

# CFA NEWS



## CONSUMER FEDERATION OF AMERICA

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### CFA Issues 1979 Voting Record Heroes, Zeroes, Fairweather Friends

by Kathleen F. O'Reilly

*The following is the introduction to CFA's Voting Record.*

Consumer Federation of America has tabulated a Consumer Voting Record of the U.S. Congress since 1971. Without question, the first session of the 96th Congress has been the most anti-consumer and pro-big business Congress of the decade. The average rating has declined from 49% in 1971 to 36% in 1979 (a drop of 20%). Yet statistics do not adequately capture the hypocritical nature of the 96th Congress. For it is not only the anti-consumer impact of their votes that is appalling, but their political gall in touting their actions as evidence of their courageous defense of consumers and "the little guy"—knowing full well that the opposite is true.

Two House votes best symbolize this betrayal—the vote to allow domestic crude oil to be decontrolled and the vote to block the Federal Trade Commission from regulating the funeral industry. Both measures passed by nearly 2-1 margins.

It was the 96th Congress which passively acquiesced to the President's decision to decontrol crude oil, thus exacerbating an already seriously ailing economy by adding more than \$1 trillion to consumers' oil bills over the next decade. Decontrol will do little to reduce consumption, has scandalously regressive impacts, jeopardizes productivity and our nation's competitive posture in the international market. Consumer exasperation over this vote is compounded by the realization that significantly decreased consumption could be achieved without imposing hardship if the Government would assure a strong commitment to: weatherization/retrofit programs; renewable energy alternatives such as solar, wind, etc.; and comprehensive energy audits of residences and commercial establishments. But the lobbying efforts for these sensible and prudent programs don't have the economic muscle of big oil and the utilities, and thus are readily and routinely ignored by Congress.

Furthermore, Representatives supporting decontrol have not been allowed to camouflage their anti-consumer energy policy by support of the windfall profits tax. Obviously if a majority of the Congress had the courage to reimpose controls in the first place, no windfall tax would be necessary. You don't need a windfall profits tax if you don't have windfall profits! Would the public praise a hit-and-run driver for anonymously sending the victim a check? Accordingly, those Representatives who voted for decontrol were not given credit for voting "right" on windfall profits tax votes.

The vote to block the Federal Trade Commission's funeral industry rule did more than condone the funeral industry's continued arrogant refusal to abide by those basic price disclosure practices which are common to all oth-

er businesses, large and small. It set a dangerous precedent for legislative intervention in publicly supported proposed rulemaking proceedings. And it served as a blatant signal to other industries and trade associations within the FTC's jurisdiction, that this is a Congress which caves in to the baseless whines of one industry after another, and is more than prepared to rubber stamp a request for an exemption from government scrutiny of a marketplace abuse.

The list goes on and on.

The most common explanation for this trend is that "Congress is reflecting the public's move to the right." Yet a close look at the mood of the public as documented in one poll after another reveals that stale Congressional excuses are ignoring the facts. In response to an open-ended question such as "Do you think that there should be less government in your lives?", the public provides a predictably affirmative reaction. Yet when questions are broken down by specific categories of government protection, the public is sending out a

And more than six out of ten want the government to do even *more* to protect the consumer from unsafe products."

Standing back from this anti-consumer phenomenon in Congress and its growing disregard for accountability to the public as a whole, one must ask the question: why this gap between what the public wants and what it gets from this Congress? One of the most significant factors is undoubtedly the explosive emergence of corporate Political Action Committees (PACs). In 1975, the Federal Election Committee (FEC) for the first time issued an advisory opinion (to Sun Oil Company) explicitly approving the solicitation of salaried employees for the purpose of funding a corporate PAC. Corporate America was ebullient. That same day 137 corporate PACs registered with the FEC! Now more than 2,000 such PACs have been registered, each of which may contribute up to \$5,000 for each primary and general election. It is an understatement to say that consumer groups cannot possibly compete with that level of financial largesse. Consumer lobbyists do not buy \$500/plate dinner tickets for a candidate's fundraiser.

Another significant distinction is that the vast majority of the corporate/trade associations PACs have a one (or limited) issue agenda, unlike consumers who must be the watchdogs and advocates for dozens of issues—food, banking, energy, insurance, etc. More and more members of Congress conclude that the consumer votes are "give-aways"—that is, these politicians can endear themselves to the industry affected by the bill and be reasonably certain that come election day most consumers will have short memories as to the consumer record of their elected representatives.

To reverse this disturbing pattern it is essential that large numbers of voters:

- 1) soberly reassess what they expect of an elected official;
- 2) assess the accountability of their elected representatives;
- 3) demand public financing of candidates so that the general public commands accountability, not just a series of well-financed interest groups;
- 4) organize politically at every level to counter the eroding consumer power in the marketplace with increasing consumer political power in the voting booth.

NEVER HAVE THE STAKES BEEN HIGHER!

### Carter, Kennedy to Address Consumer Assembly '80

Consumer Assembly '80 (February 7, 8) will focus on issues directly affecting you: Inflation; Candidates and Consumers; "How-To" Workshops on Consumer Basics.

In addition, Consumer Assembly '80 will break ground with its exploration of an increasingly urgent topic: "Corporate Crime."

For a look at who said what and what, in fact, it all means, don't miss the March issue of CFA News. We'll report on the speeches, the workshops and the historic press conference with CFA's 40-member board.

If you are unable to attend Consumer Assembly '80, the March newsletter is a must. And for those in attendance, it will be a convenient reference to the many issues discussed.

CFA News is published 10 times a year and keeps you informed on the vital issues affecting you, the consumer. To subscribe write: CFA News, 1012 14th St. NW, Washington, DC 20005. Annual subscription rate is \$25 per year.

As if decontrol/anti-FTC votes were not enough, this Congress voted to bestow billion dollar subsidies on Fortune 500 energy companies to develop a questionably effective, and arguably dangerous synthetic fuel industry; billion dollar tax breaks to wealthy heirs; million dollar subsidies to aerospace firms trying to develop preposterous pie-in-the sky solar satellites; exemptions for airlines from noise standards; and a virtual license-to-steal for the defense industry by destroying the Renegotiation Board.

But when it came to human needs, Congress turned a deaf ear and spewed out transparent rhetoric about "balancing the budget" and "free market enterprise." Congress decided that it was not in the national interest to control health costs or to prevent avoidable death and serious injuries by requiring passive restraints in automobiles. Congress decided that it did not have the resources to maintain even the current level of assisted housing. Congress decided that victims of interstate land fraud should not have maximum protection, and that there just isn't enough money to help the public participate in regulatory proceedings. Congress did not get around to restoring the right of consumers to sue price-fixers. Congress had no time to protect consumers against extraordinarily anti-competitive corporate mergers—no time to overhaul costly ICC regulations.

strong message that they do *not* want to roll back important consumer protections in health, safety, equality of opportunity, etc. They do not want or trust industry to police itself against marketplace abuse. By typical margins of two to one, the public is opposed to the removal of energy price controls. Even some of the more typically conservative polls provide real eye-openers on public opinion. Just a few examples:

1. Better Business Bureau Survey (1979)
  - By a vote of 57%-34%, the public feels "Government has to play an increasingly active role in regulating business and industry because of the increasing size and complexity of the U.S. economic system."

#### 2. COST VERSUS BENEFITS OF REGULATION

(Survey by Opinion Research Corp., 1978)  
"Are the Benefits Worth the Cost Necessary to:"

	Yes	No
Ensure safety, dependability of products or services	47%	15%
Ensure equal employment opportunities	42%	21%
Protect the environment	42%	19%

3. The American Family Report 1978-1979 (prepared for General Mills by Yankelovich, Skelley and White)

- "72% feel it is better to be safe than sorry. They want the government to warn them even about products that may turn out to be perfectly safe."

### CFA's Voting Record Is Now Available

\$ 5.00 Public Interest Groups  
\$10.00 General Public



## Washington Desk: Rebuttal to the Rhetoric

by Kathleen F. O'Reilly, Executive Director

As the second session of the 96th Congress convenes, consumers brace themselves for a continued defensive onslaught. Three recurring arguments which members of Congress use in rationalizing their anti-consumer performance are:

- I. "The public is fed up with the high cost of government."
- II. "The public wants unelected agency officials to be more accountable by preparing pre-regulation cost/benefit, job impact, assessments etc."
- III. "The public wants less government interference in the lives of consumers and business."

Politicians hear this pervasive pitch from industry. The public is bombarded with this theme (typically pounded into their head through corporate political advertising). Thus many people have actually come to believe these slogans.

It is high time we mount a conscious effort to put this hysteria into perspective.

### I. "THE HIGH COST OF GOVERNMENT"

- Who has analyzed how much of the "high cost of government" is attributable to the spectacularly expensive invoices from corporate lawyers/lobbyists? Dow Chemical alleged in a 1977 *Business Week* article that it had spent \$5 million in 1975 on salaries and expenses for testifying on federal regulatory matters. (Even by its own standards, \$750,000 of it was "excessive.") Did customers of Dow Chemical who picked up the tab ever have a chance to question whether such a fortune had to be spent?
- AT&T lumped into the "cost" of participation in a FCC rulemaking, the cost of a AT&T-initiated "self-study" which led to many new, wholly voluntary (and presumably productive) changes in their operation.
- In the midst of all this belly-aching about

"costs" (which "costs" industry consistently refuses to substantiate), why is no one discussing (let alone questioning the need for) other corporate "costs" such as advertising? Speaking of advertising "costs," how many realize that:

1. The annual budget for the entire federal Office of Consumer Education roughly approximates the amount that will be spent in 1980 for a nine month advertising blitz pushing a new Yardley deodorant.
2. Quaker Oats spent \$50 million on advertising in 1978—an amount nearly 18% higher than the total Justice Department budget for "enforcement of anti-trust, consumer protection and kindred laws." Cheerios and Post Grape Nuts each command \$8 million advertising budget per year.
3. The November 1979 issue of *Better Homes and Gardens* contained \$12 million in advertising. That advertising sum for one month of one magazine, is more than the total budget of the Consumer Product Safety Commission for a three month period!
4. The entire HEW annual budget for programs related to smoking (prevention, research, etc.) is 1/10th the annual advertising budget of the nation's six largest cigarette companies, and about 1/20th of the industry's combined advertising/promotion budget.
5. The advertising budget of one oil company (Mobil) is three times that of the energy advertising budget of the Department of Energy. Don't forget that Mobil customers are paying for ads which spew out political propaganda (their "parables" hardly advance

competition).

6. In 1978 Merck and Company, the nation's fifth largest medical advertiser spent \$32 million on advertising.
7. As the price of dairy products continues upward, the American Dairy Association has announced that its 1980 advertising budget will increase to \$3.5 million, up more than \$300,000 from last year (as if the reason people do not buy dairy products is because they don't know about their existence—rather than their prohibitive cost!)

The list of similar example is endless, and is not posed for the purpose of suggesting a prohibition against advertising, but rather as a small dose of the perspective that is so sorely lacking in political/corporate discussions of "costs." Obviously, industry and Congress are not screaming about the questionable cost/benefit of such outlays, because politically there is no constituency clamoring for such an assessment.

### II. AGENCY OFFICIALS' ACCOUNTABILITY

As Congress continues its blast on government agencies, it is instructive to assess Congress' own performance under institutional reforms self-imposed during the past six years. In 1974, the House of Representatives adopted rules requiring economic impact evaluations as part of the formal legislative process. The parallel Senate requirement was adopted in February, 1977 requiring that Committee reports (except Appropriations) on bills or joint resolutions, must contain evaluations of the impact of that proposed legislation on personal privacy, paperwork and recordkeeping, the number of individuals and business subject to the regulation as a result of the legislation, together with a determination of the economic impact of the such regulation on the individuals,

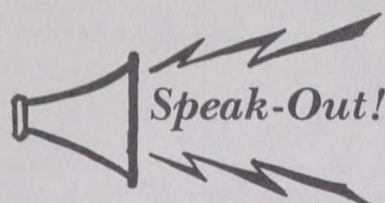
consumers, and business affected. An exception exists if the Committee has determined that the requirements would be "impracticable." Presumably the Committee should issue a statement to that effect as part of its Report. Significantly, the Senate rule also states that it shall not be "in order" to consider proposed legislation unless there has been compliance with this requirement. Both the House and Senate requirements impose the impact statement responsibility on individual committees, which are not required to seek or obtain any outside assistance in that process.

It is enlightening to note what impact these rules have had on the legislative process. Although no comprehensive formal studies have been completed, that information which is available suggests that Congress has, for the most part, either ignored the rules altogether or slipped into a "boiler-plate" process as meaningless as any that could be expected if detailed paperwork requirements are imposed on federal agencies under the principle of "regulatory reform." In December, 1977, the Congressional Research Service reviewed 158 Senate Committee reports which appeared subject to the impact requirement and which were prepared in the first six month period after adoption of the rule. As set forth by Staff Counsel of the Senate Governmental Affairs Committee, those major findings include:

1. 31% of the Committee reports had no impact statement;
2. The impact statements tended to be very brief. (Only 17 out of 109 statements were more than one page long);
3. Outside assistance and expertise does not appear to have been part of the impact statements;
4. Little information on potential increases in regulatory burden was provided, since many of the reports (80 out of 109) simply concluded that such consequences would not occur.
5. Very few of the reports (30%) contained any information on the economic consequences of proposed measures;
6. The same situation prevailed as far as projected impact on personal privacy and paperwork.

In light of their own unshining track record, a legitimate question to pose is why Congress does not first prove they can live up to their own reforms, before imposing them self-righteously on a different branch of government.

continued on page 4



## Medigap Fraud: "Wolf in Sheep's Clothing"

by Senator Max Baucus (D-MT)

- An 84-year old woman in Texas pays at least \$15,304 on approximately 23 accident and health solicitations from November, 1972 to April, 1974. For this she was delivered a deed to near worthless and unwanted lots in West Texas.
- An elderly woman is sold 11 policies by one company in the last three years with three currently in force. Total premium payments were over \$2,500.
- A 76-year old is sold 13 different life and health policies from seven agents during a two-year period. These cost over \$9,000 a year for premiums or 68 percent of her income.
- An 80-year old Pennsylvania woman spends over \$50,000 on 31 policies over three years. To make payments she took a \$3,000 loan from a bank.

These are just a few examples that document a growing problem for America's senior citizens: fraudulent practices in the sale of insurance policies to supplement Medicare.

Nothing is more important to the elderly than protection from skyrocketing medical costs. Medicare, enacted in 1965, was designed to do just that. But

Medicare has not fulfilled its promise, and today covers only 44 percent of the elderly's health bill.

Older Americans increasingly are turning to supplemental policies to fill the gaps in Medicare's coverage. Over 15 million Americans, two-thirds of the elderly population, have purchased at least one supplemental or "Medigap" policy.

There is economic value in purchasing one Medigap policy, but more than one is usually worthless.

Motivated by the fear that they will not be able to insulate themselves from escalating health care costs, many older Americans are easy targets for unscrupulous, unethical insurance sales agents.

In many cases, older Americans are sold policies that merely duplicate insurance they already hold. Others are sold Medigap policies that have so many loopholes that they return as little as 20 cents for every dollar invested. Confusing and misleading information about policies makes matters worse.

The techniques used by agents are endless. Their practices have generated their own vocabulary.

One technique is known as "twisting" or the "rollover" in which an agent per-

suades Medicare beneficiaries that they must cancel the insurance they now own and replace it with whatever the agent is selling. High first-year commissions (65 percent is typical; 100 percent is not unknown) provide added incentive to engage in twisting.

Another practice is called "loading up." Agents using this technique convince people that their present coverage is inadequate and sell extra policies to fill these gaps. The result: worthless duplication.

A third technique is known as the "wolf in sheep's clothing." It means that an agent fails to mention that he is there to sell insurance. Often they represent themselves as being from Medicare.

These fraudulent practices are common. Scandals have emerged in 23 states. Since 1972, Congressional investigators have exposed abuses in Medigap practices. The House Aging Committee conducted an exhaustive investigation last year, concluding that seniors are being bilked out of about \$1 billion. Yet despite the hundreds of case histories made public, Congress has been unable to enact corrective legislation.

I am sponsoring a bill to establish a voluntary certification program for

Medigap policies. This bill would give the elderly the basic tools to make informed purchasing decisions and eliminate much of the confusion over the range of policies available. Similar legislation has been introduced in the House by Congressman Claude Pepper.

The legislation also would direct the Secretary of Health, Education and Welfare to make available to all Medicare beneficiaries information that permits them to evaluate the merits of Medigap policies.

Under the voluntary certification program, insurance companies could submit policies to the Secretary of HEW for evaluation. These policies would have to meet several criteria in order to be certified:

- be written in easily understood language;
- contain a written statement of the policy's premiums, coverage, renewability and co-insurance features, and the name of the insurance company and its agents; and
- establish an easily recognizable symbol to help consumers identify policies that meet HEW's standards.

Congress can take a giant step toward reducing the abuses in Medigap practices by enacting this bill. Such a program would provide assurance to older Americans that the insurance policy they purchase meets basic standards for coverage and benefits. Senior citizens have waited too long for these minimum assurances. They should not be forced to wait any longer.

# Product Recalls: Do They Work?

A child's toy, a batch of powdered milk, an antihistamine, car seat belts. What these items share in common is a defect—a fault that poses a safety or health hazard, one deemed dangerous enough to prompt a recall action by one of the government agencies charged with ensuring consumer product safety.

Depending on what type of product is involved, the U.S. Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), and the National Highway Traffic Safety Administration (NHTSA) are the regulatory agencies with authority to order a product recall. In some cases, the monitoring arms of these agencies discover a potential hazard even before consumer complaints are registered, and on occasion the company itself notifies the appropriate agency of a potential problem.

I. The Consumer Product Safety Commission has jurisdiction over more than 10,000 products used in and around the home and school, or for recreational purposes. It polices a wide range of products from hair dryers, refrigerators and TV sets, to snowmobiles, skate boards, toys and spike-tipped umbrellas. For some products the Commission actually establishes specific safety standards, but in most cases its job is to oversee the safety of products on the market, removing the ones that are hazardous.

In addition to monitoring company compliance with the recall, CPSC issues its own warning in the agency's *Consumer Product Safety Alert*, which has a wide circulation among the news media and consumer groups. If necessary, CPSC issues a specific press release. The problem according to Bob Adler, Special Assistant to CPSC Commissioner Pittle, is the unpredictability of the amount of publicity a recall receives. "Sometimes what we consider a minor recall gets a lot of attention, while a major recall draws only minor publicity," he said.

Even when "the word gets out," the volume of a recalled product actually returned usually averages only 15% to 20% of the original number sold. For example, last year's much publicized recall of hair dryers containing asbestos, resulted in 200,000 phone calls to the CPSC Hot Line and 100,000 letters. At its peak, there were so many calls that in some cities the long distance circuits were actually jammed and routine personal long distance calls could not be placed. By year's end, CPSC had mailed out 1/4 million hair dryer notices! Despite the widespread media attention, only 20% of the units were returned.

The low recall response figures (often quoted by manufacturers arguing against the effect of recalls) do not necessarily evidence consumer apathy. CPSC has just established a Task Force

terstate commerce except meat and poultry (monitored by the Department of Agriculture), human and animal drugs, and medical devices.

Public notice of these product recalls is issued in the FDA's weekly *Enforcement Report*, and, in cases of an immediate health problem, through a press release. As with the other agencies, the FDA monitors the progress of the recall which is actually handled by the company involved. If the company refuses to cooperate, however, the FDA can obtain a court order to seize the contaminated product or actually prosecute if criminal action is involved (such as a drug testing lab falsifying data). A further recourse is to seek a court injunction to actually shut down a company due to violations.

There were three injunctions relating to food products in fiscal 1979, 26 prosecutions, 128 seizures and 76 recalls. Human drug recalls numbered 189 in that same period, with 97 seizures. These were generally for specific lots of a drug with problems ranging from subpotency to a labeling deficiency.

III. The third agency dealing with product safety is the National Highway Traffic Safety Administration, which oversees all automobiles and motor vehicle equipment.

When a recall is necessary NHTSA notifies the manufacturer, which may either comply with the recall or be subject to a public hearing. The corporation usually agrees to conduct the recall

in order to avoid excessive adverse publicity. It then sends notification letters directly to the owners of the vehicle or equipment involved. Manufacturers are required to maintain a registration list of new buyers, though as in the case of automobiles which are frequently resold, the names of subsequent owners are not on file.

NHTSA also conducts its own random notification of owners in order to keep in touch with the progress of the recall. Additionally, NHTSA uses the news media to publicize a recall, and often imposes fines, that can be quite heavy, on an offending corporation. The availability of registration lists obviously provides NHTSA with a real edge and thus NHTSA's recall response statistics are much higher than those of other agencies.

In general NHTSA Administrator Joan Claybrook is pleased with the effectiveness of its auto safety recall program. "Since the program began in the late sixties," Claybrook noted, "more than 83 million vehicles, foreign and domestic, have been recalled in order to protect their users from unnecessary death or injury."

Their 60% recall response average includes (at the low end) a 5.3% response on the Ford seat belt recall of Mavericks and Comets involving 17,800 vehicles. At the other end of the spectrum are recalls such as the one involving fuel hoses on Cadillacs which posed the danger of a fire. Of the 133,000 vehicles involved, 87.6% of the cars were returned by the owners for repair! A fascinating distinction, isn't it?

And that remains the goal of the regulatory agencies dealing with product

continued on page 4

## Recall Information: Where To Find It

### Consumer Product Safety Commission

Toll-free hotline: 1-800-638-8326 for continental U.S.; Maryland residents only: 1-800-492-8363. A teletype for the deaf is available from 8:30 am to 5 pm EST: 1-800-638-8270, national; Maryland: 1-800-492-8104. Call the hotline for information or to have your group placed on the CPSC mailing list, which includes the *Consumer Product Safety Alert*.

### National Highway Traffic Safety Administration

Toll-free hotline with computerized information on makes and model cars involved in recalls: 1-800-424-9393. Monthly Consumer Support Package listing new rulings and publications: NHTSA, Office of Consumer Participation, Room 5232, c/o Karen Marcus, Washington, DC 20590.

### Food and Drug Administration

Weekly *Enforcement Report*: Press Office, Room 15B18, FDA, 5600 Fishers Lane, Rockville, MD 20857.

When the CPSC identifies a product for recall, based on such considerations as the extent of the defect and the nature of the risk to consumers, it directs the manufacturer to recall the product. The company must submit a plan for corrective action which includes means of notifying the public and removing unsold units of the hazardous item from stores, as well as specific blueprints for repair of the structural defect. If the item cannot be repaired, it must be replaced or the consumer's money must be refunded.

The company usually issues a press release, although CPSC has been encouraging paid advertisements warning of the product's potential danger. Despite increasing pressure from the Commission, this option is seldom used and had not received court backing.

to study the elements involved in consumer response to recalls. The Recall Effectiveness Task Force, headed by Bob Kirk, Special Assistant to the Executive Director, is conducting a "cradle to grave" review and already has some theories about the apparently low figures. One theory is that, particularly with small, inexpensive items such as toys or hair dryers, consumers are understandably inclined to dispose of the product rather than incur the inconvenience and hassle of returning it. Interestingly enough, the intensifying economic crisis so strains the average consumer budget that individuals may become more aggressive about insisting on any right which saves them money.

II. Food and drug products are policed by another agency, the FDA. These products include all foods in in-

## White Collar Crime Penalties Not Impunity

A major grassroots letter writing campaign has been termed vital by Reps. George Miller (D-CA) and John Conyers (D-MI) to passage of legislation now in the House meting out stiff criminal penalties to corporate officials who deliberately conceal (sometimes for decades) information about health hazards posed by their products or industrial processes.

There is increasing public shock, indignation and anger over the many documented cases involving officials who have concealed such information. At Love Canal in New York, Hooker Chemical Company officials were not only aware of the dangers of seeping toxic wastes, but knowingly authorized pollution violations, fudged test results and hid data from authorities.

Love Canal is just one of a long list of corporate crime cases. Others include: 40 years of asbestos cover-up; contamination of the James River by kepone dumping; and the continued production of Firestone 500 tires and Pinto automobiles for years after manufacturers knew they were unsafe. The list, often resulting in needless death and injury, goes on and on.

The Miller bill (HR 4973) makes it a criminal offense, punishable by a substantial fine and minimum of two years in prison, for a company official who knows of a serious hazard to conceal it

from the public and the affected employees. Presently, the individuals responsible for covering up known hazards, often by conscious decision, have little to fear from the justice system. Offending companies, not the individuals, are usually fined nominal amounts which at times can be written off as corporate liability losses.

Backers of the bill, aware of the anti-regulatory, anti-consumer sentiment in the Congress, believe it can only be passed if consumers express their support strongly. An attractive feature of the bill is that it does not impose any new federal regulations but gives enforcement authority to federal prosecutors.

Letters of support should be sent to all members of the House Judiciary Committee, particularly members of the Subcommittee on Crime: Robert W. Kastenmeier (D-WI), Don Edwards (D-CA), Lamar Gudger (D-NC), Harold L. Volkmer (D-MO), Michael L. Synar (D-OK), John M. Ashbrook (R-OH), Henry J. Hyde (R-IL) and F. James Sensenbrenner, Jr. (R-WI)

All interested groups and persons who want to testify at hearings to be conducted this spring in Washington, San Francisco and Buffalo should contact the Subcommittee on Crime, 207-E Cannon H.O.B., Washington, DC 20515.

## Coop Bank To Open Doors

The long awaited opening of the National Consumer Cooperative Bank is just around the corner. Carol S. Greenwald has been named as the Bank's first president, and the opening is scheduled for late March.

Greenwald, an expert on inflation, is a former Massachusetts Banking Commissioner, a visiting professor at the Harvard Business School, and a member of the White House Price Advisory Commission.

The NCCB, which represents the first major commitment of resources by the federal government to consumer-owned businesses, is completing a series of public meetings across the country to obtain comments on proposed policies dealing with credit and lending, interest rates, shareholder voting rights, capitalization, appeals procedures, low-income definition, eligibility and priorities.

A final meeting is scheduled for February 6 in Washington, but written comments are welcomed until February 25. Correspondence should go to the NCCB, 711 14th St. NW, Washington, DC 20005.

CFA was instrumental in supporting legislation which established the Coop Bank in 1978.

The Bank will begin hiring staff members in the next few months. Areas of specialization include credit and lending, administration, personnel, technical assistance for cooperatives and finance and financial planning. Interested persons should send a resume to: NCCB, Personnel—Recruitment, 711 14th St. NW, Washington, DC 20005. (202) 376-0884.

# Food Labeling Reforms Planned

A major effort to provide consumers with more information on food labels about the ingredients, nutritional content, and freshness of food products has been announced by three government agencies in response to increasing consumer demands.

"This is the most important action in this area in over 40 years," Assistant Secretary of Agriculture, Carol Tucker Foreman said in Washington.

"The goal of this program," added Commissioner Jere R. Goyan of the Food and Drug Administration, "is to make sure food labels provide consumers with the information they want, in language they can understand and use."

The reforms, being proposed jointly by the USDA, the Bureau of Consumer Protection in the Federal Trade Commission, and the FDA, are subject to public comment until March 20. They represent, said Thomas J. Donegan, Jr., Assistant Director in the FTC's Bureau of Consumer Protection, "an extraordinary degree of interagency cooperation . . . signalling all the agencies' commitment to public participation in the development of new and revised labeling laws and regulations."

Under the proposed plan, percent-

ages and quantities of certain ingredients will be disclosed for the first time, and open dating will be required on more perishable and semi-perishable items.

The agencies' policy objectives in issuing the plan include: full ingredient labeling; greater use of quantitative ingredient labeling; improved nutrition labeling and nutrition labeling for more foods; clarification of certain labeling terms and concepts such as "low cholesterol" and "cholesterol free;" mandatory open date labeling for certain classes of foods; and federal authority to control food fortification.

Although they lack full legal authority to implement all the desired reforms, the agencies are pushing for Congressional approval of legislation introduced this fall by Sen. George McGovern (D-SD) which would provide most of the necessary authority.

Coming in the wake of Congressional anti-regulatory actions, the reforms were presented in unusually tentative fashion, as a pre-publication "notice" to be formally proposed only after analysis of comments from all affected groups, industry as well as consumers.

Whatever your opinion on the pro-

posals—if you think something has been overlooked or if you are in agreement—the important thing is to make your voice heard. More than 9000 written comments were received by the agencies in their review of labeling regulations leading to the present proposals. "We are now determining food labeling policy for the foreseeable future," said Commissioner Goyan. "And as we enter this next comment stage, we not only want but must have continuing consumer contributions."

Public comment is also invited as the agencies formulate policy positions on imitation and substitute foods, and the specific type of information to be required on nutrition labels.

For copies of the proposals and other information write Curtis Noah, Consumer Communications (HFJ-10), FDA, 5600 Fishers Lane, Rockville, Md. 20857 (301) 443-3170.

A public hearing at which time consumers can voice their opinion on the plan will be held March 4 and 5 at the Dept. of Commerce. Written comments, accepted through March 20, should be sent to the Hearing Clerk, FDA (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

### Washington Desk

from page 2

#### III. THE PUBLIC WANTS LESS GOVERNMENT INTERFERENCE

As partially discussed in the Voting Record introduction (see p. 1 of this edition of CFA News), the polls indicate strong support for the consumer programs we continue to push in Congress. In (and out of) Washington, the public must insist that Congress reassess the accuracy of the slogans

which overly dominate the current debate. Consumers deserve leadership, not excuses.

### Product Recalls

from page 3

safety—protecting the users of products, the consumer, from unnecessary harm resulting from a product defect.

Regardless of the agency or product involved, one can expect increasing attention to a basic policy question: If recalls are relatively ineffective as "after the fact" regulation, is it high time that we place the burden of proof on manufacturers to demonstrate the safety/effectiveness of a product *before* they put it on the market??



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# Marketshelf Proliferation — Public Pays

Supplement to CFA News

This article by A. Kent McDougall, a Los Angeles Times staff writer, studies the marketing strategy of creating "new" products to dominate shelf space at supermarkets—and the costs to the consumer.

In the beginning, there was just Campbell's chicken rice soup.

Today, besides chicken rice soup, Campbell Soup Co. makes chicken gumbo, chicken noodle, chicken noodle O's, curly noodle with chicken, cream of chicken, creamy chicken mushroom, chicken vegetable, chicken alphabet, chicken and stars, chicken 'n' dumplings, and chicken broth.

These dozen chicken soups and the 40 other varieties in Campbell's familiar line of canned condensed soup exemplify the colorful cornucopia of consumer goods that gives American shoppers a range of choice unsurpassed in history.

But to competitors such as H.J. Heinz Co., which just this month settled a \$105 million antitrust suit against Campbell Soup out of court, Campbell's proliferation to three lines of canned soup with a total of 80 varieties is part of a calculated strategy to hog supermarket shelf space, keep out rival brands and protect Campbell's near-monopoly in canned soup.

Whatever the merits of such charges, proliferation on the soup shelves of the nation's supermarkets is mild compared with what is going on elsewhere. Along breakfast cereal row, in the frozen foods display case, on the dog and cat food shelves and up and down most other aisles, a fierce struggle for shelf space and market share is being waged among the two to four big manufacturers that typically dominate each category.

Rather than undercutting one another on price, the manufacturers are locked in a big-bucks battle to see which can spew out the most new products, advertise and promote them most heavily and tie up the most shelf space.

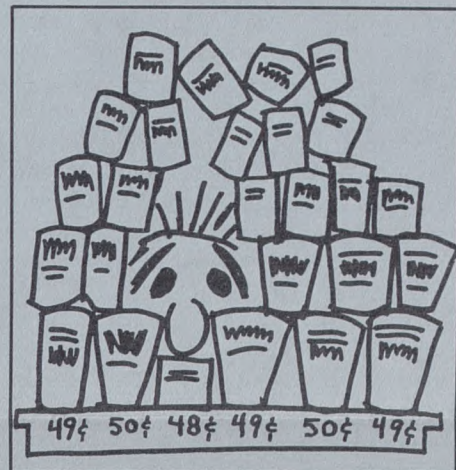
And far from being new, most of the new brands, sizes, shapes, colors, flavors and scents being showered on the public are only minor variations on

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middle years and senior citizen, plus overweight.

It would all be just amusing if consumers who did not want the new products could avoid paying for them. But they cannot. This is because the steep costs of developing, promoting and distributing the four out of five new items that fail to catch on with the public are inevitably loaded onto the prices of existing brands.

What's more, because each new brand threatens the market share of all existing brands in the same category,



the existing brands must be defended with stepped-up advertising that inflates their prices as well. Manufacturers end up fighting harder for smaller pieces of the market, and consumers end up paying higher prices.

Many manufacturers are starting to see that brand proliferation is growing counterproductive. Paul F. Enright, a sales manager for Coca-Cola Co.'s foods division, recently took note in a food industry newsletter of "a growing concern within our industry about the rapid proliferation of brands, products, sizes and flavors, many of which bring nothing new to their respective categor-

of powdered drink mixes. The drink mixes come in nine flavors and two sizes. The company also has added a 10th and 11th flavor (peach and tangerine) to its existing Hi-C line of canned fruit drinks.

In the absence of a nonproliferation treaty, which many in marketing might welcome, no company seems willing to be the first to cut back on new product development. The risks are too great, as the fate of Liggett & Myers Tobacco Co. demonstrates. Once a formidable force in the cigarette industry, with a 20% market share 30 years ago, L&M was too late with too few new brands in recent years. Its market share has shrunk to 3%, and it is in the process of being sold off by its parent, Liggett Group, Inc.

Liggett & Myers' slide to obscurity can be traced to its poor adjustment to the revolution in marketing that got started about 1950. Until then, nearly every consumer goods category was dominated by a few standardized national brands. People smoked Camels, Luckies or (Liggett & Myers') Chesterfields, all uniformly 2¾ inches long, unfiltered and soft-packaged, they washed with Ivory, Lux or Palmolive. Children ate the same breakfast cereals as adults, adding their own sugar. And the entire family drank Coke from 6½-ounce bottles.

From about 1950 on, while continuing to mass-produce standardized brands, manufacturers found even greater profit opportunities in segmenting mass markets and supplying specialized goods for each segment. This increased the costs of doing business, of course, but consumers went along because they had more discretionary income to spend on new products promising convenience, novelty or prestige. Television provided a powerful medium to create rapid consumer acceptance for new brands. And grocery stores ex-

panded to handle the outpouring of new products.

While brand proliferation seemed to suit the affluent and expansive 1950s and 1960s, declining disposable incomes in the economically troubled 1970s have put the market ploy increasingly out of joint with the times. Consumers pinched by inflation are more and more looking for bargains in basics rather than new faces on old products.

Shoppers are economizing by buying fewer national brands, according to a recent study for the Food Marketing Institute, and more private-label, or store, brands, which are priced lower. And in the 25% of supermarkets that, within the last two years, have started to stock "generic" grocery products, shoppers are also turning to these even cheaper no-frills, plainly wrapped items.

Supermarkets are as effective a brake as shoppers on the proliferation of high-priced national brands. The typical supermarket has quadrupled its stock, from 2,500 items in 1950 to nearly 10,000 today, but not even the largest can accommodate the deluge of new products.

Since 1971 when A.C. Nielsen Co., the market researcher, began tracking the introduction of new products into supermarkets, it has counted 53,000 new brands, sizes, flavors and other variants that have to be stocked separately if they are to be handled at all. And the Nielsen count excludes thousands of locally produced bakery and dairy products, carbonated beverages and snacks.

Little wonder that Progressive Grocer magazine recently reported "signs of increasing retailer resistance to new items." The Alpha Beta chain of 300 supermarkets in California and Arizona accepts fewer than 10% of the new items offered it, says buyer Pat Bobzin, and "normally, we have to throw out something in the same section to make room."

The biggest manufacturers and advertisers, such as Procter & Gamble Co., General Foods Corp. and Bristol-Myers Co., stand the best chance of winning supermarket acceptance for their

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*"... far from being new, most of the new brands, sizes, shapes, colors, flavors and scents being showered on the public are the only minor variations on existing products."*

existing products, differing mainly in form, packaging and advertised image.

Many new grocery products seem little more than novelties, such as the new line of Buitoni macaroni for children that comes in four varieties, depending on the macaroni's shape; spacemen, spaceships, space robots and moon buggies. Other new products carry specialization to the edge of absurdity; witness Cycle dog food's four versions, one for each stage of a dog's life; puppy,

ies, endlessly confuse the consumer and dilute the high-volume sales of a few products to the modest volume of many. In our opinion, it is not in the industry's best interests to continue endless (and sometimes mindless) product proliferation."

Be that as it may, the Coca-Cola foods division seems more caught up in proliferation than ever. Since last June, it has introduced and heavily advertised two new lines of drip coffee, two new varieties of fruit juice and two new lines



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*“... product proliferation has given consumers more choice—perhaps more choice than most want or would vote for.”*

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brands. This is because of the tens of millions of dollars in advertising, cents-off coupons, free samples and introductory price discounts to retailers they can put behind each new brand. Such pre-selling is hard to resist, for no supermarket wants to disappoint a customer who asks for a new brand, forcing her or him down the street to a competitor.

The generally higher prices and markups that new products command help retailers defray the costs of warehousing, inventorying, shelving and re-ordering the many slow sellers among the new items. Even so, as the total number of items handled has mounted toward 10,000, supermarket sales per square foot of floor space and employee man-hour—adjusted for inflation—have fallen, pinching supermarket profits and putting even more upward pressure on prices.

The inefficiencies caused by brand proliferation at the retail level are strikingly illustrated by cigarettes. Thirty years ago, the typical retailer could accommodate 88% of his customers by stocking just five brands—Camel, Lucky Strike, Chesterfield, Philip Morris and Pall Mall, each in a single version. To supply the same percentage of smokers today, the retailer must carry no fewer than 58 different items, including variations in length, filter, package, flavor and tar and nicotine content within some brands.

Whereas checkout counter clerks used to dispense both packs and cartons of cigarettes, cartons now are shelved in self-service aisles, increasing pilferage. But at least they take up much less room—an average of 33 feet of shelf space—than most other products.

According to A.C. Nielsen, the average supermarket devotes 176 feet of shelf space to candy and chewing gum, 193 feet to soft drinks (up 75% in six years), 210 feet to cat and dog dinners (up 80% in seven years), 229 feet to refrigerated foods and 290 feet to frozen foods.

Many shoppers revel in the enormous variety available, but an increasing number seem to be losing patience with sorting through the bewildering array of brands, sizes, flavors and forms clamoring for attention.

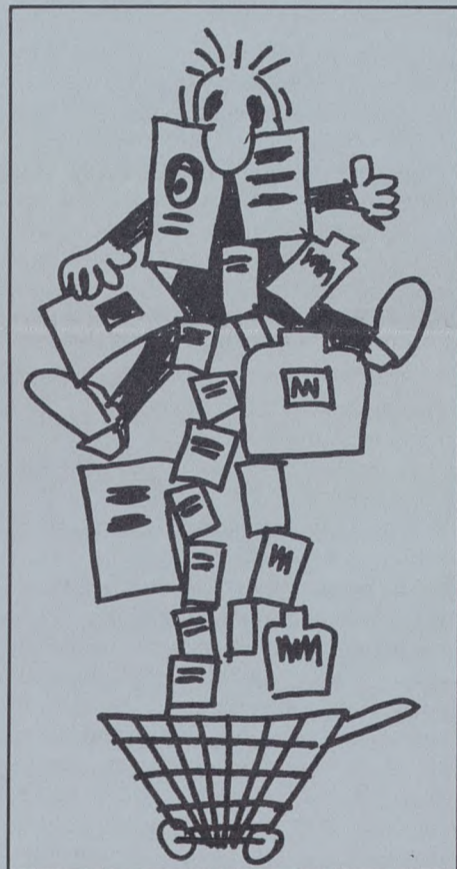
“The expansion of product variety in supermarkets has served only to confuse the food shopper, make shopping more difficult and time-consuming, and force the shopper to make decisions she would rather not make,” says William Nigut, a Chicago supermarket consultant. “The conventional wisdom has been that the longer you keep the shopper in the store, the more she will buy. But many shoppers get so frustrated and aggravated that they have begun to

leave the store before finishing their shopping.”

Gordon F. Bloom, a Waltham, Mass., supermarket owner who also is a senior lecturer at Massachusetts Institute of Technology's Sloan School of Management, agrees. “Merely walking around large supermarkets is a time-consuming undertaking,” he notes. Customers in a hurry “have taken their purchases to convenience stores,” making them the fastest-growing segment of food retailing.

The back-to-work movement among housewives is also bad news for heavily advertised national brands. According to a survey by Cadwell Davis Savage, a New York advertising agency, when other family members do the shopping, they pick a different brand than Mom would have 54% of the time. Even more “shocking” to the ad agency: 36% of the husbands “told us all brands are the same, so they just picked one.”

Husbands who see little difference



among brands apparently have good eyesight. Lee Adler, a former New York ad agency executive who now is a professor of marketing at Fairleigh Dickinson University, says that differences among brands “tend to occur not so much in basic product benefits as in packaging, brand name and imagery, advertising strategy, distribution and sales promotion. As a result, advertising copywriters face “a desperate struggle to find a competitive edge” for their brand over essentially similar products.

Unfortunately for the copywriters, few new brands offer meaningful improvements to crow about. William D. Tyler, a columnist for Advertising Age, recently lamented a “growing trend” in new product introductions of “warmed-over variations” on old products. “New products have become, slowly but surely, *less* new. The greater growth has come about in line extenders: new colors, new flavors, new scents, etc.”

Pat Bobzin of the Alpha Beta supermarket chain notes the same thing: “Probably less than 5% of the new items presented to us are really new ideas; the

cosmetic features that have no effect on product performance.

One reason there are so many new scents and other minor product pluses is that manufacturers make higher profits from such “value-added” products than from no-frills standardized items. For this reason food manufacturers eschew minimally processed staples that command relatively low profit margins to concentrate on convenience, gourmet, “natural” and “light” foods that can be promoted as adding value.

Predictably, convenience comes high. Every penny's worth of sugar sprayed onto presweetened corn flakes

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rest are variations on what already exists.”

One reason for the proliferation of me-two, me-three and me-four brands is the difficulty, even in this age of rapid technological advances, of coming up with genuinely new products. “Most of the major product innovations—dried milk, instant coffee, disposable diapers—came before 1963,” says Martin Friedman, editor of New Product News, a newsletter published by the Dander-Fitzgerald-Sample ad agency.

Products that differ from what is already available usually must be promoted more heavily, at least initially. Quaker Oats Co. says the \$28 million it spent to introduce Ken-L Ration Tender Chunks went large to convince pet owners of the need for a new kind of dog food. “We started a new category, and we had to explain why our product was different” from existing dry and semi-moist dog foods, a Quaker Oats spokeswoman explains.

Many manufacturers prefer to wait for someone else to establish a category and then capitalize on the competitor's mistakes and successes. When R.J. Reynolds Tobacco Co. introduced the first 120 mm. cigarette, More, competitors rushed 13 imitative brands to market within three months. Most have since disappeared, and More still leads the extra-long, thin-cigarette category.

Although More won out over its imitators, it is often the other way around. An A.C. Nielsen study of 20 highly successful new products found that only four had been first on the market. This led Vice President Kenneth O. Carlson to advise manufacturers, “Your chances appear better being second or third with a first-class product than first with a second-class product.”

No one denies that product proliferation has given consumers more choice—perhaps more choice than most want or would vote for. And manipulated or not, many people lay great store by even

at the factory adds about two cents to the price the consumer pays for the convenience of not having to spoon on his own sugar at the breakfast table. The additional vitamins and minerals that General Mills, Inc., adds to Wheaties to turn it into Total cost an estimated two cents, yet add about 30 cents to the retail price of a 12-ounce box.

“Consumers could save money if they simply bought a box of Wheaties and a bottle of vitamin pills instead of Total,” says Michael Jacobson, executive director of the Center for Science in the Public Interest, which has formally complained to the Federal Trade Commission that Total constitutes “a total rip-off to the consumer.”

General Mills won't say what Total's additional fortification costs it, but contends that consumers would have to pay more than the difference in price between Wheaties and Total to get the same additional fortification in the form of nationally branded vitamin pills.

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