

versity Indianapolis, I did a study that found that the average markup on gasoline went up significantly in the six months after the penalties for violating the Unfair Sales Act were increased in 1998. What's more, we found that gasoline prices in Wisconsin varied markedly less than in other states, a manifestation of the act's inhibiting influence on competition in the retail gasoline market.

FACTS VS. RHETORIC

WISCONSIN'S GOVERNOR THOMPSON HAS PLAYED THE rhetorical game before, signing a bill in 1994 to restrict competition in the retail drug market only to come back and bash drug stores for charging higher prices in the state. Wisconsin also has laws that restrict competition in the markets for milk, soft drinks, tobacco, and alcohol. The restrictions on competition in alcohol were passed only

last year, with no reasonable explanation as to why liquor producers should be subject to less competition in the state.

But the restrictions on gasoline prices are especially egregious. As the typical gas station morphs into a gas station-restaurant-convenience store, most gas stations make the bulk of their profits from in-store sales and—outside Wisconsin—sell their gasoline nearly at cost. It seems that in Wisconsin the government must guarantee gas stations' profits.

Tommy Thompson's dirty little secret is that he may be for business but he is definitely against competition. In a state with a long socialist tradition, Thompson fits the left's caricature of a Republican as one who screws citizens while helping fat-cat capitalists. Repealing the Unfair Sales Act, in all its manifestations, would be one way for Thompson to help consumers—for a change. ■

What If Everyone Were a Policy Analyst?

By *Keith B. Belton*

BEGINNING WITH RONALD REAGAN, U.S. PRESIDENTS have required federal agencies to conduct cost-benefit analyses before making major regulatory decisions. That discipline serves the public interest because it forces regulators to consider whether new regulations will benefit society as a whole.

But what about people who would be affected directly by new regulations? Small business owners want to know the cost of complying with a new paperwork requirement. Parents want to know how air bag regulations will affect their children's risk of injury. Taxpayers want to know how changes in the tax code will affect next year's tax bill. None of them would find enlightenment in federal agencies' regulatory analyses because those analyses present aggregate—not individual—costs and benefits.

Whenever a proposed regulation would affect a variety of individuals or entities differently, regulatory analysis should reflect those differences. That would not have been possible a few years ago. Now it is possible, thanks to the Internet.

MAKING ANALYSIS RELEVANT

ECONOMIC ANALYSIS OF A PROPOSED RULE (ALSO KNOWN AS regulatory impact analysis) measures the net social benefit of a regulation. In theory, the net benefit stems from the preferences of individuals. But an agency does not survey individuals and sum their preferences to determine the benefits and costs of a rule; instead, it uses aggregate data.

For example, to estimate social costs, an agency's analysts may develop a partial equilibrium model, based on market supply and demand curves. Alternatively, they may use a direct compliance model, based on cost-engineering techniques, to estimate the average compliance cost, then multiply that estimate by the number of entities affected by the rule. Such analysis may provide information useful to regulators, but it seldom informs those who would be affected directly by a regulation. On-line calculators could help to fill this information gap.

Consider the ergonomics rule proposed by the Occupational Safety and Health Administration (OSHA). The rule would require businesses to implement and maintain ergonomic programs to prevent and alleviate musculoskeletal disorders, which are common in the workplace. OSHA's preliminary analysis of the proposed rule was based on aggregate estimates of the costs and benefits for all businesses in each three-digit standard industrial classification (SIC) code.

If OSHA provided an on-line calculator for the proposed rule, anyone could go to OSHA's web site and get an estimate of the rule's costs and benefits to a firm having characteristics specified by the user. The user might be asked to input firm-specific information, such as the number of employees, the number of establishments, the SIC code that best describes the firm, and the percentage of employees currently covered by an existing ergonomics program. The calculator would then determine the average cost of the rule to such a firm. The cost information could be categorized (e.g., worker restriction cost,

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job control cost, and training cost). The calculator would also provide information on the benefits of the rule in terms of reduced ergonomic injuries, insurance savings, and productivity improvements. A user who wanted to know how those cost and benefit estimates were calculated could click an icon for a step-by-step guide to OSHA's methodology. A user who wanted to comment on the methodology could send comments directly to the OSHA docket.

OSHA (or any other agency) might provide basic and advanced calculators. A basic calculator would meet the needs of users who want only a rough idea of costs and benefits. Advanced calculators would enable other users to see how changes in key parameters affect overall results.

CREATING A CALCULATOR

CREATING A CALCULATOR IS RELATIVELY STRAIGHTFORWARD: select the unit of analysis, develop a model of regulatory impact, and make that model accessible through the Internet.

The proper unit of analysis is the type of entity most directly affected by a regulation of interest. For example, the firm would be the appropriate unit of analysis for the proposed ergonomics rule.

The model should describe how the regulation would impose costs and benefits on the selected unit of analysis. To the extent feasible, the assumptions built into a model should be the same as, or at least consistent with, those used in the economic analysis of the proposed rule.

Making a calculator accessible requires not only placing it on a web site, in a usable form. A usable calculator should be easy to understand, work quickly, yield credible results, and respect users' privacy.

Even if a calculator is usable, it may not be used if its availability is a secret. It would cost little to publicize the availability of a calculator in the Federal Register, coincident with the publication of a proposed rule.

WHY DON'T AGENCIES PROVIDE CALCULATORS?

THERE ARE ON-LINE CALCULATORS THAT HELP PEOPLE understand how policy proposals may affect them financially. If you want to find out how much money the Bush tax plan would save you, go to the Bush campaign web site (www.georgewbush.com). If you want to know how privatization of social security would affect your retirement income, go to the Cato Institute's web site (www.socialsecurity.org). And there are calculators to help you understand how you would be affected by a flat tax (www.flattax.gov) or an increase in the minimum wage (www.epionline.org).

But there are no calculators to estimate how proposed regulations would affect you. Why? First, regulatory analysis has traditionally been for the regulators, not the regulated. The Clinton Administration has acknowledged the need to make regulations more understandable to the regulated community, with its call for regulations to be written in "plain language," a potentially useful but costly activity. (See Vern McKinley's article, "Keeping It Simple: Making

Regulators Write in Plain Language," in *Regulation* 21, no. 4 [1998]: 30.) The use of on-line calculators would be consistent with the administration's stated goal.

Second, agencies may be reluctant to expend additional resources to develop calculators. The Clinton Administration has resisted legislative proposals for regulatory reform, in part because of resource constraints. But, in most cases, the cost of providing on-line calculators should be small because calculators can be based on the models used in agencies' cost-benefit analyses.

Third, if regulatory analysis is shoddy or grossly inaccurate, agencies might not want the scrutiny afforded by on-line calculators. In that regard, perhaps agencies are rightly worried. In "Assessing the Quality of Regulatory Impact Analysis" (Working Paper 00-1, AEI-Brookings Joint Center for Regulatory Studies, January 2000), Robert W. Hahn, Jason K. Burnett, Yee-Ho I. Chan, Elizabeth A. Mader, and Petrea R. Moyle examined 48 environmental, health, and safety regulations issued between mid-1996 and mid-1999. They found that agencies seldom meet even the minimum requirements of Executive Order 12866. Specifically, agencies quantified the net benefits of only 29 percent of proposed rules, failed to discuss regulatory alternatives for 27 percent of the rules, and quantified costs and benefits of alternatives for only 31 percent of the rules.

ACCESSIBILITY HAS CONSEQUENCES

THE AVAILABILITY OF ON-LINE CALCULATORS WOULD LEAD to greater participation in the regulatory process, greater knowledge about the regulated community, and improved regulatory analysis.

If those who are most affected by regulation are better able to see how regulation affects them, they are more likely to participate in the regulatory process. At a time of waning public interest in government, such a result should be welcomed.

On-line calculators would make available to the agencies that maintain them a lot of information about those who use them. That information would be of interest to lobbyists, compliance assistance professionals, politicians, and especially regulators. On the positive side, an agency might learn something about the deficiency of a rule by knowing who is using a calculator or which model parameters are of greatest interest to the regulated community. On the negative side, agencies could extract detailed information about those who use calculators—information that agencies could misuse. Thus, calculators should be accompanied by clear and accessible privacy statements, so that users can make informed choices about the information they reveal.

On-line calculators would make regulatory models more visible to those who are regulated. Users would point out not only errors of commission but also errors of omission, such as compliance options not considered in an agency's analysis. In effect, on-line calculators would enable anyone to become a policy analyst. The additional scrutiny would lead to better analysis and greater social welfare. ■