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Economic Interventions Benefit Consumers

At Consumer Assembly 1989, keynote speakers criticized the federal government's neglect of the economy to the detriment of consumers and the whole society.

Sen. Howard Metzenbaum (D-OH), Chairman of the Senate Subcommittee on Antitrust, Monopolies and Business Rights, lambasted the Reagan Administration for "turning back the clock on antitrust." Not only did they refuse to enforce the law, but they also tried to weaken it and its enforcement, he charged. This neglect undermined the free enterprise system in which "consumers have the right to buy at low prices and high quality."

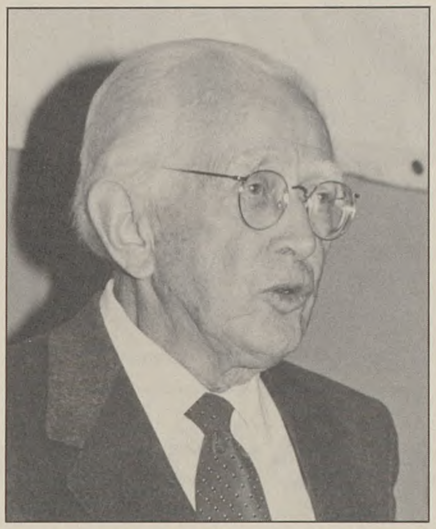
Antitrust Agenda Defined

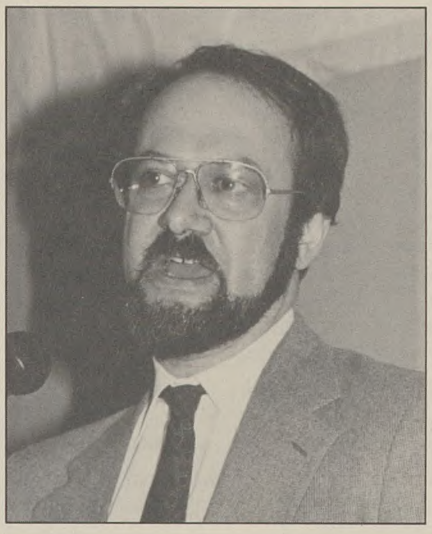
Metzenbaum went on to outline a three-point consumer antitrust program. He said his top priority is repeal of the insurance industry antitrust exemption granted by the McCarran-Ferguson Act of 1945. "Why should one of the biggest industries in the country be free of the antitrust laws?" he asked. "The time has come for the $400 billion insurance industry to conform to the antitrust law in this country, as other businesses have to do."

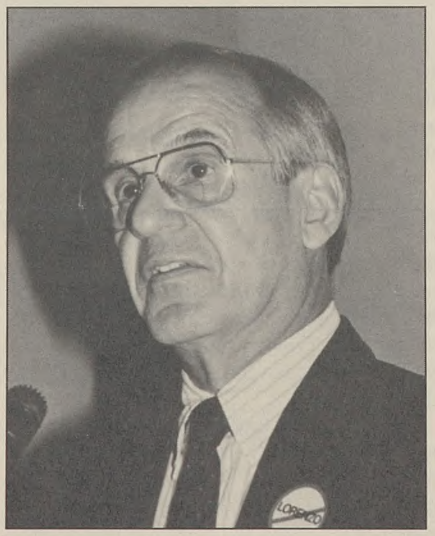
The senator accused the industry of hiding behind states' rights, but his legislation does not provide for federal regulation of the industry. Moreover, it defines safe harbors that allow the industry to engage in appropriate joint activities.

A second antitrust priority, according to Metzenbaum, is codification of the rule against vertical price fixing "to prevent manufacturers from dictating prices to retailers." Court decisions jeopardize the average of $500 annually each household saves by buying at discounted prices. Legislation must be passed to protect retailers who wish to discount prices but are threatened by manufacturers, he said.

A third priority is "injecting a shot of real competition into cable television." Less than one percent of some 8,000 cable operations have any competition, the senator asserted, thus allowing rates to shoot up.







Sen. Howard Metzenbaum (top left), economic correspondent Robert Kuttner (top right), and union leader Lynn Williams (right).

Unfortunately, the Federal Communications Commission issued a ruling preventing local governments from regulating cable companies if areas were served by at least three television stations. Because this is nearly the entire country, "there are no limits on the amount cable companies can charge." Congress should pass legislation to allow local government to regulate these entities, he said.

Metzenbaum closed by saying that the consumer movement "has never gained the stature and recognition to which it is entitled," but in large part, that is because consumers are not communicating with their congressmen, he said. "I won't let them down in the U.S. Senate. Don't you let them down back home."

Mixed Economy Defended

An even more fundamental failure of economic intervention was emphasized by luncheon keynoter Robert Kuttner, economic correspondent to the *New Republic* and columnist for *Business Week*. "The delicate balance between market and government, between private and public, has been unbalanced by laissez-faire," he said. Environmental degradation, the savings and loan crisis, and corporate takeovers are all examples of this imbalance, he contended.

Kuttner faulted the consumer movement for giving up on economic regulation. "The proposed federal consumer protection agency was the logical dead end of a certain kind of consumerism—create an agency to serve the public, then when it gets captured by industry, create a superagency to represent consumers before the first agency."

"We have to move beyond traditional consumerism and embrace the ideology of a mixed economy," he suggested. "Public philosophy embraces citizenship values, along with market values—one person, one vote balancing one dollar, one vote."

"We have to figure out a way to use regulation as an organizing tool," he stated, pointing to Community Reinvestment Act groups as one model. "They won't get captured by industry in the way regulators are," he noted.

In brief, Kuttner stressed, "You have to move beyond consumerism to the ethic of citizenship." That would allow consumer advocates to more effectively challenge conservatives who identify an unfettered marketplace with the public interest, he said.

Productive Investments the Solution

In another keynote speech, Lynn Williams, International President of the United Steelworkers of America, maintained that productive investments are the only solution to our economic problems.

We are faced, he said, with "unprecedented fiscal disarray comprising an entrenched federal budget deficit, a stubborn trade deficit, and a spiralling international debt."

Workers and consumers are not to blame for this crisis. "We particularly reject the notion that places the blame for our current circumstances on workers and consumers—workers because their wages are too high and consumers because their appetites are too great."

What is really to blame, Williams asserted, are "golden parachutes and hostile takeovers. . . layoffs of loyal employees and dismemberment of thriving companies. . . profiteering, union busting and corporate greed. . . blind adherence to 19th century trade policies. What got us here was Reaganomics, or, as George Bush once put it, 'voodoo economics.' "

Yet, he continued, "there are some who are offering the same dose of medicine, equally bitter, but wrapped in a different package. They argue that the way to economic salvation is through austerity, meaning that we, as consumers and workers, ought to tighten our belts, cut consumption, and reduce our standards of living."

This is a solution, Williams stated, "that would replicate the dominant experiences of the 1980s—a widening gap between rich and poor, an erosion of the middle class, a decline in real earnings and standard of living, and the export of jobs and industries."

What's the real solution? Williams answered "expansion and production and [higher] real incomes" so there is a reason for businesses to make productive investments. "A growth in production of 3.6 percent a year—just one point higher than now estimated—could eliminate the budget deficit in five years," he stated.

Infrastructure Must Be Rebuilt

The government must stimulate this expansion, not by spending per se, but by productive investments in physical and social infrastructure. "Some economists are beginning to concede that neglect of our public infrastructure not only has contributed to our public ruin, but also has greatly weakened business profitability, investment, and private workplace productivity," he observed. Also, "the crying need. . . for investment in human capital—education, training, and retaining—must be met."

Williams also called for "a new, realistic trade policy." "We ought to begin managing trade as most of the world's industrial nations now do," he suggested. "Let us mutually determine fair market arrangements, by agreement, with our trading partners."

Consumer Assembly 1989

In March, more than 500 consumer advocates, government officials, industry representatives, and members of the media gathered in Washington, D.C. for the Consumer Federation of America's 22nd annual Consumer Assembly. The theme of the conference was "Preparing for the 1990s: New Federal and State Consumer Initiatives." This issue of *CFAnews* reports on the key issues and ideas raised during the two days of speeches and panel discussions.

Insurance Reforms Needed

Insurance reform is at the top of the congressional consumer agenda because the insurance industry is out of control, according to two congressional leaders who gave keynote speeches at Consumer Assembly.

Consumers are outraged over skyrocketing auto insurance rates, the medigap scandal, overly confusing long-term care policies, and increases in property and casualty insurance premiums, said Rep. James J. Florio (D-NJ), Chairman of the House Subcommittee on Commerce, Consumer Protection, and Competitiveness.

"The debate of state versus federal regulation is irrelevant. What does matter is that those in government responsible for protecting insurance consumers do so effectively," he said.

While many of the issues associated with the insurance crisis require state-level solutions, the federal government also has an important role to play by "requiring the insurance industry to compete," he said.

Rep. Florio has introduced legislation that would "explicitly prohibit specified offensive [joint] activities, such as price fixing and carving up of markets, and allow other benign practices."

Another keynote speaker, Sen. Howard Metzenbaum (D-OH), also listed repeal of the insurance industry's antitrust exemption as a top congressional priority. (See related article, page 1.) He too has introduced legislation to repeal the exemption, and he said he sees widespread support for such a bill.

In a workshop on "Auto Insurance Reform: Proposition 103 and its Aftermath," CFA Executive Director Stephen Brobeck said that, in the wake of Prop 103's passage in California, insurance reform has become the consumer movement's top priority. Brobeck outlined a comprehensive strategy for bringing down auto insurance rates, including loss prevention measures as well as measures to increase insurer efficiency.

Rep. James J. Florio outlined needed reform in the insurance industry.

While consumer advocates and insurers are natural allies on the issue of loss prevention, the industry has resisted efforts to make it more efficient, he said.

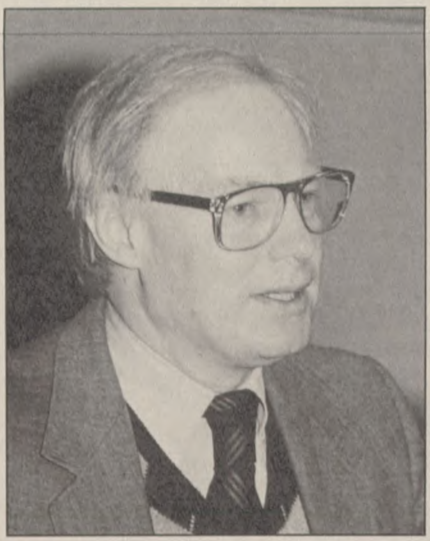
"In the long run, competition represents the most effective strategy for increasing insurer efficiency. The industry's antitrust exemption, anti-rebate statutes, and anti-group sales laws should be repealed."

Speaking in the same workshop, Robert Hunter, President of the National Insurance Consumer Organization, said Prop 103 was the logical result of the industry's indifference to consumer concerns. He went on to criticize the insurance industry for not doing enough to bring down rates by promoting safety. "When you are in the trenches fighting for safety, you rarely find the insurance companies there. Insurance should be the OSHA of car and highway safety," Hunter said.

Representing the industry view in the workshop, Robert E. Vagley, President of American Insurance Association, said he does not see Proposition 103 as a step in the right direction, calling it "a very destructive proposition," and he questioned whether repeal of the antitrust exemption would help to bring rates down.

Public Losing Confidence in Deregulation

The savings and loan crisis is the most recent in a series of events that have left the public increasingly skeptical about the consequences of deregulation, according to several speakers at Consumer Assembly.



Rep. Jim Leach said regulatory breakdown is a factor in the savings and loan crisis.

Those speakers included: Edward Byers, Vice President and Senior Analyst at Cambridge Reports, Inc., who spoke on changing public attitudes toward deregulation; CFA Research Director Mark Cooper, who discussed the pocketbook impact of deregulation; and, Rep. Jim Leach (R-IA), who spoke on the causes of and solutions to the savings and loan crisis.

"The Reagan administration erred in misunderstanding that there are areas of public life where deregulation doesn't work," said Leach, who is ranking member of the House Banking Committee. The savings and loan crisis is proof that financial services is one such area, he said.

Rep. Leach said that responsibility for the savings and loan regulatory failure also must be shared by Congress and state legislatures, for passing laws that are too loose, and by regulators, for being "more sympathetic to industry than to the public as a whole."

The solution to the problem is to reregulate, Rep. Leach said. "We don't need to tear down the present system. We need to reform it, to build on its strengths, and to create a system that will not allow this to happen again."

While the public continues to have an essentially benign view of financial deregulation, "the public is more and more likely to be skeptical of the consequences of the deregulation movement," said Byers in a speech on emerging consumer concerns. "There is a clear overall pattern of dissatisfaction with economic deregulation."

Between 1985 and 1988, dissatisfaction levels have almost doubled, with almost half now believing it was not in the public's best interest. In particular, he said he sees broad-based support for more government involvement in areas of health and safety.

This represents a significant change from the start of the decade, when Ronald Reagan was elected on a wave of antigovernment sentiment. The significance of the change was evident in President Bush's campaign promise of greater governmental involvement in certain crucial areas, Byers said.

But the Reagan years left a lasting legacy, he said. "The Reagan Administration changed the terms, if not the substance, of the regulatory debate. A more activist government is likely to be instituted as public-private initiatives to solve problems, rather than as direct intervention," he said.

Cooper, who spoke in a general session on "Reviewing the 1980s to Prepare for the 1990s," analyzed the effects of deregulation in four areas, and concluded that deregulation led to price discrimination against residential consumers in general and low income households in particular.

In electricity, natural gas, and telecommunications, this came about because of the "uncoupling" of residential rates from industrial or business rates. In banking, price discrimination resulted because of the raising of a "liquidity barrier" that the poor could not meet.

"All this was justified by trickle down, the idea that if corporations got richer, the population as a whole would benefit," Cooper said. But trickle down didn't work, he said.

The solution is "to elect politicians who will appoint regulators who understand the basic fairness of pricing policy," Cooper concluded.

Poor Fared Worst in the 1980s

The poorest Americans are the ones who have suffered most from the economic and regulatory policies of the Reagan administration, and despite the "gentler" rhetoric of the Bush administration, the prospects for the immediate future are no brighter, according to Consumer Assembly speakers on low income issues.

All the statistics show that the economic recovery under Reagan did not benefit the poorest citizens, said Robert Greenstein, Director of the Center on Budget and Policy Priorities. In a session on "Reviewing the 1980s to Prepare for the 1990s," Greenstein described the trends of the past decade: 8 million more Americans below the poverty line in 1987 than in 1977; increases in the proportion of the population below the poverty line and in their degree of poverty; and the number of children living in poverty up 66 percent.

The increased number living in poverty is accounted for by an increase in the "working poor" and by changes in government programs, he said. In 1979, one out of five families who were poor were lifted out of poverty by government aid, compared to one in ten in 1987. In the 1970s those who worked in minimum wage jobs were above the poverty line; now they are below it.

Meanwhile, costs for the poor have been rising, Greenstein said, especially in the area of housing, where there still "does not seem to be a great demand to do anything about it."

On the other hand, if we could resolve the budget deficit problem, "there are areas where consensus is emerging in favor of federal action," he said.

In particular, the public favors preventive programs for poor children as well as programs to ensure that families in which a parent is working full time not have to live in poverty.

"Since you have to get the deficit down in order to spend money to meet unmet needs," the answer is to "raise taxes on those who can afford to pay." While public sentiment is in favor of this, "that message hasn't gotten through yet in this town," Greenstein said.

Speaking during the same session on pocketbook issues, CFA Research Director Mark Cooper described some of the underlying economic policies that have resulted in the widening gap between rich and poor. "The pricing patterns of the 1980s were a transfer of wealth . . . justified by intellectual gymnastics," he said. Because of those inequitable pricing patterns and the failed "trickle down" philosophy, the poor got poorer in terms of income during the 80s, and "their piece of the expenditure pie got bigger."

Low income consumer issues were also the focus in a workshop discussion on "Health Insurance and the Poor." The general consensus of that panel was that the current Medicaid program is woefully inadequate for meeting the needs of the poor and must be reformed.

Once again, however, the deficit will limit what can be done for the poor, said Andy Schneider, Counsel to the House Subcommittee on Health and the Environment. "Whether it costs $6 billion or $13 billion, we don't have that kind of change lying around."

Education vs. Regulation:
Health and Safety Priorities Debated

The head of the Food and Drug Administration and the new chairman of the Senate Consumer Subcommittee outlined their very different agendas for consumer health and safety in keynote speeches at Consumer Assembly.

While FDA Commissioner Frank E. Young concentrated on measures to increase consumers' knowledge and awareness toward improving public health, Sen. Richard Bryan (D-NV) emphasized the need to put key federal agencies back to work actively protecting the public.

Consumer advocates who discussed health and safety issues in speeches and panel discussions throughout the conference agreed that the health and safety regulatory agencies had virtually abandoned their jobs of defending the public in recent years and that the public welfare demands a return to strong regulatory action.

Young Stresses Consumer Education

In outlining his priorities for improving consumer health, Commissioner Young singled out four areas that would receive much of his attention at the FDA: disease prevention, nutrition and food safety, self-care, and cutting red tape in evaluations of new drugs and technologies for the "desperately ill."

"We have overlooked for years the concept that we can burden ourselves with undue risks by the habits we have," Young said. In addition to focusing on the proper balance of exercise and the avoidance of harmful substances (such as cigarettes, alcohol, and illicit drugs), Young said consumers should practice a new type of preventive medicine, listening to body signals. For a person who is having a heart attack, for example, early detection of symptoms followed by proper treatment can prevent damage to the heart, he said.

A similar preventive principal applies in the area of nutrition, for which reason Young said he will make improved food labeling a top priority. "Today, there is a consensus that eating too much fat, salt, and cholesterol is harmful. There is a consensus that we need to worry about other things as well, such as calcium," he said.

FDA Commissioner Frank E. Young stressed the need for improved consumer education on health issues.

Sen. Richard Bryan will make agency reauthorization a top priority of the 101st Congress.

Unfortunately, consumers' ability to get the information needed to make informed choices about what to eat is limited by the fact that "we have constructed a food label that is close to unintelligible," Young said. A joint effort between government, consumers, and academicians is needed to design a better label and to agree on such definitional terms as "light, natural, added this, added that," he said.

Young said he also would emphasize improved inspections of imported foods for harmful pesticide residues and inspections of seafood, promising the development of "a comprehensive seafood program and policy."

The increasing use of over-the-counter test kits and medications raises another issue of consumer education, Young said. "We need to focus on our own ability to medicate ourselves and read our own symptoms. . . How each of us is going to use these over-the-counter medicines and know what the limits are will be extraordinarily important."

Finally, in the interest of the "desperately ill," the FDA needs to continue efforts to cut the time it takes to evaluate new therapies and technologies, specifically by reducing the number of unnecessary clinical trials conducted, Young said. Progress has already been made, he said, witnessed by the fact that the time for approval for new therapies for the desperately ill has been reduced from 7.8 years in 1977 to 4.3 years today.

"We are in a war on AIDS," Young said. "People who are dying of AIDS don't have 7.8 years for development of new therapies."

Sen. Bryan predicted an active consumer agenda in his Consumer Subcommittee and in the 101st Congress as a whole, much of it centered around the reauthorization of the various regulatory agencies.

"The federal government exercises a legitimate function in monitoring the marketplace and the products offered to American consumers," Sen. Bryan said, adding that the regulatory agencies have not performed those functions adequately in recent years.

He said the Consumer Product Safety Commission, which "has the potential to be one of the most important entities to protect consumers at the federal level," has "suffered in recent years from reduced funding, internal conflict, and lack of direction." He called the National Highway Traffic Safety Administration's recent rulemaking efforts "too little, too late." And he criticized the Federal Trade Commission for not looking "more carefully at mergers to make sure they do not reduce or eliminate competition and choices for consumers."

For that reason, Sen. Bryan said he will be working on individual bills to reauthorize all three of these agencies. The committee charged with their oversight has an obligation to help identify priorities and channel activities for these agencies, he said, vowing to use the reauthorization process to that end.

In addition to the agency reauthorization effort, the Consumer Subcommittee will work with states to find a solution to the problem of telemarketing fraud, he said. The full Commerce Committee also has a full consumer agenda, including environmental issues related to global climate change, airline passenger security and airline competition, rail and truck deregulation, and the effects of the breakup of the Bell telephone system, Sen. Bryan said.

"The Consumer Subcommittee—indeed the Congress—has planned an active agenda on issues that affect consumers, and I ask for your help in carrying forward that schedule," he concluded.

A Nation At Risk

Sen. Bryan's message on the need to revitalize the regulatory agencies was echoed by Public Litigation Group Staff Attorneys David Vladeck and William B. Schultz. Vladeck, who spoke on health and safety issues as part of a panel on "Reviewing the 1980s to Prepare for the 1990s," concluded: "Looking back over the 1980s, the news is bad all around. The Reagan administration has left an enduring legacy: the health and safety of the American public is not a priority. It has been sacrificed on the altar of corporate profits."

Instead of pushing forward, the regulatory agencies "ran from the task at hand," he said. Some, such as the CPSC and NHTSA, "harmed us through inaction." Some, such as FDA and the Occupational Safety and Health Administration, "deliberately sabotaged" health and safety by weakening their own regulations and cutting their staffs, he said. The Environmental Protection Agency has, through its reliance on voluntary compliance, "forfeited much of the ground gained in the 1970s."

The result of the Reagan years is that "we have moved dramatically in the wrong direction," Vladeck said. "More than at the beginning of this decade, we are a nation at risk."

In order to counteract that trend, we must have "effective, well-staffed, well-financed regulatory agencies, and we must restore professionalism and competence to management," he said. In addition, we must recognize that "voluntary standards are not a substitute for effective regulation. We can't trust industry, which is driven by the profit motive, to keep the workplace safe, the environment pure, and our health and safety protected."

FDA Too Industry Oriented

In a consumer critique of the FDA, Schultz countered Commissioner Young's picture of the agency as one devoted to working in the consumer interest. "If the agency has had any theme over the past eight years, the theme was one of deregulation, 'get the government off the backs of industry,' " he said.

"What used to be a consumer protection agency, what used to be an agency that acted by vigorous regulation, has now become an agency that doesn't issue regulations anymore" and instead relies on voluntary programs and emphasizes consumers' own responsibility for their health, said Schultz, calling this "a very unfortunate shift in priorities."

In several Consumer Assembly workshops related to consumer health and safety—including "Food Safety: What Should Labels Tell Consumers," "Product Safety: New State Initiatives," "Indoor Air Quality: The State and Local Role," and "The Health and Safety Agenda"—a recurring theme was how states have stepped in to fill the gap left by inactive federal regulatory agencies.

"Traditionally, states haven't been involved in public safety," said Phyllis B. Spaeth, Assistant Attorney General for the State of New York's consumer fraud bureau. "With the advent of the Reagan Administration and the crippling of the CPSC, states have had to come in to fill the gap."

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Science Key to New Consumer Issues

An understanding of scientific developments will prove essential if consumer advocates are to play an important role in such vital emerging consumer issues as biotechnology and global climate change, Consumer Assembly speakers agreed.

In a general session on "Biotechnology: Gift of Science or Genetic Threat?" Rep. George E. Brown, Chairman of the House Subcommittee on Department Operations, Research and Foreign Agriculture, said that "this technology raises questions of morality and questions of risk. It is important that consumers be aware of technology for good and for bad."

Biotech offers tremendous promise in the areas of medicine, environmental protection, and agriculture, where the first applications are near, he said. On the other hand, Brown warned, "there are possibilities to make mistakes."

For this reason, public awareness and involvement in decision-making is crucial. "There is a great deal at stake for us and for society as a whole. We have a unique opportunity to do it right for once," he said.

So far, Rep. Brown said, the regulatory system has proven adequate and the agencies are involved, but he encouraged organizations such as CFA to keep abreast of the issues and to evaluate the risks and benefits, particularly as the field moves toward commercialization.

Jack Doyle, Director of the Environmental Policy Institute's Agriculture and Biotechnology Project, agreed with Rep. Brown's assessment of the tremendous promise offered by biotech, but disagreed with his evaluation of the regulatory picture.

Rep. George E. Brown (left) described the risks and benefits of biotechnology, and Energy Undersecretary Donna Fitzpatrick (right) discussed the economic underpinnings of environmental issues.

The present regulations are inadequate and "a mess," he said, with 12 old laws that cut across a variety of agencies currently being used to regulate the field. Provisions are badly needed for public notice and public hearings, he said.

While the opportunities in biotech are exciting, Doyle said, he warned that the technology's potential must be examined within a larger context that includes implications of "a new kind of economic consolidation. . .The policy area is critical," he said.

Donna Fitzpatrick, Undersecretary in the U.S. Department of Energy, argued for the same kind of contextual evaluation when looking at environmental issues, such as global warming. Problems will have to be handled in ways that minimize environmental damage but do not unduly limit economic development, she said in a session on "Growing Environmental Hazards: Impact on Consumers." "Consumers will have to be convinced of the environmental hazard in order to be willing to pay for the cost of avoiding that hazard," she said.

Much of the session's discussion centered around the issue of global warming, which Fitzpatrick said is "still an open question. There is no undisputed and settled opinion in the scientific community."

Nonetheless, while scientists work to understand the problem, there are actions that can and should be taken immediately, including increasing our energy efficiency and switching to sources that don't rely on use of fossil fuels, she said.

"We need to do those things anyway, because the use of fossil fuels poses other environmental hazards" and because some are depletable in the foreseeable future, Fitzpatrick added.

Speaking in the same session, James MacKenzie, Senior Associate with the World Resources Institute, argued that the problem is better understood than Fitzpatrick would acknowledge, but agreed with her on the basic approach to solving the problem.

As an intermediate step, we should use less coal and more natural gas, he said, with a goal of eventually switching to solar and nuclear energy "to the extent that it can be made safe."

We also have to use our energy supplies more efficiently, he said, by making our automobiles and our buildings more efficient and by giving utilities incentives to use high-efficiency technologies.

"There are solutions," he said, "but we have to recognize the problem now and deal with it now."

Advocates Urged to See Both Sides of the Story

Consumer advocates were cautioned by consumer reporters to remember that in the reporter's eyes "no story is black and white" and that consumer groups will receive the same skeptical review that the media applies to all its sources.

In a workshop on "Consumer Press Perspectives," Warren Brown, a consumer reporter for *The Washington Post*, chastised both the media and consumer advocates for being too one-sided. "Some groups, including consumer groups, abandon reason in pursuing an apparent injustice," he said. "Issues aren't black and white." He criticized groups that release information late Friday or on a Saturday in order to reduce the opportunity for reporting the other side.

On the other hand, Brown said, "investigative consumer reporting is too often one-sided and doesn't best serve the consumer in its abandonment of fairness."

Paula Lyons, consumer reporter for Boston's WCVB-TV, an ABC affiliate, echoed Brown in cautioning consumer advocates that "we're not there to do your PR. We may do a story which isn't what you want." She also said that reporters must be meticulous in collecting and corroborating information and can't simply rely on consumer groups as sources.

Consumer advocates should be willing to tell the reporter who all "the important actors are," because "otherwise we might not pursue it. We need to give the entire story," she concluded.

Others on the panel disagreed, including Silvia Gambardella, consumer reporter for the investigative unit of WCCO-TV in Minneapolis. Gambardella said she sees no inherent conflict between being a consumer advocate and being an objective journalist. "I bend over backward to get both sides of the story," she said.

"You have to be fair to consumers, government, and corporations, but you must also be truthful," said Herb Denenberg, Consumer Reporter for Philadelphia's WCAU-TV, a CBS affiliate. Because corporations tend not to be attuned to consumers or the media, however, they "rarely agree to face the camera," he said.

Denenberg also called on consumer groups to "scrutinize the media as they would a government regulatory agency," because "good quality consumer information is more effective than regulation."

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