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GOVERNMENT REGULATION AND SMALL BUSINESS

By Murray L. Weidenbaum, Director

Testimony prepared for the Committee on Small Business of the
House of Representatives, Washington, D.C.

March 8, 1978



CENTER FOR THE STUDY OF AMERICAN BUSINESS
WASHINGTON UNIVERSITY ST. LOUIS, MISSOURI

GOVERNMENT REGULATION AND SMALL BUSINESS

By Murray L. Weidenbaum, Director
Center for the Study of American Business
Washington University, St. Louis, Missouri

Testimony prepared for the Committee on Small Business of the U.S. House of Representatives, Washington, D.C., March 8, 1978.

It is a pleasure to testify on two pieces of legislation which are designed to reduce the impact of government regulation on small business (H.R. 7739, "Small Business Impact Statement Act of 1977") and H.R. 10632, "Small Business Regulatory Relief Act").

This statement emphasizes four key points:

1. The Committee's concern about the effect of government regulation on small business is well taken. As I will demonstrate, regulation hits the smaller companies disproportionately hard.
2. The notion of requiring an impact statement before a regulation is promulgated is a very good one. It boils down to the simple idea that a government agency needs to understand the effects of its actions before it takes them.
3. Although I am a fan of impact statements for regulation, I am also concerned about the proliferation of paperwork, including the preparation of impact statements. This leads me to the conclusion that the specific impact statements that would be required by the two bills should be modified.
4. Rather than individual impact statements dealing with the effect of regulation on small business -- or on other important factors, such as employment, prices, productivity, innovation, etc. -- public policy would be better served by requiring a single comprehensive economic impact statement to be prepared prior to the issuance of each new regulation.

Note: The views expressed are entirely personal.

The Burden on Small Business

The Center for the Study of American Business at Washington University has just completed a new study showing the many ways in which government regulation, often unwittingly, hits small business disproportionately hard. Most of this impact is unintentional, in that the regulations typically do not distinguish among companies of different sizes. But in practice, forcing a very small firm to fill out the same specialized forms as a large company with highly-trained technical staffs at its disposal places a significantly greater burden on that smaller enterprise. This general point is supported by data and examples for such different governmental regulatory activities as the Environmental Protection Agency, the Employee Retirement Income Security Act, National Labor Relations Board, Occupational Safety and Health Administration, and the Securities and Exchange Commission.

The full study prepared by our Center is attached to this statement.

The Need For An Impact Statement

Considerable progress has been made in the last few years through the Executive Order requiring certain regulatory agencies to prepare economic impact statements. In case after case, the preparation of these statements has forced the agencies to examine the disadvantages, as well as the advantages, of their proposed actions and to consider less costly and more efficient ways of achieving their objectives. However, the Executive Order approach has fundamental limitations. Lacking the force of a Congressional statute, the Executive Order can only request the agencies that are directly under the President's jurisdiction to prepare impact statements; thus, the so-called independent agencies are

exempt from the President's directive. But far more important is the point that there is no requirement that, if the impact statement shows that the costs exceed benefits, the agency be restrained from issuing the regulation. That, of course, is the heart of the matter: to limit the promulgation of regulations to those instances where the regulatory agency can demonstrate that the benefits to the public exceed the costs being imposed on the public.

Frankly, that is neither a prescription for reducing or expanding government regulation. Rather, it is a mechanism to ensure that the regulations which are issued are effective in carrying out the Congressional intent.

The Paperwork Burden

If there is anything that the research at our Center for the Study of American Business has uncovered, it is that the impacts of government regulation are far deeper and far more widespread than are generally realized by the public. Surely, one very important and not fully appreciated impact is on small business. But, very frankly, we must realize that that is not the only aspect of government regulation which is worthy of attention.

Government regulation can adversely affect the nation in many ways; it hits the consumer by needlessly raising the costs of production and hence the prices of the goods and services that we buy. Government regulation, albeit unwittingly, can result in the elimination of jobs as factories are closed down, thereby increasing unemployment. Through the proliferation of paperwork and ancillary requirements, government regulation can result in losses of productivity. In addition, government

regulation is resulting in about one-tenth of all new capital investment being preempted to meet social requirements, rather than being devoted to expanding the capacity to produce goods and services for the public. Finally, government regulation is slowing down the rate of innovation of new products and thus adversely affecting the living standard of the American consumer.

It is not inherent that every regulation generate all of these adverse side effects and, to be sure, many regulations also generate offsetting benefits. This is precisely why we need a comprehensive economic impact statement which, for each new regulation, arrays all of the benefits and other advantages and then all of the costs and other disadvantages, and permits the Congress and the public to weigh the two in the balance. That would be far more effective than a multiplicity of specialized impact statements.

At first blush, one seemingly attractive way of dealing with the special problems of small business is merely to exempt them from the force of many of the regulations which the government promulgates. This approach is mentioned in Section 4 of H.R. 10632. Although this may seem to be a straightforward way of dealing with the problems of small business, I am concerned that it may do so at the expense of other important national objectives. We need to be mindful that in many industries small business firms account for a great portion of all of the sales or employment. For example, 80 percent of the employment in the commercial printing industry occurs in shops with 20 or fewer employees. About 96 percent of the more than 16,000 logging camps have 20 or fewer workers. Eighty-five percent of the insulation workers using asbestos are employed by contractors with a labor force of ten or less.

Comprehensive Impact Statement

The most desirable approach to dealing with the effect of government regulation on small business is to require each regulatory agency to examine the costs imposed on, and benefits achieved by, small business in the context of a comprehensive examination of all of the important impacts, including inflation, employment, productivity, capital formation, and innovation. Clearly, government regulation generates disproportionately large costs for smaller enterprises. It is important, however, that the evaluation of those impacts on small business not be performed in isolation, but as part of a complete examination of the consequences of government regulation on the public.