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THE ROLE OF FEDERAL REGULATION AND SMALL BUSINESS

Day in and day out, I hear complaints about government regulation. Specific problems and general dissatisfaction with the role of the government in regulating economic activity bring in a great deal of mail and telephone calls.

We no longer live in a world of totally free enterprise. I doubt that many of us would like to return to it either. If you think about it, totally free enterprise led to international cartels in the 17th Century, when our country was being formed, and great business monopolies in the 1880's. Congress saw the danger in this and passed what today we call our antitrust laws. The free market had to be preserved by setting down some rules for the marketplace. Inevitably some freedom was lost.

There are some problems with regulation but our society is not based on an absence of regulation but rather we are guided by the principle that the people shall rule themselves. This is what distinguished us from the dictatorships in other parts of the world. We are all justly concerned when the people appear to lose control over the regulation of our society.

As small businessmen, you are at a particular disadvantage when it comes to federal regulation. What may mean only an additional employee or another lawyer for a big business, may mean the end of business for you.

The White House Conference on Small Business estimated that of the over \$100 billion in costs associated with federal regulation-- paperwork, compliance with OSHA, EPA and other rules, and so on-- small businessmen bore some 60 percent of the burden or \$60 billion in 1978.

Since the first independent regulatory agency was created in 1887-- the Interstate Commerce Commission-- the federal government's number of agencies has grown to 90, and these agencies issue some 7,000 rules annually.

Often the problem with regulation is not only the regulations themselves, but also the delays in securing licenses, overzealous and incompetent regulatory personnel, duplication and conflicts in regulations from several agencies, and the lack of accountability of agencies for the regulations they promulgate.

But in the midst of all the criticism, criticism to which I have added my voice and vote, let me state that progress has been made. I will outline this progress in a moment.

My view has been that regulation is sometimes unnecessary, sometimes counterproductive. Federal agencies often go beyond the intent of the Congress because of vague laws or the feeling that actions can be taken without any discipline from the Congress. In attacking this wasteful regulation, we must not lose sight, however, that some progress has been made and that not all regulation is undesirable. I will continue to work for regulatory reform on a case-by-case basis, judging each agency's performance and each proposed new law with an eye toward the need and the benefits.

Regulation has had a diversity of impacts on our economy and on our society.

Since the 1930's, federal agencies, departments, and bureaus have grown in number and power. Increasingly, Congress has limited its role to setting broad national policy goals. The key role of deciding how and when to implement these goals has been controlled by an unelected bureaucracy.

The result has been a feeling of alienation on the part of American business and gradually on the part of our people.

The apparent transfer of authority represents a threat to our Constitutional system of checks and balances by giving power to a group beyond the democratic control of the people. Congress itself is being frustrated by the delays, modifications and other actions taken by these agencies.

Small business has been adversely affected, as I noted earlier, because of its poor position to expend funds on items not directly related to the production of profits, specifically fighting or complying with regulations.

Small business is by and large unfamiliar with the rule-making process of the agencies and lacks the expertise to analyze the potential impacts of the various proposals.

Recently a story was told of a fish farmer in California who headed a \$5 million company. Altogether 42 federal, state, and local government agencies regulated the fish farmer's operation.

One estimate is that the average compliance cost for a small business with government reporting rules alone is some \$1,270.

Beyond the cost of regulation is the effect it has on innovation and creativity. When businessmen spend more time worrying about compliance with laws, avoiding suits by federal agencies, filing papers on time and keeping extensive records, than they do on coming up with new and innovative ways of doing business, then our entire economy is threatened. More than half of all the innovation in manufacturing comes from small businesses; if this source of vitality is dried up, our inventive genius will be threatened.

The dark picture I have just painted for you is marked by some bright spots.

First, the Congress is aware of the need for regulatory reform. At present, some 150 bills have been introduced to provide a variety of regulatory reform or relief. Not all relate to small business, but most would benefit the small operator.

I am a sponsor of several of these bills. I will mention a few to give you an idea of the type of changes we are attempting to bring about. I am cosponsoring a bill which would require agencies to prepare an economic analysis of the costs of compliance with major regulations and would require them to choose the least costly alternative. I am cosponsoring a bill to sunset regulatory agencies and programs-- that is, to set a definite life on these programs, at the end of which time they would have to come to the Congress and justify any continuation of the agency or program. I have supported legislation to create a legislative veto and I have worked in my various Committees to conduct oversight of the operation of the federal programs and agencies. Oversight is not a glamorous activity, but I think it is essential if regulatory agencies are to be made aware of the source of their powers.

We have made progress not only in proposing new changes but in passing laws to that effect. The Congress has acted to limit

the powers of the Federal Trade Commission. We acted to exempt certain employers from the operation of the Occupational Safety and Health Act, and we have moved to deregulate entire industries such as the airlines and trucking.

This Administration has taken affirmative steps. In March of 1978, President Carter issued Executive Order 12044 that required agency heads to be directly responsible for rules proposed within their agency, required rules to be printed in plain English, required analysis of the costs of major regulations and the elimination of outdated rules, and increased the opportunities for public participation.

The Regulatory Analysis Review Group was created within the government to conduct studies of regulations, and it has acted along with the Council on Wage and Price Stability to veto certain rules proposed by agencies before they could get off the ground.

The President has appointed the Administrator of the Small Business Administration to the Regulatory Analysis Review Group and this bodes well for small businessmen.

The President has proposed a comprehensive regulatory reform bill to give greater effect to the Executive Order. It remains in the Government Operations Committee at this time.

Some progress has been made by the agencies as well. OSHA has eliminated 1,000 regulations, and HEW has eliminated some

2,500 pages of rules. A 15 percent reduction in the man hours spent filling out forms by business has been achieved. One side note, the President has acted to reduce the number of full time federal employees by some 75,000.

In short, even Nation's Business magazine reported in February of this year that the "pendulum appears to be swinging back." I would add that it appears to be swinging back to a better equilibrium between excessive regulation and no regulation at all.

As Vernon Weaver, head of the Small Business Administration, pointed out, "Reform of federal regulation is part of the never-ending task of adapting our complex government machinery to the changing needs of the nation. This is not a task susceptible to panaceas or administrative short cuts." What Mr. Weaver has stated is that an intelligent view of the regulatory reform requires an understanding that hard work is required, not quick fixes which do more harm than good.

There are other proposals before the Congress which are of note, such as requiring a two-tier approach to regulation. Under this approach, regulations would be different for large and small businesses. This may or may not come into existence in the near future.

On the whole, the brightest news that I can bring you is the heightened awareness of the Congress of its fundamental responsibility

to legislate with caution and care, to oversee the enforcement of its laws and to act to remove the unnecessary and wasteful.

Let me be candid-- elimination of all regulation is not the answer.

I do not think any of us want to live in a world where our food does not meet certain standards, where our money is not insured when it is in the bank, where our doctors are not licensed and where the air is so polluted that we cannot breathe. I do not think any of us favor the elimination of traffic lights or of the laws which govern the conduct of our businesses. Yet all of these things represent regulation.

The key is that regulation should occur because of a desire of the people for protection, for certainty or for improvement in their lives; not because of a desire of an unelected individual to do what he wants.

The difficult task of determining what regulations are meritorious and desirable and which comport with our picture of our free society lies ahead of us.

Quite often regulation is brought about by the very people who later oppose it. Just about every bank in this country wants guarantees these days before making a loan to a small businessman.



Yet everyone of them complains about too much government regulation and interference in their business. As you can see, the "have your cake and eat it too" mentality puts responsible legislators in a difficult position.

Let me close by noting that as convenience store operators, you are in a good position to act. You can as a collective urge your State and national officials to pass only those laws which are necessary and to insure that the laws are carried out as the people's elected representatives set them down. Your participation in the process can only be positive if you approach participation with a realization of the difficult nature of the problem.

Frankly, I am optimistic and I believe that in the months to come you will see substantive changes in how regulations affect the course of American business. I believe that a more positive relationship between business and the government can be achieved and your support for such an effort will be a key element in achieving a better government for us all.