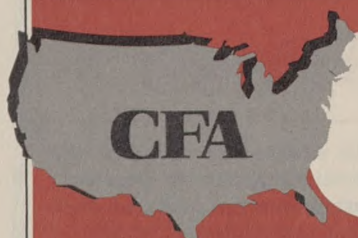

CFAnews

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Product Liability Bills Appear Stalled

In May, the Senate voted 61-37 to pass legislation that would drastically reduce the rights of consumers injured by dangerous products to be compensated for their losses.

As the summer progressed, however, Senate and House supporters of the legislation appeared to have reached at least a temporary impasse over just how far limitations on civil litigation should go.

"Both of these bills are strongly anti-consumer," said CFA General Counsel Mary Ellen Fise. "The debate appears to be over how completely consumers should be stripped of their rights in civil litigation."

Bills' Provisions Outlined

Both bills would:

- limit the cases in which juries could award punitive damages and cap those damages;
- abolish joint and several liability for non-economic losses such as pain and suffering;
- substantially reduce the liability of product sellers;
- prevent injured persons from recovering damages if a court determines they were more than 50 percent responsible for the injury as a result of illegal drug or alcohol use; and
- place time limits on filing a product liability suit at 15 years in the House bill and 20 years in the Senate bill from the time the product was delivered.

The House and Senate bills take different approaches to capping punitive damages. The House bill would cap punitive damages in all cases at $250,000 or three times economic losses, whichever is greater. The Senate bill, on the other hand, bases its formula on compensatory damages, including pain and suffering awards, but includes an absolute cap of $250,000 in some cases.

Specifically, under the Senate bill, punitive damages could not exceed the lesser of $250,000 or two times compensatory damages in cases against small businesses and municipalities or individuals with a net worth of less than $500,000. In all other cases, the cap would be set at the greater of $250,000 or two times compensatory damages.

In addition, the House bill goes beyond the Senate bill by: capping punitive damages in all civil lawsuits, not just product liability suits; placing a similar cap on pain and suffering awards in medical malpractice cases; barring punitive damages in cases involving a medical device or drug previously approved by the Food and Drug Administration; and imposing loser pays rules for frivolous cases.

House Republicans Hold Out For Broader Bill

House Speaker Newt Gingrich (R-GA) and a number of other House Republicans have said the Senate bill is too weak, and they insist they will hold out for a bill closer to the version passed by the House.

Before passing its narrower bill, however, the Senate failed three times to muster a majority — let along the 60 votes needed to close debate — for legislation resembling the House version. Even senators who support passage of a broader bill argue that such a bill simply cannot pass.

Furthermore, should the bills' supporters resolve their differences, opponents of the legislation continue to hold out hope for a presidential veto.

Immediately after the Senate vote, the White House issued a statement that "the legislation in its present form does not go far enough toward balancing the interests of consumers with those of manufacturers and sellers."

"The president would appear to have the votes to sustain a veto. If the House and Senate supporters should break their current impasse and pass a bill, even one resembling the narrower Senate version, the president should certainly veto it," Fise said.

Need For Reform Exaggerated

In May, CFA Director of Insurance J. Robert Hunter testified before the Senate Subcommittee on Administrative Oversight and the Courts on the cost of liability insurance to American business.

"Product liability insurance, including self insurance, is a minuscule part of the price Americans pay for products," and the cost has been dropping steadily since 1987, he said.

Furthermore, juries are not "out of control," Hunter said, noting that two out of three claims over the last 10 years were closed with no payment, and the average payment to the one-third who received some payment was just $17,801.40.

Hunter also reported the initial results of research CFA is conducting on medical malpractice insurance costs and other liability insurance costs.

Medical malpractice insurance accounts for just .62 percent of health care costs in America, down from .97 percent in 1976, he said. The total cost of overall liability insurance, including self insurance and other non-traditional insurance, is less than one percent of Gross Domestic Product, he reported.

In all of these areas, the evidence clearly indicates that there is no liability explosion, that payouts are generally low, that many people collect nothing when they file a claim, and that drastic reforms are not needed, he said.

Power Marketing Administration Sale Opposed

Looking for a one-time quick fix for the budget deficit, the administration and some members of Congress have proposed to sell some or all of the nation's power marketing administrations (PMAs).

Consumer groups oppose the sale on the grounds that it would raise electric rates and provide no real long-term deficit reduction benefits.

More than 130 federally operated dams comprise the nation's five power marketing administrations, providing power at cost-based rates to approximately 1,100 community- and consumer-owned electric utilities in 34 states.

The administration has proposed selling four of those five PMAs to investor-owned utilities in order to provide a one-time influx of cash into the federal Treasury. In addition, the Senate budget resolution calls for $2.6 billion in energy asset sales, with the PMAs as the most likely target.

Sale Would Raise Electric Rates

Sale of the PMAs would "impose significant cost on electric consumers," which would be "borne disproportionately by consumers in rural communities and small cities and towns," CFA Executive Director Stephen Brobeck wrote in a letter to Senate Budget Committee Chairman Pete Domenici (R-NM). "Many rural consumers already pay the highest electric rates in the country because of the cost of serving low-density population areas."

Furthermore, sale of the PMAs would likely hinder, rather than promote, competition in the electric utility industry, he noted.

"Hundreds of consumer-owned electric utilities have, for decades, counted on the availability of the federal power resource," he wrote. "Sale of this resource would drastically weaken these electric systems, in some cases making them attractive targets for acquisition by larger electric utility companies."

Consumers Oppose PMA Sale

In April, the American Public Power Association and the National Rural Electric Cooperative Association released a public opinion poll which found that, by a two to one margin, consumers oppose the sale of PMAs.

Speaking at a press conference to release the results of that poll, Brobeck said that, while the issue is not well understood by average Americans, if it were, "this sale would not even be contemplated, let alone proposed, by policy makers."

Furthermore, he said, if the PMAs must be sold, consumers believe, by a five to one margin, that they should be sold to municipally owned utilities and rural electric cooperatives, rather than to investor-owned utilities.

In a July hearing before the Senate Energy and Natural Resources Committee, Chairman Frank Murkowski (R-AK) acknowledged that a majority of the committee does not support the sale as currently proposed.

Murkowski made it clear, however, that some compromise must be reached to produce the necessary $2.6 billion in revenue.

Testifying at the hearing, APPA Executive Director Alan Richardson said, if the PMAs are to be sold, the only way to protect the interests of existing customers is to sell the PMAs to those customers at the net present value of payments to the Treasury.

Sale Will Not Reduce Deficit

In his letter to Domenici and his statement at the press conference, Brobeck argued that the proposal to sell the PMAs is unnecessary and short-sighted.

"In brief, we concluded that there are not convincing reasons for selling PMAs," he said. "They do not need to be 'reinvented,' because they have been competently managed for years.

"Their sale would not reduce the federal deficit," he added. "In exchange for a one-time payment, the federal government would lose the annual revenue stream from power sales, which cover all related expenses."

"The consumer position on sale of PMAs, then, is very clear," he said. "Do not sell income-generating public assets that keep electric rates down, especially in high-cost areas, in return for a one-time payment to the Treasury."

Anti-Investor Fraud Litigation Bills Pass

The Senate voted 69-30 in June for legislation that would make it substantially easier to commit securities fraud and all but impossible for fraud victims to recover their losses.

Similar legislation, H.R. 1058, passed the House on a 325-99 vote in March.

"This legislation was opposed not just by consumer groups, but also by the Chairman of the Securities and Exchange Commission (an early advocate of reasonable securities litigation reform), state securities regulators, government finance officers, municipal and county treasurers, the National League of Cities, and the editorial boards of just about every major newspaper in the country," said CFA Legislative Representative Mern Horan.

"Unfortunately our combined opposition could not counterbalance the millions of dollars poured into Congress by those seeking immunity from our nation's securities fraud laws," she said.

If this legislation is enacted, "literally millions of shareholders, including senior citizens and retirees who invest their dollars in the stock market, will effectively be precluded from having their day in court," said CFA Chairman Howard Metzenbaum during a June news briefing on the Senate bill.

At that news briefing, CFA, the North American Securities Administrators Association, and Ralph Nader released an estimate that, between 1996 and 2000, approximately 1.79 million U.S. investors will lose their right to seek recovery of $2.87 billion in savings lost to securities fraud if the legislation is enacted.

This conservative estimate is based on actual pay-outs in recent years to claimants in securities class action lawsuits. It does not include the dramatic increase in fraud that is expected to result from the legislation.

Anti-Investor Provisions

Although they approach the issues somewhat differently, both S. 240 and H.R. 1058 would:

- intimidate investors out of bringing lawsuits because of the risk of being forced to pay the other side's legal fees if they were to lose;
- provide a "safe harbor" from liability for corporate insiders when they make predictions about their firm's future prospects, including when the statements are made recklessly or even fraudulently;
- decrease the likelihood that defrauded investors who prevail in court will fully recover their losses by limiting the liability of those who recklessly contribute to the fraud to a proportionate share of the losses; and
- set highly burdensome pleading requirements.

Although the Senate's provisions in several of these areas, including pleading requirements and loser pays, are slightly less onerous than the House provisions, the Senate bill extends its provisions to the securities law governing initial public offerings while the House bill applies only to the law governing secondary trading.

The House bill, on the other hand, would require plaintiffs to put up a security to cover the defendants' legal fees just to get their case into court.

"The combined effect of these provisions would be to promote fraud at the same time that fraud victims are being robbed of their right to recovery," said CFA Director of Investor Protection Barbara Roper.

"The safe harbor provisions alone will do unmeasurable damage to investors and to our financial markets," Roper added.

"Business argues that the markets are hurt by a lack of adequate information when fear of lawsuits keeps corporate insiders from making projections about their firm's future prospects. It is difficult to see how the inevitable flood of false information resulting from this legislation will be better for the markets," she said.

Pro-Investor Amendments Rejected

Over the course of several days of consideration — during which opposition to the bill was led by Sens. Richard Bryan (D-NV), Barbara Boxer (D-CA), Paul Sarbanes (D-MD), and Arlen Specter (R-PA) — the Senate rejected a number of pro-investor amendments. These included amendments:

- to allow victims to fully recover their losses from those who recklessly contribute to the fraud when one of the defendants cannot pay its share of the judgment (defeated 30-56);
- to extend the statute of limitations for securities fraud as recommended by both the Securities and Exchange Commission and state securities regulators (defeated on a tabling motion 52-41);
- to restore aiding and abetting liability for those who substantially assist the fraud (defeated 39-60);
- to remove the provision giving control over the case to investors with the largest financial interest in the case, generally institutional investors with close ties to defendants (defeated 41-58);
- to make loser pays sanctions for non-meritorious cases discretionary rather than mandatory (defeated on a tabling motion 57-38); and
- to eliminate safe harbor protections for those who knowingly make false statements (defeated on a tabling motion 50-48) or who engage in insider trading (defeated on a tabling motion 56-42).

"Every significant amendment designed to restore a modicum of balance to this legislation was defeated," noted Horan. "It is difficult to believe that a majority of senators believe insider traders and those who knowingly make false statements deserve special protection from liability, but that appears to be the case."

"It is particularly disappointing that a number of normally pro-consumer senators voted for this, one of the most anti-consumer bills considered by Congress in recent memory," she said.

"If Congress passes final legislation that remotely resembles either the House or Senate bill, the president should veto that bill," Horan added. "We are ready to work with the administration to educate members of Congress about the dire consequences of this legislation in an attempt to win enough votes to sustain a veto."

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Groups Support Meat Inspection Rules

Center for Science in the Public Interest filed comments in July on behalf of a number of consumer organizations, including CFA, in general support of proposed rules to improve the nation's meat and poultry inspection system.

"USDA's proposed rule on pathogen reduction and Hazard Analysis and Critical Control Point (HACCP) systems — with its emphasis on controlling bacteria in meat and poultry products — represents a tremendous step forward for the agency in improving the safety of these products," the comments state.

Under HACCP, meat processors would be required to identify the points at which contamination is most likely to occur, develop preventive controls, and monitor the product to assure its safety. The rules also specifically require regular microbial sampling to detect foodborne pathogens.

Although the comments expressed general support for the rules, they also included a number of suggestions for improving the rule, including requiring frequent government inspections to ensure HACCP plans are being properly implemented, extending the program from "the farm to the table in order to capture the multitude of potential hazards," and mandating end-product sampling to demonstrate that the HACCP plans actually work.

Cost-Benefit Analysis Flawed

Based on an economic analysis prepared by CFA Research Director Mark Cooper, the comments also expressed concern that cost-benefit analysis justifying the rules underestimate the benefits and overestimate the costs.

Although USDA found that the benefits outweigh the costs, "we believe that the benefits are likely to be at least two times larger than USDA has estimated" and that "costs are likely to be one-fifth smaller than USDA has estimated," the comments state.

"Our concern . . . is that, having taken such a conservative approach to the analysis, the rule will become vulnerable to efforts to redesign aspects of its implementation or to claims that application of the regulation to certain segments of the industry might not generate benefits that exceed costs," the comments state.

Food Safety Rules Under Attack In Congress

The meat inspection rules have become a focal point of debate over regulatory overhaul and moratorium bills currently before Congress.

Responding to criticism that regulatory overhaul legislation, S.343, would undermine the food safety rules, for example, the Senate adopted an amendment to give a blanket exemption from the bill's requirements to rules proposed before April 1, including the meat inspection rules.

The Senate also adopted an amendment specifically to include food safety threats among the emergencies that would allow temporary implementation of regulations without first meeting the bill's requirements.

On the other hand, the Senate rejected on a 49-51 vote an amendment by Minority Leader Tom Daschle (D-SD) to give meat inspection regulations a permanent exemption from the bill's procedural requirements.

The regulatory overhaul bill ultimately stalled in the Senate, when neither conservatives seeking a strict bill nor opponents seeking more moderate reforms were able to amass the votes needed to prevail.

Meat Inspection Rules On House Regulatory Hit List

Meanwhile, in the House, Rep. David McIntosh (R-IN) has included the USDA proposed rules on a list of 30 regulations that should be included in a regulatory moratorium.

Although the Senate earlier rejected the regulatory moratorium, H.R. 450, and instead passed a "legislative veto" bill, S. 219, House sponsors continued to push for some form of moratorium.

Rep. McIntosh apparently offered to merge the Senate's bill — which would give Congress 45 days to review and possibly reject new regulations — with a modified moratorium that would freeze 30 specific regulations. The USDA meat and poultry inspection rules were among the 30 to be halted under the compromise.

Senate sponsors of the legislative veto bill, however, continued to resist the moratorium approach on the grounds that it could not pass the Senate.

In another victory for consumers, attempts by Rep. James Walsh (R-NY) to attack the regulations through the Agriculture appropriations bill were halted when Rep. Walsh agreed to withdraw his amendment in return for a promise from Agriculture Secretary Dan Glickman that he will hold additional forums on the proposed regulations.

"In the spring of 1990, I held hearings concerned with the Agriculture Department's failure to act to protect the health of Americans made ill by contaminated poultry," said CFA Chairman Howard Metzenbaum at a press conference in support of the regulations in May. "Now that the USDA has finally come forth with proposed regulations, it's outrageous that some in Congress would attempt to halt their implementation."

Senate Passes Anti-Consumer Telecom Bill

The Senate gave 81-18 approval in June to anti-consumer, anti-competitive legislation to overhaul the nation's telecommunications laws.

In the House, meanwhile, a similar bill was awaiting floor action, having been approved by the Commerce Committee in May on a 38-5 vote.

"Although they differ in how they get there, the results for consumers would be the same with either bill — increased cable and telephone bills and unprecedented concentration in the mass media," said CFA Director of Telecommunications Policy Bradley Stillman.

"If this legislation is adopted in its current form, consumers will be left without the benefits either of effective regulation or of effective competition," he added.

Both S. 652 and H.R. 1555 would mandate price cap regulation for local phone service, would require local telephone companies to open their networks to local competition, and would set the terms for local telephone companies' entry into competitive markets.

Bills Contain Inadequate Consumer, Competitive Safeguards

Although they set slightly different standards, neither bill would require effective competition to exist in the local market before allowing local phone companies into competitive markets, a standard CFA has argued is essential to promote competition and prevent the local phone companies from abusing their monopoly power.

Both bills also would virtually eliminate rate regulation for cable service and equipment. The House bill would go a step further, making it virtually impossible for cable subscribers to challenge excessive rates.

Finally, both bills would allow extensive buy-outs, mergers, and joint ventures between cable companies and telephone companies in virtually all service areas.

During the floor debate, the Senate narrowed slightly the bill's buy-out provision, but did not go nearly far enough, Stillman said.

"Even with the changes adopted on the floor, the Senate bill would leave around 40 percent of the nation's households without the benefits of head-to-head competition between the most likely competitors," he said.

The House bill provides an even larger loophole, allowing a telephone company to own up to 49 percent of in-region cable companies it could not buy outright.

"There is no way that the telco will get into a price war with a cable company it partially owns," Stillman said. "This simply will not promote competition."

Broadcast Ownership Rules Relaxed

Consumers paid a heavy price for that modest improvement to the buy-out provision in the Senate bill, Stillman noted. As part of the deal, the Senate also agreed to a package of deregulatory changes pushed by Senate Majority Leader Bob Dole (R-KS).

These included removing all radio station ownership limits, loosening ownership limits on television networks and other chains, and going even further than the committee approved version of the bill to eliminate federal price controls on small cable companies.

CFA Research Director Mark Cooper submitted a statement to the Federal Communications Commission in July opposing just such a change in the broadcast ownership rules on the grounds that it would limit "the availability of diverse communication outlets through which viewers and listeners obtain news and public affairs programming."

In particular, broadcast television continues to dominate "the sources of information and cultural viewing that are at the heart of the diversity rule," Cooper said.

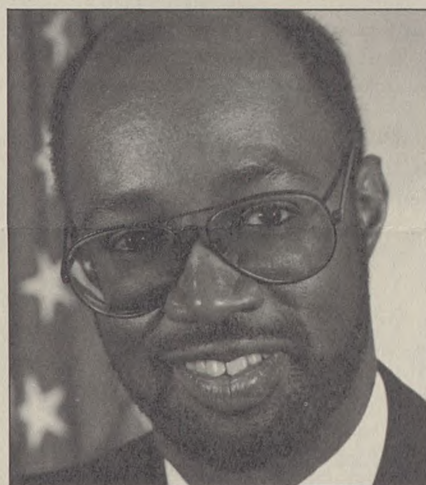
"The Commission cannot rely on changes in the market to accomplish the diversity goals it has pursued with public policy, because the changes in the market have not altered viewing patterns," he added.

As this issue of the newsletter went to press, the House was continuing to try to hammer out an agreement on key issues in its bill before bringing the legislation to the floor.

"Unfortunately, the discussion seems to be centered on how to divide up the deregulatory goodies between the various industry interest groups," Stillman said. "Consumer interests are being all but ignored."

Higher Cable and Telephone Rates Predicted

Consumers could be faced with higher cable and telephone rates unless consumer protections are added to proposals in Congress to reform the nation's telecommunications laws, warned Larry Irving, Commerce Department's Assistant Secretary for Communications and Information, in a keynote speech at CFA's utility conference in May.



Commerce Department's Larry Irving warned of higher cable and telephone rates at CFA's utility conference.

"The Clinton Administration strongly supports telecommunications reform legislation, but we are seeking legislation that promotes real competition and allows both consumers and businesses to reap the benefits of a competitive telecommunications industry," Irving said.

In particular, he expressed the administration's opposition to proposals:

- to deregulate cable television;
- to allow the Bell companies into long distance and other markets without first allowing the Department of Justice to determine whether real competition is developing in local markets; and
- to allow an individual or company to own two television stations, the newspaper, radio station, and cable system in an area.

"What consumers need is a bill of rights that is reflected in the telecom reform legislation," Irving said.

He said such a bill of rights should include, among other things: the right to reasonable telephone and cable rates; the right to a choice of providers of cable and telephone services; the right to buy equipment at competitive prices; the right to diversity and localism in ownership of community media; the right to privacy; and the right to affordable access to basic telecom and information services.

With all of the major utilities — electric, telecommunications, and natural gas — making the transition from monopoly to competition, consumer advocates and policy makers face new challenges, said New York State Public Service Commissioner Lisa Rosenblum in a keynote address at the conference.

The main challenges are "to ensure real choice and not settle for 'virtual competition'" and to "protect affordability and quality service during the transition," she said.

In order to work, that process requires that regulators take an active role in establishing "a solid competitive framework" and resolving issues related to the universal services subsidy and stranded plant investments.

"If done wisely, the transition will bring enhanced consumer benefit, greater choice, better service, and lower prices," she said. "Done poorly, however, it will result in less choice, higher prices and serious customer dissatisfaction."

The Environmental Protection Agency has an obligation to be involved in the debate over restructuring of utilities, said Mary Nichols, Assistant EPA Administrator for Air and Radiation, in a keynote speech.

The electric utilities are a major source of pollution, she said. "EPA wants to use the most cost-effective and efficient approach" to solving those problems, she added.

As restructuring in the electric utilities industry takes place, environmental effects need to be taken into account and integrated into business decisions, she said.

"Consumers may have to pay for emissions control, but if they don't pay for it with utilities, they will pay for it with increasing health costs," she said.

House Panel Guts Consumer Banking Laws

In June, the House Banking Committee voted 27-23 to eviscerate many of the nation's most important consumer banking protections.

"This bill is an unwarranted attack on the most vital and basic financial protections for consumers and communities," said CFA Legislative Representative Mern Horan. "H.R. 1362 weakens disclosure requirements which enable consumers to evaluate their financial options, abandons our commitment to community reinvestment, violates consumers' privacy, and promotes excessive economic concentration."

Specifically, H.R. 1362 would:

- eliminate Truth in Savings Act requirements that banks report interest rates on customer accounts in uniform, easy to compare terms;
- eliminate the three-day "cooling off" period for most mortgage refinancings during which consumers can review the terms of the loan, rescind an agreement they determine is unfavorable, and receive a full refund of fees paid in connection with the transaction;
- exempt small banks from the Community Reinvestment Act, allow medium-sized banks to self-certify their compliance with the Act, and limit regulators' enforcement powers; and
- roll back privacy protections by giving banks virtually unlimited authority to share customer information with corporate affiliates without first getting their customers' consent and by allowing diversified bank holding companies to aggregate information on customers across all their businesses and use the information as an in-house credit bureau without complying with the consumer protections of the Fair Credit Reporting Act.

The bill also would undermine safety and soundness protections, many of which were enacted in the wake of the savings and loan debacle.

Although backers had anticipated that the bill would move quickly to the House floor, a last-minute amendment allowing banks to affiliate with insurance companies may stall the measure.

House leaders had planned to merge the regulatory bill with legislation, H.R. 1062, to allow banks to affiliate with securities firms. That legislation would have provided a permanent moratorium on the ability of the Office of the Comptroller of the Currency to expand bank insurance powers.

The addition of the insurance affiliation amendment to the regulatory bill, however, may dismantle that carefully crafted compromise.

Meanwhile, the administration is threatening to veto the regulatory bill if essential consumer protections are not restored.

"H.R. 1362 is simply another example of corporate pillaging during the 104th Congress where moderate reforms could have addressed legitimate corporate regulatory concerns," Horan said.

A similar bill, S. 650, has been introduced in the Senate and is expected to be taken up in committee in the near future.

FTC Seriously Weakens Telemarketing Rules

Caving to pressure from the telemarketing industry, the Federal Trade Commission revised its proposed telemarketing rules, making it easier for fraudulent telemarketers to scam consumers and harder for law enforcement officials to go after fraudulent operators.

In June, CFA, the American Association of Retired Persons, the National Consumers League, the National Association of Attorneys General, and the National Association of Consumer Agency Administrators held a press conference to voice their opposition to the new proposed rules and to urge restoration of the consumer protections in the original rule.

"Consumers are being victimized in their homes by fraudulent telemarketers, and they need more protection, not less," said CFA Senior Project Director Mary Ponder.

The rules are required under the Telemarketing and Consumer Fraud and Abuse Prevention Act passed by Congress last year. The original proposed rules released by FTC in February were generally supported by consumer groups and the attorneys general, but opposed by the telemarketing industry.

After taking comments on the proposed rules, the agency issued a revised proposal in May.

Essential Protections Deleted

The following are among the most significant changes in the proposed rule.

While the original rule required telemarketers to disclose the nature of the call at the beginning of the call, the revised rule allows that disclosure to be delayed until after the telemarketer has established a "rapport" with the call recipient.

The revised rule also scales back the prohibition against misrepresentation of "material information" from a list of 24 types of information to just seven. Among those deleted was the prohibition against misrepresenting the purpose for which the seller or telemarketer will use a person's checking account number.

Key Disclosures Delayed

The original rule would have required sellers to disclose material information about the offer, the seller, and any refund or exchange policies before requesting payment. Under the revised rule, that disclosure can be delayed until just before the consumer pays.

Since the revised rule also restores the right of telemarketers to use couriers to pick up payment, the disclosure could be delayed until the courier arrives at the door.

Furthermore, the revised rule only requires disclosure of material information about the refund policy if the seller chooses to mention the policy as part of its sale offer.

Despite the fact that prize promotions and investment opportunities are among the most common areas of telemarketing fraud, the rule substantially weakens oral disclosure requirements and eliminates all written disclosure requirements in these areas.

Similarly, the original rule prohibited use of courier picks for payment and use of unsigned demand drafts for payment without first getting the written authorization from the consumer, two of the most common payment methods used by fraudulent telemarketers. The revised rule removes those restrictions.

In their written comments on the revised rule proposal, the attorneys general also expressed concern that, because of ambiguous wording in the rule, telemarketers would argue that it preempts state law, despite the legislation's explicit statement that it is not intended to do so. The result will be to place additional hurdles in the way of state regulators attempting to enforce stronger state laws, they argued.

Consumer Groups Urge Restoration Of Key Protections

At the press conference, in comments on the revised rule, and in subsequent meetings with FTC commissioners and staffers, the consumer groups and attorneys general have advocated that the following protections be restored:

- that telemarketers say who they are and why they are calling at the beginning of the call;
- that written and oral disclosure be made about prize promotions, including the odds of winning, the real value of prizes, and how to enter without making a purchase;
- that written and oral disclosures be made about investment opportunities, including costs, risks, past performance, markups, and market value;
- that telemarketers inform consumers about refund terms;
- that disclosures about the terms and conditions of the goods or service be made before payment is requested;
- that telemarketers receive written authorization before using demand drafts to debit consumers' bank accounts; and
- that courier pickups of payment be banned.

In its written comments, filed with the agency in June, CFA also advocated that disclosures be segregated from the marketing pitch during all discussions of terms and conditions.

"Without these restrictions, it becomes all too easy to bilk unsuspecting consumers," Ponder said.

"CFA is asking the FTC to assist consumers to protect themselves by requiring complete disclosures at the right time in the telemarketing call," she said.

"At the same time, CFA is asking the FTC to provide state attorney generals with new enforcement authority and the necessary tools to combat fraudulent telemarketing sales," she said.

The deadline for issuing a final rule is August 16.

25th Annual Awards Dinner

Vice President Al Gore

Sen. Carl Levin (D-MI)

George E. Myers

Larry Hobart

Elizabeth Crenshaw

The Consumer Federation of America honored distinguished consumer service at its 25th Annual Awards Dinner in June.

Vice President Al Gore and Sen. Carl Levin (D-MI) received the Philip Hart Public Service Awards. Esther Peterson Consumer Service Awards were presented to George E. Myers, Past President of the Defense Credit Union Council, and to Larry Hobart, Executive Director of the American Public Power Association. Elizabeth Crenshaw, Consumer Reporter with Washington, D.C.'s WRC-TV, received the Betty Furness Consumer Media Service Award.

CFAnews

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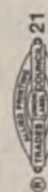

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