PLANET
ADVANCING LIBERTY FROM THE ECONOMY TO ECOLOGY
COMPETITIVE ENTERPRISE INSTITUTE VOLUME 23, NUMBER 3 MAY/JUNE 2010

Collective Failure

Does Andy Stern's Exit Mark the Beginning of the SEIU's End?

BY F. VINCENT VERNUCCIO

Purple may be the official color of the Service Employees International Union (SEIU), but Andy Stern is leaving the union deep in the red. He recently surprised the labor community by announcing his resignation as president of SEIU. Mr. Stern has claimed victories in helping pass health care legislation and getting President Obama elected, but his impact within his own organization shows gaping budget deficits and massive underfunding of pensions.

SEIU has seen its liabilities skyrocket during the past decade. The union's liabilities totaled $7,625,832 in 2000. By 2009, they had increased almost by a factor of 16, to $120,893,259. Meanwhile, SEIU's assets barely tripled, growing from $66,632,631 in 2000 to $187,664,763 in 2009. A significant portion of SEIU's current assets are from IOUs from hard-up locals.

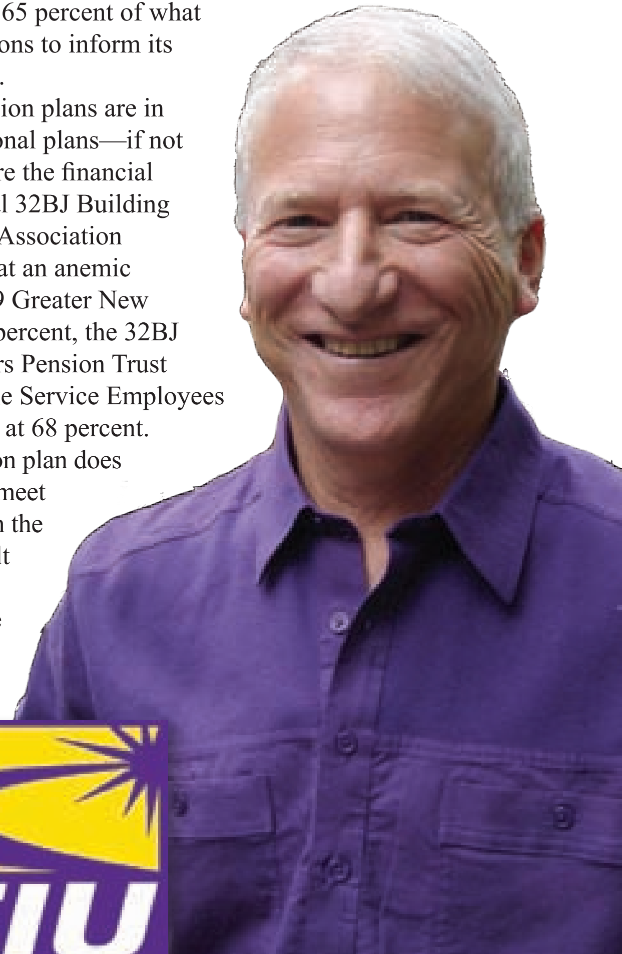
SEIU is $85 million in debt, down from its 2008 high of $102 million, and has been forced to lay off employees. Mr. Stern has led protests against Bank of America, calling for the firing of Chief Executive Ken Lewis. Yet the union owes $80 million to Bank of America and $5 million to Amalgamated Bank, which is owned by the rival union UNITE HERE.

SEIU's pensions are in even worse shape. Both of SEIU's two national pension plans, the SEIU National Industry Pension Fund and the Pension Plan for Employees of the SEIU, issued critical-status letters last year. The Pension Protection Act requires any pension fund that is funded below 65 percent of what it needs to pay its obligations to inform its beneficiaries of the deficit.

Many SEIU local pension plans are in as bad a shape as the national plans—if not worse. In 2007, well before the financial meltdown, the SEIU Local 32BJ Building Maintenance Contractors Association Pension Plan was funded at an anemic 41 percent, the SEIU 1199 Greater New York Pension Fund at 58 percent, the 32BJ District Building Operators Pension Trust Fund at 56 percent, and the Service Employees 32BJ North Pension Fund at 68 percent.

An underfunded pension plan does not have enough assets to meet its obligations to retirees in the future. Recovery is difficult if plans are significantly underfunded, as is the case with the SEIU plans.

(continued on page 3)



FEATURED ARTICLES

RADIA: SCHUMER'S ASSAULT ON FACEBOOK

>>page 4

CREWS & YOUNG: VAT CHANCE

>>page 6

LOGOMASINI: BAN ENDANGERS FOOD SUPPLY

>>page 9

ALSO INSIDE:

The Bootleggers are the Baptists' Last Hope by Iain Murray 2
Steve Jobs: Puppet Master? 7
Trading Towards Recovery. 8
The Good, the Bad, and the Ugly 10
Media Mentions 11
End Notes. 12

>>FROM THE VICE PRESIDENT FOR STRATEGY

The Bootleggers are the Baptists' Last Hope

By Iain Murray

Three events late last year combined to put the kibosh on global warming legislation in the United States for the foreseeable future. Now the only ones keeping such legislation alive are a handful of powerful special interests. Contrary to what you normally hear, big business is pushing, not opposing, climate legislation.

The first event was "Climategate." A public release of emails between climate scientists, at the University of East Anglia's Climate Research Unit, showed clear evidence of collusion to subvert the scientific process for political ends. The emails also showed those scientists engaging in a cover-up in possible violation of Britain's Freedom of Information laws. Polls following Climategate showed that it shattered public trust in climate science.

Climategate was followed by a series of embarrassing admissions that some conclusions in the reports from the United Nations Intergovernmental Panel on Climate Change were based on unsupported assertions by some scientists and on claims from non-peer-reviewed ("grey") literature. As a result, climate alarmists' main argument—the appeal to scientific authority—no longer carries much weight. Attempts to whitewash Climategate have fallen flat and on deaf ears.

Finally, the U.N. climate talks in Copenhagen ended in failure. After years of touting the talks as the route to a bigger, better Kyoto Protocol, climate alarmists stood by helplessly as the developing world bypassed Europe and forced President Obama to agree to something similar to the Bush administration's climate policy. Long before Climategate, major developing countries, including India and China, had rejected binding reductions in emissions as an unjust restriction on their poverty-fighting efforts. Any attempts to sign them up to this agenda were doomed to failure from the start.

The Copenhagen talks *were* a turning point, but not in the way environmental advocacy groups expected. Previously, negotiations for a new global climate treaty had been driven by Europe, with the U.S. (and Australia in the Howard years) acting as a brake. Kyoto was favorable to Europe, because it allowed it to bank emissions reductions that had already happened—as in, for example, Britain's emissions reductions from its "dash for gas" in the early 1990s—well before Kyoto was signed.

Most developing countries backed the American position. So by the time of the Copenhagen summit, the gap between Europe's position and that of the major developing countries had grown so large, that President Obama was forced to choose between them. Wisely, he chose the developing world, a decision that leaves Europe marginalized in climate negotiations. French President Nicolas Sarkozy seems to realize this, and figures the only climate policy options he has left is the threat of a carbon tariff—which could lead to a destructive trade war between North and South.

For America, the bottom line to all this is that the two strongest arguments for a global warming bill—scientific authority and international pressure—are gone. All that is left is an unseemly collection of environmental ideologues and their strange bedfellows in large companies hoping to profit from a global warming bill. These companies and environmental groups joined forces in something called the U.S. Climate Action Partnership a few years ago.

The Competitive Enterprise Institute predicted this back in 2001. Professor Ross McKitrick, in a paper he authored for CEI, demonstrated how a cap-and-trade scheme for greenhouse gas emissions would create a "carbon cartel" that would yield significant economic gains for its members at the expense of consumers, taxpayers, and the economy as a whole.

Today, the only major constituency lobbying for greenhouse gas legislation is this cartel, which includes companies like General Electric, Dow Chemical, General Motors and Duke Energy. In the classic formulation of Clemson University economist Bruce Yandle, they represent the self-interested "bootleggers" to the environmental groups' self-righteous "Baptists"—two groups that lobbied for prohibition, but for very different reasons. Whether the motive is salvation or profit, the practical result is the same.

The bootleggers are now the Baptists' only hope. Not for nothing did Sen. John Kerry (D-Mass.) boast that his American Power Act, was largely written by the U.S. Climate Action Partnership. That's worth keeping in mind the next time left-wing environmentalists criticize global warming skeptics for allegedly being backed by big business. In truth, big business is backing global warming legislation and skeptics are doing their best to stop them from inflicting further harm on America's struggling economy.

A version of this article originally appeared in The Washington Examiner.

CEI PLANET

Publisher
Fred L. Smith, Jr.

Editor
Marc Scribner

Editorial Director
Ivan G. Osorio

Contributing Editor
Richard Morrison

The CEI Planet is produced by the Competitive Enterprise Institute, a pro-market public interest group dedicated to free enterprise and limited government.

CEI is a non-partisan, non-profit organization incorporated in the District of Columbia and is classified by the IRS as a 501 (c)(3) charity. CEI relies upon contributions from foundations, corporations and individuals for its support. Articles may be reprinted provided they are attributed to CEI.

Phone:
(202) 331-1010

Fax:
(202) 331-0640

E-mail:
info@cei.org

ISSN#: 1086-3036

SEIU, *continued from page 1*

The Pension Benefit Guarantee Corp. (PBGC) insures only a portion of promised benefits to retirees in union multiemployer pension plans. If one of those plans goes bankrupt, the PBGC will guarantee only up to $12,870 in benefits.

Do not worry about Mr. Stern and other high-ranking SEIU officials, though. At age 59, he has 37 years of service in the SEIU and is entitled to a full pension and lifetime health benefits. Unlike SEIU's pension plans for rank-and-file members and union employees, SEIU's officer pension plan, the SEIU Affiliates Officers and Employees Pension Plan, was funded at 102 percent in 2007.

While SEIU's pension plans were failing and its liabilities growing, Stern seemed more concerned with electoral politics than with the internal workings of the union. Indeed, politics can account for much of SEIU's lavish spending in recent years. "We spent a fortune to elect Barack Obama—$60.7 million to be exact—and we're proud of it," he boasted to *The Las Vegas Sun* last year. In all, under Stern, SEIU spent more than $85 million to elect President Obama and give Democrats control of Congress. What has been Stern's reward?

It is often said that in politics, personnel is policy. By that measure, SEIU carries considerable weight within the Obama administration. Patrick Gaspard, formerly the executive vice president of politics and legislation for the powerful Local 1199 SEIU United Healthcare Workers East, is now the political director at the White House.

Craig Becker, formerly SEIU's associate general counsel and adviser to the ACORN affiliate SEIU 800 in Chicago, is now on the National Labor Relations Board (NLRB). Mr. Obama made a recess appointment of Becker after he failed to be confirmed by the Senate. This was a significant win for organized labor. Becker has hinted at having the NLRB enact card check without a vote in Congress.

SEIU Secretary-Treasurer Anna Burger sits on the Obama administration's Economic Recovery Advisory Board. Mr. Stern himself was appointed by Mr. Obama to its deficit commission. (Stern has said he will stay in that post after he steps down from SEIU.)

Burger responded to my criticisms of Stern and the financial health of the union, admitting, "While our pension funds—like all pension and retirement funds—took a hit last year when the market collapsed, our outside investment managers have developed a plan to address those challenges within the parameters of the Pension Protection Act." However, her implication, that SEIU's pension funds took a hit like that of all other pension and retirement funds, obscures the bigger picture.

SEIU's pensions were in trouble long before the financial crisis hit. Former Department of Labor chief economist Diana Furchtgott-Roth, now with the Hudson Institute, showed in a 2009 study, which compared union-sponsored and private pension funds, that the SEIU National Industry Pension Plan was only 75 percent funded in 2006. Since then, the financial crisis has only made things worse.

SEIU's National Industry Pension Fund and Pension Plan for Employees of the SEIU both issued critical status letters last year. The Pension Protection Act requires a pension fund to send a critical status notice to its participants if its funding drops below 65 percent of that required to pay obligations. Unlike the vast majority of pensions in the United States, these two plans joined only 90 others, mostly union pension plans, in having been required to send out critical status letters. Four of the 90 were SEIU plans.

Notably absent from the critical list was the SEIU officer's plan, which is currently funded at 98.3 percent, according to the fund's Department of Labor Form 5500 filing, available at SEIUmonitor.com. Burger, like Stern, can rest easy knowing her pension is safe. Rank-and-file SEIU members do not have that luxury.

Puzzlingly, Burger claims that, "all SEIU beneficiaries are whole by law—no one has lost a dime." The only logical explanation for such a statement is that she is probably referring to the pension protections of the Pension Benefit Guarantee Corporation (PBGC). Unfortunately for union members, PBGC guarantees only $12,870 in benefits for members of multiemployer plans such as those in the SEIU plans (in contrast to a maximum of $54,000 for private plans).

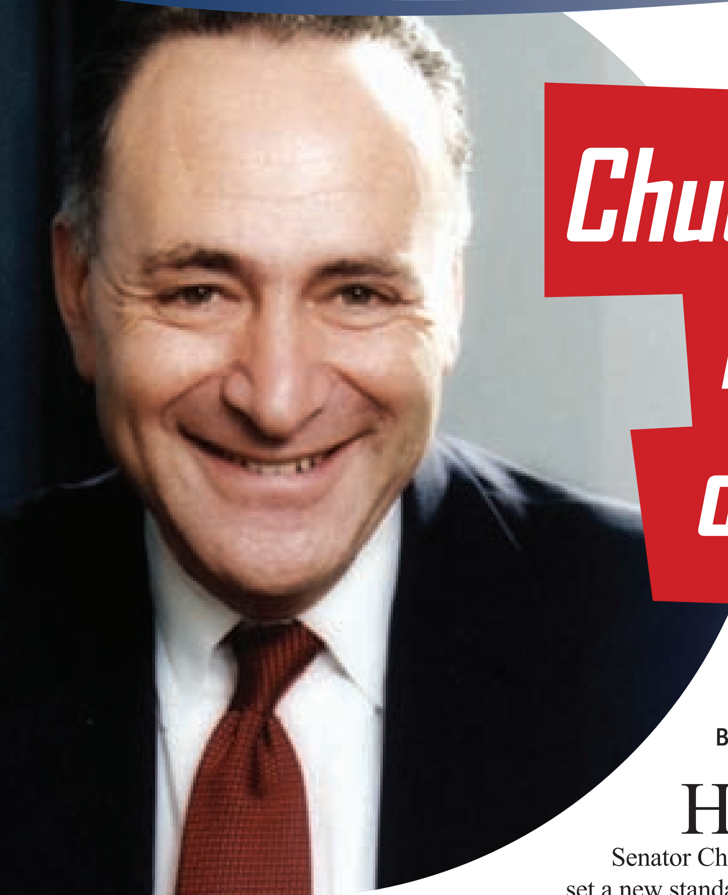
Burger proclaims that, "In 2009, SEIU grew by 7 percent, doubled its net assets, decreased its debt as a proportion of overall assets by 22 percent and reduced non-real-estate debt by more than 60 percent" (and that what she calls my "misuse of LM-2 figures misleads readers and misses the facts"). Her narrow analysis conveniently omits a decade of liability increases, which skyrocketed by a factor of 16. The union's liabilities were $7,625,832 in 2000 and $120,893,259 at the end of 2009. She also did not account for IOUs from SEIU locals being counted as assets. Much of SEIU's $85-million debt stems from its lavish Washington, D.C., headquarters, purchased in 2003, which required an $80 million dollar loan, as well as from heavy political spending in 2008.

Burger was forced to defend Andy Stern's record. Stern's resignation has resulted in a battle for the leadership of SEIU. In late April, several SEIU locals swung their support to California nurses leader Mary Kay Henry. Burger was forced to drop out of the race and Henry is now SEIU's new president. Though it's hard to know for sure why some locals defected, one of the main reasons for Burger's downfall may be her ties to Andy Stern. Stern is seen as divisive and some local leaders have bristled at his efforts to centralize power in SEIU's Washington headquarters.

Stern's abrupt resignation has led many to question his motives and ponder his next steps. Whatever the answer, one thing is certain: He leaves SEIU—especially its pension funds—swimming in red ink. No matter who leads SEIU, the union will have a difficult time bringing its pensions to full funding. Sadly, it will be the union's rank-and-file members who will be paying for Mr. Stern's profligacy well into the future.

---

*F. Vincent Vernuccio (*vvernuccio@cei.org*) is an Adjunct Analyst at CEI. This article is compiled from two articles that originally appeared in* The Washington Times *and* The American Spectator.



Chuck Schumer's Hypocritical Assault on facebook

BY RYAN RADIA

Hypocrisy in politics is nothing new. But U.S. Senator Charles Schumer (D-N.Y.) set a new standard for it when he and three other senators fired off a scathing letter to social networking giant Facebook. The letter attacked Facebook's privacy practices and demanded the site make changes to better protect users' "control over their information." But the real threat to consumer privacy comes not from sites like Facebook but from posturing politicians.

The Facebook controversy centers around the site's new features and changes unveiled in April. Under the new privacy policy, Facebook profiles are linked to popular online sites Yelp, Pandora, and Microsoft's Docs.com by default. Users can opt out of these "social plug-ins." Facebook also made all users' likes and interests visible to the public, with no opt out. These changes angered some users and sparked a major uproar in the blogosphere.

Naturally, politicians saw this controversy as a golden opportunity to get involved. Sen. Schumer and his cohorts have asked federal regulators to "recommend" privacy guidelines for social networking sites. The Senators may even be on the verge of introducing legislation to regulate online privacy. But in the thriving digital economy, heavy-handed federal intervention will do more harm than good.

In one breath, Schumer is imploring Facebook to change its privacy practices. In the next, he's leading the push in Congress to require all Americans to have national ID cards. Unlike social networking sites, we won't simply be able to "opt out" of Schumer's national ID scheme. Schumer's proposal even requires citizens' biometric information, like an iris scan or fingerprint, according to CNET News. Perhaps Sen. Schumer could use a dose of his own privacy medicine.

From lost laptops to warrantless wiretapping, the federal government is the single biggest privacy violator in the United States. The private sector, however, must compete to win over consumers. Companies go broke if they don't adequately protect customer privacy. When bureaucrats mess up, their agencies get bigger budgets. Schumer and company, it seems, have forgotten this crucial distinction.

They've also forgotten that social networking isn't about walling off information—it's about sharing it with others. Anything posted on a Facebook page might end up in the public eye, and users should think twice before putting up any highly sensitive information. Besides, Facebook users who are irked by the site's privacy policies can simply stop using the site. Social networks are a dime a dozen these days. Users can even launch their own social network for free using services like Ning.

In the information age, finding the perfect balance between privacy and information sharing is difficult, if not impossible. That's because consumer preferences are evolving rapidly, fueled by disruptive new technologies that are constantly changing how we share and use information.

Indeed, as social networking has taken off over the past few years, it's become quite clear

If Senator Schumer and his colleagues really want to safeguard Americans' privacy, they should stay out of the thriving online ecosystem.

that many people actually want to share personal information—not just with friends, but with strangers, too. Tens of millions now publish their every thought on Twitter, available for the world to see. And Foursquare, the latest Web phenomenon, even encourages users to post their whereabouts publicly in order to compete over who can "check in" at hot night spots the most.

So it's hardly unreasonable that Facebook wants to keep up with this trend. The site's new privacy settings, which encourage users to share publicly their interests and hobbies, may make Facebook more useful and popular among consumers. Facebook's latest round of changes could just as easily flop. Perhaps the site has misjudged what its users really want.

Either way, government's proper role is to enforce voluntary privacy policies, not dictate them in the first place. Mistakes will be made, and firms that get it wrong will suffer the legal and reputational consequences. Besides, users themselves can be a powerful force for change—in 2007, Facebook launched a new advertising system called Beacon, but quickly backed off when its users revolted.

But when politicians like Sen. Schumer threaten online providers like Facebook with government mandates, they undermine the experimentation that's been crucial to America's incredible achievements in the high-tech sector. The United States is home to Google, Facebook, Yahoo!, and many more innovators precisely because our government has largely steered clear of regulating Internet commerce. Crippling the private sector with federal mandates would stifle America's culture of digital innovation.

The information age is still in its infancy. Most high-tech frontiers remain unexplored. They'll stay that way if politicians in Washington deny the Facebooks of the world the freedom to experiment with novel approaches to sharing information online. If Senator Schumer and his colleagues really want to safeguard Americans' privacy, they should stay out of the thriving online ecosystem. Instead, Congress should fix the federal government's own invasive policies. Rejecting invasive proposals like biometric national IDs would be a good start.

Ryan Radia (rradia@cei.org) *is Associate Director of Technology Studies at CEI. A version of this article originally appeared in* Town Hall.

My legacy?

I need to provide for my loved ones. But like my family, I want CEI to carry on for generations to come. What can I do?

It's easy to do both. Talk to us about your options, like…

- Designating your retirement plan
- Leaving a life insurance policy
- Making a bequest through your will
- Making a gift now, and receiving income for life
- And much more

Any of these options could help you now and provide for your family in the future. Some you can even put into place today without losing any income.

Want to learn more?

Contact Al Canata at acanata@cei.org or (202) 331-1010

This publication is intended to provide general gift planning information. Our organization is not qualified to provide specific legal, tax or investment advice, and this publication should not be looked to or relied upon as a source for such advice. Consult with your own legal and financial advisors before making any gift.

VAT CHANCE

BY WAYNE CREWS AND RYAN YOUNG

After running up more than $3 trillion in debt in just two years, the federal government is looking for new ways to raise money. Promised future entitlement spending in the tens of trillions of dollars has put the government's AAA bond rating in jeopardy, so borrowing all that money could be an expensive proposition. That means a tax hike is coming.

One popular idea in the White House is the value-added tax (VAT). It's a tax on each stage of production, calculated according to how much value each producer adds to its products. It is also a terrible idea.

The root cause of the deficit is too much spending, not too little taxing. Putting a new tax on top of what we already pay is the wrong approach. Last year, Americans paid $989 billion in income taxes alone. We spent even more than that on sales taxes, gas taxes, electricity taxes, and more. Enough is enough.

As far as taxes go, the VAT is especially destructive. For one, it would require roughly doubling the current size of the Internal Revenue Service. Sixteen years ago, the Congressional Budget Office estimated compliance and administrative costs for a VAT at $8.5 billion annually. That figure can safely be placed at more than $10 billion by now. The IRS' entire budget is currently $12.1 billion. All of this is in addition to the 16,000 new IRS employees needed to enforce the health care bill

Knowing how much we are taxed is a fundamental right that preserves our ability to challenge excess government in a constitutional republic. A VAT would take that away.

That's because VATs lack transparency, making abuse almost inevitable. When traditional sales taxes are added to the goods we buy, we know what we pay simply by looking at our receipts. By contrast, VATs are hidden. Manufacturers pay them in advance and factor them into the prices they charge consumers. They do not show up on receipts.

Americans worked until April 9 this year to pay their taxes before keeping a dime for themselves. We can still know, to the penny, how much we pay by looking at our pay stubs and old 1040 and state income-tax returns. This transparency is one of the few checks that citizens have against runaway tax increases. Because a VAT is so easily hidden, consumers can shoulder a massive tax burden and not even know it. Thus, VATs can allow government to grow by stealth.

VATs are also needlessly complex. The U.S. tax code is already over 100,000 pages long. The last thing taxpayers need is another layer of complexity.

International experience with VATs shows that, even if they are simple at first, they quickly grow into Hydra-headed monsters. For instance, France was recently roiled with controversy over whether dandruff shampoo constitutes a medicine taxable at 5.5 percent, or a cosmetic taxable at 18.6 percent. There are more pressing issues that deserve our attention.

VATs also give politicians the opportunity to hit politically incorrect products with punitive tax rates. Danish car buyers, for example, pay the standard 25 percent VAT, plus a special 105 percent VAT on the first $11,000 of the car's value, plus a third VAT of 180 percent on any remaining value. All in all, Danes pay roughly triple retail price for their cars. An American VAT would make it easier for environmental activists to give U.S. car buyers similar treatment.

VAT rates also tend to go up over time. Of the 29 member countries of the Organization for Economic Cooperation and Development that have a VAT, 20 have increased their rates over time. The average rate for newly introduced VAT rates in Europe was 5 percent. Now the average European VAT is more than triple that—17.7 percent. (Most countries with VATs have at least three different rates.)

Taxpayers are already overburdened. The best way to reduce budget deficits is to cut spending. A value-added tax is the worst kind of tax. It is complex, hidden, vulnerable to special interest rent-seeking, and prone to increases. It should be rejected.

---

*Wayne Crews (*wcrews@cei.org*) is Vice President for Policy at CEI. Ryan Young (*ryoung@cei.org*) is CEI's Warren T. Brookes Journalism Fellow. A version of this article originally appeared in* The Daily Caller.

Steve Jobs: Puppet Master?

BY JONATHAN MOORE

For weeks, the world awaited, with bated breath, the January 2010 unveiling of Apple's hyped new device. What they got was the iPad, a sort of hybrid between a smart phone and laptop computer. The iPad is intended to be all things to all consumers—it can surf the Internet, play music, movies, and games, and do work-related tasks such as producing documents and spreadsheets. This is all packed into an aesthetically pleasing 1.5-pound, 0.5-inch thick package with a 9.7-inch touch screen. To antitrust hawks, however, something sinister lurked below the surface.

The iPad is also supposed to revolutionize the electronic book, or "eBook" industry, now dominated by Amazon's Kindle. Apple's eBooks will be in color, as opposed to the black and white graphics offered by the Kindle. When asked about the pricing model for the eBooks offered by Apple, Jobs said that the books would be offered at prices up to $14.99. He was then asked why anyone would buy an Apple eBook for $14.99 when they can get one from Amazon for $9.99. Jobs responded cryptically, "that won't be the case." He later said, "The prices will be the same," and that "Publishers are actually withholding their books from Amazon because they're not happy."

Enter Macmillan Publishing and Amazon.com, who were recently involved in a scuffle involving eBook pricing. Macmillan demanded that Amazon shift its pricing model to one curiously similar to the one suggested by Steve Jobs at the iPad unveiling. Amazon, in response, pulled all print and eBook versions of Macmillan books from its sites. Amazon soon relented, agreed to Macmillan's new pricing model, and reposted the books on its websites.

This anecdote illustrates how the phenomenon known as "minimum resale price maintenance" (RPM) works. Under this arrangement, the manufacturer—in this case, Macmillan—demands that the retailer—Amazon—charge no less for the manufacturer's product than the price set by the manufacturer. For over a century, this

practice was illegal under the 1890 Sherman Antitrust Act.

However, in 2007, the U.S. Supreme Court case struck down the federal ban on RPM. In *Leegin Creative Leather Products v. PSKS, Inc*, the Court ruled that, rather than the practice itself being illegal in every instance, each individual RPM arrangement would have to be judged according to a "rule of reason" to determine whether it advances or hinders competition.

So what does this have to do with Macmillan, Amazon, and Apple? Plenty.

Amazon holds a very large share of the market for eBooks, which makes it difficult for any publisher to challenge its pricing practices, out of concern they may lose their biggest eBook retailer. Enter Apple, drawn to the market by the profits Amazon was making on the Kindle. With a new prominent retailer of eBooks entering the market, Macmillan is no longer entirely dependent on Amazon for its eBook sales, thus giving it greater leverage in its dealings with Amazon.

Minimum resale price maintenance has only been legal in America for about three years, and even then on a rule-of-reason basis. Yet even in that short time, many companies have used RPM as a means to control the sale of their products and give retailers an incentive to increase accompanying services for them. Now Amazon is lobbying heavily to reestablish a blanket ban on RPM in all cases. To that end, it is lobbying heavily for the Discount Pricing Consumer Protection Act of 2009 (H.R. 3190), which recently passed by voice vote out of the House Judiciary Committee. Observers have predicted that the bill will likely be abandoned as stand-alone legislation, with the core text being rolled into more a more comprehensive bill.

A reestablished ban on RPM would be bad for consumers. RPM is intended to encourage competition on service, rather than on price. Establishing a price floor prevents retailers from trying to merely beat one another by cutting prices. Instead, competition will make them provide the best accompanying service with the good being sold.

Prior to Apple's entry into the market, publishers were largely held to the terms of Amazon, the primary distributor of eBooks. Now that a new competitor has entered the market, publishers have more retailers to bargain with, and the quality of eBooks will very likely increase.

That is because some publishers will take the RPM approach, and some will not. Some will cut prices aggressively, while others will see the attraction of a pricing structure like Macmillan's and set their own RPM. Some will produce relatively pricey, high-end eBooks, while others will offer lower price options—just as a Lexus costs more than a Honda. The same holds true for retailers. Amazon does a very good job at discounting, while Apple excels in providing high quality goods and services.

This greater competition can only help consumers. It will lead to more choices, increased quality, and lower prices for those who want them. Rather than a plain vanilla selection of black and white eBooks for $9.99 consumers will be able to weigh their preferences and select between a wider variety of products for a wider variety of prices. The Discount Pricing Consumer Protection Act threatens to undo all that.

---

*Jonathon Moore (*jmoore@cei.org*) is a Research Associate at CEI.*

Trading toward Recovery

BY GEOFFREY MICHENER AND BRIAN MCGRAW

As the economy continues to stumble, Congress and President Obama have repeatedly refused a unique opportunity to bolster our workforce and our economy. Their inaction on three pending Free Trade Agreements (FTAs)—particularly one with Colombia (CFTA)—is costing U.S. consumers and businesses billions in lost opportunities.

The U.S. International Trade Commission estimates that the CFTA would increase U.S. GDP by $2.5 billion. Exports to Colombia would increase by $1.1 billion when tariffs—ranging from 10 to 35 percent per good—are lifted. On the import side, 90 percent of Colombian goods already enter the United States without any tariffs, but nevertheless, imports from Colombia are projected to increase by $487 million annually if the agreement is approved.

Economists from across the political spectrum have argued that reducing trade barriers is one of the most effective ways to spark economic growth. The Copenhagen Consensus, a Danish think tank, argues that completing the World Trade Organization's Doha Round of trade talks could boost growth in the world's poorest countries by 1.4 percent per year. The CFTA is a small but important piece of that puzzle. It is also low-hanging fruit. Negotiations were completed three years ago. All that's left are votes by the House and Senate.

These agreements are not perfect. They contain a number of provisions unrelated to trade, mainly labor and environmental standards. But the benefits of increased trade are huge.

Trade works because it applies Adam Smith's theory of division of labor—the idea that when people and countries focus on what they're good at, and rely on others for the things they're not good at, everyone benefits. Henry Ford applied this theory to the factory floor; on his assembly lines, each worker had a specialized task. He produced more cars more cheaply than his competitors, which had little to no such specialization.

All this is old hat to economists. But the general public is ambivalent on trade.

A common objection non-economists have to freer trade is that it ships jobs overseas. Such people are at a loss to explain why more than 20 million net jobs have been created in the U.S. since the North American Free Trade Agreement passed. Trade affects not only the number of jobs, but also the types of jobs. Trade allows each person to create more wealth than each could create on his own.

> *"There are long-term consequences to holding America back from the benefits of freer trade. The world is moving forward in globalized trade relations; the United States cannot afford to be left behind."*

The AFL-CIO cites violence against union members as a reason for opposing the CFTA. While Colombia has a high (but decreasing) murder rate, union members are in no more danger than the general population. Around 2 percent of Colombians are union members; they comprised fewer than 0.5 percent of the 17,000 murder victims in 2007. They are actually about four times safer than the general population. Restricting access to trade will do absolutely nothing to decrease violence.

One cannot help but wonder if American labor leaders are exploiting the violence in Colombia as a means of hiding from competition.

Meanwhile, Colombia has been busy passing FTAs with other countries—Canada, Argentina, and parts of Europe. Imports to Colombia from those countries have soared at the expense of U.S. exports and workers. The longer we delay in passing this agreement, the more difficult it will be for U.S. businesses to regain the market share they've lost to competitive other countries.

U.S. Trade Representative Ron Kirk and President Obama need to press Congress to liberalize trade with Colombia. Similar agreements with South Korea and Panama also deserve to be passed. There are long-term consequences to holding America back from the benefits of freer trade. The world is moving forward in globalized trade relations; the United States cannot afford to be left behind.

Geoffrey Michener (gmichener@cei.org) *and Brian McGraw* (bmcgraw@cei.org) *are Research Associates at CEI. A version of the article originally appeared in* National Review Online.

Short-Sighted Ban Endangers Food Supply

BY ANGELA LOGOMASINI

The Senate may soon vote on an amendment to the FDA Food Safety Modernization Act that could undermine the integrity of the U.S. food supply. The amendment—which has also been introduced as a stand-alone bill (S. 593) by Sen. Diane Feinstein (D-Calif.)—would ban the use of a substance called bisphenol A (BPA) in food packaging.

BPA has many valuable health, safety, and environmentally beneficial applications. BPA-based resins line food containers—including aluminum and steel cans—to reduce contamination of our food from rust, E-coli, botulism, and a host of other dangerous pathogens.

It replaced glass baby bottles and cups to reduce the risks of broken glass, and it is much more energy efficient to make and transport. It also saves energy and water when used for highly reusable and recyclable five-gallon water jugs found in office coolers. It has been used for more than 50 years without producing any documented health problems among consumers, yet environmental activists have called for bans, based on claims that it leaches into food and poses serious health risks.

Many state legislatures have begun banning its use for any food packaging or food containers designed for children under three, such as baby bottles and sippy cups. On the extreme end, Feinstein's bill would ban all food containers and packaging made with BPA and set up a process for the agency to consider bans on other packaging products in the future.

Lawmakers should seriously consider whether the alternative products will be safer. After all, are we willing to risk more children and adults suffering from E-coli or getting cut from broken glass?

Supposedly, some of the state-level legislation addresses that issue by demanding that manufactures replace BPA products with less toxic, safer alternatives. But you cannot mandate something that might not exist. In fact, packaging manufacturers have been trying to remove BPA from their products because of public pressure. But they are having a very difficult time finding safer alternatives.

In fact, one company representative told *The Washington Post*: "We don't have a safe, effective alternative, and that's an unhappy place to be. …No one wants to talk about that."

The Feinstein bill allegedly deals with that problem by setting up a bureaucratic waiver process through which companies would have to spend gobs of money to prove there are no better alternatives to BPA. The problem is that proving a negative is, well, pretty much impossible. It will be easier for manufacturers to simply use inferior, more expensive packaging and then simply cross their fingers with the hope that doesn't result in increased food-borne contamination.

Instead of arbitrarily removing any product from the marketplace, lawmakers should have to prove that it is truly dangerous—something that has not been shown for BPA even after a massive amount of government and privately funded studies around the world. Scientific panels around the world have investigated BPA many times over. In studies done in Japan, the European Union, Canada, Norway, and elsewhere, researchers could not find any public health ills related to consumer exposure to BPA.

A joint study by the Competitive Enterprise Institute and the Cascade Policy Institute overviews the science showing that regulation isn't warranted. BPA's alleged risk to humans is mostly based on studies of rodents that were administered in massive doses—often by injection.

The relevance to humans who are exposed to trace amounts in food is highly questionable.

Moreover, humans metabolize and pass BPA quickly, while rodents do not. Many substances—such as chocolate—will kill a rat but are safe for humans. But we don't panic and ban chocolate. Moreover, according to EPA data, consumer exposure to BPA is likely 100 to 1,000 times lower than EPA's estimated safe exposure levels—for both infants and adults.

Still, environmental activists claim that BPA may upset our endocrine systems and create developmental problems for kids. They make these claims because BPA is what scientists call "weakly estrogenic." Yet that does not mean it has any effect when we are exposed to trace amounts. After all soy, peas, beans, and a host of healthy foods have that same attribute. But according to data from the National Academy of Sciences, exposure to such substances naturally found in our food is 100,000 to 1 million times higher than exposure to similar substances in BPA.

BPA risks are most probably lower than a few tablespoons of soy milk—which is extremely low. Surely, broken glass and increased risks of food-borne illnesses—which could be the result of government BPA bans—should be the greater concerns. Efforts to ban bisphenol A have been based on unfounded fears, not science.

---

*Angela Logomasini, Ph.D., (*alogomasini@cei.org*) is Director of Risk and Environmental Policy at CEI.* *A version of this article originally appeared in* The Washington Examiner.

THE GOOD

CEI Exposes GM's Bailout Deception

In April, General Motors launched a series of TV ads—under a campaign entitled "GM Repaid Government Loan Ahead of Schedule"—in which GM CEO Ed Whitacre claims, "[W]e have repaid our government loan in full, with interest, five years ahead of the original schedule." While this one fact is technically true, Whitacre fails to mention how his company paid back its $7-billion federal loan: with money from GM's $13-billion escrow account, which was set up with money from the Troubled Assets Relief Program. (That money was originally intended to go to prop up failing financial firms, but it was unilaterally diverted by the Bush administration.) CEI called GM's shell-game bluff, filing a formal complaint with the Federal Trade Commission (FTC) challenging GM's deceptive advertising. Word spread fast, and major news outlets such as *USA Today* and ABC News ran stories about the complaint, in which CEI urges the FTC to promptly investigate, to "serve the American public on this issue" and "discourage other beneficiaries of government bailouts from falsely misrepresenting their status."

THE BAD

Arizona Enacts Intrusive Immigration Law

On April 23, Arizona Governor Jan Brewer (R) signed into law SB 1070, the "Support Our Law Enforcement and Safe Neighborhoods Act," a bill aimed at targeting illegal immigrants. "The law should be called the 'Job Destruction and Crime Promotion Act of 2010,'" stated CEI Policy Analyst Alex Nowrasteh. "Placing more restrictions on Arizona employers, who are already required to use the federal government's E-Verify tracking system, will only make an economic recovery less likely in the Grand Canyon State. Furthermore, it will overburden Arizona's already fiscally strapped police departments with the impossible task of enforcing this law." The new law makes it a state crime for a non-citizen to be in Arizona without federally mandated identification. It obligates local law enforcement to attempt to determine a person's immigration status during traffic stops or other interactions where there is "reasonable" suspicion that the person may be in the country illegally. Employers also face stiff sanctions for hiring undocumented workers.

THE UGLY

Misguided Internet Privacy Legislation Introduced in Congress

Politicians and bureaucrats have repeatedly attempted to justify expansive new Internet regulations in the name of protecting consumer privacy. In early May, Reps. Rick Boucher (D-Va.) and Cliff Stearns (R-Fla.) unveiled draft legislation that would limit online user data collection by private companies. The new restrictions, if enacted, would apply to all sorts of online transactions and behavior, including membership and activity with free social media networks such as Facebook. "If Rep. Boucher wants to strengthen consumer privacy in the online world, he should turn his focus to constraining government data collection, which poses a far greater privacy threat than private sector data collection," stated Ryan Radia, CEI's associate director of technology studies. "A good starting point would be reexamining the Electronic Communications Privacy Act, the outdated 1986 law that governs governmental access to private communications stored online.

Media**MENTIONS**

Compiled by Richard Morrison

Journalism Fellow Ryan Young sizes up the current scope of the federal regulatory state:

Federal regulations cover everything from the size of holes in Swiss cheese to the label text on over-the-counter flatulence medication. There are so many rules, it takes 157,000 pages to list them all. And they cost us $1.187 trillion, according to *Ten Thousand Commandments*, a new study from the Competitive Enterprise Institute.

That entire trillion-plus is off-budget, too. This year's $3.8-trillion federal budget understates government's true cost by nearly a third.

The regulatory state grows every year, no matter which party is in power. A new regulation passes every two-and-a-half hours, day and night, seven days a week. Three thousand, five hundred and three new rules passed last year alone. Hardly any were repealed. Over 4,000 more are in the pipeline right now. This year's *Federal Register*, where all new regulations are announced, is currently on pace to exceed 72,000 pages. And to think this is actually a slight slowdown from the Bush years!

–The Daily Caller, May 7

Vice President for Policy Wayne Crews takes on mission creep at the Federal Communications Commission:

Increasingly, some groups contend there's a crisis in journalism, even to the extent of advocating government support of news organizations. The dangers to freedom inherent in the concept of government-funded ideas and the impact on critique and dissent seem not to bother them.

Meanwhile, the Federal Communications Commission plays along. Its Future of Media project seeks "to help ensure that all Americans have access to vibrant, diverse sources of news and information that will enable them to enrich their families, communities and democracy." …

This fundamental misunderstanding of free speech and government's role with respect to the institution of democracy is worrisome. We've descended to the level of an increasingly obsolete FCC effectively advocating a self-aggrandizing "bailout for the First Amendment" and government-enabled access to information at a time of not just instant availability of information of every kind, but instant broadcast capability at the level of the individual human being.

–*The Washington Times*, May 5

Policy Analyst Alex Nowrasteh and Journalism Fellow Ryan Young on how to fix our nation's immigration system:

True immigration reform makes legal channels more appealing, not less. That means lightening the paperwork and the regulatory burden, and eliminating quotas. The more unattractive legality becomes, the more attractive illegality looks in comparison.

Black markets are anathema to a free society. Murder, theft, smuggling, and even slavery are part and parcel of immigrant black markets. They are also easily avoidable—just shrink the black market by making legal immigration easier.

From Plymouth Rock to the present day, people have risked everything they have to come to America in search of a better life. The government does everyone a disservice when it gets in the way of that noble quest.

–*The American Spectator*, April 27

Senior Fellow Christopher C. Horner reveals the backroom deals behind Sen. John Kerry's cap-and-trade climate bill:

The truth is that Kerry's partner in drafting this bill, BP, lost the plot some years ago in its zeal to pretend it was "Beyond Petroleum" (check its balance sheet to see the reality). Working closely with none other than Enron, BP focused on getting the Kyoto treaty and cap-and-trade schemes with subsidies for their otherwise failing wind and solar boondoggles. Along the way BP chased out its most talented people by telling them the future lay elsewhere.

And for more than six years it's been "soiling the nest for everyone," according to an old friend who now works in the petrochemical industry, by, well, killing workers and messing up the joint with exploding plants, rigs and leaking pipelines. The Deepwater Horizon incident is not an offshore drilling issue; it's a BP issue. Offshore drilling has a spectacular safety record in recent decades, and BP has a wretched one. This latest BP event is consistent with only one of those.

So along come John Kerry and Harry Reid, desperate to cram down the Obama priority of a scheme to move key energy-use decisions from individual producers and consumers to the state. To get industry support—and, they've made clear, to call off the dogs of planned advertising blitzes by the American Petroleum Institute and Chamber of Commerce—Reid openly admits to having brought those constituencies behind closed doors to ask them what they need to support the bill.

–BigGovernment.com, May 6

Vice President for Strategy Iain Murray and Research Associate Roger Abbott argue that the U.S. government should liberalize international air travel:

On March 25, American and EU negotiators signed a draft agreement on the second round of Open Skies negotiations, which purports to open both markets to foreign competition. Unfortunately, real progress has been stymied by America's refusal to commit to relaxing its outdated ownership laws, which limit foreign ownership of voting equity in American airlines to a mere 25 percent.

These Cold War-era restrictions significantly hamper competition. Landing slots at airports are a very scarce commodity due to local zoning regulations. At U.S. airports, American airlines typically own around 90 percent of slots, in contrast to big European hubs like Heathrow, where only 38 percent of the places are owned by British airlines. This makes it very difficult for foreign-owned airlines to establish adequate feeder routes. As a result, the only way for foreign airlines to successfully compete in America is to merge or form joint ownership agreements with U.S.-based airlines. This strategy has been successful and beneficial for passengers, but it is severely curtailed by the current foreign ownership cap.

–*The Washington Examiner*, April 15

1899 L Street, NW, 12th Floor
Washington, DC 20036

Nonprofit Org.
U.S. Postage
PAID
Permit 2259
Washington, DC

…END NOTES

Coincidence? Injury Bill Directly Benefits Sponsor

New York State Sen. Antoine M. Thompson (D-Buffalo) responded to critics of his new legislative expansion of personal injury protection, claiming that it was nothing more than a "coincidence" that the bill would personally benefit him in a pending personal injury lawsuit. "That's pretty far-fetched," Thompson said. "One has nothing to do with the other." Or does it? Thompson's bill seeks to define "partial or complete tear or impingement of a nerve, tendon, ligament, muscle or cartilage" as basis for litigation, and would be extended to cover any pending legal action. Thompson's lawsuit alleges a truck driver ran him off the road near Rochester three years ago, resulting in a 25-percent tear to his rotator cuff. Critics also claimed that the legislation would make New York's current fraud-plagued "no-fault" liability system even more susceptible to fraud.

Residents Billed for Tax Repealed 33 Years Earlier

In other Buffalo-related news, the city decided to bill nearly 3,000 residents for a tax that was repealed more than 30 years ago. The occupancy tax, imposed in 1976 and then repealed only a year later following public protests, was declared legal by a court, but the city opted not to collect for nearly three decades. However, the city recently purchased a new computer system, and claimed the easiest way to clear out the delinquencies was to send out notices. Eighty-year-old West Side homeowner David Lambe received a bill for $10 plus $40 in interest charges—1 percent per month for 400 months. Residents have until May 31, 2010, to pay their outstanding balances or be hit with additional collection charges.

Even Communists Have Tea Parties

Until recently, taxes and spending were not issues in China. The Communist-ruled country generated most of its revenue through direct ownership of industry and dissent was harshly punished. Besides, most residents were too poor to pay anything. But as Red China has gradually allowed private wealth creation, taxable income has become an issue for many citizens. In Wenling, a thriving city on the East China Sea, residents were given the opportunity to speak out about how officials were spending their money. While the forum was subdued compared to debates in the West over taxation and spending, this should certainly be seen as a positive step toward a freer China. "It's at a crossroad," said Li Fan, director of a private Beijing think tank that advocates political reforms. "They're not willing to push this any further. But they can't roll it back. The people won't allow it."

Unemployed Foodies Have Never Had it So Good

In May, the U.S. Department of Agriculture (USDA) announced that enrollment in the Supplemental Nutrition Assistance Program (SNAP), the newly named federal food stamps program, had reached an all-time high of 39.68 million in February, up 260,000 from January. The $59-billion program is set to grow even larger, say USDA analysts. They predict FY 2010 enrollment to average 40.5 million, and for the roll to grow to 43.3 million in FY 2011. Meanwhile, in March, *Salon* ran an article, "Hipsters on Food Stamps," describing a new trend of young, urban, college-educated enrollees using their SNAP debit cards to make gourmet purchases from luxury retailers like Whole Foods. "Savory aromas wafted through the kitchen as a table was set with a heaping plate of Thai yellow curry with coconut milk and lemongrass, Chinese gourd sautéed in hot chile sauce and sweet clementine juice, all of it courtesy of government assistance."