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# Public Policy: No Longer a Spectator Sport for Business

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# PUBLIC POLICY: No Longer a Spectator Sport for Business

by Murray L. Weidenbaum

Center for the Study of American Business
Washington University · St. Louis

This booklet is one in a series designed to enhance the understanding of the private enterprise system and the key forces affecting it. The series will provide a forum for considering vital current issues in public policy and for communicating these views to a wide audience in the business, government, and academic communities. Publications will include papers and speeches, conference proceedings, and other research results of the Center for the Study of American Business.

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# PUBLIC POLICY: No Longer a Spectator Sport for Business

Murray L. Weidenbaum

In the last decade, virtually every company in the United States has become regulated. Virtually every traditional function of the business firm has begun to change as managements have sought to cope with the higher costs and restricted discretion that accompany the increase in regulation. Moreover, contrary to popular thinking, the trend continues.

To be sure, a few highly visible reforms are occurring. The airlines are being deregulated and the Occupational Safety and Health Administration (OSHA) has eliminated Mickey Mouse regulations—those silly rules on things like how often spittoons are to be cleaned. But that overlooks the vast amount of new regulation that is in the pipeline—the many laws passed by Congress in recent years for which the implementing regulations have not yet been issued. Let us hit the highlights.

To opera buffs, *Tosca* is a melodrama ending in tragedy. For specialists in federal alphabet soup, however, TOSCA is the Toxic Substances Control Act of 1978. The Environmental Protection Agency (EPA), which administers this act, is still inventorying the problem prior to promulgating the numerous regulations contemplated. Also, the key regulations under the Clean Air and Clean Water Amendments of 1977 started to become effective in late 1979. When they reach their full impact, it will be extremely difficult to build a new factory in many parts of the United States. And then there is the Resource Conservation and Recovery Act of 1976, under which EPA is setting up cradle-to-grave controls over all substances designated as hazardous. In addition, OSHA's new General

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Carcinogenic Standard, issued in early 1980, has the potential for generating compliance costs greater than the combined costs of meeting all of the standards already promulgated by that agency.

**FEDERAL REGULATORY EXPENDITURES JUMP 537 PERCENT**

Some statistical perspective may be useful. Federal regulation of American business is growing at a rate that would be the envy of any business executive responsible for a company's sales. The budgeted expenditures of the fifty-seven agencies with major regulatory functions increased from $866 million in 1970 to over $5.5 billion in 1979—a 537 percent rise over the decade. Budget expenditures for these agencies are estimated at over $6 billion for 1980 and at nearly $7 billion for 1981.[1] Moreover, as in the case of the typical growth company (see Exhibit 1), the newer "product lines"—consumer safety and health, job safety, and environment and energy—show the most rapid expansion. Thus, for the 1970–1979 period, expenditures for regulating consumer safety and health increased by 531 percent, those for job safety and other working conditions by 935 percent, and those for the environment and energy by nearly 1,700 percent.

On the other hand, the older areas of regulation—such as finance and banking (the Federal Reserve System and the Comptroller of the Currency), industry-specific (for example, the Interstate Commerce Commission), and general business (for example, the Federal Trade Commission)—have experienced more moderate growth. Their expenditures show a combined increase of only 171 percent in the 1970–1979 period. Exhibit 2 shows the overall trend for the decade.

Exhibit 3 depicts the growth in federal regulatory activity in terms of the total number of agencies involved. The ten-year period from 1970 to 1979 witnessed the establishment of the largest number of new regulatory bodies (twenty-one), exceeding even the New Deal period of the 1930s, which produced only ten new agencies.

1. See *Directory of Federal Regulatory Agencies*, second edition, compiled by Ronald J. Penoyer (St. Louis: Washington University, Center for the Study of American Business, 1980).

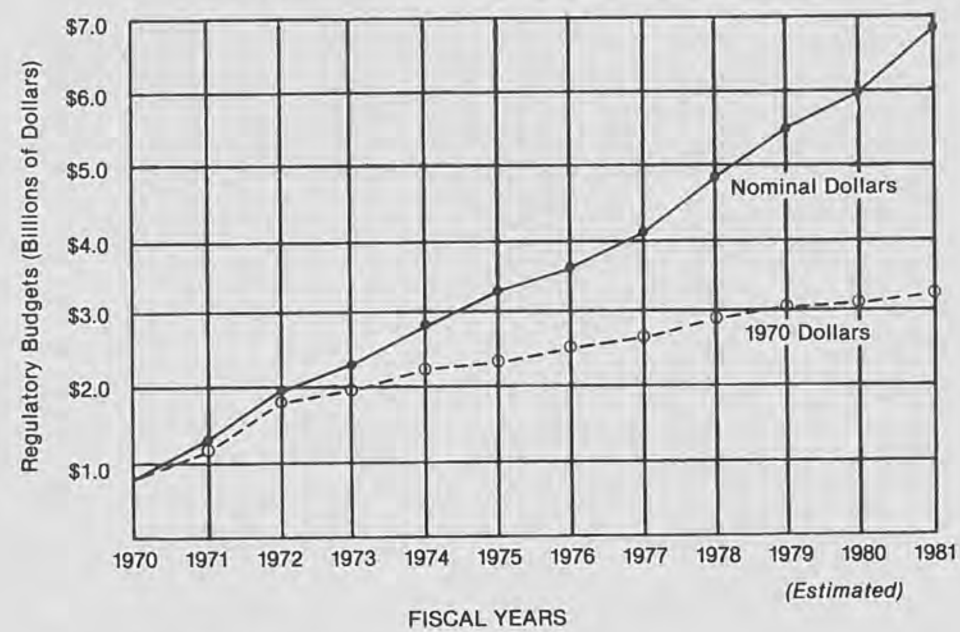


**EXHIBIT 1**
**Expenditures on Federal Regulatory Activities**
**(Fiscal Years, Millions of Dollars)**

| Area of Regulation | 1970 | 1979 | (Estimated) 1980 |
|---|---|---|---|
| Consumer Safety and Health | $392 | $2,474 | $2,606 |
| Job Safety and Other Working Conditions | 62 | 642 | 742 |
| Environment and Energy | 85 | 1,517 | 1,688 |
| Finance and Banking | 106 | 296 | 294 |
| Industry-Specific Regulation | 125 | 318 | 377 |
| General Business | 96 | 271 | 316 |
| | $866 | $5,518 | $6,023 |

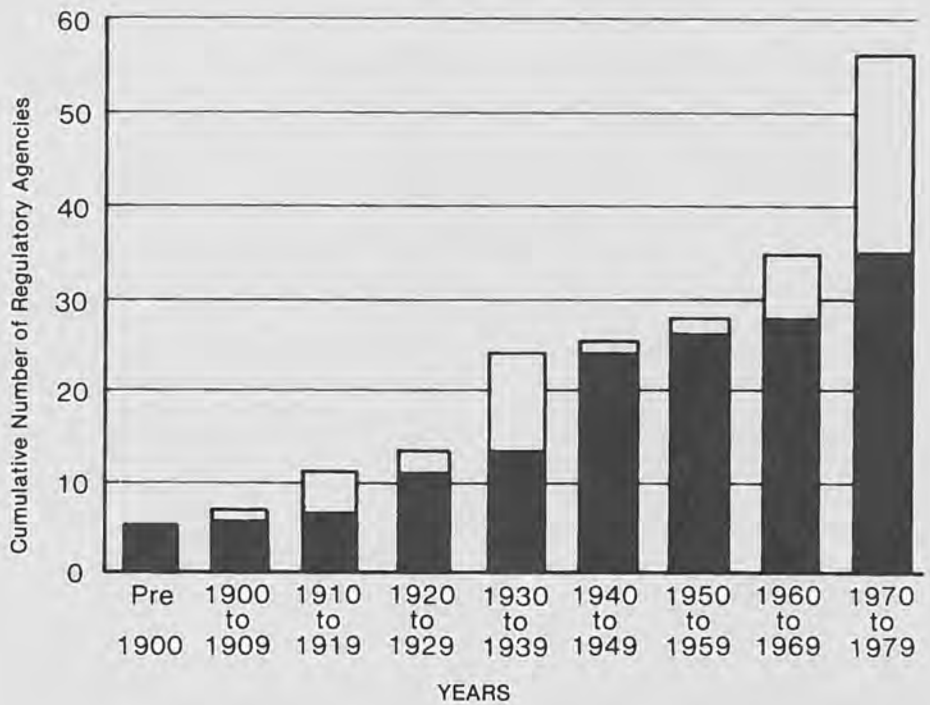
Source: Center for the Study of American Business

**EXHIBIT 2**
**A Decade of Federal Regulatory Growth**




Source: Center for the Study of American Business

**EXHIBIT 3**
**Historical Perspective of Federal Agency Growth**




Source: Center for the Study of American Business

Note: Agencies do not total 57 since some agencies have split regulatory functions between two or more spin-off agencies. The date that the parent organization was established was used to create the chart.



## A SECOND MANAGERIAL REVOLUTION

The unprecedented expansion in government regulation occurring in the United States is fundamentally altering the relationship between business and government. Virtually every department of the typical corporation now faces one or more counterparts in some government agency that controls or strongly influences its decision making. Indeed, a "shadow" organization of public officials matches the organization chart of the private company (see Exhibit 4).

Scientists in corporate research laboratories now spend a significant portion of their time ensuring that the products they develop are not rejected by lawyers in regulatory agencies. Engineers in manufacturing divisions design equipment to meet the standards promulgated by Labor Department authorities. Marketing staffs follow procedures established by the Consumer Product Safety Commission and the Federal Trade Commission. Corporate planners conform with environmental statutes in deciding where to build new offices and plants. Personnel staffs meet standards of the various agencies concerned with employment conditions. And finance departments bear the brunt of the rising paper work demanded of business.

The changes now taking place in business-government relations in the United States are so pervasive that they are tantamount to a second "managerial revolution." The first managerial revolution was noted by Adolph Berle and Gardner Means almost five decades ago.[2] They were referring to the separation of the formal ownership of the modern corporation from the actual management. The second managerial revolution, now under way, is a bureaucratic development in the course of which much, but not all, of the decision making in the corporation is shifting again. This time the move is from the professional management selected by the corporation itself to the vast cadre of government regulators who influence and often control its key managerial decisions.

This revolution is neither deliberate nor violent. But it will force a fundamental change in the structure of the economy. Extending the analysis of Berle and Means to the current situation, the crucial question in evaluating the distribution of public and private power is not who owns the means of production of the business firm, but who

2. Adolph Berle and Gardner Means, *The Modern Corporation and Private Property* (New York: Macmillan, 1932), p. 68.

**EXHIBIT 4**
**Typical Industrial Corporation and Federal Government Relations**

- Chief Executive
  - R&D
    - Technology assessment
  - Legal
    - Antitrust
    - FTC
    - SEC
  - Personnel
    - Equal employment opportunity
    - NLRB
    - Health and Human Services Department
    - Wage standards
  - Planning
    - Government as data source
    - Government as external regulator
    - Government as internal regulator
  - Finance
    - Internal Revenue Service
    - SEC
    - Federal Reserve System
    - Government cost accounting guidelines
    - SBA
  - Government Relations
    - Congress
    - Federal agencies
    - Federal Election Commission
  - Marketing
    - FTC
    - FDA
    - Consumer Product Safety Commission
    - National Highway Safety Administration
    - USDA
    - Health and Human Services Department
    - Price standards
  - Manufacturing
    - OSHA
    - EPA
    - Energy Department
    - Treasury Department
    - Nuclear Regulatory Commission
    - Corps of Engineers
    - Drug Enforcement Administration
  - Purchasing and Traffic
    - ICC
    - CAB
    - FAA
    - Transportation Department
    - Coast Guard
    - Commodities Futures Trading Commission
    - National Traffic Safety Board
  - International Operations
    - Export-Import Bank
    - Treasury Department
    - Commerce Department
    - International Trade Commission



makes the key entrepreneurial and capitalistic decisions: What lines of business to go into? Which investments to undertake? What products to make? Under what conditions to produce them? What prices to charge? Government officials and their rule books loom increasingly larger in the process through which these questions are answered.

Major decisions, such as the tradeoff between quality and price and the choice among technologies, often are no longer made by corporate managers and subject to the impersonal review of the marketplace. Increasingly, these choices are made by government officials and approved or disapproved, officially or unofficially, by the cumbersome and more subjective mechanisms of interest-group politics and bureaucratic procedures.

## HOW BUSINESS CAN RESPOND

Business responses to these changes in government policy have followed three basic approaches, often blended together as managements vary their actions in light of external conditions, a company's particular capabilities, and the nature of the industry. All of the changes tend either to increase the overhead costs of doing business or to deflect management and employee attention from conventional business functions.

### Passive Reaction

In many cases, corporate managements simply react to a new or expanded federal control. They may criticize it and attempt to postpone its effects through litigation and administrative appeals. But, sooner or later, they gear the operations of their firms to meeting the requirement. Not too surprisingly, the firms that settle for a passive strategy tend to bemoan the almost constant and generally unexpected expansion of government power over their internal decision making.

The reduction in private discretion seems to be a process without any inner limit. This, of course, often forces managements to adopt, albeit sometimes reluctantly, a more positive response to the new regulatory environment.

**Positive Anticipation**

Thus, increasingly, corporate managements are using their planning capability to forecast and adjust to changes in business regulations that are likely to come. For example, before Congress passes a bill placing restrictions on the use of private land, firms may reorient their construction projects to minimize the likelihood of subsequently running afoul of the new law. They also may voluntarily take socially responsible actions in an effort to head off new, and perhaps more onerous, government controls. Some food retailing chains have put nutritional information on private brand products and have instituted unit pricing systems even when not required by law to do so. Several major corporations have appointed an executive vice-president or a vice-chairman of the board to take charge of the company's action programs in such areas of social policy as consumer problems, minority affairs, and environmental protection. The typical U.S. corporation is becoming more responsive to the needs of the society as a whole, not because of any altruistic impulse but because of a more sensible and durable motive: the instinct to survive and prosper by meeting more completely the needs and desires of the society of which business is a part.

Quite clearly, a firm's costs, sales, profits, and assets can be affected by both market and nonmarket forces, particularly in today's environment. Business behavior increasingly responds to political forces, public opinion, and governmental pressures, factors that may not be welcome but that no company can afford to ignore. To do so would result, directly, in loss of sales and customer goodwill or, indirectly, in the increased costs implied by further governmental intervention in the economy.

**Factor Government Policy Into the Planning Process**

Corporate planning of the traditional type often fails to take account of the effect of government on business and markets. The newer corporate planning efforts, however, devote attention to analyzing the trends and details in changing regulatory policies and practices. And on the whole, the planning task is becoming more difficult. For one thing there are the conflicts in government policies and objectives—for example, reducing energy use while avoiding environmental pollution or producing safer products under healthier working conditions and avoiding large price increases.

In addition, there is the need to anticipate and understand the government regulations that can limit or greatly influence company decisions on new products, production processes, and marketing methods. There is finally the need to give more weight than in the past to government policy in forecasting markets and product sales. Here the planning approach is multifaceted since government activities can either create new derivative markets or reduce the demand for existing products. For example:

- Energy allocations limit the availability of fuel but also encourage exploration and development of new energy resources.
- More stringent environmental controls are leading to the curtailment in coal use, while simultaneously creating demands for devices to reduce pollution.
- Job safety and health regulations force changes in production processes, but they also open new opportunities for companies to supply safety equipment and alternative methods of production.

**Turn Regulation Into Business Opportunity**

In other ways, the anticipatory approach involves some of the most constructive business responses to rising regulation. Indeed, some companies view regulatory requirements as business opportunities. Obvious examples range from the expanded market for safety devices meeting OSHA standards and for instruments capable of monitoring pollution emissions, to the greater demand for research and consulting services on how best to comply with government directives (such as filing environmental impact statements) or to comply with specific enforcement actions. In any event, knowledge of regulatory requirements and procedures can provide today's corporation with a new type of competitive edge.

On the other hand, some of the responses to regulation may help to beget more regulation. For example, the difficulties that companies confront in obtaining the many approvals needed to build a new production facility make it more attractive to buy out a smaller competitor. The resultant increased industrial concentration, however, can be a force for stepped-up antitrust activity by the Department of Justice or the Federal Trade Commission.

**Shaping Public Policy**

Still other business strategies involve attempts to shape the character of government intervention by playing a more active role in the development of public policies. Thus, some companies are strengthening their government relations departments and their Washington offices—or are setting up such operations if they do not exist (see Exhibit 5). Trade associations that are active on Capitol Hill are being supported more strongly. Despite the growing restrictions on political contributions and practices, many businessmen and businesswomen—as individuals—attempt to exercise leverage on government decision making by participating more actively in the political process. Business is seeking means of participation in the political process in addition to the conventional route of campaign contributions.

**EXHIBIT 5**
**Functions of a Government Relations Department**

- Federal legislative monitoring and analysis
- Regulatory agency liaison and response
- State and local legislative monitoring and analysis
- Domestic and international market development assistance
- Trade association liaison
- Federal appointment assistance
- Political analysis and response
- Federal and state information services

Source: Air Products and Chemicals, Inc.

As corporate managers find their managerial prerogatives curtailed by government, more senior executives are overcoming their traditional reluctance to get involved in the give-and-take of public policy disputes. Reginald H. Jones, the chief executive officer of General Electric, told a meeting of company officials that public policy is no longer a "spectator sport" for GE managers. He elaborated, "It is no exaggeration to say that for most managers, the main problems—the main obstacles to achieving their business objectives—are external to the company."[3]

To change the external environment in which American business operates, companies are finding it necessary to improve the public's understanding of the full range of impacts of government involvement in business. This does not mean launching uncritical attacks on all government regulation, a tactic that is clearly both unwarranted and self-defeating. Nor is the effective response what is

3. Donald J. Watson, "The Changing Political Involvement of Business: The General Electric Experience," in George A. Steiner, ed., *Business and Its Changing Environment* Los Angeles: UCLA Graduate School of Management, 1979), p. 200.



often the reflex action of many business executives: to award yet another $25 savings bond to the high school senior who writes the best essay on "What the Free Enterprise System Means to Me." This simply reinforces the belief of many educators that the typical corporate manager is self-serving as well as unimaginative.

The balanced educational message that businesses, more and more, are attempting to communicate is that government regulation can have great benefits, which need to be acknowledged and identified, but also that it can entail great costs and frequently without achieving its objectives. The public is often unaware of regulatory costs because usually they are less apparent than the benefits of the regulatory activities. Cleaner air is more visible than the increase in the utility bills needed to finance the scrubbers required by EPA.

**Expose the Hidden Costs**

The economic burdens arising from government regulation are extensive. These include the costs to:

- The taxpayer for government regulatory agencies;
- The consumer in the form of higher prices to cover the added expense of producing goods and services under government regulations;
- The worker in the form of the jobs eliminated by government regulation;
- The economy as a whole, resulting from the loss of smaller enterprises that bear disproportionate burdens in complying with government regulations; and
- Society as a result of a reduced flow of new products and processes.

If business advocates a more sensible balance in government action, its views may have a greater impact on the formulation of that action. Business management, employees, and consumers all share a common interest in a rising living standard, higher employment, less inflation, and a healthier environment—although they may differ at times on the means of achieving these goals.

There is not a single, invariant set of relationships among interest groups. On some issues, notably government regulation affecting jobs, business and labor may find themselves joining forces, as has been the case in the automobile industry. On other issues—such as government-imposed job safety standards—there may be strong differences of opinion between labor and management. Though it is naive to talk of a community of interests of business, labor, and consumers on every specific issue, it is equally inaccurate to proceed on the opposite assumption, that the relationships must always be adversary.

**Support Trade Associations**

The active approach often means supporting more strongly trade associations working on Capitol Hill and other legitimate ways in which business can exercise its historical right to "petition for redress of grievances." The most effective type of "lobbying" is neither the stereotyped "arm-twisting" nor the providing of financial contributions to politicians who pledge to support (or oppose) specific legislation. Rather, it is the timely provision of accurate and pertinent information on the issues of public policy being debated in Congress or considered in other government agencies.

**Be as Politically Active as Possible**

Some business firms are making more extensive use of the many existing channels of communication that are already available to them in efforts to raise the public awareness of political issues that affect the future of the business community. These channels, which may currently be devoted to more traditional or operational messages, reach a wide variety of "publics": employee newspapers, company magazines, and reports to shareholders; materials sent to customers, suppliers, and retired personnel; bulletin boards and posters on company premises; and employee training and management development programs.

It is in the active approach—business involvement in the public arena—that the greatest potential for improving business-government relations may lie. The role that company government relations offices, trade associations, and business executives can play in this arena needs to be rethought in a more positive light.

Corporations can participate legally in a wide variety of political activities. But typically they are much more reluctant than labor unions to do so. A company may recommend to its management employees and shareholders how they should vote. However, in practice, very few attempt to exercise that right to develop and communicate their views on specific candidates. Labor unions, in striking contrast, show no similar shyness.



The management of a company has a right to state its position on public issues affecting the company's well-being, including legislative proposals before Congress. It also may communicate to its employees and stockholders information on members of Congress and candidates for office, such as voting records. Company-sponsored programs explaining how to be effective in politics are another permissible form of political activity. A corporation can provide political education programs for employees, and it can actively promote, on a nonpartisan basis, voluntary involvement of its employees in direct political action on their own time. An employee may also be granted leave of absence without pay to work on a political campaign.

Business executives, of course, can and do make significant financial contributions to election campaigns (see Exhibit 6). Critics

**EXHIBIT 6**
**Fifteen Largest Corporate Political Action Committees Fiscal Year 1977-1978**

| Sponsoring Company | Expenditures 1977-1978 |
|---|---|
| Standard Oil of Indiana | $266,308 |
| American Family | 260,140 |
| International Paper | 240,336 |
| LTV | 208,804 |
| General Motors | 198,842 |
| General Electric | 176,076 |
| Chicago and Northwestern | 169,067 |
| Grumman | 156,435 |
| General Dynamics | 155,956 |
| Boeing | 135,377 |
| United Technologies | 130,725 |
| Dart Industries | 128,914 |
| U.S. Steel | 124,230 |
| Winn-Dixie Stores | 123,611 |
| Union Camp | 117,900 |

Source: Business-Industry Political Action Committee, *A Directory of Corporate and Trade Association Political Action Committees Registered With the Federal Election Commission* (1979).

of business involvement in politics often ignore the very substantial political contributions made by other interest groups, notably labor. In the 1976 national election campaign, the AFL-CIO's Committee on Political Education (COPE) reported that it spent "in the multimillions" on top of the $2 million it devoted to its computerized election machinery. Most of labor's election efforts do not show up in official reports, and hence are not subject to the legal limitations. Examples include the virtual full-time assignment of union organizers and clerks to get-out-the-vote duty. In 1976, more than 10 million calls were placed from COPE's telephone banks and 120,000 "volunteers" were involved in its car pools and doorbell ringing. As nonprofit organizations, labor unions pay low, subsidized rates on their mailing, even including campaign material.[4]

No company or trade association could dare assign its executives to full-time political activities as part of their paid work. Few companies devote their reports to shareholders and executives to the campaigning in which many unions openly engage. Surely there is nothing illegal involved in these union efforts. But given the current public sentiment toward business, companies are afraid to engage in the same type of lawful activity for fear of an outburst of enraged media and citizen reaction.

## NEEDED: A COALITION TO MOLD PUBLIC OPINION

One astute and concerned observer, Irving Kristol, states that "pitifully little" can be done to improve business' position in the arena of public policy, at least directly. In his view, "the business of ideas"—of forming opinions, of engaging in intellectual contests—requires skills not likely to be found within corporations. Kristol urges, instead, that business mobilize independent support within the intellectual, academic, legal, and professional communities, where the skills needed to be effective in opinion-formation activities do exist.[5]

Indirect support for that position may be found in a 1978 poll by the Opinion Research Corporation which showed that only 30 percent of the U.S. public believed that the ethical and moral practices of business executives were excellent or good (only 29 percent in the case of advertising executives), compared with 56 percent for college professors and news reporters. Given this, the business executive who ventures into the policy arena is, all too frequently, defeated before he starts—his views dismissed as self-serving. In contrast, efforts in the academic and research communities to improve the intellectual

4. A. H. Raskin, "The Labor Scene: COPE's Impact on Election Outcome," *The New York Times*, Dec. 28, 1976, p. D1.
5. Irving Kristol, *The Importance of Public Interest Law* (Washington, DC: National Legal Center for the Public Interest, 1978).



environment in which business operates can be useful and, rightfully or not, do tend to be treated with greater deference. In the words of William Simon, former Secretary of the Treasury, "The alliance between the theorists and men of action in the capitalist world is long overdue in America."[6]

Along with welcoming the support of intellectual "middlemen," there is, however, much that business can do directly. Corporate executives are most effective when they are writing or talking about matters in which they are the experts. General discourses about excessive interference by government are rarely useful. But the straightforward presentation of a factual case can be devastating. What aroused public ire against the proposed saccharin ban was the simple fact that the saccharin fed to test rats was equal to a human being's consuming 800 bottles of soda pop a day, and public outrage led Congress to postpone the saccharin ban. Quite clearly, strong, understandable, and accurate recitations of facts—in case after case—can have a far greater impact on the problem of regulatory excess than fulminations about big government.

## CONCLUSION

A realistic appraisal shows that the modern business firm must structure itself to survive and prosper in a world in which government and public policy factors are increasingly influencing day-to-day decision making at every level of management and in each functional area.

To a significant degree, a balanced and sensible response by business to public pressures may indeed provide a limit to the further proliferation of government regulation of private economic activity.

6. William E. Simon, *A Time for Truth* (New York: Reader's Digest Press, 1978), pp. 232-233.