



Big Tech's Big Money Inside Game

BY MIKE TANGLIS

Big Tech unleashed all its power to stop the American Innovation and Choice Online Act (AICOA), a bill that would crack down on the industry's worst anticompetitive behavior. That's according to a new report released in December by Public Citizen.

AICOA would prohibit large platform owners (Google, Meta, Amazon, Apple, Microsoft, and TikTok) from using their dominant market power to unfairly advance their economic interests over other firms. For example, AICOA would stop companies from artificially elevating their own products to the top of search results. It also would stop companies from using non-public data to copy products from small retailers that sell on their platforms and would prohibit the removal of competitors from platforms for self-serving reasons.

By November 2022, *Bloomberg* estimated that Big Tech and its allies had spent more than \$120 million in attack ads against AICOA. see **Big Tech**, page 16 ▶



Graphic courtesy of Nick Totin.

Widely Used Blood Oxygen Meters Give False Readings in People of Color

BY MICHAEL ABRAMS

Imagine you've been admitted to the hospital for Covid or some other respiratory illness and are having trouble breathing. A device is gently clipped onto your fingertip which gives a reading that indicates how much oxygen you have in your blood. That reading partially determines the course of your treatment, which might be properly addressed or could result instead in prolonged illness or death.

The above scenario is sometimes worsened for people of color because many of the oxygen-measuring devices—referred to as pulse oximeters—are rendered less accurate by skin pigmentation. Skin pigmentation, which is generally higher in racial and ethnic minority populations, tends to alter pulse oximeter readings so that they are falsely higher than in reality, thereby indicating that one is sufficiently oxygenated when one may not be.

Well-designed research studies focused on treatment experiences of real patients before and during Covid have recently been published that show clear and consequential failures of pulse oximeters to function adequately when evaluating oxygen levels in people of color.

One study reviewed medical records spanning five hospitals in Maryland and D.C. run by Johns Hopkins Health System (JHHS). That study reviewed data from 1,216 Covid patients treated from March 2020 to November 2021. Of these cases, over half were classified as non-white, suggesting that various levels of skin pigmentation were included in the study. Across these non-white patients, pulse oximeter readings failed to detect actual hypoxia

(clinically low levels of oxygen in the blood) 30% of the time compared to failure rates of 17% among the white patients. Separate analysis further revealed that Black patients specifically experienced extended delays compared to white patients in receiving proper care because of such pulse oximeter inaccuracies.

A second study reviewed 3,068 intensive care unit (ICU) patient records that occurred at the Beth Israel Deaconess Medical Center in Boston, Mass., between 2008 and 2019. Among these ICU patients, 402 were classified as non-white. This research found that, on average, non-white patients received approximately 7% to 10% less supplemental oxygen during their ICU stay, after adjusting for the clinical need of such respiratory support and in part because their pulse oximeters gave falsely high (closer to normal) readings.

In response to such alarming evidence related to pulse oximeters—and given the prominence of these devices as tools to respond to Covid—the U.S. Food and Drug Administration (FDA), which also has regulatory authority over medical devices, on Nov.

see **Oximeters**, page 16 ▶

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GET TO KNOW PUBLIC CITIZEN FIONA LYNN

An ongoing series profiling Public Citizen leaders and staffers



As the managing editor of Public Citizen's Health Research Group, Fiona Lynn is a master of deadlines. She copyedits two monthly newsletters, "Health Letter" and "Worst Pills, Best Pills News," which bring critical information about health issues and dangerous drugs to the American public. She also fine-tunes petitions, letters, and other documents authored by the Health Research Group staff.

Lynn received her bachelor's degree in English from St. Mary's College of Maryland and her master's degree in professional studies and publishing from George Washington University. During her undergraduate studies, she worked abroad at the Centre for Medieval and Renaissance Studies in Oxford as assistant to the junior dean. She also interned at the University of Pennsylvania Press in the editing, production, and marketing departments. While finishing her master's degree, Lynn started her professional career as an English Language Arts test development assistant at the American Institutes for Research in Washington, D.C. She has remained in the nation's capital ever since, moving on to work as an editor in the field of health coverage at the American College of Obstetricians and Gynecologists before joining Public Citizen in 2017.

What led you to health policy work?

Lynn: While pursuing my master's degree I decided I wanted to shift to scholarly publishing and started at the American College of Obstetricians and Gynecologists. It was a big transition; I had never studied or worked in the medical field before, so there was a lot to learn. I started with patient education materials that used more simplified language, which paved the way for me to become familiar with health policy. It also taught me about using medical terminology and how to keep track of multiple projects that are in varying stages of production.

How did you come to work at Public Citizen?

Lynn: I was job hunting in 2016, just after the election, and I was looking to work for an organization that would fight the Trump administration's policies. When I came across the job listing at Public Citizen, it seemed like the perfect opportunity.

How does your job impact health policies?

Lynn: We warn consumers about dangerous drugs and medical devices and often call for these products to be withdrawn from the market or to have warnings added to their labels. In many cases, we have been successful in our efforts. I'm happy to be part of a team that works to provide important—sometimes lifesaving—information about the medications our subscribers take. It's incredibly rewarding when those subscribers reach out because our publications helped them to take charge of their health.

What activities did you partake in while you were in college?

Lynn: I was part of the Jane Austen Society, a club for people who liked Austen's novels. A lot of the meetings just involved having tea and watching the movies based on her novels. We did host a ballroom dancing class once, which was fun.

What do you like to do outside of work?

Lynn: I enjoy reading, writing, playing with my dog, Beans, and hosting game nights with my friends. I enjoy traveling whenever I get the chance as well. ■

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Public Citizen is a national nonprofit membership organization based in Washington, D.C. Since its founding by Ralph Nader in 1971, Public Citizen has fought for corporate and government accountability to guarantee the individual's right to safe products, a healthy environment and workplace, fair trade, and clean and safe energy sources. Public Citizen is active in Congress, the courts and government agencies.

Public Citizen does not accept government or corporate grants. Our funding comes from our supporters throughout the country, who believe there should be full-time advocates of democratic principles working on their behalf; from foundations; and from the sale of our publications. Public Citizen is an equal opportunity employer. To become a member of Public Citizen and receive the award-winning *Public Citizen News*, please call (202) 588-1000 or send a check payable to Public Citizen for \$20 to Public Citizen Membership Services at the address above.

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Marking Two Years Since the Jan. 6 Attack on the U.S. Capitol

Jan. 6, 2021 will forever be a date that lives in infamy in American history.

But it's wrong to understand the January 6 insurrection as a one-day, one-time event.

It was the product of years of democratic backsliding:

- The lies, racism and propaganda of Fox News and the far-right media ecosystem;
- Years-long efforts by Republicans to disenfranchise voters of color;
- Big corporation dominance of our politics and economy that has left many voters alienated and hurting;
- Extreme racial and partisan gerrymandering that has led to the election of far-right extremists that traffic in conspiracy and fascism;
- Trump and the Trump cult's embrace of authoritarianism.

Here's the most important thing: We are not out of the woods.



PRESIDENT'S VIEW
ROBERT WEISSMAN

As Kevin McCarthy groveled to win the support of the Republican caucus for his candidacy for Speaker of the House, it was tempting to watch with bemusement. It's not often that members of Congress have to be physically restrained on the floor of the House from attacking each other, after all.

But it would be a terrible mistake to dismiss all the very-public internecine conflict at the start of the Congress as nothing more than a clown show.

It's quite common for fascism to rise amidst buffoonery and farce.

And, right now, our nation faces a grave democratic threat. Tear-it-down extremists with no commitment to governing and concern for consequences control the U.S. House of Representatives.

The deal that McCarthy struck to attain the speakership guarantees two things. First, the House of Representatives will be utterly dysfunctional, unable to perform its most basic duties (like passing a budget). The odds are extremely high that McCarthy's tenure will be short-lived and we'll return to a long-play version of the chaos we saw at the start of the Congress.

Second, House Republicans are, at minimum, aiming to cut and partially privatize Medicare and Social Security and to slash federal spending in ways that will imperil vulnerable communities, worsen climate chaos,

and exacerbate wealth and income inequality. Well, you might say, they only control one half of Congress, they can't impose this. That's true. Except that they may be willing to shut down the government and vandalize the global economy (by refusing to raise the national debt ceiling) if they don't get their way.

These are profoundly dangerous times. And the risk is heightened because the aroused citizenry that blocked the slide into fascism during the Trump regime is now worryingly complacent.

At Public Citizen, we know this is the time for intensified efforts to strengthen our democracy:

- On Jan. 6, with allies we mobilized people around the nation to remember the insurrection and to demand accountability for Donald Trump and other instigators.
- We are working in states across the country to win democracy reforms that expand the right to vote, protect election workers and diminish the role of Big Money.
- We are stepping up our long-term effort to win a constitutional amendment to overturn the Citizens United decision so that the super-rich and giant corporations cannot dominate elections.

At the same time, we know that mobilizing against fascistic disarray requires more than focusing on democratic institutions and protections, as fundamental as they are. Against chaos and demagoguery, we have to offer real solutions to people's experience of economic

dislocation and alienation and we have to deliver some real change. And so among many other activities we are:

- Pushing the Biden administration to use its existing powers to overcome drug company monopolies and slash drug prices.
- Advocating for anti-monopoly policies to reduce the stranglehold that Big Tech and other large corporations are exerting over the economy.
- Demanding the U.S. Department of Justice hold corporate criminals accountable.
- Working to expand and strengthen Medicare - and preparing to mobilize with allies on a giant scale against the coming effort to cut Medicare benefits.

As you read this issue of *Public Citizen News* looking back on our remarkable efforts and achievements in 2022, you'll see how well prepared we are for the challenges we face going forward.

At the end of the day, that capacity reflects the power that we - all half million Public Citizen members and supporters - build together. We know very well how perilous this moment is for our democracy, the nation and the world - and we're ready to meet the moment. ■

Robert Weissman



Lisa Gilbert, right, Public Citizen's executive vice president, speaks at an event on Jan. 6, 2023 in Washington, D.C., calling for accountability, justice, and pro-democracy reforms to defend voting rights. Photo courtesy of Lisa Gilbert.

Are your medicines SAFE?

Many drugs that come to market have risks that outweigh their benefits. Others, found to have risks only after they are approved, are left on the market for dangerously long periods of time. Find out which drugs are safe—and which you should avoid—with Public Citizen’s WorstPills.org and *Worst Pills, Best Pills News*.

To subscribe to WorstPills.org, our website, for only \$15 a year, visit www.WorstPills.org, and type in promotional code 3P4A5PC when prompted.

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IN THE SPOTLIGHT

The following are highlights from our recent media coverage.

Robert Weissman, Public Citizen president

On the Trump family inking a deal with a major Saudi developer: *The New York Times, Yahoo! News, Real Deal Online, The Seattle Times.* **On the House Select Committee to Investigate the January 6th Attack on the U.S. Capitol recommending criminal charges against former President Donald Trump:** *Democracy Now!, Faith Family America.* **On more investment in oil drilling deepening our dependence on fossil fuels:** *Nation of Change.* **On the need for more robust crypto regulation:** *Roll Call, The Chronicle Online.* **On the inflated Pentagon budget:** *Truthout, Common Dreams.* **Named one of The Hill’s Top Lobbyists, 2022.**

Lisa Gilbert, vice president of legislative affairs

On the Not Above the Law coalition: *The New York Times, San Diego Union-Tribune Online, Seattle Times, San Juan Daily Star.* **On requiring federal contractors to disclose more about their political spending:** *Roll Call, MSN, St. Louis Post-Dispatch, The Columbian.* **On Sam Bankman-Fried’s downfall:** *Roll Call, MSN News, ArcaMax.* **On the House panel’s plans to release Trump tax information despite threats from Republicans:** *USA Today, MSN, Alaska Native News, Burlington County Times, The Times Herald, Reno Gazette-Journal.* **On how Big Tech fought antitrust reform:** *The Hill, Belleville News-Democrat.* **On damaging dark money poison pills:** *Jacobin.* **Named one of The Hill’s Top Lobbyists, 2022.**

Peter Maybarduk, director of Public Citizen’s Access to Medicines Program

On Gavi’s plan to end its vaccine-sharing initiative after 2023: *The Washington Post, Seattle Times.* **On a Twitter prank spurring scrutiny of insulin prices:** *International Business Times.* **On a summit meeting between President Joe Biden and African leaders:** *Politico, PhaMed.*

Tyson Slocum, director of Public Citizen’s Energy Program

On the Federal Energy Regulatory Commission’s acting leader: *Roll Call.* **On high energy prices:** *New York Times.* **On steep home heating prices:** *CNN.*

Dr. Michael Carome, director of Public Citizen’s Health Research Group

On lax oversight at the HHS Office for Human Research Protections: *JD Supra.*

Adrian Shelley, director of Public Citizen’s Texas office

On Texas leaders passing only modest grid reforms: *Newsweek.* **On Houston approving emergency waterline maintenance to mitigate billions of gallons**

of water loss: *Houston Chronicle.* **On the need for Texas’ environmental regulators to get tougher on polluters:** *Inside Climate News.* **On Texas’ bitcoin battery plan:** *Wired.* **On harmful pollution from concrete plants:** *San Antonio Express-News.* **On former chairman of the Texas House State Affairs Committee Chris Paddie registering as a lobbyist:** *Texas Observer.* **On the need for ERCOT to do more to help lower peak demand and pollution:** *San Antonio Express-News, Texas Tribune, KPRC-TV, News Break, KTRK-TV, Laredo Morning Times, KXAN-TV.*

Craig Holman, government affairs lobbyist with Public Citizen’s Congress Watch division

On GOP members who rebuffed the Jan. 6 panel: *The Hill, Baltimore Post, Yahoo News.* **On FTX founder Sam Bankman-Fried’s campaign finance charges:** *New York Times, The Hill, Newsbreak.* **On lawmakers who benefited from FTX cash:** *The Washington Post, The Colorado Springs Gazette.* **On nonprofits associated with possible presidential candidates taking in millions:** *Politico, MSN, Denver Gazette.* **On U.S. Sen. Kyrsten Sinema’s (I-Ariz.) 37-page guide for aides:** *Daily Mail, Salon, MSN, The Daily Beast, News Break, Raw News, Raw Story, Yahoo! News, AlterNet, LGBTQ Nation.* **On BlackRock’s spending on U.S. political campaigns:** *Bloomberg.* **On crypto giants spending millions on lobbying in 2022:** *Washington Examiner, Colorado Springs Gazette.* **On Wall Street’s “Side Letter” scam:** *Jacobin.* **Named one of The Hill’s Top Lobbyists 2022.**

Public Citizen Litigation Group

On the future of Tyson’s Covid death lawsuits: *Bloomberg Law.* **On a nursing home’s appeal in the case of a California man’s death due to Covid:** *Epoch Times-Chicago.*

DEMOCRACY

We began 2022 with a heartbreaking loss as the sweeping Freedom to Vote: John R. Lewis Act fell victim to a Republican Senate Caucus united in opposition to pro-democracy reform. Public Citizen had rallied for the legislation since 2021, and worked for its precursor legislation, the For the People Act, since 2017.

As a piece of this final push, we organized more than 300 vigils nationwide one year after the violent attack on our Capitol. These events, entitled, Jan. 6 Day of Remembrance and Action, widespread national and local media attention. Two weeks later, we organized more than 80 events on Martin Luther King Day as a final call to action on broad voting rights reform.

While we lost that part of the struggle, we made tremendous strides towards this sweeping reform with universal support from House and Senate Democrats and a major national movement behind it. In April, we collaborated with the Leadership Conference on Civil and Human Rights, APIAVotes, and the League of Women Voters to organize a “Thank Election Heroes Day” to draw attention to the threats and harassment that election officials receive nationwide and to thank them for their tireless work. We organized 66 events nationwide, which received media attention and warmed the hearts and spirits of election officials.

We then shifted gears to prepare Americans to watch the Jan. 6 hearings. In coordination with the Not Above the Law coalition which we lead, and along with activists all over the country, we planned more than 100 watch events where thousands of Americans tuned in to the hearings both virtually and in person, including a flagship event at the Capitol in Washington, D.C., that received substantial national media coverage. On the first night of the hearings, more than 20 million Americans tuned in - a number similar to the audience that watches big Sunday Night Football games and the Macy’s Thanksgiving Day Parade.

We continued to educate activists around the country on the issues behind the Jan. 6 hearings and launched an initiative with our allies at People for the American Way to pass local resolutions to protect our freedom to vote from ongoing efforts to sabotage our elections. We helped initiate around 50 efforts that have already led to passage in more than a dozen cities. We then led an effort with veterans with Common Defense, Indivisible, Our Revolution, and the SEIU to organize people to take to the streets for Our Freedoms, Our Vote

events in October. These events took place in 80 cities and highlighted the local impacts of the Jan. 6 hearings as well as ongoing threats to our vote, such as efforts to pass anti-democracy legislation in state houses, run election denier candidates for office, and intimidate election officials.

We are currently working on what will likely be 100 nationwide events to mark two years since the Jan. 6 attack on our Capitol, including a major event in Washington D.C., that will include Martin Luther King III and U.S. Rep. Jamie Sarbanes (D-Md.)

We ended the year with the passage of the Electoral College Act to provide some guardrails against another insurrection. The bipartisan support for the legislation is a result of the tremendous grassroots movement we have built calling for accountability and action and the recommendations from the January 6th Select Committee.

Other accomplishments:

- We trained and worked with more than 100 students around the country on intensive organizing projects, ranging from getting out the vote on their campuses to helping lead our nationwide actions, and educating campuses about key democracy ballot initiatives in Arizona and Michigan.
- We played a significant role in building grassroots support for a democracy ballot initiative that passed in Michigan and worked on an effort with mixed success to defeat anti-democracy ballot initiatives in Arizona. We supported signature-gathering efforts as well as phone banking efforts.
- We co-led a successful effort to prevent the passage of internet voting in Washington, D.C. that would threaten the security of our elections, and are co-leading an effort in Washington state to pass a bill that would prevent internet voting. ■



PEOPLE OVER PENTAGON CAMPAIGN

In 2022, Public Citizen urged activists to use their platforms to continue pressuring policymakers to put people over the Pentagon by cutting the bloated Pentagon budget and reinvesting funding into true human needs priorities. The Biden administration has followed Trump-era trends and continued to increase the Pentagon budget by billions every year, with Congress following suit and often adding more funding than the President even requested. In light of this astonishing upward trajectory, we have continued to strengthen the public demand for Pentagon spending cuts, evidenced in growing grassroots support for reallocating the Pentagon budget, more recognition in the media, and meaningful votes against Pentagon spending increases.

To date, we have engaged with more than 100 groups throughout our campaign, bringing in faith, environmental, and poverty groups that had not previously engaged on the issue. We organized a sign-on letter to President Biden in March in advance of his fiscal-year 2023 budget request to Congress, calling for him to lower the Pentagon’s topline. This effort was endorsed by 86 groups across peace, security, immigration, faith, climate, and racial justice sectors, and was covered by *Politico*.

We have focused on the National Defense Authorization Act debates and votes, particularly on floor amendments to roll back increases in the Pentagon budget above the Biden request and for a full \$100 billion cut. The former garnered 151 votes in the House, a highwater mark in recent decades against the military-industrial complex.

Lastly, we pushed for, and secured introduction of the “People Over Pentagon Act,” sponsored by U.S. Reps. Barbara Lee (D-Calif.) and Mark Pocan (D-Wis.). This bill would cut the Pentagon topline by \$100 billion and redirect funds to other urgent human needs priorities. It will be reintroduced in the new Congress and will continue to be our primary organizing vehicle going into the new year.

Cases Related to COVID-19

In 2023, we continued to advocate on behalf of people who died in nursing homes after contracting Covid-19. In several of these cases, the families sued in state court, alleging state-law claims for failure to take basic safety precautions, like requiring employees to wear masks. In each case, the nursing homes removed the cases from state court of federal court, based on several incorrect arguments: They argued that the cases belonged in federal court because the facilities were “acting under” the direction of a federal officer because nursing homes are subject to regulation as part of participation in the Medicare and Medicaid programs and because the federal government had issued guidance on infection control in nursing homes. They also argued that the Public Readiness and Emergency Preparedness (PREP) Act—a statute enacted in 2005 to encourage the production and distribution of vaccines—“completely preempted” the plaintiffs’ claims and, therefore, provided federal court jurisdiction. Districts courts around the country almost unanimously rejected these arguments, but the nursing homes appealed in numerous cases. Representing the plaintiffs on appeal, we prevailed in the Fifth and Ninth Circuit Courts of Appeal. The Seventh Circuit also issued a strong decision in a case in which we filed an amicus brief. In the fall, we argued similar cases in the Second and Sixth Circuits, and we are waiting for those decisions.

We also represent the plaintiff in two cases brought by the families of four workers who died in April and May 2020 after contracting Covid-19 during an outbreak at the Tyson Foods meatpacking facility where they worked. The families sued in Iowa state court against the company and management that operated the plant, alleging that they violated Iowa tort law by acting negligently and making fraudulent misrepresentations to the workers in the plant. The defendants removed the cases to federal court, claiming that the company was acting “at the direction of a federal officer” and that the Federal Meat Inspection Act and the Defense Production Act preempted the plaintiffs’ state-law claims. In both cases, the plaintiffs moved to remand back to state court, and the district court granted the motions. After Tyson Foods appealed, Public Citizen came on board to represent the plaintiffs in the court of appeals. We prevailed, and Tyson Foods then sought review in the U.S. Supreme Court, which we opposed. We are now waiting for the Court to decide whether it will grant Tyson Foods’ petition for review.

Natural Gas Regulation

Nopetro LNG is seeking to build a natural gas export facility in Port St. Joe, Fla. If built, it would destroy longstanding plans to sustainably redevelop the local shoreline. Public Citizen filed a lawsuit against the Federal Energy Regulatory Commission (FERC), alleging that FERC had fallen short of its duty to regulate fossil fuel export facilities by failing to require Nopetro to undergo an environmental impact assessment ahead of construction. In the coming months, both sides will file briefs in the D.C. Circuit Court of Appeals. Oral arguments will likely take place in the summer or fall of 2023.

Energy Efficiency

Public Citizen joined a group of organizations suing the U.S. Department of Education over its failure to review and issue energy efficiency standards for 20 categories of consumer and commercial appliances and equipment. A settlement agreement reached in September creates a schedule for updating the overdue standards, which will yield huge savings for U.S. consumers and businesses—approximately \$650 billion in cumulative utility bill savings through 2050.

Missouri Law on Homelessness

In addition to litigation directed at actions of the federal government, we took on a case directed at the state of Missouri. Public Citizen represents housing justice advocates in a case challenging a state law that passed in 2022 that, among other things, makes it a crime to sleep on state-owned land, including interstate overpasses, without authorization. It also bars use of state funds for construction of permanent housing. The law’s provisions on homelessness were enacted as part of House Bill 1606 (H.B. 1606), which states in its title that it is enacting “fifty new sections relating to political subdivisions” and which primarily contains provisions concerning political subdivisions. Advocates for the unhoused worry that the law’s criminal provisions will make it more difficult for homeless people to find jobs and improve their lives, and that the restrictions on sleeping outside could lead to more violence and harm against unhoused people who might seek shelter in vacant buildings. Our lawsuit challenges the law as a violation of procedural provisions in the Missouri constitution. We argued the case before the state trial court in December and are waiting for the judge’s decision. ■



GOVERNMENT & FINANCIAL REFORM



In the second year of the Biden administration, Public Citizen led efforts to protect our democracy and clean up politics, hold Big Tech monopolies accountable, update the federal regulatory process, secure online privacy protections, strengthen financial safeguards, and more.

January 6 Committee. Public Citizen helped draw attention to and build support for the January 6 Select Committee's work by hosting watch events and briefings, organizing letter-to-the-editor campaigns, and coordinating tactics and messaging with other groups backing the committee's work. The committee's work ended in late December with a report of the evidence it assembled and series of criminal referrals to the U.S. Department of Justice.

Regulatory Reform. In conjunction with our close allies in the Coalition for Sensible Safeguards (CSS), Public Citizen urged the Biden administration to prioritize modernizing the regulatory review process. This effort was authorized in a Day One executive order and is expected to come to fruition in early 2023. Thanks to new funding from the Energy Foundation, Public Citizen and CSS will play a leading role building public support for the proposed reforms in the year ahead. Public Citizen also provided significant technical assistance for U.S. Rep. Pramila Jayapal's (D-Wash.) Stop Corporate Capture Act - legislation that would more comprehensively update the rulemaking process.

Antitrust Advocacy. Public Citizen advocated for and lobbied policymakers in both chambers on a package of Big Tech antitrust bills. Among other things, we planned, coordinated, and co-hosted two in-person congressional briefings to support passage of the American Innovation and Choice Online Act and Open App Markets Act. Public Citizen also led a coalition letter to the Federal Trade Commission (FTC) opposing Amazon's proposed purchase of Roomba maker iRobot Corporation on antimonopoly and privacy grounds. We sent a letter asking the FTC to closely scrutinize Amazon's proposed acquisition of One Medical. We supported the FTC's decision to block Meta's acquisition of Within Unlimited, a virtual reality firm. We continued to oppose Microsoft's purchase of video game studio Activision-Blizzard. And we joined a broader advocacy effort to hold airline monopolies accountable for consumer abuses.

Online Privacy. Public Citizen continued its extensive lobbying on Capitol Hill to improve and pass a privacy bill that includes civil rights protections, allows a private right of action for consumers, preempts state laws as narrowly as possible, and includes additional safeguards for children. We held frequent meetings with Hill and coalition partners to discuss the merits of various iterations of legislation.

In 2022, Public Citizen also began work on a historic rulemaking from

the FTC limiting commercial surveillance: the harvesting and selling of data for purposes not directly related to products and services offered by the business. It's likely that this commercial surveillance rulemaking will turn out to be the main battleground for winning new privacy protections in 2023.

Ethics and Transparency. Public Citizen led the efforts to prohibit members of Congress and their spouses from trading stocks. Specifically, we supported and amplified the DISCLOSE Act by coordinating with U.S. Sen. Sheldon Whitehouse's (D-R.I.) team; organized a supportive sign-on letter from investors; published blogs; and amplified the hearing and vote on the bill on social media. We advocated for a code of ethics for the U.S. Supreme Court, as well as term limits and court expansion. In addition, we promoted a final rulemaking by the U.S. Office of Government Ethics on guidelines for legal defense funds for the executive. The rulemaking came in response to a petition we previously filed.

Public Citizen created new coalition this year to counter attacks against ESG investing - in other words, investing that considers various environmental, social, and governance risks - and continued to lead the ESG disclosure working group. We submitted a comment to the U.S. Securities and Exchange Commission calling on the agency to include lobbying disclosure in its final climate risk disclosure rule. And we urged President Biden to issue an executive order requiring large government contractors to disclose their political spending and published a report making the case for it.

Financial Reform. In conjunction with allies, Public Citizen helped successfully push the Biden administration to cancel a large amount of federal student debt through direct lobbying and social media, blogging, and similar tactics. We wrote testimony in support of a variety of financial reform bills considered by the U.S. House Financial Services Committee and provided input to the Hill on a broad array of such reforms. We published a report on the ongoing inappropriate banker risk-taking that is fueled by the way their pay and compensation is structured. And we used occasions like the anniversary of the Dodd-Frank Wall Street Reform and Consumer Protection Act to call for banker pay reform, and continue to lobby for a financial transactions tax.

Public Citizen worked with Senate staff on the FAIR Act to reform dual class stock structures, which CEOs like Meta's Mark Zuckerberg use to retain control of their companies despite poor performance. We solicited outside expert stakeholder input, brought allied groups to the table, and put together a sign-on letter for institutional investors. We also pushed back on cryptocurrencies, publishing blogs on the subject and submitting a comment to the U.S. Department of the Treasury. ■

CONSUMER HEALTH & SAFETY

2022 was yet another challenging year for global health. We lived through a third year of the Covid pandemic and a global outbreak of mpox (formerly monkeypox). 2022 began with the highest global increase in Covid infections since the pandemic started, driven by the spread of Omicron, and ended with a terrifying new wave of infection sweeping across China due to an Omicron sub-variant, BF-7. Scientists warn that China's unchecked surge could spur the emergence of even more dangerous variants. The World Health Organization says that there are "too many uncertainties about the virus to conclude that the pandemic is over." It feels like déjà vu.

Throughout this turbulent time, Public Citizen's Access to Medicines team worked to democratize and decentralize global production of medical countermeasures - tests, treatments, and vaccines - so that countries can better protect themselves when the next public health emergency inevitably arrives. We are encouraged that powerful examples of cooperation are succeeding thanks to our leadership in mobilizing the support of activists, media, and the U.S. government. The Inflation Reduction Act (IRA), which allows Medicare to negotiate drug prices and limits Medicare drug price increases, represents a significant victory for the American people and for justice. We helped improve the law and ensure that Democrats in Congress keep their longstanding promises to lower drug prices.

Fighting Pharma's Greed to Save Lives

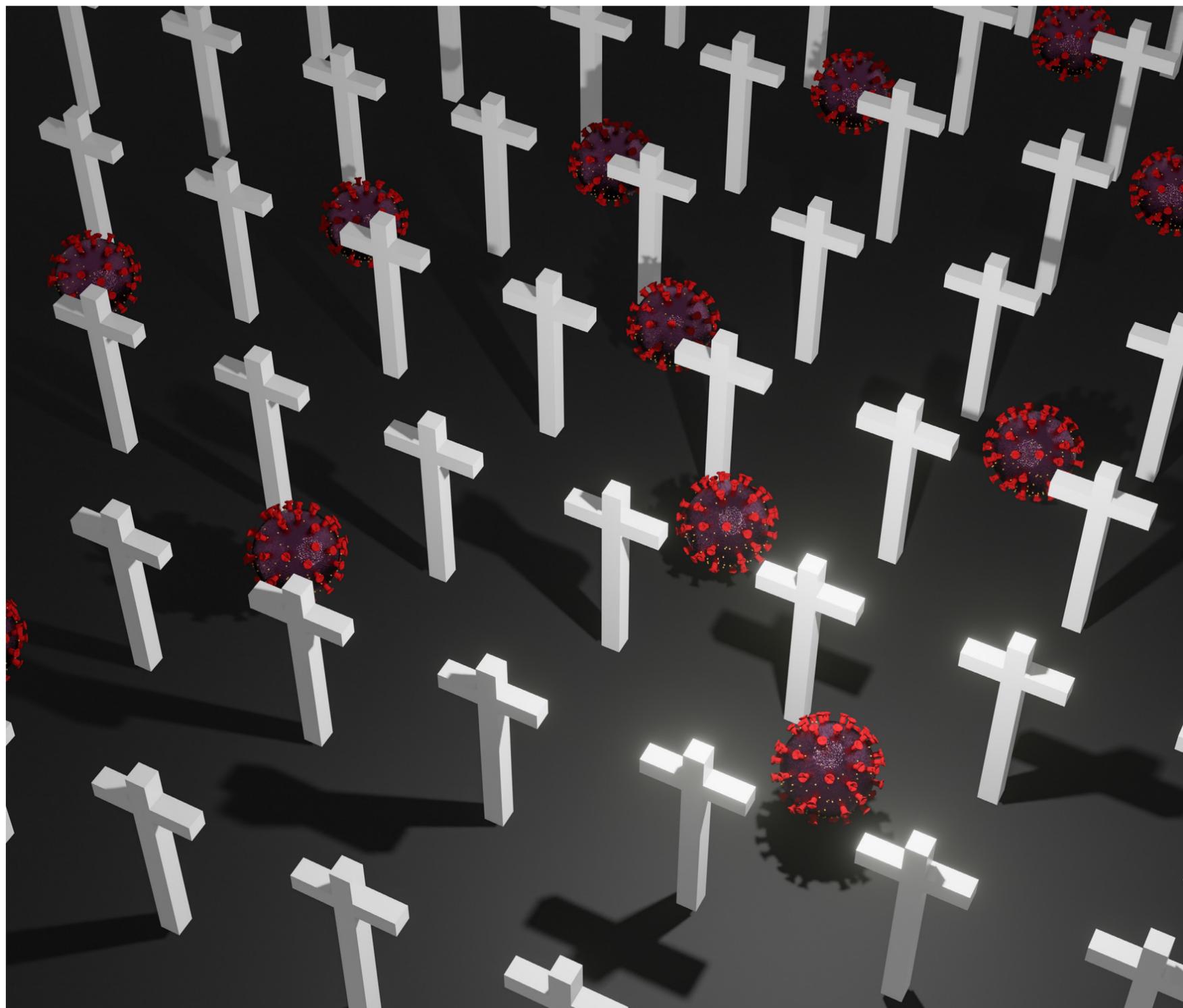
When the U.S. Food and Drug Administration (FDA) granted emergency

approval to Pfizer's Paxlovid, the first antiviral drug to fight Covid, we saw clearly that the Pharma giant was unprepared to meet global need. In January, Public Citizen warned Pfizer CEO Albert Bourla that Pfizer was poised to repeat its mistakes with the inequitable vaccine rollout that resulted in millions of needless deaths—but this time with therapeutics. We urged Pfizer to reserve two-thirds of its supply for developing countries, speed the entry of generic Paxlovid, and shorten the pandemic.

Following that, we published robust new research demonstrating how Pfizer is erecting a far-reaching patent wall to block entry of generic Paxlovid and affordable access in nations where Pfizer stands to make massive profits. Then, during Pfizer's annual general meeting, we supported protests outside their headquarters in New York City to demonstrate our opposition to their blatant pandemic profiteering.

Walter Reed Army Vaccine

The public investments in coronavirus research, dating back nearly two decades and including the period after the origin of Covid-19, helped spur amazing inventions that have saved millions of lives. Regrettably, private monopoly control over those vaccines contributed to scarcity, rationing, and profiteering. Public Citizen believes we must learn from earlier mistakes in managing publicly-funded vaccine technology. With this in mind, we spotlighted a pan-coronavirus vaccine under development by the U.S. Army's Walter Reed Institute of Research, which, if successful, could fight a range of novel coronaviruses. We led an open letter



with allies to President Biden urging him to maintain public control of the vaccine and openly share its benefits and technology with the world.

Hope and the mRNA Hub

WHO's mRNA technology transfer hub is a rare inspiring story to emerge from the pandemic's extreme inequity. Public Citizen has led the effort to tell this story and garner support across constituencies and media. The hub aims to help developing countries produce their own mRNA vaccines and share mRNA technology with humanity. Based at Afrigen Biologics and Vaccines in Cape Town, the hub has copied the NIH-Moderna vaccine and is training fifteen "spoke" manufacturers in Asia, Africa, and the Americas. The National Institutes of Health and renowned scientists are providing expertise.

Outside the United Nations General Assembly in New York, Public Citizen hosted a forum to support the hub with South Africa, France, UNAIDS, the Medicines Patent Pool, Global Citizen, and prominent health justice organizations. Our event, which was moderated by the Washington Post and included WHO's chief scientist, was attended by diplomats, foundations, think tanks, and activists. We began the keynote speeches by South Africa's health minister and U.S. Assistant Secretary for Global Health Loyce Pace, whose public explanation of U.S. support for the hub and decentralized vaccine manufacturing is the result of our advocacy.

The hub partners, with our encouragement, have directly requested a \$100 million contribution from the U.S. government to support various technical and operational needs. This public support can help attract funding and manufacturing partnerships. While creating a market or procurement mechanism for hub products remains a significant challenge, the hub is already successful by many measures. This year, three classes of African hub scientists were trained at the U.S. government's medical countermeasures facility in Texas. South Africa plans to bring these courses home. mRNA will belong to the people in time.

The hub carries hope. It attracts a diverse set of partners: South Africa and the United States, activists, and pharmaceutical manufacturers, united in purpose. We are creating something tangible to meet the needs of medicine development and production. This requires cooperation and, at times, compromise. But it is a chance for the access movement to mature.

MPX

When the global mpox emergency broke out in June, Public Citizen

helped uncover a massive vaccine shortage. We found that the U.S. had agreed years ago to share the smallpox vaccine in the event of an emergency - the same vaccine that is now used to prevent mpox. We calculated that the U.S. possessed nearly 80% of the world's vaccine supply while Africa had none. We presented these findings to the White House, urging officials to share the mpox vaccine and build global manufacturing capacity.

We traced how American public scientists helped develop the mpox vaccine that Pharma was forcing poor and rich countries to pay \$110 per dose for - an outrageous price that limits access for developing nations. Public Citizen identified at least nine global vaccine manufacturers, including six in the Global South, who were selling vaccine using the same technology as that used to prevent mpox, but for \$4 or less per dose - nearly 30 times less than the \$110 price of the mpox vaccine. Public Citizen then revealed that the only factory producing the vaccine had been closed for a year. This reporting led to scathing media coverage that pressured the U.S. to commit to stricter production controls.

Inflation Reduction Act and MMA

Passage of the Inflation Reduction Act (IRA) marked a generational victory for health care advocates. Congress-backed by the people-overcame the power of the pharmaceutical lobby to empower Medicare to negotiate prices directly for some drugs, establish protections against price spikes, and put in place a \$2,000 out-of-pocket cap to limit costs that Medicare beneficiaries face at the pharmacy counter.

Public Citizen helped strengthen the bill in myriad ways, including by helping ensure that Medicare carries a strong stick to enforce drug corporation participation in negotiations in good faith. We are building on the success of the Act's passage and developing expert analysis urging the U.S. government to implement its provisions in the strongest possible way to deliver lower prices for patients and taxpayers.

The Act does however leave many who need access to medicines and lower drug prices behind. Alongside #insulin4all activists, we are leading organizations in calling on Congress to expand access to insulin for people without insurance and to lower prices charged by insulin manufacturers, and we will continue to press policymakers for these reforms. We are also leading a coalition of organizations calling for legislators to build on the progress of the IRA by expanding its reach, and for President Biden and his agencies to use separate existing authorities to lower drug prices by breaking monopolies and licensing competition. ■

HEALTH RESEARCH GROUP

- **Gabapentin:** In February, we petitioned the U.S. Drug Enforcement Administration (DEA) and the U.S. Food and Drug Administration (FDA) to classify the markedly overprescribed seizure and neuropathic pain drug gabapentin and the closely related drug gabapentin enacarbil as schedule V controlled substances because they are increasingly being misused, abused, and diverted, leading to dependence and overdose deaths. As of 2020, seven states in the U.S. have classified gabapentin as a schedule V controlled substance. DEA and FDA action on our petition is pending.
- **Aducanumab:** In April, the U.S. Centers for Medicare and Medicaid Services (CMS) announced a final national coverage decision under which the Medicare program will cover the drug aducanumab (Aduhelm) only for beneficiaries with Alzheimer's disease who enroll in a properly designed randomized, controlled clinical trial of the drug. Public Citizen had previously called for CMS to exclude aducanumab from coverage under the Medicare program because there is a lack of scientific evidence that the drug provides any meaningful benefit to cognitive function in Alzheimer's disease patients.
- **Lorcaserin hydrochloride:** On June 8, we testified before the FDA's Pharmacy Compounding Advisory Committee to recommend that drug products containing lorcaserin hydrochloride be added to the list of drugs that have been withdrawn or removed from the market because they are unsafe or not effective. The committee voted unanimously in favor of such action. FDA action in this matter is pending.
- **Pimavanserin (NUPLAZID):** On June 17, we testified before the FDA's Psychopharmacologic Drugs Advisory Committee to recommend that the agency not approve the antipsychotic drug pimavanserin for treatment of hallucinations and delusions in patients with Alzheimer's disease psychosis because clinical trials of the drug failed to demonstrate that it is effective. The committee voted 9-3 against approval, and the FDA subsequently decided not to approve the drug for use in Alzheimer's disease patients.
- **Makena:** An FDA advisory committee voted overwhelmingly in October to withdraw approval of Makena for the prevention of preterm birth. In his testimony before the FDA advisory committee, Dr. Michael Carome highlighted the significant flaws and limitations of the clinical trial supporting approval of Makena and the failure of an FDA-mandated postmarketing study to show the drug has any clinical benefits. A final decision on whether to remove Makena from the market is pending. A study conducted by researchers at Public Citizen, the University of Texas, Harvard University, and The City University of New York found that Black Americans receive much less care than white people, whether measured by doctor visits or by spending for care, and the gap has grown in recent years. The study, which appeared in JAMA Network Open, assessed health care use going back to 1963.

CORPORATE CRIME

In 2022, Public Citizen highlighted declining corporate enforcement and advocated for strengthening enforcement against corporate lawbreaking, including urging the U.S. Department of Justice (DOJ) to drop policies that let corporate lawbreakers avoid prosecution and enjoy significantly reduced penalties. The year delivered a mixed bag - both disappointments and highlights - and opportunities to build momentum for progress in 2023.

The Federal Trade Commission and Consumer Financial Protection Bureau are among the agencies leading the Biden administration's charge against corporate lawbreaking. Both announced plans to strengthen enforcement against repeat offenders - and both faced an extreme backlash against their efforts by the biggest corporate lobbying group in Washington, D.C.: the U.S. Chamber of Commerce.

Public Citizen research highlighted that the Chamber's corporate members have paid \$154 billion in penalties, including for criminal violations, antitrust offenses, and wage theft, underscoring the industry group's self-interest in opposing strengthened enforcement. Undeterred, the FTC and CFPB proceeded to bring some of the year's toughest enforcement actions against corporate wrongdoers, including a \$520 million FTC penalty against Epic Games over children's online privacy violations and a \$3.7 billion CFPB penalty against Wells Fargo for ongoing consumer financial abuses.

Attorney General Merrick Garland added momentum to corporate crime enforcement efforts in March, signaling a major shift toward strengthened corporate crime enforcement. Garland described the DOJ's corporate crime enforcement efforts as ramping up, noting in particular the increase in activity from the DOJ divisions devoted to enforcing antitrust and environmental law. Top antitrust prosecutors emphasized the department's new direction, announcing the revival of criminal antimonopoly cases against monopolists - the same type of case that resulted in the 1911 breakup of Standard Oil - an authority that had lain dormant for decades.

But U.S. Sentencing Commission data released in the spring revealed how far a hill federal authorities had to climb to turn back the decimation of corporate crime enforcement, the erosion of which was accelerated by the Trump administration. The data revealed that in Biden's first year, the number of federal corporate prosecutions had fallen to a record low of 90 - down to less than a third of their peak of nearly 300 in 2000. Public Citizen issued a report analyzing the data and found that the simultaneous trends of declining corporate prosecutions and the DOJ's increased reliance on corporate leniency agreements meant that the agreements not to prosecute made up more than a quarter of the government's criminal cases against corporate misconduct. Without a significant policy shift away from the DOJ's overreliance on leniency deals, the enforcement decline can be expected to continue.

The DOJ finally announced its updated corporate crime enforcement policies in the fall. In contrast to the agency's prior rhetoric about "outrageous" corporate misconduct urging prosecutors to "be bold" when bringing cases, the policy memo offered only modest improvements, such as "disfavoring" - but not banning - leniency deals for corporate repeat offenders. And despite Deputy Attorney General Monaco's statement that "we cannot ignore the data showing overall decline in corporate criminal prosecutions over the last decade," the DOJ adopted a policy that could worsen this trend. The new policy places excessive faith in voluntary self-disclosure such that the DOJ essentially promises corporations that come forward and confess their crimes won't be prosecuted. The policy all but guarantees that corporations that confess will receive leniency deals - a policy that might well increase their use, when their well-known failure to deter corporate wrongdoing means they should be abandoned entirely.

The December case against multinational technology company and repeat offender ABB suggests not enough has improved since the DOJ adopted the new policies. The corporation received a DOJ leniency agreement to resolve foreign bribery charges over alleged misconduct that began within a year of the corporation's release from a prior leniency agreement. A year after the DOJ claimed to have no tolerance for corporations that take advantage of leniency deals, the DOJ through this case is sending the unmistakable message to the white-collar defense bar that, despite the tough talk, the agency actually has a great deal of tolerance for illegal misconduct—at least in the area of foreign corruption enforcement. Nevertheless, other developments, such as signs of strengthened antitrust enforcement and the quick indictment of cryptocurrency exchange FTX's CEO Sam Bankman-Fried, are cause for cautious optimism that progress for corporate accountability may well be advancing, if unevenly.

The recent reintroduction of corporate crime-fighting legislation in Congress offers another bright note to the end of 2022. One bill, the Corporate Crime Database Act, introduced by U.S. Rep. Mary Gay Scanlon (D-Pa.), Sen. Dick Durbin (D-Ill.), and Sen. Richard Blumenthal (D-Conn.), directs the DOJ to publish a public database of corporate lawbreaking and to release annual reports on corporate crime. Another, the Hide No Harm Act, also introduced by Scanlon and Blumenthal with Sen. Bob Casey (D-Pa.), would impose criminal penalties directly on high-level corporate executives, including potential jail time, when they knowingly hide dangers to consumers and workers that result in death or injury. Either bill by itself would represent meaningful progress for deterring corporate crime and holding corporate criminals accountable. Together, they could be a game changer - and we anticipate both will gain momentum in the next Congress in 2023. ■



HOLDING FOSSIL FUEL GIANTS ACCOUNTABLE

The fossil fuel industry has exploited the war in Ukraine to reap massive profits from high prices charged to consumers. The industry seized on the crisis to promote its longstanding agenda of ramped-up U.S. oil and gas drilling, plus construction of pipelines and export terminals.

Public Citizen spent 2022 exposing the U.S. oil and gas industry's profiteering, while also pushing for policies that rein in Big Oil's excesses and speed our renewable energy future.

We called out fossil fuel lobbyists and corporate executives, such as the oil lobbyists at the American Petroleum Institute, for falsely claiming on Capitol Hill and in the press that Biden administration policies modestly curtailing domestic drilling on public lands and offshore waters were to blame for higher oil and gas prices. Public Citizen also targeted the industry's push to increase natural gas exports, which is causing consumers to pay higher prices to heat their homes and damaging lower-income communities on the Gulf Coast of Texas and Louisiana.

With a steady stream of lies, fossil fuel industry talking heads and far-right members of Congress have promoted a false narrative inaccurately blaming Biden for fuel price increases. At the same time, fossil fuel industry lobbyists and Republicans in Congress spent the year trying to derail the transition to clean, affordable renewable energy by lying about the feasibility of moving off fossil fuels.

In a series of reports, Public Citizen worked to illuminate the industry's real agenda: holding down production in the short term to ensure high prices while ramping up exports of oil and gas to maximize profits. Working with allies at Friends of the Earth and BailoutWatch, Public Citizen found that oil and gas executives personally benefited from the industry's resurgence. The joint analysis published in spring 2022 found that oil companies authorized spending a combined \$45 billion for purchasing and retiring their own stock, directly enriching insiders and other shareholders.

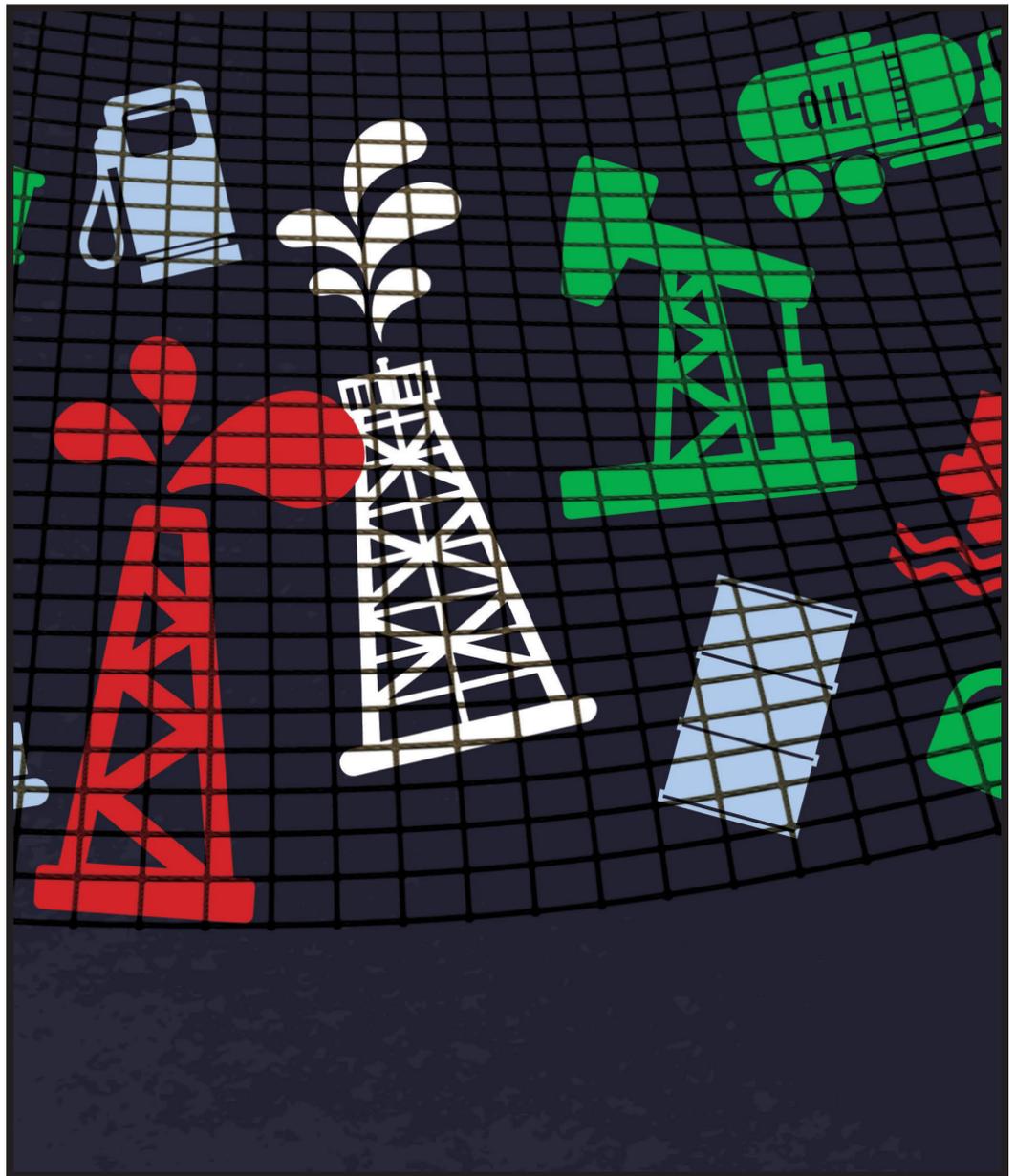
Oil and gas companies have long benefited from taxpayer subsidies, including low royalty rates for drilling on public lands. A separate Public Citizen analysis highlighted the continued fleecing of U.S. taxpayers, finding that 20 major oil and gas companies skirted \$5.8 billion in payments to the U.S. government since 2013 due to below-market royalty rates set by the U.S. Interior Department. That included \$1.3 billion in avoided royalty payments in 2021 alone.

Thankfully, part of this problem is on its way to being fixed. After years of work by environmental advocates, conservation advocates, and good government groups, the Inflation Reduction Act signed by President Biden in summer 2022 established increased royalties for onshore drilling on public lands. But that's not enough. Public Citizen and its allies have been pushing the Interior Department to use its rule-writing powers to further hike royalty requirements and enact stricter guarantees that ensure that oil and gas companies cover the cost of cleaning up wells drilled on public lands.

Over the next year, oil and gas companies are likely to continue pushing the government to keep auctioning off public lands and offshore waters for drilling, even though doing so puts humanity at risk and locks in climate-destroying global warming emissions for years to come.

A Public Citizen analysis released in fall 2022 explored how the industry has intensified exports in order to sell fuel for higher prices overseas. In recent years, the U.S. has become the largest fossil fuel exporter in the world, upending domestic energy markets and exposing U.S. households to punishing energy burdens.

Public Citizen's analysis of U.S. government data found that nearly 30% of U.S.-produced crude oil was exported in the first half of 2022, more than double the amount sent abroad five years earlier. For natural gas, more than 20% of U.S. production was exported in the first six



months of the year. That was up from 11.5% in 2017 and 6.6% in 2015.

The surge in exports stems from the decision by Congress in 2015, opposed by Public Citizen, to repeal a 40-year-old ban on most crude oil exports. Natural gas exports also have boomed, accelerated by the construction of several liquefied natural gas (LNG) export terminals on the Gulf Coast. Driven by intense lobbying from the fossil fuel industry, the expansion of natural gas export terminals is likely to continue, despite serious questions about whether they are even needed.

Many experts have concluded that the U.S. has enough capacity to boost LNG exports to Europe over the next decade, replacing Russian supply, without building new infrastructure apart from that already under construction. Additionally, European governments' commitment to achieving climate goals is likely to mean a meaningful reduction in gas demand.

Public Citizen is committed to stemming climate damage and cushioning consumers from volatile energy prices. We recommend the following steps:

- Implement a windfall profits tax on oil and gas producers and exporters, taxing excess profits and sending the proceeds back to Americans. Doing so would ensure that giant oil companies don't pocket all the profit from skyrocketing prices unrelated to their cost of production and would offset the pain to consumers from price spikes.
- Subject crude oil exports to regulatory oversight to ensure that they do not result in higher prices for vulnerable Americans and are not contributing to domestic supply shortages. Though Congress lifted the ban on crude oil exports in 2015, the president still has emergency authority to limit exports with the goal of protecting consumers.
- Halt the approval of LNG export terminals. The U.S. Department of Energy must update its public interest assessment of LNG exports. That assessment must include a detailed study of impacts on vulnerable communities. ■

GLOBALIZATION & TRADE



Activists in the Our World Is Not for Sale network performed a die-in protest in Geneva to condemn delay and destruction of the TRIPS Waiver in June. Photo courtesy of Sarah Grace Spurgin.

Public Citizen's Global Trade Watch (GTW) division worked throughout 2022 to hold big corporations accountable, develop strong climate policies, and fight Big Tech abuses in trade policy and beyond.

Trade and Environment

Legal challenges through the World Trade Organization (WTO) and other trade and investment agreements have repeatedly forced countries to weaken critical environmental protections and to roll back policies designed to help build green energy systems. That's why this year, GTW worked with allies including the Sierra Club and the Trade Justice Education Fund to launch a broad and strategic campaign urging governments of major economies to commit to a "Climate Peace Clause." This would be a binding commitment to refrain from using trade and investment rules to challenge climate policies, with a specific emphasis on green industrial policies.

We raised awareness of the need for a peace clause at the WTO Public Forum in Geneva in September. GTW organized a panel with environmental and development experts to explain to WTO delegates the urgency of ending trade-pact attacks on climate policies. Later, in collaboration with allies, we organized an online briefing for hundreds of organizers.

This summer, we witnessed the clearest example yet of why a Climate Peace Clause is needed. In August, just days before the Inflation Reduction Act (IRA) was passed, the European Union made veiled threats of launching a WTO dispute settlement case over the electric vehicle credits in the bill. These domestic production incentives create green jobs and were key to securing the political agreement needed to pass the groundbreaking climate bill. GTW issued a joint statement, calling out the EU, a supposed climate champion, for making this threat before the bill had passed, potentially giving reluctant members of Congress an excuse to vote "no" and costing us the razor-thin majority that eventually passed the IRA.

In December, GTW organized a World Cup-themed action with activists dressed in referee outfits who projected messages onto a

giant movie screen in front of the White House as French President Emmanuel Macron attended Biden's first state dinner. Climate activists urged Macron, one of the IRA's most vocal critics, to stop threatening to launch a trade dispute against electric vehicles and other renewable energy tax credits in the Inflation Reduction Act (IRA).

Trade and Big Tech Accountability

Big Tech interests are attempting to hijack trade negotiating venues and twist trade policy concepts to lock in binding international rules that limit governments from regulating online platforms in the public interest and from fighting corporate concentration and monopoly power.

The anti-worker, anti-consumer, and anti-civil rights "digital trade" proposals being pushed by Big Tech at the WTO and in U.S. trade negotiations would undermine domestic policy space on important issues like gig economy worker protections, discrimination and algorithm transparency, competition and antitrust policy, corporate liability, and consumer privacy.

GTW spent much of 2022 pushing back against these efforts. In June, we sounded the alarm over a provision that was being debated in priority legislation (that became the CHIPS Act). It would have given the U.S. government new powers to target and put political pressure on countries for strong Big Tech governance policies, similar to what the U.S. currently does around intellectual property laws on behalf of Big Pharma. The letter to then-Speaker Nancy Pelosi that we organized through the Trans Atlantic Consumer Dialogue (TACD), a forum of U.S. and EU consumer organizations, helped ensure this provision was not included in the final bill.

In November, GTW organized a convening of digital rights experts in Belgrade, Serbia to strategize plans to advance privacy rights that are under attack in trade policy. Through the Digital Trade Alliance that GTW coordinates, this group of experts from around the world will be creating a series of reports and analyses on the subject in the coming year.

Biden Administration Trade Initiatives

GTW has participated in a number of ongoing U.S. trade initiatives to advance sustainable trade with fair digital policies. Negotiations for the 14-nation Indo-Pacific Economic Framework (IPEF) began over the summer. The administration says this pact will not repeat the mistakes of past corporate-dominated free trade agreements. But to date, the administration still has not made any meaningful efforts to create a more transparent and participatory process that would match its promises for developing new approaches to trade policy. And Big Tech has been pushing for IPEF to replicate the overreaching terms that were included in the unpopular Trans-Pacific Partnership (TPP).

GTW has led coalition efforts to push the administration toward transparency on IPEF negotiations, emphasizing that we cannot expect a more people-centered outcome to the negotiations if they continue to follow the same corporate-dominated, closed-door process that has led to corporate-rigged rules in previous free trade agreements. In July, we released a letter signed by more than 100 U.S. labor unions and civil society organizations calling for transparency. And in December, we attended the stakeholder participation event at the first negotiating round in Brisbane, Australia to be sure negotiators heard from the consumers who want a new trade model.

In June, President Biden announced the start of new talks with governments throughout Latin America for an American Partnership for Economic Prosperity (APEP). We commented on the announcement, noting that any APEP process would first need to repair past damage of free trade agreements, including by eliminating investor-state dispute settlement (ISDS), which empowers corporations to sue governments and win taxpayer money over laws that affect their "expected" future profits. It should also build on the innovative labor enforcement mechanisms and include binding climate measures.

We also pushed for sustainable trade policies in the U.S.-EU negotiating venue known as the Trade and Technology Council (TTC). With one of the TTC's stated objectives being sustainable transatlantic trade, this convening of large, developed economies is an opportune venue for discussion of a Climate Peace Clause. ■

Aworsening climate crisis forced people around the world to grapple with extreme weather, including hurricanes, fires, extreme heat, and floods. In the coming decades, global efforts to adapt to a changing climate, and our failures to make systemic changes, will define our future.

This year saw major breakthroughs by Public Citizen and our allies in working to align the financial system with a swift, rapid clean-energy transition and protect communities from harmful conduct by banks. Further, the Public Citizen climate program’s work pushing insurance companies to stop supporting fossil fuels, and our progress pushing automakers to roll out more electric cars marks a year of promising progress in mitigating the climate crisis.

Climate-Related Financial Regulation

Climate-related risks to banks’ safety and soundness pose potentially devastating impacts to local communities and the global economy. At the same time, banks are driving the climate crisis. Despite claiming to support the goal of reaching net zero carbon pollution by 2050, the four largest U.S. banks—JPMorgan Chase, Bank of America, Wells Fargo, and Citibank—remain the world’s biggest financiers of fossil fuels.

After years of advocacy by Public Citizen, 2022 saw the cornerstones of a climate-regulatory framework for banks began to take shape.

In the coming months, the three federal bank regulators, the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC), will set expectations for how the largest banks will assess and mitigate their climate-related financial risks.

The OCC issued its draft “Principles for Climate-Related Financial Risk Management for Large Banks” in December 2021, marking the first time a federal regulator laid out expectations for how banks should incorporate climate-related threats into their governance, planning, and risk assessments. It includes a statement that banks will be expected to have internal plans consistent with their public commitments.

In March, the FDIC followed the Comptroller in issuing draft guidance, and the Federal Reserve followed suit in December. The proposed principles will begin setting expectations for how banks with more than \$100 billion in assets assess and mitigate their climate-related financial risks.

These actions signal a sea change. They are the first time that U.S. banking regulators have addressed climate-related risk, and there is more to come. The regulators have said they will follow up with more detailed guidance.

Public Citizen, in alliance with financial, consumer, and environmental advocacy groups, prioritized pushing these regulators to begin acting on financial risks related to the climate crisis. After years of work by Public Citizen, the victories celebrated this year and the continued work to improve on them mark real progress toward protecting the economy and curbing Wall Street’s recklessness.

Financial Markets

The climate team and our allies also made progress in 2022 toward getting investors the information they need to avoid climate-related risks and invest their money in a sustainable future.

Due in part to Public Citizen’s advocacy this year, the U.S. Securities and Exchange Commission proposed requiring publicly held companies to disclose information about their climate-related risks, including how much they contribute to emissions.

The rules, which are expected to be finalized early next year, will provide vital information for investors on how companies may be harmed by climate impacts and how they are preparing—including whether they are sticking with dirty, unsustainable suppliers and lines of business or are joining and propelling the transition to a clean economy.

Insurance Giant AIG Adopts Climate Commitments

In March, American International Group Inc. (AIG) announced major new company-wide climate commitments. The announcement came exactly one year after Public Citizen launched a campaign to pressure AIG to align its business with climate science.

The insurance giant’s commitments include:

- reaching Net Zero greenhouse gas emissions across its underwriting and investments portfolios by 2050;

- ending underwriting for and investment in the construction of new coal-fired power plants, thermal coal mines, or oil sands;
- restricting existing underwriting and investments in companies with 30% or more of revenue from coal or oil sands, or 30% electricity generated from coal by Jan. 1, 2030;
- committing to restricting support for oil and gas drilling in the Arctic National Wildlife Refuge, making the company the first U.S. insurer to rule out insurance for Arctic energy exploration; and
- using science-based emissions reduction targets, aligning the company with the latest climate science to meet the goals of the Paris Agreement.

While these commitments from AIG mark a major victory for Public Citizen’s campaign and put AIG ahead of other U.S. insurers, the company is still far behind where it needs to be—and behind the standard set by leading global insurers. The new policy from AIG fails to rule out supporting oil and gas expansion, fails to explicitly dictate a timeline for implementation, and lacks transparency needed to hold the company publicly accountable.

Pushing Toyota Toward an Electric Future

This year, Public Citizen launched a campaign to push one of the world’s largest car manufacturers to embrace an electric future for its fleet of vehicles.

In contrast to its leadership on hybrid technology in the early 2000s, Toyota has become one of the worst companies in the world on zero-emission vehicles. With just a single battery-powered electric car in its U.S. fleet, the company’s CEO has actively maligned the auto industry’s push toward all-electric cars.

Over the past few years, Toyota has prioritized lobbying against government policies that combat the climate crisis and hasten the transition to clean energy sources. In 2021, it was ranked the third worst company in the world for lobbying against climate policy behind only the oil and gas giants ExxonMobil and Chevron.

Public Citizen is pushing Toyota to phase out internal combustion engines, including hybrids and plug-in hybrids, by 2030. Further, the campaign is pressing the company to realign its global advocacy and lobbying to reflect the dangers that internal combustion cars and trucks pose to an accelerating climate crisis.

In December, Public Citizen launched ToyotaYawn, an ad campaign lampooning the company’s end-of-the-year “Toyotathon” sale.

“ToyotaYAWN is on!” an actress states in the commercial spot, which aired in five states across the country. “With zero commitment to electrify our full fleet and only one EV on the market, it’s the least exciting time of the year.”

In November, Public Citizen flew a banner over 2022’s NASCAR Cup Series Championship Race in Avondale, Ariz. The banner read “Want Exciting? Drive Electric. Want Boring? Drive Toyota.” In addition, a billboard truck circled the Phoenix Raceway displaying a video calling on Toyota to fix its long-term strategy on EVs. ■



Following a year in which the Texas Legislature stayed in session for most of 2021, the Texas Office of Public Citizen spent 2022 making progress across the state and laying the groundwork for the next state legislative session starting in January 2023.

San Antonio

One of the largest and fastest-growing cities in the country saw its energy future get a little greener in 2022. In June, during one of the hottest summers on record for Texas, the San Antonio City Council voted to renew the Save for Tomorrow Energy Plan (STEP), for which Public Citizen's Texas Office advocated.

Public Citizen supports programs like STEP because they make it possible for energy efficiency to begin at home. STEP provides essential energy-efficiency incentives for customers who weatherize their homes, purchase energy-efficient appliances, and more.

If not for renewal, this beneficial program would have expired in July.

"The summer of 2022 is exactly why energy efficiency programs like STEP are critical to addressing our increasing need for electricity," said DeeDee Belmares, climate justice organizer for Public Citizen in San Antonio. "With increased funding to reach even more San Antonians, this program will help secure our city's energy future."

In December, San Antonio's electric utility Rate Advisory Committee voted to close its coal plant by 2027. The utility's board is expected to affirm this vote. The current plan has one of the two coal units being converted to natural gas, and Public Citizen is advocating for a transition away from gas.

Austin

Thanks to decisions made by Texas Gov. Greg Abbott, Texans will see the costs of Winter Storm Uri in their electric bills for many years to come. Protecting ratepayers from more unfair energy rate hikes became crucial in a year that saw energy prices in Texas skyrocket.

In Austin, the city's electric utility, Austin Energy (AE), sought to raise rates in an unfair and environmentally unfriendly way. The Texas Office of Public Citizen, in partnership with the Sierra Club Lone Star Chapter, Solar United Neighbors, and other advocates, intervened and objected.

The proposal received widespread pushback, and in the end, the Austin City Council had the final word. It was, however, a disappointment that the Council voted to approve much of what AE asked for. But the resulting rate hike will not be as large as AE initially requested.

"The approved plan is an improvement from what Austin Energy proposed," said Kaiba White, energy policy and outreach specialist with Public Citizen. "But it still isn't equitable and de-prioritizes energy conservation, which is key to fighting climate change."

The Texas Office of Public Citizen will continue advocating for consumers and protecting the most vulnerable from unwarranted and costly rate increases in 2023 and beyond.

Dallas

Concrete and asphalt batch plants are more than just an eyesore. They're a public health nuisance that can release harmful particulate matter into the air of neighboring communities. In Dallas, residents now have much more of a say in where these plants are sited thanks to Public Citizen and other advocates. In May, the Dallas City Council approved an ordinance

requiring a public hearing at the City Plan Commission and City Council for a new Specific Use Permit for concrete batch and asphalt plants.

Houston

In Houston, Public Citizen celebrated alongside its partners in the Healthy Port Communities Coalition (HPCC), which reached its 10th anniversary in late November. HPCC has advocated for the communities near Port Houston and its ship channel and has fought to protect public health in vulnerable port communities, securing policies like an anti-idling ordinance and convincing the port commission to use cleaner dredging equipment in an ongoing project to widen and deepen the Houston Ship Channel.

Reports

Texas Director Adrian Shelley garnered media attention this summer for a report he authored that highlighted how rainfall regulations leave Texans at risk of significant environmental disasters at petrochemical facilities. On June 1 - considered the start of the Atlantic hurricane season - Shelley published "Underwater & Unaware." The report, pegged to the fifth anniversary of Hurricane Harvey, identifies the vulnerability of petrochemical facility storage tanks during significant rainfall

events. Because the industry builds the tanks and other infrastructure to meet industry standards for out-of-date worst-case rainfall events that don't take climate chaos into account, storage tanks and other equipment at industrial facilities are vulnerable. The standards, Shelley wrote, must be updated to account for a changing climate that makes storms more severe and frequent.

Multiple petrochemical storage tanks failed during Harvey due to record amounts of rain. The contents of the failing tanks were sent into the air and floodwaters, compounding a destructive weather event with a chemical disaster. Shelley plans to work with Texas regulators in 2023 on rulemaking to address storage tank vulnerabilities.



Photo of Houston Ship Channel courtesy of Flickr.

Preparing for 2023

As the Texas Office of Public Citizen prepares for another legislative session in 2023, top priorities will be the review of several state agencies. In a process called "Sunset," the state of Texas reviews the performance of all its agencies about every 12 years. This process creates an opportunity for needed reforms.

The TCEQ is Texas' environmental protection agency and the largest of any state except California. The TCEQ is often ineffective at holding polluters accountable and is instead too friendly to corporations.

The PUC regulates utilities, including electricity providers. It can determine how much Texans pay to power their homes and could implement energy efficiency standards. It also oversees the Electric Reliability Council of Texas (ERCOT), which manages the Texas power grid. The agencies decide when power outages happen and where, as occurred during Winter Storm Uri.

Throughout 2022, the Texas Office hosted its own online and in-person events to involve Texans in the sunset process of these critical agencies. By holding these events, Public Citizen was able to gather public input from Texans who may not have been able to directly engage with lawmakers by traveling to the capitol in Austin. ■

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► **Oximeters**, from page 1

1, 2022, convened an expert advisory committee to deliberate on the accuracy of pulse oximeters across all skin tones.

“The FDA’s dereliction of duty in its regulatory oversight of pulse oximeters has contributed to racial disparities in health care and likely the suffering and deaths of countless Asian, Black, and Hispanic patients,” says Public Citizen’s Health Research Group Director Dr. Michael Carome.

Immediately prior to the FDA’s advisory committee’s meeting in November, Public Citizen reviewed evidentiary summaries made public by the FDA for that meeting. That packet of information included a database review

showing that pulse oximeters are mostly FDA-authorized for marketing with little data regarding performance in persons with dark skin tone.

In fact, the FDA reviewed a sub-sample of 84 authorized pulse oximeters from 2000 to 2021 and found that 38% were approved with no clinical data. For the other 44 authorized pulse oximeters that did present clinical trial data in their application, the median number of subjects tested was only 12, and only 32 applications included any data regarding race or ethnicity. By the FDA’s own accounting, skin pigmentation is an often-neglected point of consideration when using pulse oximeters in critical care facilities across the U.S.

The Nov. 1, 2022, advisory committee hearing involved data presentations from FDA staff and pulse oximeter experts including the researchers whose work is summarized above. Public Citizen also testified at that meeting to encourage the committee to insist that the FDA tighten authorization standards for pulse oximeters to address the racial disparities surrounding the inaccuracy of these devices.

No formal votes were taken during the day-long meeting, but opinions expressed by committee members during the hearing converged on two points. First, that pulse oximeters often overestimate oxygen levels in persons with darker skin, leading to inferior care, and second, that the

FDA should develop remedies that include tighter standards and better warnings to consumers and clinicians regarding pulse oximeter deficiencies.

Such reforms remain long overdue matters of general device quality and of racial equity. Public Citizen will continue to pressure the FDA to review all currently marketed or prospective pulse oximeters for data regarding their performance in people with varying levels of skin pigmentation.

Absent evidence of favorable performance, such devices should be barred from the market indefinitely, or until they are properly evaluated and deemed safe and effective for use in people regardless of their race or ethnicity. ■

► **Big Tech**, from page 1

The ad spending had an effect, blunting AIOCA’s momentum in Washington. Along with the ad spending, Big Tech unleashed its inside pressure game focusing on three main categories: lobbying, contributions, and connections. Public Citizen’s analysis revealed that those opposed to AIOCA have been able to overwhelm supporters in every category, often by wide margins.

“Dominant tech giants have captured the policy process,” said Matt Kent, competition policy advocate for Public Citizen. “Despite their reputation as innovators, Big Tech ultimately uses the same influence tactics as their Big Oil and Big Tobacco predecessors: hire key staff, swarm Capitol Hill, and blanket the city with contributions.”

Led by the Big Four tech companies - Amazon, Apple, Google, and Meta - entities opposed to AIOCA

deployed twice the lobbying power and six times the money as supporters, while enlisting dozens of insiders with ties to the U.S. House and U.S. Senate Judiciary committees. Public Citizen found that:

- Lobbyists opposed to AIOCA were responsible for 603 lobbyist engagements on the bill, compared to only 256 for supporters, giving the opposition more than a two-to-one advantage. The Big Four were responsible for more engagements than all the bill’s supporters combined.
- Lobbyists opposing AIOCA contributed \$2.3 million to members of Congress during the 2022 cycle, three times more than supporters. They have given \$9 million to this Congress over the past two decades.
- The Big Four deployed 38 lobbyists with connections to the House and/or Senate Judiciary Committees to lobby against

AIOCA. Amazon deployed 20 Judiciary-connected lobbyists, the most of the Big Four. The Judiciary Committee in both chambers has jurisdiction over AIOCA.

While Judiciary Committee connections are no doubt important for the Big Four, those in congressional leadership positions ultimately decide what gets voted on. Leadership also has significant sway over how their caucuses vote.

The Big Four deployed 14 lobbyists to lobby against AIOCA who previously worked for the most powerful members of the congressional leadership. Five staffers that previously worked for U.S. Senate Minority Leader Mitch McConnell (R-Ky.) lobbied against AIOCA on behalf of the Big Four, the most of anyone in leadership. The former McConnell staffers now lobbying for the Big Four against AIOCA include two former chiefs of staff who served him for a combined 30 years.

After his chief of staff was hired by Apple to lobby against AIOCA late in 2021, Senate Minority Whip John Thune (R-S.D.) remarked that he hoped his former chief “won’t mind the occasional phone call to pick his brain on some of the issues that are facing the Senate.”

Big Tech’s decision to employ so many lobbyists with ties to those deciding AIOCA’s fate was not by coincidence but by design. Monopoly power directly translates to excessive political power. Over the past two decades, Big Tech has reaped monopoly profits. Amazon, Apple, Google, and Facebook for example, have a combined market value of \$6.2 trillion, according to Forbes. They spent \$106 million lobbying over the past two years - a rounding error for them.

To keep competition at bay, Big Tech will continue to lobby, poach staffers and fund attack ads. The only way to stop them is through legislation. ■

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