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Why we overregulate

By Richard W. Rahn

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Assume you are a mid-level bureaucrat in a government regulatory agency, and you know your pay and title depend on how many regulations you are responsible for administering, and the number of people who work for you. Do you think you would push for more or fewer regulations?

Assume you are a corporate regulatory compliance officer, and again you know your pay depends in part upon the number of regulations you must comply with, and the number of people who work for you. Would you tend to favor a world with more or fewer regulations?

Or, assume you are an elected politician, and a major scandal occurs because a financial manager has embezzled funds. Are you more likely to get coverage on the TV news if you say, "We already have laws against theft, and the authorities will take care of it," or if you say, "We need more regulations to stop greedy financiers"?

The three examples I have just given are played out every day in the political process in almost every country. There is a huge private and public impetus to create a never-ending stream of regulations, whether needed or not. Bureaucrats looking out for their own interest rather than public interest is not new. The study of these behaviors is known as "public choice" economics and developed by Nobel laureates James Buchanan and Gordon Tullock.

For example, it was not until 1986 that the U.S. government first made it a crime to "launder money." In the last 20 years, hundreds of billions of dollars have been spent by governments and businesses in the United States to enforce the anti-money-laundering laws. If you add in all the enforcement costs of the foreign governments and non-U.S. businesses, the costs over the last two decades will clearly run more than \$1 trillion.

Two obvious questions: First, have the benefits from all these regulatory expenditures (not even looking at the loss of freedom they entailed) exceeded the costs? Second, if 20 percent of the costs -- let's say only \$200 billion dollars -- had been used by law enforcement agencies to target potential terrorists, drug dealers and other criminal gangs, rather than having the anti-money laundering laws and regulations, would society be worse or better off? The great scandal is that no one can answer these questions with anything approaching precision, yet all of the evidence is that these laws and regulations have not been cost-effective.

Assume you go to a contractor and ask him to build a small house for you, and you agree to do it on a cost plus 5 percent profit basis. The contractor decides to build the house in a way that is 3 times as costly as necessary. Upon learning this, you would justifiably feel "ripped off," and in fact you would be a victim of theft.

When politicians and bureaucrats pass laws and regulations that are unnecessarily costly, are they any different from the unscrupulous contractor? The taxpayers or business people forced to fund excessive compliance costs are "ripped off" by the political class every day -- but they have no recourse -- and that truly is criminal.

This excess regulation is not a trivial cost. In the U.S., the costs of regulation are estimated to be about 8 percent of gross domestic product, or about \$3,500 for every man, woman, and child. As bad as this is, there is evidence some European nations and others even spend a bigger portion of their GDP complying with regulations.

Not only national, state and local governments generate regulations, but increasingly, largely unaccountable international bureaucracies, such as the U.N., the International Monetary Fund, the Organization for Economic Cooperation and Development, the Financial Action Task Force, etc. issue regulations that businesses and others are forced to comply with -- again, in most cases, without any serious cost-benefit analysis ever being made.

The normal checks and balances that restrict government from taking away our liberties and that protect our pocketbooks have failed to protect us from the regulatory Leviathan. So what can be done?

A couple of years ago, I recommended that legislatures greatly expand the right of private action by taxpayers, businesses and associations to sue government agencies that promulgate unjust, costly, liberty-restricting regulations and to have their costs reimbursed by the agency when they win the suit. Legislative bodies have failed to directly protect their citizens against excessive and unjustified regulation, but they can correct this failure by empowering citizens to protect themselves.

Richard W. Rahn is director general of the Center for Global Economic Growth, a project of the FreedomWorks Foundation.