Letters

We welcome letters from readers, particularly commentaries that reflect upon or take issue with material we have published. The writer's name, affiliation, address, and telephone number should be included. Because of space limitations, letters are subject to abridgment.

Milk Markets

TO THE EDITOR:

Your editorial on the deregulation of the New York City milk market did a fine job of presenting the series of events and the plight of consumers in this particular case. I supported the granting of a license allowing a New Jersey dairy to serve the whole of New York City, and last spring I testified in support of removing barriers to entry into the state market by new dealers. The granting of a license allowing a new competitor to serve all five boroughs of New York City last January has produced a price war that has left milk prices 13 to 17 percent cheaper depending on the quantity purchased. This case was indeed a clear-cut example of the need for deregulation of a unique market or industry.

You should be aware that the state legislature just passed a law that eliminates the two provisions which did the most to impede the competition in the New York State market. First, the clause allowing the licensing of new competitors only on a county-by-county basis has been eliminated, opening up the entire state to the benefits of competitive pricing. Second, the clause allowing for the denial of a license application to prevent "destructive competition" has been repealed. We hope increased competition will result in lower prices over the long term, and we will continue to monitor the market.

In this particular case it was obvious that deregulation was necessary; however, I want to make clear that there are many instances in which regulation should be pursued. I would like to offer a few short examples in which, to turn your argument on its head, it is precisely deregulation or the absence of adequate regulation that is so pernicious.

Many consumers have been hit hard by the deregulation of the airlines. True, there are cheaper fares available now, although as airlines consolidate, bargains may be increasingly hard to find. Travelers have been severely inconvenienced by flight delays, overbooking, and cancellations. In this case, deregulation certainly did not result in better service; in fact, it has led to no service at all in areas too "unprofitable" to be served.

Another domain in which consumers would benefit from clear, unambiguous regulation is in the multi-faceted area of food safety. Just as consumers are discovering that contaminated meat and poultry are making them sick, the U.S. Department of Agriculture is streamlining inspections of those products and allowing many of its inspection responsibilities to be carried out by the industry. Americans are also realizing that many food additives and pesticides they have taken for granted are carcinogenic, yet the government is applying a *de minimis* interpretation of the Delaney Clause and dragging its feet on retesting or banning (where appropriate) the thousands of pesticides now in use. Likewise, the Food and Drug Administration is forestalling guidelines for comprehensive labeling of the health claims of food products.

Customers are the big losers when their own government chooses time and time again the path of non-interference in the marketplace over protecting lives, guaranteeing accountability, and providing redress. Whether by regulation or by other means, consumer protections must be provided by the federal government. The resources necessary for adequate regulation are simply unavailable at the state and local levels. I believe that in many instances, consistent federal regulation provides more efficient and equitable protection of both industry and consumers than does a crazy-quilt of state and local law.

The industries mentioned in this letter, and service providers such as banks and insurance companies, deliver not luxuries but essentials of contemporary life. The benefits of deregulation of these and other industries must be carefully scrutinized. The invisible hand of the marketplace is simply not enough if consumers' rights are to be paid more than lip service. Regulation must be applied in a discriminating manner, with attention to the characteristics of the industry in question and, most important, to the needs of the consumer.

I believe that in the case of the New York milk industry, the right thing has been done. However, it simply cannot serve as a paradigm for the relationship of government and industry.

Edward I. Koch
Mayor
New York City

TO THE EDITOR:

Few *Regulation* readers would disagree that government officials have the responsibility to further business competition beneficial to the public interest. Certainly this can be achieved by overturning government policies that restrict entry into "protected" markets. As reported in "The Milking of New York City" (*Regulation*, 1987 Number 1), for example, my company successfully challenged New York State's protectionist dealer licensing system, which had inflated milk prices for over 50 years. Consumers have since realized $100 million in annualized savings.

Renewed vigilance in antitrust enforcement can also play a role in furthering beneficial competition. Monopoly pricing is contrary to the public interest whether it results from protectionist legislation or from excessive market concentration due to megamergers and acquisitions. Antitrust enforcement may have become unfashionable. Still, it remains the most dependable check on the predatory actions

that precede monopoly pricing. Without renewed vigilance in enforcing our antitrust laws we have merely replaced one form of government-sponsored monopoly with another.

Enormous resources are required to offset the ill effects of an established monopoly. It took seven years of intensive effort to end New York State's 50-year sponsorship of a dairy monopoly. Hundreds of millions of dollars in consumer overcharges could have been avoided if government officials had intervened proactively. Prevention of new monopolies, *before* they become entrenched, is clearly the policy of choice.

Marc Goldman
President
Farmland Dairies
Wallington, NJ

Pink Slips

TO THE EDITOR:

I read with interest the article "Pink Slips and Politics" that appeared in *Regulation* (1987 Number 1). The article presents persuasive reasons for Congress to reject mandatory consultation and mandatory advance notice requirements, as it did in 1985. The Administration strongly opposes any *mandatory* requirements, be they for advance notice, disclosure of information, or consultation.

When the issue of mandatory prenotification of plant closings surfaced in the last Congress, I created a Task Force on Economic Adjustment and Worker Dislocation to conduct a comprehensive inquiry into the issues surrounding plant closings. Composed of representatives of business, labor, academia, and the public sector, the task force recognized that plant closings are likely to occur in a dynamic, changing, and healthy economy. They concluded that such changes should not be restricted or impeded, but that programs should be developed and voluntary actions encouraged that would assist readjustment and mitigate the economic and social costs to workers and communities involved in plant closings and mass layoffs. The spirit of these recommendations is embodied in the Administration's proposed $980 million Worker Readjustment Assistance Program (WRAP) that was submitted to Congress as part of S. 538, the "Trade, Employment and Productivity Act of 1987."

While the task force could not reach a consensus on the best method for ensuring advance notification, they did agree that the enormous diversity of circumstances leading up to plant closings or major layoffs does not allow for timely advance notice in all situations. I strongly support voluntary advance notice of plant closings or mass layoffs to workers and communities, whenever possible. Like many members of the task force, however, I firmly believe that any federal *requirements* of this kind

would seriously harm U.S. competitiveness and would destroy employment opportunities.

The proponents of these mandatory requirements have suggested that such requirements are an essential element of a successful worker adjustment program. The Administration believes that the effectiveness of such a readjustment program lies in retraining services, job search assistance, and continued economic growth. We believe that mandatory advance notice requirements would not enhance labor readjustment and that the disadvantages of the mandatory requirements would clearly outweigh any presumed advantages.

Unfortunately, the omnibus trade bill passed by the Senate includes mandatory plant closing/layoff notification requirements. There is no mandatory plant closing/layoff provision in the House-passed trade bill, and so the issue will be an item for the conferees on the trade bill to decide. The Administration will continue to oppose mandatory plant closing notice requirements.

William E. Brock
Secretary of Labor
Washington, DC

TO THE EDITOR:

Your article, "Pink Slips and Politics," somehow managed to omit the principal argument in favor of the notice provisions in H.R. 1122 and S. 538—that effective displaced worker-training and job-search programs are impossible without advance notice, and that employers do not give adequate notice voluntarily. Secretary Brock's task force, the Congressional Office of Technology Assessment, the National Academies of Science and Engineering, and virtually everyone else who has carefully examined the issue agree that advance notice is an essential component of a successful adjustment program for dislocated workers. Such programs take time to prepare, and the workers are much easier to reach and motivate before their jobs are eliminated.

There is no longer any dispute that workers receive shockingly little specific notice of layoff. Even general notice, which is much less useful, but which you espouse as a substitute, is rarely given early enough to be effective. The Bureau of Labor Statistics (BLS) analysis of its seven-state survey of advance notification practices (published as an appendix to the Brock task force report) found that, "About 2 out of 3 layoff events in the seven states occurred without an advance general notice to workers.

As Michael Podgursky will tell you, the data Podgursky and Swaim analyzed do not support a conclusion that adequate notice does not speed reemployment or improve subsequent earnings. "Notice" in the 1984 BLS analysis included as little as a single day or even the worker's "expectation" of layoff without formal warning. Most experts agree that at least two to four months warning must be given for maximum effectiveness; I believe the minimum should be 90 days.

Holen, Jehn, and Trost did not examine the effectiveness of adequate advance notice coupled with an adjustment program such as that

(Continues on page 61)

(Continued from page 3)
proposed by H.R. 1122 or the Brock task force. Their tiny, statistically insignificant study of 30 plants says nothing about the value of notice to workers who are given the opportunity to participate in a well-designed reemployment program. Moreover, the authors admit that their findings are clouded by uncertainties about the actual amount of notice workers received in each plant.

Your article failed to mention the studies by Folbre et al. and Addison and Portugal that found profound positive effects from advance notice alone, specifically, a 25 to 27 percent decrease in total unemployment when as little as 30 days notice was given. Finally, your article misreads the legislation. Layoffs do not come under the advance notice requirements "regardless of the expected duration." Any layoff shorter than six months is not covered. The Canadian notice laws generally cover layoffs longer than three months, yet business has not suffered. Nor has job creation; Canada has added new jobs at a faster rate than the U.S. during the last decade.

William D. Ford
U.S. Representative
15th District, Michigan

THE EDITORS respond:

Representative Ford is right to be skeptical of studies examining the effects of advance notice on worker adjustment; they are few in number and fraught with ambiguities and a paucity of data. The Addison and Portugal study he refers to, for example, is based on the same BLS data in which Podgursky and Swaim found no reduction in unemployment duration associated with advance notice. No study has yet convincingly demonstrated beneficial effects from advance notice, although, to be sure, none has disproved the existence of beneficial effects either.

International comparisons do not provide much more encouragement. Representative Ford is correct that new job creation in Canada, which mandates notice, exceeded that in the U.S. over the past decade. At the same time, however, Canada's unemployment rate rose to 9.6 percent from 8.1 percent, while U.S. unemployment fell to 7.0 percent from 7.1 percent. In the industrialized countries of Europe, where mandatory advance notice and other plant-closing restrictions are the norm, unemployment nearly doubled, and employment grew at less than one-tenth the U.S. rate.

If advance notice could be provided at no cost, debating the existence or magnitude of any benefits would not be important. In fact, however, mandatory advance notice will entail major costs: not only by reducing management flexibility, but also by diminishing wages, benefits, and job opportunities for workers. The pertinent question is not whether advance notice by itself—or even in combination with counseling and training—is beneficial for workers, but whether the benefits exceed the costs. In the view of the workers involved, evidently, advance notice is not worthwhile. The majority of union members have elected not to trade wages and fringe benefits for advance notice provisions in collective bargaining agreements. While the government can impose this tradeoff on workers by passing a law, a bad bargain is not a bargain at all.

As to the proper reading of the legislation, H.R. 1122 requires notice for layoffs of *definite* duration exceeding six months, and for all layoffs of indefinite duration.

Deregulating Railroads

TO THE EDITOR:

Documenting the success of deregulation initiatives is important and, fortunately, in the case of the Staggers Act, quite easy. The benefits—especially to shippers and consumers—are simply overwhelming. Christopher Barnekov is to be commended for successfully laying out those gains in plainspoken fashion. ("The Track Record," *Regulation*, 1987 Number 1.)

There is a danger, however, in continuing to focus debate on the success of deregulation and the foolishness of proposals to reregulate. In thus defending the status quo, we may forget that there is much more work to be done. While railroads now sell their services in largely deregulated markets, they are forced to buy services in a labor market that is seriously overregulated and inefficient. Federal policies needing reform include:

- the badly worn Railway Labor Act, which effectively removes from railroad management the power to conduct labor negotiations and removes from unions the incentive to confront long-term realities (such as the startling 43 percent drop in rail employment in just the past six years, as management desperately tries to adjust to an unproductive work force paid 45 percent more, on average, than U.S. manufacturing workers);

- the federally mandated injury-compensation system for rail workers which, by using litigation to determine the size of awards, has become extraordinarily expensive and unpredictable; and

- the federally administered, and seriously underfunded, railroad retirement system, in which the rising ratio of retired workers to active workers—now about 3 to 1—is further eroding management's ability to control the non-wage component of labor costs.

Financial markets are not waiting for Congress to turn its attention to these problems. Railroad holding company executives are beginning to speak openly about jettisoning their rail operations if returns on investment, labor costs and productivity, and regulatory uncertainty do not improve. Some holding companies are under assault by investors who seek to restructure the companies by "freeing" non-rail assets from the encumbered rail operations. Increasingly, rail assets are being sold minus their associated labor agreements, in an attempt to put the capital to productive use.

Resisting proposals to reregulate rail services is mandatory, but it also is critical to turn policy makers' attention to the overregulated rail labor market. Otherwise, the U.S. will be left with a smaller rail network than competitive conditions would support, and shippers, consumers, and overall economic efficiency will suffer.

James M. Voytko
Paine Webber, Inc.
New York, NY
(Continues on next page)

TO THE EDITOR:

The recent articles in *Regulation* (1987 Number 1) by Christopher C. Barnekov ("The Track Record") and Robert D. Willig and William J. Baumol ("Using Competition as a Guide") chronicle the improved performance of American railroads under the Staggers Act. The authors of both articles attribute this improved performance to a reduction in regulation and a concomitant increased reliance on competition. Barnekov notes, however, that future gains may be at risk due to current efforts to have Congress re-impose important aspects of regulation. His warning is apt; indeed some proposals for regulation masquerade as proposals for additional competition.

Improvements made under the Staggers Act will only be retained if policy makers understand how competition works and that its results are desirable because it produces an efficient supply of transportation services. A policy that increases the number of providers of transportation services is not necessarily desirable unless it advances this efficiency goal. Policy makers need to distinguish between actual efficiency-enhancing competition and various forms of pseudo-competition.

This distinction is important for evaluating proposals that provide for ICC authority to mandate joint rates, through rates, reciprocal switching arrangements, and other forms of imposed access to railroad facilities. These proposals address a perceived lack of effective competition by providing additional carriers access to locations that would otherwise be deprived of alternative service. Trackage rights imposed by the ICC as part of a merger are designed to address the same issue.

Whether or not this introduction of additional carriers produces a competitive-like result depends critically on the price charged for access. Access fees that are too high will not prevent the exercise of market power; those that are too low threaten to revisit all the problems Barnekov ascribes to rate regulation. Requiring access to railroad facilities in an attempt to increase competition changes the form, but not the substance, of regulation. In either form successful regulation would need to induce suppliers to behave as if competition had guided their actions—as Baumol and Willig describe in their discussion of the ICC's "constrained market pricing" methodology.

The Barnekov article provides compelling testimony to the difficulty of achieving efficient regulation and to the distortions caused by inefficient regulation. The ICC and Congress can best serve the interest of providing an efficient transportation system by vigorously opposing actions (such as some mergers) that reduce competition and by opposing pseudo-competitive proposals that, while purporting to increase competition, actually impose a new form of regulation.

Barry C. Harris
Senior Economist
Economists Incorporated
Washington, DC