An Allergy to Democracy

IN THE FRENZY OF BACKROOM DEAL-MAKING that constitutes the law-making process at the end of election-year congressional sessions in the United States, corporations line up to add favored special-interest provisions (known as "riders") to spending bills.

The process was particularly murky and corrupt this year. With Congress unable to reach agreement on more than half the spending bills it must pass to enable the government to function, it decided to wrap them into a single "omnibus" bill, the terms of which were negotiated in secret among a few members of Congress and the White House.

Jumping to the front of the corporate handout line was Schering-Plough, the maker of the popular allergy drug Claritin, and hardly a company in need. (You know Claritin: it's the one advertised pervasively on television, in magazines and on billboards with pictures of meadows and "blue skies.")

Following Schering-Plough maneuvers that won two separate patent extensions on the drug, the Claritin patent is now set to run out in the year 2002. That will enable generic producers to begin making the drug, which they will sell at prices far less than Schering-Plough charges.

Since generic products typically sell at prices 30 to 60 percent less than brand-name pharmaceuticals, consumers can expect to reap big savings. With 1997 sales of Claritin totaling $869 million, the 30-to-60 percent discount rate would save consumers between $261 million to $521 million a year.

Those savings, however, will come at the expense of Schering-Plough's monopoly profits.

What's a multi-billion dollar company to do?

Well, when you are a corporation of that size and face problems, you call up your senator. So the New Jersey-based company turned to Senator Frank Lautenberg, D-New Jersey, and asked him to insert a provision in the omnibus appropriations bill which would allow pharmaceutical manufacturers to petition the Patent and Trade Office to extend the patents of a small class of drugs (seven in total). Claritin is by far the best-selling among those seven drugs.

Schering-Plough spends more than $2 million a year on lobbyists. In recent years, those lobbyists have diligently, but so far unsuccessfully, lobbied for adoption of the patent-extension provision. With the secrecy and chaos surrounding the drafting of the omnibus appropriations bill, they thought they had finally found the opportunity for which they had been waiting.

Unfortunately for Schering-Plough, the patent-extension scheme was discovered. The consumer group Public Citizen and the generic manufacturer trade association began publicizing and lobbying against the proposed Claritin rip-off.

"Claritin's manufacturer, Schering-Plough, had 1997 profits of $1.2 billion, a 17 percent profit rate," says Dr. Sidney Wolfe, director of Public Citizen's Health Research Group. "It is unconscionable that seniors on fixed incomes could be required to pay hundreds of dollars more a year to further boost the company's bottom line." By way of example, Wolfe estimated that Schering-Plough's proposed private Claritin "tax" would cost consumers of the pill in the Washington, D.C. area $246 to $492 a year.

With Public Citizen and the generic makers shining the light of day on the Claritin scam, the plan withered. The final omnibus appropriations bill did not include the Schering-Plough welfare provision.

Other subsidy provisions undoubtedly escaped scrutiny and will only be discovered by the public, if ever, when the bill comes due.

The Claritin scam shows the critical role of openness in government, which is a precursor to citizen engagement and activism.

It also simultaneously points to the need for comprehensive campaign finance reform and its limitations. Campaign contributions are a big part of why corporate influence is so pervasive in Washington, D.C. policymaking, but much more is involved. Among other key factors are lobbyists, corporate "astroturf" campaigns disguised to appear citizen-generated and overt and implicit corporate job blackmail — the, often unstated, threat that pro-consumer, pro-worker or pro-environmental policies will cost jobs.

As important as campaign finance reform is to curtailing corporate power, by itself an overhaul of the campaign contribution system will not adequately undercut corporate leverage over the political process. Only a mobilized citizenry offers the prospect of achieving that broader goal. ■