

*Government
Protection
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THE NEW FRONTIER AND THE CONSUMER INTEREST

by

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How will the historian of government activity on behalf of the consumer evaluate the first two years and a little more that have now elapsed in the New Frontier Administration of President John F. Kennedy? It is hard to tell what will most attract the attention of the observer ten or twenty years from now, but I predict that the chronicles will give prominent place to these developments. (1) In the first year the Administration sought reorganization and revitalization of the independent regulatory agencies. (2) In its second year, the Administration essayed a comprehensive consumers' protection and interest program, the centerpiece of which was proposed legislation to improve the safety, efficacy, and competitiveness of drugs. Legislation along these lines was enacted by Congress in October 1962. (3) In this, its third year in office, the Administration is supporting legislation to promote truth-in-packaging, truth-in-lending, safety in cosmetics, and efficacy in therapeutic devices, and is working with an active, newly-created Consumer Advisory Council.

Early Government Activity for Consumer

In evaluating these developments of our time, the historian will seek to set them into perspective. He will note that in our country government has always been interested in protecting and promoting the interest of the consumer. But he will also note that there has been a significant evolution in methods, institutions, and problems of concern as they relate to governmental activity on behalf of the consumer. As scientific and technical developments have occurred, as changes in the relationship between the consumer and the productive process have come about, and as attitudes concerning responsibility of society toward individuals have been modified, there have been changes in the role played by local and state governments and also by the Federal Government. These changes can be summarized as follows:

- a shift from common law to statutory law
- a shift from remedy for damage to prevention of damage
- a shift from caveat emptor to "full-truth-for-the buyer"
- a shift from generalized law enforcement agencies to specialized administrative commissions
- a gradual increase in the importance of Federal Government activity in consumer affairs.

These changes were all well under way before the New Frontier. Indeed, by 1906 they were well advanced. In that year, with the passage of the Pure Food and Drug Act, the Federal Government had

completed a series of steps that illustrate all the changes marked out above. The Mail Frauds Statute of 1872 illustrates the shift to preventive action; the Interstate Commerce Commission, established in 1886, illustrates the specialized agency; the Sherman Act of 1890 is an example of the shift from common law to statutory law; and the Pure Food and Drug Law illustrates the departure from caveat emptor.

Since that time we have established few new principles concerning the role of government in consumer affairs. Rather, we have been engaged in extending old principles to new situations. New agencies, including the Federal Trade Commission, the Federal Power Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Communications Commission, and others have come into being. The Food and Drug Act has been extended to cover cosmetics, pesticides, food additives.

Two Types of Government Help for Consumers

There is another line of activity which can, with some effort, be distinguished from that which we have emphasized above as "protective-preventive." This other line I will call, for lack of a better title, "informational-promotional." This line of activity involves a positive role of government in servicing the needs of consumers by means of education and research, and by providing the basis for informed choice. Here again, the tradition of Federal participation goes back a long way -- to the Land-grant College Act of 1862, to the initiation of consumer research in the Department of Agriculture in early days, to the National Bureau of Standards which was set up in 1901.

Scope of Government Activity

These several lines of activity -- "protective-preventive" and "informational-promotional" had come, by the time the New Frontier arrived, to involve a considerable number of Federal employees. According to a recent study by the House Governmental Operations Committee, what they called "direct consumer protection" used, in 1960, the services of 21,880 employees. Interestingly, half of these were in the Department of Agriculture and another 30 percent of them were in the Federal Aviation Agency and Health, Education and Welfare. It is also interesting to note that additional numbers were employed in what are called "direct advancement activities" and still more in "related activity." This study, like others, had difficulty in defining the limits to government activity on behalf of consumers.

Consumer Message of 1962

President Kennedy's Consumer Message of March 15, 1962, also showed some reluctance to draw a narrow line around consumer activities of government. The President noted that "Nearly all of the programs offered by this Administration -- e.g., the expansion of world trade, the improvement of medical care, the reduction of passenger taxes, the strengthening of mass transit, the development of conservation and recreation areas and low-cost power -- are of direct or inherent importance to consumers." However, he went on to detail the specific areas which he felt

fell within the consumer realm. These included food and drug protection, transportation, financial protection, the independent regulatory agencies, housing, consumer information and research, truth-in-lending, manufacture of all-channel television sets, laws promoting competition and prohibiting monopoly, and truth-in-packaging.

The President reported or urged action on more than 40 different measures in his Message. Over half of these involved plans for budgetary or organizational improvements or new emphases in already going programs. Some of them urged new research and information activity by Federal organizations; still others reported new services to be rendered. Almost all of the above have now been put into effect. Eight out of the 40 called for new legislative authority of a substantive, as opposed to a procedural, type. Of these, bills on drugs, manufacture of all-channel television sets, and subsidy for educational TV are now law. Bills on cosmetics, therapeutic and other devices, truth-in-lending and truth-in-packaging are strong contenders for attention in the present Congress.

Our future historian will note that the particular recommendations set forth in the 1962 Consumer Message for the most part fall into a historical pattern set by 1906. He will also be able to show that President Kennedy caught up numerous strands from the past in his declaration of consumer rights which he put forth in that message as follows:

"(1) The right to safety--to be protected against the marketing of goods which are hazardous to health or life.

"(2) The right to be informed--to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make an informed choice.

"(3) The right to choose--to be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and Government regulation is substituted, an assurance of satisfactory quality and service at fair prices.

"(4) The right to be heard--to be assured that consumer interests will receive full and sympathetic consideration in the formulation of Government policy, and fair and expeditious treatment in its administration tribunals."

Consumer Advisory Council

I mentioned at the outset that I thought the historians of consumer activity are going to be interested in the New Frontier because of the pioneering effort to give explicit attention to the distinctive interest in the process of governmental decision-making by means of a Consumer Advisory Council. This Council was called into being by the President in pursuit of the fourth consumer right -- "the right to be heard." He stated that he had observed ". . . the failure of governmental machinery to assure specific consideration of the consumer's

needs and point of view." He then went on: "With this in mind, I am directing First, that the Council of Economic Advisers create a Consumers' Advisory Council, to examine and provide advice to the Government on issues of broad economic policy, on governmental programs protecting consumer needs, and on needed improvements in the flow of consumer research material to the public; this Consumers' Council will also give interested individuals and organizations a voice in these matters; Second, that the head of each Federal agency whose activities bear significantly on consumer welfare designate a special assistant in his office to advise and assist him in assuring adequate and effective attention to consumer interests in the work of the agency, to act as liaison with consumer and related organizations, and to place increased emphasis on preparing and making available pertinent research findings for consumers in clear and usable form"

The Consumer Advisory Council was appointed by Chairman Walter W. Heller of the Council of Economic Advisers in July of last year. Its membership of eleven outstanding citizens includes a number of the members and leaders of your Council on Consumer Information. The Consumer Advisory Council members are: Mr. David W. Angevine, Dr. Persia Campbell, Dean Helen G. Canoyer (who is Chairman of the Council), Mr. Stephen M. DuBrul, Mrs. John G. Lee, Dr. Edward S. Lewis, the Honorable Walter F. Mondale, Dr. Richard L. D. Morse, Mrs. Helen E. Nelson, Dr. Caroline Ware, and Dr. Colston Warne.

Work of the CAC

The Consumer Advisory Council has worked closely with the special assistants for consumer affairs who were appointed last July in 22 departments and agencies. The Council has divided itself into several working committees, each of which has taken a subject-matter area for study. These areas are rather broad. For example, one committee is dealing with the whole field of consumer standards, grades and labels. Other committees have the following assignments: two-way flow of information between Government and consumer; effective consumer representation in Government; and consumer credit and economic welfare, interrelationships of government agencies in consumer protection.

This Council has now held four two-day meetings in addition to its organizational meeting in July. President Kennedy met with the Council in July and again in January. It will hold one more meeting in June to close its activity for the first fiscal year.

The activity of the CAC to date has centered around study and gathering of information by the several committees. In this effort they have consulted with numerous in-government experts. In addition, the CAC has communicated its views on a number of legislative and other proposals to the Chairman of the Council of Economic Advisers, who has, in turn, communicated those views to the President or other appropriate members of the Administration.

The CAC has issued statements favoring "truth-in-packaging" and "truth-in-lending." They have endorsed proposals to assure the safety,

effectiveness, and reliability of therapeutic, diagnostic, and prosthetic devices, and to extend to cosmetics the pre-marketing testing for safety that is in effect in the fields of drugs and food additives. They have also urged new requirements for cautionary labeling of hazardous substances and containers regulated under the Food, Drug, and Cosmetics Act. They have set out a list of principles which they would like to see used as guides in housing policy. They have called for more funds for consumer research and information work. This Council has also evaluated and made recommendations on the basis of the pilot project carried out by the Government Printing Office and the Post Office whereby over a quarter of a million special order blanks for consumer publications were distributed through a sample of 100 out of the Nation's 35,000 post offices.

The Consumer Advisory Council has expressed interest in seeing studies or investigations undertaken on a number of topics. Among these are the following: the nature of guarantees and warranties within major areas of consumer expenditure; the establishment of standards for sizes of clothing and clothing patterns, especially for children's clothing and knit garments; the possible adoption of Federal safety standards for electrical equipment; the possibilities for more intensive and extensive work by private and governmental agencies in strengthening and unifying standards and simplified practices programs; the promotion of national standards looking toward highway safety; and the development of uniform warning labels on toxic substances.

Usefulness of the CAC

Experience thus far demonstrates that there is a useful role for an advisory council of this kind. It is important to take a government-wide look at a number of consumer problems. It is not surprising that in the long history of government activity on behalf of the consumer, there have been divided and fragmentary efforts along some lines. Just to cite one example, there is no general plan to assess the publications of the numerous departments and agencies from the point of view of the consumer. Hence we find that while there are many good publications on foods and food preparation, there are few on, say, consumer budgeting, finance, or insurance. There are other examples to be found of lack of uniformity in government activity in consumer matters, and the Consumer Advisory Council can help in achieving a more balanced overall program. The Consumer Advisory Council can thus play a useful and integrative role within the government. It can also serve the important educational role, along with consumer organizations, of calling public attention to the distinctive consumer interest in governmental affairs.

Experience to date also demonstrates that it is not altogether easy to devise a way to implement the consumer's "right to be heard" in a large government dealing with a wide range of complex issues. Ironically, it may be easier to arrange new ways for government to do things for consumers than to arrange ways for consumers to participate in government and to express their point of view. It is on this problem

that we need all the constructive and imaginative thinking that members of the Council on Consumer Information can provide. How do we communicate from a mass of largely unorganized consumers to those responsible for governmental decisions on numerous (some highly technical) questions, and then back again to the consumers? Is there some part of this process of communication which can best be carried out by private organizations such as yours?

It is important to note the uniqueness of the present Consumer Advisory Council. There have been a number of earlier organizations set up to bring consumer representation into the Federal Government, but none of them had all of the favorable characteristics and circumstances which the present one has. These include: a presidential charge or statement of purpose, attachment to an agency in the Executive Offices of the President, detachment from any particular operating agency, liaison (through the special assistants) with most of the executive departments and agencies, access to a budget and a staff (even though both are limited). This uniqueness, plus the successful representation of consumers in State Governments and in a number of democratic nations overseas, offers basis for hope that this innovation will be of lasting significance. At any rate, at this moment the New Frontier is a frontier for consumer interest in government. With your help, the history books will refer to this period as one of progress in governmental activity on behalf of the consumer -- and perhaps even more significantly as one of active participation by consumers in their government.