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CABINET MEETING

Wednesday, March 26, 1975

2:00 p.m.

94TH CONGRESS
1ST SESSION

S. J. RES. 7

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1975

Mr. ALLEN introduced the following joint resolution; which was read twice and referred to the Committee on Government Operations

JOINT RESOLUTION

To establish a national commission to study and report on the impact of certain regulatory agencies upon commerce, and for other purposes.

Whereas the American consumer has a right to be protected against inefficient or otherwise unreasonable regulation of commerce which results in increased costs of products and services purchased for personal, family, or household use;

Whereas those persons whose products and services are marketed to consumers are entitled to compete for profit on their investments free of such inefficient or otherwise unreasonable regulation of commerce;

Whereas the Congress, in order to regulate commerce with foreign nations and among the several States, has created and continues to create regulatory agencies as arms of the Congress with authority to act within a broad framework of congressionally established standards and policies;

Whereas such regulatory agencies may be imposing unnecessary or unreasonable burdens upon commerce by legitimizing restrictive and anticompetitive trade practices or by otherwise acting contrary to the purposes of establishing such agencies;

Whereas any such burdens would unnecessarily or reasonably increase the cost to the consumer of goods and services made available in commerce;

Whereas the President of the United States, in an address to a joint session of the Congress, has called for "a joint effort by the Congress, the executive branch, and the private sector to identify and eliminate existing Federal rules and regulations that increase costs to the consumer without any good reason in today's economic climate"; and

Whereas the President's recognition of the need for the establishment of a national commission to examine the operation of the regulatory agencies and to examine the premises upon which some or all of them were created is supported by testimony received by committees of the Congress, the efficacy of these agencies, the accountability of these agencies to the public interest, and the public policy justification of these agencies should be studied and reviewed by qualified and impartial individuals on a bipartisan basis: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 (a) **ESTABLISHMENT.**—There is established for a term
4 of three years a National Commission on Regulatory Reform
5 (hereinafter referred to as the "Commission").

1 (b) **STRUCTURE.**—(1) The Commission shall consist
2 of fifteen members, as follows:

3 (A) three who shall be appointed by the President
4 pro tempore of the Senate, of whom not more than two
5 shall be affiliated with the same political party;

6 (B) three who shall be appointed by the Speaker
7 of the House of Representatives, of whom not more than
8 two shall be affiliated with the same political party;

9 (C) three who shall be appointed by the President,
10 with the advice and consent of the Senate, from the per-
11 sonnel of Federal agencies other than regulatory agen-
12 cies;

13 (d) six who shall be appointed by the President,
14 with the advice and consent of the Senate, from indi-
15 viduals who, because of their education, training, or
16 experience shall, respectively, be two qualified repre-
17 sentatives of the interests of (i) the labor community,
18 (ii) the business community, and (iii) the ultimate con-
19 sumer of goods and services, of whom not more than four
20 shall be affiliated with the same political party.

21 (2) Members of the Commission shall be appointed for
22 a term of three years, except that any individual appointed
23 to fill a vacancy occurring prior to the expiration of the
24 term for which his predecessor was appointed shall be ap-

1 pointed for the remainder of such term and in the same
2 manner in which such predecessor was appointed.

3 (3) The members of the Commission shall elect one of
4 their number to serve as Chairman thereof.

5 (4) Twelve members of the Commission shall constitute
6 a quorum for the purpose of electing a Chairman or approv-
7 ing any final reports required by this resolution, and eight
8 members of the Commission shall constitute a quorum at
9 any meeting for the performance of any other function of
10 the Commission: *Provided*, That notice in writing of the
11 dates, time, and location of any meeting of the Commission
12 is given or sent by certified mail to each of the members
13 of the Commission at least fifteen days prior to the date there-
14 of.

15 (c) DUTIES.—The Commission shall—

16 (1) within twelve months after its establishment,
17 prepare a comprehensive report to the Congress and
18 the President containing its conclusions and recom-
19 mendations, together with the criteria, standards, data,
20 and findings upon which such conclusions and recom-
21 mendations are based, with respect to—

22 (A) the consequences to the Nation of regula-
23 tion by regulatory agencies;

24 (B) the economic costs, including any inflation-
25 ary impact upon the price of goods and services

1 resulting from such regulation, and any economic
2 benefits of regulation by the regulatory agencies,
3 including an analysis of the relationship, if any,
4 between such regulation and the degree of market
5 concentration, the amount of competition, and the
6 performance characteristics of industries subject
7 thereto, of regulation by the regulatory agencies,
8 considered collectively and individually;

9 (C) any noneconomic costs and benefits of such
10 regulation, taking into account reliability of service,
11 protection of the environment, protection of low-
12 and middle-income consumers, demographic impact,
13 quality of life, and other relevant factors and na-
14 tional goals and purposes as set forth in Acts of
15 Congress;

16 (D) evaluation of the benefits to the Nation of
17 continuing regulation by regulatory agencies, con-
18 sidered collectively and individually, and costs there-
19 of in comparison with the benefits to the Nation of
20 discontinuing such regulation in whole or in part,
21 and costs thereof;

22 (E) the consequences to the Nation of discon-
23 tinuing regulation by regulatory agencies, on the
24 same bases as set forth in subparagraphs (B) and
25 (C) hereof;

(F) the extent to which regulation by such agencies should be continued, discontinued, or modified to attain the maximum economic and other benefits to the Nation at the minimum economic and other costs to the Nation and its citizens, including identification of regulation which should be continued and regulation which should be discontinued and on what basis; and

(G) the economic costs and benefits to consumers, to those who produce or sell goods or services in commerce and to taxpayers, of the collection of information by regulatory agencies from those who produce or sell goods or services in commerce;

(2) within eighteen months after its establishment, prepare a second such comprehensive report to the Congress and the President, with respect to—

(A) adequacy of representation of the interests of consumers within the decisionmaking process of the regulatory agencies;

(B) alternative methods for improving such representation, evaluating the anticipated economic and noneconomic costs and benefits of each in relation to consumers, taxpayers, and efficient regulation of commerce, including specifically as one of these alternatives the establishment of a nonregula-

tory agency to so represent the interests of consumers and an evaluation of the jurisdiction, functions, duties, powers, personnel, and authorization of funds anticipated as being necessary to make such a non-regulatory agency a viable alternative;

(3) within twenty-four months after its establishment prepare a third such comprehensive report to the Congress and the President, with respect to—

(A) changes in the structure, operations, procedures, mechanisms, and philosophy of the regulatory agencies, considered collectively and individually, which would decrease any negative consequences of regulation to the Nation without impairing the affirmative consequences thereof;

(B) the extent to which such changes and any other modifications (by statute, regulation, rule, or practice) could improve the effectuation by such agencies, considered collectively and individually, of their statutory purposes and duties;

(C) all reasonable proposals for administering the regulatory agencies and for improving the efficiency, effectiveness, responsiveness, and accountability of such agencies, considered collectively and individually, including, but not limited to an evaluation of proposals for—

1 (i) merging or otherwise restructuring
2 existing independent regulatory agencies;
3 (ii) providing for tenure in the office of
4 the chairman of each independent regulatory
5 agency;
6 (iii) providing for some form of merit selec-
7 tion recommendation prior to nomination of
8 members of such agencies;
9 (iv) reducing the number of members or
10 commissioners of such agencies and defining
11 areas of responsibility for each;
12 (v) authorizing each agency to appoint a
13 certain number of employees without regard to
14 the provisions of the civil service laws applicable
15 to officers and employees of the United States
16 for the transaction of business which involves
17 policy or other special responsibilities and who
18 may be removed at the discretion of the agency;
19 (vi) authorizing the Senate to withdraw
20 its advice and consent to an appointment of a
21 member of such an agency;
22 (vii) limiting the authority of the Presi-
23 dent to remove a member of such an agency or
24 establishing an impartial procedure for investi-
25 gation and hearing prior to mandatory removal

1 by the President, such as that established in
2 some States for the removal of unfit judges upon
3 a finding by an independent removal commis-
4 sion;
5 (viii) prohibiting members of such agen-
6 cies and employees thereof of grade GS-14 and
7 above from accepting employment or direct or
8 indirect compensation from any person subject
9 to regulation by their agency for a fixed period
10 of time after they leave the employ of such
11 agency;
12 (ix) granting each such agency independ-
13 ent control of its litigation in the Federal courts;
14 (x) directing that each such agency trans-
15 mit legislative recommendations and budget re-
16 quests directly to the appropriate committees of
17 the Congress simultaneously with any submis-
18 sion to any official in the executive branch and
19 without prior approval by any person outside
20 such agency;
21 (xi) better means of enforcement of deter-
22 minations by such agencies and faster ways of
23 investigating and reaching such determinations,
24 including the establishing of semiautonomous
25 regional and district offices; and

(xii) expanding the responsibility of the Comptroller General of the United States, on behalf of Congress, for regular performance auditing of each such agency, authorizing the duly authorized committees of the Congress to appoint hearing examiners to conduct regular hearings into the actions and inactions of each such agency, and other ways of making such agencies more accountable to the Congress;

(4) within thirty-six months after the date of its establishment, prepare a fourth such comprehensive report to the Congress and the President detailing steps taken or underway to carry out the recommendations set forth in the first, second, and third comprehensive report together with any additions, modifications, or further refinements of such earlier conclusions and recommendations.

(d) DEFINITIONS.—As used in this joint resolution—

(A) “independent regulatory agency” means the Civil Aeronautics Board, the Consumer Product Safety Commission, the Environmental Protection Agency, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Reserve System, the Federal Trade Commission, the Interstate Commerce Commission, the National

Labor Relations Board, the Postal Rate Commission, the Securities and Exchange Commission, and the United States Postal Service;

(B) “regulatory agency” means any independent regulatory agency, the Food and Drug Administration (being an agency of the Public Health Service in the Department of Health, Education, and Welfare), the National Highway Traffic Safety Administration (being an agency of the Department of Transportation), the Occupational Safety and Health Administration (being an agency of the Department of Labor) and any agency” as defined in section 551 of title 5, United States Code, authorized to regulate commerce by rulemaking or adjudication, the actions of which, as determined by the Commission, are of substantial importance to the protection of the public’s health, safety, or economic interests.

(e) ADVISORY COMMITTEES.—To assist it in carrying out its duties, the Commission is authorized to appoint such advisory committees as it deems necessary or appropriate, consisting of qualified administrative law experts, political scientists, economists, management specialists, consumer representatives, environmentalists, social scientists, and other individuals, pursuant to the Federal Advisory Committee Act (5 U.S.C. App. I).

(f) POWERS.—(1) The Commission or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or other order the attendance and testimony of such witnesses and the production of such evidence as the Commission or member deems advisable. Subpenas may be issued under the signature of the Chairman or any duly designated member of the Commission, and may be served by any person designated for such purpose by the Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production may be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpoena or other order issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States or any such district shall have jurisdiction and shall upon the request of the Chairman of the Commission issue to such person an order to appear and produce evidence. Any failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish

the Commission with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(4) Each Federal agency is authorized and directed to furnish to the Commission, upon written request by the Chairman thereof, on a reimbursable basis or otherwise, such assistance as the Commission deems necessary to carry out his duties.

(5) The Commission may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its duties, with any person.

(6) If the Commission receives of any person or agency any material or other information which was, or had been, submitted on a confidential basis, protected as such by statute, such material or other information shall be held in confidence by the Commission.

(g) COMPENSATION AND PERSONNEL.—(1) A member of the Commission shall receive compensation only if not otherwise employed in any capacity by the Federal Government. Such member shall receive \$300 per diem when engaged in the actual performance of duties vested in the Commission. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(2) Subject to such rules and regulations as the Com-

1 mission may adopt, the Chairman of the Commission shall
2 have the power to (A) appoint, fix the compensation, and
3 assign the duties of an Executive Director and such addi-
4 tional staff personnel as are deemed necessary, without
5 regard to the provisions of title 5, United States Code,
6 governing appointments in the competitive service, classifica-
7 tion, and General Schedule pay rates, except that no
8 individual shall be paid at rates in excess of the maximum
9 rate for GS-18 of the General Schedule as set forth under
10 section 5332 of such title; and (B) procure temporary and
11 intermittent services to the same extent as is authorized by
12 section 3109 of title 5, United States Code, but at rates not
13 to exceed \$150 a day for persons performing such services.

14 (h) AUTHORIZATION FOR APPROPRIATIONS.—There
15 are authorized to be appropriated to the Commission such
16 sums as are necessary, not to exceed \$1,000,000 for each
17 of the years of its establishment, such sums to remain avail-
18 able until expended.

19 (i) TERMINATION.—Ninety days after the submission
20 of the final report provided for in subsection (c) (4), the
21 Commission shall cease to exist.

94TH CONGRESS
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By Mr. ALLEN

JANUARY 21, 1975

Read twice and referred to the Committee on
Government Operations

[March 1975]

III. Additional Actions

Today

- Letter to Congressional Leadership.
- Nessen to provide press with report on Cabinet meeting and release President's letter.

Week of April 7

- Meeting with heads of independent agencies and commissions.
- Swearing in of President's National Consumer Advisory Council.
- Special message to Congress on regulatory reform.

Follow-Up

- Cabinet members and Administration spokesmen speak out on consumer initiatives.
- Regional and press briefings present Administration policies.

(Knauschart)

[March 1975]

Possible Activities for Improving Consumer Representation
in Executive Departments

I. Broaden Hearing Opportunities.

- ... More notice publicity and more encouragement of public to comment.
- ... Extend length of hearings to include all interested participants.
- ... Utilize hearings in important matters even though not required by law.

II. Simplify Comment Procedures.

- ... Make it easy and inexpensive for the public to file written comment.
- ... Have some mechanism for acknowledging receipt and assuring due consideration.

III. Establish Intra-Agency Appeal Process.

- ... Put in place a mechanism that would provide an avenue of informal intra-agency appeal.

IV. Provide Assurance of Due Consideration.

- ... Publicize extensively the mechanisms available for consumer input.
- ... Certify that consideration has been given to consumer views prior to exercising discretionary powers.

V. Streamline Consumer Complaint Handling.

- ... Organizationally structure so that it can both:
 - produce substantive responses in reasonable period of time; and
 - provide input at policy level based on information derived from complaints.

United States Senate

COMMITTEE ON GOVERNMENT OPERATIONS

Summary of mark-up sessions before the
Committee on Government Operations on S. 200,
the Consumer Protection Act of 1975, held
March 10 and 12, 1975.

The Senate Committee on Government Operations, chaired by Senator Ribicoff, held mark-up sessions on March 10 and 12, 1975 on S. 200, the Consumer Protection Act of 1975.

The amendments offered and the action taken are as follows:

1) Senator Metcalf's amendment to set forth specific authority for the Administrator to intervene, or otherwise participate, in consumer proceedings at State and local agency and court levels when such intervention or participation is requested by appropriate governmental authority on page 17, line 8, was rejected by the Committee.

2) Senator Metcalf's amendment to authorize grants to State and local public agencies for consumer protection planning and programs was rejected by the Committee.

3) Senator Percy's compromise amendment to Senator Metcalf's amendment on State and local proceedings participation by ACA on page 17, lines 11-14, was adopted. This provides that while the ACA cannot intervene in State proceedings, it can communicate with, provide information or assistance requested by any Federal, State, or local agencies or courts.

4) Senator Percy's amendment to change the name, "Agency for Consumer Advocacy," to "Agency for Consumer Protection," was not approved.

5) A change was adopted to make the "and" on page 21, line 19, "or."

6) A change was adopted on page 23, line 10, after "discovery of" to insert "consumer fraud or substantial economic injury."

7) Senator Stone's amendment to Section (6)(c)(1) (page 15, line 22) was adopted in principle with directions to the staff to perfect the wording. The amendment requires the Administrator to file a statement with the court when it initiates certain judicial review proceedings.

8) Senator Stone's amendment to Section 11 was incorporated in Senator Ribicoff's suggestion to amend page 27, line 25. Delete all after "(a)" through "(2)" on line 10 of page 28 and insert, "except as provided in this section, section 552 of title 5, United States Code, shall govern the release of information by any officer or employee of the Agency."

"(b) No officer or employee of the Agency shall disclose to the public or to any State or local agency."

The amendment was approved by the Committee.

9) Senator Chiles' amendment to insert a subsection (4) to Section 7 (page 20, line 12) to read, "no unsigned complaints will be placed in the public document room," was accepted by the Committee.

10) Senator Nunn's amendment to eliminate the (B) section on page 24, thereby leaving the exclusion definition of small businesses to the (A) section was accepted by the Committee.

11) Senator Weicker's proposal to strike the intelligence-national security exemption in Section 16, page 35, line 21, was rejected.

12) Senator Allen's proposal to strike the FCC exemption in Section 16, page 36, line 4, was adopted.

13) Senator Allen's amendment to strike the labor-management exemption in Section 16, page 36, line 7, was rejected.

14) Senator Brock's amendment to provide for a consumer cost assessment statement in S. 200 was adopted in principle with language to be worked out

15) Senator McClellan's amendment to establish a three-man Commission instead of an Administrator was rejected by the Committee.

S. 200, the Consumer Protection Act of 1975, was favorably reported out of the Senate Committee on Government Operations with 12 yeas and 1 n

The Committee then acted on an amendment to S. 172, the Travel Expenses Amendments Act of 1975. Senator Percy's amendment strikes "actual transportation expenses incurred by employees" on page 8, subsection (a)(8), and inserting, "travel expenses incurred by employees." The amendment was approved by the Committee.

TO: The Honorable Clarence J. Brown

FROM: Dick Thompson

Subject: White House Meeting

The following is information which you may find useful when you meet at the White House on Tuesday.

And Ripon Subcommittee, the Extension should be lead man as Frank Horton, ranking sub number, is committed to Rosenthal bill.

Consumer Protection Bill

There is no finished copy of the CPA bill for the Committee. Rosenthal's new staff director, Peter Barrish is working on it and I know that they are pushing to get it completed. There have been several conversations I have overheard about the bill and it appears that it will follow the outlines of the bill which the House passed last year, the Holifield, Horton, Rosenthal proposal.

On the bright side, is the action taken by the Senate Government Operations Committee yesterday (Thursday). The bill was reported out with an amendment proposed by Senator Brock which would require a cost-benefit analysis for all proposals which the CPA would put forth. This amendment was accepted unanimously and Ribicoff agreed to stick with it on the Floor. It is a great issue which if the proponents of the bill now go against, can be used for strong support for a veto.

The second feature is that in today's New York Times, an editorial appeared supporting the inclusion of labor unions in the bill. I believe the White House would spend their time more effectively if they would push this one issue rather than trying to stop the bill. My contacts among the trade associations add that if the unions were included, this would probably be the death kneel for the CPA this Congress.

Revenue Sharing

Jack Wylder is ranking on Subcommittee of jurisdiction in Gov. Ops, but new + uninform. Could be used to develop national "sales plan."
As you know, revenue sharing faces tough sledding. I believe we face the following problems; 1) Members who are opposed to the Congress providing such large sums of money in non-categorical programs; 2) Civil Rights advocates who want the enforcement activity of the Office of Revenue Sharing increased and 3) proponents of eliminating all but large urban centers from the recipients of revenue sharing.

On the civil rights questions, I have initiated a meeting with Treasury Department officials to explore alternative means of strengthening the civil rights provisions of the revenue sharing office without turning ORS into another Justice Department.

I believe you should push the idea of selling the revenue sharing proposal around the country. Brooks told Treasury officials that there would be a substantial push, with his support, to subject revenue sharing to the appropriations process. This of course is likely because Brooks is from Texas and so is George Mahon.



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POLITICAL CONSIDERATIONS, OPTIONS, STRATEGY AND TACTICS

NECESSARY CONSIDERATIONS

1. Former President Nixon, Virginia Knauer and President Ford (when in the House) went on record as supporting the concept of an Agency for Consumer Advocacy (ACA, formerly called Consumer Protection Agency).
2. An impressive majority of Congress supports the concept and is not yet willing to get into a position of unduly slowing up the bill to debate complicated details.
3. The legislation is moving very fast -- the House Committee appears to be awaiting early arrival of a Senate bill, rather than consider its own bill; there may not even be hearings in the House.
4. The business community cannot make a dent in this bill without strong White House support.

OPTIONS AND ASSOCIATED RISKS

Failure of past and present Administrations to give strong leadership on this issue, coupled with the bill's present steamroller status, reduces the realistic options to a very few.

1. Do Nothing Rather Than Be Half-Hearted

Unless the White House is willing to give strong and dedicated leadership of an attempt to kill or drastically revise the current bill, it is in the Administration's best interest to do nothing and hope that businessmen and conservatives can forget the day that the bill is signed.

Half-way measures and last-minute lobbying cannot be expected to work this time. Such tactics will set the President up for another defeat and for criticism by businessmen, conservative legislators and the general public which has been misled to view this ACA as a Messiah.

2. Alternatives -- The Climate Isn't Right

Alternatives such as federal consumer advocates within each major agency or regulatory reform are not now viable and will never be viable until the dangers in the bill are effectively communicated to the public and Congress. In the present atmosphere such "alternatives" would be considered as additions, not substitutions.

3. Embracing the Principle, Attacking the Specifics

The White House could give conditioned support to the ACA principle -- conditioned on the Congress producing a fair and ef-

fective bill for an agency that would make more efficient the workings of the Government and the economy.

This appears to be the best approach provided that it is coupled with strong negative positions on some of the radical provisions in the current bill and provided further that the Administration uses its considerable resources to communicate the dangers in the bill to Congress and, especially, to the public. The bill is too popular and too misunderstood by the public and the media to expect Members to vote with you even when you are correct.

STRATEGY

The strategy suggested would be to use the resources of the White House to modify the climate surrounding the ACA bill to the point where alternatives could be considered objectively or, at least, to the point where efforts to revise the bill into a workable piece of legislation would not be automatically rejected as part of a concerted anti-consumer attack.

TACTICS

1. Make the ACA Bill An Issue Quickly

Get out front with opinions and information on the bill, through a consumer message, statements at press conferences and speeches by officials.

One of the major problems is that this bill is moving so fast it will pass the Senate before anyone knows what is in it.

If some respected reporters just would attempt to read and understand the bill, half the battle would be won. (The New York Times just discovered the labor exemption which the Administration objected to last Congress -- the result was the attached editorial.)

2. Place the ACA In Perspective Vis-a-vis the Real Issues: Inflation and Regulatory Reform

All or most communication on this subject should emphasize the real issues of importance to consumers -- inflation and regulatory reform. Government is a big part of the inflationary problem; more government (an ACA) could make the problem worse unless careful attention is paid to drafting a workable bill.

3. Emphasize How the Bill Should Be Returned to its Original Objectives

Originally, the ACA was designed to offset the imbalance in Government caused by a lack of consumer voice and an abundance of special interest voices in major decisionmaking.

One of the most frequent statements in support of a consumer advocacy unit is that the interests of farmers are represented by the Department of Agriculture, the interests of business by the Commerce Department, the interests of the working man by

the Labor Department -- but no agency in Government represents the interests of consumers.

What happened? The bill (S. 200) now provides that the ACA must also advocate the interests of farmers, that major areas of importance to the special interests of labor and management are now declared out of bounds for the consumer advocate and other special interests are seeking similar favored treatment (e.g., Broadcasters) with the support of some sponsors. Theme: "Let's get this bill back on track."

4. Test Votes In Senate; Not Bill

Test votes on major issues in the Senate, which will act first, would appear more productive than introducing an Administration bill or substitute bill there. A bill will provide a target for criticism during the period which should be used for general education and increasing the awareness of the problems in the bill.

5. Substitute Bill In House

The place for an Administration bill, if there is to be one, is in the House. This increases the options and allows more time to get cosponsors.

If more time is needed, such a bill could be introduced soon after Senate passage of an ACA bill, and hearings urged on it and the Senate bill. The Administration has yet to testify on the ACA bill this Congress.

6. White House Commitment to Supporters

Over the almost seven years of activity on this issue, the Administration has vacillated severely, often leaving supporters of their proposals with egg on their face. Many Members haven't forgotten this.

If the Administration wants to make any contribution at all on this issue it will need dedicated advocates in Congress. Such dedication will only come with the full support of the White House.

7. Conservative Fence Mending

In addition, this issue is an ideal one to aid in some conservative fence mending. The heart of support for altering this bill will be the conservative block which wants to kill it. Thus, they must understand the full strategy and become a part of it. Otherwise, they will view support of the principles as just another cop-out.

The New York Times

Founded in 1851

ADOLPH S. OCHS, *Publisher 1896-1935*

ARTHUR HAYS SULZBERGER, *Publisher 1935-1961*

ORVIL E. DRYFOOS, *Publisher 1961-1962*

ARTHUR OCHS SULZBERGER
Publisher

JOHN B. OAKES, *Editorial Page Editor*

A. H. RASKIN, *Assistant Editorial Page Editor*

A. M. ROSENTHAL, *Managing Editor*

SEYMOUR TOPPING, *Assistant Managing Editor*

MAX FRANKEL, *Sunday Editor*

JACK ROSENTHAL, *Assistant Sunday Editor*

CHARLOTTE CURTIS, *Associate Editor*

CLIFTON DANIEL, *Associate Editor*

TOM WICKER, *Associate Editor*

Consumerism, Limited

The long fight to establish an independent agency to defend the interests of consumers in proceedings before Federal regulatory bodies and courts has moved an important step closer to victory in the Senate. The 11-to-1 vote by which the consumer advocate bill was approved in committee this week measurably reduces the danger that it can be killed by filibuster, the fate that befell it on the Senate floor last year.

Before final adoption, however, the Senate will do well to eliminate from the bill a special-interest exemption that is foreign to the whole concept of independence for the new bureau. Inserted under strong pressure from organized labor, this exemption would bar the consumer agency from gathering information or expressing its views in any proceeding involving labor disputes or agreements.

The records of the National Labor Relations Board and the courts abound in cases in which unions on their own or in collusion with employers disregard the public interest, pushing up prices or limiting competition. That the proposed Agency for Consumer Advocacy should not have the same freedom to speak for consumers in such situations that it would have in matters affecting business is indefensible on its face.

For labor to make this exemption the price of its support for a measure in which wage-earners and their families have a primary stake is short-sighted. For legislators to submit to such coercion would be politics at its most cynical.

MAJOR ISSUES

1. Special Interest Exemptions -- Labor and Broadcasters

During the Executive Session on S. 200, a special exemption under which the Agency for Consumer Advocacy (ACA) would be prohibited from intervening in FCC broadcast license renewal proceedings was deleted by a close vote. This will be a major issue in the forthcoming floor debate.

Also during the executive session, an amendment by Senator Weicker to delete the full exemption for labor disputes and labor agreements narrowly was defeated by a 7-6 vote, after a 6-6 tie with Senator Glenn casting the seventh vote in the second round of voting. This also is expected to be a major issue on the floor.

2. Intervention As a Dual Prosecutor

A perennial issue is whether the ACA should be allowed to assign itself the status of full party in the adjudications of alleged law violations by other agencies where the only full parties are the agency prosecutor and the respondent charged.

3. Information Disclosure

ACA may disclose trade secrets and other confidential information at its discretion, including disclosure to petitioners under the Freedom of Information Act. The limitations are few. (See analysis.)

4. Information Gathering From Other Agencies

No businessmen in his right mind would volunteer a trade secret or other confidential information to any federal regulatory agency. The ACA could get that information as a matter of right if the agency to which it was volunteered had subpoena or similar mandatory power to get the information by order.

5. Information Gathering from Businessmen

The sweeping interrogatory power proposed for the ACA is unprecedented for a nonregulatory agency. It is a classical example of a fishing license.

6. Information Disclosure

Giving ACA more information disclosure rights (particularly with respect to trade secrets) than regulatory agencies will be another major issue -- it appears that ACA will not be subject to the existing restrictions on federal agency disclosure of trade secrets. (See, e.g., 18 U.S.C. §1905.)

7. Appeal Power for a Nonregulatory Agency

Should a nonregulatory agency have a right to automatic judicial review of the final regulatory decisions of its sister agencies?

BRIEF DESCRIPTION OF
MAJOR PROVISIONS OF SENATE BILL (S. 200)

[Caveat: The bill was reported by the Senate Committee on Government Operations yesterday, with several technical amendments left to the staff for drafting; these are not expected to affect the general description that follows, but there is such a possibility.]

Consumer Advocacy Right in Formal and Informal Agency Activities

Agency for Consumer Advocacy (ACA) has an unqualified right to advocate the interests of consumers in any decisionmaking process of virtually any federal agency. This includes the most unstructured activities (e.g., negotiations of consent orders and policy discussions) to the most formalized of proceedings (e.g., adjudications of alleged violations and ratemaking).

Judicial Review: Full Right Where ACA Participated Below; Limitation Where No Such Participation

ACA is granted automatic standing to seek judicial review of any final decision that is the result of agency process in which the ACA participated in any respect. Where the ACA had not participated at all, it could still seek judicial review of such a decision, but the court could refuse to review where it determined the case would impede the interests of justice.

General Information Gathering As Of Right From Other Agencies

All Federal Agencies are mandated to turn over to the ACA any information requested. There are six full exceptions to this mandate which describe information that an agency may, if it wishes, refuse to disclose to ACA --

1. Military secrets and other information properly classified for national defense or security;
2. Internal prosecutorial and policy recommendations;
3. Routine administrative functions information that is not public material;
4. Personnel, medical and similar files which contain personally private information the disclosure of which would be clearly unwarranted;
5. Information expressly prohibited by law from being disclosed to another agency;
6. Information on the financial status of consumers (not corporations) from banks and other federal institutions.

Trade Secret Information Gathering From Other Agencies

There is also one partial exception under which an agency, if it wished, could refuse to turn over information requested by the ACA -- Trade Secrets and other confidential commercial information as described in the Freedom of Information Act exclusions (herein called "trade secrets" for brevity).

Trade secrets obtained by another agency after the ACA law comes into effect could not be denied to the ACA if --

1. The agency could have gotten them under any of its powers (subpoena, etc.); or
2. The agency did not have a signed agreement with the owner of the trade secrets to treat the information confidential; or
3. That agency has not made a reasonable determination in writing that the trade secrets were not available without such an agreement with their owner and that failure to obtain the trade secrets would seriously impair performance of that agency's function.

Trade secrets obtained by another agency before enactment of the ACA bill could not be denied to the ACA if there were no agreement to keep the information confidential and if that other agency could not state in writing that disclosure of the secrets to the ACA would be a breach of faith considering the assurances given by the ACA and the character of the information.

Information-Gathering From Businessmen By Court-Enforceable Orders

ACA may issue court-enforceable orders to any person engaged in a trade or business, requiring that person to supply the ACA with reports or answers to questions. The subject matter of the orders must relate to information substantially affecting consumer health or safety or be information necessary for the ACA to discover substantial economic injury or consumer fraud. The person to whom an order is issued may get it quashed if he proves that compliance would be unnecessarily or excessively burdensome.

Other Information-Gathering Powers

ACA would be authorized to conduct surveys (including economic surveys) research, investigations and product testing and to act as a clearinghouse for consumer complaints.

Information Dissemination Powers

ACA would have authority to disseminate to the public any information except that which is subject to several narrow limitations.

ACA will have complete discretion to disclose trade secrets received from private persons and received from federal agencies if these agencies do not demand that the secrets be kept confidential. Such

trade secrets could be disclosed immediately if the ACA felt that disclosure was necessary to protect health or safety. Otherwise, a maximum of 10 days notice would be allowed to enable owners of trade secrets or other sensitive information to seek, on unspecified grounds, court restraint of the ACA's intended disclosure.

Exemption for Labor Disputes and Agreements

ACA will not have any authority in relation to labor disputes or labor agreements. This, in effect, is an exemption from ACA intervention for the NLRB, Federal Mediation and Conciliation Service and similar agencies, and a prohibition of the ACA's use of its information-gathering and dissemination powers in relation to labor disputes or agreements.

Farmers As "Consumers"

The bill defines farmers as consumers now, thus making the ACA an advocate of the interests of farmers as well as consumers.

March 24, 1975

MEMORANDUM FOR: JACK MARSH
DON RUMSFELD

FROM: MAX FRIEDERSDORF

SUBJECT: Round Table Format at the Senate Budget
Committee Hearings

We monitored the Jim Schlesinger appearance before the Senate Budget Committee hearings on Friday where the round table format was used with opposing witnesses confronting the Administration witness.

It apparently went alright because despite Cranston's insistence, Senator Muskie prohibited the opposition witness, Charles Shultz, from engaging in debate with Secretary Schlesinger.

This could set a dangerous precedent and Senatorial restraint cannot be counted upon in future hearings. Perhaps we should develop a policy on this and it could be an agenda item on a future Cabinet meeting and/or Jim Connor may want to check with the Cabinet members individually to ascertain their views.

Our observation is that it does not put any restraint on Senators from posturing, and could add considerably to the disadvantages of Administration witnesses.

cc: ✓ Jim Cannon
Jim Lynn
Jim Connor



THE WHITE HOUSE

WASHINGTON

March 24, 1975

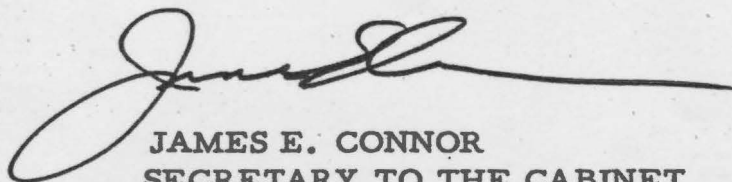
MEMORANDUM FOR

**THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF COMMERCE
THE SECRETARY OF LABOR
THE SECRETARY OF HEALTH, EDUCATION AND WELFARE
THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY OF TRANSPORTATION**

SUBJECT: CABINET MEETING, WEDNESDAY, MARCH 26, 2:00 PM

The President has scheduled a Cabinet meeting for Wednesday, March 26th, in the Cabinet Room at 2:00 p.m. He has approved the following agenda:

5 minutes	<u>The President</u>	Introduction
20 minutes	<u>Secretary Kissinger</u>	Report on the Middle East Trip
20 minutes	<u>Mr. Cannon et al</u>	Consumers Affairs Issues
20 minutes	<u>Director Lynn et al</u>	Inflation Impact Statements
10 minutes	<u>Counsellor Marsh</u>	Senate Budget Committee Testimony


**JAMES E. CONNOR
SECRETARY TO THE CABINET**

**bcc: The Counsel to the President, Mr. Buchen
The Counsellor to the President, Mr. Hartmann
The Counsellor to the President, Mr. Marsh
The Assistant to the President, Mr. Rumsfeld
The Director of the Office of Management and Budget, Mr. Lynn
The Ambassador to the United Nations, Mr. Scali**



OFFICE OF THE VICE PRESIDENT
WASHINGTON

March 25, 1975

MEMO TO: Jim Cannon

FROM: Maggie Hughes

SUBJECT: Consumer Protection Agency

Enclosed is a copy of S. 200 with Minority views from last year's bill, S. 707, which is similar to S. 200. S. 707 was defeated by a filibuster. The bill has, in effect, been reported out of committee but language on several amendments has not yet been written. It is expected this will occur before the end of this week. Four bills are currently pending in the House and no action has been taken.

Senator Allen has not yet written his analysis but last year he objected to:

- (1) labor exemption (rejected in Government Operations committee mark-up this year)
- (2) FCC, radio and TV licensing exemption (adopted in committee mark-up).

Senator Allen's objections, I believe, will be more on philosophical grounds, i.e., another layer of government.

The current liberalized make-up of the Senate -- with the defeat or retirement of several of the opponents from last year -- would indicate that this bill will pass the Senate. Senator Nunn voted against an analagous bill last year, but has not yet stated his position on this bill.

Senator Brock offered an amendment requiring a federal agency to publish an Inflation Impact statement based on a cost/benefit analysis. The amendment has been agreed to in principle but has not been drafted yet. It is believed that Senator Brock will vote for the bill.

THE WHITE HOUSE
WASHINGTON

March 25, 1975


CABINET MEETING

Wednesday, March 26, 1975

2:00 p.m. (90 minutes)

The Cabinet Room

From: James E. Connor



I. BACKGROUND, PARTICIPANTS & PRESS PLAN

1. Background:

You last met with the Cabinet on March 12th when the agenda covered a review of the Clemency Board's personnel needs, a report from the Vice President on the Rule 22 situation, a report from Secretary Butz on food prices, and discussion of the catalytic converter.

2. Participants: Attached at Tab A

3. Press Plan: Press Photo at Beginning of Meeting and David Kennerly Photo.

II. TALKING POINTS

1. Our agenda this afternoon covers several different items. Before we begin I want to welcome John Dunlop to his first Cabinet meeting.
2. John Tabor is sitting in as Acting Secretary of Commerce and we welcome him.
3. John Whitaker is sitting in for Rog Morton. We're glad to see you back at work, John.
4. Henry Kissinger returned over the weekend from the Middle East. I've asked him to brief you on his mission.



5. I'm sure all of you are aware of the growing interest in representing consumer interests in the government. I'd like Jim Cannon to brief us on the status of the legislation. Jim...

I think that we must examine our responses to this legislation carefully. Jim Cannon will be talking with each of you during the next two weeks to get your suggestions. I want us to be ready to discuss responses at the next Cabinet meeting.

6. I saw an article in Saturday's newspaper indicating that not much progress has been made on inflation impact statements which I directed be prepared last year. I've asked Jim Lynn to give us a report on what is happening. Jim...

I'm concerned by what appears to be a weak response to our Executive Order.

Congress is rumbling about writing some legislation to mandate economic impact statements. This could result in a much more cumbersome and centralized system than is desirable or necessary.

The importance of understanding the indirect economic costs of government is something that came up at our last Cabinet meeting when we discussed truck brake regulations and the catalytic converter. I expect OMB to be on top of this program, and I expect all Cabinet departments to be in compliance by April 1st with the procedures which OMB and the Council on Wage and Price Stability have established.

Are there any comments?

7. I understand from Jack Marsh that some problems have arisen with the approach used by the Senate Budget Committee in calling witnesses. Jack, would you explain the situation? (Jack Marsh's memo to you is attached at TAB B.)

Jim Schlesinger and Jim Lynn have had some experience with the Committee. What's your impression Jim Schlesinger? Jim Lynn?

I think it's important that we discourage the move to mingle Administration and outside witnesses. If asked to testify before the Senate Budget Committee you should inquire about the witness arrangements. If you have any doubts about whether you should appear, I want you to check with Jack Marsh or Max Friedersdorf.

8. I want to make a few comments before we close on the ways in which I'd like to use my Cabinet officers.

It goes without saying that I expect each of you to manage your departments effectively and to advise me in your particular areas of responsibility.

But I'm also looking for more than that. Each of you is more than a narrow specialist. Ed Levi, for example, is as experienced in higher education as any man in the country. Carla Hills has a broad and deep legal background. I want to be able to use all of you in ways that cut across your departmental lines. That includes discussions within the Cabinet as well as on an individual basis on policy task forces and meetings within the White House.

During the next several weeks I want each of you to think about how we might more effectively use the Cabinet. I've asked Jim Connor to talk with each of you about it, and I'd like to raise the issue for discussion at a Cabinet meeting in the near future.

CABINET MEETING
Wednesday, March 26, 1975
Attendees

The President

(Note: The Vice President will be attending King Faisal's funeral in Saudia Arabia)

Secretary of State Henry Kissinger

Secretary of the Treasury William Simon

Secretary of Defense James Schlesinger

The Attorney General Edward Levi

Secretary of Agriculture Earl Butz

Secretary of Labor John Dunlop

Secretary of Health, Education and Welfare Caspar Weinberger

Secretary of Housing and Urban Development Carla Hills

Secretary of Transportation William Coleman

The Acting Secretary of the Interior John Whitaker (for Secretary Morton who is out of the city this week)

The Acting Secretary of Commerce John Tabor (Secretary Dent will have been sworn in as Special Trade Representative this morning, March 26th)

The Counsel to the President Philip Buchen

The Counsellor to the President John Marsh

The Counsellor to the President Robert Hartmann

The Assistant to the President Donald Rumsfeld

The Director of the Office of Management and Budget James Lynn

The Ambassador to the United Nations John Scali

White House/Executive Office:

Mr. William Baroody

Mr. James Cannon

Mr. Richard Cheney

Dr. James Connor

Mr. Max Friedersdorf

Mr. Alan Greenspan

Mrs. Virginia Knauer

Mr. Ronald Nessen

Gen. Brent Scowcroft

Mr. William Seidman

Agencies:

Mr. Russell Train, EPA

Mr. Frank Zarb, FEA

Other:

Mrs. Mary Louise Smith, Republican National Committee

THE WHITE HOUSE

WASHINGTON

March 25, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: JACK MARSH

SUBJECT: Cabinet Discussion -- Senate Budget Committee

Attached is an excellent summary of the hearings procedures before the Senate Budget Committee which was prepared by Pat O'Donnell. This is a matter that will be discussed in the Cabinet meeting.

I particularly direct your attention to Items 6 and 9 on page 2.

There are two issues involved. First, the use of informal seminar-type forum. And secondly, a joint appearance by an Administration official with an outside expert.

My recommendation would be that we go along with the seminar format, but resist joint appearances with outside witnesses. If the seminar format should become troublesome, then I think we should try to negotiate some changes. However, there does not seem to be too much objection to this.

As a practical matter, the hearings for this year have been concluded, but we should develop a policy for the future.

I suggest a policy against joint appearances with outside witnesses on an Administration-wide basis for all witnesses. A Sub-Cabinet officer has less stature to resist this arrangement than a Cabinet officer. The chance of his testimony being damaged by an adverse expert witness is probably greater than a Cabinet officer.

I recommend the following:

1. Advise the Cabinet officers of this practice.

2. Establish a policy against joint appearance with outside witnesses.

I suggest inputs from the following persons in the Cabinet meeting:

1. Jim Schlesinger
2. Jim Lynn
3. Jack Marsh

THE WHITE HOUSE
WASHINGTON

March 25, 1975

MEMORANDUM TO: JOHN O. MARSH, JR.
THROUGH: MAX FRIEDERSDORF *M.F.*
FROM: PATRICK E. O'DONNELL *P.O.*
SUBJECT: Senate Budget Committee Hearing Format

Following discussions with Staff Director Doug Bennett, Minority Director Bob Boyd, and other interested parties, I offer the following observations on the new seminar hearing format utilized by the Senate Budget Committee.

1. The round table, give-and-take session approach evolved as a result of the budget committee's mandate to broadly review general economic and fiscal policy.
2. The seminar format reflects the committee staff's belief in innovation. According to Bennett, the format is designed to avoid the adversary atmosphere that usually takes over at formal hearings. It is everyone's hope that the seminars promote non-partisanship.
3. The committee unanimously decided that informal seminars between committee members and groups of experts on various policy matters will also be more worthwhile from a substantive standpoint than the traditionally formal hearings of the past.
4. The committee held five days of hearings in December on general policy. Further seminars were conducted throughout February and March.

5. Although Jim Lynn and Alan Greenspan have appeared before the committee under the seminar format, they were not confronted with independent experts who were likely to challenge their positions or rationale.
6. The first potential confrontation took place last Friday (March 21) when Secretary Schlesinger was to appear with Charles Schultz. The Secretary objected and the committee in turn agreed to hold an informal session without Schultz' simultaneous participation.

Incidentally, I am told that Schlesinger's main objection was based on a fear that he would be setting a dangerous precedent for the Executive branch. Some Republican committee members have remarked, however, that Schlesinger's objectives would have been well-served by an appearance with Schultz, who is considered by most to be responsible in the articulation of his views.

7. Although the media (TV) people were unhappy with the new format, they have come around to agreeing that the potential for grandstanding is much decreased and that they can achieve much better footage substance by lack of procedural formalities.
8. Media and membership are also in agreement that the potential exchange of information is greater than when individual senators were propounding questions from the dais during formal proceedings. Incidentally, the committee members no longer sit by political party. Proponents feel the chemistry for such an arrangement is very good.
9. The Republicans, however, are keenly aware of the potential problem this presents the Executive branch and suggest that we demand carefully defined guidelines before agreeing to testify. They stress the importance of adequate prenotification and painstaking care to allow participation only of well-qualified and responsible experts who will avoid the temptation to "showboat" or degrade the committee's integrity by shallow theatrics.

In short, the general consensus is that the format is not intended as a potential embarrassment for Administration witnesses and that it can be used to our advantage if we demand firm ground rules.

The committee has pretty much finished its hearings for this year; they are aiming for mark-up on April 8 and 9 and introduction of the concurrent resolution on April 14.

[3/26/75]

MR. CANNON'S TALKING POINTS

1. Let me point out that each of you has been given a copy of the letter the President is sending to the Hill today outlining his consumer representation program. I suggest you all read it. It describes his objections to the creation of a new consumer agency and his belief that all of us can work to reform effectively the existing Federal procedures for considering consumer interests.
2. First a word about our proposals to include the independent regulatory agencies in our consumer representation efforts. There are three components to our policies regarding these agencies:

- (1) The President will continue to support legislation to establish a Regulatory Review Commission. This commission is essential if we are to take a hard look at these agencies. Too often lately they've been charged with working against rather than for the public interest.

where is Bill

and have already been submitted in some cases

- (2) The Regulatory Commission is not to be an excuse for delay of reform. Because ~~a~~ number of specific reform initiatives have been analyzed and are ready to be submitted now, the President will shortly be sending a special message to Congress proposing certain legislative changes that can be acted upon immediately.

- Study

7

- (3) Finally, there are steps that can be taken by each independent agency under its own authority. Therefore, the President will be meeting with the independent agency members to urge them to undertake a review similar to yours and to make improvements in their consumer representation practices where necessary.

Principles

3. Now, more about what we're asking each of you to do. (Go to chart.)
4. In addition to what you'll be doing, we'll be taking the following additional action. (Chart 2)
5. Now I'd like to ask Virginia Knauer to point out examples of what steps you could take to improve consumer representation in your departments.
6. Jach Marsh will now review the Consumer Protection Agency legislative situation.



[3/26/75]

PRESIDENT'S TALKING POINTS

[A7] As Government has grown bigger and more complex, so has the concern that the interests of consumers are not being adequately represented in our Government.

I share this ^{for consumer protection} concern. But I don't ^{think} believe that to provide greater consumer representation we need another new and expensive Federal bureaucracy. And especially not at a time when we're trying to simplify and cut the cost of Government.

7. What is needed are improved procedures for representing the interests of consumers within our existing departments and agencies. After all, you already have among your responsibilities the protection of the public interest and that includes consumer interests. *That's what the business of government is all about.*

4. I'm determined to show that this Administration can *by Executive Action* fully consider consumer views without setting up a separate agency.

add about charging cabinet officers w/ responsibility.
1. I want each of you to undertake a comprehensive review of the existing procedures for considering consumer views in your departments. Look at everything you do that affects consumers. And within 30 days I want you to report to me on what ~~mechanisms~~ *mechanisms* are already in place and on the steps you're prepared to take to improve consumer participation in the decision process.

1. You should know that after the Easter recess I will be holding an open meeting with the chairmen and members of the independent regulatory agencies as well as the leading members of the appropriate Congressional committees. The purpose of that meeting will be to discuss with them the need to more fully consider the consumer view in the activities of those agencies.

6. Before I ask Jim Cannon to explain our program in more detail let me say that it's important for each of you to speak out about the problems of setting up a new independent agency and to publicly support our consumer efforts. Point out the steps you are taking in your departments for consumers at every opportunity.



THE WHITE HOUSE
WASHINGTON

March 26, 1975

MEMORANDUM FOR : DICK DUNHAM
 JIM CAVANAUGH

FROM : JIM CANNON

Here are the comments I made today at the Cabinet Meeting on consumer protection.

The President has directed me to talk with each of his Cabinet Members and get back to him with recommendations on alternatives in time for the issues to be discussed at the next Cabinet Meeting.

Attachment

BRIEF COMMENTS FOR CABINET MEETING

Mr. President, the protection of the consumer is an unassailable objective.

But in the name of protecting the consumer Congress is moving toward the creation of a new federal agency that would have unprecedented power to intervene in the operations of the Federal Government and in the operations of private business.

The Consumer Bill that is most advanced at this point is S.200. This bill, sponsored by Senator Ribicoff and 38 other Senators, would create a new agency to be called the Agency for Consumer Advocacy.

At the start it would have 600 new Federal employees and a Budget of \$60 million for the first three years.

The status of this bill is that it was supported 12 to 1 in the Senate Government Operations Committee. The best estimates are that when it comes to the Floor it will have 20 to 30 votes against it.

Four consumer bills have been introduced in the House but the House Government Operations Committee has not yet begun to consider a Consumer Protection Bill.

However, the House did pass a Consumer Protection bill last year and our best judgment is that the House will pass some kind of a strong Consumer Protection Bill at this session.

As to the Senate Bill S.200 -

To its supporters, the Agency for Consumer Advocacy would be the consumer's lawyer. And many consumer groups feel such an advocate is particularly important before the regulatory agencies which - in the view of consumers - regulate on behalf of industry and not for the consumer.

The opponents of S.200 feel that this bill would give an appointed official unprecedented power to coerce other agencies of the Government and to intervene in private business.

This agency would be headed by an Administrator appointed by the President, but once confirmed by the Senate he could be removed from office only for inefficiency, neglect of duty, or malfeasance.

So he would be a power unto himself, answerable to no one.

He would have ^{some} independence on his budget,
for he would submit his appropriation request simultaneously
to Congress and to the President.

The Head of the Agency would have the
authority to choose which consumer or group of consumers
he might want to represent against other consumers who
might hold opposing views.

The administrator could publicize an anonymous
consumer complaint against any producer or company.

This agency would have full legal power to
intervene in every domestic department, agency and
program of the United States Government.

Because of its unique powers, the Agency
for Consumer Advocacy could result in dual prosecution.
Private businessmen might have to defend themselves
simultaneously against prosecutors representing the
regulatory agencies and the prosecutors representing
the Agency for Consumer Advocacy.

The Agency for Consumer Advocacy could
require a company to provide information which might
be used later against the company.

In sum, Mr. President,
there are two major dangers in this bill.

1. The Agency for Consumer Advocacy would intrude into the orderly operation of the federal government's, departments and agencies.
2. This Advocacy Agency would intrude in a major way in the operation of private business firms. It is the kind of legislation that suggests that the federal government is trying to put business out of business.