

## Supporter-as-Critic: An Expanded Role for Regulatory Professionals

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*“Everyone connected with the national defense program should have a patriotic interest in seeing that it is properly carried out.”*

— Senator Harry Truman, February 10, 1941

*“The committee—often at odds with the military services—became a ‘sympathetic critic’ of the War Production Board and helped raise public confidence in the way the war was being managed. Estimates of money saved by the committee range as high as \$15 billion, and his work brought Truman into the national spotlight.”*

— Harry S. Truman: *His Life and Times*, [www.trumanlibrary.org](http://www.trumanlibrary.org)

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The Truman Committee, formally named the Senate Special Committee to Investigate the National Defense Program, made criticism a form of patriotism. The Committee saved not only dollars but lives, exposing leaky aircraft engines along with cost-plus contracts. Can we apply this concept to regulation, by being critics of the causes we support? Consider nine examples.

***If you support “regulation,”*** you conserve your regulatory actions. You choose regulation only when necessary and use it no more than necessary. Regulation is necessary when private behavior, unregulated, conflicts with the public interest. (Think speed limits.) So you limit regulation to those situations; you conserve the credibility that regulation needs to survive its inevitable errors and opponents. Then you shape regulation to solve those situations, and you adjust as norms change. When children worked in sweatshops, regulation came down hard. As norms changed, we could focus more on children’s schooling and diet and less on their abuse. Even when market abuse has abated, supporters of regulation keep the regulatory muscles supple, rather than allowing atrophy. The alternative is bust-boom, ignoring gas pipes for decades, and then piling on after a fatal explosion.

***If you support “deregulation,”*** you act to avoid inconsistency by checking the nearest mirror. Most attitudes toward regulation are double-edged: We seek its protections but oppose its obstructions. The food we eat, the pills we swallow, the restaurants we visit, the car we drive and the roads we drive on, the doctor we visit, the companies whose stock supports our retirement, the house we live in, even the cemetery we’ll end up in—all would have less value and more risk were there no regulation.

***If you support “consumers,”*** you avoid entrenching further a “keep rates low” culture that has pressured decades of regulators and utilities to defer improvements and repairs to a

1950s-era infrastructure, a culture that has sought to protect consumers from inconvenience rather than expose them to the costs they cause.

***If you support “shareholders,”*** you press them to cease disguising self-interest as political philosophy, as when they deride “regulation” when it reduces profits but embrace regulation when it excludes competitors. You resist casting rate cases as zero-sum conflicts in which a customer’s benefit is a shareholder’s loss. You view the company’s core constituency not as “ratepayers” who pay money captively but as citizens who deserve choices about what, when, and from whom to consume. You advise shareholders to lose the “what’s good for General Motors is good for America” attitude and admit that short-term shareholder interests often diverge from the public interest. Then you recognize and accept that, over the long term, divergence is neither healthy nor inevitable, because a healthy equity return requires both a healthy customer base and a trusting public; these in turn can exist only if the utility is accountable to regulators.

***If you support “states,”*** you respect the other states as much as your own. So you practice the Golden Rule: You prevent policies that shift your costs to other states, that disfavor suppliers from other states, that hoard your land for your own state’s needs while blocking its use by others. You view as “pro-state” those national policies that preempt states from discriminating against each other; and you view your nation, the United States, as a body you contribute to and not only take from. (And you avoid the phrase “states’ rights,” which is both historically blemished and constitutionally inaccurate; states don’t have rights, they have powers—powers that are both granted by and limited by a U.S. Constitution designed to protect us from our provincialism.)

***If you support good government,*** you help your governor make good decisions. Consider this example: A governor replaces a respected switch-hitting lawyer-economist with 35 years of regulatory experience, a national reputation, and enough objectivity and flexibility to win trust from all factions with a legislator friend whose key qualification is the honesty to admit he has “little expertise” in utility regulation. If you support good government, you point out the irony of using the gubernatorial soapbox to attack “public employees” when you’ve just appointed one unprepared for the job.

***If you support renewables,*** you want the public to accept the near-term cost increase because of the long-term cost decrease. So you criticize laws that require quantities of production without taming their cost, and laws that block imports that could lower your cost of production. You criticize candidates who tell voters they’re for “green” but don’t disclose the cost. You insist on cost-effectiveness: calculating the public’s tolerance for rate increases, budgeting for purchases accordingly. Then you make renewables compete on their merits.

***If you support “nuclear,”*** you own up to the half-century hypocrisy that sells this source as a free-market miracle, when its economic survival has depended on taxpayer billions for research, government limits on liability, and customer dollars committed by regulatory order. You reserve the term “conservative” for those who conserve, not those comfortable with producing tons of radioactive waste without knowing how to move, store, and guard it for more millennia than history has yet recorded.

*If you support “competition,”* you recognize its inherent contradiction: Every competitor wants to be a monopolist—someone whom customers find indispensable. That aspiration spurs some to manipulate, hoard, and abuse—behaviors that require regulation to prevent and redress. But others seek indispensable status through life-changing creations, like the polio vaccine or the Stradivarius violin, breakthroughs that then inspire others to compete. (See David Brooks, “[The Creative Monopoly](#),” *The New York Times* (Apr. 24, 2012).) Because competition, like humanity, is capable of good and bad, a competition supporter uses the term carefully. “Competition” is not mere rivalry, a struggle among the sharp-elbowed, each focused on making someone else lose. “Competition” is a market structure, one with many sellers, none of whom has unearned advantages and all of whom have access to non-replicable “bottlenecks”; it is a market structure that forces prices down and quality up, with no one contestant able to influence outcomes. A competition supporter insists on market structures in which parties win on their merits alone, by playing fair, bearing their own costs, and being satisfied with “some” rather than with “all.”