

The original documents are located in Box 8, folder “Consumers (1)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

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. 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) 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 ADMINSTRATOR

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,
 24

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 activ-
 20 ities 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

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

FUNCTIONS OF THE AGENCY

SEC. 5. (a) The Agency shall, in the performance of its functions, advise the Congress and the President as to matters affecting the interests of consumers; and shall protect and promote the interests of the people of the United States as consumers of goods and services made available to them through the trade and commerce of the United States.

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

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

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

(3) submit recommendations annually to the Congress and the President on measures to improve the

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

(4) obtain information and publish and distribute material developed in carrying out his responsibilities under this Act in order to inform consumers of matters of interest to them, to the extent authorized in this Act;

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

(6) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers: *Provided*, That such conferences, surveys, or investigations are not duplicative in significant degree of similar activities conducted by other Federal agencies;

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

(8) keep the appropriate committees of Congress fully and currently informed of all the Agency's activities, when asked or on his own initiative;

(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

condition of individuals who are customers of financial institutions; and

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

(A) obtained prior to the effective date of this Act by a Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the Administrator that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Administrator, for which access is sought, to permit such access would constitute a breach of faith by the agency; or

(B) obtained subsequent to the effective date of this Act by a Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its reasonable determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of the agency's function.

Before granting the Administrator access to trade secrets

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

(c) Consistent with the provisions of section 7213 of the Internal Revenue Code of 1954 (26 U.S.C. 7213), nothing in this Act shall be construed as providing for or authorizing any Federal agency to divulge or to make known in any manner whatever to the Administrator, solely from an income tax return, the amount or source of income, profits, losses, expenditures, or any particular thereof, or to permit any Federal income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954, or copy thereof, or any book containing any abstracts or particulars thereof, to be seen or examined by the Administrator, except as provided by law.

LIMITATIONS ON DISCLOSURES

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.

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

March 1975

SUMMARY AND EXPLANATION OF CONSUMER BILL

The bill would establish an independent, non-regulatory 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.

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.

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 adequately represent 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. This means that if the lead tinsel manufacturers have a meeting with the Commissioner of FDA on the schedule for removing lead tinsel from the market, the Administrator of ACA is entitled to present his views on the subject to FDA officials. The section does not give him the right to be present at the tinsel manufacturers meeting and argue his case at the same time they do.

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. This right to seek review is analogous to the right now enjoyed by private persons aggrieved by agency action. If the Administrator did not participate in the

agency proceeding below, he may appeal the agency decision only if he first files a timely petition before the Federal agency for rehearing and reconsideration and the agency fails to act favorably on the petition.

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.

Funding

The bill would authorize \$15 million for fiscal year '76, \$20 million for fiscal year '77, and \$25 million for fiscal year '78. By way of contrast, the U.S. Budget for fiscal year 1975 provides \$1.433 billion in Federal funds under the category "advancement of business."

Examples

Following are some examples of the types of cases in which ACA could participate, and how it might affect the outcome.

1. In 1972, after a DC-10 passenger plane was involved in a near fatal accident, the FAA discovered that the plane's cargo door was at fault. The FAA drafted a directive requiring the manufacturer, McDonnell-Douglas, to correct the defect in the cargo door. McDonnell-Douglas intervened directly with the FAA Administrator, urging that FAA make the notice permissive, rather than mandatory. The FAA did so, and the result was that the modification was not made on all DC-10's.

In March, 1974, a DC-10 crashed near Paris killing 344 people. It was a plane on which the cargo door had not been modified. The FAA believes that the faulty cargo door caused the crash.

Had ACA been in existence in 1972, it could have participated and urged FAA to issue the air-worthiness directive requiring that the cargo door be modified.

2. Each year an estimated 1300-6000 cancer deaths are caused from exposure to x-ray machinery. To improve the safety of x-ray machines, Congress passed the Radiation Control Act of 1968. The FDA, however, postponed issuing the regulations needed to implement the Act until 1972. Then the FDA postponed the deadline for complying with the Act until August 1, 1974. The Agency for Consumer Advocacy could have monitored FDA's actions, and prodded the agency into acting much more quickly. Unnecessary deaths could have been avoided.

3. In September, 1973, the Cost of Living Council permitted domestic auto makers to raise their prices an average of about \$70 per car. Although this cost the American public approximately \$54 million a month in increased costs, the COLC notified the public of its proposed action only one day before the deadline for requesting an opportunity to appear and only 4 working days before the hearings themselves. The council also failed to provide the public with the basic information it needed to prepare meaningful comments. An Agency for Consumer Advocacy official familiar with government cost and pricing decisions would have had the necessary knowledge and expertise to uncover the necessary background information, develop meaningful comments, and seek the additional time needed to adequately represent the consumer's interests.

[March 1975]

Is a CP Bri a violation of new
program limitation.

options suggest -

can have a common approach w/

Conflicts in address

problem = conflicts of Commerce interest -
price, speed -
who is common approach

* Study on no-fault insurance

Cabinet meeting
w/outline cabinet to -

w/o burden in tax paper w/ new
dept of Govt
example how things before
water steps



Cabinet

This comes in reported in
a letter to the C

properly drafted letter
to the Regulator,
letters be sent to
them.

writing them to participate

until summer

Don't
out
view
how
we
feel
what
we
don't

4

[March
1975]

In the interest of protecting the American consumer, I have today directed a comprehensive review of all Executive Department procedures to make certain that consumer interests receive full consideration in all government actions and decisions.

To be frank, the interests of consumers have not always been adequately considered by Federal departments and agencies.

This must be changed. Therefore, I have asked each member of the Cabinet to examine his department's activities and give me a report, by May 1, 1975, on the following:

1. What mechanisms to support consumer interest are in operation in the department now.
2. What additional measures to protect the consumer are to be undertaken.
3. What regulatory reforms may be required..



In order to make certain that the views of consumers and other public interest groups may be included in this review, I have suggested that each Cabinet Officer hold appropriate public hearings so that all points of view may be presented and considered.

The proposals received from the Executive Departments will be published, and public comment solicited before new departmental procedures to protect the public interest are established.

In any broad consideration of protecting the consumer there is no more important factor than out-dated regulatory practices - which we all know have sometimes lead to higher prices and reduced services.

Regulatory reform is the heart of consumer protection and it was for this reason that I sent to Congress legislation to establish a regulatory review commission. I would urge the Congress to consider and pass this legislation.

I am also asking the Chairman and Members of the independent regulatory agencies to meet with me to seek their suggestions and discuss ways by which we can make immediate improvements in the regulatory process so that the public will receive the most efficient and effective public service at the least cost.



In view of the steps that are being taken by the Executive Department to make government-wide improvements in the quality of service to the consumer, I am requesting that the Congress postpone further action on S.200, which would create a new federal agency for consumer advocacy.

I fully agree with the objectives of this Bill and other legislation designed to protect and serve the interests of consumers. However, I do not believe that we need yet another Federal bureaucracy, in Washington and throughout the country, with its attendant costs of \$60 million for the first 3 years and some 600 additional Federal employees.

At a time when we are trying to cut down on both the size and the cost of government, it would be unsound to add another layer of bureaucracy instead of improving the underlying structure. What we need is better administration of existing structures.

Moreover, I am deeply concerned about the extensive powers that would be given to the proposed Agency for Consumer Advocacy, which could intervene in the work of any federal, state, or local department or agency, and in the operations of private business firms.

Although the purpose of this new federal agency would be to protect the consumers, the practical effect for any company could well be to raise costs and prices to the consumer.

It is my conviction that the best way to protect the consumer is to improve the existing institutions of government, not to add more government.

I look forward to working with you, the members of your Committee, and the Congress in advancing the interests of all consumers within our existing departments and agencies.

[March 1975]

ACTION PLAN
FOR
IMPROVED CONSUMER REPRESENTATION IN EXECUTIVE BRANCH

I. Objective

To develop an inventory of existing consumer policies and to determine what actions should be taken to improve consumer representation within the Executive Branch.

~~Principles:~~
II. Cabinet Plan

During April

Each Cabinet Officer will:

1. Conduct a comprehensive survey of the existing mechanism for consumer representation in the Department.
2. Suggest holding public hearings for consumer input on what is needed to improve representation in each Department.
3. Meet with Mrs. Knauer to review consumer complaint handling mechanism.

By May 1

Each Cabinet Officer will submit a report to the President on:

1. What mechanisms to support consumer interests are in operation now.
2. What additional measures are planned to be undertaken.
3. What regulatory reform may be required.

By May 15

Each report will be published and public comment will be requested.

By June 1

President will propose any necessary legislation to Congress.

[March 1975]

comes of an issue

Concern
is an
issue
But
no finding

7th out of
30 witnesses

degree of
m +
witness

needed

Page 20
of
The Water
1474

Great deal of
concern about

The publisher -
popular subject - but unpopular

no 7 of whether our sort
adequate to meet this
member is



[March 1975]

at
the
Consumer
on The Regulatory
Commission



another time of things
get my work -

more
of
get
sit
filling
rep
spain
work

[March 1975]

Bill Ford

Listed below are objectionable provisions found in S. 200, the Consumer Protection Act of 1975:

1. Term of Administrator: Section 3(a) states that the Administrator of the Agency for Consumer Advocacy (ACA) can be removed from office only for inefficiency, neglect of duty or malfeasance ~~and that his term is coterminous with that of the President.~~ The result of this provision is to effectively insulate the Administrator of the ACA from oversight by the Administration. S. 707, as introduced in the 93rd Congress, had a similar provision which was deleted from the later versions.

2. Simultaneous Budget Submissions: Section 3(d)(5) would preclude OMB oversight and participation in the formulation of the agency's budget and spending as the provision allows the Administrator to submit agency annual reports and appropriation requests simultaneously to the Congress and to the President. *Hybrid*

3. Representation of Consumers: Section 6(a)(1) allows the Administrator to participate or intervene in any action which may affect an interest of a consumer. This should be contrasted with S. 707 which arguably required the Administrator to reach a consensus of competing consumer interests. This provision allows the ACA to selectively pick and choose which consumer interest he will represent. His determinations as to which interest of consumers is to be represented are not reviewable by anyone.

4. Informal Activities: As with last year's S. 707, the ACA under S. 200 would be able to monitor all the informal activities of the various Federal agencies. This is especially true in light of the fact that "agency activity" is defined more broadly in S. 200 than it was defined in S. 707



(S. 707 defined activity as any "agency process or phase thereof conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does mean each particular event within such process;..." The underscored portion has been deleted from the definition of agency activity in S. 200.) The affect of ACA involvement in informal activities may very well be to discourage Federal agencies from communicating informally with private enterprise thereby eliminating an important source of information and encouraging regulatory decisions to be made in a vacuum without taking into consideration the problems that businesses face.

5. Dual Prosecution: 6(c)(2) authorizes the ACA to intervene or participate in enforcement proceedings of another Federal agency. This dual prosecution provision is totally inappropriate since it means that a company will have to defend itself in a proceeding with prosecutors representing not only the Federal regulatory agency but also prosecutors representing the ACA. This provision will impact on the recently enacted Warranties/FTC Improvement Act, One provision of this act will allow the FTC to seek civil penalties of up to \$10,000 a day against any person, partnership or corporation which engages in a previously declared unfair or deceptive act or practice. In this regard, officials of the FTC have stated that they will not allow potentially interested parties to intervene in an on-going FTC proceeding to determine that the initial act was in fact unfair and deceptive. Yet the ACA would have full right to intervene in such a proceeding as a dual prosecutor.

6. Judicial Review: Section (c)(1) authorizes the ACA to seek judicial review of any agency action which the Administrator determines in

his discretion may affect an interest of consumers. Where the ACA did not participate below it must file a petition for rehearing or reconsideration. Presently most agencies' Rules of Practice make reconsideration available in limited circumstances. For example, often reconsideration is available if the petitioner can show good reason why it was impossible for him to participate in the original proceeding or can show new evidence or changed circumstances. These circumstances would not be applicable to the ACA under its automatic right to seek reconsideration at its own discretion. Consequently, regulatory agencies would have to change their rules in this respect.

7. Anonymous Consumer Complaints: Section 7(c)(3) authorizes the Administrator of the ACA to make public anonymous consumer complaints. A similar provision was contained in S. 707. Fairness dictates that when a complaint is unsigned it should not be made available to the public.

8. Interrogatories: Section 10(a)(1) authorizes the ACA to issue interrogatories directly to companies whenever the Administrator determines that the information requested is necessary to "protect the safety or health of consumers, or to discover consumer fraud and substantial economic injury to consumers...." Such authority is totally inappropriate for an agency whose primary function is advocacy rather than regulation. Further, this section continues to treat the agency as a regulator in that it makes the Federal Reports Act applicable to the ACA in the exact same manner as independent Federal regulatory agencies. Examination of the safeguards contained in Section 10(a)(2) show then to be totally empty.

S. 200 in Section 10(a)(4) "exempts" small business from ACA interrogatory authority. However, this exemption is not a total one and the ACA is free to intervene when, in its singular discretion, it determines that such information is needed from small businesses to "prevent imminent

and substantial danger to the health or safety of consumers and the Administrator has no other effective means of action." It should be emphasized that this determination is again within the sole discretion of the ACA. Further, the bill authorizes the ACA to affirmatively lobby for the repeal of this provision within 18 months after enactment.

9. Inter-agency Information Gathering: Section 10(b) generally authorizes the ACA to collect information from other government agencies. The Federal regulatory agency may deny ACA access to information under specified conditions which are narrower than the exemptions now found in the Freedom of Information Act. Of particular interest is Section 10(b)(6) which states that the ACA cannot collect information which would disclose financial conditions of individuals who are customers of financial institutions. This is a change from S. 707 which was not limited to individuals. Further, the ACA will be denied access to trade secrets only when the regulatory agency has gained access to such information under a pledge of confidentiality and only if such information would not have otherwise been available to it. Consequently, it would appear that the ACA will be able to acquire trade secrets from any Federal agency that has subpoena authority.

10. Exemptions: Because of the exemptions found in this bill, it can be duly classified as special interest legislation. The most curious is that portion of Section 16(a) which exempts FCC broadcast license proceedings from the scrutiny of the ACA, on the dubious theory that broadcast audiences are not consumers of broadcast services. Of concern also is the labor exemption found in Section 16(a) which exempts all labor disputes from ACA scrutiny. Although it can be argued that many labor disputes do not involve an interest

FCC
ND
Wang
Hart

of consumers, some obviously do. For example, an illegal secondary boycott has a direct impact on the cost and availability of consumer goods but such a proceeding would be exempt from ACA purview.

THE WHITE HOUSE
WASHINGTON

Pat
Consumer

for Policy
Issues

"Human Resources"

3/4/75

Dr Lee

Repair of fair, to be
Definite ^{input} for consumers

Information needs to be
made available at point
of service.

US No 1 - USDA Grain
Admission to Warehouse
Meet Grading.

Consumer oppose

Consumer want to
have, grow but be a new
grade.

From view,
S-- object was to
get feed to
grow 2 weeks less

Must not - delegate
differentiation in fact for
decision making.

input should be part of
output, continue input to
the -

Dr Tonelli -

Does should make
his consumer policy know
to the nation.

Concepts:

Right to consume
with transparency

Consumer care as a goal

Relationships
between buyer & seller

Consumer Rights to
Consumer Vendors.



act. Trust Engineers
(2 hrs of future work)

W/O act. Trust agreement,
a very small.

popular
time
new
act
moment
to take
look
down

first down

Two points (not value)

1) Natural
Insurance

Health

Insurance

Underwriting

Universal
Health

Problems

WMA - this deep influence on
the power of influence and

Dr Robert Wright

How much work
can you do with money

August 19th

children and the
education

Carl Farnham -
the energy of the economy

How much can the
consumer afford to
invest in the future

with —
less than desert
but is ~~the~~ ~~the~~
Call — want
Don't want
over his ~~massive~~

Foreman >
cost possible corporation
in oil cost.

82% of oil on East
Coast is ~~the~~ imported

daywork —
for of other
energy under house

wind also under house

Karysther

No more
now more

There are left
out as
common.

get out more plant benefits
get out more health benefits
for the people

Food Stamp —

all can enjoy the
ways we should give to the poor.

Long wave vote

Too little campaign & hop

Customs —

Q of appointment
much better than
in the past

Robson's excellent
reputation

Wages ^{women}
subsidy about
what jobs are
open

AGENDA

For Meeting Between
Vice President of the United States Nelson A. Rockefeller
and
National Consumer Leaders

4:00 PM
Tuesday, March 4, 1975
Cabinet Room, The White House

4:00 p.m. Vice President opens meeting welcoming
participants to this roundtable discussion
of consumer issues

4:05 p.m. Open discussion on such topics as:

- I. Consumer Representation in Federal
Decision-Making Process
- II. Regulatory Reform
- III. Other Consumer Issues



INVITED PARTICIPANTS

For Meeting Between
Vice President of the United States Nelson A. Rockefeller
and

National Consumer Leaders

4:00 p.m., Tuesday, March 4, 1975 Cabinet Room, White House

- I. Presidential Appointees to National Consumer Advisory Council
(Note: This Council has total membership of twelve,
but five positions are presently vacant)

Mr. Adolfo G. Alayon
Executive Director
Consumer Action Program of Bedford-Stuyvesant
501 March Avenue
Brooklyn, New York 11206

Mrs. Linda L. Graham
Faculty, Wichita State University
Room 115, Clinton Hall
Wichita, Kansas 67208

Mrs. Edna De Coursey Johnson
Director of Consumer Services Program
Baltimore Urban League
1150 Mondawmin Concourse
Baltimore, Maryland 21215

Dr. Stewart M. Lee
Chairman, Consumer Advisory Council and Chairman,
Department of Economics and Business Administration
Geneva College
Beaver Falls, Pennsylvania 15010

Dr. Robert L. Wright, Jr.
City Councilman (Program for Elderly Poor)
804 - 4th Avenue
Columbus, Georgia 31901

II. Other Consumer Leaders of National Reputation

Mrs. Ruth Clusen
President, League of Women Voters
1730 M Street, N. W.
Washington, D. C. 20049

Mrs. Margaret E. Fitch
President, American Home Economics Association
University of Arizona
Tucson, Arizona

Mrs. Carol Foreman
Executive Director, Consumer Federation of America
1012 14th Street, N. W., Suite 901
Washington, D. C. 20005

Mr. Michael Cole
Associate Director for Legislative Activities
Common Cause 2030 M. Strret, N. W.
Washington, D. C. 20036

Ms. Rhoda Karpatkin
Executive Director of Consumers Union
2561 Washington Street
Mount Vernon, New York 10550

Ms. Joan Claybrook
Executive Director
Congress Watch
131 D Street
Washington, D. C.

Mr. Bernard Nash
Executive Director, National Association of Retired
Teachers/American Association of Retired Persons
1901 K Street, N. W.
Washington, D. C. 20049

STAFF PARTICIPANTS

John Marsh
Counsellor to the President

L. William Seidman
Assistant to the President for Economic Policy

James M. Cannon
Assistant to the President for Domestic Affairs
Executive Director of the Domestic Council

William J. Baroody, Jr.
Assistant to the President for Public Liaison

Virginia H. Knauer
Special Assistant to the President for Consumer Affairs
Director of the Office of Consumer Affairs, HEW

Paul O'Neill
Deputy Director, Office of Management and Budget

James H. Cavanaugh
Deputy Director of the Domestic Council

Michael Raoul-Duval
Associate Director of the Domestic Council for
Natural Resources

Wayne Valis
Director for Planning and Research, Office of Public Liaison

Ken Lazarus
Associate Counsel to the President

S. John Byington
Deputy Director, Office of Consumer Affairs

Michael A. Sterlacci
General Counsel, Office of Consumer Affairs

Joseph C. Dawson
Director of Public Affairs, Office of Consumer Affairs

Charles R. Cavagnaro
Director of Field Operations, Office of Consumer Affairs

THE WHITE HOUSE

WASHINGTON

March 3, 1975

MEETING WITH CONSUMER LEADERS

Tuesday, March 4, 1975

4:00 p.m. (1 hour)

The Cabinet Room

Via: Jim Cannon

From: Jim Cavanaugh 

I. PURPOSE

You are meeting with this group of 21 national consumer leaders to listen to their views on issues concerning consumers and the role of the Federal Government and particularly on proposals to establish a Federal Consumer Protection Agency (CPA). Bill Baroody set this meeting up at the request of the President who wanted consumer views presented to the Administration before he made his final decision known on these issues. The President specifically asked that you chair this meeting if your schedule permitted.

II. BACKGROUND, PARTICIPANTS, AND PRESS PLAN

A. Background:

With the likelihood of CPA legislation moving quickly through the Congress, a decision paper was prepared for the President last week (Tab A). You may want to review that paper for more detailed background on the CPA issue.

The President has decided but not yet announced, that he is opposed to any legislation to establish a Consumer Protection Agency. Instead, he has directed that a proposal be prepared for his review that would expand the functions of Virginia Knauer's Office of Consumer Affairs. Such an expanded office would allow her to represent consumers before Federal agencies in an amicus role, similar to that proposed in the Brown CPA version.

In addition, the President directed that options for a special message to Congress on regulatory reform and consumer issues be put together. The message would propose specific regulatory reforms and certain measures of interest to consumers, such as an expansion of the Knauer office. With this package of proposals, it is hoped we would be in a position to effectively challenge CPA legislation, or at least to sustain a Presidential veto.

You will find that most of those present will be strong supporters of CPA legislation, particularly the current leading Senate bill, Senator Ribicoff's S.200. The Ribicoff bill includes practically all the provisions found objectionable to the Administration in earlier versions. Although hearings were held on S.200 last week, the Administration did not testify and so has not yet made its views known on this legislation.

B. Participants:

Jim Cannon, Assistant to the President for Domestic Affairs

Bill Seidman, Assistant to the President for Economic Affairs

Jack Marsh, Counsellor to the President

Virginia Knauer, Special Assistant to the President for Consumer Affairs

21 consumer leaders (listed at Tab B) (7 are members of the National Consumer Advisory Council and 14 are other consumer leaders)

Staff: Jim Cavanaugh

C. Press Plan:

To be announced; photo session.

III. AGENDA

- A. Vice President opens meeting welcoming participants and indicating that the purpose of the meeting is to get their views on important consumer issues before final decisions are made.

B. Open discussion on such topics as:

1. Consumer Representation in Federal Decision Making Process
 - . Consumer Protection Act or Agency for Consumer Advocacy
 - . Other viable Alternatives
2. Regulatory Reform
 - . Regulatory Reform
 - . Surface Transportation Reform
 - . Air Transportation Reform
 - . State-Local Regulatory Reform
3. Other Consumer Issues
 - . Fair Trade Repeal
 - . Prohibit Pyramid Sales
 - . Federal No-Fault
 - . Other ideas from Participants

THE WHITE HOUSE
WASHINGTON
February 23, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CAVANAUGH

SUBJECT: Consumer Protection Legislation

Attached is a memorandum from Jim Lynn seeking your decision regarding (1) an Administration position on Consumer Protection Agency legislation and (2) whether or not to send a message to Congress covering consumer issues.

The Lynn paper also makes the suggestion -- which we concur in -- that you have a meeting to discuss this complex and politically sensitive issue.

BACKGROUND

While no Consumer Protection Agency (CPA) bills have yet been successful in passing both Houses of Congress, support for a consumer agency has steadily increased since 1971. Last March the House passed CPA legislation 293 to 94 and the Senate, after four attempts, was unsuccessful at invoking filibuster cloture, the last attempt failing by only two votes.

Attached is a table outlining the major points involved in the CPA issue and how they are treated by the major proposals.

The Holifield-Horton bill was the version passed by the House last year and opposed by you. In the Senate, a similar bill was the one unable to gain cloture. The Brown Amendments were an attempt to limit Holifield-Horton so as to give the CPA full party standing before many agency proceedings but substantially reduced investigative powers and gave only amicus status before the Federal courts. Although these amendments were defeated by the House, you indicated during the Senate debate last fall that should the Senate amend their bill to include the Brown provisions you could find the legislation much more acceptable. As a Member of Congress in 1971, you voted for a CPA bill along the lines of the Brown amendments.

Finally, the Dole bill was offered as a compromise last fall by Senator Dole. Acceptable to neither the Senate nor the Administration it failed to gain much support.

CURRENT SITUATION

The makeup of the 94th Congress and the departure of several Senators who led the Senate filibuster could result in the early passage of a Consumer Protection Agency bill possibly by such margins as to make a veto unsustainable.

This past week the Senate Government Operations Committee began hearings on CPA legislation although Committee staff tell us an Administration witness will not be invited unless we want to take a position.

At this point, the major CPA proposal is the Ribicoff bill, S.200, and contains all the features objectionable to the Administration in previous CPA proposals. Furthermore, it would also authorize appropriations averaging \$20 million a year and necessitate an employee level in the agency of 600 to 800 people.

CURRENT POSITION

Because the CPA issue is again heating up in Congress and the possibility of swift passage, we thought you would want to review the various options available to the Administration. Not only will pro-consumers be pressing us for our position soon, but so will opponents of any CPA legislation. As you recall, interest in your position has already been indicated by Senator McClure who feels strongly that members of the Senate Select Committee, instrumental in blocking the consumer bill last year, be consulted about any change in Administration policy.

Up to this time the Administration's position has been that it is opposed to any legislation creating a separate Federal consumer agency. Instead, we have maintained that our proposal for a comprehensive review commission of Federal independent regulatory agencies should be enacted and that until that review is completed it is inappropriate to create such a consumer agency. In addition, we have said that the review commission will be charged with addressing the matter of consumer protection in regulatory agency actions.

Options for dealing with the CPA proposals follow, as well as options for how you can best communicate your consumer stand no matter what it may be.

In the Lynn paper the vehicle proposed by Bill Baroody and Virginia Knauer is that of a consumer message. Such a message would provide the Administration with an opportunity to state a number of consumer proposals in the 1976 budget as well as several new ones and would provide a counterforce to the argument that the Administration is anti-consumer. In the message you could announce that you would or would not support a Consumer Protection Agency. In the latter case, you could then explain your proposal for regulatory reform and the necessity for such reform to precede the creation of any consumer agency.

Since the completion of the Lynn memo, however, we have developed an alternative to the consumer message. We think the interrelated issue of regulatory reform could be a topic for a special message that could also include treatment of the consumer agency.

We see the regulatory reform message as setting forth specific reform proposals rather than establishing a commission to study the problem. Merely calling for a regulatory reform commission would postpone perceived action on this issue and would result in the Administration making proposals very late into the 94th Congress. Instead, a Presidential message could be prepared which puts the regulatory reform problem in context and would be followed by specific proposed legislation for immediate consideration by the Congress and a conference of State and local officials to highlight the need for and various actions now occurring at the State and local regulatory level.

Furthermore, this message would provide a very convenient vehicle for a low key discussion of the Consumer Protection Agency issue. Having outlined the expensive problems of much Federal regulation in the economic area, you could state that a Consumer Protection Agency is not necessary at this time.

This approach would give us a viable package to advocate should you have to veto a CPA bill. While we have not had a chance to further develop this proposal, we wanted you to know of its possibility and that, independent of the consumer issue, we will be putting together options for you to deal with regulatory reform.

OPTIONS

With respect to a CPA bill, we see the options as:

- Option 1. Submit a restricted CPA bill along the lines of the Brown version in the 93rd Congress -- largely an amicus agency.

Pro: Could give us a positive position and improve chances for restricting CPA legislation in Congress.

Con: Could alienate CPA opponents by changing your position at this time and contradict your policy of no new spending programs this year.

- Option 2. Do not take a public position on CPA, but informally encourage Senator Dole and others to take the lead in working for a CPA bill like the Brown version.

Pro: Could avoid a Presidential commitment until support for a restricted bill is assessed.

Con: Would probably be difficult to maintain an informal position for very long.

- Option 3. Do not communicate an Administration position -- either formally or informally -- at this time.

Pro: Allows maximum flexibility.

Con: Failure to take a public position at this time could be criticized by both consumer supporters and opponents.

- Option 4. Indicate Administration opposition to CPA legislation and threaten a veto. Also indicate that our regulatory reform initiatives -- either a commission or specific proposals -- will address the matter of consumer protection.

Pro: Would be supported by those who feel a CPA is the wrong way to protect consumers.

Con: Could have the Administration characterized as anti-consumer if no CPA is supported.

Your options for a special message include:

Option 1. Submit a consumer message.

Pro: Could put the Administration on record as having a number of consumer proposals to counter the need for a CPA.

Con: Many of the items that would be in a message have been proposed before and could be attacked as relatively minor compared to a CPA. Also, could be inconsistent with the Administration's opposition to new spending programs and new Federal personnel.

Option 2. Do not submit a consumer message but instead include the consumer issue in a regulatory reform message.

Pro: Would give us a package of immediate proposals to stand by in any legislative debate on a CPA.

Con: Could be criticized as giving insufficient attention to popular consumer issues.

DECISION

(1) CPA legislation:

_____ Option 1 -- Submit a restricted CPA bill.

Knauer (favors something closer to Dole bill in 93rd Congress)

_____ Option 2 -- Work informally for restricted CPA.

_____ Option 3 -- Do not take position, formally or informally.

Secretary Weinberger (or Option 4)

Buchen (decide on CPA in context of consumer message)

_____ Option 4 -- Indicate opposition to any CPA proposal.

Secretary Weinberger (or Option 3)

Baroody (if consumer message goes forward)

OMB

Cavanaugh

(2) Special message:

_____ Option 1 -- Send a consumer message.

Secretary Weinberger

Marsh

Baroody

Buchen

Knauer

_____ APPROVE

_____ DISAPPROVE

_____ Option 2 -- Develop further the idea of sending
a regulatory reform message that
covers your consumer position.

Cavanaugh

(This proposal has not yet been staffed to your
other advisers.)

_____ APPROVE

_____ DISAPPROVE



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

DECISION

FEB 21 1975

MEMORANDUM FOR THE PRESIDENT

SUBJECT: A Consumer Message and Administration
Position on a Consumer Protection Agency

The Senate Government Operations Committee began hearings this week on Consumer Protection Agency (CPA) legislation. The Committee staff have told us that an Administration witness will not be invited unless we indicate we want to take a position.

Because of the complexity of the issue and its political sensitivity, I believe it would be useful for you to have a meeting to discuss this issue.

This memorandum presents several options for your decision on (1) whether or not to send a consumer message to Congress and (2) an Administration position on Consumer Protection Agency legislation.

A Consumer Message. Bill Baroody and Virginia Knauer favor your submitting a consumer message as soon as possible, no matter what position the Administration takes on CPA. They propose that such a message stress regulatory reform, affirming your support for measures which could include:

- the legislation submitted by the Administration to establish a Commission to review the activities of regulatory agencies, and legislation which will be submitted to reform surface and air transportation regulation and to reform financial institutions;
- the establishment of individual consumer advocacy offices in each Federal agency - if the consumer message does not endorse a CPA bill;
- various legislative proposals: repeal Federal laws allowing State resale price maintenance laws, for which you have already announced support; prohibit pyramid sales; improve the regulation of foods, drugs, cosmetics and other products;

- various Executive Branch task forces which are now considering consumer-oriented reforms in pricing and other trade practices;
- nonlegislative proposals concerning--among other things--home appliances, life cycle costs of autos, consumer awareness of product resales, and unit pricing;
- a new requirement for "Consumer Benefit Analyses"--along the lines of inflation impact statements--to be applied to all proposed legislation and regulations;
- a new program of Federal grants for upgrading of local small claims courts and other consumer complaint handling mechanisms; and
- the statutory establishment of the Office of Consumer Affairs (OCA) in HEW, or expansion by Executive Order of OCA to assume an amicus role.

According to Mrs. Knauer, the costs of these proposals "would be principally enforcement costs." There would however, be significant additional costs if a new grant program for small claims courts were established or if new personnel were added to Federal agencies to form consumer advocacy offices.

Administration Position on CPA Legislation. The House passed CPA legislation last March by a vote of 293 to 94. The Senate failed to pass a stronger bill after four attempts at filibuster cloture were defeated, the last by only two votes. The departure of Senator Ervin and five other Senators who led the Senate filibuster, as well as the makeup of the new Congress, are likely to result in passage of a CPA bill, unless the Administration intervenes successfully. Even if you choose to oppose CPA legislation, the chances are that a bill will pass and that a veto cannot be sustained.

The current CPA bill in the Senate authorizes appropriations averaging \$20 million a year. The new agency would probably employ 600 - 800 people. To oppose the legislation on the basis that it represents a new Federal spending program would not be inconsistent with other Administration positions.

CPA is a "fringe" political issue--the far left and far right in Congress disagree strongly with each other on CPA. Hard core support for the measure probably amounts to just 10 - 20% of Congress. Endorsement of CPA would probably alienate an important conservative coalition of Congressmen and Senators. The votes of individual Congressmen and Senators are shown at Attachment A.

Attachment B identifies the differences among major CPA bills. We believe the options are:

Option 1. Submit a bill along the lines of the Brown version in the 93rd Congress--a CPA with limited powers, largely an amicus agency. Virginia Knauer believes we should submit legislation stronger than Brown, closer to the provisions of what was known last year as the Dole compromise.

Option 2. Do not take a public position on CPA, but informally encourage Senator Dole and others to take the lead in working for a CPA with restricted powers along the lines of the Brown version.

Option 3. Do not communicate an Administration position--either formally or informally--at this time.

Option 4. Indicate Administration opposition to CPA legislation and threaten a veto. Also indicate that the Administration has submitted a bill to establish a regulatory agency Review Commission which will address the matter of consumer protection in regulatory agency actions. The consumer message package could be supported as an alternative to a separate CPA.

Major arguments for and against a consumer message and the CPA options are provided at Attachment C.

Decisions:

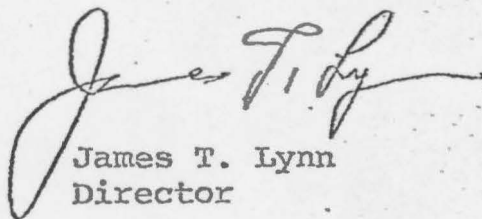
(1) A Consumer Message:

☐ Prepare a Consumer Message (Favored by Secretary Weinberger, Baroody, Knauer, Marsh and Buchen).

☐ Do not submit a Consumer Message (Favored by OMB).

(2) CPA Legislation:

- ☐ Option 1 - Submit a restricted CPA bill (Favored by Knauer--who prefers something closer to Dole Bill, 93rd Congress).
- ☐ Option 2 - Work informally for restricted CPA.
- ☐ Option 3 - Do not take position, formally or informally (Favored by Secretary Weinberger (or Option 4), and Buchen (decide on CPA in context of drafting a consumer message)).
- ☐ Option 4 - Indicate opposition to any CPA proposal (Favored by Secretary Weinberger (or Option 3), Baroody (if consumer message package goes forward), and OMB).


James T. Lynn
Director

Attachments

- A. House Vote Passing H.R. 13163
- B. Major Differences in CPA Bills
- C. Options--Submission of a
Consumer Message to Congress
& Admin's Position on CPA
Legislation
- D. Virginia Knauer's Views

House Vote Passing H.R. 13163

April 3, 1974

AYES—293

Albright	Brinkley	Culver	Grover	Mezvinisky	Staggers
Adams	Brooks	Deniels.	Gude	Mills	Stanton,
Addabbo	Broomfield	Dominitch, V.	Gunter	Minish	J. William
Alexander	Brotzman	Danielson	Gayer	Mink	Stanton,
Anderson,	Brown, Calif.	Davis, S.C.	Hanilton	Mitchell, Md.	James V.
Calif.	Brown, Mich.	Delaney	Hanley	Mitchell, N.Y.	Steed
Anderson, Ill.	Brown, Ohio	Dellenback	Hanna	Mizell	Steele
Andrews, N.C.	Broughill, N.C.	Delums	Hanrahan	Moakley	Steelman
Andrews,	Broughill, Va.	Denholm	Hansen, Idaho	Mollohan	Steiger, Wis.
N. Dak.	Burke, Calif.	Dent	Hansen, Wash.	Morgan	Stokes
Annumrio	Burke, Fla.	Derwinski	Harrington	Moss	Stratton
Arends	Burke, Mass.	Diggs	Harsha	Murphy, Ill.	Stubblefield
Ashley	Burke, Mo.	Dingell	Hastings	Murphy, N.Y.	Stuckey
Aspin	Burton	Donohue	Hawkins	Murtha	Studds
Badillo	Carney, Ohio	Downing	Hays	Myers	Sullivan
Bafalis	Chamberlain	Drinan	Hechler, W. Va.	Natcher	Symington
Barrett	Chisholm	Dudski	Heluz	Nedzi	Talcott
Bell	Clark	du Pont	Helstoski	Nix	Taylor, N.C.
Bennett	Clausen,	Eckhardt	Hicks	Ober	Thompson, N.J.
Bergland	Don E.	Edwards, Calif.	Hillis	O'Brien	Thomason, Wis.
Blagel	Clay	Ellberg	Hinshaw	O'Hara	Thone
Blister	Cleveland	Erlenborn	Hogan	Owens	Thornton
Bingham	Cohen	Fisch	Holdfield	Parris	Tieman
Blainik	Collier	Evans, Colo.	Holtzman	Pattman	Udall
Boggs	Collins, Ill.	Evins, Tenn.	Horton	Patten	Ullman
Boland	Conte	Fasell	Howard	Pepper	Van Derlin
Bolling	Corman	Findley	Hampole	Ferkins	Vander Veer
Brademas	Cotter	Fish	Hunt	Pettis	Vank
Bray	Coughlin	Flood	Ichard	Peyser	Voyser
Brenkridge	Cronin	Hewers	Jarr, au	Pike	Vicorho
Foley	McClary	Rosenthal	Johnson, Calif.	Podell	Waldie
Ford	McCleary	Rostenkowski	Johnson, Colo.	Preger	Walsh
Fountain	McCormack	Roush	Johnson, Pa.	Price, Ill.	Wampler
Fraser	McDane	Roy	Jones, Ala.	Fritchard	Whalen
Frelinghuysen	McFall	Roybal	Jones, Tenn.	Quie	Wiltchurst
Frey	McKay	Ruppe	Jordan	Bailsback	Widnall
Fulton	McKinney	Ryan	Karth	Randall	Wilson, Bob
Fuqua	McSpadden	St Germain	Kastner	Rangel	Wilson,
Gardes	Macdonald	Sarasin	King	Regula	Charles, Tex
Gastino	Madden	Sarbanes	Koch	Reuss	Winn
Gibbons	Madigan	Schroeder	Kuykendall	Rhodes	Wolf
Gilliam	Mallory	Seftling	Kyros	Riegle	Wright
Gila	Marrault	Shirley	Lagomarsino	Rinaldo	Wyder
Gonzalez	Mathias, Calif.	Shoup	Latia	Robison, N.Y.	Wyman
Grass	Matsunaga	Sisk	Leggett	Rodino	Yates
Gray	Mazroff	Skubitz	Lehrman	Roe	Yatron
Green, Oreg.	Meads	Slack	Lent	Regress	Young, Alaska
Green, Pa.	Melcher	Smith, Iowa	Litton	Roncallo, Wyo.	Young, Ga.
Griffiths	Metcalf	Snyder	Loug, Ia.	Roncallo, N.Y.	Young, Ill.
			Low, Md.	Rooney, Pa.	Young, Tex.
			Lucken	Rose	Zablocki

NOES—94

Abdnor	Froelich	Passman
Archer	Goldwater	Price, Tex.
Armstrong	Gooding	Quillen
Ashbrook	Gross	Rorick
Baker	Gubert	Roberts
Bauman	Heley	Robinson, Va.
Beard	Hammer-	Rousselot
Bowen	Schmidt	Rush
Bray	Henderson	Satterfield
Breaux	Holt	Scherle
Buchanan	Hosmer	Schneebeli
Burger	Hudant	Schulz
Burleson, Tex.	Hutchinson	Shuster
Byron	Jones, N.C.	Smith, N.Y.
Carter	Kemp	Spence
Casey, Tex.	Ketchum	Steiger, Ariz.
Chappell	Landgrebe	Sumas
Clancy	Landrum	Taylor, Mo.
Clawson, Del.	Lott	Trotter
Cochran	McCollister	Towell, Nev.
Collins, Tex.	McEwen	Trenn
Conable	Mahon	Vander Jagt
Daniel, Dan	Mann	Wagoner
Daniel, Robert	Martin, Nebr.	White
W., Jr.	Martin, N.C.	Whitten
Davis, Ga.	Mathis, Ga.	Wiggins
de la Garza	Mayne	Wyatt
Dennis	Millford	Wyllie
Duncan	Miller	Young, Fla.
Edwards, Ala.	Montgomery	Young, S.C.
Eshelman	Moorhead,	Zion
Fisher	Calif.	
Flynt	Nichols	

NOT VOTING—45

Bevill	Hébert	Rees
Blackburn	Heckler, Mass.	Reid
Butler	Huber	Rooney, N.Y.
Camp	Jones, Okla.	Runnels
Carey, N.Y.	Kazen	Sandman
Cederberg	Kluczynski	Shriver
Conlan	Lujan	Sikes
Conyers	Michel	Stark
Crane	Marshall, Ohio	Stephens
Davis, Wis.	Moorhead, Pa.	Ware
Devine	Mosher	Williams
Dickinson	Nelsen	Wilson
Dorn	O'Neill	Charles H.,
Forsythe	Pickle	Calif.
Frenzel	Poage	Zwack
Gettys	Powell, Ohio	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Sikes against.

Until further notice:

Mr. O'Neill with Mr. Crane.
 Mr. Rooney of New York with Mr. Camp.
 Mr. Rees with Mr. Blackburn.
 Mr. Carey of New York with Mr. Devine.
 Mr. Charles H. Wilson of California with
 Mrs. Heckler of Massachusetts.
 Mr. Reid with Mr. Cederberg.
 Mr. Bevill with Mr. Butler.
 Mr. Pickle with Mr. Davis of Wisconsin.
 Mr. Conyers with Mr. Kluczynski.
 Mr. Stark with Mr. Frenzel.
 Mr. Moorhead of Pennsylvania with Mr.
 Conlan.
 Mr. Runnels with Mr. Dickinson.
 Mr. Stephens with Mr. Huber.
 Mr. Gettys with Mr. Lujan.
 Mr. Dorn with Mr. Williams.
 Mr. Jones of Oklahoma with Mr. Nelsen.
 Mr. Forsythe with Mr. Powell of Ohio.
 Mr. Mosher with Mr. Shriver.
 Mr. Michel with Mr. Ware.
 Mr. Sandman with Mr. Zwack.

Senate Vote Rejecting Cloture on S. 707 (last cloture attempt)

September 19, 1974

YEAS—64

Abourezk	East	Muskie
Aiken	Haskell	Nelson
Bark	Hatchfield	Packwood
Brall	Hathaway	Pastore
Bentzen	Hollings	Pearson
Biden	Huddleston	Pell
Brooke	Hughes	Percy
Burdick	Humphrey	Proxmire
Eggt, Robert C. Inoué	Jackson	Randolph
Cannon	Javits	Ribicoff
Cass	Magnuson	Roth
Chiles	Mansfield	Schweiker
Church	Mathias	Scott, Hugh
Clark	McGee	Stallord
Cook	McGovern	Stevens
Cranston	McIntyre	Stevenson
Dole	Nease	Symington
Domestic	Matzenbaum	Tunney
Engleton	Monrath	Welcker
Fong	Montoya	Williams
Gravel	Moss	
Hart		

NAYS—34

Allen	Dominko	McClellan
Baker	Eastland	McClure
Bartlett	Evins	Nunn
Bellmon	Fannin	Scott
Bene	Goldwater	William L.
Bible	Graham	Spreckman
Brock	Gurney	Stennis
Buckley	Harkin	Taft
Byrd	Holms	Talmadge
Harry P. Jr.	Howard	Thurmond
Cotton	Johnston	Tower
Curtis	Long	Young

NOT VOTING—2

Fulbright	Kennedy
-----------	---------

Major Differences in CPA Bills

<u>Issue</u>	<u>S. 200 (Ribicoff)</u>	<u>Dole Bill 93rd Congress</u>	<u>Holifield-Horton Bill 93rd Congress</u>	<u>Brown Amendments 93rd Congress</u>
Interrogatory Authority	Independent CPA interrogatory authority	CPA use of host agency interrogatory authority	CPA use of host agency interrogatory authority	No interrogatory authority
Term and Removal of CPA Administrator	4-year term, coterminous with that of President; limitations on President's power to remove	4-year term	No limitation on President's power to appoint or remove	No limitation on President's power to appoint or remove
Budget and Legislation	Annual report to contain simultaneous budget and legislative recommendations to OMB and Congress	Annual report to contain simultaneous budget and legislative recommendations to OMB and Congress	No provision	No provision
CPA Right to Obtain Judicial Review of Agency Regulatory Decisions	Right of judicial reviews comparable to that of private parties	Right of judicial reviews comparable to that of private parties	Right of judicial reviews comparable to that of private parties	No right of judicial review of agency actions
CPA Judicial Representation	CPA represents itself	CPA represents itself	CPA represents itself	Justice Department discretion to represent CPA
Exemptions from CPA Review	CIA, NSA, FBI, labor-related and FCC licensing matters, but only national security and intelligence functions of DoD, State and AEC	CIA, NSA, FBI, labor-related and FCC licensing matters, but only national security and intelligence functions of DoD, State and AEC	CIA, NSA, FBI, labor-related matters, but only national security and intelligence functions of DoD, State and AEC	CIA, NSA, FBI and entire DoD, State and AEC
CPA Access to Trade Secrets and Commercial and Financial Information Possessed by Federal Agencies	CPA denied such information only if given to other Federal agency on written promise of confidentiality	CPA denied such information only if given to other Federal agency on written promise of confidentiality	CPA denied such information only if given to other Federal agency on written promise of confidentiality	CPA denied information given both "voluntarily" to a Federal agency, or on a written promise of confidentiality
CPA Access to Criminal Investigation Files	Exemption for prosecutorial recommendations only	Exemption for prosecutorial recommendations only	No exemption for criminal investigative files (only for "internal agency policy recommendations," which could be interpreted to mean prosecutorial recommendations)	Full exemption for criminal investigation files

Options--Submission of a Consumer Message
to Congress and Administration Position on
CPA Legislation

A Consumer Message-

Pro - A message would provide the Administration with an opportunity to state a number of consumer proposals in the 1976 budget--as well as other new proposals--and would provide a counterforce to the argument that the Administration is "anti-consumer." It would link regulatory reform to consumerism, thus enabling the Administration to harness the political energy of several constituencies on a positive issue. By going on record as strongly advocating progressive consumer reforms, some of the most important of which are the proposals for regulatory reform, the President contributes to restoration of consumer confidence and takes a strong leadership role politically-- and does so with only a small outlay of Federal funds.

Con - Many of the proposals that would be highlighted in a consumer message have already been undertaken or proposed in the previous Congress. The new proposals could be attacked as relatively minor compared to a strong CPA. Moreover, new proposals would be inconsistent with the Administration's opposition to new spending programs and increased Federal personnel. Federal law enforcement funds are already available for small claims courts support at the discretion of the States and the Administration has strongly opposed grants to States and localities solely for "handling consumer complaints." A consumer message could draw attention to CPA in the absence of a strong CPA endorsement.

CPA Legislation.

Option 1. Submit an Administration bill establishing
a restricted Consumer Protection Agency

Pro - Enactment of some form of CPA legislation stands a good chance. An Administration bill would improve the chances for more restrictive final legislation and give the Administration a positive position on a consumer issue. Given the pressure for some type of CPA bill, the Brown amended version represents a "least damage" alternative.

Con - There is a substantial amount of opposition in the business community to any CPA legislation. On the merits, a CPA is not needed nor is it likely to be able to achieve the goals of its proponents. Administration proposed legislation would also be inconsistent with the President's public

opposition to new spending programs. Virtually all of the Brown Amendments were voted down by substantial margins in the House last year, making it unlikely that Congress would accept them. Finally, once a CPA is established, it would certainly seek expanded powers within a short time, a la the Equal Employment Opportunity Commission.

Option 2. Work Informally for a Restricted CPA

Pro - This option would avoid a Presidential commitment initially, and would allow those who favor a restricted CPA an opportunity to obtain such a bill to test the viability of a restricted CPA option.

Con - In the absence of an explicit "going in" position, the Administration would have difficulty maintaining policy control in the bargaining process. In the face of congressional requests for testimony and agency views, it would be difficult to maintain an informal position on legislation. Also, once established, a CPA would certainly seek expanded powers within a short time, a la the Equal Employment Opportunity Commission.

Option 3. Take No Position At this Time

Pro - This option allows you maximum future flexibility and maneuverability, depending on progress of the various CPA bills in the Congress.

Con - Failure to take a public position may be criticized as irresponsible, as well as maneuvering for the defeat of CPA legislation.

Option 4. Oppose Any CPA Legislation

Pro - On the merits, the adversary nature of CPA is the wrong way to assure that regulatory agencies take the interests of consumers into account. A more effective and efficient way would be for the agencies themselves to be forced-- through congressional oversight and appropriate legislation-- to organize for and heed consumer concerns. Strong Administration opposition would give opponents of CPA a rallying point.

Con - The Administration runs the risk of being characterized as "anti-consumer," by not having an alternative to CPA legislation. Failure to endorse a restricted CPA bill could result in a much stronger CPA bill coming out of Congress.

INVITED PARTICIPANTS

For Meeting Between
Vice President of the United States Nelson A. Rockefeller
and

National Consumer Leaders

4:00 p.m., Tuesday, March 4, 1975 Cabinet Room, White House

- I. Presidential Appointees to National Consumer Advisory Council
(Note: This Council has total membership of twelve,
but five positions are presently vacant)

Mr. Adolfo G. Alayon
Executive Director
Consumer Action Program of Bedford-Stuyvesant
501 Marcy Avenue
Brooklyn, New York 11206

Mrs. Linda L. Graham
Faculty, Wichita State University
Room 115, Clinton Hall
Wichita, Kansas 67208

Mrs. Camille A. Haney
Consumer Affairs Coordinator
Wisconsin Department of Justice
Room 168, Torain Hotel
Madison, Wisconsin 53702

Mrs. Edna DeCoursey Johnson
Director of Consumer Services Program
Baltimore Urban League
1150 Mondawmin Concourse
Baltimore, Maryland 21215

Dr. Stewart M. Lee
Chairman, Consumer Advisory Council and Chairman,
Department of Economics and Business Administration
Geneva College
Beaver Falls, Pennsylvania 15010

Dr. Robert L. Wright, Jr.
City Councilman (Programs for Elderly Poor)
804 - 4th Avenue
Columbus, Georgia 31901

II. Other Consumer Leaders of National Reputation

Mrs. Ruth Clusen
President, League of Women Voters
1730 M Street, NW
Washington, D. C. 20049

Mrs. Margaret E. Fitch
President, American Home Economics Association
University of Arizona
Tucson, Arizona 85721

Mrs. Carol Foreman
Executive Director, Consumer Federation of America
1012 14th Street, N. W. Suite 901
Washington, D. C. 20005

Mr. John W. Gardner
Chairman, Common Cause
2030 M Street, NW
Washington, D. C. 20036

Dr. E. Thomas Garman
President, American Council on Consumer Interest
Northern Illinois University
DeKalb, Illinois 60115

Ms. Rhoda Karparkin
Executive Director of Consumers Union
2561 Washington Street
Mount Vernon, New York 10550

Mr. Ralph Nader
Consumer Advocate
P.O. Box 19367
Washington, D. C. 20036

Mr. Bernard Nash
Executive Director, National Association of Retired
Teachers/American Association of Retired Persons
1909 K Street, NW
Washington, D. C. 20049

Ms. Ellen Haas
Acting Executive Director
National Consumer League
1785 Massachusetts Avenue, NW
Washington, D. C. 20036

Dr. Hans Thorelli
Professor, School of Business
Indiana University
Bloomington, Indiana 47401

James Turner, Esq.
Attorney, Author, Consumer Advisor to FDA
Turner, Swankin and Koch
1625 I Street, N. W. Room 925
Washington, D. C. 20006

Dr. Edward R. Willett
Professor, Northeastern University
120 Boylston Street
Boston, Massachusetts 02116

Ms. Ellen Zawel
President, National Consumers Congress
1346 Connecticut Avenue, N. W. - Room 1019
Washington, D. C. 20036

III. Staff Participants

James M. Cannon
Assistant to the President for Domestic Affairs
Executive Director of the Domestic Council

William J. Baroody, Jr.
Assistant to the President for Public Liaison

Virginia H. Knauer
Special Assistant to the President for Consumer Affairs
Director of the Office of Consumer Affairs, HEW

James T. Lynn
Director, Office of Management and Budget

IV. Other Staff in Attendance

James H. Cavanaugh
Deputy Director of the Domestic Council

Michael Raoul-Duval
Associate Director of the Domestic Council for
Natural Resources

Paul O'Neill
Deputy Director, Office of Management and Budget

Wayne Valis
Director for Planning and Research, Office of Public Liaison

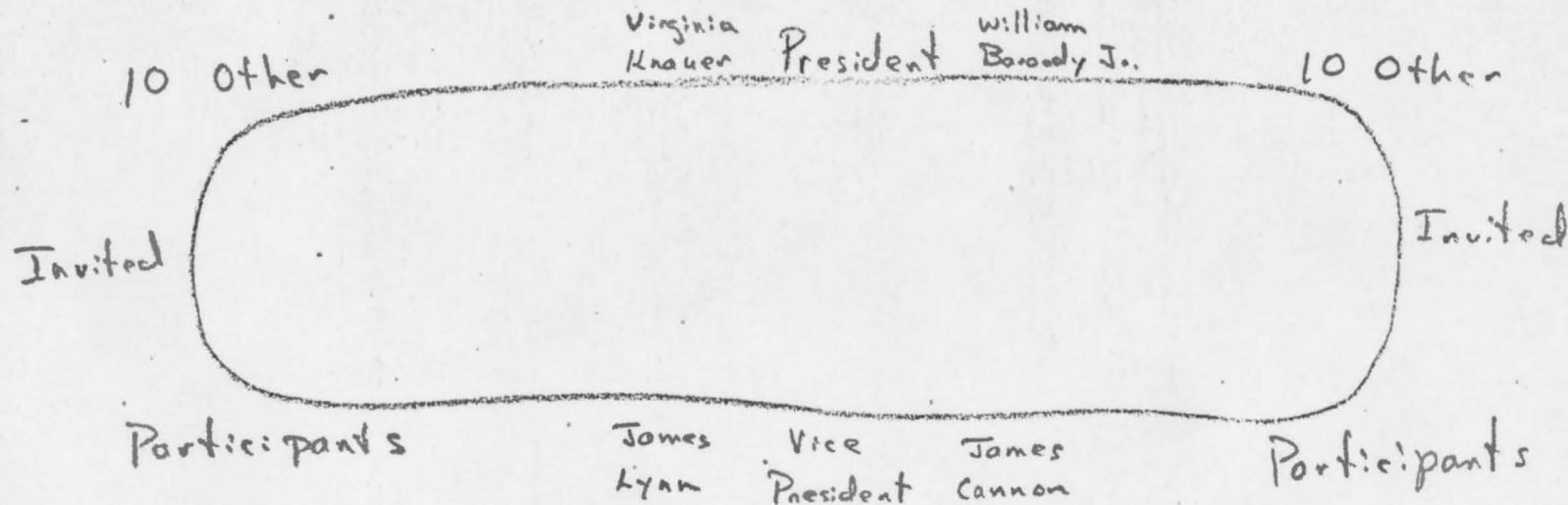
S. John Byington
Deputy Director, Office of Consumer Affairs

Michael A. Sterlacci
General Counsel, Office of Consumer Affairs

Joseph C. Dawson
Director of Public Affairs, Office of Consumer Affairs

Charles R. Cavagnaro
Director of Field Operations, Office of Consumer Affairs

Staff in Attendance



Proposed Cabinet Room Arrangement
for meeting between
Vice President Rockefeller and National Consumer leaders

THE WHITE HOUSE

WASHINGTON

3/7/75

JMC:

Jim Cavanaugh says you will see this late tonight or tomorrow morning.

The President is not expecting it before the weekend.

Rough stuff is back, but being put together.

P

*Draft
Am -*



Jim Carrough

THE WHITE HOUSE

WASHINGTON

March 5, 1975

MEMORANDUM TO:

JIM CANNON

FROM:

PAM NEEDHAM *PN*

SUBJECT:

Activity Concerning Consumer Policies

With the consumer issue heating up on the Hill once again, the Administration has been active on a number of fronts preparatory to the President making his decision known on Consumer Protection Agency (CPA) legislation and on a possible special consumer message to the Congress.

Below are some specific items in this effort you might want to mention in the senior staff meeting tomorrow:

- Jim Carrough: What is that proposal - and what happened to it?*
1. The President met last Friday, separately, with both Virginia Knauer and Senator Jim McClure to listen to their views on CPA legislation and to hear Mrs. Knauer's recommendations on consumer issues in general.
 2. At the direction of the President, we are working with Mrs. Knauer and Bill Baroody in putting together a package of possible options the President could include in a message to Congress on both consumers and regulatory reform. The reform initiatives would be instead of our earlier proposal for a regulatory review commission.

We have circulated this package to the senior staff and will be putting their comments together for a decision paper to go to the President by the end of this week.

3. Bill Baroody set up a meeting that was chaired by the Vice President on Tuesday with a group of national consumer leaders for a general discussion of their priority concerns. The meeting went well, and it appeared that the sense of the group was that the Administration had a better consumer record than it had received credit for.

Jim Carrough: When will I see this?

