

Carving Up the FOIA

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AMONG THE MANY uneasy riders on that controversial FTC bill is one that appears to foreshadow a general assault on the Freedom of Information Act. It would exempt much of the information the FTC gathers from the requirements of the FOIA and clear the way for similar exemptions elsewhere in government.

This rider slipped quietly through the Senate under cover of the highly publicized fight over the future jurisdiction of the FTC. It is now pending before a conference committee where almost no one appears to be giving it much thought.

As the law now stands, the FTC must make public, if asked, much of the information it accumulates, including data on quality evaluations and safety tests conducted on consumer pricing policies. The language passed by the Senate would change this so that the commission would be required to keep secret any information, including the kind it regularly now makes public, if the corporation submitting it had simply stamped it "confidential." This proviso would also permit the commission to keep secret, if it wanted to, any other documentary material submitted by business firms.

What makes this proposal especially ominous is

that other government agencies are waiting in the wings to see how it fares. The CIA wants a total exemption from the provision of the information act. The FBI wants at least a partial exemption. Both would have more appealing cases if the files of the FTC were labeled secret. Obviously, there is better reason to keep secret materials concerning the workings of a national security agency than materials stamped "confidential" by an ordinary business firm. And, once an exemption is created for the FTC, it is hard to believe that industries would wait to seek similar exemptions for the SEC, FCC, EPA, ICC and the rest of the alphabet of agencies and departments and bureaus that collect tons of information weekly.

The rationale of the industries that are seeking this exemption for the FTC's files is that too many "trade secrets" become public knowledge through the FOIA requests that commission grants. If that is so—and the fact has yet to be demonstrated—the proper remedy is an amendment to the information act itself, not a rider on an authorization bill. Such a fundamental change in government policy requires public hearings and careful committee consideration—not a wave of the hand and a pat on the back to this rider or that.