

The
LIMITS
of
GOVERNMENT
REGULATION

Edited by
James F. Gatti

THE LIMITS OF GOVERNMENT REGULATION

EDITED BY

James F. Gatti

School of Business Administration
University of Vermont
Burlington, Vermont

With a Foreword by Malcolm F. Severance



1981
ACADEMIC PRESS

A Subsidiary of Harcourt Brace Jovanovich, Publishers
New York London Toronto Sydney San Francisco

COPYRIGHT © 1981, BY ACADEMIC PRESS, INC.

ALL RIGHTS RESERVED.

NO PART OF THIS PUBLICATION MAY BE REPRODUCED OR
TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC
OR MECHANICAL, INCLUDING PHOTOCOPY, RECORDING, OR ANY
INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT
PERMISSION IN WRITING FROM THE PUBLISHER.

ACADEMIC PRESS, INC.

111 Fifth Avenue, New York, New York 10003

United Kingdom Edition published by

ACADEMIC PRESS, INC. (LONDON) LTD.

24/28 Oval Road, London NW1 7DX

Library of Congress Cataloging in Publication Data

Main entry under title:

The Limits of government regulation.

Includes bibliographical references.

Contents: An overview of the problem of government
regulation / James F. Gatti -- Government regulation and
a free society / William E. Simon -- A new threat to
freedom: the challenge of the 1980's / Harry J. Bolwell
-- [etc.]

1. Industry and state--United States--Addresses, essays,
lectures. 2. Industry and state--Addresses, essays, lectures.
3. Economic policy--Addresses, essays, lectures. I. Gatti,
James F.

HD3616.U47L497 338.973 81-12858
ISBN 0-12-277620-8 (Cloth) AACR2
ISBN 0-12-277622-4 (Paper)

PRINTED IN THE UNITED STATES OF AMERICA

81 82 83 84 9 8 7 6 5 4 3 2 1

**THE LIMITS OF
GOVERNMENT REGULATION**

To my father and the memory of my mother:
My debt to them is more than can ever be repaid.

List of Contributors

Numbers in parentheses indicate the pages on which the contributions begin.

ARTHUR ANDERSEN & Co. (95), 1345 Avenue of the Americas, New York, New York 10105

HARRY J. BOLWELL (25), Midland-Ross Corporation, 20600 Chagrin Boulevard, Cleveland, Ohio 44122

ALLEN R. FERGUSON (143), Public Interest Economics Center, 1525 New Hampshire Avenue, N.W., Washington, D.C. 20036

JAMES F. GATTI (1, 167), School of Business Administration, University of Vermont, Burlington, Vermont 05405

THOMAS A. MURPHY (133), General Motors Corporation, General Motors Building, Detroit, Michigan 48233

JOHN O'SULLIVAN (59), *Policy Review*, 513 C Street, N.E., Washington, D.C. 20002

WILLIAM E. SIMON (11), 505 Park Avenue, New York, New York 10022

THOMAS SOWELL (35), Hoover Institution, Stanford University, Stanford, California 94305

THE BUSINESS ROUNDTABLE (95), 200 Park Avenue, New York,
New York, 10166

MURRAY L. WEIDENBAUM (87, 143), Council of Economic Ad-
visers, 17th and Pennsylvania Avenue, N.W., Washington, D.C.
20500

Foreword

The regulation of private economic activity by all levels of government has become a cause for growing concern in the United States and, indeed, in most of the capitalist world. There is a perception in some quarters that the pervasiveness of this intervention has reached a point where it may be imposing a substantial drag on social as well as economic progress.

In an attempt to foster meaningful discussion and debate on this problem, the School of Business Administration at the University of Vermont (UVM) began to sponsor a series of lectures on government regulation in the spring of 1979. The series took the form of seminars presented by distinguished members of the academic, business, and government communities who had become involved in a variety of ways with the regulatory process. Their experiences varied from scientific research into the costs and benefits of public sector activity, to actual implementation of regulatory directives, to operating under those rules. Their common ground was, and is, a sincere wish to move the debate from the partisan political arena to the more objective forum of open public debate. The series has provided the students at UVM with a unique opportunity to share, in person, the insights of the invited guests and to learn by challenging their positions. This volume is a compendium of those lectures given during the 1979-1980 academic year.

Though thanks are due many, many people, foremost among them is John Beckley, UVM '34. Without his generosity, encouragement, and laissez-faire attitude toward program design, the seminar series would never have achieved as much as it has. He has our enduring gratitude.

Special thanks go to two participants whose remarks unfortunately were unavailable for publication, but whose contributions were, nonetheless, substantial: Hon. Richard A. Snelling, Governor of Vermont, and David Lawrence, Manager—Civil Business Analysis, Sikorsky Aircraft. Governor Snelling initiated the series in the spring of 1979 with a talk entitled "Government Regulation: The Dilemma of the Public Official." A successful entrepreneur before election to public office, his remarks brought a unique perspective to the problem. David Lawrence's comments concerning the impact of airline regulation on technological innovation in the industry were exceptionally timely coming as they did in the midst of the dismantling of the CAB.

We would also like to express our gratitude to Arthur Andersen & Co. and The Business Roundtable for their permission to use excerpts from their *Cost of Government Regulation Study*. We hope that their work will provide a basis and methodology for others to improve our understanding of the extent of the regulatory burden. In connection with this study, special thanks go to H. Kendall Hobbs, an audit partner at Arthur Andersen & Co. He gave generously of his time and expertise in explaining and analyzing the study at one of the seminars at UVM. We were far better informed for his efforts.

As head of the business program, I am indebted to my colleagues E. Lauck Parke, who assumed responsibility for the program for the fall semester, and James F. Gatti, who planned and executed the program for the spring. D. Jacque Grinnell and Gene Laber contributed valuable suggestions during the planning process. Particular accolades go to James F. Gatti, who has assembled the materials, organized the manuscript, and performed the essential and demanding task of editing. Countless hours were willingly and cheerfully contributed by our talented secretaries Lynn Wells

and Susanna Bouvier. Without their diligence, this volume would not have been possible. We hope the contents will provide the reader with the same valuable insights gained by the students and faculty at the University as we addressed the issues of regulation in the present society.

MALCOLM F. SEVERANCE
School of Business Administration
University of Vermont

Preface

This book is a collection of nine essays addressing the current controversy over the costs and benefits of government regulation of economic activity and the issues involved in developing and implementing such policies. The views of all but one of the authors can be fairly described as neoconservative in principle; however, none would go so far as to reject out-of-hand all collective restrictions on private actions. Furthermore, while their individualistic philosophies would certainly lead them to prefer an anarchic utopia over its collective counterpart, their practicality requires that they acknowledge the fact that there are circumstances in which the unfettered free market solution can be improved upon by means of government intervention.

From their perspectives, there are two basic problems in the current structure of public sector regulation. First, they argue that even where a laissez-faire solution is not optimal, it is superior to the alternatives. In this respect they feel that government policy has erred by attempting to achieve perfection and in the process has replaced private errors with those of the public sector bureaucrat. Their second point (and in this matter all authors are in agreement) is that even where intervention could improve the

market solution, the actual policies used have suffered from the fatal mistake of attempting to repeal rather than use the basic market forces to attain the desired result. It is as if manned flight were attempted by denying that the force of gravity should exist rather than using the basic laws of physics to design an aircraft.

A SUMMARY OF THE PAPERS

Following an introductory chapter by James F. Gatti, William E. Simon and Harry J. Bolwell open Part I with individual essays that call for a reassessment of governmental policy on the basis of its impact on our real standard of living and personal freedom. From Simon's perspective as a participant in the financial markets, inflation gets top billing as a threat to the long-run vitality of the economic and social system. Price level instability is followed closely by the broadly accepted notion that specific social problems require direct action on the part of various governmental units. In his judgment, the public sector's actions often are themselves the source of inflation, and the social problems are frequently made worse by well-meaning intervention.

Though his conclusions are the same, Bolwell's comments are those of a chief executive officer of a firm beset by government regulation, particularly EPA and OSHA. While he believes that "the record of industry in this country is not good enough to justify self-policing in many of these areas," Bolwell's experiences with the various agencies lead him to conclude that their regulations are seldom the best practical way to attain a specific goal, and that often the goals themselves are either conflicting or not worth the cost of attaining them.

Thomas Sowell concludes the first section with an essay that deals with the meaning of two central goals of social policy, poverty and the distribution of income. In it he challenges the implicit presumption of many activists that any improvement in social and economic justice is desirable whatever the costs. In the process, he describes how many apparent problems such as discrimination in

employment appear far less serious when the evidence is examined for other variables that may influence the structure of the data, aside from the currently popular categories of race and sex.

The second section contains three articles which address in more detail some of the consequences of interventionist policies. John O'Sullivan's opening essay examines Great Britain as a model of the damage an activist government can do to a society and assesses Mrs. Thatcher's prospects for instituting effective reform. His basic premise is that the civility of Britain's non-competitive egalitarian structure is vanishing under the strain of economic stagnation and the decline in relative affluence of the British people. The traditional explanations for this inferior performance—class structure and loss of empire—are dismissed as incorrect readings of history, and the blame is laid at the feet of interventionist government policy and union activity. In discussing the likelihood of reversing these tendencies, O'Sullivan based his guarded optimism on a public attitude which is more and more antagonistic toward unions, taxes, and government activity. Whether fundamental changes will be forthcoming depends upon whether the public will accept the short-run costs of resource reallocation brought about by policy changes, in exchange for the promise of better times to come.

In the next chapter, Murray L. Weidenbaum provides an overview of the regulatory process in order to provide some insights into the nature of the regulatory costs and why the best of intentions often lead to totally undesirable consequences. His basic conclusion is that blame must be shared by the legislatures for passing laws that create faulty incentive systems, by businesses for resisting efficient policies, and by "public" interest activists whose agendas are at least as narrow as those whose private interests they attack.

The final chapter of Part II is a summary of a study which estimates the costs imposed upon a sample of 48 firms by six federal regulatory bodies: the Environmental Protection Agency, Equal Employment Opportunity, Occupational Safety and Health Administration, Department of Energy, Employee Retirement In-

come Security Act, and the Federal Trade Commission. Commissioned by The Business Roundtable and carried out by Arthur Andersen & Co., the study attempts to measure the incremental costs borne by business as a result of attempts to comply with the requirements of the six agencies. Included is a summary of methodology as well as an analysis of the incidence of costs by industry.

Part III addresses the issue of finding a solution to the apparent problem of excessive regulation. Thomas A. Murphy, Chairman of General Motors Corporation, opens with a call for reforming federal regulatory practice by eliminating the "one-mission" mentality of individual bureaus and requiring thorough and independent cost-benefit analyses of regulations before they are imposed. In addition, Murphy argues for an end to what he views to be a counterproductive adversary relationship between government and business.

The difficulty of achieving Murphy's goals are all too clearly demonstrated in the following chapter in which Allen R. Ferguson and Murray L. Weidenbaum present their views on the issue of cost-benefit analysis and engage in an informal debate, responding to each other and to questions from the floor. As is often the case, two reasonable authorities on the topic of public policy analysis agree in principle on the appropriate approach to problems but disagree about the value judgments necessary to make the final decision. Nevertheless, if we could accomplish even that much in the national debate on regulation, the cause of rational policymaking would be substantially advanced from its present state.

In the final chapter James F. Gatti addresses the usefulness of various proposals for reform that have been offered under such names as "reindustrialization," "industrial revitalization," or "national planning." There are two basic issues addressed. The first examines the logic of planning in general and its inherent limitations. The second deals with the case of the economic "miracle" of Japan, a frequently cited example of what can be done by government to foster and accelerate economic growth and development.

With respect to the first issue, the conclusion is one of skepticism concerning the potential for government planning in general to provide any net benefits. With respect to the second, a review of the evidence leads him to the conclusion that while the Japanese government created an environment conducive to economic development, little, if any, of the economy's extraordinary growth can be attributed to direct government activity or specific government policies.

The papers do not represent a call for the abolition of the public sector: All of the authors recognize the need for some collectivistic action. Rather, the basic theme is a call for a more objective approach to the selection of the ends and the means of government policies and a thorough evaluation of their consequences. As is the usual case in matters of this sort, an unequivocal conclusion cannot be drawn from the essays, and it is unlikely that an individual holding opposing views will be fully persuaded by the arguments presented in this volume. But that is not its intent. Rather, the goal is to stimulate thought, discussion, and debate on these issues, for it is only through that process that this or any society can hope to develop the broad consensus necessary to select its goals without resort to unacceptable levels of coercion.

Contents

LIST OF CONTRIBUTORS	xi
FOREWORD BY MALCOLM F. SEVERANCE	xiii
PREFACE	xvii

CHAPTER 1	
An Overview of the Problem of Government Regulation	1
JAMES F. GATTI	

PART I	
FREEDOM, JUSTICE, AND PUBLIC POLICY	

CHAPTER 2	
Government Regulation and a Free Society	11
WILLIAM E. SIMON	

CHAPTER 3	
A New Threat to Freedom: The Challenge of the 1980s	25
<hr/> HARRY J. BOLWELL <hr/>	
CHAPTER 4	
Poverty, the Distribution of Income, and Social Policy: Some Thoughts	35
<hr/> THOMAS SOWELL <hr/>	
PART II	
<hr/> THE UNFORESEEN CONSEQUENCES OF REGULATION <hr/>	
CHAPTER 5	
Is Mrs. Thatcher Curing the British Disease?	59
<hr/> JOHN O'SULLIVAN <hr/>	
CHAPTER 6	
An Overview of Government Regulation	87
<hr/> MURRAY L. WEIDENBAUM <hr/>	