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Chairman
Securities and Exchange Commission
500 North Capitol Street
Washington, D. C. 20549

Dear Chairman Cohen:

I note that the Commission has invited comment on the New York Stock Exchange's proposal for reducing stock brokerage commissions "from various national securities exchanges, self-regulatory institutions and industry trade associations."

With your indulgence, I would like to say a word on behalf of the forgotten man in this whole business of the stock market -- the ordinary citizen who buys and sells securities on his own behalf, through a broker. No matter who deals the cards, it looks like the deck is usually stacked against us in favor of every professional in every phase of the game. I happen to think that your Commission was established in the first place to control and police the game in such a way that the ordinary man could be reasonably assured of the same odds as the pros.

While reforms were made to even those odds, my experience indicates that the past several years have marked an acceleration to a return of the "good old days" when the pros rigged the game against the public at large.

The worst of these pros are the mutual funds, acting in concert with the specialists, the brokers and the corporations in the securities of which these funds have or propose to have a position.

Just as the corner grocer was largely obliterated by the chain store, so the mutual funds would like to see the do-it-yourself speculator or investor put into a position where his choice would be either to buy mutual funds or to retire to the sidelines. You, and apparently only you, can call a halt to this process.

As a lawyer, I am fully cognizant of the business of fixing probate fees on a sliding percentage scale, so that the larger the estate the smaller the percentage bite. The reason, of course, is that the amount of work does not increase in direct proportion to the size of the estate.

Although this rationale also applies to securities transactions and the fee charged for handling them, the difficulty is that, in the securities business, the result of such application is to further the disadvantage which people like me have in trying to hold our own in the market. There simply must be a more equitable solution to the problem of middleman scavengers taking an inordinate cut of the pot for the little, if anything, they contribute to the game.

Under present fee schedules, a round-trip in a \$5.00 stock absorbs 5.5% of a round log, while only 1.9% is siphoned off in a \$50.00 stock. If I have \$50,000 to put in the stock market (compared to \$50,000,000 for a fund) and the discount proposal applies to 1,000 or more shares per transaction, I have to trade in the \$5.00 stock to get the benefit of the discount while the fund can go on trading in the \$50.00 stock. What I gain in shifting to the \$5.00 stock by way of discount will be more than lost by the higher percentage which I must pay for dealing in the \$5.00 stock. In shifting to the \$5.00 stock, I further clutter up the back-office impasse.

As a trader with a Telequote in front of me, I can assure you that the specialist frequently does a mighty poor job of maintaining an orderly market, particularly when the stock is one actively dealt in by the funds and floor traders. When, before the market opens, I enter an order to sell 100 shares at a price of \$123.00 and the specialist opens the stock at \$126.00, somebody has been cheated out of the chance to buy that 100 shares at \$123.00. What makes the deal even more suspect is when \$126.00 turns out to be the high price for the day, indicating that the specialist or his pals wanted to get \$126 for their stock before the price fell out of bed. I can tell you other experiences equally disturbing. Did you ever enter an order to buy to cover short and have the price drop repeatedly to within 1/3 of your bid during the day, and the next day, when your order was no longer in effect, drop 2 points on the open?

Then there is that jewel of restating earnings on a pooling-of-interest basis, which makes a fair comparison virtually impossible for people like me who do not have records of past earnings reported as they actually were. The corporation has the information, but try to get it unless you are a professional analyst or a fund representative. Just what is wrong with requiring XYZ Corporation to report that in 1966 it earned \$2.00 a share before it tucked ABC Corporation under its wing, and that in 1967 (after ABC Corporation was in the fold for X number of convertible securities) XYZ Corporation earned \$2.05 assuming full conversion? This is what I want to know, rather than that, if ABC Corporation had been in the fold in 1966, the 1966 earnings would have been \$1.50, \$2.50 or whatever a share. It's wrong when the fund or the analyst can get the non-pooling-of-interest information and I can't.

Bristol-Myers is a good example. After acquiring Mead-Johnson, it restated earnings to show 99 cents a share in 1960 rather than 52 cents a share, as compared to \$1.86 a share in 1967 (allowing for conversion). It doesn't make sense to compare the \$1.86 to the 99 cents a share, it makes even less sense when you know that [illegible] was at its zenith in 1960. Many an ordinary investor is not aware of these facts and is completely misled by the 99 cents figure. But to mislead the ordinary investor enhances the advantage of the professional. Such things you should guard against, not encourage.

When it comes to a new issue, there is no need to belabor the disadvantage of the small investor.

It's axiomatic that a given price for a given stock on a given day bears no relationship to the intrinsic value of the stock, and yet that is the figure which the fund salesman shows to his potential customer (pardon me, client!) to impress him with the astute management of the fund. Isn't it strange that a fund favorite like Avon Products hit its high price for 1967 on December 31 (the year-end comparison date for the fund report), inched a shade higher on January 2, 1968, and then lost 34 points in four weeks? Even if you can't do anything about window-dressing, you might at least warn the unsophisticated fund buyer and not do anything more to enhance the funds' position in the market.

Any astute observer (which the average fund holder is not) knows that if a fund had tried to sell all its Avon shares on December 31, 1967, it could never have gotten \$148.50 a share. But, then, a fund never reveals its year's profit on its actual buy-sell transactions -- buy only the mythical value of its portfolio, a value establishable by carefully contrived rigging. No, when somebody finally wanted to get rid of 20,000 highly overvalued shares of Avon (out of some 3,000,000 held by the funds) last month, what happened? Trading was shut down for a whole day, and opened the next day 14 1/2 points below its previous close. A system which permits this sort of thing legalizes larceny; a system which encourages it is worse than the thief!

The fund doesn't divulge to its sheep its dollar-and-cent profit or loss for the year on its actual buy-sell transactions, just that fictitious portfolio value. In its actual operations, did the fund make 10% on its capital, or 15% or nothing? Who knows? You don't make them tell. They merrily go about their window-dressing, the salesmen rake in their fabulous commissions, the managers get their fat salaries, their investment consultants have an income out of this world, and P-E ratios keep climbing up and up and up. Are people who permit this going to have a bit of trouble with their consciences if economic conditions ever force the price façade to be stripped away and mutual fund holders find themselves with a bag of real values?

As an individual player in the stock market game, I pay ordinary and long-term capital gains taxes on every profitable transaction. The fund pays none, which further handicaps my operations compared to theirs, and makes the fund's track record glow even more. This advantage is further exacerbated when the fund holder pays a long-term capital gains tax no matter how long the fund held the stock before it sold it. Do you want to stop so much in-and-out trading by the funds? Make them pay the same kind of tax that I do. It won't be quite so attractive, and they won't have quite so much money to play with.

Mr. Chairman, please don't compound this inequity by also now letting them get off with a smaller brokerage commission. You may not control taxes, but this you do control. Or do you really want the stock market game to be increasingly the exclusive prerogative of a group of sleight-of-hand giants through whom we must deal, and to whom we must pay tribute, if we want a hand in the game?

Very truly yours,

Raymond J. Fox