CFAnews

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CONSUMER FEDERATION OF AMERICA

Anti-consumer Media Rules Suffer Setbacks

Consumers won two important victories in September in their efforts to overturn the Federal Communications Commission's recently adopted rules to allow further concentration in already over-concentrated media markets.

One day before the media ownership rules were set to take effect, a federal appeals court placed a stay on the rules until questions regarding their legality are resolved.

A week later, the Senate voted 55-40 in favor of a resolution of disapproval (S. J. Res. 17) that would permanently overturn the rules.

CFA Research Director Mark Cooper applauded those developments.

"The FCC is wrong on the facts, wrong on the law, and the resulting rules are entirely unreasonable," he said. "That is why Congress and the courts must step in and restore order."

The appeals court decision staying the rules came during proceedings on a legal challenge to the rules launched by the Media Access Project. That case has been put on an expedited schedule, with oral arguments taking place in late October.

In its ruling, the court acknowledged that the broad, bipartisan opposition to the FCC's actions influenced its decision on whether a stay was in the public interest.

As further evidence of that bipartisan opposition, both the House and Senate have included language in their respective Commerce-Justice-State Department appropriations bills (H.R. 2799, S. 1585) that would prevent the FCC from carrying out for at least a year the rule provision that would raise the network ownership cap from 35 percent to 45 percent of the national viewing audience.

Fate of Legislation Uncertain

The House has passed its appropriations bill containing the restriction, and the Senate bill has been reported out of committee. While both appear to have clear majority support, they may not have the votes to overcome a threatened presidential veto.

Further complicating the picture, Commerce Committee Chairman Sen. John McCain (R-AZ) placed a hold on the Senate appropriations bill, not because he opposes the measure, but because he wants to force a Senate debate of his legislation to permanently ban the FCC's rule raising the network ownership cap.

His bill, S. 1046, has also been reported out of Committee, but no action has been taken on a companion bill in the House (H.R. 2052), and House Republican leaders have said they will not allow it to come to the floor.

In October testimony before the Senate Commerce Committee, Cooper called on Congress to act.

"I am confident that the court will overturn the rules," he said. "But that will only send them back to the agency, which has spent two years misreading the record, misinterpreting the law, and mangling the analysis."

"The national cap was enacted by Congress," he added. "The cross-ownership ban is a bright line test that has been upheld in the courts. The evidentiary record supports both. The Congress needs to do so, as well."

Attacking the rules on all fronts, however, CFA and Consumers Union also filed a petition for reconsideration with the FCC in September.

Court Rejects Cable Internet Rules

A separate federal appeals court handed consumers another victory when it ruled in October that the FCC erred when it found that cable Internet is strictly an information service and not a telecommunications service.

The distinction is important, because telecommunications services are subject both to stricter controls to prevent their interference with content that is transmitted over the lines and to a requirement that they allow multiple Internet service providers on their systems.

CFA was part of a coalition of consumer groups and others who challenged the FCC ruling in court.

The cable industry engages in a number of abusive practices, Cooper said, including over-pricing access and requiring consumers to either give up their current Internet service provider to get cable modem service or pay an additional fee to retain that provider.

"This ruling should help to curtail these practices, which retard potential competition for video entertainment dollars," he said.

On the Web

http://www.consumerfed.org/mediatestimony.pdf
http://www.consumerfed.org/free-tv.pdf
http://www.consumerfed.org/RECONPETITION.pdf
http://www.consumerfed.org/pr10.07.03.html

On the Hill

Credit Reporting Bills Pass House and Senate

The House and Senate had each passed bills by early November that make changes to the Fair Credit Reporting Act (FCRA) regarding credit report accuracy, identity theft, medical privacy, and consumer access to credit reports and credit scores.

Unfortunately, both bills would also make permanent anti-consumer state preemption provisions of the FCRA set to expire at the end of this year.

The House passed its bill (H.R. 2622) in September. The Senate followed with its bill (S. 1753) in early November. It was expected that conference negotiations would start immediately.

The Senate bill is more consumer-friendly in key respects than the House counterpart.

It offers some substantial improvements in providing greater oversight of credit report accuracy, medical privacy, and identity theft as well as in enhancing consumer access to credit reports and scores.

In particular, the Senate bill contains stronger substantive protections against identity theft than the House bill and, unlike the House bill, does not introduce broad new preemptions on state legislation in the areas of credit score and report disclosure and identity theft.

The Senate bill does, however, fall far short of the consumer protections that are needed in one key area, financial privacy.

"Americans in large numbers continue to say that they want greater privacy protections," said CFA Legislative Director Travis Plunkett.

"Consumers should be allowed to stop huge financial services corporations from sharing sensitive financial information without their consent," he said. "Unfortunately, neither bill provides this protection."

Sens. Barbara Boxer (D-CA) and Dianne Feinstein (D-CA) offered an amendment to strengthen the bill's privacy provisions when it came to the floor, but it failed to pass.

"The Senate bill offers some important improvements to increase credit report accuracy and to help prevent identity theft," Plunkett said.

"It is essential that final legislation enacted by both houses includes these provisions, increases privacy protections, and ensures that states are not blocked from exceeding federal law to protect their citizens on important credit reporting concerns," he added.

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Senate Narrowly Defeats Class Action Bill

Supporters of anti-consumer class action legislation fell one vote short of the 60 needed to invoke cloture and force a vote on the measure in October.

"This legislation would deny consumers access to adequate redress against corporate wrongdoers and would undermine the ability of state courts to hear cases primarily concerned with their own citizens," said CFA Assistant General Counsel Rachel Weintraub.

While purporting to curtail "class action abuses," S. 1751, and a companion measure that passed the House in June, would instead "virtually wipe out state class actions, thereby removing what is sometimes the only venue for redress of injury or fraud for consumers," Weintraub said.

They would do so by permitting defendants to remove class action suits to federal court in cases with at least 100 plaintiffs and $5 million at stake if at least one-third of the plaintiffs or the primary defendants are residents of a different state.

In the process, they would over-burden an already backlogged federal docket, slow the pace of certifying class action cases, and leave consumers caught between conflicting state and federal class certification requirements.

"The jurisdictional changes mandated by these bills were designed solely to impede class actions, not to make them fairer or more efficient," Weintraub said.

At least two senators who voted against cloture — Sen. Christopher Dodd (D-CT) and Mary Landrieu (D-LA) — have said they support the bill in concept but objected to being excluded from negotiations by the Republican majority.

That leaves open the possibility that a somewhat amended version of the legislation could be revived at a later date.

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On the Hill

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Senate CPSC Bill Boosts Civil Penalties

In a move that took virtually everyone by surprise, the Senate passed legislation on unanimous consent in late September that would substantially increase civil penalties for companies that fail to report product hazards.

The bill (S. 1261) would reauthorize the Consumer Product Safety Commission for the first time since 1990, setting a funding authorization level of $60 million for fiscal year 2004 with annual stepped increases to $73.6 million for FY 2007.

In the process, it would also increase the maximum civil penalty under the act from $1.65 million to $20 million.

That increase passed despite strong opposition from industry and lukewarm support from the Republican members of the Commission, who had earlier expressed concern that imposing larger fines would embroil the agency in bigger legal battles that would strain agency resources.

The bill now goes to the House, which has not yet held hearings on the issue.

"The CPSC reauthorization bill, as passed in the Senate, will encourage manufacturers to recall products faster and comply with CPSC's statutes in a more aggressive way," Weintraub said. "Importantly, higher civil penalties will act as a deterrent to non-compliance with CPSC's regulations and will strengthen CPSC's bargaining power when negotiating with companies to take a particular action.

"We hope that the House will pass a similar provision so that this increase in civil penalties will become law," she added.

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State Preemption Bills Sidelined

With states once again grabbing headlines for their mutual fund investigations, an anti-investor measure to preempt state securities regulators' enforcement authority appears to have been set aside indefinitely.

Consideration of the bill containing the controversial preemption provision (H.R. 2179) had been delayed when it came up in the House Financial Services Committee just before the August recess, but with a promise from Chairman Michael Oxley (R-OH) to bill sponsor Rep. Richard Baker (R-LA) to put it on the committee calendar in September.

That never happened.

In the meantime, the Securities and Exchange Commission and the North American Securities Administrators Association (NASAA) announced a new initiative to promote greater cooperation and information sharing between state and federal regulators.

The preemption measure, which is strongly opposed by CFA and other consumer groups, would prevent state securities regulators not only from imposing the types of conduct remedies on broker-dealers that they sought in the analyst case, but also from taking the sort of enforcement actions they routinely use to address abusive practices within their own borders.

"The recent leadership of state regulators in uncovering abusive late trading and market timing at mutual funds is just one more in a long line of examples showing how essential it is to effective investor protection that state regulators be fully armed with all the tools necessary to call a halt to anti- investor practices," said CFA Director of Investor Protection Barbara Roper.

Unfortunately, the underlying bill, which would strengthen SEC civil enforcement authority, also appears to have been sidelined.

Committee Democrats wrote to Chairman Oxley in late October, urging him to strip out the offending preemption provision and speed passage of the otherwise non-controversial bill.

"We strongly support passage of the civil enforcement authority bill, so long as the preemption provision is not attached," Roper said. "The preemption provision should never have been added and should now be stripped so that the SEC can get the enhanced civil enforcement authority that it badly needs."

As the mutual fund scandal continued to grow throughout the month of October, it also appeared to be generating renewed interest in Congress in passing mutual fund reform legislation. A pro-investor mutual fund bill sponsored by Rep. Baker was approved in committee just before August recess, but only after having been watered down at the insistence of panel Democrats and some Republicans.

"Opponents of the bill argued that it was unjustified in light of the mutual fund industry's clean regulatory record," Roper said. "That argument no longer holds up."

"The recent scandals show, among other things, how necessary the bill's proposed fund governance reforms are," she added. "We hope that Congress will return to this issue early next year."

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Energy Conference Deadlocked

Conference negotiations on energy legislation remained deadlocked throughout the month of October, primarily over issues of tax incentives to promote new sources of energy.

Despite the massive Northeast blackout, the legislation continues to push electricity deregulation — by repealing the Public Utility Company Holding Act, for example — and fails to provide an effective pro-consumer policy.

CFA Research Director Mark Cooper outlined such a policy in September testimony before the Senate Subcommittee on Oversight of Government Management.

"Two-thirds of the states have figured out that deregulation is a road to ruin," he said. "It is time for federal authorities to change course too, or at least to pause for a substantial period while they rebuild the physical and institutional infrastructure of the electricity grid."

Specifically, Cooper said, Congress should not repeal PUHCA, should not allow the Federal Energy Regulatory Commission to impose its complex Standard Market Design on the nation, should not rely on industry self-regulation for reliability, and should not create private transmission monopolies.

Instead, federal authorities should devote their energies to "studying, strengthening, and managing the interstate transmission system." Any interstate transmission organization created must include fair representation of all interests affected by transmission projects, including consumers, he said.

"Standards must be set by responsible authorities and be mandatory, with stiff penalties for failure to comply," he said. "Industry self-regulation will not do."

"Unfortunately, the House and Senate bills that are being reconciled in conference violate virtually every one of these consumer 'Do's' and 'Don'ts,'" Cooper said.

"The fact that the Congress has failed to act in the past several years is actually a good thing for consumers, because Congress has never once come close to passing legislation that would do the right thing," he added. "Now is the time to focus on the real problem, restore accountability and oversight over the industry, and put the public interest first."

On the Web
http://www.consumerfed.org/092303creditreportsenatemarkup.html
http://www.consumerfed.org/102203_classaction.html
http://www.consumerfed.org/blackout.pdf

Housing Expert Joins CFA

Allen Fishbein

Longtime housing advocate and expert Allen Fishbein joined CFA in September as Director of Housing and Credit Policy. He will lead efforts to work for policies and other initiatives that improve protections and regulatory oversight for home buyers and other mortgage borrowers.

"We are fortunate that one of the public interest community's leading experts on housing and mortgage credit issues has joined CFA," said CFA Executive Director Stephen Brobeck.

"In the past several years, CFA has expanded its work on consumer housing issues," he added. "Allen will greatly strengthen, and lead, future work on these issues."

Fishbein comes to CFA from the Center for Community Change, where he served for many years as the organization's General Counsel and leader on community reinvestment issues. From 1999 to 2000, he served in a senior policy position at the U.S. Department of Housing and Urban Development (HUD), supervising oversight of Fannie Mae and Freddie Mac and helping to coordinate the activities of the joint HUD/Treasury Department National Predatory Lending Task Force.

"I am pleased to join CFA, where I will have the opportunity to work on consumer housing and related credit issues, and to work with highly regarded experts on consumer credit, insurance, and other financial services issues," Fishbein said.

At the Agencies

Continued from Page 4

fell into one of a few categories — related to contracts, torts, criminal law, debt collection, property transfer, taxes, and zoning — and did not have an undue effect on the exercise of national bank powers.

In addition, the OCC could act to authorize specific state laws that it determined had only an incidental effect on the exercise of national bank powers and were otherwise consistent with the regulation.

The comment period on the rule ended in early October, and more than 2,500 comment letters were submitted.

"This proposed regulation would dramatically alter the state-federal regulatory structure for national banks and would undermine a host of important state level consumer protections," said CFA Housing Coordinator Brad Scriber. "The large volume of comment letters reflects the groundswell of concern over this radical proposal."

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Spitzer Moves To Halt Abusive Payday Lending

New York Attorney General Eliot Spitzer filed suit in September against a Delaware-based bank and two out-of-state financial companies for marketing payday loans to state residents in violation of New York usury laws.

"CFA applauds Attorney General Spitzer for taking action to stop rent-a-bank payday lending in New York," said CFA Consumer Protection Director Jean Ann Fox. "Payday lenders must not be allowed to evade state usury laws by hiding behind bank charters."

The finance charges of $20 to $30 that payday lenders typically charge for a $100 two-week loan translate into annual interest rates of 520 to 780 percent. In contrast, New York law sets a 25 percent criminal usury cap.

The attorney general's complaint — filed against County Bank of Rehoboth Beach, Delaware and Cashnet, Inc. and Telecash, both of Pennsylvania — alleges repeated illegal, fraudulent, and deceptive business practices involving payday loans made by unlicensed lenders in a scheme to get around New York's usury statutes.

Fox wrote to the Pennsylvania attorney general on behalf of CFA in October urging that office to investigate whether Telecash and Cashnet are in fact unlicensed small loan companies operating in violation of the Pennsylvania Consumer Discount Company Act.

Case Reinforces Actions Of Federal Agencies

The New York case reinforces actions recently taken by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Reserve Bank of Philadelphia to prevent banks under their jurisdiction from partnering with payday lenders.

As a result of those actions, only a handful of state-chartered, regulated banks continue to "rent" their charters to help storefront lenders evade state usury and small loan laws. This is possible because, while the Federal Deposit Insurance Corporation (FDIC) earlier this year adopted reasonably tough payday loan guidelines, it has been slow to enforce them or to critically examine the safety and soundness of rent-a-bank arrangements, Fox said.

In October, First Bank of Delaware announced in a Securities and Exchange Commission filing that it had relinquished its membership in the Federal Reserve System and had been accepted by the FDIC for continued operation as an insured Delaware state-chartered bank.

According to a previous company filing, the Federal Reserve Bank of Philadelphia had imposed increased regulatory requirements on the bank as a result of its payday loan operations that the bank was unable to meet. In contrast, the FDIC has apparently agreed to permit First Bank of Delaware to continue those operations.

FDIC Urged To Act

CFA joined with the Community Reinvestment Association of North Carolina, Consumers Union, the National Community Reinvestment Coalition, the National Consumer Law Center, and U.S. Public Interest Research Group in writing to FDIC Chairman Donald E. Powell to protest the agency decision as well as its failure to act against County Bank, the institution cited in the New York case.

"It is becoming painfully evident that the FDIC is the regulator of choice for payday loan companies who wish to misuse bank charters to make loans that would be illegal if made directly by the store front payday lender," the groups wrote.

CFA's Fox sent a copy of that letter to key members of Congress, asking them to push the FDIC to improve its oversight of banks engaged in payday lending.

"The FDIC should be acting to stop this activity," she wrote, "both to protect the safety and soundness of federally insured banks and to enable states to uniformly enforce small loan and usury laws meant to protect vulnerable consumers."

On the **Web**
http://www.consumerfed.org/FRB_letter_rent_a_bank041503.pdf

RESEARCH WRAP-UP

Local Phone Competition Saves Consumers Billions

Consumer savings from local telephone competition have mounted sharply in recent months, to as much as $5 billion a year, according to a report released by CFA in October.

These savings come as a result of state utility commission actions to open local markets.

The study, "Competition at the Crossroads: Can Public Utility Commissions Save Local Phone Competition?" estimates that as many as 30 million households have benefitted from competition, which has brought about discounted bundles of local and long distance phone service, while millions more have been able to choose alternative local service.

Bell proposals to raise wholesale prices "would raise prices to such exorbitant levels that competitors would be forced from the marketplace," said CFA Research Director Mark Cooper, author of the report. "The tremendous gains that competition and consumers have made recently will be short-lived if the incumbent carriers succeed in undermining UNE-based competition and forcing weakened competitive carriers to build redundant telecommunications networks."

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Consumers Support Renewing Assault Weapons Ban

A survey released by CFA in October found that a large majority of the public supports renewing and strengthening the federal assault weapons ban, which is due to expire next year unless Congress enacts and the president signs new legislation.

Fully 62 percent of those surveyed said they favored renewing the ban, including 47 percent who said they strongly favor its renewal. Similarly, 63 percent said they favor strengthening the ban to prevent the gun industry from manufacturing commercial models of military-style assault weapons, including 49 percent who strongly favor this action.

"Our survey research shows that a majority of the public, including gun owners, supports renewing and strengthening the assault weapons ban," said CFA Firearms Project Director Susan Peschin. "Americans don't want assault weapons in their neighborhoods, and they want an effective ban to keep them out."

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Industry Practices Cause Oil Price Spikes

The actions of the domestic refining and marketing sector have been the largest cause of rising gasoline prices in recent years, not crude oil prices or where the oil comes from, according to a report on the U.S. oil industry released by CFA in October.

The price paid at the pump for gasoline has increased an average of 26 cents since the last presidential election.

Over half of that increase has been caused by domestic refining and marketing charges, according to the report. And the four price spikes since December 2000 that have been caused by domestic refining and marketing have resulted in an increase of over $30 billion in gasoline prices.

This paper, by CFA Research Director Mark Cooper, shows that business decisions are a major cause of the problem.

Middle Class Americans Built Wealth During Boom

Middle class Americans — the three-fifths of all American households with incomes between about $20,000 and $80,000 in 2001 dollars — increased their personal wealth from 1995 to 2001, in part because of more prudent financial behavior, according to research released in October by CFA and Providian Financial.

Despite these economic gains, about one-half of Middle Americans today are worried about their financial condition.

"The good news is that most middle class Americans built greater personal wealth during the late 1990s," said CFA Executive Director Stephen Brobeck. "The bad news is that this wealth is not sufficient to meet major emergencies, let alone provide for a comfortable retirement. No wonder so many today are worried about their financial condition."

CFA and Providian released the survey in part to demonstrate the widespread need for the free services of America Saves, which CFA manages and Providian helps to support.

The research examines two data sources — data on household finances collected by the Federal Reserve Board's Survey of Consumer Finances from 1989 to 2001 and analyzed by Ohio State University consumer economist Catherine P. Montalto and a July 2003 survey by Opinion Research Corporation International.

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Public Trusts Coops More Than Corporations

Survey results released in October by CFA and the National Cooperative Business Association found less than half of Americans think investor-owned corporations are ethically governed. The survey found significantly greater public trust in businesses that provide more consumer control and board accountability.

The survey found that two-thirds of consumers believe businesses that are owned and governed by their customers and have consumers on their boards of directors are more trustworthy than those that do not. A majority also found companies that allow customers to democratically elect the board of directors and are locally owned and controlled to be more trustworthy.

On the **Web**
http://www.consumerfed.org/unet_200310.pdf
http://www.consumerfed.org/pr10.07.03.html
http://www.consumerfed.org/assaultweaponreport.pdf
http://www.consumerfed.org/gasoline1003.pdf
http://www.consumerfed.org/surveycoops.pdf
http://www.consumerfed.org/AmericaSaves-ProvidianPressRelease100603.pdf

New Book Examines Cable Monopolies

A new book by CFA Research Director Mark Cooper examines the increasingly concentrated cable TV industry and shows how the convergence of media and communications in the digital age presents policy makers with unique new challenges to ensure competitive markets.

Cable Mergers and Monopolies: Market Power in Digital Media And Communications Networks is published by the Economic Policy Institute.

Combining traditional analysis of industrial organization with new economy concepts of information platforms, the book offers innovative federal, state, and local policies for promoting open, competitive digital markets and preventing abuse of consumers.

University of Massachusetts at Amherst Professor Emeritus William G. Shepherd has called the book "comprehensive, authoritative, and deeply persuasive."

Copies of the book may be ordered for $15 per copy from CFA. To order, send your request to CFA at 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036 along with your name and address and a check made payable to Consumer Federation of America.

At the Agencies

U.S. Department of Agriculture

The Food Safety and Inspection Service of the U.S. Department of Agriculture (USDA) issued a statement in October claiming major reductions in **Listeria monocytogenes** positives in testing performed by federal inspectors.

That statement "may be good public relations, but we need more information to know whether it reflects in improvement in public health," said Carol Tucker Foreman, Director of CFA's Food Policy Institute.

The data is incomplete, comparing results from nine months of testing in 2003 with results from 12 months of testing for previous years. (An earlier announcement that E coli positives had declined was also based on incomplete data.)

Also, the agency has not addressed the very serious assertion that plants are given prior notification of testing and an opportunity to do a special clean up before the testing is performed.

Finally, because of a weakening of the Listeria rule, regulated plants are not required to test meat products for the disease-causing form of Listeria whenever they find the nonpathogenic form in the plant environment.

"Federal inspectors can perform only a few thousand tests each year," Tucker Foreman said. "The dropped requirement would have made companies take responsibility for their actions and would have concentrated testing where it is clear there is a potential problem."

"CFA and other consumer groups praised USDA for expanding testing by inspectors. We hope it is having a salutary impact, but there is no way to know, because the Department of Agriculture continues to play games with testing data," Tucker Foreman concluded.

Meanwhile, the FDA released a final risk assessment and risk ranking for Listeria monocytogenes in October which "told the public what we already know — so-called 'cooked,' 'ready-to-eat' meat and poultry products, especially deli meats, are the foods presenting the highest risk to consumers," Tucker Foreman said.

The government-approved labels on those packages — "cooked," "ready-to-eat," "USDA inspected and Approved," and "best if used by ..." — mislead consumers into believing the products are okay to open and consume, she said. "This is clearly not the case."

She called on USDA to require that these products carry a label that warns those who are pregnant or immune suppressed that the products should be reheated thoroughly before being eaten. "Both FSIS and FDA use this message in consumer education materials, but USDA has consistently refused to add the message to product labels," she said. "They continue to reject this option."

Federal Trade Commission

The Federal Trade Commission (FTC) got an injunction in September preventing the manufacturer of **Coral Calcium Dietary Supplements** from claiming that the products cure multiple sclerosis, cancer, and other diseases.

Tucker Foreman praised the agency for its aggressive action, which, in addition to charging the manufacturers with making false and unsubstantiated claims about the products' health benefits, seeks restitution to consumers for financial loss resulting from the purchase of the products.

The FTC and Food and Drug Administration (FDA) have also sent strong warning letters to website operators who market these products based on the false health claims.

"The use of dietary supplements is increasing rapidly in the United States," Tucker Foreman said. "The increasing reliance on dietary supplements makes it essential that government assure that these products are safe and that both label claims and advertising claims are truthful and not misleading."

This is particularly important, she said, in light of the growing use of infomercials and the Internet to sell products. "These advertisements reach tens of millions of people and, because they are on television or on the Internet, many people believe the claims have been approved."

Consumer Product Safety Commission

The Consumer Product Safety Commission (CPSC) voted unanimously in October to move forward on a mandatory safety standard for **baby bath seats**. CFA had petitioned the agency in July 2000 to ban the dangerous products.

According to the CPSC, there have been at least 104 deaths and 162 non-fatal incidents caused by baby bath seats between January 1983 and July 2003.

"CFA continues to believe that baby bath seats should be banned," said CFA Assistant General Counsel Rachel Weintraub. "Baby bath seats cannot be designed in such a way as to adequately reduce the risk of injury to children, nor can a design or performance standard adequately reduce the false perception of safety that these products mistakenly instill in the parents and care-givers who use them."

While short of what CFA had sought, the 3-0 vote in favor of a mandatory safety standard "is still an important and necessary step forward," Weintraub said. It "implicitly acknowledges that these products are hazardous and that the voluntary standard has failed to curb injuries and deaths associated with baby bath seats."

She urged the agency to supplement its standard by recalling all seats that do not meet the new standard and by aggressively pursuing an educational campaign for parents warning them never to leave a child unattended in a bath seat and recommending that they remove older bath seats from the home.

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Despite numerous incidents in which the elastic cords on **yo-yo water balls** had become wrapped around children's necks, the CPSC decided not to order a recall, saying it believes there is a low risk of strangulation from the toy.

Weintraub criticized the agency for not doing more to protect children. "Toys should not wrap around children's necks," she said.

Some major retailers have reportedly already stopped selling the yo-yo ball toys. "The CPSC should at least have more clearly warned consumers of the risks and urged other retailers to stop selling the toys," Weintraub said.

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The CPSC issued a report in October estimating that **all-terrain vehicles (ATVs)** caused 113,900 injuries requiring emergency room treatment in 2002, breaking the record set the previous year.

The CPSC also estimated that ATV-related deaths were the highest ever, rising to 634 in 2001 from 569 the previous year.

Children under 16 suffered more serious injuries than any other group, accounting for 37 percent of all injuries and 33 percent of deaths between 1985 and 2002. Furthermore, the data makes clear that the increases in injuries cannot be explained by rising ATV sales.

"The continuous growth in serious ATV injuries and fatalities demonstrates how pervasive this public health crisis is and why it is time for a new approach to ATV safety," Weintraub said.

CFA, Natural Trails, and doctors' groups have called on CPSC to issue a national safety standard to prohibit the sale of adult-size ATVs for use by children.

"This standard would provide a minimum level of protection for every child, give CPSC a strong enforcement tool to hold ATV dealers accountable, and send a powerful message to parents about how dangerous adult-size ATVs are for children under 16," Weintraub said.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) recently proposed a rule to block states from enforcing **consumer protection laws** against nationally chartered banks.

If the rule is adopted, state laws related to a variety of consumer issues including predatory lending, identity theft, and abusive credit card practices would no longer apply to national banks or to their operating subsidiaries, according to a Consumers Union analysis of the rule proposal.

Under the proposed rule, a state law would routinely apply to a national bank only if it

(Continued on Page 2)

On the **Web**
http://www.consumerfed.org/101703_USDA.html
http://www.consumerfed.org/102103_lysteria.html
http://www.consumerfed.org/102003_babybath.html
http://www.consumerfed.org/102803_cpscatv.html

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