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*Responsible Regulation Sabotaged*by Sidney A. Shapiro and Thomas O. McGarity  
September 22, 2004

In the 1960s and 1970s, Congress passed a number of landmark bills regulating the business community, and promoting such widely accepted goals as clean air, clean water, safe products, and protection of the environment. These goals, in turn, reflect our commitment to moral values, including the protection of human life, the obligation of the present generation to preserve the environment for our children and grandchildren, and the importance of holding those who cause harm to others accountable for their actions. Recognizing that most Americans agree with these fundamental commitments, but unwilling to give up their health- and life-endangering ways, polluting industries have sought to stymie regulation in ways that hide their efforts.

In our recently published book, *"Sophisticated Sabotage: The Intellectual Games Used to Subvert Responsible Regulation,"* we show how corporate interests and business-friendly think tanks have used economic and statistical tools to sabotage regulatory protections. Those who use these tools invariably claim they are merely neutral techniques for sorting out good from bad regulation. In reality, these tools have serious conceptual flaws, rely on slippery empirical data, and are easily manipulated to reach conclusions hostile to government regulation. These flaws have been widely noted in the academic literature, as our book reveals.

Rather than confront these criticisms, the business community relies on a tried and true tactic – changing the subject. When academics debunk these simplistic tools, they are accused of preferring irrationality over rationality. For example, when we participated in [a recent debate sponsored by the Center for American Progress](#) to introduce our book, an opposing debater accused us of favoring "seat-of-the-pants decision-making" over the more careful analytical insights that economic analysis can provide.

Most defenders of strong regulatory protections of health, safety, and the environment are not against using economic methodologies as part of the information that regulators consider. But there are crucial caveats that the critics of regulation regularly ignore. First, analysts should divulge the many assumptions that they employ and the uncertainty that is involved in their calculations. Second, in light of these assumptions and the uncertainty, economic analysis usually provides only limited useful information. Third, in light of this limitation, the only way to analyze regulation is through a mix of quantitative and qualitative information.

The need to mix qualitative and quantitative information in reaching a decision about regulation should not be troubling to fair-minded people. When Congress passed the legislation that protects people and the environment, it specified a number of factors that regulatory agencies must take into account in deciding how to regulate. The courts expect that agencies will offer sound reasons for their regulations that satisfy these criteria. There is nothing irrational about this approach. Economics does not have a monopoly on rationality. But it is much harder to covertly bias this more accessible approach against regulation, and that is no doubt why the business community favors economic methodologies.

The business community also accuses critics of economic analysis of defending outdated methods of regulation, regardless of their merit. This assumes, of course, that the only way to reform regulation is to rely on economics. Effective reform, however, must be true to the important social values that Congress was seeking to promote. Along with other scholars at the [Center for](#)

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complete account of our efforts.

A constructive dialogue over regulatory analysis is possible, but it would require the business supporters of economic analysis to admit there are moral and practical limitations in using economic methodologies. This admission, however, would limit the usefulness of economics for bypassing moral considerations and for sabotaging progressive government regulation.

*Sidney A. Shapiro and Thomas O. McGarity of the Center for Progressive Regulation are co-authors, with David Bollier, of "Sophisticated Sabotage: The Intellectual Games Used to Subvert Responsible Regulation."*

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