



PLANET

ADVANCING LIBERTY FROM THE ECONOMY TO ECOLOGY

Competitive Enterprise Institute - Volume 19, Number 3 - July/August 2006

"TWO-POINT-EIGHT-TRILLION ANYTHING IS SCARY"

The Competitive Enterprise Institute's 2006 Annual Dinner and Reception paid homage to Hollywood. The evening, themed "A Night at the Movies," featured P.J. O'Rourke, one of the nation's foremost political satirists, as Keynote Speaker. Also appearing that night were ABC News Correspondent John Stossel, who was presented the 2006 Julian L. Simon Memorial Award; National Review Editor Rich Lowry, who acted as master of ceremonies; and Bloomberg columnist Amity Shlaes, who delivered the Warren T. Brookes Testimony. In addition, CEI experts acted as the cast for a series of famous movie scene parody shorts (available online at <http://www.cei.org/pages/dinner.cfm>). P.J. O'Rourke's dinner remarks are excerpted in this issue of CEI Planet.

I'd like to say thank you to the Competitive Enterprise Institute (CEI). Thanks for all the effective actions and the courageous stands that you've taken in the fight to protect freedom. Thanks to all of you who have supported CEI with your effort, time, and money. And I'd like to say a special thank you to Bill and Hillary Clinton.

It is the Clinton administrations—past and future—that provide the Competitive Enterprise Institute with a moral lodestone—because every compass needle needs a butt end. And whatever direction the Clintons are pointing—toward regulatory interference, health care reform, Kyoto treaty, or inappropriate personal relationships (such as Hillary and Rupert Murdoch)—we can go in the opposite direction with a clear conscience.

Many people think CEI was founded on the principles of classical liberalism. But Fred Smith started CEI in 1984, about the same time the Clintons were putting their political careers into high gear. And I like to think that CEI is really founded on the Clinton Principles:

As Bill tells Hillary: "Mind your own business."

(Continued on page 3)



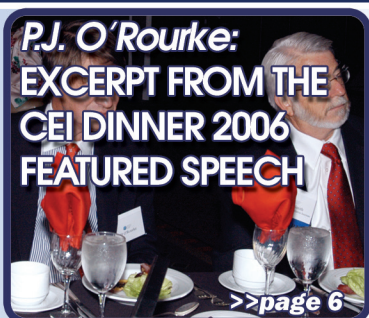
FEATURED ARTICLES

Ivan Osorio:
THE RESPONSIBLE CORPORATION



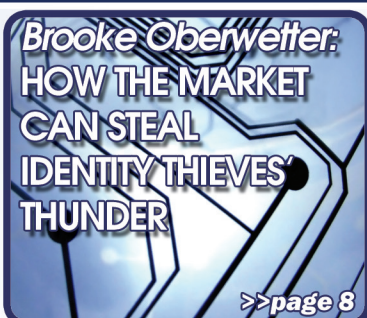
>>page 4

P.J. O'Rourke:
EXCERPT FROM THE CEI DINNER 2006
FEATURED SPEECH



>>page 6

Brooke Oberwetter:
HOW THE MARKET CAN STEAL IDENTITY THIEVES' THUNDER

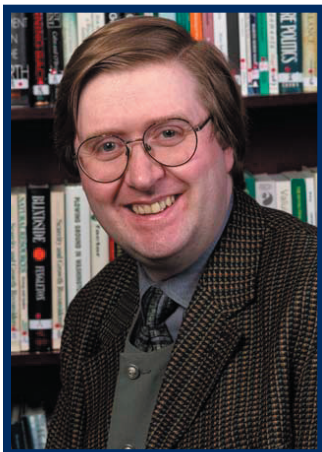


>>page 8

DEPARTMENTS:

From the Senior Fellow.....2
 The Good, the Bad, and the Ugly.... 10
 Media Mentions.....11
 End Notes.....12

>>FROM THE SENIOR FELLOW



Beware False Profits

by Iain Murray

The Evangelical Climate Initiative has issued “An Evangelical Call to Action” on global warming. Signed by 86 evangelical leaders, it calls for Evangelical Christians to reduce carbon dioxide emissions from the burning of fossil fuels. Sadly, these good men and women have been taken in by fables based on half-truths and unsound logic.

Besides making claims that overstate how much we know about the science of climate change, the Initiative’s main claim bases its call for action on the notion that “the consequences of climate change will be significant, and will hit the poor the hardest.” This ignores the extreme uncertainty involved, as the consequences depend on the projected temperature rises, which are themselves in dispute. There is significant uncertainty even within the United Nations Intergovernmental Panel on Climate Change as to what the temperature rises will be. Rises of 1.5°C may not have much effect, whereas rises of 5.4°C may have a profound effect. But the actual data, as opposed to the models, suggest a modest temperature rise of just over 1°C.

The group goes on to claim that “millions of people could die in this century because of climate change, most of them our poorest global neighbors.” Therefore, “The need to act now is urgent. Governments, businesses, churches and individuals all have a role to play in addressing climate change—starting now.” And the way do to this is to “reduce the carbon dioxide emissions from the burning of fossil fuels.” Yet even if you accept the need for action, the logic driving the case for reduction in fossil fuel use is faulty.

There is a terrible opportunity cost to drastic action to reduce climate change, and that cost would likely weigh heavier on the world’s poor than would the effects of global warming itself. The deleterious effects of global warming, assuming they do come about, are actually exacerbations of existing problems. Indur Goklany, writing for the National Center for Policy Analysis, examined the degree to which global warming would make worse the problems of hunger, drought, sea-level rise, disease, and threats to biodiversity. He found that we can do more to help the poor by combating *those* problems today than by reducing carbon dioxide emissions.

Moreover, every responsible economist acknowledges that drastic action to reduce fossil fuel use would increase energy costs, which would in turn reduce household income around the world. Wealthier *is* healthier, and richer *is* cleaner. Limiting economic activity therefore can have a dramatic impact on quality of life, not least by reducing life expectancy. Researchers have found a direct correlation between income and mortality, with a disproportionate impact on poorer communities. Thus, policies that reduce societal wealth can be expected to induce premature mortalities, and increase disease and injury rates.

For example, it is often asserted that global warming already kills 150,000 people per year worldwide. Yet a recent econometric study by Johns Hopkins epidemiologist Harvey Brenner found that replacing U.S. coal with higher-cost fuels for energy production would result in at least 195,000 additional premature deaths in the United States alone. Given that recent “Kyoto-lite” measures proposed in the U.S. Senate—such as the Climate Stewardship Act sponsored by Sens. John McCain (R.-Ariz.) and Joseph Lieberman (D.-Conn.)—would result in the replacement of about 78 percent of coal with high-priced fuels, it is entirely plausible that even “baby steps” towards climate mitigation would kill more people in the U.S. than global warming kills worldwide. The effects of such strategies adopted across the globe could be far more devastating than global warming even if alarmist predictions come true.

The evangelical leaders need to give more thought to the unintended consequences of their well-intentioned acts. During the Middle Ages, good people left their property to the Church. This acted as a brake on economic development as the dead hand, or mortmain, of the Church took this useful land out of the economy—with the poor paying the price through lack of opportunity to improve their lot. By devoting spiritual and temporal energy to reducing carbon dioxide emissions, the evangelical leaders will probably hurt the poor more than they help them. As Matthew 7: 15 says, “Beware of false prophets, which come to you in sheep’s clothing, but inwardly they are ravening wolves.” By adopting a green agenda, the evangelicals may have thrown the poor to those wolves.

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Bloomberg columnist Amity Shlaes delivers the Warren T. Brookes Testimonial at CEI's 2006 Annual Dinner.

Two-Point-Eight-Trillion Anything...

(Continued from page 1)

As Hillary tells Bill: “Keep your hands to yourself.”

CEI has attempted to impose a sort of “etiquette of freedom” and “chivalry of common sense” upon government. CEI debunked the genetically altered food scare. There’s only one thing that’s scary about food—not having enough of it, as the hungry half of the world can tell you.

CEI convinced the Bush Administration not to declare carbon dioxide a pollutant. We could all breath a bit easier after that.

CEI has fought the good fight. CEI fought the Safety Nazis at the Department of Transportation. If mandatory airbags increase safety in cars, how come those mandatory airbags, the Kennedys, are such dangerous drivers?

CEI fought to stop the ban on pressure-treated wood—my children would thank CEI, but they’ve been knocked speechless by a rotten swing set.

But the thing for which I’d like to thank CEI most is its optimism.

The Competitive Enterprise Institute has been a lonely voice in the wilderness of worry, reminding us that our highly populous, highly capitalist, high-tech, and high-energy-use modern world is, in fact, a good world.

As a result of market freedoms, market innovations, and the classical liberalism that the market enforces, this is an optimistic moment in human history.

Yes, we have problems. Some people are using terror to achieve their goals, and we don’t seem to be able to stop them—after all this time, Ralph Nader is still on the loose.

There are powerful countries that remain single-party states, with their entire government apparatus controlled by a small political elite—but the Republicans are

going to lose the House this fall.

And sea levels are rising, threatening to inundate New York and Los Angeles—although rising sea levels does have a downside.

But right now, the ordinary people of the world have greater liberty and more material benefits than they’ve ever had at any time since the beginning of civilization.

We know life is better from stories we’ve heard in our own homes. Existence has improved enormously within the lifetimes of our immediate family members. My Grandfather O’Rourke was born in 1877, and born into a pretty awful world. The average wage was a dollar a day—that’s if you worked; O’Rourkes were not known to do so.

The typical old-fashioned diet was almost as bad as being a modern vegan.

Pollution was unchecked and mostly unthought-of. Sewage was considered treated if dumped in a river. Personal hygiene was practiced, when at all, on the face, neck, and hands up to the wrists. One thing everybody forgets about old times is how the old-timers smelled.

Nowadays we can hardly count our blessings. One of which is that we don’t have to do any counting, computers do it for us. In our world, information is easily had, education is readily obtainable. Opportunity knocks, it jiggles the doorknob, it will try the window if we don’t have the alarm system on.

This is an optimistic moment in human history. But you could spend a long time listening to America’s politicians and not hear this mentioned.

And by politicians I don’t mean just
(Continued on page 6)



Left to right: CEI Vice President of Development Terry Kibbe, Dinner Keynote Speaker P.J. O’Rourke, and DUNN Capital Management President and CEI Board Member William Dunn.



Investor’s Business Daily Washington Correspondent Sean Higgins (left) and economist John R. Lott, author of *More Guns, Less Crime: Understanding Crime and Gun Control Laws*.

The Responsible Corporation

by Ivan Osorio



Does anybody believe that companies should be socially irresponsible? I don't think so. The problem is that few people can seem to agree on what corporate social responsibility actually means.

Whether companies should address societal problems is contentious enough. But even if you get agreement on that, you then need to contend with the question of which are legitimate problems for companies to address—and whether companies can do much about them.

A Question of Definition

A lot of the debate over corporate social responsibility (CSR) comes down to several definitions—of a corporation's core mission, of responsible corporate behavior, and of the

components of that behavior.

Much of the debate over CSR has come to resemble Monty Python's "Hungarian Phrasebook" sketch, in which a Hungarian tourist walks into a tobacconist's shop to buy cigarettes, consults a faulty phrasebook, and tells the clerk, "I will not buy this record, it is scratched." Like the Hungarian tourist and the tobacconist, the parties in this debate have been speaking past each other.

A good example of this is the now-famous *Reason* magazine debate on CSR between Milton Friedman; John Mackey, the CEO and founder Whole Foods; and T.J. Rodgers, CEO and founder of Cypress Semiconductor. (Available online at <http://www.reason.com/0510/fe.mf.rethinking.shtml>.)

Mackey lays out his vision of a "new form of capitalism" that seeks to create value not just for investors, but for other "stakeholders"—which he lists as customers, employees, vendors, communities, and the environment. Milton Friedman responds that, "The differences between John Mackey and me regarding the social responsibility of business are for the most part rhetorical."

Some differences are indeed largely rhetorical, and of little consequence in practice. For example, Mackey argues that Whole Foods puts its customers first—ahead of investors. This is a peculiar distinction, since the best way to create value for investors is to put customers first, since customers are the ones who drive the business.

One could argue that Mackey's philosophy includes seeing customer satisfaction as more than a means to the end of increasing profits, but in practice that difference is moot. No business in which the customer isn't king can expect to create value for investors in a long-term, sustained way. And business, whatever an individual company's model, is not about philosophy, but about results in creating such value.

However, raising the status of "stakeholders" such as suppliers, employees, and neighbors beyond their traditional role—that is, one of respect and mutual cooperation—carries risks that businesses would be wise to avoid.

"Stakeholders"

Much CSR advocacy is premised on the idea that all "stakeholders" should have some input into how a company operates. "Stakeholders" make up a different and much broader class of people than a company's shareholders, who own

stock and are therefore part owners of the enterprise. “Stakeholders” include anybody who might be affected in some way by the company’s actions. This presents serious problems.

Once an enterprise starts bringing more and more people into the sphere of who may influence its actions, there is little to guide it on when to stop. The central conflict here is between two very different visions of the firm. Is it:

- A) a private specialized institution designed to create wealth;
- B) a social institution given special privileges by the state, which in turn gives the firm the duty to help solve some of society’s problems?

In the past, this duty has been enforced through state mandates. Today, many CSR advocates envision that directing carried out by non-governmental organizations, shareholder activists, and a variety of pressure groups.

And how do these groups do this? Though a strategy called the corporate campaign, which has in recent years become widely used by organized labor and environmental and other activist groups. Corporate campaigns are multi-faceted political and public relations campaigns that target a specific employer or group of employers. Tactics include feeding allegations of company wrongdoing to the news media, contacting stockholders to deride management and the company’s financial health, filing complaints with regulatory agencies, and good old-fashioned picketing.

One example of a major successful corporate campaign is the Rainforest Action Network’s (RAN) onslaught against Citibank, which led Citibank to agree not to finance projects in developing countries that RAN doesn’t like.

Ultimately, giving a say over company operations to anybody who interacts with it renders that company the proverbial butterfly whose every wing flap needs approval from those it might affect, lest that wing flap ultimately cause a typhoon.

As Professor Elaine Sternberg of Tulane University has noted, by giving a hazily defined class of “stakeholders” a say over corporate decisions: “CSR would deprive owners of their property rights. Business ethics is about conducting *business* ethically.” [Emphasis added.] And over the long term ethical business behavior enhances owner value.

Communicating for Legitimacy

A phrase that pops up often in the CSR literature is a company’s “social license to operate.” This could be summed up as a company’s need to gain public legitimacy. But all too often, companies try to do this by apologizing for supposed faults.

A better approach is that of Nestlé CEO Peter Brabeck-Letmathe, who defines social responsibility as furthering business’ “unique capacity to create wealth and benefit society through long-term value creation.” As he recently told an audience in Boston: “What the hell have we taken away from society by being a successful company that employs people?”

He also rightly notes: “The most important social responsibility that the CEO of a company has...is to be sure that this company will continue to exist in 100 years from now.” Without that long term view, there will be no company from which groups of stakeholders—however defined—can demand “responsible” behavior.

The only sustainable firm is one that remains profitable over time—and the only way that can be achieved is by continuing to add value to its extended shareholders while ensuring that it gains and retains legitimacy in the political arena. Loss of legitimacy leaves the firm exposed to political predation, predation often advocated by the same NGO critics who demand that the firm endorse their agenda.

Real CSR

None of this is to say that companies cannot or should not adopt policies that have little bearing on the immediate bottom line, if those policy decisions bolster the foundations of free enterprise.

A good example of this is BB&T bank’s recent decision to not finance projects on land acquired through eminent domain. While it’s true that BB&T’s no-eminent domain policy may keep it from profiting from certain projects, in the long run, it—and all other businesses and citizens—will benefit from helping foster an environment amenable to the institutions of liberty, including private property.

Conclusion

Should companies address societal problems? Yes. Companies do this when they do what they do best: create wealth and legitimize their operations before the public.

Corporations are not perfect, but no amount of state intervention or activist guidance will make them better. On the contrary, history offers hope of improving corporate behavior. In their 2003 book, *The Company: A Short History of a Revolutionary Idea*, John Micklethwait

and Adrian Wooldridge, of *The Economist*, outline some central themes crucial to this discussion:

First, the company’s past is often more dramatic than its present...early businessmen took risks with their lives as well as their fortunes. Send a fleet to the Spice Islands at the beginning of the seventeenth century, and you might be lucky if a third of the men came back alive. This was a time when competitive advantage meant blowing your opponents out of the water...and when your suppliers might put your head on a stick.

[S]econd...In general, companies have become more ethical: more honest, more humane, more socially responsible. The early history of companies was often one of imperialism and speculation, of appalling rip-offs and even massacres. People who now protest about the new evil of global commerce plainly have not read much about slavery or opium.

To Micklethwait and Wooldridge’s points I would add another: Corporate misbehavior does not arise from any inherent quality in the structure of companies, but from the inherent qualities of a society. Improvements in corporate behavior owe much to the profit-making company’s innate need to please the public. This requires them to respond to evolving social standards such as the growing unacceptability of racial discrimination and pollution.

Finally, Micklethwait and Wooldridge note: “The company has been one of the West’s great competitive advantages...The idea that the company itself was an enabling technology is something that liberal thinkers once understood instinctively.”

Indeed, the corporation has been and still is a greatly effective means for individuals to come together to achieve common goals. To undermine its vitality by distorting its mission would leave our society—and thus the whole world—poorer.

~~Ivan Osorio (iosorio@cei.org) is Editorial Director at CEI. This article is adapted from remarks delivered at the America’s Future Foundation panel, “What’s your Bottom Line?: A Debate on Corporate Social Responsibility.” A shorter version of this article appeared in Townhall.com.~~



Left to right: CEI Adjunct Fellow and Board Member Fran Smith, Dinner Keynote Speaker P.J. O'Rourke, and CEI President Fred Smith



Institute for Justice Senior Attorney Scott Bullock (left) and Flight Safety Foundation Communications Director Emily McGee.

Two-Point-Eight-Trillion Anything...

(Continued from page 3)

people who were elected or appointed. I mean people who sit on the *New York Times* editorial board and people who sit in the hot tubs of Hollywood, blowing bubbles about the environment and the state of world affairs.

"Somebody's SUV poked a hole in my ozone."

"Suburban sprawl is paving the rain forest."

"Bill Gates is buying the weather. You won't be able to get sunshine on weekends unless you have a Microsoft XP operating



National Review Editor Rich Lowry, Master of Ceremonies for CEI's 2006 Annual Dinner

system."

"Prescription medicines may harm children. We'd better do test on kids and see if we can get some to die"

What's with all this panic and alarm? Why are America's politicians whining? They whine because it works. When you were a kid, and you read the Chicken Little story, did you ever wonder if Chicken Little had an *agenda*?

Is Chicken Little going around telling all the other chickens that the sky is falling out of the goodness of his heart? Or is there something Chicken Little *wants*? And once Chicken Little has the other chickens convinced that the sky is falling, will there be a Federal Department of Falling Sky? And will Chicken Little be appointed Secretary of Things That Hit You On the Head? A cabinet post is an excellent springboard to higher office.

I'm suspicious of anybody who does a lot of loud, public fretting. Hoodwinking your fellow citizens by means of dreads and frights has been going on since Paleolithic times.

Politicians on the subject of global warming are no different than tribal wizards on the subject of lunar eclipses.

And by loudly denouncing all bad things—war, poverty, famine, and cigarette advertising aimed at teens—the Chicken

Littles are also playing the moral bully. They're saying:

"Oh, I know you care about the hazards of radioactivity. But

you only care as much as you have to. I care all the time. I care so much I can't sleep. I can't eat. It wrecked my marriage. I care so much more than you do, I'm a better person than you are. And since I'm a better person than you are, *I'm in charge!*"

That is politics in a nutshell. Because how else are the politicians going to stay politically powerful? Or get politically powerful? Or, for that matter, get a job?

Who'd hire a politician? I know, people hire politicians all the time. But name me a politician you'd hire for his or her abilities rather than connections. Name me a politician you'd hire even to mow your lawn.

George Bush would make Dick Cheney do it, and Dick'd have a heart attack in your front yard. Donald Rumsfeld would invade your lawn, and have 100,000 soldiers trying to cut it with one pair of nail clippers. Howard Dean would be screaming at the grass to shorten up. Hillary Clinton would marry the Toro dealer. You wouldn't hire politicians. And you certainly wouldn't buy them. Look where it got Jack Abramoff.

This is the key difference between politics and free enterprise. If politics were a product, it would have no customers. And yet, somehow, we end up spending a quarter of our gross domestic product on political goods and services that wouldn't get a single bid if they were for sale on eBay.

Personally, I prefer business to politics, so I live in business-friendly New Hampshire. But my wife and I spend part of each year in Washington, D.C. And we do this on purpose. We don't want the kids growing up thinking the world is sane.

We were here for spring break. The kids



CEI President Fred Smith (right) presents ABC News Correspondent John Stossel with the 2006 Julian L. Simon Memorial Award, as Rita Simon, Julian Simon's widow and University Professor of Justice, Law, and Society at American University, looks on.



Left to right: American Enterprise Institute John G. Searle Scholar and CEI Board Chairman Michael S. Greve, National Endowment for Democracy East Asia Director Louisa Coan Greve, Bailey's Tobacco Vice President for Legal Affairs and General Counsel Everett W. Gee III, anti-tobacco monopoly warrior Kevin Altman, and CEI Director of Communications Christine Hall-Reis.

wanted to see the dinosaurs at the Museum of Natural History. I took them to see the dinosaurs in Congress.

And I wanted the kids to experience bird flu panic first-hand. We don't worry much about bird flu in New Hampshire—I've got a bird dog, I've got a gun—but down here in Washington the kids can watch all the media and politicians get frantic about bird flu. Bird flu could mutate into human flu at any minute. If that happens, bird flu will kill... What's NPR's estimate? Everybody—poor and minorities hardest hit. And our government does

not have a vaccine against this disease, because there is no such disease—a typical uncaring Bush Administration response.

Chicken Little says, "We've got big problems, we need a big government to solve them." I say, "We've got big problems, and government is the biggest."

I'm scared of big government just *because* it's big. The government is going to spend \$2.8 trillion next year. Two-point-eight-trillion *anything* is scary. How about coming home to find out that your cat had 2.8 trillion warm, fuzzy kittens?

But for politicians, the worse the mess,

the better. And Hurricane Katrina was a blessing—a consecrated opportunity to make advocates of small government look small, to enlarge political largess with a public dole of private goods, and to expand the scope of politics to include everything.

By now you may have forgotten poor, old Hurricane Rita that hit next. Hurricane Rita, with its sensible actions by local officials, its orderly evacuations, its lack of looting and minimal loss of life, was *not* a blessing. My heart went out to Chicken Little as Rita failed to destroy Galveston, flood Houston, or wipe Crawford, Texas, off the map.

How can the politicians make sure America never experiences another Rita? They need to go straight to the top. Disasters are exacerbated by moving the responsibility for things up, up and away—as far from the things themselves as possible.

Where classical liberals see molehills of individual responsibility, politics can make mountains of government accountability. Look what the Soviet Union's Himalaya of a government was able to do with atomic power at Chernobyl.

The lowly concept of private property has to be ignored. What if the New Orleans levees had been owned by the people whose property they protected? Or what if just New Orleans taxpayers, instead of all of us taxpayers, had had to pay for those levees? There would have been no problem evacuating people from New Orleans. They would have been gone already.

And making flood insurance a federal program was a stroke of genius. That way homeowners didn't apply for it. Because you get federal government services whether you want federal government services or not—Internal Revenue Service, for instance.

If I were Chicken Little what I'd try to do was build my support base in places that are most prone to natural disasters, especially places where the populace is completely incapable of taking care of itself. The location of Hollywood on a major earthquake fault is this kind of planning at its best. Another possibility would be to move Howard Dean, Al Sharpton, Al Franken, Michael Moore, and Hillary Clinton into house trailers in Kansas during tornado season.

How the Market Can Steal Identity Thieves' Thunder

BY BROOKE OBERWETTER

This past June, a coalition of business leaders calling itself the Consumer Privacy Legislation Forum—representing such heavyweights as Eli Lilly, Google, Microsoft, and Procter & Gamble—called on Congress to enact comprehensive data security legislation to combat a growing number of online threats facing Internet users and companies entrusted with their customers' sensitive personal data. Representatives from several companies testified before the U.S. House Energy and Commerce Committee, demanding a single federal regulatory regime for data protection.

Comments the official Google blog: "This matrix of [state consumer protection laws] is complex, incomplete and sometimes contradictory. On an Internet beset with spyware, malware, phishing, identity-theft, and other privacy threats, enforcement of privacy protections has become an industrywide challenge, and highlights the lack of a coherent regulatory structure."

Over the last few years, several cybersecurity bills have been introduced in Congress. The proposed regulatory fixes include everything from phasing out the use of Social Security numbers for identification purposes; requiring customer notification whenever a data breach has occurred, regardless of the risk posed to consumers; creating an Office of Identity Theft as part of the FTC; and regulating multiple aspects of how companies collect and maintain the personal data of consumers. There have even been calls for Sarbanes-Oxley-style oversight of company data security policies

with mandatory annual reporting. (Given the current weaknesses in the federal government's own data security practices, perhaps compiling the data security protocols for every company in the country in one central agency's system isn't the most prudent of policies.)

But is a one-size-fits-all regulatory regime the solution to the problem of emerging online threats? If anything, federally standardized data security protocols will likely make sensitive personal data less secure, not more: Uniform cybersecurity protocols need only be hacked once to put all data secured by the government-backed technology in jeopardy.

The problems cited by regulation proponents—identity theft, large scale data theft, fraud, and less nefarious online nuisances—can be addressed far more effectively and efficiently with market solutions. Rather than shielding companies from liability by way of a governmental stamp of approval, the tech sector should encourage the development of a robust market for liability insurance, a surefire incentive to provide the best data security possible.

In addition to traditional insurance, there may also be room for third-party firms that can issue ratings and rankings based on the demonstrated level of information protection. With cybersecurity consulting firms already off and running, *Consumer Reports*-style monitoring agencies cannot be far behind. It's a safe bet that the technology experts in the field—both the consultants and the watchdogs—will do a far better and faster

job of detecting, assessing, and reacting to new online threats than a government bureaucracy ever could.

Both of those private solutions—using traditional liability insurance along with third-party monitoring of security efforts—will incentivize the adoption of ironclad security systems in a way that a regulatory scheme cannot. Differentiated insurance premiums and competition through objective rankings systems will force companies to internalize the costs of lax security practices and allow them to reap the benefits of good practices. Addressing cybersecurity, then, is not a question of how best to regulate businesses that are victims of cyber-attacks, but of how best to create market incentives that will encourage improvement in securing information technology operations.

Some non-regulatory proposals for improving information security suggest the need for a reconsideration of some of the Internet's basic operating protocols, specifically the ease of anonymity and the open, public nature of the medium. Though both are widely touted features of the Internet, neither is essential to its operation, and both facilitate cybercrime. Changing Internet protocols is dependent on yet another market mechanism that must be strengthened to combat online crime: property rights. Internet service providers and the owners of the Internet's infrastructure must be able to assert their property rights by policing the Net for fraudulent activity.

Tiered pricing for broadband use is one way by which service providers could assert their property rights with an eye

towards reducing crime. Targeting the activities of unauthenticated bulk email senders could dramatically reduce spam and phishing attacks. For example, Tonny Yu of Mindshell, a spam-filtering software company, has suggested a gradual move away from the reigning Internet protocols to a system that verifies a sender's identity, enabling mail servers to certify trustworthy email. Mechanisms to flag unusually high-volume mail senders and to limit the number of emails a single user can send per second can also help reduce spam.

Other technological fixes from the provider side include things like employing puzzles that a would-be criminal's computer must solve to gain access to a targeted website; this would occupy the processing capability of the querying computer and limit the number of repetitive requests that could be sent to a site targeted for a denial of service attack. These and other "plumbing" upgrades that would allow the network's owners and operators to police activity in the pipes could address both online nuisances—such as spam—and broader security threats.

However, proposals to generate cybersecurity solutions on the network side—rather than the end-user side—run afoul of the concept of network neutrality, the idea that the network itself should be unable to distinguish the content that travels on it. Leaving aside the merits of the larger debate on the value of a neutral network, regulations requiring neutrality would almost certainly limit service providers' ability to create innovative network technologies that could help fight crime.

While threats against consumers and companies are numerous and the impulse to regulate is strong, Congress should avoid legislation that is rigid in nature—and thus would prove difficult to adapt to changing circumstances—and will likely prove ineffective anyway. The best thing lawmakers can do in the name of information security is apprehend and prosecute criminals, and realize that it is the private sector that occupies the territory from which a successful defense against attacks on hardware and information can be mounted.

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www.controlabuseofpower.org

Last year, the Competitive Enterprise Institute launched a lawsuit challenging the 46-state tobacco settlement of 1998. Americans have been led to believe that the tobacco settlement punished "Big Tobacco" for decades of dishonest business practices, such as lying to the public about the health risks of smoking.

But the truth is that the settlement that was negotiated behind closed doors created a new cartel arrangement between state governments and big tobacco companies.

Visit www.controlabuseofpower.org to see how CEI is working to stop the unconstitutional expansion of government power through attorney general activism.

Control Abuse of Power is a project of the Competitive Enterprise Institute

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the GOOD, the BAD & the UGLY

THE GOOD

Judge Overturns Maryland's "Wal-Mart Law"

A federal judge in Maryland ruled against a law aimed at forcing retail giant Wal-Mart to spend more on health insurance. The law did not name Wal-Mart specifically, but it would have applied only to Maryland companies with more than 10,000 employees, making Wal-Mart the only company affected. The law would have required Wal-Mart to spend a minimum of 8 percent of its payroll on health benefits, even though Wal-Mart contended that such a mandate would have had no effect on health care costs or access.

As Adjunct Analyst Zachary Courser explains, "despite the tremendous benefits in value, efficiency, and service that have accrued to the consumer through the passing of each era of retailing, Americans do not react well to such change. Judging from history, capitalism's creative destruction is felt unusually strongly in retail. The same story has repeated itself through each major change to retailing: Groups mobilize against a vanguard of a new retail paradigm, public campaigns begin to rock the foundations of that enterprise, and eventually legislatures react to restore 'normalcy' by regulating that business' practices, allegedly in the public interest. The tragedy in each instance is that the American consumer loses most in this drive for control over the forces of retail innovation."

THE BAD

European Air Travelers Face Price Increases Under Green Tax

The European Parliament recently voted to charge air travelers up to \$75 extra for return plane tickets in Europe. The charge, intended to offset the environmental impact of the flights, would approximately double the cost of massive numbers of flights. The body also agreed to a proposal that would force the airline industry into an emissions trading plan designed to limit the carbon dioxide output of airlines. British Airways and other European airlines have been pushing for a different, far less costly, scheme, arguing that the environmental impact of air travel is still too uncertain to impose such an expensive plan. Their proposal, which only would have raised the price of a flight by approximately £1.50, was rejected by the European Parliament.

The new tax has serious ramifications for European air travel, adding an expensive regulatory burden to an industry vital to economic development. Senior Fellow Iain Murray notes that "people the world over are realizing that there is a strong link between the use of carbon-based energy and economic growth. In turn, many are realizing that, whatever concerns climate change might bring, it does no good to inflict economic costs without creating offsetting economic benefits. This policy is all economic pain for no environmental gain."

THE UGLY

European Regulators Lob More Fines at Microsoft

European Union officials are continuing to wage regulatory war on Microsoft, this time with a fine of \$357 million. EU regulators had ordered Microsoft to release private technical details of its Windows operating system in a bid to increase interoperability by allowing rival companies access to Microsoft's proprietary information. Microsoft has already released more than 12,000 documents relating to the order, but EU regulators don't believe it is enough.

The fine is an outgrowth of the ongoing antitrust dispute between the software company and the European Commission. Microsoft was swift to protest the penalty, saying that releasing too much technical information would violate its intellectual property rights and impede technological innovation. As Director of Technology Studies Clyde Wayne Crews, Jr. notes, "antitrust actions against successful businesses, such as the European Union's antitrust penalties against Microsoft, threaten to disrupt innovation and economic growth by substituting political management for market processes, by protecting competitors rather than competition. The Microsoft case signals a move toward micro-managing the way businesses organize and re-organize over time, a profoundly anti-competitive and dangerous stance."

Media**MENTIONS**

Compiled by **Richard Morrison**



Senior Fellow **Iain Murray** takes on the lack of attention to sound energy policy in his native Britain:

Both the Conservative Party and Her Majesty's Government have issued reviews of their energy policies in the last two weeks. Curiously, neither actually address energy policy directly. Instead it is viewed as a consequence of other policies, in this case, environmental ones. Yet energy policy is actually a bedrock of what should be, alongside the defence of the realm, one of the two main priorities of any responsible government: economic policy. This curious entrenchment of misplaced priorities results in a perverse approach to energy policy.

- *Conservative Home*, July 20

Warren T. Brookes Journalism Fellow **Timothy Carney** on who is to really blame for high gas prices:

This past week, the average price for a gallon of gasoline rose above \$3 for the first time since the brief post-Katrina spike. On cue, politicians, journalists, and liberal agitators are crying "price gouging," and telling us we need federal policy to guide us towards a petroleum-free world.

These complaints hold traces of the truth: (1) We ought to be angry at big business for the high gas prices; and (2) there is something the government can do about it. But the problem is not corporate "price gouging" and the solution is not new subsidies or regulations. The corporate misbehavior causing high gas prices is what I call "subsidy suckling" and "regulatory robber-baronry." The solution, as Ronald Reagan would tell us, is for government to get out of the way.

- *The American Spectator*, July 17

Research Associate **Brian Glidden** asks why the federal government should be

taking over responsibilities from the nation's parents:

Why is government trying to be our parent again? Congress's latest effort is the campaign to regulate video game content. Yet this is not new: We've already seen politicians' hand-wringing over MySpace, Howard Stern, and Janet Jackson's "wardrobe malfunction." And don't forget the Communications Decency Act, struck down by the Supreme Court in 1997, which targeted the early Internet.

Granted, parenting is tough—as shows like "Nanny 911" illustrate—yet parents still must make final decisions as to what is appropriate for their children. Content regulation would take away that right and responsibility.

- *Hawaii Reporter*, July 13

Editorial Director **Ivan Osorio** warns summer travelers of plans hatched by union activists:

Think booking a hotel room during summer is tough? It might get tougher if the UNITE-HERE labor union keeps up pressure on several major hotel chains this summer to gain new members.

It is using a tried-and-true tactic: a corporate campaign. Corporate campaigns are elaborate political and public relations campaigns that labor unions use to target a specific employer or group of employers. Tactics include feeding allegations of company wrongdoing to the news media, filing complaints with regulatory agencies, contacting shareholders to challenge management's competence and question the company's financial health, leveraging the union's investment power by introducing shareholder resolutions that advance union goals—and, of course, picketing.

- *The American Spectator*, July 12

Regulatory Policy Analyst **Isaac Post** challenges the assumptions of the "corporate social responsibility" crowd:

Earlier this week, AOL (part of Time Warner, Inc.) found itself in the midst of some very bad publicity. Vincent Ferrari, a longtime customer of AOL, called up the company to cancel his subscription to AOL's Internet service. But instead of having his request promptly honored, the customer service representative stalled and baited him for several excruciating minutes.

Interestingly, just last month, AOL parent company Time Warner, Inc. may have thought it was ahead of the curve regarding its corporate reputation when it issued its first corporate social responsibility (CSR) report. In the introduction, chairman and CEO Richard Parsons states that in order to be a great company Time Warner needs "to earn the respect of our shareholders, customers, partners and employees."

Unfortunately, the report doesn't offer any comfort to customers like Mr. Ferrari who just want the company to fulfill its basic services.

- *Townhall.com*, June 26

Director of Food Safety Policy **Gregory Conko** and Adjunct Fellow **Dr. Henry I. Miller** confront the scare stories about genetically modified foods:

Americans take food safety very seriously. Still, many consumers tend to ignore Mother Nature's contaminants while they worry unduly about high technology, such as the advanced technologies that farmers, plant breeders, and food processors use to make our food supply the most affordable, nutritious, varied, and safe in history.

Because of the mainstream media's "if it bleeds, it leads" approach, news coverage of food biotech is dominated by the outlandish claims and speculations of anti-technology activists. This has caused some food companies—including fast food giant McDonald's and baby-food manufacturers Gerber and Heinz—to forgo superior (and even cost-saving) gene-spliced ingredients in favor of ones the public will find less threatening.

- *Policy Review*, June-July 2006

Greenpeace M.O. SNAFU

Greenpeace recently ended red-faced—thanks to its own efforts. A “fact sheet” that the group distributed during a late May visit to Pennsylvania by President Bush to promote his nuclear energy policy read: “In the twenty years since the Chernobyl tragedy, the world’s worst nuclear accident, there have been nearly [FILL IN ALARMIST AND ARAGEDDONIST FACTOID HERE].” A Greenpeace spokesman told *The Philadelphia Inquirer* that a colleague was making a joke by inserting the language in a draft that was accidentally released. Yet true to Greenpeace’s “alarmist and armageddonist” tradition, the final version warned of plane crashes and reactor meltdowns.

Organic a Luxury? Well, Yes

Organic products constitute only a small fraction—about 2.5 percent—of America’s food market, but it is rapidly increasing at a rate of 15 to 21 percent per year, reports the Associated Press. In response, organic farms—about 10,000—have been increasing, but not fast enough to keep up with the increased demand, leading some manufacturers to import ingredients from Europe and South America. Could this inability to keep up be attributed to organic farming’s lower yields and higher costs relative to conventional farming? Most likely. As AP reports: “Conventional farmers can plant seeds when they want and use pesticides to kill hungry insect larvae. If [vegetable grower Scott] Woodard had waited three weeks to plant, the bugs that ate his seeds would have hatched and left. Organic seeds can be double the price of conventional.”

...END NOTES



When Junk Food is Outlawed...

The United Kingdom’s campaign to rid schools of “junk food” has students taking matters into their own hands—by smuggling soda, candy bars, and salty snack foods onto school grounds. The more enterprising are buying candy bars and bags of chips in bulk and selling them at a small profit. To avoid detection, the smugglers sell their goods from their schoolbags, in the restrooms, or in remote corners of the playground. “The soft drinks machines were taken out a couple of years ago and were replaced with bottled water machines and some tripe about water being proven to ‘make students concentrate more in class,’” a student at a London school told BBC News. One headmaster claimed to be “shocked” at the existence of a junk school black market in his school but had no further comment.

Don’t Tread on Twinkle!

It seems that the Free State Project—which seeks to get 20,000 libertarians to move to New Hampshire to make that fiercely freedom-loving state even more so—chose the right mascot: the porcupine. As the Project’s website notes, the choice of the porcupine was inspired largely by the Gadsden flag’s “Don’t Tread on Me” snake. “Porcupines are certainly cute and non-aggressive, but you don’t want to step on them!” Apparently, they’re also hard to keep caged. In late July, a porcupine named Twinkle burrowed her way to freedom out of a Langwathby, England, farm visitors’ center. Police were looking for the animal. “A spokesman for the visitors’ center said, “we’ve had her for a year and a half and she’s never been in trouble before.”

- Ivan Osorio