

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 23, 1969

FOR: Domestic Plans Group

FROM: Peter M. Flanigan

SUBJECT: Organization for Consumer Affairs

A number of independent pressures have emerged which make it desirable for the Administration to determine the nature and direction of the President's Committee on Consumer Interests.

- The Special Assistant to the President for Consumer Affairs wishes to undertake some new activities, which necessitate defining more precisely her role and that of the Committee. The Presidentially-announced comprehensive survey of government consumer programs, and the request from the Special Assistant for Consumer Affairs for \$200,000 to conduct this study, make it desirable to develop a general consumer strategy to guide the study to a satisfactory conclusion.
- Congressional interest in the structure of the Consumer Affairs office is of significant dimensions; for example, the executive organization subcommittee of the Senate Committee on Government Operations is preparing to report out a bill which would create an office of Consumer Affairs within the Executive Office of the President. Congressman Dwyer is planning to introduce a similar bill in the House. Other pending bills would create a Department of Consumer Affairs.
- If a Presidential consumer message is planned it would be difficult to avoid dealing with the organizational issues. In any event, the Administration cannot delay too much longer in taking a position on the pending legislation.
- Pressures on the Special Assistant for Congressional testimony, speeches, and other "visible" activities make it desirable to set the parameters of that office.

The basic issue is how "visible" the activities of the Special Assistant for Consumer Affairs and the PCCI should be. A particularly critical question is whether the Special Assistant should involve herself in agency administrative proceedings as an intervenor and in consumer controversies before Congress as an "expert" witness on highly technical matters of significance to consumers. These two functions seem highly important to consumer advocates in Congress; even though they are at war with the traditional role of a presidential assistant. Past history and present politics set important limits upon the Administration's ability to determine the activities of the Special Assistant and her office. If her office is not to carry out these "representation" functions, it seems politically necessary that they be located somewhere else in the government. Unlike other Executive Office operations the tendency of the PCCI has been to engage in highly visible promotional and operational activities. This has occurred in spite of the fact that the Executive Order establishing the Committee delineates the following functions:

"The Committee shall study the plans and programs of Federal agencies affecting consumer interests. The Committee shall make recommendations to the President on questions of policy relating to consumer affairs; may conduct studies of matters related to consumer interests; and shall encourage and assist Federal agencies to accomplish effective coordination of plans and programs affecting consumers." (Emphasis added)

While these functions are consistent with the more traditional responsibilities assigned to the Executive Office, they are not the ones which the Committee has emphasized.

Although several alternatives, such as designation of a "lead agency" for consumer affairs, or an activist consumer office within the Executive Office are conceivable, there appear to be only two truly viable options in the short run. These are:

1. Strengthen the existing structure in the Executive Office solely as per Executive Order of the President. Perhaps give it a statutory base for publicity reasons. This alternative would envision a small, low-key technically competent organization which would be charged with developing basic consumer policy choices for the President, publicizing the Administration's achievements in consumer matters through speeches and newsletters, and "providing

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representation for the consumer within the highest levels of the Executive Branch." It would assist the White House, the Bureau of the Budget, and other Executive Office agencies in resolving organizational and program issues affecting consumer matters. It would promote such non-controversial items as more consumer education, intensified consumer programs at the State and local level, voluntary action, and the Administration's consumer-oriented legislative proposals. It would not operate any programs but work through agencies; serving as a conduit between interested groups and the agencies, and overseeing development of the capability within each agency to represent the consumer interest. In short it would confine itself to the activities described in the PCCI executive order.

It is essential, because of the Special Assistant's proximity to the President and White House staff, to avoid conflicts and controversial subjects which will publicize the Committee's differences with other agencies. As much as politically possible, the Special Assistant would avoid testimony on controversial legislative proposals and rely on the program agencies to testify.

More resources could be made available to the Committee to build up the capability of the Committee to be a strong voice in the Executive Office. This upgrading of the PCCI could be accompanied by an administration commitment to carry out the American Bar Association's recommendations concerning the Federal Trade Commission. The ABA study is expected to state that the FTC has not effectively fulfilled its vital mission of consumer protection against "deceptive acts and practices." The ABA will probably recommend dramatic improvement of the FTC's consumer protection activities. Indeed, perhaps a reformed FTC could be given the functions of representing the consumer interest at hearings of the other agencies.

The advantages of this alternative are that it would:

- (a) Strengthen the role and capability of the PCCI and would demonstrate continued Presidential concern for the consumer;
- (b) Afford assistance in settling intra-Administration disputes and developing coordinated Administration positions on consumer affairs;

- (c) Avoid getting the White House involved in many controversial issues; and
- (d) Permit continued operation at relatively small budgetary and personnel levels.

The disadvantages of this alternative are:

- (a) It might be interpreted as "too little, too late" by groups advocating a substantial upgrading of consumer activities;
- (b) It might not give enough "visible" activities for the Special Assistant to pursue;
- (c) Substantial public and Congressional pressures would continue to be exerted to get the Committee to undertake more operational activities and more consumer representation. If these pressures were to prevail, the resultant potential for engulfing the President in controversial issues would be greatly increased.

2. Establish an independent agency outside the Executive Office. This alternative would envision a more active, operationally-oriented consumer program authorized by legislation but operating outside the Executive Office of the President. At a minimum it could have all the functions envisioned in Alternative 1. In addition, it could have the consumer counsel function now vested in the Justice Department. Such an office would actively intervene in agency proceedings and testify at Congressional hearings of significant interest to the consumer, itself providing the consumer representation role to the fullest degree. The differences between this alternative and the earlier alternative are (1) it would be an activist agency (2) the office would be further removed from the President and (3) it would have its own independent legislative base.

These factors might permit it to move into more operationally sensitive areas without compromising the President. The style of operation and the visibility of the agency would be the key substantive differences with Alternative 1.

The advantages of this alternative are:

- (a) It would be a more dramatic proposal and the Administration would gain the legislative initiative. Administration witnesses would have strong pro-consumer proposal to support before the Congress and thus be in a more positive position.
- (b) It could be argued that it would help disassociate the White House from controversial decisions relating to consumer affairs.
- (c) The need for White House staff involvement would be somewhat curtailed.
- (d) The proposal for an independent agency would probably afford a breathing spell of several years, as a major step of this type normally requires extensive legislative consideration.

The disadvantages of this alternative are:

- (a) The disassociation of an independent agency with the President may be more apparent than real, as there is some question as to whether or not the general public would recognize the distinction between a Presidential staff office and an independent agency. Thus, while the organization was ostensibly independent, the public might still associate its activities with the President, with the consequent adverse reaction when the agency engages in controversial activities.
- (b) While at first it may be possible to restrict the size and range of the agency's activities through the legislative charter or the budgetary process, there would almost inevitably be pressures to expand the agency's budget and activities.
- (c) There would probably be considerable objection to the loss of Presidential staff representation for the consumer.
- (d) There would be an almost inevitable duplication with the myriad of consumer activities now performed by other government agencies.