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Cable Television Regulation

In 1984, Congress deregulated the cable television industry and limited local government control over cable television rates (Pub. L. 98-549). The once fledgling cable industry is now booming and causing consumer concerns over local cable monopolies. In response, Congress is considering two sets of companion bills to re-regulate the cable television industry and allow greater local government control over cable television stations.

The 1984 cable deregulation law permitted a local government to regulate a cable station's rates only if the cable station did not face "effective competition" in the area. According to Federal Communication Commission ("FCC") rules passed pursuant to the 1984 law, a cable company faced effective competition if it competed with three or more over-the-air broadcasters (e.g., free television channels). Also, under the 1984 law, telephone companies were prohibited from providing cable services to any community with more than 2,500 people.

The Danforth-Cooper companion bill (S. 1880; H.R. 3826) (the **Cable Television Consumer Protection Act of 1989**) redefines "effective competion." Under the bill, a cable company is subject to effective competition only if either (1) fewer than 30% of the community's households subscribe to that cable company, or (2) the community is served by more than one cable company that provides multiple channels. The bill also requires that cable companies carry most local television station broadcasts. In addition, the bill prohibits television show producers who are affiliated with any one cable company from any form of price discrimination against other cable companies in selling programs. The bill also prohibits a cable company from having more than 15% of the national total of cable subscribers.

The Gore-Boucher companion bill (S. 1068; H.R. 2437) (the **Cable Competition Act**) also redefines "effective competition." Under this bill, local governments may regulate cable rates in areas without two or more cable companies. This bill also allows telephone companies to provide cable television services as long as the services are not provided with funds from telephone service customers. In addition, this bill requires that cable companies allow broadcast access to local programmers at the same price that the company charges affiliated programmers. Finally, as in the Danforth-Cooper companion bill, the Gore-Boucher bill prohibits programmers affiliated with a cable company from price discriminating against other cable companies in selling television programs. **H.R. 3826, 101st Cong., 1st Sess. (1989); S. 1880, 101st Cong., 1st Sess. (1989); H.R. 2437, 101st Cong., 1st Sess. (1989); S. 1068, 101st Cong., 1st Sess. (1989).**

Telemarketing Fraud

The House Energy and Commerce Committee approved the **Telemarketing Fraud Prevention Act of 1989** (H.R. 1354). The bill applies to telemarketing sales that do not involve a face-to-face meeting between the buyer and the seller. Under the bill, consumers could cancel a purchase within three days of the phone sale and obtain a refund if the merchandise was not yet sent.

The bill also gives state attorneys general increased power to pursue fraudulent telemarketers. Currently, an attorney general only can sue a telemarketer in a state court and obtain an injunction against fraudulent telemarketing acts within that state. This allows a telemarketer enjoined from doing business in one state to pursue business in another state in which it has not been enjoined from doing business. Under the bill, a state attorney general, or a private party (such as MasterCard or Visa) claiming losses in excess of $50,-000, could bring suit in federal court and enjoin a telemarketer's fraudulent practices not only within that state, but also across state lines. **H.R. 1354, 101st Cong., 1st Sess. (1989).**

Student Loans

Congress has passed the **Student Loan Reconciliation Amendments of 1989**, as part of the Omnibus Budget Reconciliation Act of 1989. The Amendments address the recent dramatic increase in student loan defaults. In 1985, the Supplemental Loans for Students ("SLS") program lent $259 million; in 1989, SLS loaned over $2 billion. In 1987, SLS defaults totaled $14 million; in 1989, defaults totaled $247 million.

Under the Amendments, a school whose students have a default rate over 30% is not eligible to receive any SLS funds. In addition, a student must have a high school diploma or an equivalent certificate to be eligible for an SLS loan.

The Amendments are expected to affect trade schools the most. Trade school students tend to be lower income individuals and frequently do not have high school diplomas. Trade school students borrow 60% of the SLS loans and account for 86% of the SLS defaults.

On February 7, 1990, the Senate passed another bill (S. 695) which prohibits schools from using commissioned recruiters to attract students. The bill also requires that borrowers who are more than 90 days late in repaying student loans be reported to credit bureaus. **The Omnibus Deficit Reduction Act of 1989, Pub. L. 101-239, 2002 - 2009, 103 Stat. 2111 - 2122 (1989); S. 1425, 101st Cong., 1st Sess. (1989).**

Notice Of Cosigner's Obligations

Michigan enacted a new law to regulate collection activity taken against cosigners. A cosigner is a person who renders himself or herself liable to a creditor for the obligation of another. The law limits a creditor's ability to report a cosigner to a consumer reporting agency, provide information about the cosigner's obligation to a collection agency, or take action to collect the obligation from the cosigner.

The creditor must notify the cosigner by mail that the primary obligor has become dilinquent or has defaulted on the obligation, and that the cosigner is responsible for paying the obligation. The cosigner then must be allowed 30 days from the date the notice is sent to either pay the amount owed or arrange to pay the obligation. If the cosigner either pays the amount owed or arranges to make payments, the creditor may not report that the cosigner has failed to comply with his or her contractual obligations.

A cosigner who suffers a loss from a violation of the law may sue to recover his or her actual damages or $250, whichever is greater, plus reasonable attorney's fees. However, the cosigner must notify the creditor of the suit at least 30 days before bringing the action. The notification must include specific evidence of the consumer's loss. If the creditor offers to pay the amount of the loss, or otherwise makes compensation to the cosigner's satisfaction, the cosigner is barred from recovering for the loss or attorney's fees. **Mich. Legis. Serv. 211 (West).**

Credit Card Sale Information

New York enacted a law that limits the information a seller can require a consumer to provide on a credit card sales form. Formerly, some sellers required that each consumer write his or her address and phone number on the credit card transaction form. Consumers complained that sellers used this information to send them unwanted mail.

Under this law, a seller may not require that the consumer write any personal identification information on the credit card sales form, nor may the seller write such information on the sales form. Personal identification information includes the consumer's address and telephone number. The seller may require that the consumer provide his or her address and/or telephone number if that information is necessary to complete the transaction. Such information may be necessary, for example, to ship, deliver, or install the merchandise. The seller may also require the consumer's address and/or telephone number if the seller is not able to confirm the consumer's credit with the credit card issuer.

Sellers who violate this law may be fined up to $250 for the first offense and up to $1,000 for any subsequent offense. **1989 N.Y. Laws 361 (McKinney).**

Rental Car Advertisements And Agreements

Missouri enacted a new law regulating car rental advertisements and agreements. The act requires all advertisements to be nondeceptive and to be in plain language.

Print advertisements that include the rental prices must include the expiration date of the price offered (if less than 30 days from the last date the ad is published); milage caps and charges; limits on geographical use; additional driver fee and airport access fees, where applicable; and penalties or higher rates for early or late returns. If the company does not include the cost of collision damage waiver in the rental price, the ad must also disclose the price for the collision damage waiver.

Broadcast advertisements, such as television and radio commercials, that include the rental price also must indicate the expiration date of the price offered (if less than 30 days from the date of broadcast); whether the price is not available in certain areas; the milage limitations and charges, if any; and the price or price range for collision damage waiver.

The rental company may not hold a consumer strictly liable for any damage to the car, regardless of fault, unless the company also provides a collision damage waiver that releases the consumer from liability for his or her own negligence. The waiver, however, need not release the consumer from responsibility for damage caused intentionally, willfully and wantonly, or while intoxicated. The collision damage waiver also must state, separately and in boldface type, that the waiver is not mandatory and that the consumer may wish to determine if his or her own automobile insurance covers damage caused to a rental car. **1989 Mo. Legis. Serv. 893 (Vernon).**

Employment Agencies

California enacted a law to govern for-profit businesses that for a fee, find employment for or list the names of people seeking employment.

Contracts between employment agencies and jobseekers must be in writing, contain all terms agreed upon by the parties, and state the fee charged. The contract also must state that if the jobseeker does not accept employment, the agency must return any fee paid, within 48 hours of such a request, or thereafter repay double the fee paid. In addition, the jobseeker has the right to cancel the contract within three days of signing the contract. **1989 Cal. Legis. Serv. 704.**

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