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Drinking Water Safety Bill Enacted

In August, Congress passed and the president signed strong bipartisan legislation to improve the safety of the nation's drinking water.

"We are very pleased that Congress did not let partisan politics stand in the way of passing this vital health and safety legislation, which will provide communities with long-awaited funding for much needed system improvements," said CFA Public Policy Associate Diana Neidle, who introduced President Bill Clinton at the bill signing ceremony.

At the heart of the bill is a provision authorizing $7.6 billion through 2003 for a new revolving fund to provide state grants and loans to help local water systems meet federal drinking water standards.

The final bill is considerably stronger than the version passed by the Senate last year.

CFA's Diana Neidle (left), President Bill Clinton, and EPA Administrator Carol Browner are shown on their way to the Safe Drinking Water bill signing, where Neidle introduced the president.

Right To Know Provisions Included

In particular, it contains a provision requiring drinking water systems to provide the public with more information about contaminants found in the tap water and the potential health effects of those contaminants.

A similar "right to know" amendment introduced by Sen. Barbara Boxer (D-CA) had been defeated 59-40 in the Senate. The House included the provision in its bill, however, and it was included in the final legislation at the insistence of the White House.

Because certain individuals — very young children, the elderly, people with AIDS, and people undergoing chemotherapy — are more susceptible to certain contaminants, they may be at risk of a serious illness at lower levels of drinking water contamination than the rest of us, noted Neidle, who focused on the "right to know" provision when she introduced the president at the bill signing ceremony.

"Families need to know if they should boil water or take other precautions to protect those more vulnerable members of their household. This legislation gives us that important information," she said.

Other Consumer Protections Adopted

In addition, the new law requires that health standards be issued within the next three to five years for cryptosporidium and certain other contaminants, such as disinfection bi-products.

It requires EPA to set a health standard for radon in water, as proposed in the House bill. In a concession to states with high radon levels, however, it allows those states that set up an EPA-approved program to reduce public exposure to airborne radon to meet a less stringent tap water standard.

Conferees also generally adopted the stronger House language requiring water systems to be operated by certified operators. EPA would set the certification standards, to be administered by the states, and would reimburse smaller systems for the cost of training.

The bill also provides for improved source water protection, requires EPA to study the effects of contaminants on at-risk populations, and applies the tap water standards to bottled water as well.

On the other hand, the bill includes a number of provisions to reduce regulation of public drinking water suppliers. For example, it revokes the requirement that EPA set standards for an additional 25 contaminants every three years.

Instead, EPA would be required to publish a list of unregulated contaminants every five years and to use that list when proposing to regulate new contaminants. When proposing a new regulation, EPA would have to publish a cost-benefit analysis, but the analysis would not be binding.

House, Senate Pass Securities Bills

The House passed a scaled back version of securities deregulation legislation in June, with the Senate following suit later that month.

Although both bills would preempt state securities laws in some areas — particularly with regard to mutual fund prospectuses and certain securities offerings — neither contains the broad preemption of state laws initially proposed in the House bill.

"These bills are significantly less harmful to investors than earlier House versions, which threatened to dismantle the entire system of state securities regulation," said CFA Director of Investor Protection Barbara Roper.

"Both bills, however, still contain provisions that could undermine investor protection," Roper added. She noted that the Senate bill's investment adviser provisions are of particular concern.

Acknowledging that the SEC has insufficient resources to police investment advisers, the Senate bill proposes to reduce the burden on the agency by exempting from federal oversight those investment adviser firms that are registered at the state level and have less than $25 million in assets under management. The SEC, in turn, would have exclusive regulatory jurisdiction over advisers to mutual funds and those with $25 million or more in assets under management.

Senate Bill Could Erode Investment Adviser Oversight

This summer, CFA conducted a survey of state securities regulators to assess the effect this legislation would have on the overall quality of investment adviser regulation.

The report on that survey, released in July, found that states suffered from resource problems at least as severe as those at the SEC and were, as a result, no better equipped than the federal agency to oversee this growing industry.

Specifically, the survey found that:

- Nearly two-thirds of responding states do not provide adequate investment adviser oversight. Fully 50 percent of the states reported having only a few of the elements identified by CFA as essential to an adequate oversight program.
- Inspections, the most important element of an effective program, were also the most likely to be deficient. Only 36 percent of the states reported conducting routine inspections of investment advisers with sufficient frequency to serve as an effective deterrent against fraud and abuse. Forty percent of the states said they were unable to conduct routine inspections at all.
- The vast majority of investment advisers (78 percent) and their representatives (75 percent) are subject to inadequate state oversight. This is because many of the most populous states, with the largest populations of investment advisers, also have the least aggressive oversight programs.

"The mere fact that a state has an investment adviser registration requirement on the books does not guarantee that it is providing adequate oversight," Roper said.

In a letter to conferees, CFA, Consumers Union, and the National Council of Individual Investors recommended that, if regulatory jurisdiction is to be divided as S. 1815 proposes, the legislation should specify a broader list of protections a state must have in place before exclusive jurisdiction over smaller advisers is delegated to that state.

States' Ability To Weed Out Problem Advisers Scaled Back

Another serious shortcoming of the legislation is that it would exempt the individual representatives of larger firms from state regulation, without providing comparable federal protections.

Most states currently require investment adviser representatives operating within their borders to register individually. By conducting routine background checks on these individuals, states can

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New Study Rates Auto Insurance Companies

To aid consumers in comparison shopping among auto insurers, CFA released a report in June ranking auto insurance companies in terms of efficiency, price, and customer service.

While access to consumer information about automobile insurance is improving, consumers "are still a long way from being able to comparison shop easily and find competitive rates," said CFA Director of Insurance J. Robert Hunter, who prepared the study.

The study examines 29 companies for which service, price, and efficiency information was available. The following are among the key findings of that report:

• **There is no correlation between service and either efficiency or price.**

Some of the most efficient insurers also have good service records, implying that good service is not dependent on higher overhead costs. In fact, the seven companies with the highest service ratings and the eight companies with the lowest service ratings all have below average overhead costs.

Three of the seven companies with the highest service ratings also charged below average prices, as did two of the eight companies with the lowest service ratings.

• **There is a strong correlation between efficiency and price.**

Generally, the more efficient insurers are, the lower prices they charge, the study found. For example, the four insurers in the sample with the lowest overhead costs all charge below average prices.

On the other hand, the insurer in the study with the highest overhead costs charges the highest prices, and none of the twelve insurers in the sample with the highest overhead costs is among the lowest priced insurers.

• **The expense ratio of the 25 largest auto insurance companies range dramatically.**

The company with the highest expense ratio (Standard Fire) had costs 23 percent above the industry average. The company with the lowest expense ratio (20th Century) had costs 45 percent below the average.

In a companion report, also released in June, CFA ranked the efficiency of 496 leading insurance companies in the United States and compared their efficiency levels in 1994 to 1988.

This study, with its larger sample, also found a wide range in auto insurance company efficiency. While 42 companies spent less than 28 percent of premiums on overhead costs, the same number spent more than 50 percent of premiums for overhead.

Overall, insurance companies have become less efficient in recent years, the study found.

"Using 1994 premiums as weights, we found 32.7 percent of premiums in 1988 were used for expenses," Hunter explained. "In 1994, that number rose to 34.0 percent, a four percent increase.

"State Farm Mutual, with a six percent reduction in efficiency, was a heavy drag on the industry, given its huge share of the market," he added.

On the other hand, more companies improved in efficiency between 1988 and 1994 than deteriorated, the study found.

Over half of the insurers (58.6 percent) improved in efficiency between 1988 and 1994, with 23 companies improving by more than 25 percent. However, 41 companies saw costs rise relative to premiums by more than 25 percent.

"Given all the layoffs and computerization efforts of this industry over the past few years, it is surprising that the industry is not doing better in controlling costs," Hunter said.

The efficiency study is designed to give consumers a starting point in their search for auto insurance by helping them identify the most efficient companies, Hunter said. That information should be supplemented with price and service information, he said.

"The key message for consumers is that they can get excellent prices without giving up excellent service," said CFA Executive Director Stephen Brobeck.

The study ranking efficiency of insurers is available for $10 prepaid from CFA/Insurance Efficiency, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

Anti-Consumer FDA Overhaul Bills Advance

Bills to overhaul the Food and Drug Administration and turn many of its public health and safety functions over to private contractors have advanced in both the House and Senate.

Because of the short time remaining on the legislative calendar, however, these anti-consumer bills appear unlikely to pass before Congress adjourns for the year.

"These bills represent a very real and substantial threat to public health and safety," said CFA Chairman Howard Metzenbaum.

The Senate committee approved S. 1477 on a 12-4 vote in March, with Sens. Christopher Dodd (D-CT), Tom Harkin (D-IA), and Barbara Mikulski (D-MD) joining with panel Republicans to approve the measure. Both supporters and opponents thought it was headed for easy and quick floor approval.

Mounting opposition from certain Senate Democrats, led by Sen. Ted Kennedy (D-MA), and from consumer groups helped to stall the legislation. It still had not been brought to the floor by the time Congress left for August recess.

Meanwhile, the House has held hearings on the issue, and three companion bills have been drafted, but it has yet to be voted on in committee.

Private Product Reviews Allowed

S. 1477 would allow the makers of medical devices, and some drugs, to pay private reviewing companies to evaluate their products. Furthermore, whenever the FDA failed to meet an impossibly short 180-day deadline for reviewing new product applications, the agency would be forced to contract the review process out to private parties.

"Unreasonable review time periods guarantee that vital public health protection activities will be privatized," Metzenbaum wrote in a letter to senators after the bill received committee approval. "In the interest of expediency, the health of many individuals could be endangered."

The former senator noted in his letter that "FDA has an excellent record for keeping unsafe drugs off the market and stands alone in the world in protecting patients from unsafe medical devices."

Because of the FDA's vigilance, the United States has been forced to withdraw only nine drugs from the market for public safety reasons between 1970 and 1992, compared to 23 in the United Kingdom, 30 in Germany, and 31 in France, he said.

"At one time the Food and Drug Administration may legitimately have been criticized for undue delay in approving new food additives, drugs, or medical devices. However, that is no longer the case," he said, noting that the FDA has eliminated the backlog for review of medical devices.

Food Safety Protections Weakened

In the area of food safety, the bill would allow the FDA to certify outside groups to conduct food inspections, rather than funding the FDA to conduct those inspections. Furthermore, inspectors would be selected and paid by the companies themselves.

The current requirement that FDA preapprove all health claims on foods would also be eliminated. This could "result in companies' making misleading claims about their products," Metzenbaum said.

The House bills (H.R. 3199, 3200, and 3201) are similar to the Senate bill but go further in several areas. For example, the House version would remove the current requirement that food companies prove a "reasonable certainty of no harm" from food additives. Instead, the agency would have to show "a reasonable probability that the additive is unsafe."

The House bill also would preempt state laws concerning many food and drug matters, from warning labels on raw oysters to unit pricing of foods.

Sen. Judd Gregg (R-NH) is expected to attempt to add similar provisions by amendment if the Senate bill is brought to the floor.

"Consumers depend upon the Food and Drug Administration to protect them from unsafe foods, drugs, and medical devices," Metzenbaum said. "This legislation would hopelessly tie the hands of this vital public health agency."

New Meat Inspection Rules Adopted

President Clinton announced a major reform of the federal food safety rules for meat and poultry in July, winning endorsements from industry and consumer groups alike.

"These rules should save thousands of lives and billions of dollars each year by limiting the level of harmful bacteria in meat and poultry products," said CFA Public Policy Associate Diana Neidle.

The U.S. Centers for Disease Control and Prevention estimates that contaminated meat and poultry products are responsible for five million cases of food poisoning and 4,000 food poisoning deaths each year. It is further estimated that food poisoning from meat and poultry costs the nation between $4.5 and $7.5 billion each year in medical expenses and lost wages.

The new rules:

- require every meat and poultry establishment to develop and implement a system of controls to prevent contamination and improve the safety of their products;
- require companies to test their products to make sure the system is effective in preventing fecal contamination;
- establish limits on the amount of salmonella that can be present on raw meat and poultry products; and
- require every plant to institute sanitation procedures to control bacteria.

"The new standards emphasize contamination prevention rather than after-the-fact detection. The result should be less meat and poultry that is contaminated with harmful bacteria," Neidle said.

The Safe Food Coalition, of which CFA is a member, has praised the new rules, but has also urged the U.S. Department of Agriculture to take some additional steps. These include maintaining federal inspectors in their current roles until the new rule has been proven effective, establishing limits for all pathogens, not just salmonella and E. coli, and establishing credible public health limits on the amount of harmful bacteria present on individual carcasses and products.

In addition, the coalition continues to support passage of the Family Food Protection Act.

"USDA has taken a giant step toward limiting food poisoning illnesses, but existing law does not allow inclusion of a number of important elements of protection," Neidle said.

Legislation is needed: to establish civil penalties for violating the law; to provide whistleblower protection for plant employees who are disciplined for acting to protect public health; and to provide public access to information on how well a plant is meeting its responsibilities under the rule and how vigorously the USDA is enforcing it, she said.

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FCC Issues Local Telephone Competition Rules

In its first action to implement the Telecommunications Act of 1996, the Federal Communications Commission released sweeping new rules in August to promote competition in local telephone markets.

CFA Director of Telecommunications Policy Bradley Stillman praised the agency for taking "some very strong pro-competitive steps." He added, however, that the rules still leave significant discretion to the states, where the Bells are a powerful political force.

"This battle is far from over," Stillman said. "When the Bells go to the states to ask for rate hikes, and they will, it's going to be the job of the states to say no."

The rules set out detailed procedures the local phone companies must use in allowing competitors access to the local network.

Where competitors wish to buy the network in bulk for resale, the FCC rules set a range of discounts between 17 percent and 25 percent that the Bells must offer off the retail price. The actual discount rates will be determined by state regulators.

In addition, the Bells must offer "unbundled" network elements for sale, allowing competitors to purchase only the equipment and services they actually need to provide local phone service. The rules set out a low-cost pricing method the Bells must use in setting prices for network elements.

The Bells' ability to move into competitive markets, such as long-distance, will depend on how quickly they allow competitors access to local networks.

"The FCC recognized that, if the goal is competition, the only way to get there is by permitting competitive local telephone companies to enter the market in a variety of different ways, including resale of the incumbent's facilities, using their own facilities, or some combination of the two," Stillman said.

Access Fee Issue Unresolved

The rules did not, however, deal extensively with the issue of access fees the local phone companies charge long-distance companies to complete their calls on the local network. Instead, the agency said it would deal with that issue later this fall, in tandem with a proceeding on universal service.

The Bells are expected to renew their case for raising local residential rates during that proceeding.

In July, however, CFA and the Benton Foundation released a report detailing how telecommunications regulators can implement a significantly more inclusive and aggressive concept of universal service as required by the telecommunications act.

"The telecommunications act vastly expands the concept of universal service by introducing the concept of affordability," Stillman said. "Furthermore, it requires the FCC and state regulators to assure access to advanced services and to create policies to provide universal service programs for public institutions and consumers with disabilities.

"This study provides a roadmap for regulators to use in filling that mandate," he said.

By analyzing the spread of telephone service through the 20th century, the report demonstrates the relation between household income and affordability of telephone service.

Specifically, the report demonstrates that people with household incomes below $12,500 are ten times more likely not to have telephone service than households with incomes above $35,000. In fact, 83 percent of the households without telephone service have incomes of $30,000 or less.

New Universal Service Definition Offered

"We are defining affordable rates as the price at which virtually all households that want basic service have it without placing a strain on the household budget," said CFA Research Director Mark Cooper, author of the report. "This is when we consider service universal."

The report shows that, when the cost of basic telephone service drops below one percent of income, the telephone penetration rate begins to exceed 90 percent. About 99 percent of all households choose to have basic telephone service when rates fall below 0.7 percent of annual household income.

"Before we can truly achieve universal service as mandated under the law, regulators must first look at how to make sure an evolving level of basic service is affordable to all households," Stillman said. "Since we observe that, as income climbs, 99 percent of all households have telephone service, it is reasonable to assume that the way to do it is to make sure the cost of this lifeline to the world is not a burden to consumers."

"The report clearly suggests that federal and state communications regulators can meet the universal service goals outlined in the 1996 telecommunications act by defining 'affordable' basic telephone service rates as no more than 0.7 percent of household income," Cooper added.

Copies of the report are available from the Benton Foundation at 202-638-5770.

Big Bank Mergers Often Hurt Consumers

Mergers initiated by big banks have not helped and have often harmed consumers, especially those in low and moderate income communities, according to a CFA report released earlier this year.

"Bank mergers have resulted in branch closings that limit access to needed, affordable banking services in some communities," said CFA Executive Director Stephen Brobeck, who prepared the report. "In addition, these mergers have tended to increase the cost of banking services for all consumers."

The CFA report, which is based on a paper presented at the Federal Reserve Bank of Chicago's 1996 conference on bank structure and competition, summarizes research on the effect of branch consolidation on consumers and releases the results of new CFA research on the impact of this consolidation in one large California city.

The existing research suggests that:

- Large banks tend to charge consumers higher prices than do smaller institutions.
- One reason for these higher prices is probably the exercise of market power by large institutions. Market concentration is directly correlated with higher interest rates on loans and lower interest rates on deposits.
- Despite the increasing availability of consumer credit from non-depository institutions, consumers still rely heavily on banks and savings and loans near home and work for checking and savings accounts.
- When these depository institutions are not available locally, many consumers turn to alternative service providers, such as pawn shops and check-cashing outlets, for needed banking services. These institutions charge high prices for loans and check-cashing, however, and provide no way for consumers to store and save money safely.

Mergers Often Reduce Branches

"The existing research does not report adequately the effect of bank and savings and loan mergers on branching in low and moderate income communities," Brobeck noted.

To help remedy this deficiency, CFA, with the assistance of Consumer Action, researched the relationship between bank mergers and branch closings in one large California community — Oakland — between the early 1980s and mid-1990s.

This new research revealed:

- The number of bank and savings and loan branches operating in Oakland declined from 92 to 74 during this period.
- Nearly the entire decline in the number of branches reflected the decisions of two of the largest banks, Bank of America and Wells Fargo, to shut down branches. These two banks accounted for 18 shutdowns, which was the number of net shutdowns.
- The branch closings were disproportionately in moderate income areas. In the 1980s, the number of branches in these areas declined 44 percent, from 16 to 9.
- Because the main low income areas abut the downtown, with its numerous bank branches, the effect of mergers on the access of residents of these areas to bank branches is uncertain. However, few branches were located in the low income neighborhoods themselves.
- Bank of America and Wells Fargo, in particular, had few branches in low and moderate income areas. In four of the five moderate income zip codes, for example, Wells Fargo had no branches, and Bank of America had only three.

"In Oakland during the 1980s and 1990s, the two big banks which were the most active merger makers were also the most active branch closers," Brobeck said. "Their branch shutdowns restricted access to needed bank services in moderate income neighborhoods."

Greater Scrutiny of Mergers Urged

Brobeck called on federal regulators to:

- scrutinize much more carefully the consumer and community impacts of mergers, particularly those involving large institutions that may close many branches;
- examine more carefully the extent to which the banking needs and wants of special groups in the population, especially low and moderate income households, are served; and
- more aggressively explore and promote the development of alternative delivery systems for needed services, including electronic benefits transfers, community credit unions, and mini-branches in supermarkets.

"During the past 15 years, most of the population has enjoyed increasing access to a growing array of financial services products," Brobeck said. "But that does not seem to be the case for many residents of low and moderate income communities, especially those served by no or few branches of depository institutions."

"Given the importance of banking services, any unmet needs should receive serious attention from society, especially bank regulators," he said.

The report is available for $10 prepaid from CFA-Bank Mergers, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

Securities Bills Passed

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identify those with a history of abusing client trust and deny registration.

"That is a powerful tool for preventing fraud, but it would be lost under S. 1815 for the majority of individuals who deal with the public in an advisory capacity," Roper said.

"Because the SEC registers firms, not individuals, has far narrower grounds than the states for denying registration, and traditionally has not even required that all representatives be listed on a firm's application, it is ill-equipped to fill this gap," she continued. "The legislation does nothing to provide the agency with the resources and expanded powers it would need to do so."

"Despite its good intentions, S. 1815 could end up giving us the worst of both worlds," Roper said. "It relies heavily on states for what they are least equipped to do, regularly inspect and otherwise oversee smaller advisory firms. At the same time, it substantially erodes their authority to identify and weed out problem advisors, an area where they provide substantial investor protections not available from the SEC."

Conferees began negotiations in July to work out differences in the House and Senate bills. The investment adviser provisions, which are not included in the House bill, were among the most contentious issues before the committee.

CFA, CU, and NCII urged the conferees not to pass the legislation in its current form.

"The problems with the investment adviser provisions of S. 1815 could be solved, but to do so would require substantial additional resources and major changes in the legislation," Roper said. "In its current form, the legislation would do more harm than good."

Disaster Insurance Bills Put On Hold

Faced with opposition from the administration, consumer groups, and portions of the insurance industry, Congress has set aside for this session its efforts to establish a national disaster insurance program.

"The nation needs a thoughtful approach to the handling of natural disasters, but the House and Senate bills fell well short of that goal," said CFA Director of Insurance J. Robert Hunter.

"Although vastly improved over earlier versions, they threatened to expose the federal treasury and taxpayers to billions of dollars of liabilities without guaranteeing consumers access to affordable and adequate disaster insurance," he added.

H.R. 1856 and S. 1943, which were introduced with extensive bipartisan support, proposed to establish a private, nationally based all-hazard disaster insurance program for residential and commercial property.

The bills would have created a Natural Disaster Insurance Corporation to provide reinsurance to participating insurers. The corporation would have broad powers, including the authority to borrow money from the federal treasury in cases of excess claims.

Bills Fail To Assure Access To Affordable Policies

In July, Consumers Union Insurance Counsel Mary Griffin testified in opposition to S. 1043 on behalf of CU and CFA before the Senate Commerce, Science and Transportation Committee.

"Any assistance provided to the industry should be accompanied by a requirement for the industry to provide insurance to adequately cover disaster risks in affected areas," Griffin said. S. 1043, however, assists the industry in managing the funding of its risks, but contains "no requirement that insurance companies engage in underwriting the risks," she said.

Griffin also criticized the bill for falling short "of providing the kind of mitigation program that is needed to move this country away from merely funding disaster costs to a mode of loss prevention and mitigation."

She called for additional study in a number of areas, including:

- an analysis of alternative proposals for providing funding for disasters and ensuring the private insurance market has the capacity to provide adequate protection for consumers;
- an analysis of the nature and scope of disasters and the most effective mechanisms for managing and distributing losses from catastrophic disasters;
- an objective, independent review of the causes and distribution of losses from earthquakes, hurricanes, and other disasters, including the effect of these disasters on the primary insurance market and the capacity of the current market to provide for future disasters; and
- a detailed study of the reinsurance market and the effects of various catastrophes on it to determine whether there is a need for the federal government to provide reinsurance to the private market and, if so, at what level.

It is unclear whether the insurance industry will continue to pursue similar legislation next year.

Flood Insurance Documents Released

In another partial victory for consumers, CFA, with assistance from Public Citizen Litigation Group, has successfully sued for access to documents related to the Federal Insurance Administration's proposed ban on rebating of agent's commissions on National Flood Insurance Program policies.

Within weeks after CFA filed suit in July, the Federal Emergency Management Agency had agreed to supply the documents, although the agency had previously denied both CFA's original Freedom of Information Act request and its appeal when that request was denied.

CFA had been seeking the documents and other records since last fall, when the Federal Insurance Administration issued a new policy, without public comment, prohibiting rebating of agent's commissions on national flood insurance policies. (Two states, Florida and California, currently allow rebating of commissions.)

Although the agency withdrew the policy and submitted it for public comment in the wake of CFA's request, it refused to provide CFA with the records of the deliberations that led to the policy's development.

"This improper change in the rules occurred . . . after those who would profit from such a ruling, insurance agents and direct writing companies, had lobbied the Federal Insurance Administration to achieve this self-interested end," Hunter wrote in June comments on the proposed policy.

In addition to challenging the procedures used in developing the policy, Hunter challenged the policy itself.

The industry had lobbied for and the agency had justified the anti-rebating policy on the grounds that the National Flood Insurance Program, as a federal program operating on a national scale, needs to have a uniform pricing system countrywide.

Hunter argued, however, that the rebate "is a separate transaction between the retailer (the agent or broker) and the insured which in no way amends the rate charged by FIA."

Furthermore, if FIA believes that uniformity is desirable, it should override state law to allow rebating nationwide, he said. For the FIA to adopt an anti-rebating policy is essentially to "condone price-fixing" at the retail level, he said.

"Consumers should not have to pay more so that agents and direct writing insurers will profit more," he said. "You should not override state laws that allow consumers to benefit from retail competition," he added.

As of early August, CFA had not yet received the documents, nor had the agency issued a decision on the anti-rebating policy.

Children's Online Privacy Guidelines Proposed

The Center for Media Education and CFA have proposed new guidelines to protect children from deceptive and unfair advertising practices on the Global Information Infrastructure and in other interactive media. The proposed guidelines were presented to the Federal Trade Commission in June during its public workshop on Consumer Privacy on the GII.

"Children surfing the Net are easy targets for sophisticated marketers seeking to gather information from and create customers out of these youngsters," said CFA General Counsel Mary Ellen Fise.

The guidelines target two types of deceptive data-collection practices. First, children may be lured into giving up personal information under the guise of entering a contest, joining a club, or winning a prize. Second, information on children's Web-browsing activities may be gathered surreptitiously and used to build personal profiles.

The proposed CME/CFA guidelines would apply to anyone using the Global Information Infrastructure or other interactive media to collect or track information from children under the age of 16 for commercial marketing purposes. These individuals would be required: to obtain valid parental consent before collecting or tracking personal information from children; to provide a procedure through which information that has changed over time may be corrected; and to provide a process for preventing the further use of previously disclosed information when parents who have consented to the release of their child's personal information later change their mind.

In addition, information collectors and trackers would be required to disclose, in language understandable to a child, such information as: a description of the information being collected or tracked; an explanation of how the information is being collected or tracked; a summary of how the information will be used; the identity of the information collector or tracker and how they can be contacted; the identity of all other persons that will have access to the information and their commercial interest in the information; notice that valid parental consent must be obtained prior to the collection of personally identifiable information; an explanation of how to correct previously collected information; and an explanation of how to prevent further use of previously collected information.

CFA and CME followed up by submitting comments to the FTC later in June explaining in greater detail why the agency can and should adopt such comprehensive guidelines. "The FTC needs to establish guidelines now, before the sale and use of information about children and their families becomes commonplace," Fise said.

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