



# Regulation after Bush

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While the presidential candidates have been diverted by critical issues ranging from Barack Obama's taste in lettuce to John McCain's condo, it's hard to deny that, once elected, serious questions involving economic regulation—everything from housing finance to alternative energy mandates—will be front and center. And here, at least, the divisions are clear: Obama would use a heavy hand to push the economy back on track, while McCain would do his best to put the free back in free markets.

Or maybe not.

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Ever since the New Deal, Democrats have largely accepted the label as the party of regulation—defenders of the weak from the vagaries of soulless capitalism. Republicans, for their part, position themselves as the nemeses of the social engineers and do-gooders who would sap the economy of vigor.

But once in office, reality bites. Thus, with more than a little encouragement from Detroit, Ike committed the GOP to the biggest public works project in history—the Interstate Highway System. Richard Nixon imposed price controls to contain inflation, while Ronald Reagan protected the swooning steel industry from foreign competitors and the first President Bush championed market intervention in the name of cleaner air and accommodations for the disabled. The second Bush hasn't stood on principle either, lavishing seniors with heavily

subsidized prescription drugs and supporting bailouts for both investment bankers and the giant private mortgage insurers.

Democrats, of course, have been no better at sticking to their script. Carter deregulated airlines and trucking, while Clinton deregulated telecommunications and nuclear enrichment as well as opening the door to cheap Mexican imports.

Thus, while Obama and McCain may both lull true believers with the bromides of an earlier generation, a subtler mix of ideology and interest group muscle is bound to drive the regulatory agenda once elected. Consider just a few of the big choices ahead.

## ENERGY AND CLIMATE CHANGE

Democrats, in theory, favor conservation for all that ails, while Republicans glory

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in the supply side. But, when it actually comes to making policy, neither Obama nor McCain would have the luxury of falling back on the old-time religion. Globalization makes go-it-alone policies virtually futile. Without parallel initiatives in the rest of the world, no rush to wind power or plug-in hybrid cars or offshore oil riches would have much effect on either America's energy security or the price of diesel. Without the cooperation of Europe, Asia and Latin America, no plausible effort by Washington to limit greenhouse emissions will make much difference in slowing global warming.

This suggests that, no matter who is elected president or how strong the grip of Democrats on the Congress, the energy and climate change regulation likely to come in the next four years will be a placeholder—a mix of policies more designed to build a winning interest group coalition at home and to reestablish America's leadership abroad than to solve the monster problems at hand.

That said, one might still expect some ideologically-inspired differences in tactics. McCain would push for more offshore drilling and nuclear power, while Democrats would try for tougher fuel efficiency standards and green

fuel subsidies. Both candidates are likely to use market-based techniques to reduce emissions instead of command and control, but differences are apt to emerge because a Democratic president would probably be more inclined to ease the financial sting for low-income families and for unionized industries. Neither candidate is silly enough to use direct regulation to reduce gas prices. Indeed, McCain's endorsement of gas tax reductions notwithstanding, both surely realize that any serious climate change initiative is bound to raise prices at the pump.

#### HOUSING FINANCE

The idea that Wall Street prefers Republicans to Democrats (and vice versa) is badly dated—just ask Chuck Schumer, a member of the Senate's finance and banking committee who has collected \$1.4 million in campaign contributions from the securities industry in the last five years. But more than money drives the parties toward similar policies on financial regulation. The financial industry has become so critical to keeping the economic machinery moving and the fallout from a financial crisis has become so difficult to predict, that no president would let

principle stand in the way of preventing the failure of a major financial institution.

Yet, as the bumpy road to the latest housing legislation shows, ideological divisions still have consequence. Conservative senate Republicans, who viewed the \$300 billion in loan guarantees given to Freddie Mac and Fannie Mae (the nominally private housing insurers) as another step toward the socialization of the mortgage market, staged a brief, embarrassing rebellion before bowing to White House pressure. If the housing market does not rebound next year, one can expect a far more interventionist fix from Obama than McCain. And more generally, where Republicans are inclined to view information disclosure as the key to financial market health, ongoing disruption of Wall Street could trigger Democratic regulation of everything from short selling to hedge fund behavior to asset securitization.

#### HEALTH CARE

On paper, the candidates' differences on health care reform are stark. McCain is committed only to subsidizing private insurance for those who cannot afford it, while Obama wants universal coverage more or less based

on the hands-on model of Medicare. What neither candidate is directly addressing—and what is likely to drive Democrats and Republicans toward common ground—is the looming problem of curbing medical costs even as access to care is increased for millions of Americans. Without muscular intervention, limiting both the treatments covered and providers' remuneration, neither plan could fill popular expectations. Indeed, even without any initiative to extend coverage, Medicare and Medicaid are approaching the point at which some combination of formal rationing and upfront price controls will be hard to avoid.

That sort of market intervention is, on its face, unpalatable to Republicans. But, ironically, it may prove a bitterer pill for Democrats because it would force them to choose between insuring more people and offering less coverage to those insured because, like it or not, price controls will ultimately limit the supply of medical services to the insured. And while Democrats have certainly talked the talk of cost containment through price controls, the power of lobbies for drug companies, hospitals, physicians and private insurers is likely to prevent sweeping changes of any sort.

Look for a president from either party to act pragmatically, offering marginal changes—an extension of Medicaid to more middle-income children, new authority for regulators to bargain about the price of drugs they provide through government insurance, mandates for digitization of private medical records—not the sort of ideologically driven insurance reform that either candidate espouses.

#### INTERNATIONAL TRADE

At first reading, the contrast on trade regulation is likewise stark: McCain has reaffirmed his faith in open trade while Obama wants to renegotiate NAFTA. In practice, though, there isn't likely to be much difference in how they would behave in office. Obama, after all, understands that America's stake in globalization (and in the great web of treaties laying out the ground rules for trade) makes any serious step backward both undesirable and impractical.

The real difference here may be in the implementation of trade laws by the federal bureaucracy. The Commerce Department, in particular, has long sided with domestic industries seeking relief from foreign competition. And the degree of control exercised by

the White House over this politically driven parochialism varies greatly from administration to administration. With a Republican president, one can expect more push-back against protectionism from agriculture and other industries with a big stake in open trade.

#### HEALTH AND SAFETY REGULATION

Not so long ago, Democrats stood for eliminating any recognized threat to life and health, no matter what the cost. Republican ideologues viewed risk disclosure as the gold standard of public protection, and only favored regulation to the extent that formal analyses show the benefits justify the costs. But neither party has ever walked the walk: Democrats quietly acknowledge that costs matter (as do industry lobbies), while Republicans often mandate costly protection in response to public outrage. Further muddying the water, elected officials and their appointees must, as a practical matter, defer to the opinions of the expert-bureaucrats in agencies ranging from the FDA to the EPA to the bean counters in the OMB.

A Republican administration would still be more likely than a Democratic one to

acknowledge that some sorts of protection are not worth the cost. But, as the tough internal battle between penny-pinching economists and old-school environmental advocates in the Clinton administration should remind, the ideological high ground in the Democratic Party is up for grabs. If Obama is elected, much will depend on the advocacy skills of individual policymakers occupying key positions in the White House and the regulatory agencies.

#### TELECOMMUNICATIONS

While there has been a general trend toward less regulation of telecom since the 1970s, the financial stakes are so high and the interest-group politics so well organized that no White House administration is likely to act consistently on principle.

One area where ideological differences may show through: regulation of the Internet, where Democrats have largely favored “net neutrality”—rules that would undercut free market outcomes by barring service providers from collecting fees from online content providers for enhanced service. But even here, any new regulation is likely to be

tempered by the influence of lobbyists from a host of businesses with competing interests.

#### SUMMING UP

There’s a paradox here. In many ways, both candidates are defining themselves by how they would use regulation to cope with the great issues of the era—think energy security, climate change, housing finance, health care. Yet, the limits imposed by global integration, interest-group jockeying, budgetary constraints and even common sense suggest that, once in office, the policies of the two candidates would not be very different.

That’s a relief in the sense that neither candidate’s administration would likely tie regulatory policies to the ideologies of the true believers. But it’s a little sad, too, because the constraints of politics also limit the prospect for the sorts of radical change that just might restore faith in the possibility of economic progress.

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