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Anti-Consumer Financial Bills Advance

On two of the most significant financial services issues likely to be considered this session – bank restructuring and bankruptcy reform – Congress advanced bills this spring with little attention to consumer concerns.

In March, the House and Senate banking committees approved bills to allow banks, securities firms, and insurance companies to merge and to offer a broad array of financial services through the financial supermarkets that result.

In April, the House and Senate judiciary committees approved bills to restrict the ability of financially strapped consumers to make a fresh start in bankruptcy.

Both the House and Senate bankruptcy bills (H.R. 833, S. 625) are closely patterned on last year's anti-consumer conference report, which passed the House but died in the Senate when faced with strong Democratic opposition and a threatened presidential veto.

Like the conference report, both would impose a rigid new means test on bankrupts seeking to file under Chapter 7, which allows debtors to discharge their debts and make a fresh start.

Those debtors who failed to clear the means test would instead be forced to file under Chapter 13, in which they must repay at least a portion of their debts over a three- to five-year period.

Bills Are Based On False Premise

"The whole premise of this legislation is that large numbers of debtors are using Chapter 7 bankruptcy irresponsibly to skip out on debts they could afford to repay," said CFA Executive Director Stephen Brobeck.

"That simply is not the case, since the typical bankrupt has an after-tax income under $20,000 and consumer debts greater than this amount," he said.

Despite the lack of evidence of widespread abuses, the legislation proposes changes, the overall effect of which would be to make consumer bankruptcy more costly, less efficient, and less available to people in financial crisis, Brobeck said.

House Judiciary Committee Chairman Henry Hyde (R-IL) joined with committee Democrats in an effort to give judges more flexibility to determine Chapter 7 eligibility. Although the amendment was initially adopted, it was later stripped from the bill by committee Republicans before the final vote on the legislation was taken.

The means test was also an issue during the Senate committee mark-up.

Although last year's Senate bill provided judges with flexibility in how they apply the means test, that language was not included in this year's bill. An amendment by Sen. Charles Schumer (D-NY) to restore some flexibility to bankruptcy judges fell on a 7-11 vote.

Chairman Orrin Hatch (R-UT) did indicate, however, that a floor compromise on the issue was possible in the Senate.

Bills Fail To Reign in Creditor Abuses

While imposing onerous new restrictions on financially strapped consumers, the bills do nothing to reign in the abusive credit card marketing practices that lure many consumers into unmanageable debts.

"Card issuers have expanded their marketing and unused credit lines far more rapidly than consumers have taken on debt," Brobeck said. "Much of this increased promotion and credit extension has been targeted at low and moderate income households."

CFA has endorsed legislation by Rep. LaFalce – H.R. 900, the Consumer Credit Card Protection Amendments of 1999 – that incorporates several of the needed reforms.

First and foremost, it would require credit card billing statements to disclose how long it would take and how much it would cost to pay off the balance making only minimum payments.

It would also restrict marketing of credit cards to persons under 21 and prohibit card companies from penalizing consumers who routinely pay off their monthly credit balances on time without incurring interest charges.

These provisions were not included in H.R. 833 when it was marked up in committee.

Last year's Senate bill did include provisions requiring disclosure of the consequences of making minimum payments and prohibiting the imposition of special fees on consumers who don't incur interest charges.

Those provisions were not included in this year's Senate bill, however, because, unlike his predecessor as banking committee chairman, Sen. Phil Gramm (R-TX) claimed jurisdiction over credit card issues for the Senate Banking Committee.

Republicans have said they would be willing to discuss consumer protection and credit card issues before floor consideration.

The House was expected to bring its bill to the floor in the first week of May, with floor action expected in the Senate soon thereafter.

Committees Approve Financial Restructuring Bills

Meanwhile, the Senate Banking Committee reported out its unnumbered financial restructuring bill in March on an 11-9 party-line vote and under a veto threat from President Clinton.

A week later, the House Banking Committee gave its bank restructuring legislation, H.R. 10, overwhelming bipartisan support.

Both bills were opposed by consumer groups, because of their failure to include either strong consumer privacy protections or a requirement that banks offer low-cost basic bank accounts.

During its considerations, the House Banking Committee rejected 27-31 an amendment offered by Rep. Maxine Waters (D-CA) and Rep. Janice Schakowsky (D-IL) that would have required banks to offer low-cost or "lifeline" bank accounts to customers.

"Today, more than 12 million people are without bank accounts, often because they simply cannot afford them," Brobeck said.

"As Congress considers legislation that offers banks broad new powers, it must also include a guarantee that all consumers will be able to afford basic bank-

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Update

As this issue of the newsletter went to press, the House adopted anti-consumer bankruptcy legislation on a 313-108 vote, and the Senate adopted its version of financial modernization legislation on a 54-44 vote. Details of those actions will be included in the next issue of CFAnews.

State Insurance Departments Graded

State insurance departments vary greatly in the quality of information they provide to consumers, according to a report released in March by CFA.

"Consumers need good information in order to get through the maze of insurance complexity so that insurance can be workably competitive," said CFA Director of Insurance J. Robert Hunter.

"It is the job of the states to provide useable consumer information to assist in this process," he added.

The report found that seven states – Colorado, Florida, Kansas, Missouri, Ohio, Texas, and Wisconsin – do a particularly good job in serving their consumers. These states scored an "A" for their efforts.

In contrast, six states – Alabama, Arkansas, Maryland, Minnesota, New Hampshire, and Washington, D.C. – failed to respond to repeated requests for information. These were given the worst score, an "I" for Incomplete.

Another five states – Georgia, Idaho, Rhode Island, South Dakota, and Tennessee – received an "F" either because they do not provide consumer information or provide materials of very poor quality.

Among the remaining 34 states, 13 scored a "B," 14 scored a "C," and seven scored a "D."

Grades were awarded using both quantitative and qualitative measures of excellence.

The quantitative test determined whether the state provides price, service (complaint ratio data), and general information for the major lines of insurance that consumers typically buy – auto, home, health, and life insurance.

If a state provided all or most of this information, the materials were then reviewed to determine the specificity and usefulness of the information provided to consumers. In particular, states received high scores for providing "how to" steps that consumers can follow to save money.

"The quality of state supplied consumer information on insurance has been improved since we last looked at this issue several years ago," Hunter said. "But much more needs to be done."

Before the report had even been released, however, the National Association of Insurance Commissioners had circulated a memo to members characterizing the study as an "attack on state regulation."

Noting that state regulators "always use our consumer protection efforts as one of the strengths of state regulation," the memo stated that "any report that questions that strikes at the core of our defense and should be countered."

Hunter expressed disappointment in the NAIC's over-heated response to "constructive criticism" and questioned whether the association was more concerned with "self-protection" than consumer protection.

A more constructive response, he said, would be for those states that received poor grades to "look at the high quality materials of the high grade states" – particularly Texas and Wisconsin – and commit to upgrade their information quickly.

"The fact that so many poor insurance choices are still being made – such as the recent and vast occurrence of misleading sale practices by life insurance companies – is proof that much more remains to be done by the states in getting vital insurance information into people's hands," Hunter concluded.

Savers Could Earn Billions By Shifting Accounts

Savers could earn tens of billions of dollars more annually simply by shifting funds to higher interest accounts, according to savings rate information released in February by CFA and the Credit Union National Association.

"Consumers could earn up to $20 billion more in annual interest on their savings without losing federal deposit insurance protection," said CFA Executive Director Stephen Brobeck. "All they need to do is shift funds at their banking institution from a traditional savings or money market deposit account to a certificate of deposit."

"Simply by shifting funds from a bank to an equivalent account at a credit union, consumers could earn billions of dollars more in annual interest," added CUNA President and CEO Dan Mica.

On average, credit unions pay over one percentage point more in interest on interest-bearing checking, money market deposit accounts, and certificates of deposit.

If all consumers had access to a credit union, the potential increase in interest earnings would exceed $20 billion annually.

CFA and CUNA analyzed data, collected by Bank Rate Monitor, on rates paid by banks and credit unions on interest-bearing checking accounts, money market deposit accounts, and six-month, one-year, and five-year certificates of deposit (CDs) during the months of January and February 1999.

Estimates of potential consumer savings are based on Federal Reserve data on savings deposits.

At banks, interest checking rates now average less than one percent (0.84 percent), and money market deposit rates average less than two percent (1.91 percent). But CD rates usually exceed four percent.

The gap between money market deposit rates and short-term CD rates at banks has grown over the past five years.

In December 1993, the difference was well under one percentage point. By January 1999, however, the difference had grown to more than two percentage points.

Credit unions pay over one percentage point more on various interest-earning accounts than do banks.

The largest difference is for money market deposit accounts, where credit unions pay 1.5 percentage points more than banks. For all other accounts, the difference is between 1 and 1.25 percentage points.

As short-term interest rates have fallen in the past three years, so have the yields for all types of accounts at both banks and credit unions. But the decline has been more modest at credit unions.

While the decline in savings yields at banks have mirrored market rate changes – with most account types falling between 0.5 and 0.8 percentage points – savings yields on all types of accounts at credit unions have fallen by less than 0.3 percentage points.

As a result, the spread between credit union and bank savings yields has increased over the past three years. On average, the gap between credit union and bank rates has increased by about 0.5 percentage points.

"The interest rate difference between banks and credit unions adds up over time," Brobeck noted.

For example, a five-year CD at a credit union currently pays 5.59 percent on average, compared to 4.25 percent for a five-year bank CD. Over 20 years, $10,000 in a five-year credit union CD (rolled over three times at the current rate) would earn $19,679, or $6,690 more than the $12,989 earned on the bank CD.

If all households were to shift their funds from banks to credit unions and from money market deposit accounts and other traditional savings accounts to CDs, the potential annual increase in interest earnings would exceed $40 billion, or an average of more than $400 per household, Brobeck noted.

Treasury Urged To Ban Benefit Payments Through Fringe Bankers

A coalition of national, state, and local groups representing elderly and low income consumers has called on the Department of Treasury to ban the delivery of federal benefits through check cashers and other payment service providers.

In comments filed with the Treasury Department in March on its Advance Notice of Proposed Rulemaking, the groups, including CFA and the National Consumer Law Center, urged Treasury to "prohibit financial institutions accepting electronic deposits of federal payment from contracting with payment service providers to be conduits for the delivery of federal payments."

"We believe the law not only allows, but compels, Treasury to regulate payment service providers," said CFA Consumer Protection Director Jean Ann Fox.

"The only crucial question that remains is the form of the regulation of accounts using payment service providers," she added. "We believe that there is also a simple answer to this question: these arrangements should be prohibited."

Specifically, the groups argued that, while fringe bankers should not be prohibited from providing *any* access to federal money, they should not be allowed to be the *primary* or *sole* access for any federal recipient.

"It should not be the check casher that establishes the account, or makes money off the account, or markets the account for a bank," the groups wrote.

If recipients can only receive their federal payments through financial institutions, they will be pulled into the mainstream banking system, the groups argued.

As a result, they will be provided with a less expensive means to access their federal money, as well as with opportunities for savings and alternative, and less expensive, sources of credit.

Though some recipients may still choose for convenience sake to access their money through a check casher's or money transmitter's ATM terminal, they will not be forced to go to the check casher to receive their federal payments and will be full-fledged customers of the bank.

And, the banks receiving the federal payments will have a greater source of funds as a basis for community reinvestment back into the low income community, an obligation that check cashers lack.

Abuses Abound

To bolster their argument, the groups provided numerous examples from around the country of high costs and abusive practices in the distribution of federal benefits payments through check cashers and other fringe bankers.

At one check casher in North Carolina, for example, the recipient must first pay a $4 fee to receive a paper check at the check casher's office – including a $1 monthly fee to the bank, a $1.95 monthly fee to the check casher, and a $1.05 distribution fee for the check. The recipient must then pay three percent of the check's face value to cash the check.

On a monthly benefit check of $500, this would result in a total fee of $19, or 3.8 percent of the recipient's income per month. On an annual basis, the total mushrooms to $228.

Furthermore, the groups documented several cases in which check cashers were offering payday loans on federal benefits payments, at annual percentage rates as high as 520 percent.

"The fact that payday loans are currently being made in several states around the nation, secured by the guaranteed electronic receipt of a federal payment, should be adequate illustration for the absolute necessity to exclude payment service providers from the delivery system for federal benefits payments," Fox said.

These loans are being made in states where they are currently unequivocally illegal, she noted, and they are being secured by the electronic deposit of Social Security, SSI, and veteran's benefits, all of which operate under specific prohibitions against the assignment of benefits.

"These payment service providers are thumbing their noses at state and federal laws," she said.

Furthermore, she said, "as long as banks are permitted to contract with payment service providers to provide access to federal benefits, they have absolutely no incentive to make Treasury's proposed electronic transfer account or other low cost account available to the unbanked."

Treasury Has an Obligation to Regulate

Since Treasury has a statutory obligation to guarantee recipients access to an account, with the same consumer protections as other accounts, at a reasonable cost – and has rejected the approach of regulating all accounts – "the cleanest and simplest method of accomplishing this statutory mandate" is to prohibit payment service providers from serving as a conduit for federal benefits payments, the groups argued.

"As advocates of low income people, and of consumers generally, we agree that electronic transfers can be a more efficient and safer method of receiving payments than the paper check based system," the groups concluded.

"However, the additional advantages of the electronic system quickly evaporate if recipients have higher costs, unanticipated risks, and greater potential losses, as will clearly occur unless Treasury prohibits financial institutions from contracting with payment service providers for the delivery of federal payments."

Financial Services Bills

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ing services," he added. "The banking committees' failure to provide that guarantee leaves millions of consumers dependent on high cost check cashers and lenders."

Despite the efforts of Rep. Jay Inslee (D-WA) and Rep. Robert Weygand (D-RI), the committee also turned aside an amendment to prevent financial services firms from sharing information about customers without their knowledge or consent.

Instead of allowing a vote on the Inslee-Weygand amendment, however, Banking Committee Chairman Jim Leach (R-IA) and Rep. Bruce Vento (D-MN) offered a weak substitute supported by industry that merely requires banks to disclose their privacy policy to consumers but gives them no right to opt out.

"As banks move further into the world of one-stop shopping for bank accounts, credit cards, insurance, and investment products, consumer privacy is at great risk," said CFA Consumer Protection Director Jean Ann Fox.

"Consumers should have a basic right to control how their information is used. This bill does not provide that," she said.

Despite these serious short-comings in the House bill, the Senate bill is, if anything, even less consumer-friendly, since, in addition to lacking privacy and basic banking provisions, it would also scale back the Community Reinvestment Act.

Sen. Gramm killed financial modernization legislation last year because it would have required the financial conglomerates created under the bill to comply with the CRA.

While this year's House bill leaves CRA essentially untouched, the Senate bill specifically states that banks would not have to get a satisfactory CRA rating in order to expand into new financial activities.

At the last minute, Sen. Gramm and Sen. Richard Shelby (R-AL) also succeeded in tacking on an amendment that exempts banks with less than $100 million in assets from CRA's requirement that they serve all segments of their community.

This amendment is considered a bill killer, since President Clinton has said he will veto any bill that undermines community lending requirements.

The Senate bill is expected to go to the floor in May. The House Commerce Committee, which also has jurisdiction over H.R. 10, has said it will wait to vote on the measure until after Senate floor action.

Merger Mania Poses Threats To Consumers

The past decade has seen a tidal wave of mergers sweep through nearly every corner of the American economy, leading to dramatically increased concentration of economic power.

According to the Federal Trade Commission, the number of federal premerger filings has nearly tripled since the beginning of the decade, from 1,529 in 1991 to an estimated 4,500 last year. The market value of those mergers has risen even more dramatically, from $600 billion in the previous peak year of 1989 to more than $2 trillion last year.

Faced with decisions on whether to allow ever larger combinations to go forward, antitrust regulators have been all too ready to buy into the corporate argument that their businesses must be allowed to grow in order to compete in the global economy, said CFA Research Director Mark Cooper.

"The industrial policy in the United States has been bedazzled by the globalization of the economy, when in truth many consumer markets – particularly telecommunications and transportation – are local," said CFA Research Director Mark Cooper.

"While bigger is not always bad, when mergers serve to reduce competition, the consumer can wind up paying a heavy price – in higher costs for products and services and lower quality," said CFA Chairman Sen. Howard Metzenbaum (Ret.).

Anti-consumer Mergers Proposed

Over the past year, a number of mergers with an enormous potential for such anti-consumer effects have been proposed, including the following:

• AT&T and MediaOne

Through a series of mergers, joint ventures, and exclusive service agreements – most recently its proposed purchase of MediaOne – AT&T threatens to dominate the information superhighway the way it used to dominate the phone network.

The majority of consumers, who are not high-end users of communications services, are likely to lose choice and pay more for service. Furthermore, with the largest companies in related fields cooperating, it will be extremely difficult for potential rivals to compete.

The deal is expected to be reviewed by the Federal Communications Commission and the Department of Justice.

• SBC and Ameritech

This merger would create the largest local phone company in the nation. The vast geographic scope of the resulting company and its unmatched financial resources would make it all the more difficult for competitors to enter the local telephone markets.

Furthermore, since the most likely competitor for local service is another local company with expertise in the industry and facilities nearby, the proposed merger eliminates the most serious competitive threat for each of the merging companies.

The FCC has begun hearings on the merger and is expected to issue a decision this summer.

• Exxon and Mobil

This merger would create the largest private oil company in the world and would concentrate control over 40 percent of domestic gasoline sales in three companies.

The merger would further undermine competition in the already concentrated industry, because the two companies have competed directly in a number of areas, including exploration and production, refining, and marketing.

Underlying consumer concerns is the fact that, when the Texaco and Shell, the two largest players on the West Coast, were allowed to merge, the result for California consumers was a dramatic run up in gasoline prices.

The FTC's review, along with that of the European Commission, is expected to be completed by fall.

• UNUM Corporation and Provident Companies, Inc.

This merger would combine the largest individual disability insurer and the largest group disability insurer in the country.

The resulting entity would dwarf the competition, particularly in the noncancellable disability insurance market, where the next ten largest insurers combined would not match the market share of this one company. In the areas of guaranteed renewable disability and group disability, the merged company would have more than twice the market share of the next largest insurers.

In short, the combination would eliminate the only competitors in a position to challenge each company's supremacy in their respective market strongholds.

The FTC and various state insurance regulators are expected to review the proposed merger.

• Merck & Co. and Merck-Medco Managed Care, LLC

This merger marries a pharmaceutical manufacturer, Merck & Co., with a pharmaceutical benefits manager (PBM), Merck-Medco Managed Care, LLC.

In analyzing the merger, the FTC found that it threatened to "substantially lessen competition in the manufacture and sale of pharmaceuticals, and in the provision of PBM services, leading to higher prices and reduced quality."

Despite these reservations, the agency approved the merger, subject to a consent agreement nearly identical to that entered into in the merger of Eli Lilly and Company and PCS Health Systems.

Two years ago, CFA and others petitioned the FTC to re-open the Lilly proceeding and to consider a number of additional actions, including eliminating all financial incentives for the pharmaceutical benefits manager to favor the parent company's drugs and requiring disclosure of all financial incentives to use the parent company's drugs.

CFA has recommended that the same steps be taken with regard to the Merck-Medco merger. To date, the FTC has taken no action on that petition.

• Airline "virtual" mergers

CFA has called on the Justice Department to investigate the airline industry's recent requests for so-called "virtual mergers," in which airlines combine their routes.

So far, American Airlines and U.S. Airways have agreed to such a merger, and Continental and Northwest Airlines have announced similar activities.

"These marketing agreements set a terrible precedent, since they allow companies to reap the benefits of a merger without undergoing the government's scrutiny through a normal merger process," Sen. Metzenbaum said.

Agencies Underfunded

If one problem has been that antitrust regulators are too ready to accept the view that bigger is better, another is that that Congress has not provided adequate funding to the FTC and the Department of Justice for antitrust enforcement.

Staffing levels at the FTC and DOJ have not begun to keep pace with the explosive growth in merger workload.

In fact, both agencies experienced dramatic staffing cuts over the course of the 1980s, and 1998 staffing levels at both agencies are still well below those from 1980.

"Our antitrust agencies are overwhelmed by the tidal wave of mergers," Sen. Metzenbaum said. "We need to expand the antitrust resources so that free competition can work and anti-competitive mergers be stopped."

Sen. Metzenbaum is working with the American Antitrust Institute, which he helped to found, to win increased funding for antitrust enforcement.

A third problem in the antitrust arena has been public policies that fail to promote effective competition.

In a paper delivered last January before the American Bar Association Forum on Air and Space Law, Cooper called for a new approach to the public policy debate over deregulation.

Using the experience under airline deregulation as an example, Cooper argued that "the intense, ideological debate over deregulation that has taken place in this country over the past three decades has had a major, negative impact on public policy regarding the industrial organization of formerly regulated industries."

"Instead of crafting careful public policies that promote competition while restricting the abuse of market power, regulators have been largely immobilized," he said.

The result, he said, is that "the pure efficiency gains that have clearly been made as a result of deregulation have been polluted by rampant abuse of market power. The performance of the deregulated industries certainly improved, but not nearly as much as it could have from the captive consumer point of view."

The experience after two decades of deregulation in the airline industry clearly demonstrates that "where and when competition exists, consumers benefit; where and when it does not, they suffer," Cooper said.

"Thus, future debates should not be about whether to return to the old-school, price and quantity regulation of the middle of the century, but about how policy can increase public welfare by promoting competition and preventing anti-competitive actions," he said.

Microsoft Trial Provides Evidence Of Pricing Abuses

In March, CFA released the third in a series of reports on the Microsoft monopoly, entitled *Economic Evidence In The Antitrust Trial: The Microsoft Defense Stumbles Over The Facts*, concluding that overcharges for Microsoft's operating systems could exceed $20 billion by the time the antitrust trial against the company is concluded.

"Economic data revealed in the trial shows that, in the 1980s, when the operating system market was competitive, prices were falling by eight percent per year," said Cooper, author of the report. "In the 1990s, when Microsoft secured its monopoly, prices rose by at least 13 percent per year.

"Had the historical trend continued, the preloaded price of the operating system would have been $10 instead of the $50 to $65 that Microsoft charges," he said. "In a competitive market, these cost reductions would have been passed through to consumers."

The report notes that economies of scale achieved from expanding production and advances in software engineering made the price reductions possible in a competitive software market, even while dramatic increases in quality were achieved.

The most damning evidence has been supplied by Microsoft's own witnesses and internal memoranda, the report finds.

For example, in one such document, Joachim Kempin, the company's operating systems chief, explained Microsoft's "high" prices in terms of the "huge" barriers to entry, including compatibility, consumer switching costs, and the installed customer base.

The report also analyzes evidence on the structure of the PC software industry introduced in the trial and concludes that Microsoft dominates the landscape:

• it has dominated the operating system category for 15 years;

• it is the only firm to have achieved the generally accepted monopoly level of 65 to 70 percent market share in more than one product;

• it is the only firm to have dominated a category with software it purchased from others, rather than developed itself; and

• no other firm has established leadership in any of the PC applications category examined by Microsoft experts since Microsoft secured its monopoly over the operating system.

"The most recent evidence from the trial shows that the central conclusion of the consumer point of view is clearer than ever – Microsoft has harmed the public through its monopoly pricing of the operating system," Cooper concluded.

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Health and Safety Update:

CPSC Looks To Improve Recall Effectiveness

The Consumer Product Safety Commission is exploring new means of improving the effectiveness of product safety recalls.

Testifying at a March hearing held by the agency to gather information about consumer product recall response, CFA General Counsel Mary Ellen Fise praised the CPSC for its efforts to improve recall effectiveness.

The fact that the overall recall return rate is less than 20 percent, however, indicates that "additional measures are needed," Fise said.

She advocated two such measures:

• requiring that consumer products be clearly marked with the name of the manufacturer, the manufacturer's city and state, and the date of manufacture, which would make it easier for consumers to determine if a product they own is the subject of a recall and would enable CPSC to identify the manufacturer of products it investigates for a possible recall action; and

• requiring manufacturers of certain types of consumer products to conduct direct-to-consumer notification through safety recall cards and electronic registration, in order to increase the number of consumers who actually learn that a product they are using is potentially unsafe and subject to a safety recall.

Current Registration Cards Inadequate

In preparing its testimony, CFA conducted an informal survey to assess the current consumer registration cards included with new products and concluded that: manufacturers generally do not disclose that these cards might be used to give consumers notice of recalls; that the cards currently are used primarily as marketing and consumer data collection tools; that postage is not prepaid on most registration cards; and that consumer privacy is generally not protected by companies using registration cards.

CFA urged the CPSC to promulgate regulations requiring manufacturers of certain categories of products – those subject to a mandatory CPSC standard or rule, those subject to a voluntary safety standard or specification, and those of a type that has previously been subject to a recall by CPSC – to supply safety recall cards with each product.

The safety recall card should be used only for the purpose of notification of a product recall and should therefore request the minimum information necessary to contact the consumer, Fise said.

Furthermore, the card should: include a privacy statement ensuring that the information will not be disclosed to any outside party and will only be used if the company needs to notify the consumer of a safety recall; be pre-stamped with the product name, model and/or serial number, and other relevant identification information; and be postage prepaid.

In addition, companies with websites should allow for online registration, if adequate safeguards are provided to protect consumers' personal information, Fise said.

"In the 26-year history of the CPSC, little has been done to expand the range of notification options for alerting consumers about recalls," Fise said. "New techniques, such as mandatory postcard and electronic notification, will supplement existing notification methods and protect a greater number of consumers."

Produce Safety Bill Introduced

In April, Sen. Tom Harkin (D-IA) introduced legislation to improve the safety of processed fresh fruits and vegetables.

The bill, which was endorsed by CFA and the Safe Food Coalition, would give the force of law to existing voluntary good manufacturing practices for ready-to-eat fresh fruits and vegetables.

It would also grant the Food and Drug Administration authority to enforce sanitation standards, develop safe produce growing and harvesting guidelines, increase research on produce-related illness, and begin developing performance standards for the safety of fresh produce.

Responding to the message that eating more fruits and vegetables can improve their health, Americans have increased their fruit and vegetable consumption 22 percent in the last decade, said Director of CFA's Food Policy Institute Carol Tucker Foreman.

American food processors and retailers have also gotten the message, she added. "Supermarket shelves are full of pre-packaged cut up fruits and vegetables. Salad bars are everywhere."

Unfortunately, media reports of food poisoning associated with the consumption of fresh fruit and vegetables are also commonplace, she said.

"Producers and processors and retailers must step up to their responsibility to provide a clean, safe product," Foreman said. "The Food and Drug Administration must have the authority to protect the public. Sen. Harkin's bill will encourage that."

CFA Endorses Firearm Safety Legislation

In March, Sen. Robert Torricelli (D-NJ) and Rep. Patrick Kennedy (D-RI) introduced companion measures, S. 534 and H.R. 920, to regulate the manufacture and safety of firearms.

"This legislation takes a long overdue step toward ending the gun industry's exemption from federal health and safety regulation," Fise said.

The bills would grant the Department of the Treasury important health and safety authority, including the authority to set minimum safety standards, issue recalls, and mandate safety warnings.

Fise praised the bill sponsors for granting this authority to the Treasury Department, rather than CPSC.

The Treasury Department is best equipped to regulate the industry, because it already licenses firearm manufacturers, importers, and dealers and does some limited safety testing of imported handguns and because it currently tracks gun industry production and compiles gun-tracing information.

"The fact that the department already performs these functions would allow the agency to quickly and efficiently add health and safety regulation to the duties it already performs," Fise concluded.

Medical Malpractice Premiums Are Minor Health Care Cost

Medical malpractice insurance premiums nationwide make up only 0.59 percent of total health care costs, according to a study released in March by CFA. Furthermore, the study found, these costs have dropped almost 40 percent over the last decade, from 95 cents per $100 in 1988 to 59 cents per $100 in 1997.

"There is no evidence that the renewed upward trend in medical costs is in any way related to medical malpractice insurance costs," said report author and CFA Director of Insurance J. Robert Hunter. "Indeed, the trend in these costs is down, not up."

Limiting medical malpractice awards has been a recurring item on the congressional agenda for years. Last year, House Republicans helped to kill managed care reform legislation by including a limit on non-economic medical malpractice damage awards in their version of the bill.

"Even if the nation were to totally do away with medical malpractice – leaving the victims of medical injury in the lurch – the change in medical costs would be unnoticed," Hunter said. "The idea that caps on parts of the medical malpractice system, such as noneconomic damages, would produce noticeably lower medical bills or impact our health care costs is ludicrous."

Health care costs are driven by hospitals (34 percent), physicians (19.9 percent), nursing homes (7.6 percent), drugs (7.6 percent), and administration (4.6 percent), Hunter said. "Medical malpractice, at 0.6 percent, is the smallest factor," he said.

The CFA report found that the low price for medical malpractice insurance exists even though medical malpractic profit to insurance companies has been 65 percent higher than profits for property/casualty insurance generally over the last decade. The reason may be that few people file claims, only 26.6 percent of those who do file gets any payment, and payout averages only $25,923 for all filed claims, Hunter explained.

The fact that only three persons out of 10,000 in this country have a medical malpractice claim closed in a year "either means that we have a very safe medical care system or that people are reluctant to sue their health care providers," Hunter said.

"The fact that only one of four who do file claims gets any payment shows that juries are cautious in awarding benefits to injured people," he added.

Copies of the report are available for $10 prepaid by writing to Medical Malpractice Report, CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

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