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Department of Justice
Washington, D.C. 20530

November 26, 1975

MEMORANDUM FOR: CALVIN COLLIER
PAUL MacAVOY
MICHAEL MOSKOW
ROGER B. PORTER
DAVID HARTQUIST
PAUL LEACH

FROM: *TEK* THOMAS E. KAUPER
ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

SUBJECT: ANTITRUST IMMUNITIES TASK GROUP --
ROUND TABLE MEETINGS ON INSURANCE

Attached is a schedule of the meetings on insurance to be held during the week of December 1st, in the Andretta Conference Room, Department of Justice, which is located on 10th Street at Constitution Avenue, N.W. The schedule indicates the list of invitees for each of the meetings. Also enclosed is a copy of the letter mailed to the invitees and an attachment indicating the issues to be discussed at the meeting.



SCHEDULE OF ROUND TABLE MEETINGS

Monday, December 1, 1975 - 1:00 p.m.

The state regulators invited to this meeting are as follows:

✓ Mr. James J. Sheeran
Commissioner of Insurance
State of New Jersey

Mr. Wesley J. Kinder
Commissioner of Insurance
State of California

Mr. James M. Stone
Commissioner of Insurance
State of Massachusetts

✓ Mr. John G. Day
Commissioner of Insurance
State Corporation Commission
Commonwealth of Virginia

✓ Robert E. Dineen, Esquire
Consultant
National Association of
Insurance Commissioners
Milwaukee, Wisconsin

✓ Mr. Ark Monroe, III
Commissioner of Insurance
State of Arkansas

Mr. William H. Huff, III
Commissioner of Insurance
State of Iowa

Mr. Dick L. Rottman
Commissioner
State of Nevada

✓ Mr. Robert B. Wilcox
Director of Insurance
State of Illinois

✓ Mr. Phil Stern, accompanying
Mr. Sheeran

Mr. Mark Kai-Kee, accompanying
Mr. Kinder

✓ Mr. Jon Hanson, accompanying
Mr. Dineen



Tuesday, December 2, 1975 - 1:00 p.m.

Representatives of mutual insurance companies invited to attend this meeting are as follows:

- ✓ Mr. Donald P. McHugh
Vice President & General Counsel
State Farm Insurance Companies *Pro*
- ✓ Mr. John K. Dane
Vice President & Counsel
Liberty Mutual Ins. Co.
- ✓ Mr. William McCrae "Bill"
Senior Vice President - General Counsel
United Services Automobile Association
of San Antonio
- ✓ Mr. Roland J. Wendorff
Vice President - General
Counsel and Secretary
Employers Insurance of Wausau
- ✓ Mr. Edmund J. O'Brien
General Counsel
Kemper Insurance Companies
- ✓ Mr. Dean W. Mitchell "Mitch"
Executive Vice President
Farm Bureau Insurance Companies
- ✓ Mr. Lorne Worthington
Vice President
Preferred Risk Insurance Companies
- ✓ Mr. George Reall
President
National Council on Compensation
Insurance
- ✓ Mr. Samuel C. Cantor
Senior Vice President
Mutual Life Ins. Co. of New York

Mr.

Gorman 2

Mr.

Maisonpierre

Mr.

Mertz



✓ Mr. Manuel Gorman
✓ Vice President & General Counsel
American Life Insurance Association

✓ Mr. A. D. Sappington
✓ President
M F A Insurance Companies

✓ Mr. Arthur C. Mertz
Executive Vice President
National Association of Independent
Insurers

✓ Mr. Andre Maisonpierre
✓ Vice President
American Mutual Insurance Association

Wednesday, December 3, 1975 - 1:00 p.m.

Representatives of stock insurance companies invited
to attend this meeting are as follows:

Mr. Newell G. Alford, Jr.
Senior Vice President - General Counsel
Chubb & Sons, Inc.

Mr. William O. Bailey
Executive Vice President
Aetna Life & Casualty

Mr. B. P. Russell
Chairman of the Board
Crum & Forster Ins. Cos.

Mr. Donald Schaffer
Vice President - Secretary and
General Counsel
Allstate Insurance Co.

Mr. Edmund Rondepierre
Vice President
INA Corporation

Mr. John Carton
Vice Chairman of the Board of
PHF Insurance Co.
Chairman of the Boards of Wolverine
and Riverside Insurance Cos.



Mr. Frank Barrett
Executive Vice President and
Chief Counsel
Mutual of Omaha and Its Affiliates

Mr. T. Lawrence Jones
President
American Insurance Assoc.

Mr. J. Maurice Miller
Senior Vice President
Lie Insurance Co. of Virginia

Mr. Daniel J. McNamara
President
Insurance Services Office

Mr. Leslie P. Hemry
President
Health Insurance Assoc. of America

Mr. James M. Tulloch
President
Dairyland Insurance Company

Thursday, December 4, 1975 - 1:00 p.m.

Representatives of the insurance agents associations
invited to attend this meeting are as follows:

Mr. Jay Wanamaker
President
National Association of
Insurance Agents

Mr. Bruce T. Wallace
Executive Vice President
National Association of
Casualty & Surety Agencies

Mr. R. L. Remington
Executive Director
National Association of Insurance Brokers

Mr. Ralph J. Marlatt
Vice President
Government Affairs
National Association of Mutual
Insurance Agents



Mr. Tom C. Johnson
Executive Vice President
Florida Association of Insurance Agents

Friday, December 5, 1975 - 9:00 a.m.

Representatives of state legislatures, consumer groups
and the academic communities invited to attend this meeting
are as follows (list incomplete):

Mr. Thomas A. Harnett
Superintendent of Insurance
State of New York

Mr. Stanley Dorf, accompanying
Mr. Harnett

State Senator Walter Briston
State of South Carolina

State Senator Daniel J. Foley
State of Massachusetts

State Representative Bernard Epton
State of Illinois

Dr. Paul L. Joskow
Associate Professor
Department of Economics
Massachusetts Institute of Technology

Dr. Willimam H. Wandel
Director, Ohio Retirement
Study Commission

Mr. Spencer Kimball
American Bar Foundation

Mr. Michael Gildea
Assistant to the Director
Legislative Department
AFL - CIO

Mr. Howard R. Wilde
Commissioner
Department of Insurance
State of Wisconsin

Mr. Herbert Denenberg



Dear []:

As you may be aware, the President has established a Task Group on Antitrust Immunities as part of the Administration's overall regulatory reform effort. The Task Group is charged with analyzing existing exemptions and immunities from federal antitrust laws and making recommendations as to their modification, if appropriate. In this connection, we have under consideration the extensive antitrust exemption conferred upon the insurance industry by the McCarran-Ferguson Act, and its effect on meaningful price competition.

As Chairman of the Task Group, I extend to you an invitation to meet with us, in order to discuss certain specific issues which we have identified in the attachment to this letter.

The meeting will be held [Monday, December 1, 1975, at 1:00 p.m.,] in the Andretta Conference Room, Department of Justice, which is located on 10th Street at Constitution Avenue, N.W., Washington, D. C. We would also appreciate your written comments on these specific issues. It would be very useful if you could bring such comments with you, but if this is not possible, we would very much like to have them before the holiday season.

In view of our very limited seating accommodations, I would appreciate your informing us as to whether or not you will be able to attend the meeting. Please confirm by calling Mrs. Dorsey or Mrs. Hill at (202)739-2512.

I look forward to meeting you at our round-table session.

Sincerely yours,

THOMAS E. KAUPER
Assistant Attorney General
Antitrust Division



ATTACHMENT

ISSUES FOR DISCUSSION
AT THE
ROUND-TABLE MEETINGS
ON INSURANCE

The study of the Presidential Task Group on Antitrust Immunities has raised a number of questions concerning the effectiveness of state insurance regulation in achieving reasonable prices, maximum efficiency, and innovation in the sale and distribution of property-liability ("P-L") insurance. These goals are relevant to both state regulation of insurance and federal antitrust policy.

In particular, the Task Group is concerned that the insurance rates may not be closely related to costs, that insurers are unnecessarily restricted in their ability to market their services, and that, as a consequence, the public is being denied the benefits of an efficient system for the sale and distribution of P-L insurance. The fundamental issue before the Task Group is whether unrestricted price competition enforced through the application of the federal antitrust laws is, at this time, a necessary and appropriate alternative to conflicting state regulation.



In this connection, we raise the following questions for your consideration:

(1) Has rate regulation generally produced a price structure reasonably related to costs, including a fair return on capital?

(2) Is there a significant difference between the extent of independent pricing by P-L insurers in "open competition" and "prior approval" states?

(3) Are the rates for life insurance and health insurance regulated by the states? If not, has competition provided effective controls over the price for such services?

(4) Can competitive forces in the sale of P-L insurance serve as an effective substitute for rate regulation in preventing (a) excessive rates, (b) inadequate rates, or (c) unfairly discriminatory rates?

(5) Identify and explain the specific lines of P-L insurance or conditions, if any, where price competition may not provide effective controls.

(6) Do the assigned risk and FAIR plans, or workman's compensation, require special consideration with respect to state controls in a fully competitive rate environment?



(7) Has rate regulation adversely affected the availability of P-L insurance, i.e., the ability of nonpreferred risks to obtain adequate insurance protection through standard channels at prevailing market rates, or at rates they can afford? Would a fully competitive rate structure significantly affect the availability of insurance?

(8) Would any necessary pooling of loss experience in P-L insurance (or, perhaps, mortality experience in life insurance and morbidity experience in health insurance) require a special exemption if the federal antitrust laws were to be fully applicable to rate making?

(9) Would full application of the federal antitrust laws to the pricing of insurance services have adverse effects on the ability of the industry to pool large risks?

(10) What is the justification, if any, for the perpetuation of various state restrictions on collective merchandising (e.g., "fictitious group" statutes, "guide line" legislation)?

(11) Has the relatively unrestricted collective merchandising of life and health insurance generally resulted in benefits to the consuming public?

(12) What are the impediments in the P-L field to an agency company converting its method of marketing, in part, to direct writing? What are the impediments to a direct



writer relying, in part, on independent agents to market their insurance?

(13) What is the justification, if any, for the perpetuation of state antirebate laws with respect to agents' commissions in a competitive rate environment?

(14) What is the relevance of investment income in the determination of rates by insurers?

(15) Would the application of the federal antitrust laws to the determination of rates affect regulation or the operations of life or health insurers?

(16) What bearing, if any, do state no-fault laws have on the effectiveness of price competition in controlling rates?



THE WHITE HOUSE

WASHINGTON

December 19, 1975

Dear Mr. Chairman:

At my hearing before your Committee on October 22, 1975, we discussed Executive Branch reporting and paperwork requirements. I am submitting the following information and selected examples for your consideration.

As you may know, in March of this year, G.A.O.'s Office of Program Analysis began a survey of recurring reports which the Executive Branch must transmit to Congress. Although this information has not yet been correlated, executive agencies have already identified more than 1,200 recurring reports per year, and G.A.O. estimates that the final total will exceed 1,700. The reports range from 1 to 600 pages; five legal size filing drawers are required to hold one copy of each report filed in FY 1975.

The President must submit 124 reports to Congress each year in addition to the 118 reports which are prepared by Departments for presidential signature and transmitted by him to Congress.

There are a number of reports now required by law to be filed by the Executive Branch which might be eliminated with no loss of information to Congress or the general public. A few examples follow.

The Department of Health, Education, and Welfare has one of the heaviest reporting burdens in the Executive Branch, and also imposes heavy reporting burdens on the public. For example, in FY 1975, HEW received 180.4 million responses from the general public on forms required to be filled out by the Federal Government. This corresponds to 43.6 million person hours, or 21,702 person years required for filling out governmental forms. Approximately 66% of this burden is attributable to the Social Security system's 28 million beneficiaries, and to hospital insurance claims.



HEW is also required to submit approximately 102 annual reports to Congress including:

1. The Report to Congress on the National Advisory Council on Health Research Facilities, (PHS Act, Sec. 710). Congress has not funded any activities since FY 1969 under this Act, the Advisory Council has not met since 1970, and the information transmitted in the Report could be shared in an appropriations hearing.
2. The Annual Report on the Administration of the Radiation Control for Health and Safety Act of 1968. In the 1975 Report the Department made the following recommendation:

"All of the information in the Report is available to Congress on a more immediate basis through Congressional Committees, Over-Sight and Budget Hearings. The Department and FDA have concluded that this Report serves little useful purpose and diverts Agency resources from more productive activities."
3. The Annual Report on the Administration of Sections 304-307 of the PHS Act. Most of the information from this report is also found in Congressional budget justifications, and pamphlets published by the National Center for Health Services Research and the National Center for Health Statistics.
4. NIH is required to submit 20 reports, 10 of which are annual. According to HEW recommendations now undergoing OMB review: "Two of the ten, the Annual Report of the National Heart and Lung Advisory Council and the Annual Report of the National Cancer Advisory Board (Appendix, page 11, No. 5 and 7), should continue as separate reports. However, the remaining eight could be covered in the annual report of all of the Institutes, the NIH Almanac. The eight reports are:

<u>Number</u>	<u>Title</u>
1	Report of the International Health Research Act of 1960
2	Sickle Cell Anemia Report



<u>Number</u>	<u>Title</u>
3	Cooley's Anemia Report
4	Annual Report of the Director of the National Heart and Lung Institute
6	Annual Report of the Director of the National Cancer Institute
14	Report on the Activities of Diabetes Research and Training Centers
15	Annual Report on Arthritis
18	Annual Report on Activities of Comprehensive Arthritis Centers."

Three report requirements of the Department of Housing and Urban Development might be eliminated.

1. No report has ever been prepared for the Status of Demonstration Projects Concerning Housing Abandonment, 84 Stat 1788, because Section 505(f) has never been implemented.
2. The Solar Energy Research and Demonstration Report, PL 91-609, Section 506(e) seems no longer necessary: Enactment of PL 93-409 means that no projects will be undertaken under 506(e).
3. ERDA's creation and reporting requirements may eliminate the need for the Federal Activities Under the Solar Heating and Cooling Demonstration Act of 1974, PL 93-409, Section 12(c).

Two reports required by Congress which GSA feels it does not need and which it has found no evidence of use by Congress are: The Report on Violations by Federal Agencies of the Federal Records Act of 1950, and the Report on Services Provided to State and Local Governments. Two reports on GSA procurement duplicate each other -- Procurement by Civilian Executive Agencies, and Report of GSA Procurement.

The Department of Transportation has recommended the following reports for discontinuance:

1. On approved projects re urban area traffic operations improvement programs (TOPICS)
2. On management improvements and review of positions vacated; required by Government Employees Salary Reform Act of 1964. (Semiannual)



3. On findings re performance of Federal-aid highway construction work that a method other than competitive-bid contract is in the public interest (Semiannual)
4. On effectiveness of anti-hijacking measures and recommendations (Semiannual)
5. Joint report by Secretaries of DOT and HUD on how Federal activity can assure that urban transportation systems best serve national transportation needs and urban development
6. On use of USCG housing authority
7. On activities under the High Speed Ground Transportation
8. On nonappropriated Fund Facility Construction
9. SLS Annual Report
10. On implementation of National Transportation Policy
11. On management improvements and review of positions vacated; required by Government Employees Salary Reform Act of 1964 (Semiannual)
12. On DOT personnel ("Whitten Amendment" review report)
13. On location of new offices and other facilities (to Dept. Agri.)
14. On effectiveness of anti-hijacking measures and recommendations. (Semiannual)
15. On extent to which Ready Reserve units and individuals have met training and mobilization readiness requirements in the FY
16. On disposal of foreign excess property; required by Federal Property and Administration Services Act of 1949 (Sec. 404)
17. On status of the FHWA Equal Employment Opportunity Program, its effectiveness, and progress made by the States and the FHWA in carrying out Section 22 of the 1968 Highway Act
18. On military incentive awards programs



The Department of Defense considers the following reports superfluous, too costly to prepare, or unused by Congress:

1. Report on Minor Construction
2. DOD Cataloging Standardization Program
3. DOD Consolidated Certification
4. Waiver of Requirement for Inclusion of the Examination of Records by Compt. Gen. Clause
5. Military Manpower Training Report
6. Annual Report of the Secretary of Defense on Reserve Forces
7. Independent Research and Development and Bid and Proposal Negotiations and Results
8. The Federal Voting Assistance Program (Number) Report
9. Medical and Dental Continuation Pay Program Report to the Congress
10. Separations from United States Service Academics
1 July 19-- - 30 June 19--
11. Section 603(d) Report, Annual Military Construction Authorization Act

Among the annual reports required to be filed by the Department of Labor is the Annual Report of Labor Statistics in the Territory of Hawaii, 29 U.S.C., Sec. 7. Hawaii, of course, has been a state since August 21, 1959, and all data for this report is also included in other Labor Department reports for the 50 states.

The National Science Foundation is required to prepare for Presidential review, signature and transmittal the Annual Federal Ocean Program Report, pursuant to PL 94-90, Sec. 3. This reporting requirement is the only remaining operative portion of PL 94-90. NSF officials feel there is no need for Presidential oversight of this report.

The National Endowment for the Arts and the National Endowment for the Humanities are bound by the statutes to issue separate reports. It has been claimed that it would be difficult to



combine these two reports because the two agencies are located at opposite ends of town. However, some accommodation might be worked out because GPO does the printing for both.

As you know, some lessening of Executive Level paperwork has already begun. By the end of 1975, the Environmental Protection Agency will have discontinued 33 public use repetitive type reports. Moreover, the Commission on Federal Paperwork has recommended that detailed quarterly wage reporting under IRS Form 941 (numbers 4,5,6, and 7) be reduced to once a year. The Secretary of Treasury and the Secretary of Health, Education, and Welfare estimate that this will eliminate 24 million pages of wage data annually, and save approximately \$250 million to business and \$20 million to Government. NASA issues about 2,000 on-going management reports a year, 400 of which are controlled and inspected by NASA headquarters. Although NASA feels that none of the 400 controlled reports could be reduced, they are trying to reduce the 1,600 reports from the field and expect 5 to 10 percent reduction by the end of next year.

The Domestic Council has recently concluded a series of six regional Public Forums, chaired by the Vice President, and designed to obtain information and ideas from State and local officials and from the public at large on national problems. A strong and recurring theme at every Forum was the paperwork mountain and the red tape jungle in Washington. As Governor Dan Evans of Washington put it on Tuesday, December 9, in Los Angeles: "If we have one message for the Federal Government today, it's 'Get off our backs, and let us do our job.'"

You are to be commended for your efforts to reduce the Federal paperwork burden. The reporting examples I have listed may be of some help in those efforts. As additional examples come to my attention, I will forward them to you. If I can be of further assistance in this regard, please feel free to call upon me.

Sincerely,

James M. Cannon
Assistant to the President
for Domestic Affairs

The Honorable Tom Steed
House of Representatives
Washington, D.C. 20515



THE WHITE HOUSE
WASHINGTON
December 24, 1975

INFORMATION

MEMORANDUM FOR THE PRESIDENT

THROUGH: JIM CANNON

FROM: EDWARD SCHULTS *ES*
PAUL MacAVOY *Paul MacAvoy*

SUBJECT: Current Regulatory Reform Efforts and Future
Initiatives of the Domestic Council Review Group

The Domestic Council Review Group on regulatory reform would like to meet with you to discuss our current progress. We need your personal views and guidance on our future efforts and would like to establish a better sense of your priorities in order to direct our limited resources to those areas that you want to pursue in the second year of regulatory reform. To continue the group's enthusiasm, we would suggest inviting a few members of the DCRG to participate in the meeting.

INITIAL PROGRAM

In your October 8, 1974 address to the Congress, you began the reform of government regulations by announcing a four-point program. First, you assigned the Council on Wage and Price Stability a watchdog role over inflationary costs of government actions and they continue in this role. Your 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 you 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.

CURRENT INITIATIVES

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CURRENT INITIATIVES

Since our initial efforts, two legislative proposals have been



passed by Congress. The Securities Acts Amendments that you signed in June restored competition in brokerage fees in the securities markets after nearly two hundred years of fixed fees. In addition, the repeal of the fair trade laws signed last week removed significant restrictions on offering discount prices to consumers.

Action on other initiatives is still pending:

Financial Institutions - A revised Financial Institutions Act was submitted to the 94th Congress. 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.

Railroad Revitalization Act - The final Senate version of the rail bill contains unacceptable financing provisions; however, it achieves most of the regulatory reform objectives of the Administration's bill. While the House version is more to our liking, the conference bill may still be a candidate for veto.

Aviation Act of 1975 - The bill has been introduced in both Houses. Hearings in the Senate and the House are expected early in the next session.

Motor Carrier Reform Act - The bill has been introduced in the House. Pending introduction of the bill in the Senate, the Department of Transportation has received a tentative commitment for Senate hearings in March or April next year.

New Natural Gas - The Senate has passed a measure dealing with expected shortages which included long-term deregulation of new natural gas. The House is also expected to include deregulation provisions in its bill. Prospects for passage are encouraging.

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 has prepared draft guidelines to reduce the number and the burden of Federal forms.



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: Patent reform legislation will improve and simplify procedures in the patent system and accelerate disclosures of technological advancements; simplification of detailed Coast Guard regulations and procedures established nearly 200 years ago will result in a savings of \$1 million; proposed modernization of the customs laws will reduce unnecessary paperwork and ease restrictions governing goods brought into the United States.

POSSIBLE FUTURE INITIATIVES

Health and Safety - Alternative approaches to achieving environmental, health and safety goals are currently under discussion. The range of possibilities include broadening exemptions for small business, improving cost-benefit analysis, and using taxes and charges as incentives as opposed to detailed agency specifications and enforcement of standards to achieve our health and safety goals.

Dependent Agencies - The regulatory activities of six Executive branch departments and agencies are currently under review. The agencies will be recommending both administrative and legislative reforms in the next month.

Administrative Procedure - The independent commissions will be reporting by Dec. 31, 1975 on their efforts to achieve improved administrative procedures and to give greater weight to the importance of competition in their decisions. DCRG will analyze their responses and will make recommendations on possible future actions including the possibility of a follow-up meeting with the commissioners.

Substantive Review of Regulation - More analyses of the costs and benefits of existing regulation could provide the basis for substantive changes in areas where legislation has not yet been proposed. DCRG will consider the desirability of submitting a comprehensive legislative proposal requiring a "zero-based" review of major regulatory agencies, both the independents and those in the Executive branch. The end result of such a review could be the elimination of regulatory overlap and duplication or the abolition of some regulatory agencies. Similar legislation is currently under consideration by the Congress.



Cable Communications - Federal Communications Commission regulations governing cable television have restricted the growth of the cable industry. DCRG has considered a number of options for reform. A status report on this matter has already been forwarded to you.

Robinson-Patman - This legislation raises consumer prices by making it difficult to offer discount prices on particular sales at the wholesale level. The DCRG has held public hearings on possible modification or repeal of the Act. A decision memorandum will be prepared for your review.

Insurance - Currently the McCarran-Ferguson Act allows States to give antitrust exemptions to insurance rate bureaus. Meetings have been held with industry groups, State regulators, and consumer groups to discuss the desirability and effects of restoring competition to insurance rate setting. Next steps in this area include analyzing the benefits of competition and weighing the effect Federal action might have on the State prerogatives with respect to insurance regulation.

Maritime - The maritime laws currently sanction rate setting by shipping conferences. A study of this issue is underway and an interim report to the DCRG is due in the next week.

In addition to the above initiatives, we are concerned with improving public understanding of the issue of regulatory reform. We are planning to meet with a number of leading business leaders, journalists and others who have given thought to the appropriate relationship between government and business. We would hope that such meetings would help us in formulating and explaining your program thereby increasing public support. We would like to meet with you soon after the first of the year and preliminary to scheduling these outside discussions.



THE WHITE HOUSE
WASHINGTON

February 2, 1976

MEMORANDUM FOR THE PRESIDENT

THROUGH: JAMES CANNON *J.C.*
FROM: EDWARD SCHMULTS *ES*
PAUL MacAVOY *P. MacAvoy*
SUBJECT: Regulatory Reform - Problems,
Perspectives and Opportunities

In response to our December 24, 1975 memorandum (Tab A), you agreed to meet with several members of the Domestic Council Review Group who believe the program is now at a threshold and that there are several alternative directions which we might take.

The regulatory reform program, as it now exists, is the result of a number of events and circumstances: The 1974 Economic Summit, Congressional proposals, our search for ways to curb inflation and the increased public attention generated by your earlier speeches on excess government intervention.

The job of implementing reform initiatives outlined in your October 8, 1974, speech brought together a number of people in the Executive Office and the Departments concerned with the regulated industries. Over the last year, the effort has become organized as the Domestic Council Review Group on Regulatory Reform ("DCRG"), consisting of White House and Department executives who devote a portion of their time to regulatory reform issues.

Progress to Date

Since reform efforts began, two legislative proposals have been passed by Congress and signed into law. The Securities Acts Amendments restored competition in securities market brokerage fees. The repeal of fair trade laws removed significant state restrictions on retail discount pricing.



Far-reaching proposals have been made for reform of railroad, airline and motor carrier regulation. Phased deregulation of natural gas prices has been proposed as well. Each of these proposals is expected to be the subject of vigorous debate in this Congress. The Financial Institutions Act was submitted and has been acted upon by the Senate. However, new tax laws remain to be considered in the Senate and House approval has to be obtained before the total package is completed.

We are now at a critical point in the program. Sources of difficulty are as follows:

- Consumer groups have only been lukewarm supporters of the program to date.
- The business community has only begun to assist in the systematic analysis and presentation of well-documented cases of excessive and costly regulation.
- Both the unions and the corporations in the regulated industries have begun well-financed campaigns against reform proposals in transportation and communications.
- More factual evidence is needed to support a credible argument against overzealous and unnecessarily costly health, environmental or safety standards.

Additional support must be forthcoming from business and consumer groups if substantial progress is to be made in passing even the legislation previously proposed. More support is necessary from newspapers, public opinion leaders and university thinkers, as well. This support can probably be obtained if special efforts are targeted on each of these groups. Also, we must better educate those who have not been party to the debate and devise a strategy to overcome existing and anticipated opposition.

Next Steps

1. We must secure enactment of legislative proposals already before the Congress which will increase competition in regulated industries such as banking, transportation and natural gas. This will take a concerted effort on the part of the responsible agencies and Executive office organizations.



Continuous Presidential reinforcement of the importance of these efforts will be needed. A special message to Congress on regulatory reform could provide substantial assistance.

2. We must expand the scope of the present program. Action is already underway to examine new areas of economic regulation such as the communications, insurance, and maritime industries and Robinson-Patman and develop appropriate recommendations for reform. Reform actions will take the form of specific legislative recommendations or Administration reports.

A noticeable gap in the present program exists in the areas of safety, environmental and health regulation. We must determine whether or not our social goals might be achieved through more efficient, less costly means.

Consideration should be given to expanding the organization of the regulatory reform group in order to get more work done. Should a Cabinet officer be named as the official head of the effort? How do we assure fair, more complete and more numerous hearings of the reform issues within the Administration? What organizational arrangement will best accommodate any new initiatives or new direction in the effort?

3. We must work to mobilize public support for the program. Cabinet members and other top level policy officials should be more actively involved in giving speeches and testimony in support of the program. It is important now to demonstrate that our efforts do not stop with simply reducing the size of government, but that you have a positive program to promote economic growth by restricting government to its proper role in the economy.

To that end, we are preparing a "white paper" which summarizes the philosophical assumptions underlying the reform effort and sets forth a clear statement of our long-term goals, such as: encouraging individual choice and initiative and reducing government intervention in the private sector; assuring efficient use of scarce economic resources and achievement of our social goals at minimum cost; directing government expenditures to the broadest possible public benefit; assuring efficient and equitable enforcement of government policies; and minimizing the ability of special interest groups to prevail against the public interest.



Such a paper would be used as the basis for informal discussions with several thoughtful leaders -- businessmen, journalists and academics -- to get their views on the direction of the program and how best to achieve and articulate our goals. We might also want to plan for a major Presidential address or several newspaper or magazine articles to explain our philosophy and generate a broader public understanding of the reform effort. Additional meetings should be scheduled with Congressional members and staff and the independent regulatory commissioners to demonstrate our continuing interest and obtain their thoughts on how best to achieve reform.

Future Directions

The DCRG is currently considering a two-phase plan to overcome opposition from the special interests and maintain our momentum. The first element is a short-term mobilization of individual agency reviews to improve the present regulatory process. The second phase would call for a broader, more fundamental review of government's role in the economy.

These efforts are intended to begin to shift the burden of proof away from those who advocate reform toward those who stubbornly resist any change in the status quo. The building of a broader constituency to support reform is essential if we are to counterbalance increasingly vocal opposition from the special interests.

Phase I. A fulltime, sustained effort would be undertaken to achieve administrative reform in each agency. This effort would be aimed at eliminating archaic and obsolete regulations, reducing regulatory lags, rewriting in understandable English all regulations and attempting to reconcile conflicting regulatory overlaps. The primary focus would not be on legislation and it would not greatly alter the degree and scope of regulation. However, it should generate broad public and Congressional support. Such an effort is what most people mean by getting government "off the backs" of the people.

Each agency head would designate a senior agency official and necessary fulltime staff to work with concerned public interest groups, e.g., committees of bar associations, labor organizations, consumer groups and others to revitalize the agency's regulation process. Some funding for outside assistance must be found. The key to such effort would be sustained Presidential interest and follow-up.



Phase II. The Administration would propose or support legislation calling for an Executive-Congressional phased review of key regulatory areas such as energy, communications, transportation, health, environment, and banking within a specified time table. The Executive branch would provide legislative proposals for reform and the Congress would be required to enact reform legislation.

The need for a longer-term examination of government's role in the economy was articulated most recently in the introduction of legislation sponsored by Senators Percy and Byrd. Whether or not such legislation is ultimately enacted, the development of a long-term agenda would have a number of benefits: It would provide a clear indication that we intend to examine all areas of government activity which have major economic effects. This would encourage the intellectual community to devote attention on upcoming issues and develop concrete data on alternative reform proposals. Announcing such an agenda now would also provide an organizing perspective to the efforts already underway in individual Department reviews and assure that the necessary data becomes available for the longer-term study. Such an approach would be oriented to results and less apt to be viewed as just another study effort.

Summary

If this plan appears reasonable, we will begin to explore more fully the means by which it could be implemented and outline the substantive elements of an agenda. Our forthcoming meeting is not intended to reach decisions on the specifics of the program, but rather to obtain a better sense of your priorities and an indication of the approaches and areas you feel should be more fully explored.

Attachment (Tab A)



THE WHITE HOUSE

WASHINGTON

February 12, 1976

MEMORANDUM FOR JIM CANNON

FROM: ED SCHMULTS

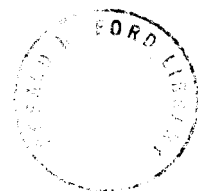
SUBJECT: Regulatory Problems

You asked for a reaction to the suggestion that a two-year moratorium be declared on new Federal regulations. While it may appear on the surface to be an appealing idea, I am concerned that, like most government-wide solutions, it would soon prove to be overly simplistic and unrealistic.

It is easy to understand the suggestor's concern over the proliferation of government regulations. However, his suggested moratorium, including the "loophole" clause might easily result in adding to the complexity of Federal regulations. Given the patchwork nature of our regulatory system, I'm afraid that we'd end up approving exemptions for everything to the point where we actually defeat the purpose of a moratorium.

I suggest that a better solution would be to more carefully examine the need for new regulations before they are put into effect. The inflation impact analysis does this in part. Continued efforts to achieve better economic analysis in the independent commissions and Executive agencies will also help. In addition, in the coming months we will be taking additional steps to encourage these agencies to examine existing regulations to eliminate those which are conflicting, duplicative, and unnecessary. For example, the DCRG is currently working on a plan to implement the President's suggested task force approach to improve existing regulatory procedures within the Executive Branch.

While this approach does not provide an "instant" solution, I feel it will produce much more satisfactory and lasting results in the long-run.



THE WHITE HOUSE

WASHINGTON

January 23, 1976

MEMORANDUM FOR: ED SCHMULTS
FROM: JIM CANNON *J. Cannon*
SUBJECT: Regulatory Problems

At the briefing with corporate executives yesterday afternoon, one suggested that the President and the Congress declare a moratorium on writing any new Federal regulations for two years.

The executive, whose name I did not get, said he felt that employers should be given an opportunity to "digest the regulations we have" before more and more Federal regulations are imposed.

He also commented that many regulations seem to be published in the Federal Register as trial balloons to test the reaction of regulatees, rather than as serious proposals.

What is your reaction to the suggestion that the President propose to the Congress such a moratorium for a stated period of time?

To provide for emergency situations, such a resolution might include a loophole to exempt specific matters that might be agreed upon at the time by the President and Congress.




THE WHITE HOUSE

WASHINGTON

February 17, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: ED SCHMULTS 

SUBJECT: Next Steps in the Administration's
Regulatory Reform Program

As you requested, I have combined the two cover memos on the regulatory reform program into one decision memo for the President. It recommends that he preside over a follow-up session with the heads of the independent regulatory commissions and lays out a schedule of next steps to be accomplished this spring.



THE WHITE HOUSE
WASHINGTON

February 24, 1976

MEMORANDUM FOR THE VICE PRESIDENT

THROUGH:

JAMES CANNON *JC*

FROM:

EDWARD SCHMULTS *ES*

SUBJECT:

Meetings on Regulatory Reform

As you recall, we talked briefly within the last ten days about the importance of improving the Administration's effectiveness in communicating to the public the purposes and benefits of our regulatory reform program.

At the present time, we are working to lay out some shorter range task forces which the President wants to see streamline the present regulatory procedures and make existing regulations more understandable to the average person. We are also developing thoughts on a longer range study to assess the ways in which the Federal government impacts the private economy and to develop useful legislative and administrative recommendations to lessen this burden wherever possible.

Since our discussion, I have talked to Jim Cannon, Bill Seidman, Jack Marsh and others to get their initial views. I believe, and they concur, that one very important step in designing our future regulatory program would be three meetings with small groups of private citizens to gain their insights. Specifically, we want to obtain their views on better ways to communicate the President's objectives and to test our notions on both the short and long range strategies necessary to accomplish this task.

We would expect about six thoughtful people who have an interest in the subject to attend each session. In order to elevate the importance of these meetings, to attract the most knowledgeable people, and to gain your valuable advice, I think it is very



important that you chair them. Attached is a tentative schedule proposal and a suggested list of invitees. We would appreciate your thoughts on additional people, and if you agree to preside, we will work with your staff and the White House Public Liaison Office to establish the most convenient times.

I had a nice talk with Heath Larry last week about the work of the Productivity Center. He explained their program and resources in some detail and we agreed to work closely with the Center in further developing the President's regulatory program.

Attachments

cc: Bill Baroody
Bill Seidman



Proposed Outline for White House Meetings
on Regulatory Reform

1. Objectives

- A. To gain the views of knowledgeable and concerned private citizens about ways in which the Administration can better communicate the purposes and benefits of the President's regulatory reform program to the public and;
- B. To ask for advice on suggested short and long range programs designed to improve our understanding of the effects of government intervention in the private economy.

2. When: Beginning the week of March 1

3. Where: Roosevelt Room

4. Time: Two hours in the morning,
preferably 10:00 - 12:00

5. Major Administration Participants

The Vice President, Chairman
James Cannon, Assistant to the President for Domestic Affairs
William Seidman, Assistant to the President for Economic Affairs
William Baroody, Assistant to the President for Public Liaison
Edward Schmults, Deputy Counsel to the President
Paul MacAvoy, Council of Economic Advisers

6. Possible Participants for Three Sessions

I

George Lodge
Kingman Brewster
Phillip Areeda
Herb Stein
George Shultz
Mark Green

II

Joseph Pechman
Anthony Downs
Arjay Miller/or
Kermit Gordon
John Gardner
Amitai Etzioni

III

Walter Wriston/ or
Gabriel Hauge
Richard Neustadt
Irving Kristol/ or
Daniel Bell
James Q. Wilson
Willard Wirtz/ or
Arthur Goldberg



THE WHITE HOUSE
WASHINGTON

Reg Reform

February 24, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

ED SCHMULTS

FROM:

JIM CONNOR *JEC*

SUBJECT:

Next Steps in the Administration's
Regulatory Reform Program

The President reviewed your memorandum of February 17 on the above subject and approved your recommendation for a follow-up meeting with the Commissions.

The following notation was also made:

"Good - proceed".

Please follow-up with appropriate action.

cc: Dick Cheney
Jerry Jones

