



PUBLICCITIZEN

2013 Year in Review



Public Citizen Photo/Nicole Ivanov



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Public Citizen Photo

From top: 1) Public Citizen President Robert Weissman speaks at a July press conference in Washington, D.C., in support of Medicare-for-All. Standing next to him is U.S. Rep. Keith Ellison (D-Minn.), one of several members of Congress who participated in the event. 2) At a September protest of the Trans-Pacific Partnership free trade agreement held in Washington, D.C., a sign reads "Trading Away: People's lives & Planet's future." 3) Texas landowner David Whitley stands on his land in front of a section of pipe marked, "Dent Cut Out." The southern leg of the Keystone XL pipeline runs through his property. Public Citizen worked with Whitley and other landowners to publicize their concerns about the pipeline.

Corporate money flooding elections. Insidious clauses in consumer contracts. A dangerous trade pact. Inadequately labeled medicines.

In 2013, Public Citizen was at the forefront of battles on these issues and many more — and we won quite a few impressive victories.

We reached a major milestone in our campaign for a constitutional amendment to overturn the U.S. Supreme Court's *Citizens United* ruling. We pressured the government to begin strengthening rules about updating safety warnings on generic drugs. We mobilized our activists to force a major brokerage firm to drop an insidious class-action ban from the fine print of its contracts.

We helped put an able administrator at the head of the Consumer Financial Protection Bureau and repel a potentially disastrous pick as head of the Federal Reserve. We brought national attention to an unethical trial on premature infants and forced the federal government to reconsider its rules for human trials. We helped stave off the Trans-Pacific Partnership, a proposed pact that touches on much more than just trade.

We accomplished a lot more, as outlined here in our 2013 Year in Review (page 5-12).

We don't always win, and our goals often take many years to achieve. We often face long odds. But we're in it for the long haul, and with your support, we will continue to make strides in advancing the public interest — your interests — in the nation's capital and beyond.

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DEMOCRACY

Protesting at shareholder meetings

You might not realize it, but if you have a mutual fund, you are a shareholder and can attend shareholder meetings to tell executives about your concerns regarding corporate political spending. You also can protest outside the meeting.

To help propel forward the movement for disclosure, Public Citizen has helped organize shareholder protests during key annual corporate meetings. In 2013, with Public Citizen’s assistance, shareholders protested outside the headquarters of Starbucks, Chevron, Google and the fracking company EQT.

“We took to the road to deliver the message to corporate CEOs that shareholders are pushing for accountability on political spending,” said Kelly Ngo, legislative assistant with Public Citizen’s Congress Watch division, who traveled to Seattle for Starbucks’ shareholder meeting.



Photo by Eric Shannon of OnePittsburgh
Rick Claypool, online director for Public Citizen’s Congress Watch division, holds a sign during a protest outside the annual shareholder meeting of the fracking company EQT in Pittsburgh in April.

The next *Citizens United*?
McCutcheon v. FEC

The U.S. Supreme Court in 2013 heard another campaign finance case that could profoundly damage our democracy. Once again, Public Citizen was in the mix.

In the case, *McCutcheon v. Federal Election Commission*, a Republican donor and the Republican National Committee are challenging aggregate limits on what individuals can donate to candidates, parties and political committees. Public Citizen lawyers are representing two lawmakers in an amicus curiae brief supporting the constitutionality of the existing limits.

2013 democracy reports include:

“Super Connected: Outside Groups’ Devotion to Individual Candidates and Political Parties Disproves the Supreme Court’s Key Assumption in *Citizens United* That Unregulated Outside Spenders Would Be ‘Independent’ ” (March): Most super PACs are tied closely to a single candidate or a political party.

“Disclosed Corporate Contributions to U.S. Chamber of Commerce” (October): Twenty-four corporations that voluntarily disclosed information about their donations to the U.S. Chamber of Commerce gave the trade association \$6.5 million in non-tax-deductible contributions last year — significant because that money can be used to influence elections.



Public Citizen Photo/Nicole Barden

Jonah Minkoff-Zern, senior organizer for Public Citizen’s Democracy Is For People campaign, speaks at a rally at the West Virginia Capitol building in February. Public Citizen is building support around the country for a constitutional amendment to overturn the U.S. Supreme Court’s *Citizens United* ruling, which gave corporations the green light to spend unlimited sums to influence elections.

Milestone Reached in Effort
to Overturn *Citizens United*

In 2013, the movement to overturn the U.S. Supreme Court’s *Citizens United v. Federal Election Commission* decision reached a significant milestone. Due in large part to the work of Public Citizen, its allies and activists around the country, support for the campaign stands at one-third of what is needed for victory. By the end of 2013, 16 states, nearly 500 localities, more than 125 members of Congress and one U.S. president (Barack Obama) had endorsed a constitutional amendment to overturn *Citizens United*.

The states that have called for an amendment by ballot measure, legislative resolutions or letters signed by a majority of state lawmakers are California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Montana, New Jersey, New Mexico, Oregon, Rhode Island, Vermont and West Virginia.

Public Citizen has collaborated with activists in almost all those states to push the measures through. The work has included doing media outreach, building coalitions, organizing house parties and lobby days, and providing materials highlighting the danger posed to democracy when corporations and wealthy individuals pour unlimited sums into elections.

In addition, nearly 500 cities, towns and counties, including New York, Los Angeles, Chicago and Philadelphia have called for an amendment.

A 2010 Peter Hart poll found that 79 percent of Americans support an amendment. The support is bipartisan; 68 percent of Republicans, 82 percent of independents and 87 percent of Democrats support an amendment.

Public Citizen will continue to build support for an amendment in 2014, focusing efforts in New Hampshire, Arkansas and Iowa, among other states.

Putting corporate political disclosure on SEC’s radar screen

It’s pretty rare for the U.S. Securities and Exchange Commission (SEC) to hear from a large number of shareholders about a given issue, but receiving more than half a million comments is unprecedented.

So it was particularly stunning that Public Citizen, along with help from allies, generated nearly 700,000 comments by the end of 2013 calling for the SEC to require corporations to disclose their political spending.

Public Citizen leads the Corporate Reform Coalition, which includes advocacy groups, law professors and investors, and has been pushing aggressively for an SEC disclosure rule.

In October, Public Citizen organized a congressional briefing with U.S. Sens. Elizabeth Warren (D-Mass.) and Robert Menendez (D-N.J.). In December, 79 members of Congress sent a letter to the SEC chair supporting disclosure.

The SEC, which had placed on its agenda the issuance of a disclosure rule, removed it as 2013 came to a close — likely in response to corporate pressure. In 2014, Public Citizen will double down on its efforts to ensure shareholders know when corporations spend money on elections.

GOVERNMENT AND FINANCIAL REFORM



Former U.S. Rep. Brad Miller (D-N.C.); Brooksley Born, former chair of the Commodity Futures Trading Commission; and Neil Barofsky, who oversaw the Troubled Asset Relief Program, participate in a panel discussion at Public Citizen’s headquarters in Washington, D.C., in April.

Win! Charles Schwab backs down in face of Stand up to Chuck campaign

Corporations are increasingly relying on fine print terms in standard form contracts to eviscerate consumers’ rights. Public Citizen is fighting back.

The organization learned that well-known brokerage firm Charles Schwab & Co., Inc., was including in the fine print of its terms of service a ban on consumers joining together in class actions.

So in April, Public Citizen launched an

online petition, urging people to tell Charles Schwab that nobody should have to sacrifice their rights to save for retirement. More than 17,500 people signed it. And many Public Citizen supporters who also were Schwab customers contacted the firm.

Just three weeks later, bowing to the ensuing public pressure, Charles Schwab announced that it would remove the class-action ban from its investor contracts, at least temporarily.

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

‘Reality Check’ highlights need to regulate economy

To counter popular misconceptions about regulations, Public Citizen in April published a book providing an in-depth look at how deregulation derailed the economy and putting forth a series of case studies that counter allegations made against public protections.

The book, “Reality Check: The Forgotten Lessons of Deregulation and Unsung Successes of Sensible Safeguards,” chronicles the damage caused by insufficient oversight of mortgage lending, financial derivatives, commodities and residential electricity services.

The book was released at a symposium held at Public Citizen’s Washington, D.C., headquarters with Neil Barofsky, the special inspector general who oversaw the \$700 billion Troubled Asset Relief Program; Brooksley Born, former chairperson of the Commodity Futures Trading Commission; and former U.S. Rep. Brad Miller (D-N.C.), who was instrumental in creating the Consumer Financial Protection Bureau.

Financial reform work continues

Throughout 2013, Public Citizen dogged members of Congress and regulators, pushing for measures to hold banks accountable and ensure they don’t engage in the kind of risky behavior that led to the 2008 financial crash. To that end, Public Citizen:

- Met with regulators to push for a robust Volcker rule to bar banks from engaging in speculative trading. The resulting rule was considerably stronger than initially proposed;
- Urged policies that would ensure mega-banks are not “too big to jail” — so large that prosecutors shy away from pursuing them for breaking the law out of fear for the impact on the global financial system;
- Successfully urged members of Congress to confirm Richard Cordray to direct the Consumer Financial Protection Bureau;
- Met with U.S. Treasury Department officials and educated members of Congress about the need for a financial speculation tax, a minuscule tax on the sale or transfer of stocks, bonds and derivatives;
- Organized opposition to Larry Summers, who subsequently withdrew his name from consideration for Federal Reserve Board chair; and
- Pushed for a measure to end the corporate tax deduction for compensation greater than \$1 million. A U.S. Senate bill was introduced in August, and the companion bill is due in the U.S. House of Representatives this winter.

2013 government and financial reform reports include:

“Regulation Issue: Industry’s Complaints About New Rules Are Predictable — and Wrong” (February): The results of regulations to protect consumers not only tend to discredit industry’s dire predictions but often show that the safeguards benefit businesses.

“Safety Glass: Why It’s Time to Restore the 1930s Law Separating Banking and Gambling” (June): Widespread support exists for reinstating the Glass-Steagall Banking Act of 1933, which prohibited commercial banks from engaging in risky investing.

“Lax Taxes: Industry Has Massive Resource Advantage in Fight Over Bills that Would Raise Revenue and Bring Fairness to Tax Code” (June): Legislation in Congress that would address tax loopholes, raise revenue, increase the fairness of the tax code and help stabilize the financial system is subject to lobbying efforts that are overwhelmingly lopsided in favor of industry interests.

“Made in the Shade” (August): The Bipartisan Policy Center, a think tank that claims neutrality, has enlisted the funding of big banks and the intellectual support of individuals linked with those banks, and has made a series of bank-friendly financial policy recommendations.

“Thanks a Billion (or So): A Small Loophole Inserted 20 Years Ago Helps Companies Avoid Paying the U.S. Treasury Big Money” (November): Tax loopholes that enable corporations to deduct CEO pay in excess of \$1 million could be costing American taxpayers hundreds of millions of dollars.

“Regulations Are Entirely to Blame for Unemployment and a Leading Cause of Death in the United States, According to Industry and Its Allies” (November): Over the past four decades, business interests have predicted that so many jobs would be lost from the regulations now in place that the sum exceeds the number of unemployed people today.

ENERGY AND THE ENVIRONMENT

More solar power in Austin

When Austin Energy, a city-owned electric utility, proposed slashing the budget for solar power by nearly half, Public Citizen rallied its Austin-area members and urged them to tell the City Council to fully fund the solar program. It worked; the Council fully restored the budget for fiscal year 2014. What’s more, the Council passed a resolution recommending that Austin Energy adopt a goal of having 400 megawatts (MW) of solar power generation by 2020, double the existing goal. The 400 MW goal came from a plan developed by the Austin Local Solar Advisory Committee, which the director of Public Citizen’s Texas office, Tom “Smitty” Smith, served on in 2012.

Win! No more Gulf leases for BP

When the federal government said in March that it would allow BP to participate in a federal auction of offshore drilling leases, Public Citizen mobilized members and activists. The action: call the office in New Orleans of the agency that coordinates Gulf lease auctions and demand that BP be blocked from bidding on new leases. Activists flooded the phone lines, and the following day, BP announced it would not participate in the auction.

Goodbye to coal

Public Citizen has long worked in Texas to stop new coal plants and ensure that aging plants are shut. A victory came in October, when CPS Energy solidified plans to retire the JT Deely coal plant in San Antonio. Public Citizen and others had been pressing for years for the plant to be shut down.

Now, Public Citizen is branching out to fight coal in other states. In 2013, the group helped launch the Clean Gulf Commerce Coalition, whose focus is to halt the expansion of coal exports from the Gulf Coast while promoting clean energy. The coalition alerts communities in Texas, Louisiana and Florida to the risks associated with coal export terminals, which include toxic coal dust, increased rail traffic and polluted water.

Typical of the work was a suit filed in the fall against the Louisiana Department of Natural Resources, challenging the legality of issuing a coastal use permit for construction of a coal export terminal that would undermine efforts to restore Louisiana’s rapidly deteriorating coastal wetlands. The suit charges that the coal terminal would violate laws designed to ensure that the state’s coastal restoration plan is carried out.

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

This piece of pipe will carry tar sands crude through Texas as part of the southern leg of the Keystone XL pipeline. Dark green areas show extensive applications of field coating, or patching, over damaged areas on the pipe before it is lowered into the trench during pipeline construction. The picture was included in a report Public Citizen released in November documenting construction problems and apparent engineering code violations along the Keystone XL pipeline route in Texas.



Public Citizen Photo

Fighting the Keystone XL Pipeline

The Keystone XL pipeline has become a symbol of the outdated energy policies that fuel climate change. If the northern segment is approved by the Obama administration, it will carry particularly toxic, carbon-heavy tar sands crude from Canada to the Gulf Coast, where it will be refined and exported.

Public Citizen in 2013 fought the Keystone XL on a variety of fronts. In Texas, where the southern leg of the pipeline was being put into the ground in 2013, staffers in our Texas office received reports from landowners that newly laid pipe was being dug up and patched or replaced — raising questions about its safety and integrity.

Public Citizen contacted a former TransCanada engineer, now a whistleblower, and asked him to help investigate the reports. The engineer and a consultant spent months driving and flying over the pipeline route. They interviewed landowners, reviewed video and photos and examined work sites.

What they found was alarming: construction problems and apparent engineering code violations. They counted more than 125 excavations of possible “anomalies,” including dents, excessive bending or sagging, and peeling patches of field coating applied to cover damage on pipe about to be placed into the ground — problems that could lead to spills or leakage of tar sands crude. The pipeline traverses 631 streams and rivers in Texas alone.

Public Citizen issued a detailed report in November, “TransCanada’s Keystone XL Southern Segment: Construction Problems Raise Questions About the Integrity of the Pipeline,” which was featured on the CBS Evening News. Subsequently, the organization learned the federal agency that oversees pipeline safety had sent pipeline owner TransCanada warning letters about many more potential problems. For example, 205 out of 425 welds on a single section of the pipeline needed repairs, according to the letters.

Despite Public Citizen’s findings and the government’s own warnings, the government gave TransCanada the green light to fill the southern segment of the Keystone XL with crude and start operating in 2014.

But the northern section hasn’t been approved yet, and Public Citizen is working to ensure it isn’t. In addition to busing activists in for a historic climate change rally in February (see story below), the group issued a report finding that the northern leg of the Keystone XL likely would increase gas prices for Americans, contradicting claims by pipeline proponents. In the report, “America Can’t Afford the Keystone Pipeline,” Public Citizen also concluded that because the crude that flows through the Keystone XL pipeline is to be exported overseas, it will reduce national energy security — not bolster it, as pipeline backers claim.

Working to curb climate change

When U.S. Sens. Barbara Boxer (D-Calif.) and Bernie Sanders (I-Vt.) introduced legislation aimed at curbing climate change in mid-February, Public Citizen was alongside them. Tyson Slocum, director of Public Citizen’s Energy Program, spoke at a press conference with the senators in support of the measure.

A few days later, Public Citizen participated in the “Forward on Climate” rally in Washington, D.C., which attracted an estimated 40,000 protesters from 30 states. Public Citi-

zen’s Texas office rented a bus and brought a busload of activists for the event — including people whose land was taken for the Keystone XL pipeline’s southern leg.

Environmental leaders, landowners, activists, organizers and concerned citizens marched around the White House. They demanded that President Barack Obama not approve the Keystone XL northern segment and that he take action to curb climate change.

HEALTH AND SAFETY



Public Citizen Photo/Angela Bradbery
Shawn Pratt (left) speaks in August at a Public Citizen press conference in Washington, D.C., with his wife Carrie and daughter Dagen. The Pratts had enrolled their daughter, who was born prematurely, in the SUPPORT study.

Public Citizen Draws National Attention to Unethical Government-Funded Trials

Public Citizen’s work often involves publicizing wrongdoing with the goal of generating enough public pressure to effect change. That was the case in early April, when Public Citizen exposed to the world a highly unethical, federally funded experiment that, between 2005 and 2009, put more than 1,300 prematurely born infants at risk of blindness or death — without adequate informed consent of their parents. The government-funded SUPPORT study, conducted by prestigious medical schools and research institutions, randomly placed prematurely born infants into groups receiving either low or high oxygen levels, rather than calibrating each one’s levels to his or her individual needs. For premature babies, a dearth of oxygen can lead to death or serious neurological disabilities; an overload of oxygen, to blindness. The study, which Public Citizen learned of from a reporter for a small trade journal, sought to measure the impact of different ranges of oxygen supply on premature babies.

The risks were not revealed to the parents. Public Citizen alerted the media and called for a halt to ongoing government-funded trials involving premature infants pending independent ethical review of the trials. Several months later, Public Citizen learned of another similar trial that posed known serious risks to premature babies without adequately informing parents. Public Citizen alerted the media again. The publicity sparked a raging debate in the scientific community and prompted the U.S. Department of Health and Human Services to convene a daylong meeting in August in Washington, D.C., to discuss the ethics of clinical research. Public Citizen invited parents of infants enrolled in the SUPPORT trial to attend the meeting and a press conference Public Citizen organized. Two families came and told compelling stories. The debate goes to the heart of how research is conducted in the U.S., and its outcome could have far-reaching, negative implications on how trials are run.

Forging ahead on Medicare-for-All

The rollout of President Barack Obama’s health care law highlighted the need for something Public Citizen has long called for: a single-payer, improved Medicare-for-All system, which could cover more Americans, more efficiently and with better outcomes, at a lower cost than the current system. In late July, to mark the 48th anniversary of Medicare, Public Citizen representatives, members of Congress, doctors, academics and activists held a rally and press conference at the Capitol in Washington, D.C., to call for Medicare-for-All.

Campaigning to stop infant formula marketing in hospitals

Major health care provider organizations agree that distributing infant formula bags to new mothers as they leave the hospital sends a dangerous message: that hospitals endorse formula feeding. And health experts say that instead of using formula, breastfeeding exclusively for the first six months after a child is born has short- and long-term health benefits for both babies and mothers. So Public Citizen has teamed up with activists nationwide to encourage hospitals to stop peddling formula for major corporations. The work is paying off. The vast majority of top-ranked hospitals have ended or substantially limited formula marketing to new mothers, according to a study Public Citizen and the Ban the Bags campaign released in October. More than 16,600 people have signed Public Citizen’s petition calling on Abbott, Mead Johnson and Nestle to stop marketing formula in health care facilities.

Dr. Sidney Wolfe steps aside

In June, after leading Public Citizen’s Health Research Group for more than 40 years, Dr. Sidney Wolfe, founder and long-time director of the program, handed over leadership to his deputy, Dr. Michael Carome. Wolfe continues to work at Public Citizen on the issues he cares so deeply about. His new title: founder and senior adviser.

Major progress on generic drug safety

Responding to a July 2011 Public Citizen petition, the U.S. Food and Drug Administration in November announced its proposal to revise rules to enable generic drug manufacturers to update their products’ labeling when new risks are uncovered. (For more details, see story page 1.)

2013 health and safety reports include:

“Generic Drug Labeling: A Report on Serious Warnings Added to Approved Drugs and on Generic Drugs Marketed Without a Brand-Name Equivalent” (June): Many potential hazards are not discovered until years after drugs have been on the market.

“A Road Map to ‘Single-Payer’: How States Can Escape the Clutches of the Private Health Insurance System” (July): The steps a state would need to take to move toward creating a single-payer health care system are complicated but doable.

“Health Care Workers Unprotected: Insufficient Inspections and Standards Leave Safety Risks” (July): Health care workers suffer more injuries and illnesses on the job each year than those in any other industry, but the Occupational Safety and Health Administration conducts relatively few inspections of health care facilities and is hamstrung by an absence of needed safety standards.

“The Price of Inaction: The Cost of Unsafe Construction in New York City” (November): The economic impact to New York City of fatal construction injuries in 2011 and 2012 was more than \$180 million.

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

GLOBALIZATION AND TRADE

‘The Rise and Fall of Fast Track Trade Authority’

In April 2013, Public Citizen released an updated and expanded edition of its book, “The Rise and Fall of Fast Track Trade Authority,” with a series of events that have helped frame the Fast Track debate now roiling Congress. The book, by Public Citizen’s Global Trade Watch Director Lori Wallach, explains how trade agreements have been negotiated and approved from the nation’s founding through today. The book is available either as an e-book or a printed book. To order, visit www.fasttrackhistory.org.

Countering WTO attack on consumer labels, tobacco control

In 2012, the World Trade Organization (WTO) ruled that two key U.S. consumer-friendly labeling policies and portions of President Barack Obama’s landmark legislation to reduce youth smoking violated WTO rules. Public Citizen swung into action to pressure the administration not to roll back the tobacco control law or U.S. country-of-origin meat labels and dolphin-safe tuna labels.

While in the past, the U.S. has weakened consumer and environmental policies ruled against by the WTO, in 2013, the U.S. Department of Agriculture said it would fix the WTO violation by strengthening country-of-origin meat labeling, providing people with more information about where their meat comes from and helping regulators track foodborne illness outbreaks. The National Oceanic and Atmospheric Administration took the same approach, strengthening the criteria for dolphin-safe tuna labels. And the U.S. signaled that it would study expanding a ban on sweet-flavored cigarettes marketed toward young people.

The countries that attacked these laws are still fighting them, so the policies are again before the WTO. Public Citizen continues its efforts.

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

Public Citizen Photo/Sam Jewler

Melinda St. Louis, international campaigns director with Public Citizen’s Global Trade Watch, rallies a crowd at a protest of the Trans-Pacific Partnership (TPP), held in September outside the Office of the U.S. Trade Representative. TPP negotiators from 12 countries were confronted with the rally during their lunch break.



Public Citizen Battles TPP

From Washington, D.C., to Lima, Peru, to Singapore and beyond, Public Citizen was on the scene during 2013 to battle the Trans-Pacific Partnership (TPP), a proposed corporate-friendly “free trade” agreement between the U.S. and 11 other Pacific Rim countries.

As 2013 came to a close, the Obama administration’s effort to sign the TPP by the end of the year was derailed as Public Citizen worked tirelessly with civil society partners from TPP nations. The campaign continues, with more TPP negotiations slated and a presidential visit to Asia planned for 2014 to try to seal the increasingly unpopular deal.

While TPP negotiations have been conducted in secret, Public Citizen, through its Global Trade Watch and Access to Medicines Program, has worked hard to shine a spotlight on the many extremely harmful provisions in the proposed pact. If completed as now designed, the agreement would give corporations new powers to attack environmental and health protections, offshore American jobs and raise medicine prices while banning Buy America policies, rolling back financial regulations, and allowing unsafe food and medicines into the United States.

After three years of effort to force the dangerous pact into the public spotlight, in 2013, Public Citizen’s efforts paid off. Now, hundreds of U.S. organizations are campaigning against the TPP. And Public Citizen has successfully mobilized congressional opposition to the agreement. Public Citizen’s Global Trade Watch staff appeared frequently on national television and radio shows to warn about the pact.

The pact was dealt a major blow in November when WikiLeaks published a leaked version of the TPP’s chapter on intellectual property. Public Citizen quickly released an analysis of the text, explaining how the agreement would hamper access to lifesaving medicines in participating countries by creating or extending drug monopolies and creating new patent requirements. And when leaked internal memos on the state of the negotiations were published on The Huffington Post in December, Public Citizen worked with its international partners to generate a flood of damning stories in many of the TPP nations. The documents showed that the U.S. was isolated in pushing the most extreme corporate-favored provisions.

To keep updated on the latest TPP news and learn how you can take action, visit www.exposethetpp.org.

Lobbying against Fast Track

It was a major milestone in the effort to ensure Congress doesn’t grant the president Fast Track trade authority: 151 Democratic members of the U.S. House of Representatives signed a letter in opposition to Fast Track and sent it to President Barack Obama in November 2013.

In addition, 27 House Republicans voiced their opposition to Fast Track in letters, and most Democratic Ways and Means Committee members were part of a letter noting the meager support for the old Fast Track process.

The Nixon-era Fast Track process delegates to the executive branch the authority that the

Constitution gives to Congress. It lets the executive branch select trade partners, set the terms of trade agreements and sign pacts before Congress has a chance to vote. Fast Track also establishes a runaround of congressional procedure, allowing the White House to write deal-implementing legislation that is guaranteed a vote in 90 days after submission with all amendments forbidden and limited debate. Public Citizen has worked vigorously to ensure that Congress doesn’t pass new Fast Track legislation.

JUSTICE

Going to Court to Stop Backover Deaths

In 2008, Congress passed a law instructing the U.S. Department of Transportation (DOT) to issue a rule that would improve rear visibility in new vehicles, in response to advocacy efforts of a number of groups.

This rule would protect children and others from injuries or death due to backover vehicle crashes. More than 200 people are killed and 18,000 injured in these types of crashes every year, and 44 percent of those killed are children under the age of 5, according to the DOT’s figures.

Congress passed the legislation with bipartisan support (former President George W. Bush signed it into law). Although Congress directed the agency to issue a final rule within three years, nearly six years later, the DOT still has not issued the rule. So rear visibility improvements, such as backup cameras, are still not required in vehicles. Without them, drivers cannot see a blind zone several feet high directly behind their vehicles — even if they are using all the mirrors.

Issuance of a final regulation has been mired in the rulemaking process. Its current issue date is “no later than” Jan. 2, 2015, according to June 2013 letters from then-Transportation Secretary Ray LaHood to members of Congress.

Public Citizen is working to unclog the bottleneck by representing advocacy groups and parents in a lawsuit to force the Obama administration to issue the rule. The lawsuit, filed in September in the 2nd Circuit U.S. Court of Appeals, asks the court to direct the DOT to issue the rule within 90 days.

Public Citizen is representing New York state residents Dr. Greg Gulbransen and Susan Auriemma — both parents who unintentionally hit their children while backing up their vehicles — as well as Consumers Union of the United States, Advocates for Highway and Auto Safety, and KidsAndCars.org.

Media coverage of the lawsuit was extensive: The New York Times, USA Today, “Today” show and “Good Morning America” all featured stories on the case, which likely will be decided in 2014.

Government agency parody case

Public Citizen is defending the First Amendment rights of a Minnesota activist who used the official seals and names of the National Security Agency (NSA) and Department of Homeland Security (DHS) on satirical merchandise.

Dan McCall, a Sauk Rapids, Minn., resident, displays designs for T-shirts, hats, bumper stickers and more on his website LibertyMani-



acs.com, and sold them through the print-to-order company Zazzle. For example, he sold a parodied version of the NSA seal with the phrase “Peeping While You’re Sleeping” above the phrase “The NSA: The only part of govern-

ment that actually listens.” In 2011, Zazzle received a letter from the NSA saying that the company was violating a law that prohibits the use of the agency’s name or seal without the NSA’s permission. Zazzle also received a letter from DHS saying that altering the seal of DHS was a crime. Based on these letters, Zazzle, in 2013, removed McCall’s products from its website. (CafePress.com now sells the merchandise for McCall.)

Public Citizen argued in a lawsuit filed in October 2013 that no reasonable person would believe that the federal agencies produced the merchandise with those messages and that the use of the agencies’ seals and names for purposes of criticism is parody protected by the First Amendment.

Supporting conflict minerals disclosure

In 2013, Public Citizen successfully represented Amnesty International as an intervenor defending the Securities and Exchange Commission’s (SEC) “conflict minerals rule” against an industry challenge.

The SEC rule requires publicly traded companies to investigate and disclose publicly whether their products contain minerals from the Democratic Republic of the Congo or adjoining countries and whether the trade in those minerals helps finance armed groups contributing to the conflict. The U.S. Chamber of Commerce, National Association of Manufacturers and the Business Roundtable challenged the rule with a lawsuit filed in 2012. The U.S. District Court for the District of Columbia sided with Public Citizen in a decision issued in July 2013.

The industry groups appealed, and the appellate court heard oral argument on Jan. 7, 2014.

Clarifying IRS rules for tax-exempt organizations

Public Citizen served as lead counsel in a lawsuit filed in August that sought to require the IRS and the U.S. Department of the Treasury to revise regulations that allow 501(c)(4) “social welfare” organizations to make election campaign expenditures.

Public Citizen represented U.S. Rep. Chris Van Hollen (D-Md.), Democracy 21, the Campaign Legal Center and Public Citizen as plaintiffs in the case. The regulations, adopted in 1959, allow 501(c)(4) organizations to spend up to 49 percent of their resources on campaign activity.

These types of organizations do not have to disclose their donors, so they have been a vehicle for dark money spending in recent elections in the wake of the U.S. Supreme Court’s ruling in *Citizens United v. Federal Election Commission*.

In November 2013, the IRS issued a notice of proposed rulemaking indicating that it was reconsidering its regulation. In light of the IRS’ initiation of rulemaking activity involving reconsideration of its position that 501(c)(4) organizations may spend substantial resources on campaign activity, the plaintiffs voluntarily dismissed their complaint on Dec. 6.

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

2013 U.S. Supreme Court cases

In 2013, Public Citizen argued or served as co-counsel in many cases before the U.S. Supreme Court, including these:

Dan’s City Used Cars, Inc. v. Pelkey (win!): Public Citizen, on behalf of the former owner of a vehicle, argued that the Federal Aviation Administration Authorization Act did not bar the owner’s claim against a towing company that disposed of his car.

Genesis HealthCare Corp. v. Symczyk (loss): Public Citizen, on behalf of the plaintiff in a collective action under the Fair Labor Standards Act, argued that an offer of judgment that the plaintiff rejected did not make the case moot.

Marx v. General Revenue Corp. (loss): Public Citizen, on behalf of a consumer, argued that the Fair Debt Collection Practices Act precludes an award of court costs to a defendant if the con-

sumer brought her case in good faith. (This case was argued in 2012 and decided in 2013.)

Northwest Airlines v. Ginsberg (pending): Public Citizen, on behalf of a former member of Northwest’s frequent flyer program, argued that the Airline Deregulation Act does not bar a state-law claim that an airline violated the implied covenant of good faith and fair dealing when it terminated the individual’s membership in the program.

University of Texas Southwestern Medical Center v. Nas-sar (loss): Public Citizen, on behalf of a plaintiff who had prevailed in his Title VII claim against his former employer, argued that proof that retaliation was based on an unlawful discriminatory purpose may be demonstrated by showing that the unlawful purpose was one of the motivations behind the employer’s action.

2013 justice reports include:

“No Correlation: Continued Decrease in Medical Malpractice Payments Debunks Theory That Litigation Is to Blame for Soaring Medical Costs” (August): Medical malpractice payments made on behalf of doctors were at their lowest level on record in 2012.

“Private Action, Public Benefits” (September): Private litigation not only has a record of providing redress directly to consumers who have been harmed, but also of spurring public actions that result in penalties and deter future fraudulent activities.

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Fiscal Year 2013 Consolidated Statement of Activities for Public Citizen Inc. and Public Citizen Foundation

Revenue and Support	Actual
Individual Donations	\$7,908,196
Publications and Subscriptions	\$1,966,377
Grants	\$4,284,500
Program Income	\$134,666
Rental Income*	\$445,855
Other	\$221,702
Income from Investments	\$506,951
Total Revenue and Support	\$15,468,247

Expenses	Actual
Programs	\$9,338,103
Publications	\$2,424,746
Support Services	\$2,960,713
General and administrative	\$1,792,867
Development	\$1,167,846
Total Expenses	\$14,723,562
Change in net assets**	\$744,685

*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, 2013, Public Citizen had temporarily restricted net assets of \$2,876,854 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.