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An Address to the
National Automobile Dealers Foundation
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Special

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by Murray Weidenbaum

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I want to let you in on one of the best kept secrets in Washington, a town usually thought of as a sieve: federal regulation of passenger automobiles is by far the most extensive case of government influence on a consumer product. There is no close second. Moreover, that regulation is extremely burdensome and the outlook is for more rather than less.

Specific regulations cover almost every aspect of the vehicle, including design, production, and operation. Government is directly involved in setting standards for such basic items as engines, bumpers, headrests, seat belts, door latches, brakes, fuel systems, and windshields, as well as the type of fuel that can be used.

The Shortcomings of Existing Automobile Regulation

Yet among this vast array of government paperwork and directives there is no coordination of the various regulatory agencies administering them. The regulations, and the regulators, often work at cross-purposes.

For example, the law to control emissions reduces fuel efficiency by an estimated 7.5 percent. The government's requirements concerning side-door guard beams, energy-absorbing steering columns, and other safety features have added about 200 pounds to the weight of an automobile. These government actions lower fuel economy — and generate more pollution in the process.

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In turn, fuel-economy standards have been frequently raised. These rules have forced the manufacture of smaller, lighter cars that are inherently less safe than the heavier cars that would otherwise be produced. When two cars of different size collide, the safety advantage lies with the occupants of the heavier vehicle. Also, in single vehicle accidents (such as hitting a tree), the occupants of heavier cars are likely to suffer fewer injuries.

As a result, the chance of being involved in a fatal accident is about twice as great in a subcompact as it is in a larger automobile. The fuel-efficiency standards applied to cars made in the United States after 1990 are estimated to result in more than 2,200 additional traffic deaths every year. That is the conclusion of research even after taking into account the tendency of occupants of smaller cars to use their safety belts more frequently.

By the way, this is another sad example of an important point usually overlooked in emotional debates on regulation: well-meaning regulation does not always save lives. The critics of regulation may be just as concerned for people and their welfare as the proponents of government intervention.

Overall, safety and emissions requirements add more than $2,500 to the price of the average new automobile. That's a stiff hidden tax on the American motorist.

The indirect effects are even greater. The higher cost of new automobiles resulting from the hidden regulatory tax means that many people are driving their old cars longer because they cannot afford to replace them. As a result, the nation is not getting the intended benefits of the host of safety-environmental-energy regulations that have been promulgated. Also, because of the higher costs imposed on automobiles, drivers are encouraged to use less expensive motorcycles and bicycles, which are often cheaper but less safe than conventional motor cars.

Automobile regulation in the United States is also characterized by great reluctance to interfere directly with individual behavior. From the viewpoint of the bureaucracy, it is easier for government to regulate business — but not always more effective. For example, by far the major cause of automobile accidents is driver error, often on the part of drunken motorists. About three out of five fatal automobile crashes are caused by driver error. Another one-fifth are caused by aggressive driving.

Also, two out of five pedestrians killed by automobiles could be considered legally intoxicated. Nevertheless, regulation concentrates on the companies that make and distribute the products that people use, rather than on the way people use them. This is evident when we compare the relative softness in enforcing statutes on driving while intoxicated with the stringent requirements for safety-related components imposed on manufacturers of motor vehicles.

Perhaps the saddest example of the unanticipated effects of regulation is the case of airbags. Because many automobile passengers do not use their seat belts, the federal government, after considerable debate, requires the installation of more expensive passive-restraint systems. These systems can be activated without any action by the driver or passengers, notably air bags that inflate in a frontal collision. Yet, airbags have generated serious adverse side effects not taken into account by the people writing the regulations.

Approximately 30 children and 20 adults were killed by airbags in the years 1991 to 1996. The problem arose because the National Highway Traffic Safety Administration (NHTSA) required the bags to have enough force to protect a physically mature adult *not* wearing a seat belt. The regulators ignored warnings about the different impacts on children and smaller adults, especially women. Public outrage is forcing a modification of this poorly-thought-through requirement. However, NHTSA still seems determined to focus primarily on the case of adult males *not* using their seat belts, relying on special modification for women and children. Nevertheless, children would be safer *without* airbags.

In these remarks, I have focused on those government regulations which are unique to the automobile. But, as you know, there are many other regulations which are imposed on all companies that manufacture or market goods and services in the United States. Thus, automobile manufacturers, as well as sales and service organizations, must also meet the costly mandates of the DOJ, DOL, EEOC, EPA, ERISA, FEC, FTC, IRS, NLRB, OSHA, and SEC.

Although some supporters of the status quo may wish the public to believe that regulation is a contest between "the forces of good" (meaning government) and "the forces of evil" (obviously, business), the reality is that the consumer is at the receiving end of all the repercussions — good *and* bad. Business is the middleman, which must collect higher prices from consumers to cover the cost of compliance.

In this time of attention to benefit-cost analysis of government regulation, I must report that analysts who have made such comparisons have come to an adverse conclusion about automobile regulation. The costs of many programs to regulate automobile safety, fuel economy, and emissions are greater than their benefits. It is time to suggest less costly alternatives to achieve desired public policy.

For example, seat belts could greatly reduce fatalities at a lower cost than airbags — and without their adverse side effects — if a combination of education and enforcement increased their usage substantially. Stronger enforcement of anti-drunk laws would be much more effective than the status quo in motor vehicle regulation. The replacement of smelly old "clunkers" would be encouraged by a special type of tax reform: reversing the traditional assessment method whereby owners of old vehicles pay lower personal property taxes than the purchasers of newer, more fuel-efficient cars.

The government's CAFE standards, mandating "corporate average fuel economy" in terms of minimum mileage per gallon in gasoline used, are also counterproductive. By raising the cost of new automobiles, the standards make it less likely that consumers will trade in their older, less fuel-efficient cars. On balance, the CAFE standards do not reduce auto emissions or even reduce fuel consumption. Eliminating CAFE standards would surely be helpful.

Some states are experimenting with "junker clunker" laws under which old and heavily polluting automobiles — which in effect are subsidized by the CAFE standards — are bought with government money and destroyed. In the private sector, Unocal crushed about 10,000 such cars in an effort to gain emissions credits under the Clean Air Act. To date, the effect of such innovations, we must acknowledge, has been very limited.

More Regulation In the Offing

The outlook is for much more, rather than less, burdensome regulation, especially in the environmental area. For example, northeastern states are threatening zero emissions requirements for motor vehicles, similar to California, in order to reduce smog levels. However, consumers are not likely to respond positively to the high-cost, low-performance electric cars that are likely to be available to meet those new environmental standards.

It is sad to have to acknowledge that we have reached the point where it is personally, and professionally, dangerous to criticize any proposal to "do more for the environment." Just raising a question about the practicality of an environmental proposal is guaranteed to result in the intrepid individual being castigated as caring more about dollars than ecology and having his or her viewpoint dismissed as defending "the polluters." I will save for another day the task of explaining why each of us is a "polluter" just by virtue of living on this planet.

In any event, the single most controversial and costly regulatory issue facing the United States today is how to deal with the pressures to "do something" about global warming. Despite all of the scientific uncertainty about the impact of human activity on the earth's temperature — serious scientists admit that we all know too little — the current public policy debate assumes that the simple answer is to substantially reduce emissions of carbon dioxide (CO_2).

This was the position taken at the United Nations' meeting in Kyoto, Japan, in December 1997. Worse yet, all of the responsibility for cutting back on the use of CO_2-emitting fossil fuels, such as gasoline, was placed on the United States and the other industrialized nations — even though nations such as China and India are far less fuel efficient than the United States. The President has not yet submitted the Kyoto treaty to the Senate. But that has not stopped the Clinton Administration from launching some of the expensive initiatives that would be required to meet the treaty's provisions.

Many public and private organizations have analyzed, in depth, the impacts of a substantial rollback in CO_2 emissions on the American economy. For example, a carbon tax just sufficient to stabilize emissions at 1990 levels by 2010 would slow down real wage growth, worsen the distribution of income, and make Americans feel as if they were living through the oil price shocks of the 1970s and early 1980s all over again. And the Kyoto requirements are more stringent than that.

The major energy-using sectors would be hit hardest. These include many important manufacturing industries — notably, petroleum refining, motor vehicles, chemicals, paper, cement, steel, and aluminum. Electric utilities — most of which use fossil fuel — would be very heavily affected and, because they serve virtually every part of American society, the results of a cutback in CO_2 emissions would be almost universal.

The pervasive ramifications of the global warming issue are just an example of the need to carefully analyze the impacts of regulation and other forms of government intervention in the economy *before* Congress enacts a new regulatory statute and *before* a regulatory agency promulgates a new ruling. Frankly, this is not a plea to exempt or go easy on the automobile industry. Such special treatment is not good public policy. Instead, we need to reform the basic process by which Congress and the federal agencies regulate *all* American businesses and consumers. That's a tall order, but we need to start.

Key Recommendations

The fundamental motivation for reform is that, at its heart, regulation is not a business issue; it is a consumer concern. The cost of compliance with government regulation is buried in the higher prices that customers pay.

But that disguise makes regulation especially attractive to government officials. The costs do not show up in the government's budget, and thus do not have to be paid for by direct taxation. Remember the old wisecrack, "The best tax is a hidden tax."

I covered the multitude of automobile regulation earlier. However, numerous other rules and directives cover American businesses and consumers. Some of the regulations are just silly. Take the law that Congress passed in 1992 prohibiting home builders from installing toilets that hold more than 1.6 gallons of water. The idea was to help conserve water. In practice, it often takes two or three flushes to do the job. You have to wonder why the government has to become involved in such nonsense!

If the problem was limited to just dealing with silly regulations, however, the private sector could live with the consequences. But the challenge is far more serious. High regulatory costs erode the competitiveness of American firms struggling in an increasingly global marketplace. So often our companies are forced to seek locations overseas with more benign regulatory systems. Consider the medical devices firms that find it makes sense to set up their new laboratories in the Netherlands. Holland is not a low-cost nation nor does it lack regulation of business. But it does have a more sensible and less adversarial approach to business-government relations.

What can be done to improve government regulation? There is no quick fix, but several basic reforms would be extremely helpful. For starters, each congressional committee writing a regulatory statute should carefully weigh the pros and cons before it acts. That means, in practice, comparing the benefits expected from the regulations that will be issued with the costs they will impose.

This sounds so basic that we must wonder why it has not been done. As I tell my students, a cynical explanation carries you a long way in understanding government policy. Many proponents of more government intervention are oblivious to the costs or don't want to know.

In order to carry out this desirable proposal, the members of Congress will need a new flow of information. Congress should set up a small, nonpartisan regulatory analysis office to generate reliable data, including the needed estimates of benefits and costs. This would be a modest but useful investment in shifting the debate from emotion to facts.

In order to make good use of such information, Congress should also eliminate provisions of existing laws that prevent regulatory agencies from even considering costs or comparing expected benefits with costs when designing and promulgating regulations.

The Clean Air Act is a prime example. The new ozone (smog) standard flunks even EPA's own benefit-cost analysis, producing \$100 million to \$2.8 billion in benefits at a cost of between \$1 billion and \$10 billion. The President's own Council of Economic Advisers pegs the benefits at between \$200 million and \$1 billion a year and the costs between $12 billion and $60 billion! But the Act does not allow the EPA to consider costs at the time it sets the standard, only *after* the decision has already been made based on providing an "adequate" margin of safety against any adverse health effect.

Sensible regulatory reform is not a partisan issue. Congress should incorporate into law the requirements for executive branch review of proposed regulations along the lines of the executive orders promulgated by both President Reagan and President Clinton. The real deficiency is not in the different wording of the orders but in the fact that none of them has the "teeth" that would be contained in a statute covering all regulatory activities in the executive branch of the federal government.

Finally, Congress should require, on an experimental basis, the development of a detailed accounting of the costs imposed by the regulatory agencies. This information could form the basis for a badly needed innovation: the introduction of a new government-wide regulatory budget that would put a lid on the compliance costs imposed on the private sector.

Of course, it is unrealistic to advocate wholesale elimination of agencies, especially in the environmental and safety areas of regulation. Rather, we need to improve the way these government units conduct the public's business. Raising the level of information given to governmental decision makers — and to the public — provides a middle ground between those who wish to expand regulation uncritically and those who want to eliminate it entirely.

To support these specific recommendations, I suggest four basic principles to guide future regulatory reform efforts. In effect, these principles put the onus on the proponents of regulation to prove the case for more government intervention.

#1. Regulation is only warranted when markets do not work as well as regulation.

#2. Before they take action, Congress and the regulatory agencies should carefully weigh the costs and benefits of proposed laws and regulations; the effectiveness of these measures should be evaluated using sound science.

#3. Whenever feasible, the power of market incentives should be used to pursue regulatory goals instead of command-and-control directives. For example, a fuel tax (though I do not advocate one) would be more effective than fuel economy standards for reducing energy consumption.

#4. Delegations of regulatory authority by Congress should contain specific limits to make sure that regulatory authority is not exercised capriciously. Overly complex regulations are particularly a problem for smaller businesses who are not wise to the ways of Washington.

When we examine the nature of the debate over a typical regulatory proposal, we find a standard pattern: the proponents focus on the seriousness of the problem and the good their approach will accomplish. The opponents are a mirror image — they accentuate the burdens to be imposed and the shortcomings of the proposal.

Usually both sides have a point and neither should be ignored. Good public policy making requires identifying and evaluating the full range of advantages and disadvantages of proposals for change. That can be done formally and comprehensively by using a professional methodology such as benefit-cost analysis or cost-effectiveness analysis. But, formally or informally, decision makers in the government should not just listen to one side of the debate, no matter how vocal the adherents. They should make a conscientious effort to weigh the pluses and minuses of a new regulatory law or rule before they proceed.

Government officials often overlook a fundamental fact in their rush to intervene in the private sector: individuals and private organizations have a tremendous ability to deal on their own with the shortcomings of a modern economy. Relying on private initiative moves us closer to the ideal of a free society while simultaneously providing a powerful incentive to improve economic performance. Regulatory and other compulsory powers of government should be a last, and not a first, resort.