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Telecom Bills Advance in House

Both the Energy and Commerce and Judiciary Committees marked up telecommunications bills in March, setting the stage for possible House floor consideration before Congress leaves for its Memorial Day recess.

Although consumers won important amendments during markup, neither bill contains adequate protections against monopoly or ratepayer abuses.

"While each of the bills in the House has some strong pro-consumer provisions, they still are missing important consumer and competitive safeguards," said CFA Legislative Counsel Bradley Stillman. "Some of these provisions are included in the Senate bill, and we will be working to encourage members to include those provisions in any final legislation approved by Congress and signed by the president," he said.

The Energy and Commerce Committee first gave voice vote approval to H.R. 3626. Introduced by Energy and Commerce Committee Chairman John D. Dingell (D-MI) and Judiciary Committee Chairman Jack Brooks (D-TX), H.R. 3626 would set conditions for allowing the Bell companies into previously restricted areas of long distance service, equipment manufacturing, and information services.

Before approving the bill, the committee incorporated privacy legislation, H.R. 3432, introduced by Telecommunications and Finance Subcommittee Chairman Edward J. Markey (D-MA) shortly before the end of the last session.

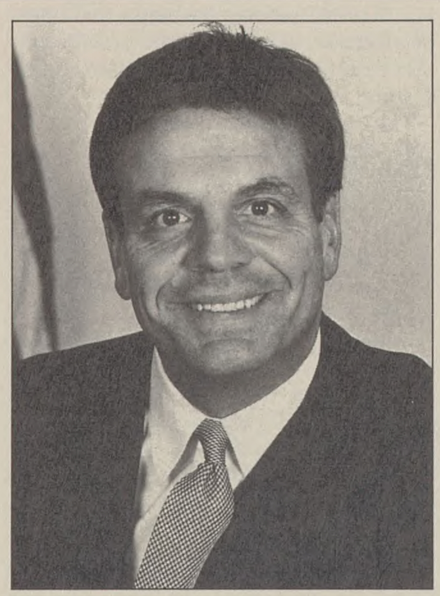
The privacy provisions are designed to give consumers greater control over the information the telephone companies gather about them and to prevent local telephone companies from using that information to compete unfairly.

Having completed consideration of H.R. 3626, the committee then approved H.R. 3636 on at 44-0 vote. Introduced by Reps. Markey and Jack Fields (R-TX), H.R. 3636 would open the way to competition between key sectors of the communications industry, primarily cable operators and local telephone companies.

Committee Approves Pro-consumer Cost Allocation Amendment

The one significant victory for consumers during the markup of H.R. 3636 came on an amendment by Rep. Mike Synar (D-OK).

The committee gave voice vote approval to Rep. Synar's measure requiring that ratepayer revenues only be used to maintain and upgrade basic phone service, and not to finance future competitive ventures.



Rep. Mike Synar championed a pro-consumer cost allocation amendment.

Under the amendment, costs of any network upgrades that benefit both ratepayers and competitive services would have to be shared between ratepayers and shareholders.

The victory on this amendment came after Rep. Synar was forced to strike a compromise to his original, stronger amendment, which would have required the Bell companies to use savings from the declining costs of providing local phone service to provide rate cuts.

By requiring all services that use the network to bear their direct costs as well as a reasonable share of the joint and common costs of the network, the amendment:

- prevents "free riders" on the information superhighway, and does so in a competitively neutral manner;
- takes steps to reduce the risk of local telephone services' bearing a greater burden of the costs of the network than necessary and appropriate; and
- prevents the local phone companies from unfairly assigning costs to monopoly services to the detriment of competitors.

"The Synar amendment is fair, procompetitive and forward looking," Stillman said. "Mike Synar went to the mat for consumers across the country in an attempt to deliver the benefits of the information age to all consumers."

The committee also gave voice vote approval to an amendment by Rep. W. J. "Billy" Tauzin (D-LA) that would allow the Bell companies to choose between the current system of rate-of-return regulation and a price cap system, subject to no public interest standards.

The Bell companies argue that price caps allow them to free up money to use for investments in phone networks. However, there is no evidence that this is the case, Stillman said.

Between 1984 and 1994, total cash flow for the Bells increased by $45 billion as states began to adopt price cap regimes, but investment in networks rose only $9 billion, he noted. (See related article this page.)

"The Tauzin amendment would strip regulators of all authority to protect consumers and competition and would open the door to the same abuses consumers have repeatedly suffered in the past when deregulation occurs without real competition," he said.

Judiciary Amends Long-Distance Provisions

The Judiciary Committee, which has concurrent jurisdiction over H.R. 3626, the Dingell-Brooks bill, also gave voice vote approval to that measure.

During markup, however, the committee also amended the bill, improving the rules regarding entry into long-distance service by monopoly local telephone companies. Under the Judiciary Committee version of the bill, these companies would have to get prior approval from the Department of Justice.

"There is still a long road ahead," Stillman said. "It's clear that the Bell companies are going to be trying to amend S. 1822 with the same anti-consumer, anticompetitive provisions offered, and largely defeated, in the House.

"It will take an all-out effort by consumer advocates to ensure that the universal services provisions remain intact, or are strengthened, and that the House price cap language is stripped from the bill," he said.

Baby Bells Overcharge Consumers $5 Billion

The Regional Bell Operating Companies (RBOCs) overcharged consumers by an estimated $5 billion in 1992, or $4 a month for every residential subscriber in the nation, according to a CFA report released in February.

"Cumulatively, since divestiture, the total of excess profits is about $35 billion," said CFA Research Director Mark Cooper, author of the report.

"These funds have not been plowed back into the telephone network," he added. "Capital spending as a percentage of cash flow by the RBOCs has declined from over 80 percent at the time of divestiture to around 65 percent today. Instead, massive resources have been diverted out of the industry."

The report, which is the seventh in CFA's series analyzing RBOC finances, is entitled "Milking the Monopoly: Excess Earnings and Diversification of the Baby Bells Since Divestiture."

Capital Spending Down, Dividends Up

The report points out the following with respect to the use of income and cash flow by the Baby Bells:

- While capital spending has declined as a percentage of cash flow, dividends have not. Dividend yields are twice as high as those of other large corporations.
- Since 1986 the Baby Bells have paid $35 billion in dividends and invested $13 billion in non-telco activities, but have put only $1 billion in net new telco investment (above depreciation charges) into the public switched network.
- The $35 billion of non-telco assets amassed by the Baby Bells have performed poorly, earning less than a four percent return on equity.

Ability To Leverage Ratepayers Provides Competitive Edge

"The report breaks new ground by comparing the earnings and capital structure of the Baby Bells to other companies in the information industries," Cooper said.

The following are among key findings in this area:

- The return on equity enjoyed by the RBOCs significantly exceeds not only the other large companies in the economy, but also the companies in the information industries with which the RBOCs are seeking to compete.
- The Baby Bells carry over 80 percent debt in their unregulated subsidiaries, without paying a penalty in the cost of borrowing, by leveraging the monopoly ratepayer cash flow to underwrite the debt of non-telephone subsidiaries.
- The ability to leverage ratepayers gives the Baby Bells an immense advantage over the other firms in the information age industries, who must carry much more equity at risk.

"These findings have far reaching implications for the ongoing debate about the information superhighway," Cooper said. "They indicate that 1) the Baby Bells do not face competition at a key intersec-

(Continued on Page 2)

House Approves Interstate Branching Bill

Shortly before leaving for spring recess, the House gave voice vote approval to legislation to permit banks to operate branches across state lines.

During full committee markup in March, the House Banking Committee adopted two amendments to make the bill more pro-consumer, but failed to address major consumer concerns about the legislation.

In February, the Senate Banking Committee gave unanimous approval to a companion measure that is even less consumer-friendly than the House version.

"Sadly, the Congress is preparing to tear down long-standing branching safeguards without sufficient measures to ensure the accountability of the nation's largest banking corporations to consumers," said CFA Director of Banking and Housing Policy Chris Lewis.

Consumer groups have traditionally opposed interstate bank branching on the grounds that it would lead to dangerous concentration and to reduced lending and fewer banking services in many communities, particularly poor communities.

Bills' Provisions Outlined

Both bills would remove the few remaining barriers to interstate banking, preempting states' rights to continue to restrict such activities. In addition, bank holding companies that own multi-state networks would be permitted to consolidate them into branches, rather than retain separately capitalized banks.

Within two years under the Senate bill and three years under the House bill, banks would be permitted to purchase existing banks and convert them into branches. States would be able to enact laws to "opt out" of the proposal and prohibit branching and consolidation within their borders.

Both bills would impose concentration limits restricting a bank's share of deposits in that state unless the state specifically provides a waiver. Also, the bills would require state-by-state Community Reinvestment Act evaluations of those institutions with multi-state operations.

Senate Bill Preempts Stronger State Consumer Protections

In contrast to the weaker Senate bill, the House bill would allow states to subject branches of federally chartered banks to the same state laws on interstate branching, consumer protection, and community reinvestment that apply to branches of state-chartered banks. The Senate bill would exempt federally chartered banks that are converted to branches from these state protections, which in a number of states are stronger than federal law.

In a letter to Senate Banking Committee Chairman Donald W. Riegle Jr. (D-MI), CFA, Consumers Union, Center for Community Change, Public Citizen's Congress Watch, U.S. Public Interest Research Group, and ACORN all urged the Senate to remove the preemption provision.

"Since virtually all the interstate branching will be by national banks, the protections provided by states will fade as these interstate operations dominate local banking — unless the Congress clarifies the National Banking Act up front to ensure that states may protect their citizens in the face of the invasions of interstate branches," the groups wrote.

"The prospect of national bank preemption presents such a threat to consumers that the legislation — absent safeguards to preserve the ability of states to protect their citizens — would be a significant step backwards and would render meaningless any benefit to consumers that is proffered by interstate advocates," they added.

House Bill Strengthened Slightly In Committee

During full committee markup in early March, the House Banking Committee voted down two consumer-backed amendments and adopted two other more modest amendments sought by consumers.

The committee voted 16-34 against an amendment by Reps. Cleo Fields (D-LA), Lucille Roybal-Allard (D-CA), and Albert Wynn (D-MD) to require banks that open branches across state lines to provide low cost basic banking and government check-cashing services.

The committee also rejected, on a 17-34 vote, an amendment offered by Reps. Kweisi Mfume (D-MD) and Joseph P. Kennedy II (D-MA) that would have required banks wishing to branch across state lines to pledge to make loans and offer banking services in poor neighborhoods and under-served areas.

In addition, the Mfume-Kennedy amendment would have denied branching rights to banks that have shown a pattern of closing inner-city branches, and it would have required banks with $1 billion or more in assets to disclose how much they lend to small and minority-owned businesses.

Instead, the committee adopted a more modest compromise, put forward by Rep. Maxine Waters (D-CA) and also backed by CFA, requiring that banks which intend to close a branch provide 90 days advance notice to customers of the branch and to federal regulators.

In response to a request from the community, the federal regulator would be required to consult with community leaders and convene a meeting to discuss the closure and the feasibility of obtaining alternative facilities and services for the affected areas, including converting the bank branch into a credit union.

The committee also adopted an amendment by Rep. Maurice Hinchey (D-NY) to require the Federal Reserve Board to conduct annual studies of bank fees that would include an analysis of the effect of interstate branching on those fees.

"Interstate banking threatens the tie between a bank and its local community and consumers," Lewis said. "As the legislation moves forward, it is critical that the Congress retain the modest consumer safeguards that are contained in the House bill."

House Panel Passes Weak Credit Reform Bill

The House Banking Committee approved a credit bureau reform bill in March that was so weakened during full committee markup it is no longer supported by consumer groups, including CFA.

"The committee buckled so far to industry pressure that, on balance, the reported bill would mark a retreat from protections consumers enjoy under current law," said CFA Director of Banking and Housing Policy Chris Lewis. "We cannot lend our support to a bill that gives with one hand and takes with the other."

On the positive side, the bill would allow consumers to receive a free copy of their credit report each year on request, put in place new accuracy provisions to clean up errors in credit files, codify the Federal Trade Commission's interpretation prohibiting target marketing from credit reports, and impose modest new duties on the furnishers of information, such as banks and department stores, to create reasonable procedures to avoid errors.

Like the Senate bill, however, H.R. 1015 now broadly preempts stronger state laws in numerous areas and dramatically weakens current privacy protections regarding use of credit reports for prescreening in credit offers.

Furthermore, the committee weakened the bill's provisions creating a private right of action allowing consumers to sue furnishers of credit information for violations of the act. The adopted provisions would broadly immunize banks from consumer suits for failing to comply with reasonable procedures to avoid errors.

Another loophole was opened during markup that would allow big banks and other diversified financial companies to share consumer financial information among affiliates that currently do not have a legal right to use the information. Under the bill, these affiliates could use this information to deny consumers credit without having to provide them with the rights currently provided under the Fair Credit Reporting Act.

The bill is not expected to proceed further unless accord can be reached in the areas of preemption, pre-screening, and affiliate sharing between consumer groups and industry.

"Unless preemption is sunset, consumer organizations must oppose further consideration of the legislation in this Congress," Lewis said.

Bank Mutual Fund Sales Questioned

Congress must enact legislation to ensure that there can be no commingling — in practice or perception — of insured and uninsured activities of banks, said CFA Director of Banking and Housing Policy Chris Lewis in March testimony before the House Energy and Commerce Committee's Subcommittee on Oversight and Investigations.

"The hard simple fact is that too many American consumers do not understand that investment products — like mutual funds and annuities — sold by banks are not guaranteed by the federal government," he said.

Legislation is needed because banks have engaged in abusive sales practices, and regulators have failed to provide adequate consumer protections, he said. In fact, the policy statement recently released by the four banking regulatory agencies institutionalizes, rather than corrects, the most egregious practices, he added.

Lewis outlined four key protections that should be contained in legislation:

- an insured institution's name and logo must be separate from the label of an uninsured product;
- the location of insured activity within a bank must be clearly separated from the location of the marketing of uninsured products;
- bank employees who handle insured funds must be separate and distinct from those that peddle uninsured products; and
- the securities activities of insured institutions must be subject to consistent functional regulation.

Lewis also called for a moratorium on expansion of bank operations in the mutual fund business until Congress enacts safeguards, regulators come up with a consistent and effective approach to the problem, and the industry agrees to eliminate abusive practices.

"While Congress continues to debate how far banks should reach into the securities business, it has an obligation to provide consumer protections up front," he concluded.

Baby Bells (Continued from Page 1)

tion on the information superhighway, the local swithch, 2) giving them additional incentives to invest could be money for nothing, and 3) leverage over ratepayer cash flow could give the Baby Bells significant market power over the superhighway."

"The fact that we see a Baby Bell at the center of each of the megafirms emerging in the information age has little to do with technology and a great deal to do with this current and future cash flow," he added.

"We are gratified that policymakers have begun to recognize the importance of preventing abuse of ratepayers as a way to create a level playing field for competitors in the information age," Cooper added.

He cited as evidence "a growing commitment" to a number of key policies, such as:

- reasonable rates based on a cost-based allocation between competitive and monopoly services, "which could begin to address the problem of excess earnings;"
- structural separations prohibiting leveraging of any RBOC assets, "which could begin to address the problem of unequal access to financing;" and
- elimination of market power prior to entry by the Baby Bells into other lines of business, "which could reduce the monopoly control over the local bottleneck."

The report is available for $10, paid in advance, from CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

CFA Names Record Number of Consumer Heroes

An unprecedented 112 members of Congress were recognized as "Consumer Heroes" for the 1993 legislative session by CFA in its annual Voting Record, released in April.

"This recognition is based on their excellent pro-consumer voting records during the first session of the 103rd Congress," said CFA Legislative Counsel Bradley Stillman.

In addition to the praise for the 96 representatives and 16 senators cited as "Consumer Heroes," CFA also named 37 representatives and 13 senators as "Consumer Zeroes" for their consistent opposition to consumer interests during the last legislative session.

The ratings are based on 10 key votes in both the House and the Senate during the first session of the 103rd Congress.

Consumers Win Significant Victories

"With a new administration in the White House, Congress was able to make significant progress on several long-standing consumer issues that could not previously survive vetoes or veto threats from earlier administrations," Stillman said, citing enactment of family and medical leave, national motor voter registration, and the Brady handgun control legislation.

"Despite these victories and the large number of Consumer Heroes, however, the dramatic increase in overall consumer voting that we witnessed in 1992 was not maintained in 1993," he said.

The overall average in the Senate dropped nine points to 54 percent, in a return to a more traditional level of Senate support, while the House record increased by one point to 60 percent.

"One bright spot in the Senate was a significant boost in the voting record of Senate freshmen, which rose 14 points to 54 percent," Stillman said.

In addition to the above victories, and significant progress on a number of other important consumer issues, consumers suffered some significant defeats in 1993.

For example, the Senate overwhelmingly approved legislation that would require the Environmental Protection Agency to conduct a cost-benefit analysis before enforcing new regulations. Also, with the veto threat reduced, it was much more difficult to get some pro-consumer legislation to the floor for a vote.

Partisanship Prevails

Strong partisanship, perhaps in response to one-party control over both the White House and Congress, was prevalent in 1993. House Democrats saw a nine-point increase in pro-consumer voting to 86 percent, which is the highest level since CFA began keeping records in 1971. Conversely, House Republican support fell seven points to 22 percent, the lowest it has been since 1983.

The largely partisan changes in the House, which is usually the more volatile of the two chambers, were driven in part by the voting patterns of the large class of freshmen. Freshman Democrats voted with consumers 89 percent of the time in 1993, a jump of 12 points from the previous year. House Republicans, however, had a seven-point decline in their voting record to just 21 percent.

"Overall, consumers can be pleased that some long-standing issues were finally resolved during the first session of the 103rd Congress," Stillman said.

"We are hopeful that the Clinton Administration will implement last session's legislative victories in a pro-consumer manner and that Congress and the Administration will use the consumer interest as a guide as they work on telecommunications, health care reform, welfare reform, and other important legislation currently moving through Congress," he concluded.

Copies of the report are available from CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036. The cost is $10 prepaid and $5 for non-profit organizations.

1993 CONGRESSIONAL HEROES & ZEROES

Sixteen Senate Heroes voted with consumers 90 percent of the time:

Daniel Akaka (D-HI)
Jeff Bingaman (D-NM)
Barbara Boxer (D-CA)
Richard Bryan (D-NV)
Thomas Daschle (D-SD)
Christopher Dodd (D-CT)
John Glenn (D-OH)
Patrick Leahy (D-VT)
Carl Levin (D-MI)
Harlan Mathews (D-TN)
George Mitchell (D-ME)
Carol Moseley-Braun (D-IL)
Claiborne Pell (D-RI)
David Pryor (D-AR)
Harry Reid (D-NV)
Paul Sarbanes (D-MD)

Ninety-six House Heroes voted with consumers 100 percent of the time:

Neil Abercrombie (D-HI)
Gary Ackerman (D-NY)
Thomas Andrews (D-ME)
Xavier Becerra (D-CA)
Howard Berman (D-CA)
Lucien Blackwell (D-PA)
David Bonior (D-MI)
Sherrod Brown (D-OH)
John Bryant (D-TX)
Leslie Byrne (D-VA)
Benjamin Cardin (D-MD)
Eva Clayton (D-NC)
James Clyburn (D-SC)
Barbara-Rose Collins (D-MI)
Cardiss Collins (D-IL)
William Coyne (D-PA)
Ron Dellums (D-CA)
Butler Derrick (D-SC)
Peter Deutsch (D-FL)
Julian Dixon (D-CA)
Richard Durbin (D-IL)
Don Edwards (D-CA)
Karan English (D-AZ)
Anna Eshoo (D-CA)
Sam Farr (D-CA)
Vic Fazio (D-CA)
Cleo Fields (D-LA)
Thomas Foglietta (D-PA)
William Ford (D-MI)
Barney Frank (D-MA)
Elizabeth Furse (D-OR)
Sam Gejdenson (D-CT)
Richard Gephardt (D-MO)
Sam Gibbons (D-FL)
Henry Gonzalez (D-TX)
Dan Hamburg (D-CA)
Alcee Hastings (D-FL)
Maurice Hinchey (D-NY)
George Hochbrueckner (D-NY)
Steny Hoyer (D-MD)
Tim Johnson (D-SD)
Eddie Johnson (D-TX)
Harry Johnston (D-FL)
Joseph Kennedy (D-MA)
Barbara Kennelly (D-CT)
Gerald Kleczka (D-WI)
John LaFalce (D-NY)
Tom Lantos (D-CA)
Sander Levin (D-MI)
Carolyn Maloney (D-NY)
Edward Markey (D-MA)
Robert Matsui (D-CA)
Frank McCloskey (D-IN)
Jim McDermott (D-WA)
Cynthia McKinney (D-GA)
Kweisi Mfume (D-MD)
Norman Mineta (D-CA)
Patsy Mink (D-HI)
Joe Moakley (D-MA)
James Moran (D-VA)
Richard Neal (D-MA)
Stephen Neal (D-NC)
John Olver (D-MA)
Ed Pastor (D-AZ)
Nancy Pelosi (D-CA)
J. J. Pickle (D-TX)
David Price (D-NC)
Charles Rangel (D-NY)
Jack Reed (D-RI)
Mel Reynolds (D-IL)
Lucille Roybal-Allard (D-CA)
Bobby Rush (D-IL)
Martin Sabo (D-MN)
George Sangmeister (D-IL)
Thomas Sawyer (D-OH)
Charles Schumer (D-NY)
Robert Scott (D-VA)
Jose Serrano (D-NY)
Karen Shepherd (D-UT)
John Spratt (D-SC)
Pete Stark (D-CA)
Louis Stokes (D-OH)
Gerry Studds (D-MA)
Al Swift (D-WA)
Esteban Torres (D-CA)
Walter Tucker (D-CA)
Nydia Velazquez (D-NY)
Bruce Vento (D-MN)
Craig Washington (D-TX)
Melvin Watt (D-NC)
Henry Waxman (D-CA)
Alan Wheat (D-MO)
Lynn Woolsey (D-CA)
Ron Wyden (D-OR)
Albert Wynn (D-MD)
Sidney Yates (D-IL)

Thirteen senators voted for consumers ten percent of the time or less, including seven with no pro-consumer votes:

Lauch Faircloth (R-NC)
Orrin Hatch (R-UT)
Jesse Helms (R-NC)
Trent Lott (R-MS)
Don Nickles (R-OK)
Robert Smith (R-NH)
Malcolm Wallop (R-WY)
Robert Dole (R-KS)
Phil Gramm (R-TX)
Judd Gregg (R-NH)
Connie Mack (R-FL)
Bob Packwood (R-OR)
Strom Thurmond (R-SC)

Thirty-seven House members had no pro-consumer votes:

Wayne Allard (R-CO)
Bill Archer (R-TX)
Richard Armey (R-TX)
Spencer Bachus (R-AL)
Cass Ballenger (R-NC)
Joe Barton (R-TX)
John Boehner (R-OH)
Howard Coble (R-NC)
Philip Crane (R-IL)
Michael Crapo (R-ID)
Tom DeLay (R-TX)
Jon Doolittle (R-CA)
Robert Dornan (R-CA)
Jack Fields (R-TX)
George Gekas (R-PA)
Melton Hancock (R-MO)
James Hansen (R-UT)
Joel Hefley (R-CO)
Wally Herger (R-CA)
Duncan Hunter (R-CA)
Bob Inglis (R-SC)
James Inhofe (R-OK)
Ernest Istook (R-OK)
John Kasich (R-OH)
Jerry Lewis (R-CA)
John Linder (R-GA)
Bob Livingston (R-LA)
John Mica (R-FL)
Ron Packard (R-CA)
Dana Rohrabacher (R-CA)
Edward Royce (R-CA)
Dan Schaefer (R-CO)
Bob Stump (R-AZ)
James Talent (R-MO)
Charles Taylor (R-NC)
Robert Walker (R-PA)
Bill Zeliff (R-NH)

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Poison Center Closings Put Consumers At Risk

The nation's regional poison control centers face a looming financial crisis which puts consumers at risk and raises the cost of treatment, according to a study released by CFA in March.

"Curtailment of poison center services is a serious health and safety threat affecting millions of American families," said CFA Product Safety Director Mary Ellen Fise, author of the report.

"Who Are You Going To Call: A Report on Poison Control Center Closings and Reduced Services" is based on a survey of all 38 regional centers.

These centers give poison treatment information by telephone to consumers who may have ingested a substance, been bitten by a snake or other animal, or inhaled toxic fumes. Nearly two million consumers call poison control centers each year to obtain this vital poison treatment information.

According to the survey, however, 63 percent of these centers have had their funding cut, including cuts by state governments and host hospitals. In some areas of the country, this service has been eliminated altogether.

Funding Cuts Have Serious Repercussions

The following were among the adverse effects precipitated by recent funding cuts noted by the CFA survey respondents:

- closure of a center;
- blocking of calls from counties that do not contribute to the center;
- decreases in the number of consumers served;
- reduction of staff;
- salary freezes;
- elimination of emergency language translation services for non-English-speaking persons; and
- reduction or elimination of education and outreach prevention programs.

"Unfortunately, closings and reductions are the norm and not the exception," Fise said.

"When a poison center closes, a poisoning incident that could have been treated with a simple telephone call turns into a trip to the hospital emergency room," she added. "This is a double whammy for consumers. Not only is their health at risk, but they incur hundreds of dollars of unnecessary emergency room expenses."

Poison Center Use Saves Money

"Although states cut funding in order to save money, they simply end up shifting health care costs to private and government insurers, private citizens, and health care providers," Fise noted.

According to a 1992 study, more than 70 percent of calls to poison control centers regarding poisonings were successfully managed by telephone, with no need to seek additional medical care.

Another recent study found that it would cost state government and health insurance providers as much as $10 million to provide unnecessary emergency department care if a poison center (that answers 61,000 emergency calls per year) were not available.

That is ten times the $1 million budget of a typical regional poison control center.

"In addition to the economic costs, poison control center closings impose enormous human costs," Fise said. "These closings will result in an increase in emergency traumas, injuries and deaths due to poisonings because of the lack of immediate treatment advice for the public, expert advice for physicians treating poison victims, or any community programs to facilitate the education and prevention of poisoning."

The effects of closings extend beyond the immediate area of the closed center, she added. "The burdens that one center's closing places on another center in a nearby state or county, from the influx of additional calls, renders that still-operating center less effective."

Despite the dramatic savings to government and insurance providers and the benefits to consumers and health care providers of poison control centers, the CFA study found that nearly one-third of the centers surveyed anticipate more funding cuts in the future. Four centers reported that they face imminent closure unless additional funds can be secured.

Congressional Action Needed

In March testimony before a House subcommittee, Fise called on Congress to appoint a six-month study commission to investigate possible funding solutions.

"While we wish there was a magic formula that could be instituted immediately, CFA believes there is no ready, workable solution, capable of quick implementation and applicable to all poison centers at this time," she said. "The challenges posed by the current fiscal constraints demand a thoughtful and complete investigation."

Fise advocated that the study commission:

- investigate and make recommendations regarding the feasibility of consolidating poison center functions, including creating a single national poison control center, implementing a regional system, or providing specific services, such as poison information and education, on a national scale;
- recommend a formula or system for funding poison centers;
- evaluate the need for accreditation or certification of poison centers; and
- delineate any legislation needed to implement its recommendations.

"The closing of a poison center is a health care issue that should not get lost in the debate and deliberations over reform of our nation's health care system," Fise said. "When poison control centers close, consumers lose access to timely, efficient, cost-effective health care."

Copies of the report are available for $10, paid in advance, from CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

Securities Litigation Bill Would Promote Fraud

Legislation was introduced in the Senate in March that would make it more difficult for defrauded investors to bring their cases to court, make it easier for co-conspirators to escape full liability, and thus encourage an increase in securities fraud. Co-sponsored by Sens. Christopher Dodd (D-CT) and Pete Domenici (R-NM), the bill is similar to legislation introduced in the House last year by Rep. W. J. "Billy" Tauzin (D-LA).

S. 1976 would create new, unfair requirements for plaintiffs in fraud cases related to pleading, burden of proof, and damages. For example, in the complaint, plaintiffs would have to "allege specific facts demonstrating the state of mind of each defendant at the time the alleged violation occurred," before the plaintiff gains access to that information through discovery. In addition, the bill limits access to the courts for small shareholders by imposing minimum financial requirements victims must meet before they can be named plaintiffs in a class action.

The heart of the bill, however, is the severe limitation it places on the current system of joint and several liability. Joint and several liability, which holds all co-conspirators equally liable, places the rights of defrauded investors to full recovery of their losses above the interests of those who contributed to the fraud.

Under the bill, most participants in the fraud would be subject instead to proportionate liability, leaving victims of fraud in which the primary perpetrator is bankrupt with virtually no chance of full recovery. Accountants and other professionals who engage in reckless conduct which contributes to the fraud are specifically shielded from joint and several liability.

Finally, the bill would create a sham self-regulatory organization for accountants that would be captive of the accounting industry it is supposed to regulate and would have substantial powers to override state licensing boards.

"The sponsors say this legislation is needed to combat an explosion in securities fraud litigation, an explosion the Securities and Exchange Commission has testified doesn't exist," said CFA Director of Investor Protection Barbara Roper. "They would achieve their questionable goal by virtually wiping out securities fraud litigation, and thus removing an important impediment to fraud."

"Despite a little pro-investor window dressing, this bill is a direct attack on the rights of investors," she added. "No member who places the interests of constituents ahead of those of the special interest groups spending millions to buy their vote will back this bill."

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