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/THE FIRST WORD

In the Regulatory Game, It's Hard to Tell the Players, Even with a Scorecard

When it comes to regulatory issues, American politicians are switch-hitters, stepping into the box only after they have sensed which way the winds of political fortune are blowing. It used to be that if you played for the Republicans, you were antiregulatory, antigovernment down the line. Democrats played to the bleachers and wanted the feds to umpire. Now it is possible to get players of both stripes to go to bat for a measure calling for the mandatory installation of something called V (for violence) chips in newly issued televisions to allow parents to shield their children and themselves from V-rated programs coming in over the airwaves (at the same time they are voting against the assault weapon ban so citizens can return to using assault rifles in their leisure-time activities), while simultaneously swinging for the dismantling of environmental protection legislation because it's intrusive and obstructionist.

The U.S. Environmental Protection Agency and related organizations have certainly brought some of this on themselves. To continue this dog days of summer metaphor, many unearned runs have been given up as a direct result of bureaucratic balking. But the regulatory climate in the rest of the world is encouraging companies to think environmentally and to turn to environmental biotechnology for answers. Many corporations now know that it can be profitable to institute environmentally safe processes before they are required to do so. Environmental biotech is a wide-open market. Why dismantle these regulations just as people are starting to get the hang of it?

Included in the regulation-ending proposals are waiving antipollution requirements in the Clean Water Act, removing most wetlands from federal protection, ending the ban on certain cancer-causing chemicals in processed foods, and ending Superfund cleanups of hazardous waste sites. This is all being done in the name of self-regulation and the freeing of market forces. Yet didn't these things create the need for such legislation in the first place? It should be possible to revise existing environmental regulations, and particularly the ways they are implemented, without throwing away the rulebook. Borrowing from Stanley Crooke's suggestions for revamping the U.S. Food and Drug Administration (FDA) published here earlier this year, it should be possible to reward and reinforce environmentally sound corporate behavior and to change the relationship between the companies and the regulatory agencies from adversarial to cooperative.

I will now do some switch-hitting of my own: An example of corporate self-regulation that didn't work, but one in which regulatory intervention won't help either, comes from the American Medical Association's revelations about decades-old tobacco industry research conclusively showing the addictive and carcinogenic effects of smoking, and the FDA's retributory proposal to regulate cigarettes as nicotine-drug-delivery systems. And what next? Ethanol? Caffeine? Häagen-Dazs?

It is without question that alcohol- and tobacco-related deaths cost the health system more than many other causes of preventable disease and injury—but it is difficult to imagine how FDA involvement can help (beyond making it a little harder for minors to get started). Certainly attempts by bona fide law enforcement agencies to regulate illegal drugs such as heroin and cocaine haven't worked. David Kessler looks to be delivering a Bill Clinton reelection pitch with this one. Will Clinton try to paint the corners? Or, more predictably, send it right down the middle?

—SUSAN HASSLER

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