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THE WHITE HOUSE

WASHINGTON

March 25, 1975

MEMORANDUM FOR: JACK MARSH

THROUGH: MAX L. FRIEDERSDORF *M.L.F.*

FROM: WILLIAM T. KENDALL *WTK*

SUBJECT: S. 200, The Senate Consumer Protection Act of 1975

Summary

The Senate Committee on Government Operations, chaired by Senator Ribicoff (ranking Republican, Senator Percy) held mark-up sessions on March 10 and 12, 1975 and ordered reported, by a vote of 12 to 1, with amendments, S 200, the Consumer Protection Act of 1975.

The bill would establish an independent, nonregulatory Agency for Consumer Advocacy (ACA) to "speak for the interests of the consumer." The Agency will be authorized to advocate the interests of consumers before agencies and the courts and to provide the public with information about consumer matters.

According to its sponsors, the agency will have no regulatory or other legal power to force business enterprises to change their practices in any way. Rather, it will operate purely as a spokesman for the consumer before the other agencies that do make decisions affecting the consumer.

The bill would authorize \$15 million for fiscal year '76, \$20 million for fiscal year '77, and \$25 million for fiscal year '78.

Main Provisions of the Bill

Consumer Advocacy before Federal Agencies

The most important function of the Agency will be representation of consumer interests before Federal agencies and courts. In formal

adjudicatory or rule-making proceedings under the Administrative Procedure Act, the ACA is authorized to intervene as a party. In such cases the Agency will be subject to the same rules as any other person who is a party to the proceedings. The Act directs ACA to refrain from intervening in such proceedings unless necessary to represent adequately the interests of consumers.

When a Federal agency considers a decision affecting the interests of consumers outside a formal adjudicatory or rule-making proceeding, the Act gives the ACA the right to submit data and other relevant information or arguments. Such submission will be in either written or oral form and presented in such a way as not to hinder the agency's ability to act expeditiously.

Judicial Review

The ACA Administrator is also authorized, where necessary to protect consumer interests, to seek judicial review of an agency proceeding reviewable under law. He may also intervene in any judicial proceeding reviewing or enforcing such agency actions.

Clearinghouse for Complaints

The Agency is authorized to act as a clearinghouse for consumer complaints. ACA is required to notify businesses of all complaints concerning them, to give them an opportunity to respond, to transmit such complaints to appropriate Federal or state agencies, and to maintain an up-to-date file for public inspection of complaints together with any comments which are received.

Gathering Information

The ACA is authorized to obtain the information it needs through the submission of written interrogatories. However the Administrator may only use this authority where the information is not publicly available and cannot be obtained from another Federal agency. Moreover, he may not use this authority in an agency proceeding in which the Administrator has intervened. The interrogatories may only be enforced if the Administrator sustains the burden of showing that they are relevant to the purpose for which they are sought and are necessary to uncover consumer fraud or to protect consumer health or safety.

Information from Other Agencies

The ACA may obtain information from other agencies. But ACA is

expressly prohibited from collecting information from other agencies concerning national security, tax records, internal policy recommendations, and other similar private information. There are also strict limits on the Agency's right to have access to trade secrets. The Agency is prohibited from publicly disclosing any information obtained from another Federal agency if the information is exempted from such disclosure by the other agency.

Amendments

During the committee mark-up the following changes were made to S. 200, a copy of which is attached to this memorandum:

1. 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.
2. A change was adopted to make the "and" on page 21, line 19, "or."
3. A change was adopted on page 23, line 10, after "discovery of" to insert "consumer fraud or substantial economic injury."
4. 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.
5. 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.

Page 4

6. 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.
7. 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.
8. Senator Allen's proposal to strike the FCC exemption in Section 16, page 36, line 4, was adopted.
9. 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.

94TH CONGRESS
1ST SESSION

S. 200

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 1975

Mr. RIBICOFF (for himself, Mr. PERCY, Mr. JAVITS, Mr. MAGNUSON, Mr. CRANSTON, Mr. MOSS, Mr. WEICKER, Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROOKE, Mr. CASE, Mr. CLARK, Mr. CULVER, Mr. FORD, Mr. GRAVEL, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HASKELL, Mr. HATHFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUE, Mr. JACKSON, Mr. KENNEDY, Mr. LEAHY, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PROXMIRE, Mr. STAFFORD, Mr. STEVENSON, Mr. STONE, Mr. TUNNEY, and Mr. WILLIAMS) introduced the following bill; which was read twice and referred to the Committee on Government Operations

A BILL

To establish an independent consumer agency to protect and serve the interest of consumers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That this Act may be cited as the "Consumer Protection Act
4 of 1975".

5 STATEMENT OF FINDINGS AND PURPOSES

6 SEC. 2. (a) The Congress finds that the interests of
7 consumers are inadequately represented and protected within
8 the Federal Government; and that vigorous representation



1 and protection of the interests of consumers are essential to
 2 the fair and efficient functioning of a free market economy.
 3 Each year, as a result of this lack of effective representation
 4 before Federal agencies and courts, consumers suffer per-
 5 sonal injury, economic harm, and other adverse consequences
 6 in the course of acquiring and using goods and services
 7 available in the marketplace.

8 (b) The Congress therefore declares that—

9 (1) A governmental organization to represent the
 10 interests of consumers before Federal agencies and courts
 11 could help the agencies in the exercise of their statutory
 12 responsibilities in a manner consistent with the public interest
 13 and with effective and responsive government. It is the
 14 purpose of this Act to protect and promote the interests
 15 of the people of the United States as consumers of goods
 16 and services which are made available to them through
 17 commerce or which affect commerce by so establishing an
 18 independent Agency for Consumer Advocacy.

19 (2) It is the purpose of the Agency for Consumer
 20 Advocacy to represent the interests of consumers before
 21 Federal agencies and courts, receive and transmit consumer
 22 complaints, develop and disseminate information of interest
 23 to consumers, and perform other functions to protect and
 24 promote the interests of consumers. The authority of the
 25 Agency to carry out this purpose shall not be construed to

1 supersede, supplant, or replace the jurisdiction, functions, or
 2 powers of any other agency to discharge its own statutory
 3 responsibilities according to law.

4 (3) It is the purpose of this Act to promote protection
 5 of consumers with respect to the—

6 (A) safety, quality, purity, potency, healthfulness,
 7 durability, performance, repairability, effectiveness, de-
 8 pendability, availability, and cost of any real or personal
 9 property or tangible or intangible goods, services, or
 10 credit;

11 (B) preservation of consumer choice and a com-
 12 petitive market;

13 (C) prevention of unfair or deceptive trade
 14 practices;

15 (D) maintenance of truthfulness and fairness in the
 16 advertising, promotion, and sale by a producer, distrib-
 17 utor, lender, retailer, or other supplier of such property,
 18 goods, services, and credit;

19 (E) furnishing of full, accurate, and clear instruc-
 20 tions, warnings, and other information by any such
 21 supplier concerning such property, goods, services, and
 22 credit; and

23 (F) protection of the legal rights and remedies
 24 of consumers.

25 (4) This Act should be so interpreted by the executive

1 branch and the courts so as to implement the intent of Con-
 2 gress to protect and promote the interests of consumers, and
 3 to achieve the foregoing purposes.

4 ESTABLISHMENT

5 SEC. 3. (a) There is hereby established as an independ-
 6 ent agency of the United States within the executive branch
 7 of the Government the Agency for Consumer Advocacy. The
 8 Agency shall be directed and administered by an Adminis-
 9 trator who shall be appointed by the President, by and with
 10 the advice and consent of the Senate, for a term coterminous
 11 with the term of the President, not to exceed four years. The
 12 Administrator shall be an individual who by reason of train-
 13 ing, experience, and attainments is exceptionally qualified to
 14 represent the interests of consumers. There shall be in the
 15 Agency a Deputy Administrator who shall be appointed by
 16 the President, by and with the advice and consent of the
 17 Senate. The Deputy Administrator shall perform such func-
 18 tion, powers, and duties as may be prescribed from time to
 19 time by the Administrator and shall act for, and exercise the
 20 powers of, the Administrator during the absence or disability
 21 of, or in the event of a vacancy in the office of, the Adminis-
 22 trator. On the expiration of his term, the Administrator shall
 23 continue in office until he is reappointed or his successor is
 24 appointed and qualifies. The Administrator may be removed

1 by the President for inefficiency, neglect of duty or malfea-
 2 sance in office.

3 (b) No employee of the Agency while serving in such
 4 position may engage in any business, vocation, other em-
 5 ployment, or have other interests, inconsistent with his of-
 6 ficial responsibilities.

7 (c) There shall be in the Agency a General Counsel
 8 who shall be appointed by the Administrator.

9 (d) The Administrator is authorized to appoint within
 10 the Agency not to exceed five Assistant Administrators.

11 POWERS AND DUTIES OF THE ADMINISTRATOR

12 SEC. 4. (a) The Administrator shall be responsible for
 13 the exercise of the powers and the discharge of the duties of
 14 the Agency, and shall have the authority to direct and su-
 15 pervise all personnel and activities thereof.

16 (b) In addition to any other authority conferred upon
 17 him by this Act, the Administrator is authorized, in carrying
 18 out his functions under this Act, to—

19 (1) subject to the civil service and classification
 20 laws, select, appoint, employ, and fix the compensation
 21 of such officers and employees as are necessary to carry
 22 out the provisions of this Act and to prescribe their au-
 23 thority and duties;

24 (2) employ experts and consultants in accordance

1 with section 3109 of title 5, United States Code, and
 2 compensate individuals so employed for each day (in-
 3 cluding traveltime) at rates not in excess of the maxi-
 4 mum rate of pay for Grade GS-18 as provided in section
 5 5332 of title 5, United States Code, and while such ex-
 6 perts and consultants are so serving away from their
 7 homes or regular place of business, pay such employees
 8 travel expenses and per diem in lieu of subsistence at
 9 rates authorized by section 5703 of title 5, United States
 10 Code, for persons in Government service employed in-
 11 termittently;

12 (3) appoint advisory committees composed of such
 13 private citizens and officials of the Federal, State, and
 14 local governments as he deems desirable to advise him
 15 with respect to his functions under this Act, and pay
 16 such members (other than those regularly employed by
 17 the Federal Government) while attending meetings of
 18 such committees or otherwise serving at the request of
 19 the Administrator compensation and travel expenses at
 20 the rate provided for in paragraph (2) of this subsection
 21 with respect to experts and consultants: *Provided*, That
 22 all meetings of such committees shall be open to the
 23 public and interested persons shall be permitted to at-
 24 tend, appear before, or file statements with any advisory

1 committee, subject to such reasonable rules or regula-
 2 tions as the Administrator may prescribe;

3 (4) promulgate, in accordance with the applicable
 4 provisions of the Administrative Procedure Act, title 5,
 5 United States Code, such rules, regulations, and proce-
 6 dures as may be necessary to carry out the provisions of
 7 this Act, and assure fairness to all persons affected by the
 8 Agency's actions, and to delegate authority for the per-
 9 formance of any function to any officer or employee
 10 under his direction and supervision;

11 (5) utilize, with their consent, the services, per-
 12 sonnel, and facilities of other Federal agencies and of
 13 State, regional, local, and private agencies and instru-
 14 mentalities, with or without reimbursement therefor, and
 15 to transfer funds made available under this Act to Fed-
 16 eral, State, regional, local, and private agencies and
 17 instrumentalities as reimbursement for utilization of such
 18 services, personnel, and facilities;

19 (6) enter into and perform such contracts, leases,
 20 cooperative agreements, or other transactions as may
 21 be necessary to carry out the provisions of this Act, on
 22 such terms as the Administrator may deem appropriate,
 23 with any agency or instrumentality of the United States,

1 with any State, or any political subdivision thereof, or
 2 with any person;
 3 (7) accept voluntary and uncompensated services,
 4 notwithstanding the provisions of section 3679.(b) of the
 5 Revised Statutes (31 U.S.C. 665 (b));
 6 (8) adopt an official seal, which shall be judicially
 7 noticed;
 8 (9) establish such regional offices as the Adminis-
 9 trator determines to be necessary to serve the interests
 10 of consumers;
 11 (10) conduct conferences and hearings and other-
 12 wise secure data and expression of opinion;
 13 (11) accept unconditional gifts or donations of
 14 services, money, or property, real, personal, or mixed,
 15 tangible or intangible;
 16 (12) designate representatives to serve or assist on
 17 such committees as he may determine to be necessary to
 18 maintain effective liaison with Federal agencies and with
 19 State and local agencies carrying out programs and activi-
 20 ties related to the interests of consumers; and
 21 (13) perform such other administrative activities as
 22 may be necessary for the effective fulfillment of his duties
 23 and functions.

24 (c) Upon request made by the Administrator, each Fed-
 25 eral agency is authorized and directed to make its services,

1 personnel, and facilities available to the greatest practicable
 2 extent within its capability to the Agency in the performance
 3 of its functions.

4 (d) The Administrator shall prepare and submit simul-
 5 taneously to the Congress and the President, not later than
 6 April 1 of each year beginning April 1, 1976, an annual
 7 report, which shall include a description and analysis of—

8 (1) the activities of the Agency, including its rep-
 9 resentation of the interests of consumers before Federal
 10 agencies and Federal courts;

11 (2) the major Federal agency actions and Federal
 12 court decisions affecting the interests of consumers;

13 (3) the assistance given the Agency by other Fed-
 14 eral agencies in carrying out the purposes of this Act;

15 (4) the performance of Federal agencies and the
 16 adequacy of their resources in enforcing consumer pro-
 17 tection laws and in otherwise protecting the interests of
 18 consumers, and the prospective results of alternative
 19 consumer protection programs;

20 (5) the appropriation by Congress for the Agency,
 21 the distribution of appropriated funds for the current
 22 fiscal year, and a general estimate of the resource re-
 23 quirements of the Agency for each of the next three
 24 fiscal years; and

1 (6) the extent of participation by consumers in
 2 Federal agency activities, and the effectiveness of the
 3 representation of consumers before Federal agencies,
 4 together with recommendations for new legislation, new
 5 budget authority for the Agency, and administrative
 6 actions to deal with problems discussed in the report,
 7 to protect and represent the interests of consumers more
 8 effectively, and to carry out the purposes of this Act.

9 FUNCTIONS OF THE AGENCY

10 SEC. 5. (a) The Agency shall, in the performance of
 11 its functions, advise the Congress and the President as to
 12 matters affecting the interests of consumers; and shall pro-
 13 tect and promote the interests of the people of the United
 14 States as consumers of goods and services made available
 15 to them through the trade and commerce of the United
 16 States.

17 (b) The functions of the Administrator shall be to—

18 (1) represent the interests of consumers before
 19 Federal agencies and courts to the extent authorized by
 20 this Act;

21 (2) conduct and support research, studies, and
 22 testing to the extent authorized in section 9 of this Act;

23 (3) submit recommendations annually to the Con-
 24 gress and the President on measures to improve the

1 operation of the Federal Government in the protection
 2 and promotion of the interests of consumers;

3 (4) obtain information and publish and distribute
 4 material developed in carrying out his responsibilities
 5 under this Act in order to inform consumers of mat-
 6 ters of interest to them, to the extent authorized in
 7 this Act;

8 (5) receive, transmit to the appropriate agencies
 9 and persons, and make publicly available consumer
 10 complaints to the extent authorized in section 7 of
 11 this Act.

12 (6) conduct conferences, surveys, and investiga-
 13 tions, including economic surveys, concerning the needs,
 14 interests, and problems of consumers: *Provided*, That
 15 such conferences, surveys, or investigations are not
 16 duplicative in significant degree of similar activities con-
 17 ducted by other Federal agencies;

18 (7) cooperate with State and local governments
 19 and encourage private enterprise in the promotion and
 20 protection of the interests of consumers;

21 (8) keep the appropriate committees of Congress
 22 fully and currently informed of all the Agency's activi-
 23 ties, when asked or on his own initiative;

24 (9) publish, in language readily understandable by

1 consumers, a consumer register which shall set forth the
2 time, place, and subject matters of actions by Congress,
3 Federal agencies, and Federal courts, and other infor-
4 mation useful to consumers;

5 (10) encourage the adoption and expansion of effec-
6 tive consumer education programs;

7 (11) encourage the application and use of new
8 technology, including patents and inventions, for the
9 promotion and protection of the interests of consumers;

10 (12) encourage the development of informal dis-
11 pute settlement procedures involving consumers;

12 (13) encourage meaningful participation by con-
13 sumers in the activities of the Agency;

14 (14) promote the consumer interests of farmers in
15 obtaining a full supply of goods and services at a fair
16 and equitable price; and

17 (15) perform such other related activities as he
18 deems necessary for the effective fulfillment of his duties
19 and functions.

20 REPRESENTATION OF CONSUMERS

21 SEC. 6. (a) (1) Whenever the Administrator deter-
22 mines that the result of any Federal agency proceeding or
23 activity may substantially affect an interest of consumers, he
24 may as of right intervene as a party or otherwise participate
25 for the purpose of representing an interest of consumers, as

1 provided in paragraph (2) or (3) of this subsection. In
2 any proceeding, the Administrator shall refrain from inter-
3 vening as a party, unless he determines that such interven-
4 tion is necessary to represent adequately an interest of
5 consumers. The Administrator shall comply with Federal
6 agency statutes and rules of procedure of general applicabil-
7 ity governing the timing of intervention or participation in
8 such proceeding or activity and, upon intervening or partic-
9 ipating therein, shall comply with laws and agency rules
10 of procedure of general applicability governing the conduct
11 thereof. The intervention or participation of the Adminis-
12 trator in any Federal agency proceeding or activity shall
13 not affect the obligation of the Federal agency conducting
14 such proceeding or activity to assure procedural fairness to
15 all participants.

16 (2) Whenever the Administrator determines that the
17 result of any Federal agency proceeding which is subject
18 to the provisions of section 553, 554, 556, or 557 of title 5,
19 United States Code, relating to administrative procedure, or
20 which involves a hearing pursuant to the administrative
21 procedural requirements of any other statute, regulation, or
22 practice, or which is conducted on the record after oppor-
23 tunity for an agency hearing, or which provide for public
24 notice and opportunity for comment, may substantially affect
25 an interest of consumers, he may as of right intervene as a

1 party or otherwise participate for the purpose of representing
2 an interest of consumers in such proceeding.

3 (3) With respect to any Federal agency proceeding not
4 covered by paragraph (2) of this subsection, or any other
5 Federal agency activity, which the Administrator determines
6 may substantially affect an interest of consumers, the Ad-
7 ministrator may participate by presenting written or oral
8 submissions, and the Federal agency shall give full consid-
9 eration to such submissions of the Administrator. Such sub-
10 missions shall be presented in an orderly manner and with-
11 out causing undue delay. Such submission need not be
12 simultaneous with that of any other person.

13 (b) At such time as the Administrator determines to
14 intervene or participate in a Federal agency proceeding
15 under subsection (a) (2) of this section, he shall issue
16 publicly a written statement setting forth his findings under
17 subsection (a) (1), stating concisely the specific interest of
18 consumers to be protected. Upon intervening or participat-
19 ing he shall file a copy of his statement in the proceeding.

20 (c) To the extent that any person, if aggrieved, would
21 by law have such right, the Administrator shall have the
22 right, in accordance with the following provisions of this
23 subsection, to initiate or participate in any Federal court
24 proceeding involving a Federal agency action—

25 (1) The Administrator may, as of right, and in the

1 manner prescribed by law, initiate any civil proceeding in
2 a Federal court which involves the review of a Federal
3 agency action that the Administrator determines may sub-
4 stantially affect an interest of consumers. If the Administrator
5 did not intervene or otherwise participate in the Federal
6 agency proceeding or activity out of which such agency
7 action arose, the Administrator, before initiating a proceed-
8 ing to obtain judicial review, shall petition such agency for
9 rehearing or reconsideration thereof, if the statutes or rules
10 governing such agency specifically authorize rehearing or
11 reconsideration. Such petition shall be filed within sixty days
12 after the Federal agency action involved, or within such
13 longer period as may be allowed by applicable procedures.
14 The Administrator may immediately initiate a judicial re-
15 view proceeding if the Federal agency does not finally act
16 upon such petition within sixty days after the filing thereof,
17 or at such earlier time as may be necessary to preserve the
18 Administrator's right to obtain effective judicial review of
19 the Federal agency action. Where the Administrator did not
20 intervene or otherwise participate in the Federal agency
21 proceeding or activity out of which the judicial proceeding
22 arises, the court shall determine whether the Administrator's
23 initiation of such judicial proceeding pursuant to this sub-
24 section would impede the interests of justice.

25 (2) The Administrator may, as of right, and in the



1 manner prescribed by law, intervene or otherwise partici-
 2 pate in any civil proceeding in a Federal court which in-
 3 volves the review or enforcement of a Federal agency
 4 action that the Administrator determines may substantially
 5 affect an interest of consumers.

6 (3) The initiation or other participation of the Ad-
 7 ministrator in a judicial proceeding pursuant to this sub-
 8 section shall not alter or affect the scope of review otherwise
 9 applicable to the agency action involved.

10 (d) When the Administrator determines it to be in the
 11 interest of consumers, he may request the Federal agency
 12 concerned to initiate such proceeding, or to take such other
 13 action, as may be authorized by law with respect to such
 14 agency. If the Federal agency fails to take the action re-
 15 quested, it shall promptly notify the Administrator of the
 16 reasons therefor and such notification shall be a matter of
 17 public record.

18 (e) Appearances by the Agency under this Act shall
 19 be in its own name and shall be made by qualified representa-
 20 tives designated by the Administrator.

21 (f) In any Federal agency proceeding in which the
 22 Administrator is intervening or participating pursuant to
 23 subsection (a) (2) of this section, the Administrator is
 24 authorized to request the Federal agency to issue, and the
 25 Federal agency shall, on a statement or showing (if such

1 statement or showing is required by the Federal agency's
 2 rules of procedure) of general relevance and reasonable
 3 scope of the evidence sought, issue such orders, as are
 4 authorized by the Federal agency's statutory powers, for the
 5 copying of documents, papers, and records, summoning of
 6 witnesses, production of goods and papers, and submission of
 7 information in writing.

8 (g) The Administrator is not authorized to inter-
 9 vene in proceedings or actions before State or local agencies
 10 and courts.

11 (h) Nothing in this section shall be construed to prohibit
 12 the Administrator from communicating with Federal, State,
 13 or local agencies and courts at any time and in any manner
 14 consistent with law or agency rules.

15 (i) Each Federal agency shall review its rules of pro-
 16 cedure of general applicability, and, after consultation with
 17 the Administrator, issue any additional rules which may be
 18 necessary to provide for the Administrator's orderly inter-
 19 vention or participation, in accordance with this section, in
 20 its proceedings and activities which may substantially affect
 21 the interests of consumers. Each Federal agency shall issue
 22 rules determining the circumstances under which the Admin-
 23 istrator may be allowed to make simultaneous submissions
 24 under subsection (a) (3) of this section. Any additional

1 rules adopted pursuant to the requirements of this subsection
2 shall be published in proposed and final form in the Federal
3 Register.

4 (j) The Administrator is authorized to represent an
5 interest of consumers which is presented to him for his con-
6 sideration upon petition in writing by a substantial number
7 of persons or by any organization which includes a substan-
8 tial number of persons. The Administrator shall notify the
9 principal sponsors of any such petition within a reasonable
10 time after receipt of any such petition of the action taken or
11 intended to be taken by him with respect to the interest of
12 consumers presented in such petition. If the Administrator
13 declines or is unable to represent such interest, he shall notify
14 such sponsors and shall state his reasons therefor.

15 CONSUMER COMPLAINTS

16 SEC. 7. (a) Whenever the Administrator receives from
17 any person any complaint or other information which
18 discloses—

19 (1) an apparent violation of law, agency rule or
20 order, or a judgment, decree, or order of a State or Fed-
21 eral court relating to an interest of consumers; or

22 (2) a commercial, trade, or other practice which is
23 detrimental to an interest of consumers;

24 he shall, unless he determines that such complaint or infor-
25 mation is frivolous, promptly transmit such complaint or

1 information to any Federal, State, or local agency which has
2 the authority to enforce any relevant law or to take appro-
3 priate action. Federal agencies shall keep the Administrator
4 informed to the greatest practicable extent of any action
5 which they are taking on complaints transmitted by the
6 Administrator pursuant to this section.

7 (b) The Administrator shall promptly notify producers,
8 distributors, retailers, lenders, or suppliers of goods and serv-
9 ices of all complaints of any significance concerning them
10 received or developed under this section unless the Adminis-
11 trator determines that to do so is likely to prejudice or im-
12 pede an action, investigation, or prosecution concerning an
13 alleged violation of law.

14 (c) The Administrator shall maintain a public docu-
15 ment room containing, for public inspection and copying
16 (without charge or at a reasonable charge, not to exceed
17 cost), an up-to-date listing of all consumer complaints of
18 any significance which the Agency has received, arranged
19 in meaningful and useful categories, together with annota-
20 tions of actions taken in response thereto. Unless the Admin-
21 istrator, for good cause, determines not to make any specific
22 complaint available, complaints listed shall be made avail-
23 able for public inspection and copying: *Provided, That—*

24 (1) the party complained against has had a reason-
25 able time to comment on such complaint and such

comment, when received, is displayed together with the complaint;

(2) the agency to which the complaint has been referred has had a reasonable time to notify the Administrator what action, if any, it intends to take with respect to the complaint;

(3) the complaint's identity is to be protected when he has requested confidentiality. Whenever the complainant requests that his identity be protected, or the complaint is unsigned, the Administrator shall place an appropriate designation on the complaint before making it available to the public.

CONSUMER INFORMATION AND SERVICES

SEC. 8. (a) In order to carry out the purposes of this Act the Administrator shall develop on his own initiative, and, subject to the other provisions of this Act, gather from other Federal agencies and non-Federal sources, and disseminate to the public in such manner, at such times, and in such form as he determines to be most effective, information, statistics, and other data including, but not limited to, matter concerning—

(1) the functions and duties of the Agency;

(2) consumer products and services;

(3) problems encountered by consumers generally, including annual reports on interest rates and commer-

cial and trade practices which may adversely affect consumers; and

(4) notices of Federal hearings, proposed and final rules and orders, and other pertinent activities of Federal agencies that affect consumers.

(b) All Federal agencies which, in the judgment of the Administrators, possess information which would be useful to consumers are authorized and directed to cooperate with the Administrator in making such information available to the public.

STUDIES

SEC. 9. The Administrator is authorized to conduct, support, and assist research, studies, plans, investigations, conferences, demonstration projects, and surveys concerning the interests of consumers.

INFORMATION GATHERING

SEC. 10. (a) (1) The Administrator is authorized, to the extent required to protect the health or safety of consumers, or to discover consumer fraud and substantial economic injury to consumers, to obtain data by requiring any person engaged in a trade, business, or industry which substantially affects interstate commerce and whose activities he determines may substantially affect an interest of consumers, by general or specific order setting forth with particularity the consumer interest involved and the purposes

1 for which the information is sought, to file with him a report
 2 or answers in writing to specific questions concerning such ac-
 3 tivities and other related information. Nothing in this sub-
 4 section shall be construed to authorize the inspection or
 5 copying of documents, papers, books, or records, or to compel
 6 the attendance of any person. Nor shall anything in this sub-
 7 section require the disclosure of information which would
 8 violate any relationship privileged according to law. Where
 9 applicable, chapter 35 of title 44, United States Code, shall
 10 govern requests for reports under this subsection in the
 11 manner in which independent Federal regulatory agencies are
 12 subject to its provisions.

13 (2) The Administrator shall not exercise the authority
 14 under paragraph (1) of this subsection if the information
 15 sought—

16 (A) is available as a matter of public record; or

17 (B) can be obtained from another Federal agency
 18 pursuant to subsection (b) of this section; or

19 (C) is for use in connection with his intervention in
 20 any agency proceeding against the person to whom the
 21 interrogatory is addressed if the proceeding is pending
 22 at the time the interrogatory is requested.

23 (3) In the event of noncompliance with any interroga-
 24 tories or requests submitted to any person by the Adminis-
 25 trator pursuant to paragraph (1), any district court of the

1 United States within the jurisdiction of which such person
 2 is found, or has his principal place of business, shall issue
 3 an order, on conditions and with such apportionment of costs
 4 as it deems just, requiring compliance with a valid order of
 5 the Administrator. The district court of the United States
 6 shall issue such an order upon petition by the Administrator
 7 or on a motion to quash, and upon the Administrator's car-
 8 rying the burden of proving in court that such order is for
 9 information that may substantially affect the health or safety
 10 of consumers or may be necessary in the discovery of sub-
 11 stantial economic injury to consumers, and is relevant to the
 12 purposes for which the information is sought, unless the per-
 13 son to whom the interrogatory or request is addressed shows
 14 that answering such interrogatory or request will be un-
 15 necessarily or excessively burdensome.

16 (4) The Administrator shall not have the power to re-
 17 quire the production or disclosure of any data or other in-
 18 formation under this subsection from any small business.
 19 For the purpose of this paragraph, "small business" means
 20 any person that (A) together with its affiliates, including
 21 any other person with whom such person is associated by
 22 means of a franchise agreement, does not have assets exceed-
 23 ing \$7,500,000, does not have net worth in excess of \$2,500,-
 24 000, and does not have an average net income, after Federal
 25 income taxes, for the preceding two years in excess of \$250,-

1 000 (average net income to be computed without benefit of
 2 any carryover loss), and (B) has had over the preceding
 3 two years an average number of full-time employees not in
 4 excess of twenty-five. Nothing in this paragraph shall be con-
 5 strued to prohibit the Administrator from requesting the vol-
 6 untary production of any such data or information. Notwith-
 7 standing this paragraph, the Administrator shall have the
 8 power, pursuant to paragraph 1, to obtain information from
 9 a small business if necessary to prevent imminent and sub-
 10 stantial danger to the health or safety of consumers and the
 11 Administrator has no other effective means of action.
 12 The Administrator shall, not later than eighteen months
 13 after the date on which this Act becomes effective, submit
 14 to Congress a detailed report with respect to the effect of the
 15 limitations contained in this paragraph on the purposes of
 16 this Act, for such action as the Congress may deem
 17 appropriate.

18 (b) Upon written request by the Administrator, each
 19 Federal agency is authorized and directed to furnish or allow
 20 access to all documents, papers, and records in its possession
 21 which the Administrator deems necessary for the perform-
 22 ance of his functions and to furnish at cost copies of specified
 23 documents, papers, and records. Notwithstanding this sub-
 24 section, a Federal agency may deny the Administrator ac-
 25 cess to and copies of—

1 (1) information classified in the interest of national
 2 defense or national security by an individual authorized
 3 to classify such information under applicable Executive
 4 order or statutes, and restricted data whose dissemina-
 5 tion is controlled pursuant to the Atomic Energy Act
 6 (42 U.S.C. 2011 et seq.);

7 (2) policy and prosecutorial recommendations by
 8 Federal agency personnel intended for internal agency
 9 use only;

10 (3) information concerning routine executive and
 11 administrative functions which is not otherwise a matter
 12 of public record;

13 (4) personnel and medical files and similar files the
 14 disclosure of which would constitute a clearly unwar-
 15 ranted invasion of personal privacy;

16 (5) information which such Federal agency is ex-
 17 pressly prohibited by law from disclosing to another
 18 Federal agency, including, but not limited to, such ex-
 19 pressly prohibited information contained in or related
 20 to examination, operating, or condition reports concern-
 21 ing any individual financial institution prepared by, on
 22 behalf of, or for the use of an agency responsible for reg-
 23 ulation or supervision of financial institutions;

24 (6) information which would disclose the financial

1 condition of individuals who are customers of financial
2 institutions; and

3 (7) trade secrets and commercial or financial in-
4 formation described in section 552 (b) (4) of title 5,
5 United States Code—

6 (A) obtained prior to the effective date of this
7 Act by a Federal agency, if the agency had agreed
8 to treat and has treated such information as privi-
9 leged or confidential and states in writing to the Ad-
10 ministrator that, taking into account the nature of
11 the assurances given, the character of the informa-
12 tion requested, and the purpose, as stated by the Ad-
13 ministrator, for which access is sought, to permit
14 such access would constitute a breach of faith by the
15 agency; or

16 (B) obtained subsequent to the effective date of
17 this Act by a Federal agency, if the agency has
18 agreed in writing as a condition of receipt to treat
19 such information as privileged or confidential, on the
20 basis of its reasonable determination set forth in
21 writing that such information was not obtainable
22 without such an agreement and that failure to ob-
23 tain such information would seriously impair per-
24 formance of the agency's function.

25 Before granting the Administrator access to trade secrets

1 and commercial or financial information described in section
2 552 (b) (4) of title 5, United States Code, the agency shall
3 notify the person who provided such information of its in-
4 tention to do so and the reasons therefor, and shall, notwith-
5 standing section 21 (b), afford him a reasonable opportunity,
6 not to exceed ten days, to comment or seek injunctive relief.
7 Where access to information is denied to the Administrator
8 by a Federal agency pursuant to this subsection, the head
9 of the agency and the Administrator shall seek to find a
10 means of providing the information in such other form, or
11 under such conditions, as will meet the agency's objections.

12 (c) Consistent with the provisions of section 7213 of
13 the Internal Revenue Code of 1954 (26 U.S.C. 7213),
14 nothing in this Act shall be construed as providing for or au-
15 thorizing any Federal agency to divulge or to make known
16 in any manner whatever to the Administrator, solely from an
17 income tax return, the amount or source of income, profits,
18 losses, expenditures, or any particular thereof, or to permit
19 any Federal income tax return filed pursuant to the provi-
20 sions of the Internal Revenue Code of 1954, or copy thereof,
21 or any book containing any abstracts or particulars thereof,
22 to be seen or examined by the Administrator, except as pro-
23 vided by law.

24 LIMITATIONS ON DISCLOSURES

25 SEC. 11. (a) No officer or employee of the Agency

1 shall disclose to the public or to any State or local agency—

2 (1) any information (other than complaints pub-
3 lished pursuant to section 7 of this Act) in a form which
4 would reveal trade secrets and commercial or financial
5 information as described in section 552 (b) (4) of title
6 5, United States Code, obtained from a person and privi-
7 leged or confidential unless the Administrator determines
8 that the release of such information is necessary to pro-
9 tect health or safety; or

10 (2) any information which was received solely
11 from a Federal agency when such agency has notified
12 the Administrator that the information is within the
13 exceptions stated in section 552 (b) of title 5, United
14 States Code, and the Federal agency has determined
15 that the information should not be made available to
16 the public; except that if such Federal agency has spec-
17 ified that such information may be disclosed in a par-
18 ticular form or manner, such information may be dis-
19 closed in such form or manner.

20 (b) The following additional provisions shall govern
21 the release of information pursuant to any authority con-
22 ferred by this Act, except information released through the
23 presentation of evidence in a Federal agency or court pro-
24 ceeding pursuant to section 6—

25 (1) The Administrator, in releasing information

1 concerning consumer products and services, shall deter-
2 mine that (A) such information, so far as practicable,
3 is accurate, and (B) no part of such information is pro-
4 hibited from disclosure by law. The Administrator shall
5 comply with any notice by a Federal agency pursuant
6 to section 11 (a) (2) that the information should not be
7 made available to the public or should be disclosed only
8 in a particular form or manner.

9 (2) In the dissemination of any test results or other
10 information which directly or indirectly disclose product
11 names, it shall be made clear that (A) not all products
12 of a competitive nature have been tested, if such is the
13 case, and (B) there is no intent or purpose to rate prod-
14 ucts tested over those not tested or to imply that those
15 tested are superior or preferable in quality over those
16 not tested.

17 (3) Notice of all changes in, or any additional
18 information which would affect the fairness of, informa-
19 tion previously disseminated to the public shall be
20 promptly disseminated in a similar manner.

21 (4) Where the release of information is likely to
22 cause substantial injury to the reputation or good will of
23 a person, the Administrator shall notify such person of
24 the information to be released and afford him a reason-
25 able opportunity, not to exceed ten days, to comment or

1 seek injunctive relief, unless immediate release is neces-
 2 sary to protect the health or safety of the public. The
 3 district courts of the United States shall have jurisdiction
 4 over any action brought for injunctive relief under this
 5 subsection, or under section 10 (b) (7).

6 (c) In any suit against the Administrator to obtain
 7 information pursuant to the provisions of section 552 of title
 8 5, United States Code, where the sole basis for the refusal to
 9 produce the information is that another Federal agency has
 10 specified that the documents not be disclosed in accordance
 11 with the provisions of subsection (a) (2) of this section, the
 12 other Federal agency shall be substituted as the defendant,
 13 and the Administrator shall thereafter have no duty to defend
 14 such suit.

15 NOTICE

16 SEC. 12. (a) Each Federal agency considering any
 17 action which may substantially affect an interest of consum-
 18 ers shall, upon request by the Administrator, notify him of
 19 any proceeding or activity at such time as public notice is
 20 given.

21 (b) Each Federal agency considering any action which
 22 may substantially affect an interest of consumers shall, upon
 23 specific request by the Administrator, promptly provide
 24 him with—

25 (1) a brief status report which shall contain a

1 statement of the subject at issue and a summary of pro-
 2 posed measures concerning such subject; and

3 (2) such other relevant notice and information, the
 4 provision of which would not be unreasonably burden-
 5 some to the agency and which would facilitate the Ad-
 6 ministrator's timely and effective intervention or partici-
 7 pation under section 6 of this Act.

8 (c) Nothing in this section shall affect the authority
 9 or obligations of the Administrator or any Federal agency
 10 under section 10 (b) of this Act.

11 SAVING PROVISIONS

12 SEC. 13. (a) Nothing in this Act shall be construed to
 13 affect the duty of the Administrator of General Services to
 14 represent the interests of the Federal Government as a con-
 15 sumer pursuant to section 201 (a) (4) of the Federal Prop-
 16 erty and Administrative Services Act of 1949 (40 U.S.C.
 17 481 (a) (4)).

18 (b) Nothing in this Act shall be construed to relieve
 19 any Federal agency of any responsibility to protect and
 20 promote the interests of consumers.

21 (c) Nothing in this Act shall be construed to limit the
 22 right of any consumer or group or class of consumers to
 23 initiate, intervene in, or otherwise participate in any Federal
 24 agency or court proceeding or activity, nor to require any
 25 petition or notification to the Administrator as a condition

1 precedent to the exercise of such right, nor to relieve any
 2 Federal agency or court of any obligation, or affect its discre-
 3 tion, to permit intervention or participation by a consumer
 4 or group or class of consumers in any proceeding or activity.

5 DEFINITIONS

6 SEC. 14. As used in this Act, unless the context other-
 7 wise requires—

8 (1) "Administrator" means the Administrator of
 9 the Agency for Consumer Advocacy;

10 (2) "Agency" means the Agency for Consumer
 11 Advocacy;

12 (3) "agency action" includes the whole or part
 13 of an agency "rule," "order," "license," "sanction,"
 14 "relief," as defined in section 551 of title 5, United
 15 States Code, or the equivalent or the denial thereof, or
 16 failure to act;

17 (4) "agency activity" means any agency process,
 18 or phase thereof, conducted pursuant to any authority or
 19 responsibility under law, whether such process is formal
 20 or informal;

21 (5) "agency proceeding" means agency "rulemak-
 22 ing", "adjudication", or "licensing", as defined in section
 23 551 of title 5, United States Code;

24 (6) "commerce" means commerce among or be-

1 tween the several States and commerce with foreign
 2 nations;

3 (7) "consumer" means any individual who uses,
 4 purchases, acquires, attempts to purchase or acquire, or
 5 is offered or furnished any real or personal property,
 6 tangible or intangible goods, services, or credit for per-
 7 sonal, family, agricultural, or household purposes;

8 (8) "Federal agency" or "agency" means "agency"
 9 as defined in section 551 of title 5, United States Code.
 10 The term shall include the United States Postal Service,
 11 the Postal Rate Commission, and any other authority
 12 of the United States which is a corporation and which
 13 receives any appropriated funds, and, unless otherwise
 14 expressly provided by law, any Federal agency estab-
 15 lished after the date of enactment of this Act, but shall
 16 not include the Agency for Consumer Advocacy;

17 (9) "Federal court" means any court of the United
 18 States, including the Supreme Court of the United
 19 States, any United States court of appeals, any United
 20 States district court established under chapter 5 of title
 21 28, United States Code, the District Court of Guam, the
 22 District Court of the United States Customs Court, the
 23 United States Court of Customs and Patent Appeals, the

1 United States Tax Court, and the United States Court
2 of Claims;

3 (10) "individual" means a human being;

4 (11) "interest of consumers" means any health,
5 safety, or economic concern of consumers involving real
6 or personal property, tangible or intangible goods, serv-
7 ices, or credit, or the advertising or other description
8 thereof, which is or may become the subject of any busi-
9 ness, trade, commercial, or marketplace offer or transac-
10 tion affecting commerce, or which may be related to any
11 term or condition of such offer or transaction. Such offer
12 or transaction need not involve the payment or promise
13 of a consideration;

14 (12) "participation" includes any form of submis-
15 sion;

16 (13) "person" includes any individual, corporation,
17 partnership, firm, association, institution, or public or
18 private organization other than a Federal agency;

19 (14) "State" means each of the several States of
20 the United States the District of Columbia, the Com-
21 monwealth of Puerto Rico, the Virgin Islands, Canal
22 Zone, Guam, American Samoa, and the Trust Territory
23 of the Pacific Islands; and

24 (15) "submission" means participation through the

1 presentation or communication of relevant evidence,
2 documents, arguments, or other information.

3 CONFORMING AMENDMENT

4 SEC. 15. (a) Section 5314 of title 5, United States
5 code, is amended by adding at the end thereof the follow-
6 ing:

7 "(60) Administrator, Agency for Consumer Ad-
8 vocacy."

9 (b) Section 5315 of such title is amended by adding
10 at the end thereof the following:

11 "(100) Deputy Administrator, Agency for Con-
12 sumer Advocacy."

13 (c) Section 5316 of title 5, United States Code, is
14 amended by adding at the end thereof the following new
15 paragraphs:

16 "(135) General Counsel, Agency for Consumer
17 Advocacy."

18 "(136) Assistant Administrators, Agency for Con-
19 sumer Advocacy."

20 EXEMPTIONS

21 SEC. 16. (a) This Act shall not apply to the Central
22 Intelligence Agency, the Federal Bureau of Investigation, or
23 the National Security Agency, or the national security or in-
24 telligence functions (including related procurement) of the

1 Departments of State and Defense (including the Depart-
 2 ments of the Army, Navy, and Air Force) and the military
 3 weapons program of the Energy Research and Develop-
 4 ment Administration, to any agency action in the Federal
 5 Communications Commission with respect to the renewal
 6 of any radio or television broadcasting license, or to a
 7 labor dispute within the meaning of section 13 of the Act
 8 entitled "An Act to amend the Judicial Code and to define
 9 and limit the jurisdiction of courts sitting in equity, and for
 10 other purposes", approved March 23, 1932 (29 U.S.C. 113)
 11 or of section 2 of the Labor Management Relations Act (29
 12 U.S.C. 152), or to a labor agreement within the meaning
 13 of section 201 of the Labor Management Relations Act, 1947
 14 (29 U.S.C. 171).

15 (b) Nothing in this Act shall be construed, and no au-
 16 thority in this Act shall authorize, the Administrator to
 17 intervene in any United States Department of Agriculture
 18 proceeding without considering the consumers' interest in an
 19 adequate supply of food, and without considering the inter-
 20 ests of farmers in maintaining an adequate level of income
 21 and production.

22 SEX DISCRIMINATION

23 SEC. 17. No person shall on the ground of sex be excluded
 24 from participation in, be denied the benefits of, or be sub-
 25 jected to discrimination under any program or activity car-

1 ried on or receiving Federal assistance under this Act. This
 2 provision will be enforced through agency provisions and
 3 rules similar to those already established, with respect to
 4 racial and other discrimination, under title VI of the Civil
 5 Rights Act of 1964. However, this remedy is not exclusive
 6 and will not prejudice or cut off any other legal remedies
 7 available to a person alleging discrimination.

8 FAIRNESS FOR SMALL BUSINESS

9 SEC. 18. (a) It is the sense of the Congress that small
 10 business enterprises should have their varied needs consid-
 11 ered by all levels of government in the implementation of
 12 the procedures provided for throughout this Act.

13 (b) (1) In order to carry out the policy stated in sub-
 14 section (a), the Small Business Administration (A) shall
 15 to the maximum extent possible provide small business en-
 16 terprises with full information concerning the procedures
 17 provided for throughout this Act which particularly affect
 18 such enterprises, and the activities of the various agencies
 19 in connection with such provisions, and (B) shall, as part
 20 of its annual report, provide to the Congress a summary of
 21 the actions taken under this Act which have particularly af-
 22 fected such enterprises.

23 (2) To the extent feasible, the Administrator shall seek
 24 the views of small business in connection with establishing

1 the Agency's priorities, as well as the promulgation of rules
2 implementing this Act.

3 (3) In administering the programs provided for in this
4 Act, the Administrator shall respond in an expeditious man-
5 ner to the views, requests, and other filings by small busi-
6 ness enterprises.

7 (4) In implementing this Act, the Administrator shall,
8 insofar as practicable, treat all businesses, large or small, in
9 an equitable fashion; due consideration shall be given to the
10 unique problems of small business so as not to discriminate
11 or cause unnecessary hardship in the administration or im-
12 plementation of the provisions of this Act.

13 AUTHORIZATION OF APPROPRIATIONS

14 SEC. 19. There are authorized to be appropriated to
15 carry out the provisions of this Act not to exceed \$15,000,-
16 000 for the fiscal year ending June 30, 1976, not to exceed
17 \$20,000,000 for the fiscal year ending June 30, 1977, and
18 not to exceed \$25,000,000 for the fiscal year ending June 30,
19 1978. Any subsequent legislation to authorize appropria-
20 tions under this Act for the fiscal year beginning on July 1,
21 1978, shall be referred in the Senate to the Committee on
22 Government Operations and to the Committee on Commerce.

23 EVALUATION BY THE COMPTROLLER GENERAL

24 SEC. 20. (a) The Comptroller General of the United
25 States shall audit, review, and evaluate the implementation

1 of the provisions of this Act by the Agency for Consumer
2 Advocacy.

3 (b) Not less than thirty months nor more than thirty-
4 six months after the effective date of this Act, the Comp-
5 troller General shall prepare and submit to the Congress a
6 report on his audit conducted pursuant to subsection (a),
7 which shall contain, but not be limited to, the following:

8 (1) an evaluation of the effectiveness of the Agen-
9 cy's consumer representation activities;

10 (2) an evaluation of the effect of the activities of
11 the Agency on the efficiency, effectiveness, and proce-
12 dural fairness of affected Federal agencies in carrying
13 out their assigned functions and duties;

14 (3) recommendations concerning any legislation
15 he deems necessary, and the reasons therefor, for im-
16 proving the implementation of the objectives of this Act
17 as set forth in section 2.

18 (c) Copies of the report shall be furnished to the Admin-
19 istrator of the Agency for Consumer Advocacy, the chairmen
20 of the Senate Committees on Commerce and on Government
21 Operations, and the chairman of the Committee on Govern-
22 ment Operations of the House of Representatives.

23 (b) Restrictions and prohibitions under this Act appli-
24 cable to the use or public dissemination of information by the
25 Agency shall apply with equal force and effect to the General

1 Accounting Office in carrying out its functions under this
2 section.

3 MISCELLANEOUS PROVISIONS

4 SEC. 21. (a) Nothing in this Act shall be construed to
5 limit the discretion of any Federal agency or court, within
6 its authority, including a court's authority under Rule 24 of
7 the Federal Rules of Civil Procedure, to grant the Adminis-
8 trator additional participation in any proceeding or activity,
9 to the extent that such additional participation may not be as
10 of right, or to provide additional notice to the Administrator
11 concerning any agency proceeding or activity.

12 (b) (1) No act or omission by the Administrator or any
13 Federal agency relating to the Administrator's authority
14 under sections 6 (a), (d), (f), (i), and (j), 7, 10, 11, and
15 12 of this Act shall affect the validity of an agency action or
16 be subject to judicial review: *Provided, That*—

17 (A) the Administrator may obtain judicial review
18 to enforce his authority under sections 6 (a), (d), (f),
19 (i), and (j), 10, and 12 of this Act: *Provided, That* he
20 may obtain judicial review of the Federal agency deter-
21 mination under section 6 (f) of this Act only after final
22 agency action and only to the extent that such determi-
23 nation affected the validity of such action;

24 (B) a party to any agency proceeding or a partic-
25 ipant in any agency activity in which the Administrator

1 intervened or participated may, where judicial review
2 of the final agency action is otherwise accorded by law,
3 obtain judicial review following such final agency action
4 on the ground that the Administrator's intervention or
5 participation resulted in prejudicial error to such party
6 or participant based on the record viewed as a whole;
7 and

8 (C) any person who is substantially and adversely
9 affected by the Administrator's action pursuant to sec-
10 tion 6 (f), 10 (a), or 11 of this Act may obtain judicial
11 review, unless the court determines that such judicial
12 review would be detrimental to the interests of justice.

13 (2) For the purposes of this subsection, a determination
14 by the Administrator that the result of any agency proceed-
15 ing or activity may substantially affect an interest of consum-
16 ers or that his intervention in any proceeding is necessary to
17 represent adequately an interest of consumers shall be
18 deemed not to be a final agency action.

19 TRANSFER OF CONSUMER PRODUCT INFORMATION

20 COORDINATING CENTER

21 SEC. 22. (a) All officers, employees, assets, liabilities,
22 contracts, property, and records as are determined by the
23 Director of the Office of Management and Budget to be em-
24 ployed, held, or used primarily in connection with the func-
25 tions of the Consumer Product Information Coordinating

1 Center in the General Services Administration are transferred
 2 to the Agency and all functions of the Administrator of Gen-
 3 eral Services administered through the Consumer Product
 4 Information Coordinating Center are transferred to the
 5 Agency.

6 (b) (1) Except as provided in paragraph (2) of this
 7 subsection, personnel engaged in functions transferred under
 8 this section shall be transferred in accordance with applicable
 9 laws and regulations relating to transfer of functions.

10 (2) The transfer of personnel pursuant to this section
 11 shall be without reduction in classification or compensation
 12 for one year after such transfer.

13 PUBLIC PARTICIPATION

14 SEC. 23. (a) After reviewing its statutory authority and
 15 rules of procedure, relevant agency and judicial decisions, and
 16 other relevant provisions of law, each Federal agency shall
 17 issue appropriate interpretations, guidelines, standards, or
 18 criteria, and rules of procedure, to the extent that such rules
 19 are appropriate and are not already in effect, relating to the
 20 rights of individuals who may be affected by agency action

21 to—

- 22 (1) petition the agency for action;
- 23 (2) receive notice of agency proceedings;
- 24 (3) file official complaints (if appropriate) with
- 25 the agency;

- 1 (4) obtain information from the agency; and
- 2 (5) participate in agency proceedings for the pur-
- 3 pose of representing their interests.

4 Such interpretations, guidelines, standards, criteria, and rules
 5 of procedure shall be published in proposed and final form in
 6 the Federal Register.

7 (b) Each Federal agency shall take all reasonable meas-
 8 ures to reduce or waive, where appropriate, procedural re-
 9 quirements for individuals for whom such requirements would
 10 be financially burdensome, or which would impede or prevent
 11 effective participation in agency proceedings.

12 (c) Any rules of procedure issued by any Federal
 13 agency pursuant to this section shall be published in a form
 14 and disseminated in a manner that is designed to inform,
 15 and that is able to be understood by, the general public.

16 EFFECTIVE DATE

17 SEC. 24. (a) This Act shall take effect ninety calendar
 18 days following the date on which this Act is enacted, or
 19 on such earlier date as the President shall prescribe and pub-
 20 lish in the Federal Register.

21 (b) Any of the officers provided for in this Act may
 22 (notwithstanding subsection (a)) be appointed in the man-
 23 ner provided for in this Act at any time after the date of the
 24 enactment of this Act. Such officers shall be compensated

1 from the date they first take office at the rates provided for
 2 in this Act.
 3 **SEPARABILITY.**
 4 **SEC. 25.** If any provision of this Act is declared uncon-
 5stitutional, or the applicability thereof to any person or
 6 circumstance is held invalid, the constitutionality and effec-
 7tiveness of the remainder of this Act and the applicability
 8 thereof to any persons and circumstances shall not be affected
 9 thereby.

10
 11
 12 (c) Any rules of procedure...
 13 agency pursuant to this section...
 14 and designated in...
 15 and this...
 16 this...
 17...
 18...
 19...
 20...
 21 (d) Any of the officers provided for in this Act...
 22...
 23...
 24...
 25 the agency;

A BILL

To establish an independent consumer agency to protect and serve the interest of consumers, and for other purposes.

By Mr. RIBICOFF, Mr. PERCY, Mr. JAVITS, Mr. MAGNUSON, Mr. CRANSTON, Mr. MOSS, Mr. WEICKER, Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROOKE, Mr. CASE, Mr. CLARK, Mr. CULVER, Mr. FORD, Mr. GRAVEL, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. INOUE, Mr. JACKSON, Mr. KENNEDY, Mr. LEAHY, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PROXMIRE, Mr. STAFFORD, Mr. STEVENSON, Mr. STONE, Mr. TUNNEY, and Mr. WILLIAMS

JANUARY 17, 1975

Read twice and referred to the Committee on
Government Operations

MR. MARSH - 5/15/75 - 6:55 p.m.

The Senate just passed the "Consumer
Protection" - 61 to 28.

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The Washington Post
Friday, May 16, 1975

Senate Votes Consumer Agency Bill

By Spencer Rich

Washington Post Staff Writer

The Senate, ending a four-

Yesterday, before passage, the Senate drove a big loophole into the measure, approving 55 to 34 an amendment exempting farming operations—including subsidies, marketing orders, price supports and regulations on the use of agricultural, livestock and pesticide chemicals—from the scope of the new agency. Exemptions for labor-management relations, national security laws and agencies, and broadcast relicensing proceedings, al-

The new agency also would act as a survey unit, sending out interrogatories to business to learn economic facts for developing legislation and pol-

May 20

THE WHITE HOUSE
WASHINGTON

TO: MAX

FROM: JOHN O. MARSH, JR.

_____ For Direct Reply

_____ For Draft Response

_____ For Your Information

_____ Please Advise

We should keep up with this.

COMMENT

Consumer Agency Will Create New Power Structure

Howard K. Smith -- ABC

The Mayaguez incident, which may make a footnote in history, has distracted attention from another event that may be a matter for a whole chapter about a drastically changing America. The event is after four years of defeat the Senate has passed a bill to create a consumer advocacy agency inside the Federal government.

Real power in this country, not power as written in the Constitution, but real power of special interest to use the Constitution to get their will has been symmetrical in the course of this century, divided into neat one-thirds.

The first third of the century, business ran the nation election politicians, passing its laws at will. Discredited in the Depression, business in the 1930s had to accept laws making organized labor co-equal in power in the second third of the century able to elect its politicians and pass its laws.

In the final third now the consumer is banging on the door of power. It began in the 1960s as a grass-roots movement with Ralph Nader as symbol. The bill means it has become a tide that is forcing its way inside the government itself.

The present bill will reap no miracles, but when the flag seeps as it will with its growing force into wage and price negotiations, tax reforms, regulatory agencies, all the things that tear out the national pie, America will have a much-changed power structure -- the special interests will at last be displaced by the public interest for the consumer is all of us. -- (5/16/75)

THE WHITE HOUSE
WASHINGTON

May 26, 1975

TO: WAYNE VALLIS

FROM: RUSSELL A. ROURKE

 For Direct Reply

 For Draft Response

 X For Your Information

 Please advise

MAY 23 1975

THE WHITE HOUSE
WASHINGTON

DATE 5/23/75

FOR: Russ Rourke

FROM: WAYNE H. VALIS *Wayne*

For your information X

Per our conversation _____

Other:

I believe that
counselor Marsh would
also be interested in
seeing these two head
counts. The NAM
study is a little too
optimistic, but not
too much so.





Guidelines for Action on:

May 21, 1975

AGENCY FOR CONSUMER ADVOCACY -- S. 200

SENATE VOTING POINTS TO SUPPORT FOR ACA VETO

Despite adoption by the Senate (as predicted) of the controversial legislation, S. 200 on May 15 . . . despite immediate claims of sponsors that a Presidential veto will be futile . . .

The voting pattern in the Senate on May 13, 14 and 15 provided hard political proof that President Ford "has the votes" to sustain his intended veto of the Agency for Consumer Advocacy, whenever it may occur and whatever happens in the House.

Behind all the debating, amending, voice votes and roll calls, the deep, underlying opposition to S. 200 was being registered. When the voting was over, there were too many unhappy Senators to allow creation of a new crazy-quilt ACA bill over a Presidential veto.

With only 34 votes still required to sustain the President, the final vote-count and key roll calls on amendments tells the story:

AGAINST THE ACA	28 Votes
ABSENT (ANNOUNCED AGAINST)	2 Votes
(LESS ONE ANNOUNCED TO OPPOSE VETO)	<u>-1</u> Vote
	29 Votes (Assured Veto Support)

OTHER SENATORS FAVORING AN "ALTERNATIVE"	5 (Potential Veto Support)
OTHER VOTES <u>AGAINST</u> LABOR EXEMPTION	9 (" " ")

Among these and many other roll calls, the President needs to find only five Senators among both parties sufficiently dissatisfied with the final bill to make his veto successful and finally end the controversy.

As a matter of fact, a cross-check tally shows NINE REPUBLICANS who supported the bill, and at least one Democratic Senator, as likely candidates to back up the President.

For an understanding of the true strength of the ACA opposition, and therefore the President's support, it is necessary to look not only at the final vote of 61-28, but at the subtle pattern of voting on various amendments, and also at the positions of those not voting. Among them are Senators who felt keenly the defeat of certain amendments. Among them, too, are Senators who favored the bill, but will stand with the President in his veto action.

Two examples showing the potential for adding to the basic 29 votes are:



WHERE THE PRESIDENT WILL FIND SUPPORT

Other Senators Who Wanted a Substitute Bill:

<u>Republicans</u>	<u>Democrats</u>
Sen. Baker (TN)	None
Sen. Beall (MD)	
Sen. Brock (TN)	
Sen. Dole (KS)	
Sen. Pearson (KS)	

Other Senators Who Wanted NO Labor Exemption:

<u>Republicans</u>	<u>Democrats</u>
Sen. Domenici (NM)	Sen. Chiles (FLA)
Sen. Fong (HI)	Sen. Hathaway (ME)
Sen. Hatfield (OR)	Sen. Hollings (SC)
Sen. Roth (MD)	Sen. Morgan (NC)
Sen. Weicker (CT)	Sen. Stone (FLA)

From among these, and from among still other Senators--particularly Republicans--who cast losing votes on one roll call or another, the President has an ample field to canvas for the five needed votes.

Some estimates of a final vote to sustain a veto range as high as 39 to 40-plus, well over the one-third required in the Senate (now consisting of only 99 Senators).

The stand-up vote against the politically-popular agency was something of a surprise, even to opponents--some of whom had despaired of more than a handful in flat-out opposition, except in a veto situation.

Some of the Obvious Reasons:

- More than in any previous debate, the absurdities and impracticalities of the "ACA Concept" came to the surface.
- More strongly than before, the fear of ACA interference into sensitive areas of the economy was expressed and understood--access to income tax data, interference in farm programs, involvement in Davis-Bacon prevailing wage rates, lobbying for gun control, etc.
- With each vote, the bill became more obviously a "Christmas Tree" of exemptions, exceptions and political favors characteristic of "class legislation."

The final vote was a demonstration that the longer and harder the Congress looks at the ACA idea, more and more of the thoughtful law-makers become disenchanting with it.

In the end, the floor managers appeared desperately willing to accept almost any technical amendment to appease another Senator.

REGARDLESS OF POLITICAL FAVORS AND TECHNICAL CONCESSIONS, HOWEVER, THE BASIC THRUST OF THE PROPOSED NEW AGENCY REMAINED. THE POWER TO INTERVENE LEGALLY INTO ALMOST ALL AFFAIRS OF GOVERNMENT AND THE ECONOMY--TO CHALLENGE, DISPUTE WITH AND TO SUE IN COURT THE ACTS AND DECISIONS OF OTHER FEDERAL OFFICERS--WAS UNCHANGED BY ANY OF THE AMENDMENTS.

The political nature of the ACA was visible in major amendments:

RADIO and TV license renewals exempted to retain media support.
NLRB proceedings exempted to forestall labor opposition.
ALL GUN CONTROL ISSUES excluded from ACA intervention.
ALASKAN GAS PIPELINE matters excluded from intervention.
ACA "LOBBYING" in state and local affairs prohibited.
AGRICULTURAL proceedings exempted (not asked by farm leaders).
RAW FISH PRODUCTS excluded along with agricultural products.
COST-BENEFIT ANALYSES of ACA actions required.
SMALL BUSINESS ADMINISTRATION role as "advocate" protected.

ACTION IN HOUSE--FASTER AND STRONGER

In the House, Rep. Jack Brooks (D. TX), Chairman of the Government Operations Committee, has promised rapid Committee action. New bills--reported to be "stronger" than S. 200 are being drafted--but House leadership is expected to look first at the final Senate bill before a decision as to which will be the leading measure.

House action, while not as critical as the Senate vote, is an unknown quantity. The political reality of a "more liberal" House may indicate a sweeping vote for ACA on the one hand. On the other hand, the very bitterness of debate in the Senate, and the high visibility given the ACA's powers, its "problems," its potential for creating chaos in government and the economy, may generate the most meaningful opposition in the six-year history of the issue.

A larger-than-usual opposition vote in the House would make it even easier for the President to stand firm on a veto, and for the Senate to give him the needed support.

A distinction must be drawn, however, between the all-out opposition in the Senate and the tactics in the House, where many opponents have limited their efforts to amending, rather than defeating, the bill. Thus, previous House votes were 344-44 (Oct. 14, 1971) and 293-94 (April 3, 1974). Whether a total opposition movement develops in the House this year is heavily dependent upon the nature of the main-line bill.

TURN PAGE FOR ROLL CALL VOTE AND NAM ACTION RECOMMENDATIONS



NOTE: Of those not voting, the positions of the following Senators were announced from the floor:

FOR ACA: Senators Mansfield, Tunney, Stevenson, Gravel, Baker
 AGAINST ACA: Senators Johnston and Thurmond

[Rollcall Vote No. 184 Leg.]

YEAS—61			NAYS—28		
Abourezk	Hart, Gary W.	Moss	Allen	Garn	Nunn
Beall	Hart, Philip A.	Muskie	Bartlett	Goldwater	Scott,
Bentsen	Hartke	Nelson	Belimon	Griffin	William L.
Biden	Haskell	Packwood	Buckley	Hansen	Sparkman
Brock	Hatfield	Pastore	Byrd,	Helms	Stennis
Brooke	Hathaway	Pearson	Byrd, Harry F., Jr.	Hruska	Symington
Bumpers	Hollings	Fell	Byrd, Robert C.	Laxalt	Taft
Burdick	Huddleston	Percy	Curtis	Long	Talmadge
Cannon	Humphrey	Proxmire	Eastland	McClellan	Tower
Case	Inouye	Randolph	Fannin	McClure	Young
Chiles	Jackson	Ribicoff	PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—		
Church	Javits	Roth	Mansfield, for.		
Clark	Kennedy	Schweiker	NOT VOTING—9		
Cranston	Leahy	Scott, Hugh	Baker	Johnston	Stevenson
Culver	Magnuson	Stafford	Bayh	McGee	Thurmond
Dole	Mathias	Stevens	Gravel	Metcalf	Tunney
Domenici	McGovern	Stone			
Eagleton	McIntyre	Weicker			
Fong	Mondale	Williams			
Ford	Montoya				
Gienn	Morgan				

NAM ACTION RECOMMENDATIONS

1. Communicate your concerns with the concept and the substance of legislation to create an "Agency for Consumer Advocacy," in any form, to your Representatives in the House. Present practical reasons for your views. Ask for a reasoned and specific reply.
2. Direct similar communications to the Hon. Jack Brooks, Chairman, House Government Operations Committee, and to any members of the Committee with whom you have contact.
3. Regardless of whether you have previously expressed your views to Senators, offer your congratulations to those standing against the bill, and request them and other Senators to support a Presidential veto.
4. Forward copies of your Congressional correspondence on this issue to the President, and encourage him to stand firm in his announced opposition to the ACA concept.
5. Follow up NAM President Kenna's recent statement on the deception of a "labor exemption" by advising your union officers of the ACA impact on costs, prices and employment security. Note that wage rate-setting under the Davis-Bacon and Walsh-Healey Acts, and many other labor affairs, are NOT EXEMPT from ACA intervention. (Several local union petitions opposing ACA are known to have been forwarded to different Senators.)
6. Insure that your industry associations and/or Washington representatives are active in all phases of the ACA legislative issue.
7. Provide the NAM with copies of your correspondence with the Congress, and forward any responses to the NAM Regional and Washington offices.

Show selected votes during Senate debate on S. 200 (CPA) during week of May 12, 1975.

What the Columns Mean	1	Amendment to strike labor exemption. Failed 37-51. Yea (+). Nay (-)
	2	Helms amend. requiring ACA notify parties against whom complaints filed & withhold action on complaint for 60 days. Failed 41-50. Yea(+). Nay(-).
	3	McClellan amend. to replace single administrator with a three-man bi-partisan Commission to direct ACA. Failed 40-48. Yea (+). Nay (-).
	4	Taft substitute for consumer offices in existing agencies & separate Office of Consumer Affairs for coordination. Failed 28-64. Yea (+). Nay (-).
	5	Final passage, 61-28. Yea (-). Nay (+).



	1	2	3	4	5
ALABAMA (SE)					
John Sparkman (D)	+	+	+	-	+
James B. Allen (D)	+	+	+	+	+
ALASKA (W)					
Ted Stevens (R)	-	0	+	-	-
Mike Gravel (D)	-	0	0	0	0
ARIZONA (W)					
Paul J. Fannin (R)	+	+	+	+	+
Barry Goldwater (R)	+	0	+	+	+
ARKANSAS (SW)					
John L. McClellan (D)	+	+	+	+	+
Dale Bumpers (D)	0	-	+	-	-
CALIFORNIA (W)					
Alan Cranston (D)	-	-	-	-	-
John V. Tunney (D)	-	-	0	-	0
COLORADO (SW)					
Floyd K. Haskell (D)	+	-	-	-	-
Gary Hart (D)	-	-	-	-	-
CONNECTICUT (NE)					
Abraham Ribicoff (D)	-	-	-	-	-
Lowell P. Weicker, Jr. (R)	+	-	-	-	-
DELAWARE (NE)					
William V. Roth, Jr. (R)	+	+	+	-	-
Joseph R. Biden, Jr. (D)	0	-	+	-	-
FLORIDA (SE)					
Lawton Chiles (D)	+	+	-	-	-
Richard Stone (D)	+	+	0	-	-
GEORGIA (SE)					
Herman E. Talmadge (D)	-	+	+	+	+
Sam Nunn (D)	+	+	+	+	+
HAWAII (W)					
Hiram L. Fong (R)	+	+	-	-	-
Daniel K. Inouye (D)	-	-	-	-	-

	1	2	3	4	5
IDAHO (W)					
Frank Church (D)	-	-	-	-	-
James A. McClure (R)	+	+	+	+	+
ILLINOIS (NC)					
Charles H. Percy (R)	-	-	-	-	-
Adlai E. Stevenson III (D)	-	-	0	0	0
INDIANA (NC)					
Vance Hartke (D)	0	-	+	0	-
Birch Bayh (D)	0	-	0	0	0
IOWA (NW)					
Dick Clark (D)	-	0	-	-	-
John C. Culver (D)	0	-	-	-	-
KANSAS (SW)					
James B. Pearson (R)	-	-	+	-	-
Robert Dole (R)	+	+	+	+	-
KENTUCKY (NC)					
Walter Huddleston (D)	-	-	+	-	-
Wendell H. Ford (D)	-	0	-	-	-
LOUISIANA (SW)					
Russell B. Long (D)	0	+	+	-	+
J. Bennett Johnston, Jr. (D)	0	+	+	-	0
MAINE (NE)					
Edmund S. Muskie (D)	-	-	-	-	-
William D. Hathaway (D)	+	-	-	-	-
MARYLAND (SE)					
Charles McC. Mathias, Jr. (R)	-	0	0	0	-
J. Glenn Beall, Jr. (R)	+	0	+	+	-
MASSACHUSETTS (NE)					
Edward M. Kennedy (D)	-	-	-	0	-
Edward W. Brooke (R)	-	-	-	-	-
MICHIGAN (NC)					
Philip A. Hart (D)	-	-	-	-	-
Robert P. Griffin (R)	+	+	+	+	+

0 = not voting

Robert H. Humphrey (D)	-	-	-	-	-
MISSISSIPPI (SE)					
James O. Eastland (D)	+	+	+	+	+
John C. Stennis (D)	+	+	+	+	+
MISSOURI (SW)					
Stuart Symington (D)	-	-	0	-	+
Thomas F. Eagleton (D)	-	-	-	-	-
MONTANA (NW)					
*Mike Mansfield (D)	-	-	-	-	-
Lee Metcalf (D)	-	-	-	-	0
NEBRASKA (NW)					
Roman L. Hruska (R)	+	+	+	+	+
Carl T. Curtis (R)	+	+	+	+	+
NEVADA (W)					
Howard W. Cannon (D)	-	-	-	-	-
Paul Laxalt (R)	0	+	0	+	+
NEW HAMPSHIRE (NE)					
Thomas J. McIntyre (D)	-	-	-	-	-
(undecided)					
NEW JERSEY (NE)					
Clifford P. Case (R)	-	-	-	-	-
Harrison A. Williams, Jr. (D)	-	-	-	-	-
NEW MEXICO (SW)					
Joseph M. Montoya (D)	-	+	+	-	-
Pete V. Domenici (R)	+	+	+	-	-
NEW YORK (NE)					
Jacob K. Javits (R)	-	-	0	-	-
James L. Buckley (C)	+	0	+	0	+
NORTH CAROLINA (SE)					
Jesse Helms (R)	+	+	+	+	+
Robert Morgan (D)	+	+	-	-	-
NORTH DAKOTA (NW)					
Milton R. Young (R)	+	+	+	+	+
Quentin N. Burdick (D)	-	-	-	-	-
OHIO (NC)					
Robert Taft, Jr. (R)	+	+	+	+	+
John Glenn (D)	-	-	-	-	-
OKLAHOMA (SW)					
Henry Bellmon (R)	0	+	+	+	+
Dewey F. Bartlett (R)	+	+	+	+	+

Mark O. Hatfield (R)	+	-	-	-	-
Bob Packwood (R)	0	+	-	-	-
PENNSYLVANIA (NE)					
Hugh Scott (R)	-	-	-	-	-
Richard S. Schweiker (R)	-	-	-	-	-
RHODE ISLAND (NE)					
John O. Pastore (D)	-	-	-	-	-
Claiborne Pell (D)	-	-	-	-	-
SOUTH CAROLINA (SE)					
*Strom Thurmond (R)	+	+	0	+	+
Ernest F. Hollings (D)	+	-	+	-	-
SOUTH DAKOTA (NW)					
George McGovern (D)	0	-	-	-	-
James Abourezk (D)	-	+	-	-	-
TENNESSEE (SE)					
Howard H. Baker, Jr. (R)	-	+	-	+	0
Bill Brock (R)	+	+	-	+	-
TEXAS (SW)					
John Tower (R)	+	+	+	+	+
Lloyd Bentsen (D)	-	-	+	-	-
UTAH (W)					
Frank E. Moss (D)	-	-	-	-	-
Jake Garn (R)	+	+	+	+	+
VERMONT (NE)					
Robert T. Stafford (R)	-	+	-	-	-
Patrick J. Leahy (D)	-	-	-	-	-
VIRGINIA (SE)					
Harry F. Byrd, Jr. (I)	+	+	+	+	+
William Lloyd Scott (R)	+	+	+	+	+
WASHINGTON (W)					
Warren G. Magnuson (D)	-	-	-	-	-
Henry M. Jackson (D)	-	-	-	-	-
WEST VIRGINIA (SE)					
Jennings Randolph (D)	-	+	0	-	-
Robert C. Byrd (D)	-	+	+	-	+
WISCONSIN (NC)					
William Proxmire (D)	-	-	-	-	-
Gaylord Nelson (D)	-	-	-	-	-
WYOMING (NW)					
Gale W. McGee (D)	-	-	-	-	0
Clifford P. Hansen (R)	+	+	+	+	+

* Paired on final vote



MAY 27 1975

THE WHITE HOUSE
WASHINGTON

May 27, 1975

MEMORANDUM FOR: JACK MARSH
FROM: DICK CHENEY



Jack, attached is a paper given to the President by Senator Curtis on the Consumer Advocacy Bill.

It contains a number of recommendations which the President would like to pursue in trying to build support to sustain a veto of S200.

The Senator is convinced that if we do enough work, we can indeed win that one.

Attachment

To March

The veto on S. 200, the Consumer Advocacy Bill, can be sustained with the right amount of work. Here are some things that need to be done:

1. The President should make a direct request of the Minority Leader, Senator Scott, to actively support the President on the vote to veto.
2. We are sure that we have 29 votes to sustain a veto which will not waiver. There are 14 others listed below from which we must get a minimum of 5 votes. It is felt that if these 14 were called to the White House for a little drop-in that the required number would respond to a Presidential request for support.
3. *It is* The Cabinet members did a good job prior to the vote on the bill. They should again be urged to give it maximum efforts. The Cabinet officials' efforts should be concentrated on the 14 Senators listed below.
4. The White House Liaison to the Senate should consistently and repeatedly make S. 200 a top priority.

Perhaps there are several in the following list of 14 who are clearly going to vote to sustain the veto, but we have included in this list everybody whose vote ought to be shored up. The 14 are as follows:

Senator Howard Baker
Senator J. Glenn Beall
Senator Bill Brock
Senator Robert Dole
Senator Pete Domenici
Senator Hiram Fong
Senator Mark Hatfield
Senator Bob Packwood
Senator James Pearson
Senator William Roth
- Senator Hugh Scott
Senator Robert Stafford
Senator Ted Stevens
Senator Lowell Weicker



SUGGESTIONS FOR BROADENING THE BASE

Senator Jim Buckley's voting record in support of the President is very good. The Senator needs the support of the Republican organization in New York State. If the President would tell the Vice President to have the New York Republican state organization to openly and completely support Senator Buckley, it would be pleasing to millions of voters throughout the country including many in New York.

Former Governor Ronald Reagan made the best down-to-earth, practical reform on welfare that has been made in the nation. Through his leadership a proposal for welfare reform has been introduced in both the House and the Senate. In the Senate there are 20 co-sponsors. The Ranking Republican Member of the Finance Committee, Mr. Curtis, is a principal introducer but he is joined on the bill by Chairman Russell Long of the Finance Committee and, among others, 6 of the 7 Republicans on the Finance Committee and Democrats Talmadge and Byrd of Virginia.

*Dom. C.
Kashat
bill*

Senator Paul Fannin of Arizona is one of the most valuable Members of the Senate. As the Ranking Member on Interior he has been a bulwark in connection with all energy legislation. As the second-Ranking Member on the Finance Committee he has provided strong support and effective leadership. Some of his friends indicate that he may be waivering on filing for re-election. If he should drop out it could jeopardize everyone's vote in Arizona. It is suggested that the President personally contact Senator Fannin and urge him to run.

*P. call
Fannin*

MAY 30 1975

THE WHITE HOUSE

WASHINGTON

May 28, 1975

MEMORANDUM FOR: JACK MARSH

FROM: BILL GREENER *Bill*

Attached is a copy of the Dallas Times Herald Editorial which you requested in your memo of May 27, 1975.

Glad to be of help. Let me know if there's anything else we can do for you.

Attachment

cc: Max Friedersdorf

D

P/stz

1. Cannon
2. MAX
3. Wolthius
4. Barondy
5. Harlowe

THE DALLAS TIMES HERALD EDITORIALS

2-8****Thurs., May 15, 1975

Consumer agency

THE ISSUE: Should Congress create a Consumer Protection Agency?

THE PROPOSED creation of an independent Consumer Protection

ities that all federal agencies should feel towards the people.

And what Congress will end up creating is another layer of federal government with more federal employees, millions of dollars in more

June 6, 1975

JUN 6 1975

MEMORANDUM FOR: JIM CANNON
FROM: MAX FRIEDERSDORF
SUBJECT: Consumer Protection Agency

Jim, I am sending along a copy of a memo from Charlie Leppert indicating that Sam Steiger would like to be a point man on the fight against the Consumer Protection Agency. It would be helpful if you could arrange for one of your assistants to brief Congressman Steiger as soon as possible in order that we may shore up his support and give him the ammunition to lead the charge.

~~cc:~~ Jack Marsh



THE WHITE HOUSE

WASHINGTON

June 3, 1975

MEMORANDUM FOR:

MAX FRIEDERSDORF

THRU:

VERN LOEN *VL*

FROM:

CHARLES LEPPERT, JR. *CLJ*

SUBJECT:

Agency for Consumer Advocacy

Sam Steiger (R-Arizona) has asked for a briefing on the Administration's position and arguments against S. 200, the Agency for Consumer Advocacy bill which passed the Senate.

Steiger wants to be helpful and is prepared to fight the bill in the House Committee on Government Operations. He says he doesn't think he can hold the bill in Committee but with Administration help he is hopeful of building a record in opposition prior to the bill being cleared for House floor action.

Hearings are anticipated to begin this month in House Government Operations Committee. I suggest that Sam Steiger be given the opportunity to be the Administration spokesman on this bill because the Ranking Minority Member, as you know, is in support of this concept and in the form of his own bill.

JUN 12 1975

THE WHITE HOUSE
WASHINGTON

M

June 12, 1975

MEMORANDUM FOR: JIM CANNON

FROM: MAX FRIEDERSDORF *M.F.*

SUBJECT: Consumer Protection Agency Hearings by the
House Government Operations Committee

As mentioned in the Senior Staff meeting, the House Government Operations Committee has scheduled hearings on the Consumer Protection Agency for June 17 and 18 with the possibility of additional dates of the 19th and 23rd.

Congressman Erlenborn will be our leader in opposing this legislation and I have had several conferences with him. He is asking the following administration witnesses to present our position:

OMB Director Lynn
Secretary Butz
Secretary Kissinger
Attorney General Levi
Secretary Morton
Chairman of the FTC
Chairman of the FPC

Congressman Erlenborn is sending a letter to the White House formally requesting the appearance of these witnesses on behalf of the minority.

It would be most helpful if you could encourage these witnesses to be available on the hearing dates designated by the committee.

cc: ✓ Jack Marsh
Don Rumsfeld
Bill Baroody
Jim Lynn

THE WHITE HOUSE
WASHINGTON

CPA
File

JUN 21 1975

THE WHITE HOUSE
WASHINGTON

Date: 6-21-75

TO: Marsh / Cannon

FROM: Max L. Friedersdorf

For Your Information ✓

Please Handle _____

Please See Me _____

Comments, Please _____

Other Sounds like

our testimony
was weak



THE WHITE HOUSE

WASHINGTON

June 20, 1975

FOR: MAX FRIEDERSDORF ✓
THROUGH: VERN LOEN VL
FROM: CATHIE OGLESBY CS
SUBJECT: Hearings on H. R. 7575
Consumer Protection Act of 1975

This bill would establish an agency for consumer protection. Its primary purpose would be to adopt the role of an advocate for consumer interests. The agency would have no real power other than interrogatory and limited judicial review.

Witnesses appearing in support of or against the bill on June 19 were:

Rep. Ray Thornton (D-Ark.) - in favor of a Congressional Office for Consumer Protection (he introduced a bill in the 93rd Congress to this effect) and feels neither S. 200 or H.R. 7575 contain adequate assurances of independence of the Administration.

Bernard Rapoport, President of American Income Life Insurance, Waco, Texas - favors stimulated competition due to effects of bill within business parameters.

Ralph Nader - consumer advocate traced CPA history and gave list of companies favoring bill, as well as examples of unreasonable price jumps.

Jim Guy Tucker - Attorney General of Arkansas - very articulate speaker in favor of bill; compared desirable effects of CPA with effects of power of Attorney General in Arkansas.

June 20, 1975

Robert Leonard, Attorney from Michigan - in favor.

U.S. Chamber of Commerce - against (along with American Retail Federation and Appliance Manufacturers)

Witnesses on June 20 were:

John Nassikas, Federal Power Commission; Richard Feltner, Department of Agriculture; Tilton Dobbin, Department of Commerce; all were against. Daniel O'Neal, Interstate Commerce Commission, had no position.

Senator Bob Dole - favored effort to combine S. 200 and H. R. 7575 into favorable outcome.

Felt testimony against bill was rather weak in that there were no strong arguments, merely position papers submitted to the committee with brief reasons as to: (1) delay brought on by action of CPA on business and, (2) money expended already in regulatory agencies in existence.

Congressman Fuqua attacked agencies by insinuating ineffectiveness due to major corporation being "in bed" with agencies.

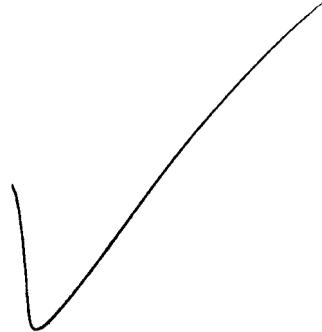
Minority Committee Members for: Horton

Minority Committee Members against: Erlenborn and Pritchard

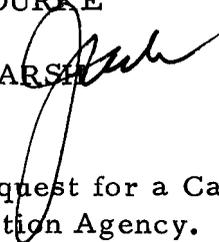
THE WHITE HOUSE

WASHINGTON

October 27, 1975



MEMORANDUM FOR: RUSS ROURKE

FROM: JACK MARSH 

Please follow up on the Barody request for a Cabinet Meeting discussion on the Consumer Protection Agency. It sounds like this might be a helpful thing to do.

Jack, I discussed the attached again with Wayne Vallis. Since it now appears that a Cabinet meeting prior to the vote on this issue (it looks like sometime next week) will be scheduled, Wayne will prepare a memo for the President through you, proposing a statement to be issued by Ron Nessen with Jim Lynn and Virginia Knauer do Q & A's for the press. Unless some action like this is taken, the Administration will obviously be viewed by the public as having been totally dormant on this issue...and that just isn't the case.

Procedurally, once we get the memo, I would suggest routing it through Jim Connor.



THE WHITE HOUSE
WASHINGTON

October 23, 1975

MEMORANDUM FOR THE PRESIDENT

THROUGH: Jack Marsh
FROM: William J. Baroody, Jr.
SUBJECT: Proposed Departmental Consumer Representation Plans.

Since Jim Lynn and Virginia Knauer have been operating these past few months on a schedule calling for the completion and submission of these Proposed Departmental Consumer Representation Plans to you about the end of October, it would seem most appropriate and important that this matter be a subject of discussion at the October 29th Cabinet Meeting.

This action becomes even more significant in light of the House's recent decision to schedule debate and action on the ACA Bill (H. R. 7575) during the week of November 3.

Although passage of this legislation in the House is generally conceded, it does seem possible that the proponents will not get support from 2/3 of the membership. In fact some of the best vote counters in town are saying that upwards of 150 to 200 members of the House will vote against the ACA legislation -- a dramatic increase from the 293-94 vote of last year.

An official action at the Cabinet meeting and a public statement afterwards by you regarding the completion of the Proposed Plans and announcing the forthcoming publication and the hearings would be of major assistance to the opponents of this legislation.

We propose that at the Cabinet meeting you

- 1) Thank the Cabinet for their work to date.

- 2) Tell them that you are looking forward to receiving their actual plans in the next day or two.
- 3) Indicate that these plans will be published in a Special Section of the Federal Register in mid-November along with a January public hearings schedule for the ten Federal Regional Cities; and
- 4) Request that each of them (except Kissinger, Schlesinger and Levi) agree to personally handle two half day sessions of these hearings.

Secondly, we suggest that following the Cabinet meeting you make a public statement to the press about the status and handling of your Consumer Representation Plans and then Lynn and Knauer would remain to brief the press and handle Q&A.

Also, arrangements could be made to have you participate in a public forum in mid-November concurrent with the actual publication in the Federal Register of these plans. Broad dissemination to the public significantly beyond the circulation of the Federal Register is planned.

Attached is a memorandum with greater detail on the handling of these plans during the next 3 to 5 months.

Approve Disapprove

Let's Discuss

Attach.

THE WHITE HOUSE
WASHINGTON

October 23, 1975

MEMORANDUM FOR

James T. Lynn
William J. Baroody, Jr.
Virginia H. Knauer

FROM: S. John Byington
Deputy Special Assistant to the President
for Consumer Affairs

SUBJECT: Departmental Consumer Representation Plans, Phase II

On or about the first of November most of the 17 participating departments and agencies within the Executive Branch will have submitted their Proposed Consumer Representation Plan. This will complete Phase I Development of the plan.

We suggest that Phase II Publication consist of five actions:

1. Reception of Proposed Plans by President Ford
2. Presidential Comment
3. Publication of Plans
4. Public Hearings on Plans
5. Finalizing Plans

Each of these steps is discussed in greater detail below. However, it should be pointed out that it is not anticipated that Phase III Implementation will await the completion of the hearings on the finalization of the plans. Rather each organization is being instructed to move ahead immediately with implementation -- to the extent feasible -- and then make such adjustments as are necessitated by the hearings.

1. Reception of Proposed Consumer Representation Plans by President Ford

Since all plans have been requested by October 31, it is hoped that all will be in hand no later than November 7. Assuming such to be the case, it will be possible for the President to discuss this matter at the October 29th Cabinet meeting thanking all for their efforts to date -- encouraging them to make the hearings a worthwhile dialogue between consumers and the bureaucracy -- but asking them to waste no time in beginning implementation of the plans whenever and wherever feasible. This would provide the last minute personal push necessary to bring this exercise to a timely fruition.

2. Presidential Comment

The Cabinet meeting could then be followed by a press briefing by both Knauer and Lynn -- with the possibility of an opening statement by the President, who then leaves the other two to answer questions.

This is an excellent opportunity for a major Presidential statement on this rather monumental effort within the bureaucracy to open up the decision making process and make government more responsive to the American consumer.

A second Presidential statement in a public forum could be arranged for mid-November to coincide with the publication of these plans in the Federal Register. We would recommend in this regard, the Conference Board's Corporate and Consumer Advocacy Seminar scheduled for November 19th here in Washington, D.C. A Schedule Proposal for this event has been submitted.

3. Publication of Plans

A major effort must be made to disseminate as many copies of these plans as possible and relevant. Therefore, we are recommending use of a special section of the Federal Register with the printing of an additional 50,000 or so copies. This would allow for dissemination to

more than 300,000 members of the public through:

- 50,000 Federal Register subscribers
- 25,000 OCA to media and consumer organizations
- 15,000 For each agency to distribute to its public
(15,000 x 17 agencies = 255,000 public recipients)
- 10,000 For distribution at the hearings (1,000 at each
of 10 hearings)

4. Public Hearings on Plans

Each organization has been asked to expose its plan to the scrutiny of a series of public hearings held early in 1976 in major cities around the country.

However, if all 17 agencies each went individually about the countryside, confusion and ultimately public apathy could soon become the order of the day. Therefore, we suggest that all of the organizations be grouped into three sections of about five departments each:

Group A: Environment, Energy, Agriculture, etc.

Group B: Human Resources, etc.

Group C: Business, Industry, Finance, etc.

and that each of the 10 Federal Regional Councils host a 3 day conference during which each of these Groups would hold forth for one day.

This schedule would allow for maximum impact in a city and at the same time allow interested members of the public and organization representatives within a particular area to participate in the full effort within three days.

The meetings would be open to the public, widely promoted and MC'd each morning by an Administration spokesman hopefully of or approximating Cabinet rank -- to show the commitment of the Ford Administration.

The agenda of these one day hearings could be along the lines of:

- 8:00 A. M. Cabinet official has coffee with press for backgrounder
- 9:00 A. M. Cabinet official opens the meeting with brief remarks
- 9:15 A. M. Each organization gets 10 - 15 minutes to present its plan
- 10:45 A. M. Coffee break
- 11:00 A. M. General Q&A session
- 12:15 P. M. Wrapup by Cabinet Officer
- 12:30 P. M. Break for lunch -- each person on own with hopefully a cafeteria in building or nearby
- 2:00 P. M. Individual workshops -- each organization will meet with interested parties in separate rooms for a greater in depth analysis of the plan
- 4:00 P. M. Adjourn and move on to next city

The overall coordination of this effort could be in the hands of the White House Office of Public Liaison in cooperation with OCA, OMB and each of the various elements in each of the organizations.

5. Finalizing Plans

After the hearings each of the organizations will review its proposed plan in light of what it heard while on the road and then make such changes as deemed relevant and responsible.

A final Consumer Representation Plan will then be submitted to the President through Knauer and Lynn sometime before the end of March 1976.

These final plans would then be published in the Federal Register and from an internal management point of view they would become the subject of Presidential Management Objectives enforced by OMB through the budgetary process.

Jark - FYI - R.

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Sunday, November 9, 1975

Page 8

Congress gets the message on still more bureaucracy

A funny thing happened on the way to creation of a new Washington super-bureaucracy which is supposed to protect all of us consumers from dog over other agencies which are supposed to protect the consumer always struck us as strange. If the late-arriving agency can't do its job, why not re-