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The Ash Council's report on the independent regulatory agencies

Reviewed by

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■ On January 31, 1971, President Nixon released to the public a booklet entitled *A New Regulatory Framework: Report on Selected Independent Regulatory Agencies.* The Report represents a year's work by the President's six-member Advisory Council on Executive Organization, popularly known as the Ash Council.[1] The Council studied several Federal agencies: the Federal Trade Commission, the Federal Communications Commission, the Federal Power Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, and the Federal Maritime Commission. The Report notes at the outset that it is "now almost routine practice to condemn the commissions for a lack of resourcefulness, insensitivity, and for a general inability to respond effectively to the pressing problems within the scope of their responsibilities."[2] The Council then recommends several major changes in the structure of our regulatory system designed to tackle these failings.

The Council's major recommendation, which it would apply to all agencies except the FCC, is to abolish the job of commissioner with a fixed term of office, and to substitute single administrators directly responsible to the President. In replacing "collegial bodies" with single heads, it would hope to increase efficiency and at the same time to strengthen Executive control over, and perhaps support for, agency policies. Moreover, the adjudicatory functions of the agencies would be de-emphasized. Agency chiefs would have only 30 days to review the decisions of hearing examiners; ordinarily, cases would proceed directly to a new Administrative Court, composed of specialized judges appointed for fifteen-year terms.

Finally, the Report makes several detailed recommendations concerning individual agencies. It would merge the ICC, CAB, and FMC into a single transportation agency. It would transfer the CAB's promotional, subsidy-granting activities to the Department of Transportation. It would separate the FTC's consumer-protection responsibilities from its antitrust activities, and vest the latter in a new Federal Antitrust Board with a chairman and two economist members.[3] It would transfer responsibility for the Public Utility Holding

[1] The Council is named for its chairman, Roy Ash, the president of Litton Industries.

[2] President's Advisory Council on Executive Organization, *A New Regulatory Framework* (1971), p. 31, hereafter cited as the Ash Report.

[3] The Antitrust Board and the Antitrust Division of the Department of Justice presumably would continue to exercise overlapping jurisdiction.

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Company Act (involving mergers between power companies) from the SEC to the FPC.

The Ash Report describes its proposals for change in some detail. But it does not clearly explain why adopting its proposals should produce better agency work. To answer this question satisfactorily would have forced the Council to state more explicitly the ways in which agency performance is now inadequate and to describe in more detail what it believes to be the causes of agency failure. As it is, the reader is given the remedy but told little about the disease; and he can not be certain whether the prescription is for penicillin or for Hadacol.

Of course, the report makes an effort to relate its solutions to what it perceives as general agency problems. It produces tables to show that agency staff and budgets have increased less rapidly than the size of the industries they regulate.[4] It discusses the need for increased coordination among industries now regulated by different agencies. And it argues that we must attract better men to run the agencies. But we do not know whether these particular problems—primarily problems of management efficiency—are major ones. It may be the case, as some have argued, that certain agencies do more harm than good;[5] increasing their budget, staff, or efficiency would then only aggravate a bad situation.

Nor is it clear that lack of coordination is one of the most important problems facing agencies.[6] In fact, some agency critics fear that increased coordination in regulating different modes of transport may simply snuff out what little competition remains between them. And it is at least debatable whether the quality of agency appointments is significantly below that of appointments to sub-cabinet positions within the Executive Branch. While agencies may indeed be plagued with inadequate budgets and poor conditions, the Ash Report does not show that these problems are in fact deep or fundamental causes of regulatory malaise.

Perhaps, however, it is unfair to attack the report for not going more deeply into agency problems and their causes. The report does not claim to be a scholarly book or article. It is brief—shorn of summaries, appendices, notes on methodology, and the like, it amounts to about seventy pages; its recommendations, culled from the writings of others, do not purport to be original; and its staff did not undertake any serious independent research.[7] It collects and ratifies various recommendations that have been made by others. Nonetheless, when considering the regulatory agency—an area that Judge Friendly has likened to "that Serbonian bog . . . where armies whole have sunk"[8] —to cut recommendations loose from their moorings in detailed

[4] These tables, along with several others, are contained in Appendices 3–7 of the Ash Report.

[5] See, e.g., R. A. Posner, "The Federal Trade Commission," *Chicago Law Review*, Vol. 37 (Fall 1969), pp. 47–89.

[6] The Executive has certain tools at its disposal to help coordinate agency actions (see the speech by Everette MacIntyre, "Regulatory Independence, Factual or Fanciful," January 16, 1969), though most critics believe that agency actions are significantly more difficult to coordinate than those of the Executive Branch.

[7] See "Scope and Methodology of Study," the Ash Report, pp. 123–5.

[8] Friendly, H., "The Federal Administrative Agencies: The Need for Better Definition of Standards," *Harvard Law Review*, Vol. 75 (March 1962), pp. 863–4.

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analysis of the agencies' work and objectives can prove fatal. When they are viewed in isolation it is difficult to find strong reasons either for supporting or for opposing them.[9]

What, for example, will we gain by substituting single agency heads for existing collegial administration? Ash argues: More efficient management, a "higher quality" administrator, fewer disagreements about policy, increased initiative in proposing new policies (as we reduce the temptation, present in collegial bodies, to avoid argument and decision by reacting to the policy proposals of others). The first of these objectives—more efficient management—is noncontroversial, as is the second. But the merits of the other objectives are less obvious.

How we react to increased agreement in making policy and increased initiative depends upon which policies we think single chiefs will adopt. Sometimes we rejoice in the dissents of an agency maverick, who may act as a check on the power of majority decision-makers or help a Court of Appeals evaluate the merits of an agency decision.

Moreover, a "single head" will have to rely more extensively upon the work and recommendations of the agency staff. And staff recommendations may be no more sensible than those agency policies now made by the commissions. Of course, the benefits of single chiefs may still outweigh the drawbacks, but the results will vary with the agency.

Similiar sorts of objections can be raised against other Ash recommendations. Should direct responsibility to the President replace agency independence? Arguably, responsibility to the President means that the President must take more responsibility for agency decisions; he will have to appoint better men and fight more forcefully for adequate budgets. Yet, one does not notice presidential elections affected to any extent by the performance of such presidentially-controlled agencies as the Federal Aviation Agency (responsible for airline safety) or the Federal Maritime Administration (which administers maritime subsidies). Indeed, distinguishing the attitude of the Mineral Resources Division (Department of the Interior) from that of the Federal Power Commission in the matter of oil import quotas, for example, is as difficult as distinguishing the cherubim from the seraphim.[10] ("There was a difference, Madam," replied the Minister, "but they have made it up.") There are even instances when independence can give the agencies the courage neces-

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[9] The Ash proposals are not likely to win support through appeal to "expert authority." In fact, one Council member dissented on the grounds that regulated industries had not been adequately consulted, and only two of the six Council members participated in the study of all seven agencies. Moreover, of the lawyers, economists, and regulators who recently discussed the Ash Report at a Brookings conference, only a very few supported any of its recommendations. Representatives of consumer groups have written that the Ash proposals are "misguided" [Onek and Lazarus, "The Regulators and the People," *Comments of the Center for Law and Social Policy*, Volume 10 (April 1971)]. See also Views of the Administrative Conference of the United States on the Ash Report (adopted by the Conference on May 7, 1971).

[10] Compare Statement of the Assistant Secretary of the Interior for Mineral Resources (Stanford University, January 1971) with Testimony of the Chairman of the FPC before the Subcommittee on Minerals of the Senate Committee on the Interior, November 13, 1969.

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sary to withstand political pressure—a fact that the Council has recognized in recommending retention of collegiality for the FCC.[11]

In proposing the substitution of a specialized Administrative Court for current review of agency decisions by the Federal Courts of Appeals, the report suffers seriously from lack of clarity. Some have thought that it intends the Administrative Court to review only procedural aspects of a case without regard to the substance of a decision. Is such a proposal practical? Can "substance" and "procedure" easily be separated? Is it wise? Have we not benefited from courts' "substantive reversals"—when, for example, they have required agencies to consider more fully the environmental consequences of an action or the anti-competitive effects of a merger?

Of course, the Council might have in mind an Administrative Court that specializes in *both* substance and procedure. Though courts may sometimes hinder effective agency work, it is reasonable, on balance, to assume that such a court would more effectively catch agency error. But do we need a special court for this purpose? Would it not be sufficient to create a special panel of the District of Columbia Circuit Court of Appeals, to be filled with men having particular knowledge of agency matters and of economics? The prospect of appointment to a Federal Court of Appeals is more likely to attract highly competent candidates than appointment to a body that sounds more narrowly technical. Of course, courts, too, can be captured politically, yet the regulated industries seem to have been more successful in capturing their specialized masters than business in general has been in capturing the courts.

One must also be ambivalent about the virtues of some of the more particularized Ash recommendations. Amalgamating three transportation agencies in one body may, as Ash hopes, lead to greater efficiency in the development, for example, of inter-modal "through-bills" of lading, or it may facilitate the use of containers on trucks, trains, and ships. Yet having seen the ICC unnecessarily inhibit competition among trains, trucks, and barges, must we not fear a post-Ash Commission that strangles whatever competition remains between ships, planes, and surface transport?[12]

Moreover, the report simply does not explain why it is desirable to break the FTC into two parts—one dealing with "consumer protection" and the other with "antitrust responsibilities." And, at first blush, it seems half-baked to inject considerable economic expertise into the FTC (Antitrust) by means of a tripartite board with two economists, while leaving the Department of Justice, with overlapping jurisdiction, untouched.

Finally, the Ash proposal that commissions or administrators be given only 30 days to review a case seems both arbitrary and unworkable. To streamline agency procedures is highly desirable; yet surely there is a difference, for example, in the review time needed for a case involving a routine extension of a pipeline, and a case that sets wellhead gas rates for the entire Texas Gulf region.

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[11] It is arguable that on less significant matters independent agencies are more susceptible to Congressional pressures than are Executive departments. Still, this fact, if true, has not produced any obviously significant difference in performance.

[12] See, e.g., A. Friedlaender, *Dilemma of Freight Transport Regulation*, Washington, D. C.: The Brookings Institute, 1969.

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In sum, viewed abstractly the Ash proposals seem possibly helpful but not particularly exciting. But perhaps it is unfair to view the proposals so abstractly. We might instead make a rough attempt to do what Ash did not do—to relate the proposed changes in agency structure to the agencies' major functions. We can evaluate the proposals better by asking, Which important jobs will they help the agencies to perform better?

This question is not easy to discuss briefly, primarily because different agencies have many different goals and functions.[13] Yet by focusing on what may be thought "typical" regulatory agencies—the FPC, ICC, CAB, FMC, and FCC, insofar as they regulate natural gas, electricity, trains, trucks, planes, ships, and telephones—and by simplifying considerably we can perceive two major sorts of regulatory goals: controlling monopoly power, and planning, in the presence of spillover costs and benefits. Additionally, in trying to achieve these objectives, agencies sometimes also try to improve income distribution.[14] We might ask what effect, if any, the Ash proposals will have on the difficulties that beset the pursuit of each of these goals.

The first—in fact, the classical—agency function is to substitute regulation for competition where efficiencies of size create "natural monopolies."[15] The agency is to protect the consumer by simulating the price and profit level that would prevail if competition were possible. Thus the FPC regulates gas pipeline profits, the FCC controls interstate telecommunications rates, and the ICC regulates the market power of the railroads. There are strong reasons for believing that the Commissions are not performing these regulatory jobs adequately. The FPC, for example, has allowed pipeline companies to earn returns considerably greater than the marginal cost of capital,[16] and the ICC unnecessarily inhibits competition between trains, trucks, and barges, using its minimum ratemaking power to support inefficient methods of transportation.[17]

[13] The SEC and the FTC, for example, in large part try to prevent sellers from providing buyers with information that is inadequate or misleading. I shall not discuss this regulatory goal.

[14] Many of the agencies' activities can be fitted within these categories with only a little bit of hauling or pushing. Agencies regulate entry, for example, but often see such regulation as a necessary part of their control of monopoly power. Suppose natural monopolist NM supplies three services, a, b, and c, and that the average cost of supplying these services exceeds the incremental cost of doing so. A regulatory agency might decide that NM, to recover his total costs, should charge more than incremental costs for service c. This higher price might attract new entry by X, a firm whose incremental costs of supplying service c exceed NM's. The regulatory agency might then prohibit entry by X in order to secure service c from the producer with the lowest incremental costs. To take another example, certain sorts of truck price regulation might be explained on the ground that truckers' prices (because of pollution, congestion, etc.) do not reflect the true social costs of shipping goods by truck as compared with rail. Also, the tendency of agencies to prohibit rate discriminations may be viewed (with slightly greater difficulty) as efforts by the agency to prevent what it sees as undesirable income redistribution.

[15] See, e.g., J. Bonbright, *Principles of Public Utility Rates*, New York: Columbia University Press, 1961, page 23.

[16] See P. MacAvoy, "The Price Effects of FPC Regulation: Comparisons of Regulated Residential and Unregulated Industrial Prices for Natural Gas," Sloan School of Management Working Paper No. 527–71, Massachusetts Institute of Technology.

[17] See Friedlaender, *op. cit. supra.*

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Yet the Ash proposals are unlikely to secure better rate-of-return performance, for they do not seem aimed at the causes of regulatory failure. Of course, what those causes are is far from clear. Mistaken rate-of-return regulation may result from inadequate agency staff or commissioners—men who do not understand the complexities of accounting or of capital theory. Or it may stem from undue industry influence, influence that takes the form of inundating the commission with better lawyers and better information, that plays upon the desire of both the staff and commission to protect the industry from crises (for failure of service is more likely to provoke Congressional and consumer reaction than are high prices), or that simply appeals to the ambition of those regulators whose future careers lie within the regulated industry.

Nonetheless, if any one of the explanations just given is the true causal explanation, the Ash recommendations will not help. Replacing collegial bodies with single chiefs responsible to the President does not seem relevant to the rate-making problem. Nor is it clear how purging agency proceedings of their adjudicatory bias will help, for rate-making would seem necessarily to involve adjudication. In fact, removal of one layer of review by a commission moderately familiar with the regulated industry may increase, rather than diminish, the possibility of rate-making errors. Review in a specialized court may help, but it is difficult to believe that even "administrative" judges will investigate very deeply the mathematical intricacies involved.

In trying to control monopoly power or to achieve other regulatory goals, commissions often make decisions that affect income distribution, and it has recently been suggested that redistributing income might itself be considered a reasonable regulatory goal.[18] Regulation can force some customers to pay higher prices than a free market would require, thereby generating a surplus that can be used to subsidize low prices to other customers. The CAB, for example, may force air travelers who fly busy routes to pay fares well above the costs of serving them, in order to subsidize flights to towns where traffic is insufficient to support extensive service. Similarly, city residents pay for maintaining telephone service in rural areas; and the FPC has kept wellhead gas prices artificially low, favoring consumer over producer incomes.

Pursuit of a regulatory "incomes" policy is consistent with other regulatory goals, particularly if a "proper" income distribution is viewed as a public good which can be "bought" less expensively through regulatory action than through some other administrative mechanism created to transfer income.[19] For example, it may make sense for an agency to sacrifice a certain amount of efficiency by, say, running the risk of a gas shortage, in order to buy a better income distribution, for to transfer income in this way may prove administratively easier than revising the tax law.

Nonetheless, agencies are unlikely to admit that "income redistribution" plays more than a secondary role in their regulatory calculations. And an examination of those agency decisions that seriously

[18] See R. Posner, "Taxation by Regulation," *The Bell Journal of Economics and Management Science*, Vol. 2, No. 1 (Spring 1971), p. 22.

[19] See L. C. Thurow, "The Income Distribution as a Pure Public Good," *Quarterly Journal of Economics*, Vol. 85, No. 2 (May 1971), p. 327.

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affect income distribution suggests that less, rather than more, emphasis should be given any such goal, for many of those decisions have disturbing theoretical and practical implications. Theoretically, the moral, economic, and administrative difficulties of determining a proper income distribution are great; the possibility of error is high; thus agencies should have a reasonably clear Congressional mandate—with whatever implications of popular approval such a mandate carries—before setting out on a course that will probably be treacherous. Practically, agency-imposed redistributions have often turned out to be arbitrary in the sense that those who are taxed to help subsidy recipients have no relation to those recipients other than the fortuitous fact that both groups use the same service or product. Why should rail shippers have to forego lower rates in order to help barge lines? Why should those who lease space on international communications cables have to subsidize those who send overseas telegrams?[20] Why should some users be taxed and not the general public? Moreover, decisions with profound income effects have often created equally profound economic injury. By holding down wellhead gas prices, the FPC has led many businesses to use natural gas in place of naturally cheaper fuels, and it has created a gas shortage that may prove very serious.[21] The ICC's elaborate system of cross-subsidization may cost the economy hundreds of millions, if not billions, of dollars each year.[22] Whether these agencies have produced redistributive benefits that justify these harms is doubtful.

The Ash Council seems aware of these problems. At least, it rather bravely recommends transferring the "promotional" functions of the CAB to the Department of Transportation. Doing so would remove the CAB's temptation to expand air service by taxing riders on busy routes; the decision to subsidize airline expansion would be placed where it is more directly subject to the control of Congress. Yet, to propose such a change is only to begin to deal with such serious questions as: Should agencies pursue a "redistributive" goal at all? What ought to be the relative importance of any such goal? What sort of redistribution should an agency seek?

These questions require examining agency mandates, not just agency structures. The broad "public interest" mandate will probably have to be narrowed if the agencies' power to pursue their own notions of a proper income distribution is to be brought under control.[23] Unfortunately, the Council's own mandate, as well as limited time, prevented it from exploring these questions in depth or from making the type of economic analysis that doing so would have required.

We are thus left with the Council's recommendation to bring the agencies more firmly under Executive control. And, judging from many past Executive actions (consider, e.g., its promotion of "voluntary" steel import quotas), this recommendation seems unlikely

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[20] See Posner, *op. cit. supra*, at pp. 30–3.

[21] See P. MacAvoy, "The Effectiveness of the Federal Power Commission," *The Bell Journal of Economics and Management Science*, Vol. 1, No. 2 (Autumn 1970), p. 271.

[22] See Friedlaender, *op. cit. supra.*

[23] Of course, the agencies themselves under present mandates might reinterpret their redistributive goals. See D. Turner, "The Scope of Antitrust and other Economic Regulatory Policies," *Harvard Law Review*, Vol. 82 (April 1969), pp. 1207–1244. But there is no reason to think that they will do so.

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to produce major changes in the ways in which agencies view or handle problems of income redistribution.

Income redistribution is also related to a second major regulatory objective: planning that effectively equates private and public costs and benefits. It makes sense to substitute an agency's judgment about appropriate prices, profits, or production policy for that of the market place where there are important spillover costs, such as pollution, or important benefits, such as regional economic development. In fact, local telephone regulation may have developed in part because of the spillover involved in having companies tear up streets to insert competing lines. (To develop a pricing system that would reflect the costs of tearing up streets, while conceivable,[24] may have been politically or administratively impractical.) Conversely, the CAB's policy of subsidizing airline service to small towns may reflect a belief that such service will bring benefits, in the form of economic development, for which the airlines could not easily charge. Recent concern for the environmental costs of energy and transportation policy obviously reflects the need to take spillovers into account.

Were the Ash proposals designed to help achieve this regulatory objective? Perhaps so, for it is not wholly unreasonable to believe that agencies are more likely to consider spillover costs and benefits when they make general agency policy than when they adjudicate individual rate cases. The Committee may have thought that to decide, for example, how much power plants should spend to control pollution requires general policy-making, rather than adjudication. Thus, the Ash proposals are designed to lead agencies to spend more time making general agency policy and less time adjudicating. Placing responsibility in the hands of one man makes less likely those disagreements, compromises, and postponements that hinder the development of broad, consistent policy. Providing that cases ordinarily proceed directly from a hearing examiner to an administrative court allows agency chiefs more time for general policy-making; it also dampens the hope that a future concrete case will ease policy-making, and stills the fear that a policy decision *now* will prejudge an adjudicatory issue. Moreover, spillover issues involving, say, tradeoffs between power and pollution demand more popular control of the decision-making process than does rate-making, which is a far more technical job. And the Ash Council believes that making agencies directly responsible to the President will make them more responsive to public desires.[25]

It makes sense to induce the Federal Power Commission, to take one example, to devote more effort to spillover problems. The growing conflict between energy generation and pollution—the related need for coordinated planning to minimize all costs, including environmental costs, of producing electricity—demand some form of governmental policy-making. And because environmental costs cannot easily be measured, such policy-making must have important

[24] See H. Demsetz, "Why Regulate Utilities?" *Journal of Law and Economics*, Vol. 11 (April 1968), p. 55.

[25] This philosophy probably is reflected in the establishment of the Environmental Protection Agency, administered by a single head responsible to the President.

[26] See P. MacAvoy, "The Formal Work-Product of the Federal Power Commissioners," *The Bell Journal of Economics and Management Science*, Vol. 2, No. 1 (Spring 1971), p. 379.

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political as well as technical elements. The FPC has not dealt with these problems well, if at all.[26] Perhaps the Ash Council believes that structural reorganization designed to produce more general policy-making will lead the FPC to grapple with these issues more successfully than it has done so far.

Still, the Ash proposals seem inadequate when measured against the difficulties of handling spillover problems, such as those of pollution and energy. For one thing, it is far from clear that more "general policy-making" will lead to either more, or better, handling of environmental problems.[27] Formulation of appropriate energy policy may inevitably involve many *ad hoc* decisions such as those involving the siting of individual power plants. To make any but the most general pollution/energy rules without detailed analysis of specific plant sites would be difficult. Similarly, it may be as difficult to formulate general policy about reliance upon nuclear or petroleum fuels without close examination of individual pipeline certification applications as to decide to award the applications without reference to general fuel policy. In both these instances, meaningful policy must be made in large part through individual case decisions. The more *ad hoc* character there must be to the formulation of important power policies, the less meaningful will be the Ash Report's proposals for separating adjudication from general policy-making.

For another thing, there are obstacles to effective planning far more serious than any factor that the Ash Report mentions. Division of planning responsibility among many different agencies and jurisdictions, for example, has seriously delayed power plant construction. Before Consolidated Edison could build a 25-mile extension of a 345-kilovolt transmission line, it had to obtain approval from eight municipalities, the Hudson River Valley Commission, the Federal Aviation Agency, the Corps of Engineers, the New York State Highway Department, the East Hudson Parkway Authority, and the Palisades Interstate Park Commission.[28] Such a process not only wastes time, but also gives a power company every incentive to plan expansion with the aim in mind simply of minimizing the costs of administrative delay.

Obtaining adequate representation of consumer interests before the Commission—representation that often can reflect the presence and magnitude of spillover harms—is a similarly serious problem. Various methods have been suggested to improve the adequacy of consumer representation.[29] The agencies might pay the legal expenses of consumer groups that appear before them, or require the regulated industries to do so. They might hire Washington lawyers, experienced in presenting industry positions, to represent consumer interests. They might create "libraries" in different parts of the country where the agency and the industry would have to deposit relevant information and perhaps make staff available to work with consumer, environmental or other groups in developing proposals other than those offered by industry. Yet suggestions of this sort carry with them the

[27] Nor can one be certain that increased responsibility to the Executive will mean greater sensitivity to public feelings about, say, the appropriate trade-off between pollution and energy.

[28] See A. Goldberg, *New York State: A Program for the 70's*, New York, 1970, p. 63.

[29] See Onek & Lazarus, *op. cit. supra*, at p. 64.

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dangers of unwieldy and time-consuming procedures that could inhibit effective planning or regulation of any sort. Obviously, the job of tailoring agency jurisdictions, mandates, and procedures to make them capable of effective industry planning has barely begun.

In sum, the Ash proposals are disappointing primarily because they are limited to change that is not clearly related to the agencies' major functional problems. Perhaps, instead, we should frame an inquiry around what individual agencies are supposed to be doing, whether they are achieving their objectives, and if not, why not? Such questions would lead to very different sorts of recommendations. If agencies are not effectively controlling prices and profits, for example, one might try to provide them with better economists. Would it help to have the Council of Economic Advisors appoint a group of distinguished academic economists who, with staff, would review in detail the work of various agencies each year? More basically, are there some areas in which the price regulation game is clearly not worth the candle? If agencies are not planning adequately where spillover costs or benefits are present, should we not look more deeply into the obstacles that inhibit effective agency planning? Is securing adequate consumer representation likely to improve agency performance significantly? I do not know, and I suspect that the Ash Council does not know either.

All this is not to say that the Council's proposals for change are harmful; it is, however, to suggest that they are insufficient. They flow from a study conducted under a limited mandate in a limited time. They represent an attempt to deal with agency problems by using management techniques that tend to require structural change. In my own view, for the reasons I have given, such changes do not go to the heart of the matter.

The Ash Report, however, does cast some light on a more general question: Should we spend our intellectual energies and reforming zeal in studies of "agencies in general," looking for procedural or structural changes that will apply to many or all of them, or would we do better to focus upon one agency, examining its particular tasks and trying to determine how its individual mandates or procedures should be revised? Obviously, we must do some of the former, as agencies share many procedures in common. But the Ash Report stands as evidence for the proposition that too much governmental energy is being expended on the "general" study of the agency and not enough on the particular.

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