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JULY 10, 1975

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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THE WHITE HOUSE

OPENING REMARKS OF THE PRESIDENT  
TO THE  
CHAIRMEN AND COMMISSIONERS  
OF THE  
INDEPENDENT REGULATORY AGENCIES

THE EAST ROOM

11:07 A.M. EDT

Good morning. It is a pleasure and a privilege to have you here.

Mr. Vice President, members of the Cabinet, members of the various regulatory agencies:

I will make an initial, relatively short statement, to be followed by Rod Hills, being the moderator for the introduction of the four topics which are on the agenda, and Paul MacAvoy will give an introductory remark or two concerning each subject, and then, as I think all of you have been told, there will be one and perhaps several from each of the -- well, from some of the regulatory agencies, making an introductory observation and comment, and then a period will be given in each case for members of the various regulatory agencies to make observations and comments.

I think it is quite obvious that I feel very deeply that we must seriously consider the cost to the American consumers of all Government activities. And this, of course, includes regulatory agencies.

Regulatory reform is a theme that arose repeatedly in the course of last fall's economic summit meetings. It is a theme that is finding, as I travel around the country, growing attention and support, both in popular and economic literature, in the Executive Branch and the Congress, and I am pleased to note among Government regulators themselves.

A short time ago I met with 24 Members of Congress on this particular matter. There was unanimity on this bipartisan group that we must examine our regulatory practices to make sure they are meeting our present need.

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There was agreement that competition should be relied on whenever possible and that where regulation is unnecessary, it should be avoided. Also there was a persistent concern expressed by this group that some Government regulation costs the country more than it returns in benefits, and that the regulatory process often benefits special interests at the expense of the general public.

Finally, there was consensus that the important public service role of the commissions must be reflected in the attitude of the regulators and the welfare of the consumer must also always be the first concern on their minds.

I have a strong belief that the cost which regulation imposes on private citizens should be faced very squarely. Every citizen should be aware that in some cases the cost in some cases means higher prices, reduced efficiency, less consumer choice, and fewer imaginative ideas.

In calling today's meeting, I do not suggest that the problems reside exclusively in your agencies or commissions.

Regulations that impose costs on consumers can also be found in Cabinet departments and in the intricate, sometimes invisible web of laws and regulations at State and local levels.

My Administration is focusing public attention on the need to eliminate or to minimize unnecessary controls. We should recognize that occasionally Government policies which appear to be in the short-term public interest are in fact detrimental to long-term consumer interests.

I am asking for your continued and intensified help in identifying ways the commission can assist in our collective efforts to restore inventiveness and growth in the American economy.

As we look for short-term solutions, we must also chart a course that permanently relieves the economy of unnecessary long-term impediments. In some instances, the circumstances which caused Government to institute regulatory schemes have changed. You should be the leaders in identifying areas where regulations should be eliminated or substantially revised.

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You have been given by law extraordinary authority to regulate the economy for the public good. With these unusual powers and responsibilities, you must function as models of effective and open Government.

There are four major areas that deserve very careful attention.

First, there must be a constant effort to improve each commission's ability to identify the costs and the benefits of current and proposed regulation. You should make sure that the quality of your economic analysis matches your high standards of legal professionalism.

In particular, the costs, as well as the benefits, of restricting competition, must be considered. Also, the benefits of worthwhile social goals must be weighed against their economic cost to the Nation as a whole.

As you know, I have ordered all departments and agencies to prepare an inflation impact statement on each of their major proposals. I am pleased that the House of Representatives has changed its rules to require similar analysis -- and I note that the Senate in several similar measures is doing the same thing. I ask each of you to give this matter the highest priority.

Second, we must take every possible step to make sure that the backlog and the delays in regulatory proceedings do not weaken the public belief in an equitable and efficient regulatory system.

If legislation is needed, you may be certain that the Congress and the Administration will provide such laws.

Third, the public can rightfully expect that you be the leaders in suggesting appropriate legislative changes in your authorizing statutes.

Fourth, I have asked all departments and all agencies to re-examine their present procedures for assuring that the consumers' interests prevail.

I believe that competition in product quality and price is the best consumer protection. By freeing entry, adding to rate, flexibility and promoting service competition, the consumer can be given the choices that only the marketplace can provide.

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I also urge you to insure clear communications with consumers so they will better understand your actions.

Our joint efforts in these areas will move us a long way toward the efficient and useful regulatory system that we all seek.

In addition to achieving these administrative reforms, my Administration specifically will be seeking further legislation that would also intend to reform our system of regulation.

It is my strong conviction that the consumer is best able to signal his wants and needs through the marketplace, that Government should not dictate what his economic needs should be.

Therefore, I have proposed and will continue to support legislation to relax or eliminate the Federal controls over areas where I believe the marketplace can do a better job. I believe the Government should intrude in the free market only when well-defined social objectives can be obtained by such intervention, or when inherent monopoly structures prevent a free competitive market system from operating.

Government should foster rather than frustrate competition. It should seek to insure maximum freedom for private enterprise.

Agencies engaged in regulatory activities can expect that the Antitrust Division of the Department of Justice will continue to argue for competition and lower consumer prices as a participant in your agency's proceedings.

Furthermore, the Attorney General will continue to insure vigorous antitrust prosecution to remove private sector barriers to competition. We have, or will propose regulatory reform legislation in such areas as energy, transportation, financial institutions, and communications.

I have asked Congress for its cooperation in giving these bills early consideration, and I ask for your personal and organizational support in achieving needed reform.

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The legislation I am proposing would reduce the Government's role in the setting of prices. Also, it would enhance innovation by making it easier for new businesses to compete with existing firms. It would remove barriers from existing firms to allow them to develop new services and lower prices as well as abandon unprofitable or unnecessary services.

This meeting and my earlier meeting with the Congressional representatives, are only the beginning, and I emphasize that. Today we will continue the dialogue begun at the Congressional meeting.

Rod Hills and Paul MacAvoy, as I indicated, will briefly describe our agenda for the meeting this morning. I will be interested in hearing more about the steps you are taking to improve our system of regulation, as well as the problems you face in this effort.

I am particularly hopeful that we will be able to identify those practices which are more deserving of attention and reform.

If this meeting does foster a program of action -- and I think it can -- and a new spirit of cooperation between all of our commissions, the Congress, and the White House, then in my judgment we will be responsive to the public interest.

I thank you for being here and at this point I will call on Rod Hills to get the meeting started, as the moderator.

END (AT 11:18 A.M. EDT)

July 10, 1975

PRESIDENT GERALD R. FORD,  
VICE PRESIDENT NELSON A. ROCKEFELLER,  
WITH  
MEMBERS OF THE CABINET  
AND  
COMMISSIONERS OF THE TEN INDEPENDENT REGULATORY AGENCIES

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(11:05 A.M. EDT)

THE PRESIDENT: Won't you all sit down, please.

Good morning. It is a pleasure and a privilege to have you here, Mr. Vice President, Members of the Cabinet and members of the various regulatory agencies.

I will make an initial relatively short statement, to be followed by Rod Hills, being the moderator, for the introduction of the four topics which are on the agenda, and Paul MacAvoy will give an introductory remark or two concerning each subject, and, then, as I think all of you have been told, there will be one and perhaps several from each of the -- well, from some of the regulatory agencies, make an introductory observation and comment and then a period will be given in each case for members of the various regulatory agencies to make observations and comments.

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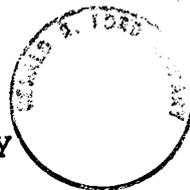
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I thank you for being here, and at this point I will call on Rod Hills to get the meeting started, as the moderator.

MR. HILLS: Our purpose this morning is to foster as wide an exchange of views as possible on the area of government regulation. To facilitate and focus that discussion, we have divided the session into four broad areas, the four broad areas that the President has mentioned -- the improvement of economic analysis, the improvement of the regulatory procedures, the efforts to foster more competition in regulated industries, and the effort to foster a reexamination of the objectives of commissions to determine whether some form of deregulation can be profitable and necessary.

Dr. Paul MacAvoy, of the Council of Economic Advisers, will briefly introduce each section of our session today, and we will call upon chairpersons present this morning to keynote for a few moments each of the sections.

Our objective is to have as many of you as possible express yourself, and that means, of course, that it may not be possible to have extended discussion on some topic that comes up. If that occurs, as it undoubtedly will, we will ask you to defer that conversation to an early meeting here at the White House where we will get you together with appropriate officials to continue the discussion.

We welcome you here. We all expect this to be a mutually beneficial session.

Paul?

MR. MacAVOY: Perhaps I might begin with a few questions in each case. I will try to keep the questions short, and I hope they are helpful.

In the last ten years, the caseload in the area of price or rate setting has increased in most commissions two - to five-fold. In this period, the complexity of the cases has apparently increased a multiple as well. This is partly because of changing demands, changing technological conditions, partly also because in almost each industry with which you are concerned, there seems to be a growing unregulated sector also producing to meet these demands.

With a complex and larger caseload, the economic question arises as to what the results from the more complicated cases have been. Are the cases moving in the direction of adding to gains or benefits to consumers from bringing rates more currently in line with operating and capital costs? Or are these activities in the caseload area moving in the opposite direction?

The fundamental argument for regulation was that it would do better than partially competitive or uncompetitive markets in providing consumers with goods at prices in line with current costs. The question that has to be asked in the economics at this point then is, if we look at the results from the cases, do we show economic effects of bringing prices in line with current costs?

In some instances, it appears as if prices may be set far above the current costs of operation; in other instances, perhaps they are too low. There are cases now in the energy and transportation sector where it is quite apparent that costs are higher for additional service or quality than the going rate. The question then is can be begin to carry

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out benefit-cost studies of caseloads in large areas of your activities which will show that you are doing better than the market would do in bringing prices in line with current costs?

These same questions arise in somewhat different form, but a benefit-cost analysis form, in the health and safety regulation area. Many of the Commissions in this area are relying more and more on detailed specification of production conditions or of physical quality of the product. These specifications have a tendency to increase the costs of operation for corporations which get passed on as increased prices for consumers. These costs also have to be added to the cost of litigation, to delay in the regulatory process; delays seem to be growing as the complex caseload grows. Against these costs, we have to put the benefits to the consumer of a higher quality product.

Can we begin to do benefit-cost analyses of these health and safety regulatory activities, which clearly show that the benefits to the consumer in increased demands and in greater reliance on the quality of the product received in the market, are worth the additional costs of higher prices and delays in the institution of new technology?

Added to these questions, of course, we have to ask whether there is available in the current techniques of economic analysis the equipment to help you do this. These three questions are interrelated. I hope we can spend some time this morning on working on the answers.

THE PRESIDENT: The initial topic, "Improving Economic Analysis in the Various Regulatory Agencies," to begin the discussion from the point of view of the commissions or agencies themselves, I will call on Lew Engman, the Chairman of the Federal Trade Commission. Lew?

MR. ENGMAN: Thank you, Mr. President. I would like to say, first of all, that we very much appreciate your efforts to focus public attention and to take action on these issues of regulatory reform. I, for one, agree completely with the objectives which you have stated this morning, and I must say that I have some feeling that we could make a start on the problem if you could install a trapdoor in the East Room and somehow make half of this table disappear, and I won't say which half.

[Laughter]

At the FTC, we have been concerned, just as you have, that many governmental policies, whatever and however well intentioned they may have been in the first instance, have outlived any economic or social justification and have in fact become a costly burden on every American.

I have frankly regarded it, as part of my job as Chairman of the Commission, to be outspoken on this subject, because while the other agencies around this table divide markets, prescribe rates or determine whether or not new competitors can be permitted to enter a certain market or set environmental or safety standards, our basic responsibility, as we see it, is a much more general one, and that is to assure that our free market economy can operate just as freely and as openly as possible.

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Because, as you indicated in your opening remarks, just as the public can pay more for goods and services as a result of private collusion, which is what the antitrust laws are all about, by the same token, so do we pay more for goods and services because of governmental intervention in the marketplace.

Now, in looking at this role of economic analysis, I think the question really is, how can we measure the economic costs of this kind of regulation, and how can we measure the benefits so that we can assure ourselves that we are not paying today's prices for solutions to yesterday's problems.

Now, at the FTC we have undertaken a self-examination which is very much like that which the Office of Management and Budget is now requiring in the form of inflation impact statements from the Executive departments. We are trying to analyze every single law enforcement program which we are responsible for carrying out, analyze the costs of those programs, and to compare those costs with the potential benefits flowing to the public. And as a result of the cost-benefit analysis which we have already begun to undertake, we have in fact made decisions with respect to our programs which have reduced our activities in certain enforcement areas and increased them in others.

Now, I have to be candid, however, and admit that this is not a very easy thing to do. It is a case of weighing costs, on the one hand, against benefits which are only potential, and it is an inexact science at the present time. I think that you know fully well, Mr. President, how hard it is to get economists to agree with one another, and when you add onto that the problems of data and the fact that in many instances the data which we have available is not very good, it becomes even more difficult.

How, for example, just to raise one kind of question, do you quantify the benefit of the deterrent effect of a law enforcement action -- the deterrent effect of having a cop standing on that street corner? And to do the job right, you also have to calculate on the benefit side of the equation, make some assessment of where you would be without the particular regulation or action. And beyond that, and perhaps even more important, I think you have to try to make an assessment from an economic cost point of view -- are there less costly ways that you can achieve a similar benefit, assuming that there is some social good to it?

But even with these kinds of problems, I think the fact is that government regulation should be subjected to this kind of cost-benefit analysis. If we really believe, if we truly believe that a free market economy is the means to the greatest prosperity to the greatest number of people, then I think that we have to put the burden of proof on those who would make that economy less free. And we found out at the Trade Commission, with our experience with respect to cost-benefit analysis, that although the approach is not simple -- it is difficult -- by the same token, it was darn helpful in helping us to address what our priorities ought to be.

And I guess I would suggest that possibly one way to get a grip on this problem is for each agency to consider or to start to do cost-benefit analysis itself in the light of its own particular mission, which may differ from case to case, and I quite frankly would be interested in the reactions of my fellow chairmen to that point, but I think that the need for this kind of analysis is critically important. It is long past time that an effort was made to tell the American people what they are getting for what they are giving up.

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Thank you.

THE PRESIDENT: Thank you very much, Lew.

I guess Dick Wiley, Chairman of the Federal Communications Commission, has some observations on the situation in the communications industry.

MR. WILEY: Thank you, Mr. President. I happen to agree with Chairman Engman largely in his comments.

It seems to me that the decision-making process of the independent regulatory agencies has been in the past dominated by consideration of legal, technical and sociological aspects. Increasingly, our agency has come to recognize the importance of undertaking more comprehensive inquiry into the economic ramifications of our decisions with regards to the costs and the benefits of those decisions to the industries we regulate and indeed to the public.

Now, these efforts have extended to all areas of our jurisdiction, but I might cite the example of the common carrier industry. There, in addition to traditional rate-making concepts, we are now conducting a broad-ranging economic inquiry to analyze the costs and benefits of increased competition in the realm of common carrier communications. Our work has included a review of such concepts as use of sensitive pricing, cross-subsidization, the whole question of competition vis-a-vis monopoly. And we found that in redefining natural monopoly, we found in many areas we have been able to dispense with that whole idea and find areas in which competition can work in the areas which have been traditionally considered monopolistic. And I think in that effort we found ways in which the public will be ultimately saved.

MR. HILLS: Ladies and gentlemen, the discussion is open for those of you who would like to comment. The distances and the lights are great, so if you would not mind identifying yourself, it would be helpful to all of us.

MS. FRANKLIN: Mr. President, I have a comment and a suggestion on this whole area. First, I am Barbara Franklin, from the Consumer Products Safety Commission. My comment is this -- and we are, of course, in the field of safety:

I think it is -- I am in full agreement that we need to emphasize more than we ever have before cost-benefit analysis in our regulatory decision-making. Given the changes we have going on in the economy, shortages of resources that are beginning to show up -- shortages of capital, and the kinds of things that are difficult to deal with -- I think it makes it much more incumbent upon us, as regulators, to think ahead to what the real impacts, not only now but down the road, of what our decisions are going to be.

We are in an area where there are some very difficult questions in terms of the costs: What does it cost to redesign, retool? What impact are we having on technology? On the other side, how do you value human life? How do you value fewer injuries? They are really very tough questions.

The point is, we have really got to get a handle on this. The law we administer requires it, but beyond that, I think there is much more urgency than there ever was before for us to do it. And if I may make a suggestion, I think around the table we have got some expertise in our respective

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agencies about this. I presume others are trying to get a handle on this, as we are. I wish there was some mechanism -- and maybe it could come out of this meeting, which I very much appreciate -- I have never been in the same room with my colleagues before, and I would hope it would happen again -- I wish there were some mechanism, though, whereby we could pool our technology or our methodology, whatever we know about cost-benefit analysis, so each of us doesn't have to invent the wheel, and we can move all of us further along in the process.

MR. HILLS: The discussion is not confined to the table. We have microphones from which anyone from the commissions can have a commanding position, if you would like to talk.

MR. NASSIKAS: Mr. President, John Nassikas, Chairman of the Federal Power Commission. The Circuit Court of Appeals for the District of Columbia said in a case a few years ago, "Despite a continuing debate, it appears that the basic goal of direct governmental regulation through administrative bodies and the goal of indirect governmental regulation in the form of antitrust law is the same, and that is to achieve the most efficient allocation of resources possible. For instance, whether a regulatory body is dictating the selling price or that price is determined by a market free from unreasonable restraints of trade, the desired result is to establish a selling price which covers costs, plus a reasonable rate of return on capital, thereby avoiding monopoly profits. One more example of common purpose in both types of regulation is that they seek to establish an atmosphere which will stimulate innovations for better service at a lower cost. This analysis suggests that the two forms of economic regulation complement each other."

I believe that the free market can undoubtedly do a far superior job of allocating resources produced by natural gas producers, for instance, which I can go into detail on later on. I also believe that the antitrust laws should be more effectively enforced.

One final word: At the Federal Power Commission, any decision that we issue has to examine productivity and inflationary impact. Is this the best possible price for the consumer under the restrictive statute under which we have to operate?

MR. HILLS: Yes, sir?

MR. SIMPSON: Thank you. Dick Simpson, Chairman of the Consumer Product Safety Commission. Our agency is one of the new agencies, regulatory agencies, in town and the Congress in establishing the agency, required us, as a matter of law, to do economic impact analysis on all of our regulations. There is a series of findings that we must make which has to deal with the need for the product, the degree and nature of the risk of injury that we are trying to address, the effect on competition, and any other method that we could have used to achieve the same result other than the rule that we are promulgating.

Also it goes a little further. We not only have to make the findings but the standard itself can be overruled if any of these economic findings are inadequate.

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And I suggest that when we get to item four on the agenda, legislative changes, one may look to the Consumer Product Safety Act, section 9, as perhaps a model of laying on the requirement of the economic analysis that we are discussing here.

MR. HILLS: Very good. Are there any comments from the back? Yes, sir?

MR. ROBINSON: Glen Robinson, from the FCC. Nobody has commented yet on the resources and the wherewithal to do this economic analysis. I am particularly mindful of this in terms of probably one of the few Commissioners that has an economist, a professional economist on my staff. But it is inordinately difficult to get the kind of economic skills and talent and put them, direct them to the task, and we have been particularly hard-pressed at the FCC. We have a mammoth undertaking, that Chairman Wiley spoke of a moment ago, to conduct an economic analysis of the telecommunications industry, if nothing less than that, particularly the role of competition being a traditionally natural monopoly field.

But I fear that unless we get access to more and better economic skills than we have had in the past, the project may fail simply because we are in a class which is a very high-stepping class. We are up against some of the largest corporations in the world, who have their own economic analysts who are very competent and some of the best in the world, as I am sure Paul MacAvoy knows. The Bell System commands resources so far in excess of ours, there is no way, of course, that we can match them man for man. I wouldn't want to, if we could. And that would imply an unwieldy governmental structure that would be counterproductive.

But we do have to focus on the talent part of this. It is no good to just conduct economic analysis, have a bunch of laws talk about cost-benefit analysis, if they are not really capable of applying refined skills to the task at hand; and it can get very complicated, as I found out sometimes, to my discomfort, in talking to my economists.

I think we at the FCC are particularly in need of this. I would like to see some more attention given to the talent phase of this.

MR. HILLS: Paul, do we really need some more economists?

MR. MacAVOY: I appreciate the demand for economists going up as rapidly as it has in the last ten minutes.

[Laughter]

I would respond, however, to try in a way that attempts to reduce the demand somewhat. Some years ago, the Federal Power Commission, as a page in its annual report, tried to lay out a benefit-cost analysis at the beginning level. What that involved was comparing the dollars of rate reductions that had occurred in electric power and natural gas pipeline price controls against the cost of litigation and other measurable costs, both of the companies and the Commission. That had a tendency to indicate that most of the important work of the Commission was being done in the control of natural gas pipeline rates. That fell out of the reports in the middle 1960's. I considered it an admirable first cut at trying to do this kind of work.

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You don't always measure benefits in rate reductions. Certainly at the State level in electric power regulation now, we measure benefits in rate increases because there are going to be shortages of capacity from State price freezes that will make us worse off in five years. But the idea that you have gone through this to the point of being able to write down a page does have some benefit to those surveying the activities of the Commission, those who read your annual reports, because it will clearly show that more resources put in one area might pay off in terms of increased benefits to consumers and less in others. This might require some kind of an economist, but certainly would not raise honorariums or per diems of professors appreciably.

[Laughter]

MR. HILLS: Chairman Wiley.

MR. WILEY: Yes, if I could just comment on that. I think one thing that government needs to do is to try to find areas in which it doesn't need to regulate and redistribute some of those resources into areas in which we perhaps in the short run will need more manpower in order to provide a competitive mode. I think we are finding that in many areas we need economic strength, as Commissioner Robinson mentioned, and perhaps less lawyers regulating less aspects of the business world.

MR. HILLS: Mr. Vice President.

THE VICE PRESIDENT: As Chairman for a couple of years of the Commission on Water Quality, analyzing the legislation of '72, we have been up against the same problem that you are talking about and we have employed outside engineering groups to make these cost analyses of the impact of the law. And I give as an illustration: we just got a report on the tin plate industry, the EPA's regulations for the '73 and the '83 standards as established by the law, the impact on that industry. And it shows, a very comprehensive study, that 35,000 small companies would have to spend more in capital to meet the standards of those two periods than they have invested now that the cost -- in their present plants -- that the cost would therefore put them out of business, so that 35,000 companies would be put out of business, out of 70,000. Now, this is done by a competent outside engineering firm, and so that I think there are means of finding that information and seeing in perspective.

You are in perhaps a more complicated field, but the outside contractor often can be very helpful.

MR. HILLS: The Secretary of Agriculture.

SECRETARY BUTZ: I don't know how this group was arranged here. We have got the Commission members on one side and the Cabinet and White House on the other side -- it is something like a court room.

[Laughter]

The other day I was talking in my office about one of these regulatory agencies I don't like too well, and I had my finger pointing -- not toward you, Dick -- something like this, talking to a friend of mine, and suddenly I stopped. He said, "What is the matter, Earl?" I said, "It is just one of those fingers pointing at him, there are three back at me."

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[Laughter]

And I was interested in the President's comments here that some of the Executive branches of government likewise are at fault here. I have got in the Department of Agriculture 82,000 employees. I ought to make a note of that.

THE PRESIDENT: Is there more or less than you had last year?

[Laughter]

SECRETARY BUTZ: Mr. President, I plead the Fifth.

[Laughter]

Seventy thousand of those are in the field. The other day I asked my Assistant Secretary for Administration how many of those exercise the police power? I was shocked when I got back the figure of 23,000. These are people who issue licenses, who inspect, who grade, who have the power of life and death over a business, who are putting small businesses out of business. And I think, Mr. President, that you put your finger on one of the weak spots in this government when you mentioned that some of the Executive departments of government are doing this day after day.

I have got a poultry inspector out here, for example, in a poultry processing plant, let's say in Mississippi. They are running 5,000 birds an hour through that line. He has got the power to stop the line by pushing a button. He got up this morning. He had a headache. He came down. The plant manager assigned him a parking place over across the lot and it rained. He had to walk through the mud to get in there. He is in kind of an ill humor. He looks at the condensation on the ceiling of the men's wash room and decides it is not right. He punches the button and he stops the line for two hours. It costs that man \$3,000 because this guy got up with a headache this morning. Now, I have exaggerated that a little bit, Mr. President, but not too much.

And I think that this Executive Branch is shot through with that. Now, I am instituting in my Department -- I am doing it because I knew you were going to direct me, too, anyway, and I am beating you at the gun here.

[Laughter]

I am instituting a self-examination top level committee and I am bringing some industry people into it, in my Department, to see where we can cut out some of this stuff we are doing that I am sure raises the cost of doing business that I am sure works against what we are trying to do, and that is to foster a healthy atmosphere in which small business people can survive and prosper.

MR. HILLS: Lew, you were so successful in finding unanimity, I hesitate to call on you, but do you have a further comment?

MR. ENGMAN: Let me interject a note maybe of some discord just for a second, Rod. I don't mean to disagree with my good friend Dick Wiley, but in terms of talking about levels of resources, we all now do have resources available to us. And it seems to me that conducting and making an effort to conduct this kind of cost-benefit analysis is one of the

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most, if not the most, important thing we can be doing with the money we now have, because through doing that we can find out how we can more productively use the resources which we do have.

MR. HILLS: If we may move to the second subject -- the issue of the regulatory procedures -- no subject causes more complaint than regulatory delay. Paul, would you start us off?

MR. MacAVOY: In reviewing the reports of the commissions over the last few years, it appears that the majority of the Commissions here today have experienced increasing time spans between requests for rate changes or for certificates and the final decision on the requests.

In the presence of inflation, with rapid changes in market conditions, for other reasons, the caseload in most of these agencies has increased remarkably since the middle 1960's. One of the general counsels of the Commissions, in a meeting the other day, called the situation one of pancaking -- we have had layer on layer on layer of cases, some with respect to the same company or market now in front of the Administrative Law Judges and the Commissions themselves.

The delay that has resulted has increased costs more than the percentage increase in the delay period. This is primarily because the slow-downs in construction during a period of rapid increases of construction costs have resulted in companies experiencing higher construction cost increases than might be expected under normal circumstances.

With a six-month to one-year delay in obtaining a certificate, we have a 30 or 40 percent increase in the cost of construction in some instances. On top of this, the costs of litigation have increased sometimes by two or three times, as the cases become strung out and become more complicated. On top of this, as well, there has been increased duplication of regulatory activities between State and local commissions. It now requires more than forty licenses in order to build a power plant in the Eastern Seaboard Region, all from different agencies.

The question is: Can we by consolidating or otherwise changing regulatory case procedures cut into this growing caseload so as to reduce the time lost and the litigation and other expenses that are incurred because of the delay?

Added to this question is one that may take us in the opposite direction. At the same time that we have experienced delays, the number and strength of complaints on Commission non-responsiveness to individual consumers has increased as well. Is it possible to break through the present procedures and allow more access to individual consumers to the commission process, again without increasing delay or adding to the cost of regulation? What is the proper limit on the caseload as compared to going to other administrative practices that reduce the due process? What is the proper limit in the sense of allowing access to all parties to a matter that is now before the commission?

These are open-ended questions. I hope that we can find quick solutions. I know we can.

MR. HILLS: Chairman William Anders, the Nuclear Regulatory Commission.

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Bill?

MR. ANDERS: I have been asked to kick off the subject of methods of improving the regulatory procedures and, Mr. President, with your permission, I will restrict my comments to what I know more about, that is our own efforts to improve our own regulatory procedures.

While our responsibilities are directed towards safety, rather than rate setting or public convenience and necessity, as Paul MacAvoy suggested, all regulatory agencies share some problems which are amenable to solution through procedural improvement.

I believe our efforts are pointing the way to significant improvements for us and may have useful applications in other fields of regulation, and certainly we can benefit from knowing what others are doing, as we are learning here today.

So I believe that nuclear power can play an important role in meeting our Nation's energy needs and it can provide economic and environmental benefit to our citizens. But sound, timely and credible regulation of nuclear power is essential as to contribute full measure to the national interest, and my colleagues and I are committed to discharging our regulatory responsibilities in that manner.

The Nuclear Regulatory Commission is charged by the Energy Reorganization Act of 1974 and through it the Atomic Energy Act with the responsibility to insure safe and secure uses of nuclear materials and facilities. The NRC is also responsible under NEPA for weighing environmental concerns.

Now, since the great bulk of our work relates to licensing of nuclear plants, we are targeting our main efforts to improve our procedures in this area, improvements which we believe will work to reduce costly delay without compromising regulatory safety and other requirements.

Now, there are only three main facets to the licensing improvement efforts we have under way: First, the upgrading of management and licensing review procedures; second, involving the public at earlier and more relevant points in the licensing process; and, third, requesting new legislation where it is necessary for further improvement.

As for the first, we and our predecessor, the Atomic Energy Commission, have upgraded management and review procedures in an effort to promote stability and reduced delay in the nuclear licensing process. This upgrading has included encouraging the standardization of nuclear power plant designs, license applications and our own review procedures.

Second, carrying out our safety and environmental antitrust reviews in parallel, rather than in series, as it was in the past. The use of a new procedure that affords an abbreviated initial review which allows a much earlier start of site preparation and construction.

Fourth, systemized and computerized scheduling of staff and project tracking. Fifth, closer management review to insure that requirements proposed by staff are worth their cost. Sixth, incorporating more systematic consideration of the economic cost as well as benefits of proposed regulations and the timing of their implementation. And, seventh, improved communications with industry to facilitate license application submittals and standards development. And last but not least, encouraging State, local and Federal licensing action efficiency.

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As a new Commission, we are systematically reevaluating all that we have inherited, while also working to maintain the momentum of on-going licensing proceedings. Through this reevaluation, the Commission has recognized a great advantage of self-examination of existing and proposed regulatory structures and policies.

To carry out this function, we have created an Office of Policy and Evaluation, reporting directly to the Commission itself, and independent of the Commission's operating staff. We are also mindful that our actions have a large impact on the public and on the industry that we regulate. Both deserve prompt and effective licensing action.

Whenever there is a question as to whether we are meeting that standard, we examine the facts and causes in order to correct the specific situation and prevent its recurrence.

The second method being used to improve licensing has been the restructuring of regulations for more timely and thus more effective and efficient public participation. This is encouraged by the Atomic Energy Act and is crucial in obtaining public understanding of nuclear power and credibility of its regulation.

It is true that consequent public hearings which precede licensing action carry with them the potential for delay. But there are, we believe, constructive ways to deal with this by applying greater procedure discipline to the hearing process and by holding hearings at earlier dates which are less critical for plant construction or operation.

Finally, where the NRC is limited in achieving additional licensing improvements because of existing statutes, we have requested new legislation. For example, legislation which is presently pending before Congress would further speed the licensing process providing for: one, early decisions on proposed sites, independent of the specific design of a nuclear power plant; two, early and positive decisions on standard plant designs; and, three, further streamlining of the hearing phase of the licensing process.

The basic objective of this new legislation is to be able to reduce the probability that the licensing process will be a bottleneck in nuclear construction and to do this without sacrificing the present high standards for review which the public rightly expects to be maintained.

We have essentially been able to do this for using plant operating licenses. Mr. President, we welcome the full support that you have given this legislation.

Improvements have been made but, quite frankly, still more needs to be done. We intend to pursue aggressively the further streamlining of our regulatory process, not simply to meet present problems but be prepared to meet the increasing demands for the foreseeable future. Delays in nuclear power plant completion as a result of our regulatory process have become the exception rather than the rule. Slippages being encountered now largely reflect the state of the economy and the special problems related to refinancing. But as the economy improves and financing problems ameliorate, nuclear power plant construction can be expected to accelerate greatly.

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Mr. President, with your continued support and the good working relationship with the Congress, with increasing credibility with the public and those we regulate, the Nuclear Regulatory Commission intends to be ready to meet the challenge efficiently and effectively.

THE PRESIDENT: Mr. Chairman, it has often been reported in the news media that the time -- from the beginning to the end of a nuclear power plant in the United States -- it took roughly eight to ten years. The comparison has been made that it took twice as long in the United States as it did in Japan or some of the European countries.

I know you inherited that background and I am not being necessarily critical of your predecessors, but what is your objective in trying to reduce that from eight to ten year period and how quickly can it be achieved?

MR. ANDERS: Mr. President, indeed, the time of construction from beginning to actual on-time operation of a nuclear power plant has in the past been run an eight to ten year period, and indeed in other countries has been much quicker.

The overhaul of the procedures and the intensity of management pressure on the system, in the Atomic Energy Commission and now in our Commission, is reducing that time to where the applications that we receive now, considering that the others in this complete link of the chain, the constructors, the laborers and what not, the financiers do their job, as we are able to do ours, will probably bring this time down to about seven and a half years. We would view that, with the new legislation and with the upturn of the economy, no labor problems, no material problems, this could get down to a five and a half year time period.

We are seeing overseas, which in many cases had about the same time periods that early licensing of nuclear power plants in this country, just the reversal of that trend.

MR. HILLS: The Nuclear Regulatory Commission is, as the Chairman says, a recent addition. By comparison, the Interstate Commerce Commission is within twelve years of its hundredth birthday. No Commission carries the brunt of complaints about regulatory delay quite as much. Chairman Stafford! George! What is the art of the possible?

MR STAFFORD: Oh, we think they have been doing pretty well, Mr. Chairman. We have been taking a number of actions pointed towards speeding up the actions there on our cases, but, as you know, many of the, some of the Executive Branch offices have the same problem we do, when you talk about the Administrative Procedure Act and your own act that you operate under. Not being a lawyer, it is easy for me to say that the lawyers have found good ways to delay many actions through proper procedures that are readily available to them under the act, and we have had some experiences just as I am sure the Justice Department has had.

So we have been working on that, but we have to keep in mind, too, that the things we are doing are service oriented towards making a better opportunity for the business community of this country to better compete with all of their neighbors, and this we are doing.

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We have taken some actions in our rate bureau, actions to make the rate bureaus more responsive to shipper interests, rate flexibility. Through going to the record, we have made it possible, we are making it possible that they can go as high as 5 percent a year without having to come in with all their procedures and proof, which cuts down on a lot of the time. And we continue, as we have in the past, the policy of non-suspends for lowering their rates. There seems to be a general feeling in some areas that we don't permit flexibility. We have always permitted flexibility, which permits for quick action.

I was pleased to see that the Supreme Court even said this year and commended us for the fact that we are continuing to encourage -- the ICC is continuing to encourage, and they are appreciating the fact that we encourage -- competition by our licensing procedures.

Now, then, we have recently had -- in fact, in January, I started and named some of our most knowledgeable and able staff people to prepare what we called from our blue ribbon panel -- everybody seems to call it blue ribbon panel these days -- we had one in January, that has been reporting to the Commission. And I in turn had asked our Vice Chairman and two other of our Commissioners, one, the latest Commissioner that the President has appointed, so that we could be sure to get their feeling of our brand new Commissioners in and then one of those who has been in the business a while, and so I would like to ask our Vice Chairman to speak to the blue ribbon findings. They have been holding hearings at the staff level about ways to cut down on the time.

MR. O'NEAL: Mr. President, my name is Dan O'Neal, with the Interstate Commerce Commission. We have undertaken to review a number of recommendations from the special staff that the Chairman established.

The first thing that is obvious is that there is a balancing required between due process -- the right of an individual to defend himself before government, before an agency, before a court -- and the interest that all of us have in expediting decisions by government. Certainly time is money and time wasted is money lost, so we are very cognizant of that.

There have been a number of things accomplished, such as reducing the number of extensions allowed and that sort of thing. We are looking now at how we might eliminate some of the procedural steps without sacrificing the protection of due process and we feel that we can make some substantial reductions by requiring a better case to be presented in the first instance by attorneys practicing before the agency and by eliminating perhaps one review level. And this can result in the saving of several months in even the simplest cases.

We are well on our way, we feel. We haven't quite made these recommendations yet; we haven't finalized them yet for the Commission as a whole, but we feel that within the next few days, as a matter of fact, we will. There are a number of fronts on which regulatory lag must be attacked and we are trying to reach all of them.

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MR. HILLS: Chairman Robson, the CAB?

MR. ROBSON: Mr. President! Rod! While I am one of the new boys on the regulatory block, I must confess that the complexity and delay in the regulatory decision-making process is one that even in a short time has troubled me greatly and, indeed, as you look over your dockets, one gets to feel that the gestation period of a regulatory decision is creeping near that of the pyramids.

We have undertaken a major effort on this front and the point I wanted to make was I think what you need to do is to make a fundamental analysis of the character of decisions you are making, and their evidentiary base. And to really address the fundamentals of whether to meet standards of fairness and to render an adequate decision, you need to subject to the process that you are now subjecting it to various different kinds of information on which you found your decisions. My suspicion is that the central decisional facts in many cases before the regulatory agencies -- and perhaps I should limit my comments to those in the economic regulatory area -- are relatively few and that we introduce perhaps a welter of peripheral information that we might find other ways to have at our fingertips without making our procedures unfair.

That is really the underlying mission of the effort that we have gone on, is to really look at our decisions. What are they? What basis are we making them on? And why do we require this kind of information or, indeed, why do we even let it in?

I think that our effort will embrace both a look at our own procedures but also our own statute and the Administrative Procedure Act, with the idea that we want to limit the size of the proceedings to only that that is necessary.

I should only add one thing: There is kind of a tension these days as to whether we are heading for more process or less process. The one point of view which I have just mentioned I think at least in some camps is challenged as agencies being unresponsive and not having sufficient process available particularly to individual consumers or consumer interests. There is I think a tension in this area that is indeed partly being fought out in the Congress, but which is one that I think the individual agencies are faced with rather persistently.

MR. HILLS: Our effort here is to find as wide a range of views as we can. This is a subject in which the Congressional leaders that met with the President two weeks ago expressed great concern. I hope we could find today some promise that something major can be done. Since that is something to be accomplished, it is something that we hope to get from the meeting.

Chairman Bentley, of the Federal Maritime Commission?

MS. BENTLEY: Thank you. Mr. President! Rod! Sitting here, I wonder myself, do we really belong here, even though we come under the umbrella of the regulatory agency? The Federal Maritime Commission does function in a different manner than the other transportation commissions in that we don't license anybody. We have free entry in both the domestic and foreign trades. We don't control rates. We think we probably should in the domestic area, but we don't so far.

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We have made great efforts to reduce the procedures wherever we could legally. We have combined cases wherever we can. We find ourselves faced in a couple of instances by Congressional action that the NEPA rules, which the courts recently determined did apply to regulatory process, and now of a number of cases before the Administrative Law Judges, these are going to be dragged out from six months to a year because of that. And the costs are going to go up, not only the costs of the agency, the government, but also on the part of those who are involved in the cases. Our costs alone will be increased 6 percent just because of the NEPA rules.

In another instance, in the Executive Order 11836, concerning cargo loss and damage reports, I have been fighting that for four years, because I feel that this shouldn't be another burden on the industry, but we have it. And the industry claims that they are going to have to file from 300 to 10,000 reports each quarter, each steamship line is going to have to do that. And I felt that this could be done on the customs reports. These are some of the things that we don't control, but they are being burdened on the industry and these are just some of the points.

MR. HILLS: Let's widen the discussion for just a moment. Yes, sir? Would you mind?

MR. SOMMER: Mr. President, my name is Al Sommer, Securities and Exchange Commission. It is sort of difficult to talk on this topic without being thought that you are pointing the finger to your fellow Commissioners on the other agencies or perhaps pointing the finger at yourself and your fellow Commissioners on your own agency, but I would like to point out I think there is one thing that we can do individually that has a great deal to do with this.

Much of the delay is a procedural matter written into statutes and rules; much of it is a requisite, I think, for the purpose of assuring fairness to all the people who deal with our agencies. But I think individually what we could develop is a sensitive, a highly developed sense of impatience. I think sometimes all of us are much too patient with delays of our staffs, delays with the paperwork that flows across our own desk, delays with litigants who come before us. We are much too willing to grant extensions of time within which to get things done. We are willing to put things aside and suddenly they are out of memory and, the first thing you know, a month or two months have gone by and nothing has happened on a file where action was timely maybe two or three months before.

I am reminded of the story of a lawyer who was arguing a case before the Supreme Court when Justice Frankfurter was still living. He said -- he was being peppered with questions, as was characteristic of Justice Frankfurter -- at one point, when his time was nearly up, he said to the Justice -- and I think he had a Southern accent, which I shall not try to imitate -- he said: "Mr. Justice, time runs much faster on this side of the bench than it does on yours. May I proceed?" And I think we ought to remember that time runs faster perhaps on the other side than it does on ours and I think we should bear this in mind individually and be impatient with ourselves, with out staffs, and with the people who appear before us.

MR. HILLS: Chairman Simpson?

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MR. SIMPSON: I would like to just comment on another part of this agenda item, which is the efforts to include consumers, that you mentioned. We have a statutory requirement in the Consumer Product Safety Act to involve consumers in much of our activity. And then we, by policy, have adopted other practices which I believe meaningfully involve consumers, and perhaps I can touch on them.

In a couple of areas, we have by policy adopted means to directly communicate with consumers and they are very inexpensive. We established a toll-free number in the United States to communicate an emergency some time ago, approximately two years ago, and it was so successful we have continued that. We are now receiving about 100,000 calls per year. We find we are able to answer those in about 48 hours, mostly with pre-automated information. About 75 percent of the calls are requests for information from the agency -- and about 25 percent are safety complaints, which we use as part of our data bank.

We have also taken steps to abolish secrecy in our agency. We have no closed meetings. By policy, all meetings of any one of our staff with any outside party is open to the entire public to attend. It is noted in advance on a public calendar, and consumers do come in. Now, many times it is a little frustrating with the policy to live with when you have a meeting in your office with a couple of people and a hundred outsiders show up. But we do move those to conference rooms. And that is the exception rather than the rule. As a matter of fact, we think we have lended some credibility to the regulatory process because we have decreased speculation as to what goes on in these closed meetings and, as a matter of fact, in about 95 percent of the cases, no one shows up other than the ones who were coming in anyhow. So when you open the door, people don't take advantage of it.

On time, regulatory time, we have a provision of our law where every citizen and every group is granted the right of petition, to write a petition, to write a standard or ban products. By law, we must respond within 120 days. Even if the law says we must, we can't in all cases, but it is a spur to get speedy action.

We have a recent -- we have had over 200 petitions in the two years we have been in existence, which range anywhere from banning pet turtles to banning all aerosols because of the flurocarbon ozone problem, so they span all the disciplines.

Also in standards writing, which is a basic fodder of our agency, writing mandatory standards, the Congress requires us, on the one hand, to write a standard in virtually 90 days, but, on the other hand, they require us to do so by allowing private parties to write that standard for us and involve all parties in the United States, including consumers. And, you know, it is a truism, the more people you have, the longer it is going to take. We have, in fact, though had some experience now where consumers, in fact consumer advocates, are sitting down in a standards writing process with industry people. They start out initially very skeptical, but over a period of thirty or sixty days of working in a closed environment they find that they have a great deal of respect for each other. So we think it is model.

MR. HILLS: Chairman Nassikas, and then, George, we will let you close it off.

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MS. REID: Mr. President?

MR. HILLS: Oh, I'm so sorry, Go right ahead.

MS. REID: Mr. President, Mr. Vice President, I would like to just add a bit to this consumer responsiveness that we have done at the FCC.

We have had various regional meetings throughout the country. We started in Atlanta, then met in Chicago, and here in Washington, and we expect to meet in the Midwest, farther West and then in the Far West perhaps later this year or next year. We have met with the public, we have opened these meetings to the public, and, believe me, they have been a little wild, particularly in Chicago. We at the FCC do receive complaints. But we have felt that this has been a marvelous -- given us a marvelous rapport with the public, with citizens groups, with the consumer, so to speak. These meetings have also been coordinated with our Licensees' Workshops meetings, so broadcasters have been involved. They have come to the open meetings and we on the next day have met with them in their workshops. So we have had that coordination.

We feel that this has given us an insight into the public's feelings about our Commission, about our regulatory processes as they view them, and has been very helpful. We have also met with various citizens groups, Commissioners en bloc have met with the citizens groups. And we do this frequently at the Commission. I think this has been very helpful also.

I might add just one thing to Barbara Franklin's comments, too. I think this is very helpful, and I would hope, Mr. President, that this would be only the beginning of such meetings. Thank you.

MR. HILLS: John, did you have a quick comment?

MR. NASSIKAS: Just a very brief comment. To reduce administrative burden, Mr. President, and also to increase competition, in 1971, we released some 4,000 small producers from direct price regulation and handled this on the basis of indirect price regulation. It required three years before the Supreme Court affirmed our actions. We also, to increase competition, placed pipeline producers on a parity with our regulation of major producers. This also saved considerable time. This action required two and a half years to be affirmed.

But the real monster is the following: All major actions of our Commission are appealed to courts. Currently, we have over a hundred cases that are in the Federal court system as a result of the Administrative Procedure Act and controverted cases.

A key factor in all energy regulation, I submit, is the lead time required from the inception of a policy to its culmination in securing production and delivery of incremental energy supply. This is generalized through anything we do in energy.

The total time consumed in establishing area rates for southern Louisiana, which is our most prolific gas producing region in the country, was thirteen years, concluding with the Supreme Court's opinion of June 10, 1974,

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which affirmed our decision in July 1971, increasing the price of gas in a nutshell from 18 cents to 26 cents. This is the equivalent of \$1.50 a barrel of oil.

In contrast -- here again, trying to do what we can under our statute -- we established a national base rate of 57 cents by rulemaking in eighteen months. I am not proud of the eighteen months, it should be done in six months. However, we did it. This case also was on appeal in the U.S. Court of Appeals for the Fifth Circuit. Undoubtedly, it will reach the U.S. Supreme Court before it is finally decided.

So I will submit that an uncertain climate of regulation, subject to judicial review, under a restrictive statute, can't possibly induce the vast commitment necessary to affect an improvement of gas supply of a magnitude required to serve the needs of a growing economy.

I think it is important, even apart from gas deregulation, which I advocate, that the Administrative Procedure Act be amended so as to make certain that all regulatory agencies can prescribe rates by rulemaking. We believe we are right in our interpretation of the law that we can prescribe national rates for all producers by rulemaking, but to avoid judicial lag, the Congress should pass a statute on that point.

MR. HILLS: Ms. Hanford, did you have a brief comment?

MS. HANFORD: Yes.

MR. STAFFORD: Much briefer than John's "yes."

MS. HANFORD: Just very quickly. Elizabeth Hanford, Federal Trade Commission: I just wanted to reiterate again the importance of consumer input in the regulatory process -- the opportunity for the individual consumer to have a part in the decision-making process of his government.

I think there are ways that these opportunities can be enhanced and, as we try to enhance them, we must keep in mind also that the consumer must be provided with information and education as to what his rights are under the laws that we enforce and the regulations that we promulgate.

And I think that the efforts recently to try to provide information to those beyond the antitrust bar about the antitrust laws is an example of moving in the right direction there to inform the individual citizen about the laws in the antitrust area. And we can do more, I think, to move in that direction in, for example, just providing an analysis of a complicated consent order in layman's language so that those who do have an interest can respond and can provide input. I think we should also move in that direction.

Thank you.

MR. HILLS: George!

MR. STAFFORD: My remarks go back to a few words that Helen were saying a few moments ago, and fit pretty much into what the President's position has been, and ours, on the slowdown that NEPA has created in all of our actions, and the fact that we had to solve the NEPA problem on our major cases before we could ever get to the point at hand, the question that was before the Commission.

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So if you haven't read the case that the Supreme Court -- we are all loving the Supreme Court these days -- if you haven't read their decision handed down in our scrap case, on the NEPA matter prior to getting into the case itself, that they just became one more party in the case to be settled at the final case time, but they added an addenda and said, in effect, this covers all your other cases where you have got problems, all of our abandonment cases, railroad abandonments were help up for over a year because we couldn't get our NEPA problem solved in order to get to the case of abandoning the railroads. And so the Supreme Court, with one quick brush, the other day, just wiped all that slow-down out for us. We still have to consider it, but only as a party in the case at the time we are making the final decision.

MR. HILLS: The third topic is the issue of whether competition can indeed be encouraged in regulated industries.

Paul?

MR. MAC AVOY: In attempting to familiarize ourselves with your activities, we had the remarkable and interesting opportunity to go back to read the Senate and House committee reports and the actual bills that were passed setting up your agencies. In almost every case, we found some reference to the ultimate justification for regulation in that industry, was that it was not competitive enough to provide the quality and price for the consumer that could be gotten from controls. The justification for regulation, in other words, was that competition failed to exist in the industry to a sufficient extent to allow the market to operate in an unregulated fashion.

As we go through the history of the Commissions in the last ten years, there seem to be a number of cases that are paradoxical to the original intent of the law. Rather than regulation being a substitute for poor competition, regulation has prevented what competition there is from working. There have been significant impediments to the entry of new competitors from the use of the certificate proceedings. There have been significant controls over rate changes which would have occurred in even partially competitive markets as a result of cost and demand changes.

The question then is, what can be done to allow the amount of competition there is to work as fully as it can. The question might be put in more direct terms: Why can't we free up entry into these industries by essentially eliminating the certificate of necessity and convenience? The only justification given in the record establishing the Commissions is that in some cases there are economies of scale which prevent the full operation of competition. There is only room for one or two firms.

Well, in that case, then, the question becomes: Why can't we free up entry except where there is significant evidence of economies of scale? Why should there be any other reason for limiting entry of potentially effective competitors? The same sorts of questions arise in rate flexibility and response to cost and demand changes. Why can't we increase the amount of competition among companies by allowing more flexibility in rates?

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MR. HILLS: The Securities and Exchange Commission has indeed required competition in rates recently. Chairman Garrett! Ray! What are your comments on the subject?

MR. GARRETT: Mr. President, Rod, the methods by which a regulatory agency may properly encourage beneficial competition among the companies subject to its jurisdiction must depend both upon the practical economic circumstances of the affected industry and upon the agency's legislative mandate.

Some regulatory agencies were created on the premise that in certain industries competition would do more harm than good, particularly where industries were new and thought to require special protection; others because they were accepted as natural monopolies. Airlines are an obvious example of the former; electric utilities the latter. But the situation is further complicated by increasing instances of inter-industry competition.

To the extent, however, that economic conditions and statutory discretion permit, the primary method of promise for the regulatory encouragement of competition is the objective reevaluation of accepted patterns and practices under present conditions and attitudes. It would, in my opinion, be wrong in principle and, at any rate, impossible under existing statutes for regulatory agencies abruptly to assume that all legal restraints are undesirable, insofar as they might in some respect be regarded as discouraging the virtues of unfettered competition.

The myriad ways in which the Federal Government intrudes upon the economic activity of our citizens is far more pervasive and the whole matter far too complex to be resolved simply by decreeing that there should be more competition everywhere all the time. Much regulation was born of perceived inadequacies of uncontrolled competition in selected areas. In many instances, there does not appear to be any compelling reason to believe that the inadequacies of free competition that these agencies were created to redress would not arise again if the agencies were abolished or their authority sharply altered, although in other instances circumstances may have changed so fundamentally as to make traditional regulation now unnecessary and harmful.

The road to progress, in my opinion, lies not so much in radical surgery as in thoughtful, objective analysis and programs carefully implemented. The Securities and Exchange Commission has limited involvement in the direct regulation of prices. The one area in which we have been involved has been that of minimum commission rates for brokerage services charged by members of the national securities and exchanges, especially the New York Stock Exchange. By rule, we caused the abolition of such minimum rate schedules effective May 1, 1975. This action has been applauded by everyone except most of the brokers and dealers who naturally were the persons most affected.

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The full consequences of the unfixing of commission rates are not yet known but, in any event, in view of the special characteristics of the securities markets, there is a question whether it provides a useful example for other areas of regulatory activity. Certainly, it will not mean that equally beneficial results will necessarily flow from removing all legal compulsion or protection from rates and prices in other areas, but it does mean that the possibility should be examined.

In many areas, added competitive regulatory shields have become so subtle an accepted part of life that reexamination of their justification requires a major intellectual effort. Yet it should be done and done again from time to time because economic conditions can drastically change the appropriate thrust of regulation.

We have seen this dramatically illustrated in recent years. Much regulation was initially imposed to prevent overcharging by companies and industries where duplication of facilities seemed practically impossible or wasteful. The so-called natural monopolies being monopolies or nearly so were thus affected with the public interest and could and should be subject to legal controls.

The changing technology and other facts can alter the appropriate regulatory response. Examples abound: Not long ago, it was accepted doctrine that competition between electric and gas utilities should be encouraged, thus stimulating maximum production and consumption and lower costs for consumers of each product. Within the electric field, proposed combinations of systems were resisted on the ground that competition for greater use of electricity and thus lower unit costs would be discouraged by the combination. Almost overnight this attitude has been a quaint anachronism, totally inconsistent with current interests and conservation of energy in the face of growing shortages and concern for the environment. Similar changes have occurred in other regulated areas.

Mr. President, the desirability and feasibility of stimulating beneficial competition on presently regulated industries is much too complex a subject to permit precise recommendations in such brief remarks as these, even if it were seemly for me to presume to advise other commissions on the exercise of their responsibilities. But I do strongly urge, as the critical reexamination of the accepted patterns, in the light of present circumstances and the willingness to experiment. If all areas where regulators now determine prices or protect against competitors are required to justify themselves anew for the present and foreseeable future, we may find many instances in which the heavy hand of regulation can be lifted with good effect.

This reexamination process will, no doubt, uncover instances of agency inflexibility, but it should be borne in mind that such problems may also be the product of statutory mandates which either foreclose administrative flexibility or fail to encourage it. If the reevaluation process is ultimately to prove most effective, administrative agencies must be given the flexibility to respond to new conditions as they discover them.

Thank you.

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MR. HILLS: The Civil Aeronautics Board has recently announced an experiment in deregulation for greater competition. John, is it a deep enough and broad enough experiment, in your judgment? And do you think you are going to be moving in that direction?

MR. ROBSON: Well, the depth and breadth, Rod, of the experiment which we have proposed in essentially outline form is something upon which we have asked for comment and expect to get thoughtful comment upon. What we have tried to do is, as Ray has suggested, reevaluate the concepts of regulation to try to, in a laboratory which we hope will provide a useful output, introduce some of the concepts of flexible pricing, freer entry and exit, and see what we can add to the knowledge base and gain some insight as to what the application of those kinds of concepts might have on a system-wide basis.

I am hard pressed to answer your question with a yes or no, because one of the parts of the development of the experiment is really to get thoughtful comment upon an outline for experiment. We have suggested, indeed, part of our question is if this isn't a good one, have you got a better one? -- So in terms of willingness to reexamine, we think that is important.

We think it is important that those whom we regulate reexamine their own futures and the regulatory regime that might best fit their needs in the long term, because they obviously are the ones who are most immediately affected. And -- to the extent that we stimulate thought on that, we think that is important.

MR. HILLS: Mr. Springer, Federal Power Commission?

MR. SPRINGER: Mr. President, recently I went back to look at the Congressional Record -- and it is always good to do that once in a while -- and I find that you and I voted twice for deregulation of natural gas. There must have been a reason for this, at least in our own minds, as to why those votes were made as they were.

It was my understanding that we did that in order to stimulate the production of natural gas so that there would be a greater supply. Now, what happened? Well, I have just been down there two years, and each one of those years the supply of gas has gone down. The rationing of gas has gone up. This year we expect it to be in the neighborhood of 40 or 45 percent less consumption than there was last winter, and that is in addition to roughly 35 to 40 percent less than the year before. So this gives you some idea of why we voted for deregulation. Now we are finding, twenty years, that it took twenty years to prove that our votes were right.

(Laughter)

I don't know how much longer we could go on waiting. Now, what is the situation? And my predecessor, Pinky Walker, who now is back as head of the School of Commerce at the University of Missouri, and his last parting words to me said, "Bill, there is nothing economics will determine." What did he mean by that? Simply this: You have three really forms of

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energy today in this country, 90 percent of it -- coal, oil and gas. Well, out of those three, as any of you know, gas is the Cadillac of fuels. I would say that oil is the Oldsmobile or the Mercury, and coal is the Ford. But what --

(Laughter)

I hope I didn't offend any car makers here. But let's look at these three fuels. If we were to take them in the form of that, the Cadillac of it is selling for a third of the price of the Oldsmobile, and half the price of the Mercury. It is ridiculous that the Cadillac is selling for one-third the price of the Oldsmobile and one-half the price of the Ford. This seems to me so demonstrative in the economic field that you simply cannot keep on inevitably selling the most desirable product that is on the market in the form of heat or fuel per BTU unit for a third or a half of what the competition is selling for.

Now, what does this do? And I can only emphasize this this way: If you were investing money, and if you were the chairman of the board of a company and you were sitting down at Christmas time, you certainly wouldn't send your money out to find some gas fields. You would send it out to find some coal or some oil, and that is exactly what the companies have done in the last four or five years. They have put their money where the economics is, where the money that can be made from it. This is the American system at work. And so they sent their money out to the Near East to produce cheap oil and finally you get an embargo and it goes up three times what it was.

Now, these are things that happen when you try to restrain the economic system from working on the kind of a system that we have.

Now, to show you further from where we went back twenty years ago, when the President and I -- the last twenty-one years ago, 1954 -- the last time we voted on it. Our reserves this last year increased by 7.9 trillion cubic feet. That is all the reserves in proof. But what did we use last year? We used 23 trillion cubic feet of gas last year. In other words, in short, we are using it at three times the rate that we are increasing the reserves in the gas field.

Now, these figures alone to me indicate that competition is the thing that is going to get you a greater supply, and the only way you are going to compete is to allow them by some means to be able to charge something in the vicinity of what their competition is getting. Otherwise all of your money and your economics are going into other forms of energy.

We didn't ask for deregulation of gas wholly. We asked for deregulation of gas, new gas. Now, why did we ask for deregulation of new gas and not deregulation of gas as the President and I voted twenty-one years ago? For the simple reason: There were a great many critics on Capitol Hill who said, "Oh, you do that and the price of gas immediately will shoot way up and skyrocket and people won't be able to afford it." By deregulating new gas, not old gas but new gas, it meant that old gas when its contracts expired, would take a new gas price, naturally. New gas, however, would be decontrolled and at the rate of the expiration of contracts each year, it

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is about 7 percent, which meant in essence that it would take approximately fifteen years to decontrol all the gas in the country. The result of it would be that you would get a gradual impact of an increase in price, which would put you then in competition with your other fuel, which made sense.

We didn't attempt, nor did we ask the Congress to decontrol all gas and to allow it to shoot to a skyrocket. And, in addition to that, the Chairman and I testified before the Stevenson committee that we would be willing, if they would give us this kind of a deregulation of new gas, that we would assume some responsibility and would allow it to be written into law, that if it got out of control, that we would assert ourselves. Isn't that right, Mr. Chairman?

So I can't see but where we have attempted -- and these are the recommendations, I understand, you have made, Mr. Chairman, the same as ours -- why this is not a fair and equitable way in which to promote. I am talking about competition of money, now the competition of economics, which is just as important as the competition, say, between two companies. But I think, overall, that if we could have this kind of deregulation -- and I think that is something we have to have from the Congress -- we cannot utilize this ourselves, we are strictly bound by the law -- the Natural Gas Act which is, as I say, somewhat antiquated. Before the Stennis committee the other day, I used something like "antiquated like the horse and buggy," but I don't think it is quite that bad, but it certainly could bear a great deal of improvement, which would give us an opportunity I think to promote a situation where we could get an adequate supply of gas.

THE PRESIDENT: Mr. Chairman, let me make an observation, or two of them, I should say. Bill, I am glad that we had such foresight twenty-one years ago that is being validated by the unfortunate circumstances we see today.

The second -- and you indicated by inference -- the lack of adequate natural gas, which is being caused by the artificially low price, will mean substantially less jobs this winter. It inevitably, as you and the Chairman of the Federal Power Commission know, will mean that interruptible service will be precluded in factories in New Jersey, in Illinois, in Michigan, in Ohio, and many other States. And the lack of affirmative action to raise or to eliminate the regulation in this area will substantially cut jobs this winter and could, if we don't get some action, interfere with our economic recovery in the months ahead. And the Congress has an absolute requirement to move on this legislation, and every day they delay means a greater possibility of fewer jobs and a roadblock in our economic recovery.

MR. HILLS: George first, and then Lew, please.

MR. O'NEAL: Dan O'Neal, Interstate Commerce Commission.

MR. HILLS: Very good.

MR. O'NEAL: I would just like to make one observation insofar as this subject relates to the regulation of transportation. The purpose of transportation regulation in the United

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States has been to provide a private common carrier system to place all businesses in the country in a position so that they can compete no matter what their size, where they happen to be located in the United States.

I think probably there may be room for adjustment in the entry requirements, but I think it is important to keep in mind at the present time entry requirements carry with them service obligations. The carriers are required to provide service. If that obligation is gone, then the question is who will suffer, and I think there is a substantial question or a substantial indication that those who suffer will likely be the smaller businessman, who will not have the capacity to fill up a truck, say, every time he makes a shipment. And this has been verified recently by a study of deregulation in Great Britain, where those commodities that can be shipped in a full truck were shipped at a somewhat lower price than previously. But those smaller shipments that could not fill up a truck, the cost of those rose substantially. So I think this is an area that certainly deserves review, but I think we have to move with some care as well.

Thank you.

MR. HILLS: Lew?

MR. ENGMAN: Mr. President, what I was going to say was that Paul MacAvoy raised some questions as to why entry had to be limited and all of the comments that I have heard thus far have been in the direction of encouraging competition. Dan has made some defense of why we have to limit entry, and I guess the only question I would raise is, that may be fine, perhaps we do want that service, that added service, but let's find out what the cost of that is to our economy, so that we can measure off and trade off the benefits of the cost with that so-called improved service, so we can make a rational judgment, so the Congress can make a rational judgment as to whether it is really worth it.

MR. ROBSON: Mr. President, may I just add one point to that, since we seem to be pretty much involved in entry control. There have been two countries, Canada and Australia, who have now tried the deregulation route. Both of them have had teams over in my agency taking a look at how we do it. They are going back -- and you have probably been reading lately that Australia is very close to going back to full regulation. Canada is not that far along with it. But they have been down talking to me, talking to the people in my commission about how do we do this. I would just like to make that note.

MR. HILLS: Helen, did you have a comment?

MS. BENTLY: Yes. I would like to point out that the Federal Maritime Commission was established back in 1916 as a result of the fact that it was felt that competition created more harm than good at that time. The foreign steamship lines serving the North Atlantic and the United States were engaged in a very serious rate war and they came to the Congress and asked them to do something

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about it. So with that the Shipping Act of 1916 was passed and under that -- under section 15 -- the Federal Maritime Commission is empowered to grant any trust immunity to steamship conferences, which our friends in the Department of Justice are unhappy about at times. But we do have open steamship conferences in this country and now our American flag lines feel it is very important that they have to have the Federal Maritime Commission behind them to survive.

However, here again, we are faced with an uncontrollable factor, and that is that the United Nations (UNCTAD) recently passed the Code of Conduct for Liner Practices, in which it is calling for closed steamship conferences internationally. Although we haven't approved that, if this does become international law, this country is going to be in a real dilemma.

MR. HILLS: Glen Robinson?

MR. ROBINSON: Dan O'Neal's comment gave me the first opportunity I have had to disagree with anybody. The image conjured up here that regulation is something that is predominantly oriented to helping the small consumers is one of the prevalent myths I think in our American folklore. From my experience, both as a teacher in regulated industries for a number of years, and as a recent regulator, that plays a very, very small role, and I see nothing, since I came to the FCC, to disabuse me of the notion that predominantly the regulation has the effect of protecting businessmen who have an understandable allergy to competition, but one which we should resist I think. And the traditional response by saying, well, we do this, of course, to protect the public's right to good service -- the fact is, however, most of the agencies -- and I think the FCC has been historically as guilty, I suppose, as any -- have not protected good service. Service has been deteriorating.

So I think we have to ask ourselves whether there isn't time to at least take another hard look at this problem and find out whether the alternative competition wouldn't actually provide better service. And I must say, the idea right now, sort of looking abroad to find out how Great Britain is going about it, seems to me to be somewhat odd, in view of Great Britain's problems. I think that would probably be the last place we would want to look right now.

MR. HILLS: I think we have largely covered both topic three and, thanks to Commissioner Springer, we have indeed discussed the question of whether or not agencies ought to reexamine their reason for existence in certain regulatory activities.

John, do you have anything to add to Commissioner Springer's comments on topic four?

MR. NASSIKAS: I will try to cut this very short. I have some prepared remarks.

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MR. HILLS: And since our time is already short.

MR. NASSIKAS: I know. Actually, there is a consensus today I think to critically analyze the economic regulatory structure of government, as the President has said, and to make necessary changes to achieve national policy goals, without the imposition of unwarranted and costly federal intervention.

I want to emphasize though that our continuing inability to agree on a national energy policy is a dramatic illustration of the problem of finding solutions before we know what the consensus is on our objectives. Until an energy policy has been agreed upon between the Administration and the Congress, there is really very little to be gained from debating the pros and cons of agency reorganization and administration reform insofar as the energy agencies are concerned.

I want to get back to natural gas now. The pervasive and deepening depletion of natural gas supply is an illustration of the consequences of governmental failure to agree on national policy goals. The Natural Gas Act of '38 is not suited to the realities of '75. As you pointed out, Mr. President, unquestionably, because of the shackles of the Natural Gas Act, there may be unemployment this winter. In the event that unemployment is averted, it will be at higher costs to the consumers. We have recommended the exemption from price ceilings for 180 days in a bill that is pending before OMB and there is a companion bill that has been introduced in the Congress. Even if the Congress does not succeed in deregulating natural gas, as we have recommended, that at least there ought to be emergency powers granted to the Federal Power Commission to exempt dedications of natural gas to curtail pipelines to supply needed energy to industries which affect employment in this country. So I just want to raise that point.

One illustration of the extent to which curtailments have reached: We estimate that about three trillion cubic feet through March 1976 less than the amount needed will be available to supply the interstate market. This equates to one and a half million barrels of oil a day, or more than 20 percent of U.S. imports of oil and oil products of 1974 levels. And at \$12 a barrel, this oil equals over \$6 billion or double the revenues of all producers selling to interstate pipelines. So that the tradeoff here is consumers theoretically will pay twice as much for imported oil than they pay to all producers in the United States as a result of the unfulfilled and deferred demand.

I just say one more point on deregulation. In the belief that a workably competitive market -- and this follows Paul MacAvoy's thesis -- in a free enterprise system is a better regulator than centrally enforced economic controls.

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I have recommended since early 1973 that prices for new supplies of natural gas be deregulated, with protective covenants for the public interest, including a windfall profits tax, with appropriate credits for investment and exploration and development of natural gas resources and monitoring of prices by the Federal Power Commission, as well as what you indicated, Mr. President, the strict antitrust enforcement by the Justice Department and the Federal Trade Commission.

Legislation has yet to result, as you well know. I say that natural gas producer deregulation is an energy policy imperative. I have said this for many years. The electric utility industry -- another point that has to be addressed, I think, is what we are going to do about the electric utility industry and the natural gas industry insofar as their financial requirements are concerned. Both industries are in bad shape. The electric utility industry has improved, but I certainly endorse most all of the regulatory reforms, the tax credits, the investment tax credit, and some of the other fast writeoff provisions that you recently recommended, and I have so spoken before various committees of Congress.

I think that we also need congressional reform of the congressional committee structure. There should be a joint committee on energy established, I believe similar somewhat to the Joint Committee on Atomic Energy. I have testified personally, and it is a real privilege to testify before the Congress, 96 times before twenty congressional committees since I have been Chairman of this commission. Number 97 will come up on Monday, and the topic of that will undoubtedly be why we should not deregulate; I intend to say why we should deregulate.

That is all I have to say at this time. Thank you.

MR. HILLS: We have just one minute left. Chairman Bagley is Chairman of the newest commission created, the Commodities Futures Trading Commission. In that time, Bill, can you tell us whether you are going to narrow the scope of regulation, before it is too late?

MR. BAGLEY: Give me five minutes and I could. Rod! Mr. President! With ten weeks' tenure in town, I would be presumptuous, but I am going to try anyway. I am going to try to throw out a couple of broader ideas which might help all of us, if the ideas catch hold.

First of all, with that brief tenure, we don't suffer yet from hardening of the categories. We are not afflicted. But, instead, in response to your specific question, the Commodities Futures Trading Commission was created out of a demonstrable situation where there was a lack of confidence in the markets. So if we -- and this is probably the origin, the genesis, of most of the commissions -- at least initially, if we can do what I like to call "regularizing" rather than regulating the markets and restore and build up public confidence, you are going to get a broader market and therefore more competition. So initially it looks good.

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But I get to thinking, our fellow commissioners are getting to thinking now, what are we going to do with this beautiful new opportunity to not allow ourselves to fall into the regulatory malaise. I have two ideas.

What we need are mechanisms that will keep all of us going when none of us are here. One I espouse is to ask Congress to have an automatic review, a ten-year review, if you will, not just budget but authorization review for everybody in this room -- not including you, sir -- for all of the commissions.

(Laughter)

For all of the commissions, simply so that a person will have to -- a chairman and the commissioners will have to justify their existence or not continue in existence. I would hope that Congress would do that for us.

Number two -- and this can cause some controversy -- I am just out of the legislative arena and the author of every open meeting act in California -- I would like to say, by congressional action, even by Executive Order, if it is possible, a creation of an aura of openness. You don't have to answer all of the detailed problems. Of course, there are some exceptions. I have run into them all in my legislative experience, and beat them all down also.

The point is that, with openness, you would get consumer access, you would create more confidence in the regulatory process. Automatically you would create an aura or atmosphere that government is responsive and also that openness would provide a constituency that I don't think commissions have. The natural political constituency is not existent, therefore perhaps we do get or are subject to the risk of becoming captured by a smaller constituency. With openness, you are going to have some responsiveness. I hope those ideas will be thought about.

Thank you.

MR. HILLS: Thank you.

Mr. President.

THE PRESIDENT: At the outset, in the closing remarks, let me thank each and every one of you for your participation. You have a great responsibility individually and collectively. Some are old in origin, some are relatively new, but each of you have a very definite mission, and you have some monumental problems to face.

As I said at the outset, this is the first meeting of this kind and I do get a sense that perhaps subsequent meetings would be in order. I do feel that the Congress will be responsive to the effort that is being made by you and by us and I am certain that your relations in this area with the Congress will be improved, particularly if you respond to what they are suggesting and what we are approving.

Naturally, there are five follow-up actions that I would like to emphasize. Each Chairman, I hope, will give further attention to the cost-to-benefit analysis of the commissions under their chairmanship. I think it is absolutely

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essential that we fully understand the economic costs of your activities in order to take concrete steps to achieve these reforms. And to facilitate this understanding, I would hope that you would actually issue the cost-benefit analyses on your major programs. This would parallel the inflation impact statements that are required of the various Federal departments and agencies in the Executive Branch of the government and they would coincide with the requirement now in the House of Representatives for an inflation impact statement on every major legislative proposal that is submitted to the House as a whole.

Secondly, I would ask that you undertake a comprehensive and specific review of all areas where regulatory delays presently occur, in order to eliminate any of the impediments to a speedy and an effective process.

I think it makes sense to set a goal of six months to see if you can't in a demonstrative way show a reduction in any of the regulatory delays that you know better than I and better than others take place.

And, third, I would ask that you study and revise the procedures as they are appropriate to insure that you are responsive to the legitimate consumer interests, and that your actions are more clearly understood by the American people.

And, fourth, that you should consider the most fundamental changes that would move us toward deregulation in areas where the regulatory process no longer makes sense. And I think Chairman Nassikas has made a very valid point in the case of deregulation of natural gas. In some areas, it is increasingly clear that more competition is a better regulator than the government itself.

I know some of the agencies are moving in this same direction with respect to deregulation of certain aspects such as in the case of the CAB. This experiment in one or more agencies borne of more recent vintage, I think can produce substantial results and I would strongly urge every commission to undertake an analysis to see if you can't do something in this area.

It is my judgment that in every case you have to ask yourself, individually as commissioners and as a commission, is regulation better in each case than an unregulated market?

And, finally, I will continue to meet with the 24 designated Members of the House and Senate, both Democratic as well as Republican, to review with them the progress and the areas where we think action can be taken, must be taken. And I am asking the members of my Administration to work closely with each of you and each of your commissions as well, as to respond for the Executive Branch in their areas of jurisdiction.

It is my judgment that with the cooperation of the Congress, and I am sure it will be there, the cooperation of each of you and your respective agencies, and with the full

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participation of the Executive Branch, we can make some very substantial headway and we will all be applauded, in my judgment, by the American people and we will have a healthier and a far more efficient economy.

I thank you very, very much.

(Applause)

(end)

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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THE WHITE HOUSE

CLOSING REMARKS OF THE PRESIDENT  
TO THE  
CHAIRMEN AND COMMISSIONERS OF THE  
INDEPENDENT REGULATORY AGENCIES

THE EAST ROOM

1:01 P.M. EDT

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Third, I would ask that you study and revise the procedures as they are appropriate to insure that you are responsive to the legitimate consumer interests and that your actions are more clearly understood by the American people.

Fourth, you should consider the most fundamental changes that would move us toward deregulation in areas where the regulatory process no longer makes sense.

I think Chairman Nassikas has made a very valid point in the case of deregulation of natural gas.

In some areas, it is increasingly clear that more competition is a better regulator than the Government itself. I know some of the agencies are moving in this same direction with respect to deregulation of certain aspects, such as in the case of the CAB.

This experiment in one or more agencies, born of more recent vintage, I think, can produce substantial results. I strongly urge every commission to undertake an analysis to see if you can't do something in this area.

It is my judgment that in every case you have to ask yourself individually as commissioners and as a commission, is regulation better in each case than an unregulated market.

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It is my judgment that with the cooperation of the Congress -- and I am sure it will be there -- with the cooperation of each of you and your respective agencies, and with the full participation of the Executive Branch, we can make some very substantial headway.

We will all be applauded, in my judgment, by the American people, and we will have a healthier and a far more efficient economy.

I thank you very, very much.

END (AT 1:08 P.M. EDT)

THE WHITE HOUSE

WASHINGTON

July 16, 1975

*Defining  
in "Regulatory  
Reform"*

MEMORANDUM FOR: ECONOMIC POLICY BOARD  
FROM: ROD HILLS  
SUBJECT: Domestic Council Review  
Group on Regulatory Reform

The President has given the Domestic Council responsibility for coordination of his regulatory reform effort. To this end, the Domestic Council has established a Review Group on Regulatory Reform to serve in the coordinating role. Included in this Review Group are:

Member

Counsel's Office  
Domestic Council

Council of Economic  
Advisers

Office of Management  
and Budget

Department of Justice

Council on Wage and  
Price Stability

Working Representatives

Rod Hills  
Paul Leach  
Lynn May  
Paul MacAvoy

Cal Collier  
Stan Morris  
Jon Rose  
George Eads



Jim Cannon has designated me as Executive Director of this Group and Paul MacAvoy and I will serve as principal spokesmen. Paul Leach is the Domestic Council staff person with primary responsibility for staff coordination.

Where appropriate, other Executive departments and agencies and White House staff will be involved. Major economic regulation initiatives will be presented to the Economic Policy Board.

It is anticipated that all staff resources necessary to achieve the President's regulatory reform objectives will be provided by the White House staff groups and Executive departments and agencies.

The principal goal of the Group is to achieve tangible reform in the next year --- reduction of Commission activities where unnecessary and improvements in the efficiency of operation where there is a strong rationale for continued regulation. To deliver on the President's goals, we must have concrete results this year. A secondary goal for 1975 is to have results and a second year program by the time of the State of the Union Address.

The attached draft of an Agenda for the July 18 Review Group meeting provides a brief picture of where this effort is going during 1975.

DOMESTIC COUNCIL REVIEW GROUP ON REGULATORY REFORM

Meeting Agenda - July 18, 1975

I. Legislative Activity (with primary responsibility)A. Legislation Before the Congress

1. Railroad Revitalization      Legislation submitted. House Commerce Committee is holding hearings. Some legislation possible this session. OMB & DOT
2. Natural Gas                      Continue to push for de-regulation of natural gas. Some legislative action likely in this Congress. OMB & FEA.
3. Financial Institutions        Legislation submitted, but Congressional action unlikely. OMB & Treasury
4. Fair Trade                        Legislation submitted. Push for repeal, which should happen in 1975, and take credit with signing ceremony. OMB & Justice

B. Legislation Being Developed

1. Trucking                        Send bill to Congress by August with Presidential message and press briefings. OMB & DOT
2. Airlines                         Send bill to Congress by September with Presidential message and press briefings. OMB & DOT
3. Robinson-Patman                Finish proposed bill by August. Send to Hill with Presidential message and press briefings. OMB & Justice

4. Cable T.V.

Develop and consider legislation by September.  
Domestic Council & OTP

C. New Areas to be Considered

There are a variety of new areas where a policy review might be undertaken. These range from (a) a major overhaul or abolition of existing agencies, e.g., the FMC, (b) determination of the long-term regulatory role of FEA, (c) development of effective anti-trust policy particularly with respect to the Clayton and Federal Trade Commission Acts to (d) creation of incentives rather than use of the rule-making approach to health, safety and environmental regulations.

II. Follow-Up to the Regulatory Summit

1. Presidential letter to Commissioners sending transcript of July 10 meeting and asking for:
  - Specific plan to reduce delays
  - Description of economic analysis activities
2. Follow-up with continual contacts at both Commissioner and staff levels to see that internal reform effort continues.
3. Encourage Congressional committees to hold oversight hearings on delays in each Agency.
4. With Justice making major contribution, set up group to propose changes in the procedures of the Agencies. Changes can be internal or legislated.
5. Closely control Commission appointments. Develop list of acceptable candidates and committed deregulators.
6. Establish group to work with Independent Agencies in improving economic analysis.
7. Push FPC to allow interstate shipment of natural gas which is purchased by industrial firms in the intrastate (unregulated) market.



III. Regulation by Executive Departments and Agencies

1. Presidential effort to get Cabinet (and other) officers committed to reform. Announce meetings between Review Group and Cabinet officers to obtain specific 1975 reform objectives.
2. Develop a full catalog of agencies: Their responsibilities, weaknesses and opportunities for improvement.
3. Target several "dependent" agencies where the Review Group can concentrate its efforts.
4. Examine and assist FEA task force efforts to remove bottlenecks in development of new energy projects.

IV. Congress

1. Presidential letter to 24 Members to report on Independent Commissions meeting. Draft completed.
2. Continue contacts with Congressional regulatory reform group and their staff.
3. Schedule another meeting with Members after Labor Day.
4. Closely monitor legislative strategy on all regulatory reform bills to insure White House coordination.

V. Speeches and Other Events

1. Develop speech for President to give consumers on the impact of regulation on consumer costs, then schedule.
2. Develop speech for President to give to a "special interest group" in which he talks tough on the need for regulatory reform, then schedule.
3. See that Paul Theis has materials necessary to keep regulatory reform in a variety of Presidential speeches.
4. See that a group of spokesmen for the Administration begin to emphasize regulatory reform in speeches.

VI. Press

1. See that President is continually briefed on status of regulatory reform and has talking points for interviews.
2. Work with Press Office to educate general and specialized press about the Presidential effort.
3. Monitor press reports and editorials. Reply where necessary.

VII. State and Local Regulatory Reform

1. Finalize State and local task force on regulatory reform.
2. Articulate Presidential interest in this area.

VIII. Organization and Management of Effort

1. Set priorities for activities and assign responsibilities.
2. Insure availability of staff resources needed to achieve President's objectives.
3. Provide for regular coordinating meeting.
4. Develop routine status report.

THE WHITE HOUSE  
WASHINGTON

RLG  
7

August 1, 1975

MEMORANDUM FOR: WILLIAM SEIDMAN  
FROM: RODERICK HILLS R.H.  
SUBJECT: Regulatory Review Group

I have attached (Tab A) the agenda for our weekly meeting together with the minutes of our prior meeting. You will see from these papers the nature of planning now underway.

As you know, it has been my view and that of Jim Cannon that we should not intrude upon any existing item without first informing the EPB of our effort and securing approval to do so. Also, any policy decisions that are involved should necessarily be funneled back through the EPB.

In our rush to begin our activities there has understandably been some confusion, and perhaps some concern, as to what the "jurisdiction" of the Review Group should be. There is, moreover, some concern on my part that involvement in a given nature may not be sufficiently coordinated as to make certain that the same memo will in fact come back to the EPB for a decision.

For example, our group struggled at length to seek a consensus on a new motor carrier bill, but when the options had been sufficiently narrowed for a Presidential decision, the paper apparently went directly to the President without first having the EPB analysis.



In order to clarify our operations, I suggest that the document which I handed to you hastily two weeks ago, which consisted of a form of a proposed agenda, (Tab B), be distributed again at an EPB meeting along with the weekly agenda of some of our Wednesday meetings. We all very much feel the need for

an understanding and acceptance by the EPB of what we feel we can do.

I should also reassert the point that we see our primary function to be one of coordinating and expediting. We will rely upon those persons who normally have jurisdiction of a given issue to continue to have the primary responsibility but we will find and use the other resources of government to see to it that the issue is speedily and fully resolved in a manner consistent with the President's regulatory reform efforts.

We will also use our resources to follow an issue after it is resolved to do all possible things to see that it is fully effected by legislation or other action.

THE WHITE HOUSE

WASHINGTON

February 19, 1976

MEMORANDUM TO SENIOR WHITE HOUSE STAFF

FROM: EDWARD C. SCHMULTS 

SUBJECT: Regulatory Reform Status Report

For the past eight months, the Domestic Council Review Group for Regulatory Reform has circulated a regular status report on the President's program. The status report contains information on current regulatory reform efforts and events in the Administration, Congress, independent agencies, private organizations, etc. The primary focus of the status report is on Administration efforts underway, but related developments throughout the government and in private organizations are noted for the benefit of DCRG members. Some selectivity, of course, is necessary due to the length of the report.

We have found the report to be very useful in keeping everyone informed on the number of different initiatives involved in the regulatory reform program. Several White House staff members have indicated that they would be interested in receiving the updates as they are issued. I will include highlights along with the report itself for the convenience of those receiving the report. The key items in this report are:

- The Railroad Revitalization and Regulatory Reform Act was signed by the President on February 5, 1976.
- A joint study of regulatory reform by the Senate Government Operations and Commerce Committees is scheduled to be completed by February 29, 1976. The Committees are expected to ask for extension.
- Senate hearings on the air bill are scheduled for April 6-8, 12-13, 1976.
- The DCRG is reviewing a number of different ways to broaden the examination of regulation reform including consideration of several congressional proposals. A series of consultations with individuals in and out of government will be held to help formulate a longer range approach to regulatory reform.

*File*



- The House Commerce Committee has issued a report criticizing the regulation of the cable television industry. Hearings are scheduled in March and the DCRG is considering various options for Administration action.
- The Commerce Department is preparing a summary and analysis of the regional regulatory reform hearings held by the Department during December, January, and February.
- Reports from the independent commissions on their progress in achieving regulatory reforms have been received and summarized for the President. A proposal for a follow-on meeting has been sent to the President.

If you would like to receive the status report on a continuing basis, please let me know.

Attachment

1976

REGULATORY REFORM STATUS REPORT

FEBRUARY 17, 1976

REGULATORY REFORM (GENERAL)

Speeches            Groups  
Meetings            Studies

ECONOMIC REGULATION

Financial Institutions	Prevailing Wage	Agriculture
Transportation	Communications	
Restraint of Trade	Patents	
Antitrust Activities	Energy	

ADMINISTRATIVE STRUCTURE AND PROCESS

General	Consumer Representation
Inflation Impact	Forms Reduction
Antitrust Resources and Authority	

HEALTH AND SAFETY REGULATION

STATE AND LOCAL REGULATION

\* INDICATES A NEW OR REVISED ENTRY

REGULATORY REFORM  
(GENERAL)Presidential Speeches  
1976--State of the Union, Jan. 9,  
1976.--Message to the Congress  
transmitting the Economic Report  
Jan. 26, 1976.--Remarks and statement upon  
signing the Railroad Revitali-  
zation and Regulatory Reform  
Act, Feb. 5, 1976\*

Meetings

--July 10, 1975 meeting with  
the Commissioners of the Inde-  
pendent Regulatory Commissions.  
Opening remarks by the Presi-  
dent on the importance of regu-  
latory reform. Reports have  
been received from all the  
independent agencies except  
CAB. A summary of the reports  
has been circulated to the  
DCRG for comment and sent to  
the President with a proposal  
for a follow-on meeting with  
the commissioners.\*--The Commerce Department held  
regional hearings in Dec. and  
Jan. on regulatory problems.  
Commerce is now preparing a  
summary and analysis of the  
hearings.\*

Groups

--Proposal for a National Commission on Regulatory Reform resubmitted to Congress. No action taken.

--Freshman Democrats announced formation of a task force on concentration, the abuse of power and tighter government regulation on July 15, 1975. The Task Force is currently writing its report and hopes to have it published in the Spring.

--A panel of experts has been formed to advise the Senate Committee on Government Operations in their study of regulatory reform. Members of the panel are Peter Hutt, Harry McPherson, Roger Noll, Merton Peck, Robert Pitofsky, William Ruckleshaus, and Lee White.

--CAB advisory group on internal procedural reforms released its report on Jan. 5, 1976.

--ICC has established a group within the Chairman's office to continue investigations into internal agency problems. First area of investigation is field operations.

--CAB has formed a group of staff members to study ways to improve internal management and information control and to strengthen financial reporting requirements.

General Studies

--NSF has announced the funding of a study of the benefits and costs of public regulations that affect the price, supply and quality of copperwire, ground beef, and consumer financial services.

--Nine research grants have been awarded by NSF for study of the impact of Government regulations, particularly the impact on productivity.

--Senate has approved S.Res. 71, to fund a joint study of regulation by the Government Operations & Commerce Committees. Report due by February 29, 1976.

--The American Enterprise Institute has proposed establishing a Center for the Study of Government Regulation and is currently seeking funding for the Center.

ECONOMIC REGULATION  
Financial Institutions

--Securities Act Amendments of 1975 (P.L. 94-29) signed by the President June 4, 1975.

--Financial Institutions Act resubmitted to Congress.

--The President has signed into law an extension of Regulation Q until March 1977.

--Senate Banking Committee held hearings on FIA in May and June, 1975. The bill was passed by the Senate on Dec. 11, 1975 by a vote of 79-14.

--House Banking Committee will hold hearings on Financial Institutions in the National Economy. Hearings are continuing. The Administration has agreed to work with the Committee to develop amendments to the FINE principles.

--On Oct. 31 and Dec. 1, 8, 1975, the Senate Banking Committee held hearings on a single banking regulatory agency. The Administration has agreed to work with the Committee on S.2298. Hearings are continuing.

--The SEC has ordered all stock exchanges to abolish rules preventing price competition through member firms trading in listed securities off the exchange floors by March 31, 1976.

Transportation, Surface  
(Railroad, Truck)

--Railroad Revitalization and  
Regulatory Reform Act was  
signed by the President on  
February 5, 1976.\*

--Motor Carrier Reform Act sub-  
mitted to Congress on Nov. 13,  
1975. Introduced in the House  
on request by Representative  
Jones, H.R.10909, on Dec. 1,  
1975. Introduced on request  
by Senator Hartke, S.2929, on  
Feb. 4, 1976.\*

--The House Small Business  
Committee will hold hearings  
on the ICC and independent  
truck operators in Feb.



--ICC has announced  
the start of a rule-  
making proceeding to  
consider widening  
commercial zones and  
terminal areas.

--ICC has started an  
investigation to deter-  
mine if there is any  
further need to regulate  
freight and transporta-  
tion brokers.

--The ICC has announced  
that it will begin a  
comprehensive survey on  
Jan. 5, 1976 to deter-  
mine the extent that  
trucks travel empty  
on the highways.

--The ICC has issued a  
final report and order  
on rate bureau regula-  
tions affirming the  
freedom to take inde-  
pendent action and  
establishing time dead-  
lines for rate bureau  
actions.\*

--The American Trucking  
Assoc. is holding meet-  
ings in 10 cities in  
March to oppose the  
President's regulatory  
reform proposals.

Airline

--Aviation Act of 1975 submitted to Congress on Oct. 8, 1975  
 - Introduced in the House by Reps. Jones, Harsha, & Anderson, H.R.10261, on Oct. 21, 1975 by request.  
 - Introduced in the Senate by Senators Magnuson & Pearson on Oct. 22, 1975 by request.

--Responses to the Kennedy Subcommittee report on the CAB from CWPS, Justice, CEA & DOT have been cleared by OMB.

--Administrative Practices and Procedures Subcommittee under Senator Kennedy began hearings in Feb. on the airline industry. Subcommittee report expected to be finalized mid-Feb.

--Hearings on the Aviation Act of 1975 are scheduled in the Senate on April 6, 7, 8, 12, 13, 1976.\*

--The House Small Business Committee is continuing its hearings on the CAB and the FAA and small businesses.

--The CAB has established a 15 member advisory committee to examine procedural reforms within the CAB. Report released on Jan. 5, 1976. Comments on the report must be submitted by Feb. 20, 1976.

--CAB announced on 8/19/75 the beginning of a rule-making procedure to decide whether to increase load factor standard.

--The CAB has cancelled plans for a limited deregulation experiment after public comments indicated that the experiment was too limited in scope.

--On Jan. 20, 1976, the Air Transport Association endorsed a two-year test period of pricing flexibility for airlines and recommended imposing time limits on CAB actions.

--The CAB has proposed a new type of charter flight be established which would allow charter tour operators more flexibility and passengers more low-cost flight possibilities.\*

Maritime

--Both the State Dept. & the Transportation Dept. have testified against the bill.

--Maritime Task Force under CEA submitted an options paper to the DCRG on Dec. 17, 1975. The Justice Department is working with the Maritime Administration to produce the data needed for further review and analysis.

--Senate Commerce Committee has reported out favorably S.868 which would expand FMC powers to regulate third-flag carriers. Report not yet filed.

--House Merchant Marine Committee held hearings on the Companion Bill, H.R.7940 on Oct. 23, 1975.

--The House Merchant Marine Committee will hold hearings on ocean shipping conference in early Feb.

Restraint of Trade  
Fair Trade

--On Dec. 12, 1975, the President signed into law the repeal of fair trade laws.

Robinson-Patman	<p>--Public hearings were held by the Domestic Council on Robinson-Patman Dec. 8, 9, 10, 1975. Transcripts are being completed and a decision memo is being written by Justice for distribution in 30 days.*</p>	<p>--House Small Business Committee held hearings on the Robinson-Patman Act on Nov. 5-6, 11-12, 1975. Hearings will continue during January and February.</p>	
Antitrust Activities	<p>--Antitrust Immunities Task Force formed to examine antitrust exemptions in Feb. 1975.</p> <p>Meetings have been held with insurance industry groups, state regulators, and consumer groups to discuss possible changes to the McCarran-Ferguson Act. The Justice Department is seeking further comments on the issues before writing a final report.*</p> <p>--The Justice Dept. has filed an antitrust suit against the American Society of Anesthesiologists for conspiring to fix fees.</p> <p>--On Nov. 24, 1975 the Justice Dept. filed suit against the American Pharmaceutical Association to force it to allow its members to advertise the retail prices of prescription drugs.</p>	<p>--Senators Kennedy and Hart introduced S.2028, the Competition Improvements Act of 1975, which would:</p> <ul style="list-style-type: none"> <li>- Require Federal Agencies to give antitrust principles priority consideration in regulated &amp; unregulated industries.</li> <li>- Require agencies to issue a competitive impact statement.</li> </ul> <p>--Hearings began on S.2028 Dec. 10, 1975. Both Justice and CWPS testified. Hearings will continue Feb. 4, 5, 1976.</p> <p>--S.1284, Antitrust Improvements Act, is pending in the Senate Judiciary Committee. Civil process provisions of the bill are similar to the Administration's proposed legislation. Committee mark-up is expected in the near future.*</p>	<p>--FTC has announced investigations into the anticompetitive practices of the real estate brokerage industry and the veterinary services industry.</p> <p>--FTC has charged the AMA and two medical societies in Connecticut with illegally fixing fees through their code of ethics that prohibits advertising. Hearings will be held in February.</p> <p>--FTC has proposed a regulation that would permit advertisements dealing with the price and availability of prescription eyeglasses.</p> <p>--FTC is investigating prohibitions against advertising of retail drug prices. Regional hearings are scheduled for December &amp; January.</p>

	<p>--Both the Justice Department and the American Bar Association are working to remove the ban on advertising by lawyers.</p> <p>--The Administration is working with the House Committee to develop a legislative strategy for the CIB bill, H.R. 39.</p>	<p>--The House is tentatively scheduled to consider H.R. 39 on Feb. 20, 1976.*</p>	
<p>Prevailing Wage</p>	<p>--CWPS is studying the inflationary impact of Davis-Bacon Act. Report is expected to be sent to the Labor Dept. in mid-Feb.</p>		
<p>Communications</p>	<p>--An option paper on legislation on cable TV will be circulated next week.*</p> <p>--On Dec. 16, 1975, the Justice Dept. filed a brief with the FCC urging the commission to act on two-year-old plans to increase the number of VHF television stations in major metropolitan areas across the country in order to promote greater competition and more diversity in programming.</p> <p>--On Feb. 4, 1976, the Justice Dept. filed a brief challenging the legality of anticompetitive pay cable television rules of the FCC.*</p>	<p>--The Commerce Committee Subcommittee on Communications has issued a report criticizing the regulation of the cable television industry stating that current regulations serve to protect large broadcasters and stifle competition.</p>	<p>--FCC is currently conducting an investigation of the economic and competitive impact of liberalized rules on the interconnection of customer-owned devices to the telephone network.</p> <p>--FCC has announced it will undertake a thorough review of existing regulations to see where deregulation of cable TV might be appropriate and it will propose legislation to carry out these recommendations.</p> <p>--FCC has proposed new rules to reduce delays and to improve its decisionmaking processes. Comments were due by Dec. 22, 1975.</p>

	ACTION IN THE ADMINISTRATION	ACTION IN CONGRESS	ACTION IN THE INDE- PENDENT AGENCIES, THE COURTS, etc.
Patents	--Patent reform bill was introduced in the Senate in March, 1975.	--Compromise bill has been reported from the full Committee to floor.*	
Energy	<p>--Presidential legislation proposing deregulation of new natural gas sent to Congress as part of the Energy Independence Act in January.</p> <p>--On September 10, 1975 the Administration submitted a legislative proposal which includes authority for the FPC to allow interstate natural gas pipelines to purchase gas from intrastate sources free of price controls. Introduced as S.2330 by Senator Pearson.</p> <p>--On December 22, 1975, the President signed S.622, the compromise oil price control bill which will temporarily roll back the price of oil and then gradually end controls over a 40-month period.</p>	<p>--On October 22, 1975, the Senate passed a five-year phase-out of controls on new natural gas.</p> <p>--On Feb. 5, 1976, the House passed a bill which removes price controls from smaller producers on natural gas, continues price controls on larger producers, and extends controls to the intrastate market. The bill must now go to the Conference Committee.*</p> <p>--The House Commerce Committee is holding hearings on the oversight of FPC, regulatory reform, and the deregulation of natural gas throughout January.</p>	

<p>Agriculture</p>	<p>--CWPS has begun a study of milk prices, including the price impact of Federal price supports &amp; marketing orders, import quotas, states regulations, &amp; cooperatives.</p> <p>--A consultant to CWPS has said that consumers are paying \$500 million more each year for dairy products under Federal marketing restrictions. Milk prices are 22% higher than they would be without government controls.</p>	<p>--On Feb 4,5,1976 the House Judiciary Committee held hearings on competition in the food industry.</p>	<p>--FTC has announced an investigation of the citrus fruit industry to determine the impact of agricultural cooperative associations and government marketing orders on the structure, conduct, and performance of the industry.</p>
<p><u>ADMINISTRATIVE STRUCTURE AND PROCESS</u></p> <p>General</p>	<p>--The President in his July 16, 1975 Cabinet meeting directed 6 executive branch agencies (Labor, HEW, Agriculture, Transportation, FEA, and EPA) to work with the White House Task Force to examine and reform their own regulations and regulatory process. Meetings have been held with Agriculture, Labor, Transportation, HEW, and EPA. Reports have been received by Agriculture, EPA, and Labor.</p>	<p>--Authorization legislation for CPSC passed the Senate 76-8, July 18, 1975. Included appointment bypass provisions, authority to direct payment of fees to complainants, and authority to allow injured party to seek damages against a regulatory agency that abuses its discretion.</p>	

--On Oct. 20, 1975 the House passed H.R.6844, CPSC authorization legislation, including provisions which would give Congress an opportunity to review and veto all rules and regulations of the Commission and which would allow reasonable fees to be paid to attorneys and witnesses of those people challenging commission actions. Vote on the veto provision was 224-180.

--Hearings on a bill, H.R. 3658, which would permit either House of Congress to disapprove certain rules proposed by executive agencies were held on Oct 21-23, 29-31, 1975. Both executive branch agencies & independent agencies testified against the bill.

--On Nov 6, 1975 the Senate voted 94-0 to pass S.5, the Government in Sunshine bill, which would require all agencies run by two or more open meetings and to control ex parte communications.

--The House Government Operations Committee held hearings on Nov 6 and 12, 1975 on the Sunshine bills, H.R.9869 and H.R.10315. The Subcommittee has unanimously reported the bill to the full Committee.



	<p>--The DCRG is reviewing a variety of ways to broaden the examination of government regulations including consideration of various congressional proposals.*</p>	<p>--On Nov 12, 1975, the Senate Judiciary Administrative Practices Subcommittee held hearings on S. 1289, limiting ex parte communications.</p> <p>--On Jan 30, 1976 hearings were held by the Senate Judiciary Committee on S.2715 to award attorney fees to participants in regulatory proceedings. Hearings continued on Feb. 6, 1976.*</p> <p>--Senators Percy and Byrd introduced S.2812, the Regulatory Reform Act of 1976, which would establish a systematic timetable for reform of Federal regulatory agencies by 1981. The bill would require the President to submit to Congress his proposals for reform which the Congress could amend or a substitute plan could be proposed. The bill has also been introduced in the House.</p>	
<p>Inflation Impact Analysis</p>	<p>--Final acceptance of agency criteria has been completed with the exception of FEA.</p> <p>--Questionnaires on the evaluation of the Inflation Impact Statement effort have been received by departments and agencies. Evaluation of IIS by OMB and CWPS to be conducted in December and completed by Jan.</p>	<p>--Amendment to proposed bill S.644 providing authorization for CPSC would require cost/benefit assessment statements be prepared for all agency rules.</p>	
<p>Increase in Antitrust Resources &amp; Authority</p>		<p>--On Dec 12, 1975 the Senate passed S.1136, authorizing an increase in antitrust enforcement resources by voice veto.</p>	

<p>Consumer Representation</p>	<p>--Agency plans to increase consumer representation were published in the Nov. 26, 1975 Federal Register. Public meetings were held in January around the country to explain how these plans will work.</p>		<p>--The NRC asked for public comments on the legality and desirability of the commission giving financial assistance to participants in licensing procedures. Responses are currently under consideration.</p>
<p>Forms Reduction</p>	<p>--Action plan to achieve reduction in paperwork prepared by OMB.</p> <p>--OMB has sent to Secretary Simon a letter asking for Treasury Dept. action to reduce the number of forms issued by the Dept. but not subject to OMB clearance.</p>		
<p><u>HEALTH AND SAFETY REGULATIONS</u></p>	<p>--Paper on approaches to environmental regulation prepared by Treasury and OMB is out for comment.</p>		
<p><u>STATE AND LOCAL REGULATIONS</u></p>			<p>--FTC announced that it will investigate entry barriers in the appliance repair industry that are created by state licensing systems.</p>

THE WHITE HOUSE  
WASHINGTON

March 3, 1976

MEMORANDUM FOR WHITE HOUSE SENIOR STAFF

FROM:

EDWARD C. SCHULTS 

SUBJECT:

The President's Regulatory Reform Program

A package of materials on the President's regulatory reform program has been sent to approximately 250 Cabinet and Subcabinet officials including the Chairmen of the ten independent regulatory agencies. Attached is a copy of the covering memo reviewing the program to date and a copy of the table of contents for the other materials that were included.

I thought you ought to see a copy in case you get any questions from the departments.

Attachment

THE WHITE HOUSE

WASHINGTON

February 25, 1976

MEMORANDUM FOR DEPARTMENT AND AGENCY OFFICIALS

FROM:

EDWARD C. SCHMULTS  
PAUL MacAVOY

SUBJECT: The President's Regulatory Reform Program

President Ford's regulatory reform program is now in its second year. The publicity surrounding the program has often raised questions by the public concerning details of the various parts of the program. In recent months these questions have been increasingly directed to department and agency officials. In order to help you answer questions on the scope, objectives, and details of the President's program, we thought it might be useful if we reviewed for you the regulatory reform efforts carried out during the last year. In addition, we are attaching background materials for your information and for your use as needed.

BEGINNING OF THE PROGRAM

The inflationary impact of many government regulations was a major concern at the Summit Conference on Inflation which was convened by President Ford at the beginning of his Administration. Economists at the Summit were nearly unanimous in their belief that government regulations impose a hidden, unnecessary cost on the economy. They urged President Ford to make a comprehensive program of regulatory reform a top priority of his Administration.

The recognition of the need for regulatory reform is not new. Presidents and policymakers since Harry Truman have attempted to reform various segments of economic regulations. (See the Historical Background.) President Ford, however, has initiated an unprecedented, wide-ranging program of both legislative and administrative actions in many sectors of the economy.

Regulatory reform in the Ford Administration is not a program of total deregulation of the economy. It is an effort to find the best combination of constructive competition and responsible government regulation. The reform of economic regulation is an effort to restore competition to areas of the economy wherever possible, and to minimize the ability of special interests to obtain preferential treatment from government at the expense of the public interest.

The reform of social regulation is an effort to achieve our social goals at minimum economic cost. Some of our environmental, health, and safety regulations have not been as effective as they were originally intended to be. There is a need to ensure that all of the social regulations are carried out equitably and fairly and in the least costly manner.

The President announced the formation of the Domestic Council Review Group for Regulatory Reform in June 1975. The DCRG is made up of agency and White House representatives who meet regularly to coordinate the wide-ranging regulatory reform efforts. Any questions you may have on the elements of the program may be directed to the Executive Directors of the DCRG, Paul Leach and Stan Morris.

#### INITIAL PROGRAM

In his October 8, 1974 address to the Congress, President Ford began his reform of government regulations by announcing a four-point program. First, he assigned the Council on Wage and Price Stability a watchdog role over inflationary costs of government actions and they continue in this role. His second proposal was for a National Commission on Regulatory Reform to examine the independent regulatory agencies. Although this proposal was not acted upon, Congress has recognized the need for such a review and several committees in the House and Senate have major studies underway. The third proposal required agencies to prepare inflation impact statements on all major proposals and this effort has been implemented. Finally, he encouraged state and local governments to review their own regulations and some interest has been expressed by state and local organizations in pursuing these issues.

## THE PROGRAM TO DATE

During 1975, two legislative proposals were enacted into law. The Securities Acts Amendments of 1975, signed in June, restores competition to the securities industry and ends nearly two-hundred years of price fixing agreements among stockbrokers. On December 12, 1975, President Ford signed into law the repeal of the enabling legislation for fair trade laws so that consumers in all states could benefit from discount prices on all brand name merchandise. More recently in 1976, the President has signed into law the Railroad Revitalization and Regulatory Reform Act which provides long overdue reform of railroad rate regulation and authorizes needed financial assistance to the rail industry.

Action on other initiatives is still pending:

Financial Institutions - The revised Financial Institutions Act, resubmitted to the 94th Congress, would enable small savers to earn more competitive returns on their savings and to benefit from more diversified financial services from all lending institutions. On December 11, 1975, the Senate passed legislation similar to most of the Administration's proposals, but new tax laws for banks must be considered further in Committee before the total package is complete. The House Banking Committee is studying similar reforms. Prospects for some legislation appear fairly good in this Congress.

Transportation Regulation - A series of legislative proposals has been submitted to the Congress to eliminate arbitrary barriers to entry and to increase pricing flexibility in order to foster competition and encourage a wider range of services and prices to consumers. The Railroad Revitalization and Regulatory Reform Act has already been enacted.

Aviation Act of 1975 - The bill has been introduced in both Houses. Hearings in both the House and Senate are scheduled for early April.

Motor Carrier Reform Act - The Administration's bill has been introduced both in the House and the Senate. The Department of Transportation has received tentative commitments for hearings in the near future.

New Natural Gas - To help assure adequate supplies of natural gas for both industry and residential customers, a proposal for deregulation of new natural gas was included in the State of the Union Address in 1975. Bills have been passed by both the House and Senate and are now under consideration by the Conference Committee.

Simplification and Modernization of Regulatory Activities - In addition to these highly publicized elements of the program, the Administration has proposed legislation to eliminate and simplify anachronistic and unnecessary regulatory procedures and paperwork in some of the oldest Federal agencies: Simplification of Coast Guard regulations and procedures will result in significant cost savings; patent legislation will reform patent procedures; proposed modernization of the customs laws will reduce unnecessary paperwork and ease restrictions governing goods brought into the United States.

Forms Reduction - The Commission on Federal Paperwork has been created and its members appointed. Its report is due on October 3, 1977. In the interim, OMB is preparing guidelines to reduce the number and the burden of Federal forms.

Meeting with the Commissioners - On July 10, 1975, President Ford met with the commissioners of the ten independent regulatory commissions. The President asked these agencies to concentrate on four areas of concern: better representation of consumer interests; elimination of outdated regulations; reduction of regulatory delays; and better analysis of economic costs and benefits of agency actions. A progress report from each agency has been received and reviewed by the President.

## FUTURE EFFORTS

In the second year of the program, future initiatives are being developed in addition to completing current efforts underway. For example, possible future action could include improving health and safety regulations, reforming executive branch regulations, and streamlining administrative procedures. Initiatives are being discussed in the context of a systematic review of the role of government and the private sector in the American economy.

As we review the role of the Federal Government and the impact of government intervention in the marketplace, we welcome any suggestions you might have as to possible future initiatives. We hope that this brief review and the attached documents are helpful. We would be happy to provide you with more information on any part of the program including examples and anecdotes on the ways in which regulations have affected both consumers and industries. We have included in the attached materials examples of speeches given by Administration officials on various aspects of regulatory reform. We would be glad to answer any questions you may have about the specific actions.

In the near future, we will be scheduling a briefing for department and agency officials on the regulatory reform program. We look forward to talking with you at the briefing.

## Attachments



THE WHITE HOUSE

WASHINGTON

April 3, 1976

MEMORANDUM FOR: JIM CANNON  
DICK CHENEY  
JIM LYNN  
JACK MARSH  
BILL SEIDMAN

FROM: ED SCHMULTS

SUBJECT: Robinson-Patman Report

Attached at Tab A is a brief summary of a 314-page Report on the Robinson-Patman Act prepared by the Antitrust Division of the Department of Justice for the Domestic Council Review Group on Regulatory Reform ("DCRG"). It is anticipated that this Report will be transmitted to the DCRG and, simultaneously, made public on April 8, 1976, in conjunction with an American Bar Association Committee Meeting on Robinson-Patman.

This Report results from three days of hearings on the Robinson-Patman Act held by the DCRG on December 8-10, 1975, and has been promised for some time. Included in the summary of the Report is background information on the Administration's announced intention to study and probably change the Robinson-Patman Act and a chronology of Administration actions to date.

Needless to say, the small business community views any change in -- or even an investigation of -- Robinson-Patman as anathema, since the law is seen as the "Magna Carta of Small Business." Since the President announced his intention to propose changes in the Robinson-Patman Act last spring, there has been a continual outcry from many small business groups.

The Report is styled as the product of Antitrust Division staff acting under the auspices of the DCRG. The Report will be transmitted to the DCRG for consideration of the findings, conclusions and recommendations. No suggestion will be made that the Report represents the views of the Administration, but rather it will be clear that the Report is a statement of the views of the Antitrust Division only. See draft transmittal letter and response at Tab B.

Upon receipt of this Report, we anticipate that the DCRG and the Administration will withhold substantive comment on the Report pending a final review of the findings, conclusions and recommendations. The Press Office will be briefed regarding this Administration stance. Because the subject matter is complex and the prospects for careful substantive review by Congress in this election year are slight, there seems to be little point in taking quick action on Robinson-Patman.

Unless there is substantial opposition to the strategy outlined above, we would like to allow the Justice Department on late Monday, April 6, to send advance copies of this Report to the concerned members of the American Bar Association Committee. Thus, I would appreciate your reactions to this proposed strategy by 5 p.m., Monday, April 5.

Thank you.

Attachments

THE WHITE HOUSE  
WASHINGTON

*For filing*

April 5, 1976

MEMORANDUM FOR:

PHIL BUCHEN ✓  
JACK MARSH  
BOB HARTMANN  
BILL BAROODY  
ROG MORTON  
DICK CHENEY  
MAX FRIEDERSDORF

FROM:

ED SCHMULTS 

SUBJECT:

Next Steps for the President's  
Regulatory Reform Program

Since the February 4 meeting with the President, the Domestic Council Review Group has been working to develop further plans for the President's regulatory reform program.

I would be very interested to get your views on the attached paper which I have asked Bill Seidman to table soon for the EPB's consideration.

Attachment



THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: WILLIAM SEIDMAN  
FROM: EDWARD C. SCHMULTS  
SUBJECT: Next Steps for the President's  
Regulatory Reform Program

Since the February 4 meeting with the President, the Domestic Council Review Group (DCRG) has been working on longer term plans for the President's regulatory reform program.

Over the last few weeks, we have had a number of meetings with interested people (inside and outside the Administration) to discuss the general concept of a comprehensive regulatory reform program. We have also been keeping track of an increasing number of bills in Congress which would require major evaluations and possible changes in regulatory programs. I know that Jim Lynn is testifying soon on Senator Muskie's bill (S. 2925), which would call for a four year life cycle for most Federal programs, and that hearings on the Percy-Byrd regulatory bill (S. 2812) have been scheduled for the middle of May.

I think it is important for the Administration to crystalize its longer term regulatory program in order to present a clear sense of direction to the Congress and those most interested in the President's thinking on this issue.

I hope this paper can be put on the EPB agenda as soon as possible in order to get the general views of its members and to help give us direction for laying out more specific plans. I have sent copies of this paper to other members of the Senior Staff and asked them for their thoughts and recommendations as well.

Attachment



Long Term Direction of the  
President's Regulatory Reform Program

I. Issue

On several occasions over the last few months, members of the Senior Staff have met with the President to seek his guidance on the future directions for his program of regulatory reform. The President has given a number of specific directions for short-term activities he wants achieved. One example is the creation of task forces to concentrate on achieving administrative improvements in agency regulations. The Administration is presently working to accomplish these goals and to gain passage in Congress of a number of major regulatory reform bills.

In addition, the President has asked for specific plans on how to insure the long term success for the regulatory reform initiatives which he began 18 months ago. The issue to be resolved is what should the Administration's longer-term regulatory strategy be and what Presidential decisions are needed to begin implementation of that strategy.

II. Background and Problem

The present regulatory reform effort has grown out of the President's strong desire to:

- Reduce government's interference in the marketplace and its infringement on individual choice and initiatives;
- Minimize the direct and indirect costs which Federal programs levy on the economy and the American taxpayer;
- Eliminate the ability of special interests to gain advantage over the general public interest through the exploitation of Federal laws and regulations.

Attempting to put these principles into effect, we feel that there are not enough remaining targets of opportunity around which to quickly form a consensus for a second phase of the President's program. The issues raised in our initial look at several new areas clearly illustrate that there are a number of difficult theoretical and practical problems associated with achieving desirable reforms in these areas. The relative newness of many health and safety regulations, and the sensitive political nerves attached to them, leave us without a firm base of information or an organized constituency around which we can quickly develop defensible reforms in this area. And we have only begun to touch on the complexities of outright subsidies through our financial institutions, rail reform, and aviation acts.

Congressional interest in the subject of regulatory reform has grown substantially. There have been more than fifteen pieces of major legislation introduced over the past few months. For example, Sen. Proxmire's bill (S. 2234) would abolish a number of major regulatory agencies; Rep. Udall's bill (H.R. 8676) would establish a private/public sector Competition Review Commission; Senator Muskie's proposal (S. 2925) would require a zero base review of all government programs every four years; and the Percy/Byrd bill (S. 2812) would require the President to review a number of agencies and submit to Congress over five years a series of annual plans for regulatory reform.

We have now reached the point at which some fundamental decisions about the long run directions of the regulatory reform effort must be made. We are at an important threshold in shaping the future course of government's role in the economy. We can not hope to succeed simply by following an incremental, piecemeal approach in this area. The President's success in achieving his budgetary, foreign affairs, or national defense programs has depended upon a clear articulation of his policies in each of these areas. Comprehensive plans have helped him explain his positions to the American people and have given the President a framework within which to make legislative and administrative decisions. A similar framework is needed if the regulatory reform program is going to succeed over time.

### III. Objectives for a Longer Term Program

In order to meet the President's demands, the Administration must develop a regulatory program which will accomplish the following objectives:

1. To place the President in the lead toward achieving tangible, fundamental administrative and legislative changes in the present regulatory system. These changes would modify or eliminate laws and regulations which do not yield benefits commensurate with their costs to the economy and would provide better ways of achieving economic and social objectives at lower costs.
2. To educate the public, the business community, Congress and the Executive Branch on the costs of government intervention in the economy and the need for reform.
3. To rationalize the current conflicts between and within regulatory activities.

4. To reduce the degree of governmental intervention in the economy and the paperwork burden imposed on individuals and businesses.
5. To provide better methods for dealing with adjustment and transition problems that may accompany regulatory change.

The present Administration efforts have not been sufficient to achieve these goals. Improvements are needed.

Although we are now working on a number of different tactical steps designed to achieve these goals, we need a mechanism which will keep the press, the public, and the Congress aware of and interested in our efforts. The current structure of the regulatory process and Congressional oversight of that process are not well suited to making judgments on the effectiveness of the regulatory system. Various economic, environmental and social goals are often in conflict and there are important conflicts within these goals. Yet there has not been a coherent assessment of how these conflicts can be resolved, nor is there any adequate way to insure that the Executive and Congress address the problems in a more reasoned atmosphere. The recent clamor over banking regulation is a clear example of the need to counter emotional public demands with carefully documented proposals for constructive and longer lasting reforms.

#### IV. Recommendations and Discussion

In order to maximize the effect of present regulatory reforms and to force the agencies and Congress to persist in examining a wide range of Federal interventions, we recommend that the President announce a major new program designed to produce a comprehensive calendar of regulatory reforms over the next several years.

This agenda would be triggered by legislation introduced by the President calling on the Executive to submit yearly plans for regulatory improvements to the Congress. It would attempt to guarantee Congressional review through the inclusion of a forcing mechanism which would give Congress the option of adopting the President's plan or substituting one of its own. In either case, important regulatory and other Federal interventions (tax preferences, cash subsidies, etc.) would be examined by the President and the Congress over a definite time schedule.



If comprehensive legislation is enacted, it would help assure that a more informed public debate would take place. Yearly Presidential plans would be based on the results of careful scrutiny and factual analysis of the impacts of Federal actions. A series of comprehensive proposals for legislative and administrative reforms would help to identify regulatory overlaps, inconsistencies, and contradictions in much the same way the yearly budget analysis and debate helps to focus attention on important program decisions as well as overall fiscal policy.

A legislated timetable for consideration of federal interventions would also provide a disciplined mechanism for soliciting public opinion on the costs and benefits of existing programs. At the present time, it is difficult for the Administration to address a specific complex issue such as toxic substances legislation without a framework of information within which to measure the cumulative effects of these bills. An agreement between Congress and the Executive to review and act on major regulatory issues would help to provide such a framework. It would also be a positive and constructive response to a growing Congressional sentiment for more centralized economic planning.

On the other hand, a prescribed calendar for potential reforms could be used by some opponents as an excuse to delay action on legislation already introduced. It could also give affected industries or other special constituencies sufficient advance notice for them to organize against any Executive recommendations which they opposed. The President would have to make it abundantly clear that a disciplined agenda for action should not be used by Congress to procrastinate. And a forcing mechanism requiring Congress to take some action on the President's program would at least insure that the Administration would have a forum within which to argue its case and rebut the opposition of organized special interests.

## V. Conclusion

There are strong indications that Congress may attempt to usurp the control over regulatory reform by enacting one or more bills which would call for comprehensive evaluations of Federal programs or agencies. We recommend that the President not relinquish his lead on this important issue, and that we continue to prepare a longer term program which could be announced within the next six weeks.

The core of that program would be legislation, which the President would submit, laying out a reasoned timetable for future regulatory reforms. Upon enactment of such a bill, yearly plans would need to be developed by the Executive and specific legislation submitted to Congress each Spring in time to comply with the new requirements of the Budget Reform Act.

Such a "blueprint bill" would have to contain provisions giving the President and Congress flexibility to adjust the schedule of reform proposals if future developments warranted. It would also need to contain an appropriate forcing mechanism which would guarantee that the Congress would have to take some action on the President's proposals.

We believe that such a bill would be responsive to the President's desire to see the regulatory reform program continue and would provide an excellent vehicle with which to respond to a rising tide of Congressional interest in this issue. If it is agreed, we will present major options for the organization and management of such an action plan and report back in ten days with a decision paper.