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Electric Deregulation Legislation Stalls

Federal legislation to deregulate the retail electric power market, once thought to be on the fast track, now appears to be stalled because of conflicts among proponents over how to achieve their deregulatory goal.

With the states moving ahead rapidly with their own plans, however, deregulation is proceeding anyway in many areas of the nation.

The apparent cause of the slow-down in Congress is a difference of opinion between leading House and Senate Republicans over how deregulation should be approached.

House Republicans — led by Energy and Power Subcommittee Chairman Dan Schaefer (R-CO) and Commerce Committee Chairman Thomas J. Bliley, Jr. (R-VA) — generally favor broad, federally mandated deregulation.

Key Senate Republicans, on the other hand, tend to favor a more incremental approach aimed at removing "federal impediments" to deregulation. This position is being championed by Energy and Natural Resources Committee Chairman Frank Murkowski (R-AK) and Sen. Craig Thomas (R-WY).

"These differences of opinion are academic to us at this point," said CFA Legislative Director Mary Rouleau. "Neither approach — nor the bills they have produced — speak to two of the issues we hold dear: universal service and fair treatment of stranded costs."

In March, CFA joined with the American Association of Retired Persons and Consumers Union to write to members of Congress urging them, if they do move forward with deregulation legislation, to ensure that the legislation provides adequate protections to consumers. And in April, CFA's Director of Consumer Protection Jean Ann Fox, testifying on behalf of the Virginia Citizens Consumer Council, delivered a similar message at a Richmond field hearing on the legislation held by the House Energy and Power Subcommittee.

"Residential customers do not have any of the advantages and assets of large industrial customers to win in a deregulated electric market," Fox noted. "Only if the new market structure gives residential consumers a fair chance to receive the benefits of competition, ensures that their interests are represented in the market, and provides fundamental protections against abuse and cost shifting can we come out ahead."

Bills Fail To Protect Consumers

In their letter to Congress, CFA, AARP, and CU noted that the bills introduced to date fail to meet that standard, because they do not address the significant risks that residential ratepayers face in an era of deregulation and restructuring.

"When deregulation occurs, suppliers will have a financial incentive to maximize profits by reducing prices for large industrial customers and increasing charges to residential customers," Rouleau explained.

Legislation must recognize that:

- service becomes unacceptably expensive if residential customers bear a disproportionate share of "stranded costs," transmission and distribution cost allocation, environment costs, and network management costs;
- for low income customers, service becomes unaffordable, while, for high cost areas, hook-up and transmission costs become burdensome;
- service reliability falters for a variety of reasons, including lack of system standards, lack of sufficient power back-up and maintenance, and financial insolvency of retail providers; and
- to the extent that choice is available, residential customers generally are unable to distinguish among providers or are unable to get timely redress from providers.

Because legislation currently under consideration ignores these market forces, if it passed residential ratepayers could be forced to pay more for less reliable service, Rouleau warned.

"Electricity is far too vital a commodity to the American public for Congress to enact legislation that orders deregulation without at the same time adopting specific policies to ensure universal service, reliability, and other critical consumer protections," she said.

The consumer groups also questioned the approach being advocated by Sen. Murkowski and others, which proposes repealing the Public Utility Holding Company Act.

PUHCA Repeal Opposed

"While all consumers stand to lose if market power becomes concentrated, residential ratepayers will be most vulnerable to the abuse of market power, because they have the fewest options. Therefore, we urge Congress to retain the protections of the Public Utility Holding Company Act (PUHCA) to ensure that mergers and acquisitions do not diminish competitive forces," the groups wrote.

In April, CFA Director of Research Mark Cooper expanded on that view when he testified before the Senate Banking Committee on the regulation of public utility holding companies.

Because PUHCA provides essential consumer protections, premature repeal of PUHCA would: expose consumers to a abusive transactions; make regulation of abusive corporate transactions and risky financial practices more difficult; and make the introduction of competition into the electric utility industry more difficult, Cooper warned.

The protections afforded by PUHCA "are actually more important today than they have been at any time since the initial reorganization of the industry in the 1930s and 1940s," he said. "Amid a wave of mergers and relaxation of regulation, the holding company tests embodied in PUHCA prevent the accumulation and abuse of market power."

Premature repeal of PUHCA would retard competition, not promote it, because it would allow a small number of huge, multi-state entities to acquire additional utilities and amass market power in regional generation markets, he added.

"Repeal of PUHCA should be the last step on the road to competition in the industry, not the first," he said.

Structural Protections Needed

Cooper added that, if PUHCA is repealed, structural protections must be put in its place to prevent the abuse of vertical and horizontal market power.

"The only way to prevent abuse of affiliate transactions is to require divestiture of potentially competitive market segments from remaining monopoly segments. The only way to prevent the abuse of market power in any industry segment is to impose a specific competitiveness standard, like the merger guidelines," he said.

"The public deserves no less than full regulatory oversight until effective competition is demonstrated to exist so that market forces can effectively take the place of regulation," he concluded.

In June, the Senate Banking Committee gave voice vote approval to S. 621, a PUHCA repeal bill introduced by Sen. Alphonse D'Amato (R-NY). Despite easy passage at the committee level, the bill is expected to face a tougher battle as it become enmeshed in the larger deregulation issue.

Meanwhile, states are forging ahead with their own deregulatory proposals. To date, at least 13 states have either passed legislation, made regulatory changes, or taken other steps toward competition in the retail electric power market.

CFA is working with state and local member groups to try to ensure that consumer protections are addressed in state legislation as well.

"The common wisdom is that a comprehensive bill will not pass Congress this year. But states continue to press on," Rouleau said.

"As the impact of these state actions reach the residential consumer, Congress should get a good view of what can happen. I expect that they won't be looking at deregulation in the same way next year," she said.

FCC Rate Plan Maintains Excess Costs

In May, the Federal Communications Commission gave unanimous approval to new rules on telephone rates that fail to cut excess costs from the system.

Although the FCC did not grant the local telephone companies the massive rate hike they had requested, the agency also did not force a reduction in basic rates, as consumer groups had urged.

"There was enough fat in the system that the agency could have forced down basic residential rates and long distance rates and still had enough money left over to wire schools, libraries, and rural health facilities," said CFA Research Director Mark Cooper. "Instead, the agency lost its nerve."

CFA and other consumer groups had advocated an immediate reduction of $10 billion in the access fees that local companies charge long distance companies for connecting their calls to the local network. They had also urged that the subscriber line charge be eliminated.

Instead, the rules call for an access charge reduction of $1.7 billion in 1997 and reductions totalling $18.5 billion over five years.

In addition, the agency allowed local companies to recover at least a portion of these lost revenues by imposing an additional fixed charge of $1.50 a month on second residential lines and a new $3 fixed charge on business lines.

Local phone companies will also be allowed to charge long distance companies a flat monthly fee of $2.75 a line for every business customer.

These rate increases will fund a $4.65 billion universal service fund to provide Internet access for schools and libraries, to provide telephone service for rural health care centers, and to keep costs from rising for rural phone service while the FCC devises a new system for subsidizing rural service.

As they have with every major rule proposal to implement the new telecommunications law, the local phone companies responded with a threat to raise local rates and to challenge the rules in court.

Policy Leaders Define Consumer Agenda

In keynote addresses at Consumer Assembly '97, leading policy makers from Congress, the Federal Trade Commission, and the states suggested an agenda for the consumer movement to help consumers meet the challenges posed by an increasingly high tech and global economy.

The rise of marketing through high tech media and the globalization of the commercial transaction hold many benefits for consumers, but they also pose new risks for consumers and new enforcement challenges for the Federal Trade Commission, said FTC Chairman Robert Pitofsky.

"On balance, these are good things. But we have to be alert to that portion of the market that is fraudulent or unfair," he said.

Pitofsky noted that the agency has begun to address those problems by beginning to bring cases for fraudulent claims on the Internet.

"Obviously, at this point, it's just a marker," he said. "We're trying to make it clear that we're there, we're watching, and we care."

Internet sales also involve new privacy concerns for consumers, which the FTC has been examining in a series of hearings, Pitofsky said. Among the issues the agency will be looking at is "incorporation of the notion of privacy in the use of electronic money," he said.

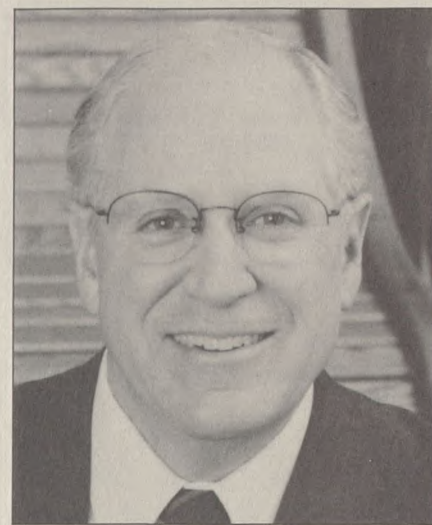
With the globalization of the market,

FTC Chairman Robert Pitofsky

"increasingly, telemarketers are abandoning Los Angeles, Las Vegas, Reno, and Miami, and they're moving to other countries. That's going to continue," he said.

Not surprisingly, they generally move to countries where the enforcement is not as rigorous as in the United States, and where they are beyond the reach of U.S. regulators, Pitofsky said.

To successfully address problems such as these, "the consumer movement must become global in its nature as well," said Minnesota Attorney General Hubert H. Humphrey, III.



Minnesota Attorney General Hubert H. Humphrey, III

Consumer Movement In Transition

"The consumer movement is in a state of transition and uncertainty," Humphrey said. "You could say the same thing about our country itself."

In today's world, "change is so swift, it is difficult to know what our lives will be like in ten years. Technology and the transformation of the global economy have undermined our confidence," he said.

As a result, people have become "cynical about the ability of social institutions, especially government, to help us face up to these challenges" of disappearing jobs, the high cost of education, and crime, he said.

Despite these trends, and the rise to power of politicians preaching deregulation, Humphrey said he still sees a bright future ahead for the consumer movement.

"Some predict we could be on the verge of an era reminiscent of the shameful days of the close of the last century. I personally don't think we are," he said.

"It is the challenge of change that really brings out the best in all of us" and that will "force us to create a whole new level of opportunity for consumer protection," he said.

"To anyone who thinks that the consumer movement has lost its way, I would say, we're not lost, we're reconnoitering. We're catching our breath," he said.

Rangel Emphasizes Education

Rep. Charles B. Rangel (D-NY) said the key to maintaining the United States' competitiveness in a high tech, global economy is providing our young people with the education and training they will need to be productive members of such a society.

"We are on the eve of going into a new century that represents an opportunity for a new life for all of us. The question has to be whether or not our young people are going to be prepared to meet it," he said.

Rep. Rangel was promoting a proposal from President Clinton to provide "a GI Bill for everyone in these United States," ensuring that everyone, regardless of income, has access to education and training.

"The low skilled jobs are gone, and we are going to have to pick up the pieces,"

Rep. Charles B. Rangel

and education and training are the key to that, he said. "In my mind, its not a question of whether we can afford it, but that we can't afford not to do it."

"If you invest in a youngster when he or she is young, this is the one who will be producing. This is the one who will not be in jail. This is the one who will not be producing babies, who will not be doing drugs," he explained.

On the other hand, the welfare reform bill passed in the last Congress undermines this goal, he said, because it punishes children "because we don't like the behavior of the parents."

"There is an insensitivity to the one thing we should have been concerned with — how do we save the child? how do we invest in the child?" so that those children can grow up to be productive citizens capable of working toward their goals and achieving the American dream, he said.

"It's going to cost us more for ignoring these children than it would have to invest in the child in the first place," he warned.

Promoting Safety Requires Team Approach

The best hope for improving product safety lies in a cooperative approach between government, consumer groups, and industry, Consumer Product Safety Commission Chairman Ann Brown told a Consumer Assembly audience.

When she was sworn in as chairman three years ago, the commission was under-staffed, demoralized, and "did not adequately protect consumers," Brown said. "It was like watching someone trying to pick up sand on the beach with a teaspoon. Even when the need was clear, nothing got done."

"I wanted a different approach," she said. "I wanted an active CPSC, but I didn't want one that tried to regulate everything. Regulation is not always the answer to everything. I wanted an agency that could work with industry, not just against it."

That cooperative approach has already produced a number of dramatic successes, Brown said, including getting neck and hood drawstrings off virtually all children's clothing and getting lead out off foreign-made vinyl mini-blinds.

"Sometimes, of course, the case for regulation is strong, for example, when a voluntary standard isn't working," she said.

That was the case with the standard for child-resistant packaging, which had been effective in saving children's lives, but which was undermined by the fact that packaging was often difficult for adults to open, she explained.

"We needed a new cap, but we didn't just pass a rule," Brown said. Instead, the agency worked with industry and consumer groups to develop a solution.

CPSC Chairman Ann Brown

"Everyone had to compromise, but, in the end, we worked it out without having to give in on safety," she said.

That sort of "team effort" between the agency, industry, and consumer groups "is really what I want in the years ahead," Brown said.

One priority area where she plans to apply that team approach is in working to get unsafe, recalled products, not just off the shelves, but out of consumers' homes, she said.

"The achievements of the first few years are really the achievements of all of us, all of us working as a team when it comes to safety," she said. "Our work is never done."

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Differing Views of Political Reform Offered

General session speakers at Consumer Assembly agreed on the need to reform the American political process, but presented differing — and often conflicting — views of how that reform should be pursued.

Sen. Russ Feingold (D-WI) urged consumer advocates to support bipartisan campaign finance reform legislation, S. 25, which he has co-sponsored with Sen. John McCain (R-AZ), while Ernesto Cortes, Jr., Director of the Southwest Region of the Industrial Area Foundation, maintained that the only long-term solution is to organize people at the grassroots level to hold politicians accountable.

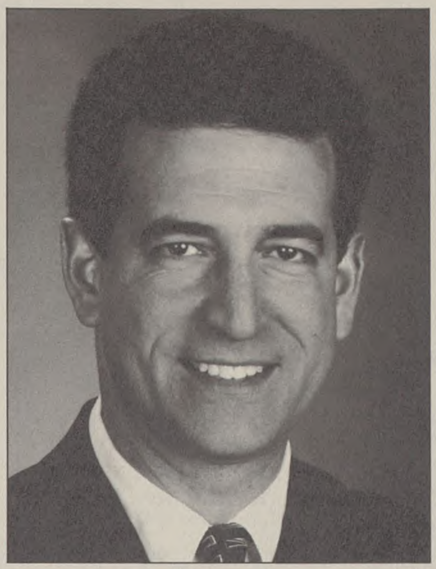
"After witnessing the most lavishly funded campaign in U.S. history, the majority of Americans who were eligible to vote simply stayed home," Sen. Feingold noted. "Many of our fellow Americans have become so alienated from our political process that they aren't willing to participate or don't think its about them anymore."

This is a problem we should all be concerned about, because "public participation in elections is the foundation of representative government," he added.

With huge sums of money being donated to both political parties, however, "our political system is caught in the equivalent of an arms race," Sen. Feingold said. Though it does not go as far as he and others might like, S. 25 offers "moderate, mutual disarmament," by banning the use of soft money in both presidential and congressional elections and by offering benefits to candidates who agree to certain voluntary spending limits.

"The goal is to slow the growth in campaign spending and to return a large chunk of political power back home" by forcing candidates to raise more of their money, at least 60 percent, "from the people they say they represent," he said.

Sen. Feingold said he did not believe a more far-reaching bill, and particularly a constitutional amendment, could pass. He said, however, that he is confident legislation ultimately will pass, because of the public disgust with the current system.



Sen. Russ Feingold

"I'm convinced Americans are tired of cash and carry elections," he said. "There is a powerful across the board consensus that this system stinks and that it is our responsibility to fix it."

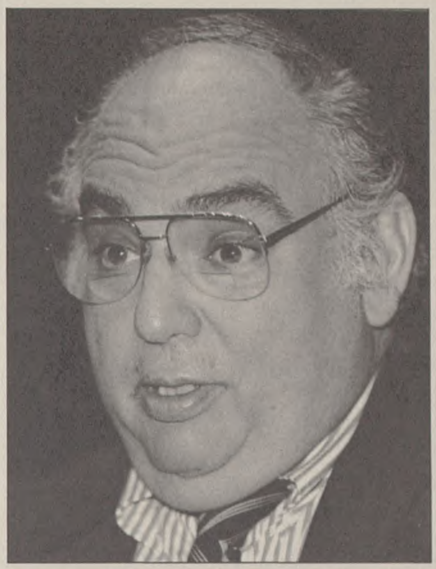
Reform Requires Harnessing "People Power"

While he agreed that "organized money has gotten organized people on the run," Cortes questioned whether campaign finance reform offers any real potential for change. "We can do campaign finance reform. Unfortunately, today's reform is going to be tomorrow's loophole," he said.

The only way to counteract the power of organized money is to "begin at the local level to restore the balance of power by organizing people," he said.

Cortes chastised the consumer movement for focusing too much on making people good consumers, and not enough on making people "effective and full participants" in the political process.

If consumer advocates want to counteract the power of organized money, they need to refocus their efforts on building broad-based community institutions organized around a common agenda and



Community organizer Ernesto Cortes, Jr.

prepared to hold public officials accountable for their actions, he said.

To do that, consumer advocates must refrain from imposing their own agenda and must listen instead to what the people say are the important issues for them, he said.

"If we're going to build the kind of strategy that makes sense to people, we're going to have to find individual people in communities . . . teach them how to act on their own behalf . . . and restore the balance by creating a civic culture," Cortes said.

Approaches to Campaign Finance Reform Debated

In a general session panel on "The Role of the Consumer Movement in Political Reform," Gene Karpinski, Executive Director of the U.S. Public Interest Research Group, and Meredith McGehee, Vice President for Legislative Policy of Common Cause, agreed with Sen. Feingold on the need to reform the campaign finance system, but disagreed on how best to accomplish that goal.

Common Cause supports the basic approach taken in the McCain-Feingold bill of offering candidates benefits — such as reduced television advertising costs and mailing costs — when they abide by voluntary spending limits, McGehee said. But Common Cause does not support a ban on contributions by political action committees, which McCain-Feingold also proposes, she said.

"Common Cause supports passage of a bipartisan bill" and acknowledges the "need to compromise to get something passed," she said.

Karpinski argued that, for reform to be effective, "four things need to happen:" the amount that individuals can contribute needs to be lowered; the amount that candidates are required to raise in their own districts must be raised; the amount that candidates can spend needs to be limited; and candidates' access to the public through television, radio, and the mail must be provided at no charge.

The problem is that such an approach "bumps up against the Constitution," he said, because of the Supreme Court's decision in Buckley vs. Valeo that equated money with speech and, thus, declared spending and contribution limits unconstitutional.

"The problem is so severe, and the solution makes sense, and the public supports it. That's why we need a constitutional amendment," he said. "It's a critical part to get reform in the long run."

"I think we agree on the problem. I think we agree on some of the long-term solutions. [McCain-Feingold] just doesn't do the job," Karpinski said.

"Is this perfect? No," agreed McGehee. "But, as a package deal, does this make significant major reforms? We think, as a whole, that it is a very good package that has the possibility of being enacted."

Instead of waiting to enact a perfect bill, advocates need to accept the improvements they can achieve now, she said. "The opportunity is now."

Distrust of Government Affects Consumer Issues

The public's disenchantment with government affects how they are likely to respond to consumer issues, two pollsters agreed in a Consumer Assembly general session on "Election '96: Implications for the Consumer Movement."

"The public is disengaged from politics today. They don't think that they can have an impact. The challenge for you is to figure out how to get them engaged," said Frank I. Luntz, President of The Luntz Research Companies.

To the degree that consumer advocates push government solutions to consumer problems, they are likely to run up against the public's distrust of big government, he said.

While agreeing that the public is skeptical of government, Larry Hugick, Director of Political and Media Surveys for Princeton Survey Research Associates, said polls show that distrust may be fading.

If you ask in general terms about regulating business, however, only 19 percent think there is not enough regulation, compared to 35 percent who think there is too much, he said.

Hugick and Luntz also agreed that consumer advocates need to do a better job of getting their messages out to the public.

"Americans don't hear you. They don't hear what's going on until you repeat it and repeat it and repeat it," Luntz said. "And, you've got to do it in a way that they can understand it."

"It's not your priorities that matter," he added. "It's the priorities of the people that you wish to help. If you want to represent consumers, you have to speak with their dialect."

Hugick reinforced that message. "Keep it simple, and don't talk over people's heads," he advised.

"Don't put all your eggs in one basket," he warned. "Don't put too much emphasis on government as the only solution."

Has Consumer Reporting Lost Its Edge?

A combination of factors, from the changing economics of journalism to advertising pressure, have changed the way that consumer reporters approach their jobs, according to a panel of consumer reporters at Consumer Assembly.

"Consumer reporting has gotten caught up in a general redefinition of news" that is "lighter, more entertaining, and more superficial," said Trudy Lieberman, Senior Investigative Editor for *Consumer Reports*.

The result has been consumer reporting that has less of an edge, is more devoted to "tips without context," and is more reliant "on experts as substitutes for good old fashioned reporting," she said.

Mark Schwanhausser, a personal finance reporter with the *San Jose Mercury News*, noted that even the more tip-oriented journalism that Lieberman criticized can trigger pressure from advertisers.

His newspaper was subjected to a boycott by car dealers after publishing a car buyer's guide that he wrote.

Schwanhausser said he has since "felt no overt pressure about how I write or what kinds of stories I write," but "there is a chill," he said.

Furthermore, corporations have become increasingly sophisticated in how they combat unfavorable stories, said Lea Thompson, an NBC News Correspondent with *Dateline*.

In the past, corporations might sue for libel and slander, a difficult case to prove. Today, they are more likely to use different tactics, such as charging reporters with fraud for misrepresenting who they are (as in the Food Lion case), suing them over their use of hidden cameras, or charging them with violation of trespass laws, she said.

As a result of these pressures, editors demand far more documentation from reporters, and that has implications for how consumer advocates present their issues, she said.

"If you've got a story for us . . . you better be able to show us the documents, show us the victims, and you better have more than one person that it happened to. Otherwise, we may pass by your story in favor of someone who's got it together," she said.

Failure To Plan Puts Savers At Risk

An estimated 65 million American households will probably not realize one or more of their major life goals, largely because they have failed to develop a comprehensive financial plan, according to a survey released in May by CFA and NationsBank.

"The good news in the findings is that Americans who mend their ways and start planning can expect to see surprisingly dramatic benefits," said CFA Director of Investor Protection Barbara Roper. "For the vast majority of Americans with annual incomes of less than $100,000, those with financial plans have saved about twice as much money as those without plans."

The survey — "Planning for the Future: Are Americans Prepared to Meet their Financial Goals?" — attempts to gauge the savings patterns, major financial goals, and progress of typical Americans. This information will serve as the basis for a major educational initiative to be conducted by CFA and NationsBank beginning later this year.

The following are among the survey's key findings:

• Most Americans are trying to save, but still come up short in terms of their goals.

The vast majority of American households (84 percent) report setting aside some savings for at least one of their financial goals. At the same time, however, most American households (63 percent) also indicate that they have yet to begin saving for at least one of their major goals. While majorities of households have saved at least something for retirement (64 percent of non-retired households) and put some kind of emergency fund in place (68 percent), the percentages of those who have saved for other goals are low: buying a new home in the next 10 years (34 percent); college education of an existing child (56 percent); a major purchase in the next two years, such as a new car, a major vacation, or a home improvement project (51 percent); and help during the next 20 years with the medical or living expenses of a parent or other older relative (17 percent).

• Americans with financial plans can double their savings, but most fail to plan.

Having a financial plan in place means that an otherwise typical household will set aside up to more than twice the savings of non-planning households.

Among households with incomes between $20,000 and $39,999, for example, those with a plan reported median savings of $28,500, compared to $14,300 for those without a plan. Similarly, among households with incomes between $40,000 and $99,999, those with plans reported median savings of $89,650, compared to $41,500 for those without a plan. Among households with incomes over $100,000, the gap narrows slightly, with planning households reporting median savings of $325,500 compared to $201,100 for non-planners.

Unfortunately, only about a third of all savers have a comprehensive financial plan in place.

• One in five American households are "non-savers," with nothing saved for their major goals.

American households fall into one of three camps: super-savers (37 percent), who have at least some money set aside for all their goals; semi-savers (45 percent), who have some money set aside for some of their goals, but none saved for others; and non-savers (18 percent), who have set aside no money for any of their goals.

Financial planning is the litmus test that can be used to distinguish most "super-savers" from individuals in the other two categories. While six out of 10 (61 percent) of those with a financial plan qualify for "super-saver" status, only about a third (36 percent) of those without a financial plan reported that they have savings set aside for each of their financial goals.

• Financial planning delivers benefits even to "financially illiterate" savers.

Surprisingly, for all but the very affluent, financial planning appears to be even more important to success than a good grasp of basic saving and investment concepts.

Based on a 14-question test of basic personal finance knowledge, fewer than one in 10 savers (8 percent) can be considered financially literate. Six in 10 (61 percent) got fewer than half the questions correct, and the average score was only 42 percent.

The correlation between financial literacy and accumulated savings was weaker than that existing between having a financial plan and accumulated savings.

• Substantial anxiety exists about savings progress, products, and knowledge.

While 59 percent of American households report that they are saving "like clockwork," roughly the same number (57 percent) feel that they are behind in saving for their major goals. Only a third (35 percent) of all savers feel they are very confident about how to manage their money, and even fewer (29 percent) say they are rarely, if ever, confused about what they read and hear about investments.

Here again, the beneficial impact of financial planning may be seen in the fact that 48 percent of savers with a plan feel confident about making the best financial decisions, versus only 28 percent of savers without a financial plan.

To encourage more Americans to develop plans and increase their savings, CFA and NationsBank have announced a major educational outreach campaign for later in the year, consisting of nationwide distribution of educational materials and a 10-city series of free public seminars on the importance of planning and how to plan.

"In the past, we've simply stressed the importance of savings," said CFA Executive Director Stephen Brobeck. "Now, as a result of our research, we will emphasize that developing a financial plan is the most effective way to achieve savings goals."

The survey was conducted by Princeton Survey Research Associates. Copies of the report are available by sending $10, prepaid, to CFA/NationsBank Survey, Consumer Federation of America, P.O. Box 12099, Washington, D.C. 20005.

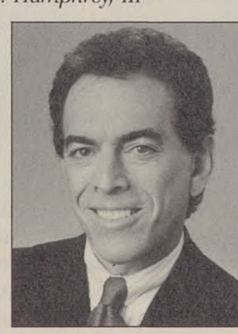
27th Annual Awards Dinner

Sen. Barbara Boxer

Attorney General Hubert H. Humphrey, III

John J. Sweeney

Elma L. Holder



Arnold Diaz

The Consumer Federation of America honored distinguished consumer service at its 27th Annual Awards Dinner in June.

Sen. Barbara Boxer and Minnesota Attorney General Hubert H. Humphrey, III received the Philip Hart Public Service Awards.

Esther Peterson Consumer Service Awards were presented to John J. Sweeney, President of the American Federation of Labor and Congress of Industrial Organizations, and Elma L. Holder, Founder of the National Citizens' Coalition for Nursing Home Reform.

Arnold Diaz, ABC News Correspondent with the *20/20* television show, received the Betty Furness Consumer Media Service Award.

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