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THE WHITE HOUSE

WASHINGTON

June 17, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: — FRANK G. ZARB
FROM: JAMES E. CONNOR
SUBJECT: Petroleum Marketing Practices Act

The President reviewed your memorandum of June 9 on the above subject and approved the following option:

Option 2 - Oppose the bill in its current form and offer an alternative approach that would more closely conform to the earlier Administration bill. The alternative would be offered as a compromise only if key members are willing to go along with an FEA proposal to decontrol the present price and allocation controls on gasoline.

Please follow-up with appropriate action.

cc: Dick Cheney

THE WHITE HOUSE
WASHINGTON

June 15, 1976

MR PRESIDENT:

Petroleum Marketing Practices
Act

The attached memorandum prepared by Frank Zarb was staffed to Messrs. Buchen, Cannon, Friedersdorf, Marsh, Scowcroft and Seidman.

They all concur with Frank Zarb's recommendation:

Option 2: Oppose the bill in its current form and offer an alternative approach that would more closely conform to the earlier Administration bill. The alternative would be offered as a compromise only if key members are willing to go along with an FEA proposal to decontrol the present price and allocation controls on gasoline.

Jim Connor




FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

June 9, 1976

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB 

SUBJECT: PETROLEUM MARKETING PRACTICES ACT

BACKGROUND

Over the past year, there have been a number of Congressional proposals designed to protect the business interests of retail gasoline dealers. Independent gasoline dealers have called for the enactment of such legislation in order to resolve complaints which fall into two related areas. First, dealers allege that gasoline suppliers are arbitrarily terminating or failing to renew the franchise and lease agreements of their retail outlets. Second, independent dealers contend that a number of major oil companies are converting their franchised dealerships to company-owned outlets, to the detriment of the franchised dealers.

The latest, and most complete, of these Congressional proposals is H. R. 13000, the "Petroleum Marketing Practices Act", introduced by Representative John Dingell (Michigan), Chairman of the House Interstate and Foreign Commerce Subcommittee on Energy and Power. Briefly, this bill would do three things:

Title I establishes very strict requirements as prerequisites for a franchisor electing not to renew a franchise contract. A franchisor would be forced to renew unless:

- o the franchisee has breached the terms of his franchise agreement and is so notified; or
- o there is notification and mutual agreement in writing to terminate the agreement.

This provision establishes severe legal remedies on behalf of the franchisee on the basis of the franchisor's mere failure to renew a lease or franchise agreement.

Title II would place a two-year moratorium on refiners from increasing the total volume of the gasoline they distribute through outlets they operate above the greater of the 1975 level for that firm or the 1972 average for all refiners.

Title III calls for gasoline octane disclosure requirements including the testing of automotive gasolines and postings on fuel pumps and new cars.

Last year when immediate decontrol was being proposed, the Administration sent up the "Gasoline Dealers' Protection Act of 1975", much more narrowly drawn than H.R. 13000. Our bill is based essentially on "good faith" relationships between the parties involved in a lease or franchise; i.e., the duty of each party to act in a fair and equitable manner toward each other. Although your advisors had doubts about the need for this bill, it was submitted as a way of insuring protection for gasoline dealers after price and allocation controls disappeared, as well as facilitating the removal of controls. As you know, the Congress chose to retain controls.

The Dingell Subcommittee is expected to begin markup of this legislation shortly. Chairman Dingell has made it clear that some form of dealer protection legislation must be enacted before our gasoline decontrol proposal will be accepted by the Congress (although this legislation does not guarantee approval of gasoline decontrol).

With this in mind, we have identified those objectionable provisions and areas of possible substantive compromise in H.R. 13000. The Energy Resources Council has considered this issue, has rejected outright support for the current bill, and presents the following options and agency positions:

OPTIONS

1. Oppose H.R. 13000 in its entirety.

PROS:

- The bill is unacceptable in its current form, as Titles I and II intrude directly into the marketplace. Title III is administratively burdensome and not particularly useful.

- The evidence to date has not revealed any widespread franchise or lease cancellations or nonrenewals. Even should abuses occur in this area, remedies could be sought through the basic contract rights of the parties involved.
- As currently written, Title I could protect inefficient and unprofitable service station dealers from cancellation of leases.

CONS:

- Staunch opposition would damage the chances for gasoline decontrol being approved by the Congress.
 - Opposition to the dealer protection concept could lead to criticism of the Administration for being inconsistent, since it did propose a dealer protection bill, although less restrictive than H.R. 13000.
2. Oppose the bill in its current form and offer an alternative approach that would more closely conform to the earlier Administration bill. The alternative would be offered as a compromise only if key Members are willing to go along with an FEA proposal to decontrol the present price and allocation controls on gasoline.
- . The alternative would delete the most onerous sections of Title I ("Failure to Renew" and "Trial Franchise Period") and substitute a "reasonable business judgment" approach to provide a level of protection for a franchisee against arbitrary cancellation while permitting flexibility to the franchisor to cancel a poor or marginal arrangement. Criteria for defining a "reasonable business judgment" decision to cancel or not renew a franchise would include items such as withdrawal from a marketing area, unprofitable or marginally profitable operations, significant decline in sales volume, franchisee involvement in fraudulent acts, or external forcing events (rezoning, catastrophic occurrence damaging property, proposed relocation of major highway, etc.).

- . Oppose Title II in its entirety because of its negative impact on competition and its aggressive intrusion into the marketplace.

- . Accept Title III, although attempt to improve it technically to remove excessive administrative burdens. Since this is the least significant section of the Bill, it could be a negotiable item to achieve the more important changes needed in Titles I and II.

PROS:

- Dealer protection legislation would improve the chances of obtaining gasoline decontrol.
- A workable bill in this area would provide a new legal remedy for the retail dealer where none exists at the present time.
- Without Administration input, the probability of an unsatisfactory bill being subject to Presidential veto is increased.

CONS:

- Regardless of Administration recommendations, the Committee may report out legislation which would be objectionable.
- Involves accepting some permanent Federal regulatory role in exchange for a possible removal of price and allocation controls.
- Chances of achieving all of the Administration's changes are low and could make our later opposition to the bill more difficult.

AGENCY RECOMMENDATIONS

Option 1: Treasury

Option 2: FEA, Commerce, Interior, OMB, State, ERDA,
CEA.

EPA takes no position.

PRESIDENTIAL DECISION

Option 1: _____

Option 2: WRA

STAFFING

June 15, 1976

MR PRESIDENT:

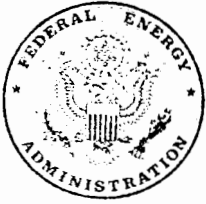
**Petroleum Marketing Practices
Act**

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They all concur with Frank Zarb's recommendation:

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Jim Connor



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

JUN 9 1976

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

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- Involves accepting some permanent Federal regulatory role in exchange for a possible removal of price and allocation controls.

- Chances of achieving all of the Administration's changes are low and could make our later opposition to the bill more difficult.

AGENCY RECOMMENDATIONS

Option 1: Treasury

Option 2: FEA, Commerce, Interior, OMB, State, ERDA,
CEA.

EPA takes no position.

PRESIDENTIAL DECISION

Option 1: _____

Option 2: _____

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 9, 1976

Time:

FOR ACTION:

cc (for information):

- ✓ Phil Buchan
- ✓ Jim Cannon
- ✓ Max Friedersdorf
- ✓ Jack Marsh
- ✓ Brent Scowcroft
- ✓ Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Friday, June 11

Time: 2 P.M.

SUBJECT:

Frank Zarb memo 6/9/76 re Petroleum Marketing Practices Act

ACTION REQUESTED:

___ For Necessary Action

X For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

Seidman - option 2
Friedersdorf - option 2
Cannon - option 2
Marsh - option 2
Buchan - option 2 plus comments
Scowcroft - Harms spoke to Zarb + go with FEH recommendation

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 9, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen	Jack Marsh
Jim Cannon	Brent Scowcroft
Max Friedersdorf	<u>Bill Seidman</u>

FROM THE STAFF SECRETARY

DUE: Date: Friday, June 11

Time: 2 P. M.

SUBJECT:

Frank Zarb memo 6/9/76 re Petroleum Marketing Practices Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

option 2
JS

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

WASHINGTON

June 10, 1976

MEMORANDUM FOR: JIM CONNOR
FROM: MAX FRIEDERSDORF *M.F.*
SUBJECT: Frank Zarb memo 6/9/76 re Petroleum
Marketing Practices Act

The Office of Legislative Affairs concurs with subject memo.

OPTION #2

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 9, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen	• Jack Marsh
Jim Cannon	Brent Scowcroft
Max Friedersdorf	Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Friday, June 11

Time: 2 P. M.

SUBJECT:

Frank Zarb memo 6/9/76 re Petroleum Marketing Practices Act

ACTION REQUESTED:

- | | |
|-------------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

I form option

Jim Connor

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE
WASHINGTON

Dec: 6/11 2:00
LOG NO.: JUN 9 1976

ACTION MEMORANDUM

Date: June 9, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen
Jim Cannon
Max Friedersdorf

• Jack Marsh
Brent Scowcroft
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Friday, June 11

Time: 2 P.M.

SUBJECT:

Frank Zarb memo 6/9/76 re Petroleum
Marketing Practices Act

ACTION REQUESTED:

- | | |
|-------------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 9, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen • Jack Marsh
 Jim Cannon Brent Scowcroft
 Max Friedersdorf Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Friday, June 11

Time: 2 P.M.

SUBJECT:

Frank Zarb memo 6/9/76 re Petroleum
 Marketing Practices Act

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

The Counsel's office supports Option 2 with the recommendation that consideration be given to limiting controls under the legislation to private remedies. We also note that there is a typographical error in the memo as noted on page 2.


 Edward Schmuls

6/14/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
 For the President