



PUBLICCITIZEN

2012 Year in Review



Public Citizen Photo/Angela Bradbery



Public Citizen Photo/Jessa Boehner



Photo by Brendan Hoffman

Photos, from top: 1) Activists take part in a protest outside the U.S. Chamber of Commerce in October. 2) In November, Melinda St. Louis, international campaigns director with Public Citizen's Global Trade Watch, gives a radio interview in Lima, Peru. 3) In February, ex-superlobbyist Jack Abramoff (left) speaks at Public Citizen's headquarters. At the event, he discussed his new viewpoint as a government reformer.

During the course of one year, Public Citizen gets a lot done.

Take 2012. We were instrumental in growing the movement to overturn the *Citizens United v. Federal Election Commission* U.S. Supreme Court decision, which allows corporations to spend unlimited sums to influence elections. And we successfully pushed for the passage of the STOCK Act, which prohibits congressional insider trading.

There's so much more. We got our hands on one of the most controversial chapters of the Trans-Pacific Partnership, boiled down the complex text and spread the word about it. Our actions — and the courage of a whistleblower — forced a Wyoming hospital to inform patients about their possible exposure to infections because the hospital had inadequately sanitized reusable equipment. We made great progress in curbing dirty energy and pushing for sustainable energy. We represented consumers in court cases — including before the U.S. Supreme Court.

Throughout our 2012 Year in Review, on pages 5-12, we discuss these and other major achievements for the past year. Our members make all of this work possible, and their continued support will help us continue standing up to corporate power on behalf of people. And while we recognize our success in 2012, we also know that we have much more to do. Our work to protect health, safety and democracy continues in 2013.

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DEMOCRACY

Shareholder disclosure

In 2012, more than 300,000 comments were submitted to the Securities and Exchange Commission (SEC) — a record number — telling the agency to require corporations to disclose their political spending to shareholders.

The Corporate Reform Coalition, which Public Citizen spearheads, organized the drive for the public to submit comments to the SEC. The coalition is made up of public officials, good government and environmental groups, legal scholars, institutional investors and others.

The push was successful: On an agenda the agency issued just before year’s end, the SEC said it would consider a corporate political spending disclosure rule in 2013 — the first step in the rulemaking process.

“The SEC has listened to investors and the public in moving forward on this spending disclosure rule,” said Lisa Gilbert, director of Public Citizen’s Congress Watch division. “The agency’s decision can be attributed directly to the power of the people.”

Corporate money at the inauguration

After President Barack Obama was re-elected, news reports surfaced saying that his advisers were recommending that he consider accepting corporate contributions for inauguration celebrations — something he did not do for his first inauguration.

Public Citizen pushed back. In a Nov. 28 letter to Obama, Public Citizen President Robert Weissman urged Obama to “conduct a corporate-free, commercial-free inauguration.”

“It should go without saying that corporate funding and/or sponsorship of the inauguration and surrounding festivities is inherently corrupting,” Weissman wrote.

Public Citizen also organized an online petition drive to tell Obama to refuse corporate money for his inauguration. The petition garnered more than 30,000 signatures.

However, Obama still chose to accept corporate money for his second inauguration.

“President Obama’s decision to accept corporate funding for inaugural festivities was deeply disappointing,” Weissman said. “The American people have a right to expect something other than an inauguration brought to them by Bank of America.”

For more information about our democracy work, visit www.DemocracyIsForPeople.org.



Public Citizen Photo/Justine Underhill
Activists take part in a January event in Annapolis, Md., to protest the U.S. Supreme Court’s *Citizens United* decision and support a constitutional amendment to overturn the ruling.

Movement to Overturn *Citizens United* Grows in 2012

In 2012, the movement to overturn the U.S. Supreme Court’s *Citizens United v. Federal Election Commission* decision grew exponentially — and it continues to do so.

The decision led to unprecedented spending in the 2012 elections — \$6 billion according to early estimates — making it the most expensive election in history. Of that, \$970 million was spent by outside groups, including \$540 million by super PACs and \$410 million by electioneering nonprofits. (These numbers do not include contributions to regulated PACs and party committees.) Such obscene amounts of spending would not have been possible without the *Citizens United* ruling.

Public Citizen has been a leader in the movement to overturn the ruling since 2010, when the court decided that corporations could spend as much money as they want to influence elections.

Since then, the organization has worked with other good government groups, including People For the American Way, Common Cause and U.S. PIRG, to mobilize people across the country to support a constitutional amendment to overturn *Citizens United*. By the end of 2012, 11 states, more than 350 localities and more than 125 members of Congress had endorsed an amendment to overturn *Citizens United*. Constitutional amendment petitions garnered more than 2 million signatures.

In August, President Barack Obama said that we need to “seriously consider mobilizing a constitutional amendment process to overturn *Citizens United* (assuming the Supreme Court

doesn’t revisit it).”
Throughout 2012, Public Citizen organizers traveled around the country, building support for local and state resolutions to support an amendment. In June, Public Citizen and allies held Resolutions Week, which was a push for local and state resolutions to back an amendment. The effort led to the passage of more than 150 local resolutions.
On Election Day, more than 6 million people had a chance to vote on whether to support a constitutional amendment, and in every instance the initiatives passed with about 75 percent of the vote. Public Citizen played important roles in these campaigns in Colorado, Montana and Chicago.

And in November, Public Citizen organizers made multiple stops in New York state as part of the “Democracy in Motion” tour, which called for the state to speak out against *Citizens United*.

As 2013 begins, Public Citizen is working hard to build on the momentum to overturn *Citizens United* by organizing events around the third anniversary of the court’s decision. The organization also is working to mitigate the effects of the ruling by pushing for campaign finance reform at the federal level and increased disclosure of corporate political spending.

“In this post-*Citizens United* world, corporations and wealthy individuals have tightened their grip on our elections and policymaking,” said Robert Weissman, president of Public Citizen. “We can’t have a functioning democracy under the rules of *Citizens United*.”

2012 democracy reports include:

“Sunlight for Shareholders” (August): Corporations should be required to disclose their political spending to serve shareholders’ interests. (Public Citizen wrote this report on behalf of the Corporate Reform Coalition, which we lead.)

“Super Connected” (October): 60 percent of super PACs active in the 2012 election cycle, through Oct. 16, were devoted to supporting or defeating a single candidate. And many of those super PACs were founded, funded and/or managed by friends or political allies of the candidate they supported.

“Citizens United Fuels Negative Spending” (November): 86 percent of spending by the

15 biggest outside groups during the 2012 election cycle financed negative messages.

“Dark’ Money Casts Shadow Over Top Senate Races” (November): Nearly half of all spending by unrestricted outside groups to influence 2012’s top Senate races was by 501(c) nonprofit groups that do not typically disclose their donors.

“Opponents of Campaign Finance Disclosure Create False Distinctions in Treatment of Unions and Corporations” (November): Opponents of campaign finance disclosure often say that such proposals are more permissive toward unions, but the DISCLOSE Act would treat unions and corporations identically.

GOVERNMENT AND FINANCIAL REFORM



White House Photo/Chuck Kennedy
Public Citizen President Robert Weissman (third from left) attends the White House’s April signing ceremony for the STOCK Act in Washington, D.C.

Win! In 2012, Congress OKs, President Signs STOCK Act

Members of Congress and their staffs have access to a lot of information that is not available to the public.

But they shouldn’t be able to use this confidential and sensitive information to improve their performance in the stock market.

And, with the passage of the STOCK (Stop Trading on Congressional Knowledge) Act in 2012, they are prohibited from capitalizing on this information. The bill bans members of Congress and their staffs from using nonpublic information to inform their stock trading (known as insider trading) and requires online disclosure of stock transactions exceeding \$1,000 by congressional lawmakers and their staffs.

Public Citizen had pushed for this legislation since 2006, but the bill had been blocked or stalled for years. However, in fall 2011, at Public Citizen’s suggestion, “60 Minutes” aired a story on the issue. After the story aired, the issue pole-vaulted to the front of the congressional agenda. Within a week after the “60 Minutes” story, the number of co-sponsors of the STOCK Act in the U.S. House of Representatives grew from nine to more than 280, and two separate insider trading bills had been introduced in the Senate. It was signed into law

by President Barack Obama at a White House ceremony in April 2012, with Public Citizen in attendance.

However, the bill is not as strong as Public Citizen wanted it to be. The Senate had approved a version of the bill that required “political intelligence consultants” (lobbyists and Wall Street investors who glean information from lawmakers and their staffs that can be used for investment purposes) to register under the Lobbying Disclosure Act and regularly disclose their clients and activities. The Senate version also strengthened the means to enforce anti-corruption laws in courts.

But Wall Street succeeded in finding a champion to block the political intelligence consultant and anti-corruption enforcement provisions: House Majority Leader Eric Cantor (R-Va.). As a result, the provisions were eliminated from the U.S. House of Representatives’ version of the bill. The House version of the bill won out.

“While the bill is not as strong as we’d like it to be, it is still a major victory,” said Robert Weissman, president of Public Citizen. “Now, we must continue to pressure lawmakers to ensure that Wall Street lobbyists cannot use privileged information to line their pockets.”

For more information about our government and financial reform work, visit www.citizen.org/governmentreform and www.citizen.org/financialreform.

Whistleblower protection

For almost a decade, Public Citizen has worked to improve federal whistleblower protections. And in November, increased whistleblower protections for federal employees became law.

The Whistleblower Protection Enhancement Act, S. 743, extends whistleblower protections beyond the first person who discloses fraud, waste or abuse of authority. It overrides the 2006 U.S. Supreme Court decision *Garcetti v. Ceballos*, which said public employees have no First Amendment protection for speech communicated as part of their job duties, and it provides economic reparations for whistleblowers who prevail in administrative hearings. The legislation also extends whistleblower rights to more than 40,000 airport baggage handlers.

Consumer financial agency leadership

During the congressional recess in January 2012, President Barack Obama appointed Richard Cordray to lead the Consumer Financial Protection Bureau (CFPB), which was created as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. For months, Public Citizen had encouraged the president to bypass a congressional deadlock and appoint the new leader of the CFPB during a congressional recess. We originally had wanted Elizabeth Warren to lead the agency, but the president, caving to Wall Street pressure, failed to nominate her. (Warren went on to win a U.S. Senate seat in November).

Public Citizen applauded the pick of Cordray, noting his strong record protecting consumers as Ohio attorney general. He also served as Ohio state treasurer and was a business attorney.

Public protection preservation

Throughout 2012, Public Citizen and our allies in the Coalition for Sensible Safeguards successfully opposed the passage of legislation that would block new regulations and prevent financial and other regulators from being able to properly protect the public’s health, safety and economic interests. The groups pushed back against the Regulatory Accountability Act and the Independent Agency Regulatory Analysis Act. These bills would have hamstrung the regulatory process, introducing major delays and limiting the ability of agencies to implement regulations.

2012 government and financial reform reports include: “Industry’s Messengers” (March): Members of Congress who submitted comments asking federal agencies to weaken the Volcker Rule received on average more than four times as much in campaign contributions from the financial sector as those who asked agencies to make the rule stronger.	“Forgotten Lessons of Deregulation” (May): Government officials throughout the 1990s and 2000s ignored clear warning signs about the risks posed by derivatives that eventually led to the financial crisis. Several bills that moved through Congress in 2012 would roll back derivatives provisions of the Dodd-Frank act. “The Repo Ruse” (May): Repurchase agreements (or repos) constitute a significant part of the unregulated “shadow banking	sector,” were a substantial factor in causing the financial crisis and threaten to cause future crises if proper action is not taken. “Public Safeguards Past Due” (June): The Obama administration regularly misses congressionally imposed deadlines for issuing rules to implement public protections. “Delayed and Diluted” (July): On the two-year anniversary of Dodd-Frank, many of the law’s main provisions have yet to take	effect, largely due to an industry campaign to weaken or delay regulations called for in the legislation. “Access for Sale” (November): Corporate sponsorship programs for associations of state and local government officials function as lobbying opportunities. “Business as Usual” (December): After the Volcker Rule implementation, 99.9 percent of banks will be unaffected.
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ENERGY AND THE ENVIRONMENT

Smaller electric rate increases

In 2012, the Austin City Council reduced the size of its originally proposed electric rate — largely because of the work of a Public Citizen-led coalition. Public Citizen testified at public meetings and hearings, and we provided research about the increase to council members, media and citizens. As a result, the city reduced its monthly fees for residential customers from \$22 to \$10 (above the previous \$6); created a rate system that encourages conservation; and reduced breaks to industrial electricity consumers.

Climate Silence campaign

Throughout the 2012 presidential debates, a discussion of climate change was noticeably absent — for the first time in 24 years.

Public Citizen, along with Friends of the Earth Action and Forecast the Facts, launched the Climate Silence campaign in the fall. The campaign called for President Barack Obama and former Massachusetts Gov. Mitt Romney to discuss what they would do to stop climate change. Now, the groups are asking Obama to tell Americans what he plans to do to combat climate change.

FERC consumer advocate

Throughout 2012, Public Citizen led the push for a consumer advocate to be housed at the Federal Energy Regulatory Commission (FERC), an independent federal regulatory agency with jurisdiction over electricity markets, natural gas pipelines and natural gas export licenses.

Public Citizen is working with AARP and the National Consumer Law Center to advocate that the Obama administration endorse the creation of an Office of Consumer Advocate that would have:

- a director appointed by the president;
- independence and the ability to conduct its own investigations;
- the ability to provide financial assistance to organizations advocating for the public interest; and
- an advisory board with consumer representatives.

In 2013, Public Citizen and our allies are continuing to urge the creation of the office.



In January, Tom "Smitty" Smith, director of Public Citizen's Texas office, points to solar photovoltaic panels at the Webberville solar project, which is located on a 380-acre site in Texas and is owned by the city of Austin.
Photo by Karen Hadden, SEED Coalition

Public Citizen Backs Clean Energy, Fights Dirty Fuels

Throughout 2012, Public Citizen energized activists and lobbied lawmakers to promote sustainable energy and curb the centralized, fossil fuel-based energy industry.

With efforts focused in Washington, D.C., and Texas, we enjoyed some key successes in our efforts to stop the use of dirty energy. Public Citizen has been working for years to halt the construction of a third reactor at the Calvert Cliffs nuclear power plant in Maryland. In August, the federal government denied the utility's request for a license for a third reactor.

A planned coal plant in Corpus Christi, Texas, was dealt what looked like its final blow in early 2013, when the developer of the plant announced it was suspending efforts to build the power plant. This came after years of Public Citizen and allies protesting the plant.

In addition, Public Citizen engaged more people in our campaigns to fight fossil fuel-based energy. Along with our allies, we mobilized more than 300,000 people to support legislation that would repeal fossil fuel subsidies. We also helped to organize opposition to the southern leg of the Keystone XL tar sands pipeline, which would carry tar sands crude oil (the dirtiest type of oil in the world) from Okla-

homa to Texas. And we submitted comments on the U.S. Environmental Protection Agency's proposed rule to reduce carbon emissions in new power plants.

We also helped speed the shift to sustainable energy. At 10:21 a.m. on Nov. 10, the Electric Reliability Council of Texas, grid operator for most of the state, reported that Texas set a new record of 8,521 megawatts of wind energy generated. That followed work by Public Citizen's Texas office and our allies to push pro-wind power policies in the state. We also succeeded in persuading a local solar power advisory committee in Austin, which was established by the City Council, to recommend a goal of 400 megawatts of solar power to be generated by the city utility by 2020.

We'll be continuing the fight on all these fronts in 2013.

"Averting catastrophic climate change is the biggest challenge we face as a species," said Robert Weissman, president of Public Citizen. "We must continue the fight to overcome the economic and political power of the polluting industries and build a sustainable energy future."

For more information about our energy and environment work, visit www.citizen.org/energy and www.citizen.org/texas.

HEALTH AND SAFETY

Win! Wyoming Hospital Informs Patients About Infection Risk

Between June and November 2011, several hundred people who had surgery at a Wyoming hospital may have been exposed to infectious viral and bacterial agents because the hospital had stopped properly sterilizing reusable equipment between patients.

The Wyoming Department of Health required the hospital to take corrective action after an inspection in November 2011. However, Sheridan Memorial Hospital in Sheridan, Wyo., did not notify patients about their potential exposure until Public Citizen brought the issue to light in 2012.

In March 2012, a whistleblower provided Public Citizen with an internal hospital memo discussing the lack of proper sterilization for reusable laryngeal mask airways (LMAs), which are inserted into patients' throats to provide anesthesia and mechanical ventilation during elective surgery and other clinical procedures. The manufacturer of LMAs indicates that steam autoclaving, which uses steam under high pressure, is the only recommended method of sterilization for the devices. But Sheridan Memorial Hospital allegedly only manually washed the LMAs with a brush, then further cleaned them with an automated spray washer.

On March 13, Public Citizen sent a letter to the Wyoming Department of Health, urging the department to require Sheridan Memorial Hospital to notify affected patients, offer them screening and, if needed, treatment for infec-

tions. And on March 20, Public Citizen sent a letter to the hospital's leaders urging such actions. These letters also were sent to reporters.

Soon after our letters were sent, the Wyoming Department of Health, after consultation with the Centers for Disease Control and Prevention, advised the hospital to inform patients who may have been exposed and offer them screening for hepatitis B, hepatitis C and HIV infection.

On April 5, Public Citizen learned that Sheridan Memorial Hospital had notified all surgical patients who were exposed in 2011 to the inadequately sterilized equipment. The hospital also offered free testing for the three viral infections.

"Thanks to the efforts of a courageous whistleblower, hundreds of patients who were recklessly exposed to inadequately sterilized equipment were no longer kept in the dark," said Dr. Michael Carome, deputy director of Public Citizen's Health Research Group and co-author of the organization's two letters.

The state health officer and senior administrator in the Wyoming Department of Health's Public Health Division, Dr. Wendy E. Braund, wrote to Public Citizen in May, offering her gratitude for our concern for Wyoming residents' health.

"Thanks again for your vigilance in protecting the health of America," Braund said in her letter.

For more information about our health and safety work, visit www.citizen.org/health.

2012 health and safety reports include:

"School Commercialism" (February): The risks to children of commercializing schools far outweigh the miniscule revenues raised by advertising in schools.

"Substantially Unsafe" (February): Congress should reject the medical device industry's lobbying push to undermine safety regulations and instead should strengthen the clearance and approval process for medical devices.

"Contract Killers" (March): Government agencies are awarding taxpayer money to contractors that disregard worker health and safety.

"Medical Malpractice Payments Sunk to Record Low in 2011" (July): By almost any measure, medical malpractice payments were at their lowest level on record in 2011.

"The Price of Inaction": Maryland (August), Washington (October), California (November): This series of reports highlighted how much occupational injuries and fatalities in the construction industry cost each state's residents between 2008 and 2010.

"Public Citizen's Report on Dangerous Texas Medical Board Enforcement Deficiencies: Their Causes and Solutions" (August): 58 percent of Texas doctors who have been sanctioned for serious offenses by health care entities (mainly hospitals) over the past two decades have never been disciplined by the state medical board.

"Pharmaceutical Industry Criminal and Civil Penalties: An Update" (September): States are settling more cases than ever with pharmaceutical companies accused of defrauding their Medicaid programs and are recovering taxpayer money at record amounts from those settlements.

Dangers of compounding pharmacies

For years, Public Citizen has talked about the dangers and lack of regulation of compounding pharmacies.

In 2012, after news broke about fungal meningitis cases linked to contaminated injectable steroid drugs produced by a Massachusetts compounding pharmacy, media outlets — including The New York Times and CNN — turned to Public Citizen for our expertise on the matter. Public Citizen also submitted comments to the Senate Committee on Health, Education, Labor and Pensions.

Public Citizen is calling for an investigation into the Food and Drug Administration's oversight failures related to the outbreak and is urging the agency to re-inspect drug compounding pharmacies that have received warning letters from the agency about manufacturing practices. We also are calling for an investigation into whether financial incentives created by the Centers for Medicare and Medicaid Services compounding reimbursement policies fostered inappropriate widespread use of compounded drugs, such as those linked to the meningitis outbreak.

Effort to curb infant formula samples in hospitals

In spring 2012, Public Citizen sent letters to 2,600 hospitals across the U.S., urging them to immediately stop distributing commercial infant formula samples in patient discharge bags because the distribution is unethical and violates good public health policy. The letter was sent on behalf of more than 100 organizations, including the American Academy of Nursing, the American Public Health Association, the Center for Science in the Public Interest, and Consumers Union.

By handing out these samples, hospitals are acting as de facto mouthpieces for the manufacturers. Studies have shown that women who receive formula samples are less likely to breastfeed exclusively or for as long. Women who do not breastfeed could spend thousands on formula once the samples are gone, and they expose themselves and their babies to health problems that breastfeeding can help prevent.

Public Citizen does not oppose infant formula and is not critical of women who cannot or choose not to breastfeed. But we oppose hospitals acting as marketers for formula manufacturers and seemingly endorsing the use of formula over breastfeeding.

During 2012, Massachusetts became the second state to have its maternity facilities voluntarily stop giving out infant formula discharge bags to new mothers, following Rhode Island, where all hospitals stopped the practice in 2011. In Oklahoma, 24 hospitals recently agreed to a ban. New York City also has launched a program that will eliminate such marketing from most of its hospitals.

GLOBALIZATION AND TRADE

WTO rulings

Unfortunately, Public Citizen’s warnings about the threats the World Trade Organization (WTO) poses to U.S. consumer protection were proved true again in 2012 as the U.S. government was ordered by the WTO to eliminate or water down three popular consumer policies.

In June, the WTO issued a final ruling against the U.S. country-of-origin labeling law (COOL), which requires those meat labels we all rely on when we go to the grocery store. The U.S. mandatory COOL program was passed by Congress as part of the 2008 farm bill and was designed to inform shoppers of the source of their meat.

In May, the WTO issued a final ruling against the U.S. dolphin-safe labels found on tuna cans. The ruling was the third time the WTO and its predecessor, the General Agreement on Tariffs and Trade, have ruled against the U.S. dolphin protection policies.

In April, the WTO issued a final ruling against U.S. efforts to reduce teen smoking. The WTO ordered the U.S. to water down or get rid of a key part of the landmark Family Smoking Prevention and Tobacco Control Act of 2009, which banned the sale of candy and other sweet-flavored cigarettes used by the tobacco industry to attract children to smoking.

By July 2013, the Obama administration must inform the WTO what it intends to do on each case. Public Citizen has called on the Obama administration not to comply with the WTO rulings.

“These weakened consumer protection laws only underscore why the WTO rules must be altered,” said Lori Wallach, director of Public Citizen’s Global Trade Watch. “If there’s any silver lining to these rulings, it is the growing viewpoint of consumers, citizens and governments that the WTO must shrink or sink.”

AIDS medications in Indonesia

In 2012, Indonesian President Dr. H. Susilo Bambang Yudhoyono took a quiet but important step to expand access to medicines, potentially improving and even saving the lives of tens of thousands of people living with HIV/AIDS and hepatitis B.

In September, the president signed a decree authorizing government use of patents for seven HIV/AIDS and hepatitis medicines. If fully implemented, the measure would introduce widespread generic competition and could lead to massive cost savings in the world’s fourth-largest country. Indonesia’s initiative sets a critically important international precedent. Public Citizen provided technical and strategic assistance on this issue to patient advocates and public agencies in Indonesia. The organization is working with partners for similar measures in many countries. For more information, visit www.citizen.org/access.



Lori Wallach, director of Public Citizen’s Global Trade Watch, takes part in a September protest outside the Lansdowne Resort, which was the site of the Leesburg, Va., round of the Trans-Pacific Partnership negotiations.

Public Citizen Leads Charge to Stop Trans-Pacific Partnership

During 2012, Public Citizen was a worldwide leader in the fight against the Trans-Pacific Partnership (TPP), a stealthy “trade” pact being pushed by corporate America.

Initiated by President George W. Bush in 2008, the TPP is being negotiated with Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam, with countries such as Japan, Thailand and the Philippines considering joining. The TPP would be the Obama administration’s first pact – and perhaps the last one the U.S. would negotiate, because it would be open for other countries to join later. The Obama administration’s top trade official has said that “nothing would make me happier” than for China to join the TPP. The White House has made completing this NAFTA-on-steroids deal a priority.

For three years, the pact has been negotiated behind closed doors; even members of Congress have been forbidden to see the text. However, 600 U.S. corporate advisers have access to TPP drafts and a special role in advising U.S. negotiators — a glaring example of corporate interests being favored at the expense of the public interest.

But Public Citizen got our hands on one of the most controversial chapters of the TPP after it was leaked in June.

We boiled down the complex text to plain English and spread the word to journalists and activists about how the deal will provide stunning new powers to corporations. The TPP

would empower corporations to attack U.S. laws aimed at protecting the environment, public health, financial system and more before tribunals of three private-sector attorneys who rotate between acting as “judges” and suing governments. They would be empowered to order the U.S. government to pay unlimited sums of taxpayer funds for policies the firms claim undermine their expected future profits.

“Without any public input or scrutiny, U.S. officials are rewriting swaths of U.S. law that have nothing to do with trade,” said Lori Wallach, director of Public Citizen’s Global Trade Watch. “The extreme nature of the closed-door text shows precisely why the TPP negotiations should be open to the press and public.”

The TPP would send millions of American jobs offshore, lock in Wall Street deregulation, decrease access to medicine, jeopardize food safety, ban Buy American policies needed to create green jobs and rebuild the economy, and empower corporations to attack U.S. environmental and health safeguards.

Throughout the year, Public Citizen also organized and led rallies around the country and the world protesting the TPP. We even created a parody video that went viral calling out the TPP as a power tool of the 1 percent. As of press time, it had been viewed more than 24,000 times.

To watch the video and follow our latest work on the TPP negotiations, visit www.citizen.org/TPP.

For more information about our globalization and trade work, visit www.citizen.org/trade.

JUSTICE

Public Citizen Advocates Consumer Rights in Court

Public Citizen’s attorneys fight for the rights of consumers in the state and federal courts, including the U.S. Supreme Court. Among our cases in 2012 were:

Company Doe v. Public Citizen: In fall 2011, Public Citizen learned that a company had sued the Consumer Product Safety Commission (CPSC) to prevent the CPSC from posting in its online product-safety database a report of harm caused by one of the company’s products. Moreover, the company was asking the court to keep all of the court papers and even the company’s name out of public view. To vindicate the public’s First Amendment and common-law rights to transparent court proceedings, Public Citizen became involved, representing itself, Consumers Union and Consumer Federation of America, to oppose the company’s request to litigate the case under seal. Nine months passed with no ruling from the court. Then in July 2012, the district court issued an order granting the company’s request to seal the case and deciding the underlying issue in favor of the company on the basis of nine months of secret proceedings. The court did not release its decision to the public until October, and even then, key portions of text were blacked out. We appealed to the 4th U.S. Circuit Court of Appeals the order sealing the case and allowing the company to litigate under a pseudonym.

Public Citizen filed our opening brief on appeal in December 2012. The case is likely to be argued in the spring or summer of 2013.

Public Citizen v. FMCSA: For almost a

decade, Public Citizen and our allies have been fighting the Federal Motor Carrier Safety Administration’s (FMCSA’s) regulations permitting truck drivers to drive an unsafe number of hours. FMCSA’s latest rule, issued in 2011, increases the number of hours truck drivers are allowed to drive per shift from 10 to 11, and requires only a 34-hour break between the end of one work week and the beginning of another. In February 2012, Public Citizen, along with Advocates for Highway and Auto Safety, the Truck Safety Coalition and two individual truck drivers, filed a lawsuit in the U.S. Court of Appeals for the D.C. Circuit, asking the court to review the rule. The case is pending, and oral argument is scheduled for March 15, 2013.

Public Citizen v. HHS: Public Citizen is pursuing a lawsuit against the U.S. Department of Health and Human Services (HHS) to challenge the HHS’ partial denial of a Freedom of Information Act (FOIA) request for annual compliance reports submitted to the HHS by pharmaceutical companies Pfizer Inc. and Purdue Pharma L.P. Public Citizen submitted our FOIA request to the HHS inspector general in 2009. However, the HHS refused to provide most of the reports, claiming that they are exempt from disclosure under FOIA.

Public Citizen sued the HHS in the U.S. District Court for the District of Columbia in late 2011, and the case was briefed in 2012. We are arguing that the records we seek are not exempt from disclosure and, in fact, contain important information that should be made public.

Forced arbitration

In 2012, Public Citizen continued to fight forced arbitration, a predatory practice in which corporations insert arbitration clauses into consumer and employment contracts, forcing consumers to resolve disputes with businesses in private forums, instead of in court.

In September, online auction and marketplace eBay emailed users a new terms of service agreement, which required arbitration and prohibited users from participating in class actions against eBay. Unless users opted out by Nov. 9, they were required to accept forced arbitration as their exclusive means of resolving disputes with eBay. (New users can opt out of the practice 30 days after they sign up with the company for the first time.) Consumers had to mail an opt-out letter by snail mail to the online company. In an October letter, Public Citizen urged eBay to drop the arbitration clause. We also provided consumers with a simple online form they could complete, print and send via snail mail and created an online petition asking the company to drop the forced arbitration clause (available at <http://pubc.it/eBayArb>). Public Citizen provided a sample opt-out letter for eBay subsidiary PayPal, an online payment service that had inserted a similar forced arbitration clause and class-action ban with a limited opt-out mechanism.

Free speech on the Internet

In late December, a Virginia court lifted an injunction against a woman who had posted criticisms on Yelp about a contractor.

The court’s decision was in response to an appeal filed by Public Citizen, along with the American Civil Liberties Union, to overturn a Fairfax County judge’s injunction against the woman, who was being sued by the contractor. The groups said the injunction violated the First Amendment.

For more information about cases that Public Citizen is working on, visit www.citizen.org/litigation.

2012 U.S. Supreme Court cases

CompuCredit v. Greenwood (decided in January 2012; loss): As lead counsel before the Supreme Court, we argued that the Supreme Court should affirm the lower courts’ denial of CompuCredit’s motion to force consumers into arbitration.

Mims v. Arrow Financial Services (decided in January 2012; win!): As lead counsel before the Supreme Court, we successfully argued that consumers injured by violations of the Telephone Consumer Protection Act, which outlaws abusive telemarketing practices, should be able to bring lawsuits in federal courts as well as state courts.

Marx v. General Revenue Corp. (argued in November 2012; pending): As lead counsel before the Supreme Court, we argued that cost awards to defendants in cases brought under the Fair Debt Collection Practices Act are limited to cases brought in bad faith.

United States v. Bormes (decided in November 2012; loss): The federal government claimed that it is immune from suit under the Fair Credit Reporting Act (FCRA). As co-counsel on the brief, we argued that the government’s sovereign immunity

from lawsuits was waived, allowing individuals access to the civil justice system to seek a remedy for the FCRA violation.

Genesis Healthcare Corp. v. Symczyk (argued in December 2012; pending): As co-counsel for Symczyk, we argued that the defendants in collective actions brought under the Fair Labor Standards Act cannot render an entire case moot by making an unaccepted settlement offer to the lead plaintiff.

Dan’s City Used Cars v. Pelkey (petition granted in December 2012; argument scheduled for March 2013): As co-counsel for Pelkey, we will argue that state-law claims against a towing company, based on the manner in which the company disposed of a towed car, are not pre-empted by the Federal Aviation Administration Authorization Act.

Tibbals v. Carter (decided in January 2013; loss): As lead counsel before the Supreme Court, we urged the court to uphold the principle that courts can suspend a challenge to a criminal conviction when a defendant’s mental incompetence would prevent him from effectively pursuing his challenge.

2012 Justice reports include:

- “Justice Denied” (April): One year after the U.S. Supreme Court’s decision in *AT&T Mobility v. Concepcion*, the harms to consumers are evident. (We issued this report with the National Association of Consumer Advocates.)
- “Between a Rock and a Hard Place” (July): Court-house doors are shut for potentially aggrieved private student loan borrowers.
- “Armed Forces and Forced Arbitration” (October): Forced arbitration clauses in contracts for consumer financial products and services limit enforcement of laws meant to shield military members from predatory lending.

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Fiscal Year 2012 Consolidated Statement of Activities for Public Citizen Inc. and Public Citizen Foundation

Revenue and Support

	Actual
Individual Donations	\$9,529,108
Publications and Subscriptions	\$1,781,711
Grants	\$2,383,380
Program Income	\$323,716
Rental Income*	\$361,971
Other	\$150,600
Income from Investments	\$546,972
Total Revenue and Support	\$15,077,458

Expenses

	Actual
Programs	\$8,839,374
Publications	\$2,683,449
Support Services	\$3,271,727
General and administrative	\$1,951,582
Development	\$1,320,145
Total Expenses	\$14,794,550
Change in net assets**	\$282,908

*Net of Operating Expenses ** In accordance with Statement of Financial Standards No. 116, Accounting for Contributions Received and Contributions Made, Public Citizen is required to record all grants and contributions in the current fiscal year even if the monies have not been received or related expenses have not been expended. As of Sept. 30, 2012, Public Citizen had temporarily restricted net assets of \$2,136,194, which represent restricted grants and contributions whose donor-stipulated time or purpose restriction has not been accomplished. Several of the net assets included in this amount are intended to be expended over several subsequent years.

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