

Public Citizen

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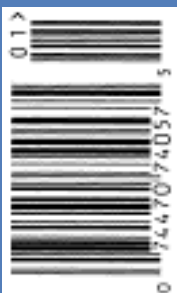
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Special Anniversary Issue



30 Years

Protecting
Health, Safety
& Democracy
Since 1971



Corporate Accountability | Prescription Drugs | Government Ethics | Auto Safety | Clean Energy
Globalization | Occupational Safety | Clean Up Congress | Nuclear Safety | Corporate Welfare
First Amendment | Air Bags | Consumer Safety | Electricity Deregulation | Food Irradiation
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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 in order 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 every public forum: Congress, the courts, government agencies, and the news media.

Public Citizen does not accept government or corporate grants. Our funding comes from our 150,000 individual 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.

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Special Anniversary Issue 2001

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Public Citizen has worked to protect democracy and the health, safety and pocketbooks of consumers through Congress, the Executive Branch and the Judiciary. Here are some of the many highlights from 1971 through the present.

Public Citizen Celebrates 30 Years



In the classic 1946 Christmas movie *It's a Wonderful Life*, an angel grants the despondent George Bailey (played by Jimmy Stewart) the opportunity to see what the world would be like if he had never been born. He discovers that his many small and large good deeds added up to a sum of achievement that altered the history of his small town and enriched the lives of his neighbors. He discovered that, despite the hard challenges and occasional broken heart, it had indeed been a wonderful life.

As we mark the 30th anniversary of Public Citizen with this special edition of *Public Citizen News*, I can't help but wonder how the world would be different if Public Citizen had not been founded in 1971.

Are there people alive today who would have died because Public Citizen was not there to force dangerous prescription drugs or carcinogenic products such as Red Dye #2 off the market? How many people would have been sickened or killed if Public Citizen had not sued the government to regulate workplace contaminants such as ethylene oxide? How many children would have become ill or died from Reye's Syndrome if Public Citizen had not insisted that aspirin bottles be labeled to warn against giving them to children with chicken pox? How many more families would be devastated from auto and truck crashes without Public Citizen's success in getting many safety protections adopted?

Had we not stood in the way of corporate attacks on the twin pillars of consumer protection — our civil justice system and health and safety regulatory framework — would these institutions still be as strong and vibrant as they are? Would the nuclear industry have built dozens more reactors had we not led the grassroots opposition beginning in the 1970s? Would the fair trade movement in the U.S. have the muscle and vitality it has today without the leadership of Public Citizen?

I could ask a hundred such questions. Just thinking about our work over the past three decades makes me incredibly proud to have been right in the thick of the battles for all but the four years I spent regulating auto safety in the Carter administration. I am filled with pride for the thousands of remarkable people who have worked at Public Citizen through the years. I am awed by the power of citizens to shape government policy by being active participants in democracy. And I am humbled by the loyalty and

generosity of our members — our lifeblood.

We have come a long way in 30 years. While political issues come and go, our values remain the same. We stand for an open, ethical government that represents the people, not the monied special interests. We stand for a marketplace in which health, safety and environmental safeguards are paramount. We stand for a strong civil justice system that allows citizens to seek justice and hold wrongdoers accountable for their actions.

As we look back, we are also thinking ahead to the new millennium. In many ways, the challenges are greater than ever. The progressive era of the 1960s and early 1970s unleashed a well-funded corporate backlash against consumer protection. We have seen retrenchment by our health and safety regulatory agencies. We have seen the increasingly corrosive effect of big money on our government. We have seen a protracted corporate PR war waged against government safety standards and the civil justice system. We have seen the onset of a model of globalization in which the profits of multinational corporations hold sway over the welfare of people. And now we see a new president intent on tilting the government toward business interests who funded his campaign. We have many different hurdles facing us.

But yes, it's been a wonderful life for Public Citizen. From the bottom of my heart, I want to thank you for helping us achieve victories for citizens. Without you we wouldn't be here, because we take no funding from government or business. Now, as we look forward to the next 30 years and beyond, we promise to rise to new heights in making our democracy work better for you and your family.

A handwritten signature in black ink that reads "Joan Claybrook". The signature is written in a cursive, flowing style.

A lot has changed since 1971 ...

In that year ... the Watergate was still just a little-known hotel in Washington ... people drove station wagons, not SUVs ... passengers could smoke on airplanes ... nuclear power was flourishing ... and a first-class stamp cost 6 cents.

Public Citizen has changed, too. From our founding in 1971 by consumer advocate Ralph Nader, we have grown into a potent countervailing force to the might of Corporate America. Today, we are larger and stronger than ever. But what hasn't changed are the traits that have served us well: independence, persistence, vigilance. We've been the eyes and ears — and sometimes the teeth — of consumers through



the administrations of six presidents and through 15 Congresses.



We were born in an era of activism, during a period when the Congress was creating important new agencies — the Environmental

But Public Citizen Still Fights for Consumers

Protection Agency, the Occupational

Safety and Health Administration, the Consumer Product Safety Commission, the National Highway Traffic Safety Administration — to mitigate the health and safety risks posed by our industrial society.

Since that time, we've withstood a withering corporate backlash against consumer protection. But we

have been uncompromising in our fight for safer products, for government and corporate accountability, for clean elections, for a strong and vibrant civil

justice system, and for clean and safe energy. We have evolved with the times, keeping our core values while moving into new arenas, such as globalization

and electricity deregulation now devastating California consumers.



Public Citizen has won many battles for consumers. We have remained independent by refusing to accept money from corporations or the government, giving us the freedom to name names. We have been persistent, because our battles sometimes stretch across long years. We have been vigilant, because reforms won today can be undone tomorrow.

In the following pages, we look back at our history and accomplishments, and offer an in-depth look at some major issues on which we work.



The Money Game

How 'Soft Money' Came to Dominate Elections, Policy

By Frank Clemente

Demands for campaign finance reform have been a recurring feature of American politics since at least the time of the Civil War — reflecting the basic contradiction in American society between the reality of economic inequality and the promise of political equality.

This signature issue is so important to Public Citizen and its members because it affects in large and small ways every other issue we work on — curbing the power of corporations and other special interests to determine government priorities; ensuring access of all Americans to affordable health care and safe prescription drugs; ending reliance on nuclear power and promoting safe energy alternatives; pursuing trade policies that promote decent wages, worker rights and environmental protection; maintaining strong government public health, safety and environmental protections; and, when all else fails, ensuring that citizens have access to the courts to seek redress when they have been harmed by wrongdoing.

From its early years, Public Citizen has consistently exposed the loopholes in campaign finance law and advocated public financing of presidential and congressional elections. That reform agenda began with some promise in the mid-1970s as the Watergate scandal embarrassed Congress into enacting progressive reforms, including limits on private contributions and full public financing for presidential candidates in the general election and partial funding in primaries. However, the reforms were partly undermined by actions of the Supreme Court and the Federal Election Commission, which was set up to enforce the new laws. As a consequence, special interest Political Action Committee (PAC) money, which comes primarily from corporations and to a far lesser extent from labor unions and ideological interest groups, became more important than anyone had anticipated.

The 1980s and 1990s saw some near success in achieving major reforms — such as partial public financing of

congressional elections, curbs on PACs and limits on unlimited “soft money” contributions to the political parties. But the intransigence of leaders in both major political parties on various bills doomed the reforms.

By the 2000 election, massive and unlimited “soft money” contributions from corporations, unions and wealthy individuals had made a farce of the contribution limits. Moreover, independent groups spent tens of millions of dollars on phony “issue ads” that promoted or opposed candidates but evaded the campaign finance law. By focusing on these two biggest problems, contemporary reformers have succeeded in putting together bipartisan majorities in both the House and Senate and could very well send legislation to President George W. Bush this year.

The founding of Public Citizen in 1971 coincided with the greatest political scandal of the modern era — Watergate. That year Ralph Nader established the Congress Project to present a comprehensive look at Congress. Guided by Robert Fellmeth, with the assistance of Joan Claybrook and others, the project led to publication of the 1972 book *Who Runs Congress?*. The meticulously researched book laid bare the iron grip that business interests had on members of Congress and exposed the hollowness of existing campaign finance laws.

Even before the book’s publication, Public Citizen filed a suit demanding strict enforcement of the law. The complaint was accompanied by a 92-page list of hundreds of alleged campaign finance violations. As the Watergate scandal revealed, existing campaign finance laws were full of loopholes and bereft of real enforcement. Investigations of Richard Nixon’s 1972 presidential campaign unveiled a stream of illegal corporate contributions, heavy reliance on big contributions, secret “slush funds” and a host of presidential and legislative favors for top donors.

Congress responded in 1974 by passing the Federal Election Campaign Act (FECA). This landmark legislation established strict limits on both contributions to and expenditures by candidates, parties and other political committees. It also reinforced the bans on corporate and union donations to federal candidates that were passed in

Frank Clemente is director of Public Citizen's Congress Watch. Public Citizen Lobbyist Steve Weissman co-authored this article.

1907 and 1947 respectively.

Moreover, FECA established today's system whereby presidential candidates can obtain partial public funding for the primary campaign and full funding for the general election if they voluntarily curtail their own spending. The draft legislation contained public funding as well for Senate candidates, but the House would not pass public funding and it was dropped for congressional candidates. Finally, the new law established the Federal Election Commission (FEC) to enforce the law and mandated extensive public disclosure of election finances. A historic legal challenge to this new system in the Supreme Court case of *Buckley v. Valeo* was both a blessing and a curse. On the one hand, the Court upheld contribution limits and presidential public funding as reasonable limitations on free speech and association. It reasoned that they were needed to fight real or perceived corruption.

On the other hand, the Court overthrew the law's limits on how much candidates and independent groups could spend. It reasoned that political spending involved real speech and should not be curtailed under the First Amendment, whereas political contributions consisted only of "symbolic" speech and could be regulated. The Court also determined that the Constitution did not allow Congress to promote the speech of the average person by preventing fat cats and organized groups from making unlimited independent expenditures.

Furthermore, in a casual and overly narrow attempt to make sure that normal discussion of political issues was not impeded by campaign finance law, the Supreme Court suggested — in a footnote — that certain campaign contributions for communications could escape regulation entirely if specific "magic words" like "vote for" and "vote against" were not used.

In retrospect, the Court's elimination of spending controls — subsequently taken advantage of by inventive political fundraisers and interest groups — has undermined the promise of FECA in the past 25 years. So has a

series of misguided rulings by the FEC. A Pandora's box of PACs, soft money loopholes and sham issue ads now dominate our campaigns.

During the late 1970s and throughout the 1980s, the biggest challenge facing campaign reformers was the explosive growth of special interest PACs. These committees, mainly corporate but also union and ideological, became much more important than anyone anticipated when the 1974 reforms were passed. With campaign costs rising and with no spending limits, politicians gravitated to the PACs, which could contribute up to \$5,000 to a candidate per election (\$10,000 per cycle) and independently spend an unlimited amount for TV ads and other items. Plus, PACs could collect contributions up to \$5,000 per individual per year, while individuals were limited to giving only \$1,000 to a particular candidate for each election.

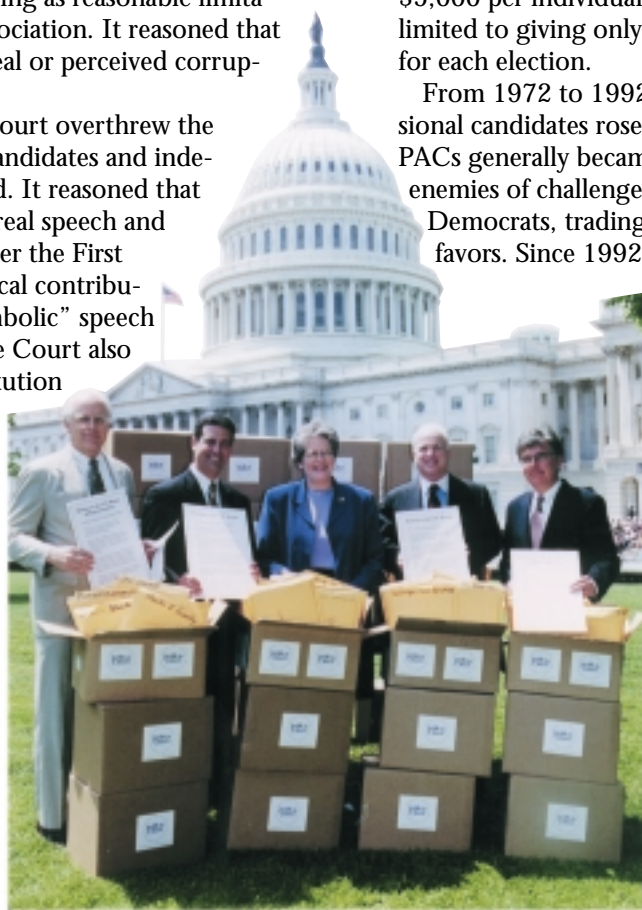
From 1972 to 1992, PAC contributions to congressional candidates rose from \$8.5 million to \$179 million. PACs generally became major allies of incumbents (and enemies of challengers) for both Republicans and

Democrats, trading their contributions for legislative favors. Since 1992, PAC contributions have risen more slowly and have actually decreased as a percentage of candidate receipts, though they still supply a quarter of the total dollars raised.

The corrupting and anti-competitive influence of PACs has been detailed in numerous Public Citizen reports in the past two decades.

The 1990s brought us close to lawlessness, as the ban on corporate and union giving and the limits on individual contributions to political parties was shredded. The major parties, aided by their representatives on the FEC, evaded legal contribution limits by pioneering soft money. Using the fictional argument that contributions for "generic" party activities such as voter registration, get-out-the-vote activities and issue ads were different from contributions used to support candidates for federal office, the major parties

opened a huge loophole in the campaign finance law. Thus, soft money could be procured in large chunks — generally tens and hundreds of thousands of dollars —



(From left to right) Rep. Christopher Shays, Sen. Russell Feingold, Joan Claybrook, Sen. John McCain and Rep. Marty Meehan hold petitions from Public Citizen members. Thousands of petitions imploring Congress to pass campaign finance reform were delivered to Capitol Hill.

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Under-Regulated?

Big Business Fights Health, Safety Standards That Save Lives, Money

By David Vladeck

Since the early days of the Reagan presidency, the prevailing mythology has been that our federal regulatory agencies are careening out of control, placing needless and unwarranted burdens on American business that stifle economic growth. This mythology was hardly put to the test in the 2000 presidential election. Both the Republican and Democratic nominees accepted as gospel the idea that regulation has mushroomed beyond reason and both pledged to shrink the size of government.

The anti-regulation forces may be pressing hard to win the rhetorical battle about regulation, but they are not close to winning the war. Why? For one simple reason: Because our society needs sensible regulation, and the American people understand that.

The facts are these: Preventative regulation is cheaper than after-the-fact fixes; good regulation avoids expensive litigation and counterproductive blame-laying when bad products fail; smart regulation results in the development of better and more efficient products; and above all else, reasonable regulatory measures save lives and preserve our environment.

Take three examples. First, prior to the early 1980s, there were as many as 5,000 cases of Reye's Syndrome — a disease that causes death and brain damage in children — each year. When it became apparent that there was a link between Reye's Syndrome and aspirin, Public Citizen led the charge to have aspirin-containing products labeled to warn parents not to give them to children with the flu or chicken pox. As a result of those warnings, Reye's Syndrome is virtually unheard of today. Second, in the mid-1980s, Public Citizen waged a campaign to have the Occupational Safety and Health Administration (OSHA) place strict controls on the workplace use of ethylene oxide — a potent carcinogen. Although it took eight years of litigation, we won, and a tough standard went into effect in 1989, reducing permissible exposures

a hundred-fold. As a result, 100,000 American workers who previously had been exposed to ethylene oxide on the job are now safe. Third, in 1988 OSHA, again at our urging, issued a rigorous standard that limited worker exposure to benzene — a highly toxic solvent. Tire companies bitterly opposed this action, not because they disagreed about the gravity of the health risks, but because they had serious problems controlling benzene exposures. Shortly after the OSHA standard was issued, however, scientists found a substitute for benzene that was safer for the workers and better for the tire companies. Everyone gained.

These success stories may become relics. Due to massive cutbacks in the Reagan/Bush years, which continued at a slower rate during the Clinton administration, we are now actually facing a crisis of under-regulation. Our federal regulatory agencies have been cut to the bone. As a result, the pace of regulation has slowed to the point where serious, acknowledged health and safety threats go unregulated, to the peril of those exposed, and enforcement efforts are crippled by inadequate resources.

Consider OSHA, often the poster-child of the anti-regulatory forces. Today, OSHA's staffing has been so severely cut that it has fewer than 100 people working on developing workplace standards for the thousands of toxic substances used in the workplace and for the untold safety hazards that lurk in chemical plants, factories and manufacturing facilities. Because of this skeletal staff, the Clinton administration did far less in terms of promulgating new standards than any past administration. Highly toxic and carcinogenic substances, such as hexavalent chromium — a metal used widely in auto-making, manufacturing and metal plating — are essentially unregulated, even though hundreds of thousands of American workers are exposed to it every day on the job and even though its serious health effects are beyond dispute. This is but one example of regulatory work that desperately needs to be undertaken but will not be completed for years.

Consider the Food and Drug Administration (FDA), the consumer's main line of defense against ineffective drugs, unsafe medical devices and tainted foods. With

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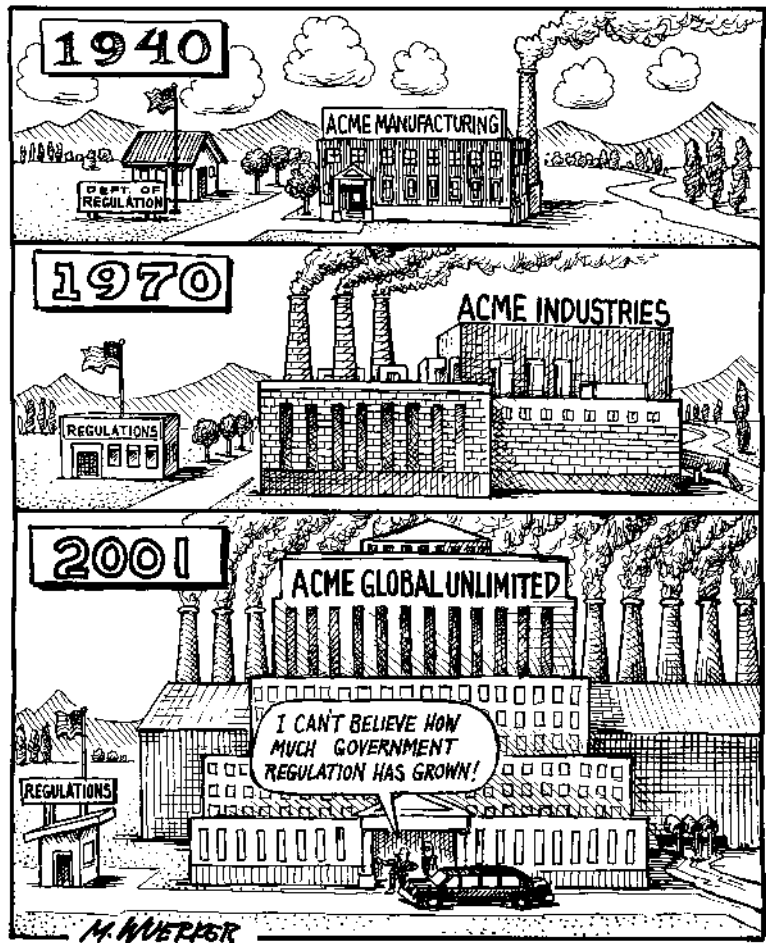
fewer than 10,000 employees nationwide, the FDA regulates one-quarter of the American economy. With those employees, it is responsible for inspecting virtually every food and drug production facility in the nation and virtually all food and drug products imported into the United States. It sets standards for safety in almost all food and cosmetic products and approves prior to marketing every drug and medical device sold on the American market.

In the past few years, Congress has directed the agency to speed drug reviews to get new drugs on the market more quickly. As a result, the FDA has had to do triage on its other priorities. Because of under-staffing, it took the agency four years to enact a simple rule to protect children from the worst poisoning risk they face: the iron tablets that their parents take. Each year, 100,000 children are made ill, some quite seriously, because they mistake their parents' vitamins for candy. The FDA wanted to impose rules to redesign the packaging of these products to safeguard children. But with all of the obstacles that are placed in any agency's rulemaking path, the process was so slow that more than four years elapsed, while children remained at risk.

Perhaps the easiest way to see the problem of under-regulation is to look at the recent Ford/Firestone tire recall. It is likely that standard-setting would have prevented this tragedy and perhaps many or all of the 148 deaths and more than 500 injuries attributed to Firestone tire tread separations and blowouts. The government's safety standards for tires and for roof-crush protection haven't been updated for 30 years. And the agency has spent 15 years "considering" a rollover standard but has never issued one. And what about the recall process? The National Highway Traffic Safety Administration (NHTSA) is a tiny agency, with only 625 employees (just 15 investigators) to regulate the entire motor transportation industry and administer grants to aid state highway safety programs. NHTSA's budget is 30 percent lower today than in 1980. Its resources are stretched so thinly that, if the industry is less than candid with the agency — as both Firestone and Ford were — there is little NHTSA can be expected to do about it, and tragedies like the one we see unfolding are bound to occur again.

What should be done to prevent these lapses in the future?

First, we need to unshackle our regulatory agencies. The rulemaking process, which was designed to respond swiftly to emerging health and safety threats, has become so encrusted with procedures that it now takes OSHA an



average of eight years to issue a new standard. Opponents of regulation have paralyzed the rulemaking process by layering on multiple new requirements that agencies must meet in order to issue new rules. Before taking even the first step of publishing a proposal, agencies must obtain approval from the White House's Office of Management and Budget (OMB) to gather data; conduct mini-cost/benefit analyses; meet with representatives of small business; consider the possible impacts on entities as diverse as local governments and Indian tribes; and ultimately must get OMB clearance to proceed.

Then, as the rulemaking progresses, agencies must again consult with a wide array of "stakeholders," perform numerous "impact" analyses and satisfy OMB as to the economic rationality of the rule. All of these analytical steps take time, and, while the agencies diligently produce this mountain of paperwork (much of which goes unread), the public remains unprotected from the risks of children being poisoned or workers being exposed to known carcinogens. If one were to subject the current procedure-laden regulatory process to cost/benefit analy-

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Corporate Protectionism

Recent Trade Agreements Value Profits over People

By Lori Wallach

The massive protest against corporate-managed trade in Seattle in December 1999 proved to be a seminal event in the growing debate about globalization. Prior to Seattle, few Americans knew much — if anything — about the mysterious bureaucracy called the World Trade Organization (WTO). The protest, which drew 50,000 people and a bevy of progressive luminaries, changed the public perception almost overnight thanks to massive network television and newspaper coverage. The WTO, a very powerful but little-known entity dominated by corporate interests, is now a household word because of one of the largest demonstrations since the Vietnam War and civil rights era.

The year-long campaign leading up to Seattle forged dozens of citizen coalitions worldwide into a broader, stronger global citizens' movement that has motivated a new generation of young activists.

While December 1999 was the first time many Americans realized the broad implications of corporate-led globalization for their lives, it was a discovery Public Citizen had made a decade earlier.

When Public Citizen examined several proposed "trade" agreements during the Bush administration, we discovered they were in fact blueprints for imposing broad deregulation agendas worldwide. At the time, in 1991, Congress was discussing whether to renew a procedure called "Fast Track," which short-circuits Congress' exclusive constitutional role in setting terms of trade. It limits Congress' role to an up-or-down vote, with no amendments, on trade pacts negotiated and signed by the president. Created by President Nixon, Fast Track had been renewed several times by Congress but had been used previously on only three trade pacts that focused on traditional quota and tariff matters.

Corporate America enthusiastically supported extending Fast Track to help ram through Congress two proposed future agreements. One of these pacts, the pro-

posed transformation of the existing General Agreement on Tariffs and Trade (GATT), attracted Public Citizen's scrutiny.

The GATT, first established shortly after World War II, established tariff and quota rules covering trade in goods between its signatories. The Reagan and Bush administrations pushed for a wholesale revision of the trading system in what was known as the "Uruguay Round" of GATT negotiations. In 1993, the new Clinton administration joined in supporting the new trade deal.

When Public Citizen acquired a draft copy of the secret Uruguay Round text in 1992, our concern escalated. Corporate America was opening a new front in its ongoing battles against consumers, workers and environmental safeguards by transforming the GATT from a voluntary trading system based on consensus into a powerful global commerce agency (later named the World Trade Organization) designed to eviscerate — behind closed doors — the public interest laws that corporations had been unable to undercut through normal democratic processes.

The new rules establishing the WTO were written in secret with the deep involvement of the world's largest multinational corporations. They would impose arbitrary limits on domestic policy decisions that reflect human values. These include, for example, the chosen level of environmental protection or the balancing of priorities such as consumer access to affordable medicine and patent rights on medicines. They also would cover whole new spheres — services such as banking, telephones and insurance. The proposal not only attacked important consumer protections but added new corporate protectionism, such as establishing worldwide monopoly sales rights for a corporation holding a patent on medicine, seeds — even human cells — in any one country.

And the new GATT-WTO would subject U.S. health, safety, human rights, labor and environmental standards — including policies that treated domestic and foreign goods the same — to review by international trade bureaucrats. From the GATT-WTO perspective, a domestic law forbidding sale of fruits and vegetables tainted

Lori Wallach is director of Public Citizen's Global Trade Watch.

with banned pesticides is a trade barrier that may be challenged and overruled. By whom? Panels of unaccountable trade bureaucrats operating in secret at the WTO's Geneva headquarters. This concept undermines our system of democracy.

Public Citizen reached out to labor, environmental and other constituencies whose work was silently being undermined in the context of these negotiations. But while we lost the campaign to defeat Fast Track, the fight secured an enormous political and psychological boost. Trade deals usually sailed through Congress with barely single-digit opposition. The coalition generated an impressive 180 House votes against Fast Track in 1991. The small network of labor, environmental, religious and family farm groups awakened many in Congress to the new reality that these "trade" deals gave inordinate power to large corporations at the expense of workers, consumers, the environment and democratic accountability.

The strength of the citizen campaign against the North American Free Trade Agreement (applying to the United States, Mexico and Canada) in 1993 startled NAFTA's corporate backers and the new Clinton administration. NAFTA was an extreme experiment in providing new protections for investors while gutting existing public interest protections. NAFTA undercut food inspection and truck safety standards and unions' rights, all attacks that Congress had rejected at home. NAFTA even granted new protectionism for corporations — allowing them to sue governments in secret NAFTA tribunals for cash payments to recover alleged lost profits due to domestic regulations. This very sort of "regulatory takings" measure was rejected by Congress but sneaked through in a large and complex trade agreement.

Despite widespread public opposition, Congress narrowly approved NAFTA in late 1993. The legislation squeaked through the House of Representatives by 18 votes after President Clinton made a series of desperate pork-barrel deals with members of Congress in the final days. NAFTA critics lost the vote but changed the trade debate forever.

Two weeks later, the completion of negotiations for the new GATT deal caught many non-governmental organizations (NGOs) unaware. In the United States, the polit-

ical fallout of NAFTA highlighted trade as a dangerous election issue for politicians. As a result, Congress refused to vote on the GATT until after the 1994 elections. So with almost no debate, the Clinton administration and corporate supporters rammed the GATT Uruguay Round through a lame duck session of Congress where the fired and retired of the previous Congress locked the U.S. into



a future governed by the new WTO. The WTO is fraught with problems. Its undemocratic operating principles provide no accountability for decisions it imposes. The most basic due process protections are missing: There is no independent, outside appeal of WTO rulings, and the WTO operates in total secrecy without public involvement. Yet, under WTO rules, any nation can challenge another nation's domestic regulatory policies as "trade barriers" if they fall outside WTO-



Members of organized labor, including those from a nearby chapter of the International Longshoreman's Union, staged a huge rally against the World Trade Organization in Seattle on Dec. 1, 1999. (Photo by Bob Mentzinger)

allowed terms. Often, these are environmental, labor or health and safety safeguards that apply equally to domestic and foreign goods. Yet, if a WTO tribunal rules against a nation, that nation must change its policy or face expensive trade sanctions. In most cases, nations acquiesce to the changes, at times even when just threatened with a WTO challenge.

Recognizing the pervasive impact of corporate-led

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The Nuclear Genie

Despite Risks, Economic Flaws, Industry Still Pushing Nuclear Energy

By Wenonah Hauter

For the past 30 years, Public Citizen has worked with grassroots activists to create a sustainable, nuclear-free energy future. While the anti-nuclear movement has been successful in crippling the industry, our work is far from over. The industry is fighting for survival, and its proponents hope for a renaissance as the government lowers safety standards and establishes a publicly owned dump to take possession of the industry's deadly radioactive waste.

In 1974, when Ralph Nader organized the Critical Mass anti-nuclear conference in Washington, D.C., attended by more than 1,000 activists, the nuclear industry was in its heyday. Many believed that its technology would power our future. But just five years later, the worst nuclear accident in U.S. history, at Pennsylvania's Three Mile Island, created a tectonic shift in the American public's view of the industry, engendering deep suspicion of the technology. Even before Three Mile Island, the industry's prospects were waning. Twenty reactor projects had already been canceled. In fact, to date, no new reactors have been ordered and subsequently completed in the United States since 1973. The last one to be completed — Watts Barr in 1996 — took 23 years to finish, at a cost of more than \$7 billion.

Despite the economic shortcomings and the risks of catastrophic failures, the nuclear industry continues to operate more than 100 plants in the United States and is building dozens of new plants overseas.

At the time, the 1974 conference, which inspired the creation of Public Citizen's Critical Mass Energy Project, provided a national focal point for the scattered local

activists who were challenging the nuclear industry in dozens of communities. Citizens attending the conference heard the shocking news that Karen Silkwood, a whistleblower from a plutonium fuel fabrication plant in Oklahoma, had been killed in a car crash as she drove to meet a union official and a reporter from *The New York Times* to share evidence about the hazardous working conditions at the Kerr-McGee plant.

Silkwood's death galvanized the anti-nuclear movement into action, resulting in strong grassroots opposition to nuclear power and the siting of nuclear waste dumps. Citizen activism prevented electric utilities from building many of the plants they envisioned. In all, 93 reactors have been canceled over the past three decades. Opponents stopped the industry and its allies in government from building nuclear waste dumps around the country to "dispose" (although no safe method of disposing of waste exists) of low-level nuclear waste. And so far, uni-

fied action has prevented the government from establishing a dump for high-level waste in an inappropriate location at Yucca Mountain, Nev., although that debate is still raging and the nuclear industry has spent a fortune in campaign contributions to win the votes of members of Congress.

Now the industry is attempting to extend the licenses of its aging nuclear plants 20 years beyond the initial 40 years that the reactors were expected to operate. At the same time, because the Nuclear Regulatory Commission (NRC) wants to help the industry be cost-competitive in a newly deregulated electricity market, the agency is drastically lowering the bar for safety. Under the guise of efficiency, the agency is conducting "risk analyses" that have the effect of reducing regulation and exposing the public to more risk from nuclear accidents.

Meanwhile, pro-nuclear forces in the government are



Wenonah Hauter is director of Public Citizen's Critical Mass Energy and Environment Program.

working to create a new standard for how much radiation people can be exposed to in their daily lives. And pro-nuclear scientists are working overtime to persuade policymakers that low-level radiation is not as dangerous as once thought. The goal of these efforts is to help the nuclear industry foist its nuclear trash onto the public and enable the U.S. Department of Energy (DOE) to get rid of the waste from the production of nuclear bombs.

While in 2000 we were successful in pushing DOE to temporarily suspend the release of radioactive metals for recycling into household products, the NRC is proceeding toward setting a standard that will make it easier to reuse contaminated metals and soil. If we fail to stop the NRC in this standard-setting process, we could see the widespread release of radioactivity into the public domain. We could see radioactive materials from bomb-making plants being recycled into household goods and so-called “low-level” waste being dumped into landfills, where it could contaminate drinking water. We are already seeing radioactive waste being used to “irradiate” food supplies, a process that raises a host of troubling questions. Beyond our goal of prohibiting reuse, a key issue is whether any of the food products will be labeled to allow consumer choice.

The easing of regulatory constraints could make it cheaper and easier for electric utilities to dismantle defunct nuclear plants. For instance, in one irresponsible method of decommissioning called “rubblization” that is being proposed, the interior concrete surface of a nuclear plant is partially decontaminated, and the rest of the concrete, steel and other materials are crushed and dumped into the foundation hole. Then the rubble is covered with a soil cap. The result is the creation of a low-level radiation dump without any public input that would normally accompany a state or federal regulatory process.

Reducing the costs for decommissioning reactors and relaxing radiation standards are an important prerequisite for the industry’s goal of reducing costs. But the industry’s plans for the 21st century are much more ambitious, and as a result of globalization and the movement toward electric utility deregulation, they will be easier to pursue.

Beginning in the late 1970s, large industrial corporations joined right-wing ideologues in calling for deregulation of the electric industry. Large electricity users no longer wanted to pay the high rates that stemmed from the expensive mistake of nuclear power. Calls by large industries for utility deregulation found a ready chorus in academics, analysts and politicians who wanted to spout the “free market” ideology. At first, the electric utilities strenuously opposed attempts to end their highly profitable monopolies. Those with heavy nuclear debt worried that they would be unable to survive if their ratepay-

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Nuking Food

Irradiation Raises Safety Concerns

Public Citizen’s expertise in nuclear issues has led to our recent work on an emerging health and environmental issue — food irradiation. We are engaged in a battle over what kind of food supply our children will have. Will our children and grandchildren have access to fresh, wholesome food? Not if large, multinational corporate interests have their way. The nuclear and agribusiness industries have teamed up to promote the use of irradiation, a technology that uses the equivalent of millions of chest X-rays to extend the shelf life of food and to kill bacteria.

Under the guise of protecting the public from food-borne illness, this harmful and unproven nuclear technology is being foisted upon the public to increase corporate profits. The meat industry, for example, wants to speed up slaughter lines — even if this results in contamination — and use irradiation to lower the incidence of meat contamination rather than increase inspections. Corporate interests also plan to use irradiation to produce food more cheaply. They hope to raise meat, fruits and vegetables in countries like Mexico, Chile, Brazil and China where they can pay workers pennies an hour, escape environmental regulation and use pesticides that may not be legal in the developed world. Irradiation plays a significant role in this plan because it triples shelf life and kills insects and bacteria, which means food can be transported longer distances.

Unfortunately, irradiation has been legalized by a flawed process at the U.S. Food and Drug Administration (FDA). Irradiation initiates a complex sequence of reactions in food that literally rips apart its molecular structure. It destroys vitamins and enzymes and creates potentially harmful chemical combinations. The FDA has legalized radiation of fruit, vegetables, beef, pork, lamb, eggs and spices.

It is only through the vigilance of citizens that the tide can be turned. Pro-irradiation forces are pushing for the repeal of already-weak labeling that is mandated for irradiated food. Consumers must demand that their elected members of Congress maintain and strengthen labeling. At the same time, in the few states where irradiated food is being sold, consumers must clearly say no. The future of our food supply is at stake.



Medical Monitors

Public Health Advocacy Exposes Threats, Educates Consumers

By Sidney Wolfe, M.D.

For almost 30 years, the Public Citizen Health Research Group has been fighting to improve the public health by using research-based advocacy. The areas on which we have focused most of our attention are products such as prescription drugs and other FDA-regulated products, worker health issues and the health care delivery system. Using the traditional tools of health research, aided by access to unpublished data that we obtain from the government under the Freedom of Information Act, we have been able to effect change through two different but complementary means.

The first method involves petitioning and, if necessary, suing the government — especially the Food and Drug Administration (FDA) and the Occupational Safety and Health Administration (OSHA) — to enforce the health protection laws they are charged with upholding. In the case of the FDA, this means gathering enough scientific evidence to force the FDA to put a warning label on a drug or medical device, or, if necessary, to ban the product or other FDA-regulated substances such as food additives. In the case of OSHA, the process similarly involves accumulating and analyzing data that support getting the agency to set a safer health standard for chemicals to which workers are exposed.

The second means of change concerns providing information to the public so that even before the government takes the actions, we are requesting the public be informed about the problem, so they may use that information to protect themselves and their families. This information dissemination takes several forms, including the media, books, newsletters and reports.

With the exception of issues concerning worker health, which the news media ignore most of the time, our research is usually widely reported by newspapers, radio and TV. Three of our books, all concerning pharmaceuticals, have been national best-sellers. They include *Pills That Don't Work* (1981), *Over-the-Counter Pills That*

Don't Work (1983) and *Worst Pills, Best Pills* (1999). *20,125 Questionable Doctors* is the latest version of our national database of doctors disciplined by the federal government or state medical boards. It is the only publicly available book (and now available on CD-Rom) listing such doctors. In addition, we publish two monthly newsletters. *Health Letter*, now in its 17th year of publication, has a circulation of 50,000 and contains summaries of projects we have done and other information concerning the health care system. *Worst Pills, Best Pills News*, the monthly update of the information in the book, *Worst Pills, Best Pills*, has a circulation of 130,000. In many instances, we have warned people not to use dangerous drugs sometimes years before they were eventually banned, and this has saved lives and prevented unnecessary health problems.

We have also published many reports of our work in the health care delivery area, including a ranking of state Medicaid programs, state medical board disciplinary actions, several rankings of state programs for the seriously mentally ill, listings of hospital Cesarean section rates, and the names of hospitals that have illegally dumped seriously ill patients from their emergency rooms.

In addition to the direct dissemination of health information, we have, in conjunction with the Public Citizen Litigation Group, continually pushed, often through litigation against the FDA, OSHA or the Department of Health and Human Services, for more public access to information on prescription drugs, medical devices, workplace health conditions and a variety of health care issues.

For us to assess our effectiveness, it is useful to examine the results and impact of our work. A quantitative measurement is found in the outcome of our petitions and lawsuits filed against the FDA and OSHA. From the time we began our work in 1971 through the end of the year 2000, we filed 22 petitions with the FDA to ban prescription drugs, in each case because there was clear evidence that the drugs' risks outweighed their benefits. Thirteen of these drugs (59 percent) have been banned and another eight (36 percent) have had their use severely restricted. The banned drugs include Rezulin for diabetes,

Sidney Wolfe, M.D., is director of Public Citizen's Health Research Group.

Redux for weight reduction, Oraflex and Suprol for arthritis and pain, and Lotronex for irritable bowel syndrome. Other examples of FDA regulation forced by Public Citizen include the currently required warnings on aspirin against use by children with chicken pox or flu-like illnesses because of the risk of often-fatal or brain-damaging Reye's Syndrome, and the requirement for warnings on all tampons concerning their amount of absorbency because of the well-documented link between higher absorbency and increased risk of toxic shock syndrome.

In the worker health area, we have filed 17 OSHA petitions to force the agency to set safer workplace health standards. Thirteen of the petitions (77 percent) have been granted. They resulted in newer, safer standards for workplace exposure to carcinogens such as benzene, ethylene oxide and cadmium. In each case, working in conjunction with the Public Citizen Litigation Group, we had to file a lawsuit against OSHA because the agency did not respond favorably to our petitions.

More difficult to measure are the results of our ranking reports. The main feedback we continue to get on this kind of research is that it sparks institutional reforms. Typically, the state programs or hospitals and patients who are treated by them did not know how they compared to other such institutions until our rankings were published. In a number of instances, especially because we provide evidence of the best models as well as criticism of the worst, our reports have led to important improvements in the performance of these institutions.

The impact of our books and newsletters is the most difficult to measure because it depends on how patients and their families use the information we provide. However, we get an enormous amount of positive feedback from readers of these publications. They tell us, for example, about how they discovered that the "illnesses" that they had developed — be it Parkinsonism, depression, delirium, memory loss or heart or liver problems — were actually adverse drug reactions or interactions that they had not previously connected to the drugs they were taking until they read *Worst Pills, Best Pills* or *Worst Pills, Best Pills News*. In the most ideal circumstances, their physi-

cians welcome this information and work with the patients to lower the dose of the drug or, if necessary, to switch to an alternative drug that does not cause the adverse reaction.

This 30th anniversary of our work also affords an opportunity to look at recent events such as the performance of the FDA and OSHA. From the data we have accumulated, it is clear that the performance of these agencies is as bad or worse than at any time in the many years we have been monitoring them — worse than under Presidents Nixon, Ford, Carter, Reagan or Bush.

The election of a Republican president, after eight years of a Democrat leading the country, might seem to be good news for the pharmaceutical industry. However, the last several years of the Clinton regime brought little but praise from the industry, which currently gives the FDA the highest marks I have ever witnessed. There are several reasons for this, including the relative silence and lack of criticism of the industry in the media, especially TV, by the current commissioner, Dr. Jane Henney, and her predecessor, Acting Commissioner Dr. Michael Friedman. As a result, the pharmaceutical industry supports retaining Henney in the Bush administration. In addition, the 92 new drugs approved in 1996 and 1997 are the largest number ever approved in a two-year period, clearly the result of a lowering of the standards for approval. Third, the enactment of the 1997 Food and Drug Modernization Act, whose provisions concerning prescription drugs were largely crafted by the pharmaceutical industry, has made the FDA legally more friendly to the industry in a variety of ways. Fourth, the new law also relaxed requirements for prescription drug TV ads, creating a windfall for manufacturers of the most heavily advertised products, whose sales have skyrocketed with this massive, frequently misleading TV exposure.

What is good news for the pharmaceutical industry, however, is not good news for patients. It is hard to imagine how the FDA's drug safety record can get worse. I am hopeful that it will actually improve, in part because

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Dr. Sidney Wolfe appears on Phil Donahue's long-running talk show in 1993 to promote *Worst Pills, Best Pills II*, a book that warned consumers about dangerous drugs and provided information about safer alternatives.

Voices

Public Citizen 30 Years

Public Citizen has worked to protect democracy and the health, safety and pocketbooks of consumers through Congress, the Executive Branch and the Judiciary. Here are some of our many highlights from 1971 through the present.

Sen. John McCain (R-Ariz.)



“Public Citizen has been a powerful and persistent voice for cleaning up our campaign finance system, which has corrupted our legislative process and distorted government policies. The group continues to fight for average citizens whose voices are muted by the monied special interests.”

Rep. Henry Waxman (D-Calif.)



“For thirty years, Public Citizen has made an enormous difference on issues ranging from car safety to campaign finance reform, and it continues to be an independent and invaluable voice on the most important issues debated in Congress.”

1971

Public Citizen founded by Ralph Nader as an organization dedicated to protecting health, safety and democracy.



1972

Public Citizen files lawsuit resulting in new compensation system for airline passengers on overbooked flights.

Public Citizen plays key role in creation of the Consumer Product Safety Commission.

1973

In response to Public Citizen's suit, President Nixon's firing of Watergate Prosecutor Archibald Cox is ruled illegal.

1974

Public Citizen persuades Congress to override President Ford's veto and pass major improvements to the Freedom of Information Act.

1975

Public Citizen successfully lobbies Congress for energy conservation laws, including fuel economy requirements for cars.



Public Citizen wins Supreme Court ruling forbidding lawyers and other professionals from price fixing.

1976

FDA bans Red Dye #2 after Public Citizen's four-year campaign.

A Public Citizen petition leads to FDA ban on use of cancer-causing chloroform in cough medicines and toothpaste.

1977

Public Citizen challenges the airline industry's failure to provide adequate seating for non-smokers.

Public Citizen mobilizes citizens who persuade President Carter to halt construction of the Clinch River breeder reactor.

1978

Public Citizen is instrumental in stopping the spraying of DDT in airline passenger cabins to control Japanese beetles on California-bound flights.

Congress passes Public Citizen's National Consumer Cooperative Bill, authorizing \$300 million in seed money for consumer cooperatives.

1979

A Public Citizen petition leads to an Environmental Protection Agency ban on use of DBCP, a pesticide proven to cause sterility in men.

from Capitol Hill

Sen. Barbara Boxer (D-Calif.)



“Public Citizen stands on the side of social justice and consumer protection. Thanks to your unceasing vigilance, America is safer, more just and more honest for all who live here. On behalf of the state of California, thank you for your passion and your commitment to improving the lives of all Americans.”

Rep. Jesse Jackson Jr. (D-Ill.)



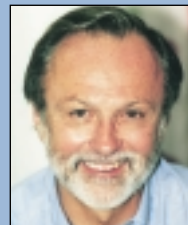
“Public Citizen has, through thirty years of dedicated and sacrificial public service, built an outstanding reputation and pursued a noble mission — the building of a more perfect Union. My most direct involvement with Public Citizen is through its Global Trade Watch. Together, along with many others, we advanced the Human rights, Opportunity, Partnership and Empowerment Act — or the Hope for Africa Act, which contained environment and human rights protections — as an alternative to the corporate-oriented African Growth and Opportunity Act. With the rightward and corporate-dominated shift in the country’s politics, by both Democrats and Republicans, a Public Citizen is needed now more than ever. The American people are depending on you to help keep hope alive.”

Sen. Edward Kennedy (D-Mass.)



“Public Citizen is an effective voice protecting the fundamental rights of all Americans, and I commend them for their vigilance, their leadership, and their impressive representation of the public interest over the past three decades. It’s been a privilege to work closely with them on key issues, such as the ongoing battles to make prescription drugs affordable, to hold the tobacco industry accountable for its actions, and to make health care a basic right for all our citizens.”

Rep. David Bonior (D-Mich.)



“In the struggle for social justice, the rights of consumers, and the accountability of government and corporations, Public Citizen has improved the lives of all Americans. Congratulations on an impressive thirty years. I look forward to working with you in the years to come.”

1979

Public Citizen helps defeat legislation that would have raised sugar price supports, thereby saving consumers \$300 million per year.

1980

Public Citizen plays a critical role in the passage of the Superfund law, which requires cleanup of toxic waste sites.



Public Citizen lawsuit forces government to keep records of closed-door proceedings of Chrysler bailout.

Public Citizen publishes *Pills That Don't Work*, a guide to ineffective medications.

1981

Public Citizen helps thwart President Reagan’s attempts to abolish the Clean Air Act and diminish the authority of the Consumer Product Safety Commission.

1982

The arthritis drug Oraflex is withdrawn from the market after Public Citizen exposes deaths and injuries caused by the drug.

After an extensive Public Citizen campaign, cancer-causing urea formaldehyde is banned in home insulation.

1983

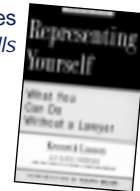
Public Citizen wins historic separation of powers case; Supreme Court strikes down legislative veto.

Public Citizen founds Buyers Up to help consumers buy affordable home heating oil.

1983

Public Citizen participates in landmark Supreme Court decision overturning President Reagan’s revocation of auto safety standards for automatic restraints (air bags).

Public Citizen releases *Over The Counter Pills That Don't Work*, a guide to ineffective and dangerous medications; and *Representing Yourself*, a guide to how citizens can deal with the legal system without hiring an attorney.



1984

Public Citizen wins a court order forcing EPA to recall 700,000 GM cars with faulty emission controls.

Following AT&T’s divestiture, Public Citizen mounts a nationwide “Campaign for Affordable Phones,” opposing rate hikes for residential customers.

1985

FDA requires a Reye's Syndrome warning for children on aspirin labels after a three-year campaign by Public Citizen.



Public Citizen reveals the locations of more than 250 work sites nationwide where workers have been exposed to hazardous chemicals.

1986

Public Citizen wins court order forbidding the president from stopping expenditure of appropriated funds without express authorization from Congress.

Congress requires health warning labels on chewing tobacco and snuff, capping Public Citizen's two-year campaign.

1987

Public Citizen helps persuade Congress to pass legislation restricting the time banks can hold checks.

1988

After seven years of litigation by Public Citizen, the Occupational Safety and Health Administration (OSHA) imposes standards for exposure to cancer-causing ethylene oxide.

Public Citizen sells 400,000 copies of *Worst Pills, Best Pills*, a consumer guide to dangerous and ineffective drugs and their alternatives.



1989

Public Citizen helps persuade California voters to shut down the Rancho Seco nuclear plant.

1989

Public Citizen obtains court order forcing the FDA to require labels warning women that high-absorbency tampons are more likely to cause Toxic Shock Syndrome.

Public Citizen and Ralph Nader stop the \$45,500 congressional pay raise, forcing Congress to take a smaller raise and ban honoraria.

1992



OSHA imposes a standard to protect workers from cadmium, linked to lung cancer and kidney damage, after Public Citizen wins a court order.



PUBLIC CITIZEN MOVES INTO NEW HEADQUARTERS* IN 1994

* purchased at half price during S&L firesale

1990

A Public Citizen court victory forces the Nuclear Regulatory Commission to require training for nuclear plant workers.

Public Citizen releases *Who Robbed America?*, a citizen's guide to the savings and loan scandal that cost taxpayers billions of dollars.

1991

Public Citizen plays key role in passage of new auto and truck safety law requiring air bags and head injury protections, and limiting the expansion of triple-rigs.

Public Citizen publishes *They Love to Fly . . . And It Shows*, exposing House members who took nearly 4,000 privately funded trips in 1989-90.

Public Citizen's four-year campaign leads the FDA to severely restrict the use of silicone gel breast implants.

1993



Public Citizen wins a landmark court victory that prevents destruction of the electronic records of the White House under Reagan, Bush and Clinton.

Public Citizen plays a leading role in opposing the North American Free Trade Agreement (NAFTA), launching a new progressive citizens' trade movement.

1993

Public Citizen plays major role in passage of comprehensive campaign finance reforms in House and Senate; never sent to president.

1994

Public Citizen helps to enlist more than 100 co-sponsors for a single-payer health care reform bill modeled after the Canadian system.

Public Citizen helps win legislation protecting consumers from home equity scams.

1995

Public Citizen successfully defends tobacco industry whistleblower who released key documents to Congress and the FDA, against civil damages and criminal contempt charges.

Congressional gift ban and lobbying registration reform enacted after a major Public Citizen campaign.



1996

Public Citizen wins Supreme Court decision upholding the right of people injured by defective medical devices to sue for compensation.

Public Citizen forges historic settlement to secure release of Nixon's White House tapes after 15 years of litigation.

Public Citizen successfully opposes legislation mandating transport of nuclear waste to Yucca Mountain in Nevada.

“THERE IS NOTHING BEYOND THE REACH OF ORDINARY CITIZENS DOING THE DAILY WORK OF DEMOCRACY, AND NO PROBLEM TOO GREAT TO TACKLE WITH THE POWER OF ACTIVE CITIZENSHIP.”



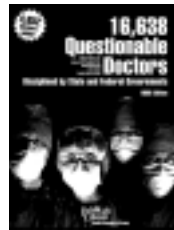
— Joan Claybrook, President
Public Citizen
1982-present

1997

Public Citizen leads multi-year campaign that results in defeat of damaging Fast Track trade authority.

1998

Public Citizen releases latest compilation of 16,638 *Questionable Doctors*, the only publicly available, nationwide list of disciplined doctors.



Public Citizen helps win passage of legislation mandating safer air bags to protect women and children.

Public Citizen helps stop a damaging products liability bill limiting access of injured consumers to the courts.

Public Citizen helps lead a global citizens' campaign that results in the scuttling of the Multilateral Agreement on Investments, a proposed global investment treaty.

1999

Public Citizen works successfully to pass major truck safety legislation, which creates the new Federal Motor Carrier Safety Administration.

1999

Public Citizen launches the third edition of its best-selling *Worst Pills, Best Pills* (2 million copies of previous editions sold).



Public Citizen helps organize massive citizen protest of the World Trade Organization in Seattle and publishes *Whose Trade Organization?*, a critical study of the WTO's track record.

Public Citizen lobbies for campaign reform bill banning corrupting “soft money” that passes the GOP-controlled House by wide margin.

2000

Public Citizen efforts lead to ban on deadly diabetes drug Rezulin.

Public Citizen successfully leads coalition to enact new auto safety law in wake of recall of 6.5 million Firestone tires.





Corporate Accountability

The Power of Citizen Access to the Courts

By Joan Claybrook

Corporate America has been attacking our civil justice system in state legislatures and in Congress for the past 15 years, and it is easy to understand why: because the court system equalizes the relationship between consumers and the powerful institutions that control the marketplace. It allows ordinary citizens to hold corporations accountable and sometimes even forces faulty products off the market when our government regulatory system fails.

Consider the recent revelations about the defects in Firestone tires and Ford

Explorers that are now linked to 148 deaths and more than 500 injuries in the United States. Without the ability of citizens to seek justice in the courts, these defects might never have come to light. Ford and Firestone are paying millions to settle the claims of their innocent, unsuspecting customers, many of whom were killed, paralyzed or otherwise maimed in rollover crashes caused when defective tires lost their tread.

Unfortunately, the federal government missed the warning signs. The defects came to light because crash victims sued Ford and Firestone beginning in the early 1990s and their lawyers documented the problems, though many of the facts remained sealed under secrecy agreements insisted upon by the companies. Last year, when an enterprising TV reporter in Houston, Anna Werner (of KHOU-TV), began investigating the death of a colleague in a rollover crash, she tracked down several lawsuits that

documented close to 30 deaths and put the pieces together. We have since learned that Ford and Firestone covered up the safety defects for a decade. These revelations from lawsuits outraged the public, forced a recall of bad tires, and sparked congressional hearings and then a law requiring new safety standards and enforcement.

This is our civil justice system at work and its human face. And that's why big corporations want to change it. Public Citizen believes a strong civil justice system is one of the pillars of our society and must be preserved at all

costs. We have fought for 30 years to retain the rights of citizens to seek justice in the courts. The benefits to society are manifold: Victims are compensated; misconduct that causes injury is deterred; injuries are prevented because dangerous products are removed from the marketplace or redesigned; wrongdoers are punished; and dangerous practices and defective products are exposed. Finally, the system provides a forum for the ethical growth of the law, where the responsibility of the perpetrators and respect for human life can be sustained.

Many Americans don't remember from their school years that the British Stamp

Act completely closed down the colonial civil court system, and that the Revolutionary War was a revolt against this and other the oppressive and arbitrary restrictions imposed on the colonies by the British Parliament and King George III. The colonies fought for common law rights and a fair, open and independent court system in which untainted citizen juries would be the true decision-makers. As a result, the U.S. Constitution and most state



Donna Bailey, 44 of Corpus Christi, Texas, was left paralyzed from the neck down after her Ford Explorer, equipped with Firestone tires, rolled over and crashed. With her attorney, C. Tab Turner of Little Rock, Ark., she settled a lawsuit with Ford Motor Co. and Bridgestone/Firestone Inc. The recall of 6.5 million Firestone tires led to a new auto safety law in 2000. (Photo by Adrees Latif of Reuters)

Joan Claybrook is president of Public Citizen.

constitutions assure the right to trial by jury as an essential element of democracy.

Securing justice is one of the greatest achievements of humans. It is the ultimate goal of our system of law. But at the beginning of the 21st century we must acknowledge that many Americans question whether our system of justice is fair. Many believe that most citizens do not have an equal opportunity in legal forums. Faith in the law as a power equalizer is diminished when it does not serve that purpose for most people.

Negative public attitudes toward the law in recent years have been framed by several potent forces: corporate public relations and legislative campaigns seeking to limit access to the courts by wrongfully injured citizens, and the domination of our legal system by wealthy corporations.

Complaints about our legal system often emphasize that America has too many lawyers. This concern is misplaced. In fact, per capita, we have about the same number of litigators and other lawyers as other industrial nations. We do have too many lawyers working for Exxon, General Motors, Dupont and IBM. But as the American Bar Association has pointed out, we have too few serving those who need help the most: the poor, victims of negligence, racial discrimination and violence, and citizens who are cheated by their bank, landlord, medical system or pension. This imbalance results from the fees corporations pay for legal representation that usually price consumers' lawyers out of the system.

The poor are under-served by the limited funds of poverty lawyers. And for average Americans, access to law is not affordable. Only injured consumers with a potent case who are represented by trial lawyers on the basis of contingency fees (that is, lawyers don't get paid unless they win) can bring suits against wealthy corporations. Powerful corporate entities resent the authority accorded even to the small number of injured citizens willing to challenge corporate decisions, force the disclosure of embarrassing information and secure financial judgments for irreparable harm. But unable to denigrate average citizens who sue, Big Business has made the legal profession the target of its ridicule.

Beginning in the mid-1980s, hundreds of manufacturing and insurance companies pooled their resources and launched a coordinated and sustained attack on the civil justice system. They have spent hundreds of millions of dollars to undermine the authority of the courts and juries as well as the credibility of trial lawyers. Trial lawyers are portrayed as greedy sharks, even though most do not earn nearly the sums paid to the corporate chiefs

who initiate the attacks. This cold, calculated public relations strategy has had an impact. Republican pollster Frank Luntz in recent years told his clients that "it's almost impossible to go too far in demonizing lawyers" in terms of what the public will believe as a scapegoat for societal problems. Corporate public relations firms also pummel journalists with fallacious anecdotes about unjust

jury verdicts and "frivolous" lawsuits. They form industry front groups such as "Citizens Against Lawsuit Abuse" — which has received substantial funding from the tobacco industry — to create the illusion of citizen support for stripping consumer rights. Never mind that no citizens are allowed to be members or that far more lawsuits are filed by businesses against other businesses than by citizens against businesses. Tough-minded judges

also are under assault by corporate groups and are targeted for defeat when running for re-election. Other judges are wined and dined at seminars focused on the cost of legal decisions to defendant companies.

This corporate campaign intersects with and influences other developments in our legal system. The appointment of judges has been politicized, sometimes resulting in the best legal minds opting out, and political compromises too often result in neutered judges. The jury pool of citizens is more likely to be cynical about the legal process, undercutting the concept of independent-minded jurors. State lawmakers, influenced by targeted lobbying campaigns and with pockets full of campaign cash, have regularly overridden key precepts of common law. Legislatures have chronically neglected to fund the courts adequately so that record-keeping systems are now archaic, the waiting list for trial often is years long and many courthouses are overcrowded and in a state of decay.

There is a societal danger in the imbalance in the application of legal resources, because it invites overreaching that undercuts the entire society. Law firms with hundreds of lawyers routinely are hired to protect monopolies; raid the U.S. Treasury with endless obscure tax breaks, loopholes and subsidies; quash innovative smaller companies; create virtual private legal systems that force consumers to give up their legal rights and engage in mandatory arbitration over credit, health care, employment and franchise disputes; and harass citizen groups with "strategic lawsuits against public participation" (SLAPP suits). The latter are libel suits such as the meat industry's case against talk show host Oprah Winfrey that are basically frivolous but can bankrupt citizen organiza-

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*Unable to denigrate
average citizens who sue,
Big Business has made the
legal profession the target
of its ridicule.*



The People's Lawyer

Public Citizen Litigators Win Legal Battles for Consumers

By Alan Morrison

Like runners in a marathon, the lawyers in the Public Citizen Litigation Group have been pounding the legal pavement for almost three decades, slogging through political storms and courtroom dramas to uphold constitutional principles, force the government and corporations to obey the law and win major legal reforms for consumers.

Our legal work has been an inseparable part of Public Citizen's success, because it is through the judiciary that we as citizens have been able to enforce the law, whether that involves obtaining public records or ensuring that an agency carries out its statutory duties to protect the health and safety of citizens.

When the Litigation Group opened its doors in February 1972, it had two basic missions: First, it would provide legal support for the entire Public Citizen organization, making it one of the few public interest groups that had a full-time team of litigators. Second, it would bring precedent-setting law reform cases. The bulk of our work has been at the appellate level, where we often are challenging government decisions or seeking to force action to protect the health, safety and pocketbooks of consumers. Usually, we are arguing aspects of the law, as opposed to the facts of a case, as in a typical trial.

Soon after our founding we became embroiled in a series of lawsuits to unlock documents kept by agencies such as the Food and Drug Administration (FDA), the Department of Justice and the Department of Transportation. Through the years, Public Citizen has filed approximately 300 lawsuits under the Freedom of Information Act (FOIA). We have used the FOIA and other open-record laws to gain access to an array of government records, including documents relating to government regulatory actions as well as items such as the Nixon tapes, e-mails relating to the Iran-Contra Affair and grand jury testimony from the infamous Alger Hiss spy case. Moving into the electronic age, in a series of

lawsuits in the 1990s, we secured landmark court victories ensuring that White House e-mails as well as other electronic government records would remain part of the public record.

Although some other public interest groups occasionally bring FOIA cases, no one has a constant docket of them as we do, serving not only Public Citizen, but other civic organizations, journalists and ordinary citizens who are seeking access to important secret materials.

Much of our work has been in support of Public Citizen's work on health and safety issues. We have sued federal agencies when they failed to carry out laws passed by Congress or performed their work in an arbitrary manner. Early lawsuits included claims involving the illegal use of nitrates in meat and the unlawful settlement of a government antitrust case against International Telephone and Telegraph Co. We have forced the Occupational Safety and Health Administration (OSHA) again and again to issue critical safety standards for exposure to toxic substances. For example, after eight years of litigation, we forced OSHA to regulate worker exposure to the carcinogen ethylene oxide. We also forced the FDA to remove four carcinogenic food dyes from the market.

One of the hallmarks of our work is that we have litigated in areas of the law in which no other group is doing anything remotely similar — for instance, regulation of the legal profession itself. Soon after we began, we got involved in a lawsuit to challenge “minimum fee schedules” promulgated by the Virginia State Bar and three bar associations in the counties just south of Washington. The case eventually reached the U.S. Supreme Court, where we won a unanimous decision that lawyers were not exempt from antitrust laws and that minimum fee schedules are a classic form of illegal price-fixing. Soon thereafter we began our challenges that led to the elimination of the absolute prohibition on lawyer advertising. This prohibition served largely to deny consumers access to information about the availability and affordability of legal services. We later challenged other bar practices that made it more difficult for average citizens to obtain the

Alan Morrison is co-founder of the Public Citizen Litigation Group.

services they needed at prices they could afford. Finally, in recent years we have been active in objecting to class action settlements that largely seemed to benefit plaintiff lawyers and defendants while doing little for the individuals who were wronged in the first place.

Another area of law in which the Litigation Group has stood virtually alone in representing the public interest is in questions involving the separation of powers principle enshrined in the Constitution. While we never set out to be a defender of this principle, events brought us to the place where that became a significant element of our work. In the early 1970s, President Richard Nixon was claiming the power to “impound,” or refuse to spend, money that Congress had appropriated for specific purposes. In the first of many impoundment cases, we filed an amicus brief on behalf of the chairmen of every standing committee in the

Senate, other Senate leaders and three members of the House of Representatives, leading to a court ruling that the impoundment money was unlawful. And when Nixon tried to fire special Watergate prosecutor Archibald Cox, our lawsuit resulted in a judgment that the firing was illegal. The court ruling gave the special prosecutor’s office a firm sense of independence, even though Cox declined to reclaim his office. In future years, we successfully sued to strike down the “legislative veto” statute

that gave Congress power to overturn regulatory decisions of the executive branch. We also successfully challenged the “line item” statute that gave the president the power to veto portions of appropriations statutes approved by Congress.

The Litigation Group has worked in other areas of law as well. We brought a number of consumer cases, including those attacking unfair practices by banks and the case that ended the airlines’ practice of regularly bumping passengers while falsely claiming that it was unintentional. We have worked to protect the rights of workers to have democratically governed labor unions. We have been involved in a number of important First Amendment cases, both suing to attack unjust laws that infringed free speech and to defend reasonable laws from First Amendment challenges. Recently, we have successfully defended the rights of people to post anonymous mes-

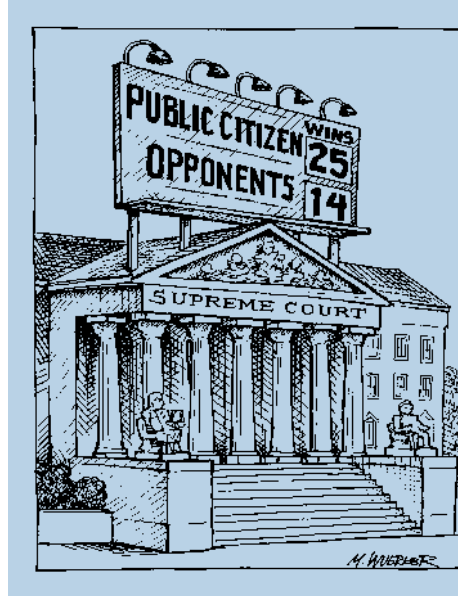
sages on the Internet.

Our work in the consumer area and in federal regulatory cases led us to develop a specialty in the law known as “preemption” — the claim that a federal statute or regulation precludes a state from enforcing its laws, often in the context of a lawsuit seeking damages for injured persons.

Finally, in 1990, we began our highly successful Supreme Court Assistance Project in which we help lawyers who have little or no Supreme Court experience handle their cases in the high court by providing assistance in writing briefs and preparing for oral arguments.

During the past 30 years we have learned a number of lessons that continue to be of great importance in our case selection and our thinking about our work.

First, litigation is essential. If the government won’t



The Docket

The Public Citizen Litigation Group has:

- argued 40 cases in the U.S. Supreme Court, winning 25, losing 14 and tying 1.
- filed lawsuits in every one of the 12 regional federal circuits.
- been counsel in lawsuits in more than 20 state courts and in more than 20 out of 94 federal district courts.

release a document you want, the only way to get it is to sue. If an agency refuses to obey the law, only a court can order it to do so. If Congress passes a law that violates principles of separation of powers, only the federal courts can declare it unconstitutional. If lawyers for plaintiffs and defendants settle a class action case with little benefit to consumers, only groups like ours will raise objections to assure that the rights of the class members are protected.

Second, if people know that you will sue and that you have the skills to properly handle the case and often prevail, the threat of litigation will often be enough to bring about change.

Third, in some situations, the only way to improve the law is through legislation or amendments to existing rules. But before those changes can take place, it is often necessary to show those in power, through litigating, that

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It's Time Special Interests Loosen Their Grip on Congress!

Help us loosen the iron grip of special interests and ban “soft money” contributions to political parties.

Your extra contribution today will allow Public Citizen to mobilize its grassroots and lobby in support of ending special interests’ blatant campaign bribery.



Senator John McCain — co-author of legislation to ban soft money — has vowed to make this legislation his first order of business this year.

So the time is now to once again make our voices heard.

With thirty years of success, Public Citizen is a recognized leader in protecting the health, safety, and democracy of Americans, and we won't stop now. Not when we still need to:

- ✓ Fight for Affordable Prescription Drugs,
- ✓ Pass Strong Auto Safety Legislation,
- ✓ Stand Up to Big Oil,
- ✓ Change the World Trade Organization's Rules that Undercut the Environment, Labor Rights and Consumer Protection,
- ✓ Create a Strong Patients' Bill of Rights,
- ✓ Defend Strong Food Safety Standards,
- ✓ And Loosen the Iron Grip of Special Interest Groups.

Public Citizen never accepts money from corporations or the government, but relies on our members . . . citizens across the country — to fight for corporate and government responsibility.

Today, please rush us your extra contribution so we may prepare to once again battle the special interest groups that manipulate our government.



The Money Game

Continued from page 7

from corporations, unions and wealthy individuals. In the 2000 election, Democrats and Republicans collected almost half a billion dollars in soft money.

Both major presidential candidates received \$67.5 million in taxpayer funds for the 2000 general election but ignored the prohibition on accepting private funds by raising unlimited amounts of soft money. Republican and Democratic national committees raised \$147 million and \$115 million, respectively, in soft money. According to New York University's Brennan Center, the majority of the \$80 million worth of TV ads purchased by the parties in the campaign was paid for with soft money. Separately, both parties had their congressional committees create soft money slush funds that raised an additional \$194 million in contributions that funded major activities benefiting candidates' campaigns.

Because soft money is raised in such large denominations, channeled to influential party leaders and — like PAC money — focused on specific industry agendas, it is devastatingly effective. For example, well-publicized Public Citizen studies in recent years have demonstrated how soft money enabled the tobacco industry to defeat a tobacco control bill that would have stemmed youth smoking, pharmaceutical companies to derail an affordable prescription drug benefit for senior citizens under Medicare, HMOs to avoid a strong, federal patients' bill of rights holding them accountable for denial of necessary care, and casino gambling firms to receive a \$310 million tax break.

Another new and major feature of election campaigns in the late 1990s was the explosive growth of phony "issue ads" purchased by independent groups. In recent years, independent groups have exploited the Supreme Court's narrow definition of campaign ads and collected unlimited corporate, union and other funds for ads that purport to discuss political issues but in fact promote or oppose specific candidates. These TV, radio and other ads, which air mainly in the thick of the election campaign, completely escape FECA's disclosure requirements and contribution limitations for independent groups. According to the Brennan Center, almost \$60 million was spent for TV time alone during the 2000 campaign by such groups as The Business Roundtable, the U.S. Chamber of Commerce, the AFL-CIO, Planned Parenthood, the NAACP and Citizens for Better Medicare. The latter group was a front for the drug companies, a recent Public Citizen study revealed.

Over the past two decades, Public Citizen has called for extending the voluntary public financing system to the presidential primaries and all congressional elections. (We

have also supported efforts to establish such systems at the state and local level.) Unfortunately, congresses and presidents have not been ready to consider a comprehensive solution to the campaign finance problem.

Taking account of the political dynamics in Washington and the urgency of constructive change, Public Citizen has backed and helped shape progressive incremental reform initiatives. Such support has included advocacy and advice on Capitol Hill, fostering national coalitions, working with national, state and local media and enlisting local citizens' groups in lobbying campaigns.

From the late 1980s through the mid-1990s, Public Citizen mobilized its resources to support bills in Congress that would have provided for partial public financing (including low-cost media), voluntary campaign spending limits, PAC restrictions (such as reducing PAC contributions below the current \$5,000 per candidate per election), and closing the emerging soft money loophole.

On at least two occasions, these bills nearly became law but fell short of satisfying enough of the different interests, whose futures could be affected by the legislation.

For instance, a 1992 House-Senate compromise passed by a Democratic Congress, which included voluntary spending limits, free and low-cost media benefits, and PAC and soft money restrictions, was vetoed by Republican President George Bush.

In 1994, when Democrats, who claim to be reform champions, held both branches of Congress and President Clinton sat in the White House, they muffed a chance to pass similar reform legislation. Clinton failed to make reform a priority. And House and Senate Democratic leaders delayed reaching a compromise on PAC limits until just before the end of the congressional session. The resulting House-Senate Conference Report was easily defeated by a last-minute Senate Republican filibuster.

With the Republican Party achieving majority status in the House and Senate in 1995, we have entered a new era of more modest, but still significant, reform effort. Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.) and Reps. Chris Shays (R-Conn.) and Marty Meehan (D-Mass.) have led the way in consultation with Public Citizen and other reform groups.

This critical legislative chapter was propelled by the soft money and phony issue ad scandals during the 1996 election. Building on the public outrage over White House coffees and Lincoln bedroom sleepovers for big Clinton donors and secret groups promoting their candidates in massive TV buys, McCain and company proposed streamlined legislation to address the most urgent cam-

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The Money Game

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paign finance problems. The legislation would have banned soft money and spending for phony issue ads without disclosure requirements and contribution restrictions of campaign finance law.

A grassroots campaign led by Public Citizen and other groups achieved a major success in forcing then-House Speaker Newt Gingrich (R-Ga.) to bring up the Shays-Meehan reform bill, which the House passed by a decisive, bipartisan margin in 1998 and again in 1999.

Nearly all of the Democrats and a quarter of the Republicans supported

reform after helping us to beat back numerous “poison pill” amendments that would undermine the bill.

In the Senate, McCain and Feingold also put together a majority of 52 lawmakers (45 Democrats and seven Republicans) in 1998 but were stalled by a filibuster directed by Senate Republican leaders Trent Lott (R-Miss.) and Mitch McConnell (R-Ky.). Eight more votes were needed to break the filibuster. By October 1999, in part through grassroots pressure, McCain and Feingold attracted three additional Republicans for a version of



their bill that focused mainly on banning soft money. Subsequently, McCain and former New Jersey Sen. Bill Bradley raised the reform issue in the presidential primaries, successfully pressuring candidates George W. Bush and Al Gore to present their own reform proposals.

As a result of the 2000 election, McCain and Feingold are on the cusp of getting the 60 votes needed to break the filibuster and pass a significant reform bill. Indeed, they now seem to have enough reliable votes to tie up the Senate if Republican leaders continue to refuse action on their bill — creating enormous political pressure to move ahead. A solid majority in the House (although not the leadership) remains committed to the reform cause. So the outcome will depend on the position taken by President Bush.

McCain, who vows to bring up this bill early in the 107th Congress, knows that he has already helped get Bush to support a ban on corporate and union (but not individual) soft money. He is betting that strong public pressure and Bush's imperative to build bipartisan bridges following the controversial Florida outcome will cause the new president to accept, if not endorse, the most significant reform since the Watergate era.

As the issue moves to the forefront, Public Citizen will be where it has always been: in the middle of the fray, pushing for progressive legislation today and fundamental reform tomorrow. [|PC|](#)

Under-Regulated?

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sis, it would flunk. We need to streamline the regulatory process and let our health and safety agencies do their jobs.

Second, we need to restore resources to these agencies. The idea that fewer than 2,200 OSHA employees can inspect our nation's six million workplaces, design and implement new standards, and enforce the law is laughable; just as the notion that 625 NHTSA employees can effectively police the auto industry. If we want the things that regulation can bring us — safer cars, effective drugs, pure foods and less dangerous workplaces — we need to restore the ability of our agencies to do their work.

And finally, we need to end the pointless rhetoric about the horrors of regulation. To be sure, in any system as complex as ours, one can point to regulatory efforts that seem unproductive or counterproductive. Take air bags. Air bags were poorly designed by manufacturers in many vehicles (1988-2000 models), which

resulted in 200 unnecessary deaths. This required NHTSA to issue a new air bag safety standard last year. Despite the controversy over their safety, would any of us really conceive of letting our families drive or ride in a car without an air bag? I surely wouldn't. The fact remains, regulation spares us needless death, injury, suffering and expense.

Consider the alternative. Suppose the regulatory state withered away, as many business leaders say they would like to see. The only discipline on the market would be the liability system, and we would depend on jury verdicts to provide disincentives to manufacturing unsafe cars. (But of course these same companies want to severely curtail lawsuits, as well.) What sense does it make to have an after-the-fact system that is designed principally to compensate injured people to substitute for a regulatory system that is designed to prevent injuries before they occur? None. But the controversy still rages. It is time to recognize that, although not perfect, the regulatory system is and will remain society's first line of defense, and the time has come to fortify it, not tear it down. [|PC|](#)

Corporate Protectionism

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globalization on its core agenda, in 1994 Public Citizen launched a new division — Global Trade Watch. While Global Trade Watch was working to strengthen the U.S. movement critiquing corporate globalization, covert negotiations had begun in Paris in 1995 for another radical global investment treaty, the Multilateral Agreement on Investment (MAI). By the end of 1996, it was nearly complete, without any input from the public, media or elected officials. U.S. trade officials denied the deal's text existed until Public Citizen procured a copy and posted it on its Web site in January 1997.

The MAI was a global corporate welfare program of immense proportions. Public Citizen's description of it as "NAFTA on steroids" was spread worldwide as shorthand to warn of the proposal's extreme contents. The MAI would have forbidden most public interest regulations regarding banking, stock markets, land-zoning and investment. It also empowered corporations to sue governments for cash compensation for regulatory compliance costs — not in court, but before international chamber of commerce tribunals. Thanks to the hard work of Public Citizen and a passionate global coalition of other progressive NGOs, once the MAI was exposed to the sunshine, it attracted so much public outrage the coalition was able to stop it.

That success was followed in 1998 by a stunning victory. Congress again debated whether to renew Fast Track negotiating authority. This time, intensive work by Public Citizen and its allies resulted in an astonishing defeat of a corporate trade measure in Congress for the first time. Citizen groups like Public Citizen could now win on these issues despite the vast corporate resources deployed against them. The power of the corporate trade juggernaut was beginning to lose steam.

Fresh off the MAI and Fast Track victories, Global Trade Watch turned its sights on the biggest foe of all — the World Trade Organization. The WTO, now four years old and still largely unknown to the public, was planning a major summit in 1999 with the hope of launching another round of expansion talks. The Clinton administration hoped to use a "Millennium Round" to add rules requiring all nations to accept genetically modified foods and to bring public education, health and other social services under WTO rules. European and Japanese negotiators wanted to slip the defeated MAI into the WTO.

The day Seattle was announced as the site for the WTO ministerial, Public Citizen began reserving venues for rallies, teach-ins and other events, opening a campaign office as a nerve center for coordinating thousands of

local volunteers, obtaining permits and creating a Web site that proved to be a central source of information for the protests. Within days, Public Citizen organized a meeting of U.S. citizen groups representing environmentalists, labor unions, farmers and consumers — the same coalition that had successfully fought the MAI.

In partnership with international allies, a global year-long "WTO: No New Round, Turnaround!" campaign was launched. The strategy, coordinated in part by Global Trade Watch, called for each nation's coalition to lobby its own government to achieve some level of accountability concerning WTO expansion.

By late summer, more and more groups joined Public Citizen's "Seattle coalition," including the Steelworkers union, the Teamsters, the Humane Society of the United States and Friends of the Earth.

Prior to the Seattle WTO ministerial, Public Citizen released a groundbreaking book, *Whose Trade Organization? Corporate Globalization and the Erosion of Democracy*, which documented that the WTO's tribunals had ruled against every public health, safety or environmental regulation that had been challenged as a "trade barrier" and that as a result many countries were abandoning these protections. (A pamphlet version made *The Boston Globe's* nonfiction bestseller list.) Although the national media were gearing up to cover the events, most reporters knew little about the substance of the protesters' criticisms until publication of the book.

The intense preparation for the WTO meeting paid off as thousands of demonstrators descended on Seattle, successfully delaying the opening of the meeting and garnering worldwide media attention. Inside the meeting, a sufficient number of the negotiators were unwilling to simply concede on issues important to their public at home. The WTO ministerial failed to produce a mandate for a new round of WTO negotiations.

Despite the success in Seattle, we continue to face many formidable challenges. Last year, Corporate America spent \$113 million on lobbying, political donations and advertising to ensure passage of legislation granting Permanent Normal Trade Relations to China. Congress also passed a deeply flawed African trade bill. The Bush administration is likely to continue where Clinton left off, seeking to extend NAFTA and give the WTO broader jurisdiction.

But increasingly bitter trade disputes, such as those over beef hormones and genetically modified organisms, are alerting the public to the dangers of corporate dominance through trade rules over government safety standards. And, Seattle provided global civil society with new political energy to launch an alternative citizens' agenda for future international trade and investment agreements. [lpc](#)

The Nuclear Genie

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ers were free to purchase electricity from other providers.

But, because electric utilities are so powerful in their state legislatures, they quickly learned they could achieve huge ratepayer bailouts in exchange for rewriting the rules about how electricity is sold. So far, 24 states have passed deregulation laws.

Using huge lobbying staffs and large campaign contributions, nuclear utilities were able to persuade state legislatures to palm off the exorbitant price tag for nuclear power on ratepayers. The bailout of utilities nationwide

could cost ratepayers more than \$200 billion, making it one of the biggest corporate bailouts in history.

And one need only look west to see that deregulation is a failed plan. The electricity crisis in California can be blamed squarely on deregulation. Ratepayers in San Diego have been paying rates as much as three times as high as the previous year. Ratepayers in other California cities may have to pay an extra \$6 billion (and climbing) in rates to bail out their utilities, which have been forced to pay outrageous prices for wholesale electricity. Meanwhile California has resorted to rolling blackouts to keep the whole state from going dark.

When deregulation was sold to Californians in 1996, the rates consumers paid for electricity were frozen at

The bailout of utilities nationwide could cost ratepayers more than \$200 billion.

1996 levels until 2002. Utilities, which supported the rate freeze when they helped draft the law, now seek to end it because the price they are paying to buy power from out-of state suppliers far exceeds the rate cap they are allowed to charge consumers.

Unless investor-owned power companies are regulated, they will always take advantage of consumers. Regulation is needed to keep power suppliers from charging the highest prices they can. Regulation is also needed to make sure the utilities build enough power plants to meet the demands of customers for the foreseeable future.

As Public Citizen predicted, not one state has restructured its electric industry in a way to benefit consumers or protect our natural environment. Instead, the nuclear industry has gotten a boost. Deregulation and globalization have accelerated the consolidation of the industry as companies merge to create giant multinational corporations. This trend could have grave implications for the future of nuclear technology.

Unfortunately, as the nuclear industry becomes more international and consolidated, it is likely to become even less accountable. The only way that we can hope to defeat the nuclear industry and protect the public is to organize citizens to demand that safety comes first and that people come before profits. Public Citizen takes very seriously the challenge to stop the actions of the pro-nuclear forces and alert the public about its opportunity to participate in the decisions that will affect the future of generations to come. [lpci](#)

Medical Monitors

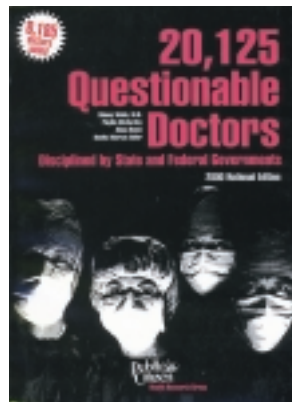
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of the publicity surrounding the extraordinary spate of drug safety withdrawals in the past several years. And while Congress has largely relinquished its role in oversight of the FDA, there may be some effort to modify the patient-endangering Dietary Supplement Health and Education Act, which has crippled the FDA's ability to regulate herbs and food supplements. In addition, we will make sure that negotiated prices or price controls on prescription drugs, at least for Medicare beneficiaries, will be forced onto the table as part of the consideration of a Medicare drug benefit.

American workers also have been seriously underserved because of OSHA's dreadful performance. In the eight

years of the Clinton administration, not one new occupational chemical hazard standard has been proposed. This is the longest stretch of dangerous inactivity since the law went into effect in 1971. In a report we issued in 1999, we showed that OSHA's enforcement record on existing regulations and other OSHA policing activities was as bad or worse than during any previous administration.

For the future, we will continue using petitions and lawsuits against the FDA and OSHA to push for better government/industry oversight functions. At the same time, we will keep providing the public, through the media, books, newsletters and reports, information that allows consumers to take matters into their own hands until the government is forced to extricate itself from the influence of the industries it is supposed to regulate. [lpci](#)



The People's Lawyer

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the current law is flawed.

Fourth, the process of litigation is partially a process of education. Perhaps the most striking example of that is our lawsuit challenging the efforts by the White House to destroy the e-mail records from the Reagan and Bush administrations. The defendants claimed there was nothing of substance in the e-mails and that the few messages of importance were printed out. Not only did our lawsuit succeed in preventing the destruction of these records and securing their eventual release, it also showed how important the use of electronic mail had become for the White House, leading to a massive change (that is still under way) to alter the system for maintaining electronic records throughout the government.

Fifth, sometimes there is no choice but to litigate. When a case reaches the Supreme Court, the Court is going to decide the issue at hand, and it is vital that the interests of average citizens be represented to the greatest extent possible, particularly since the government and large business entities will surely take the opportunity to present their views to the Justices.

Sixth, litigation is a vital tool, but it is not the only one that we use. Many times the answer to a problem will be legislative, and our lawyers frequently are asked to participate in the analysis of a proposed law (in particular its

Sometimes there is no choice but to litigate.

constitutional soundness and its practical implications). We will make suggestions in the drafting and provide testimony to the relevant congressional committees. Similarly, when administrative agencies propose new regulations, we often comment on them and consult with agency officials. When they are not considering an action that Public Citizen considers necessary, the Litigation Group works with others at Public Citizen to file petitions to urge the agency to remedy the problem. We also keep a watchful eye on the rules under which court cases are conducted and often comment on proposed changes and make suggestions of our own. And we take advantage of opportunities to set forth our ideas by writing articles, teaching, appearing on educational programs and being available to the media.

Seventh, persistence and long distance matter. Over the years we have accumulated vast knowledge about the law and the way courts and agencies conduct their business. But perhaps even more important, the fact that we are around for the long-term helps us assure that the victories we win today are not lost tomorrow because no one is there to prevent backsliding. We have seen all too often that if no one remembers what happened before, the past is likely to recur.

Most of the issues on which we have worked continue to need our attention, although perhaps in somewhat different forms than in the past. The advent of the Internet and the increasing globalization of our economy have required us to adapt to a new era. Like the law itself, we will continue to evolve as we meet the legal challenges of the 21st century. [IPCL](#)

Corporate Accountability

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tions that criticize corporate behavior.

The other danger is that injured citizens will not get their day in court because public attitudes and huge campaign contributions facilitate corporate-written legislation that makes legal redress too costly or difficult. Since the outset of this corporate onslaught, Public Citizen has been the leading voice in the public interest community to stop the enactment of federal legislation pushed by hundreds of huge companies to preempt state liability laws. This federal legislation is designed to overturn pro-consumer state laws so that companies won't be held accountable for reckless misconduct that injures consumers or defrauds them.

Public Citizen has played an instrumental role in stop-

ping federal bills limiting liability for faulty products, asbestos, tobacco and Amtrak crashes. We also helped stop bills that would have attacked the ability of consumers to bring class action lawsuits, limited punitive damage awards and instituted a no-fault auto insurance scheme that will harm innocent crash victims.

If such federal legislation had been enacted in the 1990s, we might never have learned about the Firestone/Ford Explorer defects, and hundreds of families who have suffered grievous losses would remain uncompensated. The company documents that reveal the true story would still be buried from view. And the auto and tire companies would not be madly redesigning their vehicles and tires to reduce the likelihood of rollover crashes and tragic injuries. [IPCL](#)

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