

ANTITRUST, TRADE REGULATION AND CONSUMER AFFAIRS SECTION



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December 19, 1994

BY FACSIMILE

Chairman David Clarke
 and
 Councilmembers
 Council of the District of Columbia
 1350 Pennsylvania Avenue, N.W.
 Washington, D.C.

COMMENTS OF THE ANTITRUST, TRADE REGULATION
 AND CONSUMER AFFAIRS SECTION OF THE DISTRICT
 OF COLUMBIA BAR ON THE PROPOSAL TO SUSPEND ALL
ENFORCEMENT OF THE CONSUMER PROTECTION PROCEDURES ACT

Dear Chairman Clarke and Councilmembers:

The Antitrust, Trade Regulation and Consumer Affairs Section of the District of Columbia Bar ("the Section") has been a close observer of consumer protection measures in the District of Columbia for many years. We write in response to Councilmember Ray's December 8, 1994 report concerning the proposal, inter alia, to suspend enforcement of the D.C. Consumer Protection Procedures Act and the D. C. Lemon Law for a period of three years.^{1/}

The Council's need to substantially reduce the funds devoted to consumer protection can be accomplished -- through a thoughtful process of streamlining and reorganization -- without eliminating crucial protections for the public. Within the same reduced budget, the Section unanimously urges that the Council not suspend all enforcement efforts. Rather,

^{1/} The views expressed herein represent only those of the Antitrust, Trade Regulation and Consumer Affairs Section, and not those of the D.C. Bar or its Board of Governors.

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the Council can accomplish its objective of reduced funding and essential consumer protection by affording DCRA greater flexibility and appropriate priority setting. In short, DCRA can be empowered to use its limited resources in ways which preserve core functions essential to public safety and a viable business environment, without busting the budget.

In particular, the Section is concerned that it may be unnecessary and unwise to suspend all enforcement efforts. Such suspension would be devastating to consumers and legitimately operating businesses in the District. Wrongdoers may be encouraged to violate the law here, without fear of retribution.

The Section echoes the November 10, 1994 comments of Hampton Cross, Director of the DCRA, in which he observed that the proposal then under consideration by the Committee on Consumer and Regulatory Affairs would:

substantially impact DCRA's ability to deliver critical services to businesses and consumers....[T]hese reductions will severely impact the Department's ability to protect District of Columbia citizens through its regulation of health care and child care facilities, land use, housing, and enforcement of the Consumer Protection Procedures Act...."

With regard to the Consumer Protection Procedures Act and Automobile Consumer Protection Act (the Lemon Law), Mr. Cross noted:

No longer will DCRA receive complaints and investigate deceptive, unfair or unlawful trade practices; issue cease and desist orders against illegal trade practices; and represent the legal interests of consumers before legislative and administrative bodies. Also eliminated will be the arbitration of consumer complaints involving new and used

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cars and procurement of financial restitution for aggrieved consumers. The impact will be an increase in consumer fraud and abuse, particularly among senior citizens and limited-income residents.

The unfortunate consequences may include, for example, that senior citizens are bilked of scarce funds by those who prey on the vulnerable and that a consumer's credit may be irreparably damaged by improper means.

Instead of wholesale abolition of DCRA's enforcement authority, DCRA should be reorganized and streamlined so that certain essential functions are retained, within the financial constraints the Council must observe. Out of necessity, DCRA must do more with less, for the benefit of the public.

Thus, it is critical that the Council preserve the fundamental, essential consumer protection functions of DCRA. In the past, the agency has felt constrained to handle all cases within its wide jurisdiction. By clarifying that DCRA is allowed the flexibility to select and to pursue only those cases which the agency finds merit spending of scarce resources, within the broad direction set by the legislative and executive branches, the Council can assure that DCRA will be able to make the most of available funds. Business and consumer interests require no less.

The Section, and its Consumer Affairs Committee, have been considering a study of DCRA to determine how it might be reorganized for greater efficiencies. We would welcome the opportunity to work with the Council and DCRA in an effort to identify ways to make better use of available funding.

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Thank you for this opportunity to comment.

Sincerely,

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