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Coalition Renews Campaign To Lower Interest Rates

In June, the National Council for Low Interest Rates stepped up its campaign to persuade Congress to extend standby credit control authority as a means of lowering interest rates.

Earlier this year, House Banking Chairman Fernand St Germain (D-RI) introduced H.R. 1742, the Low Interest Act of 1983. By re-establishing the Credit Control Act of 1969, this legislation would give the President and Federal Reserve Board authority to reallocate credit. The bill also includes specific authority to restrict credit for nonproductive uses, such as many corporate takeovers.

St Germain referred the bill to the Economic Stabilization Subcommittee chaired by Rep. John LaFalce (D-NY). In mid-June, LaFalce held hearings at which three NCLIR spokespersons defended the legislation—International Union of Operating Engineers President J. C. Turner, AFL-CIO Housing and Monetary Policy Director Henry Schechter, and CFA Executive Director Stephen Brobeck.

Turner, who serves as Chairman of the NCLIR, explained why the legislation needs to be passed: "Credit controls brought down interest rates in 1980 and could do so again today. If distinctions were made between productive and nonproductive uses of credit, there would be no shortage of affordable credit for capital investment, farm production, small businesses, or consumers."

Nearly all Subcommittee members present at the hearing, especially Chairman LaFalce, Rep. Bruce Vento (D-MN), Rep. Mary Rose Oakar (D-OH), and Rep. Joseph Minish (D-NJ) spoke in favor of the need for standby credit control authority. Opposition to controls was voiced by witnesses representing the American Bankers Association, the U.S. Chamber of Commerce, and the National Retail Merchants Association.

The day of the hearings, the NCLIR released a study written by Brobeck linking rising foreign lending by U.S. banks to high domestic interest rates (see articles below).

Earlier, NCLIR representatives had met with House Speaker "Tip" O'Neill in an effort to enlist the Speaker's assistance in bringing the legislation to a floor vote. Last year, the House Banking Committee reported out a similar bill by a vote of 24-18, but the measure failed to reach the floor because it was never assigned a rule by the House Rules Committee. O'Neill expressed his support for H.R. 1742 and indicated he would communicate this support to key House leaders.

Besides CFA, the Operating Engineers, and the AFL-CIO, key NCLIR members include the Carpenters Union, the Industrial Union Department of the AFL-CIO, the United Auto Workers, the National Farmers Union, the National Rural Electric Association, the American Public Power Association, the U.S. Conference of Mayors, the National Housing Conference, and the NAACP.

Turner chairs the coalition, Operating Engineers Legislative Director Johnny Brown heads up its lobbying effort, Schechter serves as economic advisor, Brobeck conducts research, CFA Information Director Ann Lower handles press work, and CFA Legislative Respresentative Glenn Nishimura provides overall coordination.

Besides credit controls, the NCLIR supports other measures to lower rates or alleviate their impact. The Council has adopted resolutions favoring new curbs on foreign lending by U.S. banks, foreclosure relief for homeowners and farmers, and a Federal Reserve Board less responsive to banks and more sensitive to the banking needs of consumers, workers, farmers, public utilities, and small businesses.

NCLIR Study Links Foreign Loans to Domestic Rates

A study CFA Executive Director Stephen Brobeck recently completed for the National Council for Low Interest Rates explains how massive foreign lending by U.S. banks has and will continue to put upward pressure on domestic interest rates.

According to the study, between the end of 1979 and end of 1982, foreign debts to U.S. banks rose from $114 billion to $354 billion. While some of this increased lending represented the recycling of petro-dollars, much of it was drawn from domestic sources.

The Federal Reserve has estimated that in 1980, 1981, and 1982, there was a net outflow of capital from U.S. banks of $103 billion. Although in the same period, substantial unreported funds were entering the U.S., most of these bypassed U.S. banks and thus were not available for bank lending.

This net transfer of loan capital out of the U.S. reduced the domestic supply of credit, placing upward pressure on rates. Then, in 1981 and 1982, when it became apparent that some of these loans could not be repaid on schedule, banks adopted the strategy of charging higher rates to consumers to build up their reserves.

Evidence of this strategy is contained in survey data compiled by the Federal Reserve earlier this year. It shows that the seven reporting banks with the largest foreign claims charged auto loan rates that were, on the average, 2.2 percentage points higher than those charged by 150 other banks—16.6% vs. 14.4%.

CFAnews Photo by Bill Burke/Page One Photography

Testifying before Congress on credit controls are: (l-r) CFA's Stephen Brobeck, J.C. Turner of the Operating Engineers and AFL-CIO's Henry Schechter.

In the future, this international lending could place additional pressure on domestic rates in two ways. First, if Congress appropriates $8.4 billion to the International Monetary Fund which is drawn down, the U.S. Treasury will probably be forced to borrow this money in credit markets, restricting the availability of credit to other domestic borrowers. Second, if these and other IMF contributions fail to prevent defaults by Third World debtors, in order to maintain reserves U.S. banks will be forced to curtail lending.

An additional problem is that, when some of the foreign loans turned sour, banks responded by hiking rates to as much as four percentage points over prevailing market rates and by charging multi-million dollar "rescheduling" fees. These additional charges practically guarantee a continuing crisis with the possibility of additional U.S. taxpayer bank "bailouts." If taxpayer subsidies allow banks to collect all their foreign debts, they will have been instrumental in allowing banks to earn windfall profits on these loans.

FTC Votes Compromise Credit Practices Rule

After an eight-year struggle with the credit industry, consumers won an unexpected, if partial, victory on the Federal Trade Commission Credit Practices Rule. The Rule, which would ban certain kinds of contract terms and collection tactics, was approved by a 5-0 vote on July 20, after several of its more controversial features were dropped.

Consumer groups were quick to point out a whole range of horror stories that the new rule would prohibit. "It's hard to believe," said CFA Legislative Director David Greenberg, "but even in this day and age loan companies, banks and retailers often present borrowers with contracts which give the lenders shocking rights to take advantage of their customers.

"Who would imagine," Greenberg continued, "that a loan agreement could authorize a lender to come into a borrower's home and strip that family of its household goods and personal effects, even those protected by state law? But that is a practice that happens to an estimated 50,000 families every year. The rule would put a stop to it."

Greenberg also praised the prohibition on wage assignment clauses, confessions of judgement and pyramid late charges. "The very existence of these contract terms illustrates the fact that installment contracts are written by lenders and for lenders. Borrowers don't bargain over these terms—they are presented on a take-it-or-leave-it basis. In fact, the FTC rulemaking record demonstrated that lenders consider any attempt to bargain over contract remedies as evidence that borrowers are poor credit risks. Given that attitude, it's easy to see why consumers need the protection this rule would offer."

Not all the implications of the FTC action were positive. According to Greenberg, several important borrower protections were dropped in order to get the rule passed. Thus, even if the rule takes effect, consumers will still have to contend with contracts that:

1. require debtors to pay lenders attorneys' fees, even if there was a good reason for non-payment;
2. allow lenders to repossess collateral, sell it for a discount price and sue borrowers for the remainder of the debt;
3. leave lenders free to contact the friends, relatives and employers of borrowers, a tactic that can often cost them their jobs;
4. permit lenders to seize all of a series of purchases up until the final payment is made on the final item, no matter how many of the items are fully paid for.

Even though the final version of the rule represents a compromise, Greenberg expressed fear that it could still be stopped from becoming law. In his view, that might happen if the final paperwork is not completed before the end of Commissioner David Clanton's term in September. At that point, Reagan appointees will command a majority of Commission votes and could reverse the vote on the Credit Practices Rule.

Blanket Security Interest Clause

§ If I don't pay, you can take all the household goods I own.

This note is secured by a security interest in all of the following described personal property and proceeds thereof: If checked at left, Consumer goods consisting of all household goods, furniture, appliances and bric-a-brac, now owned and hereinafter acquired, including replacements, and located in or about the premises at the Debtor's residence (unless otherwise stated) or at any other location to which the goods may be moved. In addition, all other goods and chattels of like nature hereafter acquired by the Debtor and kept or used in or about said premises and substituted for any property mentioned. Proceeds and Products of the collateral are also covered.*

*There are typical standard form contract provisions used in states where they're permitted. One or more may be in the contract you sign.

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CFAnews

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To the Editor:

To the Editor:

I am writing in response to the April/May *CFAnews* article reporting on the Consumer Federation of America and the Independent Gas Producers Committee (IGPC) critique of an engineering study I conducted for Shell Oil. The study sought to determine the effect decontrol of so-called "old" natural gas would have on the nation's natural gas supply.

My engineering study of major gas fields in the U.S. concludes that decontrol of old gas would result in 52 trillion cubic feet—or about 2½ years supply—of additional natural gas reserves. I based my study on actual gas fields, actual production records and experience, and proven engineering technology. However, the CFA/IGPC critique alleged my study was "fundamentally flawed and grossly misleading". After examining the five alleged flaws in the critique, I found each of them to be either unfounded or inaccurate. A detailed, point-by-point rebuttal was submitted to Congress and released to the public.

I realize this issue is emotional and controversial. It's also very complicated. That's why I offered to discuss my methodology and the significant points of my study in greater detail with the CFA coordinator. Then, in spite of my offer, the CFA-IGPC critique was published containing obvious errors. On the other hand, my study has been validated by eminent independent engineering and academic authorities, and supported by studies conducted by major gas producers.

The vast majority of independent producers (about 15,000) support decontrol through organizations such as the Independent Producers Association of America. The IGPC consists of only a handful (seventeen) of independent gas drillers. We can understand why the IGPC members oppose decontrol, since they are receiving astronomical prices for their gas and desire to maintain the economic advantages that the loopholes in the current law provide. We cannot understand, however, why a consumer group such as the CFA opposes decontrol and joins forces with the special interests of the IGPC. We do not believe it is in the consumers interest to encourage the production of high-cost, deep well gas while old gas that is uneconomical to produce without decontrol is left in the ground.

We continue to strongly advocate that total decontrol of all natural gas prices is in the best interests of American consumers because it would provide maximum supply at minimum cost. We believe that decontrol not only will provide a large additional gas supply from old gas fields, but also will encourage rational drilling for new gas sources at competitive prices the market will bear. It would provide more cumulative natural gas production, more additions to gas reserves, more revenues to local, state and federal governments, and less imported energy.

Furthermore, I believe that the natural gas issue should be approached with sound reasoning and a factual, scientific approach. We will continue to pursue solutions based on that premise.

Sincerely,
Dr. C. S. Matthews
Senior Petroleum Engineering Consultant
Shell Oil Company

Lower Responds:

The potential windfall of more than $60 billion to the 20 largest producers of old natural gas, including Shell Oil, from old gas decontrol is far too serious an issue to leave the factual inaccuracies, omissions and half truths found in Dr. Matthews study unanswered.

Dr. Matthews argues that an engineering study he conducted for Shell Oil demonstrates that decontrol of old gas would result in 52 trillion cubic feet of *additional* natural gas reserves. A CFA-IGPC critique of that study argued that the errors by Shell amount to more than 46 trillion cubic feet in old gas reserves. DOE estimated an approximate 40 trillion cubic feet error by Shell in its May 6, 1983 *Supplemental Analysis of Natural Gas Consumer Regulatory Reform Legislation.*

Like DOE, the CFA-IGPC analysis does not question the geological underpinnings of the Shell report. What it does argue is that the Shell report errs—and misleads—because it includes additional old gas reserves that would be forthcoming *anyway* under the present law, such as much of the old intrastate gas scheduled for decontrol in 1985, as well as additional reserves that would be forthcoming *only* under Matthews' assumed market clearing price of $3.50, a price well above even the Administration's market clearing estimate of $2.50.

After adjusting for these *non-engineering* assumptions and policy judgments, Shell's methodology yields 5.67, not 52 tcf in incremental old gas reserves at an *actual* marginal cost to consumers of more than $25 per mcf. *Without* adjusting Shell's 52tcf, the House Subcommittee on Synthetic and Fossil Fuels found that the marginal cost to consumers would be at deep gas prices prior to the collapse of the market, prices that Dr. Matthews calls in his letter—and here we agree—"astronomical."

It seems to disturb Matthews that CFA can both call previous deep gas prices astronomical and at the same time write a report with the culprits. Here Matthews misses one of the most fundamental and important points of agreement in the current gas debate between consumers and many industry representatives, including IGPC. CFA collaborated with IGPC on the critique of the Shell study because both groups share an identity of interests concerning old gas decontrol. While we disagree over how high new gas prices should be at any given time, we do agree that there will be a *greater* supply response and more acceptable prices if old gas that was cheap to produce receives a lower price than conventional new gas and frontier deep gas. Matthews fails to address the long-run supply *and* distributional problems in his study that would result from changing the price relationship between old and new gas, an oversight I find glaring and much to Shell's self-interest.

Ann K. Lower
Energy Consultant to CFA

TV Ads For Valium?

by Anne C. Averyt
Product Safety Director

A TV ad for Valium, promising relief from the "housewife blues"? A full-color ad in Readers' Digest introducing a new miracle drug to cure diabetes or herpes?

Not yet—but maybe soon.

The U.S. drug industry, which now spends more than a billion dollars a year to promote over-the-counter drugs, is considering a move to the mass media, advertising prescription drugs.

Several companies have already launched direct-to-consumer advertising campaigns:

- Eli Lily mounted a multi-million dollar campaign to push its arthritis drug Oraflex. Although they didn't use the mass media, the company orchestrated elaborate press coverage of its "breakthrough" drug, which sent sales soaring as patients demanded the product from their doctor. The campaign backfired only months later when the FDA ordered the drug removed from the market, following several deaths linked to its use.
- Burroughs Wellcome Company, in conjunction with the Peoples drugstore chain, ran ads for its new herpes drug, Zovirax, in *The Washington Post.*
- Boots Pharmaceuticals, an American subsidiary of Britain's Boots Company, one of the world's largest prescription drug manufacturers, started the ball rolling last year with its offer of consumer rebates for buying its arthritis drug, Rufen.

On May 19, the company violated a voluntary moritorium on direct-to-consumer advertising requested by the Food and Drug Administration, with TV ads for Rufen. Ironically, while Boots was the first company to violate the moritorium, it has never advertised in its native England because such advertising is prohibited by law throughout Europe.

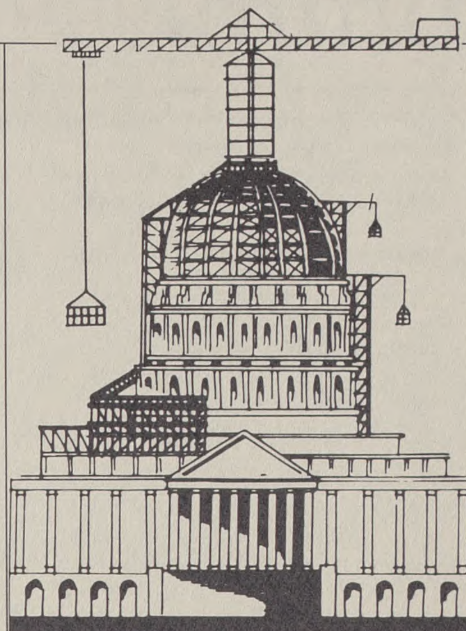
- Pfizer Pharmaceuticals ran TV, magazine and newspaper ads prior to the FDA moritorium informing viewers of the symptoms of diseases for which Pfizer makes drugs. Although no product names were used, Pfizer's own name was featured prominently.

Where Angels Fear to Tread

The Food and Drug Administration, which has authority over the advertising of prescription drugs, as yet has no formal policy on direct-to-consumer advertising. Historically, prescription drugs have been advertised only in medical journals. These ads are closely monitored by the FDA and must conform to a specific code, requiring manufacturers to list the drug's contraindications and harmful side effects.

Although the FDA says these requirements are generally fulfilled, some manufacturers recently have violated the intent if not the actual letter of the law.

Advertising violations are common as well in the promotion of over-the-counter drugs which are monitored by



the Federal Trade Commission. In mid-July, the FTC cited several OTC advertisers for deceptive practices and ordered them to change their ads.

Imaginary Benefits

Consumer groups as well as health and senior citizen groups have urged the FDA to ban the direct-to-consumer advertising of prescription drugs based in part on the experience with the advertising of OTC drugs. There is also concern among these groups that such advertising will lead to increased drug usage, and interfere with the patient-doctor relationship by encouraging patients to seek out a doctor who will prescribe the drug they want.

Patient education can be served through the use of inserts in prescription drugs that inform of proper drug use, side effects to report to a physician, or danger signals from drug use—but little information is gained from TV ads designed to sell a product.

Who Will Profit?

The FDA is now considering what to do—whether to oppose all direct-to-consumer advertising, or to permit the advertising of certain types of drugs only (e.g., anti-hypertensive drugs but not minor tranquilizers).

If the FDA does permit limited advertising, sticky issues remain—like how to list the contraindications and harmful side effects of a drug in a 10 or even 30-second TV spot?

The abuse of advertising by OTC companies, and prescription drug manufacturers in professional journals, is a bad precedent. The encouragement, however subtle, that there is a pill for every ill, is a dangerous one. And the billions spent on advertising, which ultimately will come out of the consumers' pocketbook, are all considerations that the FDA must weigh. The choice they face is between protecting the well-being of consumers or boosting the profits of prescription drug producers. Their decision will reveal whom they consider their constituency to be.

Low Income Energy Program Faces Cut

by Glenn Nishimura,
Legislative Representative

Despite evidence of increasing reliance by low-income consumers on federal energy assistance, Congress may cut $100 million from the program in 1984.

The Low Income Home Energy Assistance Program was established in the late 70s to provide help to qualified consumers with rising utility bills. As utility prices have soared, LIHEAP has played a major part in keeping energy available to the economically disadvantaged.

Funded under a continuing resolution in fiscal 1983, LIHEAP was appropriated $1.975 billion. A product of budget compromise and concern over rising costs, that 1983 appropriation exceeded the maximum authorization level by $100 million. Lacking clear authority for a higher funding level, the House Labor-HHS Appropriations Subcommittee recently approved a 1984 funding level of $1.875 billion.

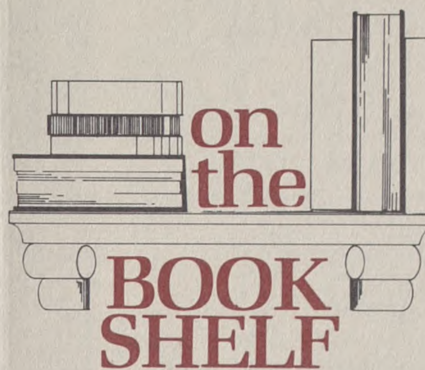
There have been House committee considerations of three separate bills that would authorize $2.25 billion or more for LIHEAP in 1984. But, though the Low Income Energy Coalition, a group of industry and public interest organizations of which CFA is a member, supports the higher reauthorization levels, there is little optimism that one of these bills will pass in time to affect the fiscal 1984 appropriation.

The Coalition may have another chance to up the ante if the Labor-HHS appropriations bill gets bogged down this year, as it has the last few years. Should that occur, a continuing resolution would be necessary, and an appropriation of $1.975 billion or slightly more would not be out of the question.

Supporting the urgent need for increased funding for the program is a recent survey conducted by Dr. Meg Power for the National Community Action Foundation. Power surveyed all state energy assistance programs and showed that, although the past winter was unusually mild, the program funds were in greater demand. The 1983 funds had to serve 13 percent more households than the previous year and the instances of emergency energy assistance nearly doubled.

The survey also demonstrated a dramatic decrease in the amount of funds carried over from one program year to the next and found that many states had supplemented its LIHEAP funds with other monies in order to meet the energy needs of their residents.

Specifically, the 1983 appropriation was supplemented by carryover funds from fiscal 1982 and oil overcharge funds, making the total amount available in fiscal 1983 approximately $2.2 billion. However, in fiscal 1984, the carryover will be much smaller and overcharge monies will not be available.



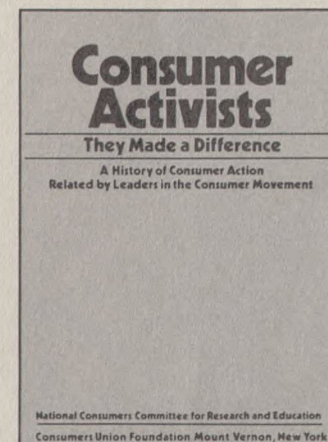
Consumer Activists: They Made A Difference—A History of Consumer Action Related by Leaders in the Consumer Movement

By: National Consumers Committee for Research and Education, Published by Consumers Union Foundation, Mt. Vernon, NY

Consumer Activists is a 365-page compendium of articles written by past and present consumer leaders on the development of the consumer movement from their own personal perspective.

It includes sections on Cooperatives, Product Testing, Product Standards, Federal Consumer Protection, Participation in Government and Business, Consumer Education, and Organizing and Lobbying.

Among the 18 contributors to the book are Esther Peterson, labor organizer, consumer advisor to two Presidents and grande dame of the consumer movement; Erma Angevine, President of the National Consumers League and first Executive Director of CFA; Sarah Newman, board member of CFA and Vice-President of NCL; Helen Nelson, also CFA board member, and President of Consumer Resource Foundation. Other contributors include Colston Warne, a founder and long-time President of Consumers Union, and Sandra Willett, former Executive Director of NCL.



Consumer Activists is a valuable resource, both as a record of the past and a guide for future action.

It is available from Consumers Union Foundation, 256 Washington Street, Mt. Vernon, NY 10550 for $15.

House Bill Threatens To Turn CPSC Into Study Commission

by David I. Greenberg, Legislative Director

In the topsy-turvy world of Washington, sweet victory often brings with it a bitter after-taste. So it was when the Consumer Product Safety Commission (CPSC) reauthorization legislation came to the House floor less than one week after the Supreme Court's gratifying decision striking down the legislative veto.

Bad Timing

As it turned out, the timing of the Court's rulng simply could not have been worse. By declaring the legislative veto unconstitutional, the Court stripped Congress of its favorite tool for controlling regulatory agencies (see article below). The first such agency to come before Congress after the ruling was the CPSC, and it was forced to endure the full counterreaction to the legislative veto decision.

That counterreaction was bad enough in and of itself—the House adopted language requiring every CPSC rule or regulation to gain approval from both houses of Congress and the President *before* taking effect. Even more sadly, however, the Congressional wrath created by the Supreme Court's decision dragged down the entire CPSC bill reported by the House Commerce Committee. The overall result was a double whammy for consumers: First, no improvements in the Commission's funding, reauthorization period or powers; second, a Congressional review procedure that is even more onerous than the legislative veto the Supreme Court rejected as unconstitutional.

Next Stop: Conference

The House vote completes floor consideration of the CPSC bills, and attention now shifts to the joint conference committee which will meet to resolve differences in the Senate and House legislation, S. 861 and H.R. 2668. The House vote to substitute the weakening amendment offered by Congressman Richard Shelby (D-AL)—which passed 238-177—leaves far less for the conference committee to work on than originally anticipated. The provisions of the Shelby Substitute—reauthorizing the CPSC for three years at funding levels of $35.7 million, $37.5 million and $39.3 million—present only minor conflict with Senator Kasten's S. 861, which provides for a two-year extension of the Commission at $35 million annually.

In sharp contrast, the House Committee bill, sponsored by Congressman Henry Waxman (D-CA), featured a large increase in funding authority, a five-year life, and key changes in the CPSC's ability to disclose safety information, fine safety violators and use more flexible and cost-effective regulatory procedures.

Levitas Amendment: A Killer

The major difference in the bills and the overriding issue in conference will be the House amendment which requires every rule and regulation issued by the Commission to be passed by both houses and signed by the President. This provision, sponsored by Elliot Levitas (D-GA), the prime congressional champion of the legislative veto, threatens to turn the CPSC into a weak study commission, whose recommendations become immediately subject to all the hazards of the legislative process.

The prime hazard for consumers is the fact that industry groups who disagree with the CPSC's safety regulations will get a second chance to argue their case on Capitol Hill, where facts and scientific evidence are forced to compete with campaign contributions and intense lobbying pressure for attention. As the case of the FTC Used Car Rule demonstrated, logic and fairness do not always triumph.

In addition, the legislative process takes time, provides many opportunities for delay and can be obstructed by one key subcommittee chairman in either house. At minimum, that means CPSC safety rules—e.g., bans of hazardous chemicals found in consumer products—will take effect months or years later than they do at present. Such delays will cost lives and serious injuries.

Fortunately, many of the likely conferees seem to oppose the Levitas approach, including Congressman Waxman and Dingell (D-MI) and Senators Packwood (R-OR), Hollings (D-SC) and Gorton (R-WA). Consumers must work hard betwen now and September—the likely time of conference—to make the entire Congress realize that the Levitas amendment could stop product safety in its tracks by sounding an end to the CPSC's independence. CFA intends to lead the lobbying effort on the Hill and across the country by calling on its local groups and the Consumer Product Safety Network to join together to save the Commission.

Supreme Court Strikes Down Legislative Veto

On June 23, in a decision with important implications for consumers, regulatory agencies and the relationship between Congress and the President, the Supreme Court struck down the legislative veto. By a 7-2 margin, the High Court ruled that a one-house legislative veto provision in the 1952 Immigration and Naturalization Act violated the Constitutional requirement that legislation be signed by the President in order to have the force of law.

The Court quickly let it be known that this decision (*INS v. Chadha*) extended to nearly all versions of the legislative veto, which is present in 200 statutes ranging from the War Powers Act to the Federal Trade Commission Improvements Act of 1980. The two-house congressional veto of that latter statute met its end less than a fortnight later, when the Supreme Court affirmed lower court rulings rejecting the legislative veto of the FTC Used Car Rule.

"Consumer groups have always opposed the legislative veto, seeing it as a potent tool that special interest can use to influence the regulatory process, both during and after agencies act on important health, safety and economic matters," said CFA Legislative Director David Greenberg. "During a rulemaking proceeding, the threat of an ultimate legislative veto is held not-too-subtly over an agency's head in an attempt to head off or weaken proposed action," he added. "And should a regulation receive favorable agency action, the legislative veto gives affected industries one more chance to defeat it. That was exactly what happened to the Used Car Rule, which required only that car dealers disclose major known defects in used cars." The Rule was rejected overwhelmingly by both houses, notwithstanding near unanimous support from editorial boards and public interest groups.

Despite all this, the Court's decision is not without a down side. Members of Congress, who see the ruling as an infringement on their power to control agencies, will find ways to reassert that power. Already, Congressional reaction to the *Chadha* case has posed a threat to the independence of the Consumer Product Safety Commission (see article above). Thus, only time will tell how consumers will reflect back on this landmark court action.

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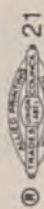

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