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FCC Embarks on Media Policy Overhaul

Precipitated by recent appeals court decisions, requirements of the 1996 Telecommunications Act, and the widely proclaimed deregulatory preferences of its new chairman, the Federal Communications Commission (FCC) has embarked on a series of rulemakings that could fundamentally change the ownership and control of mass media in America.

"Repeating a long string of industry arguments against public obligations and societal concerns about the mass media, the FCC has opened rulemakings that would allow the large media conglomerates to increase their ownership and control of newspapers, broadcast TV, and cable franchises," said CFA Research Director Mark Cooper.

"The entire structure of mass media in America is on the table, and, if the FCC rules are approved, two or three companies could end up owning it all," he said.

The agency has already begun taking comments on proposals to allow broadcasters to own newspapers in markets where they also own stations and to eliminate or relax the limit on how many subscribers a single cable operator can serve.

CFA has joined with a other public interest organizations, including Consumers Union, the Center for Digital Democracy, the Civil Rights Forum on Communications Policy, and Media Access Project, to file comments in those rulemakings.

Rules Could Be Weakened

"This is the start of what is going to be a very long struggle," Cooper said. By the end of the year, he said, the FCC will likely also consider:

- eliminating or relaxing the requirement that cable operators who also own programming make it available to competing distribution entities on reasonable terms;
- eliminating or relaxing restrictions on how many TV stations broadcasters can own across the nation;
- eliminating or relaxing restrictions on how many radio stations a single owner can control in any one market; and
- eliminating the ban on cross ownership of cable TV and broadcast outlets in the same market.

The agency proposals are based on a series of false assumptions, Cooper said: that ownership of the media does not affect its content; that increases in the number of outlets and variety in entertainment programming renders concern about diversity in civic discourse irrelevant; that the growth of the Internet renders all speakers and listeners equal and eliminates all concerns about excessive influence of commercial mass media; and that reliance on competitive market forces is all that is needed to ensure an open and vigorous marketplace of ideas.

Comments Filed

CFA and its allies countered those arguments in comments on the newspaper/broadcast ownership rules filed with the Commission in December.

"If local television broadcasters were allowed to merge with local newspapers, combining the two most important means by which consumers obtain news and information, the combined owner's editorial bias and economic incentives to under-serve the needs of minorities will skew public discourse and thereby harm our nation's democracy," they warned.

"To meet its obligations under the U.S. Constitution and congressional directives, the commission must maintain the cross-ownership ban," they concluded.

In comments filed with the Commission in January, CFA and its allies urged the agency to reimpose a strict federal limit on cable television system ownership.

A 30 percent ownership limit is needed to prevent cable monopolies from dominating tv programming and Internet services, as well as to prevent them from blocking video competitors, the groups argued.

They noted that the U.S. Court of Appeals that last year overturned the rule had upheld the law that authorized the FCC to impose the ownership limit but rejected the FCC's justification for how it constructed the limit.

"Based on overwhelming evidence of a highly concentrated market, enormous incentives to undercut competition and diversity of programming, and strong evidence of efforts to exercise this market power, CFA et al. urge the FCC to reinstate the 30 percent rule," they wrote.

"Without establishment of a 30 percent or lower horizontal ownership limit, the FCC will fail to meet Congress's goal of enhancing effective competition, leaving consumers paying inflated prices for programming that fails to meet their needs," they concluded.

The comments on the newspaper/broadcast ownership rule are on the Media Access Project website at www.mediaaccess.org/consumers_union_et_al_nbco_comments.pdf. A news release and executive summary of the cable ownership comments are on the Consumers Union website at www.consumersunion.org/telecom/cabledc102.htm.

OCC Reins In Rent-a-Bank Payday Lending

Eagle National Bank, one of the first banks to allow a payday lender to use its national bank charter to evade consumer protection laws, signed a consent order with the Office of the Comptroller of the Currency (OCC) in January that will bring a halt to Eagle's payday loan activities by mid-June.

"Eagle National Bank and Dollar Financial Group pioneered the rent-a-bank payday loan arrangement to get around state laws," said CFA Consumer Protection Director Jean Ann Fox. "The OCC's action is an important first step toward closing that loophole."

In explaining the reasons behind the agency's action, Comptroller of the Currency John D. Hawke, Jr. said what CFA has maintained for years: "The bank essentially rented its national bank charter to a payday lender in order to facilitate that nonbank entity's evasion of the requirements of state law that would otherwise be applicable to it."

"The OCC has clearly demonstrated with this consent order that it recognizes the threat both to vulnerable consumers and to banks' safety and soundness that these partnerships pose," Fox said.

She warned, however, that "it will take further strong action by the OCC, the FDIC, and Congress, to ensure that vulnerable consumers receive the basic protections offered by state usury and small loan laws."

In a series of reports over several years, CFA has documented the numerous abuses associated with payday lending, including annual percentage rates averaging nearly 500 percent, coercive collection tactics, and repeated renewals of short-term loans that trap borrowers in perpetual, very high-cost debt.

As more states have started to crack down on payday lending, payday lenders have increasingly relied on partnerships with banks in order to continue making loans that violate state usury laws, small loan rate caps, and payday loan laws.

A Growing Problem

That trend is documented in CFA's most recent payday loan report, "Rent-A-Bank Payday Lending," which it released in November with U.S. Public Interest Research Group.

The report also found that lenders that partner with banks usually charge higher rates, make larger loans, or make repeat loans in violation of state laws.

"Check cashers, pawnshops, and payday lenders are attempting the biggest bank powers heist of all time," Fox said when releasing the report. "Because they don't want to comply with state laws designed to limit their triple-digit interest rates, payday lenders are renting bank charters in a cynical attempt to avoid state consumer protections."

While Fox applauded OCC's increasingly tough scrutiny of national banks' partnerships with payday lenders, she noted that it is having the unintended consequence of encouraging lenders to turn to state chartered, FDIC-insured banks for partnerships.

"FDIC must follow the lead of the OCC to make sure the rent-a-bank practice does not simply shift to state banks, which pose the same threat to states' authority to enforce consumer protection laws and where safety and soundness concerns are equally great," she said.

CFA has also called on Congress to pass legislation to "take banks out of the payday loan business altogether."

Rep. John LaFalce (D-NY) has introduced legislation, H.R. 1055, that would accomplish this goal and make it illegal to hold checks drawn on a federally insured depository institution as the basis for a small loan.

H.R. 1055 is one of a number of consumer protection bills introduced by Rep. LaFalce and others that got no hearing during the 2001 legislative session.

"With state attorneys general, bank regulators, and private class action lawsuits bringing rent-a-bank usury issues to a boil, 2002 should be the year when payday lending is taken seriously by Congress and the bank regulatory agencies," Fox said.

State Suit Filed

Shortly after the OCC action, North Carolina Attorney General Roy Cooper filed suit against ACE Cash Express, a large payday lender that partners with California-headquartered Goleta National Bank to offer payday loans in North Carolina.

In August, the North Carolina General Assembly allowed its law authorizing payday lending to expire, making payday lending illegal in the state.

While more than 100 payday lending businesses closed as a result, a number of larger companies, including ACE Cash Express, simply partnered with out-of-state banks using federal pre-emption to circumvent the state law.

State enforcement actions against the ACE-Goleta partnership have already been filed in Colorado and Ohio.

In each case, Goleta National Bank has gone to federal court asking for an injunction and a declaratory judgment that the National Bank Act preempts state enforcement of consumer protections. Last year, the Comptroller of the Currency filed an amicus brief in the Colorado case in support of the Colorado attorney general.

2001 Legislative Wrap-up

Financial Services

Bankruptcy – Despite overwhelming bipartisan support in both houses, Congress ended the 2001 session without passing anti-consumer legislation to limit access to bankruptcy. Both the House and the Senate easily passed bills (S. 420, H.R. 333) in March that would place burdensome restrictions on Americans who attempt to file for bankruptcy. The bills would not curb aggressive lending practices that help entice consumers into unsustainable debt or provide adequate information to consumers about the cost of carrying credit. Consumers benefited from procedural disputes that delayed appointment of conferees for months. Also, while the underlying bills are similar, they include significantly different provisions on both "homestead" provisions (the amount of money wealthy debtors can shield in their homes) and abortion clinic violence. Conferees finally began to meet in November, but no progress was reported in resolving differences, and enthusiasm for quick passage seemed to have waned as a result of the economic slowdown.

Terrorism Insurance – Although passage of terrorism insurance legislation quickly became a top priority in the wake of the September attack, Congress adjourned in December without clearing a bill. The House passed a bill (H.R. 3210) in late November that, in an approach supported by CFA, would provide federal loans to insurers to cover terrorism losses above certain thresholds, but would require insurers to repay the loans. Unfortunately, Republican House leaders tacked on onerous liability limits before sending it to the floor. Meanwhile, a number of competing bills were introduced in the Senate, most of which would provide an unwarranted handout to the very well capitalized property casualty insurance industry. The exceptions are a bill by Sen. Fritz Hollings (D-SC) to create an industry-financed fund to cover future terrorism losses (S. 1743) and a bill by Sen. John McCain (R-AZ) that adopts the same loan-based approach as the House bill but without the liability limits (S. 1744). Unable to agree on an approach, the Senate failed to act. Whether Congress returns to the issue next year will likely depend on how the market for terrorism coverage develops in the interim.

Retirement Plan Advice – The House passed legislation (H.R. 2269), introduced by Rep. John Boehner (R-OH), that would remove liability barriers that may prevent employers from offering advisory services to retirement plan participants. Unfortunately, the bill also would eliminate the ERISA prohibition on self-interested transactions, all but guaranteeing that most workers would only have access to advice that is tainted by conflicts of interest. Sen. Jeff Bingaman (D-NM) introduced alternative legislation (S. 1677) that would leave the prohibition on self-interested transactions in place. No action was taken on that legislation. In a separate matter, Congress included language supported by CFA in the tax cut legislation (H.R. 1836, P.L. 107-16) clarifying that employers can offer retirement planning services to employees and their spouses as a tax-free fringe benefit.

SEC Fee Reduction – Congress passed and the president signed legislation (H.R. 1088, P.L. 107-123) to reduce transaction fees collected by the Securities and Exchange Commission to more closely track the agency's budget and to allow the agency, as a demonstration project, to pay its employees salaries comparable to those at federal banking regulators. Because the SEC has been seriously under funded since the 1980s, CFA argued that Congress should first set a higher funding level for the agency before contemplating fee reductions. The House passed the bill in June after defeating a more moderate Democratic alternative offered by Rep. John LaFalce (D-NY). The Senate passed the House bill without changes shortly before adjourning for the year.

Financial Services Consumer Protections – Once again, many bills were introduced to enhance protections for financial services consumers – in the areas of payday lending, predatory mortgage lending, ATM fees, lease transactions, financial privacy, and credit card abuses, for example – but they were not directly acted on. During consideration of bankruptcy legislation, Sen. Christopher Dodd (D-CT) offered an amendment and Rep. John Conyers (D-MI) offered a motion to recommit that would have limited the marketing of credit cards to minors with no independent means to pay off the debt. Neither succeeded. Also unsuccessful were: an amendment by Sen. Paul Wellstone (D-MN) that would have prohibited lenders who charge an annual interest rate that exceeds 100 percent for short-term loans (payday loans) from collecting unpaid loans from debtors in bankruptcy and an amendment by Sen. Richard Durbin (D-IL) that would have invalidated claims against borrowers by creditors that had committed material violations of federal lending laws. The only bill that moved was an anti-consumer rent-to-own bill (H.R. 1701), which was reported out of the House Subcommittee on Financial Institutions and Consumer Credit in November on a 24-4 vote.

Health and Safety

Meat and Poultry Pathogen Reduction – During debate of the FY 2002 agriculture appropriations bill (H.R. 2330), the Senate defeated a pro-consumer amendment by Sen. Tom Harkin (D-IA) that would have given the agriculture department (USDA) clear authority to set and enforce limits on food poisoning bacteria in meat and poultry products. That authority has been in question since March 2000, when a federal court in Texas prevented USDA from withdrawing inspection from, and thus shutting down, Supreme Beef Processors Inc's ground beef processing plant, which had repeatedly failed government Salmonella tests. Sen. Harkin was forced to withdraw his amendment when the Senate defeated his motion to table a secondary amendment by Sen. Ben Nelson (D-NE) that would have effectively killed the new USDA authority.

Bioterrorism – The September terrorist attack and subsequent anthrax scare brought new attention to the vulnerability of the nation's food and water supply to chemical and biological attack but little meaningful action to address that threat. The House and Senate both passed weak legislation (H.R. 3448) in the final days of the 2001 session, and a conference is likely to be convened early in the next session to work out differences. One key difference is in the approach to food safety. The Senate bill would authorize $500 million for the Food and Drug Administration (FDA) and USDA to improve food safety by: adding new FDA inspectors; requiring food importers to register with the FDA and provide notice when food is brought into the country; allowing the FDA to mark food shipments that are denied entry to prevent them from being brought in elsewhere; and giving FDA authority to inspect records of food manufacturers, detain food that could be contaminated, and ban imports from anyone with a record of trying to bring in suspect food.

CFA criticized the Senate food safety provisions on the grounds that they are weaker than those advocated by the General Accounting Office before the threat of food terrorism was raised. Among the key elements missing from the bill were provisions: giving the FDA authority to require that countries and companies that export food to the United States demonstrate that their food safety systems provide protection that is at least equivalent to our own and giving FDA and USDA authority to recall adulterated food. In addition, although the Senate bill includes registration and detention powers for FDA, these powers are so restricted that they are unlikely to result in detection or detention of contaminated food. Senate sponsors refused to incorporate amendments by Sen. Richard Durbin (D-IL) that would have addressed these weaknesses. The House version did not contain even the minimal food protections incorporated in the Senate bill. Instead, it would simply authorize an additional $100 million for the Food and Drug Administration (FDA) to hire more border inspectors and $100 million for water safety programs and emergency response plans.

In separate action, the House passed legislation (H.R. 3178) in December directing the Environmental Protection Agency (EPA) to develop a program of research grants to explore means of improving water system protections against biological, chemical, and radiation attacks. The Senate Committee on Environment and Public Works reported out a similar bill (S. 1593), but neither bill was brought to the Senate floor for a vote before Congress recessed.

Arsenic in Drinking Water – Congress included language in the VA-HUD appropriations bill (H.R. 2620, P.L. 107-73) requiring the EPA to implement a 10 ppb standard for arsenic in drinking water. Early in the Bush administration, the EPA announced its intention to reopen, and weaken, the Clinton era rule, but it later withdrew that decision. Unfortunately, the appropriations bill contained report language that directs the EPA both to use its existing authority to waive and delay the requirement for small water systems and to provide Congress with additional legislative language, as needed, to accomplish that goal.

Gun Show Loophole – In the final days of the 2001 legislative session, Senate Majority Leader Tom Daschle (D-SD) promised to bring to the floor early in the 2002 session legislation (S. 767) introduced by Sen. Jack Reed (D-RI) and 22 co-sponsors to close the loophole that allows criminals to buy guns at gunshows. Endorsed by CFA, the bill would extend existing federal law requiring background checks to all firearm sales at gun shows. Importantly, the bill provides the necessary three business days to complete the checks.

Mexican Trucks – A provision was included in transportation appropriations legislation (H.R. 2299, P.L. 107-87) cleared by Congress, and signed by the president despite earlier opposition, requiring commercial trucks from Mexico to pass safety inspections in order to operate outside the 20-mile commercial zone along the border. Under NAFTA, Mexican trucks were to be free to operate beyond the commercial zone, without restriction, beginning in January 2002. The issue was raised by safety advocates because of the high inspection failure rate of Mexican trucks, the lack of truck and driver safety standards in Mexican law, and the inadequacy of the border inspection and enforcement program.

Auto Restraint Safety Standards – The Senate Commerce Committee approved legislation (S. 980) to require the Department of Transportation to establish safety standards for children's booster seats used in passenger vehicles and to require that all back-seat safety belts in such vehicles be lap-shoulder belts.

Food Labeling and Affordability

Country-of-Origin Labeling – The House gave strong support in October to legislation to require country-of-origin labeling of fresh fruits and vegetables. The 296-121 vote came on an amendment by Rep. Mary Bono (R-CA) to the House farm bill (H.R. 2646). A broader measure, covering meat as well as produce, was

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2001 Legislative Wrap-up
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added to the Senate farm bill (S. 1731) in committee on an amendment by Sen. Paul Wellstone (D-MN). CFA supports country-of-origin labeling in order to allow consumers to make an informed choice between U.S. and imported products. Although the House completed work on its bill, the Senate failed three times to invoke cloture and recessed before passing final legislation. Democratic leaders in the Senate have pledged to take up the farm bill again early in the 2002 session.

Dairy Compact – Also during its farm bill deliberations, the House rejected 224-194 a major expansion of the anti-consumer "dairy compact" concept imposed in New England in mid-1997. With the Northeast compact expiring September 30, Rep. Bernard Sanders (I-VT) offered an amendment to replace it with an expanded program that would have included any state, except Hawaii or Alaska, that chose to participate. CFA estimated that, had such a program been in effect in 2000, it would have raised milk prices an average of 23 cents per gallon, assuming a full pass-through of costs to consumers by processors and retailers. The Senate Agriculture Committee considered a similar program, but rejected it in favor of a new, taxpayer-paid dairy subsidy costing $2 billion a year. CFA did not take a position on the Senate plan which, while paid for progressively through tax dollars, was not adequately targeted to small farms. Because the dairy compact provision was being used as a bargaining chip in efforts to win Republican votes for cloture, it was unclear what approach the Senate will take when it returns to its deliberations in 2002.

Sugar Subsidy – Both the House and Senate rejected by wide margins amendments to the farm bill to reform the federal sugar program, which the General Accounting Office estimates costs consumers as much as $1.9 billion annually in higher food costs. Instead of reforming the program, the House voted to reimpose federal limits on how much sugar can legally be grown and sold.

Mandatory Arbitration – The Senate approved an amendment to the farm bill to ban clauses in livestock or poultry contracts that would make mandatory pre-dispute binding arbitration the only option for resolving a dispute over the contract. Binding arbitration is costly to producers and unfairly limits their ability to resolve contract disputes with packers. The amendment guarantees producers a choice in deciding how to resolve contract disputes and preserves a producer's access to court.

Health Care

Patients' Bill of Rights – After years of being stymied by Republican opposition, Sen. McCain and Sen. Edward Kennedy (D-MA) finally succeeded in forcing consideration of their bipartisan patients' rights bill (S. 1052), which passed on a 59-36 vote. In the House, however, Republican leaders working with the White House managed to split off one of the Republican co-sponsors, Rep. Charlie Norwood (R-GA), of the bipartisan House bill (H.R. 2563) in order to water down its protections before passage. Both the House and Senate bills contain a number of new protections, such as guaranteed access to specialists and to emergency room care and the right to appeal health plans' decisions to deny coverage or treatment. The Senate bill contains stronger protections for consumers who sue their health plans, and it does not include anti-consumer provisions added to the House bill that would lift current restrictions on medical savings accounts. Although no conference committee was convened, negotiations continued throughout the year between sponsors and the White House. Shortly after the beginning of this year, Sen. Daschle indicated that a deal could be near and that he planned to call a conference soon after Congress returns at the end of January.

Pediatric Exclusivity – Congress cleared and the president signed legislation (S. 838, S. 1789, H.R. 2887, H.R. 3452, P.L. 107-109) designed to extend the law to promote the testing of medicines for use on children. That law, which was due to expire at the end of the year, grants a six-month patent extension to manufacturers as an incentive to test their products on children. Because of inadequate restrictions in the law, it has been used to delay the introduction of more affordable generic alternatives for some important and widely used drugs. Unfortunately, Congress failed to fix these short-comings before renewing the legislation.

Prescription Drug Benefits – With the burdens imposed by the high cost of prescription drugs having been a major issue in the presidential campaign, members were quick to introduce bills to expand Medicare prescription drug coverage (S. 358, S. 357, S. 1135). However strong disagreements over how to structure such a benefit continued to impede progress. Once projected budget surpluses were replaced by projected deficits, the prospects for passage of a costly new benefit in this Congress all but disappeared.

Energy

Energy Plan – Prompted by the previous year's rapidly rising prices for electricity in California and elsewhere, gasoline at the pump, and natural gas at the wellhead, energy policy was a major focus of the 2001 legislative session. The administration introduced a "comprehensive" energy plan at the start of the legislative session that formed the basis for legislation (H.R. 4) that passed the House in August. However, that legislation failed to address the key causes of the energy crisis, and instead focused almost exclusively on increasing drilling for oil. During its consideration, the House defeated efforts to add some balance to the bill by increasing Corporate Average Fuel Efficiency standards and by imposing a temporary price cap on wholesale electricity prices in the Western states. Although the Senate Energy and Natural Resources Committee held a mark-up session in August on its bill (S. 597), when it became clear that Republicans had enough votes to include a provision to allow drilling in the Alaska National Wildlife Refuge, Senate Majority Leader Daschle delayed further consideration of the bill. Democrats introduced a revised bill (S. 1766) in December that, in addition to prohibiting drilling in ANWR, also focused more on renewable energy and conservation than did the House bill. However, it also included anti-consumer provisions on electricity deregulation omitted from the House bill as too divisive. Sen. Daschle promised to allow consideration of the bill early in the 2002 session. However, Democrats have threatened to filibuster the bill if Republicans succeed in adding an ANWR drilling provision.

California Electricity Crisis – Meanwhile, legislation specifically targeted at the California electricity crisis (H.R. 1647, S. 764) went nowhere. The House bill was pulled by Republican leaders of the Energy and Commerce Committee rather than risk the addition of price caps for wholesale electricity in Western states. Senate sponsors, Sen. Dianne Feinstein (D-CA) and Sen. Gordon Smith (R-OR) pulled their bill after the Federal Energy Regulatory Commission (FERC) finally acted to impose price caps.

Air Conditioner Efficiency Standards – During its mark-up of energy policy legislation, the House Energy and Air Quality Subcommittee defeated an amendment by Rep. Edward Markey (D-MA) to reinstate Clinton administration efficiency standards for air conditioners that were rolled back by the Bush administration.

Telecommunications

Broadband – Rep. Billy Tauzin (R-LA) and Rep. John Dingell (D-MI) introduced anti-consumer legislation (H.R. 1542) to allow the Baby Bell telephone companies into the broadband Internet business without first having to open their local networks to competition. CFA opposed the bill on the grounds that it would remove one of best incentives Bells have to open up local networks to competition and retard the development of competition in broadband by denying competitors essential access to existing local phone networks. The bill passed the House Energy and Commerce Committee in May, but was amended and unfavorably reported by the House Judiciary Committee in June. Although the bill had been scheduled for a floor vote at the end of the session, at the last minute Republican leaders cancelled the vote and deferred action until at least next March. Prospects for the bill are uncertain in light of disagreements in the House over certain key provisions and the adamant opposition of Senate Commerce Committee Chairman Fritz Hollings (D-SC). Sen. Hollings introduced his own legislation (S. 1364) that would, among other things, require the Bell companies to split their wholesale and retail operations into separate divisions.

Anti-spam – The House Judiciary Committee reported out a weak bill (H.R. 718) in June to protect consumers against unsolicited commercial email. A similar Senate bill (S. 630) had been scheduled for mark-up in May but was sidelined after Democrats took control of the Senate. Consumer advocates criticized the bills for failing to include two key features of effective legislation: an opt-in policy and a private right of action.

Transportation

Airline Bailout – Within weeks of the September 11 terrorist attack, Congress passed and the president signed legislation (H.R. 2926, P.L. 107-42) to bail out the airlines. The bill provided $5 billion in direct aid to airlines, to be allocated according to each airline's passenger count and mileage, and up to $10 billion in loan guarantees. CFA supported a limited infusion of cash to compensate airlines for losses related to the week-long shutdown of air travel and to keep the airline industry afloat during the period of national emergency. However, it criticized the legislation passed by Congress for providing more taxpayer funding than was warranted by the immediate crisis and for doing too little to resolve structural problems that had mired the airlines in serious financial trouble before the attack.

Airline Competition – Efforts to enhance competition in the airline industry received attention early in the legislative session, but faded into the background after the terrorist attack. In March, the Senate Commerce Committee ordered a bill (S. 415) to be reported. Sponsored by Sen. Hollings and Sen. McCain, the bill is designed to help crack open the dominance of major airlines at hub airports and give competitors better access to essential facilities. The bill was approved in committee on a 12-10 vote, after a provision giving the transportation secretary enhanced authority to review mergers of large airlines was eliminated. The committee also approved passenger rights legislation (S. 319) to address chronic flight delays and cancellations and poor service. In an at least temporarily successful effort to derail the legislation, the airlines came out with a voluntary plan to reduce delays and cancellations and to better track lost luggage.

Government Accountability

Campaign Finance Reform – After years of succumbing to Republican opposition, bipartisan campaign finance reform legislation (H.R. 27) introduced by Sen. McCain and Sen. Russell Feingold (D-WI) finally won floor consideration in March. Weeks of debate and numerous attempts to kill the bill through amendment ended in early April, when the bill passed with its key protections largely intact. The bill would ban soft money contributions to national parties and would limit the airing of "issue ads" by outside parties close to Election Day. In return for the ban on soft money, supporters accepted an increase in the limit on direct-to-candidate contributions from $1,000 per candidate per election to $2,000. Rep. Martin Meehan (D-MA) and Rep. Christopher Shays (R-CT), sponsors of the key bipartisan House bill (H.R. 2356), responded to Senate passage by developing a package of changes to make their bill match the Senate-passed bill and thus avoid a conference. Those efforts were stymied, however, when Republican leaders used the rules process to try to force separate votes on each of the proposed changes. Opposed by bill sponsors on the grounds that it would complicate already difficult passage of the bill, the rule failed, and the bill was not brought to the floor for a vote. Supporters of the House bill then launched a discharge petition and had reportedly collected all but four of the 218 votes needed to force a vote by the time Congress recessed for the year.

Budget
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lion of the funding is to come from a gun lock giveaway program of the industry trade group, the National Shooting Sports Foundation, which had to recall about 400,000 gun locks in 2001 because of safety concerns. The conference report specifies that no funds can be used to purchase locks until national standards for the locks are established or interim standards are identified, but it is not clear whether this refers specifically to safety standards or simply design standards.

Consumer Agencies Gain Modest Budget Increases

In a year that started with debates over how best to spend projected budget surpluses and ended with predictions of returning red ink, most consumer agencies nonetheless emerged from the appropriations process with budgets that closely resembled those requested by the Bush administration.

Notable exceptions were food and water safety, which received slightly more substantial funding increases than originally proposed to address the risks of biological and chemical attack, and antitrust enforcement, which, because of decreased merger activity, got significantly less than the dramatic increase originally proposed by the administration.

"Because of the war and the recession, the good old days of budget surpluses are over," said CFA Legislative Director Travis Plunkett. "As we enter a new era of austerity, it will be important that the president not compromise funding for crucial consumer needs, such as the FDA's ever-growing health and safety responsibilities."

Food Safety – The September terrorist attack and subsequent anthrax scare gave heightened attention to concerns about food and drinking water safety.

Although Congress did not complete work on its bioterrorism legislation, it did go along with the Bush administration request to boost the food safety budget at the Food and Drug Administration (FDA) and, to a lesser extent, the Food Safety and Inspection Service (FSIS) at the U.S. Department of Agriculture (USDA).

The largest increase was included in the Department of Defense appropriations act. USDA received a total of $313 million in that bill, most of which is appropriated for protecting animal safety and USDA facilities. However, FSIS also got $15 million for stepped up inspections.

FDA received $151 million in the defense funding bill to help develop a list of toxins that pose a severe threat to public health and to maintain a national database of locations of toxins.

These increases were transfers from the emergency supplemental act that passed immediately after the September 11 attacks. They came on top of increases approved earlier for FDA and USDA in the aggriculture approppropriations bill.

In that bill, food safety spending at FDA was increased by roughly 16 percent, to $345 million. That includes $15 million to protect against bovine spongiform encephalopathy, $10.3 to prevent substandard food and health-care products from reaching the U.S. market, and $9.4 million to reduce the incidence of foodborne illness.

In the latter area, the FDA plans to use increased funding to expand the Food Safety Initiative beyond microbiological contaminants to also cover chemical and physical food hazards.

Congress also appropriated $715.6 million for the Food Safety and Inspection Service at USDA, which was consistent with the Bush administration request and which should allow a slight increase in the number of inspectors to 7,600.

"The Bush administration requests for increased funding were driven in the beginning by fear of BSE," said Carol Tucker Foreman, Director of CFA's Food Policy Institute. "In the end, Congress cooperated because of fears of bioterrorism."

Drinking Water Safety – The emergency supplemental bill also included $80 million to help water systems conduct vulnerability assessments.

In addition, Congress was slightly more generous than the Bush administration request in funding drinking water programs. Most notably, it provided $850 million for the Drinking Water State Revolving Fund, which the administration proposed to freeze at $823 million.

Energy Assistance – Another area that received a funding boost from Congress was low income energy assistance. Congress provided $1.7 billion for the Low Income Home Energy Assistance Program (LIHEAP) in FY 2002, significantly more than the Bush administration request of $1.4 billion.

Congress also provided $300 million in emergency contingency funds, as requested by the administration, which will be added to $300 million in contingency funds that were provided in FY 2001 and will carry over to FY 2002.

Antitrust Enforcement – The antitrust division of the Department of Justice (DOJ) had been singled out for a 17 percent increase in the Bush budget, to $140.97 million, which would have been enough to hire an additional 113 staffers in the area of civil merger enforcement.

Congress, however, provided only half of the originally proposed increase, which should be enough for a limited program increase.

The reason is that DOJ's antitrust division and antitrust activities at the Federal Trade Commission (FTC) are dependent for their funding on Hart-Scott-Rodino pre-merger filing fees. By the time appropriators got around to setting budget levels, filing fees were down, and the antitrust division's budget with them.

As a result, until the filing fees come through, the agency is setting aside that portion of the funding increase that would allow it to hire additional staff.

Consumer Product Safety Commission received $55.2 million in funding, just enough to allow the agency to maintain existing staffing and operations and about $1 million more than requested by the administration.

FDA Drug and Medical Device Safety got nearly all of the increased funding requested in the Bush budget, including $10 million in new funding for post-marketing surveillance of drugs, biologics, and medical device safety, $10 million in new funding for FDA oversight of clinical trial human subjects and research data, and $10.1 of the $17.3 million requested in added funding for new "infrastructure" improvements.

Securities and Exchange Commission received only the $437.9 million requested by the administration, although the Senate approved more, which will likely require a staffing decrease for the already overtaxed agency.

Federal Trade Commission received just under $156 million, or very slightly less than Bush requested. It is expected, however, that the funding level will be enough to sustain the current staffing level of 1,074 full time equivalents.

Project ChildSafe received $50 million in funding, $25 million less than President Bush requested, to make gun locks available for all handguns. $12 mil-

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NAIC Offers Web Access To Complaint Data

In a move long advocated by CFA, the National Association of Insurance Commissioners (NAIC) has begun making state-by-state, company-specific data on consumer insurance complaints available on its website.

"For the first time, consumers in all states have available an important measure of insurer quality of service," said CFA Director of Insurance J. Robert Hunter. "These complaint data complement information on insurer rates that most consumers can obtain from their state insurance department." Together these two types of information – on rates and complaints – provide valuable information for consumers to use in selecting an insurer, he said.

The complaint data on the NAIC website is listed not only by state, but also by type of insurance (e.g., auto, homeowner, life) and by cause of complaint. Moreover, it is presented in an easy-to-understand format, with a visual gauge – like a car's gas gauge – showing how one insurer measures up to all others.

"The NAIC obviously took great care to ensure that consumers could understand and feel comfortable searching for information," Hunter said. "We commend all the commissioners, especially Kansas Commissioner Kathleen Sebelius and Montana Commissioner John Morrison, for their efforts to make the complaint information available in a consumer-friendly fashion."

The website also makes it possible for consumers to file complaints against insurance companies and agents in one spot. "This service will make is much easier to inform consumers about how to file such complaints," Hunter said.

CFA has traditionally urged government agencies to make consumer information available using several sources. However, now that nearly two-thirds of all adult Americans say that they have easy access to the Internet for personal use, government websites have become the most important method governments can use to disseminate information. Consumers who do not have access to an on-line computer at home or work can find one available at most public libraries.

The complaint information is made available on the NAIC's website at www.naic.org/servlet/cis.Main. Consumers looking for this information can either enter that web address or go to the NAIC website and click on Consumer Information Source. That will call up the CIS page which provides information on closed consumer complaints and other company information and allows consumers to file a complaint against any company.

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