CFA news

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Outlook Grim for Consumers in 105th Congress

Although most of the congressional candidates endorsed by CFA were elected in November, Republicans' ability to retain control of the House and increase their lock on the Senate overshadowed that good news.

As a result, CFA Chairman Sen. Howard Metzenbaum predicted that the 105th Congress would be "the roughest session in many years" for consumers. As they were in the Republican-controlled 104th Congress, consumer advocates will be forced to spend most of their efforts trying to forestall negative legislation, he predicted.

In fighting anti-consumer initiatives, however, consumers will be able to rely on the assistance of a strong cadre of seasoned members. All six of the CFA-endorsed incumbents in the Senate and all 102 of the CFA-endorsed incumbents in the House won reelection.

"The American people are fortunate to have a sizeable contingent of strong consumer advocates remaining in Congress to represent their interests," said CFA Executive Director Stephen Brobeck. "With their commitment to protecting the health and safety of their constituents and to representing average citizens on pocketbook issues, these members played a key role in defeating or moderating many of the attacks on consumer protections in the last Congress," he added. "Their advocacy will continue to be vital in the new Congress."

Because an unusually large number of members chose to leave Congress in 1996, open seat races were a major factor in the November elections.

CFA Endorsees Replace Departing Pro-consumer Senators

Most of those leaving the Senate were either conservative Democrats or moderate Republicans, but three of the departing senators were among those with the strongest records of consumer support. All three were replaced by CFA-endorsed candidates with a strong history of consumer support as members of the House.

Rep. Richard Durbin (D-IL), with a lifetime CFA voting record of 86 percent, was elected to replace Sen. Paul Simon (D-IL); Rep. Robert Torricelli (D-NJ), with a lifetime CFA voting record of 85 percent, was elected to replace Bill Bradley (D-NJ); and Rep. Jack Reed (D-RI), with a lifetime CFA voting record of 89 percent, was elected to replace Claiborne Pell (D-RI). (Torricelli defeated Republican Dick Zimmer, whose CFA lifetime voting record in the House is just 25 percent.)

In other good news for consumers, Rep. Tim Johnson (D-SD) defeated Sen. Larry Pressler. Although Johnson was not endorsed by CFA, his lifetime voting record of 78 percent is far stronger than Pressler's lifetime record of 32 percent.

Other Senate results were not as positive, however. Four House members with extremely low consumer voting records were elected to open Senate seats: Rep. Tim Hutchinson (R-AR) was elected to replace Sen. David Pryor; Rep. Wayne Allard (R-CO) was elected to replace Sen. Hank Brown; Rep. Sam Brownback (R-KS) was elected to fill the remainder of Sen. Bob Dole's term; and Rep. Pat Roberts (R-KS) was elected to replace Sen. Nancy Kassebaum.

Also, none of the three CFA-endorsed challengers to anti-consumer Senate members was elected.

The House also saw a large number of departures, including six members with a strong history of consumer support: Rep. Cleo Fields (D-LA), with a 93 percent lifetime record; Rep. Gerry Studds (D-MA), 93 percent; Rep. Barbara-Rose Collins (D-MI), 92 percent; Rep. Anthony Beilenson (D-CA), 89 percent; Rep. Patricia Schroeder (D-CO), 82 percent; and Rep. Cardiss Collins (D-IL), 81 percent.

Four Anti-consumer House Members Defeated

Three of 12 CFA-endorsed candidates for open House seats were elected, and four of 47 CFA-endorsed challengers to anti-consumer House members were elected.

The anti-consumer House members who were defeated by CFA-endorsed challengers are: Rep. Bill Baker (R-CA); Rep. Bob Dornan (R-CA); Rep. Fred Heineman (R-NC); and Rep. Martin Hoke (R-OH).

In making its endorsements, CFA evaluated incumbents and House members running for Senate seats on the basis of their career voting records on key consumer issues.

Endorsements of challengers and candidates in open races were based on an evaluation of their responses to a candidate questionnaire and their positions on key consumer issues. In assessing challengers, CFA's PAC also considered the consumer voting record of the incumbent they are challenging.

Successful CFA-Endorsed Candidates

Senate

DE:	Sen. Joseph Biden (D)
IL:	Rep. Richard Durbin (D)
IA:	Sen. Tom Harkin (D)
MA:	Sen. John Kerry (D)
MI:	Sen. Carl Levin (D)
MN:	Sen. Paul Wellstone (D)
NJ:	Rep. Robert Torricelli (D)
RI:	Rep. Jack Reed (D)
WV:	Sen. John D. Rockefeller, IV (D)

House

AZ:	Rep. Ed Pastor (D-02)
AR:	Marion Berry (D-01)
CA:	Rep. Robert Matsui (D-05)
	Rep. Lynn Woolsey (D-06)
	Rep. George Miller (D-07)
	Rep. Nancy Pelosi (D-08)
	Rep. Ronald Dellums (D-09)
	Ellen Tauscher (D-10)
	Rep. Tom Lantos (D-12)
	Rep. Pete Stark (D-13)
	Rep. Anna Eshoo (D-14)
	Rep. Zoe Lofgren (D-16)
	Rep. Sam Farr (D-17)
	Rep. Howard Berman (D-26)
	Rep. Henry Waxman (D-29)
	Rep. Xavier Becerra (D-30)
	Rep. Matthew Martinez (D-31)
	Rep. Julian Dixon (D-32)
	Rep. Lucille Roybal-Allard (D-33)
	Rep. Esteban Torres (D-34)
	Rep. Maxine Waters (D-35)
	Rep. George Brown (D-42)
	Loretta Sanchez (D-46)
	Rep. Bob Filner (D-50)
CT:	Rep. Barbara Kennelly (D-01)
	Rep. Sam Gejdenson (D-02)
	Rep. Rosa DeLauro (D-03)
FL:	Rep. Corrine Brown (D-03)
	Rep. Carrie Meek (D-17)
	Rep. Alcee Hastings (D-23)
GA:	Rep. Cynthia McKinney (D-04)
	Rep. John Lewis (D-05)
HI:	Rep. Neil Abercrombie (D-01)
	Rep. Pastsy Mink (D-02)
IL:	Rep. Bobby Rush (D-01)
	Rep. Luis Gutierrez (D-04)
	Rep. Sidney Yates (D-09)
	Rep. Jerry Costello (D-12)
	Rep. Lane Evans (D-17)
IN:	Rep. Peter Visclosky (D-01)
	Julia Carson (D-10)
LA:	Rep. William Jefferson (D-02)
MD:	Rep. Benjamin Cardin (D-03)
	Rep. Albert Wynn (D-04)
	Rep. Steny Hoyer (D-05)
MA:	Rep. John Olver (D-01)
	Rep. Richard Neal (D-02)
	Rep. Barney Frank (D-04)
	Rep. Martin Meehan (D-05)
	Rep. Edward Markey (D-07)
	Rep. Joseph Kennedy (D-08)
	Rep. Joe Moakley (D-09)
MI:	Rep. Bart Stupak (D-01)
	Rep. Dale Kildee (D-09)
	Rep. David Bonior (D-10)
	Rep. Sander Levin (D-12)
	Rep. Lynn Rivers (D-13)
MN:	Rep. Bruce Vento (D-04)
	Rep. Martin O. Sabo (D-05)
	Rep. James Oberstar (D-08)
MS:	Rep. Bennie Thompson (D-02)
NJ:	Rep. Frank Pallone, Jr. (D-06)
	Steve Rothman (D-09)
	Rep. Donald Payne (D-10)
	Rep. Robert Menendez (D-13)
NY:	Rep. Gary Ackerman (D-05)
	Rep. Floyd Flake (D-06)
	Rep. Jerrold Nadler (D-08)
	Rep. Charles Schumer (D-09)
	Rep. Edolphus Towns (D-10)
	Rep. Major Owens (D-11)
	Rep. Nydia Velazquez (D-12)
	Rep. Carolyn Maloney (D-14)
	Rep. Charles Rangel (D-15)
	Rep. Jose Serrano (D-16)
	Rep. Eliot Engel (D-17)
	Rep. Nita Lowey (D-18)
	Rep. Michael McNulty (D-21)
	Rep. Maurice Hinchey (D-26)
	Rep. Louise Slaughter (D-28)
	Rep. John LaFalce (D-29)
NC:	Rep. Eva Clayton (D-01)
	David Price (D-04)
	Rep. Melvin Watt (D-12)
OH:	Rep. Marcy Kaptur (D-09)
	Dennis Kucinich (D-10)
	Rep. Louis Stokes (D-11)
	Rep. Sherrod Brown (D-13)
	Rep. Thomas Sawyer (D-14)
	Rep. James Traficant (D-17)
OR:	Rep. Elizabeth Furse (D-01)
	Rep. Peter DeFazio (D-04)
PA:	Rep. Thomas Foglietta (D-01)
	Rep. Chaka Fattah (D-02)
	Rep. Robert Borski (D-03)
	Rep. Ron Klink (D-04)
	Rep. William Coyne (D-14)
	Rep. Paul McHale (D-15)
	Rep. Frank Mascara (D-20)
RI:	Rep. Patrick Kennedy (D-01)
SC:	Rep. James Clyburn (D-06)
VT:	Rep. Bernard Sanders (I-AL)
VA:	Rep. Robert Scott (D-03)
WA:	Rep. Jim McDermott (D-07)
WV:	Rep. Bob Wise (D-02)
	Rep. Nick Rahall (D-03)
WI:	Rep. Gerald Kleczka (D-04)
	Rep. Thomas Barrett (D-05)
	Rep. David Obey (D-07)

1996 Legislative Wrap-up

Contract with America

Product Liability — In March, the House and Senate resolved their differences and approved legislation (H.R. 956, S. 565) that would have restricted the ability of consumers injured by dangerous products to receive reasonable compensation for their injuries. The president vetoed the measure in May, and the House failed in its attempt to override the veto. The bill would have: limited the cases in which punitive damages can be awarded and capped those damages; abolished joint and several liability for non-economic losses, such as pain and suffering; reduced liability for product sellers; prevented recoveries in cases where the court determined the injured party was more than 50 percent responsible for the injuries as a result of drug or alcohol use; and placed an outside time limit on liability.

Medical Malpractice — House members of the product liability conference committee agreed to drop the House provision capping pain and suffering awards in medical malpractice cases, after which the House made no further serious attempts in 1996 to place restrictions on victims' rights in medical malpractice cases. In addition to including a provision in its product liability bill, the House had passed legislation in 1995, as part of its budget reconciliation bill (H.R. 2491), to reduce the statute of limitations and cap pain and suffering awards and punitive damage awards in health care liability cases. These provisions were not taken up in the Senate, however, and were not included in the final bill sent to the president and vetoed.

Regulatory Overhaul — Legislation to impose substantial new burdens on the federal regulatory process, (H.R. 9, H.R. 994, S. 343), which advanced in the first year of the 104th Congress, stalled in 1996. The House adopted legislation (H.R. 9) in 1995 that would have required federal agencies to conduct detailed risk assessments and cost-benefit analyses to justify new regulations, but the Senate failed to pass a similar bill (S. 343). As a result, the House never brought to the foor for a vote legislation (H.R. 994) requiring agencies to review existing regulations and modify or revoke those they determine to be unnecessary or overly burdensome. When the Senate regulatory overhaul bill died, sponsors also dropped their efforts to limit new regulations. The House had passed a bill (H.R. 450) early in 1995 that would have frozen new regulations through the end of the year or until regulatory overhaul legislation passed. Judging the House approach to be too controversial to pass in the Senate, the Senate instead passed a bill (S. 291) that would have given Congress 45 days to overrule individual regulations before they take effect. House and Senate sponsors were never able to resolve their differences.

Takings — The House passed legislation (H.R. 925) in 1995 that would have required the federal government to compensate landowners if certain federal regulatory restrictions, particularly the Endangered Species Act and wetlands protections, caused a decrease of 20 percent or more in the value of their property. Under current law, a near total loss in property value is required before the federal government is required to provide "just compensation." The Senate Judiciary Committee approved a broader bill (S. 605) at the end of the 1995 session. The Senate bill applied to a much broader definition of property, and it applied to all federal regulatory actions that caused a decrease of 33 percent or more in property value. Federal agencies would have been required both to prepare a taking impact analysis for new regulations and policies and to review existing rules and repromulgate those that represent a taking under the bill. Threatened with a filibuster by Senate Democrats, the bill was never brought up for floor consideration. In an attempt to break the deadlock, Sen. Orrin G. Hatch (R-UT) introduced a bill (S. 1954) in July that narrowed the definition of property and raised the threshold for property value loss from 33 percent to 50 percent, but it also was not brought up for a vote.

Telecommunications

Comprehensive Telecommunications Overhaul — In February, Congress passed and the president signed comprehensive telecommunications legislation (H.R. 1555, S. 652, P.L. 104-104). The law sets the terms for opening local telephone markets to competition and for allowing local phone companies to compete in other areas, such as cable and long-distance. Although the bill was improved in conference in order to win administration support, the final version still failed to do enough to promote competition, instead allowing premature deregulation of the cable and local telephone companies, encouraging mergers and joint operations between telephone and cable companies, and promoting concentration in the broadcast industry.

Intellectual Property Rights On-line — Legislation (H.R. 2441, S. 1284) was introduced in both houses of Congress in 1996 to establish the legal framework for intellectual property rights in the digital age. Hearings were held on the legislation — which was criticized for placing a nearly exclusive emphasis on the protection of copyrighted content at the expense of promoting innovation, privacy, education, and public information access — but no action was taken.

Financial Services

Capital Markets Deregulation/Investment Adviser Oversight — Just before adjourning for the year, Congress passed and the president signed legislation (H.R. 3005, S. 1815, P.L. 104-290) to streamline regulation of the nation's securities markets. The final bill, which was substantially more moderate than the original House legislation (H.R. 2131), restricts state review of mutual fund prospectuses and certain other securities sold on national exchanges and preempts certain state standards, such as books and records and capital requirements, for broker-dealers and investment advisers. The bill also requires the SEC to study what effect the lack of uniformity among state laws has on securities offerings and broker-dealers. Also included in the bill is an anti-investor provision from the Senate bill preempting federal regulation of investment advisers who have less than $25 million in assets under management and who are registered at the state level, leaving the majority of smaller adviser firms subject neither to federal oversight nor to effective state oversight. The bill also preempts state regulation of advisers to mutual funds and those with $25 million or more in assets under management. House conferees won one major improvement over the Senate bill, allowing states to retain the power to oversee the employees of all investment adviser firms, including the larger firms, who do business within their borders. The bill also requires the Securities and Exchange Commission to establish an 800-number investors can call to get background information, including disciplinary history, about their adviser.

Fair Credit Reporting Act Overhaul — Long-sought legislation to overhaul the Fair Credit Reporting Act was included in the omnibus appropriations bill (H.R. 3610, P.L. 104-208) passed by Congress at the end of the session and signed by the president. The measure would allow consumers to obtain a free copy of their credit report when they are denied credit or other benefit based on their credit history. It would also make it easier for consumers to correct errors in their credit reports. Banks, retailers, and others who provide information to credit bureaus would have to set up procedures to ensure that the information they provide to credit bureaus is accurate and to investigate disputed information. In a concession to business, the measure also makes it easier for businesses to share client credit information among affiliated companies for marketing purposes without first getting the client's consent and without having to comply with the Fair Credit Reporting Act. And, it contains a limited preemption through 2004 of stronger state laws. Holding up the spending bill on the floor for several hours, however, Rep. David R. Obey (D-WI) succeeded in having an anti-consumer provision removed that would have permitted credit bureaus to sell consumer credit information to direct-marketing companies.

Banking Regulatory Relief — Congress included a substantial package of "regulatory relief" measures for banks in the omnibus appropriations bill (H.R. 3610, P.L. 104-208), but the worst of the anti-consumer measures considered earlier in the session were not included. Most notably, the final package did not include provisions from the House bill (H.R. 1858) to: eliminate the Truth-in-Savings Act requirements that banks report interest rates on customer accounts in a uniform manner; weaken the Community Reinvestment Act by exempting small banks, allowing medium-sized banks to self-certify their compliance, and limiting regulators' enforcement powers; and eliminate the three-day "cooling off" period for most mortgages. Instead, the bill: eliminates civil liability under the Truth in Savings Act after five years unless Congress acts in the interim to retain it; opens up some new loopholes in the Home Mortgage Disclosure Act; and places more discretion in the hands of the Federal Reserve to determine exemptions from the Truth in Lending Act.

Auto Leasing Disclosure Reform — Congress included provisions in the omnibus appropriations bill (H.R. 3610, P.L. 104-208) amending the Consumer Leasing Act to eliminate several advertising disclosure requirements. Specifically, auto lease advertisements will no longer have to disclose the total amount of the lease payments or the end-of-lease costs. As a result, consumers will no longer see important information, such as mileage allowances, cost-per-mile over the amount, and the purchase price of the car at the end of the lease, until they receive a contract to sign. Legislation (H.R. 3515) introduced by Rep. John J. LaFalce (D-NY) in May was not acted on in this Congress. That bill would have required all auto lease advertisements to provide information in a manner that is easily understood or read by the consumer, and it would have required disclosure of a standardized lease annual interest rate to provide a basis for comparison shopping with other lease and credit purchase options.

Glass-Steagall Repeal — Conflicts between competing interests, particularly insurance agents and banks, once again stymied attempts to repeal the Glass-Steagall Act, which limits affiliations between financial services firms. The House Banking Committee approved a bill in 1995 (H.R. 1062) that would have allowed affiliations between banks and securities firms through separately capitalized subsidiaries of a financial services holding company, but not between banks and insurance companies. A separate House bill providing banks with regulatory relief (H.R. 1858) would have allowed such affiliations, and it was also approved by the House Banking Committee. A compromise version was drafted combining the two bills, with the addition of a provision prohibiting the Office of the Comptroller of the Currency from expanding national banks' powers to sell insurance for five years. When segments of the banking industry withdrew their support, it was never brought to the floor. Rep. Jim Leach (R-IA) made a last-ditch effort to include a provision in the omnibus appropriations bill that would have required national banks that sell insurance to comply with state insurance licensing requirements, as long as those requirements are not discriminatory against banks, but it also was not included. Sen. Alphonse D'Amato (R-NY) had introduced a broader bill (S.337) in 1995, but it was never voted on in the Senate Banking Committee.

National Disaster Insurance Plan— Faced with opposition from the administration, consumer groups, and portions of the insurance industry, legislation to establish a national disaster insurance program (H.R. 1856, S. 1943) died in the second session of the 104th Congress. The bills, which were introduced with extensive bipartisan support, proposed to establish a private, nationally based all-hazard disaster insurance program for residential and commercial property. They would have created a National Disaster Insurance Corporation to provide reinsurance to participating insurers. The corporation would have had broad powers, including the authority to borrow money from the federal treasury in cases of excess claims. Consumer groups criticized the bills for exposing the treasury and taxpayers to billions of dollars of liabilities without guaranteeing consumers access to affordable and adequate disaster insurance and for failing to include adequate mitigation provisions.

Health & Safety

Clinical Laboratories Improvement Act Restrictions/Physician Self-Referral/Nursing Home Standards — No serious attempts were made in 1996 to revive measures in the House's ill-fated 1995 budget reconciliation bill (H.R. 2491) that would have: exempted clinical laboratories in physicians' offices from the uniform quality standards required under the Clinical Laboratory Improvements Act of 1988; abolished the prohibition on doctors' referring Medicare patients to clinical laboratories in which the physician holds a financial interest; and repealed all federal nursing home standards and eliminated the protection against impoverishment for spouses and adult children of nursing home residents.

Indoor Air Quality Research Authorization — The House approved legislation in 1996 (H.R. 3322) that authorized no funding for indoor air quality research. As originally written, the bill also specifically prohibited the Environmental Protection Agency from spending any money on indoor air quality research. An amendment by Rep. Joseph P. Kennedy II (D-MA) striking the prohibition was accepted by sponsors without a floor vote. Thus, if the bill had been enacted, EPA would have been forced either to drop indoor air quality research or to fund it out of other program budgets. However, the Senate did not act on the measure, and Congress acted separately to increase funding for EPA research with no restriction on using those funds for indoor air quality research. Federal indoor air quality research helps to determine causes of and effective remedies for poor indoor air quality and supports prevention programs that can eliminate the need for regulation.

Assault Weapons Ban — Fulfilling a commitment Republican leaders had made to the National Rifle Association, the House voted in March to repeal the ban on certain assault weapons (H.R. 125) that was enacted as part of the 1994 crime bill. With no chance to override a threatened presidential veto, the bill was never taken up for a vote in the Senate.

Safe Drinking Water Reauthorization — In August, Congress passed and the president signed legislation (H.R. 3604, S. 1316, P.L. 104-182) to improve the safety of the nation's drinking water. The final bill, which is considerably stronger than the Senate bill passed in 1995, includes provisions: authorizing $9.6 billion through 2003 for a new revolving fund to provide state grants and loans to help local water systems meet federal drinking water standards; requiring drinking water systems to provide the public with more information about contaminants found in the tap water and the potential health effects of those contaminants; requiring that health standards be issued within the next three to five years for cryptosporidium and certain other contaminants, such as disinfection biproducts; requiring the Environmental Protection Agency to set a health standard for radon in water; requiring water systems to be operated by certified operators; creating improved water source protections; requiring EPA to study the effect of contaminants on at-risk populations; and applying the tap water standards to bottled water. On the other hand, the bill also includes a number of provisions to reduce regulation of public drinking water suppliers, including revoking the requirement that EPA set standards for an additional 25 contaminants every three years. Instead, EPA is required to publish a list of unregulated contaminants every five years and use that list when proposing to regulate new contaminants. In addition, when proposing a new regulation, EPA will have to publish a cost-benefit analysis, but the analysis will not be binding.

FDA Overhaul — Anti-consumer bills (S. 1477, H.R. 3199, H.R. 3200, H.R. 3201) to overhaul the Food and Drug Administration and turn many of its public safety functions over to private contractors were considered in both houses of Congress in 1996. The Senate Labor and Human Resources Committee approved its bill on a 12-4 vote in March, but mounting opposition from certain Senate Democrats and consumer groups helped keep the bill from being brought to the Senate floor for a vote. The House, meanwhile, held hearings on the issue and drafted legislation, but the bills were not acted on. The Senate bill would have allowed makers of medical devices and some drugs to pay private reviewing companies to evaluate their products. Whenever the FDA failed to meet an impossibly short 180-day deadline for reviewing new product applications, the agency would have been forced to contract the review process out to private parties. In addition, the bill would have: allowed the FDA to certify outside groups to conduct food inspections, rather than funding the FDA to conduct those inspections; allowed the companies to select and pay the inspectors themselves; and eliminated the requirement that FDA pre-approve all health claims on foods. The House bills, while similar, went further in several areas, including removing the requirement that food companies prove a "reasonable certainty of no harm" from food additives and shifting the burden to the FDA to prove "a reasonable probability that the additive is unsafe." The House bills also would have preempted state laws concerning many food and drug matters, from warning labels on raw oysters to unit pricing of foods.

Insurance Portability — Congress passed and the president signed legislation (H.R. 3103, S. 1028, P.L. 104-191) that allows workers to maintain insurance coverage if they lose or leave their jobs. The new law also contains a number of provisions to reduce discrimination against individuals with pre-existing health conditions. The final bill does not include the broad House provision allowing individuals who purchase high-deductible health insurance plans to make tax deductible contributions to special accounts set up to pay medical expenses. That provision had been opposed by consumer groups on the grounds that it would benefit only healthy, higher income individuals, leaving older, sicker people in traditional insurance plans. Instead, the final bill includes a pilot program to test the accounts.

Antitrust

Baseball Antitrust — Legislation (S. 627) to partially lift Major League Baseball's antitrust exemption was not acted on in 1996. The Senate Judiciary Committee had narrowly approved the bill in 1995, but it was not brought to the floor for a vote. The bill would have subjected team owners and the players' union to antitrust suits if they colluded to interfere with normal marketplace conditions, including capping players' salaries. However, the antitrust exemption would have been retained in a number of areas, including minor league operations, negotiations over broadcast rights, and decisions about relocating major league franchises. There was no action on the legislation in the House.

Health Care Antitrust — Although there was some discussion of including health care antitrust provisions in the Kennedy-Kassebaum health care bill, the provisions were not included and no further action was taken on the issue in 1996. In 1995, the House had included provisions in the budget reconciliation bill (H.R. 2491) to weaken antitrust laws for health plans operated by hospitals, physicians, and other medical providers, but these provisions were not included in the Senate bill or in the final bill.

Energy

Power Marketing Administration Sale — Efforts continued in the second session of the 104th Congress to sell the nation's power marketing administrations as a one-time budget deficit fix. Rep. Bob Franks (R-NJ) and Martin Meehan (D-MA) introduced H.R. 3878 in 1996 to privatize four PMAs and the hydro-electric facilities of the Tennessee Valley Authority. Six hearings were held on the issue in the House Water and Power Resources Subcommitteee, but no action was taken on the legislation. PMAs provide power from federal dams at cost-based rates to approximately 1,100 community- and consumer-owned electric utilities in 34 states. Selling the PMAs would raise electric rates without providing any longterm deficit reduction benefits.

Political Reform

Campaign Finance Reform — Bipartisan campaign finance reform legislation (S. 1219, H.R. 2566) died in 1996 when, faced with opposition from Republican leaders, a cloture vote in the Senate fell six votes short of the 60 needed to end debate and allow a vote on the measure. The bill would have eliminated soft money, banned political action committees, and provided benefits, in the form of free broadcast time and reduced mailing fees, to candidates who complied with voluntary spending limits. A companion bill in the House (H.R. 2566) was defeated in committee by Republicans. An alternative drafted by that bill's sponsors — which would have banned soft money and prohibited fund-raising within a 50-mile radius of the Capitol — was never brought up for consideration. Instead, the House considered, and soundly defeated, a bill backed by the Republican leadership (H.R. 3820) that would have lowered the limit on PAC contributions and raised the limit on individual contributions while requiring candidates to raise over 50 percent of their funds within their congressional district. It contained no ban on soft money and no voluntary spending limits.

Miscellaneous

Sugar and Peanuts Price Supports — Congress passed and the president signed a seven-year farm bill (H.R. 2854, P.L. 104-127) that left sugar and peanut programs essentially unchanged, despite the fact that they cost consumers approximately $2 billion a year in higher food prices. Amendments to phase out the two programs were narrowly defeated in the House. In the Senate, related amendments — to phase out the peanut program over time and to take the sugar issue out of the farm bill to be reconsidered separately later — went down to more decisive defeat. Clinton signed the bill into law in April despite reservations about some of its provisions.

Auto Title Reform — Legislation was introduced (H.R. 2900, S. 2030) that, in the name of reforming auto title disclosures, would have allowed unsafe totalled, salvaged, or junk vehicles to be resold without a safety inspection, without any disclosure of the vehicle's past history, and without having the title branded. The bill would have preempted stronger state laws, reduced states' ability to act when a pattern of wrong-doing emerges, and eliminated private rights of action. Although an attempt was made to move the bill at the end of the session, members of the House Commerce Committee refused to vote until they had an opportunity to hear from consumer advocates and attorneys general, who opposed the legislation. No action was taken on the Senate counterpart.

CFAnews

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FDA Responds To Cosmetic Ingredient Petition

The Food and Drug Administration wrote to CFA in October denying CFA's petition urging a ban on use of urocanic acid in cosmetics.

CFA petitioned FDA in 1991 to halt the sale of cosmetic products containing urocanic acid — including sunscreens and skin conditioning lotions — because of this chemical's potential in sunlight to promote the outgrowth of cancerous skin tumors.

In denying the request for a ban, the agency stated that sufficient questions about the safety of the ingredient may exist to require warning labels on cosmetics containing urocanic acid.

"While we were disappointed that the agency did not support an outright ban on the use of urocanic acid in cosmetics, we are pleased with the agency's willingness to pursue warning labels," said CFA General Counsel Mary Ellen Fise.

"Furthermore, the FDA's interpretation of the law in this case has repercussions for many cosmetic ingredients whose safety has not been adequately proven by scientific testing," she added. "Ultimately, the outcome should be a general increase in cosmetic safety."

After a review of the scientific studies conducted to date, the FDA denied the urocanic acid petition on the grounds that the scientific evidence does not clearly establish that the cosmetic ingredient poses a safety concern to humans.

While the scientific evidence does not prove the ingredient is unsafe, the agency wrote, "it does raise questions whether the evidence exists to conclude that the use of this ingredient in cosmetic products is safe."

Under the Food, Drug and Cosmetics Act, "any cosmetic product whose safety is not adequately substantiated prior to marketing may be adulterated and would in any event be misbranded unless it candidly and prominently warns that the safety of the product has not been adequately determined," the agency wrote.

Thus, unless manufacturers have conducted other unpublished studies substantiating the safety of urocanic acid in cosmetic products, "there may be questions about the labeling of products that contain this ingredient," the agency wrote.

FDA said it would inform manufacturers of the need to include the warning statement on their product labels if the necessary studies to substantiate safety have not been performed.

Adverse Reaction Reporting System Should Be Strengthened

In response to an executive order requiring all federal agencies to review existing regulations and eliminate or revise those that are outdated or otherwise in need of reform, the FDA has proposed to eliminate two cosmetic reporting regulations.

In the first instance, the agency has proposed to revoke the voluntary filing of product experience reports by the cosmetic industry.

CFA wrote to the agency in October urging it to strengthen, rather than eliminate, the program, which provides the agency with information regarding adverse reactions to cosmetic products.

"If properly functioning, such a reporting system could significantly enhance the agency's ability to protect consumers from unsafe cosmetic products and would help serve as an early warning system about problematic cosmetic products," Fise said.

CFA recommended a number of specific steps the agency could take to make the program more effective, including:

- mandating the reporting of adverse reactions by cosmetic companies;
- mandating the registration of manufacturing establishments and the registration of all cosmetic formulations;
- collecting information about cosmetic adverse reactions directly from consumers; and
- expanding MedWatch to include reporting of cosmetic adverse reactions by health professionals.

"It seems clear that the voluntary approach here has failed," Fise said.

"Protecting the public's health should not be a hit or miss proposition because of incomplete information. The president's directive to revise regulations is an excellent opportunity to make this regulation work for FDA and the American public," she added.

"By collecting information directly from industry, consumers, and health professionals, FDA will have the full complement of data upon which to base decisions," she said.

Reporting of Cosmetic Formulation Data Should Be Enhanced

CFA also wrote to the agency in October supporting continued, and enhanced, collection of cosmetic formulation data by the agency.

The voluntary reports by cosmetic manufacturers provide useful information about cosmetic product formulations, ingredients and their frequency of use, businesses engaged in the manufacture and distribution of cosmetics, and discontinuance and formula modifications, Fise said.

"Without this information, the agency would be unable to fulfill its statutory mandate of protecting the public from adulterated and misbranded cosmetic products," she said.

CFA recommended that the agency strengthen the program by requesting actual concentration of ingredients used, instead of the broad ranges of concentration currently reported, as this would allow the agency to conduct better and more precise evaluations and perform more realistic assessments of risk exposure.

Auto Lease Complaints On the Rise, Study Finds

Complaints about auto leasing and complaints from Spanish-speaking consumers are on the rise, according to the fifth annual survey of consumer protection agencies released in October by CFA and the National Association of Consumer Agency Administrators (NACAA). But cars, home improvement/construction, and marketing remain the "big three" problem areas, according to the study.

"Consumers continue to lose billions of dollars each year to deception and fraud," said CFA Executive Director Stephen Brobeck. "Consumer protection and education targeted at rip-offs will succeed only if state and local protection agencies remain active. Only these agencies stand between unscrupulous sellers and vulnerable consumers."

Nearly all the agencies surveyed reported that complaints related to auto leasing had increased significantly. The agencies reported handling a total of 987 auto leasing complaints in 1995, up from 443 in 1994. The most frequent complaint from consumers was that they did not understand the contract they signed. Many believed they were purchasing, not leasing, the car. Others were not aware of substantial termination penalties or large excess wear-and-tear charges.

Many agencies also reported increased complaints from Spanish-speaking consumers who had been targeted by unscrupulous marketers. Included among these were a significant number of auto leasing complaints by Spanish-speaking consumers in states such as California and Florida.

Despite these increases, the three major areas of complaint remain cars, home improvement, and marketing, in that order. When asked to list the five subjects that generated the most complaints in 1995, 79 percent of the agencies listed used cars, 74 percent listed auto repair, 58 percent listed new cars, 71 percent listed home improvement/construction, and 45 percent listed marketing problems, usually related to telemarketing or mail solicitation.

Four other areas that generated significant numbers of complaints are furniture (listed among the top five by 29 percent of agencies), credit (24 percent), landlord-tenant (22 percent), and telecommunications, including cable television (16 percent).

"Stronger consumer protections and more aggressive consumer education are needed to address these problems adequately," said NACAA President Joseph K. Goldberg, director of the Bureau of Consumer Protection in the Pennsylvania Attorney General's Office.

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