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Most Used Car Dealers Violate Federal Rule

The majority of used car dealers are violating the law aimed at protecting used car buyers, according to a survey released in December by CFA and thirteen of its state affiliates.

"Americans bought an estimated 35 to 40 million used cars in 1997. In 1996, Americans spent $360 million on used cars and trucks," said CFA Director of Consumer Protection Jean Ann Fox. "With the average price of a used car exceeding $10,000, this purchase is one of the most expensive for many consumers."

Unfortunately, because of poor compliance with the law designed to protect them, many of these consumers are not getting the information they need to help them select a used car, she said.

One of the key protections available to used car buyers is the federal Used Car Rule. In effect since 1985, it requires dealers to post a "buyers guide" on each car to notify consumers whether a warranty is included in the sale.

The mandatory guides are also designed to inform potential buyers how to avoid being cheated. Among other things, they advise buyers to have vehicles inspected by an independent mechanic before agreeing to buy.

"This is important information for consumers to have before they select a used car," Fox said. "Unfortunately, most dealers are not providing this information on all the cars in their lots."

Surveying 208 used car dealers in 11 states, CFA and 13 of its state affiliates found that over half (52 percent) of the used car dealers surveyed failed to post the federally required buyers guide in more than one used car they were offering for sale, while 24 percent posted incomplete guides.

Only 45 percent of surveyed dealers were in full compliance with the law.

Compliance Varies Among States, Dealers

The survey found that compliance varied by state and by type of dealer.

With 89 percent of dealers failing to post complete buyers guides, Massachusetts had the lowest level of compliance among the 11 states studied. Ohio and Oregon had failure rates of 83 percent and 72 percent respectively.

In contrast, Illinois, where the attorney general and regional Federal Trade Commission office recently took enforcement action, had the best record, with a failure rate of only 20 percent. It was followed by North Carolina (22 percent) and Montana (36 percent).

Franchised dealers had the fewest violations (44 percent), followed by large independent dealers (54 percent). In contrast, nearly two-thirds of small used car dealers (64 percent) failed to consistently post complete buyers guides.

Fox attributed poor compliance with the law at least in part to inadequate enforcement. While failure to post the guides carries a penalty of up to $10,000 per violation, the penalty is rarely imposed, she noted.

She called on the FTC to step up enforcement of its rule.

This message was also emphasized by Consumers for Auto Reliability and Safety President Rosemary Shahan, who also spoke at the press conference to release the report."

"With the notable exception of Illinois, enforcement has been sporadic and lax," Shahan said. "Dealers are taking advantage of the lack of enforcement."

"As Is" Sales Are Common

The lack of compliance with the rule is particularly disturbing in light of the failure of many dealers to offer any warranty protection for used cars sold.

Half the dealers surveyed routinely sell cars "as is."

Consumers who buy a car "as is" must pay all repair costs, "even if the motor blows up before you turn the corner driving off the lot," Fox said.

One of the primary functions of the buyers guide is to alert potential buyers to the fact that a car carries no warranty and exposes them to this risk, she noted.

Surveyors also noted whether dealers offer such consumer-friendly services as posting prices or offering a "cooling off" period.

Used car "superstores," including AutoNation, Carmax, and Driver's Mart have adopted such policies. However, they have yet to become widespread throughout the industry.

For example, the survey found that 30 percent of dealers post prices on all cars, while nearly as many (26 percent) post no prices. Only seven percent of dealers advertise or post a "cooling-off" period.

On the brighter side, a full 90 percent of salesmen said their dealership would allow prospective buyers to have an independent mechanic inspect the vehicles prior to sale.

Additional Protections Needed

The groups noted that increasing compliance with the Used Car Rule is just the first step in improving protections available to used car buyers. More needs to be done, they agreed, including adoption of mandatory used car warranties and a three-day "cooling off" period.

"Car buying is a high pressure experience," said Oregon State Public Interest Research Group Consumer Advocate Ariel Everhart. "Many consumers complain of being coerced into buying a vehicle by the salesperson. If consumers had the right to cancel the deal within a few days, dealers would be less likely to use pressure tactics in the first place."

In addition to CARS and OSPIRG, the state groups participating in the survey were Arizona Consumers Council, Democratic Processes Center (Arizona), North Carolina Consumers Council, Oregon Consumers League, Texas Citizen Action, Virginia Citizens Consumer Council, and the Public Interest Research Groups in Florida, Illinois, Massachusetts, Montana, and Ohio.

Copies of the report are available for $10 prepaid by writing to CFA's Used Car Study, P.O. Box 12099, Washington, D.C. 20005. Free copies of CFA's Tips For Used Car Buyers are available by sending a stamped, self-addressed envelope to Used Car Tips at the same address.

CFA Founder Esther Peterson Dies

Esther Peterson, one of the world's most influential consumer leaders, died in December.

"No consumer advocate has been more widely respected," said CFA Executive Director Stephen Brobeck. "She was a source of inspiration to millions of consumers as well as to national, state, and local consumer leaders."

Peterson played a central role in the founding of CFA. When the first Consumer Assembly was held in April 1966, it was she who urged the creation of a federation of national, state, and local groups to press for consumer legislation at the federal level. To further that goal, she convened a meeting of state and local consumer groups later that year that developed the guiding principles for the creation of CFA.

In addition, in more than half a century in the consumer movement, Peterson was regularly turned to by political, government, and corporate leaders for advice on bettering the fate of consumers.

In this capacity, she served as an advisor to President Kennedy. Her role was later formalized under Presidents Johnson and Carter, whom she served as Special Assistant for Consumer Affairs.

Consumer leader Esther Peterson

"There are few significant pieces of consumer legislation or policy since the 1960s that Esther Peterson didn't have a positive influence on," Brobeck said.

These included truth in lending, truth in advertising, meat and poultry inspection, occupational safety, and truth in packaging.

In addition, more than any other person, she was responsible for the widespread use of open dating and unit pricing by supermarkets. In 1970, working as a consumer advisor to Giant Food, she persuaded the chain to adopt these policies, which then won wider acceptance among other large food chains.

In the 1980s, she continued her activities in a number of areas, working with the Older Women's League, helping to organize the United Seniors Health Cooperative, and helping to create the Consumer Insurance Interest Group.

Her leading accomplishment during this period, however, was her leadership of the campaign which won adoption in 1986 of the Consumer Protection Guidelines by the United Nations.

"Those of us who worked with Esther will never forget her," Brobeck said. "Her example will guide and inspire use for years to come."

1997 Legislative Update

Health Care

FDA Overhaul – Congress passed and the president signed legislation to overhaul the Food and Drug Administration (H.R. 1411, S. 830, P.L. 105-115) which rolls back safety and efficacy standards for drugs, medical devices, and food products. On the positive side, the new law reauthorizes the Prescription Drug User Fee Act, which uses fees paid by drug manufacturers to underwrite the cost of FDA product application reviews. However, the benefits of PDUFA reauthorization are outweighed by the anti-consumer provisions in the law. Among other things, it: allows drug companies to promote uses of their products for which the products have not undergone safety and efficacy testing ("off-label use"); lowers the standards for the approval of new drugs and medical devices as effective; allows medical device manufacturers to send some of their products to a private contractor for testing, rather than having the FDA perform this function; and allows food labels to promote nutrition and health claims that have not met the FDA's requirement that they be based on significant scientific agreement.

Managed Care Consumer Protections – Legislation was introduced in both the House and the Senate (S. 644, H.R. 1415) to establish federal standards for group health plans and health insurance issuers in such areas as access to care, due process for enrollees and providers, information disclosure, and nondiscrimination. These bills also would make it easier for patients to sue their health plans for medical malpractice. Sen. Edward M. Kennedy (D-MA) is expected to introduce a bill early in 1998. Other bills took a narrower approach to consumer protections in managed care, including one (H.R. 580), introduced by Rep. Edward J. Markey (D-MA), which would prohibit "gag rules" that limit the ability of health care providers to provide patients with relevant health care information. While none of the bills is as comprehensive as consumer advocates would like, all represent an important step forward in granting the millions of American who are covered by managed care plans some much needed protections.

Medical Records Privacy – Bills were introduced in both the House and Senate to increase privacy protections for medical records (S. 1368, H.R. 52, S. 89, H.R. 306, H.R. 1815), and more are expected to be introduced in 1998. The issue is being driven by the August 1999 deadline for action included in last year's insurance portability law. Although the bills take different approaches, most would give patients greater access to their medical records, set procedures for them to seek corrections to those records, and set standards for maintaining the confidentiality of health records. In addition, some, like S. 1368, introduced by Sen. Patrick Leahy (D-VT), and H.R. 1815, introduced by Rep. Jim McDermott (D-WA), would specifically give patients the authority to determine to whom and under what circumstances their protected health information could be disclosed. Taking a somewhat different approach, S. 89, introduced by Sen. Olympia Snowe, and H.R. 306, sponsored by Rep. Louise Slaughter (D-NY), would prohibit health insurance providers from denying or cancelling health insurance coverage, or varying the terms of health insurance, based on genetic information.

Drug Patent Extension – Consumers scored at least a temporary victory when drug company attempts to attach patent extension language to the Health and Human Services appropriations bill were stymied. Masked as a funding demonstration project, the measure would have extended existing market monopolies by up to ten years for certain drugs. In turn, manufacturers of those drugs would have had to pay just a three percent royalty of net sales to the federal government for pharmaceutical research and would have been required to spend a comparable sum of their own funds on research and development related to the product. The measure was opposed by CFA and other consumer groups on the grounds that it would have forced sick people to continue to pay higher prices during the extended periods in which companies would have had exclusive drug marketing rights. Proponents of the measure are expected to renew their efforts in 1998.

Medical Savings Accounts – A Medicare Medical Savings Account demonstration project was included in the budget reconciliation package (S. 947, H.R. 2015, P.L. 105-33) passed by Congress in July and signed by the president in early August. Under the program, 390,000 seniors will be allowed to combine a tax-free medical savings account for qualified medical expenses with a high-deductible insurance plan for catastrophic illnesses. Medicare medical savings accounts are opposed by consumer advocates, including CFA, on the grounds that they threaten to expose many Medicare beneficiaries to an unacceptably high level of out-of-pocket costs, erode the quality of care provided to people with traditional Medicare coverage, and drain at least $2 billion from the federal treasury. The Senate rejected a Senate Finance Committee proposal that would have improved the program by reducing the demonstration size, reducing deductibles, and capping out-of-pocket covered expenses.

Children's Health Coverage – The budget reconciliation bill (S. 947, H.R. 2015, P.L. 105-33) also included an allocation of $24 billion for a children's health initiative targeted at children from families with incomes of 200 percent of the poverty level or less. In designing their programs, states may choose among increasing Medicaid spending, providing health insurance programs for eligible children, or combining these approaches. In addition, up to 10 percent of funds can be used to provide direct services to children.

Medical Malpractice – Provisions were included in the House budget reconciliation bill and the District of Columbia appropriations bill that would have prevented consumers injured as a result of medical malpractice or unsafe medical products from receiving full and fair compensation for their injuries. Like medical malpractice proposals put forward unsuccessfully in the last Congress, the legislation would have limited punitive damage awards, capped non-economic damages and eliminated joint and several liability for such damages, prohibited punitive damages for products approved by the FDA, and preempted state laws that are more favorable to consumers while preserving weaker state laws. The provisions were not included in either the Senate versions of these bills or the final bills, although the D.C. appropriations bill did direct the D.C. Control Board to conduct a study of medical malpractice issues.

Health Insurance Lifetime Benefits – Sen. Jim Jeffords (R- VT) and Sen. Jay Rockefeller (D-WV) introduced legislation (S. 1114) to raise the lifetime benefits in health insurance coverage to $10 million by the year 2002. No action was taken on the legislation.

Insurance Disclosure – Rep. Peter DeFazio (D-OR) introduced legislation (H.R. 2590) that would require life and disability insurers to disclose to applicants the results of medical tests administered to them. No action was taken on the legislation.

Health and Safety

CPSC Budget – Congress approved and the president signed a VA-HUD appropriations bill that includes a budget increase for the Consumer Product Safety Commission to $45 million. CPSC supporters considered this the minimum necessary to allow the agency to at least maintain current programs.

Product Liability – Legislation was once again introduced to restrict the ability of consumers injured by dangerous products to receive reasonable compensation for their injuries. In May, the Senate Commerce Committee reported out S. 648 on a party-line vote. It is similar to the bill passed in 1996 and vetoed by President Clinton. Among other things, the bill would limit non-economic damages, cap punitive damages, and limit the statute of repose. The White House established an interagency task force on product liability to seek a compromise. However, despite reports in September that the White House and key Senate supporters were near a compromise that would have undermined important consumer protections in a number of areas, no further action was taken before the end of the session.

Gun Safety – Weak bills were introduced in both the House and the Senate (S. 428, H.R. 1047, H.R. 2673) to require gun dealers to provide safety locks with every handgun sold. Because the bills do not require the child safety locks to meet any minimum standards to ensure that the locks work effectively, the legislation was considered unlikely to be effective and was not endorsed by CFA. In October, the president announced a voluntary agreement with gun manufacturers that suffered from the same problem. In addition, the House passed a bill, opposed by CFA, to repeal the federal ban on the manufacture of certain semiautomatic weapons, but it was never brought up in the Senate.

Food Safety – Congress approved an increase of $41 million in funding for Center for Disease Control and Prevention, Food and Drug Administration, and the U.S. Department of Agriculture in FY 1998 to support increased inspections as well as research on risks associated with certain pathogens and means of controlling pathogens. A number of other changes to the food safety and inspection system were also proposed in 1997, including proposals to give the U.S. Department of Agriculture expanded meat and poultry enforcement powers (S. 1264), to upgrade safety standards for domestic produce and ensure that imported produce also meets those standards (H.R. 3052), and to create an independent Food Safety Administration to regulate food safety and labeling and to conduct food safety inspections (S. 1465, H.R. 3801). With increased attention being directed at deficiencies in the nation's food safety systems, more action is expected on these issues in 1998. One possible basis for future action is the National Academy of Sciences study, due in 1998, on how best to organize food safety regulation at the federal level.

Financial Services

Financial Modernization – Congress once again took up legislation to overhaul the financial services industry (S. 298, H.R. 10, H.R. 268, H.R. 669), but last-minute efforts to move a bill to the House floor before the end of the legislative session were unsuccessful. As in the past, the House Commerce and House Banking committees developed significantly different versions of the legislation to allow affiliations between banks, securities firms, and insurance companies (H.R. 10). Although both bills contain modest provisions designed to protect consumers from abuses in the marketplace, neither goes far enough. Particularly troubling is the fact that both bills would allow some merging of banks and commercial firms, which consumer groups strongly oppose on the grounds that it could skew the allocation of credit, lead to greater levels of economic concentration, and expose the federally insured system to greater risk. In addition, the bills contain provisions to wipe out the application of state consumer laws to banks, most seriously by extending the broad preemption thrifts currently enjoy to all banks. Also, neither bill contains a full package of con-

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sumer protections to address the misleading and deceptive practices some banks engage in when they sell non-deposit products. For example, while the Banking Committee version includes a suitability requirement for such sales, it retains broad exemptions for banks from federal securities laws. The Commerce Committee version attempts to close this loophole, and it includes an administrative process customers can use to recover their losses when banks violate the rules, but it still leaves some gaps in protections for consumers. Neither bill includes adequate anti-coercion rules to prohibit banks from marketing insurance products to loan applicants while decisions on their loans are pending, and neither contains adequate privacy protections to prohibit banks, affiliates, and third parties from sharing or disclosing confidential information without first obtaining the consumer's written consent. The Banking Committee version does include provisions to require banks that wish to merge with other financial firms to provide lifeline, or low-cost, accounts and to require that insurance firms be in compliance with the Fair Housing Act before they can affiliate with banks. Finally, in the area of safety and soundness, neither version does enough to ensure that risky activities, such as insurance and securities underwriting, take place only in separately capitalized affiliates. Although Senate Banking Committee Chairman Alfonse D'Amato once again introduced a bill (S. 298), no Senate action is expected until a bill is approved by the House. As in the past, Sen. D'Amato's bill would entirely eliminate restrictions on the mixing of banking and commerce.

Bankruptcy Reform – Responding to a massive lobbying campaign by banks and other lenders, several members of Congress introduced bills (S. 1301, H.R. 2500) to restrict access to Chapter 7 bankruptcy and adopt other changes to the bankruptcy system. H.R. 2500, introduced by Rep. Bill McCollum (R-FL) and Rep. Rick Boucher (D-VA), would require debtors who meet certain income standards to file under Chapter 13 and pay off at least a portion of their unsecured debts over time. S. 1301, introduced by Sen. Charles Grassley (R-IA) and Sen. Richard Durbin (D-IL), could require debtors to file under Chapter 13 if they can repay at least 20 percent of their debt, but it would give discretion to the court. It also would protect consumers from efforts of creditors to mount unjustified multiple procedural challenges to the filing and to require debtors to pay off some of their debts outside the bankruptcy plan. However, neither bill proposes reforms to deal with the principal cause of escalating personal bankruptcies – rising credit card debt. The bills were introduced fairly late in the session, and no action was taken on either measure. However, further action is expected in 1998.

Interstate Branching – Congress passed and the president signed legislation (H.R. 1306, P.L. 105-24) eroding important states' rights principles included in the 1994 interstate branching act. The 1994 law, which took full effect in June, required that branches of out-of-state banks comply with state law unless that state law is clearly preempted by federal law. H.R. 1306 permits out-of-state state chartered banks to ignore the law of any state into which they branch whenever a national bank may do so and permits out-of-state state chartered banks to engage in any business that its chartering state allows if the business is permissible for a national bank, even if the state it is operating in prohibits that activity. Consumer groups, including CFA, opposed the bill on the grounds that it would undermine state authority and, more specifically, would hinder state efforts to reign in bank fees.

Securities Litigation – Bills were introduced in both the House and Senate (S. 1260, H.R. 1689, H.R. 1653) to preempt state law with regard to class action lawsuits involving securities traded on a national exchange. H.R. 1689 and S. 1260 would require all class action lawsuits involving exchange-traded securities to be brought in federal court under federal law. A third bill, H.R. 1653, would preempt state laws for all private lawsuits involving exchange-traded securities, not just class actions. Under these bills, meritorious cases that are unable to overcome the substantial barriers in the federal law would no longer have access to state court as an alternative venue. Hearings were held in both the House and Senate. With a massive lobbying effort being mounted by the high tech and securities industries, further action is expected in 1998.

Decimalization – Legislation was introduced in the House (H.R. 1053) to remove the artificial regulatory restraint on price competition by requiring that all stock prices be quoted in decimals. Because most markets have required that stock prices be quoted in eighths, there has been an automatic minimum spread of 12.5 cents between the bid and ask price of stocks. The legislation was approved by the House Finance Subcommittee in May. Bill sponsors agreed to hold off on further action, however, after the major exchanges announced they would move to decimal pricing as soon as it is practical.

Private Mortgage Insurance – Both the House and Senate approved bills in 1997 (H.R. 607, S. 318) to shield homeowners from unnecessary and costly private mortgage insurance payments. Although slightly different in their details, both bills would allow homeowners who accumulate a certain level of equity in their homes and who are current on their payments to end their mortgage insurance policies without penalty. Both also provide for automatic cancellation of the insurance at a slightly higher level of equity. The House bill is more favorable to consumers in several key areas. Among other things, it does not contain a broad exemption for "high risk" mortgages, and it does not preempt state laws that offer stronger consumer protections, so long as those laws do not conflict with federal law. An attempt to win House passage of the Senate version at the end of the session, and thus avoid the need for a conference committee, was unsuccessful. It is expected that differences will be worked out and a final version of the legislation will be passed before the end of the 105th Congress.

Off-line Debit Cards – Bills were introduced in both the House and Senate (S. 1203, H.R. 2319, H.R. 2234) to protect consumers from risks associated with off-line debit cards, which allow funds to be withdrawn from an individual's accounts without any verification that the person holding the card is the owner. All the bills would limit liability for unauthorized withdrawals on debit cards to no more than $50. The Senate bill, however, includes protections absent from the House bills, including a prohibition on lenders' mailing unsolicited PIN-less debit cards or replacing ATM cards with off-line debit cards for consumers who have not requested them.

Loan Checks – Rep. Maurice Hinchey (D-NY) introduced legislation (H.R. 2053) that would prohibit banks from mailing unsolicited loan checks. The mailing of unsolicited credit cards has been prohibited since 1970. Loan checks offer lenders a means of evading that restriction. The House Financial Institutions and Consumer Credit Subcommittee held a hearing on the issue in September, but no further action was taken.

Derivatives Accounting Rules – Sen. Lauch Faircloth (R-NC) introduced legislation (S. 1560) that would stop the Financial Accounting Board's new accounting rules for derivatives from going into effect for financial institutions unless the bank regulators certify that the accounting standards will accurately reflect the earnings of banks and not impede the use of risk management tools. CFA has supported the proposed rules as providing much needed clarity and transparency to accounting for derivatives and other hedging activities. No action was taken on the legislation, which was introduced just before Congress adjourned for the year.

Natural Disaster Insurance – Two bills were introduced in the House (H.R. 219, H.R. 230) to provide federal financial assistance to state disaster insurance pools and the insurance industry when catastrophic disasters occur. However, neither bill ensures that adequate insurance will be available or affordable for consumers, and neither does enough to promote mitigation to reduce the costs of disasters. Furthermore, both rely too heavily on a federal backstop in cases of natural disaster rather than promoting private reinsurance and financial market mechanisms to address problems. The House Banking Committee is expected to consider the bills in February. No bills were introduced in the Senate in 1997, but some senators have expressed interest in the issue and may introduce legislation early in the 1998 session.

Credit Card Protections – Rep. Joseph P. Kennedy II (D-MA) introduced legislation in June (H.R. 1975) designed to protect consumers from predatory and unfair credit card marketing strategies by, among other things, improving rate disclosure and disclosure of changes in rates and terms and prohibiting charges for on-time payments. No action was taken on the legislation.

Credit Union Membership Access – Legislation was introduced in the House (H.R. 1151) to protect the ability of Americans to join not-for-profit credit unions. At issue is the credit union field of membership policy, which has allowed federal credit unions to serve more than one group as long as each of these groups had its own "common bond." In 1996, banks successfully challenged that policy in the U.S. Court of Appeals for the District of Columbia. The legislation would restore the right of credit unions to serve more than one group of members. In February, the U.S. Supreme Court announced that it would hear the case. No action was taken on the legislation while a decision was pending.

Energy

Electric deregulation – A number of bills outlining various approaches to electric deregulation have been introduced in the House and Senate (S. 237, S. 722, S. 687, S. 621, S. 1276, S. 1401, H.R. 655, H.R. 1230, H.R. 1960, H.R. 338), but none contains all of the basic provisions necessary to ensure that consumers benefit from deregulation. The only bill to have been acted on by the close of the 1997 session is S. 621, which would repeal the Public Utilities Holding Company Act as a first step toward removing federal impediments to competition. The Senate Banking Committee approved the bill on a voice vote in June. S. 621 is opposed by CFA and other consumer advocates on the grounds that premature repeal of PUHCA would: expose consumers to abusive transactions; make regulation of abusive corporate transactions and risky financial practices more difficult; and make the introduction of competition in to the electric utility industry more difficult. This approach is generally favored by Republican leaders in the Senate, but S. 621 was kept off the Senate floor in 1997 by a threatened filibuster and the refusal of key House players to accept a "piecemeal" approach to deregulation. Federally mandated deregulation by a set date is proposed in a number of House and Senate bills. S. 1401, for example, would mandate retail competition by January 1, 2002, while H.R. 655 sets an even tighter deadline, requiring that electricity markets be open to competition by December 2000. Rep. Edward J. Markey (D-MA), meanwhile, has introduced an alternative, H.R. 1960, which incorporates some added consumer protections into a comprehensive approach to deregulation, including universal service provisions. Although electric deregulation was expected to get off to a rapid start in the 105th Congress, differences between House and Senate Republican leaders over how to approach the issue stalled the legislation through most of the first year of the session. In October, the House Energy and Power Subcommittee held hearings on all the bills introduced to date, but lacking the votes to pass a bill, it took no further action before Congress recessed. The administration has announced its plans to introduce legislation early in 1998, which could reactivate the issue.

Telecommunications

Anti-Slamming – Bills were introduced in both the House and Senate (H.R. 2120, H.R. 2112, S. 1410) to address problems related to unauthorized changes in consumers' long-distance telephone service. No action was taken on the bills.

Telecommunications and Information Infrastructure Assistance Program – Congress approved and the president signed an appropriations bill containing $21 million in FY 1998 funding for the Telecommunications and Information Infrastructure Assistance Program. This was significantly less than the $36 million requested by the administration, but $10 million more than originally proposed in the Senate appropriations bill (S. 1022). Administered by the National Telecommunications and Information Administration, TIIAP matches private contributions with government funds to promote the widespread availability of advanced telecommunications technologies.

Cable Rates – Rep. Peter DeFazio (D-OR) introduced legislation (H.R. 2757) in October to freeze cable rates and require the Federal Communications Commission to investigate cable price increases. No action was taken on the legislation.

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Transportation

Auto salvage – The full House and the Senate Commerce Committee both approved legislation (S. 852, H.R. 1839) that, in the name of establishing federal title and registration requirements for salvage vehicles, could actually increase the likelihood that consumers would unknowingly purchase such cars. The bills would: make safety inspections of rebuilt salvage vehicles optional; exempt sellers of most cars over six model years old from major damage disclosure requirements; and set a damage threshold for disclosure of 80 percent. Furthermore, the bills could preempt stronger state laws. Efforts to rush the measure to the Senate floor before Congress recessed were unsuccessful, but the Senate is expected to take up the issue in 1998. Consumer advocates are hoping to get the bill amended in the Senate to provide at least a minimal level of consumer protections.

Highway Safety – With the Intermodal Surface Transportation Efficiency Act due to be reauthorized in 1997, the ISTEA reauthorization bills (S. 1173, H.R. 2400) once again became a vehicle for those promoting initiatives to improve or undercut highway safety. However, Congress failed to pass a multi-year reauthorization bill before recessing, and instead adopted a six-month extension which did not include any changes affecting highway safety. Several highway safety issues are expected to be considered when Congress reconvenes and once again takes up consideration of the multi-year bill. The Senate ISTEA bill includes National Highway Traffic Safety Administration reauthorization that contains several pro-safety provisions, including one keeping NHTSA as the "gatekeeper" in any new procedure for obtaining permission to deactivate air bags or to install on-off switches for the devices, and another directing NHTSA to conduct crash tests of sport utility vehicles and light trucks with smaller passenger vehicles and report to Congress on ways to improve safety. The Senate bill also includes a compromise provision to establish a specific time table for the U.S. Department of Transportation to issue an upgraded air bag standard and for the auto industry to comply. The House NHTSA legislation (H.R. 2691), which is being moved as a separate bill, does not include a comparable provisions on air bags or sport utility vehicle crash tests. It was approved by the House Telecommunications, Trade, and Consumer Protection Subcommittee near the end of the session. In addition, bills were introduced to curb impaired driving by encouraging states to set the legal blood alcohol content level at .08 percent (S. 412, H.R. 981) and by establishing a mandatory minimum sentencing structure for repeat DUI offenders (S. 708, H.R. 982). When the Senate resumes work on the ISTEA bill, Sen. Frank Lautenberg (D-NJ) and Sen. Mike DeWine (R-OH) are expected to attempt to add their .08 percent BAC legislation (S. 412) to the ISTEA bill. Rep. Nita Lowey (D-NY) has said she will offer her legislation as an amendment when H.R. 2400 is debated on the House floor. On the other hand, both the House and Senate Commerce versions of the ISTEA bill contain provisions to exempt specific trucking operations and drivers from federal motor carrier safety rules and to liberalize hours of service requirements for certain drivers. However, the Senate Environment and Public Works bill contains no such provisions.

Government Reform

Balanced Budget Amendment – Measures were introduced in both houses of Congress to amend the Constitution to require a balanced federal budget. The proposed amendment that came up for a vote in the Senate (S. J. Res. 1) would have required that the budget be balanced by the year 2002, or two years after ratification by three-fourths of the states, whichever is later. In a repeat of a 1995 vote on a similar amendment, supporters fell one vote short of the two-thirds (67 votes) required to pass. After being defeated in the Senate, it was never brought up for a vote in the House. A balanced budget amendment is considered harmful to consumers because it unnecessarily ties the hands of government officials in making appropriate fiscal policy decisions.

Campaign Finance Reform – A variety of bills were introduced in both the House and Senate (including S. 25, S. 918, H.R. 493, H.R. 2199) to reform the campaign finance system. Despite extensive attention to campaign finance abuses in 1997, however, reformers came no closer than in the previous year to enacting legislation. S. 25, the bill introduced by Sen. John McCain (R-AZ) and Sen. Russell Feingold (D-WI), came closest to passing, but failed when supporters were unable to gather the votes needed to invoke cloture and end a Republican-led filibuster. The bill would, among other things, eliminate unregulated "soft money" contributions to political parties, limit issue ads that implicitly support candidates, and provide incentives to candidates who accept spending limits. Supporters are expected to renew their efforts in both the House and Senate in 1998.

Miscellaneous

Privacy – Aimed at combatting identity fraud, bills were introduced in the House and Senate (S. 600, H.R. 1813) to restrict uses of Social Security numbers and prohibit credit bureaus from disseminating key personal information. No action was taken on the legislation.

U.S. Office of Consumer Affairs – Congress passed and the president signed a VA-HUD spending bill that zeroes out funding for the U.S. Office of Consumer Affairs. Responsibility for the popular "Consumer's Resource Handbook" was transferred to the Consumer Information Center. Consumer advocates are urging the Department of Health and Human Services to adopt the other functions of the agency.

Peanut Price Supports – Rep. Mark Neumann (R-WI) and Rep. Paul Kanjorski (D-PA) offered an amendment to the agriculture appropriations bill to help protect consumers from price-fixing in the peanut program by capping the peanut price support level at $550 per ton. The amendment failed.

Rise In Consumer Frauds Strains Complaint Agencies

Consumer frauds are on the increase, while the resources available to state and local complaint-handling agencies continue to erode, according the sixth annual survey of consumer complaints by CFA and the National Association of Consumer Agency Administrators (NACAA).

"The caseloads of complaint agencies are up by nearly one- third in the past year, while the budgets of these agencies declined slightly," said NACAA President Joseph K. Goldberg, who heads the Bureau of Consumer Protection in the Pennsylvania Attorney General's Office.

"As a result of these disturbing trends, many of the agencies are increasingly unable to tackle the tough frauds that involve extensive investigation and prosecution," said CFA Executive Director Stephen Brobeck. "This has disturbing implications for the level of consumer protection state and local agencies are able to provide."

Once again, complaints about new and used auto sales topped the list, representing about one-fifth (20 percent) of the 161,884 complaints reported by the 42 state and local agencies that responded to the survey. Home improvement complaints (18 percent) and auto repair complaints (17 percent) were almost as numerous.

Other areas generating significant numbers of complaints were: retail sales (11 percent); mail order/telemarketing (5 percent); credit/collections (5 percent); cable tv (3 percent); and landlord/tenant (2 percent).

When sales and repair complaints are combined, however, automobile complaints far out-paced any other area, representing 37 percent of the total. Moreover, more agencies named auto sales as generating the largest increase in complaints from 1995 to 1996 than any other complaint category.

The number of agencies reporting internet-related complaints tripled from 1995 to 1996, with complaints relating either to Internet Service Providers (ISPs) themselves or to the sale of products over the internet. Many consumers complained about problems with online access through their ISPs; some were left stranded by small companies that closed down; and others filed grievances about billing and sales practices of their providers. Most complaints about sales related to products that were never delivered.

Agencies reported that the greatest challenge they face is from companies that deceive or defraud consumers, then go out of business, often changing their names and reopening for business later. "The only effective way to stop these scam artists is to prosecute them criminally and make them serve time," Goldberg said.

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