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Digital Divide Splits Telecom Consumers

Fewer than one in four Americans are positioned to receive the lower prices or expanded choice in telecommunications and television services that the framers of the Telecommunications Act of 1996 promised, according to a report released in February by CFA and Consumers Union.

"The Digital Divide" finds that, three years after the passage of the act, competition is virtually non-existent, in large part because major industry players have chosen to merge rather than compete.

As a result, instead of a single, increasingly competitive market where everyone gets better and better deals, distinct consumer sub-markets, separated predominately by income, divide consumers into winners and losers, the report finds.

"The sad, unintended consequence of the Telecom Act is the growth of a costly division between telecommunications 'haves' and 'have nots,'" said CFA Research Director Mark Cooper, co-author of the study.

"Those market developments threaten to destroy the very goal many of the act's supporters claimed to embrace – the opportunity to harness enormous technological advancements for the social and economic benefit of all citizens," he added.

The report examines new data from Florida and other public and private sources to construct a first-of-its-kind profile of usage patterns for telecommunications and television services.

Heavy Users Get Price Breaks

About 24 percent of consumers are members of "premier" households, which spend about $200 a month on telecommunications services, including cable TV, multiple phone lines, cellular service, faxes, satellite services, and Internet access.

Because "firms are likely to compete aggressively for this small, attractive segment of the marketplace by offering discounts and other sweet deals," these households are receiving the lion's share of the price breaks, the report finds.

In contrast, almost one-half of all households (45 percent) are only modest users of telecommunications services, spending about $60 a month on average for all such services. These modest users seldom, if ever, receive price breaks for the services they purchase, and instead bear the brunt of price hikes.

"Major industry players who push policymakers to promote massive investment in infrastructure misunderstand this 'digital divide,'" said study co-author Gene Kimmelman.

"The drive to expand infrastructure serves the needs of only the small, upscale group at the top of the food chain, and leaves the rest behind, footing the bill for services they do not want or need," added Kimmelman, who is co-director of CU's Washington, D.C. office.

Since the Telecom Act was signed into law three years ago, consumers have watched cable rates soar 21 percent and rates for in-state long-distance calls rise 10 percent.

With no sign that monopolies in cable or local telephone service will yield to competition anytime soon, these price hikes are more than a short-term setback, the report concludes.

Policy Changes Advocated

"The current telecommunications policy is based on unrealistic promises of competition, and it compounds its error by ignoring powerful market forces," Cooper said.

"Policies must be adjusted to reflect the reality that the core telecommunications and TV services that are consumed in modest quantities by average consumers are and will be provided under monopolistic conditions for the foreseeable future," he added.

The report recommends specific policy changes to close the digital divide, including:

- imposing responsible public constraint on cable's monopoly pricing and anti-competitive practices;
- ensuring continued price regulation of local phone services in markets where there is no competition; and
- protecting low-volume long distance users from discrimination and price increases that don't reflect costs.

The report also advocates specific steps to promote effective competition and to prevent anti-competitive concentration.

"Public policy must be refocused on protecting the needs of the average consumer, rather than allowing telecom monopolies to subsidize high-end services," Cooper said.

Congress Considers New Consumer Protections

Pro-consumer bills on a range of consumer issues from safety to privacy have been introduced in the early days of the 106th Congress.

"This Congress has an opportunity to pass important consumer legislation on a host of issues, such as health care, auto salvage, gun safety, financial privacy, and others," said CFA Legislative Director Mary Rouleau.

Some issues where consumers have a major interest had not yet taken shape in the early days of the session.

For example, while Congress is expected to move managed care legislation this session, it is not clear in what form. Several bills are being drafted, some containing strong consumer safeguards, and some with only marginal protections.

Financial modernization, another issue with broad consumer implications, was also receiving attention early in the 106th. Until new Senate Banking Committee Chairman Phil Gramm (R-TX) unveils his bill, however, the terms of the debate remain uncertain.

The following is an overview of some of the key pro-consumer bills introduced early in the legislative session.

Pro-consumer Auto Salvage Bill Drafted

After defeating anti-consumer auto salvage legislation last year, proponents of real reform are backing an alternative auto salvage bill this year drafted by Sens. Dianne Feinstein (D-CA), Carl Levin (D-MI), and Richard Bryan (D-NV).

"In contrast to last year's legislation, this bill offers consumers real protections against the unsuspecting purchase of a rebuilt wrecked car," said CFA Public Affairs Director Jack Gillis.

Each year, more than one million "totalled" cars – and millions of others that have been severely damaged in crashes and floods – are rebuilt to hide the damage and sold to unsuspecting consumers. The National Association of Attorneys General has labeled this the worst problem used car buyers face.

Consistent with NAAG's recommendations, the Feinstein-Levin-Bryan bill would require disclosure of major damage to vehicles, provide broad coverage of most used vehicles, prevent laundering or washing of titles to conceal prior damage, provide for effective criminal and civil enforcement, and establish a federal minimum standard of consumer protection while preserving the right of states to offer stronger protection to their citizens.

In January, a group of consumer and auto safety organizations, including CFA, wrote urging senators to co-sponsor the bill.

Meanwhile, Senate Majority Leader Trent Lott (R-MS) was expected to reintroduce his anti-consumer salvage bill, which was removed from last year's omnibus budget bill in the response to objections from the White House.

CFA Endorses Children's Handgun Safety Act

In January, CFA endorsed legislation (H.R. 515) to help prevent accidental handgun deaths and injuries to children.

Introduced by Rep. Julia Carson (D-IN), the bill would require that all new handguns come with a safety lock or other discharge prevention device and that minimum safety standards be developed for those devices to ensure their effectiveness.

The bill would also: authorize recall, repair, or replacement of substandard discharge protection devices; require that handguns be accompanied by a label warning of the risks to children and urging owners to use proper storage methods; provide for strong enforcement through public and private civil remedies and criminal penalties; and preserve stronger state laws on safety locks and child access.

"This is the strongest gun lock legislation ever introduced in Congress," said CFA General Counsel Mary Ellen Fise.

Passage of the legislation is necessary because handgun manufacturers have failed to live up to their agreement to voluntarily supply safety devices with their products, Fise said.

An October 1998 study by the Violence Policy Center found that only four of the 20 handgun manufacturers that entered into the voluntary safety lock agreement with the White House are actually supplying any kind of safety device, and some of those devices do not offer adequate protection.

The Carson bill gives jurisdiction to the Treasury Department. In January, a number of consumer groups, including CFA, wrote to Sen. Dianne Feinstein (D-CA) urging her to reconsider legislation that would give jurisdiction over firearms and ammunition to the Consumer Product Safety Commission.

Noting that CPSC has struggled for almost two decades to recover from massive cuts inflicted on the agency in the 1980s, the groups wrote that "Any effort to place guns under CPSC's authority is sure to generate a major attack on the agency from the powerful National Rifle Association and the gun industry."

As a result, they wrote, "consumers might well lose protection from unsafe products."

Instead, the letter suggests granting such authority to the Department of

(Continued on Page 2)

Anti-consumer Bills Advance

As pro-consumer bills were being introduced in the early days of the session, several anti-consumer bills were already moving toward passage.

In February, for example, the Senate Committee on Banking, Housing, and Urban Affairs reported out anti-consumer legislation (S. 313) to repeal the Public Utility Holding Company Act.

The House, meanwhile, adopted two bills that would make it more difficult for the federal government to enact and enforce regulations.

"Unfortunately, there are those in Congress who are intent on scaling back consumer protections, and they are pressing their agenda aggressively," said CFA Legislative Director Mary Rouleau.

Rouleau wrote to Senate Banking Committee members in February, warning that premature repeal of PUHCA would result in:

- cash and attention being diverted away from the utilities' core business and devoted instead to acquisitions to build market power and diversification into unrelated, speculative lines of business;
- utilities engaging in abusive inter-affiliate transactions; and
- federal and state regulators not being able to police utility transactions adequately.

In addition, premature PUHCA repeal would make the introduction of competition into the electric industry much more difficult, Rouleau warned.

"This act provides essential consumer protections," she wrote. "Given the current wave of mergers in the electric industry, these protections are as important today as they were when PUHCA was enacted."

"Repeal of PUHCA should be the last step on the road to competition, not the first," she added.

Similar legislation was approved by the Senate Banking Committee early in the last Congress, but it was never acted on further because of unreconciled divisions between the House and Senate over how to proceed with electricity deregulation.

In the House, anti-consumer bills were on an even faster track. H.R. 350, the "Mandates Information Act," passed on a 274-149 vote after two pro-consumer amendments were narrowly defeated.

Under the bill, a point of order could be raised on the House floor against any bill that imposes implementation costs of more than $100 million on the private sector. The point of order would trigger 20 minutes of debate followed by a vote on whether to proceed.

"This bill would put cost considerations ahead of the benefits of public protections," Rouleau said.

Rep. Sherwood L. Boehlert (R-NY) offered an amendment that would have allowed the point of order to be raised, triggering 20 extra minutes of debate, but would have eliminated the procedural vote on whether to proceed.

When that amendment failed on a 210-216 vote, Rep. Henry Waxman (D-CA) offered an amendment to extend the bill's procedural protections to legislation that would weaken health, safety, and environmental protections. That amendment failed on a vote of 203-216.

The following day, the House passed H.R. 391, the Small Business Paperwork Act, on a vote of 273-151.

As introduced, the legislation would have given a blanket waiver of civil fines to first-time violators of federal record-keeping and reporting requirements.

Currently, federal agencies almost always waive fines against first-time violators who make good-faith efforts to correct their errors.

"This bill would rob federal agencies of the ability to punish willful violations," Rouleau said. "Worse, it would encourage more violations, since businesses with as many as 1,500 employees would know they could avoid reporting requirements without fear of a fine until after they are caught for the first time."

An amendment by Rep. Dennis Kucinich (D-OH) to restore agencies' ability to fine willful violators while requiring the agencies to develop policies to limit fines on first-time violators was defeated on a 210-214 vote.

The House did then adopt an amendment to that permits agencies to impose civil fines on first-time violators if the violation has the "potential to cause harm" to the public interest.

"Although this is an improvement," Rouleau said, "it is likely to lead to lengthy disputes over what has the 'potential to cause harm.'"

Consumer bills (Continued from Page 1)

Treasury, which already oversees licensing of manufacturers and dealers and conducts safety testing of imported handguns.

Bill Would Protect Financial Privacy

Sen. Paul Sarbanes (D-MD) was joined by Sens. Christopher Dodd (D-CT), Richard Bryan (D-NV), John Edwards (D-NC), Ernest Hollings (D-SC), and Patrick Leahy (D-VT) in introducing legislation (S. 187) in January to protect the privacy of consumers' confidential financial information.

Under current federal law, banks, brokers, and insurance companies can take any information they obtain about a customer through his or her transactions and sell or transfer that information to a third party without first notifying the customer or obtaining his or her consent.

The bill would ensure that: confidential customer information is not disclosed or shared with third parties unless the customer has given prior written consent; customers can refuse to have their information shared with the institution's affiliates; and customers have access to the information to review it for accuracy.

"This bill represents a positive first step toward protecting the privacy of financial information," said CFA Director of Consumer Protection Jean Ann Fox.

In a January letter to Sen. Sarbanes endorsing the legislation, a group of consumer and privacy organizations, including CFA, added that "there are additional important protections that need to be included if we are to ensure that financial institutions meet basic fair information practice standards."

Specifically, the groups urged inclusion of provisions to: ensure that financial institutions are liable to consumers for violations of the law; prohibit sharing of personally identifiable confidential financial information with the institution's affiliates without first obtaining the customer's consent; and impose an affirmative obligation on financial institutions to guard against threats to security and privacy of data.

"Privacy protection is a prerequisite to financial modernization," Fox said. "The recent rash of mega-mergers among banks, insurance companies, and securities firms has focused public attention on how little control of financial information consumers now have."

Bill Would Protect Against Health Research Giveaways

Along with other consumer, health, and seniors groups, CFA endorsed bipartisan legislation in February to halt the government giveaway of billions of dollars worth of taxpayer-financed health research.

Introduced by Reps. Bernard Sanders (I-VT), Peter DeFazio (D-OR), Tom Campbell (R-CA), and Dana Rohrabacher (R-CA), the legislation (H.R. 626) is designed to prevent companies from overcharging for prescription drugs and other health care technologies developed with federal funds.

Specifically, it would require anyone who obtains exclusive right to commercialize federal research for drugs or other health care technologies to first enter into a reasonable pricing agreement with the Department of Health and Human Services.

That requirement could be waived by the Secretary of Health and Human Services, but only after the public is given an opportunity to comment, and only if the Secretary determines the waiver is in the public interest.

"Currently, patients with multiple sclerosis, breast cancer, colon cancer, heart disease, AIDs, and other diseases pay up to 100 times the actual cost for prescriptions drugs that have been developed with funding provided by the federal government," Rouleau said. "The results are devastating."

"By requiring that the federal government only share the billions of dollars in intellectual property it produces each year with those companies that best serve the public interest, this legislation would help put an end these abusive overcharges and make lifesaving drugs accessible to thousands of consumers,"she said.

Stronger On-line Privacy Protections Urged

Consumer and privacy groups wrote to the president in January urging him to support the establishment of minimum standards for consumer protection in the on-line world.

"The Internet offers an important new opportunity for consumers to receive information about products and to seek new commercial services," said CFA Director of Consumer Protection Jean Ann Fox. "But consumers will only reap the full benefits of this powerful new communications technology if they are guaranteed certain basic consumer and privacy protections."

In their letter, the groups argued that the approach recommended by the Task Force on Electronic Commerce – with its heavy reliance on investigating fraudulent and deceptive trade practices on the Internet – is too narrow to provide adequate protection.

"Standing alone, it will invariably undercut a long tradition of legal measures adopted in the United States to protect the interests of consumers," they wrote.

The groups urged that consumer protection standards include: simplification of contracts, means for cancellations, effective complaint mechanisms, limits on consumer liability, non-enforceability of unreasonable contract provisions, recourse at least to the laws and courts of their home country, and cooperation among governments in support of legal redress.

Such standards are needed, Fox said, to guarantee "at least the same levels of protection as are afforded in the off-line world."

The letter also criticized an administration proposal to have the FTC conduct a second review of website privacy policies in cooperation with the Direct Marketing Association. They argued that any such review should be conducted with the full participation of privacy and consumer organizations.

In at least a partial response to the concerns raised in the letter, both CFA and Consumer Action have since been invited to participate in designing a second privacy sweep, to be conducted by Georgetown University.

Finally, the groups urged the president to support establishment of an independent federal privacy agency "to address privacy issues and to bring expertise and resources to bear on the privacy challenges facing this country."

CFA also provided another round of informal comments to the FTC in January on the Organization of Economic Cooperation and Development's proposed standards for consumer protections for electronic commerce.

Last April, CFA had submitted comments at the FTC's request in which it praised the guidelines for "covering the right points" – such as cooling off periods and charge-backs of transactions – but criticized their too heavy reliance on voluntary compliance.

The new version has "been modified to improve the specificity of the protections to consumers and information disclosures," Fox wrote.

"However, our central concern is still unmet," Fox added. "There is over-reliance on self-regulation in place of enforceable consumer protections," and "there is inadequate attention to the need for additional consumer protections that recognize the unique characteristics of this market."

Treasury Considers Further EFT '99 Rules

The Treasury Department announced in January that it will consider regulating the accounts that federal benefits recipients establish voluntarily to receive their payments electronically.

In particular, Treasury is seeking comment on whether to regulate or prohibit arrangements in which financial institutions provide access to such accounts through check cashers and other fringe bankers.

"Publication of this Advance Notice of Proposed Rulemaking is an important victory for CFA, the National Consumer Law Center, and other groups that have been arguing since the EFT '99 rulemaking process began that more needs to be done in this area," said CFA Director of Consumer Protection Jean Ann Fox.

The electronic funds transfer provisions of the Debt Collection Improvement Act of 1996 encourage the use of direct deposit for federal benefits payments.

As Treasury has developed the regulations to implement the new law, CFA and NCLC have repeatedly argued that Treasury's failure to specify even minimum standards for the voluntary accounts ignores the law as well as the harsh costs to recipients from these accounts.

"In the absence of regulation, too many recipients have signed up for accounts through check cashers and other fringe bankers that are expensive and potentially extortionate," Fox said.

Partnerships With Fringe Bankers Should be Prohibited

In November, 15 organizations, including CFA and NCLC, wrote to Treasury Secretary Rubin once again outlining the case for regulating voluntary accounts "to ensure access through financial institutions at reasonable cost."

The groups argued that only financial institutions should be permitted to be conduits for federal funds and that partnering between a check casher and a bank should not be permitted.

"The partnership between federally insured banks and fringe bankers (i.e., check cashers, rent-to-own stores, money transfer corporations, etc.) benefits all parties except the payment recipient," the groups wrote.

"Banks operating as conduits between the federal government and fringe bankers simply add another layer of fees to the price of the fringe bankers' already costly services," they added.

In addition to prohibiting such partnerships, the groups urged Treasury to require: that the fees charged for these new accounts be reasonable; that banking regulators be required to ensure the reasonableness of these fees; and that consumer protections apply to the transaction from the point the federal payment is deposited in the account until the recipient withdraws the funds.

"Treasury Secretary Rubin has stated often that EFT '99 represents a great opportunity to bring significant numbers of the unbanked and under-banked into the financial mainstream," Fox said. "But that admirable goal will only be realized if the accounts benefits recipients establish voluntarily to receive their payments electronically are subject to adequate consumer protections."

In January, CFA, NCLC, and 11 other organizations also presented comments to Treasury on the proposed regulations for the default accounts established for benefit recipients who fail to specify a financial institution for receipt of payments and who do not qualify for a waiver.

ETA Rules Should Be Strengthened

"The Treasury has done a good job in several areas designed to facilitate ease of use by recipients and to afford needed safeguards," Fox said. "However, serious concerns remain that must be addressed in final rules."

In their comment letter, the groups praised the rules for requiring that the accounts: be individually owned at a federally insured financial institution, be prohibited from requiring a minimum balance, include a monthly statement, allow a number of free withdrawals as well as point of service purchases for one uniform monthly fee, prohibit the use of off-line electronic transactions to reduce the possibility of overdrafts and the associated fees, and be made available to all federal recipients, regardless of their credit status.

They also praised the proposed prohibitions against allowing financial institutions to contract with non-financial institutions to provide access to electronic transfer accounts (ETAs) and allowing financial institutions to set off other debts owed by the recipient from funds deposited in the ETA.

However, the groups also outlined a number of improvements that are needed to enhance the consumer protections afforded by the accounts, including requiring that:

- the terms and conditions for creation and termination of the accounts be a matter of public record and enforceable by recipients;
- all fees imposed on ETA recipients by financial institutions for access to and use of deposited funds – such as fees for withdrawals over the number included in the monthly fee – be fully regulated by Treasury;
- attachment and execution on exempt funds in ETAs be specifically prohibited, except in the limited circumstances specifically permitted by federal law; and
- additional account services be offered by all ETA account providers at little or no cost to the consumer, including access to electronic transfers and reasonably priced money orders, as well as the ability to deposit non-federal funds and to authorize automatic bill payment for recurring monthly expenses.

Foreman To Rejoin CFA Staff

Former CFA executive director Carol Tucker Foreman will rejoin CFA in mid-March as distinguished fellow and director of CFA's new Food Policy Institute.

"Carol's rejoining CFA is great for the organization and great for consumers," said CFA Executive Director Stephen Brobeck. "In my view, over the past quarter-century, no one has done more than Carol to assure that all Americans have an adequate supply of safe, nutritious, and affordable food."

Foreman is returning to CFA to create a food policy institute that will help shape a twenty-first century food policy that advances the consumer interest. CFA's Food Policy Institute will seek to develop policies that improve nutrition, especially among the least affluent, and that assure food safety in a global economy.

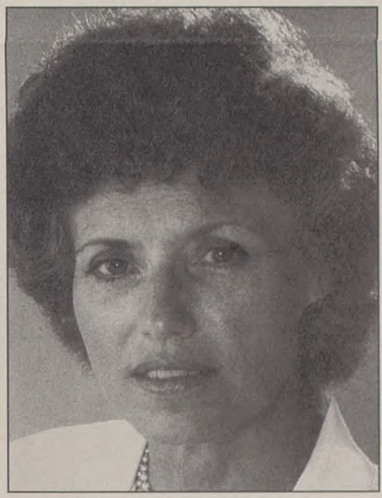
"I'm delighted to return full-time to public interest work in the food and nutrition field and to an organization that has done so much to advance the consumer interest," Foreman said.

"The 260 non-profit groups – representing well over 50 million Americans – that make up CFA's membership help ensure that it speaks effectively for all consumers and is heard by government policy makers," she added.

Foreman served as executive director of CFA from 1973 to 1977, during which time she became a lead spokesperson for consumers on food issues.

Specifically, she pushed retailers to provide adequate price information to consumers as the industry adopted the computerized check-out system. She also forged a coalition of family farmers, who were economically hard-pressed, and urban consumers, who faced rapidly rising food prices, to protest Nixon administration agriculture policies.

Foreman left CFA in 1977 to become assistant secretary of agriculture for food and consumer services. In that position,



Carol Tucker Foreman

she became the lead administration advocate for consumers on food issues.

For example: she led the development of the first Dietary Guidelines for Americans; expanded the Women, Infants, and Children's Supplemental Feeding Program; and managed the administration's successful effort to end the purchase requirement for food stamps, which prevented the poorest of the poor from participating and encouraged fraud and abuse.

In 1986, Foreman founded the Safe Food Coalition, of which CFA is a member and which she has since coordinated.

The coalition's most notable success has been persuading the U.S. Department of Agriculture to scrap the archaic "sniff and poke" inspection system in favor of specific limits on invisible, disease-causing bacteria in meat and poultry products. The coalition also has sought to improve inspection of both domestic and imported fresh fruits and vegetables.

When she left the USDA in 1981, Foreman formed and became president of a consulting firm, now known as Foreman Heidepriem & Mager, Inc. In rejoining CFA, Foreman is withdrawing from the firm and from corporate consulting.

Microsoft Overcharges (Continued from Page 4)

manufacturers install and selling add-on retail packs to supplement that content.

"It is particularly ironic to see that, in order to defend its pricing strategy, Microsoft considered breaking apart the operating system bundle, which it otherwise claims must be kept together to preserve uniform experience," Cooper said.

"Its serious consideration of this option removes any doubt that Microsoft's bundling strategies are nothing more than anti-competitive business tactics intended to maintain market power, not technological imperatives or consumer-oriented marketing programs," he added.

$10 Billion Fine Warranted

The need for immediate action is reinforced by Microsoft's "horde of cash," which it can use to underwrite its long-term strategy of buying into other parts of the PC hardware or software industry to defend its monopoly power, Cooper said.

"Microsoft can pay huge premiums to purchase companies as strategic investments to defend its market power in the operating system," he explained.

Based on its analysis, the report concludes by recommending that $10 billion be the minimum amount considered for the fine in the DOJ's antitrust case.

"The irony is that Microsoft's monopoly has been so potent that, even if it were forced to pay this sum as a fine, it could write a check from cash on hand and still have more cash, relative to its ongoing operations, than most companies keep," Cooper said.

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Microsoft Overcharges Consumers $10 Billion

Microsoft has overcharged consumers by $10 billion worldwide in the past three years, according to a report released in January by CFA, the Media Access Project, and the U.S. Public Interest Research Group.

In order to prevent further harm to consumers, the antitrust court should end Microsoft's abuse of monopoly power and return the billions of dollars of overcharges to the public as quickly as possible, the report concludes.

The report – "The Consumer Cost of the Microsoft Monopoly: $10 Billion of Overcharges and Counting" – provides a detailed examination of Microsoft's pricing and profits.

"This analysis leaves no doubt that consumers have paid billions of dollars too much for Microsoft operating systems in the past three years and that the pricing abuse will only get worse if Microsoft is not disciplined sternly by the antitrust court," said CFA Research Director Mark Cooper, author of the study.

The report follows up an earlier analysis by CFA and MAP, released in October, that presented a detailed, qualitative study of the anti-competitive, anti-consumer nature of Microsoft's business model.

Based in large part on internal Microsoft documents made public as part of the Department of Justice's antitrust trial against the software giant, the new report confirms the findings of the earlier CFA/MAP study and quantifies the damage to consumers.

Operating System Prices Doubled

Specifically, the new report finds that Microsoft has doubled the price of operating systems over the past decade, at a time when the price of operating systems should have remained flat or declined slightly.

Based on a comparison to pricing trends in competitive hardware and software markets, the report estimates monopoly excesses in the range of $35 to $45 per system for Microsoft's operating system.

With approximately 250 million PCs pre-loaded with the Microsoft operating system having been sold in the past three years – the period covered by the antitrust case – that amounts to between $9.1 and $11.7 billion in overcharges worldwide. The United States accounts for about $4 billion of the total in overcharges.

Furthermore, the software giant appears intent on doubling its prices again in the near future, the report finds.

"Microsoft's unrestrained monopoly is literally a license to print money that comes directly out of the consumer's pocketbook," Cooper said.

Monopoly Produces Excessive Profits

The estimate of $10 billion in overcharges based on Microsoft's pricing practices is also supported by an analysis of the firm's profits.

The report compares Microsoft's performance to five other groups of firms: the Business Week 1000, the entire computer industry, computer hardware and peripherals manufacturers, computer software vendors, and semiconductor producers (excluding Intel).

While other companies in the industry earned return on equity in 1996, 1997, and 1998 that was just about the same as the national average, Microsoft's return on equity during the same period was above 30 percent, approximately twice as high as that experienced by the industry as a whole.

Microsoft's profit margins were also extraordinarily high. For example, the company's 1996 profit margin of just under 26 percent was more than five times higher than profit margins in either the hardware sector of the software and services sector. It's advantage over the other groups was even greater.

Furthermore, while the profit margins of the other companies were stable in 1997 and 1998, Microsoft's profit margins rose to 30 percent in 1997 and reached 37 percent through the first three quarters of 1998.

Microsoft Attacks Low-Cost PCs

The report also documents a Microsoft campaign to prevent the PC market from becoming centered on the low cost PC, which would threaten the company's ability to maintain its high prices.

"Knowing that its pricing is not being driven by competition on the supply side, but solely by what the market will bear on the demand side, the fundamental problem that Microsoft sees in the market is not competing operating systems, but a low cost PC," Cooper explained.

To combat this threat, Microsoft strives to shift demand to higher cost systems, where it can more easily collect its monopoly profits, even though the company recognizes that "current PC technology is totally sufficient for most office tasks and consumer desires," the report finds.

"Microsoft's pricing strategy is nothing less than a comprehensive campaign to force millions of consumers to pay high prices for unneeded capacity," Cooper said.

"A low priced PC would open the information age to the 50 percent of households that do not yet have a PC, but it comes into conflict with Microsoft's revenue growth goals," he added.

If it is allowed to pursue this strategy, Microsoft will succeed in imposing additional over-charges on the public in the range of $15 billion in the next two years, the report concludes.

The report also shows that Microsoft's own analysis makes it clear that the PC is becoming a commodity with interchangeable parts, which can be stripped down and tailored to meet various needs.

Despite Microsoft's claims that the operating system cannot be unbundled, the company's own memos showed that it considered a strategy of reducing the operating system content that computer

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CPSC Votes To Pursue Bunk Bed Rulemaking

The Consumer Product Safety Commission voted 2-0 in February to proceed with a mandatory rule to improve bunk bed safety.

"By voting to issue a Notice of Proposed Rulemaking, CPSC has taken the next significant step forward in assuring that bunk beds will be made in a manner that does not entrap and kill young children," said CFA General Counsel Mary Ellen Fise.

When CFA petitioned the agency for a mandatory rule in 1987, at least 72 children had already died in bunk bed incidents. In 1988, however, the commission denied CFA's petition, choosing instead to rely on a voluntary standard. Since that time – from January 1990 through October 23, 1998 – an additional 89 children died in bunk bed incidents, most of them as a result of head entrapment.

"If ever the voluntary route has been given a chance, it is this one," Fise said. "After all this time, the evidence is clear: voluntary attempts in this case have not been sufficient to protect young children."

CFA was joined by the Coalition for Consumer Health and Safety and 28 state and local consumer groups in urging commissioners to vote in favor of issuing a Notice of Proposed Rulemaking. All of the groups noted the continued deaths to children from bunk beds and the substantial lack of compliance with the voluntary standard as important reasons for pursuing a mandatory standard.

The groups also noted that a mandatory rule is likely to be effective in preventing additional deaths. As the state groups wrote in their letter, a mandatory rule would encourage compliance through the threat of civil penalties for violators, by enabling state and local officials to assist CPSC in enforcement efforts, by helping prevent the import of non-complying beds, and by imposing identification requirements on manufacturers that will assist the agency in ongoing efforts to recall unsafe bunk beds. In addition, retailers and distributors who require that products they purchase meet applicable federal standards will help further build the level of compliance.

Finally, all of the groups urged the commission to strengthen the existing voluntary standard to address such issues as openings in the guard rail and in the bunk end structure. "Removing all entrapment areas is necessary to assure that youngsters sleeping in these beds will not be at risk," Fise said.

Chairman Ann Brown and Commissioner Thomas Moore voted in favor of the rulemaking, while Commissioner Mary Gall abstained.

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