

Nader, Metzenbaum Tell Assembly Consumer Advocates Should Be Fighters

The founding father of the modern consumer movement and its current Congressional hero had some strong words for Consumer Assembly 1985 on how activists should meet the challenges certain to come in the second half of the 1980s.

Their message was clear—the times and political climate demand more than just advocacy.

Ralph Nader, in a stinging speech critical of what he sees as the movement's less aggressive posture, posed this question: "How can the most anti-consumer administration of modern times not have produced the strongest consumer movement of modern times?"

CFA Honors Metzenbaum

Senator Howard Metzenbaum (D-OH), after receiving Consumer Federation of America's Consumer Badge of Courage, the first it has ever awarded, put it another way. "Advocate is too weak a word," he said. "You should be known as fighters—fighters for the rights of the 240 million consumers of this country!"

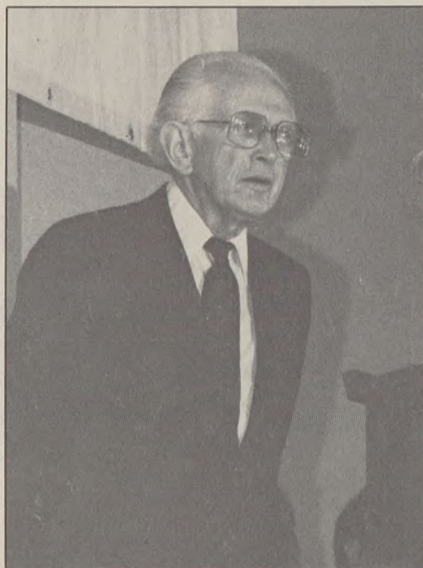
"The consumer movement today is under attack from an unfriendly administration, from powerful special interests, from a PAC-beholden Congress."

Sen. Howard Metzenbaum

Both men spoke to more than 400 Assembly attendees at the conference's two luncheons. Neither pulled their punches.

"The federal cop is no longer on the corporate beat," Nader said. "Instead, they talk about cooperating with business. They say 'no more confrontation! Can you imagine the police chief of New York City calling in a group of criminals and saying, 'no more confrontation?'"

Metzenbaum was similarly tough. He noted that the consumer movement today is under attack from all sides—from an unfriendly administration, from powerful special interests, from a PAC-beholden Congress."



Congressional Hero Sen. Howard Metzenbaum (D-OH)

All Consumer Assembly photos by Allison Schuette

Activists Should 'Take 'em On'

"But we have a choice," he said. "We can sit back and take it or we can go on the offensive." He left no doubt about the strategy he prefers: "I say, take 'em on."

His willingness to "take 'em on" on behalf of consumers is the reason he was honored by CFA with the Badge of Courage that will henceforth bear his name.

In introducing him, CFA Vice President Mark Silbergeld said simply, "He's always there for us." As an example, he cited the Senator's insistence on a public participation provision in the cable television bill.

"He didn't care about the deal that had been cut between the cities and the cablecasters," Silbergeld said. "He didn't care about risking the wrath of even friendly colleagues. What he cared about was the public having a say in the cable franchise renewal process."

As the Assembly audience was well aware, the cable bill is now law and public participation is a part of it.

In accepting the award, Metzenbaum said it bothered him that, in 1985, "this or any other senator should be singled out for simply speaking on behalf of the interests of American consumers."

"This should not be a unique form of political behavior," he said. The fact that it is he laid to the "debilitating symptoms" of a "strange malady called Reagan flu."

The symptoms, he said, are "deregulatory mania complicated by special interest fever."

Nader made a similar point when he said, "Deregulation is a code word meaning

no more law and order for corporations."

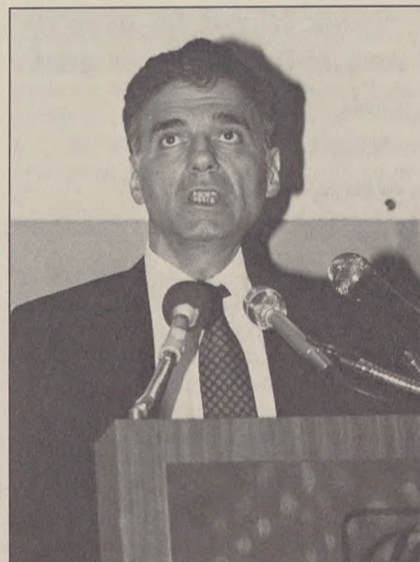
Both speakers also questioned the criteria by which the country's economic progress is measured. While the administration points with pride to a Gross National Product (GNP) growing at the rate of 6.8 percent, Nader said the questions we should be asking are: "Is our water cleaner? Is unemployment lower? Are fewer people hungry?"

"Our economic measures are all quantitative," he said, "but distribution and quality are the issues which should be our agenda at this stage."

He castigated the Reagan Administration as one which has "so lowered public expectations of government's essential role in protecting consumers that no one expects anything anymore." And he insisted that "the ultimate, fundamental measure of the soundness of our economy is the health and safety of consumers."

Public Wants Action

According to Metzenbaum, the public agrees with Nader. "The polls have shown time and time again that a vast majority of the American people want strong action from their government to protect the envi-



'Founding Father' Ralph Nader

ronment, to improve public health and to defend the rights of consumers," he said.

The Senator advised activists to "hang in there" and "redouble your efforts." Our cause will prevail, he said, because "the consumer movement stands for the true interests of the public—and the public knows it."

Nader took a less rosy view. While he agreed that consumer groups should have

"escalating horizons," he cast a somewhat jaundiced eye on the activities of some "old-line consumer groups." But not all. Indeed, at one point he urged that "the new-wave consumer movement pay more attention to the old-wave consumer movement."

Nader Urges CUBs

His primary focus, though, was the future. He cited the establishment of Citizen Utility Boards (CUBs) as an example of the empowerment of consumers, which is how "a new consumer movement must start." The potential of such groups is in the future, he said, because "empowerment through CUBs is translatable to any and every financial industry."

Nader also urged consumers to band together to do group buying of products such as insurance and energy.

"Deregulation is a code word meaning no more law and order for corporations."

Ralph Nader

On auto safety, the subject which made him famous with the publication of *Unsafe at Any Speed*, Nader attacked the strategy of the U.S. Department of Transportation in the long-running controversy over air bags. "If you push for mandatory seat belt laws at the state level," he said, "you are, in effect, working against a federal air bag rule."

(Transportation Secretary Elizabeth Dole's policy is that if states with two-thirds of the country's population pass mandatory seat belt laws by April 1, 1989, the federal government will not impose air bag regulations.)

Both luncheon speakers lived up to their reputations as relentless fighters for consumer causes and militant recruiters to swell the ranks of consumer activists.

Nader did what CFA Executive Director Stephen Brobeck, in his introduction, said he would do—"make many of us feel uncomfortable." But he also showed why Brobeck could characterize him as one whose "relentless advocacy in support of democracy, social justice and a competitive marketplace make him a great American and one of the greatest reformers of any era."

Schumer Outlines Consumer Banking Agenda

A key member of the House Banking Committee told Consumer Assembly 1985 that he will introduce legislation in this session of Congress to carry out a nine-point consumer banking agenda.

Representative Charles Schumer (D-NY) called for an end to the Congressional practice of using banking legislation almost exclusively to balance the competing interests of business institutions.

"We almost never hear anything about the national interest—about what's good for America, what's good for consumers," he said. "It's time for consumers to have a seat at the table."



Rep. Charles Schumer (D-NY)

In an earlier speech, American Bankers Association President James G. Cairns, Jr. issued an invitation of his own, calling for a dialogue between consumer organizations and bankers.

And grassroots activists had their say at a workshop which wrestled with a "Consumer Agenda for the Financial Services Revolution."

Schumer Lists Agenda

Schumer's consumer banking agenda includes the following points:

- Limitations on check holds
- Federal support for the establishment of Financial Institutions Consumers Boards (FICUBs)



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- Preemption of state laws by federal law only when federal law is more favorable to consumers
- Strengthening the Community Reinvestment Act
- Creating a consumer-oriented Adjustable Rate Mortgage
- Lifeline banking services
- Disclosure of deposit fees
- Truth-in-Savings legislation
- Extension of the Home Mortgage Disclosure Act.

Schumer also called for retention of most existing structural protections in banking laws. "Many of the laws of the 1930s still have a strong relevance to consumers today," he said.

While he endorsed a phase-in of interstate banking, Schumer said he supports retaining restrictions to keep non-financial institutions from owning banks.

Banking workshop participants were largely in agreement with the Congressman's objectives, but not so sure when and if they could be attained.

Early Action Unlikely

Peter Kinzler of the Senate Banking Committee's Minority Staff outlined the legislative deadlock which makes early action on banking issues unlikely. He said pressures for action on restructuring legislation are diminishing and the different financial interests are not close to agreement.

"Supports of deregulation may think they can get more through existing loopholes such as non-bank banks than through legislation," he said.

"Bank branch closings cause harm to nearby small businesses and can devastate a neighborhood or shopping center."

Michelle Meier, Counsel for Consumers Union, said the consumer banking agenda is being worked out "amidst a grand turf battle within the financial services industry." She added that Consumers Union believes the structural issues themselves should be discussed by consumer organizations.

"Non-bank banks can be a positive addition to the financial services industry, providing competition for more traditional institutions," she said, "so instead of eliminating them, we should deal with the objections and regulate them."

Allen Fishbein, Director of the Center for Community Change, called for a focus on how deregulation will affect access to credit, not just to depository services. "Deregulation will have important impacts on low and moderate income consumers," he said, "but their experience is that when we talk about the benefits of deregulation for consumers, the banks don't mean them."

Fishbein outlined an agenda to meet the needs of low and moderate income neighborhoods. He said permanent extension of the Home Mortgage Disclosure Act is

"absolutely crucial" because it is an essential tool for neighborhood organizations.

Other proposals include expanding disclosure of bank lending practices to include commercial lending, requiring disclosures by mortgage bankers, improvements in the Community Reinvestment Act, and supervision of proposed branch closings.



American Bankers Association President James G. Cairns, Jr.

Ken McEldowney, Director of San Francisco Consumer Action, said it focuses its efforts on phones and banking "because long-established protective environments have been seriously eroded."

He said complaints received by SFCA's consumer hotline range from unreasonable check holds and exorbitant fees to unreasonable requirements for new accounts and refusals to provide information. SFCA encountered the latter problem when compiling its guide to Bay Area financial services.

"At one bank, we had to call loan officers at nine different branches to get enough information to confidently disclose rates," he said. Other banks were unable to determine the annual percentage yield they offered on interest-bearing accounts, and one branch official didn't know whether his bank offered NOW accounts.

Closings Hurt Neighborhoods

McEldowney said branch closings cause harm to nearby small businesses and can devastate a neighborhood or shopping center. "Frequently," he said, "the high-handed manner in which closings are decided and carried out is as damaging as the actual closing."

"Bankers have made little or no effort to ease the burdens imposed on low-income consumers by high fees, high minimum balance requirements and unreasonable requirements for opening accounts," McEldowney said. He urged local consumer groups to conduct surveys of local banking practices and contact officials of banks to try to work out problems, but "we must also seek government solutions."

The views of workshop participants, not surprisingly, were hardly in sync with those of ABA President Cairns. "If you want to have a public confrontation on the issue of lifeline banking, you can," he said, and he conceded a partial victory "may be gained in the end." But he cautioned that "someone will have to pay for it."

Cairns Urges Meetings

In inviting consumer groups to meet with bankers, Cairns said: "We're right out here in the middle of the road. I don't think you can say confrontation is the only alternative open to you to meet your concerns."

In the question and answer period, when asked about a vehicle and structure for such meetings, Cairns was vague, suggesting that consumers choose some people and ask for a meeting.

He also made a pitch for allowing banks to sell life insurance and broker real estate which would, he said, "cut the fees for those services and generate income which would reduce the pressures on bank fees."

Karpatkin Cites World Consumer Needs

Rhoda Karpatkin, Executive Director of Consumers Union and new President of the International Organization of Consumers Unions (IOCU), told Consumer Assembly that organizational and geographical boundaries fall away in the face of the pressing needs of poor, underprivileged and powerless consumers the world over.

"Those basic needs are sanitation, health care, nutrition and education," she said, "and they are not adequately met by economies which respond only to the pull of money."

IOCU includes 127 national organizations in 51 countries—a network which Karpatkin said is dealing with problems associated with hazardous pesticides; unsafe, useless or overpriced pharmaceuticals; the traffic in dangerous drugs, and the marketing of infant formula.

Karpatkin urged consumers to work against legislation sponsored by Senator Orrin Hatch (R-UT) which would allow manufacturers to make and export drugs prohibited in the United States. "Consumers in the Third World are human beings, not just markets," she said, "and they don't have the many protections that Americans do."

The new IOCU President said the draft guidelines for consumer protection, which have been under consideration for many years by the United Nations Economic and Social Council, are "modest recommendations for minimum protections consumers need."

"The United States government has been standing very, very small as it has tried to amend away even the minimum provisions of this document," Karpatkin said, and she lauded the "unparalleled energy and effectiveness" with which IOCU's lobbyist, Esther Peterson, has fought for the guidelines and for world consumers.

Activists, Agency Heads Debate Policy, Disagree on 'Voluntary Cooperation'

The Reagan Administration's regulatory stance is that "voluntary cooperation is the wave of the future," but many consumer activists see it as an echo of the past when government protection of public health and safety was inadequate.

The opposing views emerged at a Consumer Assembly discussion of federal regulatory priorities from both the administration's and consumer advocates' perspectives.

Dr. Frank Young, Commissioner of the Food and Drug Administration (FDA), and Terrence Scanlon, Chairman of the Consumer Product Safety Commission (CPSC), brought the administration perspective. Speaking for advocates were Dr. Michael Jacobson, Executive Director of the Center for Science in the Public Interest, and R. David Pittle, Technical Director of Consumers Union.



CPSC Chairman Terrence Scanlon

Scanlon Calls for Cooperation

It was Scanlon who called voluntary cooperation "the wave of the future" and "something we all need to face up to as reality."

"If we—government, industry and the consumer movement—work together as I think we can, we may never go back to government-mandated regulations as the norm," he said.

Young was slightly more tentative. "We may be nearing the end of an era that saw a regulation as the only logical end product of our mandate to protect the public health," he said.

The FDA Commissioner said the agency will be "considering other, better means to the same end" and that case-by-case analysis will determine what "blend of education, enforcement, regulation and voluntary compliance" is the best course of action.

Young noted that FDA is re-examining the process used to develop regulations and admitted that the process "is frequently cumbersome."

Jacobson agreed with the Commissioner on that point. He said FDA's slowness is legendary and has given new meaning to a "grandfather clause." "You can literally become a grandfather waiting for FDA to act."



FDA Commissioner Dr. Frank Young

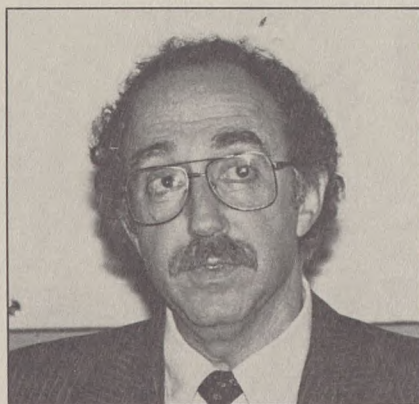
The CSPI Director said voluntary action may not always be appropriate or effective and claimed FDA could hardly be characterized as an "aggressive defender of consumer interests."

Pittle, a former CPSC commissioner, took issue with Scanlon on the intent of Congress in the 1981 amendments to the Consumer Product Safety Act.

Scanlon held that the "spirit of cooperation embodied" in the CPSC's 1981 mandate calls for "voluntary action first."

Pittle said the agency's real mandate in the CPSC law is to protect consumers against unreasonable risk and that the key phrase in the 1981 amendments is: "Voluntary standards must adequately reduce the risk..."

"What do you do when a voluntary standard isn't adequate?" he asked, adding that the new CPSC chairman "never met a voluntary standard he didn't like."



R. David Pittle

FDA Seeks Consumer Views

But it wasn't all an airing of disagreements. Young, whose agency is the nation's oldest with responsibilities for consumer protection, called CFA "one of our most important constituencies" in meeting the "awesome responsibility of protecting the public." Much of his speech was devoted to the various outreach activities through which FDA seeks the views and advice of consumers. He stressed efforts to "institutionalize a coordinated agency-wide approach to guarantee a consumer role in FDA activities."

Scanlon, too, lauded the theory of public participation, saying "the right of the public to be heard before government makes laws is of fundamental importance to our Ameri-

can system of government." He reiterated his commitment to consumer product safety and said he shared the consumer view that "a strong field staff is needed to do the job properly."

The latter comment referred to widely expressed consumer concerns that CPSC budget cuts would result in drastic reductions in the agency's field network.

Scanlon has no such fears. "I assure you that our goal of product safety will not be hampered by the 10 percent across-the-board budget cut for administrative expenses," he said. In fact, he predicted the cut would be beneficial because "we're now forced to modernize our management system."

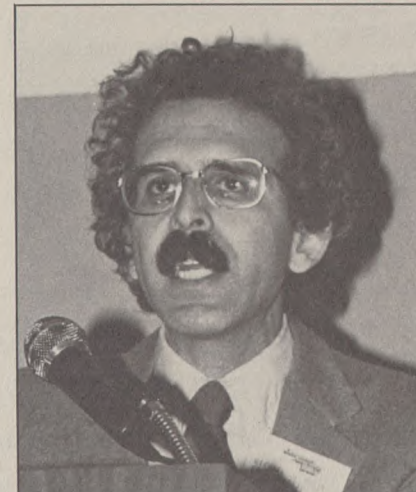
Pittle Disputes Cut's Benefits

Pittle's view was the opposite. "This administration tried to destroy CPSC four years ago," he said, "and when that didn't work, they slashed its budget and personnel!"

"Keep your eye on CPSC. If you turn your head, it may be gone."

The former commissioner is not convinced that "the administration's plans have changed" and he advised consumers to "keep your eye on CPSC. If you turn your head, it may be gone."

Scanlon and Pittle also disagreed on the application of administrative complaints under the CPSC law's Section 15. Scanlon called such adjudication "back door rule-making without public participation." Pittle countered with the view that "public participation is not an end—but a means to reduce unreasonable risk." He said Section 15 recalls "are the only effective tool left to fulfill CPSC's mandate and get unsafe products out of the hands of consumers."



Dr. Michael Jacobson

Jacobson Grades Activists

Consumer activists received a mixed report card from Jacobson in grading their efforts as "FDA's watchdogs." He gave them an A minus for preventing "marauding legislators from diluting FDA's power" and for accelerating FDA's pace "from snail to tortoise."

But he awarded only a D minus for their lack of success in changing the agency's agenda.

"We have to learn to fight on our own turf," he said. "The Federal Register and parts per million is theirs. The grassroots is ours."

Citing successful grassroots initiatives such as the campaigns against smoking and drunk driving, he said consumer groups should organize similar efforts to "de-drug society" and alert more people to "the dangers of fat, cholesterol and sugar in the diet."

He also suggested a consumer task force to "brainstorm institutional changes to develop agencies which are responsive and accountable to the people they are meant to serve."

Utility Plant Construction Draws Assembly Fire

Today's energy headlines focus on falling oil prices, but consumers continue to face critical policy decisions which involve hundreds of billions of dollars in potential price increases. That was the theme of energy workshops at Consumer Assembly.

Alan Noguee, a utility analyst with Environmental Action Foundation and author of *Rate Shock*, charged that almost two hundred billion dollars will be wasted if nuclear plants currently under construction are completed and brought into the rate base at full cost.

Industry spokesman Harry Finger, President of the U.S. Committee for Energy Awareness, argued that the current generation of plants is needed and that additional plants will be necessary to meet future energy needs.

The same subject was addressed by Senator Tom Harkin (D-IA) at an Assembly general session. He charged that the "electric utility rules of profit say 'build' and government energy policies allow them to charge their customers for building costs before customers receive any benefit."

Senator Harkin also attacked the system of tax incentives and "phantom taxes," but the current tax treatment of oil and gas producers was later defended by H. B. Scoggins, Jr., Vice President of the Independent Petroleum Association of America, as "capital incentives to increase supply."

Scoggins' workshop presentation was countered by Edwin Rothschild, Assistant Director of the Citizen/Labor Energy Coalition, who called for a closing of tax loopholes. CFA Energy Director Dr. Mark Cooper cautioned against import fees and other consumption taxes on energy because of their recessionary and regressive impacts.

Hill Leaders Hit Reagan Policies

Two Congressional champions of consumer causes brought their respective "views from the hill" to the opening session of Consumer Assembly and focused the conference's spotlight on major issues with potential powerful impact on consumers across the country.

The speakers were Senator Tom Harkin (D-IA) and Representative Tim Wirth (D-CO). The new Senator from Iowa and the six-term Rocky Mountain Congressman discussed their concerns about the farm crisis, telephone rates, "misguided government energy policies" and auto safety.

Harkin, who successfully challenged Republican Roger Jepsen for the Iowa Senate seat after serving five terms in the House, said the crisis facing American agriculture "is the worst since the Great Depression of the 1930s."

"We're dying in my state of Iowa," he said, "and the bleak agricultural outlook is having a tremendous ripple effect, resulting in bank closings and the failure of small businesses."



Sen. Tom Harkin (D-IA) Rep. Tim Wirth (D-CO)

Farm Crisis Affects Consumers

Why should consumers be concerned about a farm crisis? Because "few issues affect consumers more than the availability of reasonably priced food. And if we don't do something about the farm crisis, the availability and price of food will be very adversely affected."

Price is not the only concern. "If we can't halt the headlong rush from family farms toward huge agribusiness corporations," Harkin said, "we will see more EDB, more gas-filled tomatoes and more chemical-filled food."

The Iowa senator outlined his ideas for a "new farm bill that could and should be supported by both farmers and consumers." Its elements include expansion of domestic food programs, such as food stamps and WIC, to serve all those who need them; a resource conservation policy for soil and water; establishment in law of a policy to foster and preserve the family farm, and a supply management program to strengthen commodity prices and return a profit to farmers.

Switching to the high cost of energy, Harkin attacked "misguided government policies which encourage over-expansion of power generating facilities, while overlooking proven conservation measures, to the detriment of all consumers."

"Energy conservation was fashionable when OPEC was at the gates," Harkin said, "but now everyone is relaxed." He believes we shouldn't be. "We cannot wait until each utility comes forward with a proposal to build a power plant and fight that individual proposal," he said.

Harkin's strategy is to change the utilities' structure of incentives so that reward and tax advantages stem from conservation, not from building. "When a company ignores the opportunity to set up conservation programs and looks to building the most expensive power plant with little control over cost overruns, the rate of return should go through the floor faster than the customers' bills shoot up through the roof," he said.

Conservation Lowers Electric Bills

The Senator insisted that the development of conservation programs mean substantially lower electric bills and more efficient energy. And he pledged to work in the Senate, as he did in the House, for a system where energy conservation is really rewarded and where there will be no rate of return on excess capacity.

Wirth recalled that phone company officials said, prior to divestiture, that it would not cause local phone rates to rise. And he emphasized that competition and new technology do not justify phone rate increases.

He also noted that the Federal Communications Commission's original access charge proposal sought to put total long distance charges on local consumers. After Wirth introduced, and successfully guided to passage in the House, a bill prohibiting access charges on residential users, the FCC dramatically reduced its access charge proposal.

Though he is pleased that the pressure of his legislation resulted in access charge reductions, Wirth admitted that "any phone increase is burdensome to the poor and elderly for whom the telephone is truly a lifeline."

Administration Lacks Safety Commitment

On the subject of auto safety, he cited the history of the on-again, off-again air bag rule as an example of the Reagan Administration's lack of commitment to consumer safety. He called the abolition of *The Car Book* "the height of hypocrisy for an administration wedded to market forces."

"Competition and deregulation are not ends in themselves," Wirth said, "but the means to bring consumers safe products at reasonable prices" and, contrary to current dogma, "the market, left to its own devices, does not guarantee the safety and health of consumers."

"Because we have an administration which exalts free market ideology over consumers' health and safety," he told the assembled activists, "the job of Consumer Federation of America is both harder and more important than ever."

Action Shifts to States On Phone Issues

The states are where a good deal of the action will be on upcoming telephone issues, according to participants in both telephone workshops at Consumer Assembly.

The two panels—one on federal issues and the other on state and local ones—discussed lifeline rates, federal access charges and the threat of state ones, local measured rates and the roles of the Federal Communications Commission (FCC) and state regulatory agencies.

Howard Symons, Counsel to the House Subcommittee on Telecommunications, Consumer Protection and Finance, assured the federal issues workshop that the subcommittee would move legislation on lifeline rates if the FCC did not develop an adequate proposal. He also said consumer activists need to focus their efforts at the state level "to fight against unwarranted local rate increases and prevent the deregulation of markets not yet ready for competition."

Bert Halprin, Chief of the FCC's Common Carrier Bureau, defended the agency's access charge decision as a "compromise to balance the concerns of all interested parties" and said the charge was necessary "to keep large users from bypassing the public network." He claimed the FCC is committed to preventing low-income people from giving up phone service and would "fully investigate" the need for lifeline rates.

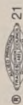
Sam Simon, Director of the Telecommunications Research and Action Center (TRAC), strongly disagreed with the bypass rationale for access charges. "Bypass is not a justification for repricing," he said. He urged consumers to continue their efforts to challenge end-user charges—especially at the state level where, he said, "we can expect AT&T, and perhaps the operating companies, to seek state versions of the new federal access charge."

The state and local workshop was the scene of a lively debate after Bob Valentini, Assistant Vice President for Regulatory Matters at Bell Atlantic Company, gave what one activist called a "commercial" for local measured service. Local consumer leaders at the session were "up in arms," insisting that local measured service is not cost-based and that consumers don't want it.

Carol Barger, Director of Consumers Union's Southwest Regional Office and a workshop panelist, called for state commissions to set their own agendas instead of "just reacting" to industry initiatives. "It shouldn't be inevitable that state commissions must do what the company wants," she said.

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