

# A Retrospective

BY WILLIAM A. NISKANEN

*Cato Institute*

A MAJOR ANNIVERSARY OF ANY INSTITUTION is an appropriate occasion to reflect on its role and accomplishments, and how much the world may have changed as a consequence. The Cato Institute celebrated its 25th anniversary with both sober reflection and a grand bash last May. Somewhat by coincidence, *Regulation* magazine also observes its 25th anniversary this year, for it was first published by the American Enterprise Institute (AEI) in 1977. So, it is appropriate to reflect on the histories of the magazine and federal regulation since that time.

From the beginning, *Regulation's* objective has been to reach a busy policy audience with articles of scholarly quality on regulation, antitrust, and trade — the microeconomic policy issues that are important to specific firms, industries, and interest groups but are seldom the focus of major political attention. For that reason, *Regulation* has been published in a magazine format, edited for a policy audience, and free of the technical analysis and footnotes that are characteristic of a professional journal. The policy objective of *Regulation's* publishers and editors has been consistent and distinctive — to make the case to address issues of shared concern by deregulation or by regulations and other policy instruments that are likely to be more effective or less intrusive than existing or alternative proposed policies. Given that consistent policy position, the magazine has managed to be scrupulously nonpartisan, with ample opportunity to praise or criticize the decisions by an administration or Congress controlled by either major party.

Both the continuity and changes in the magazine's character have been most directly affected by a series of unusually talented editors. The first co-editors were Murray Weidenbaum and Antonin Scalia. Weidenbaum was appointed chairman of the Council of Economic Advisers in 1981 and returned to serve as a distinguished professor of economics at Washington University at St. Louis, and Scalia was appointed to the

Supreme Court in 1988. In the early 1980s, the next co-editors were Walter Olson and Peter Huber; both have since written important books on the explosion of legal costs and now serve as senior fellows at the Manhattan Institute.

When AEI first considered ending its sponsorship of *Regulation* in 1986, Chris DeMuth, who had served as director of the Office of Information and Regulatory Affairs, acquired the publication rights as a private party and Carolyn Weaver served as editor; shortly after, DeMuth was appointed president of AEI and he brought the magazine back into the AEI fold. Weaver, who had written Cato's very first policy paper (on Social Security reform), was later named to Social Security advisory commissions by both President Bill Clinton and President George W. Bush. The person most responsible for the continuity of *Regulation* during the period of AEI publication was Anne Brunsdale, to whom all of us who read the magazine or wrote for it during that period are grateful.

Cato acquired the publication rights to *Regulation* in 1989, when DeMuth decided to consolidate the several AEI publications. We relaunched the magazine in 1990 with yours truly as the editor through 1996. (I seem to be the only former editor not to have gone on to some position of greater responsibility.) Ed Hudgins served as editor for the next two years and is now the Washington director of the Objectivist Center. Peter VanDoren has been editor since 1999, the only one for whom this has been a full-time job; VanDoren has been the most committed and innovative editor of *Regulation* in its now 25-year history, for which we should all be grateful. Many talented younger people, too numerous to mention, have served as managing editor, and all of us who have served as editor of *Regulation* realize how much we are indebted to them.

Federal regulation, for better or worse, has changed dramatically since 1977. Most of the older forms of economic regulation, some dating from the nineteenth century, have now been substantially reduced or eliminated — including most of the industry-specific regulation of agriculture, communications, energy, finance, and transportation — through measures that were broadly supported by *Regulation* magazine. In most cases,

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the reduction of regulation in those industries has led to lower real prices, increased services, and broad popular support. As a consequence, there has been bipartisan support for most of that deregulation, starting with the Carter administration. The major remaining challenges involve further deregulation of the wired telephone and electricity networks — industries for which some forms of partial deregulation have proved to be mistakes. The only significant current threat to continued deregulation is a consequence of the Enron collapse — the threat of increasing regulation of accounting, corporate governance, and securities.

In contrast, there has been a substantial sustained increase in the regulation of health, safety, and the environment — beginning with the Nixon administration — again, with broad bipartisan support. *Regulation* authors have often been critical of that body of regulation, questioning whether the type and level of the controls meet scientific and economic standards. In any case, the increase in the costs of those regulations has about offset the reduction in the costs of economic regulation, leaving the total cost of federal regulation at about five percent of GDP.

Concerning other subjects often covered by *Regulation*, there has been some small improvement in antitrust and legal standards over the past quarter-century, with the general support of the magazine. Antitrust authorities and the courts have been

increasingly cautious about applying antitrust law to the behavior of an individual firm, as indicated by the final resolution of the IBM and Microsoft cases. The Supreme Court has approved some additional protection against the taking of private property and the casual extension of federal authority rationalized by the commerce clause, and Congress has restricted the forfeiture of assets in federal criminal cases.

Finally, the regulation of international trade has been substantially reduced over the past few decades, despite substantial backsliding during the first Reagan term and the current Bush administration. The success of two major worldwide trade rounds and the creation of NAFTA were dependent on the support of administrations of both parties. As a consequence, the average U.S. tariff on products subject to duty has been cut in half, the trade share of U.S. GDP has roughly doubled, and the largest developing countries have joined the world trading system. Trade policy in the United States is now largely a dispute within each major party, but with the general support for a continued reduction of trade barriers by the presidential wing of each party.

In summary, the past 25 years has produced a record of some progress and some problems — with substantial continuing challenges for both *Regulation* magazine and federal regulators.

FROM THE FIRST ISSUE OF REGULATION, JULY/AUGUST 1977

## *About This Journal*

This journal is a response to the extraordinary growth in the scope and detail of government regulation. Surely, this phenomenon is one of the two or three most significant political facts of our times. Yet, because the extension of regulation is piecemeal, the sources and targets diverse, the language complex and often opaque, and the volume overwhelming, much of this activity escapes public notice and, therefore, public debate. Partly in consequence, old regulatory agencies and programs remain and new ones are frequently launched with little analysis of the problems being addressed, of costs and possible side effects, and of alternative methods for achieving the same ends.

While there are specialized periodicals that discuss a thousand other subjects, there is no journal devoted to examining the policy implications of the regulations that affect our public and private endeavors and to discussing this subject in a readable style. *Regulation* is designed to fill that gap.

We determine our subject broadly to include regulatory activity of all kinds — legislative, judicial, and administrative — whether directed at economic, political, social, or cultural affairs. The immediate purpose is to provide information and analysis about specific issues. The longer-range purpose is to foster an analytical approach to regulation, so that policy choices in this area will proceed in fuller awareness of the available options and the consequences for American society as a whole.

In seeking authoritativeness and diversity, we shall draw upon a wide community of academics and experts.... The judgments reflected in the articles we print are, of course, those of the contributing authors and editors....

The editors of this journal recognize that, in a complex industrial society, a substantial measure of regulation may be necessary. We are committed, nonetheless, to the ideal that this regulation should be sensible, cost-effective, and as unburdensome as the nature of its objectives will allow. In the coming years, we hope to advance that ideal by stimulating informed public discussion.

— ANNE BRUNSDALE