

## A View From the States

**Hubert H. Humphrey, III, Minnesota Attorney General**

Thank you, and good morning. Thank you, Judy McKenna, Anita Metzen, and ACCI. I'm delighted and honored to be here with you this morning. Delighted not simply because we're here in one of my favorite places in all of America, and not simply because we're just minutes away from some of the best skiing in the country--although I have to admit that the thought has crossed my mind. But I'm delighted to have a chance to spend a little time with all of you and to get some of your insights into where American consumers are today, where they're headed, and how we can best work together to help ensure that our changing economy operates in their best interests.

You know, I think of myself as a consumer advocate, but the truth is that consumer advocacy is something of a three-legged stool. Those of us who serve consumers as public officials, whether as law-enforcement officials, regulators, or policy-makers, usually think we have the answers to the consumer problems of the day, but we're only one part of the equation. More often than not, the private consumer advocacy organizations, and even some businesses, are a step or two ahead of us. Often, government can accomplish more, and work more efficiently, by working in partnership with advocacy groups and responsible businesses. They're the second leg of the stool, and they're equally important. Sometimes, though, consumer advocates, public and private, have a tendency to rush in with solutions before we really understand the problem. You know the approach: "ready,..fire,..aim!" I don't suppose you've ever seen any examples of that, have you?

That's why we really need to find better ways to work more closely with groups like ACCI, and with those of you in this room. You represent the critical third leg of that stool. Your research and analysis can help give us the solid grounding, the reliable understanding of consumer's interests and their behavior, that will help ensure that our aim is not misdirected. And that kind of understanding can empower consumers to protect themselves. That's why I am honored to be delivering these remarks in memory of Colston Warne, and his founding of the Consumers Union. Who has done more, down through the years, to empower the individual

American consumer, and to demonstrate the power of information in the marketplace, than Consumers Union and its publications like Consumer Reports? So I am especially honored and I thank you for giving me the opportunity to join you today, and I look forward to finding ways to work more closely with you in the future.

This morning I want to share a few thoughts about the state of the consumer movement in America today, and to touch on a few of the emerging issues of concern to me and my colleagues in statehouses around the country.

There are those who look around today and worry that the consumer movement may have lost some of its momentum. They remember a time when consumerism seemed to have a clearer sense of direction; when each year brought exciting new additions to the rights of consumers; when we felt we were on a roll. They look around today, especially in Washington, and they worry that our momentum has stalled.

Those fears are not unfounded. If we were to judge our progress strictly by the output of the Congress, there would probably be no denying that consumers are in a bit of a slump. Whenever I run into consumer advocates on Capitol Hill in Washington these days, they look a little haggard. That's because they're usually up there fighting to hang onto some time-honored consumer protection, rather than expanding the list of consumers' right. Deregulation is the order of the day. And the prevailing mood in Congress is, shall we say, not overly friendly to consumers' interests.

I regret to tell you that we're not immune to these forces in the states, either. Those of you who have worked in state or local consumer protection agencies have probably experienced the paradox of a public that seems to be ever more demanding of assistance, but that can still be indifferent, or even hostile, when consumer protection programs come under the axe.

This morning, I want to try to put all of this in a little bit of context, if I can. And I want to suggest that, while these troublesome trends are real, the future of the consumer movement remains bright - brighter, in fact, than it has ever been. We are indeed in a time of challenges. But the need for stronger, smarter consumer

protections has never been greater. People like those of you in this room have the insights and the imagination to help us find those new solutions. And I believe that, over time, the changes re-shaping the American economy will inevitably produce a climate that not only welcomes, but demands those solutions.

For the moment, though, the consumer movement is in a state of transition and uncertainty. That shouldn't surprise us. You could say the same thing about our country itself. We are a dynamic nation. Our entire history has been one of endless transition. But today, change is so pervasive and so swift that we have difficulty even picturing what our lives will be like ten years from now. Technology and the continuing transformation of the global economy have undermined our confidence in our own economic futures. We worry about unraveling social values. About racial and ethnic tensions. We see civility in decline and violence pervading our culture. We wonder how we will balance our work with our lives, how we will get our kids through college and our parents through the struggles of aging. And many of us have grown cynical about the ability of our social institutions, and especially government, to help us face these challenges.

Amid this uncertainty, it's not surprising if we wonder just where the future of the consumer movement lies. What will be the role of consumer advocates, and of public policy, in protecting the next generation of consumers? Certainly there are those who see government as part of the problem, and who would be happy to see consumers left to the tender mercies of an unbridled marketplace.

Are they the heralds of the future? Could it be that we are headed for an era of privatization, where self-regulation will take the place of legal rights? Could a truly global economy, and emerging technologies like the World Wide Web, render governmental solutions increasingly ineffectual or even meaningless? When you combine these concerns with the popular current of thought that all governments should be scaled back radically, if not eliminated altogether - and there are plenty of public figures who are happy to swim with that current - then it is understandable that some might wonder whether the best days of the consumer movement are behind it.

I have even heard the theory that, with anti-government attitudes so prevalent, and with global wealth concentrating in fewer and fewer hands, we could be on the verge of an era reminiscent of the shameful closing days of the last century, when Vanderbilts lived in 200-room palaces, while the ten-year old sons of Irish immigrants worked double shifts in coal mines. The days when the only standards of consumer protection were "let

the buyer beware", and "let the devil take the hindmost". Could we be headed back to a similar future?

Well, before we start drafting any obituaries for the consumer movement, let me suggest an alternative hypothesis.

Let me suggest that it is out of just such times of uncertainty that our country has always forged its best solutions. In fact, if you remember, it was precisely the abuses of the laissez faire economy at the turn of the century that gave rise to the consumer movement in the first place. That gave us the flowering of creativity and energy we remember as the Progressive Movement, with our nation's first steps to help ensure an honest marketplace, a humane workplace, a clean natural environment. That gave us pure food and drug laws, child labor laws, workers' compensation, utility regulation. That busted the trusts in oil and steel and railroads. That laid the foundation of rights and safeguards that still help make free enterprise fair, as well as free.

So to anyone who thinks the consumer movement has lost its way, I say, we're not lost. We're reconnoitering! We haven't hit the wall; we're catching our breath. And gathering our strength. Because we've got our work cut out for us to ensure the integrity of the brave, new marketplace that lies ahead.

In the meantime, if you ever get the impression that the flame of the consumer movement is flickering, I want to invite you to come and spend some time with us in a consumer protection program. I want you to know that, out there where the real consumers are getting ripped off, out there where they come look us in the eye and demand action, the flame still burns. And I hope you can help us keep it burning in the right direction.

So in the remainder of my time this morning, I want to invite you along with me on a quick tour of ten areas where the energies of consumerism are being felt in the states today. Each of these areas, I would argue, is evidence that consumer protection is indeed alive and well. They are illustrations, as well, of the types of issues that would benefit from your consumer research and your help in understanding the actual impacts of all our policy options.

Let me begin with the area that has been a major focus for me for the last several years. The most deadly product ever sold. The product that has killed more Americans than all our wars combined: tobacco. Two and a half years ago, my office became the second state to sue the tobacco industry, and the first to sue it for consumer fraud, for having misled the public for decades about the hazards of its products. Today, 22 states have filed suits.

Minnesota's case is still nine months from trial,

but the wheels of justice are beginning to turn. I'm sure you heard about our historic settlement two weeks ago with the smallest of the major tobacco companies, Liggett, in which they admitted nicotine is addictive; they admitted the tobacco industry markets to children; they admitted cigarettes cause cancer and heart disease and emphysema and, most importantly, they agreed to turn "states evidence" to help us show a jury how this industry has lied and conspired for more than forty years. So the day of tobacco justice is drawing nearer.

In the meantime, states are finding other ways to protect their consumers from this deadly product. In Minnesota, we are about to pass landmark legislation to require licensing and regular undercover checks of every store that sells cigarettes, to see that they don't sell to children. In Massachusetts, they've already passed historic legislation to force the tobacco companies to identify for the first time the hundreds of exotic chemicals they add to their cigarettes, from ammonia to paint thinner. When the list becomes public, smokers nationwide will get the benefit of this important new state initiative.

Let's take another product that can be destructive and deadly: alcohol. This year our Minnesota legislature is debating proposals to address the marketing of alcohol to kids. As one of ten attorneys general who have petitioned the FCC not to allow the introduction of liquor commercials onto television, I was also pleased to see that just yesterday, President Clinton has asked the FCC to look into the possibility of restricting these ads.

I predict we will devote increasing attention to this area in the years ahead. Today we all know who Joe Camel is. A few years from now, it is quite possible that we will be equally concerned about the next "Spuds MacKenzie" (remember him?) or the Budweiser frogs or whoever the next youth-oriented character in the beer and liquor ads may be.

I can tell you I was startled to see the kinds of pre-packaged mixed drinks that are being sold these days. They call it "lunchbox booze". It comes in cute, colorful little throwaway containers. Some of them look like the little plastic tubs of Jell-O. Some look like the little tubes of fruit juice. One vodka drink is marketed under the name "oatmeal cookies". And teachers say they're showing up in kids' lunchboxes. So you expect to see more activity in this area.

A third area is already being addressed in a majority of the states, and is even making its way into Congress. I'm talking about creating better rights and protections for patients in managed health care plans. In Minnesota, most of our consumers are already in managed health care. We are working in our legislative right now, to try to guarantee those patients some basic

rights. We want them to know whether their doctors have financial incentives not to refer them to specialists. We want to guarantee that their doctors aren't gagged from talking about certain treatment options. We want patients to have meaningful remedies when coverage is denied or their treatment options are limited. We want them to have access to arbitration and appeal systems. This is an immensely important subject. I am very pleased that the President has appointed a national panel to develop recommendations for the federal government in this area, and I hope they will be bold and creative. I can't think of an area more in need of consumer protection.

A fourth example, also from the field of health care, involves genetic testing. Minnesota and a handful of other states have recently banned insurance companies from turning down a consumer for insurance coverage because of genetic testing information about the consumer. As medical science expands its ability to predict, or guess, which of us may be pre-disposed to develop certain types of cancers or any number of other diseases at some point in our lives, do we want insurers to have access to genetic screening tests, or even to insist on them, to decide which of us they may want to blackball? In Minnesota, we have already said "no".

Example number five is also from the field of health care. A few years ago, my office developed what we think is still the only law in the country that prohibits pharmaceutical companies from giving extravagant gifts to physicians to encourage them to prescribe that companies' products. Our law leaves room for legitimate expenditures like medical research, but it puts an end to the expensive gifts, posh travel and phony "consulting fees" that were once common. One dinner theater complained to us that they've lost a quarter of a million dollars annually in pharmaceutical company business since we stopped the drug companies from winning and dining all the doctors in town, but other than that, the law seems to be working pretty well!

Another important area, in fact one worthy of a separate discussion, is the work states are doing to address the new issues raised by the Internet. We are enforcing our traditional fraud laws. In fact, my office recently obtained what we think is the first court decision upholding a state's ability to enforce its consumer fraud laws against the operator of a distant Web site - in this case a Las Vegas promoter of illegal gambling activities, which he claimed were being stored on a computer in Central America! States are also beginning to look at the important area of Internet privacy, both with regard to the information that may be captured about you, without your knowledge, as you surf the Web, and with regard to marketing to children. I'm sure many of you are already focusing research on this area. Believe me, we need all

the help we can get in figuring out all the new issues this technology will raise, and in deciding how we nurture this medium while maintaining a framework of law and honesty.

Seventh on my list is another area worthy of a separate discussion: the beginning of the de-regulation of the electric industry. Utility regulation has been a state function for nearly a hundred years, but we are just beginning to think about how we might design consumer rights for a new competitive environment. This is another area ripe for your ideas and input as we begin to plan for a whole new area. In our state, that effort became even more complicated when our largest electric utility announced that it proposes to merge with the largest electric company in our neighboring state of Wisconsin. So much for the new era of competition!

My eighth area of activism is a perennial favorite: automobiles. Here one of the hot topics continues to be one we have been trying to sort out for several years, through litigation, in rulemaking proceedings at the Federal Reserve Board; and through consumer education: auto leasing, especially the need to eliminate deceptive practices and give consumers better disclosure of the hidden terms of the transaction. Here, Minnesota's legislature has not yet acted, but those in a number of other states have.

Looking ahead, we can almost guarantee a major restructuring of the auto industry over the next decade. The expansion of auto sales on the Internet, and the rapid emergence of high-volume, no-haggle auto "superstores", such as the AutoMax stores being developed by Blockbuster Corporation, or Circuit City's AutoNation stores, hold the potential to completely transform the way cars are sold, and to re-define the car-buying experience in the process.

Ninth on my list is another favorite, landlord-tenant problems. This year, the landlord-tenant issue for us in Minnesota is an amazing provision we found in some leases. As you may know, some cities penalize landlords if their buildings become nuisances that requires constant police visits. We found that some landlords in these cities have actually been re-writing their leases to prohibit their tenants from calling "911" when they are victims of domestic abuse. We've found battered spouses were not only abused, but who were actually being evicted from their apartments because they called the police to seek protection from their abusers! We're taking care of that one, I assure you.

Last, but not least, states are actively pursuing consumer problems involving financial services. This year, my office is focusing on two subjects. The first is private mortgage insurance. Maybe you never heard of it. That doesn't mean you're not paying for it. Got a

mortgage? Then you probably bought PMI, to protect you lender in case you default. You pay for it every month. And if your equity in your house is now equal to at least twenty percent of its value, and if you haven't canceled your insurance, then you're probably paying too much on your house payment. Last year, we wrote a law in Minnesota requiring lenders to let consumers know when they are entitled to cancel the insurance. The Congress is now moving quickly to do the same thing. Representative Jim Hanson from here in Utah, has been a real leader on this issue and is working closely with my office. The other Congressional sponsors of bills in this area include--get this--Representative Joe Kennedy and Senator Al D'Amato. With a combo like that, it must really be a good idea.

Looking ahead in the field of financial services, we are concerned about the expansion and under-regulation of the whole field of so-called "fringe banking" services that substitute for standard credit sources for low income consumers, including check cashing services, pawn brokers, rent-to-own companies, and so on.

Well, that's just a "sampler" of ten issues. But I hope it gives you a sense of the activism that is alive across this country today. And I hope it will encourage some of you to direct some of your thinking and research into some of these areas, to help us think a little more intelligently about our options the next time someone gives the command to "get ready,...fire,...aim!"

Finally, I cannot leave without saying just a word about perhaps the most fundamental consumer protection issue of them all. An issue that underlies every one of the subjects I've talked about today, and many, many others. An issue that goes a long, long way toward explaining the frustration and lack of progress that many consumer advocates feel today, and that helps explain why it is so difficult for us to achieve real solutions in many of these areas. I'm talking about an issue that we don't usually think of as a consumer protection issue, but that is, in a sense, the mother of all consumer protection issues.

I am talking about campaign finance reform.

Until we get serious about addressing the all-pervasive role of money in the electoral process in this country, we will continue to have a hard time stepping up to our other problems or making the hard choices that we so desperately need to make in any number of areas. Whether the issue is health care reform or the regulation of tobacco, tax reform or the Clean Air Act, or any other issue that implicates powerful interests, the deadening influence of money, and the relentless chase for campaign funding, are crippling our democracy's ability to do what's right. And so I want to leave you today with a plea, that

as you think about consumer protection, and as you set your own priorities, whether for your research or teaching, or to get involved as advocates, I hope you will keep this issue of money and politics right up there at the very top of your list. I guarantee you, if you can help us lick that problem, all the rest of this stuff will fall right in line, believe me.

So let's make that our consumer protection priority, and let's find a way to tackle it together. If we do, we won't ever have to worry about the future of the consumer movement in this country or about our ability to take on even the most difficult issues.

Thank you very much.