

## Obesity, short-selling, and whistleblowers in Regulation Public Servants or CON Artists?

Should companies have to prove to a government agency that what they offer fulfills a “public need”? In the latest issue of *Regulation*, Timothy Sandefur looks at “certificate of necessity” (CON) laws, which force businesses to do just that. Many industries—from taxicab services to moving companies to hospitals—are finding themselves subject to a host of bizarre rules that require them to get permission before opening their doors. Sandefur, a principal attorney at the Pacific Legal Foundation and author of *The Right to Earn a Living*, explores the history of these laws and reveals their frustratingly anti-competitive nature. “It is hard to imagine how any prospective business owner could ever prove that the public ‘needs’ a new product or service,” he writes.

Michael L. Marlow and Alden F. Shiers, economists at California Polytechnic State University, ask whether government policies aimed at reducing obesity are sound. Using a simple supply-and-demand model, they find that the optimal weight varies across different individuals over time. As such, it is unlikely that public interventions—such as restrictions on soda sales, bans on HappyMeal toys, and mandates on restaurant locations—can successfully address the rise in obesity rates—given that each of these interventions is, of course, “one size fits all.”

Henry I. Miller and Gregory Conko, coauthors of *The Frankenfood Myth*, investigate activism within the U.S. Department of Agriculture and discover that the regulatory process is often based on politics more than science. By the same token, law professor Jonathan H. Adler considers the REINS Act (Regulations from the Executive in Need of Scrutiny) and its attempt to reassert legislative control over regulatory policy.

Other contributors include Chinmay Jain, Pankaj K. Jain, and Thomas H. McNish on short-selling restrictions in “Everything Old Is New Again,” and Jonathan L. Awner and Denise Dickins on the use of federal bounty programs in “Will There Be Whistleblowers?”

The Summer 2011 issue features book reviews on the advantages of big-city living, the problems with philanthropy, and whether or not the U.S. economy is stagnating. It wraps up with editor Peter Van Doren’s survey of recent academic papers on the collapse of shadow banking, the enduring financial losses of airlines, and the economics of mergers and acquisitions—as well as a final philosophy lesson from columnist A. Barton Hinkle. ■

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## Cato News Notes

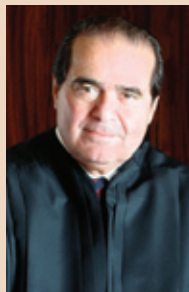
### CATO'S ENDURING LEGACY



Joseph Addison

In a recent article in the *Wall Street Journal*, author John J. Miller reflected on the legacy of Cato the Younger, a Roman statesman known for his principled stand against the tyrannical rule of Julius Caesar. Using Joseph Addison’s 1713 tragedy, *Cato*, as a backdrop, the article pointed out that this play was perhaps the single most important literary inspiration among the Founding Fathers. “Anyone who doubts the enduring influence of Addison’s play,” the article concluded, “need look no further than a big building on Massachusetts Avenue in Washington, the home of America’s premier libertarian think tank: The Cato Institute.”

### THE DIVINE KOMEDY



The Supreme Court scored an epic victory this summer in *Brown v. Entertainment Merchants Association* by striking down California’s prohibition on selling violent videogames to minors. In their decision, the judges cited Cato’s amicus brief, which argued that every generation of new media—including music, movies, and even novels—has bred fear over the “seduction of the innocent” (to borrow a phrase from the 1950’s panic surrounding comic books). In his majority opinion, Justice Antonin Scalia stressed that reading Dante is “unquestionably” more enlightening than playing *Mortal Kombat*. “But these cultural and intellectual differences are not constitutional ones,” he wrote.

### A ROSE BY ANY OTHER NAME...

*El Universo*, Ecuador’s largest newspaper, recently ran a nearly blank front page featuring a single quotation from Ayn Rand’s *Atlas Shrugged*. It read, in part: “When you see corruption being rewarded and honesty becoming self-sacrifice—you may know that your society is doomed.” The quote—which came directly from a prior column written in the paper by [elcato.org](http://elcato.org) editor Gabriela Calderón—was the newspaper’s response to a court decision that sentenced several of its employees to three years in prison, on top of a \$40 million settlement. Their crime? They published an op-ed earlier this year that referred to Ecuadorian president Rafael Correa as a “dictator.”