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CONSUMER FEDERATION OF AMERICA

Agenda Targets Gaps in Marketplace Protections

With consumer protections under assault, CFA joined with five other leading public interest groups in September to release an agenda identifying six key issues consumers should question policymakers about.

The agenda includes recommended reforms related to food safety, health care affordability, energy, abusive lending practices, privacy, and legal remedies.

Among the recent attacks on consumer protections that prompted the groups to develop the agenda are:

• the failure of the government to adequately test for "mad cow" disease or to require the mandatory recall of tainted meat;

• a ban on the federal government's authority to negotiate lower prescription drug prices for Medicare recipients;

• the inability of consumers to stop the sharing of their personal financial information;

• the loss of patients' rights to sue their HMOs; and

• a slew of federal legislative actions that undercut stronger state laws.

"The ability of many consumers to avoid unsafe food, rising energy prices, predatory loans, and high-cost medical care has been eroding," said CFA Executive Director Stephen Brobeck. "These consumers need stronger protections and the continued ability to pursue individual remedies."

The heads of the six groups — CFA, Consumers Union, National Association of Consumer Advocates, National Consumer Law Center, Public Citizen, and the U.S. Public Interest Research Group — produced the agenda as a guide for federal policymakers and others concerned about consumer issues.

"The six national groups joined together to release a consumer agenda because the federal government not only has failed to provide important new protections, but also has taken the lead in weakening existing protections," Brobeck said. "The six issues identified represent only the most important of dozens of consumer problem-areas that need attention."

1. Ensure that Our Food is Safe to Eat.

The Problem: The Centers for Disease Control reports that food poisoning attacks 76 million Americans annually and kills 5,000. One cause is the United States' archaic meat safety laws, which are incapable of curbing threats from an international, industrial food system.

Courts have ruled that current laws do not authorize the U.S. Department of Agriculture (USDA) to limit pathogens in raw meat and poultry products or to track animals to their origin. In 2003, the National Academy of Sciences urged Congress to empower USDA to set and enforce pathogen limits, but it has not done so.

The Solution: Congress should enact legislation requiring the Secretary of Agriculture to: set and enforce limits on pathogens in raw meat and poultry products, establish an identification program to trace diseased animals and those grossly tainted with human pathogens to their originating farm, and authorize USDA to mandate recalls and publicize where recalled meat has been sold.

In addition, the president must ensure that "mad cow" controls protect human health by drawing on the expertise of public health scientists, banning Advanced Meat Recovery products from human food, strengthening the substance and enforcement of animal feed rules, and improving animal surveillance.

2. Make Health Care More Affordable.

The Problem: The number of uninsured and under-insured Americans is growing rapidly as health care costs, premiums, and drug prices increase dramatically, and employers reduce coverage. Inadequate health insurance coverage creates a financial barrier to getting needed health care, is a leading cause of personal bankruptcy, and causes about 18,000 unnecessary deaths each year.

The Solution: Congress's longer-range goal should be to ensure that all Americans have affordable, quality health care coverage. Meanwhile, Congress should immediately expand coverage to all children and all lower-income adults. The federal government must avoid proposals, such as Health Savings Accounts, that segment the healthy from the sick and thus increase premiums and out-of-pocket costs for those most in need of care.

In addition, Congress should fix the flawed Medicare law to allow the federal government to negotiate with manufacturers for lower drug prices, and use the savings to close the significant gaps in coverage for most seniors. Congress should also allow reimportation of safe drugs from Canada and Europe while it considers long-term solutions that ensure that all consumers get good value for their prescription drug dollars.

3. Prohibit Oil and Gasoline Price Gouging and Increase Automobile Fuel Economy.

The Problem: For two decades, federal policy has encouraged massive oil and gas industry consolidation. As a result, natural gas, heating oil, and propane prices have all soared since 2002, as have industry profits.

Meanwhile, automobile fuel efficiency is at a 23-year low, and the automobile industry has blocked federal efforts to meaningfully increase fuel economy standards.

Instead of addressing these problems, Congress has tried to enact an energy bill that would make matters worse, by offering new subsidies to the fossil fuels industry and other dirty and dangerous non-renewable sources and by deregulating the electricity industry.

The Solution: The government should put a stop to industry mergers that increase oil and gas prices by diminishing competition. In addition, Congress should save consumers money and reduce pollution by raising fuel economy standards on cars, sport utility vehicles, and other light trucks.

4. Protect Consumers from Abusive and Predatory Lending.

A sharp rise in "predatory" lending — including high-cost credit cards, payday loans, and equity-stripping mortgage loans targeted at low- and middle-income families — has helped to drive home foreclosures, credit card delinquencies, and personal bankruptcies to levels that are at or near all-time highs.

The explosive growth of predatory lending has been made possible by a reduction in consumer protections over the past 20 years. Where states have attempted to prohibit abusive practices, federal policymakers have sought to override those state protections.

Meanwhile, Congress has done nothing to curb these harmful loans. Instead, it has repeatedly attempted to enact one-sided bankruptcy legislation that would encourage more reckless lending.

The Solution: Congress should not enact pending bankruptcy legislation. Instead, it should prohibit abusive terms in mortgage and personal loans and provide broad protections for credit card customers, including limits on unwarranted fees and interest rate increases. These efforts should not limit the ability of the states to provide stronger consumer protections.

5. Protect the Privacy of Sensitive Personal Information.

The Problem: Federal privacy law has been enacted on a piecemeal, sector-by-sector basis that often provides weak or ineffective protections.

For example, while video rental records cannot be released without consumers' affirmative consent, the federal financial privacy law allows banks and financial companies to share confidential customer account information with hundreds or thousands of affiliated firms, and with most third party companies, even if the consumer objects.

While medical information is subject to more stringent protections, the off-shoring of confidential medical and financial information to foreign subcontractors has created a new privacy threat.

Similarly, no federal law requires Internet websites to have privacy policies or provides for any consent-based privacy protection in Internet surfing or commerce.

The Solution: Congress should enact strong financial privacy protections and, in the process, make it clear that states retain the right to enact stronger protections. Congress should also give consumers the right to limit commercial collection and secondary use of personal information by any entity, including Internet websites.

6. Preserve Consumers' Legal Remedies.

The Problem: For the marketplace to work equitably, consumers must be able to hold wrongdoers accountable. In recent years, however, corporations and professionals seeking to limit their responsibility have mounted an all-out attack against the rights of consumers to seek justice.

This assault has ranged from measures to limit the ability of consumers to bring class actions against companies that have defrauded or discriminated against them to the imposition of mandatory arbitration clauses in contracts that prohibit consumers (but not corporations) from going to court.

Patients face restrictions on their ability to challenge HMOs for denying needed medical treatment, while victims of injuries caused by unsafe products or medical malpractice face damage caps that unfairly limit the liability of the doctor, hospital, drug company, or manufacturer whose negligence caused the harm.

The Solution: Congress should oppose legislation that limits rights of consumers and patients. It should provide consumers with the right to hold HMOs accountable. It should reject legislation to federalize class action lawsuits. And it should enact legislation banning the use of mandatory arbitration clauses in consumer contracts.

On the **Web**
www.consumerfed.org/consumer6pointagenda.pdf

Terror Insurance Extension Advances, Then Stalls

The House Financial Services Committee gave voice vote approval in September to legislation to rush through renewal of the Terrorism Risk Insurance Act (TRIA), but efforts to add the measure to the House intelligence bill were unsuccessful.

Meanwhile, Senate Banking Committee Chairman Richard Shelby (R-SC) continues to insist that his committee won't act on the issue until it has had a chance to hold hearings and review the findings of a Treasury Department assessment of the need for renewal. That report is due out next June.

If Chairman Shelby maintains that stance, despite urging from panel Democrats to move more quickly, chances of the bill's passing this year are considered to be virtually nonexistent.

"Insurance companies sat at the table and agreed with the study due in June 2005," said CFA Director of Insurance J. Robert Hunter. "Now they are trying to bait and switch the Congress, knowing that the study will almost surely call for an end to free reinsurance."

The House bill, H.R.4634, like it's Senate companion, would provide an immediate, two-year renewal of TRIA more than a year before it is due to expire.

The insurance industry has pushed hard for early renewal, arguing that the immediate extension is needed to prevent "market disruption" resulting from the fact that some terrorism policies that will be written early next year while TRIA is in place would extend beyond its expiration.

However, insurers have already convinced almost all states to allow them to exclude terror coverage in policies that extend beyond any expiration of TRIA. As a result, no market disruption would occur if the law were allowed to expire, Hunter said.

Meanwhile, CFA research indicates the law should be allowed to expire, as it will no longer be needed to ensure the availability of affordable terrorism coverage for most areas of the country after 2005.

CFA has urged Congress, if it decides to renew the law, to at least require insurers to pay for the reinsurance it provides.

"It is virtually impossible for private market responses to compete with free reinsurance offered by the government, the cost of which is borne by taxpayers," CFA wrote in a letter to members of Congress earlier this year. Insurers, who are experiencing record profits, "can certainly afford to pay premiums for the reinsurance," the letter added.

Senate Launches Review Of Insurance Regulation

A similar dynamic appears to be playing out on the broader issue of insurance regulation, with the Senate Banking Committee launching its examination of the issue in September with a hearing on the "condition and regulation of the insurance industry."

In the House, Financial Services Chairman Michael Oxley (R-OH) has already leaped into the legislative fray, circulating a discussion draft that would make sweeping, anti-consumer changes to insurance regulation.

In testimony before the Senate Banking Committee, Hunter said the need for effective regulation of insurance is every bit as great today as it was five or ten years ago, and may be even greater.

Technological advances, changes in the way Americans use insurance, increased competition from other financial sectors, and the ability to sell loans and insurance under the same roof all raise new risks for consumers, he explained.

"As consumers are faced with these changes, it is more important than ever that insurance laws are updated and the consumer protection bar is raised, not lowered," he said.

Less important is the question of who regulates insurance, he said. "Consumers do not care who regulates insurance. We only care that the regulatory system be excellent."

"Consumer advocates have been (and are) critical of the current state-based system," he added, "but we are not willing to accept a federal system that guts consumer protections in the states and established one uniform but weak set of regulatory standards."

Of the three proposals for federal regulation that so far have emerged, two — industry-sponsored drafts to create an "optional federal charter" and the Oxley discussion draft — "don't meet basic standards of consumer protection," Hunter said.

The only proposal to date that takes consumer concerns into account is the legislation, S. 1373, introduced last year by Sen. Ernest Hollings (D-SC), he said. That bill would adopt a unitary federal regulatory system for all interstate insurers, while intrastate insurers would continue to be regulated by the states.

In addition, it would: require prior approval of prices, require annual market conduct exams, create an office of consumer protection, improve consumer information, and enhance competition by removing the industry's antitrust exemption.

"If federal regulation is to be considered, S. 1373 should be the baseline for any debate on the subject before this committee," Hunter said.

Industry-backed Legislative Proposals Fall Short

In contrast, the optional federal charter proposals would "create a federal regulator that would have little, if any, authority to regulate price or product, regardless of how non-competitive the market for a particular line of insurance might be," he said.

By allowing insurers to pick their regulator, this approach "is a prescription for regulatory arbitrage that can only undermine needed consumer protections," he said.

The Oxley discussion draft, meanwhile, "would override important state consumer protection laws, sanction anti-competitive practices by insurance companies, and incite state regulators into a competition to further weaken insurance oversight," he said.

"It is quite simply one of the most grievously flawed and one-sided pieces of legislation that we have ever seen, with absolutely no protections offered for consumers," he said.

No further action on the issue is expected this year. However, the issue is expected to receive renewed attention in the next Congress.

On the **Web**
www.consumerfed.org/hunter_insurance_regulation_testimony.pdf

Banks Urged To Adopt Check Processing Reforms

With the "Check 21" law due to take effect in late October, CFA and Consumers Union have launched an online petition urging banks to adopt a set of safeguards to make implementation of the new law more consumer-friendly.

Consumers can sign the online petition in support of these reforms at http://cu.convio.net/check_21.

The aim of the Check 21 law is to let banks use electronic check processing efficiencies to cut as much as $2 billion a year from the cost of moving, clearing, and returning paper checks. As a result, even those consumers who wish to continue receiving their canceled checks will have no legal right to do so.

Although the change is expected to produce substantial savings for banks, the law does not require banks to pass any of those savings along to their customers.

One anticipated effect of the law is that the checks that consumers write will clear faster, possibly within hours rather than days. Banks, however, won't be under any obligation to speed up the processing of checks that consumers deposit to their accounts.

The likely result is more bounced checks, and more overdraft fees paid by consumers. One industry source estimates that, by the middle of next year, consumers could be bouncing almost seven million more checks, and paying an additional $170 million in fees each month.

Check 21 does provide consumers with a new right to get speedy credit when a bank double debits a check or pays the wrong amount.

However, consumers are only entitled to this new right if they request and receive a new special copy of the check called a substitute check. Nothing in the law limits banks' ability to charge consumers new fees for these substitute checks.

"Consumers should get ready for an October surprise from their banks when this new check processing law is implemented," said CU Senior Attorney Gail Hillebrand. "Banks will save billions under Check 21, but consumers stand to lose out unless banks adopt new policies to protect them."

In letters to the nation's top banks, CFA and CU urged them to adopt a set of policies that would make Check 21 more consumer friendly. These include:

• Refraining from using Check 21 to bounce more checks. Instead, the banks are urged to give consumers the benefit of faster check clearing by crediting consumer accounts as soon as a check clears, even if the law allows a longer waiting period for deposited checks. In addition, the groups urged the banks to suspend bounced check fees during the first two months of implementation while consumers adjust.

• Making a commitment to return funds to consumers' checking accounts within ten business days when something goes wrong with a check, regardless of how the check was processed or what kind of copy of the check the consumer receives.

• Refraining from charging a fee for substitute checks.

• Offering an account that returns substitute checks every month for no more than the price the bank has been charging for an account that returns original checks.

"Banks shouldn't use this new law as an excuse to bounce more checks, charge more fees, or provide customers with unequal protection depending on how their checks have been processed," said CFA's Consumer Protection Director Jean Ann Fox. "We urge banks to adopt these reforms to make Check 21 less disruptive and onerous for consumers."

On the **Web**
www.consumersunion.org/pub/core_financial_services/001317.html
www.consumersunion.org/finance/ckclear1002.htm
http://cu.convio.net/check_21

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Proposed CRA Changes Prompt Storm of Protest

A Federal Deposit Insurance Corporation (FDIC) proposal to weaken Community Reinvestment Act requirements for hundreds of the state-charged banks it supervises has prompted a storm of protest.

CFA was among dozens of national civil rights, community, housing, and consumer organizations that wrote to the FDIC in September urging the agency to withdraw the proposal.

"This is the wrong time for FDIC to be weakening standards, when communities across America have witnessed dramatic increases in predatory lending and other abusive financial services practices that thrive due to the lack of mainstream banking activity," said CFA's Director of Housing and Credit Policy Allen Fishbein.

Among the rule proposal's key offending provisions, it would quadruple, to $1 billion, the minimum asset size that triggers more stringent CRA review.

If that change is adopted, an additional 900 FDIC-supervised banks would no longer be required to adhere to more comprehensive CRA standards. That would leave only about four percent of FDIC- supervised banks, and only one percent of banks in rural areas, subject to full CRA examination.

Rule Would Reduce Consumer Access To Credit

The public interest groups, along with a number of members of Congress, opposed the rules on the grounds that they, and similar rules recently adopted by the Office of Thrift Supervision, would have a devastating impact on access to credit and affordable banking services for low- and moderate-income residents in urban and rural communities.

"The big winners from these rule changes will be the payday lenders who charge triple-digit interest rates and the other fringe financial service providers who provide exorbitantly priced services to those consumers who have nowhere else to go," Fishbein said.

The federal CRA statute requires banks to serve all segments of their communities, including low- and moderate-income areas. Under the current rules, banks with assets of over $250 million must undergo a three-pronged review that looks at a bank's record of providing lending, services, and investments to their local communities.

The FDIC's proposal would dramatically weaken the lending test and completely eliminate the service and investment tests for banks with assets between $250 million and $1 billion.

Among other things, it deletes any regulatory incentive for these banks:

- to open and maintain branches and ATM machines serving low- and moderate-income geographies;
- to provide the affordable banking services and checking and savings accounts that are necessary for bringing the millions of unbanked households into the financial mainstream; or
- to offer the money transfer and remittance services that are particularly important to new immigrants and ethnically diverse communities.

Inadequate Community Development Criterion Proposed

Adopted by all four banking regulatory agencies a decade ago, the current "service test" is intended to encourage banks to become more active in tending to the essential retail banking services needs of low- and moderate-income consumers.

Under the FDIC's proposal, however, federal examiners would stop reviewing the retail transaction account services provided by the exempted banks for CRA purposes.

In place of the eliminated service and investment tests, the FDIC has proposed a weak and inadequate "community development criterion," but retail services are not addressed at all in the proposal.

"This form of addition by subtraction simply doesn't add up," Fishbein said.

"In publishing this proposal, the FDIC has given no indication that it even considered the negative impacts that this proposal will have on the critical needs of under-served consumers and communities," he added. "The proposed rule change should be junked."

On the **Web**
www.consumerfed.org/090904_CRA_changes.html

Consumers Do Not Understand Credit Scores

Companies and organizations increasingly use credit scores to evaluate individuals as prospective customers, employees, or tenants, but, according to a new survey released in September by CFA and Providian Financial, most Americans do not understand these scores.

"Now that credit scores are increasingly used by utilities, insurers, and employers, as well as creditors, it is essential for consumers to learn their score and what it means," said CFA Executive Director Stephen Brobeck.

"The cost of not knowing your score and its significance could be not only denial of credit, but also difficulty obtaining needed services and even a job," he added.

The survey of 1,027 representative adults, conducted by Opinion Research Corporation International, found, however, that most consumers do not understand what credit scores measure, their importance, what constitutes a good or bad score, how to find out their score, or how scores can be improved.

For example, while most consumers surveyed understood that lenders use credit scores, only a minority knew that utilities (30 percent), home insurers (47 percent), and landlords (48 percent) often use credit scores to decide whether to sell a service and at what price.

The good news is that most consumers (59 percent) recognize that their knowledge of credit scores is poor or fair. As a result, these individuals are more likely to seek this knowledge once they understand how important their credit scores are to their lives.

On the other hand, even many of those who think their knowledge of credit is good do not understand credit scores, the survey found. Those who rated their credit knowledge as excellent scored no higher on knowledge questions than those who rated their knowledge as fair.

Among the survey's other key findings:

- Only about one-third (34 percent) understand that credit scores indicate the risk of not repaying a loan, based on the borrower's credit history, and not factors like financial resources to pay back loans or knowledge of consumer credit.
- More than one-half (52 percent) incorrectly believe that a married couple has a combined credit score, and more than two-fifths (43 percent) incorrectly believe that individuals have only one score. In fact, each of the three major credit bureaus computes a separate score, and these usually differ.
- Only 12 percent correctly identified the low 600s as the level below which they would likely to be denied credit or have to pay a higher, subprime rate. Similarly, only 13 percent understand that scores above the low 700s usually qualify them for the lowest rates.
- Two-fifths (40 percent) don't know that paying off a large balance on a credit card will improve one's credit score. Worse, more than one-quarter (28 percent) believe that using a credit card's full credit line will improve one's score.
- Nearly three-quarters (72 percent) incorrectly believe that they can obtain their credit score for free once a year. That right was recently established for free access to credit reports, but no such right exists with regard to credit scores.

Those with the lowest incomes and least education know the least about credit scores.

"When it comes to obtaining credit at the best possible rates, credit scores play a vital role," said Providian Senior Vice President Alan Elias. "The findings of this survey clearly show that, while education about credit scores is available, consumers today are still far from 'knowing the score.'"

CFA and Providian released five critical facts all consumers need to know about credit scores. They also made available a new web-based quiz, "Do You Know the Score on Credit Scores?," at http://www.consumerfed.org/score. The quiz tests the consumers' knowledge of credit scores and provides key facts whenever an incorrect answer is entered.

On the **Web**
www.consumerfed.org/092104creditscores.PDF
www.consumerfed.org/score
mms://www.hastingsgroupmedia.com/cfa/092104creditscores.wma

Energy Cost Hike, *Continued from Page 4*

part of the increase in the domestic spread, the report found.

"The need for more vigorous antitrust enforcement at the FTC and broader policies to protect America's energy consumers is clear," Cooper said.

New Policy Approach Needed

"Unfortunately, the explanation for the high and volatile price of gasoline offered by the industry and the Bush Administration is so oversimplified and incomplete that it must be considered at best misleading, at worst plain wrong," Cooper said.

"Because it is wrong, it points to polices that do not address important underlying causes of the problem and therefore will not provide a solution," he said.

It's not just the FTC that needs to change its approach to the energy-price crisis, agreed CU Policy Analyst Adam Goldberg. "The Federal Energy Regulatory Commission needs to quit dragging its feet in its investigation of price manipulation, and it needs to make sure the gas markets are functioning properly," he said.

In addition, "Congress has to drop its misguided energy proposals that reward oil companies with subsidies for exploration that they should be conducting with the massive profits they're now making," he said.

If the United States is to both reduce the market power of energy producers and stem the flow of imports, public policy must start immediately and aggressively on an efficiency path to lower energy consumption, the report concludes.

"It is time for public policy to seek permanent institutional changes that both reduce the chances that markets will be tight and reduce the exposure of consumers to the opportunistic exploitation of markets when they become tight," Cooper said.

To achieve this goal, the report outlines four primary goals:

- restoring reserve margins by developing efficiency on the demand-side and by expanding refinery capacity on the supply side;
- increasing market flexibility through stock and storage policy;
- discouraging private actions that make markets tight or exploit market disruptions by countering the tendency to profiteer by withholding supply; and
- promoting a more competitive industry.

"Over the past four years, policymakers have failed to provide consumers with a stable market," the report concludes, "and things are getting worse, not better."

Consumers Hit With $500 Billion Home Energy Bill Hike

Americans have been hit with an average $1,000 increase in their annual household energy bills during the past four years, draining more than $500 billion from the economy, according to a report released in September by CFA and Consumers Union.

Three-quarters of recent price increases have been caused by domestic factors, according to the report, and much of that can be traced to unchecked consolidation in the oil and gas industry.

Meanwhile, the resulting lack of competition has increased profits for oil and gas companies by close to $100 billion since 2000, according to the report.

"The energy problem American consumers have been facing is now a problem for the whole economy," said CFA Research Director and report author Mark Cooper.

The report reviews recent analyses by both the Government Accountability Office (GAO), the government's nonpartisan accountant, and the Federal Trade Commission (FTC), which is responsible for overseeing consolidation in the oil and gas sector.

FTC Oversight Failure Faulted

The GAO report examined the FTC's merger review process and found that mergers had resulted in price increases. Specifically, the GAO concluded that "oil industry mergers and increased market concentration generally led to higher wholesale gasoline prices."

The FTC, without providing any empirical evidence to counter those findings, has nonetheless disagreed with the GAO's conclusions.

"Four years ago, we said excessive consolidation in the industry was hurting consumers, and today the evidence clearly supports that," Cooper said. "Unfortunately, the FTC continues to hide its head in the sand over the effect its inaction on mergers is having on consumers' pocketbooks."

The report also provided new estimates of the impact of rising prices for petroleum products on both consumer expenditures and oil company profits.

Two-thirds of Americans heat with a petroleum product (natural gas, heating oil, or propane), and most own automobiles. "They have been hammered by petroleum product price increases in the past four years," Cooper said.

In the year ending in the second quarter of 2004 — which includes the summer 2003 driving season and the winter 2003-2004 heating season — annual household expenditures for petroleum products for these households were about $1200 higher than they were in 1999-2000.

Department of Energy (DOE) price projections for 2004-2005 suggest that these households will be hit with another $200 increase in the year ahead.

"The consolidation that the FTC approved had real world consequences for consumers' pocketbooks," Cooper said.

A DOE analysis also indicates that the record profits oil companies enjoyed were led by record increases in domestic refining and marketing profits, topped off with increases of 130 percent in the first half of this year.

Cumulatively, oil companies will enjoy an increase in after-tax profits of about $100 billion for the period from 2000 to 2004, compared with profits from 1995 to 1999.

Only a small part (one-quarter) of the huge increase in cash flow for oil companies has been devoted to increased expenditures for exploration and development. "In spite of the sharp increase in prices, the rate of production from existing reserves has declined," Cooper noted.

Meanwhile, the FTC has sought to place the blame for price increases overwhelmingly on foreign crude oil prices.

Domestic Factors, Not Foreign Prices Primarily At Fault

"Of course international crude oil price increases contribute to rising energy costs in the United States, because the United States imports significant amounts of petroleum products," Cooper said.

But the report's detailed analysis of natural gas and gasoline price increases during the 2000-2004 period found that about $180 billion, or 42 percent, was caused by the domestic price shifts (the share of gasoline pump price accounted for by domestic refining and marketing and the wellhead price of natural gas compared with the price of crude oil).

Another 36 percent, or about $160 billion, was caused by domestic price following. This occurs when domestic resource costs follow the world price up, sending profits into the coffers of domestic companies.

As a result of these two factors, more than three-quarters of the recent petroleum price increases have gone to domestic companies, the report concludes.

"The shift in domestic pricing behavior that played a significant role in the recent price increases took place in the context of a massive merger wave in the industry," Cooper explained.

The DOE identified a total of 34 major oil and gas companies that merged into 13 during this period, while an additional 15 refining companies had shrunk to seven.

As a result of this merger wave, between 80 and 90 percent of regional refining markets, state gasoline wholesale markets, and city retail gasoline markets are concentrated, the report concludes.

In addition, strategic gaming in an increasingly consolidated industry has raised the general price level, as the tight oligopoly of oil giants learned how to exploit its market power with experience, according to the report. These strategic behaviors brought on by the merger wave account for a substantial

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On the **Web**
www.consumersunion.org/pub/core_other_issues/001372.html

CPSC Sits On Sidelines As ATV Deaths Mount

Two years after a coalition of doctors, nurses, consumer and safety advocates, and others formally requested that the Consumer Product Safety Commission (CPSC) take action to protect children from the dangers posed by adult-size all-terrain vehicles (ATVs), the agency has failed to act. In response to that inaction, the groups wrote to CPSC Chairman Hal Stratton in August urging the Commission to act without further delay.

In August of 2002, CFA, Bluewater Network, and seven other medical, consumer, and safety groups submitted a petition to CPSC requesting that it initiate a rulemaking process to develop and issue national safety standards that would bar the sale of adult-size ATVs for use by children under 16. Although the Commission has held three separate field hearings on the issue, it has failed to move aggressively to address this problem or to respond to the petition in a substantial way.

Since the petition was submitted, children continue to be killed by ATVs in alarming numbers. Although CPSC has not released fatality information for 2003 or 2004, it did report that at least 99 children under 16 were killed by ATVs in 2002. Furthermore, children under 16 suffered 28 percent of all ATV-related fatalities that year, according to the CPSC data. The data further indicates that the safety crisis has become increasingly severe over the past decade.

Currently, ATV manufacturers voluntarily agree to follow certain guidelines, which rely on warnings against the sale of adult-size ATVs for use by children, warning labels, and offers of training to purchasers of new ATVs. However, both CPSC's own analysis and investigations by major media outlets demonstrate that "this approach is failing in almost every respect," said CFA Assistant General Counsel Rachel Weintraub.

"Children being killed and injured by ATVs is a serious public health crisis with a solution," she said. "However, the government agency with the authority to solve the problem has let America's children and adolescents down. The CPSC has neglected to take action to implement a solution that will save children's lives."

On the **Web**
www.consumerfed.org/backpage/csafety.cfm

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