



Consumer Federation of America

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2000 Legislative Wrap-Up

Financial Services

Bankruptcy Overhaul -- Congress passed, but the president vetoed, legislation (H.R. 2415) that would have restricted the ability of financially strapped consumers to make a fresh start in bankruptcy.

CFA Position: The bill was opposed by consumer groups on the grounds that it would have imposed a rigid new means test on debtors seeking to file under Chapter 7, thus making it harder for modest-income Americans to obtain this financial relief. In addition, it would have: increased the likelihood that debtors lose their homes and cars in Chapter 13 restructuring plans; compromised the post-bankruptcy payment of high-priority debts, such as child support and alimony, by increasing the amount of credit card debt for which debtors would be liable; and imposed onerous legal and paperwork burdens that would have disadvantaged cash-strapped families unable to afford a lawyer. At the same time, the bill would have continued to allow wealthy debtors to retain expensive homes while filing for bankruptcy, one of the most pervasive abuses in the current system. Also, despite extensive evidence that irresponsible lending by credit card companies has played a major role in leading consumers into bankruptcy, the bill would have done virtually nothing to rein in abusive practices by creditors. For example, advocates sought a requirement that creditors disclose on credit card billing statements specific information about how long it would take the customer to pay off the balance making minimum payments and what the total costs would be. However, the credit card disclosure provision was severely weakened in the final bill. It now allows credit card issuers to offer only a very general statement about the potential dangers of paying off at the minimum rate along with a toll-free number to call. This limited information will not allow consumers to easily evaluate whether paying at the minimum rate will cause serious financial problems.

Action: When bipartisan conference negotiations failed to produce a bill that key Democrats could support and that the president would sign, the bills' backers decided to circumvent that process. They did so by substituting a secretly negotiated conference report for State Department authorization legislation. That bill passed the House on a voice vote in October. The Senate approved the bill on a 70-28 vote in December. The president vetoed the measure after Congress adjourned.

Disaster Insurance -- Anti-consumer disaster insurance legislation (S. 1361) was introduced in the Senate. Like its House counterpart (H.R. 21), which was introduced the previous year, the Senate bill would have established a federally backed reinsurance program for state pools and private insurance companies to cover residential property losses from hurricanes, earthquakes, volcanoes, tsunamis, windstorms, and wildfires.

CFA Position: CFA opposed the legislation on a number of grounds, including that it: was unnecessary, and would thwart further development of private reinsurance; provided inadequate assurance that consumers would have access to adequate and affordable insurance protection; contained weak loss prevention provisions; delegated too much power to insurance companies; and exposed taxpayers to increased disaster relief costs.

Action: The Senate Commerce Committee held hearings on the issue in April, at which CFA testified in opposition, but no further action was taken on the Senate bill. The House bill, which had been reported out of the Commerce Committee at the end of the previous year, was never brought to the House floor for a vote.

Financial Planning Benefits -- Pension legislation (H.R. 1102) that passed the House in 2000 included a provision to clarify that employers can provide retirement planning services to workers and their spouses as a tax-free fringe benefit.

CFA Position: Extensive evidence, including research conducted by CFA, suggests that financial planning promotes savings. Unfortunately, financial planning is still unaffordable for many Americans who need it most. By encouraging employers to offer retirement planning services, this legislation would have helped, however modestly, to bring the benefits of planning to those who could not otherwise afford it.

Action: The House approved H.R. 1102, including the financial planning benefits provision, on a 401-25 vote in July. The Senate then took up the measure. A modified version of the bill, which left the financial planning language intact, was reported out of the Senate Finance Committee in September. Facing a crowded legislative calendar, however, H.R. 1102 was never brought to the Senate floor for a vote.

Mutual Fund Performance Disclosure -- The House gave overwhelming approval to legislation (H.R. 1089) to improve mutual fund performance disclosure by requiring fund companies to disclose after-tax performance.

CFA Position: CFA supported the legislation on the grounds that performance is a key factor considered by investors in selecting funds, the effects of taxes are among the key costs that can significantly reduce returns, and those tax-related costs vary greatly from fund to fund. Thus, requiring standardized disclosure of after-tax returns will give performance-oriented investors purchasing funds for a taxable account a more complete picture of real world fund performance to use in comparing funds.

Action: Although the bill was not acted on by the Senate, House passage of the legislation spurred the Securities and Exchange Commission to issue rules requiring standardized after-tax performance disclosure by mutual funds.

Commodities Futures Deregulation -- Congress included legislation (H.R. 4541, S. 2697) in the end-of-session budget reconciliation bill that reduces regulatory oversight of derivatives markets.

CFA Position: CFA opposed the bill on the grounds that it reduces or eliminates already minimal protections against fraud and manipulation in derivatives markets. Consumers are harmed both because derivatives markets affect prices throughout the economy and because those markets create enormous systemic risk through the high degree of leverage they produce.

Action: The legislation was enacted into law as part of the budget reconciliation bill.

Pro-consumer bills introduced but not acted on

A whole host of pro-consumer financial services bills were introduced in the 106th Congress but never acted on, including the following.

Auto Leases -- Rep. John LaFalce (D-NY) introduced a bill (H.R. 4540) to extend coverage of the Consumer Credit Protection Act to consumer leases of up to \$50,000, to index that amount to

inflation, and to prescribe additional automobile lease advertising disclosure requirements.

Basic Banking and Bank Fees -- Rep. Maxine Waters (D-CA) introduced legislation (H.R. 3503) that, among other things, would condition the ability of bank holding companies to expand their financial activities on their having a proven history of providing low-cost lifeline bank accounts. The bill also would ban ATM surcharges and reinstate the Federal Reserve Board's annual survey of bank fees. Rep. John LaFalce (D-NY) also introduced a bill (H.R. 4584) to require insured financial institutions to make an affordable transaction account available to consumers. Rep. LaFalce and Sen. Paul Sarbanes (D-MD) introduced companion bills (H.R. 4490, S. 2592) directing the Treasury Department to establish a program for low- and moderate-income persons to expand their access to financial services, to develop new financial products and services for this audience, and to provide consumer education about such services.

Bill of Rights -- Rep. Janice Schakowsky (D-IL) introduced legislation (H.R. 4332) to outline a broad financial consumers' bill of rights, including, among other things: limits on excessive credit card late fees, bounced check fees, and ATM fees; an assessment of lifeline banking needs; a prohibition on binding arbitration clauses; improved privacy protections; and limits on charges for in-person transactions.

Binding Arbitration -- Rep. Luis Gutierrez (D-IL) introduced legislation (H.R. 2258) to amend the Consumer Credit Protection Act to prohibit the inclusion of pre-dispute mandatory binding arbitration clauses in consumer contracts.

CRA Modernization -- Rep. Thomas Barrett (D-WI) introduced legislation (H.R. 4893) to: modernize the Community Reinvestment Act by, among other things, subjecting all non-bank affiliates of bank holding companies that engage in lending or offer banking products or services to the act; require that CRA ratings be lowered for institutions that engage in predatory lending practices; establish a disclosure requirement for insurance companies regarding availability and affordability of insurance; and set forth anti-redlining requirements for financial holding companies.

Credit Cards -- A number of members introduced bills to address abuses and improve disclosures related to credit cards. Rep. John LaFalce (D-NY) introduced a comprehensive bill (H.R. 900) to require enhanced disclosures, limit the imposition of inactivity fees, prohibit the imposition of penalties for on-time payments, and limit marketing to underage consumers. Rep. Lucille Roybal-Allard (D-CA) introduced a bill (H.R. 1276) to prohibit penalty fees for on-time payments, to require advance notice of rate increases, and to improve disclosure. Rep. Louise McIntosh Slaughter (D-NY) introduced a bill (H.R. 3142) to limit marketing to minor college students. Rep. Darlene Hooley (D-OR) introduced a bill (H.R. 3477) to require better disclosure with regard to late fees. Although some issues related to credit card disclosure were addressed in the bankruptcy bill (see above), broader credit card protections were not acted on.

Credit Reports -- Rep. Christopher Cannon (R-UT) introduced legislation (H.R. 2856) to require credit reporting agencies, upon request, to disclose to consumers all information in their file, including credit scores or other risk scores.

Financial Privacy -- Reps. Edward J. Markey (D-MA) and Joe Barton (R-TX) and Sens. Richard Shelby (R-AL) and Richard Bryan (D-NV) introduced companion bills (H.R. 3320, S. 1903) in 1999 to enhance privacy protections for consumers' financial information. In 2000, Rep. John LaFalce (D-NY) and Sen. Patrick Leahy (D-VT) introduced the administration's financial privacy legislation (H.R. 4380, S. 2513). Although they differed in details, all would have required financial institutions to get customers' prior consent before sharing their personal information with affiliates or third parties.

Identity Theft -- Rep. Darlene Hooley (D-OR) and Sen. Dianne Feinstein (D-CA)

introduced companion bills (H.R. 4311, S. 2328) to combat identity theft by, among other things: strengthening obligations of credit card issuers in verifying change of address and additional card requests; strengthening notification obligations of credit reporting agencies when they learn of a consumer card application bearing a different address than the address in the consumer's file; and establishing fraud alert procedures for credit reporting agencies and users of consumer credit information. The bills also would require credit reporting agencies to provide consumers with one free copy of their report each year and to disclose, upon properly verified request, all information contained in its files pertaining to that consumer.

Loan Checks -- Both Rep. John LaFalce (D-NY) and Rep. Maurice Hinchey (D-NY) introduced bills (H.R. 2351, H.R. 1576) to prohibit consumer loan solicitations using unsolicited loan checks.

Payday Loans -- Rep. John LaFalce (D-NY) introduced legislation (H.R. 3823) to prohibit federally insured banks from making payday loans either directly or indirectly and to prohibit uninsured lenders from using a personal check or electronic authorization on an account with an insured institution in connection with a payday loan. Rep. Bobby Rush (D-IL) introduced a bill (H.R. 1684) that takes a different approach to ending payday lending abuses, by setting minimum standards for state payday loan laws and requiring banks to comply with the payday loan laws of the state in which the consumer receives the proceeds of the loan.

Predatory Mortgage Lending -- Rep. John LaFalce (D-NY) and Sen. Paul Sarbanes (D-MD) introduced companion bills (H.R. 4250, S. 2415) to protect consumers against predatory practices in connection with high-cost mortgage transactions by, among other things: restricting fees that may be financed; requiring additional disclosures; prohibiting prepayment penalties, balloon payments, and financing of single-premium payments for certain credit insurance products; and increasing penalties for violations. Rep. Janice Schakowsky (D-IL) and Sen. Charles Schumer (D-NY) also introduced pro-consumer bills (H.R. 3901, S. 2405) that took somewhat different approaches to addressing predatory mortgage lending abuses.

Truth-in-Lending Modernization -- Rep. John LaFalce (D-NY) introduced legislation (H.R. 1332) to modernize and provide added consumer protections under the Truth in Lending law by, among other things: raising the dollar amount for credit and lease transactions involving real and personal property subject to consumer credit information and disclosure requirements; increasing civil penalties for violations; and eliminating the outdated and inequitable Rule of 78s accounting method for calculating refunds of unearned interest on credit transactions.

Health Care

Managed Care Reform -- Despite a flurry of renewed activity in 2000, Congress still failed to pass pro-consumer managed care reform legislation.

CFA Position: CFA supported bipartisan House legislation (H.R. 2723), introduced by Reps. John Dingell (D-MI) and Charlie Norwood (R-GA), on the grounds that it offered a comprehensive set of reforms to all 161 million Americans enrolled in private insurance plans. It would have: required a timely and independent external grievance and appeals system; held managed care organizations legally accountable for negligence; allowed health care providers to prescribe the right drugs for their patients, even when the drug was not on the plan's formulary; guaranteed patients a period of continuity of care with their physician if the physician left the plan; required comprehensive disclosure of information to enrollees; allowed patients to have direct access to specialists in some cases; and protected the doctor-patient relationship, by ensuring that physician decisions prevailed over plan objections if upheld by an external review and by eliminating improper physician incentive plans.

CFA did not support the Senate bill (S. 1344), which offered a more limited package of reforms and applied them only to the 48 million patients in health plans that are exempt from state regulation. Specifically, the Senate bill would not have: guaranteed access to specialists; banned gag clauses and financial incentives to deny care; ensured that doctors, not health plans, had the final say over what is medically necessary for the patient; or held plans legally liable when they made medical decisions that resulted in harm to the patient.

Action: Although both bills passed in 1999, conferees were unable to work out differences and produce a compromise bill that could win administration support. One problem resulted from the decision by Republican leaders in the House to appoint conferees who opposed the broader protections in the House version, a step they were able to take because they attached the House bill to a Republican bill dealing with insurance access issues. When it became clear that the conference had stalled, Senate Democrats made several attempts in 2000 to pass a version of the stronger House bill by attaching it to other legislation, but those efforts failed.

Health Care Antitrust Exemption -- The House approved legislation (H.R. 1304) granting self-employed physicians, pharmacists, and other health care professionals immunity from laws that prohibit anti-competitive practices.

CFA Position: CFA opposed the legislation on the grounds that it would have authorized the creation of health care cartels, not unions. Physicians organizations have argued that the legislation is necessary to give doctors more power to negotiate with managed care firms on behalf of their patients. However, CFA concluded that, by giving physicians the power to collude on price, divide up markets, and work in concert to disadvantage competing non-physician providers, the legislation would have done consumers considerably more harm than good.

Action: Although the bill passed the House in June on a 276-136 vote, it was never taken up in the Senate, where it was opposed by Republicans and Democrats.

Medicare Prescription Drug Benefits -- With roughly one-third of Medicare recipients lacking prescription drug coverage, Democrats and Republicans offered competing plans to include a prescription drug benefit under Medicare.

CFA Position: Despite limitations with both approaches, CFA generally supported the Democratic bills (H.R. 4607, S. 3107), which would have offered all seniors coverage under the same plan and would have provided that coverage through the Medicare program, as hospital and

physician coverage is now provided. In contrast, the Republican plan (H.R. 4680) would have relied on the private sector to create drug policies for seniors, with the government providing subsidies to insurers to encourage them to participate. Even insurers cautioned that this approach was likely to be ineffective.

Action: In June, House Republican leaders forced a vote on the Republican bill (H.R. 4680) without giving members an opportunity to offer amendments. The bill passed on almost a straight party-line vote. Efforts in both the House and the Senate to pass the Democratic plan were unsuccessful.

Public Access To Physician Database -- Bipartisan legislation (H.R. 5122) was introduced to allow public access to information in the National Practitioner Data Bank.

CFA Position: CFA supported the legislation on the grounds that it would provide crucial information that consumers could use, in conjunction with other sources of information, to choose the right physician and protect themselves from dangerous providers. A government backed database, the National Practitioner Data Bank includes information on: malpractice settlement and jury awards; criminal convictions, if collected by state medical boards or reported by physicians; hospital and state medical board disciplinary decisions; and physician exclusions by the Medicare or Medicaid program. The bill would require that information be made available to the public over the Internet. In September testimony before the Commerce Committee, CFA recommended that the database be expanded in order to make it more useful to the public, by: collecting information regarding nurse practitioners and physician assistants, requiring health care institutions such as ambulatory surgery centers and neighborhood health centers to query the Data Bank when admitting a physician, and giving consumers the same right physicians would have to submit a statement regarding malpractice settlements and decisions to which they were a party.

Action: Hearings were held in both the Oversight and Investigations Subcommittee and the full House Commerce Committee. No further action was taken.

Medical Information Privacy -- When Congress passed the health Insurance Portability and Accountability Act in 1996, it imposed a deadline of August 1999 for enactment of comprehensive health privacy legislation. Although a variety of bills were introduced dealing with medical information privacy in the 106th Congress, none was enacted.

CFA Position: CFA supported bills (H.R. 1057, S. 574) to provide broad privacy protections for all medical information. Introduced by Rep. Edward J. Markey (D-MA) and Sen. Patrick J. Leahy (D-VT), these bills would have: guaranteed individuals access to their own medical information; required the establishment of safeguards to protect the privacy, security, and accuracy of health information; restricted the use and disclosure of protected information unless authorized by the subject of that information; and created an Office of Health Information Privacy within the Department of Health and Human Services (HHS). CFA also supported narrower legislation (H.R. 4585), introduced by Chairman Jim Leach (R-IA) and approved by the House Banking Committee, to prohibit financial institutions from disclosing customers' personally identifiable health information without first getting their consent.

Action: When Congress failed to enact broad medical privacy legislation, the issue passed to HHS, which issued rules just before the new administration took office. The Leach bill, which was jointly referred to the House Commerce Committee, was never acted on by that body.

Health Research Giveaways -- Legislation (H.R. 626) was considered in both the House

and Senate to halt the government giveaway of billions of dollars worth of taxpayer-financed health research.

CFA Position: CFA supported the legislation, which would have required pharmaceutical companies who obtained exclusive right to sell products patented by the National Institutes of Health to first enter into a reasonable pricing agreement with the Department of Health and Human Services. The purpose was to put an end to abusive over-charges for products developed with federal research and make life-saving drugs accessible to many consumers who currently cannot afford them.

Action: The House voted 313-109 in June to incorporate the legislation in the Labor, HHS appropriations bill. However, a similar amendment by Sen. Paul Wellstone (D-MN) was defeated in the Senate, and the provision was not included in final legislation.

Pro-consumer bills introduced but not acted on

Generic Drug Access -- Sens. John McCain (R-AZ) and Charles Schumer (D-NY) introduced legislation (S. 3051) to increase the timely availability of safe, cost-effective generic drugs by prohibiting a number of practices commonly used by "brand name" prescription drug manufacturers to unnecessarily delay the introduction of generic drugs onto the market once a drug patent has expired.

Product Safety

Poison Control Center Enhancement -- Congress passed and the president signed legislation (S. 632, P.L. 106-174) to provide regional grants to poison control centers and to educate the public about poisoning prevention.

CFA Position: CFA supported the legislation on the grounds that it will provide a much needed funding boost for poison control centers. More than two million poisonings are reported to poison control centers in the United States each year. In recent years, however, funding for poison control centers in some parts of the country has decreased or disappeared entirely. This leaves consumers without a place to call for critical, time-sensitive advice on poisoning treatment and forces them to rely on costly public health resources. The legislation authorizes \$25 million a year for five years to provide grants to regional poison control centers and to educate the public about poisoning prevention.

Action: The legislation, which passed the Senate in 1999, was approved by the House in early February and was signed into law by the president later that month.

Product Liability -- The House passed two bills to limit liability for dangerous or defective products. The first (H.R. 2366) was aimed at restricting the liability of small manufacturers and retailers. The second (H.R. 2005) was designed to limit the liability of durable goods manufacturers.

CFA Position: CFA opposed both bills on the grounds that they would have placed unwarranted limits on the ability of individuals injured by dangerous or defective products to recover damages. H.R. 2366 would have capped punitive damages against businesses with fewer than 25 full-time employees at the lesser of \$250,000 or three times the economic and non-economic award, unless a court determined that the business intended to cause the harm. It also would have restricted the cases in which punitive damages could be awarded, restricted joint and several liability, and preempted state laws that offered stronger protections to consumers. As a result, the bill would have protected from liability some of America's major firearm manufacturers, including companies whose products appear frequently on criminal gun tracing records. It also would have severely limited the compensation patients and their families could receive when they are killed or injured by the medical malpractice of a doctor or medical corporation with fewer than 25 employees. H.R. 2005 would have imposed an 18-year time limit on lawsuits against manufacturers of durable goods used in the workplace, despite the fact that these products are often designed to continue in use far longer than 18 years. Under the bill, workers injured by defective products after the 18-year time limit would have been unable to recover for such losses as pain and suffering, loss of limb, or future loss of wages.

Action: H.R. 2366 passed the House on a 221-193 vote in February. Although Senate Majority Leader Trent Lott (R-MS) indicated in the Spring that he intended to bring H.R. 2366, or a similar Senate bill (S. 1185), to the Senate floor for a vote, he did not do so. H.R. 2005 also passed the House in February, on a 222-194 vote. It was never taken up in the Senate.

Firearm Safety -- A number of bills were introduced in the 106th Congress to deal with various aspects of firearm safety, including closing the gun show loophole, requiring child safety locks, and subjecting guns to federal safety regulation. Although several firearm safety measures were included in the juvenile justice bill, no new protections were enacted.

CFA Position: CFA endorsed companion bills (H.R. 920, S. 534), introduced by Rep. Patrick Kennedy (D-RI) and Sen. Robert Torricelli (D-NJ), to give the Treasury Department

authority to regulate the design, manufacture, and distribution of firearms and ammunition. That authority would have included: setting minimum safety standards for guns; issuing recalls and warnings about defective guns; collecting data on gun-related death and injury; and banning products when no other remedy is sufficient. CFA also endorsed legislation (H.R. 515), introduced by Rep. Julia Carson (D-IN), to require that child safety locks be provided with the sale of firearms and that the Treasury Department set minimum safety standards to ensure that the locks work effectively. Finally, CFA endorsed companion bills (S. 443, H.R. 902), introduced by Sen. Frank Lautenberg (D-NJ) and Rep. Rod Blagojevich (D-IL), that would close the "gun show loophole" by subjecting all firearm sales made at gun shows to the Brady background check. CFA also supported inclusion of Senate firearm safety provisions in any final juvenile justice bill.

Action: Most of the action, or inaction, on firearm safety issues centered around the juvenile justice bill. The version passed by the Senate in 1999 (S. 254) included provisions to require background checks for all sales at gun shows, to require child safety locks, and to ban the import of high-capacity magazines. Opponents of firearm safety measures prevented the juvenile justice conference committee from even meeting to negotiate for fear they would agree to the provisions in the Senate bill.

Pro-consumer bills introduced but not acted on:

CPSC Enforcement Authority -- Rep. Edward Markey (D-MA) and Sen. Ernest Hollings (S-SC) introduced bills (H.R. 4586, S. 2820) at the request of the president to enhance the Consumer Product Safety Commission's enforcement authority by: removing the cap on civil penalties for violations of product safety laws; increasing the penalty for "knowing and willful" criminal violations from a misdemeanor to a felony; and giving the CPSC greater authority to negotiate safety recalls.

Crib Safety -- Rep. Ellen Tauscher (D-CA) introduced legislation (H.R. 2486) to close the loophole that allows cribs known to be dangerous to be sold in the resale market and provided for use by hotels and motels.

Fire Safe Cigarettes -- Rep. Joe Moakley (D-MA) introduced legislation (H.R. 1130) to require CPSC to promulgate a cigarette fire safety standard in order to reduce the number of fires started by cigarette ignition.

Fixed-site Amusement Parks -- Rep. Edward J. Markey (D-MA) introduced legislation (H.R. 3032) to allow the CPSC to regulate rides in fixed-site amusement parks.

Food and Nutrition

Food Safety -- Congress adopted last-minute appropriations language requiring the USDA to submit its salmonella testing program for review by the National Advisory Committee on Microbiological Criteria for Food and exempting a substandard Ohio school kitchen from meat and poultry inspection requirements.

CFA Position: CFA opposed the provisions on the grounds that they seriously diminish food safety. The salmonella testing and enforcement program is credited with having produced a significant decline in salmonella contamination on meat and poultry carcasses and in ground beef and turkey. The National Advisory Committee on Microbiological Criteria for Food has been dominated by industry representatives and scientists whose work is funded by industry, virtually all of whom oppose salmonella performance standards, testing, and enforcement. Requiring this review is designed to override the inspection and enforcement program. The second provision affected the Dayton, Ohio school district central kitchen. When school central kitchens prepare extra food and sell it to other programs receiving Child Nutrition Program funding, they become subject to federal inspection requirements. The Dayton central kitchen does not meet the requirements. Although USDA had offered to work with local authorities to assure no interruption in food service while problems were being addressed, the rider instead simply exempted the kitchen from the inspection requirement. The exemption sets a precedent for exempting other school districts from meeting food safety sanitation requirements.

Action: Without holding hearings on the issues, Congress attached the provisions as riders to the agriculture appropriations bill that passed just before Congress recessed for elections and was signed into law. Sen. Tom Harkin (D-IA) was able to add language requiring that members of the National Advisory Committee on Microbiological Criteria for Food at least reveal the sources of their funding. Also during appropriations bill consideration, Sen. Harkin offered an amendment to clarify that USDA has authority to withdraw inspectors from -- and thereby shut down -- meat and poultry plants that fail government safety tests for salmonella. The amendment, which was in response to a federal court ruling that USDA lacks this authority, was rejected 48-49.

Irradiated Food Labeling -- Congress enacted legislation as part of the agriculture appropriations bill directing the Food and Drug Administration to develop label euphemisms to substitute for current labeling requirements for irradiated food.

CFA Position: CFA opposed the measure on the grounds that it denies consumers clear and concise label information on which to base an informed choice about purchasing irradiated foods. The provision was backed by companies that manufacture equipment used to irradiate food. They believe consumers are frightened by the mandatory notification on food labels, "Treated with Irradiation," and thus have sought its removal.

Action: Without ever being subject to public hearings, the provision was added as a rider to the agriculture appropriations bill shortly before Congress recessed for November elections and was signed into law.

State Food Label Law Preemption -- Efforts were made to prohibit states from enacting food labeling provisions that exceed federal standards.

CFA Position: CFA opposed the measure, which would have overturned stronger labeling laws in several states, on the grounds that federal standards should provide a floor, not a ceiling, for food label requirements.

Action: Attempts to attach the bill first to the agriculture appropriations bill and then to the

Labor-Health and Human Services appropriations bill failed in the face of Clinton administration opposition.

Food Safety Agency -- Congress considered legislation to consolidate federal food safety programs within a single food safety agency.

CFA Position: CFA supported the legislation (H.R. 2345, S. 1281), which was introduced by Rep. Rosa DeLauro (D-CT) and Sen. Richard Durbin (D-IL). Currently, food safety functions are scattered among 12 agencies and governed by 35 different laws. Consolidating those functions within a single agency solely responsible for food safety would help close gaps in the food safety system and improve use of public resources.

Action: Although a hearing was held on the issue in 1999, at which CFA testified in support, no further action was taken.

State-Inspected Meat and Poultry -- Sen. Thomas Daschle (D-SD) introduced legislation (S. 1988) to ensure a level of public health protection in state-inspected meat and poultry plants consistent with that required in federally inspected plants.

CFA Position: CFA initially supported the legislation on the grounds that it would make meat and poultry products safer and, therefore, contribute to improved public health. The bill would have required state meat and poultry inspection programs to enforce federal inspection requirements, including salmonella performance standards, under new cooperative agreements with the Secretary of Agriculture. The bill would also have required USDA to conduct annual compliance audits of state inspection programs. In return, products from state-inspected plants could be sold in interstate commerce.

Action: The Senate Agriculture Committee held a hearing on the bill in April, at which CFA testified in support. Industry representatives opposed any legislative endorsement of the salmonella standards, testing, and enforcement provisions. Consumers opposed the bill without these provisions. No further action was taken.

Sugar Program Reform -- Legislation was introduced (H.R. 1850, S. 1118) to phase out the federal sugar price support program.

CFA Position: CFA supported the legislation on the grounds that the sugar program increases the cost of sugar and processed foods to consumers, by an estimated \$1.9 billion a year. It also cost taxpayers nearly half a billion dollars in FY 2000 for federal purchases of surplus sugar, payments that primarily benefit wealthy Florida sugar barons.

Action: Although these bills were not acted on, Sen. John McCain (R-AZ) offered an amendment during debate over the agriculture appropriations bill to de-fund the program for a year. The amendment was tabled on a 65-32 vote. In addition, sugar growers actually gained ground when Congress, acting on the agriculture appropriations bill, repealed a minor reform enacted in 1996. The reform required sugar growers to repay their government loans in cash, rather than simply forfeiting their crop, if U.S. sugar imports fell below 1.5 million tons a year. Sugar growers pushed the repeal amendment when high support prices and record crops made it increasingly likely that cash repayments would be imposed. Later in the year, sugar growers forfeited vast amounts of cane and beet sugar to the government, contributing to nearly half a billion dollars in taxpayer costs for the sugar program. The storage costs alone amount to \$1.4 million a month. Neither the House nor the Senate took a recorded vote on the issue, which was included in the bill over the strong opposition of CFA.

Agriculture Industry Concentration -- Some attention was given to issue related to agriculture industry concentration.

CFA Position: CFA supports efforts to limit concentration in the agriculture industry on the grounds that a non-competitive market results in higher prices and fewer choices for consumers, lower prices for farmers and ranchers, plant closings, job losses, erosion of local tax bases, and environmental damage.

Action: A provision was included in antitrust enforcement legislation (H.R. 4321) to create a commission to study concentration in food and agriculture and to establish a permanent senior position in the Justice Department's antitrust division focusing on agriculture issues. (See entry below under Antitrust) During Senate consideration of the agriculture appropriations bill, Sen. Paul Wellstone (D-MN) offered an amendment to fully fund the market concentration activities of USDA's Grain Inspection, Packers, and Stockyards Administration at \$3.95 million for the year, as recommended by the administration. The Senate tabled the amendment on a 51-47 vote.

Country-of-Origin Labeling -- Legislation (H.R. 1144) was considered to require country-of-origin labeling on all meat and meat products.

CFA Position: CFA supported the legislation because it would give consumers additional information about the source of their food. As a matter of choice, many consumer may wish to purchase meat from animals born and raised in the United States. Without country-of-origin labeling, these consumer are unable to make an informed choice between U.S. and imported products. In fact, under the USDA grade stamp system, they could be misled into thinking some imported meat is produced in this country.

Action: The House Agriculture Subcommittee on Livestock and Horticulture held a hearing on the issue late in the session, but no further action was taken.

Drinking Water Safety -- A rider was added to the Veterans Affairs, Housing and Urban Development, and Independent Agencies appropriations bill to delay implementation of a proposed more health protective standard for arsenic in drinking water.

CFA Position: The current standard for arsenic in drinking water poses an unacceptably high cancer risk of one in 100. CFA supported EPA adoption of a more health-protective standard. Further delay in implementing the standard, which EPA proposed in 2000, is unwarranted, particularly since the rule provides ample time for water systems to come into compliance.

Action: Efforts were made in both the House and the Senate to remove the rider. An amendment by Sen. Barbara Boxer (D-CA) to strike the rider, along with a rider to prevent the agency from designating non-attainment areas under the Clean Air Act, was tabled on a 63-32 vote. An amendment by Rep. Maurice Hinchey (D-NY) to delete the rider, along with language restricting the agency's ability to encourage the use of dredging, was rejected on a 208-216 vote.

Pro-consumer food bills introduced but not acted on

A number of pro-consumer food and nutrition bills were introduced in the 106th Congress but never acted on, including the following.

Dairy Compacts -- Sen. Rod Grams (R-MN) introduced legislation (S. 916) to repeal the Northeast Interstate Dairy Compact, a regional milk pricing agreement that has significantly raised consumer milk prices in New England by allowing a regional commission to set a farm price for milk that is above the price dictated under the federal marketing order system.

Imported Food Safety -- Rep. Anna Eshoo (D-CA) and Sens. Barbara Mikulski (D-MD),

Richard Durbin (D-IL), and Edward Kennedy (D-MA) introduced companion bills (H.R. 2055, S. 1126) to improve the Food and Drug Administration's ability to protect American consumers from adulterated imported food by, among other things, giving the FDA the same authority the U.S. Department of Agriculture has to require that imported foods under its jurisdiction be produced and packaged under circumstances that provide the same level of health protection required for domestic food producers and processors.

Peanut Program -- Rep. Christopher Shays (R-CT) and Sen. Rick Santorum (R-PA) introduced bills (H.R. 2571, S. 802) to phase out the federal peanut program, which increases the price of peanuts and peanut products by setting an artificially high price for producers holding a federal license to grow peanuts for domestic consumption, and to require the U.S. Department of Agriculture to purchase peanut products for federal nutrition programs only at the world market price.

Produce Safety -- Sen. Tom Harkin (D-IA) introduced legislation (S. 823) to improve the safety of processed fresh fruits and vegetables by giving the force of law to existing voluntary good manufacturing practices for ready-to-eat fresh produce and by granting the Food and Drug Administration authority to enforce sanitation standards, develop safe produce growing and harvesting guidelines, increase research on produce-related illness, and begin developing performance standards for the safety of fresh produce.

Utilities

Electric Deregulation -- Although Commerce Committee Chairman Thomas Bliley (R-VA) made passage of electricity restructuring legislation a priority, both the House and Senate ultimately failed in their efforts to craft comprehensive legislation to deregulate the electric power industry (H.R. 2944, S. 2098).

CFA Position: With more than half of the electricity in the country consumed in states that have enacted restructuring plans, federal legislation is needed to address severe problems in the interstate market, promote competition, and protect consumers from abuse. While taking somewhat different approaches, neither the House nor the Senate bill met that standard. Instead, the bills would have done more harm than good. Specifically, the bills failed: to ensure that the generation market is competitive before deregulating; to guarantee reasonable and affordable rates; to require open, non-discriminatory access to transmission services; to impose any oversight over financial transactions to ensure the smooth function of the market; to include provisions to preserve or improve environmental quality; or to outline a clear and equitable strategy for assigning stranded costs.

Action: Although the House Energy and Power Subcommittee reported out its bill at the end of the 1999 session, strong differences over the bill within the full Commerce Committee stalled further action. The Senate Energy and Natural Resources Committee held mark-up sessions on its bill, but negotiations also broke down there over several issues, including who should regulate electric transmission in a deregulated market and whether renewable power sources should be required for electric power generators. Ultimately, the Senate settled for passing legislation (S. 2071) to encourage increased standards for ensuring the reliability of the nation's electric power grid. Neither that bill nor its House companion (H.R. 4881) was acted on in the House.

Strategic Petroleum Reserves -- Congress passed and the President signed legislation (H.R. 2884, P.L. 106-469) to reauthorize the Strategic Petroleum Reserve and create a home heating oil reserve in the Northeast.

CFA Position: With crude oil prices at their highest level since the Persian Gulf War, CFA advocated releasing oil from the Strategic Petroleum Reserve and creating a home heating oil reserve as important strategies to help halt rising energy prices. The legislation was needed to renew presidential authority to operate the Strategic Petroleum Reserve, which had been allowed to expire.

Action: The bill was given final approval in the House and Senate in October and was signed by the president in November.

Hydroelectric Licensing Reform -- The Senate considered legislation (S. 74) to reform the hydroelectric licensing process.

CFA Position: Domestic generation of hydropower is waning as a result of a Federal Energy Regulatory Commission licensing process that is in serious need of repair. Unless the process is fixed, the nation could lose a number of hydropower projects over the next few years, and consumers could face higher costs to replace this energy. While emphasizing that S. 740 is not perfect, CFA supported the bill as a starting point for committee action.

Action: Hearings were held on the issue in the Senate Energy and Natural Resources Committee, but no further action was taken.

Internet Access -- In the wake of the proposed merger between AOL and Time Warner, renewed attention was given to the issue of open access to the broadband Internet.

CFA Position: CFA supports creation of a mandatory non-discriminatory access rule for the high-speed Internet. However, none of the bills considered in Congress provided the comprehensive open access policy that is needed. The bill that gained the most support (H.R. 2420) not only would not have solved the broadband open access problem, it would have removed important incentives for regional Bell companies to open local telephone markets to competition.

Action: Although H.R. 2420 gained more than 200 co-sponsors, it was not supported by Commerce Committee Chairman Thomas Bliley (R-VA) and was never acted on in committee. The House Judiciary Committee held hearings on the issue in July but took no action.

Pro-consumer bills introduced but not acted on

Electric Industry Tax Modernization -- Sen. Frank Murkowski (R-AK) and Rep. J. D. Hayworth (R-AZ) introduced companion bills (S. 2967, H.R. 4971) that include a provision to allow community- owned utilities continued, but limited use of tax-exempt financing to maintain and modernize certain facilities while complying with state and federal policies implementing increased competition.

Transportation

Auto Safety -- In response to the Firestone recall, Congress passed and the president signed legislation (H.R. 5164, P.L. 106-414) to enhance reporting of defects and to require real world roll-over tests for cars and trucks.

CFA Position: The provision requiring the National Highway Traffic Safety Administration to develop real world roll-over tests will, for the first time, provide consumers with meaningful information to use in determining how likely vehicles are to roll over. The bill also requires the automobile industry to share a broad range of information with the government on possible defects in their products and imposes monetary and criminal provisions for hiding information from regulators. However, the effectiveness of these requirements was seriously eroded by the inclusion of a too broad safe harbor provision in the criminal penalty section that allows those who know of safety problems to avoid criminal penalties by eventually reporting them. In addition, the bill makes it far too difficult for the public to gain access to "early warning" information on product defects.

Action: Both the House and Senate passed H.R. 5164 in October, and the president signed it into law. Senate approval came only after Sen. John McCain (R-AZ) was blocked from bringing his stronger bill (S. 3059) to the floor or from amending the House bill to strengthen it.

Drunk Driving -- Congress included a provision in the transportation appropriations bill to impose tough new sanctions on states that fail to adopt a 0.08 percent blood-alcohol content standard.

CFA Position: Most states set higher blood-alcohol content levels, most commonly at 0.10 percent. Studies have shown, however, that drivers become impaired at blood-alcohol content levels of 0.08 percent or less. Under the new law, states that fail to adopt the lower blood-alcohol content standards will see their federal highway funding cut by five percent in 2004 and by 10 percent in later years. By creating strong incentives for states that have not yet done so to adopt the lower blood-alcohol content standard, the legislation will save lives and reduce injuries from drunk driving.

Action: The measure was included in transportation appropriations legislation, which was passed by Congress and was signed by the president in October.

Pro-consumer bills introduced but not acted on:

Auto Salvage -- Sens. Dianne Feinstein (D-CA), Carl Levin (D-MI), and Richard Bryan (D-NV) introduced legislation (S. 678) to enhance protections for purchasers of salvaged automobiles by: requiring disclosure of major damage to vehicles; providing broad coverage of most used vehicles; preventing laundering or washing of titles to conceal prior damage; providing for effective criminal and civil enforcement; and establishing a federal minimum standard of consumer protection while preserving the right of states to offer stronger protections.

Government Reform

Campaign Finance Reform -- Congress failed to enact broad campaign finance reform legislation, settling instead for a modest bill that addresses expenditures by tax-exempt political organizations.

CFA Position: CFA supported bipartisan legislation (H.R. 417) that passed the House in 1999. The bill would have banned soft money contributions and restricted issue-oriented advertising. While far short of the comprehensive reform needed to reduce special interest influence on the political process, the narrower legislation (H.R. 4762, P.L. 106-230) that passed Congress and was signed into law represents a small but significant step toward reform. It requires tax-exempt political organizations to disclose more information about their contributions and expenditures. In recent years, such organizations have spent huge amounts of money to influence elections without having to disclose the source of their funding.

Action: Senate Republicans continued their successful tactics of filibustering repeated efforts to bring comprehensive campaign finance reform legislation, whether the House bill or the Senate version (S. 1593) to the floor for a vote. The more modest disclosure bill passed the House and Senate in June and was signed into law by the president in July.

Miscellaneous

Antitrust Enforcement -- The House considered legislation (H.R. 4321) to strengthen antitrust enforcement.

CFA Position: CFA endorsed the legislation in testimony before the House Judiciary Committee, citing the increased funding it would provide for enforcement, increased fines for violations, creation of a commission to study concentration in the food and agriculture industries, establishment of a permanent senior position in the Justice Department focusing specifically on agriculture issues, and, in particular, restoration to consumers and other indirect purchasers of the right to recover damages for injuries caused by antitrust violations. In its 1977 *Illinois Brick* decision, the Supreme Court ruled that only those directly injured by monopoly or collusive behavior can seek redress in federal courts. As a result, if a manufacturer engages in illegal price-fixing, charging a retailer above the competitive price for its product, the consumers who ultimately pay the over-charge are not permitted to recover any damages. H.R. 4321 would overturn the *Illinois Brick* decision.

Action: A hearing was held on the bill in the House Judiciary Committee in September, at which CFA testified in support, but no further action was taken.

Class Action Restrictions -- Both the House and Senate considered bills (H.R. 1875, S. 353) to undermine the effectiveness of class action lawsuits.

CFA Position: CFA opposed the bills on the grounds that they would have: ended state court jurisdiction over most state class actions, even when the case involves violations of state law; resulted in considerable delays for plaintiffs and further burdened the already over-burdened federal judiciary; imposed unnecessary and inappropriate restrictions on attorneys fees; and discouraged innovative attempts to protect citizens' rights through imposition of mandatory Rule 11 sanctions.

Action: The House passed its bill during the first year of the session. The Senate bill was reported out of the Judiciary Committee in July but was never brought to the floor for a vote.

Electronic Signatures -- Congress passed and the President signed electronic signatures legislation (H.R. 1714, S. 761, P.L. 106-229) that, while far from perfect, did include some important consumer protections.

CFA Position: CFA advocated inclusion of added protections in the bill, which sets uniform federal standards for the signing of contracts and purchasing of big-ticket items on-line and for the on-line and off-line delivery of important documents. On the positive side, the bill requires companies to get explicit permission from consumers before providing important documents and notices electronically, to verify that the consumer has the correct hardware and software to receive these disclosures, and to offer consumers the option of receiving this information on paper, free of charge, when the sale is made. After the sale, consumers can choose to revert to paper disclosures at any time, although companies can charge a reasonable fee if the switch is unrelated to a change in hardware or software by the company. The bill also requires that certain critical notices, such as foreclosure and eviction notices, be delivered in writing, and it requires state and federal officials to develop new regulations to ensure that data stored electronically is stored in a tamper-proof format. On the other hand, the bill does not specify what business must do to prevent the fraudulent use of a consumer's digital signature; it extends its provisions to in-person as well as on-line transactions; it does not require businesses to assure that consumers can receive and access many important disclosures after a sale is made; and it preempts efforts by states to provide their residents with even modest additional on-line protections.

Action: Both the House and Senate adopted versions of the bill in 1999. A final bill negotiated in conference committee was approved by the House and Senate in June and signed into law by the president later that month.

Privacy -- In addition to considering bills on financial privacy and medical information privacy (see listings above), Congress considered a variety of other privacy protections, including bills to enhance protections for Social Security numbers and to create a commission to study privacy issues, but no far-reaching privacy protections were enacted.

CFA Position: CFA supported legislation (H.R. 4857) to make Social Security numbers subject to privacy restrictions in the Fair Credit Reporting Act and restrict their use by government agencies. Limiting access to Social Security numbers is an important step in protecting against identity theft. However, CFA opposed legislation (H.R. 4049) to create a commission to study privacy issues. While crediting bill sponsor Rep. Asa Hutchinson (R-AR) for giving serious attention to the need for federal consumer privacy protections, CFA argued that the legislation did not go far enough and could have had the affect of stalling much needed legislative action.

Action: In July, a House Ways and Means subcommittee cleared the Social Security privacy legislation (H.R. 4857). The bill was jointly referred to the Banking, Judiciary, and Commerce Committees, none of which acted on the measure. There was also no action on a companion Senate bill (S. 2876). Earlier, however, the Senate Banking Committee had defeated a narrower amendment by Sen. Richard Shelby (R-AL) to prohibit financial services firms from buying or selling Social Security numbers. Efforts by Sen. Judd Gregg (R-NH) to include an anti-consumer proposal regarding the sale and display of Social Security numbers in the Commerce-Justice-State appropriations bill were also defeated. The proposal, named for Amy Boyer, the first known victim of an Internet stalker, would have rolled back an important new Federal Trade Commission rule that limits the sale of Social Security numbers by information brokers. In June, the House Government Reform Committee approved H.R. 4049 to create a privacy commission, but when the bill was brought to the floor for a vote in October it failed to attract the two-thirds majority needed for consideration under suspension of the rules. On a separate issues, consumers scored an important victory when the House Ways and Means Committee eliminated provisions from a child support bill that would have given unregulated, and often predatory, private child support collection companies access to a variety of state and federal databases containing information on individuals' wages and benefits, employers, addresses, and Social Security numbers.

Tobacco Regulation -- After the Supreme Court ruled in March that the Food and Drug Administration lacks the power to regulate tobacco products, a number of members of both the House and Senate introduced bills (S. 2566, S. 2333, S. 2379, S. 2568, H.R. 4207, H.R. 4041, H.R. 4042) to give the FDA that authority.

CFA Position: CFA supports giving the FDA full authority to regulate the manufacture, sale, distribution, and marketing of all tobacco products.

Action: In the face of strong opposition from Republican leaders, there was no action on any of the bills. Tobacco industry supporters did include a provision in the Justice Department appropriations bill to prevent the DOJ from receiving funds from other departments to support "high-cost" federal lawsuits. Among the pending lawsuits that would have been de-funded by the measure is the federal government's lawsuit to recover the billions that it spends each year treating tobacco-related illnesses. That suit is jointly funded by DOJ and the Veterans' Administration. An amendment by Rep. Henry Waxman (D-CA) to exempt the tobacco lawsuit from the prohibition and

thus allow it to go forward passed 215-183 and was reflected in the final legislative history.