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## Federal pre-emption of state regulations argued

By Mark A. Hofmann

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WASHINGTON—The extent to which federal regulatory agencies should pre-empt state regulations and tort law was argued Wednesday in hearings before the Senate Judiciary Committee.

The committee's chairman—Sen. Patrick Leahy, D-Vt.—accused the Bush administration during the hearing of granting “corporate defendants blanket civil immunity by aggressively pre-empting state law in the course of issuing administrative regulations.”

But Alan E. Untereiner, a partner in the Washington law firm Robbins, Russell, Englert, Orseck & Untereiner L.L.P., disagreed, holding that regulatory uniformity is necessary for a national economy and that the ability of federal regulators to pre-empt local and state law “is critically important to the business community.”

“We live in a large and sprawling country that is rich in many things—including government,” said Mr. Untereiner, who appeared before the committee on behalf of the U.S. Chamber of Commerce. “This multiplicity of government actors below the federal level ensures that business with national operations will be subject to complicated, overlapping and sometimes even conflicting legal regimes,” he said. “These overlapping regulations have the potential to impose undue burdens on interstate commerce.”

Three of the five witnesses before the committee agreed with Sen. Leahy's contention that the federal government has gone too far in pre-empting state tort law via federal regulation. “Displacing state law is no trivial matter,” said David Vladeck, a professor at the Georgetown University Law Center in Washington. Mr. Vladeck urged Congress “to wrest back the power” to rein in federal agencies' regulatory powers.

The hearing followed the release of a report prepared by Mr. Vladeck and three other legal experts for the Center for Progressive Reform, a liberal nonprofit group. The report said that “agency pre-emption” of state law allows corporations to evade responsibility for harm done to consumers.

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