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Marsh

THE WHITE HOUSE

WASHINGTON

MEETING WITH THE
COMMISSIONERS OF THE INDEPENDENT REGULATORY AGENCIES

Thursday
~~Wednesday~~, July 9, 1975
11:00 a.m.

The East Room
(90 minutes)

From: Rod Hills

I. PURPOSE:

To discuss your regulatory reform program and enlist the support of the Commissioners in a joint effort to reform the procedures and policies of their regulatory agencies.

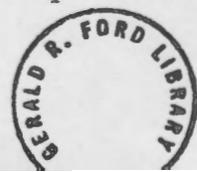
II. BACKGROUND, PARTICIPANTS, AGENDA, AND PRESS PLAN:

A. Background:

You have stated on several occasions that you would meet with the Commissioners of the Independent Regulatory Agencies. On June 25th you met with Congressional representatives as a prelude to the meeting with the Commissioners.

This meeting provides an excellent forum to educate the public on the need for regulatory reform. You will be able to demonstrate leadership in a vital area and articulate the joint resolve of your Administration and the Congress to an independent and important portion of the regulatory bureaucracy.

An open meeting with full-scale press coverage has the usual risk that a participant may attempt to grandstand. However, your meeting with Congress and meeting between the White House Staff and the staffs of the regulatory agencies mitigate against such an occurrence. The advantage of an open meeting is that it provides a clear and effective signal to the public at large that you are deeply concerned about this problem.



B. Participants:

1. Cabinet Members: Morton, Coleman, Dunlop, Levi, Simon
2. Commissioners: See Tab D
3. White House Staff: Marsh, Rumsfeld, Lynn, Greenspan, Seidman, Hartmann, Buchen, Hills, Friedersdorf, Cannon, MacAvoy, Nessen

C. Agenda:

1. The President - Prepared Opening Remarks - See Tab A.
Summary of the Concerns of the President and Congress (10 minutes).
2. Program - (Moderated by Rod Hills. Each topic will be introduced by Paul MacAvoy).

✓Topic A: "Improving Economic Analysis in Regulatory Decisions"
-Key Note Comments by Lew Engman, Chairman, Federal Trade Commission (4 minutes)
-General Discussion (15 minutes)

✓Topic B: "Regulatory Procedures"
-Key Note Comments by William Anders, Chairman, Nuclear Regulatory Commission (4 minutes)
-General Discussion (15 minutes)

✓Topic C: "Encouraging Competition in the Regulated Industries"
-Key Note Comments by Ray Garrett, Chairman, Securities Exchange Commission (4 minutes)
-General Discussion (15 minutes)

✓Topic D: "Reducing the Scope of Regulatory Activities Where No Longer Necessary"
-Key Note Comments by John Nassikas, Chairman, Federal Power Commission (4 minutes)
-General Discussion (15 minutes)

3. President's Closing Remarks - See Tab B.

D. Press Plan:

To be determined after final discussion between you and Ron Nessen.



Attachments:

- Tab A: President's Opening Remarks
- Tab B: President's Closing Remarks
- Tab C: Summary of Independent Regulatory Commissions
- Tab D: List of Regulatory Agency Members





OPENING REMARKS

I feel deeply that we must seriously consider the costs to American consumers of all government activities. This includes our regulatory activities. Regulatory reform is a theme that arose repeatedly in the course of last fall's economic summit meeting. It is a theme that is finding growing attention and support in both popular and economic literature, in the Executive branch, in the halls of Congress, and, I am pleased to note, among government regulators themselves.

A short time ago, I met with twenty-four Members of Congress on this matter. There was unanimity among this bipartisan group that we must examine our regulatory practices to make sure they are meeting our present needs. There was agreement that competition should be relied on whenever possible and that, where regulation is unnecessary, it should be avoided. Also, there was a persistent concern that some



government regulation costs the country more than it returns in benefits and that the regulatory process often benefits special interests at the expense of the general public. Finally, there was consensus that the important public service role of the Commissions must be reflected in the attitude of the regulators and the welfare of the consumer must always be the first concern in their minds.

I have a strong belief that the costs which regulation imposes on private citizens should be faced squarely. Every citizen should be aware that in some cases these costs mean higher prices, reduced efficiency, less consumer choice, and fewer innovative ideas.

In calling today's meeting, I do not mean to suggest that the problems reside exclusively in your agencies. Regulations that impose costs on consumers can also be found in Cabinet departments and in the intricate, sometimes invisible, web of laws and regulations at the State and local levels.



My Administration is focusing public attention on the need to minimize unnecessary controls. We should recognize that occasionally government policies which appear to be in the short-term public interest are in fact detrimental to the long-term best interests of consumers. I am asking for your continued and intensified help in identifying ways the Commissions can assist in our collective efforts to restore innovation and growth in the American economy. As we look for short-term solutions, we must also chart a course that permanently relieves the economy of unnecessary long-term impediments.



In some instances, the circumstances which caused government to institute a regulatory scheme have changed.

You should be the leaders in identifying areas where regulations should be eliminated or substantially revised.

You have been given extraordinary authority to regulate the economy for the public good. With these unusual powers and responsibilities, you must function as models of effective and open government.

There are four major areas that deserve careful attention:

First, there must be a constant effort to improve each Commissions' ability to identify the costs and benefits of current and proposed regulation. You should make sure that the quality of your economic analysis matches your high standards of legal professionalism. In particular, the costs -- as well as the benefits -- of restricting competition must be considered. Also, the benefits of worthwhile social goals must be weighed against



their costs to the Nation. As you know, I have ordered all Departments and Agencies to prepare an Inflation Impact Statement for their major proposals. I am pleased the House has changed its rules to require similar analyses and I note the Senate has several pieces of legislation under review which have similar objectives. I ask you to give this matter the highest priority.

Second, we must take every possible step to make sure that backlog and delays in regulatory proceedings do not weaken the public belief in an equitable and efficient regulatory system. If legislation is needed, you may be certain that the Congress and the Administration will provide such laws.

Third, the public can rightfully expect that you should be leaders in suggesting appropriate legislative changes in your authorizing statutes.



Fourth, I have asked all Departments and Agencies to re-examine their present procedures for assuring that the consumer's interests prevail. I believe that competition in product quality and price is the best consumer protector. By freeing entry, adding to rate flexibility and promoting service competition, the consumer can be given the choices that only the market place can provide. I also urge you to insure clearer communications with consumers so they will better understand your actions.

Our joint efforts in these areas will move us a long way towards the efficient and useful regulatory system that we all seek.

In addition to achieving these administrative reforms, my Administration specifically will be seeking further legislative changes that are also intended to reform our system of regulation.



It is my strong conviction that the consumer is best able to signal his wants and needs through the market place. The government should not dictate what his economic needs should be. Therefore, I have proposed, and will continue to sponsor legislation to relax or eliminate the Federal Government control over areas where I believe the market place can do a better job.

I believe the government should only intrude in the free market when well defined social objectives can only be obtained by intervention or when inherent monopoly structures prevent a freely competitive market system from operating. Government should foster rather than curtail competition and give maximum freedom to private enterprise.



Agencies engaged in regulatory activities can expect that the Antitrust Division of the Justice Department will continue to argue for competition and lower consumer prices as a participant in your agencies' proceedings. Furthermore, the Attorney General will continue to insure vigorous antitrust prosecution to remove private sector barriers to competition.

We have or will be proposing regulatory reform legislation in such areas as energy, securities markets, transportation, financial institutions, and communications.



I have asked the Congress for its cooperation in giving these bills early consideration and I ask for your support in achieving needed reforms.

The legislation I am proposing would reduce the government's role in the setting of prices. Also, it would enhance innovation by making it easier for new businesses to compete with existing firms and it would remove barriers from existing firms to allow them to develop new services and lower prices, as well as abandon unprofitable or unnecessary services.

This meeting and my earlier meeting with Congressional representatives should be only the beginning. Today, we will continue the dialogue begun at the Congressional meeting. Roderick Hills and Paul MacAvoy will briefly describe our agenda for the meeting this morning. I will be interested in hearing more about the steps you are taking to improve our system of regulation as well as the problems



you face in this effort.

I am particularly hopeful that we will be able to identify those practices which are most deserving of attention and reform. If this meeting does foster a program of action and a new spirit of cooperation between all of your Commissions, Congress and the White House, we will be responsive to the public interest.



B

CLOSING REMARKS

This meeting has been very useful in giving me a sense of the importance of your mission and the problems you face. I consider this to be a first step toward ensuring that our regulatory system is truly meeting our present economic and social needs.

I have been gratified to see some of your initial efforts at regulatory reform.

There are five follow-up actions that I wish to emphasize: First, I ask each Chairman to give further attention to cost-benefit analysis of his Commission's major regulatory program areas. It is essential that we all fully understand the economic costs of your activities in order to take concrete steps to achieve reforms. To facilitate this understanding, I would hope that you would issue cost-benefit analysis of your major programs. This would parallel the "Inflation Impact Statements" required of the departments and agencies of the Executive Branch and similar Congressional initiatives.

Second, I ask you to undertake a comprehensive and specific review of all areas where regulatory delays presently occur in order to eliminate impediments to a speedy and effective process. You should set as a goal today that in six months there will be a demonstrable reduction in regulatory delays in your major cases and rule making proceedings.

Third, I ask that you study and revise your procedures as appropriate to ensure that you are responsive to the legitimate consumer interests and that your actions are intelligible to the average American.



Fourth, you should consider the most fundamental changes that would move us toward deregulation in areas where the regulatory process no longer makes sense. In some areas it is increasingly clear that more competition is a better regulator than the Government. We are moving in this same direction with respect to the deregulation of certain aspects of the CAB's activities. And I was pleased to note in the paper Tuesday that the CAB has begun an experiment in this field. Deregulation of natural gas is necessary. You must all ask yourself the question: "Is regulation better in this case than the unregulated market?"

Finally, I will continue to meet with the designated Members of Congress to review with them your progress and areas of mutual concern. I am also asking the Members of my Administration to work closely with each of you and the Congress to respond to all of these concerns. These regular contacts will permit us to establish priorities for regulatory reform over the months ahead and eventually enable us to accomplish our goals.

Thank you for your participation and cooperation in this important endeavor.





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

SUMMARY OF INDEPENDENT REGULATORY COMMISSIONS

(Revised July 8, 1975)



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Interstate Commerce Commission

Established: 1887

11 Commissioners

Chairman: George M. Stafford, appointed Chairman in 1970. Campaign Manager and Executive Assistant to former Senator Carlson of Kansas 1946-1967. Appointed by President Johnson in 1967. He is a strong advocate of the present system of surface freight and passenger transportation regulation. Term expires in 1980.

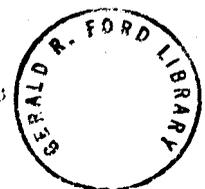
Major Commission Activities:

The Commission regulates the economics of railroad, truck, barge and pipeline transportation, including entry, pricing, service offerings and corporate financial matters such as merger. The Commission's specific activities include:

1. Issuance of certificates of operating authority controlling entry into a market, exit from a market, the specific route to be travelled and particular commodities to be transported.
2. Approval of rates and supervision of the rate-filing system.
3. Analysis of carrier financial data and statistics and regulation of certain financial transactions such as consolidations and mergers.
4. Supervision of compliance with common carrier obligations.

Assessment of Agency Performance:

1. As a result of present law, tradition and inertia, ICC decisions are slanted toward preservation of the status quo in the industry rather than encouraging experimentation and new service innovation which could lead to better, less expensive service for the consumer. It has opposed past Administration reform proposals and has criticized the recently submitted Railroad Revitalization Act. It is expected to oppose the upcoming truck reform bill. The Agency has recently announced some changes designed to reduce the unnecessary mileage traveled by trucks and liberalize ratemaking procedures, and while these actions demonstrate a positive response to the need for regulatory reform, they fall far short of the Administration's proposals.



2. The ICC has been inflexible in rate cases where the largest economic effects could take place. It tends to approve the rates offered by privately organized rate bureaus and disapproves most independently competitive rate requests. There is little "public" participation in rate cases, for the ICC has tended to consider "consumers" as only shippers, and has responded to the public's real interests only under pressure (e.g., the household movers regulations). The citizen wishing to become involved must incur substantial costs, and is not guaranteed an objective hearing.
3. Extensive cross subsidies tend to distort the relationship of rates to shippers' costs, particularly where proposed rate changes would place one mode in a competitive advantage to another. A recent decision not to suspend minor rate changes is a useful beginning, but does not guarantee that such rates won't later be disallowed. Experience shows the average age of motor carrier rate cases to be approximately 8.7 months; railroad rate cases - 18.6 months.
4. New entrants could be a major factor in trucking and water carriage. The ICC has tended to be very protective of the existing industry, and usually rejects new applicants (after a 1-2 year waiting time) on the grounds that they have not proved the market needs new service, or that existing firms can and will provide it. Minor changes in industry participants are usually allowed if nobody objects, but the ICC could greatly liberalize its requirements for proof of "need" and thereby permit much more service/entry competition.
5. With the Administration's urging, the ICC created an internal staff "blue ribbon panel" to examine ways of improving both the economic regulation of surface freight transportation and the Commission's productivity. While this panel has identified key targets for change, indications are that there will be substantial resistance to major change. The Chairman has appointed a three Commissioner task force to consider implementation of the panel's recommendations.

Administration-sponsored Legislation Affecting the Commission:

1. Railroad Revitalization Act

Status: Submitted by the President on May 19. S.1876
introduced by Senators Hartke and Pearson June 5



H.R. 7681 introduced by Representative Staggers. House Interstate and Foreign Commerce Committee hearings are scheduled July 15-17, 22-24.

Major Provisions:

Pricing flexibility - Would create an expanding "zone of reasonableness" within which railroads would be free to adjust rates up or down without ICC interference.

Ratemaking and Abandonment Procedures - Would more clearly define the ICC's ratemaking powers to specify prohibited actions (e.g., the ICC could not find rates too low if they cover a carrier's costs). It would require more adequate prior notice of proposed rail abandonment actions.

Antitrust Immunities - Would prohibit rate bureaus from engaging in certain ratemaking activities which serve to stifle competition and discourage innovation, e.g., it will prohibit rate bureaus from discussing and agreeing on rates involving only one railroad.

Financial Assistance and Restructuring - Would authorize up to \$2 billion in Federal loan guarantees for the purpose of improving road beds and equipment, conditioned on the applicants' agreement to engage in specific restructuring actions.

2. Trucking Regulatory Reform

Status: Legislative drafting will be complete when differences over two remaining issues (mergers and entry) are resolved. Submission to Congress anticipated by the end of July.

Major Provisions:

Pricing Flexibility - Creates a no-suspend zone comparable to the rail bill.

Antitrust Immunities - Reform measures will be comparable to those in the rail bill, and will also prevent the use of across-the-board percentage rate increases to cover increased costs of inflation, fuel, labor, etc.



Entry - Proposes a three-year phase-in of liberalized entry requirements which would grant certificates to all truckers capable of proving their financial strength and covering direct costs.

Commodity and Route Restrictions - Directs the ICC to take steps to liberalize or eliminate current restrictions on commodities and route structures.



Civil Aeronautics BoardEstablished: 1938

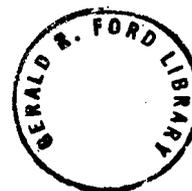
5 Board Members

Chairman: John E. Robson. Mr. Robson was a senior partner in the Chicago law firm of Sidley and Austin prior to his appointment to the CAB by President Ford. He is highly qualified due to previous experience with the transportation industry and is expected to be a singularly effective force in improving the Commission. From 1967- 1969 he served in several key positions in the Department of Transportation, including Under Secretary, General Counsel, and Interim Administrator of the Urban Mass Transit Administration. Appointed by President Ford in April 1975; term expires in 1981.

Major Board Activities

The Board regulates the economics of the airline industry and also has a statutory mandate to promote, encourage and develop U.S. civil aviation. It is important to note that the responsibility for safety regulation does not rest with the Board, but rather with the Federal Aviation Administration. The Board's principle activities include:

- . Issuance of certificates of operating authority which license air transportation service between interstate points.
- . Regulation of carrier freight rates and passenger fares.
- . Jurisdiction over acquisitions, consolidations, mergers, interlocking relationships and various intercarrier agreements involved in providing air transportation to the public; e.g., fuel, terminal arrangements, etc.
- . Design, prescription and administration of uniform accounting and reporting systems for airlines.
- . Enforcement and consumer advocacy including the prevention of unfair and deceptive practices and assuring the prompt and effective consideration of consumer complaints.
- . Determining and making subsidy payments to eligible U.S. air carriers (mostly local service operations to ensure air transportation to small communities).



Assessment of Agency Performance:

1. The CAB has been criticized for placing too much emphasis on its promotional responsibilities when the industry no longer requires such encouragement, and for protecting industry profits and keeping consumer prices unnecessarily high. An internal staff group and a recently appointed outside Advisory Committee are reviewing the Board's mandates and procedures. Senator Kennedy has shown a great deal of interest in needed reforms and will be a major participant in obtaining new legislation.
2. The Board has traditionally been very responsive to industry wide requests for rate increases, and tends to approve them fairly quickly (less than 1 month). It has favored pricing experiments that make all carriers better off, but has adopted load factor standards which are intended to make fares conform to "reasonable" costs. The CAB has generally prevented price reductions, especially when protested by other carriers, and such applications require much longer to process. The Board has authority to adopt a "zone of reasonableness" for domestic air fares but has rejected this approach.
3. The Board has several times changed its position on new route authorities for existing carriers but has consistently opposed new entrants which threaten competition for the trunk lines. It has justified this posture on the questionable arguments in favor of employees, stockholders and low density markets which might lose some air service. Time to process formal route proceedings has increased to an average of nearly 20 months for those cases settled in 1974. The CAB has enormous route/schedule flexibility, but has shown little disposition to allow more price/quality options for various carriers.
4. CAB has been criticized for neglecting consumer interests in areas such as baggage liability, timeliness of service, etc. In response, the CAB has established an office to provide for improved advocacy of consumers' positions. Economic impacts of actions are usually discussed, but direct citizen involvement is discouraged by elaborate Board requirements for paperwork. Although a great deal of material is available to the public, some important information supplied by



the carriers is available only to the Board. The CAB maintains close contact with the industry, and some of these associations have been characterized as de facto policymaking, without opportunity for public comment.

Administration-sponsored Legislation Affecting the Commission:

Status: Currently being drafted by an Executive Branch Task Force.

Major Provisions:

- Will provide for increased pricing flexibility to permit the airlines to engage in more effective price/service competition.
- Will provide for liberalized regulation of market entry/exit.
- Will eliminate the Board's power to approve certain anti-competitive agreements among airlines while retaining those agreements needed to meet a serious transportation need.



Federal Maritime Commission

Established: 1961

5 Commissioners

Chairman: Helen Delich Bentley, Reporter for the Baltimore Sun 1945-1953; Maritime Editor for the Sun, 1953-1969; Appointed by President Nixon in 1969; She resigned June 30, 1975, when her term expired, but will remain until a replacement is confirmed.

Major Commission Activities:

1. Regulates the rates, classifications and other pricing practices and agreements of international shipping firms which participate in rate setting conferences. Regulates all domestic offshore commerce between points within the United States.
2. Licenses independent ocean freight forwarders, large cargo vessels, and all large (over 50 passengers) vessels, and requires owners to establish and maintain evidence of minimum financial responsibility.
3. Renders decisions, issues orders, rules and regulations governing and affecting common carriers by water in the foreign and domestic offshore commerce, terminal operators, freight forwarders, and other persons subject to the shipping statutes.

Assessment of Agency Performance:

1. The FMC has a smaller scope of regulatory authority than the ICC or the CAB because many international shippers do not participate in shipping conferences. However, all subsidized U. S. carriers belong to these pricing cartels and there is no evidence that the Commission gives significant consideration to the broader national economic impact of its actions governing these shippers. It clearly is interested in promoting and protecting the interests of the U. S. merchant marine which may not be in the best economic interests of the Nation. It has a Bureau of Hearing Counsel which is supposed to represent the public's interest in formal cases before Administrative Law Judges. It does not, to our knowledge, perform cost/benefit analyses prior to decisions.



2. The Commission tends to accept most rates filed by international rate conferences, largely because it lacks clear information on which to base a disapproval. Domestically, it has permitted some pricing flexibility, but has required 2-4 years in most cases to settle major rate cases. It could greatly simplify its current rate structure which assigns (like the ICC) a different rate to every category of cargo. Though it has twice debated substantial rate simplification, it has never implemented any of these proposals.
3. The FMC has proposed legislation which would give it authority to approve rates for all international carriers shipping goods to or from the U. S. even though they do not belong to rate setting conferences. If granted, this authority would probably be used to eliminate the option of lower shipping fares offered by some foreign competitors. The Administration has consistently opposed this.
4. The Commission strongly endorsed the Oil Cargo Preference legislation which President Ford vetoed in December 1974.

Status of Administration Sponsored Legislation:

Although there is presently no significant FMC legislation in process, an Administration Task Force is examining the possibility of seeking changes in the Rate Conferences' immunity from anti-trust prosecution.



Federal Power Commission

Established: 1920

5 Commissioners

Chairman: John N. Nassikas, 1950-53 Assistant and Deputy Attorney General of New Hampshire; 1953-69 senior partner in a Manchester, New Hampshire law firm; 1968-69 chief counsel for the Republican Minority of the Senate Committee on Commerce. He has supported the deregulation of new natural gas, usually combined with a limited price monitoring role for the FPC. Appointed by President Nixon in 1969. He has resigned effective June 22, 1975, when his term expires, but has agreed to remain until another Commissioner has been confirmed.

Major Commission Activities:

Consistent with the Nation's needs for electric power and natural gas and protection of the environment, the Commission:

1. Sets prices for interstate wholesale sales of natural gas (about 67% of the gas sold in the U. S.).
2. Regulates the construction and operation of interstate natural gas pipeline facilities.
3. Authorizes private hydroelectric power projects on navigable rivers.
4. Regulates interstate wholesale electric power sales (about 15% of the electric power generated in the U. S.).

Assessment of Agency Performance:

1. In response to growing natural gas shortages, the FPC has shown flexibility toward pricing of pipeline gas transmission but has been much more inflexible with the price of gas at the well head. Almost all rate changes must be approved directly by the Commission, which usually makes judgments based on average historical costs. FPC takes 2-3 years to rule on cases, often using data that has been outdated by inflation. FPC could decontrol well-head prices without legislation, but will not even though interstate gas is nearly four



times cheaper than the equivalent energy producible from a barrel of oil, and is substantially below prices charged in the State regulated intrastate gas market. However, the FPC has established nine priority uses for natural gas and has allocated the available interstate supply (during peak winter demand periods) on this basis.

2. The Commission has neither fostered nor inhibited pipeline entry or electric power pooling. It has been generally objective in considering applications and has processed requests with reasonable dispatch. The agency does not appear to use an industry protection policy to reject new applicants.
3. For the most part, FPC has maintained open hearings and given the public ample time to comment. It was recently criticized for ignoring the staff's recommendations on well head pricing, but generally the FPC has shown great interest in the ultimate effect of its decisions on consumers. (Energy prices have tended to be maintained at artificially low levels, whereas many transportation prices have been maintained at artificially high levels.)
4. There is little or no standard setting with direct consumer participation at the FPC. Regulated energy prices have been set on the basis of historical average costs, a fact which has helped keep them too low to provide adequate capital for replacement and new exploration.

Status of Administration Sponsored Legislation:

The Administration is seeking to:

1. Deregulate the price of interstate sales of new natural gas;
2. Require State Public Utilities Commissions to allow rate changes to take effect if administrative proceedings have not been completed within 5 months. (This parallels a new FPC procedure; rates are subject to future adjustment if proven to be too high or low.)



3. Allow electric power generating and transmission firms to include construction in progress as part of their rate base, thereby allowing greater revenues in order to meet desired ROI figures.

Some hearings have been held in the Senate Government Operations Committee but firm action appears unlikely this year. On June 19, House passed an energy bill without an increase in the gasoline tax, a vote the Administration supported.



Nuclear Regulatory Commission

Established: 1975

5 Commissioners

Chairman: William A. Anders, 1955-1964 U. S. Air Force; 1964-1969 National Aeronautics and Space Administration - Astronaut (Apollo 8 circumlunar flight); 1969-1973 National Aeronautics and Space Council - Executive Secretary; 1973-1974 Atomic Energy Commission - Commissioner. He has a balanced record with responsible concern for safety and for the environment combined with interest in a strong and economically sound nuclear industry. Appointed by President Ford, 1974, term expires January 1976.

Major Commission Activities :

In order to insure protection of public health and safety, protection of the environment, and conformance with anti-trust laws, the Commission:

1. Sets overall standards and makes rules for the conduct of the nuclear industry.
2. Makes technical reviews and studies and conducts confirmatory research.
3. Issues construction permits and operating licenses for nuclear power reactors and other nuclear industry facilities and products.
4. Provides day-to-day surveillance and enforcement of regulations, operating licenses, and construction permits.

Significant Developments :

1. On January 19, 1975, NRC became an independent regulatory agency. This separation from former association with AEC ended a long standing conflict of interest between developmental and promotional responsibilities as contrasted with regulatory responsibilities.



2. The Commission has taken a number of administrative steps to lessen the burden of regulations; reduced time for environmental reviews from 12 to 6 months; provided for limited start of construction in advance of construction permit; given priority to issuance of operating licenses to coincide with completion of facilities.

Status of Administration Sponsored Legislation:

In early May, NRC forwarded proposed legislation to speed up licensing procedures for nuclear facilities, including pre-designated construction sites and standardized power plants, without sacrificing thorough environmental, safety, and antitrust reviews. Some hearings were held June 25 by the Joint Committee on Atomic Energy, and others may be conducted after the August recess.



Federal Communications CommissionEstablished: 1934

7 Commissioners

Chairman: Richard E. Wiley. Appointed by President Nixon February 1974. FCC Commissioner 1972-1973. FCC General Counsel 1970-1971. Assistant Corporation Counsel, Bell & Howell Company. Practiced law in Chicago and taught at John Marshall Law School. Regarded throughout the regulated industry as a fair and capable Chairman; has a strong personal interest in the management of the Commission and focuses staff time on definable issues and resolution of long-standing cases. Maintains demanding well-organized Commission schedule. He has made the elimination or simplification of regulatory burdens a priority. Although some progress toward this goal has been evident, major changes in cable industry regulation are not expected before two years. Commissioner Robinson has been the most vocal proponent of deregulation, especially in cable television. Term expires, June 1977.

Major Commission Activities:

Communications Act of 1934 created FCC to insure effective U. S. and worldwide communications system. Although not specifically addressed in the 1934 Act, regulation of television content and cable industry have been assumed as ancillary to specific powers of the Act over radio and other communications services. The Commission:

1. Allocates radio spectrum space to non-Federal uses; licenses all non-Federal users of the public airwaves, cable, common carriers such as telephone, telegraph, and satellites, and sets operating environments of each.
2. By setting tariffs, regulates the rate of return for common carriers--telephone, telegraph and specialized voice and data transmission services for hire.
3. Requires publication of financial and business statements by regulated industries.
4. Levies fees, enforces actions through fines and penalties; subject to Court review.



Assessment of Agency Performance:

1. FCC has tended to encourage new entrants to the field of common carrier communications (telephone, telegraph) and examples such as use of domestic satellite transmission reinforce the belief that consumers' interests are generally well represented in this area of FCC jurisdiction. On the other hand, the Commission has tended to protect the established mass communications industry (television, radio) at the expense of consumers. FCC decisions have lagged (sometimes for many years) and although the agency could administratively adopt more liberal entry requirements for common carriers, it will probably require new legislation to force it to make cable TV a more competitive market.
2. All common carriers are required to file rate changes with the FCC; they take effect unless challenged by another party or investigated by the agency. Some pricing flexibility has been permitted, but FCC has not done an adequate job in reducing the time period for deciding rate cases (often years). A major problem exists in assigning joint costs to individual services, and FCC could modify its uniform system of accounts to reduce the time period for decisions and better allocate overhead costs.
3. There is no separate consumer liaison at the FCC, but the agency has followed the requirements of the Administrative Procedures Act with little apparent complaint from the public. Commission meetings, however, are generally closed to outsiders. FCC does not formally prepare cost benefit analyses prior to issuing its rules.
4. FCC standards usually deal with engineering and technical qualifications relating to equipment. Concerned industries, rather than the general public, tend to participate in hearings and standard setting proceedings which are described as generally timely and realistic. However, the FCC has used its authority to revoke the licenses of the Alabama Educational Television Network for failure to serve community needs. "Ascertainment" of community needs was a major issue in debate of broadcast license renewal bill in 93rd Congress--no bill passed.



Status of Administration Sponsored Legislation:

The Office of Telecommunications Policy has proposed some revisions to FCC's authority to regulate cable TV, but the legislation is opposed by FCC for going too far without adequate study data, and by the Justice Department for not recommending total deregulation of cable industry. If major Justice-OTP differences could be arbitrated, legislation could be introduced within a month.



Federal Trade CommissionEstablished: 1915

5 Commissioners

Chairman: Lewis A. Engman, practiced law in Grand Rapids, Michigan, 1961-1970; general counsel, Office of Consumer Affairs, 1970-71; assistant director, Domestic Council, 1971-1973. He has publicly advocated increased enforcement of the antitrust laws as an anti-inflationary weapon and has criticized several regulatory agencies for their anti-competitive practices. Appointed by President Nixon, 1973, term expires September 1976.

Major Commission Activities:

Established under the Clayton Act to help preserve the health of the free enterprise system by enforcing the antitrust laws and by eliminating practices unfair or deceptive to consumers, the Commission:

1. Investigates and rectifies monopolistic practices and unreasonable restraints of trade (price-fixing conspiracies, boycotts, price discrimination, and illegal mergers and acquisitions).
2. Promulgates rules defining what trade practices are deceptive and unfair, and what information, particularly advertising, must be disclosed to the consumer. Enforces the regulations through civil penalty actions.

Significant Developments:

1. Antitrust investigations and enforcement have generally tended to emphasize industry structure rather than illegal conduct, such as price-fixing. The FTC has initiated a divestiture suit against the eight largest integrated oil companies. Their anti-merger activity, which had been increasingly important in recent years, has slowed down as a result of the recent economic decline.



2. The Commission provides adequate public notice and conducts public hearings in connection with its rule-making and adjudicatory proceedings. Although there is no office of Consumer representation, the FTC encourages public participation in rulemaking, and now has authority (though unfunded) to pay legal fees for consumer representation. In adjudications, the Commission could adopt a more liberal policy for public intervention (petitions are generally rejected), but full scale participation in these proceedings is an expense most consumer groups can not afford. Recent legislation requires a "business impact" statement prior to adoption of rules, and although the precedent appears to be a good one, there is substantial staff resistance to the idea.
3. The FTC sets informational or "nomenclature" standards designed to guarantee uniform reference terms within a market (e.g., hi-fi amplifier wattage, gasoline octane rating). Much of its work to prevent false advertising follows this objective. The Commission does not perform economic impact analyses in connection with these standards. Except for public comment submitted in conjunction with the process of trade regulation proceedings (e.g., labeling), standards are usually adopted with little consumer input.
4. Against a substantial level of criticism from business interests, the FTC has sought to increase the specificity and usefulness of its quarterly financial reports by requiring "line of business" profit data from 350 of the largest manufacturers. Numerous private suits have sought to forestall this action.
5. The FTC has recently endorsed the idea of permitting drug stores to advertise prescription drugs, an innovation which could have significant beneficial impacts on these retail prices.

Status of Administration Sponsored Legislation:

Repeal or Reform of the Robinson-Patman Act.

Alternative proposals drafted by the Justice Department for repeal or substantial reform of this Act are presently under review by all concerned Agencies. Final recommendations to the President are expected by July 30.



Securities and Exchange Commission

Established: 1934

5 Commissioners

Chairman: Ray Garrett, Jr., 1954-58 Director of Division of Corporate Regulation, SEC; 1958-73 partner in major Chicago law firm; active in studies of corporate finance by the American Bar Association. Appointed by President Nixon, 1973, term expires June 1977.

Major Commission Activities:

In order to insure that the public is provided the most accurate investment information and that those individuals/firms in the securities industry adhere to responsible conduct, the Commission:

1. Requires companies issuing publicly held securities to disclose pertinent financial information;
2. Supervises the rules and operations of national stock exchanges and securities associations;
3. Requires publicly owned companies to file periodic financial reports and disclose certain operations, including stock holdings and trading by officers and major owners;
4. Promulgates rules and supervises the operations of securities brokers, dealers, and investment advisers;
5. Regulates major financial and management practices of mutual funds and other investment companies.

Assessment of Agency Performance

1. The Commission was heavily criticized for its failure to foresee the major paperwork and financial crisis in the securities industry during 1969-71. Since then, it has greatly increased its audit and supervision functions, and supported legislation which created the Security Investors Protection Corporation (SIPC) which functions much like the FDIC to protect investors in the event of brokerage house failures;



2. Private antitrust suits against minimum brokerage rates and successful industry efforts to avoid or minimize high commission fees forced Congress and the SEC to push for negotiated rates. An SEC order abolishing fixed rates as of May 1, 1975 preceded legislation signed in June 1975 requiring similar action. The SEC retains authority to reinstitute fixed rates, but industry and public awareness of brokerage costs and profits makes such an event unlikely. Price competition between stock exchanges (facilitated by the emergence of a National Securities Market System) will also influence the industry's commission structure.
3. The securities industry has been forced to consolidate operations and reduce the number of member firms more because of economic necessity than because of government regulation. Though the Commission has recently supported abolition of exchanges' restrictive membership rules, the new securities law did not mandate this action. Although the agency retains authority to increase the number of exchange seats, new price and service competition will probably develop mostly from a Congressionally mandated central securities market, over which the SEC will have ultimate jurisdiction.
4. The Commission has adequately publicized its hearings, which tend to be very long and detailed, and always open to the public. Though the agency does not have a separate Office of Consumer Affairs, it has pushed the exchanges into electing more public members to their governing boards. The agency's disclosure requirements and market supervision activities are geared specifically to inform and protect the investing public from deceptive or illegal practices. The Agency does not have an official internal requirement to perform cost/benefit analyses, but public comment always includes an assessment of the industry's perception of these costs. The SEC's response to the President's inflation impact letter was very sympathetic to the objective, if not the method, of the program.



5. The SEC invites public comment on fiduciary and accounting standards used to enforce its market and corporate regulation activities. Though some cost analyses have been done in the past, the agency is attempting to upgrade the quality of its understanding of the costs of registration. Its ultimate responsibility for shaping a central securities market will provide a new opportunity to invite and make use of comments from the investing public.

Status of Administration Sponsored Legislation:

The Securities Act Amendments of 1975 (S. 249) were signed into law on June 4, but a technical correction will be required in order to preserve New York City's power to tax transfer agents. The legislation:

1. Requires the SEC to supervise the adoption of new electronic technologies which will, (a) provide more accurate information on stock prices to prospective investors, and promote greater competition in the industry; (b) help reduce the costs of stock transactions and record processing, and (c) reduce the risk of securities' theft;
2. Gives the SEC authority to expand the membership on securities exchanges in order to do away with existing anti-competitive practices;
3. Gives SEC new jurisdiction to regulate dealers in municipal securities;
4. Prohibits institutional investors and money managers from self-dealing and requires new reports on their assets and operations.



Commodity Futures Trading Commission

Established: 1974

5 Commissioners

Chairman: William T. Bagley, 46, of California (Republican) is the first Chairman. 1960-1973 member, California State Assembly. His major legislative interests were tax reform, criminal justice, conservation, and public right to know. Prior to his election, Bagley headed his own law firm in San Rafael. Term expires April 1980.

Members: John V. Rainbolt, 35, of Oklahoma, Vice Chairman, formerly Associate Counsel for the House Committee on Agriculture, term expires April 1977; Gary L. Seevers, 37, of Virginia, formerly member of the Council of Economic Advisors, term expires April 1979; Read P. Dunn, 60, of Maryland, formerly Executive Director of the International Institute for Cotton, term expires April 1978; Robert L. Martin, former Vice President of Cook Grain Company, term expires April 1976.

Major Commission Activities:

The Commission was created by Congress to administer the Commodities Futures Trading Commission Act of 1974 (P.L. 93-463). That Act constitutes a complete overhaul of, and further amends the Commodity Exchange Act of 1922. The new law and the Commission are designed to:

1. Insure fair practices and honest dealing on all commodity exchanges. Previously, only some parts of some exchanges were subject to regulation.
2. Bring all commodities, (to include agricultural and others) under Federal regulation.
3. Give full authority to the Commission to regulate all aspects of commodities futures trading, including but not limited to, setting fitness standards for operators and floor brokers, requiring changes in market rules, establishing penalties for violations, setting brokerage rates, etc.



Significant Developments:

Since the Commission was created on April 21, 1975, there have been no significant developments. However, the Chairman's public statements have emphasized his desire to see that the Commission become a strong and independent body responsive directly to the Congress. The Commission has both legislative and budget by-pass authorities, and is required to nominate its own Executive Director, subject to Senate confirmation.

Status of Administration Sponsored Legislation:

The Administration has submitted legislation to repeal these by-pass and confirmation requirements but no action is likely to be taken by either body.



Consumer Product Safety Commission

Established: 1973

5 Commissioners

Chairman: Richard O. Simpson. Acting Assistant Secretary of Commerce for Science and Technology 1972-1973; Vice President for the electrical/electronics divisions in the Rucher Company, 1966-1969. He has been a strong advocate of CPSC's independence from the Executive branch. Appointed by President Nixon in 1973; term expires October 1975.

Major Commission Activities:

The Commission is responsible for attempting to reduce injuries and deaths which might result from consumer products by:

1. Promulgating mandatory safety standards for individual consumer products (including labeling and instructions), and encouraging industry to develop voluntary standards.
2. Taking action against individual products found to be hazardous.
3. Collecting and analyzing consumer product injury data, investigating causes of injuries, and disseminating information to consumers on the safe use and comparative safety of consumer products.
4. Enforcing its standards through market surveillance.

Assessment of Agency Performance:

1. The Commission is one of two independent regulatory agencies which have statutory authority to by-pass the normal budget and legislative clearance processes. It submits budget requests and legislation to OMB and Congress simultaneously. It is seeking to expand its independent status by requesting statutory authority (already possessed by the ICC) to employ its own counsel in civil litigation, rather than relying on the Justice Department. It has also requested authority to by-pass normal personnel channels in hiring non-career super grade employees.
2. The Consumer Product Safety Act requires the Commission to develop economic impact statements for all its proposed standards. It is, therefore, the only Commission currently carrying out the kind of economic analyses required by the Executive order on Inflation Impact Statements.



3. Since its establishment in 1973, the Commission has promulgated four final standards for consumer products (bicycles, children's sleepware, general package labeling, and iron additive or medicinal package labeling). It has created a good record of public participation in those products under investigation by asking for and receiving substantial comment. CPSC has not fully developed requirements for internal cost/benefit analyses, and has been criticized for its slowness in adopting standards, a fact which may benefit some, but which only postpones industry and consumer uncertainties.
4. Although the Commission has no specific entry/exit authorities, CPSC decisions will ultimately affect the number, size, distribution, etc. of firms capable of meeting standards and, therefore, competing within an industry.

Status of Administration Sponsored Legislation:

The Administration has not introduced legislation to repeal the Commission's legislative or budget by-pass authorities.



INDEPENDENT REGULATORY AGENCIES
MEMBERSHIP

Civil Aeronautics Board (5 members)

<u>Position</u>	<u>Name</u>	<u>Term Expires</u>
Chairman	John Robson	December 31, 1977
Vice Chairman	Richard J. O'Melia	December 31, 1980
Member	G. Joseph Minetti	December 31, 1979
Member	Lee R. West	December 31, 1978
Member	Robert D. Timm	December 31, 1976

Commodity Futures Trading Commission (5 members)

Chairman	William T. Bagley	April 15, 1980
Member	John Vernon Rainbolt II	April 15, 1977
Member	Read Patten Dunn, Jr.	April 15, 1978
Member	Gary Leonard Seevers	April 15, 1979
Member	Robert L. Martin	April 15, 1976

Consumer Product Safety Commission (5 members)

Chairman	Richard O. Simpson	October 27, 1975
Commissioner	Barbara H. Franklin	October 27, 1979
Commissioner	Lawrence M. Kushner	October 27, 1976
Commissioner	Constance E. Newman	October 27, 1978
Commissioner	R. David Pittle	October 27, 1977

Federal Communications Commission (7 members)

Chairman	Richard E. Wiley	June 30, 1977
Commissioner	Robert E. Lee	June 30, 1981
Commissioner	Benjamin L. Hooks	June 30, 1979
Commissioner	Charlotte T. Reid	June 30, 1978
Commissioner	Glen O. Robinson	June 30, 1976
Commissioner	Abbott Washburn	June 30, 1975+
Commissioner	James H. Quello	June 30, 1980

Federal Maritime Commission (5 members)

Chairman	Helen Delich Bentley *	June 30, 1975
Vice Chairman	James V. Day	June 30, 1979
Commissioner	Ashton C. Barrett	June 30, 1977
Commissioner	Clarence Morse	June 30, 1976
Commissioner	vacancy	

* Resigned effective June 30, 1975, but will remain until another Commissioner is named.

+ Nomination for reappointment submitted to Senate but not yet confirmed



INDEPENDENT REGULATORY AGENCIES
MEMBERSHIP

Federal Power Commission (5 members)

<u>Position</u>	<u>Name</u>	<u>Term Expires</u>
Chairman	John N. Nassikas *	June 22, 1975
Vice Chairman	William L. Springer	June 22, 1977
Commissioner	Don S. Smith	June 22, 1978
Commissioner	vacancy	
Commissioner	vacancy	

Federal Trade Commission (5 members)

Chairman	Lewis A. Engman	September 25, 1976
Commissioner	Paul Rand Dixon	September 25, 1981
Commissioner	Mayo J. Thompson	September 25, 1975
Commissioner	M. Elizabeth Hanford	September 25, 1980
Commissioner	Stephen A. Nye	September 25, 1977

Interstate Commerce Commission (11 members)

Chairman	George M. Stafford	December 31, 1980
Vice Chairman	A. Daniel O'Neal Jr.	December 31, 1979
Member	Kenneth H. Tuggle	December 31, 1975**
Member	Rupert L. Murphy	December 31, 1978
Member	Virginia Mae Brown	December 31, 1977
Member	Willard Deason	December 31, 1979**
Member	Dale W. Hardin	December 31, 1977
Member	Robert C. Gresham	December 31, 1981
Member	Robert J. Corber	December 31, 1976
Member	Alfred T. MacFarland	December 31, 1978
Member	Charles L. Clapp	December 31, 1980

Nuclear Regulatory Commission (5 members)

Chairman	William A. Anders	June 30, 1976
Member	Victor Gilinsky	June 30, 1979
Member	Richard T. Kennedy	June 30, 1980
Member	Edward A. Mason	June 30, 1978
Member	Marcus A. Rowden	June 30, 1977

* Resigned effective June 22, 1975, but will remain until another Commissioner is named.

**Subject to mandatory retirement because of age on December 31, 1975



INDEPENDENT REGULATORY AGENCIES
MEMBERSHIP

Securities and Exchange Commission (5 members)

<u>Position</u>	<u>Name</u>	<u>Term Expires</u>
Chairman	Ray Garrett, Jr.	June 5, 1977
Commissioner	Philip A. Loomis, Jr.	June 5, 1979
Commissioner	John R. Evans	June 5, 1978
Commissioner	A.A. Sommer, Jr.	June 5, 1976
Commissioner	Irving M. Pollack	June 5, 1975+

+Nomination for reappointment submitted to Senate but not yet confirmed



JUL 5 1975

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CLOSING
FOR MEETING WITH
INDEPENDENT REGULATORY AGENCIES

THURSDAY JUL 10 1975 THURSDAY, JULY 10, 1975



THIS MEETING HAS BEEN VERY USEFUL IN GIVING ME
A SENSE OF THE IMPORTANCE OF YOUR MISSION AND THE PROBLEMS
YOU FACE. I CONSIDER THIS TO BE A FIRST STEP TOWARD
ENSURING THAT OUR REGULATORY SYSTEM IS TRULY MEETING OUR
PRESENT ECONOMIC AND SOCIAL NEEDS.

I HAVE BEEN GRATIFIED TO SEE SOME OF YOUR INITIAL
EFFORTS AT REGULATORY REFORM.



THERE ARE FIVE FOLLOW-UP ACTIONS THAT I WISH
TO EMPHASIZE: FIRST, I ASK EACH CHAIRMAN TO GIVE FURTHER
ATTENTION TO COST-BENEFIT ANALYSIS OF HIS COMMISSION'S
MAJOR REGULATORY PROGRAM AREAS. IT IS ESSENTIAL THAT
WE ALL FULLY UNDERSTAND THE ECONOMIC COSTS OF YOUR ACTIVITIES
IN ORDER TO TAKE CONCRETE STEPS TO ACHIEVE REFORMS.



TO FACILITATE THIS UNDERSTANDING, I WOULD HOPE THAT YOU
WOULD ISSUE COST-BENEFIT ANALYSES OF YOUR MAJOR PROGRAMS.

THIS WOULD PARALLEL THE "INFLATION IMPACT STATEMENTS"

REQUIRED OF THE DEPARTMENTS AND AGENCIES OF THE EXECUTIVE

BRANCH AND SIMILAR CONGRESSIONAL INITIATIVES.



SECOND, I ASK YOU TO UNDERTAKE A COMPREHENSIVE AND SPECIFIC REVIEW OF ALL AREAS WHERE REGULATORY DELAYS PRESENTLY OCCUR IN ORDER TO ELIMINATE IMPEDIMENTS TO A SPEEDY AND EFFECTIVE PROCESS. YOU SHOULD SET AS A GOAL TODAY THAT IN SIX MONTHS THERE WILL BE A DEMONSTRABLE REDUCTION IN REGULATORY DELAYS IN YOUR MAJOR CASES AND RULE MAKING PROCEEDINGS.



THIRD, I ASK THAT YOU STUDY AND REVISE YOUR
PROCEDURES AS APPROPRIATE TO ENSURE THAT YOU ARE RESPONSIVE
TO THE LEGITIMATE CONSUMER INTERESTS AND THAT YOUR ACTIONS
ARE UNDERSTOOD BY THE AVERAGE AMERICAN.



FOURTH, YOU SHOULD CONSIDER THE MOST FUNDAMENTAL
CHANGES THAT WOULD MOVE US TOWARD DEREGULATION IN
AREAS WHERE THE REGULATORY PROCESS NO LONGER MAKES SENSE.
IN SOME AREAS, IT IS INCREASINGLY CLEAR THAT MORE
COMPETITION IS A BETTER REGULATOR THAN THE GOVERNMENT.
WE ARE MOVING IN THIS SAME DIRECTION WITH RESPECT TO THE
DEREGULATION OF CERTAIN ASPECTS OF THE C-A-B'S ACTIVITIES.



AND I WAS PLEASED TO NOTE IN THE PAPER TUESDAY THAT THE C-A-B
HAS BEGUN AN EXPERIMENT IN THIS FIELD. DEREGULATION OF
NATURAL GAS IS NECESSARY. YOU MUST ALL ASK YOURSELF
THE QUESTION: "IS REGULATION BETTER IN EACH CASE THAN THE
UNREGULATED MARKET?"



FINALLY, I WILL CONTINUE TO MEET WITH THE
DESIGNATED MEMBERS OF CONGRESS TO REVIEW WITH THEM YOUR
PROGRESS AND AREAS OF MUTUAL CONCERN. I AM ALSO ASKING
THE MEMBERS OF MY ADMINISTRATION TO WORK CLOSELY WITH EACH
OF YOU AND THE CONGRESS TO RESPOND TO ALL OF THESE CONCERNS.
THESE REGULAR CONTACTS WILL PERMIT US TO ESTABLISH PRIORITIES
FOR REGULATORY REFORM OVER THE MONTHS AHEAD AND EVENTUALLY
ENABLE US TO ACCOMPLISH OUR GOALS.



THANK YOU FOR YOUR PARTICIPATION AND COOPERATION
IN THIS IMPORTANT ENDEAVOR.

END OF TEXT

