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For the Record

Analyzing Ayres

I COMMEND IAN AYRES FOR ASPIRing to expand the current categories of the national debate on campaign finance ("Should Campaign Donors Be Identified?" *Regulation*, Vol. 24, No. 2, Summer 2001). Unlike many commentators, he takes seriously the values at stake in the campaign finance debate, especially the value of freedom. I have profited much from thinking with and against his mandatory anonymity proposal. In the end, however, his proposal has two important flaws.

Ayres analogizes campaign finance to the act of voting, implying that we need "secret" contributions just as we have a "secret" ballot. Indeed, much of the scholarly literature in this field debates whether campaign finance is like voting or like freedom of speech. The scholarly debates will continue, but the U.S. Supreme Court established in *Buckley v. Valeo* that contributing to a campaign is a matter of freedom of speech, not a variant of voting rights. Thus, the constitutional foundation of Ayres's argument is built on sand. He is, in effect, arguing that a "voting view" of campaign finance should trump the "speech" view even though the Supreme Court has ruled otherwise.

Ayres divides the act of giving a political contribution into two elements: the act of giving and the knowledge by donor and recipient that a contribution has been given. Most regulatory proposals set limits on giving. Ayres instead proposes that we regulate—indeed suppress—public knowledge of the act of giving. He believes libertarians should find the proposal attractive; after all, the right to contribute in itself would not be regulated.

However, so long as contributions are a fundamental right, the question remains why Congress can suppress public knowledge of campaign contributions. Ayres's answer must be the traditional one: Such regulation prevents "corruption or the appearance of corruption." Indeed, he argues that mandatory anonymity would serve the cause of preventing corruption better than disclosure.

Yet his proposal begs the central question in campaign finance regulation: Do contributions corrupt politics and policymaking? I think the evidence from political science on the whole raises doubts about the corruption rationale. Others disagree. Ayres's proposal does not provide new arguments, new evidence, or a new perspective to address that question. He does get to the corruption question by a different route, but in the end, we are back where we started: Do contributions corrupt politics and policymaking and, even if they do, should we view the issue as "speech" or as "voting?"

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AYRES' SUGGESTION FOR CAMPAIGN finance reforms is interesting, but I fear that it would make a bad situation worse. By keeping donors' identities a secret, his plan would remove an important incentive for potential donors to become involved in the election process. That, in turn, would give an even larger advantage to incumbents than what they already have.

Today, private gifts probably have much less influence on congressional election outcomes than the "gifts" of government that incumbent lawmakers award themselves. The oft-cited franking privilege is one such gift, but only a small one; the large staff and office space in Washington and in each member's home district are more important. Many of those employees—whom each lawmaker can hire or fire freely—devote most of their time to vote-generating constituency business,

positive publicity, and assisting the Congress member in direct campaigning. The local offices also work to sample local opinion and keep the Congress member informed of politically important developments.

There are no published numbers on the actual cost – or, for that matter, the benefits – of a congressional staff. But I have received informal estimates from lobbying industry insiders who estimate the value at some $2 million per year per office. Surely, that figure eclipses what the typical member of Congress receives in individual campaign contributions, although major interest groups pushing specific issues may well spend more.

The present situation in which incumbent lawmakers vote themselves government funds that are used to keep their job is clearly undesirable. What is even more undesirable and quite surprising is that most people who want to reform the system simply ignore the protection activities of incumbents.

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Misrepresenting ACCACA

IN THEIR ARTICLE "EPA PATS ITSELF on the Back" (*Regulation*, Vol. 23, No. 3, Fall, 2001), Randall Lutter and Richard Belzer take a critical view of EPA's retrospective and prospective analyses of the benefits and costs of the Clean Air Act. They also characterize as "ineffective" the reviews of the reports carried out by the Advisory Council on Clean Air Compliance Analysis (ACCACA), an arm of the agency's Science Advisory Board (SAB). We, the undersigned, are current or past members of ACCACA and participated in all or most of the reviews of the two reports. Based on that experience, we want to respond to some of Lutter and Belzer's assertions.

First, we think that the authors misunderstood the role and authority of ACCACA. The two reports were mandated by Section 812 of the Clean Air Act Amendments of 1990. ACCACA was established and given the duty of reviewing the data, methodology used, and results of the reports, as well as making "recommendations to the administrator concerning the validity and utility of such findings." Lutter and Belzer say that "Congress apparently expected [ACCACA] to perform a quality control function." They also state, "Each [ACCACA] member lacked authority to reject those portions of the report that fell below relevant professional standards. [ACCACA] also lacked authority to determine that the report failed to meet minimum professional standards." That is not how we read the act. We could not tell the individuals carrying out the analysis what to do or not do, nor could we say that the reports could not be issued until certain changes were made. But we could tell the administrator that the results of the analyses were not valid or had no utility. We believe that the Air Office staff also understood this and that, concerning several key analytical issues, both reports are considerably better than they would have been without the implicit threat of withholding endorsement by ACCACA.

Lutter and Belzer say, "We know of no professional economist independent of EPA who takes this estimate [of benefits in the retrospective study] seriously." But ACCACA members (most of them Ph.D. economists) are not employees of the agency; rather they are independent members of a federal advisory committee. And in a letter to the agency dated Nov. 19, 2000, ACCACA said of the prospective analysis, "While we do not endorse all details of the study, we believe that the study's conclusions are generally consistent with the weight of the available evidence."

Lutter and Belzer misrepresent the view of ACCACA when they say, "Without disaggregation, future EPA analyses will be no more useful than the 1999 report, which the SAB found of 'little practical relevance'." Our phrase referred only to the presentation of a single overall benefit-cost ratio, not to the report as a whole.

ACCACA went on to provide seven pages of critical comments on the prospective analysis and suggestions for improving future analyses. The comments covered most of the major issues raised by Lutter and Belzer, and others as well. (We did not discuss the particulate matter-mortality relationship, since that was the major focus of a letter from the health and ecological effects subcommittee.)

Concerning "ignored indirect costs," we said in our Nov. 19 letter, "There is now a substantial body of published theoretical and empirical research that indicates that, under typical conditions, tax-interactions can cause social costs to exceed direct costs by at least 25 percent, and in some cases by 100 percent or more.... The study gives readers the erroneous impression that the EPA's use of direct costs is likely to overstate social costs." In fact, it was ACCACA that brought this whole issue to the attention of the agency.

On "overvaluing reductions in risk," we said, "We question the appropriateness of the $4.8 million VSL [value of statistical life] even as a measure of prime-aged individuals' willingness to pay (WTP) for risk reductions, and we question the application of a WTP estimate for prime-aged individuals to a population of older individuals and people who are in ill health."

Concerning the prediction of health effects of air pollutants, Lutter and Belzer say, "EPA's reports to Congress do not acknowledge how thresholds in the relationship between air pollution and health would lower risk estimates and estimated benefits." But in the prospective report, such an analysis was carried out for PM2.5 and mortality, at the suggestion of ACCACA. The results are not much affected unless the threshold is at or above about 15 $\mu g/m^3$ annual average.

We also urged the agency in future prospective studies to:

- Quantify uncertainties in estimates of costs (as they had done with benefits);

- Disaggregate benefits and costs by title or provision (as Lutter and Belzer point out), saying in an Oct. 29, 1999 letter that we "will not find the analyses in

future prospective studies valid and reliable... without significant disaggregation;"

- Increase the set of ecosystem benefits that are valued in monetary terms; and

- Develop the capability to estimate exposures to and effects of air toxics.

Finally, as for the plausibility of the size of the estimated benefits in the retrospective study ($22 trillion in future value), Lutter and Belzer point out that this is "roughly the aggregate net worth of all U.S. households in 1990, implying that the estimated benefits are implausibly high." But the comparison is misleading in that it is comparing the discounted future value of a flow with a net asset value. A more relevant comparison is between the estimated stream of benefits and the stream of personal income of all U.S. households, both expressed on a comparable basis, i.e., as present or future values as of the same date and over the same time horizon. As of 1970 (the starting point of the retrospective analysis), the present value of the stream of future benefits from 1971 to 1990 was about $2.5 trillion in 1970 dollars. That was about 20 percent of the present value of the future stream of personal income in the United States over the same time period (both discounted at five percent).

Many might feel that this is still high. Would people really be willing to give up 20 percent of their income for cleaner air? But it is not wildly implausible when one considers the two scenarios involved. The agency's models predicted that, in the absence of the Clean Air Act, air emissions and pollutant concentrations would rise substantially between 1970 and 1990. The agency's benefit estimate includes not only the willingness to pay for improvements in air quality from 1970 levels but also the willingness to pay to avoid the decrements in air quality that were projected to occur in the absence of the act.

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