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Nader

10.22.74

To: Mr. Casselman
From: Eva

Mr. Buchen received a copy of the Nader letter to the President; attached is our copy, since I understand you received the original.

I am sending a copy to Doug Metz because of their extreme interest in this subject.



October 16, 1974

The Honorable Gerald Ford
The White House
Washington, D.C.

Dear President Ford:

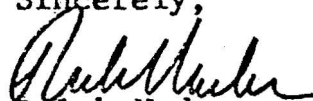
The bill H.R. 12471, Freedom of Information Act Amendments, which is now on your desk, presents the first clear opportunity for your announced commitment to an open administration. Signing this legislation -- which received only two opposing votes in the House of Representatives -- will demonstrate to the media and the public that you will not condone continued government secrecy and arrogance.

These amendments to improve the FOIA represent the judgement of a bipartisan group of legislators after long and thorough study of the Act's operation over the past seven years. The thrust of the legislation is to make the Act more readily usable by the public and the press and to reduce the number of bureaucratic maneuvers which have been used again and again to frustrate the goal of open government.

In several respects the bill falls short of reforms which we have advocated. It is the product of compromise between legislators of both parties and the Justice Department. Most notably, the House-Senate conferees prolonged their deliberations and revised their decisions to resolve problems which you raised yourself in a letter of August 20, 1974. Your reservations with respect to 1) the rights of government employees; 2) court inspection of classified material; 3) the confidentiality of law enforcement and national security investigations; 4) possible awarding of litigation costs to corporate litigants; and 5) time limits on agency responses to information requests have all been accommodated by the Democratic and Republican conferees through changes in either the statute or the conference report. There simply can be no justification for your staff or any agency recommending a veto of this bill.

President Johnson was in much the same position as you in 1966 when the original FOIA came to his desk. Most government agencies opposed the bill then just as most agencies oppose the current bill now. Yet President Johnson perceived the greater good in open government and signed the legislation. I trust you will do the same.

Sincerely,


Ralph Nader



11/13/74

Chapman
says

THE WHITE HOUSE
WASHINGTON

Baroody

prepared

an interim reply

==

referred to —

& they're

awaiting

reply.



*Neder
Ellsworth*

October 9, 1974

To: Dudley Chapman

From: Phil Buchen

The enclosed is per our conversation.



LARRY P. ELLSWORTH
ATTORNEY AT LAW
2000 P STREET, N. W., SUITE 700
WASHINGTON, D. C. 20036
(202) 785-3704

8 October 1974

William J. Baroody, Jr.
Assistant to the President for Public Liaison
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. Baroody:

On behalf of Mr. Ralph Nader, I wish to bring to your immediate attention a matter of significant public concern. According to an article in the Washington Post of Saturday, October 5, 1974 (copy enclosed), you recently announced that the Ford Administration has begun a series of advisory conferences at which about twenty executives of major organizations are brought together with government officials who are working in the area of the participants' special concern. After the meetings, the participants are to "formalize their thoughts" on paper so that their advice can be forwarded to government policy-makers. One such meeting -- with insurance industry groups -- has already been held, and apparently was closed to the press and the public. According to the Post article, the White House plans to keep the public out of all future meetings as well.

We find this policy of closed meetings most disturbing, especially since it appears to violate the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, which has received high level attention within the Executive Branch. Its implementation has been ordered by Executive Order and regulations have been promulgated by the Office of Management and Budget. Executive Order 11769, 39 Fed. Reg. 7125 (1974); OMB Cir. No. A-63 (revised), 39 Fed. Reg. 12389 (1974). As you should be aware, that Act requires that all advisory committees, including any conference, panel or similar group, established or utilized by the President or one or more agencies to obtain advice must comply with the provisions of that Act (5 U.S.C. App. I, § 3). The basic tenet of the Act is stated simply: public agencies must not conduct public business with special interest groups behind closed doors.



William J. Baroody, Jr.

October 8, 1974

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More specifically, the Act requires that all advisory committees, whether permanent or ad hoc, file a charter (with the Director of OMB in the case of Presidential advisory committees), before holding any meetings. Among the items to be included in the charter are (1) "the committee's objectives and the scope of its activities," (2) "the agency or official to whom the committee reports," and (3) "the estimated annual operating costs in dollars and man-years for such committee." (5 U.S.C. App. I, § 9(c)). Second, the Act explicitly states that: "Each advisory committee meeting shall be open to the public." (Id. at § 10(a)(1)(emphasis added)). While Congress provided for certain limited exceptions, these can apply only when "the President, or the head of the agency to which the advisory committee reports, determines [in writing that the meeting] is concerned with matters listed in section 552(b) of Title 5." (Id. at § 10(d)). This determination is subject to de novo court review. See, e.g., Gates v. Schlesinger, 366 F. Supp. 707 (D.D.C. 1973). Further, timely notice of each advisory committee meeting must be published in the Federal Register (5 U.S.C. App. I, § 10(a)(2)); interested persons must be permitted to attend, appear before, or file statements with any advisory committee (Id. at § 10(c)); and, subject to section 552 of Title 5, all records, reports, transcripts, minutes, or other documents which were made available to or prepared for or by any advisory committee must be made available for public inspection and copying.

Accordingly, pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, and the Freedom of Information Act, 5 U.S.C. § 552, I request on Mr. Nader's behalf the opportunity to inspect and to make copies of each of the following records:

- (1) the charter, if any, for the advisory committee of insurance groups which has already met (and if no charter has been filed, documents containing the information required in section 9(c) of the Federal Advisory Committee Act);
- (2) the Federal Register notice, if any, for that meeting;
- (3) the written determination, if any, for closing that meeting;



William J. Baroody, Jr.
October 8, 1974
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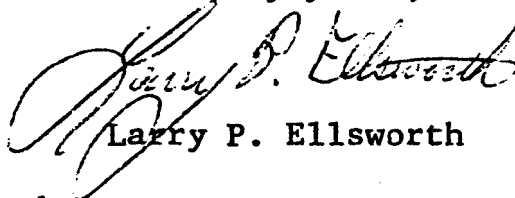
- (4) the minutes of that meeting; and
- (5) all reports, memoranda, "written formalizations of thoughts" or other records which were made available to or prepared for or by the advisory conference of insurance groups, either before, during or after that meeting.

In addition, we also request a list, including the time, date and place, for all similar meetings of any groups planned for the future, and the charters for each of the other advisory committees which are planned. We ask that you immediately send the documents requested in this paragraph so that Mr. Nader may determine which of these meetings that he or one of his assistants may wish to attend, or, if the meetings are closed, to take other appropriate actions.

It would be ironic, indeed, if the present Administration, which has promised to end the excessive secrecy for which the previous Administration was justly criticized, were to continue the same type of closed meetings with special interest groups which in large part brought about that criticism. We therefore urge you to open all future advisory committee meetings to the public and the press. In this regard, please inform us of what plans you have to bring future meetings into compliance with the Federal Advisory Committee Act, including its provision for balanced representation of all concerned or affected groups (5 U.S.C. App. I, § 5(b)(2)), so that the public can participate in the conduct of the public's business.

Your prompt attention to this matter of immediate public concern is appreciated.

Sincerely yours,



Larry P. Ellsworth

cc: President Gerald R. Ford
Senator Lee Metcalf



Ford Initiates Policy Talks With Citizens

By Stephen Isaacs

Washington Post Staff Writer

The Ford administration had initiated a series of conferences with citizen and business groups with the dual purpose of eliciting advice and

The first two or three hours of these half-day sessions, said Baroody, are used for each group to talk with government officials involved with its par-



WILLIAM J. BAROODY JR.
... coordinates meetings

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