FOR THE RECORD

The VSL Is Not Too High

In his Spring 2018 review of my book *Pricing Lives: Guideposts for a Safer Society* (Princeton University Press, 2018), Sam Batkins makes four principal points. First, my estimates of the value of a statistical life and those used by government agencies have increased over time and are too high. Second, the result is that "regulators are employing ever-higher figures for the Value of a Statistical Life (VSL) to justify more stringent regulations." Third, trial lawyers are using the VSL to push for greater damages. Fourth, these developments may impose a threat to further economic progress.

In my book I advocate a $10 million figure for the VSL. This number does not in fact represent any kind of quantum leap in the VSL. By way of history, I introduced the VSL into federal regulatory policymaking in 1982 when I was asked by the Reagan administration to resolve a dispute between the Occupational Safety and Health Administration and the Office of Management and Budget over the proposed hazard communication regulation. The $3 million VSL number that I employed then was based on my estimates of the extra pay that workers receive for incurring job-related fatality risks. My estimate was an order of magnitude greater than OSHA's "cost of death" mortality benefit measure, which was based on lost earnings and medical costs.

When converted to 2017 dollars, my 1982 $3 million VSL figure becomes $7.8 million. If we also take into account the increase in real per-capita income and apply an income elasticity for the VSL of 0.5 to 0.6, then extrapolating my 1982 number to current economic conditions produces an estimated current VSL in the $11–$12 million range. My $10 million VSL figure consequently is a bit below the level that would be obtained by taking my 1982 estimate forward.

What then are we to make of the substantial increases in the VSL that have been observed at regulatory agencies during this century? Price adjustments and increased societal income levels undoubtedly play a role but are not the whole story. An additional contributing factor is that before agencies used the VSL to value mortality risks, they relied on the present value of lost earnings as the measure of the mortality risk reduction benefit. Because many agencies anchored on their previous earnings loss estimates, they were slow to fully embrace the estimates of the VSL in the economics literature. As a result of this anchoring effect, the VSL estimates used in Department of Transportation regulatory analyses have crept upward from $1.4 million (in 2017 dollars) in 1983 to over $9 million since 2013. Over the past four decades, federal agencies have become increasingly attuned to economic evidence on the VSL, ultimately making their VSL estimates more in line with current VSL estimates from the economics literature.

The alarm that Batkins expresses regarding the VSL levels in the United States and its consequences for regulatory stringency is misplaced. The United States quite correctly has what he terms "one of the highest VSLs on the planet." Of course we do, and we should. The VSL for the United States should be higher than that in almost all other countries because our gross national income per capita is greater. Setting regulations that reflect the safety preferences of the U.S. citizenry is exactly what we want responsible regulators to do.

Outside of the regulatory arena, Batkins fears that higher VSLs will lead to "higher tort damages." The practice of using the VSL to set compensatory damages for the loss of enjoyment of life is known as hedonic damages. As I indicate in my book, almost all state courts now prohibit the use of the VSL for valuing the loss of enjoyment of life, so this is a non-issue. However, I do propose the use of the VSL to set the total level of damages in the rare instances in which punitive damages are warranted in wrongful death cases. That approach not only will create efficient incentives for safety but also will provide jurors with well-defined guidance for setting punitive damages awards. I have documented over 100 punitive damages awards in excess of $100 million, which I have termed "blockbuster" punitive damages awards. Many of these awards involve wrongful death cases in which the jury has concluded that punitive damages were warranted, but the jury has lacked meaningful guidance for picking the punitive damages number. Providing jurors with an economic structure for assessing punitive damages will foster efficient levels of safety and will have a restraining effect on these outlier awards.

The VSL sets the correct price for mortality risks. Because the VSL reflects the average societal tradeoffs between risk and money, its use to establish safety incentives or to set regulatory standards will enhance our welfare. Regulatory standards based on benefit–cost analyses using the VSL are not a threat to economic progress.

W. Kip Viscusi
University Distinguished Professor of Law, Economics, and Management
Vanderbilt University

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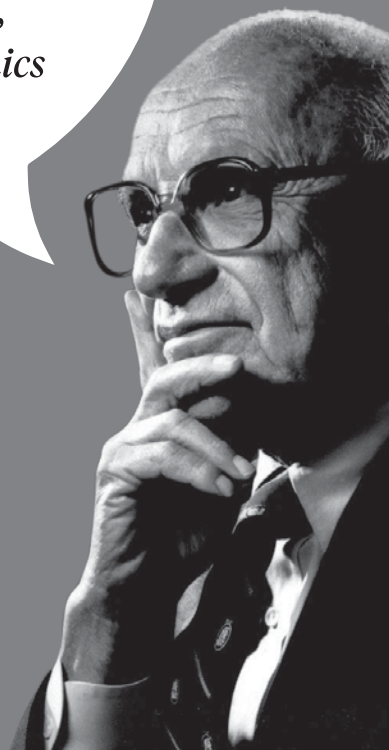

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