COALITION FOR SENSIBLE SAFEGUARDS

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Overstating the Cost of Regulation

Why you should not believe regulations cost Americans $1.75 trillion a year

If you've been listening to members of Congress who generally oppose federal regulation, chances are you have heard this number. Problem is, it's not close to being accurate. The number comes from what is called the Crain and Crain study after its authors, Nicole V. and W. Mark Crain. It was commissioned by the Small Business Administration (SBA) NOT for the purpose of figuring out how much federal rules cost the economy, but to give the SBA a better handle on the impact of regulation on small businesses, compared to large businesses.

The Crain and Crain estimate is not telling us the real value of regulation

The Congressional Research Service, Center for Progressive Reform, and Economic Policy Institute have all looked at the Crain and Crain study and found failings and limitations. The Crain study wasn't designed to give us the "true" value of regulation – that is, whether the cost of complying with a rule is outweighed by the benefits.

The Crain and Crain study doesn't account for the benefits of regulation at all

It's as if a couple, deciding whether to have a baby, considered only the estimated cost of raising a child from birth to age 18 – well over $200,000[i] – but failed to factor in any of the benefits of parenthood.

Crain and Crain acknowledge this limitation. In an email to the Congressional Research Service, Crain and Crain stated that their report is "not meant to be a decision-making tool for lawmakers or federal regulatory agencies to use in choosing the 'right' level of regulation. In no place in any of the reports do we imply that our reports should be used for this purpose. (How could we recommend this use when we make no attempt to estimate the benefits?)"[ii]

Or, as the Center for Progressive Reform noted in a critique of the Crain and Crain study, "using Crain and Crain's methodology, practically any economic transaction – from the purchase of a loaf of bread to the construction of a manufacturing plant – would be counted as a drain on the economy, because they only include the costs not the benefits."[iii]

The Crain study counts as "rules" things that most of us wouldn't

Many rules are just procedures for transferring money from one place to another – getting benefits to Social Security recipients or subsidies to farmers. Tariffs and quotas also are lumped together in the rules category, often reflecting policies lobbied for by industries seeking protection from foreign imports. The rules that most of us think of as rules --- those having to do with the environment, occupational safety and health and homeland security, amounted to just about 21 percent of the total cost of regulation, as estimated by Crain and Crain.

Crain and Crain even count the time and effort we spend paying our taxes as the result of burdensome federal rules

But the IRS didn't make a rule that stated we have to pay taxes. Congress enacted an increasingly more complex tax code. So compliance with that tax code isn't a rule problem, it's a law problem. That compliance cost alone is $160 billion, according to Crain and Crain.[iv]

Crain and Crain's methods are flawed

Crain and Crain misinterpreted an index used by the World Bank. The Crains have confused the index to measure how strict regulations are and their impact on the cost of regulation. But the World Bank says its index is meant to assess the overall quality of regulation in a country, not its stringency.[v] That flawed index alone accounts for 70 percent of the $1.75 trillion estimate![vi]

Crain and Crain also overstate the costs of environmental, and occupational health and safety regulations by combining apples and oranges – drawing estimates of costs from a number of sources, some from overlapping time periods, some dating back 20 or 30 years, ignoring the fact that compliance costs often decline as businesses find innovative ways to adapt and as consumer expectations change. The Office of Management and Budget called this an "inherently flawed" approach.[vii] The Crains also use only the high end of the range of estimates they examine in these areas.

When the Crain study was peer reviewed, it got mixed comments. Robert Litan, vice president for research and policy at the Ewing Marion Kauffman Foundation, found no flaws in the study in a one-sentence evaluation. However, Richard Williams, director of policy research for the Mercatus Center at George Mason University, an institution known for its strong support of efforts to reduce regulations, wrote lengthy comments that raised concerns about the Crains' research methods, particularly the use of the World Bank index, which "may not measure what the authors say it measures." [viii]

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[i] Expenditures on Children by Families, 2009, United States Department of Agriculture, Center for Nutrition and Policy Promotion, Miscellaneous Publication Number 1528-2009.

[ii] Curtis Copeland, "Analysis of an Estimate of the Total Costs of Federation Regulations," Congressional Research Service, 6 Apr. 2011, p. 26.

[iii] Sidney Shapiro, Ruth Ruttenberg, and James Goodwin, "Setting the Record Straight: The Crain and Crain Report on Regulatory Costs," Center for Progressive Reform White Paper, Feb. 2011, p. 2.

[iv] Copeland, op. cit., p. 15.

[v] Ibid, p. 7

[vi] Shapiro, op.cit., p. 1.

[vii] Copeland, op. cit, p. 24.

[viii] "The Impact of regulatory costs on small firms," Small Business Administration website.