# Depoliticizing the American Consumer: The Political Development and Consequences of U.S. Consumer Financial Protection

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Prepared for the Annual Meeting of the Western Political Science Association Seattle, WA, April 17-19, 2014

#### **Abstract**

The course of U.S. history is teeming with examples of both market-based and political consumer activism—an unsurprising fact given that consumption lies at the heart of the U.S. political economy. Over the last thirty years, however, consumers have largely eschewed or failed to sustain explicitly political mobilization as a solution to marketplace grievances, particularly grievances related to financial products. The relative dearth of consumer political mobilization over this period is especially puzzling given that the state began to deregulate the financial industry at the same time that new (and often predatory) consumer financial products proliferated and consumer debt soared. What accounts for the declining propensity of American consumers to pursue their grievances with financial products and companies through political mobilization? This paper proposes an institutional policy-driven explanation for the current state of consumer activism: that the presence and form of consumer mobilization has been shaped by the historical evolution of U.S. consumer protection regulatory policies. An initial test of the theory is conducted using qualitative historical analysis drawn from legislative histories, personal accounts by government and advocacy actors, elite interviews, and secondary analyses. Ultimately, the study highlights a uniquely problematic effect of the depoliticization of consumer collective action for future efforts at reform of consumer financial protection.

"Consumption is the sole end and purpose of all production, and the interest of the producer ought to be attended to only so far as it may be necessary for promoting that of the consumer." -Adam Smith<sup>1</sup>

#### Introduction

With the specter of financial crisis looming ominously on the horizon, several consumer advocacy groups established Americans for Fairness in Lending (AFFIL) in 2007 as "a nonprofit organization dedicated to reforming the nation's lending industry to protect Americans' financial assets."<sup>2</sup> Instead of engaging in direct government lobbying, AFFIL attempted to grow a grassroots network of members who would share their stories with political officials and mobilize politically on behalf of consumer rights. Despite a concerted effort by staff, a slick advertising campaign, and a healthy dose of money, the organization struggled to gain traction among the public and finally shuttered its windows in 2010.

One year after AFFIL's demise, on a mildly overcast Saturday in mid-September 2011, approximately one thousand dissenters gathered in New York City's financial district to protest the financial industry, whose speculative and predatory practices contributed to the most devastating economic crisis since the Great Depression. Three weeks after the initial demonstration, international news headlines and media pundits publicly pondered whether the growing mass of protesters—aptly dubbed Occupy Wall Street—represented "the start of a new Protest Era" in the U.S. The following September, protesters returned to Zuccotti Park to mark the one-year anniversary of the original demonstration, but by that time it was clear to most observers that Occupy Wall Street had manifested neither a sustained nor a successful campaign for increased consumer financial regulation or stronger government redistributive programs. Indeed, while protesters voiced their anger over income inequality, very few translated that ire

<sup>&</sup>lt;sup>1</sup> The Wealth Of Nations, Book IV Chapter VIII, v. ii, p. 660, para. 49.

<sup>&</sup>lt;sup>2</sup> From the AFFIL mission statement, available at http://americansforfairnessinlending.wordpress.com

toward calls for greater government intervention. Nor did participants' tactics transition from protest to political and electoral organization as their conservative counterparts in the Tea Party managed with relative alacrity.<sup>3</sup> Instead, demonstrations fizzled as participants receded back into the ranks of increasingly disenfranchised consumers.

The failure of organizations like AFFIL and events like Occupy to cultivate a new wave of political consumer mobilization is particularly perplexing at a time in which calls for increased government oversight and regulation of corporate finance would seem a logical response to the economic damages generated from several decades of consistent financial deregulation and the destruction of the financial security and livelihoods of millions of Americans from across the political spectrum. Such movements have certainly arisen in previous eras of consumer disenchantment in the U.S. Instead, when consumers have engaged in some form of collective action in the last several years, they have largely eschewed political channels and targets in favor of action within the market itself—relying primarily on boycotts and "buycotts".<sup>4</sup>

What accounts for the declining propensity of American consumers to pursue their grievances with financial products and companies through political mobilization? Existing scholarly work points to organizational (McCarthy and Zald 1973; Skocpol 1999), temporal (Tarrow 1998; Tilly 2004), and cultural (Gamson 1992; Klandermans 1997) theories to explain the lack of political mobilization on behalf of a particular issue. But these theories fall short in their ability to untangle the puzzle articulated above. Engaging literature from American

<sup>&</sup>lt;sup>3</sup> Harvard Law Professor and consumer activist Elizabeth Warren declared her intent to challenge Scott Brown for Senate in Massachusetts three days before Occupy protests began in 2011. Despite the opportunity for coordination, however, Warren's victory over a year later occurred largely in spite of a relatively lackluster campaign effort that failed to capitalize on some of the issues and grassroots momentum of Occupy.

<sup>&</sup>lt;sup>4</sup> For an example of media documentation of this trend see: Tuttle, Brad. "Boycotts, Petitions, Protests, Oh My: The Year in Consumer Outrage." December 24, 2013. TIME Magazine. Available from http://business.time.com/2013/12/24/boycotts-petitions-protests-oh-my-the-year-in-consumer-outrage/.

political development and studies of policy feedback, this paper develops an institutionally driven theory to explain the depoliticization of American consumers.

I hypothesize that consumer preferences and strategies for mobilization have been shaped by the historical evolution of U.S. consumer financial protection regulatory policies. Rooted in the New Deal and Post-War imperatives for increased consumption to boost economic recovery (Cohen 2003) and furthered by the post-1970s turn toward redefining democratic citizenship as self-reliant market action (Soss et al. 2011), the modern consumer financial protection regulatory framework focuses primarily on increasing the purchasing power of consumers. Consumers are treated as autonomous market actors, rather than as citizens in need of state protection, and regulations are geared primarily toward improving the balance of market power by reducing adverse selection. The institutionalized emphasis on consumers as market, rather than as political, actors codified by early consumer protection legislation induced a process of political learning that, decades later, shaped the regulation of a new form of consumer goods—consumer credit products. Ultimately, this development has bred political consequences: it has reduced consumer support for government intervention in the provision of credit and other financial products and encouraged consumers to largely ignore the political process as a viable avenue for pursuing market-generated grievances.

This paper provides an initial test of its proposed theory by employing qualitative historical analysis drawn from legislative histories, personal accounts by government and advocacy actors, elite interviews, and secondary analyses. Ultimately, the study highlights a uniquely problematic effect of the trajectory of consumer financial protection. While empowering citizens to leverage their position as purchasers—through boycotting, for example—might be a successful way to achieve market changes related to comestible or durable

goods like food or appliances<sup>5</sup>, the same cannot be said for financial products. Americans are deeply reliant on the extension of credit to finance their daily lives, often in lieu of a strong social safety net (Prasad 2012), so the ability to boycott credit products to voice displeasure with abusive lending terms is unrealistic—particularly when those terms are nearly ubiquitous across lenders. Thus, the institutionalized disincentive for consumers to pursue government oversight of the consumer finance industry may remove their most viable pathway to financial protection. The results of this study are relevant for both policymakers and activists pursuing consumer regulatory reform.

## **Defining Consumer Mobilization**

Before attempting to divine the causes and consequences of consumer activism in today's political economy, it is prudent to discuss what is meant by the terms "consumer" and "consumer movement." For much of the world's history, according to Raymond Williams, the word "consumer" was primarily used as a pejorative term to describe those who used up valuable resources in a gluttonous or unrestrained manner (Williams 1999). By the 18<sup>th</sup> century, however, "consumer" became part of the lexicon of the emergent bourgeoisie political economy that separated the functions of the making (production) and using (consumption) of goods. The terms "producer" and "consumer" described each of the primary actors of the capitalist market economy.<sup>6</sup>

By the 20<sup>th</sup> century, consumer<sup>7</sup> had come to refer to any individual engaged in the market as a buyer and user of goods, and consumer associations formed as groups of purchasers and

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<sup>&</sup>lt;sup>5</sup> Evidence challenges the efficacy of boycotts in achieving the redress of grievances even for non-financial products (e.g., Friedman 1991).

<sup>&</sup>lt;sup>6</sup> Consumption and production are not mutually exclusive. For example, smallholder farmers serve a productive function, but to the extent that they purchase supplies, storage, and transportation for their crops, they are also consumers

<sup>&</sup>lt;sup>7</sup> It is important to note that "consumer" is not a mutually exclusive identity or category. Indeed, because of the prevalence of market transactions across almost all other identity groups (class, race, gender, occupation, etc.)

users sought greater leverage within the market. A consumer movement typically refers to the collective efforts of individual consumers and consumer associations to enhance the welfare of consumers by advancing efficiency, and more frequently, equity in market relations with producers (Herrmann and Mayer 1997).

Consumers and consumer movements have typically pursued one of two types of action in search of redress for their grievances: political mobilization or market mobilization. For the purpose of this study, political mobilization refers to any action on behalf of consumers or consumer groups that is explicitly targeted toward government actors and requests government intervention as a solution for expressed grievances. The 20<sup>th</sup> century in particular is rife with examples of consumers pursuing political mobilization either through formal political channels (e.g., voting, lobbying, letter writing, etc.) or through informal political channels like protest. By contrast, market mobilization refers to consumer action directed solely toward marketplace actors—most frequently individual corporations or businesses—and demanding market-based remedies.

While protests can also be directed toward market, rather than government, actors, market-based consumer mobilization traditionally takes one of two related forms: boycotting or buycotting. A boycott is "an attempt by one or more parties to achieve certain objectives by urging individual consumers to refrain from selected purchases in the market-place." (Friedman 1985: 97) By contrast, a buycott is an organized "attempt to induce shoppers to buy the products or services of selected companies in order to reward them for behavior which is consistent with

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consumers may not share one position in the market with respect to producers. Some consumers may have access to more information, with which they can make informed purchasing decisions, than do others. Similarly, consumers with greater material resources may have more choice within the market than do their less affluent peers. Any number of other disparities across the larger group of consumers likely exists.

the goals of the activists." (Friedman 1999: 201) In either case, consumers seek to leverage their power as purchasers to influence the behavior of producers and employers.

A number of scholars contend that boycotts and buycotts frequently reflect political, as well as economic, concerns and beliefs, and thus "political consumerism" should be considered a form of political activism (e.g., Micheletti et al. 2003; Stolle et al. 2005). One need only look to the "don't buy where you can't work" boycotts led by civil rights activists during the Great Depression to acknowledge that market-based consumer mobilization may be driven, at least in part, by larger political goals. While some instances of market-based mobilization may well be motivated by political goals, it is still important to differentiate market from political consumer mobilization rather than simply treating boycotts and buycotts as another political tactic. Market actors and government actors are confronted with very different pressures and incentives, and they possess different tools—both in form and scope—with which to address consumer complaints. As a result of these differences, the likelihood that consumer mobilization will be successful in pursuing a remedy for grievances, the form that such a remedy will take, and the scope of that remedy, will be shaped in large part by the target of the collective action irrespective of whether consumers' underlying motivations are purely economic or in part political.

With few exceptions, the presence of at least minimal collective consumer action has been relatively constant throughout U.S. history. The degree to which that mobilization is explicitly political, market-based, or combines both, however, has been dynamic over time. What explains the changing patterns of market versus political consumer mobilization in the U.S.? More specifically, why haven't consumers engaged in political mobilization to seek more favorable consumer financial protections over the last several decades?

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<sup>&</sup>lt;sup>8</sup> The reverse, of course, is also true: citizens may turn to political mobilization to address economic concerns.

## **Existing Explanations for Consumer Collective Action**

Scholars of social movements and contentious politics typically coalesce around three factors as necessary motivators of large-scale mobilization—particularly political mobilization: expanding political opportunities that alter the ability of previously excluded groups to participate gainfully in the political process (Tarrow 1998; Tilly 2004), mobilizing structures that provide necessary resources for organization (McCarthy and Zald 1973; McAdam 1982), and framing and interpretive factors that shape collective identity and shared grievances (Gamson 1992; Klandermans 1997).

## Political Opportunity Structures

New movements arise when political opportunities expand to allow the entry of groups previously excluded from meaningful participation. This generally occurs when some broad process of social change destroys existing political arrangements, creating rifts among elites and freeing up new potential allies and external resources (McAdam 1982; Tarrow 1998). Scholars argue that without these political opportunity structures, very little incentive exists for individuals and organizations to expend resources mobilizing collectively in pursuit of a particular goal.

To what degree do political opportunities exist for consumer mobilization in the current climate? The political system has more openings for citizen engagement today than ever before (Fiorina 1999), but these openings are not distributed equally among constituent groups. Even the Democratic Party, a more likely sympathizer for disgruntled consumers than its staunchly pro-market Republican counterpart, relies heavily on support from business advocacy organizations (Hacker and Pierson 2010).

With the onset of the 2007 global financial crisis, however, significant political

opportunities emerged for consumer political activism. First, the magnitude of the resulting recession and the implication of both speculative corporate financial practices and predatory consumer financial products in its creation set the stage for necessary reform (Johnson and Kwak 2010). Second, a sizeable window of opportunity opened after 2008 when the country experienced a two-year period of unified Democratic governance. During this window, Congress and President Obama enacted credit card reform through the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Pub.L. 111–24), financial reform through the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub.L. 111–203), and student loan reform through the Health Care and Education Reconciliation Act of 2010 (Pub.L. 111–152). Each of these legislative undertakings provided numerous opportunities for consumers to voice their collective opinions.

## Mobilizing Structures

Perhaps consumers lacked the mobilizing structures necessary to unite individuals and provide tools with which they can press their claims on government actors. Leadership, organizational infrastructure, and monetary resources are all deemed necessary for mobilizing agents to successfully target and activate individuals for collective action (McCarthy and Zald 1973; McAdam 1982). The face of civic membership organizations in America—once a prime infrastructure for political mobilization—has undoubtedly changed since the 1960s. Previously federated, cross-class, locally rooted organizations that provided essential grassroots support for consumer mobilization shifted to become Washington D.C.-based, professionally staffed, elitedriven, advocacy organizations with minimally active membership lists (Skocpol 1999).

But a plethora of well-endowed consumer advocacy organizations with significant memberships have nonetheless been quite active in attempts to mobilize consumers throughout

the last several decades. At least eight national consumer advocacy groups have annual budgets topping two million dollars. Consumers' Union has an operating budget of nearly a quarter of a billion dollars annually, and Public Citizen, the National Consumer Law Center and the Center for Responsible Lending each have annual budgets exceeding eight million dollars (Mayer 2012). In addition to these organizations, coalitions formed to launch two separate groups dedicated specifically to mobilizing grassroots political support for consumer financial reforms: AFFIL in 2007 and Americans for Financial Reform (AFR) in 2009.

Consumers were also not without a policy entrepreneur. Much like Harvey Wiley's efforts at collective mobilization on behalf of the Pure Food and Drug Act in 1906 and Ralph Nader's publicly galvanizing pursuit of auto safety in the 1960s, Elizabeth Warren has been a vocal advocate of consumer financial protection for much of the last two decades. Like both Wiley and Nader before her, Warren was well known to the public—particularly by 2010 when legislative action reached its peak. Figure 1 shows the trend in Google searches for Elizabeth Warren from 2005 to 2013. Her public persona rose during debate over the formation of a Consumer Financial Protection Bureau and peaked during her run for Senate against incumbent Scott Brown (R-MA). Warren's Google popularity is comparable over this period to that of Tea Party and media darling Sen. Rand Paul (R-KY).

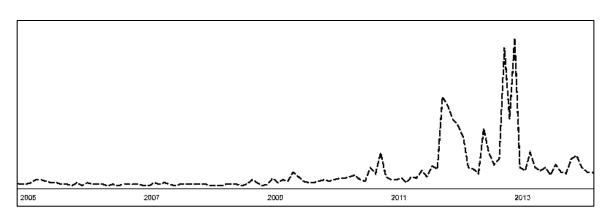


Figure 1. Google Search Trend for Elizabeth Warren, 2005-2013

#### Collective Grievances

With the presence of political opportunity and organizational resources to encourage collective political consumer action, perhaps collective action frames shaped the dynamics of consumer activism regarding financial protection. Movement leaders must generate a collective action frame—a "set of action-oriented beliefs and meanings that inspire and legitimate social movement activities and campaigns" (Gamson 1997: 7)—in order to successfully mobilize members. Collective action frames typically consist of three components: establishing a sense of injustice or unequal treatment, establishing a group identity, and establishing opposition to a particular actor (Gamson 1982, 1997; Folger 1986; Klandermans 1997).

For the purpose of consumer mobilization, a successful collective action frame would first need to capture existing individual discontent with the current experience of consumer financial products and services. Some have posited that, despite general outrage at Wall Street, most consumers are satisfied with their own financial products and see no need for reform, but several indicators of consumer sentiment suggest this is not the case. A 2004 study onducted by the Center for Services Leadership at Arizona State University found that consumer rage was at an all-time high. In fact, respondents reported experiencing consumer rage at a rate eleven percent higher than did respondents from a similar study conducted in 1976—around the peak of consumer political mobilization. Similarly, as Figure 2 shows, consumer complaints in the U.S. collected by Consumer Sentinel have risen dramatically over the last decade, and a large portion of these individual consumer complaints relate to financial products and services. In 2013, debt collection was second only to identity theft in eliciting complaints—comprising ten

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<sup>&</sup>lt;sup>9</sup> Available from http://wpcarey.asu.edu/research/services-leadership/2004-national-customer-rage-study.
<sup>10</sup> The Consumer Sentinel Network is a federally managed database for law enforcement professionals that reports all consumer complaints gathered from the Federal Trade Commission and a nationwide network of around fifty other data providers.

percent of all entries. Banks and lenders garnered another seven percent of consumer complaints.

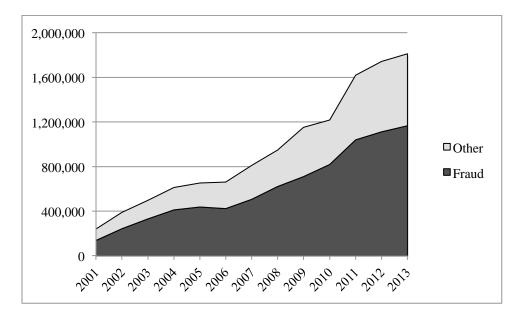


Figure 2. Consumer Complaints, 2001-2013

Individuals who have grievances with consumer financial products and services are not, on their own, enough to generate a collective action frame. Activists must also be able to 1) tap into a shared identity to encourage collective action and 2) be able to identify the best target for that action.

## Consumer Identity

Scholars like historian Louis Hyman have lamented that the lack of a new wave of consumer political mobilization is directly attributable to the lack of a persistent "consumer identity" in the U.S. that is commensurate with other identity groups (e.g., race, gender, sexuality, etc.). He argues "being a consumer is more often a social practice than a social identity." (Hyman and Tohill forthcoming) But this argument doesn't account for the fact that, in decades past, people did mobilize as consumers rather than along other identities. In fact, women's groups and civil rights activists frequently fought both political and market battles

under the aegis of "consumers"—making up a large portion of the foot soldiers in earlier periods of consumer mobilization (Cohen 2003).

It is also the case that today—although not political in nature—consumers are still mobilizing. This suggests that they must still share some sense of a consumer identity that can be triggered by collective action frames. Perhaps it is the construction, rather than the existence, of a consumer identity that shapes the form of collective action that American consumers engage in. In fact, recent scholarship on the changing nature of American citizenship suggests that—more so today than ever before—U.S. citizenship is defined in quasi-market terms, with market competency substituting for civic duty (Soss et al. 2011). Evidence from corporate marketing surveys supports this proposition. For example, in a 2013 report released by Havas Worldwide, the company found that a greater percentage of survey respondents agreed with the statement that being a "responsible consumer" constitutes "good citizenship" (35%) than did "voting in local and national elections" (29%). As consumer identities change, so to might the form that mobilization takes.

## Target for Action

The final piece of a successful collective action frame is the ability to identify and galvanize participants around a target for mobilization. Benford and Snow elaborate that for any social movement seeking a particular remedy "it follows that directed action is contingent on identification of the source(s) of causality, blame, and/or culpable agents." (2000: 616) Here again it seems that the actors held responsible for the creation of a social problem, as well as the actors perceived to be most able to remedy that problem, can shape the form of collective action that emerges. For the case of consumer financial protection, evidence suggests that U.S. consumers today place the locus of control over consumer finance squarely within the market.

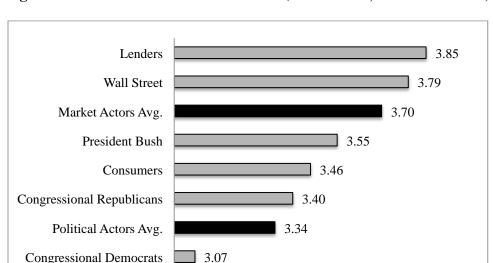


Figure 3. Blame for the Financial Crisis (1=Not at all, 5=A Great Deal)

Figure 3 presents analysis from the 2012 American National Election Study to a series of questions asking respondents to identify the degree to which each of these actors should be blamed for the economic crisis. The scores represent presented above reflect the weighted average of all respondents where one equals no blame and five equals a great deal of blame. Lenders and Wall Street received the greatest amount of blame from respondents at 3.85 and 3.79 respectively. Members of Congress received the least blame from respondents, with Congressional Republicans scoring 3.4 and Congressional Democrats scoring 3.07—both of which represent lower blame scores than consumers themselves (3.46). As Figure 3 depicts, the average blame score among respondents for market actors (lenders, Wall Street, and consumers) is nearly .4 points higher than the average blame score attributed to political actors (President Bush, Congressional Democrats, and Congressional Republicans). These responses offer some evidence to support the notion that today's consumers are focused on the market and not the government as the more likely target for collective mobilization.

Social movement scholarship clearly indicates that consumer mobilization requires political opportunity, organizational resources, and a collective action frame that can unite

consumers in pursuit of specific goal. It appear to be this final variable that may have significant power to shape not only the emergence of collective action, but also whether it takes the form of market or political mobilization. Identifying the components of consumer mobilization, however, is not sufficient to explain the puzzle presented earlier of the variation in mobilization strategies over time. A full explanation must account for what shapes and reshapes consumer identity and targets for mobilization over time. This paper proposes an institutional policy-driven explanation.

## **Policy Feedback Account for Consumer Mobilization**

The majority of the academic community now accepts the axiom that "policies determine politics." (Lowi 1972: 299) A growing cohort of scholars has begun to explore the ways in which "policy, once enacted, restructures subsequent political processes." (Skocpol 1992: 58) They argue that policies—particularly those that generate and sustain enduring institutional arrangements—produce "feedback effects" that can shape the attitudes and behaviors of political elites and the public as well as affect the evolution of policymaking institutions and interest groups (Skocpol 1992; Pierson 1993; Mettler and Soss 2004). As Figure 4 shows, each of these strands of feedback effects has the ability to shape future policymaking for a given issue.

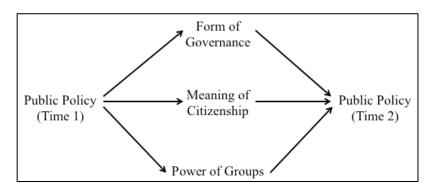
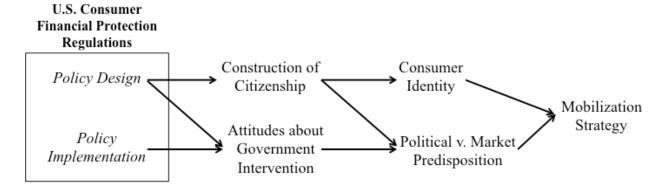


Figure 4. Dynamics of Policy Feedback

This paper proposes that the shifting strategies of consumer mobilization are the result, to

a large degree, of the policy feedback effects produced by the development of U.S. consumer financial protection regulation and the broader development of the American state. As depicted in Figure 5, the paper identifies three specific hypotheses about the relationship between consumer financial protection regulation and consumer mobilization:

Figure 5. Effect of U.S. Consumer Financial Protection on Consumer Mobilization



Hypothesis 1: The development of U.S. consumer financial protection regulations has shaped Americans' constructions of their own citizenship and, ultimately, their identities as consumers.

Public policies, primarily through their design, have the ability to shape people's conceptions of their own citizenship—that is, their relationship with the state in a particular polity (Schneider and Ingram 1993). The design of a particular policy—including the construction of its target population, the level of restriction or autonomy granted by the policy, and the punitive/paternalistic/protective/empowering nature of the policy—generates norms that are transmitted to the public. This norm-generating process can influence how members see themselves and the relative value of their citizenship as well as influencing how society, more broadly, construes a particular group's identity (Schneider and Ingram 1993; Mettler and Soss 2004; Patashnik 2008).

One specific aspect of defining citizenship through policymaking is the ability for government policies to promote or depress particular identities. Steve Engel describes the

feedback effect of policy on identity formation as "a lens through which the regulatory authorities of the state see and define the individual." (Engel, forthcoming) As Theda Skocpol explains, "identities, goals, and capacities of all politically active groups are influenced by political structures and processes." (Skocpol 1992: 47). For example, the language and remedies of consumer finance policies might treat consumers as victims of corporate abuse or as autonomous and self-sufficient players within a fair market economy—lessons that will generate divergent constructions of consumer identity among citizens. Each of these alternatives will affect the way that consumers view their own citizenship and the degree to which their identity as a "consumer" is integral to that conception.

Hypothesis 2: The development of U.S. consumer financial protection regulations has shaped the degree to which consumers believe that the government does and should intervene in the market to protect consumers from financial products.

Policy designs can also transmit norms about the appropriate level of government intervention (Mettler 2011)—thus shaping consumer attitudes about government's appropriate, or likely, role in consumer financial markets. If a policy provides limited avenues for citizens to seek redress, or it intentionally obscures the role government plays in providing a certain type of benefit, the policy generates different norms from a policy that provides clear evidence of government activity in the market. For example, exposure to consumer financial protections that encourage "voluntary" regulation suggest that government is not invested in mandating that consumers be protected from harmful financial products. Similarly, if regulations primarily focus on providing remedies that maintain fair market competition rather than intervening in the function of supply and demand by outlawing the sale of certain credit products, consumers may learn that, as long as transactions are "fair," consumers are accountable for their own financial affairs as responsible players in an increasingly complex market of financial products.

Norms generated by policy design are not the only feedback mechanism through which policies can affect individuals' attitudes. People's direct experiences with policy disbursement agencies have been shown to structure their attitudes about government efficacy and further their resulting political engagement (Soss 1999; Campbell 2002; Mettler 2005, 2011; Weaver and Lerman 2010). Positive interactions with government policies frequently translate to greater rates of participation, while negative experiences can suppress participation. Perhaps more importantly for regulatory policies like consumer financial protections, however, are findings that a lack of interaction with government during the implementation of a policy can encourage citizens to underestimate the role government plays in a particular policy area, thus disincentivizing direct political action for that issue (Mettler 2011).

This is important for understanding the feedback effects of regulatory policies in particular because the direct recipients of government regulations are not consumers themselves. Businesses are the actual target of government regulation, so consumers are not responsible for complying with the mandates of the regulation. The result is that consumers only see the effect of a regulation once it has already been applied. When the regulation does not seriously alter a market transaction, consumers may not be aware of the role government policy played at all.

Douglas Arnold argues that the electorate must be able to link a policy effort to a political actor in order to respond to that action (Arnold 1990). A similar argument might be made for consumer responses to financial protection regulations. The combined effect of policy design and implementation on consumer perceptions of government's appropriate role in consumer financial protection can ultimately shape ideas about what grievances and goals should be pursued through political vs. market means.

Hypothesis 3: The development of U.S. consumer financial protection regulations has constructed different combinations of consumer identity and perceptions of government

involvement in the market over time. The combination of these two factors at a given time will shape the mobilization strategies embraced by consumers.

The third hypothesis proposes that different combinations of consumer identity and attitudes toward government involvement in the market will lead to different consumer mobilization strategies. Specifically, when policies define citizenship as entailing certain social rights that the government is obligated to provide, consumers may be more likely to turn to political mobilization to pursue grievances than if policies define citizenship in terms of market self-reliance. Additionally, when policies show an obvious or significant role for government intervention in the market in order to protect consumers, they will be more likely to turn to political mobilization when grievances emerge. If policies obscure or limit government's role in protecting consumers, however, mobilization is more likely to be directed toward market actors. As consumer financial protection regulations change over time, they will create different feedback effects, thus explaining the dynamic nature of consumer mobilization strategies.

## **Data and Methods**

This project will employ an American political development (APD) approach to test the proposed hypotheses. Scholars of APD take seriously the political, social, and economic factors that contribute to the evolution of the American state and its associated policy programs, and the focus on identifying and explaining the causes and consequences of durable shifts in governing authority (Orren and Skowronek 2004) make an APD approach uniquely suited to provide a preliminary test of the theory articulated above. This initial exploration relies on historical qualitative data collected from legislative histories, secondary analyses, and elite interviews with consumer advocates to chart the twin trends of government consumer financial protection regulation and consumer mobilization strategies. While this strategy establishes correlation rather than causation, it provides an excellent foundation for further tests of the proposed

hypotheses.

# Political Development and Consequences of U.S. Consumer Financial Protection

The course of U.S. history is teeming with examples of both market and political consumer activism—an unsurprising fact given that consumption lies at the heart of the U.S. political economy. As Lizabeth Cohen remarks in her history of American consumerism, the U.S. possesses "an economy, culture, and politics built around the promises of mass consumption." (Cohen 2003: 7) The following section attempts to chronologically chart the relationship between governmental attempts to regulate the financial products that enable mass consumption and the dynamic strategies of consumer mobilization that emerge to address problems with financial products and services.

## From Revolution to Reconstruction

Colonial America lacked both a unified national economy and a centralized state with the capacity to regulate either commercial or consumer financial affairs. Even after gaining independence, the U.S. existed for more than a century with the bulk of governance occurring in a piecemeal fashion at the state level. Skowronek describes this early American state as one of "courts and parties" (1992). Commercial financial disputes were typically managed within the court system (Glaser and Schleifer 2003), while consumer financial affairs occurred almost exclusively between citizens and individual lenders.

Given the lack of a visible central government and the near complete absence of federal policy on consumer financial affairs, it is unsurprising that very little organized consumer mobilization that occurred was directed toward political officials during the first century of American independence. Aside from Daniel Shays' armed takeover of the Springfield Armory in protest of debtor's prisons in 1786, most consumer mobilization was market based. The

nature of consumer financial transactions also meant that very little early consumer mobilization was explicitly geared toward financial products or services. From the colonial period through the Civil War, "open book" credit was the primary vehicle for lending (Calder 1999; Gelpi and Julien-Labruyere 2000). Conducted without legal contracts, wholesalers would extend credit, typically for comestible goods, for those customers who relied primarily on seasonal income. As a result, credit transactions were individual and relied on the goodwill of specific shop owners.

Market-based consumer mobilization for non-financial products, however, was relatively common during this period. In many ways, consumer boycotts helped to spark the American Revolution. Merchants and consumers threatened to stop purchasing British products following passage of the Stamp Act in 1765, marking the beginning of a series of colonial boycotts designed to protest Britain's treatment of its American colonial citizens (Morgan and Morgan 1962). The nineteenth and early twentieth centuries were also filled with calls from abolitionists to boycott products produced by slave labor—once again using the market even in pursuit of explicitly political goals. By contrast, there are relatively few instances of consumers engaging in direct political mobilization in the early days of the U.S. That began to change, however, during the Progressive movement at the turn of the twentieth century.

# The Progressive Era

The turn of the century marked the beginning of a concerted effort on behalf of middleclass professionals and reform-minded politicians to curb the political corruption of the state of courts and parties by pushing for a modern centralized bureaucracy based on merit rather than patronage. As industrialization generated new social and economic issues, regulatory agencies at both the state and federal level began to emerge. Policymakers during this period also began to understand the importance of consumers to the political economy (Cohen 2003), believing that consumers were best served by open and fair market competition in which goods were available at low prices (Creighton 1976). Despite this acknowledgement, however, government intervention in consumer financial protection, and consumer protection more broadly, during this period was still marked primarily by "voluntary compliance" programs (Cohen 2003). The Progressive era corresponded with growing market mobilization.

By 1900, industrialization had created an array of new manufactured goods that could be purchased by the average consumer, and along with the proliferation of products came price gouging, unsanitary production lines, and abusive labor practices. Urban progressive reformers began to mobilize for fair pricing of the growing inventory of manufactured goods and fair labor conditions within the factories that produced them. While Progressives did make demands through political mobilization on behalf of a number of issues—most prominently reforms to the political system—consumer mobilization still remained planted fairly firmly in the market. The National Consumers League, an organization of predominantly middle-class women promoting the ethical consumption of goods, began the Consumers' White Label campaign to encourage women to purchase clothing produced by manufacturers with fair labor conditions (Sklar 1998). Housewives in a number of urban areas—most prominently in New York City—engaged in meat boycotts and rent strikes to protest what they perceived to be unfair pricing (Cohen 2003).

While Progressives boycotted and encouraged government to build a more meritorious civil service to handle regulatory issues, a parallel campaign was underway to combat the "loan shark evil." Loan sharks provided urban workers, who needed access to funds to finance the

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<sup>&</sup>lt;sup>11</sup> Hire purchase—an early form of installment credit that functioned much like today's Rent-A-Center—became a more common practice for the financing of large durable goods beginning with production and sale of the sewing machine in the 1850s (Gelpi and Julien-Labruyere 2000). However, as workers moved away from their rural families and communities and into urban industrial centers, the need for credit to finance everyday purchases grew (Calder 1999). Strict state-level usury laws before 1920 made legal lending of small sums an unprofitable business, so loan sharks entered to fill the gap, quickly becoming a profitable element of organized crime (Gelpi and Julien-Labruyere 2000).

purchase of everyday goods, credit secured by future earnings and incurring exorbitant (and illegal) interest rates. Because consumer lending essentially lacked any regulation at the federal level, lending reformers of this period eschewed calling for help from the state. Instead, they sought to eradicate the predatory practices of loan sharks—and the associated doubling of outstanding debt that occurred between 1900 and 1920 (Williams 2004)—by encouraging greater market-based competition of lenders (Fleming 2012). These consumer activists worked primarily with charitable organizations like the Russell Sage Foundation, rather than involving political officials. But the era of market-only consumer mobilization would come to an end with the policy responses to the Great Depression.

## The Great Depression and the New Deal

The bank failures, massive unemployment, and debilitating underconsumption that arrived with the Great Depression were problems too large for individual states to handle. As a result, a greater degree of policymaking authority was ceded to the federal government than ever before (Higgs 1987). President Roosevelt's new administration was tasked with creating programs that would help the country to climb out of the economic crisis and subsequent recession. While most economists explain that the New Deal programs that emerged from the Roosevelt administration incorporated an array of intellectual approaches and pragmatic issues (Moley 1966), strands of Keynesianism certainly shaped aspects of these programs. Of particular relevance to FDR's brain trust was the tenant of Keynesianism that pointed to underconsumption as a major contributor to the depression (Cohen 2003). Thus, a bevy of new policies established to regulate finance were geared toward increasing consumption to rebuild the economy, and they did so by attempting to boost the purchasing power of consumers (Cohen 2003).

Promoting consumer purchasing power was achieved through two categories of policy tools. First, the government created new programs to expand consumer credit in a number of arenas and to make lending profitable for banks (Hyman 2011). New opportunities for regulated credit emerged through policies like the Home Owners' Loan Act of 1933 (Pub. L. No. 73-43), the Federal Credit Union Act (Pub. L. No. 73-467), and the National Housing Act (Pub. L. No. 73-479). Each of these programs had an obvious role for the federal government in their management.

In addition to the extension of credit, New Deal policymakers were also concerned that purchasing power was contingent upon consumers having some balance in market power compared to corporate entities (Hadfield et al. 1998). Two attempts were made to ensure greater market parity for consumers—one that emphasized government participation and one that promoted responsible consumer activity within the market. First, New Deal policymakers gave consumers a seat at the table as a way of encouraging consumers to perceive that the market was not balanced too much in favor of corporate interests (Cohen 2003). Most major New Deal organizations, therefore, had consumer representatives. For example, the National Industrial Recovery Act included a consumer advisory board (Cohen 2003). While consumers did not always have their preferences reflected in policy outcomes, the focus on a discrete "consumer interest" was a novel addition to government policymaking. As FDR explained in an address at Oglethorpe University in May 1932, "In the future we are going to think less about the producer and more about the consumer."

But policymakers, adopting the rational logic of classical economic theory and the burgeoning roots of behavioral economics, also sought to improve market fairness by minimizing the chance for consumers to fall victim to "bad deals" within the market. Bad deals

were attributed in large part to adverse selection—information and sophistication asymmetries between consumers and producers (see Hadfield et al. 1998). By this logic, government regulators need not preemptively intervene in the market by limiting the products that producers can sell. Instead, they must simply ensure that consumers are provided with sufficient information to make smart choices within the market (Beales et al. 1981; Hadfield et al. 1998). Based on this logic, Congress subsequently passed in 1938 the Wheeler-Lea Amendment to the Clayton Act (Pub. L. No. 75-447), which granted the Federal Trade Commission (FTC) authority to regulate "unfair or deceptive practices" (UDAP).

While the onset of the Great Depression fundamentally reshaped the government's conception of consumer interest, it also represented a watershed for consumer mobilization. And as politicians implemented a combination of policies that highlighted government presence in some while obfuscating it in others, consumer mobilization adopted both political and market strategies. The number of local consumer cooperatives doubled between 1933 and 1936 (Cohen 2003), and organized consumer boycotts were employed at greater rates than ever before. But unlike the market dominance of consumer mobilization prior to the New Deal, the 1930s marked the beginning of organized consumer political mobilization as well (Creighton 1976; Cohen 2003). Led by a bevy of new national consumer organizations like Consumers' Research, Consumers Union, and the Consumer Education Association, grassroots mobilization was used to lobby politicians in Washington by organizing massive letter writing campaigns and marches. This period also saw the growth in large-scale consumer education campaigns, championed by consumer activists.

## World War II and Post-War America

In many ways, the economic demands of supporting a wartime economy and the drive to maintain economic stability after the war carried on the dual government/market policies established by the New Deal. Maintaining the wartime economy required that purchasing power persist, but it also confronted the need for price controls and rationing. The federal government established the Office of Price Administration (OPA) to oversee these efforts, an obvious government intervention in the consumer market, and one that promoted responsible consumption as a civic duty. However, a pro-business Congress and its corporate backers were frustrated by the perceived pro-consumer bias in the OPA, so the organization was not given sufficient resources to manage its mission (Cohen 2003). The agency response to its lack of resources was to enlist volunteers from across the country to manage local Price and Rationing Boards and Consumer Interest Committees—familiarizing ordinary citizens with government market interventions while encouraging them to be active market watchdogs.

After the war ended, maintaining purchasing power was still a central goal of policymakers. President Truman, in his 1946 State of the Union Address, argued that, "All the policies of the Federal Government must be geared to the objective of sustained full production and full employment—to raise consumer purchasing power and to encourage business investment." Government adopted similar policies to those of the New Deal—extending access to regulated credit through policies like the Servicemen's Readjustment Act of 1944 (Pub. L. No. 78-346, the National Defense Education Act of 1958 (Pub. L. No. 85-864), and Regulation W: Consumer Credit (27 FED. RES. BULL.837, 839–48). Regulators also passed a number of new consumer protection policies mandating product labeling to improve information for consumers (e.g., the 1950 Oleomargarine Act).

Much like the extension of the pattern of policymaking that sometimes highlighted government's role in protecting consumers while other times emphasizing only market transactions, the pattern of dual market and political activism that emerged during the 1930s continued through World War II and the post-War period. The number of consumer coops once again doubled, and advocacy organizations led consumers in "buyers strikes" to protest price increases. At the same time, thousands of consumers across the country volunteered to serve on local War Price and Rationing Boards (Cohen 2003), effectively serving as street-level bureaucrats.

# Rise and Fall of Consumer Politics: 1960 to the Present

By the 1960s, consumer credit had blossomed into a fully-realized and extremely profitable industry—one that propped up purchasing power. A 1972 report by the "National Commission on Consumer Finance" discussed the "magnitude and the importance of the consumer credit industry, both as a lubricant which oils the wheels of our great industrial machine and as the vehicle largely responsible for creating and maintaining in this country the highest standard of living in the world." It was during this period that the modern infrastructure for consumer financial protection was established—and like its predecessors, these policies fully realized the application of behavioral economics emphasis on information provision. When Congress passed the Fair Packaging and Labeling Act in 1966, they acknowledged that, "informed consumers are essential to the fair and efficient functioning of a free market economy." In 1968, the Consumer Credit Protection Act was signed into law, the first title of which was the Truth in Lending Act (TILA) requiring the clear disclosure of key lending terms for financial products. From 1970 to 1982, seven more major consumer financial protection

regulations were passed, each of which focused primarily on providing information to consumers rather than preempting the sale of harmful credit products and services.

Unlike in previous eras, however, these market-centered policies were not balanced out by obvious government interventions. Attempts to establish a new cabinet-level department of consumer protection failed. In 2005, when major reforms were enacted to Bankruptcy law, new consumer education programs were mandated for all filers—and even the education programs were privately run. These trends mirrored a larger trend toward neoliberalization in all walks of U.S. social policy—intentionally obscuring the role of government in the provision of a variety of basic policy benefits (Soss et al. 2011; Mettler 2011). The result of this shift, according to Cohen, is that "self-interested citizens increasingly view government policies like other market transactions, judging them by how well they feel served personally." (2003: 9)

Consumer mobilization strategies followed a similar trajectory. Dual market-political consumer activism reached its peak during the 1960s and 70s. Labor groups such as the United Farm Workers pursued consumer boycotts in California (Jenkins and Perrow 1977) while African American activists employed transportation boycotts—most famously the Montgomery Bus Boycott—in pursuit of civil rights (Friedman 1999; Goldberg 1999; King 1999). Housewives led a number of supermarket boycotts to protest rising food prices. The Boy Scouts even debuted a consumer merit badge.

At the same time, however, the growing number and strength of consumer advocacy groups mobilized grassroots participation in political activity at both the state and federal level. Consumers and consumer groups regularly participated in Congressional hearings (Maney and Bykerk 1994). And the proliferation of market segmentation created a number of new consumer interests groups that began lobbying political officials for recognition and protection (Cohen

2003). These activities also coincided with grassroots political mobilization from second-wave feminists and groups like the National Welfare Rights Organization. By the end of the 1970s, however, consumer mobilization strategies had changed along with their related policy mandates.

Since the peak of political consumer mobilization in the 1960s and 70s, consumers have largely eschewed or failed to sustain political mobilization as a solution to marketplace grievances, particularly grievances related to financial products. Instead they have remained inactive or favored market mobilization. According to Todd Putnam, the founding editor of *National Boycott Newsletter*, consumer boycotts increased fourfold from the mid 1980s to the mid 1990s (see Friedman 1999), and other scholars expected this trend to continue (Gelb 1995). In 2013, TIME Magazine published a list of two-dozen consumer boycotts spanning a number of industries (Tuttle 2013).

During the financial crisis, public figures like Arianna Huffington called on consumers to boycott the banks responsible for the recession. The Huffington Post has even dedicated a page on their site to the "Move Your Money" campaign—an attempt to get consumers to divest from the four largest banks in the U.S.<sup>12</sup> "Bank Transfer Day"—a campaign to encourage consumers to move their banking to local credit unions—was promoted through social media (Mayer 2012). And in 2009, more than 5,000 consumers showed up to the "Showdown in Chicago" to protest at the annual American Bankers Association Conference. Consumers concerned with the current system of financial services have become so market-oriented in their actions that, in lieu of pushing for greater government oversight of banks, borrowers are expanding the lending market themselves by developing person-to-person lending sites online (Economist 2014).

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 $<sup>^{12}</sup>$  See http://www.huffingtonpost.com/news/move-your-money/.

## **Discussion and Conclusion**

The power of Americans to consume is no less important to the success of the U.S. political economy today than it was in previous eras of the nation's history—a fact vividly illustrated by the recent economic crisis. But, unlike consumers during the middle of the twentieth century, consumers today are not employing political mobilization to pursue any grievances that emerge with respect to consumer financial products and services. This paper has presented, and provided preliminary evidence to substantiate, the theory that the dynamics of consumer mobilization strategies over time in the U.S. can be attributed, in large part, to the political development of U.S. consumer financial protection regulations.

When policies show citizens that government plays an active role in regulating the market and providing consumers with certain social rights and protections, consumers are apt to mobilize politically when they wish to enact change. Conversely, when policies intentionally limit government intervention in consumer financial regulation, opting instead to provide consumers with information so that they can make their own rational purchasing decisions, consumers are likely to mobilize within the market itself. At times, government has pursued one or both of these policy types—leading to one or both forms of consumer mobilization. But to what extent do these institutionally generated differences in consumer mobilization actually matter for the protection of consumer finances?

Consumers have accumulated some success with pursuing market mobilization on behalf of comestible and durable goods—particularly when that mobilization is targeted toward a single producer and there are sufficient alternatives within the market. By selectively boycotting or buycotting, consumers of this category of products may be able to get individual producers to offer redress. But the ability of market mobilization to achieve success seems to rely on two

factors: the choice and availability of other products in the market for consumption and the ability of consumers to get by without the product in question. For example, if a critical mass of consumers boycotts a fast food chain because it uses trans fats, they may have success in changing the company's policy because 1) the consumers have plenty of alternative venues from which to satisfy their fried food cravings and 2) even without those alternatives, consumers would be able to meet their daily needs without the fast food products. The presence of these two criteria allows consumers to take meaningful market action.

These two conditions are unlikely to be met so easily for consumer financial products.

First, there are relatively few meaningful choices when it comes to financial products and services. The federal preemption of stricter state consumer protections that began in the 1980s, coupled with the fact that most banks are now headquartered in states with minimal restrictions for those few statutes that haven't been preempted, means that, while interest rates and overdraft fees may vary slightly by lender, the general trend in U.S. lending—particularly prior to the most recent recession—was an industry-wide aversion to consumer-friendly terms and practices. This doesn't allow consumers to forgo products from one financial institution in favor of better terms from another lender.

And, unlike with fast food, access to consumer credit is a virtual necessity for most Americans. As Monica Prasad argues in her most recent book *The Land of Too Much:*American Abundance and the Paradox of Poverty, the U.S. economy is predicated on providing citizens with bountiful access to credit in lieu of a strong social welfare system (2012). Because consumers need credit to cover their day-to-day expenses—especially low-income consumers who may not have sufficient savings on hand to deal with emergencies—consumers cannot simply boycott all credit cards to protest overdraft fees. The necessity of consumer credit

coupled with the lack of meaningful choice renders market mobilization relatively toothless as a means to acquire redress for consumer financial grievances.

Political mobilization, and its accompanying electoral accountability mechanism, may well be a more effective manner of successfully pursuing consumer financial grievances. So the fact that current consumers largely ignore this alternative has significant implications for the ability of both consumers and consumer advocates to secure any significant change with respect to lending practices. Despite the existence of political opportunities and consumer organizations with the resources and expertise to mobilize consumer political action, the inability of advocates to construct a collective action frame encouraging political mobilization that will resonate with today's consumers will seriously hamper the implementation of meaningful consumer financial reform in the future.

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