car and his troubles reduced to a minimum.

Throughout the Code:

The term MANUFACTURER

is taken to include
concessionaire or
importer.

The term DEALER

is taken to include retail
dealer or distributor or
supplier of goods or
services, whether or not
franchised by a
manufacturer.

1 New Car Sales

- 1.1 Dealers must bear in mind that in sales of goods to consumers they are responsible under the Sale of Goods Act 1979 for ensuring that the goods are of merchantable quality and fit for the purpose for which they are required. Statements whether oral or in writing which are in apparent conflict with this principle must be avoided.
- 1.2 Manufacturers relying on dealers to carry out a standard Pre-Delivery Inspection shall provide dealers with a standard check list for the particular model of car. Dealers must ensure that these inspections are carried out properly and a copy of the PDI check list shall be given to the customer.
- 1.3 The car must be delivered in condition which is to the manufacturer's standard. Each car must conform fully to all legislation affecting its construction, use and maintenance. This paragraph does not affect any legal responsibilities which may be placed on manufacturers and user to ensure this.
- 1.4 The benefit and limitations of any treatment over and above that already provided by the manufacturer which is recommended by the dealer in order to inhibit the growth of rust or other corrosion should be explained to the customer.
- 1.5 Order forms are intended to help both parties to the contract by spelling out the terms and conditions on which business is being done. Such terms and conditions must be fair and reasonable and set out clearly, together with a statement of the circumstances under which the order can be cancelled.
- 1.6 All documents must be legible.
- 1.7 Order forms must contain details of all charges additional to the car price so that the customer may understand clearly the total price he has to pay to put the car on the road.
- 1.8 Manufacturers and dealers should ensure that the manufacturer's handbook relating to the model of car being sold is available to the customer at the time of sale of the car and for a reasonable length of time thereafter.
- 1.9 The terms of the manufacturers' warranties should be drawn to the attention of the customer and any relevant document published by the manufacturer must be handed over to him.

2 Car Manufacturers' Warranties (or Guarantees hereafter called Warranties)

- 2.1 A manufacturer's warranty is a simple and straightforward way for the customer to have faults of manufacture appearing within certain times (or before the car has done a certain mileage) put right at little or no cost to the customer without the necessity of his pursuing legal rights against the seller.
- 2.2 The warranty must not adversely affect the consumer's remedies against the seller under the Sale of Goods Act 1979 and must include a statement making this clear to the customer.
- 2.3 The warranty must include a statement advising the customer that it is in addition to any other remedies he may have under the contract of sale.
- 2.4 The warranty will not extend to cover defects arising from a failure by the customer to have the car serviced in accordance with the manufacturer's recommendations.
- 2.5 The terms of the warranty must be easily understandable particularly in relation to any items specifically included in or excluded from its provisions. Manufacturers and dealers should also give advice to customers as to who is responsible and what to do if they have a problem regarding parts and accessories not covered by the manufacturer's warranty.
- 2.6 The manufacturer should permit the transfer of the unexpired portion of any warranty to a second or subsequent owner.
- 2.7 The manufacturer should make clear that rectification work may be done under warranty by any of his franchised dealers. Manufacturers and dealers will take steps to ensure that warranty work is carried out rapidly and effectively.
- 2.8 Manufacturers will operate fair and equitable policies to permit the extension of warranty in the event of a car being off the road for an extended period for rectification of warranty faults, or of the repetition outside warranty of a fault which had previously been the subject of rectification work during the warranty period.

Vehicle off road for warranty work

- 2.9 There is no automatic right to a loan car or contribution towards hiring charges in circumstances where a customer's own car is off the road for repair under warranty. Whether there is any such right will depend on the normal legal rules relating to damages.
- 2.10 Manufacturers must give clear advice to their dealers as to the circumstances in which a loan car or contribution towards hiring charges should be provided. Such guidance should take full account of the legal position and be made available to customers on request.
- 2.11 Where a loan car is made available, this will merely be as reasonable alternative transport rather than an exact replacement for the car which is off the road.

3 Used Car Sales

- 3.1 Used cars sold to customers must conform to legislation affecting the construction and use of cars and should, where appropriate, be accompanied by a current Department of Transport Test (MoT) Certificate.
- 3.2 Dealers must bear in mind that sales of used cars are subject to the Sale of Goods Act 1979 and attention is specifically drawn to the conditions of merchantable-quality and fitness for purpose contained in this Act. If, however, defects are specifically brought to the attention of the customer or the customer examines the car before the contract is made there is no condition of merchantable quality as regards those specific defects or ones which that examination ought to reveal. Dealers should therefore reveal defects on an approved checklist. See 3.5. The format and use of the checklist are determined and approved by the trade associations or the manufacturer of the car concerned. Dealers should provide all reasonable facilities to enable prospective customers or their nominees to carry out an examination of the car prior to sale, in order that any defects which ought to be revealed at the time of sale are made known to both parties.
- 3.3 Dealers are reminded of the legal requirement that when selling a used car subject to a printed guarantee or warranty, that guarantee or warranty must not purport to take away or diminish any rights which the consumer would otherwise enjoy in law. The warranty document must also include a statement advising the consumer that the warranty is in addition to his statutory or common law rights.
- 3.4 If a printed guarantee or warranty is not used, then any specific promises which the dealer is willing to make in relation to the used car should be set out in writing.
- 3.5 Used cars will be subject to a pre-sales inspection in accordance with an approved checklist. The checklist must be completed before the car is offered for sale and displayed in a prominent place in the car. A copy of the checklist shall be given to the customer for his retention.
- 3.6 All descriptions, whether used in advertisements or in negotiations regarding the sale of used cars should be honest and truthful. Terms which are likely to be misunderstood by the customer or which are not capable of exact definition should be avoided.
- 3.7 Copies of relevant written information provided by previous owners regarding the history of cars should be passed on to the customer. This may include service records, repair invoices, inspection reports, handbooks and copy of warranties, as applicable.
- 3.8 Reasonable steps will be taken to verify the recorded mileage of a used car and dealers will use their best endeavours to obtain a signed statement from the previous owner as to the car's mileage. Dealers should pass on any known facts about an odometer reading to a prospective customer.
- 3.9 Unless the dealer is satisfied that the quoted mileage of a used car is accurate, such mileage should not be quoted in advertisements, discussions or negotiations or in any documents related to the supply of the used car. Where the car's mileage cannot be verified the customer should be informed. The law requires that any disclaimer used must be as bold, precise and compelling as the car's mileage reading itself and as effectively brought to the prospective customer's attention.

4 Replacement Parts, Accessories and Petrol

- 4.1 Dealers must bear in mind that in sales of goods to consumers they are responsible under the Sale of Goods Act 1979 that the goods are of merchantable quality and fit for the purpose for which they are required. Statements, whether oral or in writing, in apparent conflict with this principle must be avoided.
- 4.2 Whenever goods are offered for sale a clear indication of cash price must be available to the customer.
- 4.3 Terms must not be used in advertisements if they are likely to be misunderstood by the customer or if they are not capable of exact definition.
- 4.4 With offers of promotions or trading stamps, any restrictions which are attached to sales other than cash sales must be clearly stated.
- 4.5 A dealer must not display any notices or make any statements which might mislead a consumer about his legal rights in relation to the purchase of faulty goods.

5 Repairs and Servicing [excluding work carried out under a car manufacturer's warranty]

- 5.1 Dealers must bear in mind that when supplying parts or accessories in connection with repairs or servicing work for consumers, they have a similar responsibility to that which exists under a contract for the sale of goods to ensure that the goods are of merchantable quality and fit for the purpose for which they are required and that work is performed in a proper and workmanlike manner.
- 5.2 Manufacturers accept a responsibility for ensuring the reasonable availability of spare parts to the distribution chain.
- 5.3 Spare parts should be readily available from the manufacturer from the time that a new model is offered for sale continuing throughout its production and for a reasonable period thereafter.
- 5.4 Dealers will provide at least an estimate of the cost of labour and materials for all major repairs and manufacturers' recommended servicing. A firm quotation should be offered wherever possible. It must be made clear to a customer whether an estimate or quotation is being made and whether it is inclusive of VAT and where applicable the rate at which this is chargeable. Quotations should always be in writing identifying the dealer. If requested, estimates will be in writing. It should be remembered that an estimate is a considered approximation of the likely cost involved whereas a quotation constitutes a firm price for which the work will be done. If a charge is to be made for the estimate or quotation this must be made known to the customer before his instructions are accepted. Any dismantling costs which are necessary to arrive at such estimates or quotations should be notified to the customer in advance on the clear understanding whether or not dismantling costs are to be charged on an estimate or quotation which is refused. If, during the progress of any work, it appears that the estimate will be exceeded by a significant amount, then the customer should be notified and asked for permission to continue with the work.
- 5.5 Parts replaced during service or repair will be made available for return to the customer until the customer has taken delivery of the car unless a warranty claim is involved or unless the parts have to be submitted to the supplier because replacement parts are being supplied on an exchange basis. Dealers should notify customers in advance of work being done what their arrangements are in regard to retention and disposal of parts replaced.
- 5.6 Invoices should be clearly written or typed and give full details of the work carried out and materials used. The amount and rate of VAT should be clearly indicated. Dates and recorded mileages should always be noted where applicable.
- 5.7 Dealers should exercise adequate care in protecting customers' property while it is in their custody, and must not seek by disclaimers to avoid their legal liability for damage or loss. Dealers should carry adequate insurance to cover their legal liability and should strongly advise customers to remove any items of value not related to the car.
- 5.8 Repairs must be guaranteed against failure due to workmanship for a specific mileage or time period which should be stated on the invoice. Dealers are advised to ensure that they are adequately insured against consequential loss claims arising from any such failure.
- 5.9 A dealer's rules as to the method of payment he will require on completion of the work should always be notified to the customer before the work is accepted.
- 5.10 When it is necessary to sub-contract work, the dealer will agree to be responsible for the quality of the sub-contractors' work. Any estimate given to the customer must include the sub-contracted work and in the event of any increase in charge for the work, the principles in para 5.4 must apply.
- 5.11 Dealers must make it clear whether or not servicing will be carried out in accordance with the appropriate manufacturer's recommended service schedule.
- 5.12 While a dealer's contractual responsibility is limited to the exact terms of the customer's instructions or, for standard services, the schedule prepared by the manufacturer or other body or person, he should make it a general rule to advise the customer of any defects which may become apparent while the work is being carried out.

6 Advertising

- 6.1** All advertising by manufacturers and dealers must comply with the codes and standards set by the Advertising Standards Authority and the Independent Broadcasting Authority, and with the requirements of the Trade Descriptions Act and the Energy Act (eg. concerning fuel consumption figures). In particular, references to credit facilities must conform to the appropriate legal requirements current at the time.
- 6.2** Advertisements must not contain any references to guarantees or warranties which would take away or diminish any rights of a customer nor should they be worded as to be understood by the customer as doing so.
- 6.3** Advertisements must not contain the words "guarantee" or "warranty" unless the full terms of such undertakings as well as the remedial action open to a customer are either clearly set out in the advertisement or are available to the customer in writing at the point of sale or with the product.
- 6.4** Claims and descriptions in advertisements should not be misleading. In particular any comparison with other models of different manufacturers should be based on a similar set of criteria and should not be presented in such a way as to confuse or mislead the customer.
- 6.5** In principle, a price quoted should be a price at which the customer can buy the goods. Manufacturers and dealers should therefore quote prices for new cars, whether in advertisements or in showrooms, inclusive of the price of any extras known to be fitted to the car together with the appropriate VAT (quoting the rate applicable) and Car Tax. If the price excludes delivery charges or number plates, such exclusions must be clearly specified.
- 6.6** Advertisements for used cars must quote prices inclusive of VAT and they should state that the prices are inclusive.
- 6.7** In the description of used cars, terms likely to be misunderstood by the customer or which are not capable of exact definition should be avoided. For example, if the word "reconditioned" is used, the nature of the reconditioning must be carefully explained.
- 6.8** In the description of a used car, any year must be either:
(a) the year of first use, or
(b) the year of first registration, or
(c) the last year that the car complied with the manufacturer's specification of a model sold as new during that calendar year whichever is the earliest.
- 6.9** Where an advertisement quotes the price of one model in any model range but depicts another, the actual price of that other model should also be shown.
- 6.10** Where a manufacturer advertises a rust-proofing process, information about the process and its limitations should be made freely available.

7 Handling Complaints

- 7.1** Manufacturers and dealers must ensure as appropriate that effective and immediate action is taken with a view to achieving a just settlement of a complaint. To this end there will be, from the point of view of the customer, an easily identifiable and accessible arrangement for the reception and handling of complaints. In addition, manufacturers must give every assistance to their dealers in handling complaints under warranty, or those in which the manufacturer is otherwise involved.
- 7.2** When complaints are raised through a third party (eg the Automobile Association, the Royal Automobile Club, a Trading Standards Officer or a Citizen's Advice Bureau), willing guidance must be given to that body and every attempt should be made to re-establish direct communication with the complaining customer and to reach a satisfactory settlement with him.
- 7.3** In the event that a complaint is not resolved, manufacturers and dealers must make it clear to a customer that he has a right to refer the complaint to the appropriate trade association.
- 7.4** Manufacturers and dealers will give every assistance to the association concerned while it is investigating a complaint. The SMMT, the MAA and the SMTA will establish liaison as necessary.
- 7.5** Where conciliation has failed to resolve a dispute the SMMT, the MAA and the SMTA have agreed to co-operate in the operation of low cost arbitration agreements which will be organised by an Independent Panel of Arbitrators. Details of the arbitration arrangements are set out in the Appendix. Customers must always be advised that they have the option of taking a claim to the Courts.
- 7.6** The award of the arbitrator is enforceable in law on all parties.

8 Monitoring

- 8.1** As Subscribers to the Code of Practice, dealers should ensure by the clear display of appropriate symbols or other means that customers are informed of dealers' adherence to the industry's Code of Practice.
- 8.2** All manufacturers and dealers should maintain an analysis of justified complaints relating to any of the provisions of the Code of Practice and should take action based on this information to improve their service to the customer.
- 8.3** The SMMT, the MAA and the SMTA will analyse all complaints about the Code or matters referred to the association for conciliation or arbitration. The results of such analyses will be published in the Annual Report of the relevant association.

Appendix 1: Complaints and Arbitration

- 1 A customer who has a complaint about the quality of the goods or service to his motor car should in the first place and at the earliest opportunity refer it to the dealer concerned.
 - 2 The complaint, preferably in writing, should be addressed to a senior executive, a director, a partner or the proprietor. Some dealers will have an executive especially appointed to deal with complaints.
 - 3 If the complaint relates to warranty on a new car and the dealer is unable to resolve the matter, the customer should take his complaint direct to the manufacturer concerned.
 - 4 If attempts to reach a satisfactory solution fail, the customer has a right to refer his complaint to one of the trade associations who subscribe to the Code of Practice for the Motor Industry, if the dealer concerned is a member of that association. Any such complaint must be in writing.

(a) if the complaint refers to a manufacturer's warranty or lies against a dealer who is a member the address is:
The Customer Relations Department,
Society of Motor Manufacturers & Traders Ltd,
Forbes House,
Halkin Street
London SW1X 7DS.

(b) if the complaint lies against a dealer who is also a member situated in any part of the United Kingdom except Scotland the address is:
The Conciliation Service,
Motor Agents Association Ltd,
73 Park Street,
Bristol BS1 5PS.
(c) if the complaint lies against a dealer who is a member situated in Scotland, the address is:
Customer Complaints Service,
Scottish Motor Trade Association,
3 Palmerston Place,
Edinburgh EH12 5AQ.
 - 5 All complaints referred to the appropriate trade association (SMMT, MAA or SMTA) within a reasonable time of the cause for complaint arising will be considered.
 - 6 If the trade association fails to resolve the complaint, its members will agree to go to arbitration except in those cases where the trade association is of the opinion that it would be unreasonable for the member to be required to do so.
 - 7 Parties to arbitration will be asked to pay the registration fee laid down by the Chartered Institute of Arbitrators. When, later, the arbitrator makes his award, he will consider whether the registration fee should be returned to the successful party.
 - 8 The parties will also be asked to sign an application for arbitration which will be sent, together with the registration fee, to:
The Independent Panel of Arbitrators,
c/o The Motor Agents Association,
73, Park Street,
BRISTOL BS1 5PS
 - 9 In order to keep costs as low as possible, the arbitration will normally rely on documents. In these cases, none of the parties to the dispute may be present nor may they be represented by any other person.
 - 10 The trade association will submit to the Chartered Institute of Arbitrator all the documentary evidence in their possession that they consider relevant to the case. The Chartered Institute of Arbitrators will advise the parties to the dispute of the written evidence they have available on which to base their judgement and invite the parties to submit any further evidence which they consider relevant.
 - 11 The President of the Chartered Institute of Arbitrators will appoint a single arbitrator and will make all the necessary arrangements for the arbitration to be conducted as speedily as possible.
 - 12 In suitable cases, the Arbitrator has the right to conduct an oral arbitration and the parties may then attend to present their evidence. Legal representation may only be employed if the Arbitrator so directs.
 - 13 The Arbitrator will have the power to direct any party to provide him and to the other party(ies) any additional document or information he considers to be relevant to the matter under dispute.
 - 14 The award of the Arbitrator will be published in writing to the parties to the dispute and to the relevant association.
 - 15 The award of the Arbitrator is enforceable in the Courts by any party.
- The Motor Agents Association,
201 Great Portland Street,
London W1N 6AB.

The Society of Motor Manufacturers & Traders,
Forbes House,
Halkin Street,
London SW1X 7DS.
- The Scottish Motor Trade Association,
3 Palmerston Place,
Edinburgh EH12 5AQ.

APPENDIX IV
Consumer Questionnaire

SURVEY AMONG CAR USERS (JOB 1101)

OFFICE USE ONLY

(1 - 4) - - - -

(5 - 8) - - - -

(9) ① ②

SECTION 1 : BACKGROUND

Do you personally carry out any repairs to your own vehicle on a regular basis?

Yes
No

(10)
1
2

Do you belong to a motoring organisation?

Yes - AA
- RAC
- National Breakdown
- Other
No, do not belong

1 (11)
1 (12)
1 (13)
1 (14)
1 (15)

NOW PLEASE LOOK AT THE ENCLOSED SHEET SHOWING SMILING/UNSMILING FACES

How confident would you feel in giving your car a full mechanical service on your own?

Please give the number of the face which best reflects how confident you would feel.

Face 1
2
3
4
5
6
7

Don't know

(16)
1
2
3
4
5
6
7
Y

Do you read any motoring magazines on a regular basis?

Yes
No

(17)
1
2

IF 'YES' AT Q.4 - GO TO Q.5
IF 'NO' AT Q.4 - GO TO Q.6

(18)

Which motoring magazines do you read?
WRITE ON LINES PROVIDED

(19)

(20)

(21)

How would you rate your interest in cars and motoring in general?

Very interested
Fairly interested
Neither interested nor
uninterested
Not very interested
Not at all interested

(22)
1
2
3
4
5

Q.7

Would you normally carry out the following work on your car?

	Yes	No	Don't know/ Not applicable	
Top up radiator with water or antifreeze	1	0	2	(23)
Check and top up oil level	1	0	2	(24)
Change the oil	1	0	2	(25)
Replace the spark plugs and points	1	0	2	(26)
Adjust valve clearances	1	0	2	(27)
Service carburettor	1	0	2	(28)
Check and adjust braking system	1	0	2	(29)
Replace clutch	1	0	2	(30)
Strip down engine and decarb, change rings, shims etc	1	0	2	(31)
Strip down gearbox to replace parts	1	0	2	(32)

SECTION 2 : BUYING A CAR

Q.8

Why did you decide to purchase your used car from a dealer rather than buy privately?
WRITE ANSWER ON LINES PROVIDED

(33)

(34)

(35)

(36)

Q.9

When deciding to buy a used car, which of these publications, if any, did you look at?

Local newspaper	1	(37)
Local advertising freesheet	1	(38)
UK National newspaper	1	(39)
Scottish national newspaper	1	(40)
Classified advertiser (Exchange & Mart)	1	(41)
Specialist magazine	1	(42)
Other	1	(43)
None	1	(44)
Don't know	1	(45)

Q.10	How long did it take you to find your used car, from when you started looking to when you actually bought the vehicle?	Less than 3 days About 1 week About a fortnight About a month Over a month Don't know	(46) 1 2 3 4 5 6	
Q.11	How many car dealers premises did you visit when looking for your used car?	Less than 3 Between 3 and 6 Between 7 and 10 Over 10 Don't know	(47) 1 2 3 4 5	
Q.12	Did the dealer that you bought your used car from sell only used cars or both new and used vehicles?	Only used cars Both new and used cars Don't know	(48) 1 2 3	
IF YOU ANSWERED 'ONLY USED CARS'/'DON'T KNOW' AT Q.12 - GO TO Q.14 IF YOU ANSWERED 'BOTH NEW AND USED CARS' At Q.12 - GO TO Q.13				
Q.13	Were the new vehicles being sold by this dealer from <u>one</u> manufacturer?	Yes No Don't know	(49) 1 2 3	
Q.14	Was the dealer from whom you bought your car a member of a Motor Trade Association?	Yes No Don't know	(50) 1 2 3	
Q.15	Was the dealer licensed as a used car dealer by the Local Authority?	Yes No Don't know	(51) 1 2 3	
Q.16	Which <u>three</u> of the following features first drew your attention to the car you eventually purchased?			
	Colour	1 (52)	Special offer	1 (59)
	General condition	1 (53)	Guarantee	1 (60)
	Price	1 (54)	Position on forecourt	1 (61)
	Make	1 (55)	Model	1 (62)
	Mileage	1 (56)	Service History	1 (63)
	Size	1 (57)	Accessories	1 (64)
	Age	1 (58)	Storage	1 (65)

Q.17	Did you test drive the vehicle before your purchased it?	Yes No	(66) 1 2
Q.18	Did you have the vehicle inspected or surveyed by an outside organisation before your purchased it?	Yes No	(67) 1 2
<div>IF YOU ANSWERED 'YES' AT Q.18 - GO TO Q.19 IF YOU ANSWERED 'NO' AT Q.18 - GO TO Q.20</div>			
Q.19	Did the dealer let you use his garage facilities for the inspection?	Yes No	(68) 1 2
Q.20	Which of the following appeared on the used car when you saw it on display?	Price display on windscreen Guarantee offer Special offer/bargain offer Inspection sheet of any faults found Sticker covering over recorded mileage Sheet with description of the car Details of credit terms	1 (69) 1 (70) 1 (71) 1 (72) 1 (73) 1 (74) 1 (75)
Q.21	Did you get a written guarantee with the car?	Yes No - Don't know	(76) 1 2 3
<div>IF YOU ANSWERED 'YES' AT Q.21 - GO TO Q.23 IF YOU ANSWERED 'NO' AT Q.21 - GO TO Q.22</div>			
Q.22	Were you given a verbal promise at any stage that the car was guaranteed?	Yes No Don't know	(77) 1 2 3
<div>IF YOU ANSWERED 'YES' AT Q.22 - GO TO Q.23 IF YOU ANSWERED 'NO' AT Q.22 - GO TO Q.25</div>			
Q.23	How long was the guarantee period?		(79)
WRITE IN			
Q.24	Did you have to pay extra for a guarantee?	Yes No Don't know	(80) 1 2 3

Q.25

At the time of purchasing your car,
did the dealer give to you any written
information relating to its condition,
for instance, service reports or receipts,
details of recent repairs?

Yes
No
Don't know

(10)
1
2
3

IF YOU ANSWERED 'YES' AT Q.25 - GO TO Q.26
IF YOU ANSWERED 'NO'/'DON'T KNOW' AT Q.25 - GO TO Q.27

(11)

Q.26

What information were you given?
WRITE ANSWER ON LINES PROVIDED

(12)

(13)

(14)

Q.27

Have you contacted the dealer from
whom you bought the car with a complaint?

Yes
No

(15)
1
2

IF YOU ANSWERED 'YES' AT Q.27 - GO TO Q.28
IF YOU ANSWERED 'NO' AT Q.27 - GO TO Q.42

Q.28

How many times have you had to complain
to the dealer?

Once
Twice
3 or 4 times
5 or more times
Can't remember

(16)
1
2
3
4
5

Q.29

What was the reason for your recent
complaint?

Engine breakdown
Major part failure
Minor part failure
Performance
Fuel consumption

More than one of the above
Other (WRITE IN)

(17)
1
2
3
4
5

Other
B. B. B. B. B.

Q.30	How long after purchase did you complain to the car dealer?		(18)
		Within 1 week	1
		Within 1 month	2
		Within 6 months	3
		Over 6 months from purchase	4
		Don't know	5

Q.31	Was the fault identified covered by the guarantee that you got with the car?		(19)
		Yes	1
		No	2
		No guarantee with car	3

IF YOU ANSWERED 'YES'/'NO GUARANTEE' AT Q.31 - GO TO Q.33 IF YOU ANSWERED 'NO' AT Q.31 - GO TO Q.32	(20)
--	------

Q.32	Why was the fault not covered by the guarantee?	(21)
	WRITE IN ANSWER	

.....	(22)
-------	------

.....	
.....	(23)

Q.33	When you returned to the garage with your complaint, how satisfied were you with the treatment you received?		(24)
		Very satisfied	1
		Quite satisfied	2
		Satisfied	3
		Not satisfied	4
		Very unsatisfied	5

Q.34	Was your complaint satisfactorily resolved?		(25)
		Yes	1
		No	2

Q.35	How quickly do you think your complaint was dealt with by the dealer?		(26)
		Very quickly	1
		Quite quickly	2
		Average	3
		Quite slowly	4
		Very slowly	5

Q.36	Did you complain to some other body or seek advice?		(27)
		Yes	1
		No	2

IF YOU ANSWERED 'YES' AT Q.36 - GO TO Q.37 IF YOU ANSWERED 'NO' AT Q.36 - GO TO Q.38

Citizens Advice Bureau	1	(28)
Scottish Motor Trade Association	1	(29)
Consumer Advice Centre	1	(30)
Trading Standards/ Consumer Protection	1	(31)
Solicitor	1	(32)

Yes	1
No	2

(34)

(35)

(36)

(37)

(38)

Yes	1
No	2

Considering your car purchase overall, how satisfied were you with the following things. Please answer by giving the number of the face which best describes how you felt.

	Face Number							
Attention by staff	1	2	3	4	5	6	7	(39)
Range of vehicles	1	2	3	4	5	6	7	(40)
Presentation of vehicles	1	2	3	4	5	6	7	(41)
Garage facilities	1	2	3	4	5	6	7	(42)
Knowledge of staff	1	2	3	4	5	6	7	(43)
Overall service	1	2	3	4	5	6	7	(44)
After sales service	1	2	3	4	5	6	7	(45)

Q. 42

Which phrase best describes your approach to buying your used car?

(46)

I decided upon a particular type of car and looked around until I found it

1

I decided that I could afford a certain amount of money and went to look for a car within that price range

2

I knew of a dealer I wanted to buy a used car from and would purchase only from him

3

I knew exactly the car I wanted and who was selling it

4

I didn't have any fixed idea of the type of car I wanted and just went to see what I could find

5

I had previously bought a used car from a particular dealer and wanted to purchase from him again

6

Q. 43

NOW LOOKING AGAIN AT THE 'FACES'

Please indicate the number of the face which best describes how satisfied you are with the used car you bought.

FACE : 1 2 3 4 5 6

(47)

Q. 44

If in future you were to buy another used car, would any of the following make you more likely to return to a particular car dealer.

Please answer Yes or No or Don't know for each:

	Yes	No	Don't know	
Pleasant staff	1	2	3	(48)
Large range of cars	1	2	3	(49)
Nearby location	1	2	3	(50)
Licensed by local authority	1	2	3	(51)
Large size of business	1	2	3	(52)
Cleanliness of cars and premises	1	2	3	(53)
Previous satisfactory purchase	1	2	3	(54)
Member of Motor Trade Association	1	2	3	(55)
Competitive prices	1	2	3	(56)
Good service facilities	1	2	3	(57)
Good credit terms	1	2	3	(58)
Trade in price	1	2	3	(59)
Opening hours	1	2	3	(60)

SECTION 3 : LICENSING

Q. 45 Did you know that, in certain areas, second hand car dealers need a licence issued by the local authority before they can sell used cars?

Yes
No

(61)
1
2

IF YOU ANSWERED 'YES' AT Q.45' - GO TO Q.46
IF YOU ANSWERED 'NO' AT Q.45 - GO TO Q.47

Q. 46 Does your local authority issue licences to second hand car dealers?

Yes
No

(62)
1
2

Q. 47 Do you think that having a licence from the local authority means that the dealer is generally.....

A much better dealer
A better dealer than others
The same as other dealers
Worse than other dealers
A much worse dealer
Don't know

(63)
1
2
3
4
5
6

Q. 48 Do you think that the fact that a dealer holds a licence would make any difference to the condition of his second hand cars?

Yes
No

(64)
1
2

Q. 49 Do you think that licensing used car dealers is.....

A very good idea
A good idea
Neither good nor bad idea
A bad idea
A very bad idea
Don't know

(65)
1
2
3
4
5
6

OFFICE USE ONLY

CARD 2 Cols 66 - 80 BLANK

CARD 3

(1 - 8) DUPLICATE

(9)

(3)

Q.50

Which of the following would you associate with a dealer who held a second hand car dealers licence from the local authority.....

Honesty	1 (10)	Badly trained staff	1 (18)
Unreliable cars	1 (11)	Limited guarantees	1 (19)
Attractive showrooms	1 (12)	Unimpressive premises	1 (20)
Good service	1 (13)	Good garage facilities	1 (21)
Cheaper cars	1 (14)	Dishonesty	1 (22)
Good range of vehicles	1 (15)	Extensive guarantees	1 (23)
Clean cars	1 (16)	Well trained staff	1 (24)
Expensive cars	1 (17)	Good reliable cars	1 (25)

Q.51

Was the dealer from whom you bought your car a licensed dealer?

Yes
No
Don't know

(26)
1
2
3

Q.52

All things being equal, would you prefer to purchase a used car from a licensed or unlicensed car dealer?

Prefer licensed
Prefer unlicensed
No preference
Don't know

(27)
1
2
3
4

Q.53

Would you expect to pay more for your car if you purchased from a licensed car dealer?

Yes
No
Don't know

(28)
1
2
3

SECTION 4

The following questions are about yourself and the used car that you bought

Q.54

What is your age? WRITE IN

Q.55

What is your occupation? WRITE IN

Q.56

Are you presently employed?

Yes
No

1
2

Q.57

What is the MAKE of car you purchased?
(e.g. Ford, British Leyland, Renault etc)

WRITE IN

Q.58

What is the MODEL of car?
(e.g. Escort, Metro etc)

WRITE IN

Q.59 How much did you pay for the car? WRITE IN £.....

Q.60 Which of the following, if any, did you use in purchasing your car?

Bank loan
Credit arranged by dealer
Savings/cash
Hire purchase by dealer
Loan from credit company
None

1
1
1
1
1
1

Q.61 Did you trade in another car as part of the purchase price?

Yes
No

1
1

Q.62 In what year was the car you purchased first registered? Please give the year and/or registration prefix or suffix (A, B etc)

Year.....

Prefix/Suffix

Q.63 If you can remember what was the mileage on your car at the time of purchase - to the nearest 1000 miles

WRITE IN
Don't remember

2

Q.64 How many cars are owned by persons living at this address?

WRITE IN

Q.65 From which dealer or garage did you buy your used car?

Name.....

Address.....

.....

Q.66 Approximately how far is this dealer's premises from your home?

WRITE IN

APPENDIX V
Dealer Questionnaire

USED CAR DEALER SURVEY (JOB 1214)

Name of respondent.....

Position in company.....

Name of company.....

Address.....

Telephone number.....

Interviewer.....

Date.....

SECTION A

RECRUITMENT

Does your company sell new vehicles only,
new and used vehicles, or used vehicles only?

New vehicles only
New and used
Used vehicles only

1
2
3

IF NEW ONLY, ASK A.2, THEN CLOSE INTERVIEW
IF 'NEW AND USED' OR 'USED ONLY', GO TO SECTION B

How does your company dispose of the used cars it receives -
for instance, those received in trade-ins? PROBE

.....
.....
.....
.....

SECTION B

Could I just start by asking you how long you personally have
been working in the motor trade?

WRITE IN NO. OF YEARS.....

And how long has this company been
selling cars in Scotland?

WRITE IN NO. OF YEARS.....

How many retail outlets does this company
have in Scotland selling new or used cars?

WRITE IN NO. OF OUTLETS.....

Is this company a member of the
Scottish Motor Trade Association?

Yes
No

1
2

SHOW CARD

Which of the descriptions on this card do you
think applies to the present state of the
motor trade?

SINGLE CODE ONLY

Booming
Buoyant
Static
Declining
Depressed
(Don't know)

1
2
3
4
5
V

SECTION C

I would now like to ask you some questions on the subject of licensing of motor dealers.

If a system of licensing were to be introduced for the following people, would your attitude towards this be favourable, unfavourable or would you have no strong feelings either way?

READ OUT AND CODE EACH

	<u>Favourable</u>	<u>No strong feelings</u>	<u>Unfavourable</u>
Used car dealers	1	2	3
New car dealers	1	2	3
Car auctions	1	2	3
All car dealers, but not auctions	1	2	3
All car dealers <u>and</u> car auctions	1	2	3

Are you aware that some district councils in Scotland currently operate a licensing system that requires dealers in used cars to hold a licence to trade?

Yes	1
No	2

IF 'YES', CONTINUE AT C.3
IF 'NO', SKIP TO SECTION E

Does the local district council for this dealership operate such a licensing system for used car dealers?

Yes	1
No	2
(Don't know)	V

IF 'YES', CONTINUE AT C.4
IF 'NO' OR 'DON'T KNOW', SKIP TO SECTION E

Did your local authority ever contact your company to say that you might need a used car dealer's licence?

Yes	1
No	2
(Don't know)	V

And does this company actually hold a second-hand car dealer's licence from the local authority?

Yes	1
No	2

IF 'YES', SKIP TO SECTION D
IF 'NO', ASK C.6

Why do you not hold a used car dealer's licence? PROBE FULLY

.....
.....
.....
.....
.....

NOW GO TO SECTION E

SECTION D

For how long have you held a used car dealer's licence?

WRITE IN

Has the local authority explained to you either personally or through leaflets etc., the conditions on your licence and how to comply with them?

Yes
No
(Don't know)

1
2
V

Does your licence have a condition attached to it that requires you to keep a record of the details of the used cars you buy and sell?

Yes
No
(Don't know)

1
2
V

IF 'NO' OR 'DON'T KNOW', SKIP TO D.4

IF YES

Do you in fact keep a record of the details of the used cars that you buy and sell?

Yes
No

1
2

IF 'NO', PROBE FOR EXPLANATION Why is that?

.....
.....
.....

Does your licence contain a condition that requires you to display pre-sales inspection reports on all your used cars that are displayed for sale?

Yes
No
Don't know

1
2
V

IF 'YES', ASK b) - d)
IF 'NO' OR 'DON'T KNOW', SKIP TO D.5

Do you display pre-sales inspection reports on all the used cars you sell?

Yes
No

1
2

Do you feel that, because of the pre-sales inspection reports, you are able to offer more extensive or longer guarantees?

Yes
No

1
2

Are you equipped with on-site service facilities?

Yes
No

1
2

Does your licence contain a condition that requires you to comply with the motor industry code of conduct?

Yes	1
No	2
Don't know	V

IF 'YES', ASK b) - d)
IF 'NO' OR 'DON'T KNOW', SKIP TO D.6

Do you in fact comply with the motor industry code of practice, including the requirement for pre-sales inspection reports?

Yes	1
No	2

IF 'NO', SKIP TO D.6

Did you comply with the motor industry code of practice before licencing was introduced into your area?

Yes	1
No	2
(Don't know)	V

Do you think that compliance with the motor industry code of practice has meant that your customer service is better, the same or worse than it was before licensing was introduced?

Better than before	1
Same as before	2
Worse than before	3
Don't know	V

Has anybody come to your premises to inspect any records you may have kept or check that you are complying with your licence conditions?

Yes	1
No	2
Don't know	V

Do you advertise the fact that you are licensed as a used car dealer by the local authority?

Yes	1
No	2

How much did your licence cost? WRITE IN

Do you think that compliance with the licence conditions means that you incur extra costs apart from the cost of the licence?

Yes	1
No	2
Don't know	V

IF 'YES', ASK b) AND c)
IF 'NO' OR 'DON'T KNOW', SKIP TO D.10

9b) SHOW CARD

Which of these do you think are sources of these extra costs?

PROBE Any others?

Record keeping/filing
Vehicle inspection/preparation
Time with enforcement staff
Compliance with code of practice
Emphasis on customer relations
Other (SPECIFY)

1
2
3
4
5

.....
.....

What percentage of the sale price of your vehicles do you think these extra costs amount to? READ OUT.....

Less than 1%
2 - 5%
6 - 10%
11 - 15%
16 - 20%
Over 20%
(Don't know)

1
2
3
4
5
6
V

10 Do you think that the possession of a used car dealer's licence means that your cars are more expensive, about the same or cheaper than those of other dealers?

More expensive
About the same
Cheaper
(Don't know)

1
2
3
V

11 Do you think that being licensed improves the quality of the cars that you.....i) Sell?

Yes
No

1
2

CODE FOR EACH

ii) Buy?

Yes
No

1
2

12 SHOW CARD

Overall, how do you assess the effect of licensing upon the day-to-day running of your business?

A major inconvenience
A slight inconvenience
Unnoticeable
A slight advantage
A major advantage
(Don't know)

1
2
3
4
5
V

13 What sort of impact do you think licensing has had on the motor trade in your area - a strong impact, little impact or no impact at all?

Strong impact
Little impact
No impact
(Don't know)

1
2
3
V

NOW SKIP TO E.4

SECTION E

SHOW CARD

If a system of licensing for used car dealers were in operation, which of these activities do you think would be controlled by a used car dealer's licence?

PROBE

Record keeping	1
Credit offered	2
Customer service	3
Information on vehicles sold	4
Cleanliness/presentation of vehicles	5
Compliance with code of practice	6
Staff training	7
None of these	0
Don't know	V

Would the existence of such a licensing scheme for used car dealers be attractive or unattractive to you?

Attractive	1
Unattractive	2

Would the fact that a district council operated a licensing scheme for used car dealers in its area make you more or less likely to locate in that district, or have no effect on your decision?

More likely	1
Less likely	2
Have no effect	3
Don't know	V

SHOW CARD

Which of these do you normally display on your used vehicles when they are on offer for sale on the forecourt?

Credit details	1
Guarantee details	2
Mileage disclaimer	3
Price	4
Inspection sheet with faults found	5
Description of vehicle details	6
Special/bargain offers	7
None of these	0

SHOW CARD

What level of control do you feel is exerted by central and local government over the motor trade, as opposed to other retail sectors?

Substantially more controls	1
Slightly more controls	2
Same controls as others	3
Slightly less controls	4
Substantially less controls	5
(Don't know)	V

SHOW CARD

Whose responsibility do you think it is to ensure that used car dealer licence conditions are complied with?

Police officers	1
Environmental Health officers	2
Trading Standards officers	3
Local council admin. staff	4
Local council planning dept.	5
Other (SPECIFY)	
.....	
No-one	0
Don't know	V

SHOW CARD

If it was found that used car dealer licence holders had failed to comply with a significant licence condition that had directly affected the interests of consumers, what action do you think the local authority would take?

Withdraw the licence
Suspend the licence until compliance
Send a warning letter
Give a verbal warning
Give advice on how to comply
Do nothing
(Don't know)

1
2
3
4
5
0
V

SHOW CARD

How sympathetic do you think motor dealers would be to consumers' complaints if they held a licence to trade that could be withdrawn?

Much more sympathetic
A little more sympathetic
No different
A little less tolerant
Much less tolerant
(Don't know)

1
2
3
4
5
V

Do you think that licensing would lead to an increase, a decrease or have no effect on the number of complaints made by consumers to used car dealers?

Increase
Decrease
No effect
Don't know

1
2
3
V

SHOW CARD

When buying a used car, what level of protection do you think consumers have at present?

Far too much protection
Slightly too much protection
About the right amount
Some, but not enough, protection
Far too little protection
(Don't know)

1
2
3
4
5
V

SHOW CARD

What sort of impact, good or bad, do you think used car dealer licensing would have on the following aspects of trade?

READ OUT AND CODE EACH - ROTATE ORDER

	Good effect	No effect	Bad effect	Don't know
Customer relations	1	2	3	V
Vehicle quality	1	2	3	V
Protecting reputable dealers	1	2	3	V
Image of the motor trade	1	2	3	V
Profitability	1	2	3	V
Overheads	1	2	3	V
Controlling the used car sector	1	2	3	V
Business expansion for car dealers	1	2	3	V

12 At present used car dealer licensing is confined to about half of the authorities in Scotland. Would you be for or against the following possible future developments?
READ OUT AND CODE EACH

	<u>For</u>	<u>Against</u>	<u>(Don't know)</u>
Extending licensing to all authorities in Scotland	1	2	V
Extending licensing to the whole of the U.K.	1	2	V
Extending licensing to all car dealers, selling new or used cars	1	2	V
Disbanding licensing completely	1	2	V
Keeping the situation as it is at present	1	2	V

13 SHOW CARD

All things considered, which of these best reflects your feelings about a system of used car dealer licensing?

- | | |
|----------------------|---|
| Very good idea | 1 |
| A good idea | 2 |
| Neither good nor bad | 3 |
| A bad idea | 4 |
| A very bad idea | 5 |
| (Don't know) | V |

14 Do you foresee any particular developments in the used car sector over the next ten years in the area of consumer or customer relations?
PROBE FULLY

.....

.....

.....

.....

.....

.....

15 What is in fact the name of the local district council for this business?

WRITE IN

Finally, to help us classify your answers along with those of the other companies we are interviewing, a few questions about your company itself.....

16 What is the status of this company?
IS IT.....READ OUT

- | | |
|---------------------------|---|
| One man business | 1 |
| A partnership | 2 |
| A private limited company | 3 |
| A public limited company | 4 |
| A subsidiary | 5 |
| Other (SPECIFY) | |

.....

17 Does your company hold a consumer credit licence? Yes 1
No 2

18 How many employees does the company have working.....

i) in total?

ii) at this retail outlet in particular?

19 What was the total number of units sold by this retail outlet in the last financial year, 1985 - 1986?

WRITE IN

20 For this retail outlet, what is the proportion of new cars to used cars in terms of units sold?

New cars%

Used cars%

(CHECK PERCENTAGES TOTAL 100)

21 And what was the approximate value of your second-hand sales last year?

WRITE IN £