EXECUTIVE
FG 171
RE 2
FG 17-14
FG 6-11-1/Knauer, Virginia H

THE WHITE HOUSE

WASHINGTON

AUG 22 1969

MEMORANDUM FOR

Peter M. Flanigan
Assistant to the President

FROM

Virginia H. Knauer
Special Assistant to the President
for Consumer Affairs

Virginia Knauer

SUBJECT Administration policy on safety standards

I am enclosing for your perusal copies of correspondence between Mr. Arnold Elkind, Chairman of the National Commission on Product Safety and Mr. Richard W. McLaren of the Antitrust Division of the Justice Department dealing with the subject of safety standards.

In the first few paragraphs on pages 3 and 8 of Mr. McLaren's letter of June 17, there is a rather strong implication that the Justice Department leans toward a legislative solution to the problem of promulgating necessary safety standards for consumer products.

This exchange of correspondence has received considerable attention in the business community and we are already being approached by representatives of industry who are anxious to know whether the Administration has already adopted a legislative position on product safety standards. I would be most interested if you would peruse this material and advise me of any new development in this area.

Enclosures

EXECUTIVE
BE4/Aluminum
FG17-14

November 10, 1969

MEMORANDUM FOR

Honorable Richard W. McLaren
Assistant Attorney General

I promised a friend of mine in the aluminum industry that I would pass on the attached memorandum to you. He is suffering from a feeling of outrage at what he considers to be something of an injustice. He points out that his company has substantial production facilities and is therefore prohibited from buying a fabricator. At the same time, considerably larger competitors are allowed to buy two or three of his best fabricating customers and then back right into production. It seems to him that this policy which is encouraged by your statements at the close of the attached memorandum are unfair to the existing aluminum companies.

Peter M. Flanigan
Assistant to the President

Attachment

PMF:feb

BB/ —

EXECUTIVE
TA4/Oil
PU2-3
FG11
FG12
FG13
FG19
FG21
FG6-8
FG22
FG6-1
FG129
FG17-14
FG6-3
FG6-10
FG6-9

January 7, 1970

MEMORANDUM FOR

Honorable William P. Rogers
Secretary of State

I'm sure you will be interested in the attached editorial on Oil Import Controls from Monday's Wall Street Journal.

Peter M. Flanigan
Assistant to the
President

Enclosure

Also sent to:

Honorable David M. Kennedy
Secretary of the Treasury

Honorable Melvin R. Laird
Secretary of Defense

Honorable Walter J. Hickel
Secretary of the Interior

Honorable Maurice H. Stans
Secretary of Commerce

Honorable George A. Lincoln
Director
Office of Emergency Preparedness

Honorable George P. Shultz
Secretary of Labor

Honorable Robert P. Mayo
Director
Bureau of the Budget

Honorable John N. Nassikas
Chairman
Federal Power Commission

Honorable Richard W. McLaren
Assistant Attorney General

Honorable Hendrik S. Houthakker
Council of Economic Advisers

Honorable Carl J. Gilbert
Special Representative for Trade Negotiations

Honorable S. David Freeman
Office of Science and Technology

EXECUTIVE
FG 17-14

February 11, 1970

MEMORANDUM FOR DICK RAMSDEN
ASSISTANT ATTORNEY GENERAL MC LAREN

I read with interest your memorandum on LTV. Given the complexity of the subject in a short time available to you, I think you produced a thoughtful paper, very much to the point.

Many thanks for taking on this chore. It indicates again that Dillon, Read should have been a little more attentive regarding its able associates.

Peter M. Flanigan
Assistant to the
President

BB1

EXECUTIVE
BE4/Airlines
BE2-2
FG25
FG88
FG14-14

March 26, 1970

MEMORANDUM FOR CHARLES BAKER
DOT

FROM: PETER FLANIGAN

Many thanks for sending the extra copies of the draft paper on airline mergers. I have discussed with Secor Browne and Dick McLaren the desirability of issuing such a paper at this time. McLaren's feeling is that he would be neutral on it as long as the paper were handed out on a limited basis as a DOT working paper rather than being formally published. Secor Browne would prefer that the paper not be made public at all. He feels that it would both indicate limits that might not be appropriate and opportunities that might not be appropriate. He greatly prefers that these matters be taken up one at a time.

If you wish to discuss this further with these gentlemen, please feel free to do so. I do believe that it is appropriate that the White House inject itself into these discussions.

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
FG999
FG17-14

DATE 7/1/70

LETTER, MEMO, ETC.

TO: Lamar Alexander

FROM: Bobbie Greene

SUBJECT: Amateur and Professional Sports--Problems of Organization and Regulation

CORRESPONDENCE FILED CENTRAL FILES -- ~~CONFIDENTIAL~~ SF FILE

EXECUTIVE
FG118
FG17-14

August 17, 1970

MEMORANDUM FOR

Don Baker
Chief of Evaluation Section
Antitrust Division
Department of Justice

Until I get a lawyer on board, I am going to take you up on your offer of assistance. In particular, I have three questions of varying legal content that I think you might be able to help me with.

First, I hear a lot about due process and would like to know what this means in terms of constraints on the FCC's actions and to what extent OTP is bound by such considerations. Secondly, I would like to know what the courts have said about competition vs. regulation in regulated industries and, in particular, to what extent a regulatory agency is free to regulate by simply "not regulating" but merely monitoring. Finally, I would like to know what the interactions between antitrust law and regulatory law are and how they are handled. Is the responsibility for conforming to the antitrust statutes in the hands of the Commission or is it in Justice?

Finally, could you please send me a good primer on antitrust policy and practice?

Clay T. Whitehead
Special Assistant to the President

cc: Mr. Whitehead
Central Files

CTWhitehead:jm

B B|

C

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
JL 2-1
~~FG 17-12~~
FG 17

DATE 9/17/70

Gineen, Harold

LETTER, MEMO, ETC.

TO: The Atty. Gen.

FROM: John Ehrlichman

SUBJECT: U.S. vs ITT
International Telephone and Telegraph

CORRESPONDENCE FILED CENTRAL FILES ~~- CONFIDENTIAL~~ DC FILE

EXECUTIVE
BE6
FG17-14

October 14, 1970

MEMORANDUM FOR ARNIE WEBER

FROM: PETER FLANIGAN

Many thanks for a copy of your memorandum for the files of October 8th on the patent matter. The one thing that seems to be uncovered relates to on-going cases in which the Justice Department takes part. It seems to me there should be a standstill in this activity by the Justice Department until an Administration position is reached. Otherwise it is to their advantage to delay an Administration position and reach their goal through "the evolution of legal doctrine."

3B1 —

EXECUTIVE (3)
BE6
JL2-1
FG6-16
FG17-14
FG21

October 26, 1970

MEMORANDUM FOR ARNIE WEBER

FROM: PETER FLANIGAN

Re your attached memorandum on patents, what makes you think we will have this settled by December 1. Given our past track record, I think that this is a bit optimistic. Why not have McLaren hold up on all patent cases until the issues between Commerce and Justice is settled.

Attachment

EXECUTIVE
FG17
FG17-14

December 7, 1970

MEMORANDUM FOR PETER FLANIGAN

FROM: JIM LOKEN

I talked with Dick McLaren about the attached subject today. McLaren is not disposed to undertake a visible advocacy program in Justice because of the risk of offending the Congress. In addition the Attorney General has always maintained that he would accept a new Division for consumer protection only if it was a "separate line" budgetary item.

The Antitrust Division has had the Attorney General's approval for some time to create a Consumer Affairs Section which would initially be responsible for enforcing some or all of the statutes listed in Footnote 2 of the attached memorandum; and which would be prepared to enforce the "laundry list" if the President's consumer protection act is ever passed. McLaren intends to proceed with the creation of this section as soon as the Congress adjourns. It would have the broad advocacy powers granted the Antitrust Division by statute but McLaren would propose to use such powers on behalf of consumers only sparingly and with a low profile.

McLaren was quite interested in the alleged compromise by Congressman Ekhardt reported in the papers this weekend. Bruce Wilson will call Eckhardt's office for a copy of any documentation.

As for advocacy legislation next year, McLaren would suggest putting the advocacy functions in the FTC. Alternatively, he would let the Congress create a new agency but would activate it with the idea of reorganizing it into Justice in a year or two.

Lg

EXECUTIVE
FG17-14
PU 2-5

N

MARCH 3, 1971

FOR GENE COWEN

John Ehrlichman tells me that you would know what to do with the attached.

Tod R. Hullin

AttachmentFebruary 25 memo ffom Ehrlichman to McLaren, Richard W.
and February 26 reply from McLaren re Antitrust Division and Salt Lake City newspapers

February 26, 1971

PERSONAL

MEMORANDUM FOR

JOHN D. EHRLICHMAN

Reference your memo of February 25, the Antitrust Division has had no recent contact with the Salt Lake City newspapers, so far as I can determine.

We have, however, requested certain financial information from a number of other newspaper firms, pursuant to our responsibilities under the Newspaper Preservation Act. The Act provides that a joint operating agreement in effect at the time the Act was passed is immune from the antitrust laws

> "if at the time at which such arrangement was first entered into . . . not more than one of the newspaper publications involved in the performance of such arrangement was likely to remain or become a financially sound publication. . . ."

We have concluded that a number of papers -- including the Salt Lake City newspapers -- are exempt under this test, but we lacked sufficient information to reach a conclusion as to certain others, and it is as to these that we have requested fairly limited financial data as of the date of entering into their joint operations, and a few years prior thereto.

We have furnished to Senator Bennett a summary of our legal research on the subject of the new Act in a letter from the Deputy Attorney General, copy of which is enclosed. I trust this will help "mend fences" with the Senator. Anything else in that regard which you might feel necessary, please do not hesitate to contact me.

Richard W. McLaren

Enclosure

E.T.

EXECUTIVE
CA
BE2-2
FG17
FG17-14

4

March 20, 1971

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: PETER FLANIGAN

Herewith a copy of the memorandum from American Airlines regarding its proposed merger with Western Airlines.

As I understand it, you will be pressing Dick McLaren for the first draft of the memorandum outlining a position which the Administration can take with the Presidents of the 12 trunk carriers.

Enclosure

EXECUTIVE
BE4-1
FG17-14

March 22, 1971

MEMORANDUM FOR

Honorable Richard W. McLaren
Assistant Attorney General
Antitrust Division
Department of Justice

The President has asked William Anders, Executive Secretary of the National Aeronautics and Space Council, to initiate the study agreed on in the attached memo. Please give Mr. Anders your cooperation.

Thank you very much.

Kenneth R. Cole, Jr.
Deputy Assistant to the President
for Domestic Affairs

Attachment

B B|

④

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
BE 2-2
FG 21
FG 17-11
JL

DATE 4/1/71

cy of
~~LETTER~~, MEMO, ~~ETC.~~

TO: Richard McLaren (Justice

FROM: James T. Lynn (Commerce Dept.)

SUBJECT: "Antitrust Law & Enforcement Policy"

CORRESPONDENCE FILED CENTRAL FILES – CONFIDENTIAL FILE

664B (2)

CF
EXECUTIVE
FG36-6
FG17-14

ASSISTANT ATTORNEY GENERAL
WASHINGTON

RICHARD W. McLAREN

May 17, 1971

MEMORANDUM FOR: Honorable Peter M. Flanigan

FROM: Richard W. McLaren

RE: El Paso Case

Enclosed is a copy of my testimony before Senator Magnuson's committee in opposition to proposed legislation to "forgive" El Paso's divestiture of Pacific Northwest, per our conversation.

A point I neglected to mention is that, as presently constituted, El Paso pretty well dominates the whole western gas picture. Over the years, we would expect El Paso and "New Company" to be actual and potential competitors in the broadening energy market.

Our proposed divestiture plan will cost something, of course, but it is not one that will entail great losses for El Paso stockholders. We propose formation of a new company, sale of a portion of its stock to the new operator, and a spin-off of the balance to El Paso stockholders.

RECEIVED
MAY 24 1971
CENTRAL FILES

of the gas distributing companies in the Pacific Northwest, ET

EXECUTIVE
BE4
BE2-2
FG21
FG109
FG17-14

June 7, 1971

TO: THE STAFF SECRETARY

FROM: PETER M. FLANIGAN

SUBJECT: Log No. P-1589

On April 12 the President met with Secretary Stans and Under Secretary Lynn to receive from them a report on areas of Government activity which caused business to feel it was being harassed. The President directed that action be taken to reduce any such harassment, apparent or real.

As a result of that meeting, the following actions have been taken:

1. Antitrust Activities -- I have met with Attorney General Mitchell and told him that a less antagonistic attitude towards business must be taken by the Antitrust Division. Mitchell has agreed in this area. Specifically, I have discussed with him several pending mergers and received his assurance that he personally will monitor any antitrust activity in their regard.

2. The Environment -- Together with Ehrlichman and Whitaker, I have met with Mr. Ruckelshaus and told him of the President's desire that "business not be made a whipping boy". Specifically, we have told him that he must give more consideration to economic impact in his actions. In addition, I met with Mr. Quarles, Counsel of EPA, and received from him an assurance that suits will be avoided wherever possible. Where it is not possible, the principals will be informed of the law suit prior to its being brought. I also met with Mr. David Dominick and informed him of the President's attitude in this matter, directing him that his activities be consistent with this policy.

12/31

(10)

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
CM28
CM29
TA4/29
FG17
FG21
FG6-8
FG6-3
FG12
FG19
FG17-14
FG6-10

DATE 6/22/71

~~LETTER, MEMO, ETC.~~

TO: Peter Flanigan

FROM: Sec. of Commerce, et al

SUBJECT: Petrochemicals - Draft Memorandum to the President

CORRESPONDENCE FILED CENTRAL FILES – CONFIDENTIAL FILE

gab

EXECUTIVE
BE 2-2
TG 15-0
TG 17-14
TN 4
BE 4-37

THE WHITE HOUSE

WASHINGTON

August 10, 1971

MEMORANDUM FOR: THE PRESIDENT

FROM: PETER M. FLANIGAN PMF

SUBJECT: Antitrust Division Participation in Railroad Merger Cases

In response to your request for a summary of Antitrust Division activity in ICC rail merger proceedings, and the delays caused thereby, I have received a lengthy memorandum from Assistant Attorney General McLaren covering the period since 1960, the beginning of the "modern rail merger movement."

More than 50 rail merger and control proceedings were conducted during this period. The Antitrust Division participated in 9 proceedings before the ICC, opposing 6 applications outright and urging that conditions be placed on 3 others. The ICC granted 4 of these applications (one with conditions urged by the Antitrust Division), 2 were withdrawn, 2 are still pending, and only one was denied.

Three of the 9 cases in which the Antitrust Division participated were appealed, and Justice participated in these 3 appeals, plus the appeals in 4 other cases where it had not appeared at the ICC stage.

In 3 of the 7 appeals, Justice supported the ICC approval order, and in 2 others, Justice raised procedural objections but did not oppose the merger on the merits. Only the Northern Lines and Seaboard-Atlantic Coast Line mergers were opposed by Justice in the appellate courts. (However, McLaren advises that the Antitrust Division would have opposed Penn-Central in the Supreme Court had not the White House intervened.) The ICC's approval order was ultimately upheld by the courts in all 7 cases.

I attach a chart summarizing these 13 proceedings.

KEI

③

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
BE2-2
FG17
FG135
FG17-14

DATE 8/20/71

~~LETTER~~, MEMO, ~~ETC.~~

TO: John Ehrlichman

FROM: James B. Loken thru P. Flanigan

SUBJECT: Antitrust Policy Study

CORRESPONDENCE FILED CENTRAL FILES – CONFIDENTIAL FILE

EXECUTIVE
BE2-2
FG17-14

AUGUST 31, 1971

FOR LEW ENGMAN

Enclosed are some files which, for one reason or another, have been in John's safe over the last few weeks/months. These files are for your use only and should not be forwarded to Central Files or anywhere else without first checking with John or me.

Tod R. Hullin

Attachments
1. Granite City Steel merger
2. Goodrich-McLaren conflict

EXECUTIVE

JL 2-1

BE 2-2

FG 17-14

FG 215

WELLS, DAVID

FG 17

THE WHITE HOUSE

WASHINGTON

September 22, 1971

MEMORANDUM FOR: PETER FLANIGAN

FROM: GEORGE CRAWFORD

In Mr. Richard W. McLaren's testimony, he indicated the continuing preference of the Antitrust Division for institutional membership and for negotiated commissions up and down the line. The key issue, however, is whether the SEC has power to immunize fixed commissions and other exchange practices from private suits under the antitrust laws. As a result of our efforts, Mr. McLaren recognized in his letter (1) that the commission has this power if fixed commissions are "necessary to make the Exchange Act work" and (2) that it is possible they are in fact necessary to make the Exchange Act work.

It is essential that the Antitrust Division file a joint brief with the SEC in the current Thill litigation, taking the position that the antitrust suits raising these questions should be transferred to the SEC for its determination of these issues, rather than having the issues litigated in the courts.

I believe I have persuaded Baker at the Antitrust Division to take this position, but the newspaper stories on the McLaren letter might provide the occasion to reinforce the Attorney General and McLaren in insisting, if necessary, that this be done.

McLaren didn't testify
(1) say fixed commission
under 500,000 letter
(3) say [illegible] should be [illegible]

Baker did say Mitchell approved.

David Wells.
426-0790
Gen. Counsel
Fed. Hiway

September 22, 1971

MEMORANDUM FOR: PETER FLANIGAN

FROM: GEORGE CRAWFORD

In Mr. McLaren's testimony, he indicated the continuing preference of the Antitrust Division for institutional membership and for negotiated commissions up and down the line. The key issue, however, is whether the SEC has power to immunize fixed commissions and other exchange practices from private suits under the antitrust laws. As a result of our efforts, Mr. McLaren recognized in his letter (1) that the commission has this power if fixed commissions are "necessary to make the Exchange Act work" and (2) that it is possible they are in fact necessary to make the Exchange Act work.

It is essential that the Antitrust Division file a joint brief with the SEC in the current Thill litigation, taking the position that the antitrust suits raising these questions should be transferred to the SEC for its determination of these issues, rather than having the issued litigated in the courts.

I believe I have persuaded Baker at the Antitrust Division to take this position, but the newspaper stories on the McLaren letter might provide the occasion to reinforce the Attorney General and McLaren in insisting, if necessary, that this be done.

B B

EXECUTIVE
BE3
BE2-2
FG17-14
FG327

THE WHITE HOUSE
WASHINGTON

Date 11/9

FOR: PMF

FROM: James B. Loken

✓ FYI

___ For appropriate action

___ Please notify when action taker

___ Per our conversation

RECEIVED JAN 7 1972 CENTRAL FILES

Copy sent to Joe Muldoon who is staffing the CoLC legal operation for Rumsfeld

EXECUTIVE
PR 16
FG 17-14

December 13, 1971

MEMORANDUM FOR MORT ALLIN

FROM: PETER FLANIGAN

If you wanted to prove how incredibly inaccurate the Ramparts' reporting is in their biased stories, the attached response to the American Airlines application for merger is an example.

1. Solely to show how shallow the Ramparts' research is, the name of the President of American Airlines is George, not Edward, Spater.

2. Not only did the Antitrust Division of the Justice Department take a position on the merger, they took a strong position in opposition.

3. It is enough that the Antitrust Division took a position to disprove the statement that "no agency of the federal government offered any comments on the merger", but in addition, the Department of Transportation formally submitted a position/

Et

(2)

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
BE 2-2,
FG 17-14
~~FG 133~~

DATE 12-21-71

~~LETTER~~, MEMO, ~~ETC.~~

TO: Peter Flanigan

FROM: Jim Loken

SUBJECT: Antitrust Policy Review

CORRESPONDENCE FILED CENTRAL FILES – CONFIDENTIAL FILE

EXECUTIVE
FG 129
FG 17-14

January 5, 1972

MEMORANDUM FOR JIM LOKEN

FROM: PETER FLANIGAN

On the matter of the jurisdiction between the FPC and the Antitrust Department, I have agreed with Attorney General Mitchell that we should hold up on the resolution to this problem until the new Assistant Attorney General for Antitrust affairs is in place. You may wish to suggest this to John Nassikas.

BB/

Dwight Keating from W. Mazzocco

EXECUTIVE
TA3
FO 4-3
File / FG6-20
BE2-2
FG11-14

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number

RWMcL:DIB
60-0

January 14, 1972

TO: Members CIEP Task Force on U.S. Export Expansion

FROM: Donald I. Baker
Director of Policy Planning
Antitrust Division

SUBJECT: Antitrust Problems in Foreign Commerce

Attached are two memoranda concerning twelve examples in which the antitrust laws may be a barrier to exports or foreign investment. The first memorandum is a listing of twelve items selected by the Commerce Department in which the Commerce Department believes the antitrust laws may be deterring exports. The second memorandum is the Department of Justice's analysis of the antitrust problems posed by the examples. In many of the cases there are in fact no antitrust difficulties; in others the antitrust difficulties may be readily avoided. In the few in which significant problems remain, the Department believes that the antitrust laws are consonant with the public interest.

This exercise was begun before the CIEP Task Force got underway, but it is directly relevant to several parts of the Task Force's deliberations. Since several of the agencies are forwarding comments on the final draft directly to CIEP, we are circulating these memoranda to all Task Force members so that they may draw upon them in their thinking. We would appreciate, naturally, receiving copies of any comments concerning antitrust which Task Force members make to CIEP.

Attachments

BB

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
FG17-14

DATE 1/21/72

~~LETTER, MEMO, ETC.~~

TO: Fred Malek

FROM: Tod Hullin

SUBJECT: Tom Kauper -

CORRESPONDENCE FILED CENTRAL FILES – CONFIDENTIAL FILE

EXECUTIVE
BE7
BE2-2
FG19-13
FG17-14

THE WHITE HOUSE

WASHINGTON

June 2, 1972

MEMORANDUM FOR: BILL BLAIR

FROM: JOHN DEAN

SUBJECT: Wallace and Wallace Fuel Oil Company

A copy of your memorandum of May 19 to Hollis Dole, Assistant Secretary of the Interior, regarding the above subject has been brought to my attention. In that memorandum, you claim that it is my opinion "that Mr. Wallace is being dealt with unfairly by the major fuel oil dealers in the area and the Justice Department is investigating possible antitrust violations by them."

This statement of my position substantially misrepresents my sentiments on this subject. In my memorandum to you of April 10, I stated that Mr. Wallace's letter should be forwarded to the Antitrust Division of Justice. My explanation for this course of action was that "although the fuel oil distribution business on the East Coast is a very difficult one for an independent who buys wholesale from major oil companies that also compete with him on the retail level, certain of the practices which Mr. Wallace details could, upon investigation, prove to be antitrust violations." Nowhere did I imply that it is my opinion that Mr. Wallace is being dealt with unfairly by the major fuel oil dealers or that his allegations presented a prima facie case that the antitrust laws had been violated.

The Antitrust Division after reviewing the information supplied by Mr. Wallace reached the initial conclusion that his problems are not attributable to a violation of federal law. Nevertheless, their New York office planned to contact Mr. Wallace to obtain any additional information that he could supply that might indicate an antitrust violation. A copy of the response to Mr. Wallace by Justice is attached for your information.

EXECUTIVE
DI2
BE2-2
FG17-14
Chamber of Commerce
National Association of
Manufacturers

THE WHITE HOUSE

WASHINGTON

July 11, 1972

MEMORANDUM FOR: JOHN WHITAKER

FROM: JOHN DEAN

SUBJECT: Hurricane Agnes

Pursuant to your inquiry about possible antitrust ramifications of the private sector efforts proposed to assist the businesses affected by Hurricane Agnes, we have reviewed this matter with the Antitrust Division at Justice. Both of us agree that there are no basic antitrust problems with the suggested approach. However, we do have the following comments on the attached outline which you forwarded to us:

1. The title at subpart I should be changed to "Voluntary Efforts to Provide Assistance to Businesses in the Affected Area."

2. At subpart I, paragraph A, Antitrust has reservations about temporary equipment loans between competitors. To the extent that such loans are effected between non-competitors, Antitrust has no objection.

3. At subpart I, paragraph C, Antitrust has no objection to easing supplier and accounts payable credit as long as competitors not injured by the hurricane do not demand equal treatment.

4. The recommendation in subpart I, paragraph E that injured competitors be relieved from contractual requirements for delivery and supply probably is unnecessary since most contracts should have a "force majeure" clause which will accomplish this result.

5. Antitrust also indicated that they would be glad to cooperate and to discuss with the private sector any possible antitrust problems.

8/8/72

ac/

EXECUTIVE
FG 298
FG 6-17
FG 17
FG 17-14
SP 7
Wilson, Bruce

THE WHITE HOUSE
WASHINGTON

EXECUTIVE SPEAKERS BUREAU

August 8

KB:

John

Hold onto this and let it slide. He's got Quarles (General Cousnel at EPA) and Atkison (General Counsel at CEQ) and both of those free at that (this is a private group making money)

That's plenty says Pat - hold and if he calls tell him that we can't suppl y more than one from each group. Whitaker definitely cannot do it (he asked about him) nor can Bob Cahn or McDonald (CEQ) Tell him I check both of them.

— EF

ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

EXECUTIVE ⑥ —
BE2-2
FI2
FG17-14
Wilson, Bruce B.

Department of Justice
Washington

AUG 15 1972

Mr. John D. Ehrlichman
Assistant to the President
for Domestic Affairs
The White House
Washington, D.C. 20500

Dear Mr. Ehrlichman:

On July 24, 1972, your assistant, Mr. Hullin, requested the Department's advice as to an appropriate response to a letter which you received from Mr. John K. Lopez. Mr. Lopez' letter described a proposal by Banco de California del Norte (Banco) to acquire between 14 and 19 offices of First Western Bank and Trust Company and indicated that Banco's plan to promote "minority group" participation in banking was being frustrated by the actions of government officials. We have set out below the factual considerations involved and have prepared a draft response to Mr. Lopez for your signature.

The Department of Justice presently has a law suit pending against Wells Fargo Bank, N.A. to prevent it from acquiring First Western. The proposed sale of banking offices to Banco is part of a proposed settlement of that litigation.

The merger of Wells Fargo, the third largest commercial bank in California (June 30, 1972 deposits--$6.7 billion), and First Western, the eighth largest such bank (June 30, 1972 deposits--$1.1 billion) is one of the largest bank mergers ever proposed. The merger was approved by the Comptroller of the Currency, in spite of the advice of the Federal Reserve Board and the Department of Justice to the effect that the merger's effect on competition would be substantially adverse. Subsequently, the Federal Deposit Insurance Corporation concluded, on the basis of its own analyses that the competitive effect of the merger would be substantially adverse. I attach, for your information,

(3)

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
BE 2-2
FG 17
FG 17-14
FG 6-20

DATE 12/21/72

~~LETTER, MEMO, ETC.~~

~~TO:~~

~~FROM:~~

SUBJECT: See DC Oversize Attachment #5 for folder from CIEP re Antitrust

DC

CORRESPONDENCE FILED CENTRAL FILES – CONFIDENTIAL FILE

B B1

EXECUTIVE (4
CM29
BE2-2
JL2-1
FG14-14

August 23, 1973

Dear Mr. Wilson:

Attached are a letter and an Amendment to a Texaco Distribution Agreement which I received from Congressman Winn. Could you have someone in your division take a quick look at it and call John Niehuss of my staff (456-2302) concerning the antitrust problems (if any) it raises? Thank you.

Larry Jr.

Sincerely,

John A. Love
Assistant to the President

Mr. Bruce Wilson
Antitrust Division
Department of Justice
Washington, D. C. 20530

JAL:JN:fn
Attachment

15

RECEIVED
AUG 24
CENTRAL

Department of Justice

EXECUTIVE

FG 36-6

FG 17-14

STATEMENT

OF

THOMAS E. KAUPER
ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

BEFORE

THE

COMMITTEE ON COMMERCE
UNITED STATES SENATE

CONCERNING

EXPORT TRADE - S. 1483 and S. 1774

SEPTEMBER 6, 1973

BB

EXECUTIVE

FG 36-6
TA
TA3
BE 2-2
FG 6-20
FG 21
FG 133
FG 17-14
FG 11

REMARKS BY JONATHAN C. ROSE,
GENERAL COUNSEL,
COUNCIL ON INTERNATIONAL ECONOMIC POLICY
BEFORE THE
SENATE COMMITTEE ON COMMERCE ON
S. 1483 and S. 1774

September 6, 1973

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to present the views of the Council on International Economic Policy with regard to S. 1483 and S. 1774. These Bills share a common purpose -- an effort to revitalize and reform the Export Trade Act of 1918 -- more commonly known as the Webb-Pomerene Act.

As others have already testified, the purpose of the original Act was to promote the export trade of the United States by providing a limited immunity from the anti-trust laws for Webb-Pomerene export associations. Advocates of the Act saw it as a device to permit the development of countervailing power by exporters to combat foreign cartels as well as a way to allow cost-saving joint export marketing arrangements. However, a number of potential users of the Act have criticized it over the years both as to the certainty and scope of its protection. On the other hand, supporters of the anti-trust laws have criticized the Act as offering possible protection for domestic anti-competitive activity without affording any measurable benefits to exports and, in particular, any benefits to exports by small businesses which the Act originally was designed to assist. Indeed, a Federal Trade Commission staff report on the Webb-Pomerene associations published in 1967 concluded that: "Nothing in the changing environment of American involvement in international economic activity justifies an expectation that the Webb-Pomerene Act will assume increased significance as an instrument to promote overall U.S. exports. Analysis indicates that small firms have received little assistance under

Administration Testimony on
S. 1483 and S. 1774 (Webb-Pomerene
Act), September 6, 1973

EXECUTIVE

CM 29

FG 17-14

September 26, 1973

Mr. Fred Williams
Antitrust Division
Economic Policy Office
Department of Justice
Washington, D.C. 20530

Dear Mr. Williams:

Let me take this opportunity to thank you for the part you played in evaluating the comments on the proposed mandatory allocation program. I have received the report and find it most useful.

I have been told that you worked long hours to complete the report prior to the deadline. Your efforts on this important project are much appreciated.

Sincerely,

JOHN A. LOVE
Assistant to the President

cc: File (official)
Mr. Love (2)
Mr. Bakke Rm 8017

DWB

MD/NRES:DWBakke:fg 9/24/73

RECEIVED
SEP 27 1973
CENTRAL FILES

13

EXECUTIVE
CM 29
FG 17-14

September 26, 1973

Ms. Margaret Somers
Antitrust Division
Foreign Commerce Section
Department of Justice
Washington, D.C. 20530

Dear Ms. Somers:

Let me take this opportunity to thank you for the part you played in evaluating the comments on the proposed mandatory allocation program. I have received the report and find it most useful.

I have been told that you worked long hours to complete the report prior to the deadline. Your efforts on this important project are much appreciated.

Sincerely,

JOHN A. LOVE
Assistant to the President

cc: Official file
Mr. Love (2)
Mr. Bakke Rm 8017

DWB
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SEP 27 1973
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EXECUTIVE

FO 4-3

FG 17-14

October 15, 1973

Dear Keith:

Re: CIEP Investment Study

I recall speaking to you briefly sometime ago about the investment studies I have inherited as Dave Gunnings re-placement at CIEP. In particular, I indicated that one of the major parts of both our reverse investment study and our OECD investment exercise was the question of state regulation of foreign investment.

Treasury/Commerce/State are mounting a work group to catalog state investment incentive programs and to try to quantify the effects of such programs. In addition, we need to investigate a number of legal problems with respect to state incentives and restrictions. The attached preliminary outline is an attempt to identify some of the legal problems we should be looking at. I would be greatful if you could review the attached outline and give me any suggestions you might have for additions or deletions. In addition, I would weldome your suggestions as to how we best go about answering the problems raised in the outline. (e.g. What should go to the Office of Legal Council? What could be done by the Legal Adviser's Office at State?)

Because of your recently increased responsibilities at Justice, it occurred to me that you may no longer be dealing with this area. If that is the case, I would appreciate it if you could turn the matter over to your successor on the CIEP Working Group and have him get in contact with me.

Sincerely,

John Niehuss
Assistant Director

Mr. Keith Clearwaters
Deputy Assistant Attorney General
Antitrust Division
Justice Department
Washington, D. C.

RECEIVED
OCT 16 1973
CENTRAL FILES

EXECUTIVE
FG369
FG17-14

THE WHITE HOUSE

WASHINGTON

December 20, 1973

MEMORANDUM FOR: The Secretary of Agriculture
The Secretary of Commerce
The Secretary of Labor
The Secretary of Transportation
Under Secretary of State for Economic Affairs
Deputy Secretary of the Treasury
Deputy Secretary of Defense
Assistant Attorney General, Antitrust Division
President, Export-Import Bank of the United States
Chairman, Federal Maritime Commission
Special Representative for Trade Negotiations
Director, Office of Management and Budget
Executive Director, Council on International Economic Policy

This memorandum establishes the President's Interagency Committee on Export Expansion, which will report to the President through the Council on International Economic Policy. The Secretary of Commerce will serve as Chairman with the other addressees as members. The President's Interagency Committee on Export Expansion will ensure that programs and policies that affect the United States export performance are coordinated and operate effectively to achieve common objectives.

The Committee will identify, evaluate and make recommendations concerning impediments to U.S. exports, especially those which are under Federal control. It will also consider analysis of other aspects of the U.S. export performance such as the ongoing interagency evaluation of U.S. export promotion programs chaired by OMB.

The Committee will submit within 90 days its first report on recommendations concerning impediments to U.S. exports.

Richard Nixon

EXECUTIVE
FG 21-22
FG 17-14

December 21, 1973

Dear Mr. Kauper: #11753

The enclosed copy of an Executive Order by the President, entitled "Establishing the President's Export Council and for Other Purposes," is transmitted for the files of the Department of Justice.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Thomas E. Kauper
Assistant Attorney General,
Antitrust Division
Department of Justice
Washington, D. C.

Enclosure

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EXECUTIVE
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FG17-14
JL2-1
JL
FG17
FG34
I.B.M.

THE WHITE HOUSE

WASHINGTON

MAR 6 - 1974

The Speaker of the

House of Representatives

Sir:

I ask the Congress to consider proposed supplemental appropriations for the fiscal year 1974 in the amount of $1,361,000 for the Department of Justice.

The details of this proposal are set forth in the enclosed letter from the Director of the Office of Management and Budget, with whose comments and observations I concur.

Respectfully,

Richard Nixon

Sgd 3/5/74 Dated (per OMB) 3/6/74
Original to OMB 3/5
Copy to Press Office (Dec. ier) 3/5
Posted 3/6/74

EXECUTIVE
FG36-9
FG17-14 (2228)
CM29
FG6-26
SAwhill, John C.

MEMORANDUM

NATIONAL SECURITY COUNCIL

June 4, 1974

MEMORANDUM FOR GENERAL SCOWCROFT

FROM: CHARLES A. COOPER

SUBJECT: Testimony of Thomas E. Kauper before Church Subcommittee on Multinational Corporations

Thomas Kauper, Assistant Attorney General, Antitrust Division, is scheduled to testify June 5 before Senator Church's Subcommittee on Multinational Corporations. Kauper's testimony concentrates on the activities of major oil firms and the approval, by Justice, of a Business Review Letter notifying the companies that Justice would see nothing objectionable in their joint bargaining with OPEC nations. Kauper reviews the recent history of the Business Review Letters, and concludes that while past circumstances justified the letters, the changed situation in the international oil market now tilts the arguments against further letters. The basic rationale for Kauper's view is that companies and producer governments are potential competitors now, whereas previously they were related only as producing companies and taxing governments.

I think the Kauper view is (a) too preliminary, and (b) too categorical. Basically, the recent and ongoing change in the industry has made it difficult to form any conclusions as to antitrust implications. Moreover, it is by no means clear that joint company bargaining has lost its utility to consumer interests in the areas of buy-back pricing, income tax changes, and inflation-adjustment pricing.

I would recommend that Mr. Kauper alter his testimony to reflect the uncertainty of the current situation, rather than reflect unsupported conclusions. I would think that the Justice Department would want to address the policy issues involved at more length before establishing a hard position. This will require altering the last several pages of his testimony.