

Pharmacies and Regulatory Conferences: Do They Have Anything in Common? Can Socrates Help?

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Unskilled competitors do not stick to the points in dispute but 'end up exchanging random insults, insulted and insulting, so that bystanders are disgusted with themselves for having listened to such poor contenders.'

— Garry Wills, *Certain Trumpets: The Nature of Leadership* (1994) at p. 165 (quoting Socrates, discussing public debates, in Gorgias 457 (Dodd's text)).

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Behind the main checkout counter, my local pharmacy (CVS) displays a dozen brands of cigarettes. Two feet away, the adjoining shelf offers products that fight nicotine addiction.

Setting aside the question why a store devoted to health sells products that kill (imagine a driver's ed school selling speed trap detectors, a dentist selling sugary donuts, a financial advisor selling lottery tickets), one wonders if the irony is intentional. Is CVS's strategy to cause a cognitive conflict so intense that it draws attention and stimulates sales? Or to overcome the cigarette purchaser's hesitation by advertising the accessibility of exit ramps? Or is this simply the senselessness that occurs when a single-minded goal—store profit maximization—crowds out other values?

If the store's mission is total profitability, the practice makes sense. If its corporate mission is to satisfy the maximum number of customers, regardless of those customers' self-destructive behaviors, the practice also makes sense. If the store's corporate mission is to help the health of its customers, the cigarette-anticigarette duality is nonsensical. It all depends on the purpose.

Regulatory Conferences: Are Our Purposes Clear?

So what is the purpose of regulatory conferences? They should address the imbalances inherent in our business. Regulators tell me that statutory deadlines force them to allocate their time disproportionately to interest-group submissions rather than objective studies. This disproportionality undermines their effectiveness. Given this context, is it sensible for regulatory conferences to make position takers the dominant voice?

Consider your last-attended regulatory conference. Were the panels weighted toward advocacy or education? Were the speakers spokespersons or professionals? Do the speakers' organizations pursue outcomes or objectivity? Who had the lion's share of floor time: ax grinders and position pitchers, or problem solvers professionally obligated to be objective?

Conference organizers tell me that if they reduce the role of prominent stakeholder speakers, attendance will decline, along with revenues. And, I'm told, these prominent speakers—who usually come from the regulated side—are paid to pitch their positions, so if we restrict their message they'll stay home. As with CVS, it comes down to purpose: Is the conference goal income or effectiveness?

It's a false conflict, anyway, because none of these premises is immutable. Conference attendees come to mingle with regulators, to see what they're hearing and thinking. I question whether attendees pay the \$800 admission fee to hear a CEO who will likely move to another company—or industry—within three years. Does anyone think the 2000 World Energy Forum maximized its revenues by assigning the keynote address to Ken Lay? Further, we need not see income and effectiveness as opposites. Even a “prominent” speaker can shine—and will shine more brightly—by shelving her stakeholder status and just displaying the erudition and thoughtfulness that make her prominent.

“We have to air all sides,” we're told. All sides of what? We should master all sides of the issue—the data, the conflicting purposes, the uncertainties, the likelihood of inadvertent outcomes. That mastery demands objectivity. Advocates do not “air all sides.” They downplay negatives and showcase positives. It is a battle of exaggerations. That's how the smoke-filled room gets its smoke. To “air all sides,” the regulator has to air out that room and fill it with facts.

The point is not to ban interest groups from conference presentations, or to censor their substantive messages. Regulatory isolation breeds regulatory ignorance. But we can create a culture that grants floor time to experts who honor the regulatory obligation—the obligation to make the best decisions regardless of ox-goring. Two examples: Richard Cowart advocates for energy efficiency; Paul Foran works for the water industry. They are paid to persuade. But their presentations are fact-based: They minimize adjectives and adverbs, they appeal to intellect rather than emotion, they respect their audiences' obligations. Maybe it's their past roles as regulators; maybe it's just the type of people they are. It works for them and their audiences. True, they have their “narratives,” but their genre is nonfiction.

There can be legitimate differences over what is “objective.” But even airing those differences will raise consciousness about presentational quality.

Recommendations

I hope the recommendations below can help avoid the problems I've outlined above. At regulatory conferences, there is competition for limited air time. Leverage this competition by replacing political wheel squeakers with objective educators. We need to find the right people, give them guidance, and then enforce. Specifically:

1. Ask “Who knows the most about this issue?” not “Who has a stake in the matter?”
2. Ask “On whom can we rely to dish it out straight?” not “Who's paid for sponsorship?”

3. In every utility, below the vice president of regulatory affairs are the managers who make things work: who buy gas, do the hedging, run the plants—people who can describe for the commissioners the practical challenges requiring regulatory clarity. Make them the stars. We regulate utilities to induce performance excellence. So invite those who perform, who embody excellence. So what if they aren't famous? They should be.
4. If you must have a mix of objectivity and advocacy, slot the objective speaker first, give her the most time, then have the advocates respond. This approach orients the panel toward “serving regulators’ needs” rather than “affording air time to all sides.” It makes objectivity central rather than marginal.
5. Instruct speakers: Your role is to educate and empower, not advertise your company or its goals.
6. Give each speaker 30 to 45 minutes (questions included). A 15-minute slot makes oversimplification unavoidable. If longer slots mean fewer interests heard, we've doubled the benefit.
7. Don't re-invite speakers who pitch products, oversimplify, or exaggerate. A few muscular decisions like that, and conference culture will improve rapidly. What we might lose in attendees we will gain in credibility.