

## CPSC Fails to Protect American Consumers

**T**he recent unwillingness of the U.S. Consumer Product Safety Commission (CPSC) either to regulate or to enhance private sector safety initiatives is costing this nation hundreds of lives, tens of thousands of injuries, and more than \$1 billion each year, according to a Consumer Federation of America study.

The report, "The CPSC: Guiding or Hiding from Product Safety," examines CPSC actions over the past six years and finds an ineffective agency—asleep at the wheel. The report was released in May to coincide with CPSC reauthorization hearings before Congress.

"By dragging its feet and avoiding regulatory intervention, the CPSC is squandering taxpayer dollars," said Mary Ellen Fise, CFA Product Safety Director and author of the report. "In addition, commission consideration of safety issues has plummeted in the past six years, evidenced by the alarming cancellation rate of commission meetings and by the dramatic decrease in the number of safety issues considered."

According to the CFA report, 1986 witnessed a 650 percent increase over 1979 in the number of meetings cancelled by the CPSC. In 1979, the CPSC considered 237 agenda items; in 1986, only 80.

### Dangerous Products on Market

The report also finds that the CPSC's undue reliance on voluntary standards and its pattern of inaction have allowed dangerous products to remain on the market while deaths and injuries mount. Among the many specific examples included in the study are:

- **All Terrain Vehicles**—Since 1980, more than 700 people, many under 16 years of age, have been killed, and 298,000 have been injured using All Terrain Vehicles. Yet these dangerous vehicles remain on the market, sold without limitation, because the CPSC has still not taken effective action.
- **Disposable Cigarette Lighters**—An estimated 125 children under the age of five are killed every year by disposable (butane) cigarette lighters. Although petitioned two years ago for a standard to make these lighters child-resistant, CPSC has yet to initiate rulemaking.
- **Accordion-style Baby Gates**—Eight young children have died when their heads or necks were trapped in accordion-style baby gates. Although manufacture of these gates stopped in 1985, 15 million remain in use, because the CPSC has never taken any action to recall these dangerous products.

In 1981, Congress directed the CPSC to use voluntary standards to avoid duplica-



CFA Product Safety Director Mary Ellen Fise testified in May before the House Subcommittee on Commerce, Consumer Protection, and Competitiveness on the hazards of All Terrain Vehicles and the inadequacy of CPSC actions to promote safety standards.

tion of adequate and accepted voluntary industry measures. The report finds that the CPSC has misapplied that directive. "It is clear that Congress did not intend to

establish and fund an agency that is willing to ignore consumer deaths and injuries by deferring to inadequate voluntary standards," said Fise.

"CPSC's head in the sand approach to regulation has sent the wrong signal to industry, thereby weakening private sector incentives to address safety problems expeditiously," added Susan Weiss, CFA Legislative Representative. "As long as CPSC continues on this track, society foots the bill, and the price is staggering. To prevent more needless deaths and injuries, we call on Congress to reign in this agency, restoring CPSC as an effective watchdog for consumer safety."

The CFA report urges Congress to amend the Consumer Product Safety Act to improve CPSC regulatory practices by:

- allowing agency deferral only to voluntary standards already in place;
- allowing agency deferral only to standards devised with consultation from all interested parties;
- placing reasonable time limitations for reviewing the need to issue proposed rules; and
- allowing the public to challenge agency delay in its evaluation of private sector safety initiatives.

## 17th Annual Awards Dinner

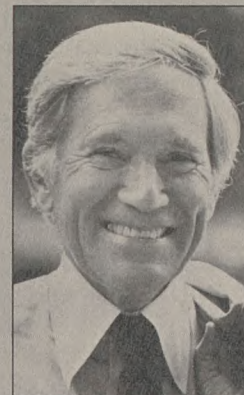
The Consumer Federation of America will honor distinguished consumer service and will celebrate CFA's 20th anniversary at the 17th Annual Awards Dinner Wednesday, June 10.

Sen. William Proxmire (D-WI), Chairman of the Senate Banking, Housing and Urban Affairs Committee, and Rep. Don Edwards (D-CA), member of the House Judiciary Committee and Chairman of the Subcommittee on Civil and Constitutional Rights, will receive the Philip Hart Public Service Awards. The Philip Hart Distinguished Consumer Service Award will be presented to John J. (Jack) Sheehan, Legislative Director of the United Steelworkers of America, and to Michigan Citizens Lobby. MCL Executive Director Joseph Tuchinsky will accept the award on behalf of his organization. Jane Bryant-Quinn, financial reporter for Newsweek, will receive the Outstanding Media Service Award.

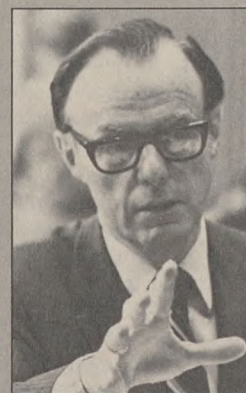
The awards dinner, CFA's major fundraising event of the year, will be held at the Capital Hilton Hotel in Washington, D.C. A 6 p.m. reception will be followed by a buffet dinner at 6:45 p.m. For more information, contact Erika Landberg, CFA Administrative Director, at 1424 16th Street, N.W., Washington, D.C. 20036.



Sen. William Proxmire



Rep. Don Edwards



Jack Sheehan



Joe Tuchinsky



Jane Bryant-Quinn

## House Approves Check Hold Bill 388-5

The U.S. House has overwhelmingly passed legislation to limit banks' holds on deposited checks. The 388-5 vote to pass H.R. 28, the Expedited Funds Availability Act, follows Senate action on similar legislation earlier in the year (see *CFAnews*, May 1987).

House Banking Committee Chairman Ferdinand J. St Germain (D-RI), the chief sponsor of the bill, called passage of the legislation "long overdue."

"It is time that we gave the people access to their own money," St Germain declared. "H.R. 28 ends the so-called float game that has delayed funds availability to consumers, provided unwarranted profits for banks, and generated a rising tide of fees for bank customers."

About a dozen members of Congress from both parties joined St Germain in voicing support of the bill. No opponents spoke out during the 40-minute debate.

St Germain asked for a roll call vote, "so we can tell the Senate that his bill is important to the members of the House." The earlier Senate action occurred as part

of a multiple-issue bill, and no separate vote was held on the check hold provisions.

"Passage of bills in both houses of Congress is a major accomplishment, but we are still a long way from final passage of check hold legislation," said CFA Legislative Representative Alan Fox.

Final passage of check hold legislation depends on how Congress decides other pressing banking issues, in particular the rescue of the technically-bankrupt Federal Savings and Loan Insurance Corporation (FSLIC).

The Senate holds provisions are tied to that body's FSLIC bill. The house bills are not linked, although the House passed its rescue package hours after adopting H.R. 28. The Senate bill also includes a variety of other issues that have provoked support and opposition from different sectors of the financial services industry.

On May 14, the Senate again passed its comprehensive banking bill, this time substituting the language of that bill into the House-passed FSLIC bill. That maneuver was intended to draw the House into a

conference committee to resolve differences between the two Houses. Such a conference would have the authority to work out a compromise check hold provision.

The two sets of check hold provisions, although similar in effect, are different in structure and contain many important variations. Resolving those differences satisfactorily may prove difficult.

Despite these complications, Fox remains optimistic that problems will be overcome. "The House of Representatives has spoken clearly on this issue. The Senate is also very much on record. The work that is left to be done is still substantial, but there is little doubt in Congress that this legislation must be a part of any major banking legislation."

### Senate Considers Credit Card Bill

Credit card interest rates will not come down without Congressional action, Fox told the Senate Banking Committee's Con-

sumer Affairs Subcommittee on April 21. Legislation is needed to cap maximum interest rates and to provide consumers with more information, Fox said.

"It should by now be clear that the market will not be allowed to work by those with a stake in high interest rates," Fox said. He pointed out that, in the year since similar hearings were last held in the Senate, the prime rate and the discount rate had fallen 2 points, while the Federal Reserve's figure for average credit card interest had dropped less than four-tenths of a point in the same time.

"Only in Connecticut, where the legal interest rate was reduced to 15 percent, have rates come down across the board," Fox said. "Clearly, state and federal legislation is needed to force rates down."

Senate Banking Committee action on credit card legislation is not expected until the summer. Sen. Christopher Dodd (D-CT), the chair of the subcommittee, has indicated his opposition to rate cap legislation, but is the chief sponsor of a disclosure bill backed by CFA (see *CFAnews*, May 1987).

## Congress Moves Indoor Air Quality Bills

Indoor air pollution, which CFA has named as the nation's number one hidden health threat, has received early attention from the 100th Congress. Legislation is being considered to limit exposure to radon gas, to identify and abate hazardous asbestos in federal and other buildings, and to expand the scope of inquiry into the health effects of indoor air pollution and options for its control.

Radon legislation is considered to have a good chance of moving quickly through both houses of Congress. Legislation under consideration would expand on the Radon Gas and Indoor Air Quality Research Act, which was passed by the 99th Congress as part of the 1986 Superfund Amendments. That bill provided the Environmental Protection Agency (EPA) with explicit research authority.

The radon legislation pending before this Congress, however, goes beyond research, authorizing more than \$10 million annu-

ally for a federal grant and technical aid program to help states get rid of cancer-causing radon in homes and schools.

Following hearings in early April, the Senate Environment and Public Works Subcommittee on Environmental Protection, chaired by Sen. George Mitchell (D-ME), approved S. 744, the "State Radon Program Development Act of 1987." S. 744, now before the full committee, incorporates major elements of radon bills introduced by Sen. John Chafee (R-RI) and Sen. Arlen Specter (R-PA). Provisions included from Chafee's bill (S. 743) direct the EPA to identify and reduce radon contamination in the nation's schools, while the provisions from Specter's bill (S. 1067) direct the EPA to inform the public about reliability of private firms involved in controlling radon exposure and authorizes training seminars on radon control.

Rep. Thomas Luken (D-OH) has introduced similar legislation in the House (H.R.



Stephen Brobeck (right) and Thomas J. Godar, M.D., President-elect of the American Lung Association, testified in May on indoor air pollution hazards and the need for improved regulation before the House Subcommittee on Environmental Protection.

1697). Luken also held hearings on the issue in April, with mark-up anticipated in June. Staff in both the House and Senate are optimistic about the radon bills' passage.

In conjunction with the law enacted last year to remove asbestos from schools, Sen. Robert T. Stafford (R-VT) introduced a bill in April to identify and abate hazardous asbestos in federal and other buildings (S. 981). Hearings have not yet been held on S. 981.

In the course of current Clean Air Act reauthorization, the Senate Environmental Protection Subcommittee held hearings in late April on the health effects of exposure to indoor air pollution and options for reducing exposure. The subcommittee effectively broadened the scope of study in this area.

Testifying at that hearing, CFA Executive Director Stephen Brobeck joined public health officials and scientists in calling for strong federal leadership and a coordinated strategy to address indoor pollutants. Citing the staggering number of deaths, injuries, and costs associated with indoor air pollution, Brobeck charged "that the federal government is not giving indoor air quality adequate attention" and urged Congress to make indoor air quality a national priority now.

"Each year, radon, tobacco smoke, asbestos, formaldehyde, methylene chloride, and dozens of other toxic substances combine in indoor environments to kill tens of thousands of Americans and injure millions more," he said. "Federal action is needed now, because delay subjects consumers to health risks which can be avoided."

Brobeck called on Congress to act to reduce the risk of indoor air pollution by:

- passing S. 744;
- calling on the EPA and CPSC to ban asbestos in consumer products;
- adopting legislation limiting smoking in public places and banning it in airplanes;
- directing the CPSC to strengthen voluntary standards for formaldehyde and pressed wood products, or failing that, banning its use entirely;
- monitoring the CPSC as it considers its ban on methylene chloride in consumer products;
- requiring the EPA to ban the use of chlordane for termite control; and
- providing modest funding (approximately \$500,000 annually) to support an independent clearinghouse of information on indoor air pollution hazards, control, and mitigation strategies and resources.

## Chlordane Ban Sought

CFA has joined efforts by the National Coalition Against the Misuse of Pesticides (NCAMP) to gain an immediate ban of all remaining uses of pesticide products containing chlordane, heptachlor, aldrin, and dieldrin. In April, CFA submitted a letter to the Environmental Protection Agency (EPA) supporting NCAMP's petition requesting the EPA to suspend and cancel the registrations of all products containing these proven carcinogens.

The EPA determined by 1974 that cyclodiene termiticides pose an "imminent hazard" to the public health due to their carcinogenicity and their tendency to bio-accumulate in the environment. Recognizing that the cyclodienes were accumulating in the food chain and being detected in human breast milk, banned most agricultural use in 1978.

However, the chemicals have continued to be used for residential termite control, despite the fact that random sample studies show that the air in 70 to 80 percent of those homes treated will become contaminated with cyclodiene residues. "Despite the existing ban on these chemicals for nearly every other purpose, more than a million homes continue to be treated with these termiticides every year, resulting in hazardous human exposure," said Susan Weiss, CFA Legislative Representative.

Chemical residues from soil treated with these pesticides enter the home through the inevitable flaws and cracks in the home's foundation. Since these residues are impossible to remove completely from household goods, those exposed are at high risk from chronic exposure.

"Given the risks posed and the availability of effective, less toxic alternatives, American consumers cannot afford to allow another house to be treated with these toxic chemicals," Weiss said.

# Rep. Sharp Warns of Next Energy Crisis

Congress needs to act now "to help ward off the next energy crisis," Rep. Philip R. Sharp told attendees at the third annual electric utilities conference. Chairman of the House Energy and Power Subcommittee, Sharp was keynote speaker at the April conference, "Electric Utilities and their Residential Customers: Current and Future Issues."

Sharp said he is concerned over the current trend in the various energy industries to "wring all excess capacity out of the system." As a result, a backup supply will not be readily available should a crisis arise, and the government will therefore be prevented from taking quick responsive action, he said.

"In the field, most things are not done quickly. The larger increments of supply are slow to come by. The one thing that seems to remain constant is an enormous supply of oil in the Middle East that can either come on or off the market in response to political developments," he said.



## Agenda Proposed

Sharp rejected *laissez faire* as "theoretically very attractive" but unrealistic, and he rejected a "dramatic, comprehensive approach on the federal level" as too costly and too likely to result in major policy errors. Instead, he proposed "a number of modest steps—none of which by themselves would have a dramatic effect—designed to try to prevent supply bottlenecks and prepare us in the event that we do face some kind of oil cutoff." Sharp's proposals included:

- a continued build-up of the Strategic Petroleum Reserve, paid for by a modest oil import fee, in order to allow the government "to shape oil prices once they start to spike up in this country;"



Rep. Philip R. Sharp

- incentives to encourage increased automobile fuel flexibility, beginning with experimental programs to equip taxi and commercial fleets to use methanol;
- expanded use of clean-coal technology;
- a "shake-up" in the management of the nuclear energy industry and a demonstration by that industry that it "recognizes its special obligations" and that "plants will pay heavily for failure to operate safely and responsibly;" and

**"Experience has taught us that deregulation is a very dangerous game that is all too easily stacked against the consumer."**

- increased conservation efforts along the lines of the recently passed appliance efficiency legislation.

Sharp said his goal is to shape an agenda that will allow the country "to place ourselves in a position where we can take some steps to protect ourselves from the kind of drastic reactions and overreactions you tend to have in a crisis."

## Deregulation Debated

Deregulation of the electric utilities industry is not only inevitable, it is desirable, since competition will serve consumers better than an archaic system of regulation, Philip R. O'Connor, President of Palmer Bellevue Corporation, declared during a debate with CFA Research Director Mark Cooper. Cooper argued that deregulation could pose a danger to consumers, since "two thirds of the electric utility industry does not exhibit economic characteristics that will sustain competition, and the remainder of the industry lacks the institutional characteristics to support competition.

"Worse still, for decades the investor-owned utilities have actively fought against the one institutional characteristic that is clearly necessary for successful deregulation, open access to transmission," he said.

Cooper outlined "eight key elements to successful deregulation from the captive consumer's point of view": equal access to generation facilities; divestiture that allows a very narrow transfer of generating assets into new, unregulated entities; local distribution companies aggressively working the competitive market; vigorous antitrust enforcement; the removal of barriers to entry into the market; clear rules for identifying captive situations in need of residual regulation; prior agreement on cost allocation; prior review of rates and levels of profit; residual and prodigal son rules to prevent large users from threatening to leave the system in order to bargain for lower rates.

"This may sound like a very hard-line position," Cooper said. "Maybe it is, but these are the lessons of the past. Experience has taught us that deregulation is

a very dangerous game that is all too easily stacked against the consumer."

O'Connor, on the other hand, argued that "competition is here to stay. It's going to grow. The only choice we really have is how well we manage it, not to stop it. Technology and the market have already made that decision for us." He said that while he appreciates Cooper's "desire... to get the rules in place," he doesn't believe it is realistic. "You never get the rules set up front," O'Connor said.

The conference, which was co-sponsored by CFA, Edison Electric Institute, the American Public Power Association, and the National Rural Electric Cooperative Association, also focused on a variety of issues related to customer service, including what consumers want and how to identify what consumers want, as well as how to meet low income needs.

## CFA Urges Pro-Safety Tort Reform

State product liability law is the backbone of consumer protection in our market economy," CFA Legislative Director Gene Kimmelman stated in testimony before the House Subcommittee on Commerce, Consumer Protection, and Competitiveness. Kimmelman told the subcommittee that the current system works, because it both provides for fair and efficient resolution of disputes and reinforces market incentives to produce safer products.



Gene Kimmelman (left), Pam Gilbert of U.S. PIRG, and Joe Goffman of Public Citizen's Congress Watch were part of a coalition of consumer advocates to testify on product liability reform before the House Subcommittee on Commerce, Consumer Protection, and Competitiveness.

He urged the subcommittee to "turn its back on measures that would distort the fairness and safety-enhancing choices made by state product liability law." Instead, the subcommittee should examine "new ways to perfect the compensation and safety-promoting role of the product liability system," Kimmelman said.

Any action taken in this area should consider the following proposals, he said:

- a system of alternative dispute resolution that would create incentives for manufacturers to settle claims quickly;
- an economically efficient method for resolving the so-called smaller claims of victims who could not otherwise obtain counsel;
- measures that penalize efforts to disregard public safety, delay litigation, or frustrate discovery of evidence; and
- rationalization of the procedural and evidentiary rules applied to toxics cases.

"If there is a crisis in the product liability system, it lies not in the legal standards formulated and applied by the state courts. Rather, the crisis lies in the continuing obstacles injured victims must face in their efforts to secure compensation from those who caused their injuries," Kimmelman said.

**CFAnews** 

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## Consumer Groups Urge Home Equity Loan Reform

**C**onsumer Federation of America and Consumers Union have released results of nationwide home equity loan (HEL) surveys that reveal abuses in price, repayment, and advertising. The survey results were released at a joint news conference in May.

Based on the survey findings, the two organizations called for legislative reforms, including interest rate caps and the elimination of balloon and other risky payment features.

The CFA survey, which was conducted by Executive Director Stephen Brobeck and Legislative Aide Tom Ciaglo, examined home equity credit lines offered by 46 commercial banks and savings and loans in 14 large cities throughout the United States. Twenty-nine of these institutions advertised these credit lines in a local newspaper.

The findings of the survey included the following:

1. At more than two-thirds of the institutions, HEL borrowers could end up with large balloon payments, either because of the terms of the loan (e.g., requiring interest-only payments) or because of the bank's option of demanding full repayment. None of these institutions that advertised disclosed this possibility.
2. More than one-third of the institutions offered teaser rates ranging between 3.9 percent and 8.7 percent. Most were featured in newspapers ads, which disclosed the final, indexed rates in small print or not at all.
3. Most institutions indexed final rates to the prime rate. This adjustable rate was set 0.5 to 2.5 points over prime, with



Stephen Brobeck and Michelle Meier outlined recommendations for Congressional action to eliminate home equity loan abuses at a news conference in May.

- 2.0 points being most common. The other institutions indexed final rates to jumbo CDs or T-bills.
4. Only one institution offered a rate cap under 20 percent, and this was 16.9 percent. Several, however, had rate floors that were at or near the initial rate. At these institutions, adjustable rates could rise but could not decline significantly. The rate floors were never disclosed in ads.
5. While few institutions charged points, most assessed initial fees. At ten institutions, these fees were at least \$1,000.

- But no advertising institutions disclosed fees fully.
6. Eighteen institutions charged annual fees, ranging from \$15 to \$100. Only two of nine advertising institutions with annual fees disclosed them.

"Home equity loans are land mines that could be triggered by income loss, higher interest rates, or a large balloon payment," Brobeck said. "The resulting explosion could destroy one's home."

Consumers Union surveyed 45 institutions, including 15 in each of three metro-

politan areas—New York City, San Francisco and Washington, D.C. The Consumers Union survey confirmed that the problems identified by the CFA study are common in each of the three metropolitan areas. HEL programs did not vary significantly within the markets sampled, although there was some important variation between the three markets in programs offered.

"Banks are heavily promoting these credit lines by promising the 'good life' with easy payment terms," said Michelle Meier, Counsel for Government Affairs with Consumers Union. "But instead, they'll keep consumers in a perpetual state of debt and eat away at the major source of consumer savings, the equity in the home."

CFA and Consumers Union called on Congress to eliminate HEL abuses by enacting legislation to:

- **End "Rate Rise Surprise"**—by imposing caps on the extent to which interest rates may rise periodically and over the life of the loan.
- **Burst "Balloon" Payments**—and end the possibility of interminable repayment obligations by requiring regular repayments that are fully amortizing over a fixed repayment period.
- **Protect Homeowners' Equity**—by eliminating negative amortization and limiting the percentage of the property's value that can be encumbered by the second mortgage.
- **Improve Disclosure of Loan Terms**—by requiring lenders to disclose crucial information in their advertisements and to disclose fully all loan terms at the preapplication stage.

## Toys Pose Safety Hazard

**F**or more than seven years, the U.S. Consumer Product Safety Commission (CPSC) has used an inadequate testing device as the basis for protecting America's children from hazardous small objects, the Consumer Federation of America and the New York State Attorney General's office have charged in a petition to the CPSC requesting a more stringent small parts requirement.

The existing small parts test allows toys and products that pose a choking, aspiration, and ingestion threat to be labeled as appropriate for children three and under, said Mary Ellen Fise, CFA Product Safety Director. According to a 1983 CPSC report, almost two-thirds of the choking incidents examined involved products capable of passing the government test, and at least 37 choking deaths examined by CPSC involved products in compliance with the existing government regulation.

Children who have choked on small objects have suffered laceration of the soft tissue of the throat, lodging of small objects in the lungs, infection and secondary collapse of the lungs, asphyxiation, brain damage, and death.

Parents and other purchasers of children's toys and products are being duped by age labels predicated upon the CPSC small parts requirement," Fise said.

The government uses the small parts test cylinder to determine whether a product poses a threat. This truncated test cylinder has a 1.25-inch diameter and a depth ranging from 1 to 2.25 inches. If a toy part intended for children under age three fits within the test cylinder, it is considered a banned hazardous substance, and its sale is prohibited. However, if any part of the object protrudes from the cylinder, the object passes and may be sold for use by children under age three.

The petition by CFA and the New York Attorney General's office seeks a change in the small parts test, setting a minimum diameter of 1.68 inches for all toys intended for children under three years of age. The petition further argues that the standard's length requirement is irrelevant in preventing choking. According to a 1983 CPSC report, in at least 49 of the total 136 choking incidents in which the size of the objects involved was known, the objects were smaller in diameter than the standard requires but exceeded the length requirement, and therefore were not considered small parts.

Fise recommends that parents conduct their own small parts safety test by measuring the diameter of the toy or toy part at its largest or widest point. "If the diameter is less than 1.68 inches (or approximately 1 and 11/16 inches), put that toy away until your child is at least three years of age, or older if the child still mouths objects at age three," Fise said.

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