

Cost-Cutting Under Obamacare

Democrats' Cure Worse than the Disease

BY GREGORY CONKO

Members of Congress have returned from their August recess to an agenda which one observer calls "all health care all the time." Trillion-plus-dollar price tags on the House Democrat and Senate Health Committee proposals have sent reformers back to the drawing board to find ways to trim costs and raise revenue. It still seems very likely that Congress will pass and President Obama will sign sweeping new health care legislation by the end of this year. But, while the acknowledged costs of current health care reform proposals are significant, the unacknowledged costs are even greater.

The president has tried to deflect charges of restricted choice and increased bureaucracy by insisting that Americans "must be free" to choose their own doctors and health insurance coverage. But, since he admits that the administration's number-one priority is "getting health care costs under control," his approach seems more bait and switch than free to choose.

As the Democrat-controlled Congressional Budget Office's estimate makes painfully clear, bringing an additional 45 million currently uninsured Americans into public or private health plans



won't be cheap. Either the reformed programs will experience the same kind of runaway costs that now affect other federal health programs, such as Medicare and Medicaid, or new systems will have to be implemented to give patients fewer choices and lower quality care. Reform opponents seem split on which of these scenarios is more likely. The sad truth is that Obamacare could result in both fewer choices and higher costs.

Consider the Senate Health Committee's plan. It would require insurers to enroll anyone willing to pay the premiums and to continue to offer coverage to enrollees every year. But, insurers would be forbidden from increasing premiums or limiting covered benefits to reflect the health status of individual enrollees. Furthermore, insurers would set a minimum benefit package for enrollees in the individual market which most observers expect will be much greater than the current typical individual plan. All of these new rules would drive up insurance premiums and incentivize overuse of medical resources.

So how do Congress and the president propose to cut rising health care costs? In part, they're relying on amorphous proposals to refocus health plans toward disease prevention and

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The Man Who Fed the World

By Gregory Conko

He may have saved a billion people from starvation, but, if you asked most Americans who Norman Borlaug was, they'd probably answer, "Norman who?"

His biographer, Leon Hesser, called him the Man Who Fed the World. Science reporter Gregg Easterbrook called him the Forgotten Benefactor of Humanity. And comedians Penn and Teller (well, mostly Penn) said that he was the greatest human being who ever lived. Norman Borlaug was an American agricultural scientist and

plant breeder whose work sparked what is now known as the Green Revolution. He was recognized with countless scientific and humanitarian awards, including the Nobel Peace Prize in 1970. Quite tragically, he died of cancer on September 12, at the age of 95.

Borlaug was born on a small Iowa farm in 1914, and he developed an interest in applying science and technology to agriculture during the Depression-era dustbowl. After earning a Ph.D. in forestry and plant pathology in 1942 at the University of Minnesota, where he also competed as a star wrestler, Borlaug worked for two years at DuPont, contributing scientific research for the war effort.

In 1944, Borlaug got the opportunity that would come to define the rest of his life, joining a cooperative wheat research program co-funded by the Rockefeller Foundation and the Mexican government. At the time, corn still made up the vast majority of Mexico's cereal production, even though wheat had been introduced 400 years earlier by Spanish settlers. The problem was that wheat varieties adapted to Mexican soil and climatic conditions were susceptible to numerous diseases. Borlaug ignored critics who said his innovative breeding ideas couldn't work, and his program developed advanced new hybrids that were resistant to most of those diseases, generating substantially higher yields. In just four years, Mexico went from importing almost all the wheat its people consumed to being self-sufficient in wheat production.

As Borlaug's reputation spread around the world, he was called on first to travel to India and Pakistan in the 1960s to help improve wheat production there. And after a stunning success, he went on to the Philippines and China, where his innovative breeding methods were used to raise yields in the rice varieties consumed by roughly half the world's population. Everywhere he went, the combination of better plant varieties, along with synthetic fertilizers, herbicides, and insecticides, helped to double, and in some cases triple, grain yields in just a few years.

But, as he moved from Mexico to Asia, Borlaug and his colleagues met severe resistance from governments and environmentalists. Despite its obvious successes, much of the political left still sees the Green Revolution as a failure because it promoted technology over "natural" solutions, weakened socialist agrarian reform movements, and permitted the survival of hundreds of millions of lives who in turn exert an impact on the environment.

Borlaug initially saw himself as an environmentalist, as well as an advocate of global population control. But, due to this constant criticism by the environmental movement, he had a change of heart and came to see the environmental movement as little more than elitist obstructionists. On the 30th anniversary of his Nobel Prize, he said, "I now say that the world has the technology—either available or well advanced in the research pipeline—to feed on a sustainable basis a population of 10 billion people. The more pertinent question today is whether farmers and ranchers will be permitted to use this new technology? ... Let's not tie science's hands through excessively restrictive regulations."

I came to know Norm—and he insisted that everyone call him Norm—about 10 years ago. I later had the honor of hosting him for a week in Washington. And, on the occasion of CEI's 20th Anniversary, we presented him with our first ever Prometheus Award for Human Achievement. Despite his advanced age, he was still an energetic, inquisitive, and thoughtful man, and he always spoke with great passion about his and his colleagues' ongoing efforts to improve agricultural productivity throughout the world. I was struck most by Norm's humility. Although he could command audiences of presidents and kings, I thought it delightful that, for example, even at 90 years old, the former wrestler still insisted on carrying his own luggage.

Reflecting on Norm's death, I am reminded of Winston Churchill's words following the Battle of Britain: "Never was so much owed by so many to so few." Indeed, never was so much owed by so many to a single man. Norman Borlaug will be sorely missed.

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Publisher
Fred L. Smith, Jr.

Editor
Marc Scribner

Editorial Director
Ivan G. Osorio

Contributing Editor
Richard Morrison

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Phone:
(202) 331-1010

Fax:
(202) 331-0640

E-mail:
info@cei.org

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wellness programs and “incentivizing quality.” An estimated 80 percent of the costs of treating heart disease, stroke, and type-2 diabetes could be trimmed by forcing Americans to quit smoking, become more physically fit, and improve their diets. But, while treatments for these three conditions make up a sizeable portion of federal health spending in Medicare and Medicaid, numerous studies show that preventive care tends to raise, not decrease, overall health costs for most Americans.

Additional savings are expected to come from equally vague and unenforceable promises from the pharmaceutical industry and hospital executives to voluntarily reduce the prices they charge for enrollees in Medicare and Medicaid by nearly \$250 billion during the next decade. But, as National Public Radio reported recently, if the legislation that’s ultimately enacted includes a public health insurance plan, congressional Democrats have agreed to “reimburse hospitals at above the rates Medicare and Medicaid pay, which hospitals have long complained are insufficient.” Thus, we get a promise the lower costs for short-term budgeting purposes along with a promise to raise costs in the long run.

These deals with the health services and products industries mask the true price of Obamacare and let the administration pretend that its trillion-plus-dollar reform plan will be “paid for.” By the time the true cost of the plan becomes clear, we’re likely to be comfortably into President Obama’s second term, when it will be too late to reverse course.

Indeed, there are really only two items in the various health reform proposals that could meaningfully cut costs: a shift in the medical profession from expensive specialty care toward more general practitioners, and the adoption of so-called comparative clinical effectiveness methods intended to examine the expense of various medical treatments and decide which ones are cost-effective enough for government and private health care plans to pay for.

In order to cut costs, government bean counters would only pay for treatments that, in the words of former Senator Tom Daschle, provide sufficient “bang for the buck.”

Much has been made of the fact that Americans spend far more for health care than do citizens of other industrialized countries. But the cost difference stems largely from the fact that American patients have much freer access to new and innovative treatment options for chronic and life-threatening illnesses.

“Deals with the health services and products industries mask the true price of Obamacare and let the administration pretend that its trillion-plus-dollar reform plan will be ‘paid for.’”

In “model” countries like Canada and Britain, the quality of low-cost primary care is about the same as in the U.S., and often rates better in areas like the ease of making same-day doctor appointments and seeing a doctor on weekends. But, these same countries have far inferior quality of treatment for serious conditions like cancer and kidney failure because they limit access to medical specialists and refuse to pay for many of the pricey medicines, diagnostic tools, and complicated surgeries that are standard medical practice in America.

For example, the United States has three times as many CT scanners per capita as Canada and four times as many as Britain, and more than five times as many MRI machines per capita as both countries. There are nearly 70 percent more heart bypass surgeries and coronary angioplasties performed in the U.S. each year as in Germany, the next highest country, and nearly four times as many as in Britain. And, because most other countries control the price and utilization of innovative pharmaceuticals, British patients use one-

third as many new drugs as Americans do, and Canadians only one-fourth as many.

It’s easy to see why Canadians and the British would rate the quality of their health services so much higher. For relatively young and healthy patients, this lack of sufficient medical technology poses no problems. But, for the elderly and other patients who truly need expensive specialty care, life under a publicly financed health regime can be painful, difficult, and frankly, unhealthy.

In 2005, so many participants of a government-run program in Canada were dying while on the waiting lists to receive medical treatment that the Canadian Supreme Court ruled that a provincial ban on private health insurance in Quebec violated patients’ “liberty, safety and security” and was, therefore, unconstitutional. Many Canadians want their system to be more like ours, but would-be health care reformers want to make the American system more like that of Canada and Britain by restricting access to innovative yet expensive treatment options.

Despite the rationing of technology-intensive medical treatments, health care costs in all these countries are rising much faster than rate of inflation. When the true cost of health care services is obscured by forced cross-subsidies and public financing, there is no incentive for individual patients to make rational, economizing decisions. The long-term ability to control health care costs by restricting access to expensive technologies is uncertain at best.

Ultimately, the most vulnerable patients are best served, not by a one-size-fits-all government regulated health plan, but by a system that offers them greater choice and which puts more of the economizing decisions in their own hands.

Gregory Conko (gconko@cei.org) is a Senior Fellow at CEI. He recently co-authored the CEI Issue Analysis, “Political Malpractice: Health Insurance Misdiagnosis and the Destruction of Medical Wealth,” on free-market health care reform.

Does Intel Have Human Rights?

Corporate legal standing is at risk in Europe—and it threatens the global economy as we know it

BY RYAN YOUNG AND HANS BADER

Intel's struggle with European Union (EU) antitrust regulators has a surprising new twist: Intel is claiming that its human rights were violated.

Yes, you read that correctly. Human rights. Intel is claiming that very large fines—€1,000,000,000 in this case, or \$1,450,000,000—can only be handed down by a criminal court, and Intel was never actually charged with any criminal wrongdoing. The allegation that Intel threatened to withhold rebates from customers who also purchased AMD chips has been treated as a civil matter, not a criminal one.

The EU's antitrust investigations are an administrative process, not a legal one, like in the United States. Therefore, the argument goes, the European Commission violated the Intel



Corporation's human right to due process.

This has led to some ridicule. Intel is a corporation, not a human being, so how can it have human rights? Even *Forbes* described Intel's defense as "grasping for straws." A commenter at *Ars Technica* worried that, "Any corporation that claims personhood for the purpose of asserting human rights opens a very scary Pandora's Box."

That line of thought deserves a closer look. To say that corporations should not have human rights is to deny corporations individual standing under the law. Without this convenient legal fiction, the global economy as we know it would cease to exist.

This may sound like hyperbole. It isn't. Intel, for example, has 3 million shareholders who collectively own the company. And those 3 million faces are constantly changing. More than 50 million shares of Intel stock change hands in an average day.

Now suppose your company wants to buy some computer chips from Intel. You could have each shareholder sign the sales contract—good luck finding them all—or you could treat Intel as a person with the right to sign a contract, and the obligation to honor it. To deal with one person or millions? That is why corporations have legal standing as individuals.

What if Intel violates the terms of that sales contract, bankrupting you and your family? If Intel doesn't have human rights, you can't sue it. Remember, you can only sue an entity with legal standing. Have fun tracking down all those shareholders again.

And make sure they're the ones who held shares during the life of that

contract—if you wrongly sue some shareholders for violating something they didn't sign, they can sue you back. Righting a wrong becomes impossible. Denying corporations human rights standing makes corporate abuse more likely, not less so.

Intel's human rights defense may seem unusual, but it is only applying an uncontroversial, widely established principle in a way that people aren't used to. Despite its novelty, the tactic has been tried before in Europe. It has worked, too, though not yet in an antitrust case.

Article 34 of the European Convention on Human Rights says that, "any person, *non-governmental organisation* or group of individuals" may seek redress of their grievances [emphasis added]. Short of legal gymnastics, courts have to respect that.

In the United States, media corporations routinely use human rights in their defense. The New York Times Company won two Supreme Court cases by asserting its right to free speech.

Intel's appeal has one more point in its favor. It recently came out that antitrust regulators intentionally omitted "exculpatory evidence" from the case. At least one of Intel's major customers denied any coercion on Intel's part. If that had happened to a person, there would be no controversy. All defendants, whether human or corporate, have the right to due process.

Ryan Young (ryoung@cei.org) is the 2009-2010 Warren Brookes Journalism Fellow. Hans Bader (hbader@cei.org) is Senior Attorney and Counsel for Special Projects at CEI. A version of this article originally appeared in RealClearMarkets.com.

America's Power System is Powerless

BY JEREMY LOTT AND WILLIAM YEATMAN

America is a beacon of capitalism, so it can be jarring to discover that one of its largest industries is a redoubt of socialism. State governments have been running the electricity business, currently a \$330-billion-a-year industry, since Theodore Roosevelt pounded his White House bully pulpit.

As with many misguided policies, central planning of the electricity industry started during the Progressive Era. Early in the 20th century, intervention-minded Progressives, such as Wisconsin's Robert "Fighting Bob" La Follette, concluded that electric companies would consolidate into "natural" monopolies that preyed on consumers. This was a curious conclusion to reach at a time when electric companies were competing vigorously in many cities.

The Progressives' remedy for this theoretical drift toward natural monopoly was, incredibly, to establish real government-mandated monopolies. States created commissions with the regulatory power to outlaw competition among utilities and set the price of electricity for consumers. By the end of the Great Depression, almost all Americans bought their electricity from government-backed monopolies, and they continue to do so to this day.

The Progressives reasoned that electricity providers could not abuse consumers if they labored under the state's thumb, but the matter is not that simple. Without competition, there is no spur for innovation, which is why electricity transmission and distribution—the system of wires, towers and poles that transmits electricity from the power plant to your home—have not changed much since the regulators stepped in.

That is unfortunate, because while the power system remains frozen in time, American society as a whole has changed dramatically. The U.S. has become a wired nation, a people wholly dependent on reliable electricity to power their computers, phones, and iPods. And America's anachronistic electricity supply chain is failing to keep pace with demand. Massive blackouts in California (2005), Florida (2008), and much of the Northeast (2003) serve as stark reminders of the fragility of the U.S. grid.

Congress wants to overhaul the system by spending a king's ransom on technologies that would give utilities the ability to moderate consumer demand—by, say, remotely turning down millions of thermostats during periods of peak use. In theory, this might avoid the supply crunches that can stress the system to the breaking point, leading to blackouts. Proponents call this a "smart grid" approach, but it is really a stupid policy, especially when the U.S. could modernize the system without spending a penny from the government.

It could do so by freeing the electricity market from state-sponsored socialism. Under the Progressive-Era regulatory model that persists to this day, state regulators set a flat rate for electricity, so it costs consumers the same amount of money whether they use it at 5 PM or 5 AM, even though the cost of generation is much greater in the afternoon, when demand is higher. If electricity were priced based on demand rather than on government mandates, demand would gradually decrease during the peak hours when it is more expensive. Consumers would buy "smart grid" technologies of their own volition, to save money on their utility bills.

Or consider the ugly transmission lines. Thanks to a state ban on competition among utilities, the transmission of electricity has not changed for 100 years. Enormous power plants in remote locations generate the juice, which is then transported hundreds of miles on transmission towers and distribution poles on its way to homes and businesses. It is a long and tenuous supply chain, which makes it leaky and vulnerable. The blackout that darkened the Northeast in 2003 was caused by a tree branch in Ohio.

Engineers have developed small-scale generation technologies (micro-nuclear power plants, mini-gas turbines, solar panels and the like) that can dramatically shorten the distance from generation to end use. These technologies could make the grid more reliable and eliminate the need for eyesore transmission towers. This cannot happen right now, however, because state regulators allow only one provider of electricity in each service area, thus keeping the energy industry locked into the old energy generation model.

If Congress were serious about addressing the problems besetting America's outdated grid, it would encourage states to dismantle the barriers to energy competition. Instead, it is pushing smart-grid subsidies to further entrench the electric industry's broken regulatory regime by funneling billions of dollars through monopolistic utilities and their bureaucratic benefactors in local government. These subsidies will simply prop up a broken and ossified system.

Jeremy Lott is editor of Labor Watch at the Capital Research Center. William Yeatman (wyeatman@cei.org) is an Energy Policy Analyst at CEI. A version of this article originally appeared on Forbes.com.

Tea Partiers Tell Congress: Enough

The 9/12 Taxpayers' March on Washington was a culmination of several Tea Party rallies that have taken place throughout the year to protest the encroachment of Big Government. Many free market organizations, including Bureaucrash, co-sponsored the event. What took place that Saturday certainly exceeded all expectations.

Bureaucrash Crasher-in-Chief Lee Doren, had networked with Crashers from all over the country to arrive at Freedom Plaza before the main event. Not only did these members attend the event, by 8:00 AM, there were already tens of thousands of people there to join us. In fact, the 200 Bureaucrash t-shirts that Lee brought to Freedom Plaza were gone in less than 30 minutes. The Plaza was so packed that getting our cameramen to the stage before Lee spoke was almost impossible.

Right before Lee was to speak before the enormous crowd at Freedom Plaza, the Park service came and told the crowd that they needed to start the march down Pennsylvania Avenue one hour early because capacity had been reached. Lee was told to run through the crowd marching down Pennsylvania Avenue to speak at the Capitol. Around noon, Lee was introduced to the massive crowd, before which he delivered his speech.

To date, this was Bureaucrash's largest event, as well as the largest limited government rally in American history.



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is Enough!

Crasher-in-Chief Lee Doren's speech, delivered outside the U.S. Capitol



We gather here today in the capital of the most prosperous nation in the history of the world. Prosperous not because of our government or our massive bureaucracies, but because of the liberty we enjoy and the individual achievements of our citizens.

Our Founding Fathers knew from their own experiences and their great understanding of history that freedom and prosperity could not survive unless the government was limited to the enumerated powers of the Constitution. And without restraints on the corrupting influences of power, the nation that they created would surely crumble from within just like great civilizations of old.

We gather here today defending the legacy of our Founding Fathers against those who openly promise to transform our society to an America unrecognizable from generations that came before us, and to put us on a path that is simply unsustainable. This is nothing less than an intellectual battle for the heart and soul of America.

This country has survived wars, recessions, and even a Great Depression, but now we are told that we must grant arbitrary power to czars, over 30 of them. We are told that these radicals in back rooms are uniquely qualified to organize our lives.

Well, I'm sorry; we know that history did not begin the year we were born, we know where the path to good intentions leads us, and we are here today united in our resolve to do something about it.

Yes, there are those who will call us obstructionists. But that is the very purpose of the Constitution, to obstruct the government from driving us off a cliff in the name of progress, from bankrupting the next generation in the name of compassion, and from taking away our liberty in the name of hope and change.

Not surprisingly, the Constitution is not 1,000 pages long, didn't need to be rammed through before a summer vacation, and our Founding Fathers—they actually read it.

What we are seeing today is completely unprecedented. Every day, we hear our federal government spent another trillion dollars here, another trillion dollars there, without our consent. And then when we lose more jobs, they tell us to spend more money that we don't have. Vladimir Putin is warning our leaders about the dangers of command economies.

And then when we question our leaders, we are called mobs and political terrorists. Our leaders have ignored the wisdom of those who came before us.

Ronald Reagan was right when he said that, "Government is never more dangerous than when our desire to have it help us blinds us to its great power to harm us."

Well, those of us here today: We have our eyes wide open and are not blind to its harm. And today we will tell our elected and unelected leaders that they will harm us no more!

DEFENDING JOHN MACKEY

On August 11, an op-ed authored by Whole Foods Market Chairman and CEO John Mackey appeared in *The Wall Street Journal*. In the article, Mackey laid out eight free-market reforms that could drastically improve the delivery of health care in the United States. However, some single-payer advocates immediately organized a boycott against Whole Foods. In response, Crystal M. Jones, a Pittsburgh resident and avid Whole Foods shopper, launched an online campaign in support of Mr. Mackey and Whole Foods. Since then, a Whole Foods “Buycott” movement has been spreading across the country. She recently took time out of her schedule to be interviewed by the *CEI Planet*.

WHY DID YOU START THIS ONLINE CAMPAIGN?

I started the “I Support Mr. John Mackey” campaign in response to the boycott that began after his editorial on health care reform was published in *The Wall Street Journal*. I couldn’t believe the outrage and hostility that his editorial evoked in the liberal community. Here is a company that fully pays the insurance premiums for 89 percent of its workforce (anyone who works more than 30 hours a week), gives up to \$1,800 per year to its employees towards other health care expenses, buys and sells local produce and products, and donates a portion of its profits to local communities and in the global communities where it purchases products. Mr. Mackey himself reduced his salary dramatically several years ago and established executive pay caps. I couldn’t believe that, in spite of all of this, people were boycotting the company and viciously calling for Mr. Mackey’s resignation—simply because he offered alternatives to government-run health care.

WHAT DO YOU HOPE TO ACCOMPLISH BY COUNTERING WHOLE FOODS BOYCOTTERS?

Originally, I just wanted people to know that it is a mistake to assume Mr. Mackey in some way betrayed his entire customer base by exercising his First Amendment rights. That’s just not true. There is a wide variety of beliefs and people represented here. Those who support big government are not the only people who shop at Whole Foods!

As the movement has grown, I personally hope to accomplish something else—to remind people of what individual liberty and individual freedom really is. We

talk about it, we claim to have it, but things are so jacked up in this bipartisan system that divisiveness is running rampant. Liberalism or conservatism can coexist, believe it or not, when freedom is the rule. We do not have the right to legislate anyone’s social agenda on someone else. Fundamentally, this is what freedom in the United States is about; the right to life, liberty and the pursuit of happiness—whether the majority agrees with your version of that or not.

DO THE BOYCOTTERS APPEAR TO BE GAINING GROUND?

I guess it depends on how you look at it. Their numbers have grown to around 30,000 the last time I checked. They have organized several protests at Whole Foods stores around the country. There is a plethora of angry rhetoric all over the Internet.

Do I think they are gaining ground? According to my experience, no, they are not. I cannot tell you how many hundreds of people have written me to tell me that they had never shopped at Whole Foods before, but have now become regular customers. Others, like me, were customers before, but are even more loyal now in response to Mr. Mackey’s bravery. I strongly believe that any ill effect on the sales of Whole Foods is going to even out and Mr. Mackey will have greatly broadened his customer base. Conservatives and libertarians like good health food, and have money too!

I heard reports from my local store in Pittsburgh that they had about a dozen people outside protesting this past week,



most of whom were wearing union t-shirts. The best part is that after they were finishing calling for the boycott of Whole Foods, they came in and bought stuff! One asking an employee if he had health benefits, the employee told them that he did and he was happy with his benefits at Whole Foods. The protester then said they didn’t even know why they were there! Our group will continue to post updates and pictures as they become available.

WHAT DO YOU VIEW AS THE MOST SIGNIFICANT LESSON TO COME OUT OF THIS CONTROVERSY?

We are not just liberal or conservative—we are free human beings and American citizens. We want to keep and restore our freedoms. We don’t want people to tell us how to live, and steal the fruits of our labor for the causes that they see fit. We want to help others and be responsible human beings and we don’t need the government to force us to do it. We do not want the government to have any more control over our lives than it already does.

If you have additional questions for Crystal Jones, please feel free to contact her at livefreeordieorg@gmail.com. Facebook members can find Ms. Jones’ group at <http://tiny.cc/supportmackey>.

CEI in Europe

During August 20-22, 2009, free-market think tanks from across Europe and beyond met in Marseille, France, at the Sixth Annual European Resource Bank Meeting. Representatives from public policy organizations in France, the United Kingdom, the United States, Germany, Italy, Poland, Bulgaria, Slovakia, Slovenia, Macedonia, Georgia, and other countries gave presentations and workshops and showed examples of some of their new media approaches. While the main focus of the meeting was communicating in times of crisis, the groups found common cause on issues that cut across national boundaries and discussed strategies for working more closely together.

CEI, one of the sponsors of the program, was represented by President Fred Smith. In his presentation on “value-based communication,” he noted that this type of approach is important because people are rationally ignorant—they have busy lives and no real reason to spend lots of time reading policy reports or learning about issues that have no apparent impact on their lives. So we are all “rationally ignorant” about most things. To get more people to listen to our messages, we first have to appeal to their values, especially egalitarian values of fairness. Fred said that on a whole range of issues, we have to drive home the point that a world with more regulation, more taxes, and more restrictions is a world that is not only less free and less rich, but also less fair.

At the meeting, CEI hosted two other events. One was a breakfast meeting to discuss the need for European and American groups to work together on antitrust policy and in combating new regulatory initiatives in both the EU and the U.S. The second was a reception featuring Czech Republic President Václav Klaus, where Fred Smith and President Klaus presented the concept of the Prague Network, which would more closely ally free market groups on specific issues.

On the heels of the Marseille meeting, in neighboring Aix-en-Provence, classical liberal academics, policy group representatives, and students attended the 31st Summer University of the New Economics, held at the Université Paul-Cézanne from August 23-26. The theme of the summer session was “Markets and Morality,” which provided a forum for Fred Smith to speak on “Corporate Social Responsibility—A Confused Strategy for Addressing the Growing Political Vulnerability of the Firm.” Between the formal classroom sessions, there were also opportunities for intense discussions with some leading classical liberal thinkers.



(Top) CEI President Fred Smith with Czech Republic President Václav Klaus in Marseille, France.

(Bottom) Fred Smith speaking at the 31st Summer University of the New Economics, Aix-en-Provence, France.



THE GOOD

North Carolina Enacts Coastal Insurance Reform

At the urging of CEI insurance experts, and Insurance Commissioner Wayne Goodwin, North Carolina's state legislature passed a much-needed coastal insurance reform bill, which Governor Beverly Perdue (D) signed into law. At issue was the state's Beach Plan, a government-mandated, industry-run mechanism originally set up to provide limited, high-cost coverage for coastal residents unable to get it elsewhere. However, the Beach Plan was grossly underfunded and imposed severe restrictions on private insurers' ability to effectively manage risk, causing several to pull out of the North Carolina homeowners insurance market altogether. "Commissioner Goodwin's leadership defused a ticking time bomb of a beach insurance plan," said CEI Senior Fellow Eli Lehrer. "The legislature, governor, and commissioner worked together to free the market, lower insurance rates, improve choice for consumers, and protect the state's finances. The Beach Plan still needs further reform, but it's in much better shape than it was."

THE BAD

FDA Restricts Advertising for Off-Label Drug Uses

In early September, the Food and Drug Administration (FDA) and the Department of Justice cracked down on the advertising of off label uses for prescription drugs. When the FDA approves new drugs, they are approved to treat specific conditions in particular populations, which are identified on the products' labels. But, once they are on the market, doctors are free to prescribe drugs for any safe and effective use, including ones not indicated on the label. "Off-label prescribing is not only common in every field of medicine, but is frequently considered to be the recognized standard of care," said CEI Senior Fellow Gregory Conko. "Physicians can even be subject to malpractice liability if they don't use treatments for off-label indications when doing so constitutes the medically recognized standard of care. So, it makes no sense for FDA to criminalize off-label promotion in all cases." Essentially, the FDA is prohibiting truth in advertising.

THE UGLY

Rather than Fund Pensions, Unions Opt to Redefine "Underfunded"

On August 27, Rep. Earl Pomeroy (D-N.D.) proposed a bill that would use accounting gimmicks and tax dollars to make union pensions look much healthier than they are in reality. For multi-employer (i.e. union) plans, Pomeroy's proposal would extend the rehabilitation and funding improvement periods for plans in endangered or critical status. It would also authorize the Pension Benefit Guaranty Corporation (PBGC) to financially assist in the merger of multi-employer pension funds when it determines that financial assistance "is reasonably expected to reduce the PBGC's likely long-term loss," according to the bill summary. Like rearranging deck chairs on the Titanic, this essentially would allow underfunded union pension plans to "re-value" assets to make pensions that are in trouble look healthier than they really are.

MediaMENTIONS

Compiled by Richard Morrison



Information Policy Analyst Ryan Radia and Research Associate Elizabeth Jacobson counter calls for a privacy crackdown on social networking sites like Facebook:

Attempts to fit the thriving online ecosystem into a rigid privacy framework threaten to undermine the creative spirit of the information sharing market. The threat of government prosecution for alleged privacy woes discourages the development of Facebook-esque services. Consider that many of the most popular sites and services today on the Web—think Twitter, Facebook, YouTube, Hulu, Google—are free to use and in large part financed by advertising. It’s simply unreasonable to expect these kinds of free services to offer bulletproof privacy assurances.

The best way to protect Facebook users’ privacy is through user education and common sense, not government mandates. Privacy-conscious users ought to read the fine print, be smart about installing apps, and use trustworthy privacy tools when needed. Ultimately, though, if you don’t want to risk your personal information being leaked, keep it to yourself.

—*Washington Examiner, September 17*

Editorial Director Ivan Osorio and Adjunct Analyst F. Vincent Vernuccio detail the policy payoffs from Democratic policy makers to organized labor:

[T]he administration is requiring contractors who want to bid on large federal construction projects to be subject to project labor agreements (PLAs), which impose burdensome requirements on non-union contractors. PLAs typically require non-union employers—even those who provide their own benefits—to pay into union benefit plans. This can entail paying into underfunded union pension funds, which can impose huge liabilities on companies. PLAs may also require contractors to employ workers from union hiring halls, acquire apprentices from union apprentice programs, and require employees to pay union dues.

The administration and some congressional Democrats are also trying to bail out union pension funds. For taxpayers, this should be especially galling, as many of those funds are grossly underfunded because they have been poorly managed. For years, unions have leveraged their pension funds to pursue political agendas by introducing shareholder resolutions at public companies’ shareholder meetings and investing for political rather than economic goals. Often, such resolutions and investments do nothing to increase shareholder value. As a result, many union-sponsored multi-employer plans are today in critical condition.

—*The American Spectator, September 4*

Energy Policy Analyst William Yeatman and Jeremy Lott on how concerns over endangered mayflies could bring coal mining in Appalachia to a halt:

If this obstruction continues, surface mining in Appalachia is surely doomed: You can’t mine coal without access to a mine.

That would be hard-felt locally, of course. Coal mining sustains more than 70,000 jobs in Pennsylvania, West Virginia, Virginia, and Kentucky. Then there are the broader impacts.

Abundant, inexpensive Appalachian coal powers electric utilities in states along the Ohio River, which is why the region enjoys some of the lowest energy costs in the nation.

Without Appalachian coal, these states will have to switch to more expensive fuels, raising utility bills for millions of Americans who can ill afford the expense right now.

This approach to resource management really is maddening. America is one of the few nations that treat natural resources as liabilities, not assets. Our budding rival China builds a coal-fired power plant every week to power job creation; we trade jobs for bugs. Is this the “change” President Obama had in mind?

—*Investor’s Business Daily, September 2*

Policy Analyst Michelle Minton explains why we should liberate sports betting:

The constitutionally questionable ban on sports gambling that Congress imposed in all but four states—Delaware, Nevada, Montana, and Oregon—should be repealed. It only serves the interests of sports leagues such as the NCAA or the NFL.

It is up to sports leagues themselves to develop and implement regulations for their members to ensure that integrity in sports is upheld.

There is no evidence that increased legalization of sports gambling would lead to an increase in the occurrence of cheating among players. Even if it did, however, the bad behavior of players and some gamblers is not a legitimate reason to criminalize the activity of betting on sports for all citizens.

End the hypocrisy and protect individual rights by lifting the federal ban on sports betting.

—*USA Today, August 26*

Director of Risk and Environmental Policy Angela Logomasini refutes the claim that bottled water needs more detailed labeling for consumer safety:

The [U.S. Government Accountability Office] report recommends increased labeling of bottled water to report chemicals that appear in the parts-per-billion range. But GAO’s recommendation is a policy judgment. It is not supported with data proving that bottled water poses significant risks under current regulatory practices or that more bureaucratic reporting of essentially meaningless data would matter.

The GAO study did not assess bottled water’s safety. Instead it compared Environmental Protection Agency regulations of tap water to FDA regulations of bottled water, which it found to be basically the same, except that FDA also applies food safety and packaging regulations. It suggested that FDA implementation was weaker than EPA, but it did not assess performance—the quality of bottled water verses tap.

Lawmakers used GAO value judgments to suggest that bottled water was no different than tap water and that it might even be less safe. The Competitive Enterprise Institute’s study (found at enjoybottledwater.org consumer Web site) does not support that contention.

—*Detroit News, August 22*



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Judicial Short Circuit

On August 1, London filmmaker Mark Guard entered an abandoned building to conduct research for his new documentary on crime and the homeless. When he inadvertently triggered the building's security system, Guard briefly switched on the electricity in order to find the alarm's off switch. Police arrived shortly thereafter and arrested Guard. The charge? Stealing 0.003 pence—about 5/1000 of a U.S. cent—worth of electricity. Guard offered to repay the utility in full, but company representatives told him they were unable to process such a small payment. London law enforcement spent \$8,200 on Guard's case before the prosecutor decided to drop all charges.

Union Defends Abusive Kindergarten Teacher

Broward County, Florida, kindergarten teacher Alexandra Kralik has been suspended from classroom duties after allegedly grabbing one of her young students. Broward Teachers Union attorney Steve Rossi told Local 10 News that, "The school system, at this time, cannot fire her because she is entitled to due process and the school has to conduct their investigation as well. It would be premature at this point to fire her." However, this is not Kralik's first offense. In 1998, Kralik was put on paid leave for the remainder of the year after slamming a student's head into a desk, given a written reprimand in 2002 for throwing a student to the

...END NOTES



ground, suspended for 20 days in 2003 for kicking a kindergartener, and received two more written reprimands in 2006 and 2007 for roughing up students. Unhappy school board officials cite union contracts that prevent them from firing teachers with histories of abuse.

UK Grants Climate Change Alarmism Religious Protection

After Tim Nicholson, an executive at a British property investment firm, was fired from his job, an employment tribunal ruled that Nicholson's belief about climate change deserved the same protections from employment discrimination as those granted for religion. Nicholson claims he was dismissed after voicing numerous concerns that his company was not doing enough to limit its carbon emissions. He told the tribunal, "[My belief] affects how I live my life including my choice of home, how I travel, what I buy, what I eat and drink, what I do with my waste, and my hopes and fears. For example, I no longer travel by plane, I have eco-renovated my home, I compost my food waste, and encourage others to reduce their carbon emissions." An employment discrimination law was recently modified to extend previous workplace protection of religious beliefs to "philosophical beliefs" which are "worthy of respect in a democratic society." Employment law experts have criticized the new policy as opening the door for employees seeking legal workplace protection of nationalist, racist, or other offensive fringe views.