

Cooperatives and Regulations

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A soon to be released survey of the critical issues facing agricultural cooperatives listed regulations as the number one critical issues. The impact of regulations is not unique to cooperatives. Surveys of business owners have consistently identified regulation as a major obstacle to growth and success. The World Bank issues an annual ranking of the ease of doing business in various countries. The burden of government regulation is a significant aspect of that ranking. The economies that perform best within the East of Doing Business rankings are not those with no regulations but whose governments have managed to create regulations facilitating an orderly marketplace without needlessly hindering the business sector.

Cooperatives were enabled by the Capper Volstead Act (a regulation) which was in turn a response to the unintended consequence of the Sherman Anti-Trust Act. (a previous regulation). The cooperative value package has recently been enhanced, or at least complicated, by the Section 199A deduction. In a more general sense, the free enterprise system could not exist without a legal framework establishing and enforcing property rights. Regulations are sometimes needed to address market failures or to protect public goods such as clean air and water. Businesses need to know the rules of the game in order to operate. Regulations also help ensure that citizens receive safe products and employees face safe working conditions. While a regulatory framework is necessary for the economy to function, regulations are costly and often have unintended consequences.

All of that made me ponder the advice that economist have for creating wise regulations. My first suggestion is to explore whether there are non-regulatory alternatives to address the issue. The accounting profession has been very successful in self-regulating by developing and maintaining accepted accounting standards. Perhaps there are similar opportunities for the agribusiness industries to develop and maintain their own standards and certifications. When regulation is required, it should focus on the basic principle or outcome desired leaving businesses flexibility in obtaining the goal. The “reasonable accommodation” under the Americans with Disability Act is an example of a principle based outcome. While that aspect of ADA was still costly, it was much preferable to mandating every specific workplace accommodation. Principle based regulations are also generally more immune to hijacking and manipulation by special interest groups.

Perhaps the largest potential for more economically wise regulations is to do a better job of monitoring and evaluating existing regulations. What is needed is a systematic program to review regulations against their stated goals to ensure that the regulations are up to date, cost-justified and consistent with other regulations. On a regular timetable of 5-10 years, each regulatory agency should be required to publish the objectives of its significant regulatory programs and stakeholders should be able to comment on the compliance costs and implementation issues. There are numerous barriers to regulation review. Policy makers are always much more interested in creating new regulations than in eliminating unnecessary ones. Our industry associations would be severely taxed by the process of analyzing even a fraction of

the inventory of existing regulation. I still suspect that regulation review would generate a high return.

In the words of Dee Hock (founder of Visa credit cards): Heaven is purpose, principle and peoples, Hell is rules and regulations!