

# RECORD OF SOCIETY OF ACTUARIES 1980 VOL. 6 NO. 1

## EFFECT OF GOVERNMENTAL ACTIONS AND CONSUMERISM ON PRODUCT DESIGN AND PRICING OF THE FUTURE

Moderator: RODNEY ROHDA. Panelists: WILLIAM A. WHITE, WILLIAM M. WHITE,  
DAVID A. SWANKIN\*

Although the title of our session focuses on the impact on product design and pricing of governmental and consumerist activities, our panel will approach the subject from a broader perspective. In addition to the subjects of product design and pricing, we will also be looking at such issues as marketing, and the impact on insurance companies as a whole. However, you will note in the program that risk classification and taxation will not be covered in this session but instead are treated elsewhere in the program.

This morning's panel was recruited with the intention of getting as broad a perspective as possible in covering this important topic. I could not be happier with the results and after our session's done, I know that you will also agree. Our panel consists of a leader in the growing field of consumerist law, one of the brightest and most articulate state insurance department regulators of today, and a director of government relations for one of the largest stock life insurance companies -- one which has had a particularly active interest in dealings with regulators and consumerists.

David Swankin is a partner in the Washington, D. C. law firm of Swankin & Turner. His firm represents consumer groups in federal regulatory proceedings especially in the areas of jurisdiction of the FTC, CPSC, OSHA, FDA, USDA, and USDC. Mr. Swankin has more than 15 years of experience in consumerists' activities which, almost by definition, makes him one of the Charter members of the organized consumer movement. From 1965 to 1967 he was Executive Director of the White House Office of Consumer Affairs and was involved in the background work that led to the enactment of the "truth in packaging" and "truth in lending laws". He went from that position to successively hold the positions of Deputy Assistant Secretary, U.S. Department of Labor; Washington Representative for Consumer's Union; and Executive Director, the Consumer Interest Foundation.

William A. White is presently Chief Actuary of the New Jersey Insurance Department. Prior to joining the Insurance Department in 1969 he spent over 20 years with two major mutual life insurance companies. Bill has been extremely active in the National Association of Insurance Commissioners, and is known throughout our industry for his substantial intellectual ability combined with a skill for cutting to the heart of regulatory problems.

Our third panelist is William M. White, Director of Government Regulations for the Connecticut General. No, You need not worry that you are seeing double, we really do have two William Whites on our panel. CG's Bill White has over 30 years experience with all aspects of his company's actuarial operations. In 1973 when CG formed their government relations department, Bill became a Director of Government Relations.

\*Mr. Swankin, not a member of the Society, is a Partner with Swankin and Turner law firm.

In order to adequately assess what impact government regulation and consumerism will have on our industry in the coming decade, it is important to consider the nature of the industry's past experience in the governmental and consumerist arenas. In approaching our topic this morning, I have asked our panelists to reflect on the following questions, and would like to ask you, the audience, to consider them also.

First, what have been the most important regulatory and consumerist actions in the past decade as it relates to our products, their marketing and the overall operation of a life insurance company?

Second, what will be the most important actions in these two arenas in the next decade?

Third, what specific impact have these regulatory and consumer actions had on our companies in the past decade and will they have in the coming decade?

Fourth, and perhaps most important, what true value has accrued to individual consumers and the general public because of these actions, and what impact will they have in the next decade? Is there an acceptable relationship between the value of these benefits and the cost to the companies of providing them?

With that as background, our panel will begin with William M. White.

MR. WILLIAM M. WHITE: "What is past is prologue."--Words of Shakespeare from *The Tempest*, a not unsuitable title for our current turbulent times. If we do not learn from the errors of the past, we are bound to repeat them. Admittedly, these do not sound like words of a futurist, but there is considerable continuity which carries forward into any scenario chosen.

In considering the effect of governmental actions and consumerism on our future product strategies, a backward glance is essential. The obvious answer to whether our future regulation will be state or federal, or both, is "Yes."

The fears of many in the industry that there is strong desire at the Federal level for greater involvement in insurance regulation is confirmed by John Rhodes, Minority Leader in the House of Representatives, who stated in a speech to insurance brokers last year that "... your industry is politically an attractive nuisance. For the bureaucracy, you represent the last big frontier--the only major industry that Uncle Sam has not taken into the fold. Not only Congress, but also existing regulators have cast covetous eyes in your direction."

This opinion, however, must be viewed in the perspective of the changing regulatory climate in Washington. Stuart Altman, from his years of experience at the higher levels of the Department of HEW, characterizes the government's changing strategy for action as follows: In the 1960's, if there was a problem, the approach would be to create a new program and spend money. In the more economically troubled 70's, there was a shift to trying

to solve problems by regulating the private sector (OSHA and Environmental Protection Agency are but two examples of this). Now at the start of the 80's, there is a trend toward deregulation and attempts to solve problems by fostering competition.

In spite of this trend, however, one cannot predict that the increased Federal activity in matters affecting insurance in the recent years will soon abate. Subjects included in this activity are: ERISA, mandatory maternity benefits, age/sex discrimination, and privacy. Much attention has been focused recently on FTC staff initiatives in the areas of cost disclosure, pension and replacements. Congress is currently considering whether to provide for a one-or-two-House veto of FTC regulations, and whether to elaborate on the McCarran-Ferguson Act prohibition of Federal regulation of insurance by specifically restraining the FTC staff from even studying insurance matters,--a back door entry to regulation.

Meanwhile, back in the states--historically the prime situs of insurance regulation,--there is no evidence of a withering away or a lack of activity. The number of bills affecting insurance considered by state legislatures is increasing at a rate of 15-20% every two years. Over a 20-year period, the number of bills filed annually has risen fourfold from 60,000 to nearly 250,000. The major problems for the industry with state regulation lie in the area of non-uniformity, which requires extra expenditures to comply with the differing requirements of various states. These extra costs must be borne by our customers. One of the major objectives of the National Association of Insurance Commissioners is to seek uniformity of state regulation through the development of model statutes and regulations for use as guides by the states. These have not been wholly successful in producing uniformity because of the temptation for many states to modify the models. If this were done in recognition of the unique circumstances or needs of a specific state, there might be some justification; but where it is done for the sake of demonstrating their own individuality, it can be very expensive and disruptive, particularly in the area of mandated benefits. One of the strongest arguments for Federal regulation is the desire to escape from the unproductive, troublesome and expensive diversity of state requirements.

A laundry list of current areas of state activity includes: solicitation, cost disclosure, readability, advertising, replacement, privacy/credit reporting and anti-discrimination and mandated benefits. Those within the industry, and this still appears to be the vast majority, who favor state regulation do so for the following reasons: it is more adaptable or responsive to diverse local conditions and needs; it is an established known entity and allows for the possibility for more innovative experimentation; the overriding reason, however, is that unreasonably adverse regulation in one state, while impairing your ability to conduct business properly in that state, would not necessarily force you out of business in other jurisdictions--whereas adverse Federal regulation of a type that many would fear from an organization like the FTC could be fatal.

Obviously, in the 80's we will have to live with existing state regulation and the possibility of an increasing Federal role in certain areas. Experience with attempts to pass Federal no-fault insurance and some of the privacy proposals indicate that the prospect for Federal standards bills which would pre-empt state deviations in those areas is unlikely. The prospect is for more dual regulation in those matters where the Federal government decides to act, unless the industry and the states remove the need for greater

Federal involvement by enacting socially responsible and responsive state regulation in those areas where self-regulation or voluntary action by the industry is not able to address the public's concerns.

What should our companies' response be to this regulatory outlook? Traditionally, the action of most in the industry has been in the compliance mode of doing what was required to meet the letter of the regulation in the simplest, least expensive way. In recent years there has been a growing trend for more companies like my own to become more involved before the fact in the development of legislation and regulation affecting our operations. We have a responsibility to participate in the creation of the rules by which we must live, not for our own self interest, but for the good of the consumer and the public.

We should seek to capitalize on the current trend toward less regulation, except where it is needed to correct the abuses. Competition in the free market place should be allowed to function and we should seek to avoid excessively costly over-regulation, which not only drives up the cost of providing our services, but also places the greatest burden on smaller companies which could ultimately lead to more mergers, fewer companies, less competition, and less innovation.

It behooves the industry to demonstrate that it is responsive to the public's needs by voluntarily taking actions that will help alleviate problem areas, and help reduce the need for specific regulation at any level. Examples of this are the actions of many companies in the cost disclosure and privacy areas where they are voluntarily doing on a nation-wide basis that which is not yet required in many of the specific states. Unfortunately, with human nature as it is, there will usually be a need for some type of policing or regulation to prevent abuses by a few unscrupulous operators. An approach which would be worthy of consideration would be that of self-regulation by an organization of the insurance companies, a la the National Association of Securities Dealers in the investment field. This would have the potential for more flexible, cost effective regulation which could prevent the abuses at a smaller cost to the taxpayers.

Turning now to consumer needs and expectations, what does the customer really want? Does the public really seek a "risk-free society" where the individual will be insulated from all hazards--if so, at what cost? Does the individual want freedom of choice--a say in the allocation of his own resources? Does he want to plan for his future, or will galloping inflation make current needs so costly that he has to let the future take care of itself? Does the individual want the freedom to make his own purchase decisions, or does he want the government to decide what is best for him with the probability of not adequately reflecting his own unique situation and desires?

I am not convinced that the consumer advocates,--David Swankin excepted,--really know or speak for what the average consumer wants. I fear that in the dialogue between regulators, business and consumerists, what the general public really wants may be overlooked. From the limited survey data I have seen, public attitudes towards regulation are complicated by conflicting impulses. It showed on the one hand that Americans generally feel government has too much to say in business and often does not consider the cost of its actions; on the other hand, most people want to be protected against danger and don't trust business to fill this function. It summarized public attitudes as follows: most people, while paying lip service to the idea of letting

consumers make informed choices, support enthusiastically virtually any regulation affecting personal health or safety. On the other hand, regulations that do not directly affect personal health and safety tend to be evaluated on the basis of "who benefits?" If consumers can be shown that the costs of a particular regulation outweigh the benefits, and that at least part of the savings will be passed on to them, they tend to favor deregulation.

In a free competitive environment, it behooves any company to be concerned with what the public wants. If an organization does not over time efficiently serve the public desires, the judgment of the marketplace will cause it to go out of business. In a free society, a company should be given the chance to succeed or fail in its own way so long as the people have adequate knowledge to make an informed decision as to whether the product or service in question meets their needs at a price they wish to pay. More on cost disclosure later.

Before that, a word on a company's general response to consumer needs. In addition to the normal merchandizing efforts seeking an increasing share of the market through competitive product/pricing strategies, it is important to ensure that our customers are properly served after the purchase of our products. At times, we have experimented with specific customer affairs functions to act as ombudsmen, follow up on complaints, and seek to instill a service philosophy in the organization so that the customers do not get lost in the shuffle. This operation is particularly important in ensuring that the orphan policyholders are served in the way they should be. We have installed complaint monitoring and review procedures beyond those required by certain states. We also survey current and former customers to ascertain their desires and reactions to our service. I believe this may provide more meaningful information than the opinions of certain self-appointed consumer spokesmen, such as the FTC staff, who appear to base much of their criticism of industry practices on extrapolation from isolated events. The industry clearly should be responsive to consumer needs and desires. The challenge is to properly identify them. I hope Mr. Swankin can assist us in this area.

Turning now to one of the most discussed consumer issues in life insurance,-- cost disclosure. It has been a hot issue at both the state and federal levels for nearly a decade. Time does not permit a recap of past developments with which most of you are probably familiar. I would like to share my thoughts on some basic principles of what proper disclosure should accomplish and touch on some current developments.

The fundamental objective of proper disclosure should be to ensure that the buyer obtain the necessary and proper protection at a fair price. By fair price, I mean one where the buyer cannot purchase a similar combination of benefits and services at a substantially lower price. To meet this objective of proper protection at a fair price, the disclosure process should do the following for the prospect:

- 1) - Improve his ability to select the appropriate amount and type of coverage for his needs;
- 2) - Improve his understanding of the basic features of the policies being considered for purchase;

- 3) - Improve his ability to evaluate relative costs of similar plans; and
- 4) - Not constitute an unnecessary impediment to obtaining needed coverage.

A good, well-trained agent is the best way of accomplishing the above. But since not all prospects have access to one, some standards or guides are appropriate to ensure that the public is well served in this area. In my judgment a good disclosure system should:

- a) - Focus on the needs of the buyer first;
- b) - Be as simple as possible for the sake of ease of understanding and lower expenses;
- c) - Be adequate to enable choice of proper policy - i.e., the information should be relevant, fair and not misleading;
- d) - Be consistent--i.e., similar rules in all states--in order to minimize confusion and reduce expenses.

The current NAIC model regulation - which was developed over several years of study, debate, exposure and compromise - represents the best approach to disclosure to date. Its supporters do not claim it is perfect and that it could not be improved, but we urge that any modification be carefully considered so that any changes do not upset the carefully constructed balance between conflicting objectives and interests.

A few comments on current developments - First, the Wisconsin Cost Disclosure Suit - We were one of the group of companies challenging the Wisconsin Commissioner's revised disclosure regulation which was originally to become effective in early 1979. The purpose of the suit was to prevent the Commissioner from requiring improper and misleading disclosure. After more than a year of legal proceedings, the trial judge ruled in our favor. The state is appealing the decision, but we feel that it is unlikely that the higher courts will overturn it. The issue in the suit was over the substance of the disclosure required and not over the timing of disclosure--which is currently one of the areas receiving the most attention.

Another item of current debate is the value of the Rate of Return concept in life insurance cost disclosure. The FTC staff and others with varying degrees of insurance knowledge feel that a rate of return or Linton Yield number would be of value. I am a member of a Special Wisconsin Task Force appointed by the prior Wisconsin Insurance Commissioner (Harold Wilde) to evaluate the rate of return approach for its merit in life insurance cost comparison. The task force is in the process of drafting its report which will be ready later this year. While the rate of return is an elegant actuarial concept, I personally believe that it is not that helpful to the buyer. In fact, its touted advantage--that of a self-quantifying index, expressed as an interest rate which should have meaning to the average buyer--is, in effect, its greatest weakness. The average person would be more apt to be misled into making a judgment as to the value of the policy, because he probably has a personal feeling for what levels of interest are reasonable. Comparing the rates of return of two similar policies does

give an indication of relative cost, but is not more accurate than other indices proposed in the NAIC model. The latter are not expressed in a form which could cause the buyer to read more meaning into the number than he should.

The recommended use of Rate of Return in the FTC Staff report on insurance cost disclosure is only one of the serious faults of that unfair, sensationally misleading report presented to the Senate Commerce Committee last year. This was a great disservice to the public because, despite attempts on the part of the industry, members of Congress and others to set the record straight, the erroneous, widely reported, out-of-context excerpts may deter people from purchasing needed coverage which would be best for them.

The report also further damaged FTC credibility. It was a demonstration of an irresponsible approach to regulation, the study of which had not been authorized by statute. The duplicity illustrated by the FTC would have been condemned by them if practiced by others. On the one hand, they urged states not to adopt the NAIC model disclosure regulation until the FTC had completed its study, while at the same time intending to cite lack of state action in this area as a reason for the FTC to claim that it had proper jurisdiction since the state had not acted.

Further chapters in the evolution of cost disclosure will be written in the 80's. This represents an opportunity and a challenge for the industry to help shape its future by demonstrating it can be sensitive to legitimate consumer concerns. Through voluntary actions and by working for regulatory improvements through the insurance departments and the legislatures, we have a chance to help shape the environment in which we will be operating.

In order not to wreak havoc with Rod's schedule, I will defer any thoughts on Commission Disclosure and Privacy to the discussion period.

MR. WILLIAM A. WHITE: It is the inalienable right of any regulator to be contrary. I will be contrary this morning, first by ignoring the four questions Rod has posed and then by quarrelling with the program committee on their assessment of our various futures. Let me now throw in a disclaimer which is not in my printed remarks. These views are my own and do not represent those of the New Jersey Insurance Department.

Your Program Committee has presented me with a dilemma: we panelists have been asked to comment on how the individual life insurance and annuity business will be affected, during the coming decade, by each of three external environments. These have been identified to you in yesterday's session. The implied premises are, first, that regulation of the life insurance business is one of the major problems currently facing the industry and likely to affect it in the future; second, that regulation somehow has a malevolent will of its own and is not shaped by the same external forces that shape the course of the life insurance business. Each of these premises is wrong, and during the next few minutes I will try to paint a somewhat different picture of how regulators and the life industry are likely to interact during the 1980's.

In order to project future regulatory developments, it is necessary to start with where we are today and how we got here. During the last ten years, there have been many major changes in the nature and purpose of insurance

regulation, and most of you may not appreciate what these changes mean for the life insurance industry. In 1970, the regulation of life insurance was probably the main function of most insurance departments in the United States; today, life insurance is viewed as a minor and relatively unimportant regulatory responsibility of these same regulatory agencies. This change in priorities has been logical and, in all likelihood, it is entirely proper. There are three major factors that have brought about the change. I will discuss each of them and its impact on regulation and then attempt to project briefly what is likely to happen to life insurance regulation during the coming decade. Listed in order, from least important to most important, the factors I view as affecting insurance regulation have been:

1. Consumerism;
2. Inflation;
3. Abolition of Class Injustices.

### Consumerism

It may surprise you that I list consumerism as the least important factor affecting insurance regulation. Ten years ago—as a near-charter member of the consumerist movement—I had high hopes that a new generation of smarter, better educated Americans was thirsting for knowledge about the relative price and quality of almost every product it planned to buy. The consumerists' catchwords were "full disclosure," and the assumption was that the public would react enthusiastically, and buy wisely, if supplied with all relevant facts about all important purchases.

Frankly, in my opinion, consumerism has been a dud. What seems to have happened is that consumerism has lost out to "convenience." The seventies might be characterized as the decade of "lazy affluence," where the public will flock to buy—at any price—a product that will turn itself on, do its job, turn itself off, and put itself away. In a time when Bloomingdale's prospers while Two Guys goes out of business, when a fast-food outlet and a 24-hour "convenience" market open to replace every boarded-up fresh vegetable stand, and when a new automobile without automatic transmission, power-steering, and air-conditioning is a "special factory order," it is difficult to conclude that consumerism has really taken hold.

Life insurance is probably as good an example as any of the public's lack of interest in consumerism. During much of the seventies, the National Association of Insurance Commissioners labored to design and put in place a disclosure regulation for life insurance. I will not go into the merits and demerits of that regulation here, except to mention that the Federal Trade Commission sponsored an "Evaluation of the Impact of Life Insurance Consumer Information Disclosure in New Jersey." The researcher was Roger A. Formisano, a bright, young professor at the University of Wisconsin. The study, done in cooperation with the New Jersey Insurance Department, Prudential, and Metropolitan, consisted of half-hour interviews with some 194 New Jersey residents who had purchased individual life insurance shortly after the effective date, in New Jersey, of the NAIC Model Disclosure Regulation. The following quotes, from Professor Formisano's "Summary and Conclusions" may indicate why the study received almost no mention in the FTC's "STAFF REPORT ON LIFE INSURANCE COST DISCLOSURE":



- " ...although the typical life insurance buyer is very satisfied with the product purchased and the salesperson from whom the policy was bought, the typical buyer is also uninformed concerning the nature of life insurance, the operation of life insurance policies, and the cost of different life insurance policies. This general theme of satisfaction, yet misinformation or lack of information is persistent in the responses of the interview."
- " ... ignorance of life insurance information appears to be as much, if not more, of the problem than inaccurate information. This finding is significant because it indicates that the typical life insurance buyer may not consider the acquisitions of life insurance knowledge beneficial enough to warrant the effort and time required to attain it."
- "With respect to the area of cost disclosure, respondents in the sample devoted the least amount of attention to inter-company cost comparisons, when compared to fifteen other life insurance attributes. As a result, very little cost based shopping behavior was observed."
- "It would appear that this condition [lack of awareness of the Buyer's Guide, of difference between policy types and companies, of the '10 Day free look,' and of the 'substantial benefits accruing to the informed consumer'] prohibits disclosure information from being truly effective unless the potential user can be convinced that the benefits of the program are more valuable than the costs of investing the time and effort required in its use."

I read Formisano's comments as an indictment, not so much of the disclosure system as of the consumer's steadfast refusal to be educated. If I were to paraphrase these comments, it would be: You can lead a horse to water, but you cannot make him do the backstroke.

### Inflation

Inflation has affected insurance regulation in two ways. First, it has tended to focus regulatory attention on insurance products whose claims are a function of the level of inflation; second, it has made all regulatory agencies cost/benefit conscious and caused them to direct their energies to areas which have obvious financial advantages for the taxpayer.

The individual insurance products most affected by inflation are the hospital-medical-surgical, automobile, and homeowners' lines. In each case, the magnitude of claims payments has been increasing more rapidly than the cost-of-living in general, and the increased claims have necessarily been reflected by higher premiums. The resulting public outcry demands closer regulatory scrutiny, and insurance regulators have devoted more and more of their time to public hearings on and careful review of the expense levels, profitability, and control of fraudulent claims in the health, property, and liability lines. Fortunately for the life insurance industry, its

product seems to be almost immune to inflation; higher (inflation-fueled) interest rates and improving mortality have more than offset inflationary increases in sales and administrative expenses, and the life industry seldom passes up an opportunity to proclaim that its product is one of the few that is less expensive than it was twenty or thirty years ago. As a result, the average regulator views life insurance as a business that really does not have to be regulated, and a good many insurance department jobs formerly concerned with regulating life insurance are now devoted to the non-life activities of the department.

The second effect of inflation is its impact on government bureaucracies. When is the last time you heard a politician open his mouth without promising to "trim wasteful government spending"? Voters and legislators translate these promises into actions like "Proposition 13," the "Sunset Laws," and budget cuts. When these demands reach us at the regulatory level, they arrive in the form of challenges to justify our continued existence in terms of cost/benefit ratios--how many dollars did you make or save for the taxpayer last year in exchange for tax dollars he invested in your regulatory operation? For the life insurance regulator, this is an almost impossible question to answer. I have heard a deputy insurance commissioner, of whom I think very highly, suggest that state involvement in regulatory planning for the life insurance industry has about the same benefit, for the general public, as NASA's space exploration program during the 1960's. The suggestion that life insurance regulators protect the public from life company insolvencies and from shoddy insurance products is about as persuasive as the suggestion that the crowing rooster is responsible for the sun's rising every morning.

#### Abolition of Class Injustices

It may surprise many of you that I have identified, as the major factor for change in insurance regulation, a term you've never heard before. This was deliberate on my part. Most commentators on the regulatory scene would probably class this topic as "consumerism" and then go on to describe it in terms of insurance affordability and availability. The affected insurance companies--mostly of the property and casualty variety--would be less charitable and call this "socialistic tampering."

There are two major distinctions I make between "consumerism" and "the abolition of class injustices." First, consumerism is directed to the individual and the problems surrounding his ability to make an informed purchase decision; abolition of class injustice is directed to classes of individuals (the poor, the young, the inner city residents, females, for example) who find it difficult or impossible to obtain essential insurance coverages. Second, consumerism accomplishes its objectives by means of education of the consumer and the requirement of complete, digestible disclosure of all relevant facts by the vendor; abolition, as the word implies, requires fundamental changes in the way vendors operate so as to accomplish a result that the class of purchasers would be incapable of accomplishing for itself in the traditional free market place.

I will not go into the details of the problems or the regulatory responses to those problems except to explain why there have not been parallel developments in the field of life insurance regulation. The "class injustices" I am talking about are those that prevent people from obtaining mandatory or quasi-mandatory insurance; by "quasi-mandatory," I mean insurance whose

purchase is, realistically, a condition to getting a good job (automobile insurance) or decent housing (fire insurance in "redline" areas). The resulting regulation is an attack on the traditional risk classification system, together with requirements that all risks be accepted via risk assignment or joint-underwriting arrangements. In this context, individual life insurance is almost completely optional, and there are no perceived injustices of pricing or availability to which regulators can address their attentions.

This is not to say that there are no injustices in the design or marketing of individual life insurance, but those that have been alleged to exist are subtle and highly debatable. The "term versus permanent" controversy, in all of its various forms, is a good example of claimed injustice; the self-serving nature of most of the accusations--pro and con--is apparent to most regulators. Also, the "class" of people involved (generally middle and upper) is the class that traditionally pays the price, rather than receives the benefit, of regulatory involvement.

What does all of this portend for life insurance regulation in the next decade? The picture I have painted is of life insurance regulation moving from a dominant position, in the structure of the average state insurance department, to what is today a relatively insignificant part of the total operation; the movement has been a logical response to public pressures, to the economy, and to the apparent continuing unobtrusive success of the life insurance industry. Under any of the three scenarios which provide the futuristic theme for this meeting, there is no reason to anticipate any change in the underlying factors or, as a result, any change in the trend toward weakened regulation of life insurance.

Is this good or bad? From the industry viewpoint, it is probably good--at least in the short run. If you look at the situation objectively, you would have to conclude that there is no major industry in this country that has enjoyed the uninterrupted success and relative freedom from regulation that the life insurance industry has enjoyed over the last thirty or so years. Life insurance may be the last self-regulated industry, with trade associations drafting almost all meaningful legislation and regulations and having virtual veto power over any unpopular regulatory developments.

I said that the absence of life insurance regulation is probably good for the industry in the short run; there is a "fourth scenario" for the 1980's that could spell trouble. If inflation and its companion high interest rates continue to increase at the present runaway rate for another six months or a year and are then brought to a sudden stop by tight controls or a total collapse of the economy, then several hundred life insurance companies are likely to fail. The twin villains will be disintermediation on the upswing (capitalizing on overly generous withdrawal and loan guarantees at book value) and default on the downslide (the penalty of overly optimistic interest guarantees in life and annuity contracts). If this scenario materializes--and my guess is that it is about as likely as any of the three scenarios we have been given, although I do not want to be accused of "predicting" it--I would not want to be a part of regulation. In the first place, regulators would be accused of having "let it happen," and in the second place we would be handed the impossible job of making good on life insurance promises.

If I sound discouraged, then you have been paying attention. In my thirty years in this business, there has never been as great a need for thoughtful, responsive, responsible regulation as there is today--both for the public and for the life companies. The pace of change is accelerating in your markets, in your products, and in the economy. The industry's critics are claiming that state regulation of life insurance is weak and ineffective; they are right. In my opinion, there is only one insurance department in the United States--New York--that is staffed to do an adequate job of regulating life insurance. (There are, of course, two such departments in North America, including the Canadian Insurance Department.) Let me hasten to explain that this statement is in no way meant to be critical of the dozen or so members of the Society who work for insurance departments outside of New York--without exception they work hard and well, but the support they get, in terms of staff and money, would hardly justify a rating of "adequate."

Is this situation an open invitation to a Federal takeover of life insurance regulation? I do not think so, for the simple reason that Federal legislators think and react pretty much the same way that state legislators do. So long as those of us in state regulation cannot come up with compelling reasons for our legislatures to continue or expand life insurance regulation, it would be naive to think that anyone will be able to accomplish this at the Federal level. Recent Congressional votes on the FTC's authority to study the insurance business would seem to support this contention.

The logical concluding question is: What will diminished state regulation of life insurance mean for the industry and, particularly, for the actuarial profession? For companies, the answer is likely to be increased freedom, although there will still be grousing about the difficulty of getting approval of new programs and policy forms--the usual bureaucratic red-tape will not diminish; for actuaries, the answer is almost certainly increased responsibility. You are going to have to assume the "conscience" and "sound-board" roles that life insurance regulators have traditionally filled. Key to this responsibility is a realization that the "company" and the "regulatory" actuarial viewpoints are often quite different. Steve Kellison, writing as Executive Director for the American Academy of Actuaries in the Academy's January 1980 NEWSLETTER, expressed this better than I ever could, and I can think of no better way to end my presentation than by reciting two paragraphs from Steve's article.

Recently there has been a growing awareness that the NAIC is dealing with an increasing number of professional actuarial issues and that there is great need for increased involvement of actuaries wearing "professional hats." This need has been evident in the recent agendas of a number of academy committees and task forces. The Board of Directors of the Academy has encouraged a higher profile for the Academy in dealing with professional actuarial issues at the NAIC level.

It is important for actuaries, speaking as actuaries, to become involved in these activities, since the priorities and perspectives of the actuarial profession may not be identical to those of the insurance industry. For example, issues of fundamental interest to the actuarial profession may be of only passing interest to the industry. Conversely, many industry issues have little or no actuarial

content. It is also important for actuaries working on these issues for the profession to keep in mind that positions taken by the profession must involve professional actuarial principles and cannot be unduly influenced by the views of any one, or group of companies that may have a particular commercial interest in mind.

MR. DAVID A. SWANKIN: It is a pleasure to be with you today, and speculate about the 1980's. I sometimes find it difficult to predict with accuracy the next week's events, never mind the next decade's, but I must say it is fun to try.

As you can see from the program, our panel has been asked to look at the effect of governmental actions and consumerism on product design and pricing of the future.

We have been asked to examine three subtopics:

- Regulation
- Consumer needs
- Industry's response

As a Washington-based attorney representing a number of consumer organizations, especially in their relations with Federal regulatory agencies, I will concentrate on the first two of these subtopics.

Let me begin with the area of consumer needs. First and foremost, however, something needs to be said about the method by which one determines these needs.

I would imagine that there is nothing I have heard stated more often in the past 15 years (since I have been actively involved in consumer protection issues) than the following: "Who are these so-called consumerists, these self-appointed protectors of their self-defined "public interest", who, with no constituency and no body to whom they are accountable, nevertheless try to tell US what's good for consumers."

Sometimes it is said with hostility; sometimes with sarcasm; sometimes with inquisitiveness; and sometimes as a defense mechanism which serves to discount what they have to say. Any of these reactions are explainable; it is only the latter that is dangerous. For if we have learned anything in the past that we should apply to the future, it is to deal with the message and not the messenger.

There are hundreds of organized consumer groups throughout the country -- at last count nearly one thousand. Most of them are organized at the state and local level, not nationally. Most of them are organized as membership organizations; most of them have small numbers of members; most of them operate on miniscule budgets. I have often wondered why so much energy was devoted to disparaging these consumer groups, rather than to considering how so few could have so much impact. For any honest appraisal of the phenomenon of consumerism during the past two decades would result in attributing to it an influence and an impact far beyond what its membership lists and bank accounts would justify.

The reason is that they have been right more often than wrong. By right, I mean in tune with the American public. The best evidence of that comes, incidentally, from the insurance industry itself. In 1977, Sentry Insurance published its report entitled CONSUMERISM AT THE CROSSROADS. For those of you who have not read it, you should. It examined consumerism in depth. It sought specifically to answer the question of whether there was a difference between what the American people thought about consumer issues and what the consumer advocates said they thought. What the study showed was a high correlation between the views of the public at large and the views of the consumer advocate. The persons that were shown to be most out of tune with consumer needs and solutions were not the consumer advocates; they were, amazingly, the top management of the corporations that provided consumer goods and services, and the corporate officials who were responsible for consumer affairs! To quote from the findings in the study:

"NO PARTICULAR GROUP SPEAKS FOR CONSUMERS, BUT NON-GOVERNMENT CONSUMER ACTIVISTS ARE SEEN AS MOST IN TOUCH WITH CONSUMERS AND SENIOR BUSINESS MANAGERS ARE LEAST IN TOUCH . . .

. . . activists were found to be in closer agreement with the public on most consumer issues than were any of the other leadership groups surveyed.

Senior-level business managers, the survey showed, were most out of touch with consumers."

And further, the report stated:

"BUSINESS VIEWS AND PUBLIC VIEWS

The business community is sharply out of step with the American people on consumerism issues.

OBSERVATION:

In the next few years, it can expect to be vigorously attacked by both consumer activists and elected representatives. And it will be more severely regulated unless there are major changes within the business world.

The study indicates need for three different kinds of change. The first is a change in the attitudes and perceptions of senior management, based on better information about consumer needs, consumer attitudes and consumer expectations.

The second step, would be for every specific improvements of the kinds which consumers are demanding - safer products, better quality, better service, more reliable products, better guarantees and warranties, better complaint handling mechanisms, and so on.

The third need is for better communication with the public about the steps which companies are taking to be responsive to and about the very real problems which business has in meeting consumer demands.

Contrary to the views of many business executives, there is no inherent contradiction between these steps and the profit motive. According to the findings, consumers have always been prepared to pay more for better products provided that the difference in quality is real, the price differential is not excessive, and they are fully aware of the improvements that have been made."

The Sentry study put to rest the notion that the consumer advocate community was out of touch with its constituency. Rather than challenge whether what the advocates were asking was right, the challenges shifted to attacks on their right to represent consumers. In law suits, in the halls of Congress, in the media, the credibility of the consumer organizations came under fire not on the basis of what they said but on the basis of who they were.

Thus, last year in the District of Columbia, we witnessed a much publicized law suit involving one of the Nader organizations -- the Health Research Group -- in which Judge Sirica, of Watergate fame, prohibited the HRG from suing the Food and Drug Administration on the grounds that they were not a party of interest under that statute. Almost at the same time, the Federal Reserve Board went to court in an attempt to prohibit Consumers Union, the publishers of Consumer Reports, from pursuing a lawsuit against the Fed dealing with certain consumer credit regulations under the truth-in-lending law that CU believed to be illegal and anti-consumer.

HRG lost and CU won. HRG lost because it was not organized as a membership organization. CU won because it was. But in both cases, the challenge was to standing, not to the substance of the case.

While in a narrow sense it can be said that this was nothing but normal legal maneuvering that happens all the time, there was a larger issue involved, and that was whether or not to try for a knockout punch that would put away consumerism once and for all.

That would explain the vigor with which the business community organized to defeat the consumer protection agency in Congress in 1978;

That would explain the vigor with which the regulatory reform legislation that would finance consumer intervention in regulatory activities is being opposed;

That would explain the effort on the part of some not to reform the Federal Trade Commission, but to put it out of business.

I dwell on this because it is impossible to discuss consumer issues concerning life insurance (or any other topic) without understanding the relationship between consumerism and consumers.

The consumer groups (and their spokesmen) that I know and respect do not pretend to speak for consumers in the sense of having conducted a nationwide poll. No consumer advocates that I respect ever stand up and announce that they are the designated spokesmen for 220 million Americans, as if they had been sent up to bat as a designated hitter by the coach of team America! What they can and do speak to represent is the consumer interest in particular issues.

Let me give you an example. There is currently in existence an NAIC industry advisory committee, under the chairmanship of William Bailey, President of Aetna, dealing with the subject of competition vs. regulation in the property/casualty area. At issue is whether or not to recommend open pricing instead of prior approval. On that advisory committee, to Mr. Bailey's and Aetna's credit, sit representatives of two major consumer organizations -- the National Consumers League out of Washington, D.C. and the National Consumer Law Center out of Boston, Massachusetts. One of the issues that advisory committee is dealing with is the role of consumer information in measuring whether or not competition is working effectively. They have been wrestling with that issue for months now. There is virtually unanimous agreement that "consumer information is essential to the functioning of a competitive market." But that is where the agreement ends. The industry members of that advisory group seem to want to leave it at that. The consumer advocates want to require an affirmative finding by the insurance commissioner in each state that appropriate consumer information is indeed in existence in that state as one pre-condition for going to open pricing.

The battle, then, is an economic/legal one, over the importance of consumer information. I submit to you that the advocacy of the consumer viewpoint in that debate has very little to do with "being in direct touch with one's constituency." Can anyone seriously pretend that the consumer representatives could make a better case if they hired Gallup or Harris to ask the American public the question, "should the existence of consumer information be a pre-condition for a finding of competition?"

Of course there is a place for direct consumer surveys. If you were to show me a standard disclosure form, and ask me, "is that too complicated for consumers to understand", then the very first thing I would want to do would be to have it looked at by a representative group of consumers. No one can seriously argue otherwise, ESPECIALLY the consumer advocates. More than any other single group they would like to be in a position to come to the table buttressed with what might be called consumer sounding board type data.



But the issue is NOT would not such data be useful, since everyone of sound mind would agree that it was. Rather, the issue is, can the consumer representative represent an economic and societal interest, known as the consumer interest, in the give and take of the decision-making process in our society. I submit to you that no one can do it better. If indeed the public interest can only be achieved by a true balancing of all more narrow interests, then someone must present the case for the consumer interest. It is that simple.

Let us now look at life insurance, and begin with the subject of cost disclosure.

When the famous -- or infamous -- FTC report on this subject was published last year, it was as if an iron curtain had been dropped. Consumer groups hailed it -- as they subsequently applauded President Carter's January 14, 1980 letter to the Governors. Your industry was up in arms, charging the FTC with being uninformed at best, and unfair and sensational at worst. On the political level, Senator Cannon led the fight to get the FTC out of the insurance business altogether.

Lost in the heat of the politicization of the FTC report was the underlying issue of the adequacy of consumer information. Is there enough? Is it in the right form? Is it made available at the right time? Through the right mechanisms?

Instead of a calm, dispassionate debate over the adequacy of existing information, the tangential issues were moved to the center ring. "What's the FTC doing in the insurance field -- haven't they read the McCarran-Ferguson Act?" or "How come the consumer advocates are making such a big deal about life insurance when individual consumers don't seem to be very upset?"

It's ironic that everyone pays lip service to the concept of freedom of choice, but somehow seem unable to address the issue of how to assure it.

Rather than stand here and be guilty of this unhealthy skepticism that I find too often to exist in the insurance industry, let me take a different approach.

How many in this audience would agree with the following statements:

- "Many people have far less insurance than they really need to protect their families."
- "Of all the issues and controversies surrounding life insurance, none is more long-standing, or more basic, than the controversy over whether buyers are better off with term policies or with cash-value policies."
- "In the past, many insurance agents pushed cash-value policies because of the savings component. However, the rate of return on that component has traditionally not been disclosed to buyers."

- "People in high tax brackets may be interested in cash-value life insurance because it provides a tax-sheltered form of investment."

Those quotes do not come from an insurance company, a college text book, or a State insurance department brochure. They come from the February and March 1980 issues of Consumer Reports, when CU rated 195 term-insurance policies and 277 cash-value policies.

CU then went on to address the question of deficiencies in existing cost-disclosure systems. In what I believe to be dispassionate terms, they raised seven areas where they alleged that the current NAIC-model regulation could be improved. They avoided the "all-or-nothing", "terrible or wonderful" approach, and in fact commended NAIC for continuing to upgrade its own regulation.

What does CU ask for? Let us take a look:

- "1. The cost-disclosure information that is now furnished only on request should be furnished automatically, along with a clear explanation of its significance. . . .
2. Rate-of-return information for the savings component of cash-value insurance should be provided both at the time of sale and each year thereafter. . . .
3. Regulators should give careful scrutiny to dividend practices - up to now an area little examined. As CU has reported before, the formulas by which dividends are computed are often considered company secrets. The formulas may well be biased. Some companies, for example, have improved their dividend formulas on newer issues, while keeping the dividend formulas unchanged on policies issued years ago. That may be grossly unfair to older policyholders. . . .
4. Complete year-by-year information concerning premiums, cash values, and dividends should be available on request both to prospective purchasers and to policyholders of long standing. . . .
5. People who own insurance policies, whether for term or cash-value insurance, should be told each year the ongoing cost of their insurance protection. . . .
6. The Annual Percentage Rate (APR) for the added cost of paying premiums on other than an annual basis should be disclosed. . . .
7. Cost indexes and other information should be available, at least on request, for periods longer than the traditional 20 years."

Would your industry agree that these seven changes are needed? Undoubtedly they would not. Again let me quote CU on this issue:

"The life-insurance industry often answers demands for additional cost disclosure by saying that it would be too expensive. CU would be hard to convince on this point. Similar arguments were made against the interest-adjusted index in the early 1970's. Yet, since that step toward cost disclosure was made, cost indexes on newly sold policies have generally gone down, not up. In large part, that is an effect brought about by rising interest rates. But CU thinks increased price competition on new sales may also have played a part in that decline."

The theme of this conference is a look at the 1980's. As I see it, this industry does itself a disservice if it looks at consumerism and decides to fight with it over the framework of the FTC staff report.

In my opinion, American consumers are becoming more and more sophisticated about banking, financing, securities, and insurance issues. To measure levels of interest by keeping score of consumer complaints in these areas is shortsighted and foolhardy .

Certainly there are difficult questions that do not necessarily call for simple solutions. It is no easy matter to decide on the best way to disseminate information. I recently authored a paper for the NALC advisory committee on competition, addressing the problem of information disclosure. In it I addressed the concept of "generic" vs. "brand-name" information. In it I said:

"It is important that the objectives of any consumer information program be agreed upon before any final decisions can be made concerning the kind of information to make available. Those who take a purely educational approach to consumer information tend to opt for "generic" disclosures, whereas those who see information as a means of allowing a consumer to make a rational choice in the marketplace tend to opt for "brand-name-and-model" disclosures. If the consumer is to be best served, both kinds of information are necessary.

Requirements for providing "generic" information is almost always less controversial than requirements for providing "brand-name-and-model" information. The reason for that is somewhat obvious: "Generic" information does not rank products or companies; it is therefore considered "safe" by individual companies. "Brand-name-and-model" information, on the other hand, is but a step away from ranking. Therein lies the controversy that usually surrounds its publication. There are "winners" and "losers", directly or indirectly, when specific information is published.

Consumer Reports is perhaps the best example of a regular source of "brand-name-and-model" information. United States Department of Agriculture Extension Service pamphlets are a good example of purely "generic" information.

Those who oppose disclosing specific, comparative price information give a number of reasons, including:

- It results in overwhelming amounts of information that costs a lot to produce and which most people will not use. This can be termed the information overload argument.
- It is inherently unfair, in that it concentrates too much attention on price as opposed to other purchasing considerations.
- While persons who want it should be able to get it, it should be their responsibility to seek it out, and thus should not be made available generally to everyone in any automatic way.
- It is impossible to keep such information up to date, and therefore to require it is to knowingly require "old" information, hardly a service to consumers.

These arguments against comparative-type information do not hold up under close scrutiny, from a consumer interest perspective. Consider the notion that most individuals do not or will not use the information even if it is provided. Even if true, most current consumer information theory would find that to be irrelevant. Only a small percentage of consumers need to make use of it in order to have its existence affect the marketplace.

In his classic study, "The Information Seekers," Professor Hans Thorelli of Indiana University expands at great length on this theory, and summarizes his findings as follows:

". . . this study identifies the Information Seekers as a cosmopolitan set of consumer sophisticates which may be found in significant numbers in industrially advanced countries. Although constituting a relatively small group . . . , the Information Seekers apparently exercise a vital influence in the marketplace as opinion leaders, critics and proxy purchasing agents for other consumers. The significance of this audience to business in general . . . would seem obvious; naturally its importance extends to makers of public policy and administrators of Consumer Information, education and protection programs both private and public."

There is no such thing as information overload for this small but important segment of consumers. They thirst for all relevant information, and in particular comparative price and quality information. They are never satisfied with generic information alone.

In competitive markets, the information seekers play a particularly critical role, far beyond their limited numbers. They seek and use information in a way that can never be satisfied by generalized, informative generic-type data.

Once the information this small group seeks is compiled and made available, however, it serves a purpose above and beyond its specific utilization by these information seekers. The information itself affects the marketplace generally. This is to say, its very existence assures a more competitive market. All sellers know that the information is public, and will therefore strive to reduce their costs, improve their services, or both. Moreover, the more competitive the market, the greater the motivation to have a "good" comparative ranking.

Thus, when considering consumer information needs, one needs to ask another question: consumer information needs of whom?

For the population at large, broad based information of a generic nature is a necessary starting point, and the more important questions have to do with how to disseminate it, not whether it is needed.

But information dissemination cannot stop there.

If the Market is to function competitively, so that those who want to make a rational, informed buying judgment are able to do so, specific comparative information must be made available, including and especially price information. This need cannot be satisfied by the mere publication of generic, education materials.

Thus, for most consumer advocates, the question is not whether there should or should not be comparative price information, but the form of the information and the time and place of its dissemination.

I have dwelled on this one issue at length, not only because it is important, but also to try and give you an insight into the way in which an element of society -- the consumer advocate community -- approaches an issue. For the life insurance industry to think that the way to get rid of the problem is to send Joe Belth to the moon, prohibit the FTC from touching insurance issues, and characterizing Consumers Union as elitist, is in my opinion, shortsighted. The consumer advocate community will press on with the issue of achieving improved disclosure whether the industry responds this way or doesn't.

There is an alternative, and that is for this industry to deal face to face with the consumer advocate community. Beginnings have been made, rather successfully, on the property/casualty side of the business. The efforts heretofore on the life insurance side have proven unsuccessful. Even now, some of us continue to work toward finding a common meeting ground.

There are other issues that will also continue to appear on the agenda of the consumer advocate community. Marketing practices, traditionally a high priority with consumer organizations, will have to be dealt with. Commissions, replacement, complaint handling, mass marketing techniques, policy language simplification will also continue to be agenda items.

Last but not least, disagreements over the role of the regulators will be with us during the coming decade. If there is any one point I hope I can drive home today it is that the consumer community is at least as interested in pushing regulatory reform than is any other societal sector. While it is true that during the 1960's the consumer advocate community often turned to government as a cure-all for every problem, that is no longer the case.

I do not have the time today to document the case, but the record would clearly show the consumer community in the forefront of the move toward regulatory reform.

That is assuming that regulatory reform does not in all cases mean total deregulation. It means, instead, effective regulation. Thus I believe that the "debate" over Federal vs. State regulation is much more one of practicality than of philosophy. The '80's will demonstrate the following: The more effective the NAIC, and the 50 State insurance departments, the less talk there will be of Federal regulation.

Similarly, the more effective self-regulation is in this industry, the more likelihood of less, rather than more regulation. I am convinced in my own mind that the days of regulation for regulation's sake, or even as the course of action of choice, are gone. That is not to say, however, that anything goes. Especially as regulatory reform pressures make whatever regulation there is more effective, it will continue to be present, often in direct relation to the demonstrated ability of any industry to regulate itself.

The life insurance industry controls its own destiny. The future is more in your own hands than in the hands of others, especially the consumer advocate community. Only when this is recognized will it be possible to call a halt to the war and achieve what we all would aspire to -- a fair, efficient, competitive marketplace.

MR. RODNEY R. ROHDA: Thank you very much David. Before we open it up to some questions from the floor I would just like to ask one question myself and then ask if anyone else has a question. My question is one to all 3 members of the panel. The last paragraph of the March 1980 Consumer Reports' special report on life insurance has the statement, and I quote, "one insurance executive when asked if he would prefer state or federal regulation replied, would you rather be regulated by 50 monkeys or by King Kong?" Going on with the quote, "we are not sure that is the real choice but if it is we would rather have King Kong on the consumer side". Gentlemen, would each of the 3 of you take a minute to give a response to that?

MR. WILLIAM A. WHITE: To my mind, the critical question is not which--State or Federal regulation?--but how much. In my earlier remarks, I indicated that state regulation of life insurance is on the decline and that Federal regulation of life insurance is unlikely. At the same time, I view the need for effective regulation as increasing. These are perilous times for life insurance, and most of us are sailing on uncharted waters; new policy forms, new sales methods, and changes in the marketplace are frightening in their variety and urgency.

There is a middle course between State and Federal regulation which may be promising. Some years ago the industry, through the Institute of Life Insurance, made a study of regulatory problems. Its principal recommendation was that the National Association of Insurance Commissioners establish a central "clearing house" that would bring together the expertise that was fragmented or missing among the individual states. The thought was that the clearing house would not replace the authority that has been delegated to the States, but would provide advisory or referral services to the insurance departments on issues that were more or less uniform on a nationwide basis and whose complexity was beyond the capacity of most departments to handle.

The actuarial determinations which regulators are routinely asked to consider are an obvious example of the advantages of pooling professional talents. I understand that this proposal is surfacing again among companies that feel that strong, effective State regulation is in the industry's best interests. It is, in my view, unlikely that the States would move in this direction on their own initiative; financing and the possible loss of "control" are the major deterrents. However, I think the NAIC would be receptive to a well-documented proposal--one that spelled out advantages for both the State and the industry--from companies if that proposal called for financing to be provided by the industry while control of the operations remained with the NAIC. I urge you and your companies to give this proposal careful consideration.

MR. SWANKIN: I have pretty much said my piece. It is much more practical than philosophical, even though usually it comes out that the consumer community wants federal regulation per se. There are plenty of examples in this country where the people have opted to keep things in local control. But by the very same token, there are enough other examples where they reject that. Education clearly is a national major consensus to keep the federal government's hands off any regulation of the education business. I do not think you have to go much further than Three-Mile Island to feel that there is a general feeling, regardless of the way one stands on the proposition of nuclear power, that if it is going to exist it has got to be regulated effectively and 50 states cannot do it all by themselves. It seems to be a growing consensus that there ought to be one effective regulatory body at the federal level. As I said in my prepared remarks that it much depends on how well the states do their job, rather than whether they should do their job.

MR. W. M. WHITE: Our operations of the economic system and society are not such that we could really expect a major revolutionary change: go to the big gorilla and eliminate all the chimpanzees. The change comes in our society incrementally and we have to recognize that we stop and work from where we are. The best approach is to try to improve the chimpanzees. Are there some things we can do in the area of self-regulation in a better way? I would like to talk further with Allen here about whether, if the industry had a way of funding or helping to improve a central organization for the state regulation, whether that would be better or whether it would be better to have a NASD-type body where the industry themselves would attempt to police the operations of the companies rather than have a third party do it. Of course, there would have to be the proper checks by some other governmental body. I guess that is about all I have to say.

MR. ROHDA: Questions from the floor, or from the panel for that matter?

MR. W. A. WHITE: I would like to ask this question of Dave. What are the mechanisms that might exist or that you can see that would help improve the industry's dialogue with the consumerists? I can agree with you that other than reading in the press, etc., I am not aware of any formal ways of communicating with you. Your publicity is generally pretty good, so we are aware of what you are thinking.

MR. SWANKIN: We do not have a lot of tools and the ones we have have to be effective. There are a variety of levels. There is the existing trade association, or we can actually begin at company levels, and in the property casualty side it was sort of a combination of both. It is an offshoot of a thing called a Property Casualty Insurance Council where we meet regularly with the presidents of 4, probably by next fall it will be 6, major P&C

companies. There is a really important lesson here. At least with these companies there is an interest level so that the results of our meetings get handed down within the company and we don't have the problem of meetings that frustrate everybody because nothing seems to get done. And we have done both; we have been able to conduct both policy discussions and carry out program activities. This is not the place to go into it, but I am convinced in my mind from having done it that there are ways of doing it if there is a will to do it.

MR. ROHDA: Any further questions?

MR. W.M. WHITE: I have one. I would like to see what Bill has to say. In a similar vein I am interested in any further thoughts on how we could improve state regulation, but also one point in his talk hit me. It said that the company and regulatory actuarial viewpoints are quite different, and I wonder if you could elaborate a little bit on that and see what we could do to help improve state regulation.

MR. W.A. WHITE: Companies and regulators do think quite differently on exactly the same questions, even among actuaries. A good example is probability--our bread and butter. For any of you making a presentation to your Board of Directors, you will probably be very happy to be able to speak of it as having a 95% confidence level. 95% confidence is the statistical equivalent of certainty. For a regulator with more than 20 companies to regulate, or with one company to regulate for more than 20 years, one chance in twenty of things going sour is an intolerable risk.

Another example: averages. Actuaries in industry tend to be very particular about defining equity in terms of averages for classes of individuals. Regulators see individuals one-by-one, and there exist injustices to individuals that company actuaries almost refuse to acknowledge because the class as a whole has been fairly treated. I recall a couple of years ago when New Jersey first ran studies of loss ratios on individual health insurance policies. We found that one of the major New York companies had been running a 30% loss ratio consistently, give or take 2% a year, from 1967 through 1978 on Medicare supplementary insurance sold to senior citizens. I mentioned this to the Actuary of the company, and he said that the entire individual health lines of business had been losing money every year.

A third example is "Tunnel Vision." I have had occasions to work with industry committees that were drafting, reviewing, and commenting on legislation or regulation. There is a very high level of such activity among actuaries when they are dealing with regulatory issues. They seem to design regulations or statutes specifically for their companies. If the regulation satisfies their company, and if the public would be adequately protected by their companies' reaction to the regulation, then they feel it is satisfactory. The actuaries that serve on industry advisory groups and trade association committees are the actuaries from the large companies. They do not realize that for every large, well followed, highly surplussed mutual or stock company that is represented on one of these groups, there are 10 grubby little life insurance companies that we as regulators are responsible for, that are totally unprincipled and are just hanging on by their fingernails. It would be helpful to us as regulators if you could look beyond your own special spheres of interest to the problems that regulators themselves are faced with.



MR. ROHDA: Further questions?

MR. FRANK IRISH: This was an outstanding panel within its chosen area of the effects and future of regulation, but I would like to point out that the panel title is the effects of government actions and ask you to comment on two propositions about government actions other than regulation. First, that non-regulatory actions such as social security, Medicare, and economic policy, may be far more important for our industry than regulatory actions. Second, that expansionary tendencies will be far stronger in non-regulatory fields.

MR. ROHDA: That is a very interesting question. I will gladly exercise my prerogative of moderator and turn it over to the 3 panelists.

MR. W.A. WHITE: It is a mistake to blame government for doing what people want. In those areas where government seems to be competing with the insurance business--Social Security and Medicare--government is, in my opinion, providing services which the people wanted but were unable to obtain from their employers or, using their own resources, from private insurers. However, I do not believe that "competition" from government will increase during the next decade. Increasingly, legislators are coming to appreciate the huge price-tags of the programs that are in place, and efforts during the eighties are more likely to be directed to preserving those programs, in the face of taxpayer revolts, rather than to enhancing them.

MR. SWANKIN: I sort of reject the notion that it does not make a difference who gets elected. The country can go both ways in terms of where government will concentrate. There is clearly one political scenario where the government will back off not only from regulating but from providing, and there is another where they will get into the providing business quite heavily. I will say this - whichever way it goes, wherever the government does provide service, it will be continually held to our improved standard of doing it well. The regulatory reform movement cuts across party lines and philosophical persuasion. There is no one anymore that can say once there is a program, it is OK, it is filling the need, unless the program is operated correctly and efficiently and effectively. So government is going to have its feet held to the plywood during this decade but whether or not the mix will change drastically will probably depend mostly on who gets elected.

MR. W.M. WHITE: Very briefly, economic policy is probably the one greatest factor on determining what our future will be. Relative to the government's competing with our products and services, survivor benefits and social security, government pensions, and things of that sort, we are at the crossroads now, and the trend could be for much less involvement, or at least tapping the involvement of the government programs where it is now. But this is a crucial election, and I am not guaranteeing that it could not go the other way.

