

# Protecting Consumers in Cross-Border Transactions: A Comprehensive Model for Alternative Dispute Resolution

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**The Better Business Bureau ® System**  
**The Council of Better Business Bureaus, Inc.**  
**and its subsidiary BBBOnLine®**

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Steven J. Cole  
Senior V.P. and General Counsel  
Council of Better Business Bureaus, Inc/BBBOnLine, Inc.

Charles I. Underhill  
Senior V.P., Dispute Resolution Division  
Council of Better Business Bureaus, Inc  
and  
Acting Chief Operating Officer  
BBBOnLine, Inc.

4200 Wilson Blvd.  
Arlington, VA USA 22203

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## Executive Summary

The Council of Better Business Bureaus (CBBB) is a North American organization representing its 132 member Better Business Bureaus throughout the United States and 15 Bureaus in Canada. BBBOnLine is a subsidiary corporation of CBBB, with its own Board of Directors representing leading technology, consumer product, marketing and content provider companies with a strong interest in the success of e-commerce.

The BBB system promotes industry self-regulation in the public interest, which it defines as a process driven by the enlightened self-interest of industry, supported in limited, but critical ways by government to the ultimate benefit of consumers.

There are few representative models of successful cross-border consumer dispute resolution mechanisms, since both the dollar value and number of such transactions are still relatively small. However, the BBB provides a real-world example of a mechanism that annually handles hundreds of thousands of individual consumer complaints and handled nearly 7,000 formal arbitration hearings in 1999.

This paper discusses transactions consummated entirely online, deals exclusively with "consumer" disputes (those involving a product or service normally used for personal, family or household use) and covers transactions that cross international borders.

Drawing on experience in the United States and Canada, the paper's authors identify three major reasons why discussions on "choice of law" and jurisdiction are unlikely to address real marketplace problems: 1) Consumers do not utilize their rights to judicial redress for most problems they encounter in the marketplace; 2) Solving cross border jurisdictional and enforcement-related issues in the absence of a common legal framework will require a standardized set of meaningful consumer protections; and, 3) Were issues of jurisdictional and common standards to be satisfactorily resolved consumers would require a convenient way to select from among many alternatives those reliable companies with which to do business.

The authors discuss the BBB's distinguished and widely recognized role in resolving advertising, privacy, warranty and general consumer disputes, citing specific examples from the BBB's considerable experience in establishing industry codes of practice. Finally, the paper notes the methods the BBB employs to assist consumers in identifying reliable vendors of consumer products and services.

The paper discusses standards for cross-border dispute resolution programs, which must -- at a minimum -- address six key areas of fairness, visibility, accessibility, timeliness, finality and enforcement. It also raises issues of special interest in building an online mechanism.

The paper makes the following recommendations:

- A self-regulatory framework provides the best model for consumer protection in the global e-commerce environment. That framework includes, 1) a strong Code for online consumer protection, 2) a consumer dispute resolution mechanism that is fast, fair and accessible, 3) a "trustmark" to enable consumers to recognize merchants that have made commitments to the Code and to effective dispute resolution.
- Governments play a vital role in the BBB framework by: 1) Adopting principles that compliment and/or encourage the development of private Codes; 2) Establishing flexible standards for dispute resolution programs; 3) Establishing methods of certifying "trustmark" programs and auditing their performance; 4) Taking action under existing legislation/regulation when companies fail to honor commitments.
- Industry plays a pivotal role in: 1) Encouraging the development of meaningful standards for online commerce; 2) Funding the development of the technology infrastructure that will be necessary to ensure dispute resolution mechanisms are both cost-effective and can be made available at little or no cost to consumers; 3) Ensuring that opportunities exist which encourage effective partnering among various countries' consumer groups, dispute resolution programs and self-regulatory organizations; 4) Developing private sector funding for new programs.
- Online dispute resolution models must be developed to take advantage of new technologies while not sacrificing traditional fairness principles.

## **Section I Background**

### **The Council of Better Business Bureaus, Inc.**

CBBB is the North American organization representing its 132 member Better Business Bureaus throughout the United States and 15 Bureaus in Canada, with their more than 270,000 local business members, and over 300 leading-edge national and multi-national corporate members. This partnership supports the Better Business Bureau system and its self-regulation activities through membership in the CBBB. CBBB's mission is to promote the highest ethical relationship between businesses and the public through self-regulation, consumer and business education, and service excellence.

*BBBOnLine* is a subsidiary corporation of CBBB, with its own Board of Directors representing leading technology, consumer product, marketing and content provider companies with a strong interest in the

success of e-commerce. BBBOnLine was created in 1995 to help fulfill CBBB's mission in the online marketplace, and thereby to build consumer trust and confidence in the vast and constantly evolving Internet.<sup>1</sup>

## Self-Regulation

While business self-regulation is well recognized in the United States, it is less understood in other parts of the world. For purposes of this paper, the term "self" in self-regulation should not be construed to mean exclusively industry. Rather, it should be considered as a process driven by the enlightened self-interest of industry, supported in key ways by government to the ultimate benefit of consumers.<sup>2</sup> The Better Business Bureau system has significant, highly successful experience with self-regulation in the U.S. and Canada. The key elements in the BBB self-regulatory process are performance and voluntary compliance standards:

- **Developed by industry.** Industry representatives have a significant understanding of the depth and breadth of the problems that must be addressed. In addition, they recognize the need for speed, flexibility and commitment as well as the need to responsibly deal with public concerns. Finally, industry standards gain better voluntary acceptance, achieve substantial compliance faster and can rapidly respond to changing market conditions.
- **Recognized and complimented by government.** By providing incentives for industry to develop good procedures<sup>3</sup>, oversight to ensure that industry is vigilant in managing the self-regulatory process and taking vigorous and visible action when necessary to support the process<sup>4</sup>.
- **Credible to the public.** Industry representatives and self-regulatory organizations understand that a self-regulatory process that lacks substance or fails to deal firmly and openly with conduct at variance with the voluntary guidelines will not be perceived as meaningful by the consuming public. That, in turn, will lead to enactment of precisely the type of often sweeping regulation that can strangle innovation and discourage competition. The BBB experience has established that the synergistic relationship of meaningful industry standards and effective and supportive government actions will result in public confidence that will, in turn, positively reinforce industry's willingness to continue to develop meaningful standards.

## Informal Dispute Resolution

Conciliation, mediation and arbitration of various types of disputes enjoy long traditions in many cultures. Arbitration, in particular, has evolved a formal body of national and international rules and procedures. When disputing parties voluntarily enter these processes, and when the agreed-upon rules and procedures are scrupulously observed, a fast, fair and inexpensive resolution of even a major, complex dispute is probable. While a number of well-known organizations have experience with international commercial arbitration, there are few representative models of successful cross-border consumer dispute resolution mechanisms, since both the dollar value and number of such transactions are still relatively small.

## The Cross-Border, Consumer Context

It is important to note some important limitations to the discussion in this paper.

- The framework is that of electronic commerce; thus, the paper deals with transactions consummated entirely online.
- The paper deals exclusively with "consumer" disputes - those involving a product or service normally used for personal, family or household purposes.
- The transactions that are the subject of the paper must cross international borders. Where the transaction involves parties within the same country, the paper assumes that the country's laws, regulations and formal/informal dispute resolution mechanisms will govern.

## Section II The Problem

Many of the early discussions regarding consumer protection in the global, cross-border context have centered around so-called "choice of law" and jurisdiction issues. It is now clear that these ongoing discussions, while necessary, do not offer any realistic, short-term solutions. Further, even if the "choice of law" issues were resolved, the BBB experience in North America suggests that such resolution would not offer true, practical solutions for cross border consumer disputes. There are three reasons for this:

- **First, our experience in the North America is that consumers do not utilize their rights to judicial redress for most problems they encounter in the marketplace.**

There are many reasons for this: the high cost of litigation; the inaccessibility of attorneys; the frequent small dollar value to high emotional and convenience value disputes; varying education levels; fear; and the weakness of their strictly "legal" positions and remedies compared to the perceived harms or inconveniences suffered. These barriers, coupled with others uniquely attributable to international transactions, surely are all increased significantly with respect to disputes arising cross borders.

Effective out-of-court remedies that are accessible, fair and cost efficient are needed. In the United States, these are provided by the private sector through a variety of techniques, such as third party dispute settlement mechanisms (e.g., the BBB<sup>5</sup>), sophisticated internal company-administered consumer service and complaint resolution procedures, and, in some jurisdictions, government-sponsored mediation programs. Small claims court procedures where they exist also provide effective redress where traditional court remedies are ineffective or under utilized, and government enforcement in cases of substantial law violations and significant consumer injury can be helpful. Globally, the consumer needs are likely to be at least as great, while the non-judicial remedies are, overall, less available at the present time, and are likely to remain so for the foreseeable future.

In short, while it is important to encourage businesses and consumers to participate in e-commerce through the development of governmental rules and procedures that provide predictability and fairness, it is equally important to recognize the limitations of these rules as effective redress mechanisms for most consumers.

We believe that alternative dispute resolution programs will almost certainly prove to be self-regulatory tools through which most cross-border, online consumer disputes will be efficiently and effectively resolved.

- **Second, solving cross border jurisdictional and enforcement-related issues, while important, may make it even more essential that consumers and business have some standardized framework for minimum consumer protections.**

Without minimum standards, dispute resolvers (whether they represent formal or informal mechanisms) have few, if any, common benchmarks against which to measure adherence or deviation in a given transaction. Furthermore, formal "choice of law" and jurisdictional rules that otherwise appear reasonable may fail to gain widespread acceptance in the public sector and consumer communities. A reasonable fear that a "lowest common denominator" legal framework will prevail could impede support for otherwise reasonable proposals. U. S. Secretary of Commerce Daley summed it up nicely in a 1999 speech to the Amdahl's Good Government Series in California:

"I suspect consumer protection officials all over the world will be very reluctant to say that their consumers are not protected by local law. They will need a great deal of certainty that effective protections are available, before they would even think about limiting the scope of their local laws."<sup>6</sup>

In the United States, we have learned much in our own "regulatory laboratory" about the costs and burdens that can result from widely varying consumer protection regimes. Lemon laws, retail advertising and environmental protections are three examples of legislative approaches that differ substantially within the U.S. from jurisdiction to jurisdiction. As a consequence, companies that operate across jurisdictional boundaries incur increased compliance costs, a problem that will only be substantially exacerbated as the number of competing jurisdictions expands exponentially in the global market.

We believe that uniform minimum standards of truthful advertising and fair business practices are absolutely essential, so consumers will have confidence in the new medium and businesses that adopt those standards can achieve compliance at reasonable cost. Such minimum standards are theoretically possible to devise through governmental treaties. Unfortunately, however time consuming and difficult it may prove to be to establish such standards within any single country, the difficulty increases a hundred fold when establishing standards which rely on acceptance across national boundaries. Harmonizing conflicting standards may not be possible to accomplish within meaningful timeframes. On the other hand, timely and effective voluntary standards are very possible to develop through private sector efforts, especially if governments, working cooperatively, provide incentives for those efforts.

- ***Finally, were issues of jurisdictional and common standards to be satisfactorily resolved, a third crucial need would remain. How can a consumer conveniently select from among so many alternatives those reliable companies with which to do business?***

A dominant characteristic of the online market is the low entry barriers for new competitors. Some of these new competitors take liberties with the legal rules and essential honesty. Many others, however, put consumers at risk not with any deliberate intent to commit fraud or deception, but through their inexperience and misjudgment(s) about how to advertise accurately, deliver on promises made and fulfill orders as promised and on a timely basis.

The array of information available online is overwhelming. While this provides consumers with unprecedented opportunities to equalize the imbalance of knowledge that has traditionally existed between buyers and sellers, it also creates new difficulties. Drowning in new sources of information (often of questionable value and occasionally intentionally misleading or deceptive), how can most consumers determine which businesses, products and services are worthy of trust?

In the "brick and mortar" business world, the construction of an impressive business edifice is often a major financial barrier to entry into the traditional business world and, as a consequence, is also an overt measure of the strength of those businesses that can maintain such a facility. In e-commerce, electronic "storefront" web sites are inexpensive to produce, a positive factor ensuring ease of market entry. However, absent most of the traditional cues available in the physical marketplace (not only substantial facilities, but such other important resources as the relationship with store personnel, the type of media placements for advertising, the touch and feel of the merchandise, etc.), consumers lack some important traditional touchstones for good decision making. Arguments over "choice of law" and jurisdictional rules do not address this important need.

The same can be said in the traditional world of direct marketing. The costs of mass marketing (e.g. television advertising and the costs of printing and mailing catalogs and other promotional

materials), often -- and usually correctly -- lead consumers to conclude that very existence of the company's substantial mass marketing program provided evidence of that company's financial substance and reliability. The minimal costs of online marketing provide consumers with no such reliability "touchstone".

In the same 1999 California speech referenced earlier, Secretary Daley noted that "consumers want to know they are dealing with a reputable company. Never having heard of the company, or buying from it before--they are skeptical."

A reliable system that would allow consumers to identify companies pledged to a set of common standards of online commerce and effective dispute resolution would foster the growth of e-commerce for both businesses and consumers.

### **Section III**

#### **The Better Business Bureau Experience: Three Key Elements In The Self-Regulatory Framework**

The Better Business Bureau system, through activities of the BBBs in local communities, national activities of the CBBB, and online activities through *BBBOnLine*, offers a working model for others to emulate. We are actively exploring partnerships with groups in other parts of the world so that others can build upon our BBB experience, adapting it to varying national needs. Here's how the BBB has addressed the problems identified above.

- ***First*, the BBB system is one of the largest and most experienced providers of informal consumer dispute settlement services in the North America, trusted widely by both business and consumers.**

Better Business Bureaus have handled well over two million cases in our mediation and arbitration programs since the early 1980's, not to mention the additional multi-millions of informal complaint-handling cases undertaken in its history. BBB mediation and arbitration programs are almost always free to consumers, and serve as widely recognized models of speed, convenience, due process, flexibility and competence. BBB cases, in areas as diverse as the automobile industry<sup>7</sup>, manufactured housing, national advertising<sup>8</sup> and privacy<sup>9</sup>, are decided using a variety of different techniques applicable to the particular situation, including both equity-based decisions and those based upon the application of legal principles. Trained subject matter professionals and trained volunteers, as appropriate, are used with considerable success.

- ***Second*, the BBB system has a long and distinguished tradition in working with the business community to set or administer uniform standards of fair advertising and business practice.**

Currently, *BBBOnLine* is in the final stages of developing a Code of Online Business Practices<sup>10</sup>. The Code, currently in draft form<sup>11</sup>, will set voluntary performance standards for online business performance. Covering not only advertising and but also "transaction" issues, the Code incorporates dispute resolution features and is intended for an international audience.

Our Online Code activity is an outgrowth of the renowned BBB *Code of Advertising*<sup>12</sup>, which is followed by the retail industry and has formed the basis for numerous local government advertising codes as well as the important Federal Trade Commission *Guides to Deceptive Pricing*<sup>13</sup>. Our national advertising program, administered by CBBB's National Advertising Division (NAD)<sup>14</sup> in alliance with the three major advertising trade associations (AAF, ANA, AAAA), has been called by Federal Trade Commission Chairman Robert Pitofsky the best example of self-regulation he has seen. The CBBB's Children's Advertising Review Unit (CARU) has been a

leader in setting advertising standards<sup>15</sup> applicable to the unique needs and cognitive abilities of children, and, like NAD, enjoys an outstanding level of voluntary compliance by industry. The CBBB's Philanthropic Advisory Service (PAS) applies our experience in business self-regulation to the charitable community, setting and implementing at national and local levels widely-observed fund raising, governance and accountability standards<sup>16</sup> for soliciting organizations. Finally, in response to substantial interest, encouragement and support from the business community and government leaders, CARU<sup>17</sup> and BBBOnLine<sup>18</sup> have established and implemented programs to assure that individual privacy is protected in online transactions. Together, these programs set rigorous, but practical disclosure, choice, security and access standards, and incorporate a verification and dispute resolution program of high quality.

BBB standard-setting activities work for three essential reasons. First, they are developed and implemented "by" industry, and are not done "to" industry. They are examples of self-regulation at its best. Second, our business members and supporters understand that the BBB self-regulation programs will not serve them if they do not serve their customers. Consequently, while our standards and implementation activities are practical and reasonable from a business perspective, they are fair and responsive to consumers. Finally, since BBB self-regulation must not only be effective, but must be seen to be effective, business - from the largest multi-national companies to the smallest local firms - understands that BBB advertising<sup>19</sup>, complaint handling<sup>20</sup> and local dispute resolution programs<sup>21</sup> must be publicly accountable.

- ***Third, the BBB system's most widely recognized function is to assist consumers finding companies in which they can place their trust.***

To begin with, BBB members must meet minimum membership requirements<sup>22</sup> that speak to truthful advertising and good faith resolution of consumer complaints, among other things. In a very recent development designed to assist consumers in finding companies that meet our standards, BBB members may display a member logo and identify themselves as members in their advertising.

All BBBs assist consumers in pre-purchase research by providing "reliability reports" on members and non-members alike, describing the business' marketplace record. These reports are now online in many Bureaus through the CBBB's web site (<http://www.bbb.org/reports/>) or through independently operated sites linked from the CBBB site (e.g. the Boston BBB at <http://www.bosbbb.org/searchfor m.html>).

Finally, CBBB and the BBB system operate two widely recognized "seal" programs. The BBBOnLine "reliability" program, designed to identify companies adhering to BBB marketplace standards and dispute resolution procedures, is the largest "trustmark" program on the Internet with nearly 4,200 distinct participating companies (<http://www.bbbonline.org/database/search/list.cfm>). The recently implemented BBBOnLine privacy program includes more than 265 separate sites displaying the BBB Privacy Seal (<http://www.bbbonline.org/businesses/privacy/approved.html>). Both are intended to assist consumers in finding companies that meet our high standards in the applicable areas.

Not only can consumers quickly identify companies that participate in the BBB seal programs through the Internet, but such BBB information is nearly universally accessible through automated voice response systems maintained by most local BBB offices.

## **Section IV**

### **Alternative Dispute Resolution In The Cross-Border Context**



In the context of global e-commerce, disputes involving online transactions are likely to run the gamut from very small dollar value conflicts involving two individuals (for example, collectibles sold through online auction sites), to multi-million dollar business-to-business (B2B) transactions.

While the complexity of the B2B disputes may be significantly greater, that very complexity and the high dollar value will help ensure that there will be fewer disputes arising out of these transactions and that the parties to these transactions will have incorporated sophisticated, tailored dispute resolution mechanisms into their underlying contracts.

By contrast, the sheer volume of consumer transactions, coupled with the relative lack of sophistication on the part of the parties, is more likely to generate a significantly large caseload. At the same time, the parties will be less likely to be familiar with any form of alternative dispute resolution.

This presents a daunting challenge for the design of a consumer dispute resolution system.

While this paper is intended to focus on disputes where consumers, sellers and various transaction "facilitators" (credit card issuers, banks, delivery systems, ISPs, etc.) reside in different nations and, therefore, different legal jurisdictions, we believe the existence of readily accessible mechanisms will help facilitate informal dispute resolution within jurisdictions, augmenting laws within individual national borders.

Certainly, within any given country, informal dispute resolution systems should be encouraged as quick, informal ways to obtain redress. In 1985, in an effort to extend consumer protection protocols throughout the global community, the United Nations approved its *Guidelines for Consumer Protection*. The *Guidelines* (as expanded in 1999 to include issues involving sustainable consumption) are designed " . . . to assist countries in achieving or maintaining adequate consumer protection for their population as consumers"<sup>23</sup>. Of the several needs these *Guidelines* are intended to address, one is to ensure the "availability of effective consumer redress".

Since it is clear that governmental and extra-governmental systems (some nascent, some enjoying long traditions) exist in many countries, nothing in this paper is intended to supplant those systems.

Where consumer disputes cross national borders and jurisdictions, a special system is required. Consumers and businesses need a reasonable certainty that redress mechanism(s) will be available and will be utilized. Perhaps most important, there must be positive advantages to participation and negative consequences for failing to honor commitments made during the dispute resolution process. Finally, the cost to the parties (both in time and money) to participate and to gain adherence to decisions made through the process cannot be so significant (with respect to the amount of the transaction) that the process is effectively impotent.

There are a number of key issues that should be addressed in any cross-border consumer dispute resolution mechanism. We consider six to be essential. These are:

- **Fairness.** Consumer dispute mechanisms must have structure, rules and procedures that ensure that all parties' rights are protected and that every aspect of the mechanism operates with regard to the parties' rights to due process.
- **Visibility.** Consumers must be fully knowledgeable of the existence of any mechanism. While it is desirable that consumers have this knowledge prior to purchase, it is critical that this information be available at the time a dispute arises.
- **Accessibility.** The mechanism must be readily accessible by consumers when a dispute arises. Accessibility not only means that the mechanism can be called upon when needed, but that there are no unreasonable barriers to access (including unreasonable costs).
- **Timeliness.** There is an old adage that "justice delayed is justice denied"; it applies particularly to consumer dispute resolution. Disputes should be resolved as quickly as possible, taking into



account the need for the parties to provide (or the mechanism to collect) sufficient information upon which to base a resolution.

- **Finality.** The mechanism should, to the greatest extent possible, ensure that decisions fully and finally resolve individual consumer disputes. The BBB offers a number of models that achieve this end including binding arbitration, conditionally binding dispute resolution, non-binding informal dispute settlement and non-binding measurements against performance standards.
- **Enforceability.** The mechanism should ensure that decisions it renders are quickly and completely honored.

Each of these guidelines interconnects with the others; together, they form an excellent framework under which to discuss cross-border, online dispute resolution.

### **Fairness.**

Perhaps no one element of a consumer dispute resolution process is of greater importance than the essential fairness of the mechanism. Parties to any dispute have a right to expect that the process will operate in a completely impartial manner.

The Federal Trade Commission, in proposing Informal Dispute Resolution Rules<sup>24</sup> under the Magnuson-Moss Product Warranty Act<sup>25</sup> in 1976, set forth detailed requirements giving significant specificity to the Warranty Act's stated intention to encourage warrantors to develop fast, fair, informal procedures for the resolution of warranty disputes.

The European Commission, after significant consultations among its members, established a set of basic principles for out-of-court settlement of consumer disputes<sup>26</sup>. These seven principles (which mirror, in many respects, the FTC Rule 703 "standards") deal directly with the following broad policy areas:

- The "independence" of the mechanism and decisionmaker(s);
- The "transparency" of the procedure(s);
- The "adversarial process", allowing for arguments and cross-examination by both parties and/or their representatives;
- The "effectiveness" of the process;
- The "legality" of the process;
- "Liberty" within the process (process may be binding only if parties were informed in advance and specifically consented);
- "Representation" in the process;

As the leading consumer dispute settlement organization in North America, the Better Business Bureau's rules and procedures have long embodied these fairness principles as have those of commercial dispute resolution mechanisms, such as the American Arbitration Association<sup>27</sup>. In the consumer context, we have long maintained that these fundamental fairness principles should include:

- Ready access to meaningful information about the dispute resolution process.
- Neutral, independent program administration and dispute resolvers possessing sufficient knowledge and skills to perform their duties responsibly.
- Dispute resolution services provided at no cost or at a low cost when measured against the value of the transaction in dispute.
- The absence of geographic, linguistic or other barriers to the fullest practical participation in the entire dispute resolution process.
- Time frames that ensure a quick resolution of the dispute, taking into account various aspects of the nature of the transaction.
- A right to have adequate representation during the process.

The principles outlined in these various protocols (with a few limited exceptions) all form a solid framework within which to address concerns about the fairness of the process.

### **Visibility.**

Regardless of the fairness of a program's rules and procedures, a dispute resolution mechanism that is invisible is useless. In the United States and Canada, Better Business Bureaus have such a high public name recognition (nearly 100% in a 1996 Gallup Study) that consumers often find their way into BBB arbitration programs without specific knowledge that an individual company has "precommitted" to a dispute resolution program. This experience may be true for other public and private agencies in other jurisdictions. Where this is not so, the BBB system would like to provide partnership assistance.

While a public recognition quotient may be one critical key to success, it is also important that information about a mechanism be clearly available at the point of the transaction. For this reason, information about the BBB*OnLine* Reliability Program standards, including dispute resolution, is available when a consumer clicks on the program seal to confirm the company's participation. Similarly, our BBB*OnLine* Privacy program rules require that a participant's privacy policy must inform the public of the firm's participation in the BBB*OnLine* Privacy Program and provide a means (usually a hyperlink) through which consumers can obtain additional information or raise a concern.

The Federal Trade Commission recognized the critical importance of the visibility of a dispute mechanism in product warranty disputes in the United States. The FTC requires a warrantor under its Rule 703 (See note 24) to make basic disclosures about the availability of a complying dispute resolution mechanism (including the name, address and toll-free telephone number of the mechanism) on the face of the consumer warranty. Further, the FTC requires that warrantors take additional steps to inform consumers about the availability of the mechanism at the time a warranty dispute arises.

### **Accessibility.**

A mechanism that is not visible could hardly be considered accessible. However, there are many other proven barriers to access that must be considered. First among these may be cost. If there is a cost to the consumer for using the dispute resolution mechanism, that cost will increasingly hinder consumer access as the cost of the dispute resolution approaches the value of the issue(s) in dispute. In the United States, there have been several recent examples (generally in the context of "pre-dispute", binding arbitration clauses incorporated into consumer contracts) where courts have held that the costs and filing fees of the arbitration process were unconscionable when measured against the cost of the product.

The Better Business Bureau believes that consumer dispute resolution services should be provided at low or no cost to consumers. Otherwise, given the relatively low dollar value of issues in dispute, fees would prove a significant barrier to meaningful redress.

It is important to note that "low or no cost to the consumer" does not mean that a dispute resolution mechanism is without cost. A mechanism must be adequately funded at a level sufficient to ensure that it is capable of fully meeting its obligations to the parties. As recognized by the U.S. Federal Trade Commission in its warranty regulations, that invariably means business funding. Accordingly, steps must be taken to ensure impartiality of the mechanism, both in appearance and in fact, or else free/low cost quality consumer dispute resolution processes are unlikely to exist -- to everyone's detriment.

In addition to cost, there may be a number of other barriers to access. These would include such issues (among others) as cumbersome case filing procedures, slow (or no) response to consumer inquiries and timeliness in the handling of cases after filing (see below). To these, in the global context, there are additional barriers that must be addressed and overcome. These include language, custom and time zone differences.

## **Timeliness.**

At a time when courts in the United States often have multi-year waiting lists before cases even appear on a docket, one of the major advantages of alternative dispute resolution in the consumer context is its potential to handle cases timely. However, if a dispute resolution mechanism, by design or through mismanagement, routinely delays the ultimate resolution of cases, consumers will become discouraged. Either the issue in dispute is no longer material (in the extreme case, the consumer is deceased) or the consumer becomes discouraged and withdraws from the process.

BBB Rules of Binding Arbitration provide that cases will be concluded within 60 days of filing; the BBB AUTO LINE Rules provide for case handling within 40 days. This shorter time frame is consistent with the FTC's Rule 703, which requires that warranty dispute mechanisms in the United States issue a decision on a case within 40 calendar days of the date that the claim was formally filed with the warrantor's mechanism. While 40 calendar days may be very expeditious in the "brick and mortar" world, given the much more "instantaneous" nature of e-commerce, it is reasonable to believe that consumers will expect faster case-handling times in the future. We believe this will require that online dispute resolution programs make significant investments in technology to meet user expectations under Internet time frames.

## **Finality.**

A dispute resolution process that holds out the promise of "resolution" must deliver on that promise. This means the parties (both consumer and business) have a right to expect that -- if all other techniques fail -- the process will formally "decide" the issues that have been submitted. Mechanisms should be encouraged to facilitate direct contact between disputing parties in the early stages of a dispute and to encourage mediation; however, those which merely facilitate without ultimately making a conclusion available to the parties perform no service if one of the parties proves recalcitrant.

There are many ways to ensure finality in the consumer dispute resolution process. The BBB provides several different models:

- **Binding Arbitration.** Both parties enter the dispute resolution process and agree to be legally bound by the decision.
- **Conditionally-Binding Arbitration.** The business "pre-agrees" to arbitrate disputes at the consumer's request. The arbitrator's decision is not binding on either party unless the consumer formally accepts the decision. Once accepted, the decision becomes binding on both the company and the consumer.
- **Informal Dispute Settlement.** The parties enter a non-binding process that provides a decision. Neither party is bound by the decision, but the company must act in good faith in determining whether and to what extent to honor the decision.
- **"Trustmark" Programs.** The "trustmark" holder agrees to a set of standards and a dispute resolution process to resolve disputes relating to adherence to those standards. The decision of the process is not binding on the company, but failure to honor the decision may result in a loss of the "trustmark".

In all these models, the disputants have a right to expect a timely decision free from ambiguity.

## **Enforcement.**

Closely connected to, but separate from, the issue of "finality" is the issue of "enforcement". A clear, unambiguous dispute mechanism decision that is not followed weakens the parties' faith in all dispute resolution mechanisms.

There are a number of different enforcement techniques:

- **Easy enforcement in court.** Arbitration statutes in the U.S. and elsewhere recognize disputants' right to voluntarily submit disputes to binding arbitration. If key "due process" requirements are met during the arbitration process, courts will confirm arbitrators' decisions without rehearing the issues in dispute.
- **Recognition of dispute resolution processes in court.** Certain Better Business Bureau arbitration agreements contain provisions that non-binding decisions of an "informal dispute resolution" process may be introduced in evidence in subsequent court proceedings. U.S. Federal Trade Commission warranty dispute rules contain similar provisions.

In the global cross-border context, however, enforcement takes on greater significance, yet traditional "enforcement" may prove elusive. While enforcement of arbitration awards in multi-million dollar international commercial disputes is quite likely under existing treaties, the costs of legal enforcement of consumer dispute mechanism decisions may be as impractical as the costs of litigating them. We believe that other sanctions may ultimately provide equal -- and perhaps better -- assurance of enforcement than formal legal "confirmation" procedures.

Here are some examples from the BBB's experience:

- **Withdrawal of membership.** BBB minimum membership standards provide that a member "comply with any decisions rendered through Bureau arbitration programs in which the firm agrees to participate". Failure to honor a duly rendered arbitrator's decision will result in a proceeding to publicly revoke a firm's membership. Notice of that revocation is incorporated into the company's BBB report, which is given to consumers who call the BBB to make a pre-purchase inquiry on the company's reliability.
- **Withdrawal of a "Trustmark".** Failure to abide by an arbitrator's decision in the *BBBOnLine* Reliability Program will result in revocation of the *BBBOnLine* Reliability Seal. Failure to abide by a final determination in the *BBBOnLine* Privacy Dispute Resolution Program will also result in a revocation of the Privacy Seal.
- **Public Reporting of Non-Compliance.** The CBBB's National Advertising Division publicly reports failures to cooperate with the self-regulatory process.
- **Government Back Up.** As noted earlier, the FTC has investigated and taken action against advertisers when advertisers have failed to honor decisions emanating from the self-regulatory process.

We believe that if consumers are encouraged to conduct e-commerce on sites which offer "certified" dispute resolution programs, and if those certification procedures require that programs remove from participation those "trustmark" holders that fail to abide by a decision, there may be greater incentives to comply (or disincentives for non-compliance) than might exist through the normal legal processes of any individual jurisdiction.

**"Off line" Local to Online Global -- Unique Issues for Discussion.** None of the issues outlined thus far are unique to the online environment; they are fundamental issues that are applicable to any consumer dispute resolution mechanism. However, as has been repeatedly proven, the Internet is reshaping commerce with lightning-like speed.

We note that there have been a number of recent experiments with online dispute resolution, and there are new online mechanisms, both non-profit and for-profit, offering to put the latest Internet technologies at the service of disputing parties. These have generally focused on more complex commercial transactions and disputes where the "cost/benefit" of using these technologies is obvious. There have also been some very preliminary (and largely academic-based) initiatives to experiment with Internet technology for smaller disputes. However, a great deal more must be done before any but the most

tentative conclusions can be drawn. In truth, as we noted at the beginning of this paper, there are simply no truly representative models of successful cross-border, online consumer dispute resolution programs.

The Better Business Bureaus in the United States and Canada have had online consumer complaint forms -- one uniquely designed for the BBB AUTO LINE program<sup>28</sup> and one for generic consumer complaints<sup>29</sup> -- for the past three years. We estimate that twenty to thirty percent of the basic BBB consumer complaint activity is now coming through the BBB's website, a dramatic shift in a very short period of time. A closer analysis of these statistics illustrates just how fast change happens. On an average month during 1999, roughly 24% of all BBB complaints arrived online. However, in November 1999, that figure was 27% and in December 1999, it had increased to 34%. In January 2000, the percentage had again increased to somewhere between 36% and 40%.

There are a number of unique issues that will ultimately need to be addressed. However, from our experience, coupled with our growing understanding of a number of related issues, we believe the following issues -- many of which are strongly linked -- will need to be addressed immediately:

- **Volume.** Most dispute resolution mechanisms, including the courts, rely on a system of barriers (however benign) to retard entry and encourage resolution at lower levels. If one assumes that an online, global consumer dispute resolution mechanism exists, that it meets the requirements for accessibility and visibility, that it is fair, impartial and trusted by consumers and that online merchants have pre-agreed to use such a mechanism, then the Internet eliminates most traditional barriers. It may be difficult and time consuming for a consumer to go down to a small claims court, pay a filing fee and receive a date upon which to return and argue a case. However, for the investment of a few minutes of time online, a consumer can initiate a dispute resolution process without ever leaving home. Given the explosive growth of online commerce, the potential consumer complaint volume will be a major factor with which dispute resolution mechanisms must deal effectively.
- **Speed.** As we previously noted, a 40-calendar-day time frame (from complaint filing through decision) may be considered quite fast in the "brick and mortar" world, but it may be considered extraordinarily slow in a world where "excellent customer service" may mean responding to a consumer request in minutes or hours, rather than days or weeks. Dispute resolution mechanisms will need to adapt to Internet time frames or consumers and merchants will find them unsatisfactory.
- **Technology.** The major solution to both concerns about volume and speed lies in adapting Internet technologies to consumer dispute resolution. Unfortunately, the low dollar value of consumer disputes, coupled with the desire to provide dispute services at low or no cost, gives little incentive for entrepreneurial investment. At the same time, the potential volume of consumer cases will require a larger investment in robust technology that can be rapidly scaled up to meet demand. We believe a partnership among governments, non-profit foundations, academic institutions and the private sector will be necessary to ensure that the technological infrastructure will be in place.
- **Language and Cultural Issues.** As online commerce transcends national borders, it crosses major language and cultural barriers as well. Without speaking another language well (or perhaps at all), a consumer from one country may be able to navigate through a well-constructed web site in another country well enough to place an online order. It is quite another matter for that customer to try and explain the complexities of his or her dissatisfaction to the company or a third party speaking his or her native language. Similarly, it may be difficult for a company or third party to understand a specific cultural context within which lies a customer's dissatisfaction with a product or service. Treating these cross-lingual and cultural issues in the consumer dispute context will be an early challenge for the construction of effective dispute resolution programs.
- **Credibility Issues.** The classic fact-finder often relies on ascertaining the veracity of witnesses by the appearance and demeanor of the parties and their witnesses -- "looking them in the eye". Such visual cues may be absent from a dispute resolution process where the parties and the neutral may be separated by several thousand miles. In any event, such cues might actually be quite misleading, since they are set in a cultural context. For example, a witness who looks

another person in the eye may be considered to be truthful in one culture and may give great offense in another. Dispute resolution processes will certainly need to take these issues into account and may need to modify procedures or find new and different methods to deal with these issues.

- **Production of Evidence.** In the "brick and mortar" world, the parties produce evidence or witnesses by bringing the documents or the witnesses with them to a hearing. In the electronic world, where documents cross continents in a nanosecond via email, it is simple to believe that evidence will be produced the same way. While that may be valid in major commercial disputes, it is unreasonable to assume that every consumer with Internet access is also a document imaging specialist. Accordingly, thought needs to be given to the means through which the average consumer may submit evidence to the mechanism (certainly not ruling out ordinary mail) and how a mechanism may obtain credible testimony from witnesses (including how and when electronic "witnesses" may be questioned).
- **Inspections.** In the BBB's consumer programs, arbitrators often conduct "on site" inspections of a product or service that is the subject of a dispute. Such inspections might prove pivotal in determining whether a fault exists and, if so, where that fault lies. What types of provisions might an online mechanism make for the equivalent of such inspections?
- **Compelling Consumer Participation.** There is one significant policy issue not previously addressed in this document, but which will require immediate attention. Companies in the United States have a long history of incorporating binding arbitration provisions into commercial and union/management contracts. Courts recognize the validity of these pre-dispute agreements and have upheld them routinely. Over the past decade, however, there is a growing movement toward incorporating such clauses in consumer contracts. This has become a highly charged, controversial issue.

The European principles (under its category of "liberty" within a binding dispute resolution process) address the issue of the voluntary nature of arbitration, attempting to ensure that the consumer has knowingly and freely chosen to elect to bind him/herself to a mechanism's decision. Under the European Principle, a consumer's election to arbitrate may not be the result of a commitment prior to the actual disputing arising.

In a similar context, the Better Business Bureau system has established a *Policy for Voluntary Consumer/Business Arbitration in Contractual Commitments*<sup>30</sup>. Recognizing that courts in the U.S. have generally upheld these clauses, with restrictions, the BBB policy sets protocols under which a business may name the BBB in one of these clauses.

We believe that the issue of such pre-dispute clauses will need to be dealt with immediately. We further believe this may ultimately be an issue of little real significance, since we believe the use of these clauses may prove impractical in the global, cross-border context. The generally small dollar value of consumer transactions, coupled with the difficulty and cost of attempting to enforce a pre-dispute clause in some international forum(s), will likely make the practice moot.

## Section V

### The Role Of Governments

At the beginning of this paper, in discussing the role of self-regulation, we observed that it facilitates consumer self-reliance, encourages industry innovation and provides a true "safety net" for consumers and responsible industry members. We noted the important role we believe alternative dispute resolution can play. Finally, and perhaps of greatest importance, we voiced our conviction that thoughtful government oversight and enforcement provides a necessary fertile medium in which self-regulation can flourish.

We believe that the role of governments, in the framework of cross-border consumer protection, should be:

- To agree upon a set of international "standards" for consumer dispute resolution programs;
- To give some formal "standing" or "certification" to "trustmark" programs which meet these standards. Recent "safe harbor" negotiations are one example of how government can create positive incentives for self-regulation;
- To provide reciprocal, uniform audit mechanisms to ensure citizens of their respective jurisdictions that "trustmark" programs live up to their commitments. For consumers, finding reliable "trustmark" programs will be as important as finding reliable companies. This will be particularly true where trustmark organizations are new and not recognized by consumers and businesses;
- To use the force of local laws and regulation to aggressively pursue those companies that fail to live up to their commitments, abuse the system or engage in fraudulent or deceptive acts or practices.

## **Section V In Summary**

The Better Business Bureau believes that a self-regulatory framework provides the best model for consumer protection in the global e-commerce environment. That framework includes, at a minimum: 1) A strong Code for online consumer protection, 2) A consumer dispute resolution mechanism that is fast, fair and accessible, 3) A "trustmark" to enable consumers to recognize merchants that have made commitments to the Code and to effective dispute resolution.

Governments play a vital role by: 1) Adopting principles that compliment and/or encourage the development of private Codes; 2) Establishing flexible standards for dispute resolution programs; 3) Establishing methods of certifying "trustmark" programs and auditing their performance; 4) Taking action under existing legislation/regulation when companies fail to honor commitments.

The private sector can play a pivotal role by: 1) Encouraging the development of standards for online commerce; 2) Funding the development of the technology infrastructure that will be necessary to ensure dispute resolution mechanisms are both cost-effective and can be made available at little or no cost to consumers; 3) Ensuring that opportunities exist which encourage effective partnering among various countries' consumer groups, dispute resolution programs and self-regulatory organizations; 4) Developing private sector funding for new programs.

In conclusion, we believe that sustained efforts by all interested groups to build alliances and relationships will be absolutely essential toward the goal of fostering global online commerce to the benefit of consumers and merchants in every country. The Better Business Bureau system and *BBBOnLine* have demonstrated a commitment to that ideal. This document renews our commitment.

## **Appendix A: The Better Business Bureau's Marketplace Dispute Resolution Programs**

### **Self-Regulation in Action**

#### **Background.**

The Better Business Bureau movement in the United States began in the early 1900s when groups of responsible businesspersons in local communities determined to speak out for truthful and accurate advertising and selling practices. Leaders within the business community created "advertising vigilance committees" to establish responsible advertising and selling standards, monitor marketplace practices against those standards and call public attention to practices which did not meet these standards.



By the mid-1920s, these "vigilance committees", now known as "Better Business Bureaus", had become recognized by the general public as a credible source of information about ethical business practices. As a consequence, consumers began to turn to the BBB when they felt that a business' advertising or selling practices did not live up either the BBB standards or the company's promises.

By the 1950s, Better Business Bureaus across the United States processed hundreds of thousands of complaints annually, using a process of conciliation and mediation to assist businesses and consumers in resolving an impressive percentage of these cases quickly, inexpensively and informally.

In 1970, the National Better Business Bureau (which monitored national advertising and selling claims) and the Association of Better Business Bureaus (the coordinating body for 170-plus BBBs in the United States and Canada) merged to form the Council of Better Business Bureaus, Inc. Shortly after the CBBB was formed, the BBB system launched two major self-regulatory initiatives to improve the consumer marketplace. The first, the National Advertising Division/National Advertising Review Board, was designed to investigate and resolve disputes involving the truth and accuracy of regional and national consumer advertising.

The second initiative, the National Consumer Arbitration Program, was intended to provide consumers with effective resolution of individual consumer product and service disputes at the local, grassroots level. Patterned after arbitration techniques that had enjoyed a long and successful history in the labor and commercial arenas, the BBB Consumer Arbitration Program was designed to use trained BBB volunteer arbitrators, drawn from all walks of community life, to resolve a wide variety of marketplace disputes. From 1972 through 1978, the Consumer Arbitration Program grew in scope, as more and more local BBB offices adopted the program. After several major evolutionary steps, the BBB Consumer Arbitration Program has become the most visible model of a working consumer dispute resolution program.

In 1996, CBBB launched a third initiative, *BBBOnLine(r)*, a "trustmark" program designed to ensure consumer trust and confidence in e-commerce. *BBBOnLine* offers both a Reliability trustmark and a separate Privacy trustmark (launched in 1999) to businesses who meet BBB standards. Both programs include effective dispute resolution as an integral component.

### **The CBBB National Advertising Division, Children's Advertising Review Unit And The National Advertising Review Board.**

In an effort to sustain "truth and accuracy in national advertising" through self-regulation, a two-tier system was created by the advertising community in 1971. It consists of the National Advertising Division of the Council of the Better Business Bureaus, Inc. (NAD) and the National Advertising Review Board (NARB). The NAD is the investigative body, while the NARB is the appeals body of the system.

NAD is the first level that investigates the truthfulness and accuracy of a national ad and NARB is the second part of the self-regulatory process. When an advertiser or challenger disagrees with NAD's findings, NAD's decision can be appealed to the NARB for additional review. The advertiser (whose ad claims are in question) has an automatic right to a review by an NARB panel; however, the complainant (also referred to as the challenger) must have approval from NARB's chairman. The NARB Chairman will only grant a challenger's request for an appeal if he determines that there is likelihood that a NARB panel would reach a decision different from NAD's decision.<sup>31</sup>

NAD and NARB actions and decisions are highly visible and widely publicized<sup>32</sup>, enhancing the credibility of the process and helping ensure a high rate of industry cooperation with the process and compliance with decisions.

The Children's Advertising Review Unit (CARU) of the Council of Better Business Bureaus reviews advertising and promotional material directed at children in all media. When advertising is found to be misleading, inaccurate, or inconsistent with CARU's Self-Regulatory Guidelines for Children's

Advertising<sup>33</sup>, CARU seeks change through the voluntary cooperation of advertisers. CARU's Self-Regulatory Guidelines are subjective, going beyond the issues of truthfulness and accuracy to take into account the uniquely impressionable and vulnerable child audience. Recognizing that the special nature and needs of this youthful audience require particular care and diligence on the part of advertisers, CARU performs a high level of monitoring.

CARU follows dispute resolution procedures that are similar in many respects to those of NAD and its actions are also made public<sup>34</sup>.

### **BBBOnline® Privacy Program**

In June 1998, BBBOnLine, the CBBB affiliate, announced that it intended to establish a privacy "trustmark" program.<sup>35</sup> Proving how quickly industry self-regulatory efforts can respond to new marketplace needs, the program announced it was accepting applications for its seal in January 1999<sup>36</sup>. The program was formally opened in March 1999. The program includes a complete dispute resolution process<sup>37</sup>, patterned on the highly successful NAD model.

### **BBB Auto Line**

In 1978, General Motors Corporation launched a pilot program to test the use of consumer arbitration to resolve automobile warranty disputes. Based upon the success of the pilot program in 4 U.S. cities,<sup>38</sup> GM made a decision to systematically expand the program throughout the U.S.

Operating under the name "BBB AUTO LINE", the BBB warranty dispute resolution program was designed to be consistent in all respects with the Magnuson-Moss Warranty Act<sup>39</sup> and the Federal Trade Commission Informal Dispute Settlement Rule<sup>40</sup> promulgated under that Act.

In 1983, General Motors Corporation signed a consent decree with the Federal Trade Commission. The Commission had filed an action against GM, alleging certain defects in vehicles produced by GM. In the consent decree, GM agreed to make repairs or reimburse consumers for repairs already made to certain components of consumers' vehicles. GM further agreed that, in the event of a dispute over whether the customer was entitled to a reimbursement, it would submit such disputes to BBB volunteer arbitrators for a decision.

During the first full year of the GM/FTC consent order, the BBB system handled 244,300 claims filed by consumers. Most of these claims were settled without resort to an arbitrator's decision. However, approximately 15,300 cases (6.3% of all cases) were sent to hearings before BBB volunteer arbitrators<sup>41</sup>.

During the 1980s, each of the individual states enacted so-called "lemon laws", designed to protect consumers who were alleging that they had purchased a defective motor vehicle. Several of these state's laws require consumers to make use of an informal dispute resolution process such as BBB AUTO LINE (if the manufacturer has such a process and if the process complies with the FTC's Informal Dispute Settlement Rule) before bringing an action under the state's "lemon law".

Currently, in addition to General Motors, 31 international automobile manufacturers' brands participate in BBB AUTO LINE<sup>42</sup>. Under the present program, manufacturers are "precommitted" to resolve disputes through the BBB. If a case must be arbitrated, the arbitrator's decision is not binding on the consumer unless the consumer makes a written acceptance of the decision. If the consumer does accept the decision, then both the manufacturer and the consumer are bound by its terms. If the consumer does not accept the decision, the consumer is free to pursue legal remedies in other forums. Generally, cases are handled from intake through arbitrator's decision in 40 calendar days.

During 1998, BBB AUTO LINE handled over 36,000 cases; over 6,500 (18%) of those cases were resolved through an arbitrator's decision. In the period from full implementation of the program in 1982 through November 1999, BBB AUTO LINE has handled an astonishing 1,633,900 individual consumer warranty disputes. The majority of these cases were resolved to customers' satisfaction through a process of mediation; however, over 233,600 were resolved through formal hearings before BBB-trained volunteer arbitrators serving in local communities throughout the United States.

#### The BBB Care®/BBBOnline® Reliability Program

Commencing in the mid-1980s, local Better Business Bureaus developed programs for local business members patterned after many of the elements of the BBB AUTO LINE program. Companies would be permitted to use a designated logo to affirm their affiliation with the BBB provided that they:

1. Were a member in good standing of the BBB;
2. Met all the BBB membership standards, including adherence to the BBB Code of Advertising; and,
3. Signed a commitment to resolve disputes through a formal dispute resolution process at the request of the consumer.

Approximately 60,000 companies currently participate in one of more forms of the BBB CARE program. While most consumer complaints are handled quickly and simply through BBB conciliation or mediation, we estimate that during 1999, local Better Business Bureaus will handle nearly 1,800 BBB CARE arbitration cases (in addition to over 5,700 BBB AUTO LINE cases) in local offices throughout the U.S.

The BBBOnLine "reliability" program is the online successor to the BBB CARE program, with the likely addition of a new Code of Online Business Practice that is currently under development for 1st quarter 2000 implementation. With more than 4,200 participating companies, it is the largest "trustmark" program on the Internet.

## Endnotes

1. A fuller discussion of the BBB and its programs can be found at [Appendix A](#).
2. An excellent discussion of self-regulation in the context of e-commerce ("Observations on the State of Self-Regulation of the Internet"), prepared by the Internet Law and Policy Forum for the October 1998 OECD Ottawa conference can be found at: <http://www.ilpf.org/selfreg/whitepaper.htm>
3. The U.S. Congress provided an incentive for industry to implement informal dispute resolution programs by providing that warranties may include a provision requiring customers to try to resolve warranty disputes by means of an informal dispute resolution mechanism before going to court, provided the mechanism meets certain performance standards established by the FTC (For details, see note 24). State "lemon laws" for new vehicle warranties contain similar incentives. As an example, California encourages manufacturers to establish dispute mechanisms "certified" by the state, in essence providing that consumers may be entitled to "double damages" in a successful court proceeding if the manufacturer does negotiate in "good faith". Evidence of "good faith" is that a manufacturer operates a "certified" mechanism.
4. As an example, see <http://www.caru.org/nad99/0710.asp>
5. See at [Appendix A](#).
6. <http://204.193.246.62/public.nsf/docs/daley-speaks-to-amdahls-good-govt-series>
7. <http://www.bbb.org/complaints/howalw.asp>
8. <http://www.bbb.org/advertising/nadproc.asp>
9. <http://www.bbbonline.org/download/DR.html>
10. <http://www.bbbonline.org/about/press/6-8-99.html>
11. <http://www.bbbonline.org/businesses/code/draft/index.htm>
12. <http://www.bbb.org/advertising/adcode.html>

13. <http://www.ftc.gov/bcp/guides/decptprc.htm>
14. <http://www.bbb.org/advertising/index.asp#nad>
15. <http://www.bbb.org/advertising/caruguid.asp>
16. <http://www.bbb.org/about/charstandard.asp>
17. <http://www.bbb.org/advertising/caruguid.asp#media>
18. <http://www.bbbonline.org/businesses/privacy/index.html>
19. <http://www.caru.org/nad99/1201.asp>
20. <http://www.bbb.org/alerts/20000201.asp>
21. <http://www.buffalo.bbb.org/alerts/expels.html>
22. <http://www.bbb.org/members/joinInfo.asp>
23. <http://www.law.osaka-u.ac.jp/~kagayama/Consumer/Documents/UNGuidelinesE.html#Redress> -- Section II (General Principles), 3. (e).
24. 16 CFR 703 (<http://www.bbb.org/complaints/Rule703.html>)
25. Public Law 93-637. (<http://www.ftc.gov/bcp/online/pubs/buspubs/warranty/undermag.htm>)
26. The European Commission, Health and Consumer Protection, "Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes" at [http://europa.eu.int/comm/dg24/policy/developments/acce\\_just/acce\\_just02\\_en.html](http://europa.eu.int/comm/dg24/policy/developments/acce_just/acce_just02_en.html).
27. The American Arbitration Association, A Due Process Protocol for Mediation and Arbitration of Consumer Disputes, April 17, 1998 at: [http://www.adr.org/education/education/consumer\\_protocol.html](http://www.adr.org/education/education/consumer_protocol.html)
28. <http://www.bbb.org/complaints/autolineform.asp>
29. <http://www.bbb.org/complaints/consumerform.asp>
30. Council of Better Business Bureaus, Inc., *Policy for Voluntary Consumer/Business Arbitration in Contractual Commitments*, March 25, 1998.
31. For a more complete description of the NAD process, see: <http://www.bbb.org/advertising/narb.asp#1>
32. For recent press releases, see: <http://www.bbb.org/advertising/NADrelease.asp>
33. <http://www.caru.bbb.org/caruguid.asp>
34. <http://www.bbb.org/advertising/CARUrelease.asp>
35. <http://www.bbbonline.org/about/press/6-22-98.html>
36. <http://www.bbbonline.org/about/press/1-26-99.html>
37. <http://www.bbbonline.org/download/DR.PDF>
38. The cities were: Minneapolis/St. Paul, Minnesota; Buffalo, New York; Philadelphia, Pennsylvania; Oakland/San Francisco, California.
39. Public Law 93-637.
40. 16 CFR 703.
41. It should be noted that, during this period, there was a second FTC consent order -- this one between the FTC and Volkswagen of America -- requiring BBB arbitration as the final step in a dispute settlement process.
42. For a list of manufacturers, see: <http://www.bbb.org/complaints/BBBautoLine.asp#part>