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UNISEX—AN UPDATE

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Current developments on the Unisex Issue:

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MS. DAPHNE D. BARTLETT: I am sure you are all aware that there is legislation in the U.S. Congress, H.R.100 and S.372, the purpose of which is to eliminate gender in life insurance, pensions, health insurance and automobile insurance for new and existing policies. There is also comparable legislation being proposed in several states.

What is the purpose of the proponents in pushing for this legislation? I submit that primarily what they want is for social policy in the United States to require equality between men and women in absolutely all situations. They say that it is a civil rights principle that all people be treated as individuals, but insurance treats them as members of groups. The answer to this, at least for life insurance, is that we do treat that applicant like an individual. We look at all the characteristics of that individual - height, weight, smoking status, age - in order to put that individual into a group with other people who may not have the same individual characteristics, but who have, when you combine all their characteristics, a similar expectation of loss.

What is the primary actuarial reason for opposition? In voluntary insurance, the price has to reflect the cost, or else you get anti-selection. Some of you may wonder, then, why is the American Council of Life Insurance (ACLI) willing to allow unisex for employee benefits? The reason is, of course, that in this context, there is generally a third party involved - the employer - who can share in the cost, and pick up whatever differences result from having equal contributions from men and women and equal benefits paid to men and women.

The other major current issue is the impact of the Norris decision of July, 1983. It was generally consistent with the ACLI position, except, of course, it extends to voluntary purchases within the employment context; to anything that is a privilege of employment.

This area is the first item we would like to discuss. Tom, what is going on in the pension area?

MR. THOMAS P. BLEAKNEY: Implementation of Norris has essentially been done. Anyone who has not reformed their pension plan to be consistent with the Norris pronouncement is at substantial risk. Some of the lawyers that

I have talked with feel that the longer any employer decides to hold off, the more risk exists of having the full retroactive impact of the Equal Pay Act invoked upon them. Essentially all of the actuaries and sponsors I am familiar with have recognized this.

The Norris decision was exceedingly far-reaching. The Supreme Court, in a rather peculiar five to four split, came down with the pronouncement that Nathalie Norris was entitled to non-sex-distinct factors when translating accumulated contributions to annuities, despite a very remote tie to the employer. One important extension of this decision is to defined benefit plans, where the impact is more significant than for defined contribution plans, and where the options available have traditionally been sex-distinct. The interesting effect is that it is the men who have gained under defined benefit plans. The women employees are getting option factors generally less attractive than they were pre-Norris.

The principle of employer tie-in extends even beyond annuities. There is an increasing recognition that there are other places where sex-distinct employer-related perks exist, such as group conversions and franchise plans, and these need to be looked into.

MS. BARTLETT: Barbara, do you have any comments on these peripheral employer-related benefits?

MS. BARBARA J. LAUTZENHEISER: There is considerable confusion as to whether or not these benefits are covered by Norris. On an existing payroll deduction plan involving individual life insurance, for instance, application of Norris would require that all contributions after August, 1983 would have to be on a unisex basis. The female who has been getting a considerable discount in the past is now told she will have to pay more. If this is done, an insurance company could end up in litigation as a result of compliance. So in some instances this is a lose-lose proposition.

There are differing legal opinions as to what is an employee benefit. Does merely allowing a payroll deduction provide an employee benefit? What about allowing insurance people to come into your shop and talk? Is it only an employee benefit if it requires an employer contribution? Those distinctions are not yet clear. We have been anticipating that the EEOC would be coming out with some guidelines, but they have not yet appeared. So clarification may only occur as a result of litigation. The Norris plan was a fully voluntary supplemental plan. You could assume it is directly analogous to a payroll deduction plan. However, there is language in the decision which suggests that if risk factors other than sex and age had been considered in the Norris annuity, the decision might not have come down the same way. That is the difficulty with a court case. It only refers to the facts of that specific case and you have to use that to try to draw general conclusions. But, until another specific case comes up you do not know if you are right.

MS. BARTLETT: Norris was a "Title VII" case. As I understand it, Title VII only covers employers of 15 or more employees, whereas ERISA covers employers with two or more employees. Consequently, small employers do not seem to be affected by the Norris decision. Tom, is that going to be a problem, or are these small employers going to unisex in their benefit plans?

MR. BLEAKNEY: It is difficult to respond to that, because there are so many small employers and there is such a variety of people who deal with them. At a panel I attended a month or two ago with some lawyers, it was made clear that Title VII does not cover groups of less than 15 lives, and therefore, Norris does not technically cover such groups. However, there seemed to be a consensus among the panelists that it would be inappropriate to use that as a shield. It would generate bad public relations, since it seems to violate the philosophy of Title VII through a "loophole" in the law. We would be asking for more trouble. Another point that was made was that, in a sense, Norris provided a safe harbor, because it did not require retroactivity. Accruals prior to August 1, 1983 are not subject to Norris. If a large employer does not install unisex factors after Norris, then the full retroactivity which is available under the Equal Pay Act might be invoked on the grounds that the employer was warned, but did not do anything about it. Something similar might be brought about if the smaller employers do not comply.

MS. LAUTZENHEISER: Many state laws dealing with fair employment issues and practices do cover smaller employers, i.e. employers of less than 15 employees. There are probably also a lot of small insured plans where no actuary and possibly not even an attorney is directly involved; so they may not be paying attention to the employer moving to 15 employees nor to other long-range implications, and hence they possibly are not paying attention to unisex. The industry amendments that were proposed for both H.R.100 and S.372 would require unisex for employers as defined in ERISA, not as defined in Title VII.

MS. BARTLETT: It would be unfortunate if, having succeeded in holding the legislation in Congress, it all were to bubble up again through the medium of these small employers. Those of you who are involved in this sort of thing, please think about it.

Let us now consider the question of retroactivity in pensions in more detail. Despite Norris, there appears to be a fairly significant push for full equality in pensions, at least for people who are still working. Tom, have you observed any activity in this area?

MR. BLEAKNEY: Retroactivity is a huge threat. It did get a lot of people together on H.R.100, when it was recognized what enormous financial impact this would have, not to mention the administrative problems of retroactively recalculating pensions and options back for people who retired 25 years ago.

Another potentially serious problem which is still unresolved involves the EEOC. Last November, at a seminar of the Practicing Law Institute, a lawyer for EEOC, Ruth Weyand, stated that the EEOC does not accept the Court's refusal to apply retroactive relief to the plan at issue in Norris as the ruling principle for other cases. "We are not accepting in any way the concept of non-retroactivity on a broad basis", she said. If a corporation wanted to institute a cost of living adjustment or increase credit for service, for example, it might be practical to use sex-distinct tables for employment occurring before the Court cut-off date. However, she said that in briefs and negotiations, EEOC has taken the position that any discretionary decisions taken now must use non-discriminatory tables throughout. Consider an employer who had a plan with sex-distinct joint and survivor factors. If, today, the employer, out of the goodness of his

or her heart, wished to provide an increase in the retirement benefit for all existing retirees, this would be very difficult, using Weyand's interpretation of the EEOC's thinking. Employers would have to think twice about making any such adjustments, because they would have to recalculate all existing benefits, option amounts, and beneficiary payments on a unisex basis.

Let me point out one other thing about the magic footnote that was in Justice O'Connor's portion of the Norris decision. Hers was the swing vote on both the decision and the implementation of the decision. In her footnote, she refers to the Equal Pay Act which is the basis for EEOC's actions. The key is that the language of the Equal Pay Act proviso seems to apply only to wages. Thus, it is questionable whether the proviso would apply at all to the retirement plan at issue here. Second, even if the proviso has some relevance here, it should not be read to require a pension plan, whose entire function is actuarially to balance contributions with outgoing benefits, to calculate benefits on the basis of tables that do not reflect the composition of the work force. I think you can read that as saying that the Equal Pay Act can be shoved aside for pensions. At least, I have heard lawyers say that the Equal Pay Act, as far as pensions are concerned, does not apply any more. Now, a footnote to a Supreme Court decision is a little different from the decision itself, but at least it has one little element that probably should be paid attention to.

MS. BARTLETT: Let us move into a more general area. What is the status of activities at the Federal level?

MS. LAUTZENHEISER: There was a mark up - a discussion and vote on the H.R.100 bill - on March 28. That was a rather interesting process.

Several amendments were proposed. One was offered by Rep. Florio. This carved out the retroactivity of individual life insurance. Tom, this also shows that pension retroactivity did not die, since it was left in. That was a difficult compromise for the proponents to make, because they had been calling this a civil rights issue. So for them to compromise on one part was very difficult because it meant they compromised to civil rights principle. But they knew the economic impact on insurance companies of retroactivity on individual life insurance was so great they could not get the legislation passed without its elimination. Then there was the Dowdy/Lent amendment, which eliminated all retroactivity. And there were several other amendments relating to abortion. The final amendment was offered by Rep. Tauzin, and carved out all individual contracts which was the amendment needed to eliminate prospective unisex in all but employer-sponsored plans.

The Tauzin vote was taken on a roll-call vote. After much suspense, the actual vote was 24-18 in favor. Immediately thereafter, Chairman Dingell turned the whole committee over to another legislator and left the room. I think he felt it was all over. Then they took a hand vote on the Dowdy/Lent amendment and we almost lost that one because many of our supporters had left the room; the vote was 9 to 7. Then there were just voice votes, very quiet ones, on both the Florio amendment and the bill itself.

For the legislation to go any further, it has to be taken to the floor of the House of Representatives, if the proponents choose to do so. In order for that to occur, a report has to be written, and the Rules Committee has to establish rules. These are not being done. So our best judgement at the moment is that the legislation is not going anywhere in the House.

On the Senate side, there was a mark-up last July. The vote was to table the legislation (S.372) until the General Accounting Office (GAO) Report was completed. That report has now come out, but we have seen no action from Sen. Packwood, who was the major sponsor of S.372. We suspect no action is being taken because of what happened in the House, and because the Report was relatively supportive of the industry position.

So, our estimate at the moment is that the federal legislation is going nowhere in 1984. However, the last time I said that, however, in 1983, I was proven wrong approximately two weeks thereafter. So that does not mean anything!

MS. BARTLETT: Tony, would you like to comment on the contents of the GAO report?

MR. ANTHONY T. SPANO: Barbara mentioned that last year, on the Senate side, S.372 came up for consideration before the Commerce Committee. The committee voted to defer action on the bill pending completion of the GAO Report. This report had been requested by four Republican Senators, who asked that the GAO investigate the economic implications of this legislation by reviewing existing studies which had been made. It was agreed that, due to time and data limitations, the GAO would rely on these existing studies rather than attempt to develop its own study. The GAO released a preliminary report in January of this year and the final report was released on April 6.

The GAO takes no position for or against the proposed legislation. The report is restricted to a discussion of the economic effects - what would happen if the legislation were to pass? It points out that the bill raises some important social policy issues that the Congress must consider along with these economic issues.

Now what about these economic implications? The GAO lists four major categories of effects: unfunded liabilities; redistributive effects; economic efficiency effects; and administrative costs. I will take these up in turn:

Unfunded liabilities.

This is by far the largest category in dollars. The report points out that life insurance companies will have to liberalize existing policies by increasing benefits or by cutting premiums. Under either approach, the resulting increase in the present value of future benefit outlays would be close to the upper end of a range of $8.3 to $17.1 billion. It concludes that company insolvencies could be avoided only by increasing the premiums on existing policies, but that this might lead to protracted litigation.

The GAO estimates that as far as pension plans are concerned the bill would create an increase in liabilities in the range of $7.7 to $15.1 billion. So, the total unfunded liability for insurance companies and pension plans would be in the range from $16 to $32 billion. Now, with regard to

pensions, the GAO concludes that most plans, except possibly some state and local government plans, should be able to handle the increased costs rather than having to eliminate options or to terminate.

Redistributive Effects.

These are defined as shifts of money from women to men or men to women as a result of their buying unisex-priced insurance. The GAO says that the exact extent of these transfers is impossible to estimate because it is not known how insurers would adapt to the new law by increasing the use of alternate rating factors which could partially replace the predictive power of sex. It was suggested that these transfers would be significant and, in addition, it is noted that their desirability is a Congressional policy determination that would have to be made.

Economic Efficiency Effects.

These effects include the efficiency losses that arise from any overpricing and underpricing of insurance coverages that may result from the enactment of this legislation. The GAO suggests that there may be some efficiency gains arising from increased use of rating factors that are controllable, and which would provide incentive for people to reduce risk. For example, suppose that, as a result of companies not being allowed to use sex as a rating factor in automobile insurance, they were to rely more on something like miles driven. A person may then decide to drive a little less, in order to keep his or her premium down, and this would result in fewer accidents.

The GAO states that it is difficult to estimate the size of these gains and losses, but that they are probably going to be small.

Administrative Costs.

The report indicates the legislation will lead to substantial administrative costs, mostly to revise existing contracts. The report refers to an estimate by the American Academy of Actuaries that the cost of revising existing policies and preparing new ones would amount to about $1.3 billion, and the GAO states: "we see no reason to believe it is too high or too low". The Academy's estimate, by the way, was based on the assumption that the period between enactment and effective date would be 12 to 18 months, whereas the bill specifies 90 days. The Academy stated that 90 days is just not feasible at all.

The GAO's bottom-line recommendations were:

(1) Eliminate the bill's applicability to existing individual contracts.

(2) In order to make compliance more feasible, increase the transition period to at least one year.

MS. BARTLETT: Tony has also been involved in monitoring the activity at the state level. The National Organization for Women (NOW) targeted several states early this year for passage of unisex legislation. Tony, could you give us an update on what is going on there?

MR. SPANO: First of all, state bills prohibiting classification by gender are not a new phenomenon, and before this year four states had already enacted unisex requirements for automobile insurance. No state legislation that would affect life or health insurance or annuities came close to passage until 1983. In that year, Montana became the first, and so far the only, state to enact unisex legislation for all types of insurance. Last year saw the introduction of broad unisex bills, affecting all lines of insurance, in a few other states, but there was no progress on any of these.

This year, there has been a lot more activity. Bills were up for consideration in eleven states and the District of Columbia. What has happened to them? In eight of these states, the legislation is dead for this year. In some cases the bill came up for a vote and was defeated, and in other cases the legislature adjourned without taking action. Among the remaining four jurisdictions, there is no movement at this time in the District of Columbia or New Jersey. There is action in Massachusetts, but passage there appears rather unlikely. That leaves one state, Michigan, where passage is a definite possibility. Michigan already has a unisex law that applies to automobile and homeowners' insurance and to state employee retirement plans. Michigan also has a political climate that is conducive to serious consideration of bills of this nature. The next step in the process is a legislative committee hearing on May 16. As it currently stands, the bill would apply to policies issued on or after April 1, 1985.

All state unisex bills have the same basic intent - to prohibit sex-distinct rates and sex-distinct benefits. But there are differences with respect to the retroactivity features. Some have been retroactive; some have been prospective only. There has even been a middle ground. There is one version where benefits that arise from future premiums must be sex-neutral, but those which are derived from prior premiums can remain sex-distinct. What has happened in the past would be left alone, but from this point on everything must be unisex.

To summarize, as we approach the end of the 1984 legislative sessions, we can say that the success of the unisex opponents at the Federal level has so far been paralleled on the state scene, but we do have some important caveats. First, the battle remains to be won or lost in Michigan. Perhaps more significantly, it really will not be long before preliminary work begins on fashioning 1985 legislation.

MS. BARTLETT: Our next topic is "voluntary unisex". Are there companies who have instituted unisex products in areas that are not within the very broad interpretation of Norris - for example, the individual life insurance policy that your agents sell to the person on the street? Has anybody done that?

MR. PAUL G. SCHOTT: My company has come out with one unisex life policy and a unisex disability income policy. We are now coming out with a new 1980 CSO series and because of that we will withdraw the unisex life policy and replace it with a similar sex-distinct plan.

MS. BARTLETT: Have any of the panelists any further thoughts on this question?

MS. LAUTZENHEISER: I do not know of any other companies with unisex life policies. There are several other disability income companies that are selling unisex policies. One company only does it at their top occupational class, another for the top classes, and some do it across the board. The April 21 issue of the National Underwriter stated that Union Mutual has introduced a new unisex contract for individual disability income policies which includes maternity benefits.

MR. SPANO: The 1980 amendments to the nonforfeiture laws contain the 1980 CSO tables, which are sex-distinct. If you want to go over to the 1980 CSO basis, you have problems if you also want to use unisex rates and benefits. A major reason is that unisex policies which meet the 1980 CSO requirements with respect to cash values will most probably not meet the requirements with respect to paid-up nonforfeiture benefits. To eliminate these problems, the National Association of Insurance Commissioners (NAIC) has adopted a series of blended, or unisex, 1980 CSO Tables. But NAIC action by itself is not sufficient: each state has to adopt these blended tables. So far there has been little action in that respect.

MS. LAUTZENHEISER: The original concern when companies first started going to unisex on disability income was that it would have repercussions at the Federal level. I did not see it there, but at one of the state legislative hearings one woman said: "now that the industry has admitted its statistics are wrong and have gone unisex on these policies, it shows that your other statistics are also wrong". We have, of course, rebutted that. Our statistics still show a difference, some companies just are experimenting with equal prices. But experimentation with unisex gives us an additional way of emphasizing that there is a lot of difference between what a company can do in a competitive voluntary environment and what it can do in a mandatory environment. The company which tried unisex and is now going back to sex-distinct life insurance rates indicates clearly how it is possible today for companies to experiment, and if the experiment does not work it does not lock you into something permanently, which is, of course, what mandatory laws do.

MS. BARTLETT: The next part of our program covers how you as individuals can help. Although we managed to win a vote in the House Energy and Commerce Committee, it was a hard one. This issue is not dead by any means, and it would be very stupid of all of us to think it has gone away - it will be back in some form or another. All of you have been exposed to some of the arguments that are given in support of unisex; you may not be nearly as aware of the rebuttals. I thought it might be helpful if the major things that we call "myths," that the proponents use in support of unisex, could be addressed.

MS. LAUTZENHEISER: The issue was initially "billed" by the proponents as a civil rights issue. The concept was that insurers had to pay attention to the individual instead of the group. Actuaries then began to talk about actuarial science, and the fact that we must of necessity consider groups, and must of necessity consider our mortality and morbidity statistics and must of necessity consider cost and so on. We were getting absolutely nowhere because we were not using the "right stuff". The "right stuff" that we finally started using was to emphasize the economic impact of the legislation on women - not on the industry - not the actuarial theory. NOW had come out with an illustration showing that women are paying some $15,000 more than men over their lifetimes. They were talking in terms of

their estimate of the economic impact on women, and that was one of their myths that we had to undo. We undid it by emphasizing the fact that 95% of the women already had equal pension benefits for equal contributions through their employers and that 85% of the women already had equal benefits for equal contributions on their health insurance, again through employers. The two pieces of insurance that women purchased individually - on their own - as opposed to an employer buying for them, were life insurance and automobile insurance, and those two pieces were cheaper for women than for men. So we turned NOW's figures around, and showed that the typical woman was actually paying $8,500 less.

Another popular myth was that "miles driven" was a substitute for gender in automobile insurance. The casualty actuaries can show that, for the same number of miles driven, there are still significantly lower accident rates for women. Similarly, the argument was made on life insurance that we can use smoking as a substitute for sex. The Erie, Pennsylvania study contended that the entire difference in mortality between the sexes was a result of smoking. The fact that that particular data was based on census data for the living population and obituary notices for the deaths made it the kind of mortality study that had not been done for over 100 years, and very inaccurate. Industry smoking/non-smoking data, of course, show a major difference. I think it is still not accepted by the proponents that smoking does not make the difference. It is still not understood that, if we eliminated gender, resulting in no differences other than between smoking and non-smoking, we would still end up with a shifting of equity.

Another difficult myth is where the proponents say that there is a 25% surcharge on life insurance for women. They say the reason is that women buy policies averaging $17,000, and men buy policies averaging $35,000. To each of those policies we attach a unisex policy fee. If that policy fee is divided by $17,000 for women and $35,000 for men, then the per thousand cost to the women is greater than for men. So, if we go to unisex rates, the insurance prices for women will decrease and they can buy more. How do you rebut something so illogical?

MS. BARTLETT: Can I rebut that? If you talk about banding rather than the policy fee, and talk about giving a quantity discount, people begin to understand. This leads to a very important point about getting across technical messages to the public. If you consider NOW's example of women paying $15,000 more for their insurance, the typical actuarial reaction is to start looking at the policies involved, and the fact that they are not reflecting the time value of money. An actuary is trained to analyze the whole thing; instinctively you start to rebut it on an actuarial basis. But this will not work. You must start talking English, and keep it simple.

MR. SPANO: Here are some automobile insurance myths. Barbara mentioned one of them, that miles driven is an inadequate substitute for gender rating. A similar argument that the proponents use is that gender is merely a proxy for other factors that affect automobile insurance experience. You do not really have to use sex, they claim, because you can get all the information you need to price the risk by looking at other factors, such as miles driven, the use that is made of the car, the make and model of the car, and so forth. But the response is that all of these are important. One is not a proxy for another. All these other factors

count and all are being used by the insurance companies, but sex is an additional factor that is important and is independent of the others.

Another argument they use is that careful male drivers are being penalized because their price is affected by poor experience among some of the males. Similarly, those females who happen to be careless and have a lot of accidents are being subsidized by the careful females. That is not fair, they argue. But the fact is, of course, that almost all automobile insurers have a merit rating program which recognizes each individual driver's experience. So, accident-free males are going to pay a lower rate than the average male rate, and the careless females are going to pay a higher rate than the average female rate.

Finally, the proponents argue that additional reliance on miles driven will have some social benefits, because people will cut down on the amount they drive and thus will have fewer accidents. This argument fails to consider some very important practical and psychological considerations. For one thing, often the number of miles driven is not controllable. A person has to go to work regardless of what the premium rate is. Secondly, in order to have any real effect on the person's incentives, there would have to be some very substantial premium reductions. And there is another factor, related to human behavior. As an example, even though everybody says it is better to use a seat belt in a car, not everybody does. So, just because a person could have a lower premium, would he or she actually drive less? The historical facts just do not support that sort of contention.

MS. BARTLETT: Barbara, as a result of your efforts in the last year and a half, could you tell us a little of what you have learned about the involvement of an actuary in the political process.

MS. LAUTZENHEISER: It has been a very large learning process. I will just share four of the more critical things I think that are important. The first is that when you are selling something, you form your own opinion based on the facts, but then you also have to identify what its impact is on the other person. You have to identify and tell the other person why they, not you, should care. You have to identify the "right stuff". Instead of talking about our actuarial statistics, we had to identify what the legislation was going to do to the people who were supposedly being represented by the proponents. When you are doing the selling you will feel a little sloppy, because you are not giving all of the details. But remember, it is the first three words out of your mouth which will be printed. I remember when a newspaper called me up and wanted to know why the Phoenix's new business was increasing. The actuary in me said: "I am not sure, but..." And it was printed as "she does not know". I should have said "Low net cost"! You have to learn to sell ideas in just 20 seconds or five minutes or however long you are given, not how long you need.

The second thing is that it is important to have actual constituents out there also communicating on the issue. The direct mail campaign, where we had constituents writing to committee members opposing the legislation, was very effective. The major concern of members of the House of Congress is re-election and what their constituents want. So, getting that feedback to them was very significant.

The third item was that we were able to get three industries coming together - the property-casualty industry, the health industry and the life insurance industry to achieve a common goal. The coordination effort just flowed because it was the right thing to do. That felt very good.

Finally, I discovered that each and every one of you can walk into any one of the offices of members of Congress, if you have something to say. It does not have to be the state you come from. You may or may not get to see the Senator or Representative, but you will get a hearing from the staff people. Prior to this year, I would not have thought you could do that - that one person could have an impact. But they can. That felt very good. The democratic process really did work.

The actuary in me wanted to fix the unisex problem ten years ago, nine years ago, eight years ago. But I finally learned that the real key to politics was to create delaying action, not necessarily to "fix" it. If you were only able to get something to the point where it did not occur, then you had made progress. To give you an example of how that delaying action works, after the Senate markup, Congress went off for summer recess. At that time, the gender gap began to be talked about constantly. You could not turn the television on or pick up a newspaper without hearing "gender gap". I became very apprehensive and started making phone calls to make sure that we had lobbyists at work, because my sense was that the minute Congress got back to Washington after their recess, things would start moving. I was still making those phone calls on a Wednesday morning. By Wednesday night, the South Korean jet had been downed. From that point on, you barely heard the words "gender gap". You cannot tell when something is going to happen and merely turn the politicians' thinking to something else.

MS. BARTLETT: One of the messages that I would like to send to all of you is to please try, if you have not already, to get involved in not only this issue, but any others of actuarial importance that come up in the future. Many of you may be thinking that it is easy for me to say because I happen to work for an employer who was very strongly opposed to unisex. Barbara also had the support of her employer in terms of the company position on this issue. What if you work for an employer who had a different position? Barbara, what would have happened had you been working for a company who really felt it was time to fold on the unisex issue?

MS. LAUTZENHEISER: I had been involved in this issue since 1974, and have cared a great deal about it, because of its impact on our actuarial tool of cost based pricing. It is a professional problem and has industry implications, as well as implications for women. Had my employer not been supportive, there are things I could have done. I could have written letters to the editor of the New York Times, or to local papers. It does not take that much time. I could have taken a vacation day to testify at the hearing on behalf of Barbara Lautzenheiser. Each and every one of you could do that and should do that. The more voices we have, the better. I did a talk show one night on local radio. Hartford is filled with actuaries, and not one actuary called in to make a comment. You do not have to do a lot, but you can all do something, and have an impact.

MR. PAUL G. SCHOTT: What actuarial expertise, if any, was used by the GAO in evaluating all the reports?

MR. BLEAKNEY: I had a number of discussions with the chief staff person from GAO on the subject of the amount of unfunded liabilities for non-insured pensions. If they had in-house actuarial assistance I am not aware of it. I got the impression that it was done by quite skilled individuals, because they came up with our point of view! They were constantly seeking further information. I had an open invitation to offer any other ideas I had on refinement of the data. I thought they did a good job.

MR. SPANO: They were very willing to listen and to communicate.

MS. BARTLETT: I think it is important to speak out even if you do not agree with the position that this group has been advocating today. I believe that one of the eight actuaries who wrote a brief on the Norris case taking a different position from ours was involved with the GAO report.

MR. SPANO: I think that is a very important point. The eight actuaries were very effective in getting their position across. Even though my philosophy differs from theirs, this is just fine. Each of us has a professional responsibility to speak up when we feel we can make an appropriate contribution.

MR. BLEAKNEY: Since actuaries tend to think along very logical, organized lines, I think there may be a tendency for us to feel that, if a particular bill or regulation does not make sense, if technically it is imperfect, it is not going to pass. Things do not work out that way.

MR. GARY K. DROWN: I was dismayed to read the title of the panel discussion as "Unisex". I have heard all of you talk about unisex. Words are verbal symbols that are pointing to some reality and there is no reality that I know that is unisex. I would expect all of us to avoid that verbal symbol as being contrary to everything we are talking about. This year, I have re-read the book 1984, and one of the big aspects of that story was Newspeak, the idea of destroying concepts and notions by aberrating words or verbal symbols from the vocabulary. Consider, instead, using "sex neutral" or "ambi-sex", maybe, but not unisex.

MS. CAROL A. MARLER: Our company for a long time has been selling insurance in a mass marketing situation, where the premium rates are grouped in fairly large age categories and do not vary by sex. I would like to express a brief concern about the approach the NAIC has taken on the 1980 CSO. It does not allow us the real flexibility we need to deal with this type of product.

MR. A. MICHAEL McMAHON: Has the Reagan administration played any sort of role in this issue outside of the State of the Union speech?

MS. LAUTZENHEISER: The State of the Union speech said that the Administration was for "pension equity". It was our understanding that President Reagan was talking more about the proposed legislation which would lower participation requirements and vesting ages, rather than about H.R.100 and S.372. We did have conversations with various people in the White House. Our impression was that they would probably support unisex as a requirement of employees' benefits, but would be against legislation that

would require equal insurance rates in the voluntary market for men and women.

MS. BARTLETT: I hope we have made it clear that the issue has not gone away and that everybody must continue to be alert. I hope we also made it clear that pension retroactivity is still extremely significant. I would like all of you who are involved in pension plans to think about what could be done in this area. What about the 2 to 14 employee groups?

What else can actuaries do? Please review what you are doing right now for consistency. It really is a little peculiar if you have smoker discounts on one policy form and not on others. I have trouble with the concept of detailed underwriting for life insurance and no underwriting for annuities. If we are going to treat people like individuals, we have to think about treating them like individuals no matter what they are buying. There are many other things like that.

We have to look at things that we have always taken for granted, but which could cause trouble. One of the things that I have identified as a problem is that every single policy form that our company sells includes tables of settlement options which show lower guaranteed life annuity benefits for women than for men. That raises a red flag. Somebody starts saying that women are treated differently from men and we are in another horrible mess. Does it really make any difference to our guaranteed settlement options if they were gender neutral, when you remember that anybody actually electing a life annuity gets a current rate rather than a guaranteed rate?

Get involved as individuals; do not leave it to someone else. Understand the political process and the need to communicate in a different language - theirs, not ours.