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House Passes Strong S&L Bailout Plan

Conference Committee Begins Resolving House-Senate Differences

Surprising most observers, the House voted overwhelmingly June 15 to turn aside numerous weakening amendments and pass a strong bill to bail out and clean up the savings and loan industry.

The 320–97 vote came after a long day of balloting on amendments to the bill, during which consumers won time after time on the issues they had targeted involving safety, soundness and public service of the thrift industry.

"This was an incredible victory for the American public," said CFA Legislative Representative Peggy Miller. "We owe it to the press, the grassroots groups, and a handful of congressmen who never allowed Congress to forget the tremendous price we are paying for the regulatory laxity of recent years."

Hyde Amendment Defeated

The first sign that something unusual was going on came when an amendment offered by Rep. Henry J. Hyde (R–IL) to relax the capital standards by weakening the "good will" provisions went down to resounding defeat, 94–326. Speculation in the days preceding the vote was that the amendment might pass and, at best, would be narrowly defeated.

"This vote was key to preserving the safety of the thrift system and to ensuring that the public won't be asked to shell out another $300 billion a few years down the road," Miller said.

Banking Chairman Henry B. Gonzalez (D–TX) also defied conventional wisdom, which warned that he would not be able to hold onto both strong capital standards and his low income housing program. Rep. Gonzalez, who refused to compromise on either, won on both.

Other winners included Rep. Jim Leach (R–IA) and Rep. Joseph P. Kennedy II (D–MA). Rep. Leach's motion to strike special interest provisions was agreed to by a 412–7 vote, reportedly stunning Leach, whose request to offer an amendment on the issue had been refused by the Rules Committee.

Rep. Kennedy's amendment to require disclosure of community reinvestment ratings and evaluations as well as disclosure of home mortage lending patterns was passed on the floor, after having been defeated in the Banking Committee. This victory was in part due to the surprising support of Rep. Robert Walker (R–PA), who personally lined up Republican votes for CRA on the House floor.

The House sided with Rep. Byron L. Dorgan (D–ND) to ban junk bond investments by thrifts, with Rep. Frank Annunzio (D–IL) to strengthen civil penalties, and with Rep. Charles E. Schumer (D–NY) to restrain the new agency responsible for insolvent thrifts from continuing to fund bailout costs without permission from Congress. CFA had targeted all of these amendments as in the consumer interest.

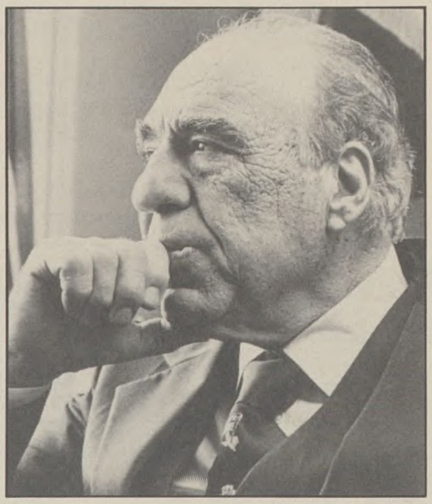
"When we began this process, everyone was wondering what kind of chairman Rep. Gonzalez would be and whether he would have what it takes to fight the special interests and get a strong bill passed," Miller said. "The way he has shepherded this bill through committee and floor debate answers that question clearly. He is strong, and he is determined."

Conference Committee Begins Deliberations

Rep. Gonzalez faced a new challenge as conference committee sessions began in mid-July to resolve differences between Senate and House versions of the legislation.

As this issue of *CFAnews* went to press, the conference committee was still battling over the final form the legislation will take, and Miller said it was impossible to guess just what the committee would decide to do.

Some early signs were good, she said, citing the decision by the Senate representatives in its first presentation to the conference to piece together the strongest elements of the two bills on capital standards, coming up with a compromise that is stronger than either the House or Senate bill in this area.



Banking Chairman Henry B. Gonzalez (D–TX) shepherded a strong bill through the House.

Early signs also indicated that a compromise might be reached forcing the reconfirmation of Danny Wall, current Chairman of the Federal Home Loan Bank Board, who was responsible for the infamous "December deals" trading billions of thrift assets to private investors in a tax rip-off scheme, and for the decision to keep Lincoln Savings and Loan open until it declared bankruptcy. Led by Wall's former boss, Sen. Jake Garn (R–UT), the Senate pushed to have Wall retain his position without judgement.

"Wall has effectively cost the taxpayer billions of dollars and has made his major decisions while refusing to keep the chairmen of the banking committees apprised. He operated outside the system, and his judgements were poor. He should undergo a Senate reconfirmation process at minimum," Miller said.

Not all the signs were so positive, however. Early Senate proposals continued to be much weaker than the House bill on the public purpose provisions related to housing and lending practice disclosure and on junk bond investments and also contained weaker language on subsidiaries than the bill passed on the Senate floor.

Still, Miller was cautiously optimistic. "Between them, the House and Senate have sent legislation to conference that can be patched together to provide an excellent final bill that addresses the gravest S&L safety, soundness and public service problems," Miller said. "It is critically important that they do so if the threat of a repetition of this crisis is to be removed. We are still watching."

NEWS UPDATE

On Wednesday, August 9, President George Bush signed into law strong legislation to bail out and reform the savings and loan industry. Details of the compromise reached in conference committee and passed by Congress in a midnight session Friday, August 4 will be reported in the September-October issue of *CFAnews*.

Groups Seek Bike Helmet Safety Standard

CFA has joined with 34 other major health, education, and safety organizations in petitioning the Consumer Product Safety Commission to set a standard for bicycle helmets and in recommending that children and adults always wear their helmets when riding bicycles.

The petition by members of the SAFE KIDS Campaign asks CPSC to establish a uniform bicycle helmet standard that manufacturers would be required to meet in order to assure that helmets protect against head injury. While there are currently two voluntary standards for bicycle helmets (ANSI and Snell), the petitioners are concerned that compliance is not mandatory and that there are differences in the requirements of the two standards.

"We believe it is essential that all helmets be required to meet safety requirements before being sold," said CFA Product Safety Director Mary Ellen Fise, author of the petition. "A rulemaking on bike helmets can resolve all pending questions and assure that consumers get a helmet that provides protection.

"In the meantime, we strongly recommend that consumers purchase bike helmets that meet the ANSI or Snell standard, and that they wear the helmet on each and every ride," she said.

Each year more than 500,000 persons are injured seriously enough to require hospital emergency room treatment in bicycle-related accidents. Seventy percent of those injured are children.

Approximately 1,000 persons die annually as a result of accidents on bikes, with more than 75 percent of these deaths involving serious head injuries. Roughly 116,000 children suffer head injuries annually.

Studies indicate that if bike helmets were worn, a majority of these head injuries could be prevented.

"Helmet use is one of the most important safety lessons parents can teach their children," Fise said. "From the time children begin riding their first bike, they are extremely vulnerable to head injury. Use of a bike helmet can mean the difference between a happy, fun childhood and one that is irretrievably altered because of severe brain injury from a bicycle crash.."

Congress Revives Consumer Banking Reforms

Consumer banking reforms that died last session along with legislation to expand bank powers are once again receiving attention in both houses of Congress, though further action on these issues is expected to wait until after passage of the savings and loan bailout bill.

Among the issues receiving legislative attention are truth-in-savings, basic banking, government check-cashing, community reinvestment reform, and home mortgage loan disclosures.

Truth-in-Savings Clears House Hurdle

Rep. Richard H. Lehman (D–CA) is driving the consumer banking issues in the House, where his truth-in-savings bill, H.R. 736, has been passed out of the Consumer Affairs Subcommittee, which he chairs. Full committee markup of the bill—which is designed to provide savers with clearer and more complete information up front about accounts at banks, savings and loans, and credit unions—is expected sometime after Labor Day.

Rep. Lehman has said he also plans to hold hearings and markup on additional consumer banking legislation, including basic banking and government check-cashing, this fall.

Similar to legislation passed by both houses last session, H.R. 736 would require advertisements and other solicitations to savers to clearly state the annual percentage yield on accounts, minimum balances and the length of time needed for deposits to earn the promised yield, as well as information on fees and other conditions associated with the accounts.

Depository institutions would be required to maintain and to make available to all depositors a full schedule of interest rates, fees, and conditions on all accounts. Furthermore, depositors would be guaranteed 30 days' advance notice of changes that would have an adverse effect on them.

Depositors could sue for damages either individually or as a class if these requirements were not met. As a result of an amendment offered by Reps. Ben Erdreich (D–AL) and John Hiler (R–IN), however, this section of the bill was severely narrowed to include only customers who had actually opened accounts with the offending institution, and not those who had spent time and money investigating banks only to decide at the last minute that they were not getting a good deal.

"This amendment is a sham," said CFA Legislative Representative Peggy Miller. "If this provision stays in the bill, people who are misled but never open an account would have no recourse."

Sen. Christopher Dodd (D–CT) has introduced similar truth-in-savings legislation in the Senate, S. 307, which goes further than the House bill in requiring that all accounts earn interest compounded daily to make it easier for consumers to comparison shop and by extending the provisions of the bill to cover mutual funds as well. No action has yet been scheduled on the Senate bill.

CFA's Peggy Miller and AARP member Bob Sell testified in support of Sen. Metzenbaum's consumer banking legislation in June.

Hearing Held on Senate Bills

Sen. Howard Metzenbaum has introduced a comprehensive package of four bills dealing with basic banking, government check-cashing, community reinvestment reform, and home mortgage loan disclosure.

At a hearing on the bills in June before the Banking Committee's Consumer and Regulatory Affairs Subcommittee, Miller urged subcommittee support for the bills, citing five reasons why banks should be required to offer such services and to disclose lending information: to balance deregulation policies with "programs that address the needs of those consumers who have been forgotten in the current competitive conditions;" the "crying need" for creative community investment in housing and small business lending; continued complaints of price gouging at check-cashing outlets, while only 25 percent of banks offer low cost check-cashing and checking accounts; the benefit to the entire economy that would result from a surge in community lending; and the responsibility of federally insured depository institutions to serve all the public, "not just their major shareholders."

"I realize that the banking and thrift industries do not believe they should be considered 'public utilities,'" Miller said. "Banking lobbyists have often stated that the banking industry is a private enterprise and should not be looked on as having to fill any given public purpose.

"Such an assumption made in the face of the astronomical costs to the public of the S&L bailout is indefensible," she continued. "The risk with federally insured banks and thrifts is clearly and ultimately borne by the taxpayer and banking consumer, and the industry therefore. . .clearly has responsibilities towards its backers—the public."

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Budget Bill Limits Physician Self-Dealing

Legislation to limit physician self-dealing in the ordering of laboratory tests and other ancillary medical services has moved a step closer to passage through inclusion in FY '90 budget reconciliation legislation.

In July, the House Ways and Means Committee voted to include a compromise version of the bill, sponsored by Rep. Pete Stark (D–CA), as part of its reconciliation package. Ways and Means is one of 10 House committees instructed to come up with a total of $13.5 billion in spending cuts and revenue hikes as part of the reconciliation bill.

The physician self-dealing measure is included as a means of reducing escalating Medicare costs by reducing over-utilization of ancillary services. Recent studies have shown that clinical laboratories, x-ray facilities, and other such operations owned by referring physicians performed more services and charged more for those services than facilities not owned by referring physicians, thus driving up Medicare costs as well as increasing bills for individual consumers.

Under the proposal approved by Ways and Means, existing physician-owned facilities would be allowed to continue but would be subject to increased reporting to the Inspector General, would be prohibited from adding additional physician-owners, and would be forced to disclose the ownership interests of their doctors to patients.

New physician-owned facilities would have to be structured in such a way as to remove all financial incentive for abuse, and partnerships would have to be open to the general public. Furthermore, in order to win approval from the Department of Health and Human Services, a new facility owned entirely by physicians would have to prove it would significantly increase access to services or convenience or significantly decrease costs.

"We are extremely pleased to have gotten this into the full committee bill," said CFA Research Director Mark Cooper. "This will allow Congress to make substantial Medicare savings by reducing the over-utilization of services that results from physician self-dealing. We will be working on getting a somewhat stronger version of the bill passed in the Senate."

The House has set itself a goal of passing all 13 appropriations bills plus the reconciliation bill by the August recess, but at press time members were uncertain whether this goal would be met. If not, the various budget bills, including the reconciliation bill, are likely to receive immediate attention when Congress reconvenes in September.

USDA Withdraws Plan To Cut Meat Inspections

In response to an outpouring of public opposition, the U.S. Department of Agriculture has withdrawn its proposal to reduce federal inspection at meat and poultry processing plants.

A coalition of health, labor, and consumer groups, including CFA, filed comments in February asking that the USDA withdraw the proposal, which would have done away with daily inspections at many of the beef and poultry processing plants, reduced the number of federal inspectors, and turned their monitoring responsibilities over to plant employees.

The USDA received nearly 1,800 comments from consumer and industry groups opposing the plan.

Ellen Haas, Executive Director of Public Voice for Food and Health Policy, hailed

the decision to withdraw the proposal as a victory for consumers. "The plan was poorly conceived and did not reflect the consumer's interest in safe and healthful meat," she said. "USDA's decision to withdraw its proposal presents an opportunity for all sides to work together on improving inspection methods while restoring consumer confidence in our meat supply."

Environmental Concerns Drive Energy Policy

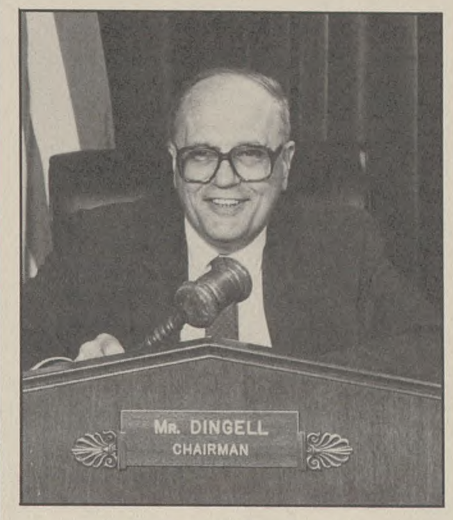
Discussions at CFA's May energy conference, "Toward a Consumer Energy Agenda for the 1990s: A Consensus-Building Conference," centered around the inseparable tie between energy and environmental policy.

"If it has not been clear already to the most casual observer, recent events have made explicit the link between energy and environmental policy," Rep. John D. Dingell said in his keynote speech. Dingell, who is Chairman of the House Energy and Commerce Committee, said that, in particular, "global warming considerations are beginning to pervade all aspects of energy policy."

Out of numerous congressional hearings on the issue, a few truths have emerged, he said. Among them: that the physical phenomenon of CO_2 and trace gas heat absorption is real, that emissions of these gases and their total atmospheric levels are rising and will continue to rise, and that the problems and solutions are global in scope. The timing and extent of the problem, however, are unknown, he said, as are the economic and social effects of global warming, and the costs and benefits of policy responses.

National Policy Needed

"As a result of these findings, I believe that the most reasonable course of action is for the administration to undertake a rational, consensus-building process of policy development and analysis," Rep. Dingell said. And, while he praised the president for moving forward on an international global warming convention,



Rep. John D. Dingell (D–MI) said energy and environmental issues are inseparably linked.

he criticized the administration's slow pace in evaluating domestic policy options.

Dingell called on the Department of Energy to establish "a dual track process to better understand the timing and extent of the global warming problem while at the same time re-evaluating and reformulating national energy policy taking into account global warming."

"Even though the science on the size and extent of the problem is mixed, good public policy demands that we begin the process now," he said.

In a session on "Consumer Energy Concerns in the 1990s," Edward Byers, Vice President and Senior Analyst for Cambridge Reports, Inc., said that the polls confirm Rep. Dingell's contention that the public sees energy and environmental issues as inseparable. "Consumers are increasingly concerned with the environmental cost of energy development," he said. "Energy issues have in fact become environmental issues. We have seen a shift from efficient supply to protecting the environment as the top priority when developing new resources.

In general, however, Americans do not see energy as a critical issue right now, he said, although "underlying that complacency is a concern about the future."

Speaking in the same session, CFA Research Director Mark Cooper said that combination of complacency about the present and concern for the future is the outgrowth of recent "calm" in utility rates combined with concern about excess consumption, environmental problems, our increasing dependence on foreign oil, and a shortfall of production.

Are Consumers Willing to Pay the Price?

While Byers said consumers appear to be willing to pay the price of protecting the environment, Cooper was skeptical. "The hard-core consumer remains relatively unconvinced by the contradictory set of proposals," all of which are painful, he said. The prospect of "vulnerability tomorrow" is not matched by a "willingness to suffer today. If energy producers or environmentalists or consumer advocates intend to advance a policy agenda, they must come to grips with that hard-core consumer attitude," he warned.

Alan Miller, Executive Director of the Center for Global Change, said that the magnitude of the greenhouse and global warming problems demand immediate, global solutions. Miller proposed a specific agenda dealing with energy efficiency, fuel switching, global deforestation, chlorofluorocarbons, and methane emissions.

In contrast to Miller's specific agenda, Robert W. Fri, President of Resources for the Future, outlined "principles of workability." Fri said it is the responsibility of government to make the public aware of the seriousness of energy problems, but he warned that government should "stay out of the details, because it usually gets them wrong." Instead, he said, consumers should be allowed to decide between the best available options.

It is also important that we not treat our energy problems as a crisis, he warned, "because they can't be solved and put behind us. . . .These are problems that have to be handled over the long haul, and if we treat it as a crisis, we will probably make things worse."

The conference, which combined presentations by experts with discussions by participants, also included sessions on new energy technologies, supply-side issues, the potential for end-use efficiency, and meeting low income energy needs. As an outgrowth of workshop discussions, a position paper outlining areas of concensus is being prepared for presentation this fall to the Secretary of Energy.

CPSC Reauthorization Bills Advance

Bills to reauthorize and reform the Consumer Product Safety Commission have advanced in both houses of Congress.

As this issue of *CFAnews* went to press, the Senate bill, S. 605, was awaiting floor action, having been unanimously approved by the Senate Commerce Committee. Although a vote before the August recess was considered possible, it had not been scheduled at press time.

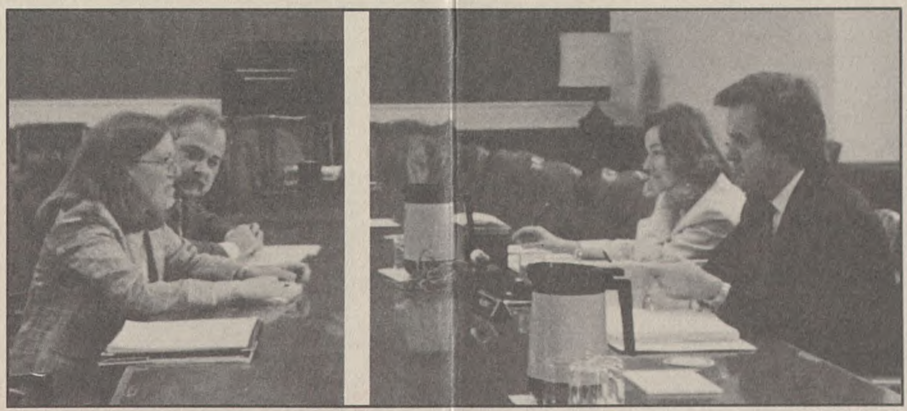
The House bill is awaiting full committee markup, but, as in the Senate, it was uncertain at press time whether that would occur before or after the August recess.

Both bills contain provisions to improve the commission's rulemaking procedures, increase reporting burdens for manufacturers of unsafe products, strengthen penalties for violations, and clarify when the agency may defer to voluntary standards. The House bill goes further in increasing the enforcement capabilities of state authorities and improving procedures for disclosure of information on unsafe products.

"We are anxious to see these bills become law and finally put an end to the CPSC's foot-dragging on consumer protection issues," said CFA Product Safety Director Mary Ellen Fise.

Bigger CPSC Budget Sought

Fighting on another front for a more active CPSC, Fise testified in May before a Senate appropriations subcommittee, requesting an additional $5 million for the CPSC FY 1990 budget beyond that



CFA's Mary Ellen Fise and Sen. Bob Kerrey (D–NE) discuss the CPSC budget appropriation at a subcommittee hearing in May.

requested by the Office of Management and Budget plus subsequent increases of $5 million for several years thereafter.

"It would be an understatement to simply say that CPSC needs more money," Fise said. "CFA believes that Congress must unlock the fiscal handcuffs that have been placed on this agency and begin to restore resources to the commission so that it can adequately perform its statutory responsibility."

Under its current budget, the commission is unable to adequately train employees, must often wait years after identifying a new hazard to analyze data and remedies to address that hazard, and can take as long as four years or more to complete a rulemaking process.

The $33.479 million sought for CPSC by the OMB "is woefully inadequate, and consumers will suffer as a result," Fise said. "An appropriation of this amount will affect the agency in two major ways: the number of safety issues and the speed and thoroughness with which they are addressed will be severely compromised; and the ability of the agency to function on a day-to-day basis will be unduly jeopardized."

The budget should be increased $5 million a year until the agency's budget has reached at least $50 million, "the level it should have been in 1983 had the agency's budget merely kept pace with inflation," Fise said.

"These relatively small increments are a worthy investment in our country's health and safety. Because of the extremely high costs associated with consumer deaths and injury, the return on the government's dollar will be substantial," she concluded.

In the House, the appropriations committee has recommended a $35.5 million budget for the agency. Although Senate figures were not yet available at press time, the Senate appropriation was expected to be slightly larger.

CPSC Priorities

Earlier in May, Fise also testified before the CPSC on setting priority projects for FY 1991. Because resources are likely to be severely limited, and because "priority projects, above all other projects at the agency, should be fully funded," CFA supports designation of those issues currently the subject of rulemaking as priority projects, Fise said. These include: all terrain vehicles, cigarette lighters, small parts in children's toys, and poison prevention packaging protocol revisions.

Other issues Fise highlighted as deserving CPSC attention include: methylene chloride, bicycle safety, crib toys, formaldehyde, hair dryers, cribs, and child drownings.

She said that priorities are less important than the agency's general approach to product safety, however. "Of greater concern is not what the priority projects are, but how good is the commission's track record; how well do you live up to your congressional mandate?" In order to improve that track record, CFA believes the CPSC should give more intense scrutiny to its use of voluntary standards, Fise said.

State Insurance Standards Proposed

To provide greater consumer protection, a national model of minimum standards for state insurance departments has been released jointly by the Consumer Insurance Interest Group (CIIG) and the National Association of Professional Insurance Agents (PIA).

"Despite the best of intentions, many insurance departments cannot cope with mounting problems ranging from insolvencies to rising consumer complaints to escalating auto insurance rates," said Stephen Brobeck, CFA Executive Diretor and CIIG member. "PIA and CIIG have developed model standards to help these departments deal more effectively with such problems."

Minimum standards proposed by the two groups include:

Complaint Resolution—Adequate complaint data should be maintained for each company by line of business. This data should be supplied to the National Association of Insurance Commissioners (NAIC) by computer on a regular basis so that information can be shared with state insurance departments to pinpoint problems.

Consumer Information—Insurance departments should provide readily accessible price information for auto insurance.

Consumer Input—An independent consumer advocate or consumer council should be established to ensure consumer input to insurance department decision-making.

CFA's Stephen Brobeck (left), CIIG Chairman Esther Peterson and PIA National President David Ream present a comprehensive blueprint to improve state insurance regulation at a June news conference.

Department Funding—Most insurance departments would function more effectively if they received at least ten percent of the premium taxes insurers pay annually to states in which they operate. Because a large percentage of those taxes are used for other purposes in each state, many insurance departments lack adequate funds to perform their responsibilities and protect insurance consumers, according to an earlier CIIG-PIA National study.

Department Staffing—Insurance commissioners should be prohibited from entering the employment of insurance companies for one year after leaving their insurance department positions to avoid the appearance of impropriety. In addition, training for state regulators and their staffs should be ongoing and sponsored by NAIC or designated educational institutions.

Market Conduct Oversight—Insurance departments should establish specifications for the time period in which claims should be paid. They should maintain complaint ratios by company and line of insurance.

Financial Monitoring—Financial examinations of insurance companies should be conducted on a regular basis to make sure funds are available to pay claims.

"The standards will be sent to each governor and state insurance department, as well as to industry and consumer leaders, with a recommendation that they be adopted," Brobeck said. "We are prepared to work with NAIC on implementing these standards."

State insurance departments currently meeting the standards were complimented by CIIG and PIA National and encouraged to continue their emphasis on protecting consumers. The NAIC also was commended for its efforts to increase the efficiency of state insurance departments.

The standards are based in part on recommendations contained in a study of state insurance department operations conducted by CIIG and PIA National last year. A draft of the standards was reviewed by a number of insurance commissioners, insurance company executives, and consumer leaders. Many of their comments were incorporated into the model standards.

CIIG is an independent consumer advocacy group that seeks opportunities to work cooperatively with the insurance industry to make the insurance marketplace more responsive to consumers' interests. In addition to Brobeck, other CIIG participants include Esther Peterson; Joan Claybrook, President of Public Citizen; and J. Robert Hunter, President of National Insurance Consumer Organization.

FTC Reauthorization Urged

At a June hearing before a Senate Commerce subcommittee, representatives of consumer groups urged the Senate to pass legislation to reauthorize the Federal Trade Commission for three years and increase its funding. In addition, they pressed the committee not to give in to advertising industry pleas for special exemptions and, instead, to direct the agency to strengthen enforcement in this area.

Testifying on behalf of Consumers Union, Consumer Federation of America, National Consumers League, Public Citizen, and U.S. Public Interest Research Group, Mark Silbergeld told the committee that "the FTC's performance over the past few years has been seriously inadequate" because of inadequate resources and poor agency leadership, which he said is characterized by "rigid, ideological application of free market. . .economic theories to virtually every aspect of the agency's work."

The FTC, which has been operating without formal authorization since 1982, has seen its work force decline from 1,700 work years in 1979 to approximately 900 work years at the start of FY 1989. "We believe that this trend is not good for the FTC's performance—and that certainly is not good for the American consumer," said Silbergeld, who is Director of Consumers Union's Washington offices.

He called on the subcommittee to reverse the trend by increasing the appropriation authorization for the FTC for the period of the reauthorization to support an increase in work years of approximately 200 annually, or a total of 600 work years by the end of the reauthorization period.

Silbergeld also called on the subcommittee to use its oversight function and its power of confirmation "to redirect the agency out of the torpor of stodgy, unrealistic ideology imposed on it by recent leadership and back into the reality of protecting consumers and competition."

"Consumer organizations do not, however, support reauthorization at any cost," he warned. "We continue to oppose any special treatment for advertising under the FTC's unfairness rulemaking authority." Bruce Silverglade, Legal Director of the Center for Science in the Public Interest, said such a provision "would make it difficult for the commission to effectively remedy industry-wide advertising practices that threaten the health and safety of consumers."

Silverglade also urged the subcommittee to direct the FTC to work in partnership with states to regulate national advertising and to refocus its efforts on deceptive advertising by large firms instead of squandering resources on "trivial matters."

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