

two insurance companies, who would in all likelihood, settle the matter expeditiously by informal means and without expensive litigation, as now happens with many commercial claims. Keep in mind an insurance company would not pay its lawyer a third of any recovery, as the individual injury victims must do.

Is all this unfair to the victim? No; he gives up as he does as under statutory workers compensation or statutory no-fault auto insurance his fault-based claim in return for guaranteed no-fault payment.

And note this plan for no-fault benefits will not be mandatory. Rather it will be elective allowing but not compelling any insurer to offer it by contract, and similarly allowing any potential accident victim to refuse it. Given the apparent public preference, evidenced by many polls, for certain insurance payment versus the gamble of a law suit, widespread acceptance of no-fault can be expected. Thus, an auto insurer could offer no-fault insurance benefits for auto accidents to its insured in states without, or with inadequate, no-fault auto laws. Workers compensation insurers could offer employees, pursuant to collective bargaining, benefits supplementing inadequate workers compensation benefits for all injuries in the course of employment; workers' compensation insurers could also offer no-fault benefits to employees and their families for off-the-job accidents. Health and disability insurers, either writing individual policies or through group coverage, or casualty companies writing homeowner's coverage, could offer no-fault coverage for all kinds of accidents to their policyholders, as could professional trade associations and others to their members.

Consider the advantages to a no-fault insured under elective no-fault insurance. He is assured of automatic payment of economic loss at whatever level he chooses in the event of any kind of accidental personal injury, and is in addition assured of payment of whatever tort damages he would have received for his economic loss, without the necessity of incurring attorneys' fees or other litigation expenses for either no-fault or fault-based payment. This will mean that his net payment will often be almost as great as, and sometimes greater than, whatever payment he would have received from a fault-based claim, while suffering much less uncertainty and anxiety. To take a hypothetical case: If Smith had a valid fault-based claim against Jones and recovered all his loss of \$55,000 (\$30,000 economic loss plus \$25,000 in noneconomic loss), he would normally pay at least a third of that to a lawyer (or \$18,333) leaving him with a net of \$36,667. Under the elective no-fault plan Smith receives net \$30,000, with \$10,000 (the least he chose) payable automatically without the uncertainty and angst of a fault-based claim. Assuming litigation expenses of 50 percent (not that unusual), Smith would have received net payment of \$27,500 from liability insurance versus \$30,000 under elective no-fault insurance.

Would the fact that the law suit is in fact being pursued primarily or solely in the interests of an insurer tend to deflate jury verdicts for pain and suffering and therefore the funds available to pay no-fault claims? Certainly not at the outset; the jury need not be told that the plaintiff is an insurer any more than it is now told in personal injury cases the defendant is an insurer. And given that such law suits by insurers will be relatively rare, juries will not be inclined to suspect who is the real party in interest. To the extent also that the accident victim retains an interest in the claim the problem is lessened. But even assuming transfer of the entire fault-based claim and that the practice of no-fault insurers pressing such claims spreads widely, the problem of lower pain and suffering verdicts, while perhaps more likely, need not be substantial. A University of Chicago jury study found how conscientious are jurors to follow the law not their subjective prejudices, including feelings for or against insurance companies. Finally, if and when the practice of no-fault insurers pressing their insureds' fault-based claims becomes so widespread that the size of jury verdicts in such cases are affected, at least insurance companies (along with their insureds), who are after all often defendants in such suits, will benefit from the new climate. It would certainly seem unlikely that the proceeds from fault-based claims will be so reduced as to cause abandonment of a no-fault coverage which has turned out to be so popular as to be so widespread.

This plan for elective no-fault insurance permits the insurance industry to harness liability insurance to its own and the public's advantage. Insurers seem almost panicked over current trends in personal injury liability and their liability to control them, through legislation or otherwise. But far from requiring vast and revolutionary and unpredictable changes, dictated by often hostile or uninformed legislatures, elective contracts for no-fault insurance, with a corresponding purchase of the payees' fault-based claims, need not await statutory authorization. It can be structured by the insurance industry itself, subject to input in the public interest through regulatory approval by insurance commissioners (the latter being required of most casualty insurance policies).

It is true that there are legal rules which at first blush might seem to inhibit the implementation of such elective no-fault insurance: rules prohibiting the sale of personal injury claims and rules against maintenance and champerty which supposedly prohibit lawyers from sharing in the proceeds of a suit. These rules were instituted to prevent injured victims from being taken advantage of and to prevent "officious intermeddling," neither of which are threatened when an insurance company promises to pay promptly out-of-pocket losses of accident victims in return for the right to press their claims against third-parties causing injury. Note that the law already allows the accident victim to, in effect, sell a third of his claim to his lawyer in the form of a contingent fee in order to pay his lawyer. Why not go a step further and allow the equally voluntary transfer of the whole

claim (or the bulk of it) to a highly regulated, financially stable entity like an insurance company, whereby almost all the risk of uncompensated accident loss is removed?

In summary, courts should welcome, not strike down, contracts for elective no-fault benefits. By such devices the market can attempt to correct many of the evils and abuses of the present liability insurance system.

CONSUMER PERCEPTIONS OF CREDIT INSURANCE

Ms. Janet Coapstick*

The study examined the characteristics of consumers who misperceived credit insurance. Telephone interviews were used to gather the data, and respondents were divided into two groups: perceivers, who said they had insurance and actually did; and misperceivers who said they had no insurance, but actually did. The rate of misperception was significantly related to age and outstanding balance. There were no statistically significant relationships with annual income, sex, or education.

Credit insurance is in a very important position in the insurance industry because of the volume of credit insurance in force and the millions of people covered. For this reason legislators have been concerned about disclosure of credit insurance information to consumers. The Uniform Consumer Credit Code and the Consumer Credit Protection Act, in addition to state regulations, provide regulations for credit insurance.

Even though these regulations concerning disclosure have improved the shopping opportunities for consumers, some people are still unaware of their coverage. Legitimate claims may go unrecognized because of this and businesses may have public relations problems with consumers who have misperceptions about credit insurance.

This study examined the characteristics of consumers who misperceive credit insurance. Consumers who did not report credit insurance which they were known to possess were the focus of the study. Knowing the characteristics of these consumers will help retailers and legislators deal with problems regarding credit insurance.

A person's perception of credit insurance includes his awareness of coverage and knowledge that it is an optional purchase. This study focuses on four aspects which influence this perception of credit insurance. These aspects are economic security, ability to understand, proximity to the transaction and coercion. Coercion, or the feeling that credit insurance is required, is included because it is a form of misperception. Although the stores do not require credit insurance, some consumers have the mistaken idea that they do.

Research Design

Telephone interviews in December, 1976 were used to gather the data for this study. There were 5081 potential respondents who

*Ms. Coapstick received the Annual ACCI Research Award for this investigation. Ms. Coapstick is currently a graduate student at Purdue University.

were credit insurance customers of nine retail stores. There were 2270 people who were not interviewed because of wrong numbers, no answer or refusal to participate. Of the 2,811 interviews, 904 said they had no credit so the interview was terminated. The 744 consumers who indicated they had credit and whether or not they had credit insurance at the store which provided their names were analyzed. The remaining 1,163 did not volunteer the name of the store providing their names as one with whom they had credit or said they did not know if they had credit insurance with that store.

The retail stores which participated in their survey did so voluntarily. A variety of firms was used in an attempt to be representative of retailers that offer credit insurance. The stores varied in distribution of customers based on age, sex, income and education. The name of the firm providing the interview was not mentioned by the interviewer.

The people interviewed were asked to name stores where they had credit and then at which stores they had credit insurance. If a consumer named a store where he had credit insurance, he was asked about the insurance. After responding to questions about each of the credit insurance plans they said they had, the consumers were asked their opinions of credit insurance in general.

The respondent's perception of credit insurance was based on his answer to the question about credit insurance with a store where he was known to have credit insurance. If a person reported not having insurance coverage which he was known to have, he was classified as having a misperception. People who reported having credit insurance coverage were classified as perceiving correctly. If the respondent said he felt the insurance was required, he was classified as feeling coercion. If he said the insurance was optional, he was classified as not feeling coercion.

Frequency counts and contingency tables were used to analyze the data. Whether an independent variable was related to perception of credit insurance was determined by use of the chi-square test of independence. The .10 level of significance was used throughout the analysis.

Analysis of Results

Table 1 describes the characteristics of the 744 people in the sample. The majority of the sample was between 26 years and 45 years and female. More than one-half had an annual income of \$14,999 or less. Sixty-seven percent had at least 12 years of education. (Refer to Table 1)

Consumers in the sample were divided into two groups, perceivers and misperceivers. Perceivers were those who said they had, and actually did have, credit insurance at the store, while the misperceivers were those who said they did not have credit insurance when in fact they did. Sixty-three percent were perceivers and thirty-seven percent were misperceivers, as shown in Table 2. (Refer to Table 2)

Table 1. Characteristics of Consumers in the Sample

| | Number in Group | Percent |
|---------------------|-----------------|---------|
| A. Sex | | |
| Male | 310 | 42% |
| Female | 434 | 58% |
| | 744 | 100% |
| B. Age in Years | | |
| Less than 25 | 107 | 14% |
| 26-35 years | 217 | 29% |
| 36-45 years | 152 | 20% |
| 46-55 years | 139 | 19% |
| 56-65 years | 85 | 11% |
| Over 65 years | 41 | 6% |
| Refused | 3 | 1% |
| | 744 | 100% |
| C. Annual Income | | |
| Less than \$7000 | 132 | 18% |
| \$7000 - \$9999 | 163 | 22% |
| \$10,000 - \$14,999 | 193 | 26% |
| \$15,000 - \$19,999 | 112 | 15% |
| \$20,000 - \$24,999 | 42 | 6% |
| \$25,000 or more | 39 | 5% |
| Do Not Know | 63 | 8% |
| | 744 | 100% |
| D. Education | | |
| 8 years or less | 89 | 12% |
| 9 - 11 years | 151 | 20% |
| 12 years | 303 | 41% |
| 13 - 15 years | 125 | 17% |
| 16 or more years | 69 | 9% |
| Do Not Know | 7 | 1% |
| | 744 | 100% |

Table 2. Distribution of Perceivers and Misperceivers

| | Number in Group | Percent of Total |
|---------------|-----------------|------------------|
| Perceivers | 472 | 63% |
| Misperceivers | 272 | 37% |
| Total | 744 | 100% |

Table 3 shows that the observed relationship between age in years and perception was contrary to the hypothesized relationship. Those 25 years and younger were almost evenly divided into perceivers and misperceivers. For those in the middle age groups, the percentage of perceivers rises to about 65 percent. For consumers over 65 years of age, the percentage correct again falls to 56% and the percentage incorrect rises to 44%. Thus, younger and older people misperceived more often than middle-aged people. (Refer to Table 3)

A consumer's outstanding balance and his perception of credit insurance were not significantly independent. Only 631 responses were used for testing this hypothesis since information on outstanding balance was not available for the whole sample. Table 3 shows that as outstanding balance increases so does perception of credit insurance. About one-half of the consumers with a balance of \$100 or less were perceivers and one-half were misperceivers. For consumers with a balance of \$101 or more, at least 63 percent were perceivers. Therefore, as outstanding balance increases the incidence of correct perception increases.

Table 3. The Effect of Selected Variables on Consumers' Perceptions of Credit Life Insurance Coverage

| Characteristics | Perception | | N | χ^2/df |
|----------------------------|------------|-------|-------|-------------|
| | Right | Wrong | | |
| Age in Years | | | | |
| | | | (741) | |
| 25 or less | 52% | 48% | 107 | 9.65/5* |
| 26 - 35 | 65% | 35% | 217 | |
| 36 - 45 | 65% | 35% | 152 | |
| 46 - 55 | 70% | 30% | 139 | |
| 56 - 65 | 62% | 38% | 85 | |
| Over 65 | 56% | 44% | 41 | |
| Sex of Respondent | | | | |
| | | | (744) | |
| Male | 60% | 40% | 310 | 2.00/1 |
| Female | 66% | 34% | 434 | |
| Annual Income | | | | |
| | | | (681) | |
| Less than \$7000 | 58% | 42% | 132 | 6.46/5 |
| \$7,000 - \$9,999 | 66% | 34% | 163 | |
| \$10,000 - \$14,999 | 63% | 37% | 193 | |
| \$15,000 - \$19,999 | 65% | 35% | 112 | |
| \$20,000 - \$24,999 | 76% | 24% | 42 | |
| \$25,000 or more | 54% | 46% | 39 | |
| Outstanding Balance | | | | |
| | | | (631) | |
| \$100 or less | 49% | 51% | 53 | 14.17/4 |
| \$101 to \$600 | 63% | 37% | 362 | |
| \$601 to \$1000 | 71% | 29% | 111 | |
| \$1001 to \$1500 | 75% | 25% | 68 | |
| \$1501 or more | 78% | 22% | 37 | |

*Statistically significant at .10 level

Consumers within each income group were analyzed for differences in perception because of outstanding balance. Table 4 shows that for consumers with incomes of \$7000 or less and \$7000 to \$9999 perception of credit insurance rises as unpaid balance increases.

Table 4. The Effect of Outstanding Account Balance on Consumer's Perception of Credit Insurance Coverage When Controlling for Income

| Income/Balance | Perception | | N | χ^2/df |
|-----------------------------|------------|-------|-------|-------------|
| | Right | Wrong | | |
| Less Than \$7,000 | | | | |
| | | | (117) | |
| \$100 or less | 33% | 67% | 18 | 7.88/3* |
| \$101 to \$600 | 61% | 39% | 69 | |
| \$601 to \$1000 | 64% | 36% | 22 | |
| \$1001 to \$1500 | 88% | 12% | 8 | |
| \$7000 to \$9999 | | | | |
| | | | (138) | |
| \$100 or less | 61% | 39% | 13 | 12.91/4* |
| \$101 to \$600 | 59% | 41% | 90 | |
| \$601 to \$1000 | 100% | 0% | 20 | |
| \$1001 to \$1500 | 73% | 27% | 11 | |
| \$1501 or more | 75% | 25% | 4 | |
| \$10,000 to \$14,999 | | | | |
| | | | (164) | |
| \$100 or less | 54% | 46% | 13 | 1.48/4 |
| \$101 to \$600 | 69% | 31% | 94 | |
| \$601 to \$1000 | 69% | 31% | 29 | |
| \$1001 to \$1500 | 67% | 33% | 18 | |
| \$1501 or more | 60% | 40% | 10 | |
| \$15,000 to \$19,999 | | | | |
| | | | (88) | |
| \$100 or less | 33% | 67% | 3 | 2.81/4 |
| \$101 to \$600 | 70% | 30% | 43 | |
| \$601 to \$1000 | 70% | 30% | 20 | |
| \$1001 to \$1500 | 64% | 36% | 11 | |
| \$1501 or more | 82% | 18% | 11 | |
| \$20,000 or more | | | | |
| | | | (65) | |
| \$100 or less | 67% | 33% | 3 | 4.97/4 |
| \$101 to \$600 | 59% | 41% | 29 | |
| \$601 to \$1000 | 58% | 42% | 12 | |
| \$1001 to \$1500 | 80% | 20% | 10 | |
| \$1501 or more | 91% | 9% | 11 | |

*Statistically significant at .10 level

Table 5. The Effect of Years of Education on Consumer's Perception of Credit Insurance Coverage When Controlling for Income.

| Income/Years of Education | Perception | | N | χ^2/df |
|---------------------------|------------|-------|-------|-------------|
| | Right | Wrong | | |
| Less than \$7,000 | | | | |
| 8 or less | 60% | 40% | (130) | |
| 9 to 11 | 60% | 40% | 37 | |
| 12 | 60% | 40% | 35 | 3.09/4 |
| 13 to 15 | 53% | 47% | 19 | |
| 16 or more | 0% | 100% | 2 | |
| \$7,000 to \$9,999 | | | | |
| 8 or less | 67% | 33% | (163) | |
| 9 to 11 | 60% | 40% | 30 | |
| 12 | 68% | 32% | 74 | .58/4 |
| 13 to 15 | 67% | 33% | 24 | |
| 16 or more | 64% | 36% | 11 | |
| \$10,000 to \$14,999 | | | | |
| 8 or less | 58% | 42% | (191) | |
| 9 to 11 | 58% | 42% | 43 | |
| 12 | 62% | 38% | 85 | 3.34/4 |
| 13 to 15 | 65% | 35% | 34 | |
| 16 or more | 82% | 18% | 17 | |
| \$15,000 to \$19,999 | | | | |
| 8 or less | 100% | 0% | (111) | |
| 9 to 11 | 58% | 42% | 19 | |
| 12 | 66% | 34% | 55 | 2.51/4 |
| 13 to 15 | 60% | 40% | 20 | |
| 16 or more | 71% | 29% | 14 | |
| \$20,000 or more | | | | |
| 8 or less | 50% | 50% | (81) | |
| 9 to 11 | 100% | 0% | 4 | |
| 12 | 57% | 43% | 28 | 3.38/4 |
| 13 to 15 | 67% | 33% | 24 | |
| 16 or more | 70% | 30% | 23 | |

For those in the other three income groups, perception was not related to outstanding balance.

There were no statistically significant relationships between the following variables and perception: annual income, sex and education. (Tables 3 and 5).

When analyzing perception of coercion, the sample was limited to those consumers who said they had credit insurance at the store which provided their names. Consumers who said they did not know if credit insurance was required or optional and those for whom the type of account was not available were excluded from the analysis. Thus, the total number of consumers used for this analysis was 405. A majority of the consumers correctly felt that credit insurance was optional.

A much greater percentage of those with closed-ended accounts felt credit insurance was required, as shown in Table 6.

| Characteristics | Perception of Requirements for Credit Insurance Coverage | | N | χ^2/df |
|---------------------|--|----------|-----|-------------|
| | Required | Optional | | |
| Type of Account | | | | |
| Open | 9% | 91% | 329 | 30.16/1* |
| Closed | 33% | 67% | 76 | |
| Annual Income | | | | |
| Less than \$7,000 | 25% | 75% | 69 | |
| \$7,000 - \$9,999 | 16% | 84% | 102 | |
| \$10,000 - \$14,999 | 11% | 89% | 114 | 9.42/5* |
| \$15,000 - \$19,999 | 10% | 90% | 69 | |
| \$20,000 - \$24,999 | 10% | 90% | 31 | |
| \$25,000 or more | 10% | 90% | 20 | |

*Statistically significant at .10 level

Over 90 percent of those with open-ended accounts correctly felt credit insurance was optional, while 67 percent of those with closed-ended accounts perceived correctly.

Feelings of coercion decline as income increases. Table 6 shows that a greater percentage of lower income respondents felt the credit insurance was required than those with higher incomes. This means there was higher incidence of perceived coercion for the lower income consumers. The percentage of consumers who felt insurance was required drops from 25 percent for those with less than \$7000 to 10 percent of those with incomes of \$25,000 or more.

Discussion of Findings

Perhaps the reason middle-aged people perceived credit insurance correctly more frequently than younger or older people is because they have had more experience with credit and credit insurance than the younger and older people.

A factor which may contribute to the independence between income and perception could be that consumers did not feel credit insurance to be a significant part of their household budgets. Since the payment for credit insurance is made with the credit payment, the insurance premium could be overlooked.

Ability to understand was not related to perception. Examining the various legal forms used for credit insurance could clarify the relationship between ability to understand and perception. Another factor which could influence ability to understand is the explanation provided by the salesman at the time of the credit transaction.

The sex of the respondent was not significantly related to perception of credit insurance. It may be that the women respondents in this sample were not, generally, the financial officer of the family. There may be other factors which confuse this relationship, such as which family member has the most time for paying bills.

As expected, lower income consumers and those with closed-ended accounts felt credit insurance was required more often than those with higher incomes and open-ended accounts. Coercion has been alledged to be a serious problem but these findings show that few consumers felt the insurance was required.

Implications of Findings

The results of this investigation could be used by retailers and legislators. Retailers could use the results to identify consumers who are likely to perceive credit insurance and to determine who needs more explanation of it. Thus, they could minimize consumer misunderstanding as well as the possibility of future legislative efforts in this area.

Retailers could use the results to eliminate some of the problems surrounding credit insurance. Consumers who are unaware of their coverage may not collect legitimate claims. This could lead to high unearned premiums, which concerns legislators and insurance commissioners. Those who misperceive credit insurance may worry needlessly about paying their accounts if something happened to them. Retailers may be able to lower unearned benefits, eliminate some complaints and unnecessary worry by explaining credit insurance more clearly to consumers who are most likely to misperceive.

Legislators concerned about potential misunderstandings can use these results in making regulations concerning credit insurance. Since over one-third of the consumers in this study were misperceivers, there is reason for legislators to be concerned about awareness of credit insurance.

Although coercion has received attention from legislators in the past, these results indicate that they may want to concentrate their interest on other credit insurance problems, such as awareness of coverage. Because those consumers who did report coercion may be considered disadvantaged, retailers could make a better effort to emphasize that credit insurance is optional for these consumers.

Before one attempts to generalize these findings to all consumers who have misperceptions about credit insurance, it should be remembered that another type of misperception exists. The findings from this study cannot be expanded to include consumers who report having credit insurance with stores that do not offer it. Perhaps, some of the other characteristics would be related to perception if this type of error was examined.

Recommendations and Conclusions

Retailers should improve their explanations of credit insurance to younger and older consumers and those with lower outstanding balances. They can lower incidence of perceived coercion through better explanation of credit insurance to lower income consumers and those with closed-ended accounts. Legislators should be more concerned about awareness of credit insurance coverage.

Future research is needed to examine the legal forms used for credit insurance as well as the retailers' presentation of the insurance. These factors could affect a consumer's perception of credit insurance. An examination of consumers who said they had credit insurance with a store which did not offer credit insurance may reveal significant relationships between perception and other variables.

In conclusion, many consumers do not report credit insurance coverage correctly. Generally, consumers who know they have credit insurance do not feel they were required to purchase it. Consumers who are likely to misperceive credit insurance

coverage and who are likely to perceive coercion can be identified through characteristics, including age, amount of outstanding balance, income and type of credit account. Retailers should be concerned about explaining credit insurance more carefully and legislators should work to improve regulations governing credit insurance.

ACCOUNTABILITY--LOOKING FROM THE INSIDE OUT

Dr. Lee Richardson*

The Office of Consumer Affairs and other federal offices are becoming more responsive to consumers needs. Public participation in federal agency proceedings is one mechanism to continue this productive trend. ACCI members should consider targeting research toward regulatory issues so as to provide consumers data to represent consumer interests more effectively.

Consumer advocates who have become government officials have learned that their ability to effect needed changes is restricted by the cautiousness inherent in our regulatory system, bureaucracies, and judicial procedures. This built-in cautiousness is not necessarily bad: on the contrary, it helps to prevent ill-considered sudden changes that might result in sudden dislocations of the economic system and the availability and reliability of consumer goods.

There is a point, however, at which cautiousness becomes rigidity, inertia, or even obstructionism. We would probably not agree on precisely where that point is, but we all know it exists.

Its existence relates directly to accountability because all the people the Carter Administration recruited from the ranks of the consumer movement for regulatory and policy positions at the top levels of the Federal Government must deal with it every day. Their authorizing legislation, their procedural regulations and, often, the courts constrain them. But when the delay becomes embarrassing and otherwise inexplicable, the fault is almost invariably bureaucratic or systemic rigidity.

The Office of Consumer Affairs recently took up the cudgels with the Federal Trade Commission over an example of the bureaucratic species of rigidity. FTC is correctly known as a consumer protection agency.

In April 1977 Walter Dartland, the Dade County Florida Consumer Advocate, petitioned the FTC to take action on cars that rust prematurely. This problem was especially severe in Chevrolet Vegas, about which Walter had received a large number of genuine complaints. He had asked FTC to declare deceptive the advertising and promotional materials in which General Motors characterizes Vegas as rust and corrosion "resistant," to require corrective advertising, and to establish standards for such claims. After a year without

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response from FTC, Dartland asked the OCA if we could generate some movement. We wrote a letter about the issue to Mike Pertschuk, FTC Chairman, which we made public after delivering it to him. We made it public in the interest of accountability. We knew Mike Pertschuk would not ignore the issue if we handled it quietly; that is not his style. We also suspected that the problem was inertia and other priorities rather than any intentional burying of the petition. Still, equally important as being accountable, especially in government, is being seen to be accountable. It is essential that these things be done out in the open. Moreover, few things are as effective in overcoming bureaucratic rigidity as a call or two from the press.

We have used this method in dealing with AMTRAK's involvement in promoting a nutritionally questionable food product and with Citibank in questioning their use of expensive paid advertisements.

The results of these ventures have been heartening. First, the public is interested. All of these calls to account were picked up in the press--the AMTRAK issue very widely. AMTRAK and Kellogg's, which manufactures the questionable food product in the promotion, though defensive, have been in to meet with us and other consumer's invited to the meeting. FTC representatives have come in to tell us that they are conducting a nationwide investigation of auto rust. Though it is not yet clear why the Dartland petition was not answered, the agency is at least in motion on that front.

We have not had a response from Citibank, but we are considering going ahead to examine the whole area of paid, corporate, editorial advertising in the "public interest": the questions of fairness it raises, and what potential remedies may be available. We think this is one of a constellation of closely related issues that threaten the future of consumers in this country. These issues stem from the financial leverage business has in swaying federal and state legislators, from campaign contributions, massive direct lobbying, orchestration of constituent write-in campaigns, and shaping of public opinion via paid advertising and dissemination of data based on sometimes misleading "studies" and "surveys." It is a complex problem, compounded by First Amendment protections that no one wants to see curtailed or circumscribed. At the same time, the public's right to be fully informed is endangered, and Business' success in killing pro-consumer legislation in what was expected to be a pro-consumer Congress has been startling.

Like corporate influence, the other problem, systemic rigidity, is very difficult and complex. The problem derives in large part from the structure of the regulatory agencies of the Federal Government. To cope with the increasing technological complexity of our society, Congress established the Interstate Commerce Commission to regulate railroad commerce. Since that time Congress has created a whole series of regulatory agencies to protect the economic rights and safety of citizens.

As time went on, Congress delegated more and more responsibility to unelected regulatory technicians in agencies such as the Federal Trade Commission, Federal Power Commission, Civil Aeronautics Board, Securities and Exchange Commission, Food and Drug Administration, and the Consumer Product Safety Commission. Congress, of course, continues to make the general laws, but it is this "fourth branch of government"--the regulatory agencies--that makes and enforces many of the specific rules and regulations that affect the marketplace.

Sometimes it is not a question of too many regulations, but the wrong kind. Take consumer product safety, or food and drug regulations, for example. There are many dangerous products on the shelves which were never looked at in the first place, for if they had been they would not have been put on the market at all. The term Generally Regarded as Safe (GRAS) has often meant only that they have not been checked out. So consumers are faced with problems with food additives that have been in use for decades. The Consumer Product Safety Commission has a budget of forty million dollars a year; so far they have issued one standard--for safe swimming pools--which the courts have rejected. Of course, there is the Tris controversy. There is so much concern for the economic loss to business interests that whether the consumer should be reimbursed if he bought Tris-treated clothes became the issue. We should have been discussing potentials of cancer, not economic loss.

Looking at the sweep of history, the regulatory agencies have become insensitive to consumers and rigid in their tendency not to respond. They have, in many cases, become captives of the very businesses they are supposed to regulate. In fact Jim Turner, former Nader Raider and author of The Chemical Feast, says they were born captives, not only because they rely so heavily on the industries they regulate for expertise and data, but because participation in their decision-making requires professional expertise and financial resources.

The average citizen--the person who pushes the grocery cart, the small business owner, the family farmer, and the factory worker--has little knowledge of what these agencies do, and even less understanding of how to make the regulatory process work for them. Industry representatives appear regularly before the agencies which regulate them, but a Senate study showed there has been no participation whatsoever by consumer representatives in more than half of the most important formal proceedings before these agencies. Even in the relatively few cases where citizens do participate, industry consistently outspends them by as much as a hundred to one.

Because the Carter Administration has appointed so many consumers and public-interest advocates to high positions, there is now something of a respite from this problem. It is still too early to tell, however, how much of an institutional difference these

advocates can make in turning the long-term trend around and making these agencies truly accountable to the public they were created to serve.

The key to doing this is public participation. Our task is to increase and improve public participation in order to break down the systemic rigidity of government. The President is supporting legislation to authorize agencies to provide funding for public participation. Sponsored by Senators Kennedy, Mathias and Ribicoff, this bill is known as S.270, the Public Participation in Federal Agency Proceedings Act of 1978. It has been introduced in the House as H.R. 3316. These bills authorize all agencies, executive and regulatory, to reimburse citizens and groups for expenses incurred in administrative proceedings when they make substantial contributions to the full and fair determination of issues by the agency. These expenses include attorney fees and expert witness fees, as well as other participatory costs. They also authorize reimbursement to parties who bring legal suit to compel an agency to comply with the laws of its mandate.

Now, that begins to assure accountability. S.270 is still a long way from enactment, however. At present, it is still in the Administrative Practice and Procedure Subcommittee of the Senate judiciary Committee. It appears likely that the same heavy-hitting coalition of big business interests that defeated the Office of Consumer Representation bill will have their knives out for S.270. It certainly should be clear now, if it was not before, that they are formidable opponents. As the headline over a recent story in the Christian Science Monitor noted: Business is "in" with Congress--lawmakers talk "consumer rights" but industry wins key votes.

Most of us understand the potential social advantages of public participation in administrative and regulatory proceedings. In essence, its purpose is to prevent what the Supreme Court once termed a "failure of justice." It is true that government agencies already have the statutory obligation to represent the "public interest." The "public interest," however, is not a monolith but involves a balance of many interests and the presentation of otherwise unrepresented views is critical to determining what that balance ought to be.

For example, Congress is rewriting the 1934 Communications Act and at the same time the Federal Communications Commission is making far-reaching decisions on how complete AT&T's monopoly shall be. Certainly AT&T, Western Union, IT&T and the other companies with interests at stake will be well represented by individuals equipped to deal with the host of technical and economic issues involved. But consumers have big interests at stake as well--will they be well represented? We are trying to assure that they will be. A few weeks ago we proposed specific steps to the FCC to make it easier and less costly for consumers to play a meaningful part in the FCC decisionmaking process. We also asked

that the agency work actively to make information more available and understandable to the general public and that FCC's Consumer Assistance Office serve as an ombudsman within the Commission.

In cooperation with the Consumer Federation of America we are organizing two sessions on telephone issues at a meeting of state and local CFA members in June. One of these will cover state and local issues, such as rate-setting and marketing practices, and the other will focus on the national issues of competition, universal low cost residential service, market entry and so on.

Further, in November 1978, we will jointly sponsor a two-day conference on the national telecommunications issues. Our purpose is to provide a forum to help consumers determine what their interests are in these issues. Only then can the consumer interest be adequately represented before the FCC and the Congress, before decisions are made that place unnecessary and unfair burdens on the public.

Metriation is another area where we are afraid consumer interests may be overlooked. Now that the Senate has confirmed thirteen nominees to the US Metric Board--four more still have to be named and/or confirmed--the Board can begin carrying out the provisions of the Metric Conversion Act of 1975 to "...coordinate the voluntary conversion to the metric system." One of the Board's functions is to "publicize, in an appropriate manner, proposed programs and to provide an opportunity for interested groups or individuals to submit comments on such programs...."

Many consumers are resisting the change to metric. This may be because this is a low priority area to consumer advocates and consumer groups faced with what seems like all the world's problems to solve. Many ask, since it seems to be a nuisance to metricate, who needs it? We need to find out what consumers have at stake in metriation, to inform government and industry of consumer concerns and problems, and then to suggest how to respond intelligently to consumers. Metriation may not be very successful nor very orderly if consumers are not properly involved in the decision-making processes of government and industry. Most people do not know there is a U.S. Metric Board. That is partly because the Board has not told anyone very effectively that it is now in business.

We wrote the Metric Board Chairperson recently to say that we hoped the Board will establish early in its deliberations a policy of outreach to obtain consumer comment on its policies and decisions. We noted that metric conversion will not succeed without consumer awareness and understanding and asked that the Board give early notices of the times and places of its upcoming meetings so that consumers might have the opportunity to learn firsthand of its workings.

Metriation and communications are only examples. There are the same needs and opportunities for consumer involvement in the regulation of advertising, the disclosure of credit information, the design of electronic funds transfer systems in banking, or U.S. policy in international trade in coffee and sugar. This gives us an additional important task. If we are going to advocate direct consumer participation in decision-making, then it is up to us to develop competent consumer representatives to serve. Meaningful participation requires the power structures to open their doors, but also requires us to be able to usher in well-trained and sophisticated consumer representatives who can make the contributions we need.

This is where ACCI and its members have important roles to play. ACCI itself has publications which can analyze issues and disseminate some of the kinds of information that people need to represent themselves adequately. For instance, a number of agencies have gone to public long-term planning processes. National Highway Traffic Safety Administration and Consumer Product Safety Commission are two examples. Many ACCI members are researchers and educators. Members should consider how research can be targeted to regulatory issues and priorities so as to provide some of the data consumers need to represent their interests effectively. ACCI members have been doing laudable work in these areas, but what a great contribution could be made through closer involvement with the real-world problems of consumer representation as public participation opportunities are about to expand.