



FEDERAL

TRADE

COMMISSION

WASHINGTON, D. C. 20580

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THE AGENCY FOR CONSUMER PROTECTION:  
A FEDERAL TRADE COMMISSIONER'S  
VIEW

BY

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BEFORE

THE AMERICAN ADVERTISING  
FEDERATION

TUESDAY  
JUNE 14, 1977

WASHINGTON, D.C.

MR. CHAIRMAN, DISTINGUISHED MEMBERS OF THE AMERICAN  
ADVERTISING FEDERATION, AND SENATOR DOLE:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU THIS  
MORNING. SOMEONE TOLD ME THAT TO COME OVER HERE AND GIVE A  
SPEECH SUPPORTING THE AGENCY FOR CONSUMER PROTECTION WAS LIKE  
A CHRISTIAN VOLUNTEERING FOR DUTY IN THE LION'S DEN.

BUT I'M MORE HOPEFUL THAN THAT. I'M COUNTING ON YOU FOR  
A FAIR HEARING, AND I WOULD ALSO LIKE TO THINK THAT WE COULD  
DISCUSS THE CONSUMER PROTECTION AGENCY MORE DISPASSIONATELY  
THAN SOME HAVE IN THE PAST. UNFORTUNATELY, IT HAS BECOME TOO  
MUCH OF A SYMBOL, FOR SOME NOW LOOK ON THE AGENCY AS A MAKE  
OR BREAK ISSUE. THIS IS REALLY NOT A TEST OF VIRILITY TO SEE  
WHO HAS THE LOUDEST VOICE IN THE JUNGLE. WHAT WE NEED TODAY,  
AS THE CONGRESS NEARS A VOTE ON THE CONSUMER PROTECTION AGENCY,  
IS A LITTLE MORE LIGHT AND A LITTLE LESS HEAT.

I WOULD SUGGEST THAT THERE IS REALLY ONLY ONE CENTRAL  
ISSUE IN THIS DEBATE: WILL THE CONSUMER BE GIVEN AN EFFECTIVE  
VOICE WITHIN THE VAST CATACOMBS OF THE FEDERAL GOVERNMENT?



I AND A MAJORITY OF THE MEMBERS OF THE FEDERAL TRADE COMMISSION ABOUT A MONTH AGO WENT ON RECORD IN SUPPORT OF THIS LEGISLATION. WE INDICATED THAT THE RESOLUTION OF COMPETING VISIONS OF THE PUBLIC INTEREST OPENLY AND FORCEFULLY PRESENTED PRODUCES DECISIONS WHICH BEST SERVE THE PUBLIC INTEREST. IN KEEPING WITH THIS PRINCIPLE OF OPEN ADVOCACY, MY HUSBAND, WHO RECENTLY WENT ON RECORD OPPOSING THE AGENCY, WILL TELL YOU WHY HE IS NO LONGER ABLE TO SUPPORT IT. I'LL LET HIM HAVE THE LAST WORD HERE, AND HOPE THAT OTHERS HAVE THE LAST WORD WHEN THE FINAL VOTES ARE TALLIED.

OPPONENTS OF THE AGENCY TELL YOU THAT WE ALREADY HAVE A MULTITUDE OF AGENCIES TO LOOK AFTER THE CONSUMER'S INTEREST. AS A MEMBER OF THE FTC, I AM PROUD OF THE WORK WE ARE DOING AT OUR AGENCY TO PROTECT CONSUMERS' RIGHTS, BUT I CAN TELL YOU FROM PERSONAL EXPERIENCE--BOTH AT THE FTC AND AS DEPUTY DIRECTOR OF THE WHITE HOUSE OFFICE OF CONSUMER AFFAIRS--THAT I HAVE SEEN, FIRST HAND, THE TYPE OF "CLOUT" WHICH AN INDUSTRY CAN BRING TO BEAR FOR OR AGAINST GOVERNMENT ACTIONS WHICH MAY AFFECT IT. CERTAINLY, BUSINESS' VOICE SHOULD BE HEARD, BUT THE STRENGTH AND VOLUME OF THAT VOICE EXCEEDS, BY A LONG SHOT, ANYTHING I HAVE EVER SEEN ON THE CONSUMER SIDE. AT

THE FEDERAL TRADE COMMISSION, WE ARE BLESSED BY WHAT I CONSIDER TO BE THE MOST TALENTED STAFF IN WASHINGTON, BUT THERE ARE TIMES WHEN STAFF CANNOT, ON ITS LIMITED BUDGET, COME ANYWHERE CLOSE TO MATCHING THE RESOURCES AND SHEER MANPOWER COMMITMENT WHICH MANY PRIVATE FIRMS AND INDUSTRY ASSOCIATIONS CAN MUSTER.

IT IS A GROSS DISTORTION OF REALITY TO ARGUE THAT THE CONSUMER IS AN EFFECTIVE PARTICIPANT IN THE DECISIONS OF GOVERNMENT TODAY OR HAS REPRESENTATION EQUAL TO THAT OF THE BUSINESSMAN.

MANY CONSUMERS FEEL THAT MAJOR DECISIONS ARE MADE AT THE HIGHEST ECHELONS OF GOVERNMENT WITHOUT SO MUCH AS A "HOW-DO-YOU-DO" TO CONSUMER INTERESTS. BUT YOU SAY, WHAT ABOUT RALPH NADER AND THE ARMY HE HAS ORGANIZED ALONG THE BANKS OF THE POTOMAC? AREN'T THEY ENOUGH FOR THE CONSUMER? THE TRUTH IS THAT ON MANY ISSUES, CONSUMERISTS ARE FIRING POPGUNS COMPARED TO SOME OF THE BIG HOWITZERS THAT BUSINESS ROLLS INTO WASHINGTON. THAT'S WHY SINCERE EFFORTS ARE BEING MADE BY PEOPLE LIKE ESTHER PETERSON, SPECIAL ASSISTANT TO THE PRESIDENT FOR CONSUMER AFFAIRS, AND CONSUMER GROUPS AND SOME BUSINESS LEADERS TO WIN SUPPORT FOR THE AGENCY. YET THE AVERAGE CONSUMER MAY ONCE AGAIN FIND THAT HE HAS BEEN OUT-GUNNED AND OUT-MANNED.



YOU KNOW YOURSELF HOW IMPORTANT FEDERAL DECISIONS HAVE BECOME IN OUR DAILY LIVES. HOW OFTEN HAVE YOU BEEN TO BUSINESS LUNCHEONS WHERE THE SPEAKER COMPLAINS THAT FEDERAL SPENDING NOW ACCOUNTS FOR ALMOST 35 PERCENT OF OUR GNP? PROBABLY MORE TIMES THAN YOUR STOMACH CARES TO REMEMBER. BUT THE POINT IS THAT IF THE FEDERAL GOVERNMENT IS GOING TO DECIDE HOW TO SPEND ONE DOLLAR OUT OF EVERY THREE IN OUR SOCIETY, IF THE FEDERAL GOVERNMENT IS GOING TO REGULATE OR TAX ALMOST EVERY LIVING CREATURE, BIG OR SMALL, THEN IT IS ABSOLUTELY ESSENTIAL THAT EACH OF US--BUSINESSMAN, WORKER, FARMER, CONSUMER--HAVE EQUAL INFLUENCE ON THE WAY THOSE DECISIONS ARE MADE. UNTIL WE HAVE A CONSUMER PROTECTION AGENCY OR ITS EQUIVALENT, THE CONSUMER WILL ALWAYS BE ON THE OUTSIDE LOOKING IN.

BUT, SAY THE OPPONENTS, THIS AGENCY WILL JUST ADD ANOTHER LAYER OF GOVERNMENT--MORE REGULATIONS, MORE BUREAUCRATS, MORE RED TAPE, MORE WASTED SPENDING. THOSE WHO SAY THE AGENCY ENTAILS MORE BIG GOVERNMENT SHOULD TAKE A HARDER LOOK AT WHAT'S BEING PROPOSED. I SHARE THE FRUSTRATION WITH BIG GOVERNMENT; BUT GETTING DOWN TO SPECIFICS, I ALSO THINK THOSE WHO DIAGNOSE AN ADVERSE PUBLIC RESPONSE TO THIS AGENCY ARE WRONG. THEY HAVE THEIR FINGERS ON THE WRONG PULSE. ACCORDING TO THE RECENT LOU HARRIS SURVEY, A MAJORITY OF THE PEOPLE

SURVEYED FAVORED THE CREATION OF THE AGENCY--52 PERCENT TO 34 PERCENT OPPOSED. ONLY AMONG SENIOR BUSINESS MANAGERS AND BUSINESS CONSUMER AFFAIRS LEADERS DID A MAJORITY OPPOSE IT. THEREFORE, IN OUR ZEAL TO MAKE GOVERNMENT LEANER AND MORE EFFECTIVE, LET'S NOT SWEEP ASIDE GOOD AND BAD PROGRAMS ALIKE WITHOUT DISTINCTION. WE SHOULD NOT INSTINCTIVELY REJECT ALL NEW INITIATIVES, EVEN THOSE AIMED AT PROVIDING BETTER GOVERNMENT. IN THE AREA OF REGULATION, WHEN DECISION-MAKERS HAVE GOOD INFORMATION, GOVERNMENT IS BETTER. I BELIEVE THE CONSUMER AGENCY WOULD STRIKE A BLOW FOR GOOD GOVERNMENT. IT IS A STEP IN THE RIGHT DIRECTION TOWARD RESTORING CONSUMER CONFIDENCE THAT SOMEONE IN WASHINGTON IS LISTENING.

I DON'T INTEND TO DOT EVERY "I" AND CROSS EVERY "T" ON THE SPECIFICS OF THE PENDING BILLS, BUT I SHOULD POINT OUT THAT THE AGENCY WOULD HAVE NO REGULATORY POWERS; NO AUTHORITY TO SET RATES, ROUTES, OR STANDARDS; NO MANDATE TO ISSUE LICENSES, RULES, OR ORDERS; NO INSPECTORS TO SLAP YOU WITH FINES. THIS AGENCY WOULD NOT BE MORE OF THE SAME OLD STUFF. IT WOULD HAVE ONLY THE POWER TO PRESENT A CONSUMER VIEWPOINT BEFORE OTHER AGENCIES AND THE POWER TO SEEK COURT REVIEW OF AN ADVERSE RULING.



MOREOVER, ITS ABILITY TO GATHER INFORMATION--TO GENERATE MORE PAPERWORK--WOULD BE STRICTLY LIMITED. BEFORE CONTACTING BUSINESS, IT WOULD HAVE TO TRY TO GET ITS INFORMATION FROM EXISTING GOVERNMENT AGENCIES OR OTHER SOURCES. EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, IT MAY NOT SEEK INFORMATION FROM SMALL BUSINESS, OR FOR THAT MATTER FROM ANYONE ELSE UNTIL THE OFFICE OF MANAGEMENT AND BUDGET HAS REVIEWED ITS REQUEST. EVEN THEN, IF THE REQUEST IS BURDENSOME OR DUPLICATIVE, A COURT MAY SET IT ASIDE. THESE LIMITATIONS GO A LONG WAY TOWARD MEETING BUSINESS CONCERNS ABOUT BURDENSOME INFORMATION GATHERING.

IN SHORT, THE AGENCY COULD ONLY OBTAIN ENOUGH INFORMATION TO ENSURE THAT IT COULD PLAY A MEANINGFUL ROLE IN WASHINGTON. IN THIS RESPECT, MANY CONSUMERS ASTUTELY PERCEIVE THIS AGENCY NOT AS MORE BUREAUCRACY AT ITS WORST, BUT GOVERNMENT AT ITS BEST. IT MIGHT JUST WIND UP SURPRISING A FEW OF YOU AS WELL, BECAUSE IN MANY AREAS, THE AGENCY IS LIKELY TO BE A FRIEND--NOT A FOE. WHEN REGULATIONS COST CONSUMERS MILLIONS OR EVEN BILLIONS OF DOLLARS BUT REAP FEW BENEFITS, ALL OF US HAVE A MUTUAL INTEREST IN THEIR ELIMINATION. NOT MORE, BUT LESS REGULATION COULD THUS BE ONE OF THE FRUITS OF AN AGENCY FOR CONSUMER PROTECTION, AND NEW REGULATIONS WOULD EVOLVE IN A MUCH MORE ENLIGHTENED ENVIRONMENT.

RIGHT NOW CONSUMER PROGRAMS ARE SCATTERED EVERYWHERE. WE NEED AN AGENCY WITH AN OVERVIEW TO SET PRIORITIES, GET THE INFORMATION, AND THEN BE FREE TO TALK ABOUT THE ISSUES. THE CONSUMER AGENCY FILLS THIS BILL.

IN ADDITION TO BEING A CONSUMER ADVOCATE, IT WOULD ALSO SERVE AS A CONSULTANT TO VARIOUS AGENCIES ON CONSUMER ISSUES. IT WOULD BE A CLEARINGHOUSE FOR CONSUMER COMPLAINTS; AN OFFICE IN GOVERNMENT TO GUIDE CONSUMERS THROUGH THE FEDERAL MAZE OF AGENCIES, BUREAUS, DIVISIONS, DEPARTMENTS, AND ADMINISTRATIONS.

IN AN ENVIRONMENT OF BIG GOVERNMENT, FRAGMENTATION OF FUNCTIONS REWARDS THOSE WITH GREAT RESOURCES AND SAVVY WHO "KNOW THEIR WAY AROUND" A COMPLEX BUREAUCRACY. THE AVERAGE CONSUMER DOESN'T HAVE THE FUNDS TO BUY "WASHINGTON" EXPERTISE.

EVEN WELL ORGANIZED CONSUMER GROUPS ARE HARD PRESSED JUST TO KEEP TRACK OF THE MATTERS WHICH INTEREST THEM ALL OVER GOVERNMENT. ADD TO THAT THE COST OF PREPARING TO PRESENT A CASE AND THE FURTHER COST OF PRESENTING IT, AND IT IS OBVIOUS THAT THESE GROUPS CANNOT BE EXPECTED TO UNDERTAKE THE TASK. FOR ONE THING, THEY'RE TOO THINLY CAPITALIZED.

IT IS SOUND DOMESTIC POLICY, IN MY VIEW, TO HAVE A GOVERNMENT FORUM CONSTANTLY IN TUNE WITH WHAT CONSUMERS ARE SAYING ABOUT THE MARKETS IN WHICH THEY SHOP. AND IT SEEMS



ESPECIALLY SOUND WHEN GOVERNMENT'S OWN HAND ADDS DEAD WEIGHT IN SOME AREAS AND NO WEIGHT IN OTHERS WHERE A NEED EXISTS.

ANOTHER CRITICISM LODGED AGAINST THIS AGENCY IS THAT IT CANNOT POSSIBLY SPEAK WITH A SINGLE VOICE FOR PEOPLE WITH INTERESTS AS DIVERSE AS CONSUMERS. I SUGGEST TO YOU THAT IF YOU JUST ASK THE CONSUMERS, THEY WON'T BE IN THE LEAST TROUBLED BY THE IDEA OF BEING REPRESENTED BY A SINGLE AGENCY.

NO ONE DISMISSES THE DEPARTMENT OF AGRICULTURE WHEN THE INTERESTS OF SMALL FARMERS AND AGRIBUSINESS DIVERGE ON FARM POLICY. I HAVEN'T HEARD MANY BUSINESSMEN, BIG OR SMALL, ASKING THAT WE DISMANTLE THE COMMERCE DEPARTMENT. AND FOR THAT MATTER, THE AMERICAN ADVERTISING FEDERATION, AS AN ORGANIZATION, OPPOSES THE AGENCY, WHILE SOME OF ITS MEMBERS SUPPORT IT. NO ONE WOULD ARGUE THAT ANY OF THESE ORGANIZATIONS ARE INEFFECTIVE OR UNNECESSARY SIMPLY BECAUSE UNANIMOUS SUPPORT CANNOT BE RALLIED FOR ANY SINGLE POSITION. AS I SAID, CONSUMERS ARE JUST ASKING FOR A FAIR SHAKE.

EVEN IF ALL CONSUMERS DON'T SEE EVERY ISSUE EYE TO EYE, THEY STILL HAVE AN INTEREST IN BEING HEARD. THIS AGENCY WOULD DETECT THOSE MAJORITY OF INSTANCES IN WHICH A COMMON CONSUMER INTEREST IS CLEAR AND STRONG, SUCH AS ENSURING THAT

LAWS ARE BEING ENFORCED AND IN COMBATING FRAUD AND MONOPOLIZATION. AND IT WOULD BE UNIQUELY EQUIPPED TO DISTILL AND THEN PRESENT MORE THAN ONE CONSUMER INTEREST WHICH MAY HAVE AN IMPORTANT BEARING ON THE OUTCOME OF A CASE.

LET ME MAKE ONE FINAL POINT. AS LEADERS OF THE BUSINESS COMMUNITY, ALL OF YOU ARE KEENLY AWARE THAT PUBLIC CONFIDENCE IN OUR MAJOR INSTITUTIONS HAS BADLY SLIPPED IN RECENT YEARS.

NOWHERE HAS THAT DECLINE BEEN MORE PRECIPITOUS OR MORE THREATENING THAN WITH REGARD TO BUSINESS, AND I KNOW THAT MANY OF YOU ARE ASKING EACH OTHER HOW YOU CAN RESTORE PUBLIC CONFIDENCE IN BUSINESS AND IN THE PRINCIPLES OF FREE ENTERPRISE. LET ME SUGGEST THAT YOU WILL NOT BE ADVANCING YOUR CAUSE IF BUSINESS LOBBYISTS SUCCEED IN KILLING THE LEGISLATION ESTABLISHING THIS INFANT AGENCY. INDEED, YOU RUN A CONSIDERABLE RISK OF INVITING ANOTHER PUBLIC BACKLASH.

IF THIS WERE JUST ANOTHER REGULATORY AGENCY THAT WAS GOING TO IMPOSE MORE PAPERWORK AND MORE CUMBERSOME RULES UPON BUSINESS, I COULD UNDERSTAND THE VEHEMENCE OF THE OPPOSITION. BUT OBVIOUSLY THAT IS NOT THE CASE.

TOO MANY PEOPLE TODAY DISTRUST GOVERNMENT AS WELL AS BUSINESS. THEY FEEL THESE ARE MAMMOTH INSTITUTIONS MAKING IMPORTANT DECISIONS THAT WILL SHAPE THEIR DAILY LIVES, BUT THEY--THE GENERAL PUBLIC--ARE BEING PUSHED ASIDE, MERE



SPECTATORS. PERHAPS THIS IS WHY SO MANY CONSUMERS FEEL THAT GOVERNMENT AS WELL AS BUSINESS IS UNRESPONSIVE AND INSENSITIVE TO THEIR NEEDS. IN A NATION WHICH VALUES ITS FREE INSTITUTIONS--FREE GOVERNMENT AND FREE ENTERPRISE--THIS IS NOT A HEALTHY STATE OF AFFAIRS. THUS, IN A VERY REAL AND MEANINGFUL SENSE, YOU AND I--GOVERNMENT AND BUSINESS--BOTH SHARE AN INTEREST IN BRINGING THE CONSUMER IN OUT OF THE COLD.

AS A FEDERAL TRADE COMMISSIONER, I BELIEVE THAT THIS NEW AGENCY WOULD BE A STRONG ALLY IN GOVERNMENT. SURE, WE MIGHT LOCK HORNS WITH EACH OTHER FROM TIME TO TIME, BUT AS I READ ITS PROPOSED MANDATE, OUR OBJECTIVES WOULD BE THE SAME--TO ENCOURAGE FREE MARKETS IN WHICH THE CONSUMER IS SOVEREIGN. THE KEY DIFFERENCE IS THAT THE FTC MAKES SURE THAT BUSINESS COMPLIES WITH CONSUMER PROTECTION LAWS, WHILE THIS NEW AGENCY WOULD ENCOURAGE GOVERNMENT AGENCIES TO CONSIDER THE CONSUMER WHEN MAKING DECISIONS.

IN THE PAST FEW YEARS, THE CONSUMER MOVEMENT HAS MATURED IN AMERICA. IT IS NO LONGER WILLING TO ACCEPT PATERNALISM, BUT WANTS EQUAL REPRESENTATION. IT SAYS THAT CONSUMERS DESERVE AN EFFECTIVE VOICE IN THE AFFAIRS OF GOVERNMENT. LIKE UNIONS, FARMERS, AND OTHER INTEREST GROUPS THAT HAVE MARCHED DOWN THIS ROAD BEFORE, THE AMERICAN CONSUMER MOVEMENT NO LONGER WANTS TO BE PATTED ON THE HEAD AND SHUNTED ASIDE.

NO LONGER ARE CONSUMERS WILLING TO SCROUNGE FOR CRUMBS THAT FALL TO THE FLOOR. THE AGENCY FOR CONSUMER PROTECTION WOULD GIVE THEM THEIR OWN PLACE AT THE TABLE, AS EQUALS. AND THAT, I BELIEVE, IS WHERE THEY BELONG.

SOMETIME WHEN YOU'RE MULLING OVER THIS ISSUE AGAIN, YOU MIGHT REMEMBER A FEW YEARS AGO WHEN GENERAL DOUGLAS MACARTHUR WAS MARKING HIS 84TH BIRTHDAY. HE WALKED OUT OF THE WALDORF ASTORIA, AND NEWSMEN ASKED HIM WHAT HE THOUGHT WAS THE CENTRAL ISSUE OF OUR TIME. MACARTHUR REPLIED: "IT'S THE AGE-OLD STRUGGLE: THE ROAR OF THE CROWD ON ONE SIDE AND THE VOICE OF YOUR CONSCIENCE ON THE OTHER."

LADIES AND GENTLEMEN, IN THE DAYS AHEAD, I HOPE THAT YOU WILL LISTEN TO THE VOICE OF YOUR CONSCIENCE.

THANK YOU.