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RON NESSEN

QUESTIONS AND ANSWERS

AGENDA FOR GOVERNMENT REFORM ACT

May 12, 1976

- Q. THERE ARE APPROXIMATELY FIFTEEN MAJOR PROPOSALS BEFORE THE CONGRESS DEALING WITH PROBLEMS OF GOVERNMENTAL REGULATION. WHY DO YOU FEEL THE ADMINISTRATION'S PROPOSAL IS BETTER THAN THE OTHERS?
- A. We do not believe that a comprehensive reform of government regulations can best be accomplished either by proposals for outright abolition of regulatory agencies or by calling merely for more study. The Administration's bill is designed both to facilitate needed analysis and require a definite timetable for action. We feel the bill has certain advantages over legislation along these lines proposed by Senators Percy and Byrd. For example, it is designed to look at the cumulative effects of all government regulatory activities on economic sectors rather than concentrating primarily on examining individual regulatory agencies--their functions, organization structure and performance.

It also does not arbitrarily require agencies to go out of business. Instead it sets a specific timetable for reform and gives Congress 9 1/2 months to consider the President's proposals and requires them to register a vote for or against the proposed reforms. Presently, Congress is under no such obligation.

- Q. WHAT PROCEDURES DO YOU ENVISION TO INSURE THAT YOUR PROPOSAL WILL ACCOMPLISH WHAT YOU HAVE SET OUT TO DO?
- A. This legislation commits both the President and Congress to cooperate in the development and implementation of needed reforms according to a definite, agreed upon schedule. Each January, the President is required to submit reform recommendations to Congress. These recommendations are then reviewed by the appropriate congressional committees. If the House and Senate have not enacted reform legislation by November 15, the Administration's proposals become the pending business on the floor and remain so until acted on by each House.

In developing major legislative and administrative reform proposals, we are also proposing broad public participation to assure that the President has the best thinking available and permit the public to develop a better understanding of the overall impact of government regulation.

Q. WHERE WOULD YOU GET THE FUNDS TO SUPPORT SUCH AN EFFORT? WOULD A NEW BUREAUCRACY BE CREATED TO OVERSEE THIS EFFORT?

A. We believe that the Executive Branch and the Congress are jointly responsible for dealing with these problems. Given a commitment by Congress to respond to the proposals submitted by the President, we believe that we can mobilize resources from within existing departments and agencies to assist in this effort.

This new program will not require new resources or another layer of bureaucracy. Under sustained Executive Office leadership in OMB and the Domestic Council, we will work closely with the Cabinet Departments to assure that existing manpower and funds are aimed effectively at meeting the objectives of the program.

Q. WHY IS THE REFORM EFFORT SPREAD OVER SEVERAL YEARS? WHY CAN'T REFORM PROPOSALS BE SUBMITTED NOW? WHY IS IT NECESSARY TO STUDY THE PROBLEM MORE AND DELAY ACTION?

A. You cannot reform 30 to 40 years of government regulation in a few months. It is our judgement that the time has come to take a look at the full affect of government intervention on the private sector. This will require a careful and comprehensive reexamination and it will take time--to gather statistics and necessary data, to focus both public and private research efforts on the problem, to get meaningful public participation, etc. Congress will need some time to review the resulting reform proposals.

Q. HOW DOES THE BILL RELATE TO THE ADMINISTRATION PROPOSAL OF LAST YEAR CALLING FOR A NATIONAL COMMISSION ON REGULATORY REFORM? HOW DOES IT RELATE TO COMPREHENSIVE CONGRESSIONAL STUDIES OF REGULATION?

A. The proposal to create a National Commission on Regulatory Reform was submitted in October of 1974. Since that time, the Administration has made significant progress on regulatory reform. Now, rather than awaiting the results of another study, our proposal is a program for action. We do not need another prolonged study to tell us there is a problem. Already five major Presidential studies of regulatory agencies have found substantial flaws within the existing system. All recommended important changes in existing operations and organizations. Most of the recommendations are still gathering dust.

Further study should be tied to an action oriented timetable for reform. We do intend, however, to make full use of studies that have been completed and are underway. In particular, we will rely on comprehensive congressional studies, such as those now being completed by the Senate Government Operations and the House and Senate Commerce Committees.

Q. WHY CAN'T THE EXECUTIVE DEPARTMENTS AND INDEPENDENT AGENCIES GET THEIR PROBLEMS UNDER CONTROL WITHOUT ANOTHER REVIEW?

A. In many cases, the regulatory agencies have been given broad discretion to carry out their legislative mandates. The extreme complexity of the regulatory process, with numerous and diverse agencies promulgating thousands of regulations every year on a individual case-by-case basis, has made difficult any effective Congressional oversight.

Yet complexity should not be used as an excuse for continuing to allow this system to run out of control. Unlike other complex areas of government policy such as defense, foreign affairs, economic affairs or even social programs, there is no mechanism for systematic policy review in the Executive Branch or the Congress. Similarly, as with government spending programs, there are no means such as the budget for disciplining the process and making tradeoffs among competing economic and social goals.

We believe that a comprehensive and systematic review along the lines of the Administration's proposals will lead to more effective mechanisms for bringing this system under control and exercising discipline. We cannot hope to achieve this discipline by continuing to look at the issues in a fragmented, piecemeal way. Congress and the Executive Branch together are responsible for the present system of interventions in the economy. The legislation would insure that both branches are committed to a definite timetable for reform.

Q. THE AGENDA SHOWS TRANSPORTATION REFORM SCHEDULED IN THE FIRST YEAR. HOW DOES THIS RELATE TO THE AIR AND TRUCKING LEGISLATION NOW BEFORE CONGRESS? SHOULDN'T ACTION ON THESE BILLS BE DELAYED SINCE FURTHER ANALYSIS WILL BE FORTHCOMING?

A. No. The air and truck bills deal with selected aspects of economic regulation of these industries-- pricing, entry and exit, antitrust immunities, mergers, etc. This new legislation is an attempt to move beyond those proposals. Action should proceed to reform economic regulation without delay.

Other aspects of government regulation in these industries warrant similar in-depth consideration. For example, transportation safety regulation and the effects of equal employment standards, occupational safety and health regulations, and the combined effects of energy and environmental regulation have not been closely and thoroughly examined. In addition, maritime and international aviation issues have not yet been addressed. We have made a good start in the transportation area with the rail, truck and air legislation, but there is a lot more to be done.

- Q. CONGRESS HAS RECENTLY PASSED A RAIL BILL. WOULD YOU RESTUDY THIS AREA?
- A. Again, the rail bill dealt primarily with economic regulation of the railroads and with providing financial assistance to the industry. However, many important areas remain. For example,
- The bill merely established new procedures for abandonment, however it did not address substantive considerations. What further steps should be taken to permit abandonments while assuring transportation services to affected communities?
 - While compatible regulatory reforms have been proposed for railroads and trucks, we have not yet dealt with water carriers.
 - The whole question of subsidy policy toward competing modes (rail and water carrier) has not been addressed.

Q. HOW DID YOU ARRIVE AT THE PROPOSED SCHEDULE SET FORTH IN THE LEGISLATION?

A. We used three major criteria in arriving at the proposed schedule, as follows:

First, we took areas where we now have considerable information about the impact of government regulation. During the first year, we consider transportation and agriculture and add to our knowledge of the impact of economic regulation in these areas more understanding of how EPA, OSHA and FEA regulations affect these industries.

Second, we took into account the anticipated timing of major policy decisions and actions over the next four years. For example, our schedule permits the development of energy policy recommendations when present energy controls expire in 39 months.

Third, we considered how to go about systematically analyzing the effects of regulatory activities that cut across industry lines and the timing of any major legislative proposals. For example, EPA regulations affect transportation, agriculture, heavy manufacturing and public utilities industries quite heavily. On the other hand, their affect on the banking industry is minimal. Accordingly, research on their effects would begin in year one and legislative and administrative recommendations would be scheduled for the end of year two-- after their major effects on four types of industry had been determined and the trade offs between energy and environmental regulations were better understood. Regulatory activities which are relatively new will require more time to examine and develop appropriate recommendations than will either the more traditional forms of economic or environmental regulation. Accordingly, OSHA regulations are dealt with after we have had time to build up supporting data and determine whether or not major legislative changes are required--year 3.

Q. YEAR FOUR APPEARS TO BE A HODGE PODGE OF SECTORS AND AGENCIES. WHY HAVE ALL THESE ISSUES BEEN LUMPED IN YEAR FOUR?

A. With the exception of federal banking regulation, most of these sectors are heavily regulated at the State/local level (e.g., insurance, unfair trade practices, communications, etc.). We feel that it is important to get our own house in order and to better understand the full effects of federal regulation before addressing issues involved in the interaction of Federal/State/local regulations.

In several areas, there has been a growing pressure for piecemeal federal involvement--insurance regulation for example. We will seek a better consistency of federal policy in these areas over the next several years.

We will continue to devote major attention, early on, to such areas as financial disclosure requirements and the paperwork burden affecting the many small businesses in these sectors.

- Q. WHY DO YOU FEEL THE AGENDA FOR REFORM IN YOUR BILL IS BETTER THAN THAT CONTAINED IN S. 2812 (PERCY-BYRD)?
- A. Both bills set a timetable for reform which calls for specific reforms to be developed by specific dates every year. Both address a full range of government regulatory activities--economic regulation, health and safety, environmental issues, fair business practices, and so on.

The major differences are:

- The Administration's bill sets forth a four year schedule as opposed to five years in S. 2812. This will provide concrete reform as soon as possible.
- The Administration's bill focuses more systematically on the effects of government regulation on selected economic sectors. S. 2812 tends to focus attention on agencies--their functions, structure and performance--and may tend to produce an inclination to "move the boxes", a problem that has been recurrent in past studies which have emphasized the federal organizational machinery.
- The Administration's bill organizes the review in a way that will identify the cumulative effects of government regulation on industries and individuals. The budgeted costs of government regulation are identified in the annual federal budget process. However, at present, the "hidden costs" which must be borne by businesses and individuals in complying with federal regulatory activities are unknown. This legislation requires an analysis of the costs and benefits of regulatory activities.
- By focusing attention on the cumulative effects of regulation on industries rather than on regulatory agencies, the Administration's approach will highlight instances of overlap or duplication.

Q. YOU CLAIM THAT YOUR PROPOSAL IS ACTION ORIENTED YET YOU HAVE DROPPED THE FORCING MECHANISM IN S. 2812?^{1/}

A. We believe that there may be serious legal questions raised by the forcing mechanism proposed in the Percy/Byrd bill and it is just not realistic to have agencies go out of business through legislative inaction.

Our proposal forces Executive action but relies on the cooperation of a responsible Congress to follow through on the annual Presidential proposals by getting Congress to at least act on these proposals by a date certain every year.

^{1/} S. 2812 stipulates that if no regulatory reform plan is enacted, all rules of the listed agencies "in the enumerated areas" would be terminated and be of "no further force or effect".

- Q. THE SCOPE OF THE REVIEW, AS INSTANCED BY THE DEFINITION OF "REGULATION" IN SECTION 3, APPEARS QUITE BROAD. WHAT SPECIFICALLY DOES IT INCLUDE?
- A. We have chosen a definition that will facilitate thorough analyses of current regulatory activities and identify conflicts, duplications and overlaps.

The definition is broad, so that the President will be able to make recommendations for change in a variety of areas. The intent of the legislation, however, is to address a somewhat narrower category of activities, including:

- those which are not now subject to effective budget or policy review, or oversight, in the Executive Branch or Congress.
- discretionary activities of government agencies which regulate specific private sectors activities. Thus, the review would not deal with general economic policies (eg., monetary and fiscal policies) or such things as tax policy which is non-discretionary.

The review is also not concerned with federal social programs such as social security, unemployment compensation or health care.

We would also not be concerned primarily with aspects of government spending normally treated in the budget process or Federal grants-in-aid.

- Q. WHY ARE YOU INCLUDING SUBSIDIES IN YOUR ANALYSIS?
- A. There is often a close relationship between regulation and certain subsidy programs and it is difficult to separate them. Maritime and agricultural subsidies are good examples. In addition, direct subsidies are often a more effective way to achieve social objectives than through the hidden subsidies embedded in a particular regulatory system and may provide a means for making the transition from an inappropriate system of regulation. Payments to air carriers to serve small rural communities, which are provided in the Administration's air bill, are another case in point.

- Q. WHY DID YOU EXCLUDE TAXATION? IF YOUR DEFINITION INCLUDES GOVERNMENTAL SUBSIDIES, WOULD YOU ALSO LOOK AT TAX EXPENDITURES? THESE SURELY ARE SUBSIDIES, AREN'T THEY?
- A. Tax policy is presently subject to adequate policy review both in the Executive Branch and in the House Ways and Means and Senate Finance Committees. As in the case of general economic policy, we also exclude tax policy because we are primarily interested in discretionary activities of agencies designed to influence specific private sector activities.

Tax expenditures are, of course, a special aspect of tax policy, which are closely related to subsidies. However, in recent years there has been a great deal of attention given to tax expenditures and their impacts are well understood. Much less attention has been given to government regulation and other kinds of government interventions, the impacts of which are not well understood.

Q. HOW DOES THE CONCEPT BEHIND THE ADMINISTRATION'S BILL DIFFER FROM THE CONCEPT BEHIND CENTRALIZED ECONOMIC PLANNING?

A. The concepts are antithetical. The proponents of centralized planning would add another layer of government and might well use planning to further suppress or supplant competition and the free market system. Unfortunately, this would continue the direction of the last forty years. We propose rather to reverse that direction, to plan for competition, rather than against competition.

We believe that government can use techniques, other than detailed planning and detailed prescription and control through regulation, that can help make the results of the natural forces of the market system consistent with our social objectives, without suppressing that system to the extent we have in the past.

- Q. THE ADMINISTRATION'S LEGISLATION APPEARS TO BE A RESPONSE TO THE "GET GOVERNMENT OFF OUR BACK" MOVEMENT WHICH CALLS FOR A RETURN TO THE FREE MARKET. HOW IS THE FREE MARKET GOING TO SOLVE OUR PROBLEMS WHEN THE REASON FOR THE DEVELOPMENT OF REGULATION IN THE FIRST PLACE WAS THE FAILURE OF THESE FORCES?
- A. We are looking for approaches that will support a free market, rather than supplanting or replacing it. Antitrust enforcement, for example, can increase competition, hold down costs and prices, without detailed economic regulation of prices and entry that often stifles competition, increases costs, and stifles innovation.

Many of our environmental, health and safety objectives can be achieved by providing better incentives to reduce pollution or provide a safe work environment. Such techniques might greatly reduce the intrusiveness of detailed federal regulation and the paper work burden on industry, particularly that imposed on small business. It is not our objective to remove the Federal Government from the business of achieving worthwhile economic, social, and environmental goals. It is our objective to see that these goals are achieved at a minimum cost and with minimum intrusion.

Q. ALMOST 90 YEARS AGO THE ICC WAS ESTABLISHED TO LIMIT THE POWER OF THE RAILROADS. ALMOST ALL REGULATORY LEGISLATION SINCE HAS RESPONDED TO THE NEED FOR LIMITATIONS ON THE ABUSE OF POWER BY BIG BUSINESS. REGULATION HAS ACHIEVED POSITIVE BENEFITS FOR THE PUBLIC. HOW WILL YOUR BILL PROTECT THE WORKER AND THE CONSUMER AGAINST SUCH ABUSE, AND PROTECT THOSE BENEFITS TO THE PUBLIC INTEREST.

A. Our purpose is not to reduce the protection for the worker or consumer but to reduce unnecessary costs which are currently costing the worker and consumer a great deal and bringing him or her little or no protection or benefit. Rationalizing the current system does not mean sacrificing the benefits of regulation. The purpose of the Administration proposal is to subject all regulation to the test of whether the benefits are worth the costs imposed and to find techniques that will increase benefits and reduce costs. In some cases, specifically the airlines and trucking industries, this will lead to less detailed regulation and more reliance on competition. In other areas, it could well lead to more effective regulation, using techniques that require less detailed regulation.

Q. THE ADMINISTRATION PROPOSAL TAKES ON A RATHER NEUTRAL CAST THAT AVOIDS IDENTIFYING YOUR EXPLICIT AGENDA. YET IMPLICITLY, THE PROPOSAL SEEMS TO PUT A HEAVY EMPHASIS ON ENVIRONMENTAL, HEALTH AND SAFETY REGULATION--PARTICULARLY DURING YEARS TWO AND THREE. WHAT SPECIFICALLY ARE YOU GOING TO DO IN THESE AREAS? SPECIAL INTERESTS IN THIS COUNTRY FOUGHT VERY HARD AGAINST LEGISLATION ESTABLISHING EPA AND OSHA. ISN'T YOUR BILL GIVING THEM A BIG OPENING TO FIGHT THE SAME BATTLE AGAIN?

A. The Administration is not going to retreat from the goals and objectives of EPA and OSHA. There is a legitimate question, however, whether the least costly and intrusive techniques are being used to achieve these goals. The legislation will provide an opportunity for both the business community and organized labor to suggest ways of improving the effectiveness of these agencies. We do not believe that the significant progress made in these areas will in any way be threatened. Rather we expect to accelerate progress toward our goals.

We do believe that recently established agencies, such as EPA and OSHA, with broad congressional mandates require effective oversight to see that congressional intent is being carefully followed, that the costs of achieving broad environmental, health and safety objectives are taken fully into account, and that we have a basis for making informed tradeoffs between economic and social goals.

While not prejudging the results of a comprehensive review in these areas, the Administration may well propose fundamental changes in EPA or OSHA, but we do not question the basic goals underlying the enabling legislation. This Administration is fully committed to protecting the environment and protecting the health and safety of the American worker.

- Q. IN MANY INDUSTRIES, BUSINESS AND INVESTMENT PATTERNS HAVE BEEN PROFOUNDLY AFFECTED BY THE CURRENT SYSTEM OF REGULATION. WOULD NOT A WHOLESALERE CHANGE IN THE RULES OF THE GAME OVER A FOUR YEAR PERIOD CREATE MUCH UNCERTAINTY, AND PUT SEVERE DELOCATION COSTS ON MANY INDUSTRIES, WORKERS AND COMMUNITIES? WHO IS GOING TO PAY THESE COSTS?
- A. A thorough and systematic look at the problem of adjustment and transition is one of the principle purposes of this program. A comprehensive program of regulatory change promises significant gains to the average consumer as well as to most businesses, workers and communities. But some people may be affected adversely and we need to take a careful and comprehensive look at this problem of transition. This is one of the reasons why we will be looking at subsidies as well as traditional techniques of regulation. It may well be cheaper, in many cases, for the Federal Government to provide direct subsidies rather than "hidden" regulatory subsidies. Recent air regulatory reform proposals, for example, deals with the question of subsidizing air service to smaller markets as the system adjusts to the new freer entry and exit system. We expect in our examination of each sector to identify problems of transition for affected businesses, workers, and communities and to develop, comprehensive recommendations addressed to such problems.

Q. HOW WILL YOUR LEGISLATION ASSIST SMALL BUSINESS, AS YOU CLAIM?

A. In looking at the cumulative impact of government regulation on various sectors of the economy, we propose to carefully examine the differential impact on large vs. small businesses. By taking into account the limited flexibility of small business in terms of capital requirements and the strains on personnel that derive from excessive compliance and paperwork requirements, we believe that we can develop recommendations that will both improve the overall efficiency of the regulatory process and treat small business more equitably.

Q. HOW DOES YOUR BILL DEAL WITH THE FRIGHTENING PAPERWORK BURDEN?

A. The question of the paperwork burden imposed by the Federal Government is very much a concern of this Administration and the legislation is specifically addressed to this problem. We have established a Commission specifically concerned with this problem and the President has set a goal to reduce paperwork requirements by ten percent this year.

The paperwork problem must also be viewed as symptomatic of a more fundamental problem. For example, government agencies are given a great deal of discretion to impose requirements on the private sector and there appears to be a lack of incentive to take full account of the cost of these requirements. The comprehensive proposal will consider these more fundamental problems. We will try to get at the causes, not just the symptoms of the problem.

Q. TWO OF THE FUNDAMENTAL PROBLEMS CONFRONTING US TODAY ARE HOW TO STOP INFLATION AND HOW TO CREATE JOBS. HOW WILL THIS EFFORT CONTRIBUTE TO RESOLVING THESE PROBLEMS?

A. The Administration believes that distortions created by the present pattern of government interventions in the economy have been a heavy contributor to reduced productivity, and have led to more inflation and unemployment.

Requirements for inflation impact statements on major legislation and more attention to the cost and benefits of individual rules and regulation has helped to document some of the costs government puts on the private sector and have helped to slow down the growth of undesirable regulation.

Yet, we need to do much more to get a comprehensive, rather than a partial view of the problem. The Administration's proposal is to develop a systematic approach to building a cumulative picture of the cost and benefits of government interventions in the economy. When the public truly understands the costs of present inefficiencies and the impact on inflation, lost productivity, and foregone employment, they will exert more pressure for reforms that will contribute to resolving our fundamental economic problems.

Q. ISN'T THIS A POLITICAL PLOY TO TRY TO GET ATTENTION DURING THE PRIMARIES?

A. Over a year and a half ago, the President took the subject of government regulations and their affect on the economy--a topic relegated to scholarly articles in dusty economic journals--and made it the subject of a lively debate throughout the government and throughout the country. People everywhere are now asking fundamental questions about over-regulation and big government's unresponsiveness to people's concerns.

Throughout 1975, this Administration worked with Congress to enact substantive legislation with some success--repeal of the fair trade laws, and substantial reform of railroad and securities regulations. He also proposed legislation reform of airlines, trucking and financial regulation.

To keep the momentum going on this program and to help assure that needed reforms are enacted, what is needed is a timetable for comprehensive reform, one that will commit both the President and the Congress to a plan of action.

We view this legislation as building on the President's efforts to achieve fundamental substantive reforms. It is the product of a joint interest in the Congress and the Executive Branch in a comprehensive program of reform and deserves bipartisan support.