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THE SEC: PORTRAIT OF THE AGENCY AS A THIRTY-SEVEN YEAR OLD

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The Securities and Exchange Commission was established by section 4 of the Securities Exchange Act of 1934. The laws it administers were all enacted between 1934 and 1940, with only relatively minor changes since that time. It has attracted, during the past thirty-seven years, as Commissioners and staff members, some of the ablest people to enter American public life. It has never been subject to any serious charges of impropriety or political influence, and it has probably the best reputation of any of the federal regulatory agencies, both in the business community and among disinterested observers.

Within the past year or so, however, the agency has been subjected to serious criticism. It has been faulted particularly for its alleged failure to take strong enough action to prevent the recent debacle in the securities industry, which posed the most serious threat to public confidence in the securities markets since the early 1930's. It has been criticized more generally for its failure to respond promptly and flexibly to changes in the securities markets, to plan for future developments, and even to deal expeditiously with its own backlog of work in its established fields of activity.

The purpose of this article is to analyze the SEC's apparent successes and alleged failures, and to see to what extent they reflect genuine accomplishments or deficiencies in dealing with the problems committed to the agency's jurisdiction.

"SUCCESS" FACTORS

One important factor in the SEC's past success has been the nature of the activity which it regulates. The securities business, unlike other regulated industries, is not a natural monopoly situation. Generally, any number of firms can enter any part of the securities business, and any number of companies can sell their shares to the public. Therefore, the SEC has generally been spared the difficult and politically treacherous task of choosing between competing applicants for a limited number of franchises, a task which has contributed to the low estate

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of the Federal Communications Commission and the Civil Aeronautics Board.

Second, the securities business has been a relatively specialized one, engaged in by a determinable number of firms with easily categorized functions or combinations of functions. The SEC thus has a relatively well-defined, well-organized and manageable constituency, unlike such agencies as the Federal Trade Commission, which must dissipate their energies on thousands of individual cases in a multitude of different industries, with little opportunity to formulate or gain acceptance of rules of general applicability. The current and rapid trend toward absorption of securities firms into financial or industrial conglomerates, however, is already complicating the SEC's labors. It will do so to an increasing extent, not only because of the increasing complexity of the operations of the regulated companies but also by bringing the SEC into areas of overlap and conflict with the agencies that regulate the other activities of the conglomerate enterprises.

A third important factor in the SEC's good reputation has been the limited role assigned to it in regulating the securities business. The SEC has no power to make economic determinations either as to the merits of any particular security or investment recommendation, or as to the most efficient ordering of the securities business. The few areas in which the Commission has been called on to make economic determinations, such as its review of stock exchange commission rates, have been among its most controversial activities.

A fourth factor in the SEC's success — perhaps even the most important — is the general upward trend of the stock market during the thirty-seven years of the SEC's existence. Public investors who are showing substantial profits on their securities investments are less likely to criticize practices in the industry, or the agency which regulates it, than customers of an industry which has not done well by them.

This catalogue of external factors, of course, tells only part of the story. There are agencies with limited roles in successful industries that have acquired very bad reputations. To determine why the SEC was, until recently, so highly regarded, and why its reputation is currently suffering, one must examine the goals which the agency has set for itself, or have been set for it, and see how it has handled each of them.

GOALS AND PROGRAMS

In 1965, the SEC was instructed to design a "Planning-Programming-Budgeting System" — a concept developed in the Defense De-

partment which the Bureau of the Budget was attempting to adapt for use by all government agencies. The essence of the system was that each agency should first define its goals and sub-goals, then evaluate the alternative techniques of achieving those goals, and finally allocate its manpower and its budget to reach its goals in the most effective and efficient way. The basic purpose, of course, was to make government budgeting a more managerial and less political process. One can debate the merits of this purpose, as an overall matter, but within the limited world of securities regulation it makes a good deal of sense.

A small group was organized within the SEC, including representatives of each of the divisions and offices, to study how the proposed budgeting system could be adopted to serve the needs of the agency. However, the idea met with a good deal of resistance from some of the top staff people, who took the position that their job was to enforce the law, and that the only problem was that they were understaffed and needed more money to do the job properly. This resistance was probably attributable in large part to the natural reluctance of someone who has devoted most of his life to a certain activity to ask whether that activity serves any useful purpose. The possible consequences of a negative answer are too frightening. The attitude varied greatly among the three major divisions, however, and from individual to individual within each division, and the study group was able to achieve modest progress in provoking analyses of how time was in fact being spent and where alternative procedures should at least be considered.

The study group had only limited success in attempting to define an overall goal for the Commission. There was agreement that it had something to do with the establishment and maintenance of public confidence in the securities markets. But whether this was the principal goal, or a step toward a goal of more efficient allocation of capital, or a by-product of protection of investors seemed to depend on whether the question was approached from the viewpoint of a sociologist, or an economist, or a lawyer.

The group concluded that the goal of public confidence did not require or empower the Commission to try to prevent investors from losing money, but rather to try to see that investors who did lose money (as well as those who made money) did not feel that they had been treated unfairly. In other words, the result of an investment should depend on factors which an investor could reasonably contemplate at the time he made it. To reach this goal, the Commission has four broad programs:

- (1) Obtaining timely public disclosure of material information about the issuers of securities.
- (2) Preventing or discouraging unfair practices in the securities markets.
- (3) Regulating the actual operation of the securities markets.
- (4) Preventing or discouraging unfair activities by the managers of investment companies.

There are also two other programs of a "mopping-up" nature that occupy a relatively small part of the Commission's time at present: rationalization of the structure of public utility holding companies, which was largely completed in the 1930's and 1940's, and participation in bankruptcy reorganizations.

Disclosure

Of the four major programs, the one which has been most responsible for enhancing the Commission's reputation is the disclosure program, particularly that part of it spelled out in the Securities Act of 1933. The form and content of the disclosure that a company is required to make when it sells securities to the American public is quite properly considered, within and without the SEC, as the agency's most significant achievement.

Acceptance by issuers and underwriters of the appropriateness of full disclosure was not automatic. It was greatly facilitated by the decision made in the early years that the SEC staff would review registration statements and assist in improving the disclosures they contained rather than waiting for misstatements to be made and applying the formal sanctions of the law. This informal method of proceeding, involving deficiency letters, undertakings and other mechanisms not mentioned in the statute, has made it possible for knowledgeable issuers and underwriters to comply fully with SEC disclosure requirements while making their public offerings with a minimum of disruption to their established procedures. This accommodation has been facilitated by their recognition that, for reasons discussed below, specific phrases and disclosures that the SEC requires a company to put in its registration statement, however offensive they may be to company officers, have relatively little effect on the marketability of the stock issue.

A side effect of this informality, however, has been to increase the premium on expertise among the people who handle registration statements, particularly the lawyers. A lawyer or firm who has never handled an SEC registration before is at a substantial disadvantage in

trying to get a statement through the SEC. Even if he can struggle through the formal requirements laid out in the law and regulations, he must turn to scattered secondary sources to find out about the informal procedures and turns of phrase that will ease his path through the administrative process.

The most serious question, though, about the SEC's disclosure program is not whether it has unduly fattened the pockets of a certain segment of the legal profession but whether it has served the basic purpose of fostering public confidence in securities. The answer is assuredly yes. Securities of American corporations enjoy unparalleled acceptance, not only among American investors but in other countries as well, an acceptance which is attributable in significant measure to the amount and type of information that is available about their affairs.

To what extent is this confidence justified? To what extent have the SEC's disclosure requirements and its much publicized proceedings against people who trade on the basis of inside information helped ordinary investors to avoid losses resulting from factors which they could not reasonably have anticipated at the time they made their investments? Here the answer is a mixed one: the SEC requirements have probably helped a great deal, but not for the reasons which are commonly advanced to justify them.

The standard statement about the SEC's disclosure requirements is that they are designed to give the potential investor the material facts that he needs for an informed investment decision. There are a number of problems with this: (1) more than 99 percent of all securities purchases are made in transactions to which the 1933 Act disclosure requirements are inapplicable, and the disclosures required by the 1934 Act are often obsolete and not readily available; (2) in purchases to which the 1933 Act is applicable, there is no requirement that the purchaser get any information until after the transaction is completed; (3) the information given to the purchaser is often so complicated that he would need professional help to decipher it; (4) accounting rules are so flabby that it is hard to draw meaningful comparisons between the financial statements of different companies, even those of companies in the same industry; (5) in a very large percentage of cases, the investment decision is made on the basis of factors which have nothing to do with the information that the company is required to disclose.

The real salutary effects of the disclosure requirements, I would suggest, have been two. The first was to accustom corporate managers to making public a great deal of information about the company's affairs. Although a particular publicly-held company may only be required

to comply with 1933 Act disclosure requirements on rare occasions, those occasions are enough to demonstrate to management that disclosure is not detrimental to business, that in fact it can be used (and even abused) to help the company's business by broadening the market for its securities. This "Consciousness II" is one toward which corporate managers in other countries, without the prod of the SEC's disclosure requirements, are only now beginning to grope their way.

The second benefit, arising from the requirement of disclosing compensation arrangements and other transactions with directors, officers and controlling persons, has been an upgrading of corporate managers' sense of responsibility to their institutions. There are many questionable arrangements which corporate managers will set up for themselves if they can do so in secret, but which they will not set up if they have to be disclosed on a public record. The motivation may be fear of lawsuits, or simply embarrassment, but, regardless of the exact cause, I would guess that the SEC's disclosure requirements have deterred more questionable deals than all the substantive rules laid down in state corporation laws or court decisions.

After its initial breakthrough in gaining acceptance of the 1933 Act disclosure procedure, however, the SEC has in recent years devoted massive portions of its time to prescribing the exact form in which 1933 Act disclosures must be made and the precise dividing line between the situations in which 1933 Act registration is or is not required. This progressive ritualization has been encouraged by the rigid pyramidal structure of the Division of Corporation Finance, which administers the disclosure provisions, and by the growth of a large body of lawyers both within and without the SEC, whose careers are built on the repeated application of the formulas they have learned and polished.

The point here is not that the disclosure provisions are being ineffectively administered. It is rather that the SEC, with limited resources, is applying most of them to a very limited class of transactions and leaving vast areas virtually unpatrolled. A couple of years ago, a study group under the direction of Commissioner Francis M. Wheat, came up with some sensible recommendations for reducing the disparity in disclosure requirements between companies that are currently engaged in offering securities to the public, and companies that are not. However, after an initial rash of favorable comment from outside the Commission and the proposal by the Commission of a new set of rules to implement the study group's recommendations, the project apparently succumbed to the general lethargy now pervading the Commission, and the agency went back to tinkering with the old distinc-

tions, in a manner that bids fair to make the disparities worse than they were before.

This is an unfortunate development, since it creates a danger that leadership on the disclosure issue will pass from the SEC to other institutions. If the rationalization of disclosure requirements is done by Congress at a time when there is no public outcry against the financial disclosure practices of public corporations the leadership will probably be taken by business-oriented groups and the rules will be changed so as to eliminate requirements which business executives find bothersome.

Prevention of Unfair Practices

In terms of total man-hours, the largest portion of Commission resources is devoted to what it calls its enforcement program — inspections, investigations, administrative proceedings, injunctive actions and criminal prosecutions involving broker-dealers and others who may have engaged in “fraudulent, manipulative or deceptive” practices. Like any policing and prosecuting operation, this program requires the exercise of a great deal of discretion at all stages, since the Commission’s resources are obviously inadequate to investigate and follow through on every suspicion of a securities law violation.

It is very hard to evaluate how well this discretion is being exercised. Indeed, the Division of Trading and Markets, which has principal responsibility for enforcement activities, has only a very rough idea of how much time is being spent in going after various categories of improper practices. But even detailed statistics on this subject would not lead to any firm conclusion about how well the Commission does in discouraging improper acts and in discovering those that were committed.

Given its limited resources and the enormous number of securities transactions taking place every day, the key to the Commission’s success is leverage. The relatively few proceedings which it is able to carry through to completion must be carefully chosen to achieve the maximum impact in terms of state enforcement activities, disciplinary actions by industry self-regulatory organizations and, most important, self-restraint by those who engage in the securities business or in securities transactions. A single proceeding such as the *Texas Gulf Sulphur* case, while it involves a large expenditure of Commission time on a single series of incidents, may produce enormous changes in terms of development and re-examination of standards by the managers of every publicly-held corporation in the country. And the increasing number

of proceedings brought by the Commission in the last few years against large stock exchange member firms have undoubtedly produced improvements in internal surveillance procedures that will save large numbers of customers from being imposed upon by over-aggressive and under-scrupulous salesmen.

On the other hand, the Commission must continue to deal with the small fly-by-night operators in proceedings that make no new law and involve relatively small numbers of customers and small amounts of money, simply because the violations are so outrageous that they cannot be overlooked. If one of the cheated customers is a friend of an influential Congressman, there is extra pressure on the SEC to do something about the situation. This is not necessarily a bad thing. In terms of the overall goal of maintaining public confidence in the securities markets, a high congressional regard for the SEC's effectiveness in dealing with wrongdoers is an important asset.

Of more questionable value is the Commission's continuing campaign to maintain jurisdiction to the farthest boundaries of the word "security," including accounts in savings and loan associations, and interests in orange groves, beavers, and any other enterprises in which the investor hopes to profit from the efforts of others. There is no doubt that many of these cases have involved fraudulent or potentially fraudulent activities, and that bringing them under the federal securities laws may give defrauded buyers, as well as the Government, better grounds for judicial relief. On the other hand, these activities are highly specialized and often local in character, and there is little reason to believe that they impair public confidence in the markets for securities, as that term is commonly understood.

Another complication in the SEC's enforcement program is regional variation. Oil and gas ventures, which raise peculiar problems, are concentrated in a few geographical areas. Aggressive sales practices which are standard in Los Angeles would evoke cries of horror in Boston. Trading practices in penny mining stocks that are considered a normal aspect of speculation in the Northwest would probably be looked upon as outright manipulation in other parts of the country.

Since a majority of the Commission's enforcement personnel is located in its regional and branch offices spread around the country, enforcement patterns tend to reflect these regional differences in practices and attitudes. There is also a measure of tension between regional administrators, particularly those who have been with the Commission for many years, and the directors of the enforcement operation in Washington, whose objective is to achieve greater uniformity of stan-

dards for inspections, investigations and proceedings as well as greater flexibility in moving personnel from one area of the country to another to meet changes in the incidence of various kinds of violations. On balance, the regional offices, with about 40 percent of the total staff, increase the Commission's political acceptability because of their responsiveness to local conditions and attitudes. On the other hand, they impede the development and implementation of new or uniform enforcement programs because of communication difficulties and the fact that regional office staffs are more directly responsive to the regional administrator who is there than to the overall policy director who is in Washington. To the extent that new regional administrators are appointed from the Washington office or from another regional office, both of these influences are reduced, at least for a while.

Market Regulation

The Commission's third major program is regulation of the securities markets. This program is considerably more nebulous than the disclosure and enforcement programs described above, and has occupied considerably less of the Commission's attention, at least until the last few years. The 1934 Act ratified, and the 1938 amendments extended, the role of organizations of broker-dealers, particularly national securities exchanges and associations, in regulating the conduct of the securities business. While the Commission was given broad powers to review and change the rules of these self-regulatory organizations it was for many years extremely hesitant to exercise these powers in a vigorous way. This hesitancy was due in part to the political power of the industry organizations, which in turn rested heavily on the traditional American belief that businessmen know more about how business should be run than government officials do, and in part to the Commission's actual incapacity to conduct the sort of extensive inquiry that would enable it to establish the case for changes in the way the game is played.

This situation has completely changed in the last decade. First, the special study which was conducted for the Commission in 1961-1963 not only gave the Commission the type of information it needed for recommending changes, but in fact put it far ahead of the industry in terms of knowledge of how the securities business operated. It also attracted to the Commission a new group of outstanding staff members with the desire and ability to work for the elimination of obsolete, unfair or inefficient practices in the securities business.

Second, the growth of institutional investors during the current

decade wrought great changes in the economics of the securities business and put increasing pressures on market mechanisms and arrangements which had been developed to serve a different kind of clientele.

Third, a series of antitrust attacks on the rule-making power of the self-regulatory organizations has put them in a position where they must show that not only changes in their rules, but also all of their existing rules, are necessary to make the 1934 Act work. This in effect requires them to justify all of their rules to the SEC, rather than the SEC having to justify suggested changes to them.

Fourth, the notorious "back office" problem which resulted from a sudden increase in trading volume, followed by the collapse of a number of leading firms, indicated not only to outsiders but also to the industry itself that it had been woefully deficient in planning and implementing the improvements in procedures, and in the internal structure of the firms, which were required to handle the new kinds and amounts of business.

While an uninformed government agency might find it difficult to attack the rules of a united and stable industry enjoying general public confidence and an assumed exemption from the antitrust laws, it is quite another matter for a well-informed government agency to tackle the rules of an industry racked by change and internal dissension, drowning in the consequences of its own success, and required to justify a complex of anticompetitive restraints that its own members have been exercising their utmost ingenuity to evade. In short, there was an excellent opportunity for the Commission to participate actively in a major rethinking of the complex of rules and practices under which the securities business operates.

The Commission's initial effort was to move the discussion into a public forum rather than the private discussion approach which was previously followed in matters of industry self-regulation on economic matters. When the New York Stock Exchange, at the beginning of 1968, proposed changes in its rate structure designed to preserve and strengthen the position of its members, the SEC invited public comment on them. It simultaneously invited comment on a provocative antifraud rule, designed to spotlight the fact that the NYSE was trying to preserve its fixed minimum commissions and at the same time preserve the devices by which its members evaded that rate schedule for their own benefit. The package drew many comments, the most significant being a submission by the Antitrust Division of the Justice Department to the effect that it found no legal or economic justification for

fixed minimum commission rates, and that the SEC should move as rapidly as possible to eliminate them, starting with large transactions.

The intervention of the Antitrust Division was in itself sufficient to trigger the calling of a public hearing on stock exchange commission rates, which the Commission opened in July 1968. This proceeding, which is still officially in progress, illustrates at the same time the political strength and the analytical weakness of the public hearing procedure for dealing with a complex subject like commission rates. The political potency of a public hearing was demonstrated, first, by the SEC's ability to force a reduction in the commission rates for large transactions, second, by its ability to require the stock exchanges to eliminate minimum commissions on all transactions over \$500,000, and, third, and most surprisingly, by a public acknowledgement by the President of the New York Stock Exchange in that it was in the long-term interest of the Exchange to eliminate the fixed minimum rates which had been a basic part of its rules since its foundation in 1792.

These remarkable results of the SEC's public hearing were due in large part, paradoxically, to the agency's demonstration of its complete inability to conduct the economic analysis which was supposedly the purpose of the hearing. Neither SEC criticisms of Stock Exchange proposals, nor its own directives to the Exchange, were supported by even a shred of economic analysis. And the hearings dragged on so long that the securities industry went through a complete boom-and-bust cycle while the hearings were underway. This experience undoubtedly helped to convince the Stock Exchange leaders that the reality of SEC rate supervision, the specter of which they had relied upon to justify their claimed exemption from the antitrust laws, was more fearsome than the threat of rate competition which they had been fighting for 175 years. The underlying truth, of course, is that rate regulation of the type which has been traditionally applied (with mixed results) to heavy-capital, natural-monopoly industries such as electric power is almost impossible to apply to a fluid and highly competitive business like securities. The SEC has perhaps performed a notable service to the securities business and to the country, by demonstrating its incompetence for rate regulation before building up an establishment dedicated to the preservation of a regulatory system.

Investment Companies

The Commission's fourth major program, the regulation of investment companies, started with its study of investment companies

authorized by section 30 of the Public Utility Holding Company Act of 1935. The Investment Company Act of 1940 gave the Commission some specific and limited powers to deal with certain recognized abuses, but for the first twenty-five years its principal activity under that Act was the granting of exemptions from rigid statutory prohibitions.

The rapid growth of mutual funds commencing in the 1950's led to a series of studies done by or for the Commission which culminated in its recommendation to Congress in 1966 of new legislation designed principally to reduce the management fees and sales loads being charged by mutual funds. The approach taken by the Commission in recommending this legislation is interesting. It did not view the mutual fund as a means of mass-marketing a prepackaged investment service, which is what it clearly is, and urge that it be regulated as such. It started with the proposition that a mutual fund is a corporation. However, its managers receive compensation which often greatly exceeds the salaries of the directors and officers of other corporations, and the commissions on the sale of its shares are substantially higher than those on the sale of other securities. Therefore, something must be wrong, the competitive system is not working, and regulation is needed.

This approach was either very naive, or very clever, or perhaps both. From one point of view, one could say that the Commission was so accustomed to dealing with the issuance of securities by corporations, and the fiduciary obligations of corporate managers, that it simply fit this new problem into the standard mold. The history of the SEC's application of 1933 Act disclosure requirements to mutual funds supports this interpretation. The prospectuses of mutual funds, and particularly periodic payment plans, which are generally sold to the least sophisticated segment of the investing public, are often more complex and formidable than the prospectuses of industrial companies, which are intended in large part to serve the needs of trained financial analysts.

On the other hand, the SEC approach can be looked upon as a very sophisticated way of obtaining a modicum of economic regulation by dressing it up as a logical application of existing legal standards. It is easier to convince a legislator to hold people accountable for breaches of their fiduciary duty than to impose price controls on a non-monopoly industry in which almost none of the customers are complaining. It is hard to quarrel with success, and the fact that the Commission, with virtually no public support and strong industry opposition, managed to push a modified version of its bill through Congress in slightly over four years offers some testimonial to its

approach, as well as to its accumulated good will with the Congress. The fact that the new law doesn't really do much is probably attributable more to the fact that it was not directed at a very significant problem than to any lack of zeal on the SEC's part.

CONCLUSION

In the light of this very brief survey of the SEC's programs, what conclusions can be drawn as to how well the Commission has been carrying out the basic mandate given to it in 1934? If the basic measure is public confidence in the honesty and utility of the securities markets, the Commission has done well, and certain parts of its programs have clearly contributed to the preservation of that confidence.

There were major market breaks in 1962 and 1969, and many investors who had put money into speculative hot issues registered under the 1933 Act lost substantial sums. The fact that there was no generalized public outcry and call for reform indicates that the disclosure program, as administered by the SEC, helped to convince many investors that they were the victims of their own over-enthusiasm rather than someone else's misdeeds.

On the other hand, there was a generalized public outcry over the recent failure of securities firms to handle adequately the public business which they had actively solicited, followed by the failure of larger firms and a concomitant threat that customers would be unable to recover the money and securities they had left with those firms for safekeeping. In this area at least, the SEC did not live up to public expectations concerning the degree of supervision and control it was exercising over the firms that were supposedly subject to its regulation.

I am not sure, however, how much of this regulatory failure can be laid to the SEC as an institution and how much is due to outside political forces. The 1934 Act appears to give the SEC almost unlimited supervisory power over the rules and practices of securities exchanges and the NASD, but the exercise of that power is limited by the political constraints that the industry can bring to bear through its considerable influence on the executive and legislative branches of the Government.

At the time the securities industry's problems were building up in the late 1960's, the Commission's attempts, through an aggressive chairman and staff, to force changes in industry structure and practices, combined with its espousal of changes in the laws governing mutual funds, aroused the violent opposition of the more conservative elements of the industry. This in turn led to President Nixon's 1968

campaign pledge (expressed in a private letter to industry members) to end "heavy-handed bureaucratic regulation" by the SEC, and to his appointment in February 1969 of a new chairman with a distinctly more conservative view of the role of a government agency in dealing with a regulated industry. Thus, when the storm broke, the Commission was unable to offer significant leadership to the industry in working its way out of its difficulties. Furthermore, since there was at that time no insurance protection for the customers of the securities firms, the Commission was constrained in giving publicity to the industry's difficulties, for fear of inciting mass withdrawals of securities and funds, which might hasten the downfall of firms that would otherwise have an opportunity to bring their operations under control.

The greatest current challenge to the SEC's reputation, however, as well as to the securities business, is the increasing domination of the equity markets by institutional investors. The Commission apparently found it difficult to formulate recommendations on the basis of its recently completed economic study of the impact of institutional investors, and it is noteworthy that the suggestion for the study came from Congress, not the Commission, at a time when the Commission's sights were fixed on excessive management fees and sales loads as its central concern.

Another factor which may impair the Commission's ability to deal with this new generation of problems is the extent to which they intermix securities market questions with questions of capital allocation, antitrust policy, tax policy, and regulation of banks, insurance companies and other types of financial institutions. The members and staff of the Commission will find it difficult working in these unfamiliar areas and being required to coordinate their policies with those of other agencies set up for different purposes. However, the rapid growth of financial service conglomerates, including the combination of mutual fund and insurance company sales organizations, the expansion of banks into the pooled investment field, and the move toward public ownership (*i.e.*, conglomerate acquisition) of stock exchange member firms, will force the Commission to a choice. Either it must draw in its horns and concentrate on its traditional area of jurisdiction, safeguarding its reputation at the expense of losing its significance, or it will get out and fight for a significant piece of the action in dealing with a conglomerate economy, accepting the risks of unpopularity that a vigorous policy-making role entails.