

12/12/77 [1]

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THE PRESIDENT'S SCHEDULE

Monday - December 12, 1977

7:45 Dr. Zbigniew Brzezinski - The Oval Office.

8:15 Mr. Frank Moore - The Oval Office.

8:30 Senior Staff Meeting - The Oval Office.

9:00 Meeting of the Cabinet. (Mr. Jack Watson).
(2 hrs.) The Cabinet Room.

11:00 Mr. Jody Powell - The Oval Office.

12:00 Lunch with Vice President Walter F. Mondale.
The Oval Office.

1:30 Mr. James McIntyre - The Oval Office.
(20 min.)

2:00 Budget Appeals Meeting. (Mr. James McIntyre).
(2 hrs.) The Cabinet Room.

THE WHITE HOUSE
WASHINGTON

12/12/77

stripping desk--

copy has already been
sent to mrs. mondale

--SSC



THE VICE PRESIDENT'S HOUSE
WASHINGTON, D.C. 20501

cc Joan. Thanks
for representing us
so well. Tell Kosygin
to let us have the
"nothing" art on permanent
loan!

Jc. Dec. 12th

Dear Jimmy -

Thank you so much
for letting me represent our
country at Finland's 60th
anniversary of their independ-
ence. I had a wonderful
time & particularly enjoyed
getting to know Kosygin.

Fritz arranged a private
meeting with him in the
Russian embassy in Helsinki
& I told him I would



THE VICE PRESIDENT'S HOUSE
WASHINGTON, D.C. 20501

2.

tell you that he was a charming man, very healthy, and would live a long time! He laughed + laughed at that.

I asked him for permission to see the Russian Experimental Art, 1910-1930, which is in the storeroom of the State Museum in Leningrad, which the Soviets had



THE VICE PRESIDENT'S HOUSE
WASHINGTON, D.C. 20501

3.

previously denied my seeing,
and after Kosygin charged
that the art was "nothing"
& would I please explain
our country's interest in
it (Carter Brown of the National
Gallery wants to borrow it),
two hours after our meeting
a cable arrived giving me
permission to see it. (It was
very abstract - Kandinsky, Chagall
& Malevich). Very exciting - ^{LOP,} _{Jan}

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THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

December 12, 1977

*Not to be made.
I called Meany
J*

MEMORANDUM TO THE PRESIDENT

FROM: RICK HERTZBERG/JIM FALLOWS *Jim*
R. Hertzberg
SUBJECT: Phone call to AFL-CIO Convention

The general tone and thrust of your remarks might best be unapologetic, confident, and friendly -- you're grateful for their support in the election and since; we've had a good, solid, productive year working together; next year will be better still.

1. By way of a light introduction, you might consider these ideas:

--You regret that the press of business kept you from the convention this year, but your absence is partly their doing--they helped put you in a job that keeps you very busy.

--Though you couldn't be there, you did spend a day at Camp David this weekend with Hubert Humphrey-- and, as they know, Hubert is a walking, talking, one-man AFL-CIO Convention himself.

--You're glad that President George Meany decided to stay on the job--because the youth unemployment problem is bad enough as it is.

--Politicians respect George Meany not only because of his clout and his wisdom and experience, but also because he's the world's greatest expert on the art of getting re-elected.

*Ed of Directors
Commun
Satellite
Corp*

2. We've been working together toward common goals for a long time.

--After eight years of vetoes and obstructionism, the Administration in Washington and the labor movement are finally dealing with each other as friends and allies.

--No group had more to do with your election than the labor movement and the AFL-CIO.

--No group has helped more with many of the tough problems you've faced this year.

--We've worked together on tough problems like Social Security, energy, minimum wage, mine safety, strip mining, undocumented aliens, and measures to help the economy.

--This is Human Rights Week, and there is no more passionate supporter of a U.S. foreign policy that stands for human rights than the AFL-CIO.

3. We'll need each other's help more than ever in the coming year to attack the problems that face our nation.

--Our recovery is still too sluggish, and we're going to need strong action to create jobs for American workers.

--We need business confidence, but we need labor confidence, too--the confidence of the labor movement and the confidence of a job for every American who is willing and able to work.

--You'll need their help to get job-creating tax relief and some solid, meaningful tax reform.

--You're counting on their support on these issues and on crucial problems like welfare, consumer protection, Hatch Act reform, the Panama Canal treaties, and continuing the thrust on human rights.

--You and Fritz Mondale and the labor movement are going to be fighting side by side to get the labor law reform bill through the Senate, and George Meany will be with you when you sign that bill into law.

4. Again, you regret you couldn't be with them physically this time--but you hope it's the only AFL-CIO convention you'll ever have to miss.

#

THE PRESIDENT HAS SEEN

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

9

December 12, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze *CS*
SUBJECT: Advance estimate of retail sales *C*

This afternoon the Department of Commerce released the advance estimate for November retail sales.

The news is good. The October advance estimate was revised upward and November sales increased nicely. The following table summarizes the data:

| | (% change) | | |
|---------------------------|-------------------------------------|------------------------------------|--------------------------------------|
| | <u>September to October</u> | <u>October to November</u> | <u>September to November</u> |
| Total retail sales | 2.7 | 1.5 | 4.3 |
| Total, excluding autos | 1.7 | 1.6 | 3.3 |

If these estimates hold up, the fourth quarter GNP will include a very good rise in consumer purchases, even after adjustment for inflation.

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THE WHITE HOUSE
WASHINGTON

December 12, 1977

Jack Watson

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: CABINET DINNER -- CHRISTMAS

THE WHITE HOUSE
WASHINGTON

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| | FOR STAFFING |
| | FOR INFORMATION |
| / | FROM PRESIDENT'S OUTBOX |
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| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

Jack

MEMORANDUM TO: THE PRESIDENT

FROM: Jack Watson
Jane Frank

Jack

December 2, 1977

RE: Christmas Dinner with the Cabinet

We suggest that sometime before you leave for Christmas you invite the entire Cabinet and spouses to a private dinner at the White House. It would be a festive and special occasion for them--one in which friendships among them and between them and you could be strengthened.

Approve _____
Disapprove _____ ✓

*Sorry -
absolutely no
time
J*

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THE WHITE HOUSE
WASHINGTON

December 12, 1977

Frank Moore

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

RE: CALL TO CHAIRMAN PERKINS
RE WELFARE REFORM SUBCOMMITTEE

THE WHITE HOUSE
WASHINGTON

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THE WHITE HOUSE
WASHINGTON

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December 8, 1977

done
J

CONGRESSIONAL TELEPHONE CALL

TO: Chairman Carl Perkins (D-Ky. 7)
225-4935 (office)

DATE: Today, December 8, 1977

RECOMMENDED BY: Bill Cable

PURPOSE: To thank Chairman Perkins for his successful efforts today in the Welfare Reform Subcommittee.

BACKGROUND: *(12-16)* Today, the Welfare Reform Subcommittee by a 12-6 vote adopted the Administration proposal to cash out the food stamp program. Chairman Perkins offered the motion in the face of substantial opposition from organized labor. He clearly went out on a limb for us and was responsible for no fewer than 6 votes. In addition, his district is severely impacted by the coal strike where food stamps are the only means to keep the miners fed during the strike.

DATE OF SUBMISSION: December 8, 1977

Approved by Frank Moore:

F.M.

THE WHITE HOUSE
WASHINGTON
December 12, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

RE: DEFERRAL OF TAXATION ON
FOREIGN PROFITS UNTIL
REPATRIATION -- LETTER TO
KIRBO

THE WHITE HOUSE
WASHINGTON

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THE PRESIDENT HAS SEEN.

The Coca-Cola Company

ATLANTA, GEORGIA

To Pres. Carter

J. PAUL AUSTIN
CHAIRMAN OF THE BOARD

ADDRESS REPLY TO
P. O. DRAWER 1734
ATLANTA, GA. 30301
404-897-2121

December 6, 1977

*Stu -
info
J*

Mr. Charles H. Kirbo
King & Spalding
2500 Trust Company Tower
Atlanta, Georgia 30303

Dear Charlie:

Last night (December 5) the President returned my call at my home. The subject was the deferral of taxation on foreign profits until repatriation. I am told by Reginald Jones of the General Electric Company that the President favors the elimination of this deferral provision from the law. Mike Blumenthal wants to retain it and obviously the business community wants it retained for reasons set forth in the memorandum attached hereto. (See Exhibit A.)

During my conversation with President Carter, I told him I would be sending a memorandum on the subject to him through you. Please see Exhibits A and B accompanying this letter.

Kind regards.

Sincerely,



JPA/ses
enclosures

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December 5, 1977

MEMORANDUM TO: Mr. J. Paul Austin

FROM: William P. McClure

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1) Deferral benefits only operations in countries with tax rates lower than that of the United States, and therefore its elimination would encourage those countries to increase their rates up to the U.S. rate. Thus, the total tax payment by such operations would not be changed, but the tax revenue which would otherwise go to the U.S. would be retained by the foreign countries.

*They would
have to single
out US corps.
violating treaty
agreements,
possibly*

2) Deferral allows the tax incentives given by low tax rate countries to be effective for subsidiaries of U.S. companies. Our treaty program with less developed countries, including Israel, is dependent on deferral of U.S. tax on foreign subsidiaries of U.S. companies.

3) Since practically all industrialized countries allow

deferrals, its elimination would place a higher tax burden on the income of U.S. owned foreign subsidiaries and place them at a competitive disadvantage with foreign owned companies.

4) To the extent that the elimination of deferral results in increased repatriation of profits to the U.S., foreign countries will levy withholding taxes which will benefit neither the company nor the United States.

5) The tax law does not provide an overall incentive to invest overseas since the investment tax credit is limited to investments made in the United States, and that benefit is substantially greater than any benefit obtained from deferral.

William P. McClure

WPM/ses

THE WHITE HOUSE
WASHINGTON

December 12, 1977

Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Jim Gammill

RE: BOARD OF DIRECTORS, COMSAT

THE WHITE HOUSE
WASHINGTON

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| | FOR STAFFING |
| | FOR INFORMATION |
| ✓ | FROM PRESIDENT'S OUTBOX |
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THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

December 12, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: HAMILTON JORDAN *H.J.*

SUBJECT: Board of Directors, Communications
Satellite Corporation (COMSAT)

Communications Satellite Corporation (COMSAT) is a corporation created by Congress but is wholly privately owned. The idea was to take the technology developed at taxpayers expense in the space race and insure its use and continued development to create a global satellite communication system accessible to all countries. COMSAT has been very successful both technically and financially.

There are fifteen (15) members of the Board of Directors. Twelve are elected by the stockholders and three are Presidential appointees. They function as the corporate board and the three Presidential appointments are considered to be extremely prestigious.

George Meany has served on the Board since its inception. He has been an active and positive force. The officers of COMSAT urge his reappointment.

Jesse Hill, as you know, is recognized as a leader in both the business and the black community. He is a member of several business and governmental boards and has taken an active interest in them. He is President-elect of the Atlanta Chamber of Commerce. Hill would be the first black to be on the COMSAT Board.

Lee Kling is also a successful businessman who has served on a number of civic and business boards. Lee comes with a strong recommendation from Bob Strauss, who has known him for years and who worked closely with Lee at the DNC. In addition, Lee recently has been very helpful to us on Panama, both by lobbying

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the Senate and raising funds for the Committee of Americans for Canal Treaties, Inc.

RECOMMENDATION

Appoint the following people to the COMSAT Board of Directors:

George Meany

Jesse Hill

Lee Kling

approve _____ ✓ _____ disapprove _____



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JESSE HILL, JR.

EXPERIENCE:

| | |
|-----------------|---|
| 1973 to Present | President and Chief Executive Officer, Atlanta Life Insurance Company |
| 1970 to 1973 | Vice President - Actuary Member, Board of Directors, Atlanta Life Insurance Company |
| 1957 to 1970 | Actuary |
| 1954 to 1957 | Acting Actuary |
| 1952 to 1954 | Military Service - Korean War |
| 1950 to 1952 | Acting Actuary |
| 1949 to 1950 | Actuarial Assistant |

EDUCATION:

| | |
|------|--|
| 1947 | Graduated, Lincoln University, B.S. |
| 1949 | Graduated, University of Michigan, M.E.A. |
| 1972 | Honorary Doctorate Degree, Morris Brown College |
| 1974 | Honorary Doctorate, Clark College |

AFFILIATIONS:

Member Board of Directors, Delta
Airlines

Member Board of Directors, Rich's
Inc.

President, Enterprise Investments

President, Atlanta Inquirer, Inc.

Member Board of Directors, H.J.
Russell Enterprise

Member American Academy of Actuaries,
Atlanta Actuarial Club & Southeastern
Actuarial Club

Black, Male
Democrat
Age - 51

Comments on Jesse Hill

A. H. Stern, Chair, Trust Company

"I know Hill well and feel that he is solid, has sound judgment and is bright. He gets along well with others. He is very busy and has a tendency to become overly committed; however, he does come through".

Ivan Allen, Jr., Chair, Ivan Allen Company

"I have known Hill for many years. He is a great American and gets along well with others. I would recommend him highly for anything. Hill is just absolutely, unequivocally great".

Richard Leshar, President, U.S. Chamber of Commerce

"He had to check Hill out before he became a member of the Chamber of Commerce, conducted a very thorough check and found no problems".

"Hill is outstanding and a great addition to the Chamber of Commerce".

"Hill is articulate and intelligent and knows his facts and figures".

"He has not known Hill long, but would give him a triple "A" rating".

David Garrett, Jr., President, Delta Airlines

"He is one of the finest businessmen in our part of the country".

"He is on our board and has not missed a meeting in three years".

"He is very knowledgeable and a valued member of the community".

S. Lee Kling
802 Bluesprings Lane
St. Louis, Missouri 63131

EXPERIENCE:

| | |
|-----------------|---|
| 1976 to Present | Chair of the Board and Chief Executive Officer, First State Banc-shares |
| 1975 | Director of Reed Shaw Stenhouse Ltd. |
| 1965 to 1975 | President of Insurance Consultants, Inc. |
| 1958 to 1965 | Vice-President, General Insurors, Inc. |
| 1950 to 1958 | Insurance Broker, General Insurors, Inc. |

OTHER ACTIVITIES:

| | |
|--------------|--|
| 1973 to 1977 | National Finance Chairman of the Democratic National Committee |
| 1973 to 1977 | Executive Committee Member, Democratic National Committee |
| 1977 | Vice-Chairman of Regional Commerce & Growth Association of St. Louis (Chamber of Commerce) |
| 1977 | Co-Chairman of the Democratic House and Senate Campaign Committee Annual Dinner |

EDUCATION:

| | |
|--------------|----------------------------------|
| 1942 to 1946 | New York Military Academy |
| 1946 to 1950 | Washington University, St. Louis |

White, Male
Democrat
Age - 49

Comments on Lee Kling

Robert S. Strauss, Special Representative for Trade Negotiations

"Lee is one of those rare people that does what he says he will do. He is intelligent, sophisticated and totally loyal. He is a team player and is committed to the President. He strikes a good balance between the average guy and business. I don't know anyone I would recommend more".

Floy Warmann, President, Total Communications and Missouri Terminal Oil Company

"Lee and I have been partners in the banking business. He has a good business sense and is quite successful. He is diplomatic, is an astute statesman and has great capability in times of stress. Lee would be an outstanding appointment".

Franklin A. Jacobs, President, Falcon Products, Inc.

"He is eminently qualified. He is Chairman of the Board of the tenth largest bank in Missouri and is one of the most respected businessmen in St. Louis. He is a Vice President of the Regional Commerce and Growth Committee and has that position because of his reputation as a good businessman".

John G. McMillian, Chairman and President, Northwest Energy Company

"I cannot speak too highly of him. I've known Lee both professionally and personally for ten years. We have served together on several boards. He is active and is always prepared. He is bright and knows how to deal with people very well".

Elliot Stein, President, Scherck Stein and Franc, Inc.

"I have known Lee since grade school. He is intelligent, has good business judgment and knows how to handle people. He serves on a number of civic boards and is always a valued addition".

George Meany

EXPERIENCE:

| | |
|-----------------|---|
| 1952 to Present | President, AFL-CIO |
| 1948 to 1952 | Director, Labor's League for Political Education |
| 1939 to 1948 | Secretary-Treasurer, American Federation of Labor |
| 1934 to 1939 | President, New York State Federation of Labor |
| 1932 to 1934 | Vice President, New York State Federation of Labor |
| 1922 to 1932 | Business Agent, New York Local 463, UA |

EDUCATION:

| | |
|------|--|
| 1910 | Graduated from Public School System of New York |
|------|--|

White, Male
Democrat
Age - 83

THE WHITE HOUSE
WASHINGTON

12/13/77

Mr. President:

No comment from Schultze
or Eizenstat.

Rick

THE PRESIDENT HAS SEEN.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

①

DEC 12 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: SECRETARY OF LABOR *Roy*
SUBJECT: INTERNATIONAL ECONOMIC COOPERATION

During our breakfast meeting of December 9, it was mentioned that the OPEC surplus was one of the reasons for our continuing budget deficit. That is, our budget deficit is making up for part of the purchasing power that is being siphoned away from the U.S. economy by our purchases of imported oil.

One way to moderate that phenomenon is to find ways to invest the world's surplus funds in employment-producing investments. OPEC investments in water development projects, for example, will increase world demand for machinery and steel pipe. Employment, profits, and government revenues will increase. If, instead, these funds remain in idle bank deposits, then neither employment nor revenues will increase.

If World Bank loans to the developing nations were to increase substantially, then we could reduce some of our trade deficit and budget deficit simultaneously. At the same time, we could encourage the world economy to produce goods and services in a way that would promote world stability and human rights. An international development policy that encouraged investment in labor-intensive rural development, water resources, and energy and in programs to promote basic human needs would increase jobs for U.S. workers and provide balanced growth in the developing countries. The alternative of investing in electronics, textiles, or other light manufacturing will foster import competition to the U.S. and encourage unhealthy migration from rural to urban areas in the developing world. Increasing self-sufficiency of the developing nations in agriculture and energy through projects directed to that end would, moreover, help moderate the world's long-run inflation problem.

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It seems, therefore, that there is a potential for simultaneously reducing unemployment and the federal deficit in the immediate future and for reducing inflation over the longer term. We may need to consider mechanisms other than the World Bank, such as loans from OPEC countries to the less developed world that are subsidized and/or partially guaranteed by the stronger economies including the United States.

It may be especially opportune to launch a program of this type now while the OPEC countries are undecided about whether or not to increase oil prices. The Sadat initiative creates a favorable environment for a U.S. response directed to world economic cooperation. You may wish to test the receptivity of other world leaders, including King Khalid of Saudi Arabia, towards economic cooperation of this type.

THE WHITE HOUSE
WASHINGTON
December 13, 1977

The Vice President
Stu Eizenstat *re by phone*
Jack Watson
Charles Schultze
Zbig Brzezinski

The attached is forwarded to
you for your information.

Rick Hutcheson

RE: INTERNATIONAL ECONOMIC COOPERA-
TION

THE WHITE HOUSE
WASHINGTON

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| | | SCHLESINGER |
| | | SCHNEIDERS |
| | | STRAUSS |
| | | VOORDE |
| | | WARREN |

THE WHITE HOUSE
WASHINGTON
December 12, 1977

The Vice President

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Hamilton Jordan

RE: POSITION FOR KEN CURTIS

ADMINISTRATIVELY CONFIDENTIAL



THE PRESIDENT HAS SEEN.

THE VICE PRESIDENT
WASHINGTON

*Fritz -
Discuss it -
Hamm
J*

Mr. President,

I think we
should offer
some position
to Ken Curtis

**Electrostatic Copy Made
for Preservation Purposes**

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

December 9, 1977

*Frank - Ham,
you, To by,
Fritz - all use
way opportunity
do praise Ken
J*

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *Fm/ood*

Senator Muskie telephoned me today to express his concern over the Ken Curtis situation. He said he does not blame you personally but believes that lower echelon members of the White House staff are responsible for Curtis' problems.

The Senator said that it should be kept in mind that Ken Curtis may well be one of the Senators from Maine before your term in office is through. He said that the people of Maine are extremely upset over the treatment of Ken Curtis and the Senator believes that a statement of support from you would be very helpful.

THE PRESIDENT HAS SEEN.

①
—

The latest poll, which will be out next Monday, shows the President has improved his public standing from 46 - 52 negative last time to 50 - 48 positive now. H says the improvement is due entirely to the perception that the President has made great strides toward peace in the Middle East. His ratings on the handling of the Middle East have gone up dramatically, from 48 - 44 negative to 63 - 29 positive.

The President has also improved his ratings on his handling of energy and foreign policy, but only slightly. On his dealings with Congress, the figures are the same.

On inspiring confidence in the White House, he has jumped from 49 - 46 negative to 53 - 43 positive. H again attributes this to the Middle East and the leadership the President is providing. He added parenthetically that if we had not been supportive of Sadat and the Cairo conference, all of the ratings would have plummeted.

He makes the point that from now on only specific and visible accomplishments, like the movement toward peace in the Middle East that he is identified with, will further improve the President's ratings. He points to the energy bill as another. He asked how people would regard the signing of an energy bill. 32% said it would be a major victory, 41% a minor victory, and 19% no victory.

THE WHITE HOUSE
WASHINGTON
December 12, 1977

The Vice President
Hamilton Jordan
Jody Powell

The attached was returned in the
President's outbox and is forwarded
to you for your information. The
original has been given to Ken Curtis.

Rick Hutcheson

RESIGNATION OF KEN CURTIS -- PRESIDENT'S
STATEMENT

THE WHITE HOUSE
WASHINGTON

| | |
|---|---------------------------|
| | FOR STAFFING |
| | FOR INFORMATION |
| ✓ | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

send orig to Ken Curtis

~~1/18/75~~

| ACTION | FYI | |
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| | ✓ | MONDALE |
| | | COSTANZA |
| | | EIZENSTAT |
| | ✓ | JORDAN |
| | | LIPSHUTZ |
| | | MOORE |
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| | | SCHULTZE |

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| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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| | ARAGON |
| | BOURNE |
| | BRZEZINSKI |
| | BUTLER |
| | CARP |
| | H. CARTER |
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| | WARREN |

STATEMENT BY PRESIDENT CARTER

Ken -
We distributed
this as indicated -
You're great!
Jimmy

I deeply regret that Ken Curtis will be leaving his position as chairman of the Democratic National Committee.

At my request, he came to Washington to accept the chairmanship. He did not seek that important office, rather I sought him out because of the qualities of leadership, fairness his dedication to the principles and aspirations of the Democratic Party.

When he advised me of his desire to resign and return to Maine, I asked him to remain until a successor could be found. He will not be easy to replace.

Ken Curtis was of great assistance to me, my staff and Administration in our very challenging first year in office. He was a helpful and effective partner in many Administration and Democratic Party actions. He is a valued and trusted friend, and I will miss him.

Jimmy Carter

#

Calls made Friday night, December 9, on the statement by the President regarding Ken Curtis' resignation:

Portland, Maine:

State AP Wire
TV: WCSH-TV
 WGAN-TV
 WMTW-TV
Radio: WCSH
 WGAN

Bangor, Maine:

TV: WABI-TV
 WEMT-TV
 WLBZ-TV
Radio: WABI
 WLBZ

Augusta, Maine:

State UPI Wire

THE WHITE HOUSE
WASHINGTON
December 12, 1977

The Vice President

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

RE: CONSUMER AGENCY LEGISLATION

THE WHITE HOUSE
WASHINGTON

| | |
|---|---------------------------|
| | FOR STAFFING |
| | FOR INFORMATION |
| / | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

| ACTION | FYI | |
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| / | | MONDALE |
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| | WARREN |

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

December 7, 1977

MEMORANDUM FOR THE PRESIDENT
FROM: ESTHER PERKINSON
SUBJECT: Consumer Agency Legislation

As you requested, I am attaching a description of the new consumer agency legislation, ~~as well as a text of the bill itself.~~

This legislation meets the need for meaningful consumer participation in agency decisionmaking and responds to the most important concerns about the original bill which were voiced by the business community and shared by many Members of Congress. It also reorganizes federal consumer programs resulting in a net savings of more than \$10 million over the initial two-year costs of the OCR.

Attachment

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for Preservation Purposes

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OAS
info
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Summary of HR 9718

HR 9718 would create within the executive branch an Office of Consumer Representation (OCR). The OCR would be headed by an Administrator appointed by the President, with the advice and consent of the Senate (Sec. 3(a); pp. 2-3).

The major function of the OCR is to represent the interests of the people of the United States as consumers of goods and services (Sec. 5(a); p.8). Whenever the OCR Administrator determines that an agency proceeding may substantially affect an interest of consumers, he may, as of right, intervene as a party. The Administrator must comply with all rules of procedure governing participation for all other parties (Sec. 6(a); pp. 9-10). However, the Administrator may participate only as a "friend of the court," as opposed to a party, in a proceeding to impose a fine (Sec. 6(c); p. 11). In addition, the Administrator is also authorized to represent the concerns of small business to the extent consistent with those of consumers (Sec. 15(4); pp. 30-31).

The Administrator is further authorized to institute judicial review, or intervene in a court proceeding, to challenge an adverse agency decision, but only "to the extent that any person, if aggrieved, would have a right of judicial review by law" (Sec. 6(d)(1); pp. 11-12). Further, if the Administrator did not participate in the original agency proceeding, he may seek judicial review only "to the same extent and in the same manner" as any other person not a participant in the proceeding and only if the consumers' interests would not otherwise be adequately represented (Sec. 6(d)(2); p. 12). Before exercising his judicial review authority regarding a non-regulatory, executive branch agency decision, the Administrator must provide the President 30 days advance notice of his intention to seek judicial review (Sec. 6(d)(4); pp. 12-13).

The Administrator may not intervene in proceedings before State or local agencies and courts unless he is invited to do so (Sec. 6(h); p. 14).

In addition to its advocacy functions, the Administrator would also:

- (1) Establish a consumer complaints clearinghouse to funnel complaints to the appropriate agencies (Sec. 7; pp. 14-16);

- (2) Disseminate helpful information to the public on consumer products and services, problems generally

encountered by consumers, and federal agency proceedings and regulations that affect consumers (Sec. 8; pp. 16-17);

(3) Encourage and support consumer-related research (Sec. 9; pp. 17-19); and

(4) Report annually to the President and Congress on the effectiveness of federal consumer programs and on federal regulations which are found to be contrary to legislative intent or in conflict with or duplicative of regulations of another federal agency (Sec. 4(d); pp. 7-8).

In performing his functions, the Administrator may seek information only from other federal agencies; but the type of information that may be obtained is limited by various exemptions similar to those in the Freedom of Information Act (Sec. 10; pp. 19-23).

2
0
HR 9718 incorporates a reorganization of federal consumer programs which directs the transfer of 20 programs to the OCR where they can be more efficiently handled. In addition, it directs OMB to recommend an additional \$10 million in budget reductions of federal consumer programs (i.e., the Ford consumer representation plans). (Sec. 14; pp. 26-30.) Since the bill authorizes for appropriation \$15 million for FY 1978 and \$17 million for FY 1979, the reorganization plan would result in a net savings of more than \$6 million over the first year costs, and \$4 million over the second year costs, of the OCR (Sec. 19; p. 34).

The legislation exempts certain federal agencies or programs from OCR's advocacy functions. Those exemptions include the Central Intelligence Agency; FBI; National Security Agency; the national security functions of the Departments of State, Justice, Defense, and Energy and the Nuclear Regulatory Commission; a labor dispute or agreement; and Department of Agriculture proceedings directly concerning the market price of, or loans, price supports or payments for raw agriculture commodities (Sec. 17; pp. 32-33).

Finally, the legislation includes a five-year sunset provision (Sec. 22; pp. 35-36).

Differences Between the Original Bill (HR 6805)

and the Substitute Bill (HR 9718)

On October 25, 1977, 25 members of Congress introduced a substitute consumer agency bill (HR 9718) designed to give consumers a meaningful voice in government decision-making, but structured to respond to reservations that some Members had to the original bill (HR 6805). The major changes incorporated in HR 9718 are the following:

- There would be a major reorganization of federal consumer programs. Through the transfer or phasing out of existing consumer programs which would duplicate the OCR's activities or which have become ineffective, more than \$10 million will be saved over the costs of the OCR in its initial two years.
- OCR would have no interrogatory power. It could not require business to answer interrogatories or to file mandatory reports.
- OCR would have no greater rights of judicial review from a federal agency decision than any business entity. This equality of judicial review rights would extend both to instances where OCR was a party or participant in a proceeding and where it was not.
- OCR would have no greater rights than any business entity to use a host agency subpoena or other discovery powers during a proceeding.
- OCR would be authorized to represent the interests of small business as consumers of regulated goods and services.
- OCR would have no authority to set up product testing laboratories.
- OCR would have no authority to set up regional offices.
- OCR would be required to report to Congress on any rules or orders of a federal agency found to be in conflict with or duplicative of those of another agency.
- OCR would be required to report to Congress on the impact of intervention (including delays) on the effectiveness and efficiency of the regulatory process.
- OCR would be required to notify the President 30 days in advance of its intention to seek judicial review of an executive branch, non-regulatory action.

Index to HR 9718

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95TH CONGRESS
1ST SESSION

H. R. 9718

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 1977

Mr. BROOKS (for himself, Mr. WRIGHT, Mr. ROSENTHAL, Mr. HORTON, Mr. FASCELL, Mr. McCLOSKEY, Mr. PREYER, Mr. JENRETTE, Mr. KOSTMAYER, Mr. BOLLING, Mr. CONTE, Mr. DICKS, Mr. GILMAN, Mr. HOLLENBECK, Mr. LE FANTE, Mr. MINETA, Mr. PRITCHARD, Mr. STEED, Mr. THORNTON, Mr. TUCKER, Mr. HARRIS, Mr. STEERS, Mr. MOFFETT, Mr. WAXMAN, and Mr. EVANS of Colorado) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To establish an Office of Consumer Representation and to reorganize certain consumer programs in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes.

1. *Be it enacted by the Senate and House of Representa-*
2. *tives of the United States of America in Congress assembled,*
3. That this Act may be cited as the "Consumer Representa-
4. tion and Reorganization Act of 1977".

STATEMENT OF FINDINGS

6. SEC. 2. The Congress finds that the interests of con-
7. sumers are inadequately represented and protected within

1 the Federal Government; that such interests are adversely
 2 affected when Government rules, regulations, or orders are
 3 contrary to legislative intent or are duplicative or conflict-
 4 ing in purpose or implementation; and that vigorous repre-
 5 sentation and protection of the interests of consumers, essen-
 6 tial to the fair and efficient functioning of a free market
 7 economy, require the establishment of an Office of Consumer
 8 Representation and the reorganization of certain existing
 9 consumer programs.

10 ESTABLISHMENT

11 SEC. 3. (a) There is hereby established as an inde-
 12 pendent agency within the executive branch of the Govern-
 13 ment an Office of Consumer Representation. The Office shall
 14 be directed and administered by an Administrator who shall
 15 be appointed by the President, by and with the advice and
 16 consent of the Senate. The Administrator shall be a person
 17 who by reason of training, experience, and attainments is
 18 exceptionally qualified to represent the interests of con-
 19 sumers. There shall be in the Office a Deputy Administra-
 20 tor who shall be appointed by the President, by and with the
 21 advice and consent of the Senate. The Deputy Administrator
 22 shall perform such functions, powers, and duties as may be
 23 prescribed from time to time by the Administrator and shall
 24 act for, and exercise the powers of, the Administrator during

1 the absence or disability of, or in the event of a vacancy in
 2 the office of, the Administrator.

3 (b) There shall be in the Office a General Counsel
 4 and not to exceed five Assistant Administrators appointed
 5 by the Administrator.

6 (c) No employee of the Office while serving in such
 7 position may engage in any business, vocation, or other em-
 8 ployment or have other interests which are inconsistent with
 9 his official responsibilities.

10 (d) The Administrator, Deputy Administrator, General
 11 Counsel, and Assistant Administrators after holding such of-
 12 fice, shall neither represent nor advise in a professional ca-
 13 pacity a regulated party or association representing a regu-
 14 lated party on any issue pending during the term of their
 15 employment by the Office and concerning which they were
 16 involved in a decisionmaking capacity. The Administrator,
 17 Deputy Administrator, General Counsel, and Assistant Ad-
 18 ministrators shall, for a period of two years following the
 19 termination of their employment by the Office, neither
 20 represent nor advise in a professional capacity any regulated
 21 party or any association representing a regulated party with
 22 regard to any matter in which the Office participated be-
 23 fore a Federal agency or in the courts during their
 24 employment.

1 POWERS AND DUTIES OF THE ADMINISTRATOR

2 SEC. 4. (a) The Administrator shall be responsible for
3 the exercise of the powers and the discharge of the duties
4 of the Office, and shall have the authority to direct and
5 supervise all personnel and activities thereof.

6 (b) In addition to any other authority conferred upon
7 him by this Act, the Administrator is authorized, in carry-
8 ing out his functions under this Act, to—

9 (1) subject to the civil service and classification
10 laws, select, appoint, employ, and fix the compensation
11 of such officers and employees as are necessary to carry
12 out the provisions of this Act and to prescribe their
13 authority and duties;

14 (2) employ experts and consultants in accordance
15 with section 3109 of title 5, United States Code, and
16 compensate individuals so employed for each day (in-
17 cluding traveltime) at rates not in excess of the maxi-
18 mum rate of pay for grade GS-18 as provided in section
19 5332 of title 5, United States Code, and while such
20 experts and consultants are so serving away from their
21 homes or regular place of business, pay such employees
22 travel expenses and per diem in lieu of subsistence at
23 rates authorized by section 5703 of title 5, United States
24 Code, for persons in Government service employed
25 intermittently;

1 (3) appoint advisory committees composed of such
2 private citizens, including consumer and business repre-
3 sentatives, and officials of the Federal, State, and local
4 governments as he deems desirable to advise him with
5 respect to his functions under this Act, and pay such
6 members (other than those regularly employed by the
7 Federal Government) while attending meetings of such
8 committees or otherwise serving at the request of the
9 Administrator compensation and travel expenses at the
10 rate provided for in paragraph (2) of this subsection
11 with respect to experts and consultants; members of an
12 advisory committee to be appointed as consumer repre-
13 sentatives shall, whenever practicable, constitute the
14 majority membership of any such advisory committee
15 and shall be individuals who by reason of training, ex-
16 perience, and attainments are exceptionally qualified to
17 represent the interests of consumers;

18 (4) promulgate, in accordance with the applicable
19 provisions of chapter 5 of title 5, United States Code,
20 such rules, regulations, and procedures as may be neces-
21 sary to carry out the provisions of this Act, and assure
22 fairness to all persons affected by the Office's actions,
23 and to delegate authority for the performance of any
24 function to any officer or employee under his direction
25 and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State and private agencies and instrumentalities;

(6) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Administrator may deem appropriate;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 (b) of the Revised Statutes (31 U.S.C. 665 (b));

(8) adopt an official seal, which shall be judicially noticed;

(9) encourage the development of informal dispute settlement procedures involving consumers; and

(10) conduct conferences and hearings and otherwise secure data and public views necessary to carry out the purposes of this Act.

(c) Upon request made by the Administrator, each Federal agency is authorized and directed to make its services, personnel, and facilities available to the greatest practicable extent within its capability to the Office in the performance of its functions.

(d) The Administrator shall transmit to the Congress and the President not later than February 1 of each year a report which shall include a comprehensive statement of the activities and accomplishments of the Office during the preceding calendar year including a summary of consumer complaints received and actions taken thereon. Each such report shall include—

(1) a summary and evaluation of selected major consumer programs of Federal agencies, including, but not limited to, comment with respect to the effectiveness and efficiency of such programs as well as deficiencies noted in the coordination, administration, or enforcement of such programs;

(2) an identification of and comment on any rule, regulation, or order of a Federal agency found by the Administrator, in the course of his activities under this Act, to be contrary to legislative intent or in conflict with or duplicative of a rule, regulation, or order of another such agency; and

(3) an assessment of the impact of intervention and participation by the Office and by other persons and

1 ticable extent within its capability to the Office in the
2 performance of its functions.

3 (d) The Administrator shall transmit to the Congress
4 and the President not later than February 1 of each year a
5 report which shall include a comprehensive statement of the
6 activities and accomplishments of the Office during the pre-
7 ceding calendar year including a summary of consumer com-
8 plaints received and actions taken thereon. Each such report
9 shall include—

10 (1) a summary and evaluation of selected major
11 consumer programs of Federal agencies, including, but
12 not limited to, comment with respect to the effectiveness
13 and efficiency of such programs as well as deficiencies
14 noted in the coordination, administration, or enforce-
15 ment of such programs;

16 (2) an identification of and comment on any rule,
17 regulation, or order of a Federal agency found by the
18 Administrator, in the course of his activities under this
19 Act, to be contrary to legislative intent or in conflict
20 with or duplicative of a rule, regulation, or order of
21 another such agency; and

22 (3) an assessment of the impact of intervention and
23 participation by the Office and by other persons and

1 agencies on the effectiveness and efficiency of the admin-
2 istrative processes of the Government.

3 FUNCTIONS OF THE OFFICE

4 SEC. 5. (a) The Office shall, in the performance of its
5 functions, advise the Congress and the President as to mat-
6 ters affecting the interests of consumers; and protect and
7 promote the interests of the people of the United States as
8 consumers of goods and services made available to them
9 through the trade and commerce of the United States.

10 (b) The functions of the Office shall be to—

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

14 (2) encourage and support research, studies, and
15 testing leading to a better understanding of consumer
16 products and improved products, services, and consumer
17 information, to the extent authorized in section 9 of this
18 Act;

19 (3) submit recommendations annually to the Con-
20 gress and the President on measures to improve the
21 operation of the Federal Government in the protection
22 and promotion of the interests of consumers;

23 (4) publish and distribute material developed pur-
24 suant to carrying out its responsibilities under this Act

10 which will inform consumers of matters of interest to
21 them; to the extent authorized in section 8 of this Act;

3 (5) conduct conferences, surveys, and investiga-
4 tions, including economic surveys, concerning the needs,
5 interests, and problems of consumers which are not
6 duplicative in significant degree of similar activities con-
7 ducted by other Federal agencies;

8 (6) cooperate with State and local governments
9 and private enterprise in the promotion and protection
10 of the interests of consumers; and

11 (7) keep the appropriate committees of Congress
12 fully and currently informed of all its activities, as
13 required by this Act.

14 REPRESENTATION OF CONSUMERS

15 SEC. 6. (a) Whenever the Administrator determines
16 that the result of any Federal agency proceeding or activity
17 may substantially affect an interest of consumers, he may as
18 of right intervene as a party or otherwise participate for the
19 purpose of representing the interests of consumers, as pro-
20 vided in paragraph (1) or (2) of this subsection. In any
21 proceeding, the Administrator shall refrain from intervening
22 as a party, unless he determines that such intervention is
23 necessary to represent adequately the interest of consumers.

24 The Administrator shall comply with Federal agency statutes

1 and rules of procedure of general applicability governing
 2 the timing of intervention or participation in such proceed-
 3 ing or activity and, upon intervening or participating therein,
 4 shall comply with Federal agency statutes and rules of pro-
 5 cedure of general applicability governing the conduct thereof.
 6 The intervention or participation of the Administrator in
 7 any Federal agency proceeding or activity shall not affect
 8 the obligation of the Federal agency conducting such pro-
 9 ceeding or activity to assure procedural fairness to all
 10 participants.
 11 (1) Except as provided in subsection (c), the Ad-
 12 ministrator may intervene as a party or otherwise par-
 13 ticipate in any Federal agency proceeding which is
 14 subject to section 553, 554, 556, or 557 of title 5, United
 15 States Code, or to any other statute, regulation, or prac-
 16 tice authorizing a hearing, or which is conducted on
 17 the record after opportunity for an agency hearing.
 18 (2) Except as provided in subsection (c), in any
 19 Federal agency proceeding not covered by paragraph
 20 (1), or any other Federal agency activity, the Adminis-
 21 trator may participate or communicate in any manner
 22 that any person may participate or communicate under
 23 Federal agency statutes, rules, or practices. The Federal
 24 agency shall give consideration to the written or oral
 25 submission of the Administrator. Such submission shall

1 be presented in an orderly manner and without causing
 2 undue delay.
 3 (b) At such time as the Administrator determines to
 4 intervene or participate in a Federal agency proceeding
 5 under subsection (a) (1) of this section, he shall issue
 6 publicly a written statement setting forth his findings under
 7 subsection (a), stating concisely the specific interests of
 8 consumers to be protected. Upon intervening or participat-
 9 ing he shall file a copy of his statement in the proceeding.
 10 (c) In any Federal agency proceeding seeking pri-
 11 marily to impose a fine or forfeiture which the agency may
 12 impose under its own authority for an alleged violation of a
 13 statute of the United States or of a rule, order, or decree
 14 promulgated thereunder and which in the opinion of the
 15 Administrator may substantially affect the interests of con-
 16 sumers, the Administrator upon his own motion, or upon writ-
 17 ten request made by the officer or employee who is charged
 18 with the duty of presenting the case of the United States or
 19 the Federal agency in the proceeding or action, may trans-
 20 mit to such officer or employee all evidence and information
 21 in the possession of the Administrator relevant to the pro-
 22 ceeding or action and may, in the discretion of the Federal
 23 agency or court, appear as amicus curiae and present written
 24 or oral argument to such agency or court.
 25 (d) (1) To the extent that any person, if aggrieved,

1 If a person would have a right of judicial review by law, the Admin-
 2 strator may institute, or intervene as a party in, a proceed-
 3 ing in a court of the United States involving judicial review
 4 of any Federal agency action in which the Administrator
 5 intervened or participated.

6 (2) The Administrator may institute, or intervene as
 7 a party in, a proceeding in a court of the United States in-
 8 volving judicial review of any Federal agency action in
 9 which the Administrator did not intervene or participate,
 10 to the same extent and in the same manner as any person
 11 not a party or a participant, if such court finds that such
 12 agency action may adversely affect an interest of consumers
 13 and, in the case of intervention, that the consumers'
 14 interests would not otherwise be adequately represented in
 15 a judicial review of such action.

16 (3) The participation of the Administrator in a proceed-
 17 ing for judicial review of a Federal agency action shall not
 18 alter or affect the scope of review otherwise applicable to
 19 such agency action.

20 (4) The Administrator's judicial review authority under
 21 paragraphs (1) and (2) of this subsection shall not be
 22 exercised as to a Federal agency activity described in sub-
 23 section (a) (2) of this section unless the Administrator pro-
 24 vides the President with thirty days advance notice in
 25 writing of his intention to seek such review, (except that

1 such notice to the President under this paragraph of intent
 2 to seek judicial review is not required when the Federal
 3 agency activity involved is that of an independent regulatory
 4 agency or of an entity within the executive branch of Govern-
 5 ment whose principal functions are of a regulatory nature.

6 (e) When the Administrator determines it to be in the
 7 interests of consumers, he may request the Federal agency
 8 concerned to initiate such proceeding or to take such other
 9 action as may be authorized by law with respect to such
 10 agency. If the Federal agency fails to take the action re-
 11 quested, it shall promptly notify the Administrator of the
 12 reasons for its failure and such notification shall be a matter
 13 of public record. To the extent that any person, if aggrieved,
 14 would have a right of judicial review by law, the Administra-
 15 tor may institute a proceeding in a court of the United States
 16 to secure review of the action of a Federal agency or its
 17 refusal to act.

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

21 (g) In any Federal agency proceeding in which the
 22 Office is intervening or participating pursuant to subsection
 23 (a) (1) of this section, the Office is authorized to request
 24 the Federal agency to issue, and the Federal agency shall
 25 issue such orders as are authorized by the Federal agency's

1 statutory powers, for the copying of documents, papers, and
2 records, summoning of witnesses, production of books and
3 papers, and submission of information in writing to the same
4 extent, upon the same statement or showing, and subject to
5 the same requirements as are applicable to requests for such
6 orders from any other intervenor or participant.

7 (h) The Administrator is not authorized to intervene in
8 proceedings or actions before State or local agencies, and
9 courts.

10 (i) Nothing in this section shall be construed to pro-
11 hibit the Administrator from communicating with or pro-
12 viding information or analysis to Federal, State, or local
13 agencies or courts at times and in manners not inconsistent
14 with law or agency rules.

15 CONSUMER COMPLAINTS

16 SEC. 7. (a) The Office shall receive, evaluate, de-
17 velop, act on, and transmit complaints to the appropriate
18 Federal or non-Federal entities concerning actions or prac-
19 tices which may be detrimental to the interests of consumers.

20 (b) Whenever the Office receives from any source, or
21 develops on its own initiative, any complaint or other infor-
22 mation affecting the interests of consumers and disclosing a
23 probable violation of—

24 (1) a law of the United States

1 (2) a rule or order of a Federal agency or officer,
2 or
3 (3) a judgment, decree, or order of any court of
4 the United States involving a matter of Federal law,
5 it shall take such action within its authority as may be
6 desirable, including the proposal of legislation, and shall
7 promptly transmit such complaint or other information to
8 the Federal agency or officer charged with the duty of en-
9 forcing such law, rule, order, judgment, or decree, for
10 appropriate action.

11 (c) The Office shall ascertain the nature and extent of
12 action taken with regard to respective complaints and other
13 information transmitted under subsection (b) of this section.

14 (d) The Office shall promptly notify producers, dis-
15 tributors, retailers or suppliers of goods and services of com-
16 plaints of significance concerning them received or developed
17 under this section.

18 (e) The Office shall maintain a public document room
19 containing an up-to-date listing of all signed consumer com-
20 plaints of significance for public inspection and copying
21 which the Office has received, arranged in meaningful and
22 useful categories, together with annotations of actions taken
23 by it. Complaints shall be listed and made available for public
24 inspection and copying only if—

1 (1) the complainant's identity is protected when
2 he has requested confidentiality;

3 (2) the party complained against has had sixty
4 days to comment on such complaint and such comment,
5 when received, is displayed together with the complaint;

6 and
7 (3) the entity to which the complaint has been
8 referred has had sixty days to notify the Office what
9 action, if any, it intends to take with respect to the
10 complaint.

11 CONSUMER INFORMATION AND SERVICES

12 SEC. 8. (a) The Office shall develop on its own initia-
13 tive, and subject to the other provisions of this Act, gather
14 from other Federal agencies and non-Federal sources, and
15 disseminate to the public in such manner, at such times,
16 and in such form as it determines to be most effective, infor-
17 mation, statistics, and other data concerning—

- 18 (1) the functions and duties of the Office;
- 19 (2) consumer products and services;
- 20 (3) problems encountered by consumers generally,
21 including annual reports on interest rates and commer-
22 cial and trade practices which adversely affect cons-
23 sumers; and
- 24 (4) notices of Federal hearings, proposed and final

1 rules and orders, and other pertinent activities of Fed-
2 eral agencies that affect consumers.

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

8 RESEARCH

9 SEC. 9. (a) The Office shall, in the exercise of its
10 functions—

- 11 (1) encourage and support through, both public and
12 private entities, the development and application of in-
13 formation on consumer products and services, by re-
14 search and testing, including methods and techniques
15 for testing materials, mechanisms, components, struc-
16 tures, and processes used in consumer products; and
- 17 (2) make recommendations to other Federal agen-
18 cies with respect to research, studies, analyses, and other
19 information within their authority which would be use-
20 ful and beneficial to consumers.

21 (b) All Federal agencies which, in the judgment of the
22 Administrator, possess testing facilities and staff relating to
23 the performance of consumer products and services, are
24 authorized and directed to perform promptly, to the greatest

1 practicable extent within their capability, such tests as the
 2 Administrator may request in the exercise of his functions
 3 under section 6 of this Act, regarding products, services, or
 4 any matter affecting the interests of consumers. Such tests
 5 shall, to the extent possible, be conducted in accordance
 6 with generally accepted methodologies and procedures; and
 7 in every case when test results are published, the method-
 8 ologies and procedures used shall be available along with
 9 the test results. The results of such tests may be used or
 10 published only in connection with proceedings in which the
 11 Office is participating or has intervened pursuant to sec-
 12 tion 6. In providing facilities and staff upon request made
 13 in writing by the Administrator, Federal agencies—

14 (1) may perform functions under this section with-
 15 out regard to section 3648 of the Revised Statutes (31
 16 U.S.C. 529).

17 (2) may request any other Federal agency to sup-
 18 ply such statistics, data, progress reports, and other in-
 19 formation as the Administrator deems necessary to carry
 20 out his functions under this section and any such other
 21 agency is authorized and directed to cooperate to the
 22 extent permitted by law by furnishing such materials;
 23 and

24 (3) may, to the extent necessary and authorized,
 25 acquire or establish additional facilities and purchase

1 additional equipment for the purpose of carrying out the
 2 purposes of this section.

3 (c) Neither a Federal agency engaged in testing prod-
 4 ucts under this Act nor the Administrator shall declare one
 5 product to be better or a better buy than any other prod-
 6 uct; however, the provisions of this subsection shall not
 7 prohibit the use or publication of test data as provided in
 8 subsection (b).

9 (d) Nothing in this Act shall be construed to authorize
 10 the Administrator to establish a consumer product testing
 11 laboratory.

12 INFORMATION GATHERING

13 SEC. 10 (a) Upon written request by the Administra-
 14 tor, each Federal agency is authorized and directed to fur-
 15 nish or allow access to all documents, papers, and records
 16 in its possession which the Administrator deems necessary
 17 for the performance of his functions and to furnish at cost
 18 copies of specified documents, papers, and records. This sub-
 19 section does not apply to matters that are—

20 (1) (A) specifically authorized under criteria es-
 21 tablished by an Executive order to be kept secret in
 22 view of the interest of national defense or foreign policy and

23 (B) are in fact properly classified pursuant to such
 24 Executive orders;

1 (2) related solely to the internal personnel rules
 2 and practices of an agency;
 3 (3) specifically exempted from disclosure by
 4 statute (other than section 552 or 552b of title 5,
 5 United States Code). *Provided*, That such statute (A)
 6 requires that the matters be withheld from the public
 7 in such a manner as to leave no discretion on the
 8 issue, or (B) establishes particular criteria for with-
 9 holding or refers to particular types of matters to be
 10 withheld;
 11 (4) inter-agency or intra-agency memorandums or
 12 letters which would not be available by law to a party
 13 other than an agency in litigation with the agency;
 14 (5) personnel and medical files and similar files
 15 the disclosure of which would constitute a clearly un-
 16 warranted invasion of personal privacy;
 17 (6) investigatory records compiled for law en-
 18 forcement purposes, but only to the extent that the
 19 production of such records would (A) interfere with
 20 enforcement proceedings, (B) deprive a person of a
 21 right to fair trial or an impartial adjudication, (C)
 22 constitute an unwarranted invasion of personal privacy,
 23 or (D) disclose the identity of a confidential source and,
 24 in the case of a record compiled by a criminal law
 25 enforcement authority in the course of a criminal in-

1 investigation, or by an agency conducting a lawful
 2 national security, intelligence investigation, confidential
 3 information furnished only by the confidential source,
 4 (E) disclose investigative techniques and procedures,
 5 or (F) endanger the life or physical safety of law
 6 enforcement personnel;
 7 (7) contained in or related to examination, operat-
 8 ing, or condition reports prepared by, on behalf of, or
 9 for the use of an agency responsible for the regulation
 10 or supervision of financial institutions; or
 11 (8) geological and geophysical information and
 12 data, including maps, concerning wells;
 13 (9) trade secrets and commercial or financial in-
 14 formation obtained from a person and privileged or
 15 confidential—
 16 (A) obtained prior to the effective date of this
 17 Act by a Federal agency, if the agency had agreed
 18 to treat and has treated such information as privi-
 19 leged or confidential and states in writing to the
 20 Administrator that, taking into account the nature
 21 of the assurances given, the character of the in-
 22 formation requested, and the purpose, as stated by
 23 the Administrator, for which access is sought, to
 24 permit such access would constitute a breach of
 25 good faith by the agency; or

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

Before granting the Administrator access to trade secrets and commercial or financial information described in section 552 (b) (4) of title 5, United States Code, the agency shall notify the person who provided such information of its intention to do so and the reasons therefor, and shall afford him a reasonable opportunity to comment. Where access to information is denied to the Administrator by a Federal agency pursuant to this subsection, the head of the agency and the Administrator shall seek to find a means of providing the information in such other form, or under such conditions, as will meet the agency's objections. The Administrator may file a complaint in court to enforce its rights under this subsection in the same manner and subject to the same conditions as a complainant under section 552 (a) (3) of title 5, United States Code.

(b) Consistent with the provisions of section 6103 of

the Internal Revenue Code of 1954 (26 U.S.C. 6103), nothing in this Act shall be construed as providing for or authorizing access by the Administrator to information solely from a tax return or tax return information, as defined by section 6103 (b) of such Code, except as provided by law.

LIMITATIONS ON DISCLOSURES

SEC. 11. (a) Except as provided in this section, section 552 of title 5, United States Code, shall govern the release of information by any officer or employee of the Office.

(b) No officer or employee of the Office shall disclose to the public or to any State or local agency any information which was received solely from a Federal agency if such agency has notified the Administrator that the information is within the exceptions stated in section 552 (b) of title 5, United States Code, and the Federal agency has determined that the information should not be made available to the public, except that, if such Federal agency has specified that such information may be disclosed in a particular form or manner, such information may be disclosed in such form or manner.

(c) The following additional provisions shall govern the release of information by the Administrator pursuant to any authority conferred by this Act, except information released through the presentation of evidence in a Federal agency or court proceeding pursuant to section 6:

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

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

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

22 PROTECTION OF THE CONSUMER INTEREST IN
 23 ADMINISTRATIVE PROCEEDINGS

24 SEC. 12. Every Federal agency in considering any
 25 Federal agency action, which may substantially affect an

1 interest of consumers, including, but not limited to, the
 2 issuance or adoption of rules, regulations, guidelines, orders,
 3 standards, or formal policy decisions, shall—
 4 (1) notify the Office at such time as notice of the
 5 action is given to the public, or at such times and in
 6 such manner as may be fixed by agreement between
 7 the Administrator and each agency with respect to the
 8 consideration of specific actions, or when notification of
 9 that specific action or proceeding is requested in writing by
 10 the Office; and
 11 (2) consistent with its statutory responsibilities
 12 to take such action with due consideration to the interest
 13 of consumers.

14 In taking any action under paragraph (2), upon request of
 15 the Office or in those cases where a public announcement
 16 would normally be made, the Federal agency concerned
 17 shall indicate concisely in a public announcement of such
 18 action the consideration given to the interests of consumers.
 19 This section shall be enforceable in a court of the United
 20 States only upon petition of the Office.

21 SAVING PROVISIONS

22 SEC. 13. (a) Nothing contained in this Act shall be
 23 construed to alter, modify, or impair the statutory respon-
 24 sibility and authority contained in section 201 (a) (4) of
 25 the Federal Property and Administrative Services Act of

1 1949, as amended (40 U.S.C. 481 (a) (4)), or of any pro-
2 vision of the antitrust laws, or of any Act providing for the
3 regulation of the trade or commerce of the United States, or
4 to prevent or impair the administration or enforcement of
5 any such provision of law.

6 (b) Nothing contained in this Act shall be construed as
7 relieving any Federal agency of any authority or respon-
8 sibility to protect and promote the interests of the consumer.

9 TRANSFER OF PROGRAMS, OPERATIONS, AND ACTIVITIES

10 SEC. 14. (a) The functions being performed by the en-
11 tities enumerated in subsection (b) of this section and all
12 funds, records, and property utilized in connection therewith,
13 shall be transferred to the Office within one hundred and
14 twenty days of the effective date of this Act.

15 (b) The following entities shall be subject to the pro-
16 visions of subsection (a):

17 (1) Office of Rail Public Counsel, Interstate Com-
18 merce Commission;

19 (2) Legal and Consumer Research Sections, Office
20 of the Consumer Advocate, Civil Aeronautics Board;

21 (3) Officers of the Commission (consumer repre-
22 sentation function); Postal Rate Commission;

23 (4) Consumer Information Office, Consumer Prod-
24 uct Safety Commission;

1 (5) Consumer Assistance Office, Federal Com-
2 munications Commission;

3 (6) Special Assistant for Consumer Affairs, Federal
4 Energy Regulatory Commission;

5 (7) Special Assistant to the President and the Office
6 of Consumer Affairs, Department of Health, Education,
7 and Welfare;

8 (8) Special Assistant for Consumer Affairs, Office
9 of Human Development, Department of Health, Educa-
10 tion, and Welfare;

11 (9) Consumer Affairs Officers of the Food and Drug
12 Administration;

13 (10) Consumer Affairs Division, Domestic and
14 International Business Administration, Department of
15 Commerce;

16 (11) Special Assistant to the Secretary, Depart-
17 ment of Labor;

18 (12) Consumer Coordinator and Special Assistant
19 to the Under Secretary for Economic Affairs, Depart-
20 ment of State;

21 (13) Office of Consumer Affairs, Assistant Secretary
22 for Environment, Safety and Consumer Affairs, Depart-
23 ment of Transportation;

24 (14) Community and Consumer Liaison Division,

1 Office of Public Affairs, Federal Aviation Administration,
 2 Department of Transportation;
 3 (15) Consumer Affairs Director, National Highway
 4 Traffic Safety Administration, Department of Trans-
 5 portation;
 6 (16) Special Assistant to the Secretary for Con-
 7 sumer Affairs, Department of the Treasury;
 8 (17) Such entity or entities within the Department
 9 of Energy as carry on the functions formerly performed
 10 by the Consumer Affairs and Special Impact Division,
 11 Office of Intergovernmental Relations and Special Pro-
 12 grams, Federal Energy Administration;
 13 (18) Consumer Information Center, General Serv-
 14 ices Administration;
 15 (19) Advisory Group to the Commissioner of In-
 16 ternal Revenue, Department of the Treasury; and
 17 (20) Consumer Affairs and Special Impact Com-
 18 mittee, Department of Energy.

19 (c) (1) Except to the extent prohibited by law, the
 20 Director of the Office of Management and Budget is author-
 21 ized and directed to review all other Federal programs and
 22 activities which have a consumer information, advocacy, or
 23 related function and identify those which would overlap,
 24 duplicate or conflict with the functions performed by the
 25 Office. This review shall be carried out as a part of the Presi-

1 dent's first budget review process following establishment
 2 of the Office.

3 (2) The Director of the Office of Management and
 4 Budget shall, one week after the submission of the Presi-
 5 dent's budget to the Congress, report to the Committees on
 6 Appropriations and Government Operations of the House of
 7 Representatives and Appropriations and Governmental Af-
 8 fairs of the Senate the results of the review required by para-
 9 graph (1) of this subsection. Such report shall include (A)
 10 all activities identified as a part of the Office of Management
 11 and Budget's review; (B) a description of those activities
 12 including their costs during the fiscal year and how those
 13 activities overlap, duplicate, or conflict with the responsibili-
 14 ties of the Office; and (C) the budgetary recommendations
 15 to the Congress to eliminate such activities. Such budgetary
 16 reduction recommendations shall be no less than \$10,000,-
 17 000 in the ensuing fiscal year.

18 (3) Nothing in this subsection shall be construed to
 19 prohibit the Director of the Office of Management and Budget
 20 from including in the report required by paragraph
 21 (2) of this subsection, comments on the consumer related
 22 activities of independent regulatory agencies that overlap,
 23 duplicate, or conflict with the functions performed by the
 24 Office.

25 (d) The Administrator, pursuant to section 4 of this

1 Act, shall be responsible for incorporating such programs,
2 operations, and activities as are or may ultimately be trans-
3 ferred in such manner and to such extent as he deems con-
4 sistent with the Office's responsibilities under section 5 of
5 this Act, and for issuing such organizational directives as he
6 deems appropriate to carry out the purposes of this section.

7 (e) The Administrator shall include in his second an-
8 nual report, as provided in section 4 (d), a full accounting of
9 the implementation of this section to date.

10 DEFINITIONS

11 SEC. 15. As used in this Act—

12 (1) the term "Office" means the Office of Consumer
13 Representation;

14 (2) the terms "agency", "agency action", "party",
15 "person", "rulemaking", "adjudication", and "agency
16 proceeding" shall have the same meaning as set forth in
17 section 551 of title 5, United States Code;

18 (3) the term "consumer" means any person who
19 uses for personal, family, or household purposes, goods
20 and services offered or furnished;

21 (4) the term "interests of consumers" means any
22 concerns of consumers involving the cost, quality,
23 purity, safety, durability, performance, effectiveness, de-
24 pendability, and availability and adequacy of choice of
25 goods and services offered or furnished to consumers;

1 the adequacy and accuracy of information relating to
2 consumer goods and services (including labeling, pack-
3 aging, and advertising of contents, qualities, and terms
4 of sale); and any concerns of small business entities that
5 are consistent with those of consumers;

6 (5) the term "small business entity" means any
7 person, including a family farming operation or enter-
8 prise, that, together with such person's affiliates, in-
9 cluding any other person with whom such person is
10 associated by means of a franchise agreement, does not
11 have assets exceeding \$5,000,000; or does not have
12 more than the annual equivalent of twenty-five full-time
13 employees; and

14 (6) the term "State" includes any State or posses-
15 sion of the United States, the District of Columbia, the
16 Commonwealth of Puerto Rico, the Virgin Islands,
17 Canal Zone, Guam, American Samoa, and the Trust
18 Territories of the Pacific Islands.

19 CONFORMING AMENDMENTS

20 SEC. 16. (a) Section 5314 of title 5, United States
21 Code, is amended by adding at the end thereof the follow-
22 ing:
23 (66) Administrator, Office of Consumer Repre-
24 sentation.

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

3 " (114) Deputy Administrator, Office of Consumer
4 Representation."

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

8 " (141) General Counsel, Office of Consumer Rep-
9 resentation.

10 " (142) Assistant Administrators, Office of Con-
11 sumer Representation (5)."

12 EXEMPTIONS

13 SEC. 17. This Act shall not apply to the Central Intelli-
14 gence Agency, the Federal Bureau of Investigation, or the
15 National Security Agency, or the national security or intelli-
16 gence functions (including related procurement) of the De-
17 partments of State, Justice, and Defense (including the De-
18 partments of the Army, Navy, and Air Force), of the
19 Nuclear Regulatory Commission, and of the Department
20 of Energy, or to a labor dispute within the meaning of sec-
21 tion 13 of the Act entitled "An Act to amend the Judicial
22 Code and to define and limit the jurisdiction of courts sitting
23 in equity, and for other purposes", approved March 23,
24 1932 (29 U.S.C. 113), or of section 2 of the Labor Man-
25 agement Relations Act (29 U.S.C. 152), or to a labor

1 agreement within the meaning of section 201 of the Labor
2 Management Relations Act, 1947 (29 U.S.C. 171): *Pro-*
3 *vided*, That nothing in this Act shall be construed to au-
4 thorize the Administrator to intervene as a party or other-
5 wise participate: (1) in any proceeding of the United
6 States Department of Agriculture directly affecting or di-
7 rectly concerning (A) the market price of or loans, price
8 supports, or payments for raw agricultural commodities, in-
9 cluding crops (including, but not limited to, wheat, feed
10 grains, soybeans, cotton, wool, rice, peanuts, tobacco, sugar,
11 fruits, and vegetables), livestock, poultry, eggs, and dairy
12 products, and (B) programs administered by the Soil Con-
13 servation Service, the Farmers Home Administration, the
14 Rural Electrification Administration, or the Federal Crop
15 Insurance Corporation, or (2) in any proceeding concerning
16 Public Law 480 programs.

17 NONDISCRIMINATION

18 SEC. 18. No person shall on the ground of sex, age, or
19 handicap be excluded from participation in, be denied the
20 benefits of, or be subjected to discrimination under any
21 program or activity carried on or receiving Federal assist-
22 ance under this Act. This provision will be enforced through
23 agency provisions and rules similar to those already estab-
24 lished, with respect to racial and other discrimination, under
25 title VI of the Civil Rights Act of 1964. However, this

1 remedy is not exclusive and will not prejudice or deny any
2 other legal remedies available to a discriminatee.

3 APPROPRIATIONS

4 SEC. 19. There are hereby authorized to be appropri-
5 ated to carry out the provisions of this Act: \$15,000,000
6 for the fiscal year ending September 30, 1978; and \$17,-
7 000,000 for the fiscal year ending September 30, 1979.

8 EFFECTIVE DATE

9 SEC. 20. (a) This Act shall take effect ninety calendar
10 days following the date on which this Act is approved, or
11 on such earlier date as the President shall prescribe and
12 publish in the Federal Register.

13 (b) Any of the officers provided for in this Act may
14 (notwithstanding subsection (a)) be appointed in the man-
15 ner provided for in this Act at any time after the date of the
16 enactment of this Act. Such officers shall be compensated
17 from the day they first take office at the rates provided for
18 in this Act.

19 SEPARABILITY

20 SEC. 21. If any provision of this Act is declared un-
21 constitutional or the applicability thereof to any person or
22 circumstance is held invalid, the constitutionality and effec-
23 tiveness of the remainder of this Act and the applicability
24 thereof to any persons and circumstances shall not be
25 affected thereby.

1 TERMINATION

2 SEC. 22. (a) This Act shall terminate five years after
3 the effective date of this Act, and the Office of Consumer
4 Representation shall be abolished as of the date of such
5 termination.

6 (b) The President shall—

7 (1) commencing two years prior to the date of
8 termination specified in subsection (a), conduct a
9 review of the Office's overall performance including,
10 but not limited to, a study of the Office's effectiveness
11 in accomplishing its general purposes and promoting
12 the general welfare; and

13 (2) not later than twelve months prior to the ter-
14 mination date specified in subsection (a), make public
15 and submit to each House of Congress a report on the
16 finding of the investigation conducted pursuant to para-
17 graph (1), such report to include a recommendation that
18 the authority of this Act be extended, that the Office
19 be reorganized, or that the authority of this Act be
20 allowed to lapse.

21 (c) The committees of the House and of the Senate
22 having primary oversight responsibility with respect to the
23 Office shall, not later than six months prior to the ter-
24 mination date specified in subsection (a), conduct an inquiry
25 into the performance and effectiveness of the Office and

- 1 make public a report of their findings, conclusions, and
- 2 recommendations, including proposed legislation for such
- 3 extension or reorganization of the Office as they deem
- 4 appropriate.

95TH CONGRESS
1ST SESSION

H. R. 9718

A BILL

To establish an Office of Consumer Representation and to reorganize certain consumer programs in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes.

By Mr. BROOKS, Mr. WRIGHT, Mr. ROSENTHAL,
Mr. HORTON, Mr. FASCELL, Mr. McCLOSKEY,
Mr. PREYER, Mr. JENNETTE, Mr. KOSTMAYER,
Mr. BOLLING, Mr. CONTE, Mr. DICKS, Mr.
GUMMAN, Mr. HOLLENBECK, Mr. LE FANTE,
Mr. MINETA, Mr. PRITCHARD, Mr. STEED, Mr.
THORNTON, Mr. TUCKER, Mr. HARRIS, Mr.
STEERS, Mr. MOFFETT, Mr. WAXMAN, and Mr.
EVANS of Colorado

OCTOBER 25, 1977

Referred to the Committee on Government Operations

FOR THE MEMBER'S PERSONAL ATTENTION

Congress of the United States

House of Representatives

Washington, D.C. 20515

October 20, 1977

IMPORTANT

Dear Colleague:

We are writing to urge your support for new legislation which will be offered on the House floor as a substitute to H.R. 6805 (the bill to establish an Agency for Consumer Protection).

The substitute legislation, which creates an Office of Consumer Representation, makes far-reaching changes in the committee-reported bill. For example,

- it eliminates the consumer agency's authority to issue interrogatories to business entities;
- it gives the Office only the same rights as are now enjoyed by any business entity to seek judicial review from a Federal agency decision or to use another agency's discovery powers during a formal proceeding;
- it authorizes the Office to advocate the interests of small business as consumers of goods and services;
- it requires the Office to report to Congress on conflicting or duplicative Federal regulations and orders;
- it requires the Office to notify the President 30 days in advance of its intention to seek judicial review of an Executive branch, non-regulatory action; and
- it requires a consolidation of existing consumer programs that will result in a net savings to the taxpayer of \$7 million over the Office's first year's cost.

A complete description of how the substitute differs from H.R. 6805 is contained on the attached fact sheet.

Some of us have opposed or expressed serious reservations about enactment of the Agency for Consumer Protection bill. But the substitute legislation, which was fashioned with the goodwill and active involvement of both critics and supporters of the Agency, provides the American consumer with an effective voice in Washington without giving the consumer advocate more authority before the government than any private party and without unnecessary powers that some felt might be used to harass business.

Sincerely,

Benjamin S. Rosenthal

Jack Brooks

Frank Horton

Ray Thornton

Jim Guy Tucker

Peter H. Kostmayer

Norman D. Dicks

Richardson Preyer

John J. LaFalce

Harold L. Volkmer

Joseph Le Fante

Dante Fascell

John Jenrette, Jr.

Charles Rose

Paul N. McCloskey, Jr.

Tom Steed

Silvio O. Conte

Margaret M. Heckler

Benjamin A. Gilman

Jim Wright

Richard Bolling

Cec Heffel

Cec Heffel

Norman Mineta

Norman Mineta

Joel Pritchard

Joel Pritchard

Herbert E. Harris

Herbert E. Harris

Tom Harkin

Tom Harkin

Henry A. Waxman

Henry A. Waxman

Newton Steers, Jr.

Newton Steers, Jr.

Anthony Moffett

Anthony Moffett

Harold C. Hollenbeck

Harold C. Hollenbeck

Frank E. Evans

Frank E. Evans

Chalmers P. Wylie

Chalmers P. Wylie

THE CONSUMER REPRESENTATION AND REORGANIZATION ACT OF 1977

- * Creates an Office of Consumer Representation (OCR) to represent consumer interests before federal agencies and courts.
- * Transfers the resources of 26 existing consumer programs totaling \$11.6 million to the new OCR and requires OMB to cut an additional \$10 million in consumer-related spending from the FY-79 budget request. This amounts to a net savings of \$7 million above the \$15 million cost of the OCR in its first year.

HOW DOES OCR DIFFER FROM THE AGENCY FOR CONSUMER PROTECTION IN H.R. 6805?

- * A statutory reorganization would consolidate existing consumer programs now scattered throughout the federal government (see above).
- * OCR would have no greater rights than those rights already enjoyed by advocates for business interests--
 - ** OCR would have no interrogatory power. It could not require business to answer interrogatories or to file mandatory reports.
 - ** OCR would have no greater rights of judicial review from a federal agency decision than any business entity. This equality of judicial review rights would extend both to instances where OCR was a party or participant in a proceeding and where it was not.
 - ** OCR would have no greater rights than any business entity to use a host agency subpoena or other discovery powers during a proceeding.
- * OCR would be authorized to represent the interests of small business as consumers of regulated goods and services.
- * OCR would have no authority to set up product testing laboratories.
- * OCR would have no authority to set up regional offices.
- * OCR would be required to report to Congress on any rules or orders of a federal agency found to be in conflict with or duplicative of those of another agency.
- * OCR would be required to report to Congress on the impact of intervention (including delays) on the effectiveness and efficiency of the regulatory process.
- * OCR would be required to notify the President 30 days in advance of its intention to seek judicial review of an Executive Branch, non-regulatory action.

THE WHITE HOUSE

WASHINGTON

INFORMATION

December 12, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

ZBIGNIEW BRZEZINSKI 

SUBJECT:

Note from Senator Culver on SALT
Leaks

Senator Culver has sent you a personal note (Tab A) expressing his concern about the problem of SALT leaks. I have sent him a letter emphasizing our own concern about this matter and assuring him that the Administration has not authorized any of the leaks which have taken place.

THE WHITE HOUSE
WASHINGTON

December 12, 1977

Stu Eizenstat

The attached was returned in the President's outbox today and is forwarded to you for your information. The signed original has been given to Bob Linder for appropriate handling.

Rick Hutcheson

cc: Bob Linder
RE: PRIVACY

THE WHITE HOUSE
WASHINGTON

12/12/77

Mr. President:

No objections from staff.

Rick

THE WHITE HOUSE
WASHINGTON

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| | FOR STAFFING |
| | FOR INFORMATION |
| / | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

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| | ENROLLED BILL |
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**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE

WASHINGTON

December 8, 1977

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MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
RICK NEUSTADT
JOE ONEK
STUART LEMLE

SUBJECT: Privacy

After the Privacy Protection Study Commission's report was submitted to you in July, it was circulated to the agencies for comment. Their responses indicate wide differences of opinion on what should be done and a need for further study. Several Congressional committees are preparing to move next year on various aspects of the Commission's report and are seeking Administration positions.

We suggest that, rather than responding piecemeal, we undertake a comprehensive study of the issue, using the new Domestic Policy Review System. An Issue Definition Memorandum to launch that effort is attached for your approval. It has been circulated to the affected agencies, and it incorporates all their major suggestions.

This study will provide you decision memos in February on any specific issues on which Congress is moving rapidly and a comprehensive decision memo in June that will allow you to send Congress an overall privacy message or to respond to individual bills in the context of an overall policy.

This study would be co-chaired by the Commerce Department and the Domestic Policy Staff. Commerce is involved because the new Communications and Information Policy unit that is replacing the EOP Office of Telecommunications Policy will have more privacy expertise than any other agency. The Domestic Policy Staff would be co-chairing because the privacy issue cuts across agency jurisdictions and extensive coordination will be needed.

We suggest that this and future Issue Definition Memoranda be signed by Stu Eizenstat, rather than you. That tracks the NSC's PRM process, in which the memos launching the studies are

approved by you but signed by Zbigniew Brzezinski. We think that procedure is desirable because some of these studies will be controversial. Having the memoranda signed by staff will keep your visibility down and allow you the option of personal involvement and visibility once the study is done and the issues are laid out.

Attachment

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR:

The Secretary of State
The Secretary of the Treasury
The Secretary of Defense
The Attorney General
The Secretary of Commerce
The Secretary of Labor
The Secretary of Health, Education, and Welfare
The Director, Office of Management and Budget
The Assistant to the President for National
Security Affairs
The Administrator, General Services Administration
The Counsel to the President
The Special Assistant to the President for
Consumer Affairs

FROM:

Stuart E. Eizenstat

Stu

SUBJECT:

Issue Definition Memorandum: Interagency
Review of Privacy Policy

Purpose of Study

The President has directed that the issue of privacy be studied through the new Domestic Policy Review System. A Coordinating Committee will analyze and provide options concerning the recommendations of the Privacy Protection Study Commission, pending legislative proposals, and related privacy issues. The Committee will be co-chaired by the Secretary of Commerce and myself and will consist of the addressees.

Issues this study should address include:

- the threat to privacy posed by advances in computing and electronic communications and the potential for technology to provide solutions;
- how to limit the collection, use, and distribution of information about individuals;
- how to assure that records about individuals are accurate and relevant;
- how to afford individuals sufficient access to records about themselves and opportunity to correct those records;

--how to assure the privacy of the mails and other communications systems;

--the role of the Federal Government in regulating non-Federal information systems and in providing information services to non-Federal users.

Structure of Study

The study will be divided into six areas (some of which are inter-related.) The lead agencies for each area will analyze the relevant Privacy Commission recommendations and other proposals and will identify action options, with their pros and cons. The lead agencies will work closely with all other affected agencies and will reflect those agencies' views in the reports. They will also consult with the Congress and interested members of the public.

1. Collection and Management of Federal Records (Lead Agencies: OMB and Commerce)

Despite improvements resulting from the Privacy Act of 1974, the Government may be collecting too many records, and its collection and management procedures may inadequately protect individuals' privacy. In addition, a policy is needed on the distribution of such information, and the adequacy of the Executive Branch's privacy oversight procedures should be evaluated. Changes in the Privacy Act and other legislative and administrative options should be studied.

2. Federal Agency Access to Information About Individuals (Lead Agencies: Counsel to the President and Justice)

Extensive personal information is contained in records held by Federal, state, and local governments; banks and other financial institutions; medical care providers; insurance companies; telecommunications companies; and others. Guidelines are needed to resolve the conflict between privacy and Federal agencies' needs for such information to support law enforcement, regulatory oversight, compliance monitoring, personnel investigations, and related matters. In addition, the adequacy of existing controls on Federal agencies' access to the mails and telecommunications systems should be reviewed.

3. Privacy Safeguards for Health, Education, and Social Service and Public Assistance Records (Lead Agency: HEW)

This study should consider the need for improved controls on the collection, content, use, and distribution of such records. It should take into account the distinction between records held by Federally-supported activities and other records. In

addition, it should consider the need for privacy safeguards on records held by other Federally-supported activities, such as research and statistical records.

4. State and Private Records and Communications (Lead Agencies: Special Assistant to the President for Consumer Affairs and Commerce)

The desirability of Federal regulation of state and local government records and of private sector records, including banking, consumer credit, mailing lists, and insurance records, should be studied. Consideration should be given to the compatibility of Federal record keeping practices with those of state and local governments which are interconnected with the Federal systems. The privacy of electronic funds transfer systems and private sector computerized records and communications systems should also be evaluated. This study should avoid duplication of the areas covered in #3.

5. Private Sector Personnel and Employment Records (Lead Agency: Labor)

The desirability of extending privacy safeguards to these records should be evaluated. Consideration should be given to whether such safeguards should be mandatory or voluntary.

6. International Information Issues (Lead Agency: State)

The international implications of proposed U.S. legislation on privacy and of foreign privacy legislation will be studied by the Task Force on Information, Computer, and Communication Policy, chaired by the Department of State. This Task Force shall examine pending legislation in key foreign countries and provide continuing review of developing U.S. legislative proposals resulting from the work of the domestic privacy review, with a view to harmonizing legislation and extending the protection of national laws to data residing in other countries. The results will be included in the domestic study as appropriate.

Schedule

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| First Meeting of Coordinating Committee and Other Affected Agencies: | December 19 |
| Lead Agencies' Response Memoranda Due: | March 31 |
| Final Decision Memorandum for the President Due: | May 31 |

Some issues may have to be dealt with at a more rapid pace to meet Congressional schedules; the lead agencies should identify any such issues by December 19. The international unit may move on a different schedule. Any national defense or foreign policy issues raised by the study shall be handled through the National Security Council.

cc: The Secretary of the Interior
The Secretary of Agriculture
The Secretary of Housing and Urban Development
The Secretary of Transportation
The Secretary of Energy
The Director, Office of Science and Technology Policy
The Director of Central Intelligence
The Administrator, Veterans Administration
The Chairman, Civil Service Commission
The Chairman, Federal Trade Commission
The Chairman, Federal Reserve System Board of Governors
The Chairman, Federal Communications Commission
The Chairman, Commission on Civil Rights
The Postmaster General

THE WHITE HOUSE
WASHINGTON

December 9, 1977

The Vice President
Midge Costanza
Hamilton Jordan
ob Lipshutz
Frank Moore (Les Francis)
Jody Powell
Jack Watson
Zbig Brzezinski
Jim Gammill
Frank Press

The attached is forwarded to you for
your information. If you wish to
comment, please call by close of
business today.

Rick Hutcheson

RE: PRIVACY

THE WHITE HOUSE
WASHINGTON

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| | FOR INFORMATION |
| | FROM PRESIDENT'S OUTBOX |
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MEMORANDUM

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

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INFORMATION

12 December 1977

TO: THE PRESIDENT
FROM: RICK HUTCHESON *R.H.*
SUBJECT: Memos Not Submitted

1. BEN BROWN MEMO recommending that you establish your presidential library at the Atlanta University Center. This would be "a powerful affirmation of your commitment to cultural pluralism... and to the positive role that black colleges... have had upon our society." ✓
2. CHARLES WARREN MEMO reporting on the status of CEQ's efforts to simplify and codify laws affecting wildlife conservation. CEQ has consulted with a wide range of federal and state agencies, and interested organizations and individuals. A decision memo will be coming to you at some future date. ✓
3. BRZEZINSKI MEMO. Sen. Culver sent you a note expressing his concern about the problem of SALT leaks. Brzezinski has acknowledged this in your behalf. ✓

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for Preservation Purposes**



United States Senate
WASHINGTON, D.C. 20510

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NOV 22 1977

Dear Mr. President,

I wanted to let you know how strongly I am opposed to anonymous leaks on SALT, from whatever source.

I have conveyed my views to Mr. Aaron in lieu of Dr. Brzezinski. I enclose for you a copy of my public statement on this matter.

Respectfully - John Culver



NEWS FROM
JOHN C. CULVER
SENATOR FOR IOWA

344 Russell Office Building
Washington, D.C. 20510

FOR RELEASE:
IMMEDIATELY
FRIDAY, NOVEMBER 18, 1977

For More Information Contact:
Don Brownlee 202-224-3744
703-527-6190

**CULVER ASKS HALT
TO ADMINISTRATION SALT LEAKS**

(WASHINGTON, D.C., Nov. 18) -- Senator John Culver (D-Iowa) today called on President Carter "to halt the selective disclosures by administration sources of sensitive details of the SALT negotiations and to lay before the American people as much about the emerging agreement as can properly be released at this time."

As an example of new SALT leakage, this time by the executive branch, Culver cited a front page article in today's New York Times under the headline, "Major Concession on Cruise Missiles by Soviets Reported." The article said the Soviet Union had altered its previous position on the testing, deployment and range of the cruise missile.

Culver said he had telephoned the White House to protest the Times story.

"These negotiations are too critical to our national and global security to be subjected to a guerrilla war of leaks," Culver commented. "One leak begets another. I cannot believe that the continuing negotiations are helped in any way by a running series of stories about who conceded what this week."

"Less than two weeks ago," Culver said, "a number of my Senate colleagues and I condemned and called for an investigation of apparent leaks regarding hearings before the Senate Armed Services Committee." Culver noted that he had previously deplored the leaks of sensitive information, by advocates as well as opponents of the tentative agreements, as being harmful to the negotiations.

---MORE---

CULVER/SALT LEAKS RELEASE
first add.

In the past, there have been other potentially damaging revelations attributed to executive branch sources. Now we have yet another anonymous account that appears to be part of an administration selling job. All of these apparently unauthorized disclosures should be thoroughly investigated."

"The public is entitled to know as much about the ongoing negotiations as can be told without hurting our national security interests in these crucial talks.

"In order to clear the atmosphere, the administration should set ground rules regarding disclosure that are fair and understandable to all parties concerned.

"If some of the people now providing information to the press have the authority to declassify sensitive details, then they should speak openly, accurately and on the record.

"And decisions about what can be safely disclosed should not be made by individuals at will, but only after a careful review process by responsible authorities that balances the public's right to know with the precise requirements of diplomatic confidentiality."

THE WHITE HOUSE
WASHINGTON

December 9, 1977

The Vice President
Stu Eizenstat
Jack Watson
Jim McIntyre

The attached is forwarded to
you for your information.

Rick Hutcheson

RE: WILDLIFE LAW REFORM

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

December 8, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charles Warren *AW*
Gus Speth
Marion Edey

SUBJECT: Wildlife Law Reform

You requested in your 1977 Environmental Message that the Council consult with federal agencies and in six months time report to you "the steps that should be taken to simplify, coordinate, and codify the body of law affecting wildlife conservation." This memorandum summarizes the results of the Council's six-month consultation effort and sets out the steps that the Council will take pursuant to the Environmental Message directive.

To develop wildlife law reform recommendations, the Council consulted with federal agencies responsible for wildlife management and protection, 22 state fish and wildlife departments, 10 national and local citizen organizations, and interested individuals. Twenty-eight recommendations have been produced that have received broad support of these agencies, organizations, and individuals.

Next, these recommendations will be circulated to the affected federal agencies for their formal review, approval, and comment. We expect that most of the recommendations will be formally approved.

Finally, the Council will submit to you a wildlife law reform decision memorandum which defines appropriate options where agency disagreement exists and which requests approval of the recommendations that received uniform agency support.

The recommendations are designed to simplify the body of wildlife law itself as well as the administration and enforcement of the law. Among the major goals that would be achieved by the recommendations are the following:

- ° coordination of federal and state wildlife conservation goals and programs by (i) clarifying the objectives of the Fish and Wildlife Coordination Act and (ii) encouraging states to develop long-range fish and wildlife management plans;
- ° reformation of federal agency wildlife permit processes by (i) consolidating the agencies' ministerial functions into a single clearing house, (ii) eliminating inconsistencies between closely related programs, and (iii) developing clear and specific permit issuance criteria;
- ° improvement of federal enforcement capabilities by (i) eliminating discrepancies in existing laws and (ii) enhancing agency enforcement flexibility;
- ° reformation of international and interstate wildlife trade regulations by (i) eliminating unnecessary requirements and (ii) consolidating similar regulatory authorities.

THE WHITE HOUSE
WASHINGTON

December 8, 1977

Bob Lipshutz

The attached is forwarded to
you for your information.

Rick Hutcheson

RE: PROPOSED SITE FOR
PRESIDENTIAL LIBRARY

THE WHITE HOUSE
WASHINGTON

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DEMOCRATIC

NATIONAL COMMITTEE

1625 Massachusetts Ave., N.W. Washington, D.C. 20036 (202) 797-5900

Ben Brown
Deputy Chairman

December 1, 1977

MEMORANDUM

TO: President Carter

FROM: Ben Brown *BB*

SUBJECT: Proposed Site for Presidential Library

I recommend that you establish your Presidential Library and any related museum at the Atlanta University Center after your second term of office is completed. The decision to locate the facility at AUC would both symbolically and in real terms be a powerful affirmation of your commitment to cultural pluralism and your sensitivity to the profound and positive role that black colleges and their graduates, administrators and faculty have had upon our society.

It is interesting to note that the Atlanta University Center is conducting a national drive to build a joint library, a facility that will serve all six member institutions. The campaign, under the leadership of Paul Austin, has already raised \$4.5 million toward a \$21 million goal. If you were to decide affirmatively on this suggestion, the two drives could be linked to the benefit of both.

A presidential library situated beside the university library that contains the country's greatest records of Black scholarship and experience would be one of America's most remarkable cultural resources.