



CONSUMER FEDERATION OF AMERICA

Insurers Score Record Profits at Consumer Expense

The property-casualty insurance industry has dramatically increased profits and surplus in recent years, in part by systematically over-charging for insurance and shifting costs onto consumers and taxpayers, according to a CFA report released in January.

Following on record profits in 2004 and 2005, that came despite significant hurricane activity, "profits in 2006 rose to unprecedented heights," said CFA Director of Insurance and report author J. Robert Hunter. He estimated after-tax profits for property-casualty insurers of over \$68 billion.

"In just the last three years, the profits of insurers have been more than \$500 for every man, woman, and child in America," he said. "Meanwhile, the amount that insurers paid in claims and expenses as a percentage of the premium collected in 2006 plummeted to a 50-year low."

"A major reason why insurers have reported record high profits and low losses in recent years is that they have been methodically over-charging consumers, cutting back on coverage, under-paying claims, and getting taxpayers to pick up the tab for higher risks," he said.

Meanwhile, despite their record profits, insurance companies have sharply increased premiums for homeowner's and commercial insurance and have reduced or eliminated coverage for tens of thousands of Americans in coastal areas of the country. They have also renewed their pressure on Congress to continue to provide taxpayer subsidies for terrorism losses and to create a new taxpayer-supported federal catastrophe insurance program.

"Profits and a solid insurance industry are a good thing, but unjustified profits and excessive capitalization harm consumers," Hunter said.

The study found that insurers have reduced their financial risk in recent years through both legitimate and illegitimate means.

Questionable Tactics Described

On the one hand, they have made wise use of reinsurance and other risk spreading techniques, such as securitization. However, the study also cites several questionable tactics insurers have used to shift costs and risks onto consumers and taxpayers.

These include:

- **Sharp limits on coverage and availability.** For example, insurers have imposed large hurricane deductibles, capped home replacement and rebuilding costs, placed unjustifiable restrictions on claims, and, more recently, canceled policies, refused to renew policies, or refused to write new coverage in coastal areas and entire states from Texas to Maine.

- **Harsh homeowner's rate increases.** Insurers also imposed sharp rate increased on

many home owners throughout the nation from 2000 to 2004. More recently, home owners near coastal areas have faced rate increases of up to 100 percent. A major reason for these recent increases is that insurers have reneged on their promises to use more scientific long-term computer predictions of potential weather disasters in setting rates.

- **Taxpayer subsidies.** The study estimates that insurers received a subsidy of about \$7 billion to date under the Terrorism Risk Insurance Act, because it does not require them to pay premiums for the reinsurance provided by the federal government. Insurers have also received significant taxpayer support at the state level, through the creation of state-directed "insurers-of-last resort." This allows insurers to insure lower risk households themselves and send higher risk households to the state company.

"Insurers have been so successful in shifting their risk onto consumers and taxpayers that they have produced record profits during a period of increased storm destruction and terrorist attacks," Hunter said. "This risk-shift is

reflected in the fact that insurers are paying less and less of the premium dollars they receive in benefits to consumers."

States and Congress Urged to Act

The report calls on states to "dramatically improve" weakened regulatory systems to gain control of excessive rates. In particular, state lawmakers and regulators should carefully examine rate increases proposed by insurers and block them if necessary, Hunter said.

It also encourages state agencies to undertake research on the fairness of insurance rates similar to those already conducted in California and New York looking at home insurance and auto insurance respectively.

It advises coastal states both to consider developing a coastal weather modeling system that could be used to evaluate insurer rate increases and to consider creating funds to cover all wind risk in the state, perhaps through a multi-state effort.

On the Web

www.consumerfed.org/pdfs/2007InsuranceWhitePaper010807.pdf

Consumers Warned Against Tax Loan Products

As tax season got into gear, CFA and National Consumer Law Center released a report in January warning consumers to steer clear of "refund anticipation loans," or RALs.

Calling the high-cost loans, "one of the most avoidable tax-time expenses," CFA Director of Consumer Protection Jean Ann Fox said, "Taxpayers who want quick refunds can get them in two weeks or less by using electronic filing and having refunds directly deposited into their own bank accounts. That's a quick refund, and it's also free."

The CFA-NCLC report found that 9.6 million American taxpayers spent an estimated \$960 million in loan fees and another \$100 million in other fees on these high-cost loans in 2005, the most recent year for which information is available.

Many of those using the loans are low- and moderate-income families who can ill-afford the expense, according to the report.

"Taxpayers can save themselves over a billion dollars by just saying 'no' to quick tax refund loans," said NCLC staff attorney Chi Chi Wu. "These loans take a chunk out of taxpayers' hard earned tax refund, and they expose them to the risk of unmanageable debt if the refund does not arrive as expected."

RAL Use Drops But Remains Too High

The good news from the report is that consumer use of refund anticipation loans

(RALs) had dropped significantly, from 12.4 million in 2004 to 9.6 million in the 2005 tax season. Given the high cost of the product, however, and the fact that a free alternative is available, these numbers remain disturbingly high, Fox said.

And, as Wu noted, the loans carry significant risks in addition to their high costs. That is because a RAL must be repaid, even if the taxpayer's refund is denied, is smaller than expected, or is frozen. NCLC has found that hundreds of thousands of taxpayers have their refunds frozen, particularly Earned Income Tax Credit recipients.

If the taxpayer cannot pay back the RAL, the lender may send the account to a debt collector. The unpaid RAL will also show up as a black mark on the taxpayer's credit record.

The loans also carry privacy risks, since information from tax returns will be shared with the lending bank when the consumer applies for the RAL.

"Tax returns are a financial data goldmine for marketers," Fox said. Consumers should look closely at every form that requires their signature to stop tax preparers from using their information for purposes other than filing the tax return, she warned.

Pay Stub RALs Pose Even Greater Risks

The report on RALs follows on the heels of an earlier report issued by the two groups on a new variation of the loans called "pay stub RALs."

Pay stub RALs differ from traditional RALs, because they are offered earlier, before taxpayers receive their W-2 forms, and are based on the taxpayer's most recent pay stub. Like traditional RALs, they are expected to be repaid from the proceeds of the consumer's tax refund.

They pose additional risks, since they are based on less reliable information.

At the time that the pay stub RAL is made, for example, the tax preparer would not have any information about whether the IRS is planning to seize all or part of the refund to pay a child support or student loan debt. Similarly, the taxpayer might have pre-tax deductions, such as retirement contributions, that are not accurately reflected on the final pay stub or other sources of income that are not reflected on the pay stub at all.

"Pay stub RALs represent one more step down the slippery slope of selling more products at more expense and more risk to American taxpayers," Wu said.

On the Web

www.consumerfed.org/pdfs/RAL_2007_Press_Release020507.pdf
www.consumfed.org/pdfs/RAL_Report_2007020507.pdf
www.consumerfed.org/pdfs/Paystub_RALs_Report_Final112906.pdf

FTC Chairman Outlines Ambitious Plans for Agency

Abusive financial services practices, data security, and challenges posed by new technology are among the issues topping a wide-ranging and ambitious consumer protection agenda at the Federal Trade Commission, FTC Chairman Deborah Platt Majoras said in a Consumer Assembly '07 keynote address.

"Financial issues impact all consumers," Majoras said. "Thus, protecting consumers in the financial services marketplace is a critical part of the FTC's consumer protection mission."

In order to "reinvigorate the commission's work in the area of core financial services," she has reorganized the Bureau of Consumer Protection to create a new Division of Financial Services, she said. In the coming year, that division will focus much of its attention in three key areas, she said, alternative mortgages, bad debt collection, and credit-related deception.

"Home ownership is the American dream, and many Americans have achieved that dream," she said. "Rises in housing prices in certain markets, however, have made this dream more challenging for some consumers."

In addition to describing commission enforcement actions targeting "deceptive or unfair practices in all stages of mortgage lending, from advertising and marketing through loan servicing," Majoras noted that the com-



FTC Chairman Deborah Platt Majoras

mission had been studying non-traditional mortgages with an eye toward ensuring that consumers can understand all the terms of these complex mortgages, "including how their payments may increase in future years."

Deceptive Mortgage Ads Receive Scrutiny

"However, consumers face an uphill battle in understanding those terms if the initial advertising and marketing is deceptive, even if they receive accurate disclosures at closing," she said.

For that reason, the FTC will be "looking closely at instances of deceptive mortgage advertising, particularly advertising of 'non-traditional' mortgages," she said.

Noting that the agency receives more complaints about debt collectors than any single other industry, Majoras said the agency is combining "aggressive law enforcement" with information gathering about the industry.

"Given the rise in consumer debt levels, as well as consumer complaints about the industry, it is time to take a close look at the industry," she said. At a workshop in the fall, the agency will "examine changes in the industry and the various consumer protection issues, including whether the law has kept pace with developments."

On data security and identity theft, Majoras said that, in addition to taking a number of enforcement actions and co-chairing the Identity Theft Task Force established last year by the president, the agency has launched a nationwide identity theft education program for consumers. That program has already distributed more than 1.5 million brochures and 30,000 kits, she said.

Digital Age, Global Economy Pose New Challenges

"The FTC acts quickly to respond to marketplace changes and their consumer challenges," Majoras said, "and the digital age provides no shortage of consumer benefits or challenges."

"As we move through the digital decade, the FTC is committed to understanding the implications of technology changes on privacy and consumer protection — as they are

happening, or even before they happen," she said.

The commission has been seeking to educate itself about these developments, she said. "What we learn, we must share with consumers. Educating consumers about new technologies and any safety risks they pose is critical."

"One thing that we have learned over the past several years is that, while new technologies may appear to create new hurdles for law enforcers, old legal requirements like adequate disclosure are still applicable," she said.

The global economy also poses new challenges, she said. "Fraud knows no borders. Accordingly, consumer protection issues have gone global."

At the end of the last Congress, legislation was passed that: authorizes the FTC to "use its discretion to share compelled or confidential information" with its foreign counterparts, permits the FTC to use its investigative power on behalf of foreign law enforcement agencies, and enables the FTC to protect the confidentiality of information provided to the agency by a foreign government agency.

"Staying ahead of new threats to consumers and the marketplace calls for the best efforts of government, industry, and consumer organizations, both individually and cooperatively," she concluded.

Advocates See Opportunities for Progress

In both a keynote address and a general session panel discussion at CFA's Consumer Assembly '07, some of the nation's leading consumer advocates expressed cautious optimism about the prospects for progress on key consumer issues in the new Congress.

Michael Jacobson, Executive Director of the Center for Science in the Public Interest, gave a keynote address in which he discussed a variety of tools consumer advocates can use to try to make progress on their priority issues.

"Congresswoman DeLauro talked about a window of opportunity," he said. (See related article, page 3.) "It is such a breath of fresh air to have the window open for ... we'll see how long it is. We really need to take advantage of that on issues big and small. We need to throw everything at it that we can."

"Many of us are attracted to regulation and legislation here in Washington like moths to a light, and we can't see anything else," he said. While "going to Capital Hill clearly is the highest priority thing we can do," advocates also need to look beyond the traditional legislative and regulatory strategies, he added.

Litigation is an often neglected strategy that CSPI has begun using more often in recent years, he said. Instead of "pleading" with the agencies to take action, they started suing companies or threatening lawsuits over illegal and abusive behavior, he said.

"Litigation is a very, very useful tool," he

said. "You can resolve issues in weeks or months at times" instead of years while the issue "sits on regulators' desks."

Jacobson cited the Internet as another "good tool" that CSPI has increasingly used, both to collect information from consumers that can be shared with agencies and to recruit injured consumers to act as plaintiffs in a lawsuit.

Finally, in seeking publicity for an issue, Jacobson urged an imaginative approach that combines clever use of props with scientific data.

"When you're working on an issue, whatever the problem is, make a list of all the opportunities you have from the local level to the national and use whichever seem most appropriate, most effective, and the ones that you are most capable of doing," he said.

Congressional Oversight Brings Issues Into the Open

Members of a general session panel on the implications of the elections for consumers agreed that consumer advocates have an opportunity to make at least limited progress on a number of issues if they can capitalize on it.

Public Citizen President Joan Claybrook summed up the views of all the panelists when she said, "There's good news and there's bad news."

The good news is that the Democratic Congress is going to start holding extensive oversight hearings, and consumer advocates

are likely to have an opportunity to participate in that, she said. "We've been in the cold for a long time," she added.

The bad news is that President Bush recently issued an executive order "putting a gatekeeper on all the health and safety and other agencies." That sets up a "tug of war" over health and safety regulations, she said.

Gene Kimmelman, Vice President of Federal and International Affairs at Consumers Union, agreed that the opportunity for congressional oversight represents an "enormous shift."

"Many people forget what this is, because it hasn't happened for some time," he said. That oversight authority "creates the opportunity for an open debate that we haven't had for some time. It changes everything."

He cautioned, however, that the change that occurred in the last election is not "the kind of sea change that leads to monumental changes in policy. It's just the beginning of a change, and it will take a much more significant shift in the electorate to be able to obtain that."

"The first step, of course, is oversight," agreed U.S. PIRG Consumer Program Director Ed Mierzwinski. But the second step, he said, is "to craft good legislation and figure out a path to try to pass as much of it as possible."

Noting the importance of grassroots efforts, he told the audience that "to pass strong consumer legislation is going to take a lot of work by a lot of you out in the states."

CFA's Food Policy Director Carol Tucker

Foreman noted that the committee chairs in many key committees are not only more pro-consumer than they were when the Republicans controlled Congress, they are also more pro-consumer than they were when the Democrats last controlled Congress.

On the other hand, because of the narrow Democratic majorities, "there will never be enough votes to override a presidential veto in either house," and may not even be enough to pass strong consumer legislation in the Senate, she said.

Legislative Progress Possible on Some Issues

Despite the difficulties, all agreed that there are targeted areas where progress is possible. Among the issues where panelists said they saw an opportunity for, as Kimmelman said, "enormous" though not "revolutionary" progress, were health care, including drug safety, telecommunications, data security, predatory mortgage lending, food safety, biotechnology, energy, global warming, and auto safety.

Mierzwinski mentioned insurance as "one issue where things might be worse than before," because of support from Democratic leaders for an optional federal insurance charter and extension of the Terrorism Risk Insurance Act.

Foreman also cautioned that, even on issues where there is congressional support,

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Members of Congress Pledge Pro-Consumer Agenda

A senator and two representatives delivered keynote speeches at Consumer Assembly '07 in which they pledged to push a pro-consumer congressional agenda on issues ranging from Internet policy, to food safety, to financial services.

In a luncheon address that kept the audience chuckling, Rep. Edward Markey (D-MA), Chairman of the House Telecommunications and the Internet Subcommittee, nonetheless delivered a serious message about the importance of making broadband service "ubiquitous and affordable for every American."

"Our end goal will be consumer choice, affordability, high bandwidth speeds, full build-out, high quality of service, and an open architecture that supports Internet freedom — in short, an infrastructure for the 21st Century," he said.

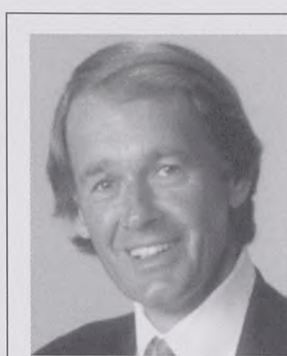
He cited statistics showing consumers in many other countries pay lower prices for higher speed Internet service as evidence that the U.S. is falling behind. "Our cable modem and DSL speeds wouldn't even qualify as broadband in many countries abroad unless they arrived to the home with a good gust of wind behind them," he said.

"These facts highlight quite simply that America needs a better plan," he said.

Noting that "relying solely upon market forces isn't delivering what consumers need," Rep. Markey said a successful plan will "inevitably involve a mix of policy solutions," including competitiveness policies, universal service, targeted grants, wireless policy, network neutrality provisions, and municipal offering of broadband service.

He devoted particular attention to the issues of network neutrality. "The truth is that the open architecture of the Internet is baked into its technological DNA," he said. "It is what ensured the Internet's place as the greatest level playing field ever created."

Net neutrality is key to ensuring that "the wildly successful open Internet model continues to drive innovation, economic growth, job creation and the propagation and discus-



Rep. Edward Markey



Rep. Rosa DeLauro



Sen. Daniel Akaka

sion of ideas," he said.

Oversight on Food, Drug Safety Will Be a Priority

Speaking in her new position as Chair of the Agriculture Appropriations Subcommittee, Rep. Rosa DeLauro (D-CT) lamented that "the public has been increasingly alarmed about the safety of the foods they eat and the medicines they take."

"Our citizens are losing confidence in our government's ability to fulfill its most basic responsibility to ensure that our families are safe," she said.

Noting that the subcommittee had held just one oversight hearing in the past six years, on bird flu, Rep. DeLauro said she plans to "restore congressional oversight of the programs and agencies" under the subcommittee's jurisdiction.

Among the priorities will be oversight of the FDA's drug safety program, she said, including issues related to its funding, the adequacy of its enforcement tools, and its record of "ignoring scientific data in making decisions."

"The FDA is constantly caught between the commercial interests they are supposed to regulate and the public interest they are supposed to serve," she said. "In so many ways, they are headed in the wrong direction."

As with drug safety, "the challenges we face in securing the safety of our food supply are growing every day," Rep. DeLauro added.

"For 15 years now, evidence that our food safety system is collapsing has been mounting," she said. The improvements made in the early 1990s "have largely been reversed or weakened."

In addition to looking at specific food safety threats, the committee will also look at issues related to the government's ability to respond to food safety threats, she said.

Noting that there is "real momentum building in Congress to act," Rep. DeLauro said the time has come to consolidate food safety functions into one agency, require regular inspections of all food processing plants, increase the inspections of imported food, and provide a system to trace contaminated foods back to the source. "This is not about how fast we can react to these problems but about how they can be prevented," she said.

"We are in an age when we are going to make it possible here to do the things that you want to accomplish," she told the crowd. "I would just say, the window opens for a short time, so let's move."

Education, Regulation Key to Improving Consumer Finances

In his keynote address, Sen. Daniel K. Akaka (D-HI) laid out his priorities for improving the financial lives of American consumers.

He said his agenda starts with financial literacy because, "without a sufficient understanding of economics and personal finance,

individuals will not be able to successfully invest for long-term financial goals in an increasingly complex financial market."

With that in mind, Sen. Akaka worked to get his Excellence in Economic Education bill included in the No Child Left Behind legislation. Although it is underfunded, he said, it has for several years provided about \$1.5 million for the program annually.

"If our schools effectively teach economics and personal finance, students can be prepared for the challenges they will face," he said. "There is no better time than in childhood to instill the knowledge and skills that individuals will need throughout their lives."

But education "is just one part of it," he added. "We must also take steps to attack predatory lending, bring people into mainstream financial institutions, and encourage the dissemination of improved personalized and relevant disclosures."

He said he would continue to work:

- to restrict refund anticipation loans;
- to encourage the development of mainstream financial products and services that provide viable alternatives to fringe financial services, such as payday loans;

• to ensure that new restrictions on predatory lending targeted at the military are "implemented in a manner that will ensure that military families have the protections they need" and to extend these protections to non-military families;

• to require credit card disclosures of how long it would take and what it would cost to pay off the account balance making only minimum payments; and

• to strengthen the governance of mutual funds and make consumers more aware of the true cost of the funds.

"We have a lot of work to do to help improve the financial skills and well-being of our nation and ensure that consumers are financially literate so that they may fully participate in and benefit from the modern economy," he said.

Internet Poses New Challenges for Media, Advocates

Just as the news media have been forced to adapt to the Internet, advocates need to change how they interact with the media, a panel of leading journalists told attendees at CFA's Consumer Assembly '07.

The Internet has fundamentally changed "the way people consume news," said Gerald Seib, Washington Bureau Chief for the *Wall Street Journal*. They tend to get their news in print in the morning, online during the day, from broadcast media at night, and often online again at night, he said.

That "probably changes in a fairly fundamental way the way you ought to interact with people in the news media if you want them to pay attention to what you are doing," he said.

Seib said he sees two chief problems with news in the Internet age, aside from the business challenges it poses. One is a "quality-control problem" that results from reporters putting news items online without going through an editor first.

The second is that "people have decided that the Internet allows them to get news as they wish it were rather than as it is," he said. "To me that's a scary proposition. If you are a zealot of the left, if you are a zealot of the right, you can go on the Internet" and find a purported news site that "reaffirms your view of the world."

The good news, said Brian Kelly, Executive Editor of *U.S. News and World Report*, is that "the Internet is absolutely tailor-made for a lot of the kind of information that can be very useful to consumers."

He cited as an example the college rankings that *U.S. News and World Report* produces each year. The rankings take up 30 pages in the magazine and 300 pages in a guidebook, but the website provides 50,000 pages of college information. "The order of magnitude is just astonishing," he said.

"The whole rankings universe and data-driven analysis is something we expect to expand quite a bit," he said. With that in

mind, the magazine is looking for "people who are good, sound information providers with whom we can work."

He urged consumer advocates to consider opportunities to be "information providers" in such arrangements, rather than simply posting their information on their own websites.

"It is no different in television," added Lea Thompson, Chief Consumer Correspondent for NBC-TV. "Every time you put out a press release, you have to have something to go on your website and, more importantly, something to go on their website, and it will help you sell your story."

In that regard, "streaming video becomes more and more important," she said, "and any way that you can give that to them gives you a better chance of getting on, not only the television screen, but also the Internet."

Kelly summed it up this way: "The web changes everything ... Anybody who thinks they can tell you exactly where this train is going is, I think, deluding themselves."

CFAnews

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Advocates See Opportunities for Progress

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"the budget restrictions are going to make it hard to have progressive legislation that requires any spending."

Finally, the panelists agreed that presidential politics complicates the picture. "After the next six months, it shuts things down," Kimmelman predicted.

Auto Issues Debated

One of those issues where progress is possible — promoting enhanced fuel economy — was the subject of a general session panel discussion. While all of the panelists agreed that automobile fuel economy progress is needed, they hotly debated the best approach to achieve that goal.

"One of the childish things I think we ought to put away in this country is this silly illusion that cheap gasoline is forever" and the behavior it spawns of "chasing higher horsepower all the time," said *Washington Post* Reporter Warren Brown.

He advocates a "very steep increase in taxes on gasoline," which would force people who choose to drive low-mileage cars to pay the price at the pump. "That strikes me as being perfectly fair," he said.

He would combine this with a "congestion fee" for commuters "in large vehicles running in and out of cities carrying one person. How much fuel do we waste just sitting in traffic in rush hour going nowhere?"

he asked. "If congestion pricing would alleviate some of that, I think we should go that way."

Brown said that, while he doesn't oppose increasing CAFÉ standards, he believes any increase needs to be combined with policies that force consumers to pay "the real price of driving."

"American consumers are rational," he said. "You make driving cheaper, they drive more or they get bigger vehicles."

Michelle Robinson, Director of the Union of Concerned Scientists' Clean Vehicle Program, countered that improving fuel economy is "the answer to high gas prices, to our oil addiction, to a warming planet" and that mandating fuel efficiency increases is necessary to ensure that consumers have "the choice of higher economy in all models."

Moreover, significant fuel economy gains are possible with existing technology, she said, and can be more than paid for over the life of the vehicle through savings at the gas pump.

Other policies, such as those mentioned by Brown, also offer potential benefits, she said, but added that, "None of these options is a silver bullet. A lot of them are politically challenging, no question."

That said, Robinson said she is optimistic that the issue will receive considerable atten-

tion in the new Congress and that the current situation, including volatility in gas prices, makes progress possible.

Edward Cohen, Vice President for Government and Industry Relations for Honda, agreed that fuel economy and fuel efficiency "is the number one issue in transportation facing this Congress."

Consumers Send Mixed Messages

Over the last 15 to 20 years, however, consumers have been sending the message to manufacturers that they want bigger, more powerful cars, not more fuel efficient models, he said. "As altruistic as I think we are, we've got to make a profit. We have to sell cars that people want, and this is what they tell us that they want."

"The question is what to do about this," he said. While a "big, fat gasoline tax probably would go a long way toward changing consumer preferences, that politically is a non-starter."

Because the marketplace is not forcing an increase in fuel economy, Honda supports an increase in CAFÉ standards, he said.

"I don't think this is the only way we should do it," he added. "Warren is exactly right" about that. But many of the alternative approaches — such as support for bio-fuels and tax incentives — are complicated,

he said.

CFA's Director of Public Relations and auto expert Jack Gillis noted that the argument that consumers don't care about fuel economy "harkens back to the days when the car companies said safety wasn't important."

It was true that consumers did not incorporate safety into the purchase decision, he said, but the reason was that "they didn't have the ability to make judgments about which vehicle was safer ... That's the same thing that's happening right now on fuel economy."

Consumers assume that cars today are more fuel efficient, but nine out of 13 manufacturers have lower CAFÉ averages today than they did ten years ago, he added.

Moreover, "consumers assign responsibility for improving fuel efficiency to the government and the auto industry," he said. That is a key reason they do not factor it into the purchase decision.

One way to change consumer attitudes is by raising fuel prices, as Brown suggested, he said. But the success in changing consumer attitudes on safety offers "a powerful precedent for using other techniques for changing behavior" by providing consumers with "tools they need to make informed decisions."

Nontraditional Real Estate Brokers Make Gains, Despite Opposition

Nontraditional real estate brokers have been growing, despite pressure from traditional brokers, their trade association, multiple listing services, and even some regulators, according to a report released by CFA in December.

"Nontraditional brokers who charge lower prices or truly represent the interests of buyers or sellers offer these consumers more real choices in terms of commission rates, services, and representation," said CFA Executive Director Stephen Brobeck. He called on state regulators to join with the U.S. Department of Justice and the Federal Trade Commission in working to stop "blatant discrimination by traditional brokers against these innovative service providers."

In addition to explaining the different types of nontraditional brokers and their growth over the past decade, the report describes the ways in which many traditional brokers try to discriminate against them. Among the most common are: denying them full participation in multiple listing services, refusing to show their listings, delaying or reducing commission split payments to them, disparaging them both publicly and directly to consumers, and persuading state regulators to support anti-rebate or minimum service laws and to pursue spurious or trivial complaints against them.

"The single most important immediate measure that could be taken to prevent discrimination and promote competition is for state regulators to level the playing field by treating all brokers equally," Brobeck said. With this in mind, the report called on regulators to:

- intervene fairly in cases of anti-competitive actions against nontraditional brokers;
- prevent the use of frivolous actions by traditional brokerage to deter competition and poach clients;
- act in a timely and impartial manner in disputes; and
- study the state and local marketplace for bias against nontraditional real estate brokers and models.

State policy makers also need to repeal or oppose anti-competitive laws or legislation, such as minimum service and anti-rebate laws that exist in more than one-fifth of the states, Brobeck said. And they should direct state regulators to regulate the policies and practices of all service providers equally.

On the Web

www.consumerfed.org/pdfs/Nontraditional_Real_Estate_Brokers-Growth_and_Challenges.pdf

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