Readings of particular interest

GAO Looks at Insurance Regulation

Issues and Needed Improvements in State Regulation of the Insurance Business (Washington, D.C.: U.S. General Accounting Office, 1979), 275 pp.; Executive Summary, 51 pp.

The state governments, not the federal government, regulate the insurance business pursuant to the McCarran-Ferguson Act, enacted in 1944 to reaffirm the states' primary role after a Supreme Court decision had held that insurance was commerce and its interstate aspects were thus a federal responsibility.

Critics have since charged that the various state insurance departments do not adequately protect insurance consumers. The General Accounting Office's report, a response to growing congressional interest in this question, presents the results of a study based on a survey of all states and in-depth field work in a sample of seventeen states. While covering the effects of some regulatory activities on all lines of insurance, the study's primary focus was automobile insurance—particularly price regulation, risk classification, and insurance availability.

GAO found "serious shortcomings in state laws and regulatory activities with respect to protecting the interests of insurance consumers." In particular, according to the report, most state insurance departments lack systematic procedures for determining whether insurance consumers are being treated properly with respect to such matters as claims payments, rate-setting, and protection from unfair discrimination.

The report gave only limited attention to the traditional function of insurance regulation—the assurance of company solvency—but found that a number of recommendations on this subject made in an earlier study sponsored by the National Association of Insurance Commissioners still had not been implemented by the states. In the other area of trade practice regulation that was studied, GAO found a lack of systematic procedures for enabling insurance departments to readily spot companies that were frequently shortchanging consumers. Ironically, although the departments covered by the study handled individual complaints effectively, they did not follow up and utilize complaint information in examining insurance companies.

One long-standing controversy in insurance regulation has been the question whether price regulation is warranted. An earlier Department of Justice analysis [*Federal-State Regulation of the Pricing and Marketing of Insurance*, published by AEI, 1977] looked at a few states and concluded that price regulation of automobile insurance did not result in lower prices, that the industry was competitively structured, and that price regulation was thus not warranted. The GAO study, which employed the same approach (using loss ratios as a proxy for price) but covered all fifty states, also found no significant difference in the prices of insurance between the states that regulate price and those that do not. While acknowledging that there were some imperfections in the market for insurance, such as a lack of consumer information, the report concluded that direct price regulation was not the way to correct those imperfections. Rather, insurance regulators should redirect their efforts to provide consumers with more information on prices and on the quality of companies.

The report also discussed a relatively new regulatory controversy, the question whether the classification system generally employed to price automobile insurance for categories of individuals is the appropriate one. The use of age, sex, and marital status, the primary rating factors for almost all insurers, has been banned in a few states and is being questioned in others. While there is no doubt that young male drivers have proportionately more accidents than all other categories of drivers, all young males are not reckless, but all have to pay far higher insurance premiums. Critics claim that the current system is unfairly discriminatory because it uses convenient but arbitrary categories, and because the pricing differential is much too great given the imperfect information on which it is based. Insurers reply that their classification system is actuarially warranted and that reducing the price differences between young and old drivers unfairly subsidizes the former at the expense of the latter. The GAO report, while not taking a position on the merits of the controversy, found that state insurance departments have not analyzed the actuarial basis of price differences in classification plans. Looking at another determinant of insurance price, namely, the area of residence of the insured, GAO also found that most insurance departments have not determined whether loss experience justifies the boundaries insurers use.

In addition, GAO examined redlining and other issues of insurance availability, concluding that here too most insurance departments lacked sufficient information to determine if insurers were guilty of improper or illegal discriminatory practices.

While the report makes a number of suggestions for improving insurance regulation, it makes no recommendation either for or against federal regulation of insurance.

Bagfuls of Air?

"Billion Dollar Trial Balloon: The Facts behind the Airbag Mandate" by John Tomerlin, in *Road & Track*, May 1979.

Federal Motor Vehicle Safety Standard No. 208, issued two-and-a-half years ago, requires that all motor vehicles sold in the United States after September 1, 1983, be equipped with "passive restraint" airbag systems to protect passengers. The editors of *Road & Track* magazine, following an "extensive in-depth investigation" of crash protection technology, charge that "air cushion crash protectors are critically deficient in all major categories" and that the airbag mandate is a billion-dollar experiment adopted because of political pressure. As summarized for the magazine by free-lance writer John Tomerlin, the study recommends that the airbag mandate be replaced by a standard specifying a combination of passive (automatic) and active (manual) safety belts.

Air-cushioned passive restraint systems are three-stage systems built into the front bumpers of cars. At impact, sensors in the bumper trigger cannisters of sodium azide to begin a chemical reaction that produces nitrogen to fill the airbags and prevent major injuries to passengers—all in 0.04 seconds. The National Highway Traffic Safety Administration defended its airbag requirement by claiming that the devices would save 9,000 lives and prevent 50,000 injuries each year. *Road & Track*'s study finds these figures to be "sheer speculation" and airbags to be of relatively limited utility. Because the sensors for the airbags are located in the front bumper, the devices are triggered only by front-end collisions and provide no protection to passengers in vehicles hit from the rear or the side. Thus in 325 accidents involving airbag-equipped cars, the bags did not inflate 40 percent of the time.

This limited protection will come at substantial cost. Although former Secretary of Transportation Brock Adams estimated an airbags installation charge ranging from \$100 to \$200, General Motors' researchers and independent consultants have projected the charges for 1981 vehicles at \$325 and around \$300 respectively. All parties concur that replacing the airbags after they have been triggered will cost nearly three times the initial price.

The cost of airbags only begins with installation and replacement, however. Passenger compartments of vehicles will have to be redesigned, resulting in a substantially increased demand for steel and energy-absorbing materials. The added weight of the devices is expected to increase fuel costs by \$100 per year. World production of sodium azide, now around 100,000 pounds a year, will have to be increased to 2 million pounds a year for the airbag industry alone. Moreover, sodium azide, now classified as a Class B poison, is suspected of being both mutagenic and carcinogenic and, in combination with battery acid, is highly explosive as well. Although the airbags might lead to reduced personal injury insurance premiums, the increased cost of cars fitted with airbags will result in offsetting increases in collision insurance premiums. *Road & Track* estimated the overall cost of airbags at $2 billion for the first year and an additional $2 billion for each year of their use.

Is this expense justifiable? Throughout its research, *Road & Track* encountered "repeated instances" where statements issued by NHTSA appeared "incomplete, misleading, or at variance with known facts." The magazine's editors charge NHTSA with suppressing evidence against airbags and allege that the agency—"along with certain like-minded individuals and organizations"—has engaged in "what amounts to a conspiracy to deceive the American people about the supposed benefits of airbags."

As John Tomerlin puts it, the case against airbags can be summed up in two words: safety belts. Citing an Economic and Science Planning, Inc., study of NHTSA's data, he reports that seatbelts have proven 5.5 times more effective than airbags in preventing fatalities and 2.4 times more effective in preventing injuries. Volkswagen Rabbit's passive torso-belt system is singled out for high marks on the ground that no accident fatalities have been reported for vehicles fitted with that system. Noting that NHTSA's five-year plan on motor safety lists "Improvements to Seatbelts" twentieth and *last* among its priorities, *Road & Track*'s editors assert: "It deserved to be first."

Regulation and Innovation

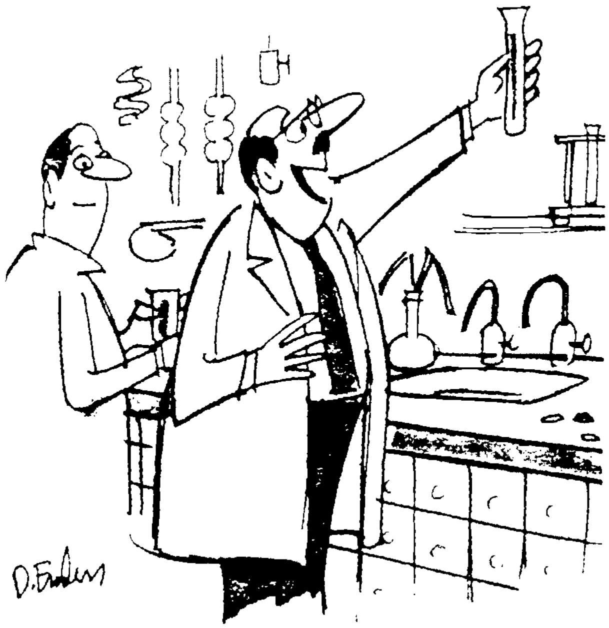
The Impact of Regulation on Industrial Innovation by Henry G. Grabowski and John M. Vernon, in cooperation with the Committee on Technology and International Economic and Trade Issues of the National Research Council and the National Academy of Engineering (Washington, D.C.: National Academy of Sciences, 1979), 64 pp.

This National Academy of Engineering monograph is the first of a series of commissioned studies on the effects of public policies on industrial innovation. Henry G. Grabowski and John M. Vernon, professors of economics at Duke University, were asked (1) to survey the literature regarding the effects of economic, environmental, and health-and-safety regulation on the innovation process and on the private and social returns from innovation and (2) to consider how regulatory activities might be modified so as to lessen any undesirable effects on innovation while preserving the benefits obtained.

In the area of health and safety, the authors find evidence that regulation has significantly retarded innovations in industries facing premarket regulatory approval for new products (pharmaceuticals, pesticides, medical devices, food additives, and certain chemicals). In particular, there are a number of academic studies suggesting that, in the past two decades, increasingly stringent pharmaceutical regulation has substantially increased the R&D costs and development times required for introducing new medicines in the United States. This in turn has contributed to increased delays to patients in obtaining new drugs, declining levels of annual new drug introductions, and an increased concentration of innovation among the larger firms in the industry. Similar tendencies also have been observed in the other industries subjected to premarket controls, although the experience in these cases is more recent and more limited in character and has been less systematically studied.

The authors also suggest that environmental and worker safety regulations have had significant derivative effects on industrial innovation. They cite a number of instances where these regulations have led to substantially increased business costs as well as uncertainties regarding investment in new facilities or technologies. Another effect has been to divert capital funds away from investment in R&D and innovation and toward capital improvements to meet regulatory requirements. At the same time, it is also clear that some environmental regulations have stimulated the development of important innovations to meet the objectives of pollution control.

By way of policy recommendations, Grabowski and Vernon emphasize that the health and safety agencies have traditionally had very narrow legislative mandates and, therefore, have not had strong incentives to give much attention to the effects of their actions on innovation, productivity, or overall consumer welfare. Consequently, the authors recommend that Congress broaden the mandates so as to require these agencies to consider such effects along with the benefits from regulation. They also recommend the use of outside professional experts for various purposes—for example,



"Eureka! The EPA willing."

medical specialists to review annually the progress of the Food and Drug Administration in clearing new medicines and to consider the experiences of new medicines being marketed abroad. Finally, the authors urge that economic incentives be substituted for direct regulatory controls in the environmental and other areas where this approach is feasible.

As for economic regulation in the electric utility, transportation, and telecommunication industries, the authors find that regulation's net effect on innovation is difficult to assess because of offsetting factors. In particular, rate of return regulation may reduce the incentives to innovation by restricting profits or add incentives by reducing risk; regulatory lag may delay innovative new products and services, but offer profit inducement for cost-reducing innovation; and regulated competition may retard innovation through entry restrictions, but substitute innovation for price reductions as a competitive weapon.

The case studies in the economic regulation area suggest, however, that regulation has retarded innovation most where new technologies have emerged that threaten the market shares or competitive positions of groups already under regulation. Thus, in the field of transportation, both the Big John hopper car and piggyback truck-rail system involved intermodal distributions of wealth, causing intermodal conflicts that produced long delays in the introduction of these innovations. Similarly, in the field of communications, the development of cable TV was significantly retarded by the Federal Communications Commission because it had the potential of adversely affecting existing broadcasting stations.

Because of the broad discretionary power that regulatory agencies have to limit new technologies that threaten the status quo, regulation should be invoked only where it is clearly needed—for example, in situations involving natural monopoly or economic efficiency. Grabowski and Vernon endorse deregulation in sectors such as transportation and cable TV, where the efficiency rationale for regulation is difficult to sustain and where, they predict, deregulation would have long-term favorable effects on innovation.

The Grabowski-Vernon study was developed in conjunction with a National Academy of Engineering committee workshop that provided the opportunity for contributions from business leaders, academic specialists, and government officials. In December 1979, the academy held a Colloquium on Industrial Innovation and Public Policy Options in Washington, D.C., at which panels of experts considered the recommendations in several recent studies and in the President's October message to Congress on industrial innovation initiatives. These proceedings will be available from the Office of the Foreign Secretary, National Academy of Engineering.

The Role of Markets

A Treatise on Markets: Spot, Futures, and Options by Joseph M. Burns (Washington, D.C.: American Enterprise Institute, 1979), 145 pp.

In this book, Joseph M. Burns of the Department of Justice's Antitrust Division analyzes factors underlying the development of markets and the effects of that development on the economy. Based on this analysis, he explores the economic rationale for the government regulation of markets.

After defining a market and discussing its nature, Burns points out that market development may refer either to establishing a new market or to enhancing the efficiency or expanding the size of an already existing one. The efficiency of a market "is a function of its liquidity, the orderliness of market conditions, and the quality of a market's organization." Each of these interrelated aspects is examined. Burns notes that the conventional definition of market efficiency—those markets in which prices always fully reflect available information—diverts attention from the fact that efficiency of a market is a variable to be explained rather than a constant that is given. A broader concept of market efficiency is necessary for understanding how and why markets develop and how their development affects the economy.

The author analyzes how and why spot, forward and futures, and option markets become more efficient, and then goes on to examine the direct and indirect benefits of these markets' development. The direct benefits stem from the ability to carry out transactions more efficiently, while the indirect benefits stem from more efficient collection and dissemination of information on the terms of transactions. For a well-functioning market in an advanced economy, such benefits may be immense. "Because the various markets are interrelated, however, any malfunctioning in one market may have pervasive deleterious effects." It is for this reason that the orderly functioning of markets is so important to the economy.

The main economic purpose for regulating spot, futures, or option markets is to promote this orderly functioning, Burns continues. This requires "mitigating, if not preventing, disorderly . . . conditions and enhancing the quality of market organization." The meaning of these concepts and their implications for government regulation are explored. In addition to the potential benefits of regulation, the author notes three types of regulatory costs: "administrative costs to the government and to market participants, inefficiencies in the rulemaking process that may adversely affect the expectations of market participants, and needlessly burdensome or injurious regulations." Unfortunately, regulatory agencies often pay insufficient attention to all of these costs.

Burns observes that the development of markets and their regulation take place within an institutional environment that includes nonregulatory government policies. Market efficiency is affected by both the substance of such policies and by the manner in which they are formulated. Ambiguous, unpredictable, or unclear policies have an adverse effect on market efficiency and thereby on the productivity of the economy. One of the major problems we face in this area, he says, is the short-run orientation of the political process.

Consumer Protection and Competition Policy

"Toward a New Consumer Protection" by Robert B. Reich, in *University of Pennsylvania Law Review*, vol. 128 (November 1979), pp. 1-40.

Within the last fifteen years, Congress has enacted a startling amount of legislation governing the quality of particular products. New agencies, such as the Consumer Product Safety Commission and the National Highway Traffic Safety Administration, have been established to assay products posing "unreasonable" risks of injury; and older agencies, such as the Federal Trade Commission and the Food and Drug Administration, have grown increasingly bold in the field. Typically, these agencies act as "purchasing agents" for consumers, judging the merits and demerits of particular products and requiring that manufacturers and sellers bring their products in line with minimum official standards or (sometimes) take them off the market. But, according to the author of this article, once it is accepted that the government can intercede between consumers and sellers to produce "better" products, no obvious stopping place can be found. This is because "better" can be defined as safer or more durable so long as the cost involved—as measured by the regulators—is less than the value of the extra safety or durability achieved. Such a rationale opens the entire economy to scrutiny and constant interference.

Robert B. Reich, director of policy planning at the Federal Trade Commission, seeks to develop an alternative rationale for guiding consumer protection policy which would apply regulation only where market forces do not induce sellers to prevent consumer mistakes. He reasons that if consumers and sellers could bargain with each other over who is responsible for avoiding consumer mistakes, and do so free from the costs of transacting such bargains, presumably they would allocate responsibility to the party that could most efficiently prevent mistakes. In the real world of unequal bargaining power and lack of coordination among consumers, however, liability rules may be necessary to allocate the responsibility properly. But in many circumstances, the cost of private litigation is likely to be prohibitive and more direct forms of government intervention are desirable.

The proper allocation of responsibility to avoid mistakes that hurt consumers will take place naturally, according to Reich, in those cases where sellers are concerned about preserving goodwill and where consumers can easily discover, after they have purchased the product, whether it meets their expectations. Here, sellers will take efficient steps to prevent consumer disappointment, and government intervention is therefore unnecessary. By contrast, in those cases (1) where consumers are likely to have difficulty discovering that products do not perform as expected (as with faulty insulation) or identifying the source of consequential damages (as with a cancer which manifests itself years later), (2) where sellers are not dependent on repeat sales, or (3) where market concentration or collusion enables sellers to reap the fruits of their monopoly by reducing quality control, the sellers' stake in goodwill alone cannot be relied upon to allocate efficiently the burden for avoiding consumer mistakes. Here some government intervention may be appropriate.

Such intervention is apt to be most effective if it seeks to increase the sellers' stake in goodwill rather than to regulate the design of products. Reich suggests that a primary means by which the government can increase the sellers' stake in goodwill is to create and enforce "property rights in trustworthiness," which allow sellers of better products to efficiently differentiate themselves from sellers of poorer ones. These rights might take the form of licenses or certificates, trademarks, tying arrangements, or exclusive sales agreements. But because such mechanisms may also increase market concentration or facilitate collusion, they are most appropriate where product attributes are difficult to evaluate and subsequent problems difficult for consumers to detect (making it unlikely that consumers can rely upon seller goodwill) and where the market is not particularly concentrated. For example, territorial restrictions that encourage dealers to hire well-trained salespersons should be permissible for complex audio or camera equipment; prospective customers of these products are likely to want to purchase this extra help, and competition in these markets appears to be vigorous. By the same token, government licensing of doctors or auto mechanics is apt to facilitate these sellers' stake in goodwill by doing more to overcome information impediments than to create obstacles to open competition.

But, says Reich, where consumers can easily discover and attribute problems in the products they purchase and where sellers are dependent on repeat sales, there is less justification for territorial restrictions, licensing, trademarks, or tying arrangements. Sellers of home appliances, osteopathy, or haircuts who fail to satisfy their customers will in all likelihood disappear from the market with relative dispatch, and this self-corrective feature of the marketplace will be particularly efficient if there are no barriers to entry by potential competitors.

"A policy," Reich concludes, "which thus seeks to make the market more responsive to consumer desires need not run afoul of the basic principles of competition policy. Both have at their core the same fundamental purpose: the enhancement of consumer welfare."

Cost Control Means Choosing

Technology in Hospitals: Medical Advances and Their Diffusion by Louise B. Russell (Washington, D.C.: The Brookings Institution, 1979), 180 pp.

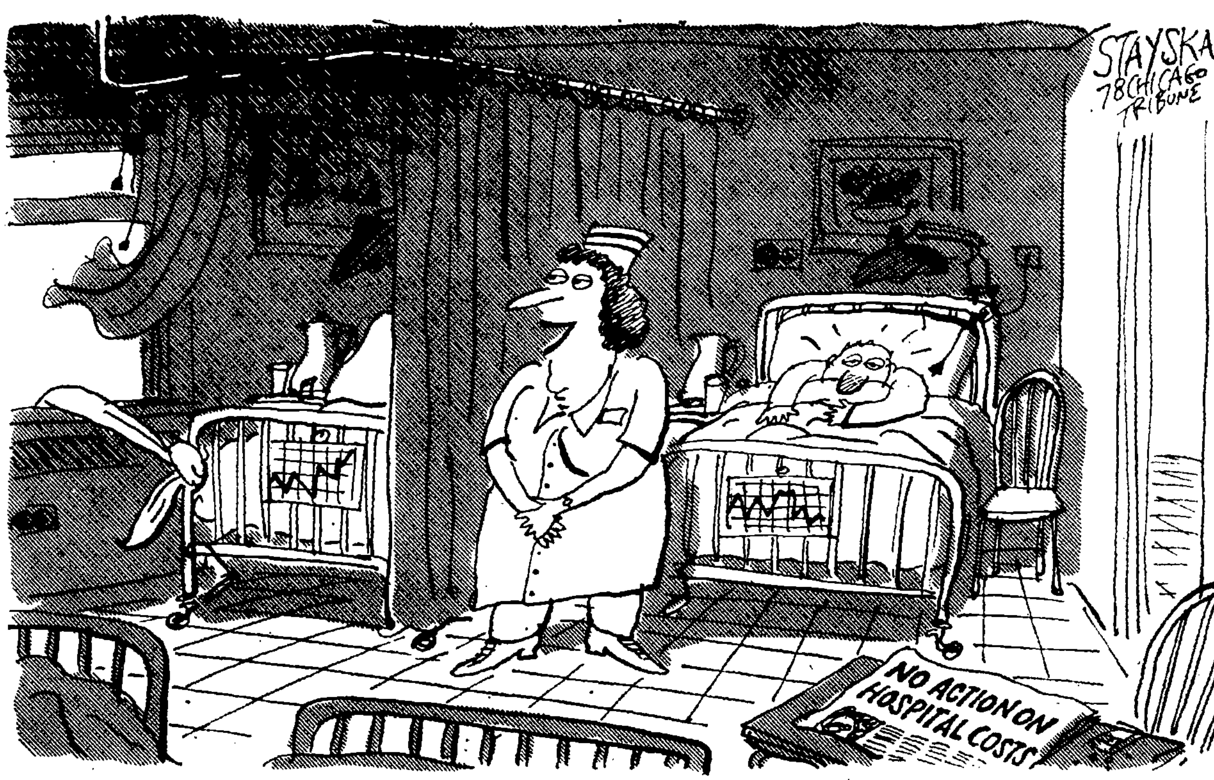
The rapid growth of hospital costs has led to the enactment of new regulatory programs designed to control those costs, and to proposals for still other controls. Economist Louise Russell of the Brookings Institution examines the nature of the cost problem and asks how well current forms of regulation are suited to dealing with it.

In recent decades, hospital care costs have risen far more rapidly than the consumer price index. Thus a hospital room that cost $14 a day in 1950 cost $151 a day in 1976. The main reason for this disproportionate increase is that the amount of resources used by hospitals has grown so fast. Many of the new resources have taken the form of new technologies or the continued spread of older ones. Russell analyzes the costs and benefits that have accompanied several of these technologies—intensive care, cobalt radiotherapy, open-heart surgery, kidney dialysis, and other expensive but less widely known medical advances. In related statistical analyses, the adoption of these technologies by individual hospitals is linked to the characteristics of the hospitals and their markets.

Russell concludes that the real reason for rising costs lies in the belief that "no one should have to forgo medical care that might save his life or preserve his health because he cannot afford to pay." This principle has been put into practice by means of health insurance and programs like Medicare and Medicaid, which provide third-party payment of most medical expenses. Controlling costs means abandoning this principle and deciding that some forms of care, although beneficial, are not beneficial enough to justify the added costs.

In the government's first attempts to influence the diffusion of medical technologies, the primary goal was to encourage that diffusion, and costs were only a secondary concern. For example, the Regional Medical Program was passed in 1965 to promote the spread of new techniques for treating heart disease, cancer, and stroke. Analysis shows that the effort was successful—there are more intensive-care beds in regions where the program had more money to spend.

As costs continued to rise, however, the emphasis shifted, and new programs were created to cut costs by eliminating waste and inefficiency, but without cutting into services of benefit to the patient. Under certificate-of-need laws, first passed by the states at their own initiative and now required by the National Health Planning Law of 1974, the states review investment projects proposed by hospitals with the aim of preventing unnecessary investment and duplication of services. These laws have had some success in holding down the number



Reprinted, courtesy of the *Chicago Tribune*.

"If you're dressed you can check out now, Mr. Hubble . . . Mr. Hubble? . . ."

of intensive-care beds and in restraining the adoption of cobalt therapy and open-heart surgery. Similarly, the Professional Standards Review Organizations created by the Social Security Amendments of 1972 are charged with eliminating unnecessary days in the hospital for Medicare and Medicaid patients.

Russell argues that programs like these will have little effect on costs because they fail to deal with the primary source of rising costs, the unlimited number of *good* things that can be done in medical care. Whether the method chosen is budget limits on providers, coinsurance on patients, or detailed assessments of specific technologies, cost control means choosing to limit the use of some beneficial technologies because their benefits are too small, too costly, or both. Russell warns that if "we are determined to have everything, we will end up paying for everything, no matter what regulatory mechanisms we put in our way to complicate the process."

OSHA's Misplaced Emphasis

"The Impact of Occupational Safety and Health Regulation," by W. Kip Viscusi, *Bell Journal of Economics*, vol. 10, no. 1 (1979), pp. 117-140.

Critics of the Occupational Safety and Health Administration have repeatedly charged that the agency has not been effective in promoting workplace health and safety. In response, the agency's defenders have cited "the steady decline in the injury rate for manufacturing workers" in the last decade as evidence of a favorable effect.

Economist W. Kip Viscusi, deputy director of the Council on Wage and Price Stability (on leave from Northwestern University), analyzed a sample of sixty-one large industry groups in which over 80 percent of the workers covered by OSHA regulation were included. His statistical analysis assessed the effect of OSHA's inspections and penalties on enterprise investments in health and safety, planned investments in health and safety, and worker injury and illness rates from 1972 to 1975. There was no evidence of any impact of current or previous OSHA activities.

Viscusi notes that a major reason for this ineffectiveness is the weak financial incentives created by the agency. The average probability that an enterprise would be inspected was roughly one in a hundred. If inspected, on average there would be 3.7 violations per inspection, for which the average penalty was under $26.

In Viscusi's view, however, a substantial bolstering of the financial incentives to avoid OSHA inspection citations is not the solution. Those inspections have overwhelmingly focused not upon subtle health risks such as toxic and hazardous substances violations (which comprise fewer than 1 percent of all assessed standards violations) but upon readily monitorable safety hazards. These, however, are already deterred by a variety of economic incentives, such as compensating wage differentials and workmen's compensation costs. Moreover, Viscusi's theoretical analysis indicates that the benefit of any substantial OSHA-induced increases in enterprise investment directed at visible safety hazards will be offset by a corresponding reduction in safety-enhancing actions by workers.

The author concludes that OSHA's current emphasis on visible safety hazards is misplaced, and that "policymakers have paid too little attention both to the potential desirability of the present intervention and to the economic mechanisms through which the enforcement activities will exert their influence."

A New Approach for Securities Regulation?

The SEC and Corporate Disclosure: Regulation in Search of a Purpose by Homer Kripke (New York: Law and Business, Inc./Harcourt Brace Jovanovich, 1979), 368 pp.

Homer Kripke, professor of securities regulation and accounting at New York University's School of Law and a former official of the Securities and Exchange Commission, makes a frontal attack on the accepted wisdom that the SEC exemplifies successful regulation. In developing its requirements governing corporate disclosure, he contends, the SEC emphasized certain kinds of information—objective, verifiable facts rooted in the past—and overlooked the obvious truth that securities values lie in the consensus of subjective, unverifiable

estimates of the uncertain future. This choice was made for bureaucratic reasons—the desire of the commission to maintain objective standards for its staff and to forestall criticism by investors or by Congress if it permitted consideration of value estimates or other forward-looking information that did not, in the course of events, work out. Only in 1978, after this approach was criticized (by Kripke and others), and after years of vacillation, did the commission finally decide to permit projections of future earnings and to start correcting the erroneous approach that had persisted for forty-five years.

Despite this fundamental error, the commission's staff enforces its rules with a zealotry and an expansive interpretation that reveal both serious lack of judgment and inadequate control by seniors of "eager beavers" on the junior staff. And the commission itself has an increasing tendency to rely on staff pronouncements and determinations that the commissioners publish even while disclaiming responsibility for them. Kripke finds subtly shifting purposes and justifications for the increasingly detailed regulation, with the result that goals become inconsistent and the regulation is "in search of a purpose."

He then turns to the two principal disciplines with which SEC regulatory law is interlocked: economics and accounting.

First he faults the commission for failing to keep abreast of the developing economics of portfolio management. One important aspect of this economics is the efficient markets hypothesis, which asserts that market prices rapidly take into account all publicly available information. Prices are thus a free gift of the information available in the market, information automatically reflected in prices before it can be disclosed in formal SEC disclosure documents. While Kripke recognizes that the efficient market hypothesis is at least subject to frequent exceptions, he believes it raises substantial questions about the value of mandated disclosure and the implicit encouragement given the public to trade in the search for market appreciation. Much of the information necessary for an intelligent securities decision lies outside the official disclosure system. Such information includes industry-wide and macroeconomic financial factors, as well as forward-looking information on the firm itself.

The disclosure system presents only the single firm. But an investment decision, far from being based on an absolute standard of quality, is a matter of choice among competing investments.

The foregoing raises cost/benefit questions which, according to Kripke, the SEC has never addressed except in platitudes extolling the worth of disclosure. He questions whether government should impose costs on issuers to provide disclosure for the benefit of a nondisadvantaged segment of society, the investors, and for the security analysts who serve them. Now that disclosure has become habitual and security analysis has become a profession with an organization through which adequate disclosure can be demanded, might not the needs of investors be adequately supplied by the market without mandated disclosure and particularly without the ever-increasing demands for more details?

Turning to accounting, Kripke notes that it is the chief carrier of financial information and thus lies at the heart of the securities disclosure system. In the 1970s the SEC took the first step in breaking away from what Kripke regards as its forty-year fixation on historical costs, but has had very little to do with the important beginnings of the conceptual framework for accounting now being developed by a private organization, the Financial Accounting Standards Board. This is a default that should be remedied. Accounting is so much a matter of legislation and definition and so fundamental to the understanding of business operations that it should be controlled and articulated by the SEC directly, as Congress provided, rather than subdelegated by the SEC to the FASB. He also criticizes both the SEC and the FASB for positions taken on certain accounting standards.

Because the SEC is "infatuated with liability," with a punitive approach that freezes disclosure into a defensive, nonventuresome attitude, it converts every problem that should be economic and financial into a moralistic one. Kripke urges the SEC to look instead to organization theory and related social science developments for proper means to motivate business to achieve disclosure and those ends of corporate governance that are deemed desirable and in the public interest.