On the manner of implementing this proposal I would like to limit myself to the following observations. The best method of correcting a price that for some reason seems unjustified is always to get the market itself to go to work. In the present case, one would suppose that the market would do the job if enough buyers of investment advice came to realize that they are trying to buy something that in the nature of things is ordinarily not to be had. But this realization is unlikely to come from abstract reasoning. It is much more likely to result from repeated demonstrations that carefully selected portfolios are no better than randomly selected ones. That this suspicion is dawning now on a lot of investors is evident from the growing demand for periodic evaluation of investment performance, something almost unheard of in former times. But these evaluations, even when correctly done, taking into account risk, which is rarely the case, have an unfortunate consequence. The advisory and investment management organizations feel impelled to improve their performance by more frequent switching. While this is unlikely to improve their results, it does lead to very heavy trading, instability of particular stocks, and potential instability of the whole market. Thus the normal means of bringing about the correction of a disequilibrium price seems to be attended in this instance by high social costs. It may, moreover, take a long time before investors, who inevitably look at individual, non-average cases, convince themselves of how poor are their chances of finding one of the rare superior individuals to advise them and thus having better than average prospects.

Thus in the case of mutual funds, it seems desirable to follow the line of approach that the Commission is proposing.

*The sales load*

The Commission proposes to put a ceiling of 5 percent on the sales *charge* (expressed as a percentage of net value invested), equal to a sales *load* of about 4.76 percent (expressed as a percentage of gross amount paid). For the numerous funds now quoting a sales charge of 9.3 percent or sales load of 8.5 percent, this would involve a substantial reduction.

The industry has replied that this involves a form of public utility type regulation that is unwarranted in a competitive industry. If enacted, the arbitrary reduction in sales load would cut the margin available for the underwriter, the distributing retail dealer, and the salesman. Many distributing firms would be seriously hurt, some would go out of business, fewer salesmen would sell funds, the investor would end up owing fewer shares, mutual funds would cease to grow rapidly.

Of these possible consequences the weightiest appears to me the prospective reduction in the number of shares reaching the investor. It is plausible that at least in the short run this would be a consequence of a lower sales load. It seems generally recognized that mutual funds are sold, not bought—else why should closed end shares go begging in the open market at a discount? A lower volume of sales would hurt the investor and the economy, although it is impossible to say how much. No one knows whether investors ceasing to buy mutual funds would cease to save altogether, or save in fixed dollar claim form, or perhaps even buy stocks in some other way. A survey of buyers of front end load funds indicated that about 75 percent would not buy common stock in any other form. These buyers, however, are subject reportedly to particularly vigorous salesmanship.

The possible injury to the industry likewise deserves attention, although it does not strike me as the primary consideration. These effects have been analyzed in some depth by the industry and by the Commission staff. Since the analysis deals with the effect of all the Commission's recommendations, their discussion will here be postponed.

Though a sales load of 8.5 percent sounds high, there would be no basis for public intervention in the pricing process, provided the industry were competitive and buyers had adequate information. On both scores, however, the industry falls short of perfection: it relies on government enforced price maintenance at the retail level, under Section 22(d) of the Investment Company Act, and the product it sells contains a good admixture of hope along with information. There is opportunity for competition at the top: underwriters are free to set, and do set, any sales load they choose. Some choose zero. The industry seems strongly opposed, however, to introducing competition at the retail level, which otherwise would seem to be the obvious answer to the problem of possibly excessive sales loads. The Commission supports the industry in this regard.