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OFFICE OF THE VICE PRESIDENT
WASHINGTON, D.C.

To: Roy Ash
From: _____
Date: 8/22 Time _____ a.m.
p.m.

I lean toward Brown
substitute or 1972 House
version which means essentially
Option ~~4~~

~~OPTION~~

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~~OPTION #4~~

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 19 1974

MEMORANDUM FOR THE PRESIDENT

THROUGH: ~~Roy D. Ash~~
FROM: Paul H. O'Neill *O'Neill*
SUBJECT: Consumer Protection Agency Legislation

It appears that the Senate, in the face of a prolonged filibuster, may recede from its more objectionable version of Consumer Protection Agency (CPA) legislation (S. 707) and accept a less objectionable, modified House bill (H.R. 13163).

Discussion and Options

As we understand it, such a modified House bill would represent an improvement on the bill that actually passed the House. The modified bill would not, however, fully incorporate the changes recommended by the previous Administration.

As we see it, there are four options available to you.

- Option 1: accept a modified House-passed bill;
- Option 2: accept the House-passed bill as is;
- Option 3: threaten veto of any consumer protection legislation; or
- Option 4: accept a modified House-passed bill only if the "Brown amendments" (attached) are incorporated.

We believe the major considerations are:

- a veto of a modified House version could be difficult to sustain. The original House bill passed by a vote of 293 to 94;
- the previous Administration identified a number of changes that would make H.R. 13163 acceptable. These changes are essentially incorporated in the "Brown amendments;"
- you have not taken a public position on consumer legislation. Thus, your options are open; and
- there is a substantial amount of opposition in the business community to any consumer protection legislation.

Recommendations: Option 4. Bill Timmons joins in this recommendation.

CONGRESSMAN BROWN'S PROPOSED AMENDMENTS TO H.R. 13163

CPA Access to Criminal Investigation Files. H.R. 13163 and S. 707 would force Federal agencies to produce such files for CPA review. The Brown amendment would safeguard these files.

Participation in Regulatory Agency Proceedings. The Brown amendment would not allow the CPA to become a party with equal rights to an agency prosecutor in that very small number of Federal adjudications in which a person, who has been formally charged with a violation of law, is being prosecuted before a Federal agency. H.R. 13163 and S. 707 would, in effect, allow CPA to be such a second prosecutor in most such situations, limiting the CPA's right to party status only where the forum agency, itself, directly imposes a fine or a forfeiture upon a person found guilty.

Exemptions from CPA. Under the Brown amendment, Labor relations would not be excluded from CPA advocacy and appeal as is the case in S. 707 and H.R. 13163. The Departments of Defense and State would be fully exempt from CPA intervention under the Brown amendment. H.R. 13163 and S. 707 only grant partial exemptions to these agencies.

CPA Access to Agency Interrogatory Powers. H.R. 13163 would force existing agencies to use their subpoena powers against individuals and companies which the CPA, alone, is investigating. S. 707 would give CPA independent interrogatory authority. The Brown substitute would allow existing Federal agencies to refuse any CPA requests for them to use their subpoena power to get information only of interest to CPA.

Judicial Representation. H.R. 13163 and S. 707 would allow CPA to hire and use its own trial lawyers and to proceed in court independently of the Justice Department. The Brown alternative would provide that the Justice Department would litigate court suits for the CPA, except where the Attorney General determines otherwise.

CPA Access to Trade Secrets and Confidential Information. The Brown amendment would allow Federal agencies to refuse CPA access to trade secrets and confidential information which were voluntarily given to these agencies. S. 707 and H.R. 13163 would force these agencies to disclose to the CPA virtually all such material given to the Federal Government in confidence.

Judicial Review of Agency Regulatory Decisions. H.R. 13163 and S. 707 would allow CPA to seek judicial review of virtually any action, including inaction of another agency, whether or not CPA appeared before it. The Brown amendment would allow CPA to seek judicial review only of another agency's decisions where that agency refused to grant CPA access to information to which CPA has a right under the bill or where CPA has been denied party status or any other CPA-requested opportunity to advocate consumer interests as provided in the bill.

THE WHITE HOUSE

WASHINGTON

August 23, 1974

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: ROY L. ASH
PAUL H. O'NEILL

FROM: JERRY H. JONES

SUBJECT: Consumer Protection
Agency Legislation

Your memorandum to the President of August 19 on the above subject has been reviewed and the following notation was made:

-- I lean toward Brown substitute or 1972
House version which means essentially Option #4.

Please follow-up with the appropriate action.

Thank you.

cc: Al Haig