CFA
CFAnews
February/
March 1995
Volume 20, No. 1
ISSN #0732-8281

Contract Raises Consumer Concerns

When Republicans campaigned successfully last fall on their Contract with America, they highlighted issues with wide popular appeal, such as the Balanced Budget Amendment, term limits, and applying the laws that it passes to Congress.

As House Republicans press ahead with their pledge to bring all ten points of the Contract to a vote within the first 100 days of the new Congress, however, it has become increasingly clear that there is much more to the Contract than previously advertised, and that much of it is extremely harmful to consumers.

Of particular concern are the litigation "reform" proposals that would severely curtail the rights to redress of injured and defrauded consumers as well as a series of proposals that would undermine existing federal regulations and make it all but impossible for the federal government to enact new regulations.

"Once again, American consumers have been burned by the fine print in their contract," said CFA General Counsel Mary Ellen Fise.

"Unwilling to attack popular regulations directly, the Republicans have included an indirect, but devastating attack on regulations in general in their Contract. Similarly, they have used anti-lawyer rhetoric to mask the real targets of their litigation proposals — defrauded investors and consumers injured by dangerously defective products," Fise added.

"As voters learn more about the details of the various provisions in the Contract, they are likely to rebel. Unfortunately, in light of the speed with which this ill-conceived agenda is being pushed through Congress, by then it may well be too late," she said.

In contrast to its rhetoric about the need to cut federal red-tape, the Contract proposals on regulatory reform actually impose huge and costly new bureaucratic burdens that would tie the hands of federal regulators.

Ending Unfunded Mandates

Most of the early attention to regulatory issues focused on the unfunded mandates legislation, which limits the ability of the federal government to impose new requirements on state and local governments without covering the costs of those programs.

Versions of this legislation have passed both the House and Senate in a more moderate form than was originally contained in the Contract. Importantly, the bills do not automatically eliminate existing unfunded mandates, and they do not completely prevent Congress from passing new unfunded mandates.

"Instead, they impose new procedural burdens on Congress and the federal agencies, undermining their ability to enact new regulations to protect American consumers," Fise said.

Since passing the unfunded mandates bills, Congress has turned its attention to a number of other provisions that would impose an even greater burden on agencies that attempt to adopt regulations. For example, included in a handful of bills to carry out the Contract's regulatory overhaul agenda are provisions to:

- require federal agencies to conduct detailed risk assessments for virtually all new regulations;
- subject regulations with an annual national cost of more than $100 million to peer review, allowing individuals with a financial interest in the regulation to serve on the review panel;
- require federal agencies to conduct detailed cost-benefit analyses for virtually all new regulations;
- make the various steps of these processes subject to judicial review, allowing them to be tied up in court indefinitely; and
- allow individuals to request a review of existing regulations based on new information suggesting the regulation should be altered.

A Prescription For Gridlock

"Properly conducted risk assessments and cost-benefit analyses are appropriate regulatory tools which are currently used extensively by the federal agencies," Fise said. "These new proposals, however, would impose immense burdens such that the rulemaking process would be lengthened substantially and already scarce agency resources would be further depleted."

"Furthermore, where the agencies did attempt to act, they could be tied up in court for years by the targets of the proposed regulations. This is a prescription for regulatory gridlock and an explosion of litigation," she said.

Also included in the regulatory overhaul is a proposal to require the federal government to compensate a property owner if a federal regulatory action caused a decrease of at least 10 percent in the market value of the property.

"At a time when Republicans claim to have made budget cutting a top priority, this would create a massive new entitlement program while further inhibiting the ability of federal agencies to protect the health and safety of American consumers," Fise said.

Litigation Reform Lets Corporate Wrongdoers Off the Hook

Even as it undermines the ability of the federal government to protect consumers through regulation, the Contract proposes to weaken the civil justice safety net that holds culpable industries accountable for manufacturing dangerous products or defrauding investors.

Included in one bill in the Contract, these proposals have since been split into four separate bills, apparently to prevent any one section from bringing down the whole package.

H.R. 988, which was approved by the House Judiciary Committee in late February, applies new fee-shifting provisions to civil cases brought to federal court under diversity jurisdiction, which occurs when parties to the litigation are from different states. It also would rewrite the rules governing admissibility of scientific evidence and other expert testimony.

The original bill, which was amended in committee, would have required the loser to pay the winner's "reasonable" attorneys fees in virtually all civil lawsuits. "This would have effectively shut and barred the courthouse door for ordinary consumers, who are unable to risk their

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Regulatory Freeze Would Harm Consumers

Not included in the Contract with America, but moving forward in tandem with its regulatory overhaul provisions, is a measure to temporarily bar implementation of a wide variety of new federal regulations.

The measure, which would prevent federal agencies from carrying out regulations proposed or enacted since November 20 of last year, passed the House on a highly partisan 276-146 vote in late February. If enacted, the moratorium would last until December 31 or until the Contract's regulatory reform agenda is enacted, whichever comes first.

"This moratorium would halt a wide variety of vital regulations to protect consumer health, safety, and financial well-being," said CFA General Counsel Mary Ellen Fise. "Once again the Republicans are launching an indirect attack on popular regulations that they are unwilling to attack directly."

Among the many regulations that would be subject to the freeze are a number that CFA has actively promoted, including:

- the Consumer Product Safety Commission's proposed rules to improve the safety design and labeling of baby walkers and to create a uniform mandatory safety standard for bicycle helmets;
- the Federal Communications Commission's price cap performance review in which CFA is seeking a reduction and pass-through to consumers of the access fees local phone companies charge long distance providers (see related article, page 3); and
- the Department of Housing and Urban Development's proposed reform of mortgage broker disclosure requirements.

"These examples alone have the potential to prevent hundreds of deaths and thousands of injuries and save consumers billions of dollars," Fise said. "If that is the goal of this Congress, then they should be willing to say so to the American people directly. Instead, they hide their attack on American consumers in rhetoric about getting the federal bureaucracy under control."

A number of other vital consumer safeguards would also be affected, including: lead-based paint disclosure during housing sales and leases; a number of auto safety rules including measures related to side-impact protection, head injury reduction, and brake system effectiveness; improvements to the nation's food safety inspection system; and a wide variety of environmental and workplace safety regulations.

The House rejected on a 177-249 vote an amendment, proposed by Rep. Louise Slaughter (D-NY), that would have exempted from the moratorium regulations dealing with meat and poultry inspections, importation of food in lead cans, and cryptosporidium contamination of the public water supply.

"It is instructive that, during its consideration of the moratorium, the House approved amendments to protect regulations sought by industry, and even protected the rights of duck hunters, but turned aside amendments that would have protected consumers," Fise said.

The Senate, which was scheduled to take up the measure at the end of February, was expected to take a somewhat more moderate approach.

President Clinton has signaled that he may veto the bill.

FCC Urged To Address Auto Leasing Ad Abuses

In February, CFA Chairman Howard Metzenbaum called on the Federal Communications Commission to address the failure of television auto leasing advertisements to meet the "clear and conspicuous" disclosure standard required by law.

Under the Consumer Leasing Act, television stations are required to make certain that the appropriate disclosures are made in a "clear and conspicuous" manner when a lease for any personal property exceeding four months in duration and involving $25,000 or less is presented in a television commercial.

"CFA is concerned about the disclosures in TV advertisements for car leases which are so small and so brief that they fail to meet any reasonable standard of disclosure," Metzenbaum said.

These ads, which trumpet deceptively low monthly rates while burying the details and added costs in impossible to read fine print, leave consumers without a clue as to the interest rate, how long the payments will continue, the true cost of the credit, the down payment, or end of lease charges, he said.

"Auto leasing is a product for which few consumers understand the costs and responsibilities, so it is vital that the advertisements be clear and truly forthcoming," Metzenbaum said.

In a letter to FCC Chairman Reed Hundt, Metzenbaum called upon the commission to bring this serious breach of advertising responsibility to the attention of the networks, television stations, and advertising agencies.

"If the parties will not cooperate with the FCC, it should then look into any appropriate regulatory action, including fines and license suspensions, to deal with these inadequate disclosures," he wrote.

"Consumers can't possibly be expected to make informed choices without adequate disclosure," Metzenbaum said. "In this era of increased reliance on free market solutions, the FCC must ensure that consumers receive adequate information to make informed market choices."

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life savings to pay a corporate defendant's legal fees," Fise said.

The committee amended the bill during mark-up to replace the broad loser pays provision with a new set of rules designed to encourage earlier settlements. Any party to the litigation which refused a settlement and then won less in court would be required to pay the other side's attorneys fees.

"While corporations can afford to take this risk, ordinary consumers can't," Fise said. "The effect would be to coerce consumers into accepting unreasonably low settlement offers."

Product Liability Measures Advance in House

The House Judiciary Committee has also passed its version of product liability legislation, H.R. 956, which would:

- impose a cap in all civil cases (not just product liability cases) on punitive damages of three times compensatory damages or $250,000, whichever is greater;
- eliminate the doctrine of joint and several liability for non-economic damages, such as pain and suffering, in product liability cases;
- prohibit product liability suits for cases in which the injury was caused by a product manufactured and sold more than 15 years before the injury occurred; and
- bar an injured person from recovering damages if the court determined that the individual was more than 50 percent responsible for his injuries as a result of drug or alcohol use.

The House Commerce Committee also passed its own product liability bill, H.R. 917, in late February. Similar to the Judiciary Committee bill, it would however: limit its punitive damages cap to product liability cases; provide immunity from punitive damages for most makers of faulty medical devices and drugs if the Food and Drug Administration had previously approved the product; and reduce damage awards for injuries caused in part by improper use or alteration of the product.

"The effect of these bills would be to reward irresponsible companies and punish injured consumers, particularly the most vulnerable consumers — the poor, the very young, the very old, and women," Fise said.

Securities Fraud Cases Will Be Kept Out Of Court

The Commerce Committee also approved the portion of H.R. 10 limiting the right of defrauded investors to seek redress. To win support from some Democratic members, the committee scaled back the bill's loser pays provision, which originally would have applied even in cases lost on a technicality.

Under the bill as reported out of committee, the loser pays provision would apply in cases that the judge determines were not substantially justified, and it would place the burden of proof on the winning party. However, the bill also requires plaintiffs to post a security before bringing a case to cover the costs of the defendant's legal fees.

"The committee changed the language of the loser pays provision to make it look less onerous but without changing its ultimate effect — intimidating defrauded investors from bringing their cases to court," Fise said.

In addition to the loser pays provision, the bill contains a number of other anti-consumer provisions, including unreasonably high pleading requirements, an increased burden of proof on plaintiffs, and a shield for all but the most egregious reckless behavior on the part of corporate wrongdoers.

"In purportedly going after frivolous lawsuits, this legislation would all but eliminate meritorious lawsuits. The effect on defrauded investors and on the integrity of our securities markets would be devastating," Fise said.

Baseball Bill Action Delayed

Although a flurry of bills were introduced in the early days of the new Congress, hopes that Congress would act quickly to end the baseball strike were fading fast by mid-February.

At a hearing on the issue February 15, Major League players pledged to end the strike if Congress passes S. 415, which would lift the portion of the League's antitrust exemption that applies to labor practices.

Introduced by Senate Judiciary Committee Chairman Orrin Hatch (R-UT) and Sen. Daniel Patrick Moynihan (D-NY), the bill would enable players to sue owners on antitrust grounds if the owners impose a unilateral condition, such as a price cap.

CFA Legislative Counsel Bradley Stillman praised the legislation as a step in the right direction, but added that "the only way to benefit consumers completely is to repeal the antitrust exemption completely."

Bills that would completely repeal the antitrust exemption have been introduced in both houses of Congress, but even the partial repeal is viewed as having an uphill battle, both because Congress is preoccupied with higher priority legislation and because many members are opposed to creating the appearance that they are getting involved in the strike.

"We believe Congress's inaction on the antitrust issue is prolonging the strike in part because Major League Baseball is not being required to operate under the nation's fair competition laws," said CFA Legislative Counsel Bradley Stillman.

"By repealing the exemption, Congress can increase the likelihood of a resolution in time to save the 1995 season," he said.

Campaign Launched To Improve Consumers' Financial Health

A unique coalition of consumer groups, creditors, credit counseling centers, and the federal government has launched a campaign to assist consumers experiencing debt-related financial problems.

For the past year, representatives of the American Association of Retired Persons, Consumer Action, National Consumer Law Center, National Foundation for Consumer Credit, U.S. Consumer Information Center, U.S. Office of Consumer Affairs, Visa U.S.A., and CFA have discussed and reached consensus about the most important messages to communicate to those having financial difficulties.

In January, these groups released a pamphlet, "Managing Your Debts: How to Regain Financial Health," that will be distributed extensively by consumer credit counseling services, creditors, consumer groups, and the federal government.

The brochure is a guide that helps consumers learn whether they are in financial trouble, suggests actions they can take to reduce debt, describes credit counseling and bankruptcy options, and cautions against several pitfalls.

"The agreement on messages among sponsoring organizations is historic, and the dissemination of these messages will be extensive," noted CFA Executive Director Stephen Brobeck, who spearheaded the effort with Susan Murdy of Visa U.S.A. "Millions of consumers should benefit from the campaign."

According to the brochure, if you routinely spend more than you earn, are forced to make day-to-day purchases on credit, are able to make only the minimum payments on monthly credit card debts, or would have difficult paying next month's bills if you lost your job, you may be in financial difficulty.

In addition to suggesting specific steps to reduce debt and describing credit counseling and bankruptcy options in detail, the brochure notes the following possible pitfalls:

- for-profit or non-credentialed counseling organizations that may make promises they cannot or do not keep;
- "credit repair" clinics and "credit doctors" who falsely promise that they can remove negative information from credit reports; and
- risky refinancing options which can include second mortgages, loan consolidations, or other debt refinancing.

Consumers can obtain a free copy of the brochure by sending a self-addressed, stamped envelope to: CFA's Managing Your Debts, P.O. Box 12099, Washington, D.C. 20005-0999.

CFAnews

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1424 16th Street, N.W., Washington, D.C. 20036
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CFAnews is published eight times a year. Annual subscription rate is $25 per year.

Design & Typeset by: Dahlman/Middour Design

Senate Begins Consideration of Telecom Bills

The Senate has once again taken up the question of how to promote competition in the telecommunications and information industries, with Commerce Committee Chairman Larry Pressler (R-SD) and Ranking Minority Member Ernest F. "Fritz" Hollings (D-SC) circulating competing draft bills in February.

Both bills would set the terms for allowing the Bell companies into the previously restricted fields of long distance, equipment manufacturing, and cable television while opening the local telephone market to competition.

"These draft bills both do some things well, but they also contain serious flaws that will prevent the benefits of increased competition from flowing through to consumers," said CFA Legislative Counsel Bradley Stillman. "The Republican draft, in particular, contains several anti-consumer, anti-competitive provisions."

Developed without input from Democrats, Pressler's draft seeks to reconcile differences between those Republicans, including himself, who supported last year's legislation, and those, such as Majority Leader Bob Dole (R-KS), Bob Packwood (R-OR), and John McCain (R-AZ), who killed that bill with a last-minute filibuster threat on the grounds that it was "too regulatory."

The Hollings draft is virtually identical to the bipartisan compromise that passed the Commerce Committee last August on an 18-2 vote. That compromise contained far weaker consumer and competitive protections than last year's original legislation, but it is nonetheless stronger in these and other areas than the new Republican draft.

The Hollings draft, for example, contains slightly stronger language guaranteeing universal service. The biggest differences between the Democratic and Republican drafts, however, are in their approach to cable regulation and to Bell company entry into long distance service.

Republicans Seek To Roll Back Cable Rate Regulation

One of the concessions Sen. Pressler made to greater deregulation was inclusion of a provision to role back the rate regulations in the 1992 cable act. The Hollings bill does not touch the cable rate regulations, which had sufficient bipartisan support in 1992 to override a presidential veto.

Under the Pressler draft, only a basic tier of service consisting exclusively of local broadcast stations would be subject to rate regulation.

"Deregulating rates for cable programming services before competition actually arrives and consumers have a viable choice will lead to cable rate increases of at least $2.5 billion and a likely return to annual rate increases of three times the rate of inflation," Stillman predicted.

"The 1992 Act has a mechanism built into it to eliminate cable rate regulation when competition actually arrives and consumers have an effective choice of video providers," he said. Eliminating rate regulation before that time will simply "allow the cable monopolists to return to the days of rate gouging the American consumer."

Buyouts Will Undermine Competition

Furthermore, because they allow in-region buyouts of cable monopolies by telephone monopolies, both bills do little to promote competition in the cable market, Stillman said.

"Permitting in-region buyouts simply allows the current monopolies to get larger and virtually guarantees that prices will stay high, service will not improve, and innovation will be stymied," he said. "One set of monopoly shareholders will be enriched by selling their facilities at supra-competitive prices to the other incumbent monopoly, and the captive customer will be made to pay the bill in rates which are far too high."

Buyouts should only be allowed in truly rural areas which cannot support competing systems, he said. In those few communities, the principles of common carriage should govern all services.

Republicans Make Concessions to Bells on Long Distance

Another area where Pressler made major anti-consumer, anti-competitive concessions was related to Bell company entry into long distance service.

The Hollings draft contains the hard won compromise from last year that would delay Bell company entry into the long distance market until no substantial possibility exists that the company can use its market power to inhibit competition.

Having agreed to support this compromise when it was developed in committee, the Bell companies later walked away from the deal, a key reason why the bill failed to pass last year.

In his draft, Pressler grants the Bells the deal they sought, an absolute deadline — three years from enactment — after which they will be allowed to offer long distance service, regardless of whether effective local competition exists.

"This essentially removes the incentive to open the local loop and establish interconnection arrangements," Stillman said. And while the Republican draft requires the local phone companies to open their networks to competitors within a year, it contains insufficient enforcement mechanisms to prevent the Bell companies from throwing up roadblocks, he said.

"Until captive ratepayers have choice for local service, local companies will leverage their monopoly and disadvantage both consumers and the emergence of competition," Stillman said.

By mid-February, the Republican and Democratic staffers were said to be negotiating in an attempt to reach a compromise.

"If legislation to promote competition would result in rates for cable and telecommunications services that are higher than they should be, consumers will oppose it," Stillman said.

Overcoming Barriers To Local Competition

As Congress presses ahead with the task of rewriting the nation's telecommunications policy, one of the most important factors determining whether consumers reap the benefits will be how quickly and effectively barriers to local telephone competition are lifted.

Both the Republican and Democratic draft bills currently being circulated in the Senate provide for preemption of legal barriers to local competition within one year of enactment, but they either fail to deal with or deal inadequately with a variety of other competitive barriers that exist, said CFA Research Director Mark Cooper.

"Seventy-five years of monopoly creates levels and levels of anti-competitive muscle that have to be removed before you simply say 'let them at it,'" said Cooper, who has written a report describing the various barriers to local telephone competition and suggesting policies to overcome them. "If you simply say, 'let them compete,' the guy with 75 years of monopoly advantage will win every time."

The following are the key policy changes identified in that report, in addition to the elimination of legal barriers, that are necessary to bring about true competition for local telephone service:

- Competitors must be ensured nondiscriminatory access to the arteries through which the telephone network flows on terms and conditions equal to those offered to incumbents.
- The network must be unbundled into its smallest technologically and economically identifiable monopoly components in order to allow competitors to purchase bottleneck facilities at nondiscriminatory rates without regard to the ultimate use of those components.
- Competitors must have access to nondiscriminatory interconnection to the local network subject to open technical standards at competitively neutral compensation rates.
- Number portability and dialing parity which ensures neutral number assignment and portability across services, geographic areas, and providers must be implemented without creating differences in quality or cost for competitors.
- As long as local service remains non-competitive, contact with the LEC must not be used as an opportunity to market competitive services.
- Pricing rules must be adopted which identify all costs associated with each service, provide for fair recovery of joint and common costs, and ensure pro-competitive pricing of competitive services that rely on monopoly elements.
- Competitively neutral, efficiency-promoting mechanisms must be created to fund universal service obligations and to allocate provider of last resort obligations.
- Procedures must be established first to identify specific investments that were made to meet franchise obligations and that were stranded by competition and second to rigorously define uncompensated capital costs associated with these stranded investments, excluding inefficiency, previously compensated risk, and management discretion in the deployment of assets. The resulting obligations should be funded in a competitively neutral manner similar to the proposed universal service fund.

FCC Reviews Bells' Network Access Fees

The Federal Communications Commission (FCC) is nearing completion of a review of its four-year-old policy allowing local phone companies to charge substantial access fees to long distance providers under a price cap scheme.

Although the hotly contested issue is being portrayed as a battle between corporate Goliaths, consumers have a tremendous stake in the outcome of the FCC review, said CFA Legislative Counsel Bradley Stillman. "There are millions of dollars a day at stake for the American consumer," he said.

CFA has joined with long distance providers, the National Association of State Utility Consumer Advocates, and major telecommunications user groups in urging the FCC to lower the access fees.

Currently, about 45 percent of the cost of a long distance call is returned to the local phone company in the form of access fees to cover the costs of beginning and ending the call.

The debate centers around the "productivity" factor, also known as the "X" factor, which is currently set by the FCC at 3.3 percent and which is supposed reflect the declining costs of providing phone service.

CFA and its allies have argued that the productivity factor should be raised to at least 5.7 percent. In a letter to FCC Chairman Reed Hundt, the groups argued that, "without this increase, interstate access service rates will be $4.2 billion too high over the next four year period."

The groups urged the commission to direct the local exchange carriers subject to FCC price cap regulation to reduce their current interstate access service rates by at least $1.3 billion in order to reduce their earnings from 14 percent to "the 11.25 percent rate of return the commission previously authorized."

In addition, the groups argued that the FCC should prescribe a new rate of return based on the LECs' current embedded cost of capital of roughly 10 percent, producing an additional reduction of $600 million in access fees.

"Ideally, we'd like the FCC to require a dollar-for-dollar flow-through to the basic long distance phone users," Stillman said.

State Auto Emission Testing Defended

As the enhanced state auto emission inspection and maintenance programs mandated by the 1990 Clean Air Act Amendments begin to be implemented, some state governors, legislators, and members of Congress have stepped up their attacks on these programs.

In January, CFA, Center for Auto Safety, and Public Citizen announced their opposition to efforts to weaken or kill these I/M enhanced programs. The consumer groups support this model Environmental Protection Agency program because it improves the quality of repairs and motor vehicle safety while it improves air quality.

"The Environmental Protection Agency consulted many groups and carefully considered all important factors in developing its 1992 motor vehicle inspection standards," said CFA Executive Director Stephen Brobeck. "Unfortunately, a few anti-regulation lawmakers are now taking advantage of largely temporary consumer irritation with state inspection to trash the whole EPA program. This is highly unfortunate, because this program serves consumers and the whole country."

Testing Designed To Reduce Emissions

The Clean Air Act Amendments of 1990 require states with high pollution levels to reduce ozone and carbon monoxide levels. As part of that effort, 1992 Environmental Protection Agency regulations established base performance standards for basic and enhanced inspection and maintenance (I/M) programs for automobiles and light trucks.

States with areas of significant pollution must implement either the basic or the enhanced I/M programs, depending on the severity of the problem.

Twenty-two states and the District of Columbia contain enhanced I/M areas. They are required to have all of the cars and light trucks in the program areas tested by the end of 1996.

Enhanced Programs Draw Fire

It is the enhanced programs that have drawn the most fire from states with severe pollution problems.

Although some states have already implemented enhanced programs (including six states that have voluntarily upgraded from basic to enhanced programs), and others are scheduled to start implementing the programs this year, governors in New Jersey, Michigan, Pennsylvania, Texas, and Virginia have urged their states to stop or weaken these programs.

"The real purpose and benefits are being lost in the current rush to scrap these programs," said Center for Auto Safety Executive Director Clarence Ditlow. "Emissions reductions have to be achieved, and reducing the significant air pollution emitted from this nation's motor vehicles is the most cost-effective way of achieving this goal."

The following are among the many benefits consumers derive from the enhanced I/M programs:

- Improved inspection standards represent the most cost-effective pollution control strategy available, cutting vehicle emissions of volatile organic compounds by 28 percent, carbon monoxide by 30 percent, and nitrogen oxides by nine percent.
- High-tech inspections result in fuel economy savings of 6 to 13 percent.
- State inspections independent of repair facilities ensure more accurate diagnoses of emission problems and more appropriate repairs. Repair shops are constrained from exaggerating needed repairs and performing unnecessary work.
- Some repairs done to lower emissions improve motor vehicle safety since some of the faulty sensors causing excess emissions also cause hazardous conditions such as stalling and surging.

"The enhanced I/M programs are state of the art consumer and environmental protection that will solve some of the auto repair problems consumers have faced for years while cleaning the air," said Public Citizen President Joan Claybrook.

EPA's model for enhanced I/M programs also has good consumer protection benefits, Brobeck said. "Separating testing and repair functions provides consumers with unbiased reports and minimizes the risk of fraud."

Consumer Opposition Exaggerated

In addition, opponents of the programs have exaggerated the inconvenience to consumers, the groups noted.

High tech inspections can be conducted less often than traditional inspections. Furthermore, states can insist that enough inspection centers are created to give the large majority of drivers easy access with limited waiting times.

"We believe that most of this consumer irritation is temporary, reflecting mainly natural resistance to change, start-up problems at some testing centers, and the failure of public officials to explain adequately the merits of the new testing programs," Brobeck said.

Furthermore, most of the opposition to the programs has come, not from consumers, but from repair shops, Brobeck added. "It is not clear to us why many shops are fighting state inspections, unless they are now performing unnecessary repairs. After all, if the EPA program is successfully implemented, honest repair shops stand only to gain."

In addition to working on a national level, CFA, Public Citizen, and Center for Auto Safety are working with affiliate organizations "to ensure that pro-consumer decisions are made in the states," Brobeck said.

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Coalition Seeks To Reform Unfair Ticketing Practices

Consumer groups, student organizations, entertainment industry representatives, and concerned citizens are forming an alliance, Consumers Against Unfair Ticketing, to fight for reform of the entertainment ticketing industry. The goal of the alliance is to make live entertainment and other special events accessible and affordable for all Americans by promoting competition in entertainment ticketing.

"Consumers are unnecessarily being denied competition for event ticketing services. The result is unreasonably high service and handling charges," said CFA Legislative Counsel Bradley Stillman. "The excessive fees and other abuses should be stopped."

Among the unfair business practices common in the industry are unreasonable service charges that are tacked on to ticket prices, limited venue options for bands, controlled access to tickets by ticket brokers or scalpers, and ticket price control. Many of these abuses stem from the exclusive contracts between venues and ticket providers.

A September, 1994 U.S. Public Interest Research Group survey of Ticketmaster service charges for tickets to 80 events in 10 states found, for example, that service and handling fees add an average of $5.10 or 27 percent to the cost of a ticket and are assessed for every ticket in an order regardless of the size of the order. The PIRG study also found that in Portland, Oregon, which has some competition in the industry, service charges average more than $1 less than the national average.

The issue of unfair ticketing practices was brought to a head when the popular rock band, Pearl Jam, was forced to cancel a low-priced tour planned for the summer of 1994 because of a promoter and venue boycott. The band had planned to charge only $20 for its tickets and had insisted that they would perform only if the service charge on the tickets was limited to 10 percent and was separately disclosed. The Justice Department is currently investigating possible antitrust violations by Ticketmaster.

But the issue is not limited to rock concerts. During the first year or so after the Holocaust Museum opened, for example, it was virtually impossible to get in without calling ahead for tickets. Although admission to the Holocaust Museum is free, those who call ahead are charged a $3 service charge per ticket and a $1.50 mailing charge per order by the ticketing company.

The new alliance plans to kick off a national campaign in March to end these abusive ticketing practices. "It's time to clean up this industry so consumers can reap the benefits of lower prices through competition," Stillman said.

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