

FTC Consumer Protection Role Disputed

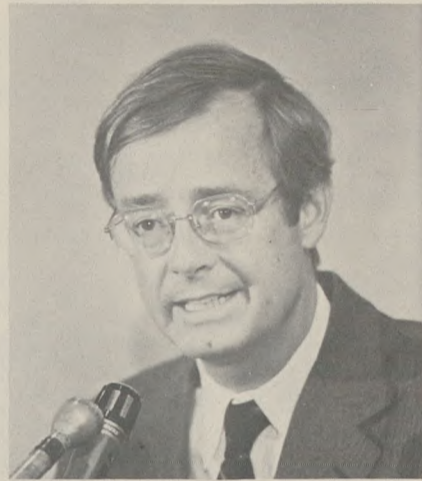
Deregulation of industry is the most effective means the Federal Trade Commission (FTC) has of protecting consumers, according to FTC Chairman Daniel Oliver. But Robert Abrams, New York State Attorney General, said the FTC's reliance on deregulation over the past six years has too often led that agency to fail to protect consumers from unsafe or defective products. Instead, he said, the FTC should aim for a "proper balance" that combines freedom with guidance.

Oliver and Abrams gave their contrasting views of the role of the FTC as keynote speakers at the Consumer Federation of America's Consumer Assembly '87, "Pocketbook Populism: Consumer Initiatives in a New Political Environment." More than 500 consumer, media, government, and industry representatives attended the two-day conference.



Robert Abrams

and fosters greater competition." He compared such an approach to that of a parent disciplining an adolescent child. "Overprotection is harmful and stifles growth, but we don't throw up our hands and say to them, 'Go ahead, do whatever you want'



Daniel Oliver

A proper balance is attainable, where we give guidance, where we set down rules to follow, but know when to give the child its freedom. This is the approach the states have taken, and it is one to which we hope the federal government will return."

FTC Antitrust Enforcement Scored

Abrams said the FTC has been especially derelict with regard to antitrust issues. "The National Association of Attorneys General and its Antitrust Committee, of which I am the chair, believe that vigorous antitrust enforcement is the most effective way to protect competition and consumers. But this is not the view of the FTC," he said. "My office and other state attorneys general are bringing national antitrust cases, because the FTC is not."

Oliver and Abrams also outlined different state and local priorities. Oliver named New York City's taxicab monopoly, Wisconsin's "minimum markup laws" for products such as gasoline, "relevant market area" laws, "certificate-of-need" health-care regulations, and agricultural marketing orders enforcing growers' cartels as areas appropriate for deregulation where the FTC is ready to take action.

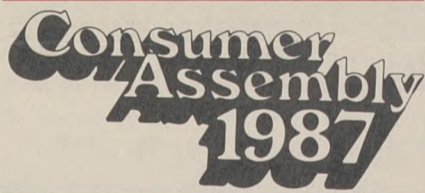
Abrams, on the other hand, said that state attorneys general have had to place a number of national issues at the top of their agendas because of weak action or inaction on the part of the FTC. Those issues have included used and new car lemon laws; health warnings on smokeless tobacco labels; "quackery," the pushing of false and unproven cures and gimmicks on people who are ill or in pain; false and deceptive nutrition claims; as well as antitrust enforcement.

Insurance Needs Study

Oliver did, however, support consumer advocates' position on the need for investigation of the insurance industry. "What is the state of competition in the insurance industry today?" Oliver asked. "I wish I could tell you, but I haven't been allowed to look into it. I can tell you this: With health care now absorbing 11 percent of our GNP, and health-care costs rising seven times faster than the overall inflation rate, and insurance a key factor in health care, we need to be concerned."

Oliver said the FTC would work to win repeal of the McCarran-Ferguson Act, which is also a priority of CFA and other consumer organizations, and to force Congress to allow the FTC to study the insurance industry. Where Oliver parted company with most consumer advocates was when he called for an effort "to prevent reregulation and overregulation at the state and federal level."

The need for reform in the insurance industry was discussed in greater detail by a panel of consumer and industry representatives. (See related article, Page 3.)



Need for Government Intervention Argued

"Many government economic regulations are anticompetitive," Oliver said. "They harm consumers by raising prices and restricting choices. And they can cause substantially more harm than the proverbial smoke-filled room of conspiring competitors. . . . What I want to suggest to you is that when government creates or supports a cartel, the harm to consumers is unambiguous," he added. "And the actions we at the FTC take to eliminate those cartels, therefore, are unquestionably beneficial to consumers."

Abrams said that despite his own belief in "the value of a free and open marketplace," he has found this approach to be inadequate. "Decades of experience have taught us that while most commercial enterprises will produce quality goods and services, and will do their best to satisfy the consumer, some inevitably will not," he said. "In this area, at the fringes of the marketplace, where consumers are most vulnerable, it is only government which can swiftly and legitimately step in, saying, 'Here you have gone too far.'" Without government intervention, Abrams said, "at the fringes, the marketplace either operates far too slowly, or simply falls short."

Abrams called for "a more effective and unified national approach, which gives the business community regulatory guidance

Kennedy Calls for Consumer Coops



Freshman Congressman Joseph Kennedy II (D-MA) called on consumer advocates to organize consumer cooperatives to provide such necessities as housing, energy, health care, and food. Rep. Kennedy, himself, has formed non-profit companies to provide low-cost heating oil and natural gas to low-income consumers, and to help landlords and tenants of low- and moderate-income housing install energy saving measures. "We have these problems, but we also have some of the solutions in our hands," he said. "You have the power to organize this country to negotiate for services in the basic necessities—health care, energy, housing, food. That doesn't mean that the federal government can abandon its role," he added. "It has to be done hand in hand." Pledging to work with consumer groups over the course of his term in office, Rep. Kennedy said, "We're at the beginning of the movement. I think you've reached the crest. If we work together and we put up a united fight, you're going to have an easier road."

Consumerism Essential to Competitiveness

In Consumer Assembly keynote speeches, Harvard Professor Robert Reich and Democracy Project President Mark Green agreed that consumerism can play an important role in restoring American competitiveness in international markets. Reich lauded those who complain about shoddy quality, while Green urged activists to organize a competitiveness coalition.

they get do in fact work, and there are no hassles." These are often imported Japanese goods, for "made in Japan is a label that means quality control."

Even though U.S. companies are now emphasizing quality, said Reich, they still cannot meet high Japanese standards. American business builds quality in at the end—through inspections, warranties, and repair services. Japanese firms, on the other



Mark Green



Robert Reich

Both speakers offered explanations for the erosion of American business competitiveness. Reich argued that "price-competitiveness is not, and never was, the issue." That is why trade deficits have remained high even though the decline of the dollar has cut the prices of American-made goods relative to those produced in Japan and Europe.

Shoddy Quality at Fault

Instead, what is at fault is poor quality, Reich said. American families with two wage-earners are particularly concerned about reliability, for the time they spend getting products repaired can be far more costly to them than paying a high purchase price. Thus, Reich suggested, "the average American is willing to pay a substantial premium to guarantee that the products

hand, build quality in at the front, at the design stage. Designers work closely with product engineers to ensure defect-free products.

Corpocracy Hurts Quality

Green also cited quality as an important reason for declining competitiveness. He identified "corpocracy" as the main cause of shoddy quality products. Corpocracy is "where you have too many layers of staff between management and the market." American auto companies, for example, have 14 layers of staff between production workers and the CEO, while Toyota has only six.

Consequently, American managers are too far removed from the factory floor to oversee production adequately. As a result, defects go uncorrected, and labor-management relations deteriorate. The latter are not helped by "extraordinarily excessive" executive compensation and perks. American executives earn 36 times the wages of their workers, while the Japanese ratio is only seven to one.

A Role for Consumerism

Both speakers asserted that consumerism represented a solution to, not a cause of, the problem of declining competitiveness. According to Reich, "the most valuable asset business has is picyune consumers. It is those consumers who force a business to take another look at quality up front." He added that Japanese shoppers are "extraordinarily demanding."

Green looked more to government for solutions—greater reduction of trade barriers, stronger antitrust enforcement, and tougher enforcement of laws against white collar crime. Yet, he also called for the creation of a "consumer competitiveness coalition." This alliance would enter the competitiveness debate with the message that business should "stop blaming everybody but itself," he said.

Poverty Persists Despite Recovery

After three years of economic recovery, 33 million Americans, or 14 percent of the population, still live in poverty, stated Robert Greenstein, Director of the Center on Budget and Policy Priorities, in a Consumer Assembly keynote address. He urged public interest groups and policy leaders to debate and seek consensus on solutions that, in two years, could be implemented by a new administration.

Not only has poverty persisted, noted Greenstein, but among some groups it has worsened. Most distressing, the poverty rate among children is much higher now than in the 1970s. Contrary to popular perception, this has not been caused mainly by the increase in female-headed households, he said. Nearly twice as many two-parent families are poor today as were poor a decade ago. Those households not headed by a woman represent three-quarters of the rise in poverty in this period.

Causes Pinpointed

Greenstein identified three major causes of the persistence of poverty—high unemployment, low wages, and government budget cuts. Unemployment has been so high for so long that many households have lost unemployment insurance benefits. In 1986, there was 45 percent greater long-term unemployment than in 1980.

Many of the new jobs that have been created pay low wages. In part, this is because the federal government has not raised the minimum wage level. Thus, many

families with a full-time wage earner live in poverty.

Finally, federal and state budget cuts have taken a toll. In 1979, one in five families with children were lifted out of poverty with government assistance; today, the ratio is only one in nine. About one-third of the increase in poverty among children reflects government cutbacks.

Solutions Proposed

Greenstein proposed several types of reforms to reduce poverty. One is welfare reform. But he suggested that the most important priority here is ending "the archaic system that discriminates against two-parent families." While there is much talk about work programs for welfare mothers, these will only work, he stressed, if there is meaningful training and education, and provision for adequate child care.

A second approach is to eliminate taxes on the poor. Greenstein cited a recent Citizens for Tax Justice study showing that in most states, effective tax rates for the poor are equal to or greater than those for the affluent. He urged states to use the windfall from federal tax reform to remove the poor from tax rolls.

Lastly, Greenstein called for a massive information and outreach campaign to ensure that families with children file for the earned income tax credit to which they are entitled under the new federal tax law. This can offset between 50 and 100 percent of social security taxes and completely eliminate federal income taxes.

Health Hazards Addressed

Consumer Assembly panelists debated a variety of health-related issues, including the threat posed by radon in our homes and the safety of the food supply.

The Radon Threat

Ten percent of American homes probably have radon levels in excess of that which is considered safe, and between 5,000 and 20,000 deaths annually nationwide are related to radon exposure, said Richard Guimond, Director of the Radon Action Program of the Environmental Protection Agency (EPA).

EPA's findings were prompted at least in part by an investigative piece on radon by WJLTV/ABC's Consumer Reporter Roberta Baskin, who found much higher levels of radon in Washington, D.C. area homes than anticipated based on EPA's assessment of D.C. as a low-risk area. EPA has since stepped up its own research into radon.

Currently, it is up to individual homeowners to test for radon in the home and to decide whether to take mitigation steps. The problem with that system is that homeowners are "apathetic," Baskin said. "For homeowners, the biggest concern is not health risks, but a loss of value in their home." Donald A. Deieso, Assistant Commissioner for Environmental Management and Control in the New Jersey Department of Environmental Protection, concurred. He said a poll in New Jersey revealed that people's greatest fear was related to their property values and that many would rather not know if they have excessive radon levels.

How Safe is Our Food?

"The food in the world's safest food supply looks safe, but there are problems," said Michael F. Jacobson, Executive Director of the Center for Science in the Public Interest. Jacobson listed some of the most serious hazards, including contaminants from processing machinery, pesticide residues, sulfites, and salmonella in chicken.

"We know the food supply cannot be risk free," said Ellen Haas, Executive Director of Public Voice for Food and Health Policy. The two main underlying problems, she said, are that new technologies are evolving faster than our laws can keep up with them, and that most hazards, such as pesticide residues or salmonella, are invisible.

One area that needs immediate attention is fish inspection, which should be made mandatory, she said. Currently, only 13 percent of fish is inspected. Public Voice is starting a campaign to bring fish inspections to the level of inspections of chicken and beef, she said.

Lawrence T. Graham, Executive Vice President of National Food Processors, said that "when you consider how much food is handled by how many people, it is amazing how safe our food supply is." Graham said he was concerned, however, by "an erosion in the scientific base of the food side of the Food and Drug Administration."

Consumers are not concerned about the safety of the food supply, said Harry Sullivan, Senior Vice President for Public Affairs and General Counsel of Food Marketing Institute. In 1986, 97 percent of consumers believed supermarket food was safe, he reported.



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Consumer Deregulation Impacts Debated

How successful industry deregulation has been in protecting consumers, and whether consumers would be served best in the future by expanded or limited deregulation, emerged as a continuing theme of discussion at Consumer Assembly '87. The centerpiece of that discussion was a general session debate between Mark Cooper, CFA Research Director, and Alfred E. Kahn, Professor of Political Economy at Cornell University and former Advisor to the President on Inflation and Chairman of the Council on Wage and Price Stability under President Jimmy Carter.

Kahn opened the debate by saying: "Whenever in doubt, leave the protection of consumers to competition. Just make sure it is real competition. . . . Economic deregulation of industry capable of being effectively competitive has been a tremendous success, as we predicted it would be."

In the wake of deregulation, Kahn said, "prices much more clearly track costs;" there is a greatly increased range of price-quality options available to consumers; pressures on business to improve their efficiency has been "enormously accentuated;" and there has been "a healthy, very powerful downward pressure on grossly inflated wages."

Deregulation Brought "Turmoil"

Kahn acknowledged that deregulation has also been accompanied by "a tremendous amount of turmoil," but said that turmoil was part of the price consumers must pay in return for the above benefits.

Cooper agreed with Kahn's basic premise, that deregulation has brought real benefits, but he said, "there are enough people who

aren't better off" that consumer advocates need to begin looking at the "pitfalls" of deregulation. "The theory is great, but the practice is what matters," he said.

"The key is real competition," Cooper said. "Competition cannot be assumed to exist. Regulators must be willing to ask, 'does competition exist?' If not, deregulation should be reconsidered."

Cooper cited phony competition and unjustified cost shifting as two of the "pitfalls" of deregulation caused by "bad regulators." Such problems can be redressed, he said. "What was inevitable was the reduction in service to low-density communities," where, in the wake of deregulation, either quality of service declines or the price of that service goes up.

"Deregulation has been a mixed blessing for consumers," he said. "We should never forget that market power still exists in many cases and that it inflicts considerable harm. In the 1970s, we led the charge for deregulation. In the 1980s and 1990s, we may have to stress the need to control deregulation."

In the end, both Kahn and Cooper agreed that each case needs to be examined on its own merits. "There are all kinds of regulation imposed in all sorts of contexts," Kahn said. "It is simply absurd to be for or against deregulation in all contexts." "The final question we should ask ourselves," Cooper said, "is whether we believe the political structures are in place that will protect us. We should forego the promise of efficiency and prices until the political structures are in place that will protect us from exploitation of market power"

Panelists in other sessions discussed the repercussions of deregulation on the airline and telecommunications industries and the possible need for increased regulation in the insurance industry.



Mark Cooper

Alfred Kahn

Airline Service Faulted

Despite a 14 percent increase from 1985 to 1986 in consumer complaints related to airline service, the number of complaints has returned to pre-deregulation levels after almost doubling immediately following deregulation, said Robert J. Baker, Director of Consumer Affairs for the Federal Aviation Administration in a panel on the effects of airline deregulation on quality of service. Those numbers belie the fact that there has been a distinct decline in the quality of service, said Jack Gillis, CFA Director of Public Affairs. "We need to have a Consumer Bill of Rights for airline passengers, guaranteeing the consumer's right to safety, to clean air, to service, and to redress," he said.

Passengers already have the most effective form of redress at their disposal, said Geoffrey Crowley, Senior Vice President for Marketing of Presidential Airways, Inc. "The ultimate redress is not to fly the airline," he said.

Con Hitchcock, Legal Director of Aviation Consumer Action Project, expressed concern that the trend toward airline mergers would lead to a further reduction in quality of service. "The more concentrated the market, the higher the fares of the largest participating airline will be and the more smaller airlines with less market share will really have to struggle," he said.

Phone Diversification Analyzed

"Allowing Bell Operating Companies (BOCs) to compete in other natural and logical markets will bring new benefits to consumers," said Walter Alford, Senior Vice President, Regulatory and Pricing, for Bell-South Service Corporation. "BOC diversification does not threaten consumers, but is their best hope of reaping benefits of high technology in telecommunications markets."

Gene Kimmelman, CFA Legislative Director, was skeptical about diversification, saying consumers have not reaped significant benefits to date. He expressed concern over

the many opportunities for cross-subsidies in BOC diversification and advocated that legislation be enacted to protect consumer interests in diversification decisions.

Because of federal pressure, further diversification is inevitable, said Ronald Binz, Director of the Colorado Office of Consumer Counsel. "It is up to us as advocates for consumers to turn what could be a very harmful situation into a benefit for consumers." In line with that argument, David Aylward, Managing Partner of National Strategies and Marketing, said all requests for further diversification should be judged on the basis of whether "there is some overriding public interest that transfers it from a special interest issue to a public interest issue."

Insurance Regulation At Issue

In contrast, panelists in a session on insurance debated whether increased regulation of that industry is needed. "There is a major frontal attack by the insurers on the American consumer," said J. Robert Hunter, President of National Insurance Consumers Organization. "We should be moving for reform on federal and state levels." CFA's Mark Cooper concurred. "The government aids and abets [abuse in the insurance industry], because there is little disclosure or regulation. The time has come for the government to intervene through rigorous antitrust scrutiny and disclosure requirements," he said.

Representatives of the insurance industry strongly disagreed. "The last three years have been confusing for consumers," because financial hard times have forced insurance companies to raise rates, said William E. Bailey, Chairman of the Advisory Panel on Legal Issues of the Insurance Information Institute. "Insurance regulation is not the answer," he said. Richard Minck, Executive Vice President for Government Relations of the American Council of Life Insurance, said regulation is uncalled for, because "there is no evidence of anti-competitive attitudes in the life insurance industry."

Consumer Opinion Shifts

Over the past ten years, consumer opinion has shifted in favor of industry deregulation, but that movement has "bottomed out as a trend," according to a survey conducted in January for CFA by Opinion Research Corporation (ORC).

The survey was designed to follow up on the 1977 and 1982 surveys of consumer opinions conducted by Louis Harris and Associates. Barry E. Goodstadt, Vice President of ORC, presented the results to Consumer Assembly attendees.

In 1977, when the first survey was conducted, there was no mandate for deregulation, Goodstadt said. At that time, 31 percent of the public believed there should be more regulation of industry, while only 27 percent believed there should be less, and 30 percent favored no change, according to the Harris survey.

According to ORC's 1987 survey, the percentage of the public favoring increased deregulation has grown to 43 percent, while only 19 percent now favor more regulation. The percentage favoring no change has held steady at 29 percent. On the other hand, the percentages have changed little from 1982 to 1987, which Goodstadt said was an indication that "the movement in favor of deregulation has bottomed out as a trend."

Other survey findings include: only 28 percent of consumers are concerned about the poor quality of products, compared to 48 percent in 1977; 60 percent of consumers are concerned about the high prices of many products, down from 77 percent in 1977; and only 32 percent of consumers are concerned about the failure of many companies to live up to claims made in their advertising, down from 44 percent in 1977. In contrast, 82 percent of consumers are concerned about the high cost of medical and hospital care, up from 69 percent in 1977.

Participants in the survey were also asked their opinion on how conditions had changed, for better or worse, over the past ten years in a variety of areas, including quality of products and services, safety of products, labeling and information about products, consumers' shopping skills, and others. Responses were overwhelmingly positive.

This response reflects the influence of a reduction in inflation, improved consumer skills, and marketing of product quality and safety by companies, Goodstadt said. It also indicates "the influence of a broad climate change, a 'Reagan Factor,'" he said. "Consumers are more confident, optimistic. Consumers are indeed becoming less critical. The real question is, have things changed?"

Phone Study Reveals Continued Confusion

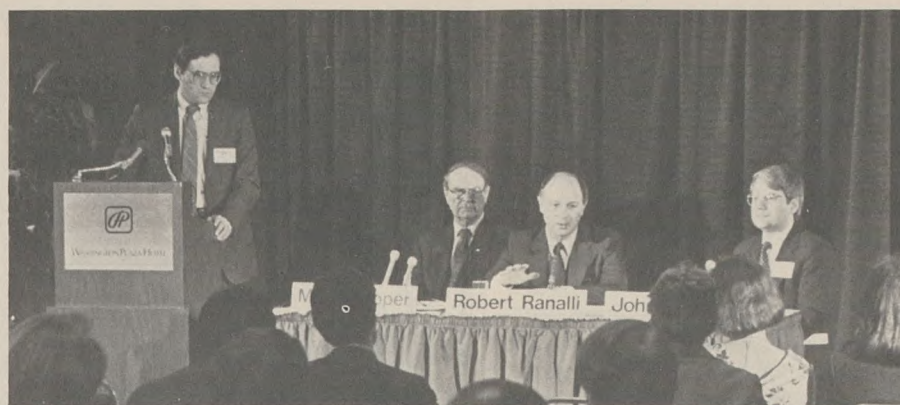
More than half of all consumers say they find it difficult to understand when prices change and what calling options are available for local and long distance telephone service, according to a nationwide survey co-sponsored by the Consumer Federation of America, American Association of Retired Persons, and AT&T. This is especially true of lifeline programs, where they exist. In California, for example, fewer than 20 percent of those without phone service were aware of the low-income program.

On the other hand, 90 percent are aware that they have a choice of long distance companies. And over 90 percent of those who have been asked to choose say they made a conscious choice.

"The challenge to the industry and consumer groups is to continue to educate those still being asked to choose a long distance company and, more importantly, to develop additional programs to supply information on other aspects of telephone service, particularly service options and prices," said Stephen Brobeck, CFA Executive Director.

Phone Service Essential

The survey of 3,300 people also shows that most who do not have telephone service in their homes are poorer, younger, and move their residence more often than the rest of the population. The overwhelming majority of these households say that having a phone in their homes is important. Almost three-quarters of those without telephone service indicate the reason



CFA, AARP, and AT&T released the results of their joint survey on consumer telephone usage during a news conference at Consumer Assembly. Pictured from left to right are: Mark Cooper, CFA Research Director; John Denning, AARP President; Robert Ranalli, Vice President for Consumer Markets with AT&T Communications; and Stephen Brobeck, CFA Executive Director.

is that they cannot afford deposits and other one-time costs of establishing phone service, while only one-quarter say they cannot afford monthly service charges.

In addition, the study shows that consumers use their phones, not as a luxury, but as a link to relatives, friends, and work, and for access to emergency services. Consumers report making about 140 calls per month, almost 100 of which are perceived to be essential. Those with low income (under \$10,000) who currently have service say they make 108 calls per month, approximately 80 of which are "absolutely necessary." By contrast, those currently without phone service report making only 32 calls per month, 24 of which are viewed as necessary.

"Traditionally, universal service has been thought of as reasonably priced access to the local telephone network," said John Rother, AARP's Director of Legislation, Research, and Public Policy. "But the study makes it clear that programs to achieve universal service must be more broadly defined to include not only affordable access to the local and long distance networks, but also affordable deposits and connection charges and a specified minimum level of service."

Research Project Unique

Results of the ground-breaking joint research project were announced at CFA's Consumer Assembly, where a year ago,

the three agencies launched plans for the study to examine consumer concerns and needs following the 1984 breakup of the Bell System. At the press conference, CFA's Research Director Mark Cooper stated: "The \$365,000 study is one of the largest industry-consumer research projects ever and is unique in several ways. Results, including raw data, are available to the public for analysis. Also, distinct groups were surveyed, including several usually excluded from national research, such as households without telephone service and disabled consumers."

In addition to a national telephone survey, the research included some 600 in-person interviews with people who do not have telephone service in Florida, California, and Texas. One-on-one interviews were held with deaf, blind, and hearing- and speech-impaired consumers. Researchers also canvassed experts in health care and education to learn more about the potential of telecommunications technologies in these fields.

The research project was conducted by Opinion Research, Inc., of Cambridge, Massachusetts, with segments performed by Westat, Inc., of Rockville, Maryland, and Gallaudet Research Institute, of Washington, D.C. The firms were selected by a CFA-AARP-AT&T management committee, which also monitored their research.

The three sponsoring organizations agreed to report only the research results in their joint release. Currently CFA and AARP are developing a separate analysis of consumer policy implications.

New Era of Opportunity for Consumer Groups

The hard times are coming to an end, and an era of new opportunities lies ahead for public interest lobbyists, Michael Pertschuk told attendees at Consumer Assembly '87. Chairman of the Federal Trade Commission under President Jimmy Carter and co-founder of the Advocacy Institute, Pertschuk told the assembly that the conclusion he has reached as a result of his observations over the past six years is that "even in the worst of times, citizen lobbies can defy the odds and win."

Pertschuk said he saw the first glimmer of hope in July of 1982, when the Voting Rights Act was not only extended, but strengthened, overturning an unfavorable Supreme Court decision. "So I began to watch and listen for other unexpected good things," he said. Those "unexpected good things," which he compiled in his most recent book, *Giantkillers*, appeared in a variety of areas, he said, including arms control, defense of the environment, antitrust enforcement, and health.

"Now, new opportunities stretch before us," Pertschuk said. Those opportunities are the result of the retaking by Democrats of the Senate majority, "the unraveling of the Reagan administration" as a result of the Iran-Contra scandal, and "the unmasking of the essential emptiness of the Reagan message."

The job of public interest lobbyists today is to help develop "a new national agenda in the post-Reagan era" that can "channel the country's restless political energy and give it coherent policy direction," he said. The time has come, he added, for "broad citizen movements" in education, housing, environmental protection, elimination of poverty, and economic reform.

Two areas in which immediate action is both needed and possible, Pertschuk said, are reform of the budget process and of the campaign finance system. The Gramm-Rudman approach to reducing deficits should be replaced with a less "mechanical" system, he said, and the campaign finance system should be reformed, placing limits on campaign contributions and on the amounts candidates are permitted to spend.

"Public interest lobbyists today owe much of their strength and fitness to the Reagan administration," Pertschuk concluded. "Those who survived realized citizen advocacy is truly not for the short-sighted."



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