

1992

Recent Legislative Activity

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Recommended Citation

William X. Elward *Recent Legislative Activity*, 5 Loy. Consumer L. Rev. 21 (1992).

Available at: <http://lawcommons.luc.edu/lclr/vol5/iss1/5>

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Congress Proposes Changing Regulation of Airline Ads

In the Airline Advertising Reform Act of 1992, Congress has revisited a proposal it rejected five years ago, namely to have the Federal Trade Commission ("FTC") regulate airline advertising. Besides transferring authority from the Department of Transportation to the FTC, the legislation would force the development of a method to calculate when airline ads are misleading.

Under the proposed Act, airline ads would have to print all restrictions clearly, incorporate all taxes, fees, and surcharges in the fare and print the rate of the round trip fare, if that fare would be necessary for an advertised discount. The airlines must also list the number of seats on a given flight.

Airline ads often misstate the fares to cities by as much as 450 percent, one investigation learned. The Department of Transportation has fined some airlines for deceptive practices, but critics argue that consumers often do not know where to complain. **H.R. 5124, 102d Cong., 2d Sess. (1992) (amending The Federal Trade Commission Act, 15 U.S.C. § 41 et. seq. (1973)).** ♦

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Deceptive Promotional Ads Regulated

The State of Washington passed a law regulating promotional advertising of prizes. The law requires disclosure by the promoter and provides a remedy for persons suffering damages. The act covers any promotional offers made to persons in Washington for the purpose of recovering a prize, attending a sales seminar or doing any business with a promoter in the state.

Under the act, promoters must tell potential customers the retail value of the prize, the odds of winning the prize, all the promoters and advertisers involved and if a prize winner must attend a meeting to collect the prize. The law also governs the manner in which a promoter may display the odds of winning.

Persons who suffer damages as a result of deceptive promotional advertising can sue either the promoter or the sponsor of the ads, or both. A person who proves damages may be awarded \$500, or three times the damages, up to \$10,000. **WASH. REV. CODE ch. 19.170, §§ 010-900 (1991).** ♦

Insurance Companies Must Disclose Additional Finance Charges

South Carolina passed an amendment to the law regulating additional finance charges on consumer loans. As of January 1, 1993, the statute will require certain disclosures by consumer credit insurance companies. For example, insurance companies must prominently disclose to the consumer the additional costs of the credit insurance.

Credit companies must notify debtors that the extension of credit can be

conditioned on the consumer agreeing to the additional charges incurred by providing insurance. However, before the extra charges can be added, the debtor must submit written notice of the desire for credit insurance. **S.C. CODE ANN. § 37-3-202(b) (Law. Coop. 1992) (effective Jan. 1, 1993).** ♦

Merchants Cannot Compel Consumers to Disclose Phone Numbers on Credit Card Sales

Georgia passed an amendment to its Fair Business Practices Act of 1975. The amendment prevents merchants from requiring a consumer's telephone number as a condition for a credit card sale. Merchants can still require a phone number for a purchase by check, and they are permitted to ask for a credit card as a means of identification.

Also, merchants are still able to record the customer's phone number or address if the customer wants the purchase delivered. Merchants who violate the act are subject to compliance orders, and may be fined up to \$2,000. **GA. CODE ANN. § 10-1-393.3 (Michie Supp. 1991).** ♦

Federal Reserve Modifies Truth in Lending Act

The Federal Reserve on September 10, 1992, adopted a final resolution to the 1991 Truth in Lending Act. The resolution covers all insured depository institutions but does not apply to credit unions.

The Federal Reserve voted to eliminate rules governing the advertising of interest on deposits. The Act is ex-

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pected to apply to about 30,000 institutions. The resolution permits certain exceptions to the statutory requirements of the Act, including not requiring thirty day advance notice for rate decreases on variable rate accounts.

Additionally, the act requires that institutions disclose information about variable rate features when account disclosures are made, and briefly mention variable rates in advertising by the institution. **Federal Deposit Insurance Corp. Improvement Act of 1991, 12 U.S.C. § 4301 et seq. (1992)**(as implemented by Regulation DD, 12 C.F.R. § 230, 57 Fed. Reg. 43376-43393). ♦

Disaster Relief Banking Bill Modified

The Depository Institutions Relief Act of 1992, currently under consideration in both houses of Congress, seeks to provide emergency relief for areas stricken by hurricanes while at the same time not permanently rolling back consumer protections enacted by Title IX of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The proposed Act seeks to reduce the required amount of capital that lending institutions must have when the area they are in has been hit by a disaster. Banks and savings and loans would be permitted to carry reduced reserves if they could demonstrate that their area had been struck.

These exceptions must be made within thirty months of the disaster and can only last for three years. Also, under the compromise legislation, federal banking agencies could relax the deposit requirements for institutions in the region hit by disasters. The institutions would, among other things, be required to prove that they did at least 60 percent of their business in the area where the disaster occurred. **H.R.**

6050, 102d Cong., 2d Sess. (1992); S. 3285, 102d Cong., 2d Sess. (1992). ♦

Federal Trade Commission Seeks to Regulate Catalog Sales

Mail order and phone catalog companies must meet advertised shipping times according to new rules proposed by the Federal Trade Commission ("FTC"). On October 1, 1992, the FTC revealed proposed rules regulating the time that phone and mail order catalog houses will have to send merchandise to customers. The FTC aims to curb impractical delivery times promised by mail order operations.

The proposed rules would require that the company deliver the merchandise within thirty days or the time advertised, whichever time is quicker. Companies unable to comply with the deadlines would need to get written permission from the customers or cancel the orders.

The Commission seeks to punish consistently unrealistic delivery times promised by catalog houses. The new rules would also govern orders placed by phone or fax machines. **57 Fed. Reg. 17,706 (1992) (to be codified at 16 C.F.R. § 435).** ♦

Congress Overrides President's Veto to Enact Cable Regulation Bill

Congress reversed President Bush's veto of the Cable Regulation bill it had passed earlier this year. Congress enacted the bill because cable rates had grown three times faster than the inflation rate. The bill limits the rates that cable companies can charge, and in this election year, made for an appealing choice for legislators.

While the bill appears to control the rates consumers pay, one feature of the bill could prove more costly to consumers. The cable bill requires cable companies to pay for the right to retransmit broadcast programs they now transmit for free. This is known as "retransmission consent," and the Department of Commerce estimates that this feature will raise consumer rates approximately \$23 to \$51 a year.

In response to this criticism, proponents of the bill note that the bill prevents any net increases in subscription charges.

Under the bill, the FTC will cap rates for an area based on rates in a competitive area. **1992 Cable Reregulation Bill, 47 U.S.C. § 151 et seq. (1992).** ♦

Turning Green With Guilt

A new self-protection product helps mugging victims identify an assailant — even if the victim cannot remember any specific details about the mugger. **Dyewitness**, a hand-held aerosol spray, delivers a 70-pound blast of foaming green dye from as far away as seven feet. **Dyewitness** stains clothing and remains on skin for up to seven days, aiding police and victims in identifying an assailant.

Dyewitness is available from

KLR Enterprises
8190 Beechmont Ave.,
Suite 309
Cincinnati, OH 45255
(513) 641-3138.