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FCC Urged To Adopt Cable Rate Formula

Consumers would save more than $5 per household each month and $3.5 billion overall annually on their cable bills under a rate formula submitted by CFA to the Federal Communications Commission in January as part of the rulemaking process to implement last year's cable bill.

Furthermore, these figures do not include savings from cost-based pricing of cable installation and equipment, which could increase consumer savings substantially.

In contrast, proposals submitted by the cable industry "ignore fundamental regulatory directives" in the law and, as a result, "would deny consumers virtually all the protections Congress enacted," according to CFA's reply comments filed with the FCC in February.

The 1992 cable bill directed the FCC to develop a formula by April for local franchising authorities to use in regulating rates for a basic tier of cable services. In addition, the FCC is required to determine whether rates for expanded tiers of service are reasonable and to prevent consumer harm as a result of industry evasions of the basic tier rate regulations.

"Congress mandated simple and streamlined regulations to squeeze out monopoly profits, and CFA's global formulaic cost-based rate regulation model meets these requirements," said CFA Legislative Director Gene Kimmelman.

Model Based on Competitive Markets, Historical Trends

The CFA model would calculate average per-channel costs based on industry data from competitive markets and prices from before deregulation, adjusted for inflation, to emulate competitive markets. This formula would then be applied in those communities where there is no effective competition.

"This economic model includes a simple formula based on data from competitive markets and historical price trends that will bring down prices for basic and other tiers of service by almost 30 percent," Kimmelman said.

Congress directed the FCC, where possible, to rely on price comparisons between monopoly cable systems and systems subject to effective competition in devising its rate-regulation formula. Because fewer than one percent of all cable systems are competitive, however, there are few examples on which to base such a comparison.

In the absence of effective competition, the FCC is charged with instituting a system of regulation that relies on a detailed identification and allocation of cost for basic services and a general analysis of cost and other factors for other tiers of service.

Because the industry has never been subject to uniform reporting or accounting requirements, however, it will be a time-consuming task to develop such a system, CFA's comments state.

In the meantime, CFA's proposal recommends that the commission commence with a strategy which relies on a global formulaic cost approach to rate regulation, while it develops its comparative competition and detailed-cost-based methodologies.

"The global formulaic cost approach need only remain in place until the commission is satisfied that it has adequate information to pursue one of the preferred alternatives," Kimmelman said.

"If effective competition proliferates, the

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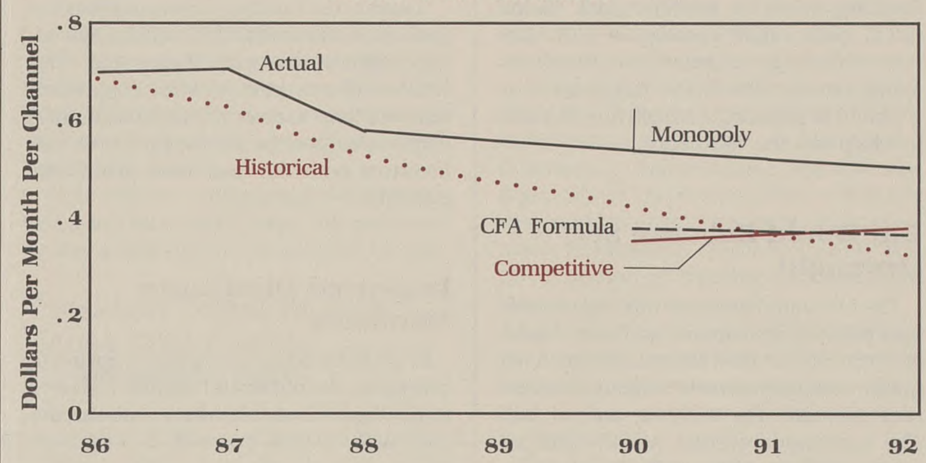
Price Per Channel



Clinical Lab Rules Challenged In Court

The Consumer Federation of America and Public Citizen filed a lawsuit against the Department of Health and Human Services in January challenging the regulations issued by that agency to implement the Clinical Laboratory Improvements Act of 1988.

The lawsuit, filed in the U.S. District Court for the District of Columbia, seeks a declaration that the regulations are unlawful and an order directing HHS to promulgate new regulations in accordance with CLIA '88 and the rulemaking procedures under the Administrative Procedure Act.

In particular, the lawsuit challenges the regulations establishing criteria for the categorization of clinical laboratory tests, the categories and schedules of tests based on those criteria, and the regulation governing proficiency testing of cytologists.

Court Order Sought

It also seeks a court order directing HHS to prepare and publish a list of clinical laboratories sanctioned under federal and state law.

Congress passed the Clinical Laboratory Improvements Act of 1988 in response to widespread public concern over shoddy laboratory procedures which were producing inaccurate results that were literally killing people.

The act requires that all clinical laboratories — except those that perform only very simple tests with an insignificant risk of error — meet standards of quality assurance, including academic and training standards for personnel. It specifically requires the Secretary of HHS to take into consideration the risks to patients from erroneous results in particular tests when establishing the qualifications standards for personnel performing those tests.

CLIA '88 also requires periodic proficiency testing of laboratory personnel, particularly those performing cytology services which are critical to the diagnosis of cancer and other life-threatening diseases. It specifies that this proficiency testing should be performed "under normal working conditions."

HHS also is required to publish annually a list of clinical laboratories that have been subject to sanctions under federal and state law, including: criminal convictions relating to fraud and abuse, false billings, and kickbacks; exclusion from participation in the Medicaid and Medicare programs; and any sanctions imposed by HHS because of a failure to meet personnel qualifications or other standards of quality assurance established by the agency. The first such list was to have been published April 1, 1990.

"The regulations issued by the Department of Health and Human Services violate both the letter and the spirit of the law," said CFA Research Director Mark Cooper. "Putting politics ahead of people's lives, HHS gutted the safety standards incorporated in the legislation."

Rules Fail To Comply With Law

Although imperfect, the proposed rule issued by HHS in May 1990 largely met the requirements of the law. When the final rule was published in February 1992, however, it departed sharply from the proposed rule, and from the requirements of CLIA '88.

Of particular concern was the decision by HHS not to consider the risk to the patient of an erroneous test result when determining how to classify a test, despite the law's explicit instructions that such risk factors be taken into account.

The result of that decision was to shift the majority of tests from the level requiring the most stringent qualifications for personnel to a level requiring much less rigorous personnel standards.

HHS also significantly weakened the personnel standards and proficiency testing requirements for cytologists. Although the agency set a 12.5 slides per hour permissable workload limit for cytologists, it specified that proficiency testing would be conducted at the much slower rate of five slides per hour.

"This clearly violates Congress's intent that proficiency testing reflect normal working conditions," Cooper said.

In promulgating this radically different final rule, the agency failed to provide for a formal comment period before the effective date of the rule in violation of the requirements of the Administrative Procedure Act.

Finally, although it has acknowledged its obligation to make public a list of sanctioned laboratories, HHS has still not done so nearly three years after the first annual list was required to be published. Furthermore, the agency has yet to establish the administrative procedures by which the list will be compiled, nor has it developed a format for the list.

Investment Adviser Bill Introduced In House

Legislation to improve oversight of investment advisers, including most but not all financial planners, was introduced in the House in January and appears to be on the fast track for approval.

The bill, H.R. 578, is virtually identical to legislation that passed the House on unanimous consent last year. It died at the end of the session when the Senate refused to accept the stronger investor protections contained in the House bill.

Telecommunications and Finance Chairman Edward J. Markey (D-MA) and new Ranking Minority Member Jack Fields (R-TX) have called passage of H.R. 578 "one of the highest priorities" of the subcommittee in the 103rd Congress.

They are planning a March hearing and markup on the legislation.

Bill Would Enhance SEC Oversight

The bill would increase the registration fees paid by investment advisers, based on the dollar amount of assets they have under management, and replace the current one-time fee with an annual fee. The increased revenue would fund an expanded Securities and Exchange Commission oversight program, including more frequent inspections of investment adviser firms.

The SEC estimates that it currently inspects most advisory firms only once every 30 years.

"More frequent inspections are essential if the law is to serve as an effective mechanism for the deterrence and early detection of fraud and abuse," said CFA Director of Investor Protection Barbara Roper. "The current system is hopelessly inadequate."

Under the House bill, the SEC would be required to give priority to more frequent inspections of those advisers whose activities pose a greater risk to their clients, to inspections of new advisers within approximately a year of their registration, and to follow up inspections where serious deficiencies are found.

Among the factors that would be used to measure client risk are a history of customer complaints or legal violations and the sale of products to implement the adviser's recommendations. The latter factor is particularly important in ensuring that financial planners who operate with a basic conflict of interest are targeted for more frequent inspections.

The SEC also would be required to conduct periodic surveys to determine whether all those who should register actually do so. Currently, the SEC has no program to ensure compliance with the act's registration requirements.

"Despite the funding increases provided for in this bill, the SEC will still be operating on limited resources," Roper said. "The House bill sets priorities for inspection that will help to ensure that those limited funds are used in a way that provides investors with the maximum protection possible."

Improved Disclosure Mandated

In addition to its provisions improving oversight, the bill would require advisers to disclose more information about the commissions and other third-party compensation they earn.

"Compensation arrangements that are commonplace among financial planners create a direct conflict between the client's interest in obtaining the best, lowest cost strategies to achieve financial goals and the planner's interest in maximizing his own income," Roper said.

"By requiring up-front estimates of total compensation and follow-up disclosure of actual compensation, the bill will help consumers to measure the magnitude of any conflicts which may bias a planner's recommendations," she said. "Armed with this information, consumers will be better able to protect themselves from self-interested advice."

Two important elements supported by consumer advocates — a provision applying the act to all financial planners and adding a private right of action under the act — proved too controversial to garner widespread support and were stripped from the bill last year. This year's bill was introduced without those provisions.

"Despite these short-comings, we believe this bill would significantly improve existing law and for that reason we support its passage," Roper said.

Senate Prospects Uncertain

Prospects for the legislation in the Senate remain uncertain. Last year, the Senate passed a bill that provided only the increased revenue. During last-minute negotiations to work out differences in the two bills, the Senate refused to accept any of the House bill's stronger provisions.

Senate sponsors are expected to reintroduce the legislation in the near future.

"Last year's Senate bill was completely unacceptable," Roper said. "While it provided for increased funding for oversight, it did nothing to ensure that the agency would use those funds effectively, nor did it rectify current deficiencies in the act's disclosure requirements."

"We are hoping to find a Senate sponsor for legislation similar to that under consideration in the House," she added. "Then, by moving quickly in the House, we hope to win consideration of the stronger bill in the Senate and minimize opponents' ability to tie the issue up in end-of-session controversies, as they did last year."

Rate Formula Would Lower Cable Costs

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commission may abandon cost-based methodologies altogether. If market power persists, the commission could assess whether shifting from a global-cost-based system to a detailed-cost-based system is in the public interest, given the goals of the act," he said.

Protections Against Retiering Advocated

In order to protect the public from retiering and unreasonable rates for non-basic services, CFA recommended that the FCC develop a clear standard by which to evaluate retiering and broader cable program service rates. Such a standard should take into account the set of services which consumers have traditionally received as basic services and the rates they have paid for those services.

To meet that goal, CFA proposed a formula to be used in determining whether per-channel prices are reasonable, plus a cap on the overall monthly price for the bundle of services. Under the cap, the charge for the bundled services must be no greater than the price for all local broadcast channels plus the top 30 national cable networks in 1986, adjusted for inflation and cable industry productivity growth.

"In other words, two conditions would be necessary for a finding of retiering harm or unreasonable rates in traditional cable program services that would trigger regulatory rate reductions," Kimmelman said. "Specific programming services would have to be priced above the system average per channel index and the traditional basic service package rate cap would have to be exceeded."

Such a system would be easy to implement, and it would present an incentive to provide a low-priced basic tier of service, he said. However, because the easiest way to increase profits under a formulaic rate-setting approach is to decrease quality, the FCC will need to establish quality standards and be alert to degradation of service through reductions in programming, he said.

CFA Proposal Supported By Industry Data

Although the industry has twisted and misapplied basic facts about its economic characteristics to distort the correct image of cable industry performance, it nonetheless has made numerous admissions in its filings which support both CFA's view of the industry and its regulatory model based on that view, according to CFA's reply comments.

For example, the industry admitted that expanding channel capacity is a crucial factor leading to declining cost and prices; that basic cable service has traditionally encompassed a large number of popular national cable networks; that the mechanics of identifying unreasonable rates for cable programming services should include an overall limit for bundled services as well as a limit on per-channel costs; and that degradation of service quality will be a likely strategy of cable operators in response to rate regulation.

"In short, each of the key elements in our proposal is admitted as a crucial economic factor by the industry commentors," Kimmelman said.

Industry Proposals Violate Law

Because they disregard clear statutory directives and grossly mischaracterize Congress's intent, however, the cable industry's proposals are both "illegal and laughable," Kimmelman said.

"It is certainly not surprising that the cable industry proposes a regulatory scheme which is totally one-sided in favor of cable operators and presents a view of rate performance that denies virtually all of the abuses Congress found in passing the Cable Act," he said. "It is surprising, however, that the industry comments completely ignore fundamental regulatory directives that Congress enacted."

Instead, cable industry comments manufacture an imaginary rate regulatory statute and then urge the FCC to administer it in a manner that "does not comport with the 1992 Cable Act's regulatory directives," the reply comments state.

In particular, the industry has:

- dramatically understated the degree of cable programming service regulation mandated in the act;
- misdefined the types of equipment subject to regulation and mischaracterized the approach to regulation of equipment costs Congress intended;
- diluted the key function of the provision to protect against evasions of the regulatory framework;
- disregarded the act's clear prohibition on marginal cost pricing; and
- mischaracterized Congress's intent with respect to basic tier services.

"The result is that the cable industry proposes a regulatory model that directly violates the goals and language of the act," the reply comments state.

"On the other hand, if the commission carries out Congress's intent and adopts CFA's rate regulation model, consumers will see an end to the price gouging they have been victims of since deregulation, while cable operators will have an incentive to improve and expand their service offerings," Kimmelman said.

"If the FCC were to adopt the industry's proposal, consumers would be denied virtually all the protections Congress mandated," he said.

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Bank's Economic Development Role Debated

Banks seeking regulatory relief and consumer activists advocating new mandates requiring banks to serve low income consumers have each seized on statements by the new president to support their agendas for change.

On the campaign trail, candidate Clinton repeatedly decried the inadequacy of banking and credit facilities in many inner cities and rural towns and the resulting gap of credit and banking services that has left deep financial scars on the nation.

In response, consumer groups have revived their campaign to require banks to provide basic banking and check-cashing services at an affordable cost to low income consumers.

The banking industry, on the other hand, has taken heart from the new president's apparent receptivity to their claim that financial institutions could play a more active and beneficial role in the nation's economic revival if only they were let out from under the burden of excessive regulation.

House Panel Holds Hearings On Fringe Banking

Although it was unclear which of these visions of the banking industry would prevail in the new administration and in Congress, the House Subcommittee on Consumer Credit and Insurance appeared to cast its vote with consumers when it launched the session with a series of hearings on "fringe banking."

Fringe banking is the term used to describe the network of largely unregulated, often exorbitantly expensive check-cashing outlets, pawn shops, and consumer finance companies that low income consumers are increasingly forced to rely on in the absence of affordable commercial banking services.

These services have grown exponentially in recent years, as millions of low income families have found themselves either: 1) unable to afford to maintain the required account balances or pay the rapidly rising fees banks charge for their services; or 2) without access to a bank because of the large number of branch closings, particularly in low income and minority communities.

"Today, millions of households are nonparticipants in our nation's subsidized, regulated and insured banking system. Such exclusion is intolerable and unconscionable under a deposit insurance system that is subsidized and supported by all taxpayers," said CFA Director of Banking and Housing Policy Chris Lewis in February testimony before the subcommittee.

Consumer Agenda Outlined

An obvious first step for including the poor, working poor and elderly in the nation's publicly subsidized banking system is for Congress to pass legislation requiring insured depository institutions to provide low cost bank accounts and check-cashing services, Lewis said.

"Clearly, the industry's voluntary efforts have been insufficient to stem the exodus of those most in need of a secure place to store their paychecks and meet their monthly payment demands," he said.

"No one can build assets without a means to cash a paycheck, pay monthly bills, and safely save what is left over — however meager," he said. "Ensuring access to basic banking services is the prerequisite of financial empowerment and lasting community economic development."

Because "a bank branch is an integral part of the economic well-being and development of a local community," Lewis also advocated an immediate moratorium on branch closures in low income communities.

Such a moratorium should cover all mergers and acquisitions and government assisted transactions, he said. It should remain in place until the regulatory agencies have developed firm policy for evaluating claims of economic need for closing an existing branch and until a system is developed to guarantee the availability of alternative and affordable banking facilities, he added.

Finally, as the administration and Congress work together to implement the president's as yet undefined community development banking initiative, consumers should be actively consulted, represented, and involved, he said.

"The only way community development will really take hold is when the community has a real stake in its success," he said.

President Urged To Give Banks Community Development Role

Lewis reiterated and expanded upon that message in a February letter to President Clinton, outlining a six-point, budget neutral plan to include banks in any economic development plan.

In addition to urging administration support for initiatives to mandate basic banking services and stem the closure of bank branches, the letter asked the president:

- to require federal banking regulators to develop plans within 30 days on "how depository institutions can improve the delivery of credit and banking services to persons and neighborhoods now underserved;"
- to require the Council on Economic Advisers to collect data on credit availability and banking services from 500 mayors and consumer organizations selected to provide a cross-section of U.S. cities and towns;
- to require that programs and entities now in existence — such as the National Credit Union Administration's program for the promotion of Community Development Credit Unions and the Federal Home Loan Banks' technical assistance programs — be upgraded and shaped so that they may be an integral part of the president's economic stimulus package; and
- to require regulatory agencies to put special emphasis on examinations, regulations and guidelines that will ensure full enforcement of statutes — such as the Community Reinvestment Act and the Equal Credit Opportunity Act — that are designed "to promote economic development, fair lending, credit availability and the provision of banking services to all sectors of the economy."

Lewis endorsed the president's proposal to establish community development banks in under-served areas, but added that such a program will take time to implement.

"We believe you want — and the nation needs — remedial steps taken now for the benefit of the economy and the people. The CFA program outlined in this letter would start credit flowing while your program of community development banks is being assembled and the funds are found to make it a reality," he wrote.

Banks Push for Regulatory Relief

While consumer advocates argued for strengthened enforcement of banking regulations to improve economic development, banks were concentrating on getting their regulatory relief agenda included in the president's plan to revive the economy.

If regulatory "burdens" were lifted, banks could funnel billions of dollars into lending that are now going into to paperwork, compliance activities, and capital reserves, they argued.

Consumer groups have responded by writing to key economic appointees pointing out the fallacies in the banks' arguments.

In a January letter to Laura Tyson, Clinton's nominee to chair the Council of Economic Advisors, Lewis called the industry's regulatory relief campaign a "self-serving smokescreen" that "does nothing to deal with real economic problems and the need to have a free flow of credit on reasonable terms to small business, consumers, and low and moderate income and minority neighborhoods around the nation."

"Contrary to industry propaganda, current credit problems are not the result of laws and regulations adopted to protect consumers and public funds," he wrote.

"We do not suggest that there are not improvements to be made in banking law and regulation," he wrote. "We think any changes in banking law need to be considered very carefully and only after open and complete hearings, and with assurances that all sectors of the economy are given an opportunity to present their views."

"As we know from the savings and loan debacle, the country's last drink from the well of financial deregulation resulted in a very painful and fantastically costly economic and budgetary hangover," he concluded.

Recall of GM Trucks Sought

Approximately 30 consumer, health and safety groups, including CFA, have formed a coalition to force General Motors to recall its 1973-87 "side-saddle" model pickups, which have fuel tanks mounted outside the frame rail.

Campaign GM Firebombs, led by the Center for Auto Safety (CAS) and Public Citizen, was launched in February. Modeled on successful campaigns against the Ford Pinto in 1978 and Firestone 500 steel belted radial tires in 1979, the campaign will include demonstrations, letter writing campaigns, and press conferences.

According to CAS, more than 300 people have been burned to death in GM side-saddle trucks. Even moderate-speed impacts smash the gas tanks against the frame, forcing gasoline to spew out. Often, the pickup and the striking vehicle are instantly engulfed in flames.

A study by the Insurance Institute for Highway Safety found that GM side-saddle trucks have far higher burn fatality rates than competing makes or than GM trucks built after 1988 with the gas tanks inside the frame.

NHTSA Petitioned For Recall

In response to this information, CAS and Public Citizen have petitioned the National Highway Traffic Safety Administration to recall the trucks, and NHTSA has begun a defect investigation.

An estimated five million GM side-saddle trucks remain on the road. CAS projects that 200 lives and hundreds more burn injuries can be prevented by a recall.

The trucks could be recalled and remedied for less than $100 per vehicle either by placing a steel cage around the tank or by replacing the present gas tanks with bladder-lined tanks made of stronger material, according to CAS Executive Director Clarence Ditlow.

"General Motors covered up the hazards of fuel tanks mounted outside the frame rail on its 1973-87 pickups for nearly 20 years while hundreds of people died in fire crashes involving these rolling firebombs," he said. "Even after an Atlanta jury awarded a $105 million judgment because of GM's wanton disregard for human life, GM continues to stonewall a recall."

GM's efforts to conceal defects in the trucks have included the systematic destruction and withholding of company documents, as well as misleading statements in the aftermath of the Atlanta jury's imposition of the punitive damages award, he said.

"GM's destruction and withholding of documents was so systematic and widespread that we are calling on the Justice Department to investigate whether there were criminal or civil violations," Ditlow said.

NBC Controversy Obscures Problem

Concern over the trucks' safety defects has been all but forgotten in recent weeks as a result of the major controversy that has erupted around a November "Dateline NBC" story on the fire hazards associated with the GM trucks.

As part of its story, NBC ran a crash test in which it used small incendiary devices near the gas tank to spark a fire, but the network failed to disclose that fact in the story.

Media attention has focused on GM's lawsuit against NBC and the network's apology which led GM to withdraw the lawsuit.

"GM is using the controversy over this one news story to try to distract public attention from the very real hazards associated with these trucks, hazards that have resulted in hundreds of deaths," said CFA Director of Public Affairs Jack Gillis. "We need to refocus public attention on the safety issues so that we can get these dangerous vehicles off the road."

State and local groups interested in joining Campaign GM Firebombs and publicizing it among their members should contact the Center for Auto Safety, 2001 S Street, N.W., Washington, D.C. 20009, (202) 328-7700.

Grants Build Grassroots Consumer Movement

State and local consumer groups around the nation are building membership, forming coalitions, producing educational materials, and generally strengthening the grassroots consumer movement with the assistance of a grants program funded by Consumers Union and administered by CFA.

The program, which was launched in 1986 with $5,000 each from CU and CFA for grants to 11 organizations, now provides $75,000 from CU each year in grants to approximately 20 organizations.

Mark Silbergeld, Director of CU's Washington Office, explained the rationale behind the program: "State and local consumer organizations form the backbone of the consumer movement. They need to be strengthened in every way possible, to maintain and improve their ability to do their work, to communicate effectively with the public and with policy makers, and to involve more citizens in the consumer movement."

Grants Fund Wide Variety Of Projects

In some cases, the grants have been used to keep struggling consumer organizations afloat and to help them build up their membership; in other cases, the grants have allowed organizations to launch new projects or expand existing activities, said CFA Assistant Director Ann Lower, who oversees the administration of the grants program.

In 1990, Virginia Citizens Consumer Council used a grant to produce a White Paper on problems with credit insurance. The report, which included a model law, received front-page coverage in newspapers around the state, and, as a result, both the general assembly and the state insurance commissioner became interested in doing something about the problem.

Despite stiff opposition from the industry, the general assembly passed a law in 1992 which is one of the toughest in the nation, with strong disclosure provisions and phased in loss-ratio requirements. When the first phase took effect in January, rates for credit life insurance in the state dropped 30 percent, according to VCCC President Jean Ann Fox.

"We couldn't have done it without the support of the insurance commissioner, but I don't think he would have put this issue on the front burner if it hadn't been for the attention we got with the White Paper we produced with the grant money," Fox said.

Another dramatic success story is the 1991 grant to Consumer Action–San Francisco to fund a project to educate the community about the dangers of lead poisoning.

With the original grant, Consumer Action produced materials on the hazards of lead poisoning and distributed them to agencies and organizations in various communities throughout the city for use in encouraging parents to get their children tested for lead poisoning through the state's well child program.

In addition, Consumer Action produced a one-page fact sheet in four languages for distribution to individuals in the community on sources of lead poisoning in the home and what to do about them.

With those materials in hand, Consumer Action was able to raise additional foundation money for the project, which has since been instrumental in getting legislation passed in the county codifying a comprehensive plan to prevent lead poisoning in the county.

Other projects have had less dramatic immediate results, but have been equally successful in their own way.

The Center for Public Interest Research in Michigan, for example, used grants through the program to form a state-wide consumer organization modeled on CFA, the Consumer Federation of Michigan.

Pennsylvania Citizens Consumer Council used a grant to help fund research, production, and distribution of 400 copies of a 135-page book outlining the state's consumer laws.

A grant to the Oregon State Public Interest Research Group funded design, production, and marketing of a Renter's Handbook.

"It's really remarkable what these groups have been able to accomplish. They're very creative," Lower said.

Technical Assistance Program Added

Despite the dramatic funding increases by CU over the years, grant requests have continued to outstrip available funds, Lower said, with many of the requests for computer and other office equipment.

In response, CU added $20,000 in funding in 1992 to create a technical assistance grants program to aid in the purchase of equipment and has renewed that funding for 1993.

"We're very grateful to Consumers Union for its support of this program. We believe it has been a real benefit to health of the state and local consumer movement," Lower said.

President Urged To Revitalize CPSC

The new administration has an opportunity to reshape and revitalize the Consumer Product Safety Commission, an agency that languished during the Reagan and Bush administrations.

One area of neglect by the previous administrations — their failure to fill two vacancies on the commission — could now pay off for consumers if the new administration takes advantage of it. As a result of that failure, and the recent expiration of Commissioner Dawson's term, President Clinton could immediately regain the majority on the commission by appointing three new members. Furthermore, President Clinton could appoint one of the new pro-safety commissioners to serve as chairman.

Forty-one consumer, health, and safety groups, including CFA, wrote to President Clinton in January urging him to "proceed expeditiously" in appointing a new CPSC chairman and in filling the other vacancies. The Coalition for Consumer Health and Safety, an alliance of consumer, health, and insurer organizations, sent a similar letter.

"During the past two administrations, the CPSC foundered and almost died," the groups wrote. Although the CPSC survived attempts by the Reagan administration to abolish it, the agency was decimated by massive budget and staff cuts. "The greatest problem throughout the last 12 years, however, has been the lack of leadership and commitment to product safety by the chairman and commissioners appointed by your predecessors," they wrote.

They urged the president to fill the vacancies and chairmanship with individuals "whose records demonstrate real dedication to the goals of achieving product safety and strong qualifications to accomplish those goals." "These appointments could make a significant difference very quickly," they wrote. "Early action on your part could begin the important work needed to reestablish CPSC as a bona fide consumer protection agency and promoter of public health and safety."

On the other hand, failure to take advantage of this opportunity would have serious negative consequences for consumers. The two remaining commissioners, both of whom have several years left in their terms, have demonstrated in vote after vote a lack of sympathy for the safety concerns of American consumers. Unless the new administration fills all three empty slots with pro-safety individuals, this anti-consumer sentiment could continue to guide the agency for years.

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