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THE WHITE HOUSE

WASHINGTON

March 28, 1975

COMMENTS PHONED TO : JIM CANNON

FROM : Stephen Gardner
Treasury Department

SUBJECT : Comments on Consumer Advocate Bill

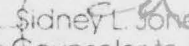
1. The specific problems that the bill gives us are very large. The section that permits the agency to initiate proceedings in Federal courts to review Federal agency actions could extend to millions of administrative decisions made in IRS and Customs cases. That's just a overview and it would impose tremendous burden.
2. & 3. The specific efforts made by the many treasury bureaus agencies and departments to better represent the consumer need to be coded or listed in more detail than this time frame allows. As a matter of fact, we are thinking of developing an over-view function in the Secretaries office to coordinate consumer interest and representation for all treasury sections.
4. There are numerable regulatory reforms we could suggest - for example, financial institutions act is a consumer bill. A regulatory reform list is being submitted by special messenger.



to. Jim Cannon Department
of the Treasury
Office of the
Secretary
room. _____ date. 3-28-74

Attached is the answer to
question 4 of your letter
asking for a Treasury response
dealing with the Consumer Protection
Act.

Please add this to the
response called in by Deputy
Secretary Gardner answering your
first three questions.


Sidney L. Jones
Counselor to the
Secretary of the Treasury
room 3413
ext 5901



OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

REGULATORY REFORMS SUGGESTED TO ASSIST THE CONSUMER

1. Surface Transportation Deregulation--
 - a. Truck
 - b. Railroad
2. CAB reforms on airplane fare.
3. Assess impact of EPA rulings (see #21)
4. Repeal McGuire Act.
5. Enactment of Financial Institutions Act.
6. Unify State foreclosure and usury laws.
7. Building code and standards revisial.
8. Vigorous enforcement of antitrust laws.
9. Avoid Cargo Preference legislation.
10. Repeal Jones Act.
11. Repeal Davis-Bacon Act.
12. Accelerate Nuclear plant licensing.
13. Assess Impact of OSHA regulations (see #22)
14. Repeal of the Anti-trust Exemption of Agricultural Cooperatives with Annual Sales Exceeding \$10 Million. In the context of anti-trust exemptions for agricultural cooperatives, consider amending the Capper-Volstead Act of 1922 and any subsequent legislation incorporating its features of granting dairy cooperatives anti-trust exemptions. The intent of the original law was to give small farmer cooperatives equal bargaining power with buyers, but not to give the supercooperatives of today virtual control over domestic supplies.

Any size limit for exemption would be purely arbitrary and could in several commodities act as a substantial deterrent to pro competitive activities. It is our view that existing



laws are a sufficient deterrent to any abuses that may accrue from large cooperatives. This is evident by the fact that there are currently at least five anti-trust suits pending against cooperatives in either the Department of Justice or the Federal Trade Commission. Three of these cases are milk, one in broilers, and one in lettuce. USDA is also investigating charges of undue price enhancement in potatoes.

15. Amendment of marketing order legislation so as to prohibit restrictions on interstate movement and production quotas on individual producers. The Agricultural Marketing Agreement Act of 1937 provides authority for a wide range of regulatory activities relating to the marketing of agricultural commodities.
16. Support Regulatory Reform Commission.
17. Review the Commodity Exchange Act.
18. Review occupational licensing requirements which may limit entry, competition and productivity improvements. It is our understanding that most of the licensing restrictions are under State law.
19. Review the necessity for commodity import restrictions currently in effect for meat, sugar, coffee, dairy products, cotton, wheat, and other products. (Import restrictions on coffee are no longer in effect. Our obligations under the International Coffee Agreement of 1968 lapsed on September 30, 1973, at which time all quota provisions and import restrictions under the ICA ended. Import restrictions on sugar continue as part of the U.S. Sugar Act; however, these restrictions end with the expiration of the Act on December 31, 1974.)
20. Deregulation of natural gas.
21. Environment - The Federal Government should reexamine its policies toward environmental protection to determine (a) which programs are, on balance, beneficial (in the sense of having economic/social benefits which outweigh their economic/social costs), (b) which of those which are not beneficial could be made beneficial through an improved program of implementation, and (c) which of those which are beneficial could be improved through more efficient programs of implementation. For those programs which can be improved a plan of action should be drawn to implement such improvement. Those programs which are not and cannot be made beneficial should be truncated. An interagency task force composed of representatives from OMB, DOT, DOA, DOC, Treasury, HEW, DOI, CEA and EPA, and the Domestic Council should be convened to map out the work.

22. Safety - The Federal Government should determine whether its safety regulations are cost-effective. Where such programs are not beneficial and cannot be made beneficial, they should be truncated. Specific attention should be given to: (a) passive restraint systems in auto vehicles, (b) safety standards in the design of interstate highways, (c) safety regulations which impact upon the airport/airway system, and (d) regulations governing product safety.
23. The Department of Health, Education, and Welfare should be directed to make an intense study of Federal, State, and local regulations which impact upon the costs (and productivity) of medical care provisions. Among the problems to be addressed are the following:
- a. Discriminatory examinations. The AMA promulgates a more difficult examination for "foreign" (educated) physicians, even if such physicians are U.S. citizens. Also, State examinations discriminate against out-of-State educated physicians.
 - b. Discrimination against innovative delivery systems. State and local codes of ethics penalize physicians who attempt innovative delivery systems (health maintenance organizations, etc.).
 - c. Limits on hospital practice. Local medical associations, in "cooperation" with hospitals, determine which physicians are authorized to practice.
 - d. Ban on advertising. State and local codes of ethics ban advertising as "unprofessional." A physician who does advertise is driven out of the association(s) and is deprived of access to hospitals and may even lose his license to practice. The effects of this on competition are obvious.
 - e. Ban on drug advertising. State and local codes of ethics and some State laws bar the advertising of drug prices. There is some evidence that this has a significant adverse competitive effect.
 - f. Others. Other problem areas include: (1) the fee-setting activities of Blue Shield plans, (2) the promulgation of Relative Value Scales by State and local medical societies, (3) maximum price fixing, market preemption, and monopolization by foundations' usurpation of insurers' claims-review functions, and (4) hospital monopolies, including market division accomplished through health planning councils.



24. Remove restrictions against para-professionals.
25. Amendment of civil aviation legislation to permit discount air fares and to bring capacity - limiting agreements under the antitrust laws.

(Comment: While these may be proper objectives, it should be kept in mind that the action plan devised by the Administration Task Force to deal with international aviation problems:

- a. suggests a reorganization of the fare structure which would minimize the use of discount fares, and
 - b. encourages the use of capacity agreements by carriers crossing the Atlantic.
26. DOT and CAB investigate IATA system of rate-making.
 27. Rigorous enforcement of Inflation Impact Statement.
 28. Prevent further increases in minimum wage or at least permit teenage exemption.
 29. Repeal the private express statutes that give Post Office a first-class mail monopoly.
 30. Required coordination of all Federal land use activities.

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

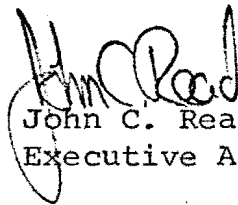
March 28, 1975

Dear Mr. Cannon:

The attached memorandum prepared by Department of Labor staff provides some brief responses to the four questions you posed in your March 27 letter to Secretary Dunlop. The Secretary has not had the opportunity to review this document but has asked me to respond in his behalf.

I hope this information is sufficient and useful.

Sincerely,



John C. Read

Executive Assistant

Mr. James M. Cannon
Assistant to the President
for Domestic Affairs
The White House
Washington, D.C.

Attachment

cc: Secretary Dunlop

THE IMPACT OF S200 ON THE DEPARTMENT OF LABOR

I. Special Problems

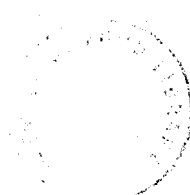
Labor standards enforcement (Fair Labor Standards Act, Age Discrimination in Employment Act, Equal Pay Act, Service Contract Act, Davis-Bacon Act, Walsh-Healy Act, Occupational Safety and Health Act, Executive Order E011246) almost necessarily has a cost impact and therefore could involve an "interest of consumers." Section 6 of S200 allows the administrator of the Agency for Consumer Advocacy to intervene in DOL enforcement actions, initiate judicial review of such actions or request the initiation of proceedings under the labor standards provisions. This would mean that the Department would have to deal with a new party in most of our enforcement activities.

Section 10 of S200 permits the administrator to gather information required to protect the health and safety of consumers, and this could duplicate our own information gathering under the Occupational Safety and Health Act.

The labor disputes exemption under Section 16 of S200 is not broad enough to exclude OSHA enforcement or civil rights proceedings.

II. Specific efforts by the Department to better represent the consumer include our published policies of proposing rules and regulations even where not required to do so, regional hearings on such regulations, economic impact statements and the preparation of summaries of all comments received in the rule making process.

III. Additional efforts by the Department to better represent the consumer in our activities include the preparation of detailed guidelines for all the agencies within the Department on the preparation of economic impact statements for all new legislation and regulations which would have a significant economic impact.



IV. We do not have any regulatory reforms to propose. It has been the Secretary's view that a catalog of existing programs and policies in this area is necessary before any new legislation or reform should be undertaken.

[ca. 3/28/75]



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Dear Jim:

In response to your letter of yesterday, we have conducted a quick survey of our programs with respect to consumer interests.

Most of our programs affect consumers only indirectly. The closest we come to the consumer are our parks and recreation programs. Nominal fees are charged in certain areas for specific services but these fees generate only about 10% of our operating costs. The Department also markets water and hydroelectricity. However, we act as a wholesaler and sell bulk power and water to public utilities, municipalities and irrigation districts. Our mineral leasing activities are even further removed from ultimate consumers.

I do not mean to imply, however, that our programs have no impact on consumers. More specifically, let me address your four questions.

1. Problems the Economic Advocate bill presents to Interior

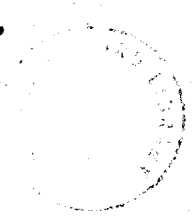
In its mission of management and protection of natural resources, the Department does take actions that affect the supply of important commodities and services, such as energy, minerals, recreation opportunities, and the like. The central problem the Consumer Advocate Bill might present to Interior is that such a consumer agency could set up a powerful and biased special interest with very broad authority to intervene in Departmental activity. This could be highly unfair, since consumers as a group are only one of many sectors with an interest in the conduct of natural resources policy. Other interests, such as the taxpayer, as title holders to Federal resources, and private owners of resources, are also entitled to fair treatment in the disposition of Federal resources. We feel that we provide a balanced decision process now, giving due consideration to consumer interests through normal processes of public comment and advisory activity. This bill could easily produce an undesirable weighting of our decisions.

2. Efforts now being made to represent the consumer

We have progressed in our efforts to provide clearer and more comprehensive environmental impact statements covering our proposed actions which could affect consumers as well as other interests. For example,



Save Energy and You Serve America!



proposed rate increases in hydro-power and water rates charged by the Department have been subjected to environmental impact analyses. It is through this process and related public hearings that ultimate consumers can comment on whether our analysis adequately presents the consequences of our proposed actions on their well being. More remotely, our environmental analyses and public hearings on proposed leasing of mineral deposits, rights-of-way grants over public lands, and subsequent regulations provide similar opportunities for the expression and consideration of consumer interests.

In general, we are attempting to factually provide consumer interests the implications of our actions through environmental impact analyses. More specifically, in the marketing of power and water, we are providing these products at a rate equivalent to the costs the Federal Government incurs, except for irrigation water which we normally provide at substantial subsidies. With respect to the leasing of Federally owned mineral resources, both onshore and on the outer continental shelf, we are attempting to increase the competition for the development of these resources which will be immediately beneficial to the taxpayer and will also benefit consumers in the longer run. Finally, our programs to provide Federal parks and to assist States in their park programs increase the opportunities and reduce the costs for outdoor recreation interests.

3. Additional efforts to represent consumer interests

Our highest priority objective in the Department is to increase the domestic supply of energy. Success in this effort will reduce consumers' energy costs. We are proposing an accelerated oil and gas leasing program on the outer continental shelf which could lessen our reliance of foreign supplies and reduce world prices. We are also about to propose a new coal leasing policy designed to increase the supply of clean energy on a least-cost basis.

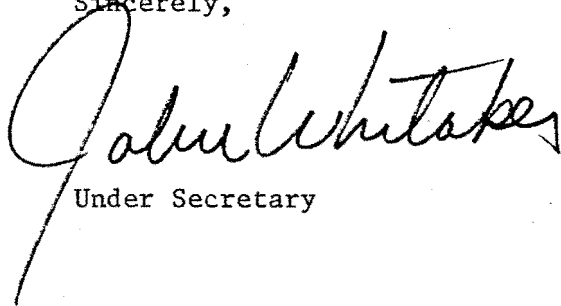
4. Regulatory reforms

We are about to promulgate new regulations which would ban joint bidding by the major oil companies on oil and gas lease sales on the outer continental shelf. Such action should increase competition and ultimately be beneficial to consumers. In addition, as part of our proposed new coal leasing policy, we will apply strict diligence regulations which will force present and future leasees to either produce coal in substantial quantities or relinquish their rights. Such a regulation will increase scarce energy supplies and reduce their costs in the near future.

I sympathize with you in your efforts to find a better alternative for representing consumer interests than S.200. However, in this attempt, I hope we can avoid alternatives which on the surface seem reasonable, but actually create greater red tape and impede an orderly and objective decisionmaking process. The inflationary impact statement drill is a case in point. The intent was good, but the consequences could be disastrous in terms of delay and bureaucratic costs. I trust that whatever alternatives for representing consumer interests are proposed, their full implications and costs will be considered.

Please call if you need further assistance.

Sincerely,

A handwritten signature in cursive script, reading "John Whiteaker". The signature is written in dark ink and is positioned above the typed name "John Whiteaker".

Under Secretary

Honorable James M. Cannon
Assistant to the President
for Domestic Affairs
The White House
Washington, D.C. 20500



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

OFFICE OF THE SECRETARY

IN REPLY REFER TO:

March 28, 1975

MEMORANDUM

TO : Carla A. Hills, Secretary
FROM : Bernard J. Carl, Special Assistant
SUBJECT: Consumer Protection Act of 1975

1. The proposed legislation is not expected to have any substantial impact on the activities of this agency as differentiated from its impact on the Executive Branch generally.

First, we have few formal regulatory proceedings in which it is likely the proposed Administrator would intervene. One such proceeding would be hearings pursuant to the Interstate Land Sales Act, when the Secretary refuses to accept a lot developer's disclosure statement or where the Secretary suspends such a statement. We would not consider the Administrator's participation in such a proceeding particularly onerous.

Most of our other proceedings involve less formal policy determinations, for example, the formulation of proposed regulations concerning mobile home standards, settlement procedures or minimum property standards. We would welcome wider participation of consumer groups and their representatives including the Administrator in such proceedings, which usually involve only publication for comment in the Federal Register and, occasionally, a public hearing. We are, however, somewhat concerned that the broad definition of "agency activity" contained in S.200 would allow the Administrator to become involved in our informal communications with constituent industry groups, making such communication exceedingly difficult.

There are certain other elements of the Act which we might find somewhat onerous. We are particularly troubled by the proposed agency's broad authority to secure information from other federal departments, since that authority could deter members of our client industries from providing us with full and candid disclosures of financial and other information which we find very useful in the conduct of our activities.

2. We have several programs with a consumer protection orientation. For your information, I am attaching hereto a list of some of those programs.
3. An effort could be made to accord better representation to consumers in this Department's decisions and activities, and implementation of such reforms could easily be undertaken. First, we have increasingly made public hearings or comment periods a prelude to any significant agency action which could affect consumers. For example, we recently held extensive public hearings in Washington and Florida on the question of condominium regulation, to afford consumers an opportunity to express their views to open up new channels of communication with consumer groups.

Presently under study are mechanisms for improving consumer complaint handling. A proposal for a centralized facility within the Department to coordinate the handling of consumer complaints is being considered, as is a suggestion to make consumer complaint handling by local offices more directly subject to Central Office supervision.

As this agency increasingly becomes involved in regulating its client industries in consumer protection matters (See attached statement.), serious consideration will have to be given to what internal structure can best accommodate that new role. It is premature, at this time, to speculate on the results of that consideration.

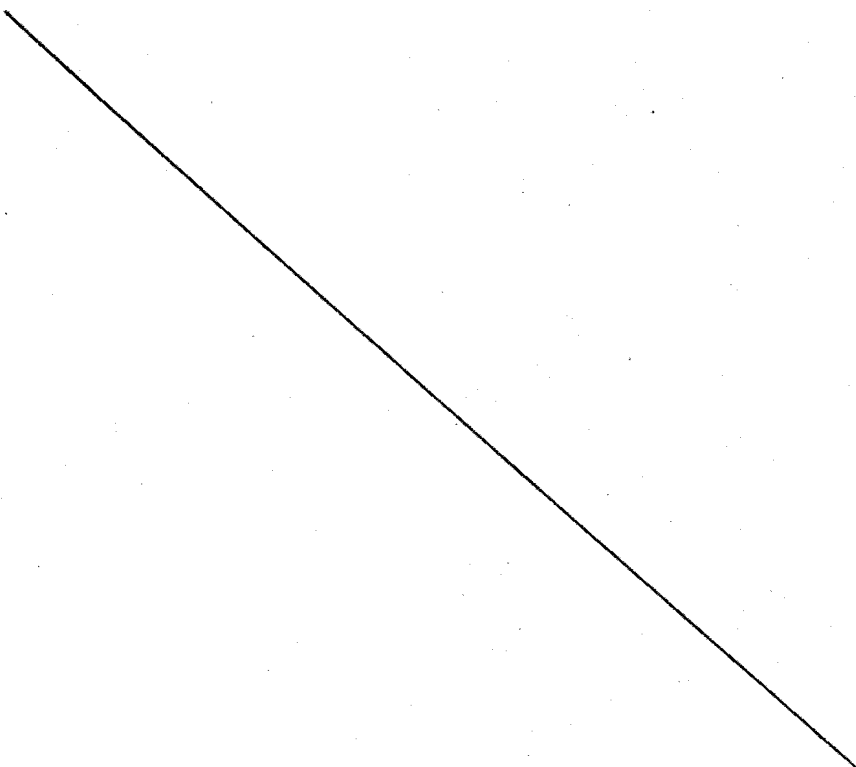


4. There is one alternative to the 1975 Consumer Protection Act which might be saleable to the Congress and also be a reasonable accommodation of our concerns about the proposed legislation. That alternative would be as follows:

- (1) The Bureau of Consumer Protection (BCP) of the Federal Trade Commission could be empowered to:
 - (a) Represent consumer interests in any agency proceeding (but not informal agency activity, as defined by S.200) which may substantially affect consumers' interests whenever it determines that such intervention is necessary to adequately represent the interest of consumers.
 - (b) The BCP could be empowered to participate in any informal rule-making where public comment is invited by presenting written or oral submissions to the extent the public was invited to do so, and the agency involved could be obligated to consider some admissions.
 - (c) The Bureau of Consumer Protection could also be permitted to initiate or participate in any Federal court proceeding involving review of a Federal agency action which substantially affects consumer interests, not only if the BCP were previously a party to the agency proceedings. In that context, the BCP would seek review as a representative of consumers who are aggrieved parties for purposes of the judicial review.
 - (d) The BCP would be given authority to receive and review consumer complaints, to notify the party against whom the complaint had been lodged, transmit such complaints to the proper authority, and to co-ordinate responsive action on such complaints.

- (e) The BCP could also be empowered to maintain logs of consumer complaints and responses.
- (f) The BCP would also have the obligation of assisting and coordinating Executive Branch programs to disseminate consumer information materials.

(2) This proposal has several advantages over S.200:

- (a) The Federal Trade Commission's Bureau of Consumer Protection already has substantial consumer protection functions. The stated purposes of the proposed Agency for Consumer Advocacy includes the protection of consumer choice in a competitive market and the prevention of unfair or deceptive trade practices. These are identical to the statutory responsibilities of the Federal Trade Commission in consumer affairs matters. It seems unconscionably wasteful and inefficient to fractionalize within the Executive Branch the responsibility for protecting consumers against such practices.
- 

- b. The Federal Trade Commission's power to promulgate trade regulation rules, combined with its authority to sue to enforce those regulations, makes that agency a natural focus for consumer protection activities in the Executive Branch. It is already an agency whose perceived constituency is consumer groups. It is, thus, well suited to the role envisioned for the Agency for Consumer Advocacy.
- c. The consumer complaint function envisioned by the Act would be a useful informational source for the FTC in implementing its power to proscribe trade regulation rules concerning unfair trade practices.
- d. Recent legislation has already given the Federal Trade Commission limited dependent litigative authority to protect consumer interests. It is not a major step to supplement that authority to include participation in administrative and judicial review proceedings involving consumer interests, even beyond those involving unfair trade practices as defined by the Federal Trade Act.
- e. Giving the Federal Trade Commission the power to intervene in other agency proceedings avoids the problem of dual prosecution in FTC matters that would result from having a separate agency intervening in FTC proceedings.
- f. Giving the FTC this responsibility avoids the creation of an entirely new bureaucracy and the attendant start-up costs, delays and duplication of effort that would involve.
- g. The FTC already has significant expertise and technical staff skilled in consumer matters so that they could undertake their statutory charge almost immediately.
- h. Although an incremental increase in the FTC Bureau of Consumer Protection staff would be required, that increase would be less than would be required by the creation of a new agency.
- i. The FTC is an agency with considerable stability and is a part of the Executive Branch in terms of its budget operation, hence, would be far less disruptive than the proposed agency.

- j. The FTC already has significant but carefully circumscribed investigative powers, pursuant to its regulatory role, which could be relied on as an alternative to the expansive and troublesome information gathering tools afforded to the proposed Agency for Consumer Advocacy under S.200.
- k. The FTC has already developed techniques for the informal resolution of issues relating to consumer protection which could also be applied in meeting the statutory mandate envisioned here.
- l. The FTC should be a sufficiently independent body to mollify Congress' fears about insulating the Administrator of a consumer protection agency from political pressures.

Attachment

APPENDIX

Among the significant current or impending consumer oriented activities of the Department are the following:

1. Interstate Land Sales -- The Office of Interstate Land Sales Registration (OILSR) is responsible for implementation of the Land Sales Full Disclosure Act requiring developers and promoters selling or leasing 50 or more unimproved lots in interstate commerce, pursuant to a common promotional plan, to file a registration statement with HUD. The statement must disclose all material information pertaining to the land and the developer must prepare a digest of the registration statement for distribution to prospective purchasers. OILSR reviews the registration statements and is authorized to sue to cure deficiencies or to enjoin violations of the Act.

One important issue concerning the activities of this agency is its interpretation of its regulatory authority to include an uncompleted condominium unit as the equivalent of a lot under the Act. There is much industry opposition to this interpretation and a test case is in the offing.

2. FHA Minimum Property Standards -- FHA has always had some quasi-consumer protection functions pursuant to its responsibility to establish "minimum property standards" and to conduct compliance inspections of insured homes pursuant to the National Housing Act of 1937. Such minimum property standards set out minimum levels for elements of design and construction as well as for materials used in that construction. There are, for example, standards for insulation materials, safety glass, acoustical treatment, and sealing of wood products.
3. HUD Carpeting Standards. -- On March 1, 1975, new HUD carpet standards and a HUD certification program for carpeting was initiated. The new standards were implemented despite a concerted effort on the part of the industry to postpone the effective date of the new standards. The carpet standards constitute a marked departure from previous HUD property standards for two reasons. Previously, standards were determined largely by the affected industry and a self-certification process was used to police compliance. The new carpeting standards are substantially more stringent than those proposed by the industry and a third party enforcement mechanism was established. Accordingly, the new carpeting standards mark a significant advance in HUD consumer related regulatory activities.

4. Other FHA Consumer Related Responsibilities -- FHA has several other consumer related responsibilities, including FHA appraisals, its subdivision analysis work, FHA limitations on short-swing profits that can be made by persons who sell homes without occupying them, and restrictions on "kick-backs" from a mortgagee in an insured transaction.
5. Mobile Home Standards -- Title VI of the Housing and Community Development Act of 1974 authorizes the HUD Secretary -- in consultation with a 24-member advisory council on which consumers will have one-third representation -- to establish a national mobile home construction and safety standard and to work with the States to implement an effective enforcement program. The initial standards will be issued by August 22, 1975, and will be revised as additional data and information are gained from research efforts. The standards, when effective, will preempt local standards covering construction of the mobile home. An effective enforcement system -- including a provision for recall of defective units -- will provide assurance that the units built will be in compliance with the improved standards.
6. Real Estate Settlements -- The Real Estate Settlement Procedures Act requires the Secretary (HPMC) to promulgate a form to be used as the standard real estate settlement form in all transactions involving Federally related loans, and to establish ceilings on settlement costs. The required form is scheduled to be published on May 1, 1975. The Act also requires advance itemized disclosure of settlement costs in affected transactions at least 12 days prior to settlement and prescribes certain activities such as "fee-splitting." Criminal provisions and a private right of action are provided. HUD's role in implementing or enforcing some of these proscriptions is unclear.

7. FHA Insured Condominiums -- Section 234 of the National Housing Act provides for FHA insurance for mortgages on condominium units. Section 234(c) authorizes the Secretary (HPMC) to prescribe "such controls as he [sic] determines to be necessary and favorable to promote and protect individual owners of the multifamily project and its occupants." Section 234(d)(2) allows the Secretary to regulate or restrict "rents, charges, capital structure, rate of return, and methods of operation until the termination of all obligations under the [Federal] insurance and during such further period of time as the Secretary shall be owner, holder, or reinsurer of the mortgage." Probably because of its quasi-consumer protection elements, Section 234 has not been utilized to any significant degree; however, it does represent a consumer protection function mandated by statute.
8. Condominium Study -- HUD is currently undertaking an investigation of condominium housing with a report to Congress due in August of 1975. Among the issues to be considered are whether disclosure or substantive regulation of condominium sales are appropriate; the relationship between the Federal and State regulation; and what legislation is necessary to implement the recommendations of the HUD study. Several bills have already been introduced to provide for Federal regulation of the condominium market and it seems clear that, by the end of the session of Congress, HUD will have a significant regulatory role in this area as well.

OGC has already prepared a model State statute concerning condominiums and conversions which has not been publicly disseminated.

9. HUD has another important consumer oriented function. Section 518 of the National Housing Act was amended in December 1970 to permit HUD to correct, or to compensate owners for correcting structural or other defects which seriously affect the use and livability of existing houses insured under Section 235. In the period from enactment to June 30, 1974, approximately 9,900 vouchers were paid and \$7.6 million was expended to correct or compensate for the correction of structural and other defects. The program has been essentially inactive since

June 30 due to the suspension of the Section 235 program in January 1973 and the statutory requirement for a claim to be filed within one year of purchase.

The Housing and Community Development Act of 1974 amended Section 518(b) to include on a one-time basis the correction, or the compensation for correction, of structural or other major defects in existing houses insured by HUD during the period from August 1, 1968, to January 1, 1973, under Section 203(b) or Section 221(d)(2). Eligibility was restricted to those properties with defects so seriously affecting the use and livability of the dwelling that a serious danger to the life or safety of the inhabitants is created.

Section 518(a) provides purchasers of all new FHA insured homes with protection for four years after construction. If a serious structural defect is found in a home built under FHA inspection, FHA pays for the cost of repairs.

10. In an effort to deal with the dangers of lead-based paint, FHA requires that for insurance to be provided on the resale of houses built before 1950, a seller must remove all loose, scaling paint and repaint with new (non-lead) paint. If repainting is impossible, the area must be covered over to a height at least equal to that of the average 7-year-old child.
11. HUD publishes a substantial volume of consumer education material, mostly pamphlets to inform consumers about housing matters.
12. Finally, Wilbur Jones, Special Assistant to the Secretary, is in the process of preparing a comprehensive study and recommendation for a Consumer Affairs office within the Department. The proposal envisions the Consumer Affairs Office as a mechanism to expedite the control consumer complaints and to coordinate consumer education functions now handled elsewhere in the Department.

[ca. 3/28/75]

TALKING POINTS FOR REPLY TO JAMES CANNON LETTER

1. What specific problems does S. 200, the "Consumer Protection Act of 1975" present to HEW?

. There would be significant overlap between the tasks of the new Agency for Consumer Advocacy (ACA) and HEW's Office of Consumer Affairs and the Food and Drug Administration.

-- FDA's total job could be interpreted as within OCA's jurisdiction and subject to continuous and costly monitoring and "double think."

In general, the bill provides the new agency with too broad authority to intervene in the internal and the public decision-making processes of the Department. The agency could seriously hamper our policy making and significantly impact our staff time and costs. Specifically:

-- The functions and purposes of the ACA -- specifically, representing "interests of consumers before Federal agencies ... with respect to the ... purity, potency, healthfulness ... and cost of any ... property ... or goods, services or credit" -- so closely track FDA's and ASH's responsibilities in the health industry, that ACA staff would be permitted under the Act to take part, as an advocate, in every health-related decision we made. This would have significant cost and time implications.

-- Section 6 would establish the Administrator's right to inter-
vene as a party to any Federal agency proceeding or activity



which may affect consumers. That would be virtually every action this Department takes, and would subject us to constant review by another official agency. This is particularly alarming because no clear guidelines are established for the intervention.

-- Section 12 would require HEW to provide a status report, "upon specific request by the Administrator," on "any action which may substantially affect an interest of consumers." Here, again, virtually all HEW actions would be included.

2. What specific efforts are we making now to better represent the consumer in HEW's decisions and activities?

. There is a long list of areas in which consumer input and representation has been expanded; it is an area we have paid much attention to:

. Health

- Under the new Health Planning legislation (P.L. 93-641), which HEW had a major role in developing, the role of consumers in determining health needs and plans for each geographic area is expanded through the requirement that a majority of local planning board members be consumer representatives.
- FDA has recently expanded a number of its committees to include consumer representatives. One of these, the Ad Hoc Consumer Advisory Committee, which meets monthly with top FDA staff, contains representatives of many major consumer organizations and sponsors conferences on consumer subjects (note recent conference on sugar, funded by FDA and National Academy of Sciences).
- FDA and NIH also have significant consumer representation in their management structures: in FDA by the recent appointment of an Assistant Commissioner for Professional and Consumer Affairs; in NIH by the direct consumer representatives on the Review Councils of the National Institutes of Health.

. Social Services

- The newly enacted Social Services legislation (Title XX), which HEW is primarily responsible for, is a landmark in open process and public participation. Some examples are:
 - States must, for the first time, accept a 45 day public comment period on their plans for services.
 - Consumer advisory boards, while voluntary, will be paid for under the Act if established.
- The Department is publishing a citizens guide on how to get into the social services process.

. The Office of Consumer Affairs

- OCA acts, of course, as a constant consumer advocate within the Department. They review decisions, regulations, possible rule changes and all other policy matters to provide continuing guidance on consumer impact.
- Additionally, OCA publishes a bi-weekly "Consumer Register" which pulls out of the Federal Register and records for consumers those items which are of major consumer interest. Instructions and forms for comment are provided. 25,000 are published bi-weekly; and an increase in the percent of consumer comments has been noticeable.
- OCA has also been working with FDA on a major effort to streamline regulations to make rulemaking easier to understand and participate in.

. Social Security Number Privacy Initiative

The Department has for some time been developing legislation which would protect the consumer from abuse of his social security number by government and private organizations. While generally not included under "consumerism," it is nevertheless a significant protective measure for the consumer.

. Education

- The Department has recently taken a number of major steps against certain types of proprietary schools which abuse the students' rights to maximize profits. In particular, we have taken decisive action to protect student loan recipients' rights to refunds when such schools fail to provide the educational services the student has paid for. We are also requiring truthful disclosure of basic information about the school before the student takes out a loan.
- We are working closely with the Education Commission of the States to develop standards and model legislation to deal with the problem of "degree mills."
- We are reviewing standards for recognizing accrediting associations and their role in determining the institutions whose students are eligible for Federal aid.
- There are numerous other consumer protection and participation items included in our Higher Education package. The specifics can be forwarded in a day or so, if required.

- . In implementation of the Education Act of 1974 (P.L. 93-380) the Department undertook a series of regional conferences involving members of the public, the education community, and regional office staff to explain the implications of new portions of the bill, our proposed regulation development process and how to input into it, and anticipated applications, procedures and deadlines.
- . In program areas which have substantially new dimensions we have made special efforts to insure that these dimensions are understood by all potential consumers (e.g., the new regulations for Title IV of the Civil Rights Act permit funding for the elimination for sex discrimination. Accordingly, a special press release accompanied issuance of the regulations and letters regarding their intent were sent to all potential applicants and public interest groups).
- . The Commissioner of Education has initiated a series of meetings with key State school officers to discuss all of the Office of Education programs with them and any concerns that they may have with regard to their operations. In addition, the Commissioner has appointed a full time ombudsman to maintain continuous liaison with Chief State school officers and to report their concerns directly to him.

3. What additional efforts could we take to better represent the consumer in HEW's decisions and activities?

. We intend to make expanded use of surveys and other instruments to secure consumer views on potential action items. For example:

-- FDA has recently surveyed consumer preferences in developing nutritional labeling.

-- We contemplate a study to determine how to make consumer choice a more powerful influence for assuring long term care quality.

. We also intend to include key persons representing public and other interested groups in some of our internal policy discussions leading to the development of regulations and other decisions-- at least to enlarge our sense of the alternatives and of the probable consequences of each policy option--much as we did with Title XX. Additionally, we will

-- Extend the requirement that is now in some programs, for state and local grantee public agencies to involve consumers meaningfully in their planning, to more of the HEW funded programs.

-- Continue to place high priority on seeking public input into decisions from affected consumers, at an early enough stage to allow for meaningful participation.

-- Place priority on OCA and OE consumer education activities directed toward increasing knowledge necessary for intelligent marketplace decisions.



. In the area of Education we expect to continue and expand our use of regional consultations with public interest groups, press releases regarding changes in policy, and close consultation with congressional staff as we proceed with new legislation development and/or implementation. Additionally, we expect to:

- Continue present efforts to write summary statements for all new Departmental regulations and to draft such regulations in such a form as to be easily understood by the layman,
- Continue on-going efforts to expedite the publication of new regulations, and
- hold special follow-up discussions with concerned interest groups as appropriate (e.g., Title IX and Title VII of the ESEA).

4. What regulatory reforms would you suggest?

- . In areas of HEW's regulatory responsibility we see the need for a number of changes:

- The Department anticipates shortly reintroducing a bill to require the enumeration of ingredients on labels for those foods having mandatory formulations. In addition, statutory authority will be sought to require drained weight labeling for canned food measures. Both of these authorities, sought for FDA, will provide greater information to the consumer to assist in decision making on purchases.

- FDA is also seeking authority to streamline and reduce the time required for its rule-making under the Food, Drug and Cosmetic Act. The expectation is that the desired revisions, if achieved, will reduce unnecessary and harmful delays in promulgation of food and drug standards and thereby increase consumer protection.

- Legislation is presently being prepared to expand the Center for Disease Control's authority to deal with interstate clinical laboratories which are not meeting standards. Increased authority would permit more rapid CDC actions, under its regulatory authority, to require interstate compliance with high professional standards.



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D. C. 20461

March 28, 1975

OFFICE OF THE ADMINISTRATOR

Honorable James S. Cannon
Assistant to the President
for Domestic Affairs
The White House

Dear Jim:

This is in response to your request yesterday for my views on four questions you posed in the context of the Consumer Advocate Bill, S. 200.

Before addressing the specific questions you raised, I should state that my general view is that Federal agencies should keep their own houses in order, and accordingly, each agency should provide internally for representation of consumer interests so that this important element can be reflected in each agency's decisions and programs.

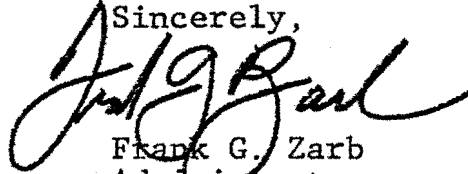
This bill, which is similar to legislation considered during the last several Congresses, would add a new dimension to the concept of consumer representation by providing this new agency litigation and advocacy powers similar to organizations in the private sector. Though there is always uncertainty as to the institutional competence and responsibility that such a novel agency would develop, I believe that under this bill the Agency for Consumer Advocacy might be a potential irritant to FEA's operations, but would not present any substantial problems in carrying out FEA's responsibilities. We have some experience with the GAO as a potentially adverse agency permitted unusually broad access to FEA records, and, of course, being the target for litigation by public interest-oriented groups is something we have learned to live with.

FEA currently has in place an Office of Consumer Affairs/Special Impact, which is our internal consumer-oriented element which has frequent opportunities to participate in the policy development process. Moreover, under FEA's

organic legislation and the agency's procedures, we encourage participation by the public in every significant aspect of development of our regulatory programs. For example, in nearly every instance, FEA rulemakings involve prior public hearings, and all FEA Advisory Committee meetings are open to the public with general public observers permitted to present oral statements during such meetings.

Absent a major reorientation of limited resources, additional efforts to represent consumer interests in FEA largely would involve improvements in the carrying out of the existing structure whereby the agency is exposed to consumer concerns in its decision-making procedures. The visibility and significance of FEA's activities are such that we are very exposed to public scrutiny and aware of public sentiments on our activities. Regulatory reforms which have been suggested in prior studies, such as the Ash Council Reports, focused largely on the collegial, adjudicative form of agency structure and the shortcomings associated with such organizations. While these critical examinations would not appear to be particularly relevant to FEA, if you wish, I would be happy to give the general subject of regulatory reforms additional thought in the future.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank G. Zarb".

Frank G. Zarb
Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 28 1975

OFFICE OF
PLANNING AND MANAGEMENT

SUBJECT: S. 200

FROM: Alvin L. Alm
Assistant Administrator
for Planning and Management

A handwritten signature in cursive script that reads "Alvin L. Alm".

TO: James Cannon
Executive Director
Domestic Council

Attached are our responses to the questions you posed to Russ Train informally yesterday about S. 200.

Attachment



S. 200

Questions:

1. What impact will S. 200 have on EPA?

Answer:

S. 200 has the potential for far-reaching impact on virtually every EPA activity. Since the reach of S. 200 includes not only formal and informal rule-making and adjudicatory proceedings, but also all other proceedings or actions "which may substantially affect an interest of consumers, "it is difficult to identify any EPA actions which would not fall within that scope. Under these circumstances, our many rule-making proceedings could be encumbered by the involvement of the CPA, which would have independent authority to conduct separate interrogatories of all parties. Also, under S. 200, numerous discretionary actions of the Administrator could involve the CPA. In addition, numerous notice requirements with respect to anticipated or scheduled activities which could have consumer impact, would have to be provided to the CPA. The potential for delay and red tape is significant, especially if economic impact statements were required on each EPA action (as contemplated by one amendment).

The extent to which S. 200 will impact EPA is not known. Thus far, consumers have not involved themselves significantly in EPA's programs.

2. What is EPA doing in its present activities to represent consumer interests?

Answer:

EPA is conscious of the need to take into account consumer interests. In carrying out our responsibilities we endeavor to assess the impact of our various programs and activities on the economy. We generally include members of the public who do reflect consumer views on many of the advisory committees established under statute or under our own initiative to advise with respect to many of our program activities.

We also routinely assess the energy costs and impact of many of our regulatory program requirements. These assessments, of course, often have significant impact upon consumers. As a part of our energy conservation program we have been compiling facts with respect to fuel economy of motor vehicles and have been making this information available to the public. We expect this information to have a profound impact on consumer activity in the vital area of automobile purchases. An additional specific program which favorably impacts consumer interests is the Agency's pesticides labeling program.

3. What additional things could EPA do under its present authorities?

Answer:

Although we believe we have been conscious of the impact of our programs and activities upon the consumers, it appears that some of those activities could involve greater citizen, i. e., consumer participation. For example, in the development of transportation control plans as a part of State implementation plans for the achievement of air quality standards, earlier and more extensive public discussion with consumers immediately affected would have been desirable. It is now our plan to pursue such policy in the development and revision of such plans. It must be remembered, however, that many of our responsibilities under law are greatly circumscribed by specific criteria, i. e., considerations of public health and the environment.

The Agency has recently been given authority to set drinking water standards, and we are presently developing criteria to do that. Additionally, the Agency is attempting to develop an auto emission warranty program for catalysts.

4. What regulatory reforms generally, if any, would EPA recommend?

Answer:

We are already including a relatively new procedure which provides citizens a right to be directly involved in our regulatory activities. Most of the EPA legislation includes the citizen suit provision. This authority, whereby citizens may bring suit, has been limited to non-discretionary actions. We note that S. 200 would extend citizen involvement through the CPA well beyond non-discretionary actions into virtually every discretionary action of government.



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

[ca. 3/28/75]

Honorable James M. Cannon
Assistant to the President
for Domestic Affairs
The White House
Washington, D.C. 20500

Re: S. 200

Dear Mr. Cannon:

As requested in your letter of March 27, please find enclosed this Department's response to the four questions posed therein concerning the captioned bill.

Sincerely,

Secretary of Commerce

Enclosure

Comments of Department of Commerce
on S. 200

1. What specific problems does the bill present to your department?

This bill is the latest of a series of consumer advocacy bills introduced in previous Congresses. While all have some degree of similarity, this one is probably most similar to S. 707 of the last Congress. However, it is more complex and involves the interests of factions other than consumers such as farmers and small businesses to a degree that is vague and subject to many interpretations. Further, it requires Federal agencies not only to take actions that would directly support the new Agency for Consumer Advocacy established by the bill, but would require each agency to issue appropriate interpretations, guidelines, standards, or criteria, and rules of procedure relating to rights of individuals who may be affected by agency action (Sec. 23a).

The following provisions of the bill merit specific comment:

- Sec. 4(b)(5). Authorizes the Agency to utilize with their consent and on a reimbursable basis, the services, personnel, and facilities of other Federal agencies.
- Sec. 5(b)(2). The Administrator is authorized to conduct and support research, studies, and testing of any kind which may be in the interests of consumers. This is an almost unlimited scope and means that the Agency could conduct research in product safety, building technology, energy, product performance, etc.
- Sec. 5(b)(4). The Agency would obtain information and publish and distribute material of interest to consumers. This kind of activity is carried on by many agencies. There are no limitations to prevent duplication and overlap. On the other hand, in Sec. 5(b)(6) authorizing the conduct of conferences, surveys, and investigations, such activities may not be undertaken if they are duplicative in significant degree of similar activities conducted by other Federal agencies. Sec. 5(b)(4) should contain similar restrictions.
- Sec. 5(b)(14). Promotes the consumer interests of farmers in obtaining a full supply of goods and services at a fair and equitable price. This requirement is not only completely out of place for this bill, but defies interpretation.

- Sec. 11(b)(2). The implication of this subsection is that the Agency will act as a Consumers Union type of organization, not only in doing testing, but reporting tests of others and rating products. There are no restrictions as to objective requirements for testing or rating. If properly carried out, this could be a useful function, but the absence of detailed requirements or restrictions makes this provision subject to great abuse.
- Sec. 18(a). This is the small businessman's equivalent of the agricultural restriction in Sec. 16(b). It states, "It is the sense of the Congress that small business enterprises should have their varied needs considered by all levels of government in the procedures provided for throughout the Act." Based on this statement and the one for farmers, it appears as though the needs of the large businessman and industry can be ignored by Government.

Apart from the foregoing, a major problem that would result from enactment of S. 200 in its present form would be the procedural and substantive consequences of the sweeping authority for intervention or participation by the proposed agency in formal or informal proceedings and activities of other Federal, State or local agencies, and in court proceedings, to represent consumer interests. Annex A contains a listing of proceedings and activities of the Department which would appear to be subject to adversary intervention by the proposed Consumer Advocates, as a party or otherwise, most of which would be seriously hampered or compromised by such intervention.

1. The establishment of watch quotas for the insular possessions under P. L. 89-805 (19 U. S. C. 1202).
2. The processing of applications for foreign-trade zones under the Foreign-Trade Zones Act, as amended (19 U. S. C. 81a et seq.).
3. The processing of applications for adjustment assistance for firms under the Trade Expansion Act of 1962 (19 U. S. C. 1801 et seq.).
4. The processing of applications for federal recognition of a domestic exposition under the International Expositions Act (22 U. S. C. 2801 et seq.).
5. The processing of applications for importation of foreign excess property under the Federal Property and Administrative Services Act of 1949, as amended (40 U. S. C. 512).
6. The textile program under Executive Order 11651 of March 3, 1972 (37 F. R. 4699).
7. The functions of the Department (as a member of the Trade Staff Committee established under the Trade Expansion Act of 1962, 19 U. S. C. section 1801, et seq.) in the formulation of recommendations to the President in international trade matters such as extension, reduction or termination of tariff concessions, relief under section 337 of the Tariff Act of 1930, etc.
8. The activities of the Department in preparing for trade negotiations with foreign governments, such as the establishment and utilization of federal advisory committees to assist in multilateral trade negotiations, as well as activities of other committees established pursuant to the Federal Advisory Committee Act (5 U. S. C. App. I), such as the National Industrial Energy Conservation Council.
9. Although exempt from the rule making and other provisions of the Administrative Procedures Act (other than the Freedom of Information portion thereof), activities under the Defense Production Act of 1950,



as amended, (50 U. S. C. App. 2061 et seq.) and the Export Administration Act of 1969, as amended (50 U. S. C. App. 2401 et seq.) could be subject to CPA participation if public notice is given with opportunity for comment - a situation which occurs periodically.

10. The development of voluntary energy conservation specifications pursuant to this Department's voluntary labeling program for household appliances and equipment as set forth in Part 9 of title 15, Code of Federal Regulations (38 F.R. 29574, October 26, 1973).

11. The development of voluntary product standards to reduce undue proliferation of weights, measures, or quantities of consumer commodities in connection with the Fair Packaging and Labeling Act, as set forth in Part 12 of title 15, Code of Federal Regulations.

12. The development of voluntary product standards pursuant to the procedures set forth in Part 10 of title 15, Code of Federal Regulations.

13. Research activities carried out by the National Bureau of Standards on behalf of the Consumer Product Safety Commission under the terms of the Consumer Product Safety Act.

14. The development, publication, and issuance of consumer information booklets disseminated by the National Bureau of Standards.

15. The establishment of fees or charges for services performed or for documents or other publications furnished by the National Technical Information Service pursuant to 15 U. S. C. 1153.

16. The preparation and review of environmental impact statements by the Office of Environmental Affairs.

17. The issuance of regulations, as authorized by 15 U. S. C. 277, relating to the functions and activities of the Office of Telecommunications.

18. The processing of loans to fishermen for new vessel construction, old vessel repair, or acquisition of new fishing gear under the Fish and Wildlife Act of 1956, as amended (16 U. S. C. 742 a. et seq.).

19. The voluntary fishery inspection program of the National Marine Fisheries Service.

20. The activities of the Department in preparing for negotiations of international fishing conventions and in implementing such conventions.
21. Programs under the Coastal Zone Management Act of 1972 (16 U. S. C. 1451 et seq.).
22. Commercial fishing operations under the Marine Mammal Protection Act of 1972 (16 U. S. C. 1361 et seq.).
23. Patent Office proceedings in certain instances under both the patent and trademark laws.
24. The Economic Development Administration's business loan program.

2. We need to know what specific efforts you are making now to better represent the consumer in your department's decisions and activities.

- Departmental Ombudsman. The Department Ombudsman for Business Office was set up in 1970 to respond to inquiries from U. S. businessmen about the Federal establishment. Today it offers assistance and counseling to both business and consumers on a timely basis.

Consumer inquiries to the Department and referrals from other agencies and the Congress are acted upon by the Ombudsman. Assistance can be given to many consumers by obtaining clarification of the facts from all parties involved and expediting resolution. In others, the consumer is directed to the state or local agency with jurisdiction (e. g., insurance complaints are handled by the state insurance commissions). Requests for general consumer-related information, including product availability matters and consumer education, are answered and appropriate data provided.

Complaints under the purview of various other Federal agencies are forwarded and the consumer advised of the action being taken (e. g., an air charter complaint is directed to the Civil Aeronautics Board Consumer Advocate, a mail complaint to the Postal Service Consumer Advocate, an unfair trade practice to the Federal Trade Commission). Some of the interagency contacts for complaint resolution are shown in a list attached.

- Commerce Department Liaison with the President's Special Assistant for Consumer Affairs. In addition to its daily contacts with consumers, and continuing liaison with other Federal agencies with jurisdiction, the Ombudsman exchanges information with the Office of Consumer Affairs. It thus is able to provide a consumer perspective as requested in Departmental activities considered to have a bearing on consumer welfare.

Under an ongoing relationship, the Department also is an active member of the Federal Liaison Committee for Consumer Affairs. The group is responsible for coordinating and improving Federal program efforts in the consumer field. In addition, the Department actively assists the President's Consumer Affairs Assistant in resolving many consumer complaints directed to that Office.



- Consumer Affairs Handbook. Earlier this year, the Department made available to all District Offices a revised Consumer Affairs Handbook. This Handbook contains timely information on Federal and State legislation and activities, directories of consumer affairs offices, voluntary action guidelines and suggestions, speeches, and other pertinent consumer affairs information. The first edition of the Handbook, which was previously distributed by the Bureau in 1971, proved to be a useful and well-balanced reference source for District Office professionals. Consumers and businessmen use the Handbook as an aid to identify appropriate channels and means to solve consumer problems and to keep abreast of developing issues which impact on consumer recourse and business operations. The new edition has been updated, expanded, and will be revised and updated on a regular basis.
- Consumer Product Safety Center. The National Bureau of Standards has established a Center for Consumer Product Safety to help the Consumer Product Safety Commission improve safety aspects of a wide variety of consumer products, including toys, electrical appliances and textile products. Work at the center provides the technical bases for standards that will be applied to potentially hazardous consumer goods.
- Injuries and Products. NBS has investigated a series of injuries and the products involved to develop methods for defining, identifying and measuring sharp points and the injury potential of various projectiles. The flammability of sleeping bags, slumber bags and play tents was studied under real-life conditions. An analysis was conducted of the injury potential of objects with which a falling person comes in contact. A study of the tractive properties of children's footwear was begun and arrangements were made with industry to conduct a cooperative program in this area. Evaluations of babywalkers, highchairs, and other children's furniture for strength and stability are being made. Test methods were established to protect consumers from the noise produced by such articles as cap pistols and small cannons.
- Safety Analysis. NBS has been analyzing consumer product safety to determine what there is about a consumer product that constitutes an unreasonable hazard. As a result, NBS will have the capability to develop methods for evaluating alternative governmental actions, such as voluntary or mandatory standards or user education, and for dealing with hazards identified in consumer products. Another project is the analysis of data describing accidental injuries from consumer products. This effort involves determining whether it is possible to associate hazards with the characteristics of products, rather than with an individual product.

- Children's Strength. In designing safe products, especially toys, the designer must consider a child's ability to misuse the product by pulling it apart or by manipulating potentially hazardous parts. Since fundamental information on the forces children are able to exert in pushing, pulling and twisting was not available, NBS completed a study of the capabilities of 556 children, ages two through six, in day schools and day-care centers in the Washington area.
- Burn and Fire Hazards. Many household products have hot surfaces. Whether a painful burn results from touching a hot surface depends upon both the temperature and the surface material. NBS published a study which established the relationship between the thermal properties of materials and thermal injury to human tissues. From this study and with funds from the CPSC, NBS designed an instrument that yields a single temperature measurement which is directly related to burn hazard and automatically accounts for differences in surface material and the time of contact. With this "thermesthesiometer," a product designer can test a hot surface and determine in a few seconds whether the surface will be harmless to touch, painful, or will inflict an injury.
- Upholstered Furniture. NBS is also assisting the CPSC in reducing the hazard from fires in upholstered furniture. After alerting the public and industry through a "Notice of Possible Need for a Flammability Standard," NBS developed a small scale upholstered chair with the characteristics of upholstered furniture found in the home. Using the mock-up, a series of cigarette ignition tests measures the flammability of upholstered furniture. Objective of the work is to provide the basis for a new performance standard to minimize this fire hazard.
- Mattresses. Like upholstered furniture, mattresses are a substantial flammability hazard when ignited. An NBS-developed test method is included in the new federal performance standard for mattresses, which took effect June 22, 1973. The standard is expected to reduce substantially accidental mattress fires started by cigarettes.
- Children's Sleepwear. To protect young children from the dangers of flammable sleepwear, NBS developed the "Standard for the Flammability of Children's Sleepwear." This standard (which became fully effective July 29, 1973) requires that sleepwear in sizes 0 through 6X pass a strict flammability test. Work on a proposed standard for children's sleepwear in sizes 7 through 14 followed.

- Voluntary Engineering Standards at NBS. Work on three voluntary standards is under way: "Safety Requirements for Home Playground Equipment," sponsored by the National Association of Children's Home Playground Equipment; "Safety Requirements for Toys," sponsored by the Toy Manufacturers of America, Inc., and "Carbonated Soft Drink Bottles," sponsored by the Glass Container Manufacturers Institute, Inc., and the National Soft Drink Association. NBS works with manufacturers, distributors, and consumers to develop acceptable drafts of the standards.

NBS has published a revised and enlarged edition of its "Tabulation of Voluntary Standards and Certification Programs for Consumer Products." The new edition covers 700 product areas in 17 broad categories taken from the National Electronic Injury Surveillance System of the Food and Drug Administration. It lists the voluntary national and international performance and safety standards which have been published in each product area and describes how to obtain them.

The new edition also includes, for the first time, information on standards that are still under development. The tabulation was designed for use by anyone interested in consumer problems, particularly standards-writing groups, consumer organizations, labor unions and trade associations. The broad product categories covered by the tabulation are: kitchen appliances, space heating, cooling and ventilating appliances, housewares, home communications, entertainment and hobbies, home workshop tools and attachments, household maintenance products, farm supplies and equipment, packaging and containers, sports and recreational equipment, toys, yard and garden equipment, child nursery equipment, personal use items, home structures and construction material.

3. What additional efforts could you take to better represent the consumer in your department's decisions and activities?

Consistent with our responsibility to provide assistance to the business community, we are vitally interested in maintaining an active profile in consumer affairs as it relates to encouraging voluntary business action which would impact on both the business community and the consumer. Toward this end, the following program efforts are in our planning process.

- Business-Consumer Seminar Program. The program will be packaged for and eventually conducted by District Office personnel. The seminar is intended to bring together Government (Federal, State, and local) and private consumer affairs officials and spokesmen in a forum to discuss relevant problem issues with a view toward advancing voluntary business action solutions. It is planned to initiate a pilot program with Washington office assistance in a selected District Office. A format for this pilot effort is attached. After the pilot is completed, a package of seminar materials can be assembled and distributed to all District Offices for inclusion in their own seminar program responsibilities. Speech material, discussion topics, speaker and panel suggestions, etc., will be part of the package. Washington assistance will be available to District Offices as necessary. See attachment for additional information.
- Pilot Task Force on Food Retailing and the Consumer in the Inner City. Supermarkets are disappearing from the inner city at an alarming rate. Inner city residents, those who can least afford to pay, must deal with small retailers whose prices are high. There is an immediate need for a program to explore ways to reverse the exodus with those parties who are in the position to effect change.

A pilot program could be initiated to attack the problem of the return of supermarkets to the inner city. The Department would organize an action group composed of representatives from the supermarket industry, consumer groups and appropriate Federal and local agencies. The group would develop possible government incentives and/or other public or private actions to make commercial operations profitable in the inner city.

- Consumer Arbitration. The Department can play a major role in furthering its goal of encouraging positive business-consumer action by initiating a program to establish consumer arbitration panels nationwide. The Department, by utilizing its field office network and numerous private organizations, would take the lead in establishing

the groundwork for arbitration mechanisms. Such arbitrations would be privately structured. This would interface with the new Warranty-FTC Improvement Act (P. L. 93-637), one of the most important consumer laws ever enacted. This act has a provision which says that the FTC may require written consumer product warranties to include arbitration availability information.

- Consumer Credit Program. Help to consumer credit recipients can be given by identifying and analyzing problem areas of the consumer credit industry with a view toward isolating principal factors influencing the availability and cost of consumer credit in the United States. A survey of major credit holders such as commercial banks, consumer finance companies, retailers and credit unions will be crucial in evaluating the availability and cost of consumer credit and in determining the competitive position of credit sources. Appropriate sections of the study will be transmitted to consumers to increase awareness of the cost of credit. Policy recommendations and/or legislative initiatives will be directed to appropriate regulatory agencies and Congressional committees in an effort to resolve the consumer credit issues identified.
- National Business Council for Consumer Affairs. The National Business Council for Consumer Affairs was established in August 1971 by Executive Order 11614 and was organized by the Secretary of Commerce to research key consumer issues and provide reports and recommendations on how to increase the level of business responsibility to consumers in the marketplace. (Descriptive folder, "Mission and Membership," is attached.)

The Council's reports (copies attached) were submitted to the Secretary and disseminated with his enthusiastic endorsement to thousands of business executives and others involved in consumer relations problems. Ultimately, more than 250,000 of the reports were distributed by the Department. These reports were universally praised for their straightforward, practical approach to solving consumer problems.

Follow-up action on the voluntary implementation could be taken by reestablishment of the Executive Committee of the National Business Council for Consumer Affairs, reporting to the Secretary of Commerce and actively pursuing adoption of its guidelines by business firms.

Implementation of NBCCA recommendations would include business liaison, tie-in with trade associations, and the issuance by the NBCCA of an identifying seal of cooperation (similar to the E award) to firms participating in guideline implementation.

- Other Initiatives. A considerable part of the activities of the Patent Office, the Office of Environmental Affairs, the Office of Telecommunications, the Office of Product Standards, and the National Technical Information Service, as well as the National Bureau of Standards, are directed toward serving the public through making more products available to the public, making them safer or making more information about these products available to the consumer. While there might be some marginal utility in expanding efforts in this direction, it would appear to be more profitable to consider new programs such as increased information transfer, metrification, and studies of the effect of regulatory programs in the area of pollution on the cost of energy (thus, ultimately, on the price of consumer products).

FACT SHEET

Business-Consumer Seminar Program

Purpose

- o To provide a forum for Government, business and private leaders to discuss positive voluntary solutions to consumerism problems and challenges.

Participants

- o Panel members will be drawn from Federal, State, and local consumer protection agencies and private organizations.
- o The District Office will chair the seminar and will deliver a presentation.

Audience

- o The audience will be primarily composed of marketing and financial managers from consumer goods and services firms, and other appropriate individuals.
- o To be effective, at least 25 individuals should be present.

Timeframe

- o Seminar is designed to be half day in duration. Can be shorter or longer depending upon topics, audience and participant schedule demands.

Subject Matter

- o Current consumer issues and problems will be discussed with emphasis on product safety and voluntary solution actions.
- o Specific topics, designed for targeted audiences can be easily adopted within general seminar framework. The nature of local interests and available participants will guide specific subject matter topics.



Pilot Seminar

- o A pilot seminar will be held in early 1973 in Cincinnati, Ohio (tentative).
- o After the pilot, evaluation and changes will be made for subsequent seminars in District Office areas.

Arrangements

- o After the pilot, District Offices will initiate their own seminars following general format and guidelines provided by BDC.

BDC Role

- o BDC will initiate the pilot seminar, with District Office assistance, and will assist in seminar arrangements.
- o Following the pilot, BDC will develop the following:
 - (1) make available speeches for District Office personnel, (2) provide a general seminar format, (3) develop Fact Sheets covering key issues, relevant organizations and their activities/responsibilities, develop and make available other distributive material as necessary, (4) assist in identifying key organizations for panel participation and audiences, (5) update Consumer Affairs Handbook on a regular basis.
- o The above material will be "packaged" and made available to all District Offices.

BUSINESS-CONSUMER SEMINAR FORMAT

- I. Welcome - District Office Director
 - o Introduction
 - o Purpose and Scope of Seminar
 - o Expected Output of Seminar

- II. The Consumer Movement Today - BDC
 - o Where We are and Why
 - o Key Issues
 - o Need for Positive Action

- III. Business Responsibility Under the Law.
 - A Federal View - Federal Trade Commission
 - o Federal Law and Regulation Review
 - o Current Activities and Responsibilities
 - o Role of Voluntary Solutions

 - A Local View - County/State Consumer Protection Agency
 - o State/local Laws and Regulations
 - o Local Issues and Role of Local Protection Agency
 - o Community Action and Voluntary Solution

- IV. Business Relations and Responsibilities to Consumers
 - Business Consumer Relations - Office of Consumer Affairs/HEW
 - o Current Problems of Consumers
 - o Voluntary Action Solutions

 - Business Consumer Relations - Local View - Local Consumer Action Group
 - o Community Issues
 - o Voluntary Action Solutions

- V. Product Safety - A New Federal Force - Consumer Product Safety Commission
 - o Functions/Activities of CPSC
 - o Current Issues in Product Safety
 - o Working with CPSC

VI. Voluntary Action - Business Solutions to Consumer Problems - BDC

o Suggested Action

VII. Questions and Answers - District Office Moderator

VIII. Conclusion - BDC and District Office

4. What regulatory reforms would you suggest to assist the consumer?

It is difficult to review quickly all of the regulations and regulatory authorities which impact on consumers. Literally all decisions made by the Federal government have a consumer impact through changes in economic conditions resulting from these decisions. The understanding of these processes and their total impact on the "public interest," however, can be facilitated through a number of actions, as noted below.

The type of regulatory reform most needed immediately is the moderation of mandatory requirements in the area of pollution abatement, particularly where the standards have been established without adequate data or attention to the economic effect of the standard. Present pollution abatement programs under several statutes, including the Clean Air Act, the Federal Water Pollution Control Act as amended, and the Federal Insecticide, Fungicide and Rodenticide Act, require massive expenditures by industry for testing, monitoring and construction which do not return fair value in terms of cost/benefit of pollution abatement and the cost of which is passed on to the consumer in terms of an energy penalty and inflationary price increases. Greater emphasis on voluntary participation by industry in pollution regulatory programs could probably be expected to accomplish substantially the same objectives (under threat of perhaps even more onerous mandatory requirements) at less cost to the manufacturer and to the consumer.

In the same vein, "unnecessary" regulatory activities should be eliminated, and "necessary" regulatory activities should be structured in such a manner that they may serve the "public interest" rather than solely the needs of special interest groups.

The primary requisite toward achieving this general goal is the acquisition and analyses of data on the effect and impact of specific regulatory policies and practices. The first step therefore should be a comprehensive effort on the part of both the Congress and the Executive Branch to obtain the objective facts and to analyze them in terms of the effect on the public welfare as a whole. (It must be noted that we believe evaluation should be done around the impact on the "public welfare" rather than special interests and consider that evaluation based solely on the impact on the "consumer," at least as defined by many consumerists, would simply shift the emphasis from one "special interest" group (the regulated) to another (the user).)

Following acquisition of the necessary data, two steps should be undertaken. First, eliminate "unnecessary" regulation. Second, "necessary" regulatory activities must be restructured so that the impact of all decisions on the

public welfare can be considered prior to regulatory action. To accomplish this end, agency practices will need to be restructured so that there is an affirmative burden on them to acquire information on the overall impact of their actions. Implicit in this restructuring must be the recognition that most individuals affected by regulatory decisions do not have the financial ability, awareness, or means to come forward to the regulators with their own views. Toward this end the agencies must actively seek out this impact through a number of devices, such as: educational campaigns to inform the general public of issues affecting them and their means of participating in decision making, and undertaking of public opinion studies.

The above process of regulatory reform could be immediately implemented by consideration of the following:

- An executive order requiring each activity and decision made by a regulatory agency to take into active consideration the "public interest" (also, containing the interests of business as a consumer) and to detail the analysis which was used in reaching a decision, i. e., economic analyses, cost/benefit statements, etc.
- The granting of authority to a designated agency within the Executive Branch to be informed of decisions being made, and to have responsibility for making a direct input into the regulatory process through the "advisor" route, thereby carrying out the "public interest."
- The establishment of a committee in the Domestic Council for the purpose of undertaking an analysis of "unnecessary" and "necessary" regulatory processes with the responsibility of advising the President of actions he can, and should, take in this area.
- The establishment of a National Commission on Consumer Protection Reform. Such a commission would study current regulatory agencies with a view toward recommending initiatives to restructure those agencies whose actions directly affect consumers. Emphasis will be on the FTC, CPSC, USDA and other Federal agencies whose decisions impact the consumer. The proliferation of Federal consumer protection activities and lack of responsive accountability justifies the establishment of a commission to analyze and recommend initiatives to improve Federal consumer protection decision making.