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Obama's Regulatory Reform Test

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Only follow-through will prove the president means business

Assume your government job is to write regulations to require bicycle manufacturers to make safer bicycles. You know two things. The first is that if you say bicycles are being made about as safely as they can be, then you will no longer be needed; hence, no job. Second, you know there were no U.S. commercial airline fatalities in the U.S. in 2010 (an amazing and true fact) while about 1,000 people died in bicycle accidents in 2010. Thus, as long as you argue that riding a bicycle should be made as safe as flying in an airplane and that tougher regulations on bicycle manufacturers could make bike-riding safer, you can keep your job.

President Obama jumped on the regulatory-reform bandwagon last week after two years of greatly expanding costly regulations and reducing personal liberty, particularly on health care and financial services. I confidently predict his new initiative will be a failure. History has shown that the vested interest of the regulators in job preservation and expansion almost always swamps efforts at regulatory reform.

Mr. Obama said, in essence, that the benefits of regulations should exceed the costs - which every president, at least going back to Jimmy Carter, also has said. President Reagan made the most serious attempt to rein in the regulatory monster by staffing his administration with many talented and committed deregulators, but even they were often frustrated by the regulatory bureaucrats and Congress. We will now have a test of whether Mr. Obama is serious and will seek to carry out his own words.

The Obama Environmental Protection Agency (EPA) has ruled that carbon dioxide is a pollutant and, as a result, has been holding up the permitting of new power and manufacturing plants. If this continues, it will cause a significant drop in U.S. economic growth and job creation, yet it will have no measurable benefit. China, India and many other countries are rapidly increasing CO2 emissions, overwhelming whatever actions the United States may take. Even if all new CO_2 emissions were stopped globally, it would be decades before there would be even a minor effect on global temperatures. Now, new research is indicating that sunspot activity is much more important than CO_2 when it comes to influencing the earth's temperature. The EPA ban is nothing more than national economic suicide. Let us see if Mr. Obama has the courage to tell the EPA to stop.

The Internal Revenue Service (IRS) has just issued a proposed regulation that would have an enormous cost on the U.S. economy with no benefit. Specifically, it is demanding that U.S. banks report the amount of interest they pay foreign nationals to their governments. The U.S. long ago decided not to tax interest earned by foreign investors in order to attract their money. Well-qualified, independent economists have estimated this will cost the United States in lost foreign investment roughly $100 billion a year and many thousands of jobs. This will make foreign tax collectors happy, even in corrupt countries, at the expense of U.S. jobs. If the IRS does not immediately withdraw this proposed regulation, it will show it pays no attention to Mr. Obama's words or does not care what he says.

If Mr. Obama is serious about regulatory reform, he will immediately instruct the EPA and the IRS to drop their no-benefit, job-killing proposals. If these proposals are still hanging out there a month from now, that will reveal that he is all talk and no action.

The Securities and Exchange Commission (SEC), an agency with a long record of destructive incompetence (remember the many warnings about Bernie Madoff?), was too busy creating such burdensome regulations on new public stock offerings that now few companies can afford the cost of going public. The SEC is off on a tangent of creating wild new theories of insider trading. This nonsense is making it difficult for officers and directors of companies to do their basic jobs of business development and corporate governance. Serious scholars of insider trading, notably Henry G. Manne, dean emeritus of the George Mason University Law School, have rightly concluded that the insider-trading regulations result in a denial of timely and important information to market participants, thus causing more harm than benefit. Unlike the SEC bureaucrats, Mr. Manne and other serous critics of the SEC have no vested interest in more, nonproductive regulation.

New regulation is often proposed under the guise of consumer protection. However, consumers are well-protected under our tort system, which makes it costly for firms to cheat or injure their customers. Both airplane and bicycle manufacturers understand better than any government bureaucrat that if their products end up killing the people who use them, it is not good for business or their pocketbooks. Yet the bureaucrats at the SEC and the IRS are engaged in the ultimate conflict of interest because it is much easier to be promoted and retain their jobs if their agencies are growing. Hence, the production of more regulations becomes an end in itself. And to the extent that the regulations are vague and incomprehensible, it only means more work for the regulators.

To reduce this inherent conflict of interest, those who are asked to write new regulations should be independent contractors or temporary employees. And every proposed regulation, no matter how small, should be accompanied by an independent cost-benefit analysis that is open to challenge by any interested party.

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