# March-April 1989 Volume 14, No. 3 ISSN #0732-8281

### Coalition Presents Health and Safety Agenda

landmark coalition of more than two dozen consumer, health, and insurance groups has developed an agenda to reduce product-related deaths, injuries, and illnesses. In March, the coalition delivered copies of their "Consumer Health & Safety Agenda" to President Bush, Transportation Secretary Samuel Skinner, Health and Human Services Secretary Louis Sullivan, and top congressional leaders.

"For the first time ever, national consumer groups and large insurance organizations have united behind a wide-ranging program to improve consumer health and safety," said Stephen Brobeck, Executive Director of the Consumer Federation of America and Chairman of the Coalition for Consumer Health and Safety.

The coalition agenda covers six productrelated areas: motor vehicle safety, home and product safety, indoor air pollution, food safety and nutrition, cigarette consumption, and alcohol consumption. The agenda also addresses educational measures to combat AIDS, which, while not a product-related hazard, was viewed by the coalition as posing a health threat too serious and imminent to be ignored.

For each of the seven designated areas, the agenda includes an assessment of the scope of the problem and its impact on consumer health and safety; an analysis of causes and factors contributing to the

THE COALITION FOR

problem; and both general and specific recommendations for minimizing the threat posed by the particular hazard. The agenda also contains specific policy recommendations to be implemented.

"While coalition members could not reach a consensus on a few issues, what

surprised all of us was the extent of agreement," noted Brobeck. "We have learned that on consumer health and safety issues, consumer and insurer groups share much common ground."

With the agenda now complete, the goal of the coalition is to work together to advance the agenda's recommendations.

"The stakes are enormous—hundreds of thousands of lives are lost, millions of injuries and illnesses are suffered, and hundreds of billions of dollars in medical and related costs are spent each year as a result of products that pose an unreasonable risk to consumers," Brobeck said.

In addition to delivering the agenda to key policymakers, the coalition has requested meetings to discuss its policy recommendations with President Bush, Secretary Skinner, Dr. Sullivan, Senate Majority Leader George Mitchell, Senate Minority Leader Robert Dole, Speaker of the House Jim Wright, House Majority Leader Thomas Foley, and House Minority Leader Robert Michel. The coalition also is distributing the agenda to other members of Congress, governors, state health officials, consumer groups, and

The following organizations are members of the Coalition for Consumer Health and Safety: American Academy of Pediatrics; American Association of Retired Persons; American College of Preventive Medicine; Americans for Democratic Action; American Lung Association; American Public Health Association; Center for Auto Safety; Center for Science in the Public Interest; CFA; Motor Voters; National Consumers League; National Council of Senior Citizens; Public Voice for Food and Health Policy; Alliance of American Insurers; Allstate Insurance Company; American Council of Life Insurance; American Insurance Association; CUNA Mutual Insurance Group; Insurance Information Institute; John Hancock Financial Services; The Kemper Group; Liberty Mutual Insurance Group; Nationwide Insurance Company; The Principal Financial Group; The Prudential Insurance Company of America; State Farm Insurance Companies.

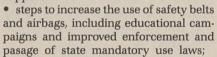
A copy of the document may be obtained by writing to CFA at 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036. (It is free to press and government officials, \$15.00 to all others.)

# **Coalition Policy Priorities**

E ach topic of the Consumer Health and Safety Agenda includes specific policy recommendations to reduce product-related deaths, injuries, and illnesses. Below are listed some of the most important of those recommendations.

#### **Motor Vehicle Safety**

To reduce the deaths and injuries associated with vehicle accidents, the Coalition supports:



extension of automobile safety standards, particularly those mandating pasive restraint systems, to light trucks, vans, and utility vehicles; and

 enactment and enforcement of tougher drunk driving laws and a widespread effort through the media and other sources to educate the public on the dangers of drinking and driving.

### Home and Product Safety

The Coalition supports:

· improvements in the opera-

tion and funding of the U.S. Consumer

Product Safety Commission (CPSC), the federal agency charged with protecting consumers from unsafe consumer prod-

· further action by the CPSC and appropriate state agencies to address the hazards posed by a number of products, in particular all-terrain vehicles, bicycles, cribs, flammable clothing, and swimming pools.

### **Indoor Air Quality**

The Coalition supports:

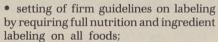
· enactment of federal legislation that would develop a comprehensive approach for addressing the indoor air pollution problem, through expanded research, demonstration programs on methods to mitigate indoor air problems, and grants to state indoor air programs; and

measures to ensure the reliability of laboratories and firms involved in indoor air pollution diagnosis and mitigation.

#### **Food Safety** and Nutrition

The Coalition supports:

development of a mandatory inspection program for fish and shellfish in order to curb the incidence of food-borne illness;



elimination of "and/or" ingredient

· labeling of tropical oils as saturated fats; and

• setting of meaningful standards for the use of the terms "lite", "light," and "lean."

### Cigarette Consumption

The Coalition supports:

 greater financing of local, state, and federal programs aimed at educating the public about the health hazards related to smoking;

· restrictions on smoking in public facilities, particularly on public transporta-

 employer initiatives to discourage smoking, such as implementation of nonsmoking policies at the worksite and sponsorship of smoking cessation programs.

#### **Alcohol** Consumption

The Coalition supports:

· limitations on alcohol adver-

tising directed at underage drinkers;

additional measures to balance alcohol

advertising on television and radio with messages highlighting the risks related to drinking;

 strengthening of drunk/drugged driving laws and their enforcement by state and local legislators; and

 commitment of greater resources to public education campaigns about the dangers of drunk/drugged driving.

The Coalition chose to focus on broad educational and public awareness efforts aimed at

addressing the AIDS problem. Toward this end, the Coalition supports: the making of a personal commitment

by public and private sector leaders to educate the general public about AIDS; • the adoption by employers of more

humane corporate policies towards those with the disease; and

 provision by employers of education and awareness programs for employees

Mark Your Calendars! 19th Annual Awards Dinner June 15, 1989 **Capital Hilton Hotel** 



### FCC Approves Anti-Consumer Price Cap Plan

n a move that will allow AT&T to raise long distance rates, the Federal Communications Commission voted unanimously March 16 to replace rate-ofreturn regulation of AT&T long distance services with caps on long distance prices.

At the same time, the commission indicated it intends to adopt a similar policy for the biggest local telephone companies, including the seven regional Bells, and that such a plan could be in place by July 1990.

The move was opposed by both CFA and the International Communications Association, whose members include more than 700 major corporate, educational, and governmental telecommunications users. "Rather than continue to drive down the prices of long distance services used by consumers, the FCC opted to let AT&T raise evening, night and weekend rates 16 percent over the next four years," said CFA Legislative Director Gene Kimmelman.

The AT&T price cap plan, which is scheduled to take effect July 1, will use a general measure of inflation - the Gross National Product Price Index less three percentage points (a 2.5 percent productivity gain based on AT&T's historical performance and a .5 percent "consumer

The cap will be applied to three broad "baskets" of telephone service: 800 service; other services used primarily by big businesses; and services used by small businesses and residential customers. The plan allows AT&T to boost rates for some services beyond the cap and to cut rates on others, as long as each "basket" of services meets the cap.

For example, AT&T could raise residential long distance rates for services subject to little competition if it cut prices proportionately for the most competitive services.

To limit the potentially huge increases in consumers' long distance phone bills, the plan imposes a limit of five percent a year above the change in the price cap index for service categories within each basket and four percent for night and evening residential categories. In addition, AT&T must determine an average residential rate and guarantee that it not increase by more than one percent a year.

FCC Chairman Dennis Patrick claims the plan will insure that average residential long distance bills will decrease two percent a year after an adjustment for

"Contrary to the FCC Chairman's assertions, his reformulated price cap proposal would short-change ratepayers \$1.5 billion per year even with its consumer productivity dividend, as compared to current rate of return policies," Kimmelman said.

Like the FCC's previous proposals, he said, the new version fails to respond to concerns about excessive price discrimination, under-measures anticipated carrier productivity, thus denying ratepayers the benefits of lower costs, and locks in inflated initial prices.

Both CFA and ICA have stressed the need for the FCC to establish that existing rates are just and reasonable before initiating price caps based on those rates, since many of the rates in effect today for both AT&T and the regional Bells have never been found to be just and reasonable.

Also, the proposal would allow AT&T to reduce the evening and night/weekend discount dramatically, as it has attempted to do in recent years, with potential 16 percent increases for these services over the first four years of the plan.

"The details of the FCC Chairman's newest proposal are so clearly anti-user, as compared to current rate of return rules, that we believe that the commission must go back to the drawing board in an effort to adequately address consumer and business user concerns before adopting any new form of price cap regulation," Kimmelman wrote in a letter urging congressional leaders to prevent the FCC from implementing the proposal.

Despite skepticism among some congressional leaders about the consumer benefits of the plan, Congress appears unwilling to block the proposal. Instead, Rep. Edward J. Markey (D-MA) has introduced a bill requiring the FCC to collect sufficient data to enable the commission to assess its impact on consumers.

"Since the FCC refuses to assure consumers rate reductions as industry costs decline, consumers will have to penalize AT&T in the marketplace if AT&T tries to reduce evening, night and weekend discounts," Kimmelman said.

### **PSC Reauthorization Bill Introduced**

B ills to reauthorize and reform the Consumer Product Safety Commission have been introduced in both Houses of Congress.

The Senate bill, introduced by Sen. Richard Bryan (D-NV) and three cosponsors, would authorize the agency through 1991, improve the commission's rulemaking procedures, increase reporting burdens for manufacturers of unsafe products, strengthen penalties for violations, and clarify when the agency may defer to voluntary standards.

Mark-up in the full Commerce, Science, and Transportation Committee is expected in late April or early May.

Rep. James Florio (D-NJ) introduced similar legislation in April based on a bill approved by the full Energy and Commerce Committee last session. It goes beyond the Senate bill in increasing the enforcement capabilities of state authorities and improving procedures for disclosure of information on unsafe products.

The Florio bill proceeded immediately to mark-up upon introduction April 12.

"These bills would go a long way toward fixing what is wrong with the CPSC," said CFA Product Safety Director Mary Ellen Fise. "For too long CPSC has dragged its



CFA Product Safety Director Mary Ellen Fise testified in support of CPSC reauthorization before a House subcommittee March 8. Also testifying was Consumers Union Technical Director David Pittle (right).

feet, signalling to industry that it need not worry about adequately addressing product safety problems. This legislation will give CPSC a needed shot in the arm so that consumer protection rather than business protection is once again the agency's priority."

Testifying before the House Commerce, Consumer Protection and Competitiveness Subcommittee March 8 and the Senate

Consumer Subcommittee March 13, Fise urged committee members to encourage their colleagues on Ways and Means to increase funding for the CPSC, which is now operating on a smaller budget than was authorized for the agency in 1974, its first year of operation.

Fise also urged strengthening the proposed legislation in several areas, including: expanding the civil penalties provisions to include all of the CPSC laws currently devoid of civil penalties; adjusting all civil and criminal penalties for inflation; and instituting periodic increases tied to the inflation rate.

'By restoring penalties to their original value contemplated at enactment, the effectiveness of law enforcement will be enhanced, and needed revenues can be collected," Fise said.

Fise also called for amendment of the Consumer Product Safety Act "to include more triggers for reporting by manufacturers," beyond those already included in the bills. She also urged Congress to require manufacturers to report to CPSC when they fail to comply with regulations, such as those on children's products and others, that were promulgated under the Federal Hazardous Substances Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, and the Refrigerator Safety Act.

"We are greatly encouraged by the early attention this issue is receiving," Fise said. "With Sen. Bryan's leadership in the Senate and Rep. Florio's leadership in the House, perhaps this will be the year that we finally see passage of this vital legislation."

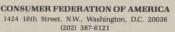
t CFA's Annual Meeting in March, A representatives of member organizations elected a president, a secretarytreasurer, and eight vice presidents to one-year terms, and ten board members to three-year terms. They joined 21 other board members currently serving multiyear terms.

Virginia Citizens Consumer Council President Jean Ann Fox was elected president of CFA, a position she held previously in 1985 and 1986.

For the sixteenth consecutive year, United Steelworkers Legislative Represen-

tative Ken Kovack was elected secretarytreasurer. Out-going CFA President Kenneth McEldowney, of Consumer Action-San Francisco, was elected vice president, along with seven incumbents: Ann Brown, Americans for Democratic Action: Jacob Clayman, National Council of Senior Citizens; Ellen Haas, Public Voice for Food and Health Policy; Larry Hobart, American Public Power Association; Arnold Mayer, United Food and Commercial Workers International; Mark Silbergeld, Consumers Union; and Carl M. Turner, New Mexico Rural Electric Cooperative.

Reelected to the Board of Directors were: Joel Ario, OSPIRG; Bob Bergland, National Rural Electric Cooperative Association; Robert Denman, National Farmers Union; Paul Hazen, National Cooperative Business Association: Robert Harman, American Federation of State and County Municipal Employees; Bill Holayter, International Association of Machinists: Sarah Newman. National Consumers League; Dermot Shea, Association of Massachusetts Consumers; Joe Tuchinsky, Michigan Citizens Lobby; and Charles Zuver, Credit Union National Association.



President: Jean Ann Fox Executive Director: Stephen Brobeck Legislative Director: Gene Kimmelman Assistant Director: Ann Lower Research Director: Mark Cooper Public Affairs Director: Jack Gil Product Safety Director: Mary Ellen Fise Legislative Representative: Peggy Miller Legislative Representative: Sandra Eskin Degistative Representative: Sandra Eskin
Product Safety Coordinator: Edith Furst
Conference Manager: Sheila Meade
Secretary: Lydia Grogan
Administrative Assistant: Sarah Gardner
Staff Assistant: Miguel Carpio

CFAnews Editor: Barbara Rope CFAnews is published eight times a year. Annual subscription rate is \$25 per year.

© Copyright 1989 by Consumer Federation of America. CFA should be credited for all material. All Rights Reserved. Design & Typeset by: Design Consultants, Inc.

# Congress Seriously Weakens S&L Plan

s this issue of *CFAnews* went to press in April, the House was entering day three and the Senate day one of the markup of the Bush Administration's plan to bail out and clean up the savings and loan industry. Early indications were not good for consumer advocates working to ensure that the plan contains improvements in the industry's disclosure and credit practices as well as adequate protections to prevent the recurrence of a similar crisis.

"Although the Bush Plan is unacceptable in its overly costly bailout approach, the Bush Administration deserves credit for coming out quickly with a plan that makes a genuine attempt to restore safety and soundness to the savings and loan system," said CFA Legislative Representative Peggy Miller after the second day of markup in the Financial Institutions Subcommittee of the House Banking Committee.

### **House Guts Safety** and Soundness Protections

"At this stage of the markup, it looks like the House Banking Committee has completely gutted those soundness protections," she said. While pointing out that "the bills are not done yet, and anything could still happen," Miller said two key votes against the public interest came in the second day of House markup, when an amendment offered by Subcommittee Chairman Frank Annunzio (D–IL) to slash the capitalization requirements and allow unrestricted growth passed 24–23 and an amendment offered by Rep. Jim Leach (R–IA) to ban most direct investments by savings and loans was defeated.

"The capitalization base levels in this plan are so low, with so many loopholes, that insolvency is a true and glaring problem still," Miller said. "We haven't gained anything in the area of safety and soundness by this."

While gutting the strongest aspects of the Bush Plan, the House committee appeared willing to accept the plan's weakest provision — funding the bailout of insolvent savings and loans through longterm bonds and increases in insurance pre-



CFA Legislative Representative Peggy Miller (center) testified on the benefits of a tax-based approach to bailing out the savings and loan industry before the House Ways and Means Committee in March. She was joined by Consumers Union's Michele Meier and CFA Research Director Mark Cooper.

miums that will be passed through to depositors.

"This is going to cost us three times as much as it would if they adopted a tax-based, five-year approach to the bailout, and there is no guarantee that it won't happen again," Miller said. "In fact, they seem to be legislatively encouraging lax management once again."

### **Action on Consumer Protections Delayed**

Efforts by consumer advocates to get additional consumer protections written into the plan were being delayed until the end of the markup. These protections include: increasing consumer participation in thrift oversight through consumer representation on the Federal Home Loan Bank Boards; providing clear public disclosure of lending practices, services and community reinvestment exam results to improve accountability; and strengthening the overall public purpose of the thrift industry to clearly target and encourage housing and community lending

through its subsidized cash advance window.

"This crisis has shown that a tightly knit, closed-door financial system breeds fraud, abuse and mismanagement," Miller said. "Clear public disclosure is a must to avoid future problems of this magnitude."

Without restoring the safety and soundness protections, however, inclusion of these consumer protections would not be enough to win support of consumer advocates for the bill, Miller said.

She praised a small core of congressmen for their hard work as public interest watchdogs, alerting the full committee to each weakening provision as it was introduced: Banking Committee Chairman Henry Gonzalez (D-TX), Rep. Leach, and Reps. Charles Schumer (D-NY), Gerald Kleczka (D-WI), and Joseph Kennedy (D-MA).

### **Senate Operating Behind Closed Doors**

Meanwhile, as the Senate entered markup, much of the preparation was being conducted behind closed doors. Early indications, however, were that the only consumer protection amendment being considered was the one to increase consumer representation on the Federal Home Loan Bank Boards.

How the Senate committee would deal with safety and soundness and bailout issues was still up in the air at press time. "Anything could happen," Miller said, "but, so far, the American public is the big loser in this debate."

### Tax-Based Bailout Is More Equitable

U sing taxes to fund the bailout of the savings and loan industry is much more equitable than relying on increases in insurance premiums, a CFA report released in March concludes.

The CFA report, Bailing Out the Savings and Loans: Who Bears the Burden Under Alternative Financing Approaches, compares the cost to different groups of the two bailout funding mechanisms being most strongly considered—increasing S&L insurance premiums (as advocated by the Bush Plan) and raising income taxes.

"Our analysis shows that the poorest 50 percent of the population (households with incomes below \$25,000 per year in 1987) would pay five times as much if banks are allowed to decide how to pass

costs through as they would if Congress does so through income taxes," said CFA Legislative Director Peggy Miller. "Such a pass-through is totally unaffordable for these lower income Americans."

Said CFA Research Director Mark Cooper, who is principal author of the report: "In order for low and middle income groups to prefer an increase in insurance premiums over an income-tax-based approach, financial institutions would have to absorb three-quarters to nine-tenths of the increased costs, and that just will not happen."

For a tax-based approach to work, however, it must be a real tax, and not just an addition to the deficit, Miller said.

# Bill Would End Physician Self-Dealing

A bill was introduced in the House of Representatives in February to curtail physician self-dealing in the ordering of laboratory tests and other ancillary medical services.

Testifying in support of H.R. 939, the Ethics in Patient Referral Act of 1989, at a February hearing in the House Ways and Means Subcommittee on Health, CFA Research Director Mark Cooper said, "We believe that self-dealing is an important and growing problem that casts a dark shadow on physician ethical standards, undermines the public's confidence in the physician, threatens the quality of care, and unnecessarily raises the cost of health care."

"The public interest demands an immediate and vigorous response from the Congress. This bill will be an effective and efficient solution to the problem," he said.

Introduced by Rep. Pete Stark (D–CA) and jointly referred to Ways and Means and the Energy and Commerce Committee, the bill would amend the Social Security Act to provide for civil penalties and other remedies for certain improper referral arrangements for items and services provided under Medicare.

This legislation "provides just the right mix of stern discipline for abusive selfdealing, recognition of the needs of physicians to practice their profession, and provision of adequate facilities for ancillary services," Cooper said.

Under the current system, physicians are able to profit by ordering procedures and providing them in facilities that they own. This system:

• creates an incentive to order more tests than necessary and to charge more, thus raising the bills of individual consumers and federal health care programs;

• poses problems from the point of view of the quality of care, if the physician ordering procedures is guided by his own economic advantage, rather than by the quality standards he would use if he were simply shopping in a marketplace; and

 has an anti-competitive effect by keeping out of the market other providers who could offer the services more efficiently or effectively.

The problem is exacerbated by the nature of the physician-patient relationship, Cooper explained. "Consumers lack the expertise to evaluate the quality of ancillary medical procedures and particularly tests. Typically, they are informed only of results in the most summary and aggregate form. It is doctors who must evaluate the quality of testing, but when their direct financial interests are

involved, their objectivity in making this evaluation can be called into question."

"It is absolutely critical for the Congress to recognize that this is not simply a question of a few shyster doctors who set up shady deals," he said. "There certainly are sensational cases of abuse, but they do not reflect only a few unscrupulous individuals acting outside the law. They are formalized in contracts and advertised solicitations."

This legislation is needed because existing law and its implementation by the Inspector General have failed to prevent the abuse of self-dealing, Cooper said. Proposals to require disclosure of financial relationships are inadequate, and proposals to leave the current system intact but to try to control it through a utilization review process would be extraordinarily complex and costly, he said.

### Consumers Support Auto Insurance Reform

recent national opinion survey reveals that the public believes auto insurance rates are far too high and supports a wide range of re-

"The dissatisfaction with auto insurance rates is widespread and intense," noted Stephen Brobeck, Executive Director of the Consumer Federation of America, which released the survey results with Consumers Union and the National Insurance Consumer Organization. "Clearly there is strong support for reforms ranging from the repeal of the insurance industry's antitrust exemption to the establishment of state-funded consumer insurance advocates."

The survey was conducted by the national research firm, Opinion Research Corporation, Inc., in January of this year. ORC interviewed a national random sample of 1008 households.

### **Rates Too High**

Seventy-two percent of the sample said automobile insurance rates were too high, while less than one percent indicated they were too low. Perhaps more significantly, 41 percent said that these rates were "much too high." "The 41 percent who feel their auto insurance rates are 'much too high' represent a critical mass of support for consumer insurance reform throughout the nation," Brobeck said. "What happened in California-the passage of Prop 103 - could happen in other

Interestingly, there was greatest dissatisfaction among the poor and the very affluent. Fifty-one percent of those with household incomes under \$15,000 and 48 percent of those with incomes over \$50,000 said rates were much too high. Even more surprisingly, among age groups, there was the most dissatisfaction, not among the young and the elderly who often pay higher rates, but among those aged 45-54: 48 percent of this group said rates were much too high. "Dissatisfaction cuts across income and age groups," said Brobeck.

#### **Reforms Supported**

The survey revealed support for two reforms at the state level. By a greater than two to one margin, consumers favor "the establishment of a state-funded consumer insurance advocate to represent consumers before state insurance departments." Sixty-one percent support this measure while only 26 percent oppose it.

Consumers also favor prohibiting a "revolving door" from state insurance departments to the industry, again by a two to one margin. Sixty percent support "prohibiting state insurance commissioners from working for the insurance industry for a period of two years after they leave their state jobs." For this measure, there was strongest support among those aged

35-54 (69 percent), and those with incomes over \$40,000 (67 percent).

"There is no question that the public finds state insurance departments wanting," stated J. Robert Hunter, President of the National Insurance Consumer Organization. "It views these departments as too close to the industry and in need of an independent consumer point-ofview. The creation of state insurance advocates would do as much as anything to improve state regulation of auto insurance."

At the federal level, consumers endorse 'increasing auto insurer competition by eliminating the industry's antitrust exemption" by a 41 percent to 26 percent margin (with 33 percent undecided). Strongest support came from the best educated and those with the highest incomes. By a greater than two to one margin, those with college degrees (54 percent to 24 percent) and those with incomes over \$30,000 (49 percent to 24 percent) favored eliminating the antitrust exemption. According to NICO's Hunter, "these results suggest that the better informed consumers are about the industry and its products, the more strongly they favor repeal of the antitrust exemption."

### **No-Fault Favored**

Also, consumers support no-fault auto insurance, by a 49 percent to 37 percent margin. However, there are important dif-

ferences between groups. Most strikingly, college graduates are far more supportive (57 percent to 32 percent) than are those with a high school degree or less (43 percent to 41 percent). Said Consumers Union Legislative Counsel Linda Lipsen: "Consumers support establishment of no-fault auto insurance. Moreover, the greater the understanding that nofault compensates more of the injured, more quickly, with more benefits, the stronger that support is."

Finally, the public strongly supports having the government provide limited, low-cost policies so that everyone can afford at least minimal coverage." Sixty-nine percent favor this assistance while only 26 percent oppose it. Said Lipsen: "The public knows that the poor are being asked to pay more for auto insurance, sometimes as much as several thousand dollars annually. Therefore, it is appropriate for states to supply low cost policies for minimal coverage."

"Auto insurance reform has become the Consumer Movement's top priority," Brobeck concluded. "That's why CFA, Consumers Union, and NICO are leading the effort to repeal the industry's federal antitrust exemption. That's also why the three groups support a broad range of reforms including the repeal of prohibitions on agent rebates and group sales, ready access to price information to allow comparison shopping, no-fault insurance, and effective loss prevention measures."

### **Insurance Exemption Challenged**

eading members of the House and Senate have introduced bills that would essentially repeal the insurance industry's antitrust exemption. Consumer advocates are more optimistic about prospects for this legislation than at any other time since the passage in 1945 of the McCarran-Ferguson law, which established the exemption.

The most encouraging development to advocates was the recent decision by Rep. Jack Brooks (D-TX) to join with Rep. Don Edwards (D-CA) in introducing legislation approved by a House Judiciary subcommittee last year. This "Brooks compromise" prohibits such anti-competitive activities as price-fixing, market division, tying arrangements, and monopolization.

Said Peggy Miller, CFA Legislative Representative: "The fact that Rep. Brooks, who is new chairman of the House Judiciary Committee, has taken initiative on the insurance exemption will help ensure that the issue is given adequate consideration by the House this year."

On the Senate side, Sen. Howard Metzenbaum (D-OH) has introduced a bill that goes beyond the House legislation. It would repeal the exemption outright, except for the preamble, which gives states the right to regulate the industry. As well as proscribing anti-competitive activities, the bill allows the Federal Trade Commission to apply fair trade provisions to insurers. It is co-sponsored by Sens. Joseph Biden (D-DE), Edward Kennedy (D-MA), and Paul Simon (D-IL)

Additional evidence of heightened congressional interest in repealing the antitrust exemption is the introduction by Rep. James Florio (D-NJ) of H.R. 1093. This bill effectively repeals the exemption, not by repealing the language in the McCarran-Ferguson Act exempting the industry from antitrust laws, but by enacting a new statute that prohibits and penalizes anti-competitive activities by insurance companies. It goes beyond the Brooks-Edwards bill in prohibiting insurers from taking "any action to impair the availability or affordability of insurance."

Consumer groups strongly support the repeal of the antitrust exemption as an essential remedy to high auto insurance rates. The exemption, for example, allows the Insurance Services Office (ISO) to "trend" historical loss data and issue "advisory rates." These rates, which influence pricing by many auto insurers, reflect high assessments of future losses and generous allowances for insurer administrative expenses and profits.

CFA Executive Director Stephen Brobeck said, "the repeal of the antitrust exemption is an essential condition for improving competition in auto insurance markets. Together with repeal of state prohibitions on agent discounts and group sales, and provision of adequate price information to consumers, repeal would allow billions of dollars of waste and inefficiency to be squeezed out of the system."

imer Federation of America reet, N.W. • Washington, D.C. 20036 • (202) 387-6121

BULK RATE U.S. POSTAGE PAID WASHINGTON, D.C. PERMIT NO. 8772