CFA CFAnews
October 1995
Volume 20, No. 6
ISSN #0732-8281

Consumer Agencies Face Tough Budget Year

Federal consumer protection agencies, many of which weathered drastic cuts during the 1980s, are once again facing a tough appropriations year as Congress looks for ways to balance the budget by 2002.

"While we certainly understand the need to balance the budget, many of these agencies have already been cut to the bone," said CFA General Counsel Mary Ellen Fise. "There isn't a lot of fat left."

The Environmental Protection Agency, which had a $7.24 billion budget in fiscal year 1995 (FY '95), has been targeted for the most severe cuts among the consumer protection agencies. The House voted to reduce the agency's budget by 32 percent, to $4.89 billion, while the Senate approved a 22 percent cut, to $5.66 billion.

Independent Agencies bill, which was in conference committee as this issue of the newsletter went to press. The bill has been highly controversial, in part because the House version contained a number of riders designed to limit EPA's ability to enforce anti-pollution laws.

The riders were first defeated, then added to the bill, in the House, while most were eliminated from the bill in the Senate. Finally, the House passed a non-binding resolution in appointing conferees directing the conferees to strip the riders from the bill.

Even without the riders, the bill may draw a veto, as it would sharply reduce funding for housing programs and eliminate funding for the president's National Service initiative.

Consumer Agency FY '96 Appropriations

(In millions of dollars)

Agency	FY '95	Administration Request	House	Senate	Final
CPSC	$ 42.5	$ 44.2	$ 40.0	$ 40.0	—
EPA	7,240.9	7,359.4	4,892.4	5,661.9	—
FCC	185.2	198.0[1]	185.2	166.0	—
FDA	817.7	828.9	819.7	819.7	819.7
FTC	98.9	107.9	98.9	89.0	—
NHTSA	277.1	340.3	278.7	276.7	280.3[2]
SEC	297.0	343.0	297.0	267.0	—
USDA FSIS	542.1	594.9	540.4	563.0	545.9

[1] Does not include $25 million one-time appropriation for move to another building.

[2] DOT must still cut $25 million from several offices, including NHTSA. This bill had not been, but was expected to be, signed by the president at press time.

Although they leave most indoor air quality programs intact, both the House and Senate bills eliminate the $405,000 in funding for the Building Air Quality Alliance, a voluntary program to foster sound indoor air quality management practices in commercial buildings.

"Despite the fact that this is a voluntary program, the restaurant and bar owners were able to persuade Congress to kill it," Fise said. "When a low-cost voluntary program with the potential to significantly reduce indoor pollution and health care costs gets the death blow, it makes you wonder about the motives of our elected officials."

Radon Study Requested

The Senate bill also directs the EPA Administrator to request a study from the National Academy of Sciences examining the scientific basis for EPA's guidelines for indoor radon and other naturally occurring radioactive materials.

EPA is included in the Veteran's Affairs, Housing and Urban Development, and

More Modest Cuts Slated for CPSC

The Consumer Product Safety Commission, which also is included in the VA, HUD, Independent Agencies bill, was generally treated more gently than EPA, although it, too, is facing a budget cut.

In this case, CPSC would see its budget reduced approximately six percent, from $42.5 million in FY '95 to $40 million in FY '96 (the figure approved in both the House and Senate). The administration had requested $44.2 million to allow the agency to maintain its current level of services.

CPSC Chairman Ann Brown has said the agency will absorb the cuts on the administrative side of the budget, thus avoiding program cuts and layoffs.

"Compared to some other agencies, CPSC fared pretty well in the appropriations battles on the Hill," Fise said. "I think members of Congress recognize that this tiny agency is one that their constituents identify with and want to have ready to protect them."

Three Agencies To Be Frozen or Cut

The Federal Communications Commission, the Securities and Exchange Commission, and the Federal Trade Commission all saw their appropriations frozen in the House and cut 10 percent in the Senate.

The House voted to provide a $185.2 million appropriation for the FCC in FY '96, $297 million for the SEC, and $98.9 million for the FTC. The Senate would cut appropriations for those agencies to $166 million for the FCC, $267 million for the SEC, and $89 million for the FTC.

The administration request for the FCC included $8 million to cover increases in fixed costs resulting from inflation and an additional $5 million for automation upgrades. These funds were stripped in both the House and Senate bills.

As a result, the agency will be forced both to abandon its plans to upgrade office automation, which have the potential to reduce costs over the long run, and to continue to reduce staff.

This comes at a time when telecommunications legislation currently working its way through Congress could require the agency to conduct as many as 100 new rulemakings over the next several years.

An agency spokesman predicted that, under those circumstances, resolution of consumer complaints would be among the first areas to suffer.

Investor Assistance Office Targeted For Elimination

Similarly, the administration had requested an approximately 15 percent increase in funding for the SEC, directed primarily at improving oversight of investment advisers and mutual funds.

"Throughout the 1980s, the SEC staff grew only four percent, while the markets, and with them the agency's workload, were growing exponentially," said CFA Director of Investor Protection Barbara Roper. "This has created serious gaps in oversight, particularly in the rapidly growing investment adviser and mutual fund fields."

(Continued on Page 2)

Bill Would Gut Health Care Protections

Buried in the massive legislation to overhaul Medicare and Medicaid that passed the House in October are provisions to eliminate a number of essential consumer health care protections.

"This bill would essentially repeal a series of vital consumer protection laws with proven cost savings of millions of dollars," said CFA Legislative Representative Mern Horan. "Balancing the budget must not be accomplished by bartering away vital regulatory and legal health care consumer protections."

As approved in the House, the bill would make it harder for patients to recover damages when they are harmed by a doctor or hospital, more likely that patients will get erroneous test results, more likely that unnecessary tests will be ordered, probable that nursing home residents will receive poor quality care, and easier for physicians to engage in financial collusion.

A group of 27 consumer groups, including CFA, wrote to members of Congress before the vote urging them to "oppose these assaults on consumer rights and safeguards."

In addition, Horan prepared a report on behalf of CFA, Consumers Union, and Citizen Action analyzing the bill's impact on consumer protections. The following are among the report's key findings.

Bill Would Limit Negligent Physicians' Accountability

Despite the facts that medical negligence has reached epidemic proportions in the United States and that medical malpractice insurance premiums make up less than one percent of the nation's health care costs, the bill includes a number of provisions designed to shield delinquent health care providers from full legal and financial accountability for their negligent behavior. (See related article, page 2.)

Among other things, the bill would: reduce the statute of limitations to no more than five years after the initial injury occurred, cutting off claims for diseases with long incubation periods; preempt stronger state laws; limit "pain and suffering" damages to $250,000; shift the burden of proving the proper allocation of damages away from the negligent defendants and onto the injured patient; and cap punitive damages at the greater of $250,000 or three times the economic losses.

"This is an extreme and entirely one-sided approach to the complex issues of medical negligence and civil litigation," Horan said. "Nothing in this proposal seeks to protect and promote the legal rights of injured patients."

(Continued on Page 2)

Consumer Health Protections Threatened (Continued from Page 1)

"The legislation would not only imperil the ability of patients who are injured or killed by negligent medical treatment to receive fair and adequate compensation, it would severely limit incentives to reduce avoidable injuries," she said.

Physicians' Office Labs Exempted from CLIA

The legislation would also exempt clinical laboratories in physicians' offices from the uniform quality standards required under the Clinical Laboratory Improvement Act of 1988, except in the case of pap smears.

Almost 60 percent of all clinical labs in the United States are located in doctors' offices.

In the first few years of the CLIA program, physician office labs were found to have more deficiencies than other labs. Subsequent surveys and proficiency tests have found that the quality of lab testing in physician offices has improved because of CLIA.

"This bill would return millions of patients to the pre-CLIA world of totally unregulated lab tests," Horan said. "Accurate and reliable laboratory tests are critically important to the nation's health," she added. "By reducing the risk of erroneous testing results, CLIA saves money for patients and the health care system as a whole."

The legislation would also abolish the prohibition on doctors' referring Medicare and Medicaid patients to clinical laboratories in which the physician holds a financial interest. Numerous studies, including a 1991 study by CFA Research Director Mark Cooper, have shown that physicians who have a financial interest in laboratories ordered more tests than their colleagues.

"Self-referral clearly leads to excessive utilization, which threatens the quality of health care through unnecessary medical treatment and adds unwarranted expense to our already burdened health care system," Horan said. "While Congress is searching for ways to reduce spending in Medicare and Medicaid programs, repeal of the physician self-referral laws would result in millions of dollars' being wasted on excessive testing."

The legislation also would repeal federal nursing home quality standards — passed in 1987 in response to documented evidence of poor care, neglect, and abuse in nursing homes — and transfer oversight of nursing home quality and conditions back to the states, which failed to do the job in the past.

The bill would eliminate federal requirements related to staffing levels and training of staff, use of physical or chemical restraints, inspections, transfer or discharge of patients, and sanctions for abuses.

"The nursing home law passed because of decades of evidence that the states failed to protect the vulnerable elderly and disabled residents of nursing homes," Horan said. "Studies show that compliance with these federal requirements has prevented avoidable human suffering and saved billions of dollars annually in costly treatment of preventable hip fractures, bedsores, and increased dependence."

The bill would also eliminate the protection against impoverishment for spouses and adult children of nursing home residents.

Physicians Get Unwarranted Antitrust Relief

Finally, the bill would weaken antitrust laws for health plans operated by hospitals, physicians, and other medical providers.

In reviewing the legislation, the Department of Justice and the Federal Trade Commission found that the antitrust exemption would allow plainly anticompetitive conduct that is harmful to consumers.

They also concluded that the plan removes the incentive to provide health care service more efficiently, because it contains no risk-sharing requirement for provider service networks.

These two provisions are "unnecessary to protect any legitimate activity," "would immunize a broad range of anti-competitive activities that could harm consumers and raise health care costs," and "could seriously undermine the cost containment goals of Medicare reform efforts," the agencies concluded.

"Physicians argue that, in order to compete with managed care companies, they need to form collaborative agreements and physician networks. However, current antitrust laws do not impede legitimate collaborative activity among physicians," Horan said.

"The proposed antitrust provisions could limit competition, reduce consumer choice, increase health care costs, and increase prices," she said.

Provisions' Future in Doubt

The Senate bill did not include many of the more extreme consumer protection roll-backs. Although House proponents of the measures appeared determined to get them passed, these provisions are among as many as 300 provisions that could be affected by the "Byrd Rule."

This procedural rule, devised by Sen. Robert Byrd (D-WV), requires that all provisions in a budget bill actually result in a significant change in spending or revenue. Those that do not have a budget impact need 60 votes to avoid being deleted from the bill on the Senate floor.

"This rule was designed to prevent Congress from using budget bills as a Trojan horse hiding legislation that could not withstand a filibuster and that they would rather not enact in the light of day," Horan said. "The anti-consumer provisions in the Medicare-Medicaid portions of the budget bill clearly fall within that category."

As this issue of the newsletter went to press, Republican House and Senate negotiators were working to complete their reconciliation bill. Among the compromises reported to date was an agreement to drop the $250,000 cap on pain and suffering awards in medical malpractice cases.

Medical Malpractice Insurance Costs Minimal

If medical malpractice insurance were totally abolished, the cost of health care would decrease by only sixty-five hundredths of one percent (0.65 percent), according to a CFA study released in September.

The report, by CFA's Director of Insurance J. Robert Hunter, found that:

- The cost of medical malpractice insurance as a percentage of total national health care expenditures has fallen from 1.06 percent in 1987 to .65 percent in 1996, a drop of 39 percent.
- Medical malpractice has been very profitable for insurers, at 24 percent of sales and 15 percent of net worth over the past decade.
- In 1994, profits were at their highest point of the decade, 37 percent of premiums.
- Rates paid by doctors to the largest insurance company writing medical malpractice have fallen 26 percent between 1987 and 1993.

"The malpractice insurance system could be made more efficient," Hunter said. The profit and overhead of insurance companies exceeds payouts to victims of malpractice in three-quarters of the states, he noted.

The report also found no evidence of an out-of-control system of awards. Only about one in three patients who file a claim against a doctor or hospital ever gets any payment for those claims. The average payout per claim closed by insurance companies over the past decade, including everything from million dollar verdicts to zero payments, was $19,882.

For a copy of the report, send a $10 check to CFA/MEDMAL Report, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

Consumer Agency Appropriations (Continued from Page 1)

"The Senate bill, in particular, by forcing personnel cuts of approximately 20 percent, would eliminate most of the gains made by the agency in recent years and would severely erode its ability to detect and deter fraud in our nation's markets," she said.

Also included in the Senate bill is a provision abolishing the Office of Investor Education and Assistance, which represents less than one percent of the agency's budget but triggers nearly 20 percent of the agency's enforcement cases.

The office, which handles approximately 40,000 complaints annually with only 25 staff members, also provides educational services and materials to help investors identify, avoid, and report securities fraud.

"This tiny office is able to efficiently handle investor complaints and questions and either resolve them internally or direct them appropriately," Roper said. "It should not be abolished. To do so would make the agency as a whole less efficient and effective."

The FTC, which was among the most severely cut agencies in the 1980s, also faces a possible 10 percent reduction, if the Senate bill prevails.

If the agency's appropriations were cut by 10 percent, it would be less able to deter and prosecute fraud, to recover losses for consumers who are victims of fraudulent or deceptive practices, and to quickly review time-sensitive, multi-billion dollar mergers, according to an agency analysis.

The FCC, SEC, and FTC are all funded through the appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies. Like the VA/HUD bill, this measure is considered likely to trigger a veto because of issues unrelated to the three consumer protection agencies.

Three Agencies Get Slight Increases

Three agencies — the National Highway Traffic Safety Administration, the Food and Drug Administration, and the U.S. Department of Agriculture's Food Safety and Inspection Service — all won slight increases in their appropriations.

In each case, however, the increase was well below both the administration's budget request and the level of increase needed to maintain current services.

"Because these agencies' budgets fail to keep pace with inflation, they too will be forced to do more with less," said CFA Consumer Health and Safety Coordinator Diana Neidle.

The FDA appropriations for salaries and operations, which has been signed by the president, is to increase from $817.7 million in FY '95 to $819.7 in FY '96. Similarly, USDA's Food Safety and Inspection Service budget is to inch up from $542.1 million in FY '95 to $545.9 million in FY '96. This bill has been signed into law.

Although NHTSA's appropriations would increase from $277.1 million in FY '95 to $280.3 million for FY '96 under the conference report, that number is not the final word.

The bill requires the Department of Transportation to make an additional $25 million in cuts as it sees fit from several named offices, including NHTSA. It was not clear, as this issue of the newsletter went to press, what portion of those cuts would be borne by the traffic safety agency.

In addition, the conference report, which has been approved by both the House and Senate and was expected to be signed by the president, includes a rider halting rulemakings on tire labeling and to revise the fuel efficiency standard for light trucks and sport and utility vehicles.

CFAnews

CONSUMER FEDERATION OF AMERICA
1424 16th Street, N.W., Washington, D.C. 20036
(202) 387-6121

CFAnews is published eight times a year. Annual subscription rate is $25 per year.

Design & Typeset by: Dahlman/Middour Design

Auto Insurance Rates Level, Profits Rise

Auto insurance rates are rising, but only one-third as quickly as they did a few years ago, according to a CFA study released in October. The study found, however, that insurance company profits from writing auto insurance have risen by 40 percent.

The report, by CFA Director of Insurance J. Robert Hunter, compares rates and profits in the periods 1982 to 1987 and 1989 to 1993. It also analyzes rate trends and proposes measures to restrain rates even further.

"Clearly, auto insurance reforms and loss control initiatives have made auto insurance more affordable for consumers and more profitable for insurers," Hunter said.

The nationwide annual change in auto insurance rates was 10.3 percent from 1982 to 1987, but only 3.5 percent from 1989 to 1993.

Three States Experience Sharp Declines

All but four states saw a decline in the rate of increase, with three states experiencing especially sharp declines. In Pennsylvania, for example, rates in the more recent five-year period rose at only 1.3 percent of the increase in the earlier period. In California this increase was 4.2 percent, and in Georgia it was 8.6 percent.

"Because of the controversy surrounding Proposition 103, the experience of California is of special significance," Hunter noted.

Before Proposition 103's passage in 1988, auto insurance prices in California were increasing faster than the national average, and auto insurer profits were below the industry average. In recent years, however, California prices have risen more slowly than prices in the nation as a whole, and insurer profits have been higher than national averages.

The study also makes clear that rates did not decline because of any decrease in insurer profits. In fact, the auto insurer rate of return rose from 7.9 percent in 1982-87 to 11 percent in 1989-1993.

Rate declines also were not directly caused by a decrease in insurer expenses, which, measured as a proportion of premiums collected, did not change significantly between the two periods.

"It is possible, however, that a rising portion of these expenses represented greater loss control activity," Hunter said.

The decision of many consumers to shift to lower cost, lower rate insurers, on the other hand, did contribute significantly to the decline in rate increases, the report found. "An important reason for this shift appears to have been the increasing emphasis by state insurance regulators on making price information available to consumers," Hunter explained.

A second reason for declining rate increases, the study found, was lower claims payments. Claims payments represent about three-fifths of all insurer losses, expenses, and profits.

Lower claims costs appear to be related, not to changes in inflation or miles driven, but to increased loss prevention efforts to improve motor vehicle safety and to fight fraud, the report found.

The two general strategies that must be pursued to restrain rates further are enhancing industry competition, especially through informing consumers about prices, and even more vigorous loss prevention efforts, the report concluded.

Safety, Anti-fraud Efforts Working

"An important reason for the improved claims picture is more vigorous and effective motor vehicle safety and anti-fraud initiatives," said CFA Executive Director Stephen Brobeck. "In the wake of California's Proposition 103, some insurers began working with consumers to restrain losses."

In releasing the report, Hunter and Brobeck pointed out that the absolute cost of auto insurance is still too high for many consumers.

They called for further steps to bring down such costs, including:

- enhanced competition through repeal of the federal and state antitrust exemptions and other anti-competitive state laws;
- improved state distribution of price and other needed consumer information;
- continued safety and anti-fraud efforts; and
- consideration of no-fault auto insurance that meets certain standards of consumer protection.

For a copy of the report, send $10 to CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

Auto Complaints Still Number One

Automobiles are still the product about which consumers complain the most, according to the fourth annual survey of consumer protection agencies released in October by CFA and the National Association of Consumer Agency Administrators.

NACAA and CFA also released a national opinion survey conducted by the Opinion Research Corporation of Princeton, New Jersey, that revealed strong support for consumer protection agencies.

Of those surveyed, 61 percent said it was "very important," and only 5 percent said is was "not at all important," to have local consumer protection agencies "to help consumers resolve complaints against business." Similarly, 73 percent said it was "very important," and only 3 percent said it was "not at all important," to have these agencies "to make certain that businesses obey consumer protection laws."

"Without strong state and local consumer protection agencies, fraud and abuse will run rampant, and consumers know it," said CFA Executive Director Stephen Brobeck. "Billions of dollars are at stake here."

The survey of consumer protection agencies asked for the top five most frequent categories of complaints received. Autos (new car sales, used car sales, and repairs) comprised three of the four most frequent responses. (See chart.)

"The number of car-related complaints our agencies receive is just remarkable," said NACAA Executive Director Susan Grant. "We challenge the automobile industry — manufacturers, dealers, and repair shops — to work with us to more effectively address these problems."

The report describes many of the "worst scams" reported by consumer protection agencies in such areas as auto repairs, home construction, telemarketing, mail fraud, home repair, appliance repairs, price scanner inaccuracies, advance fee loans, hearing aid sales, satellite TV sales, real estate fraud, travel fraud, charitable solicitations, employment opportunities, health fraud, credit contracts, and business closings. The report also discusses the role of and recent innovations in service by state and local protection agencies.

Most Frequent Complaints

(Percentage of Agencies Reporting the Category as a Top 5 Complaint)

Used car sales	81%
Home improvement/ construction	77
Auto repairs	70
New car sales	47
Telemarketing	23
Landlord/tenant	17
Mail fraud	15
Appliance sales/repairs	13
Mail order	11

AT&T Declared Non-Dominant

The Federal Communications Commission voted in October to reclassify AT&T as non-dominant in the long distance telephone market, despite the fact that the company still has 60 percent market share.

The decision ends the rate regulation of AT&T's residential long distance rates, which have been subject to a price cap. The end of price caps also means AT&T will no longer be required to file tariffs disclosing rate changes 14 days before they become effective.

CFA had opposed the petition as premature. In a letter to the FCC, CFA Director of Telecommunications Policy Bradley Stillman urged the agency instead to make changes to promote greater pricing flexibility and to address problems in the tariff process.

Such an approach would address legitimate concerns raised by AT&T "without eliminating the Commission's tools to protect against abuses which could take place based simply on AT&T's immense market power," he wrote.

"CFA recognizes that the current system, which permits AT&T's competitors to respond in the market to pricing changes before the AT&T tariff is in effect, creates an unfair competitive situation in the long distance market," Stillman wrote. He also noted that, in seeking its change in status, AT&T has made "a good faith effort" to protect low income and low volume long distance consumers.

"We are very concerned, however, that the bulk of residential long distance customers would not be adequately protected under the proposals being advanced by AT&T," he added. "A safety net is not an adequate replacement for vigorous price competition."

Coalition Warns of Hidden Hazards

The Coalition for Consumer Health and Safety released a free brochure in September identifying ten everyday threats to Americans' health and safety and the simple steps individuals can take to minimize these risks.

"What is particularly significant about these hazards is that most Americans don't know about them, don't realize the extent of the risk, or don't realize that with very little effort they can protect themselves," said CFA Health and Safety Coordinator Diana Neidle, who administers the coalition.

The brochure, *Hidden Hazards 2*, covers the dangers associated with:

- unsafe installation of child safety seats in motor vehicles;
- guns in the home;
- interactions between alcohol and medications;
- falls and the elderly;
- non-fat and low-fat desserts;
- chewing tobacco and snuff;
- new, highly infectious strains of HIV;
- carbon monoxide;
- used cribs; and
- cryptosporidium in drinking water.

"These hazards not only take a tragic toll in terms of death, injury, emotional suffering, and physical pain, they also add to our escalating health care costs," Neidle said.

In addition to describing the hazards, the brochure outlines simple steps individuals can take to minimize the risks, and it refers readers to additional sources of free information.

Consumers may obtain a free copy of the brochure by sending a stamped, self-addressed envelope to: *Hidden Hazards*, CFA, P.O. Box 12099, Washington, D.C. 20005-0999.

The coalition, which is a partnership of national consumer, health, and insurer groups, released its first Hidden Hazards brochure in 1993.

Telecom Bills Take Wrong Deregulatory Approach

As Congress began to work out differences between the House and Senate telecommunications bills, CFA released two reports in October demonstrating the importance of postponing deregulation of the local telephone companies until after they face real competition in their local markets.

The reports, "Basic Service Rates and Financial Cross-Subsidy of Unregulated Baby Bell Activities" and "Federal Deregulation and Local Telephone and Cable TV Rates," were prepared by CFA Research Director Mark Cooper.

Examining the effect of unregulated activities by the Baby Bells on local monopoly phone service, the first study found that the massive amounts of cross-subsidization engaged in by the local phone companies has resulted in billions of dollars of overcharges to captive local ratepayers.

"The study clearly shows that the approach to deregulation in the pending telecommunications bill will strike a serious blow to the development of competition throughout the industry and will allow the Baby Bells to continue to gouge the American consumer for their local telephone service," said CFA Director of Telecommunications Policy Bradley Stillman.

Local Rates Fund Excess Profits

The following are the primary findings of the study:

• The Baby Bells have enjoyed profit streams and cash flows that are far in excess of what their relatively low-risk business should be allowed. With returns on equity that are five percent higher than those of competitive firms, the result has been almost $30 billion in excess profits since the break-up of AT&T.

• The source of the excess profits has been monopoly basic service. Local revenues, particularly prices for basic service, have increased 80 percent since divestiture, while other revenues have been flat.

• Much of the excess resources has been diverted out of the industry into largely unsuccessful unregulated activities. The Baby Bells have used almost $18 billion of dividends from local monopolies to finance their entry into unregulated businesses, allowing the companies to avoid going to the capital markets as competitive businesses are forced to do.

• Using captive residential local telephone customers as the source of subsidized funds gives the Baby Bells an unfair competitive advantage over their potential competitors on the information superhighway. The unregulated businesses of the Baby Bells rely on debt for 75 percent of their long-term capital, which is more than twice as much debt as the typical large business carries. This enables them to put less investor equity at risk. In spite of this high degree of leverage, they avoid high interest rates because of the monopoly cash flow of the local telephone business.

States Prevented From Acting

"Since the break-up of AT&T in 1984, the Baby Bells have experienced sharp increases in local telephone service revenues, declining total costs, and increased depreciation charges," Cooper said. "These factors have led to artificially high local telephone rates."

The pending legislation, however, would specifically prohibit state regulators from examining this data and lowering telephone rates to bring them more in line with costs, Stillman noted.

Contrary to the Bells' claims that they need the excess revenues to make vital infrastructure investments, this has not been their practice, he added. "While the Baby Bells' profits rose to record levels, their infrastructure investment has not followed," he said.

Since 1985, the peak year of capital expenditures for the Baby Bells, cash flow has increased by over $5 billion, but capital expenditures have declined by three quarters of a billion dollars.

"This study clearly shows that the pending legislation in Congress guarantees that consumers will pay far too much for local phone service," Stillman said.

Cable Rates Also Will Rise

The second study concludes that the combination of premature deregulation and anti-competitive provisions in the legislation would expose consumers to $10 to $15 billion in annual overcharges for local telephone and cable services.

"By deregulating these monopolies before competition is in place and permitting the most likely competitors to collaborate instead of compete, the legislation thwarts the development of competition and assures consumers will pay far too much for access to the information superhighway," Stillman said.

By the turn of the century, overcharges of 40 percent for local telephone and cable services are quite likely, the study found. Cable rates are likely to rise by between $5 and $7 a month, while consumers will be overcharged by at least $5 a month and perhaps as much as $10 a month for local phone service.

"The study exposes the extent to which the legislation before Congress is a special interest giveaway at the expense of American consumers and of vibrant telecommunications competition," Stillman said. "Just as consumers are recovering from the effects of 'rate shock' in the 1980s, Congress stands poised to again reach deep into the American consumer's wallet to pay for this anti-consumer, anti-competitive bill."

The reports are available for $10 each from CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

Stronger Real Estate Regulation Supported

Large majorities of consumers support more active and independent state real estate regulation, according to a nationwide survey released in September by CFA and the American Association of Retired Persons. "The consumer survey emphasizes the importance of state real estate regulators' expanding their consumer education and complaint resolution functions," said AARP Consumer Affairs Director Katrinka Smith Sloan.

For example, a large majority of respondents (86 percent) said that the regulators should develop an informational pamphlet that they require real estate agents to give their clients. Also, although a large majority of consumers (74 percent) believe state real estate regulators should be responsible for resolving consumer complaints, only a minority of consumers (43 percent) look first to state real estate regulators for help resolving a complaint against a real estate agent.

"Consumers may not look first to state real estate regulators for information and complaint assistance because they believe that these agencies lack the resources and independence from the industry to be effective," added CFA Executive Director Stephen Brobeck.

To make the agencies more independent, a majority (61 percent) of survey respondents said that the representation of real estate agents on state real estate commission boards should be significantly reduced. While 46 percent of the total sample said that agents should make up only a minority of the board, 15 percent said that agents should be prohibited altogether from serving as board members.

To increase agency resources, a large majority (71 percent) said they favor requiring that all licensing fees from real estate agents be turned over to real estate commissions to fund consumer education and complaint resolution.

"It is significant that recent home buyers and sellers were even more likely than the total sample to support more active and independent state real estate regulation," Brobeck said. "Presumably, recent home buyers and sellers are better informed about consumer needs for regulation than are other consumers."

The survey, which was conducted in August by the opinion Research Corporation of Princeton, follows up a 1994 AARP/CFA report that found that state real estate regulators lack the resources and independence to serve consumers adequately. Brobeck presented the survey results in a speech to the annual conference of state real estate regulators in September.

CFAnews
Consumer Federation of America
1424 16th Street, N.W. • Washington, D.C. 20036 • (202) 387-6121

BULK RATE
U.S. POSTAGE
PAID
WASHINGTON, DC
PERMIT NO. 8772