

Let me answer that fully. Some years ago, the Commission thought that this might be a way of dealing with the problem. And it made a proposal. Now, you fellows have heard some explosions here, but they don't compare with the explosion that occurred at that time.

Mr. STUCKEY. Do you think if they disclosed this in a prospectus—what effect do you think it would have?

Mr. COHEN. It wouldn't change our views.

Mr. STUCKEY. No, or the person purchasing the mutual fund.

Mr. COHEN. I don't know that it would.

Mr. STUCKEY. Would this be a material disclosure?

Mr. COHEN. I don't know that it would, because if someone is sold these funds face to face, however he buys them, because he wants to buy this vehicle, and this is the charge that the traffic will bear, he doesn't have many alternatives.

Mr. STUCKEY. I want to ask one last question, because I know time is running out. The answer can be submitted later if there is no objection, to save some time. But I have not seen where this is different from an ordinary corporation.

I have seen where the disclosure is there. I don't see that it is different from any other business but we come back to the 5 percent, which as you said is the great burden in setting the 5 percent.

I have yet to see in writing or in any testimony how you arrived at 5 percent. This is something I would like to see. How did you come up with 5 percent? Why not 5.32, or why not 6.8?

Mr. COHEN. I will answer that as I did when I appeared here before. We examined into the charges made elsewhere in the industry. And, by the way, under the 1934 act, as it relates to transactions on the stock exchange, the test is reasonableness. In the 1934 act, as it relates to transactions in the over-the-counter market, except for mutual funds, the test is reasonableness. And they even have a rule in the NASD that these charges should be fair.

But in the context of sections 22 (b) and (c), and 27, no one has felt that there was sufficient authority to deal with this problem. In looking at all of those situations, we found that the charges for mutual funds were very substantially higher than the charges for the acquisition of securities in many other areas.

That was an important consideration.

But we also looked at the fact that that is not the end of the expense that the investor bears. He is in the fund. Every time they change a security, he has to pay the brokerage. He has to pay a management fee, and we thought that in our recommendation we were arriving at a figure which was generous in relation to other situations.

We examined the cost involved in distributions, where the underwriters assume a market risk on a security of comparable quality, so to speak, and we found that that was lower than 5 percent. So we arrived at 5 percent.

Mr. STUCKEY. So you have stated, and your figure is different from 8.5, but you say the prevailing sales charge is 9.3 percent, and you wish to see it cut to 5 percent.

Mr. COHEN. Yes, sir.

Mr. STUCKEY. Presumably, you think then that 5 percent is a reasonable sales charge.