

# CEI's Monthly Planet

## Fighting For Freedom

MARCH 2004 COMPETITIVE ENTERPRISE INSTITUTE VOLUME 17, NUMBER 2

## To Panic or Not to Panic? Farmed Salmon: Anatomy of a False Scare

by **Sandy Szwarc, RN, BSN, CCP**

On January 9, consumers around the world awoke to headlines proclaiming farmed salmon toxic, laced with cancer-causing polychlorinated biphenyls (PCBs) at 10 times the levels found in wild salmon, making it too dangerous to eat more than once a month—and for pre-menopausal women and young girls, too dangerous to consume at all!

Two weeks later, the Environmental Working Group and the Center for Environmental Health announced plans to sue manufacturers, distributors, and retailers of farmed salmon over “potentially dangerous levels of cancer-causing PCBs” under Proposition 65, California’s “toxics right-to-know law.”

The source of this panic was a study titled “Global Assessment of Organic Contaminants in Farmed Salmon” published in the journal *Science*. The authors—Ronald A. Hites, Jeffery A. Foran, David O. Carpenter, M. Coreen Hamilton, Barbara A. Knuth, and Steven J. Schwager—tested 700 samples of farmed and wild salmon collected from around the world for 14 environmentally persistent chemicals and found that levels varied depending on the location but were all well below safe limits established by the U.S. Food and Drug Administration (FDA). In fact, the highest amounts were 98 percent lower than FDA’s permitted levels.

Not the stuff of sensational headlines. But an entirely different spin on the results is helping environmental groups and certain commercial interests further their anti-farmed salmon agenda.



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### Calculate cancer risks realistically

The confusion and fears raised by this study offer several valuable lessons, notably that alleged health risks are often depicted in scientifically unrealistic ways. The authors based their calculations on the Environmental Protection Agency’s (EPA) cancer risk computer model, which presumes no chemical exposure is safe—even at extremely low doses. It allows no amount of exposure that could, after 70 years, raise

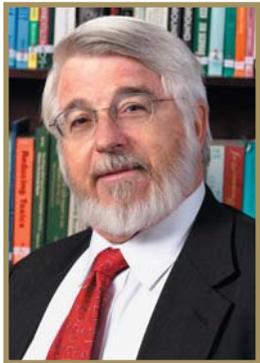
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## FROM THE PRESIDENT



# In Communicating Ideas, Values Matter

by Fred L. Smith, Jr.

CEI has long argued that waging the war of ideas is necessary but not sufficient to advance economic liberty. Ideas shape the broad outlines of policy, but how do we ensure that good ideas prevail over bad ones? Free market scholars and policy analysts have developed quality intellectual ammunition. So why has the Left been so much more effective? There are at least two reasons.

First, the left-leaning intellectual class dominates the societal communication channels—academia, media, and the arts. We have fewer voices and fewer microphones.

Second, we have failed to market our ideas as well as those on the Left have theirs.

CEI has been addressing both of these problems and our efforts are now beginning to come together.

To address the “lack of microphone” problem, the free market community must forge alliances with entrepreneurial members of the business community. Free marketers have always been a minority among the intellectual class. The media, Hollywood, the arts, and the academy remain firmly in the statist camp. The Left has also forged a powerful alliance with rent-seeking businesses and trial lawyers. By reaching out to those who value the dynamic openness of the market, we can build a strong economic liberty coalition.

The problem of how to market our ideas is more complicated, but CEI is exploring ways to address it.

Businesses spend vast sums; most of their advertising budgets are intended to “sell soap”—annual global ad budgets exceed \$500 billion! Yet business operates in two worlds, the private and the political. Marketing directed to Joan Consumer should also appeal to Joan Citizen. A company’s health depends not only on its sales, but also on its exposure to political predation. We believe it is possible to sell products while also legitimizing one’s products in the political world.

To reach the public, we must realize that, in the policy arena, logic alone wins no battles. Most people lack the time and resources to delve into public policy. More concerned with things like the kids’ school and mortgage payments, they are rationally ignorant of the policy process. In addition, different people weigh values differently. Many temper their love of liberty with a concern for those less fortunate.

Therefore, rather than trying to sell the public on policy minutiae, we must show people how classical liberal policies help advance their values. We need to demonstrate that economic liberalism enhances not only freedom and efficiency, but also fairness and well-being.

To that end, last year, we teamed with National Media, a political marketing firm, to co-host a communications conference on how free market advocates can—and must—communicate more effectively with the general public, especially with those who place the value of fairness ahead of liberty and order. We brought together communications experts and policy analysts to discuss successful—and not so successful—campaigns. The conference drew largely on the cultural values theory of the late political scientist Aaron Wildavsky. The presentations are now collected in our recently published *Field Guide for Effective Communication*.

We hope the members of the free-market community can learn from both the successes and failures detailed in this guide—and apply the lessons learned. Both free market advocates and businesses must legitimize—rather than apologize for—our policies. Only by both producing quality intellectual ammunition and employing it skillfully in the policy world can we expect to see major victories in the battle of ideas.

*Fred Lee Smith, Jr.*

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## To Panic or Not to Panic?

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the theoretical lifetime cancer risk by one case in 100,000 people. In arriving at their recommendations, the salmon study authors also compounded the theoretical risks for three chemicals (PCBs, toxaphene, and dieldrin), a technique most scientists—including FDA Office of Plant and Dairy Foods and Beverages Director Terry Troxell—consider faulty and not supported by science.

EPA's model fails to reflect two fundamental principles accepted by most experts.

1) The dose makes the poison. As University of California, Berkeley biochemistry professor Bruce Ames explains, our bodies have evolved with defenses against a wide variety of natural toxins and carcinogens, and we eat thousands of them in small amounts every day with no ill effects.

2) Some 99.9 percent of the chemicals and carcinogens

All salmon is a critical source of long-chain omega-3 fatty acids, with farmed salmon having slightly higher levels, necessary for brain development in fetuses and babies and to promote heart health in adults. "I think it's unconscionable to direct pregnant women away from farmed salmon," said Purdue University food toxicologist Charles Santerre.

### Numbers can be deceiving

The *Science* authors claimed to find average PCB levels in farmed salmon of 37 parts per billion, compared with 4.8 parts per billion in wild salmon. But numerous other studies have found PCB levels in wild salmon as much as 10 to 1,000 times higher. A study by the environmental group Circumpolar Conservation Union found PCB levels of 67 to 791 parts per billion in wild Alaskan Copper River sockeye salmon—considerably higher than the 27 parts per billion in farmed salmon found by the Environmental Working Group and the *Science* study results. In fact, says Santerre, "Our laboratory has demonstrated that farm-raised fish generally are much

## Environmentalists' anti-aquaculture campaign would seem inconsistent with environmental concerns.

### Aquaculture is an especially efficient way to meet the world's growing demand for high-quality protein while relieving pressure on threatened wild stocks.

in our diet are natural, and PCB levels in salmon are well below values for many naturally occurring chemicals in common foods.

EPA looks only at possible risks and measures all chemical residues, whether or not people are actually exposed to them. In contrast, FDA's determination of safe exposure levels is more tenable. FDA determines *actual* exposures and balances possible risks with the health benefits of those foods.

So, as EPA would test a cantaloupe rind for pesticide residues, the *Science* authors tested skin-on raw salmon. But consumers don't actually eat cantaloupe rinds or fish skin. Studies have shown that trimming and skinning reduce PCB and DDT levels in salmon by about 50 percent. And cooking reduces them further as fats, where most chemical residues accumulate, melt away.

Furthermore, over 5,000 scientific studies have found that the health benefits of eating salmon far outweigh potential risks from traces of PCBs. Using these more realistic considerations, FDA reviewed allowable tolerance limits for PCBs in 2000 and confirmed that two parts per million in fish fillets is safe. The National Cancer Institute, National Academy of Sciences, American Council on Science and Health, American Heart Association, World Health Organization, and National Fisheries Institute encourage consumers to eat more salmon, with two servings of fish a week considered ideal.

lower in contaminants [including mercury], because they are fed commercial feed rather than having to obtain their food in other manners."

Regardless, even the highest contaminant levels found in farmed and wild salmon are all so low as to be meaningless. Today's sophisticated laboratories can detect trace amounts of chemicals that would have been undetectable 20 years ago. PCB levels less than 0.05 parts per *million* are inconsequential from a health perspective, says Santerre. But to make their findings sound more ominous, the authors reported residues in parts per *billion*, moving the decimal over three places. While making larger-sounding numbers, this doesn't change the fact that the levels they found were well within the safe zone, or that we're consuming increasingly fewer PCBs—90 percent less than just 30 years ago, according to FDA.

### Behind the Publicity Machine

When the media publicizes a single scientific article, it's no accident. The Pew Charitable Trusts, a lobbying foundation that funded the study, opposes salmon farming and funds environmental groups promoting wild-caught salmon. Pew and many of the groups it has funded are also clients of activist public relations firm Fenton Communications.

Environmentalists' anti-aquaculture campaigns would

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# The Unthinking in Pursuit of the Unthinkable

A “What-If” Report Emboldens, then Embarrasses Climate Alarmists

by Iain Murray

When a “scandalous” story breaks in the United States, makes no waves, resurfaces a few weeks later in the left-wing British press, and only then do liberal activists start touting it, it is safe to say that the story should be treated with a little suspicion. That is certainly the case with the recent claim that the Pentagon is alarmed by the national security aspects of global warming and recommends immediate action. Even the Pentagon, proclaimed green activists, thinks global warming is worse than terrorism!

It’s all nonsense, however, as an even casual examination of the facts shows.

But on February 22, nearly a month after the *Fortune* story, *The Observer*, the Sunday sister paper of Britain’s left-wing *Guardian* newspaper, ran a story with the preposterous headline, “Now the Pentagon tells Bush: climate change will destroy us.” The sub-heads ran: “Secret report warns of rioting and nuclear war; Britain will be ‘Siberian’ in less than 20 years; Threat to the world is greater than terrorism.”

This is appalling journalism. The report was not secret, but unclassified and by no means “suppressed by U.S. defense chiefs and obtained by *The Observer* (presumably by the furtive and

change is a threat to national security and the economy, then he has to act.”

However, had he bothered to read the report, Dr. Watson might have been less embarrassed later. The report is clearly not the conclusion of the Joint Chiefs of Staff, but a “what-if” exercise conducted by a couple of well-known “futurist” consultants—Peter Schwartz, former head of planning at the Royal Dutch/Shell Group, and Doug Randall, both of the California-based Global Business Network—who specialize in coming up with the sort of scenarios science fiction fans enjoy. In fact, the report’s opening paragraphs make it clear how speculative it is:

The report is clearly not the conclusion of the Joint Chiefs of Staff, but a “what-if” exercise by a couple of “futurist” consultants who specialize in coming up with scenarios science fiction fans enjoy.

The purpose of this report is to imagine the unthinkable—to push the boundaries of current research on climate change so we may better understand the potential implications on United States national security.

The story broke in the January 26 issue of *Fortune* magazine, in a sensationalist item by reporter David Stipp, “The Pentagon’s Weather Nightmare.” It centered on the revelations that the Pentagon had become “interested” in the national security implications of a new ice age caused by a shutdown of the Gulf Stream as a result of global warming—an idea currently in vogue in the alarmist movement, given the upcoming disaster flick *The Day After Tomorrow*. Not unreasonably, the scenario written for the Pentagon and shared with *Fortune* as an unclassified document, said that, if such a thing were to happen, there would be considerable turmoil in the world that could pose problems for the United States.

At first, the story went nowhere.

dangerous method of asking the Pentagon for it); the report’s only mention of Britain relates to it being a nuclear power; and the comparison to terrorism is actually made not by the Pentagon but by British scientists on their own crusade to terrify America into adopting the Kyoto Protocol. Far from concluding that global warming “will destroy us,” the report actually concludes that such a dramatic event as the sudden onset of an ice age would present “new challenges” for the United States, admittedly ones with “potentially dire consequences.”

*The Observer* trotted out Bob Watson, former alarmist-in-chief at the Intergovernmental Panel on Climate Change (IPCC) to speculate on the importance of the report. “It’s hugely embarrassing” to President Bush, he said. “If climate

We have interviewed leading climate change scientists, conducted additional research, and reviewed several iterations of the scenario with these experts. The scientists support this project, but caution that the scenario depicted is extreme in two fundamental ways. First, they suggest the occurrences we outline would most likely happen in a few regions, rather than globally. Second, they say the magnitude of the event may be considerably smaller.

We have created a climate change scenario that although not the most likely, is plausible, and would challenge United States national security in ways that should be



considered immediately.

In other words, even scientists who consider climate change potentially dangerous would regard the scenario presented as extreme. And after the story hit headlines around the world, the report's authors have stated repeatedly that their scenario is intentionally far-fetched. Andrew Marshall, the civilian who commissioned the report for the Pentagon's Office of Net Assessment, has said that, "much of what this study predicts is still speculation."

The reason why is simple. Climate models do not agree on the likelihood of global warming shutting down the Gulf Stream—a necessary condition for a new Ice Age to occur. For instance, researchers R. Bleck and S. Sun, writing in the journal *Global and Planetary Change*, tell how they revisited their model, in which they expected the Gulf Stream "to weaken in response to a doubling of atmospheric CO<sub>2</sub>," based on the information provided in the IPCC's Third Assessment Report. Instead, they found that "the Atlantic overturning stream function appears to be stable," con-

cluding that "it is insensitive to global warming resulting from gradual CO<sub>2</sub> doubling."

The alarmists' favorite model, from the UK's Hadley Center for Climate Prediction and Research, doesn't support their claims, either. A team from the center reports in *Geophysical Research Letters* that their examination of thermohaline [the interaction of heat and salinity in the oceans] circulation (THC) was expected to show a weakening of the stream. "However," as they write, they "do not find a decreasing trend of the North Atlantic THC." Instead, "accompanying the freshening trend, the THC unexpectedly shows an upward trend, rather than a downward trend." In other words, according to the Hadley Center model, global warming could actually strengthen the Gulf Stream.

Moreover, part of the scientific basis advanced for the scenario is a similar occurrence that happened some 8,000 years ago—long before materialist Westerners started driving gas-guzzling SUVs. And the ways in which the authors suggest the issue should be "considered immediately" are not global improv-

erishment programs like the Kyoto Protocol—which carries its own security implications, since global poverty helps fuel terrorism—but simply more advanced climate models. That's what the President has already asked for.

That the unthinking forces of *The Observer* and the environmentalist fringe have eagerly eaten up this new alarmism episode is no surprise. It's not unthinkable to them because it fits their model of humanity destroying itself because of its materialism. We can expect to see this alarmist claim again—in reviews of *The Day After Tomorrow*, which is fitting, since the scenario is about as realistic as a Hollywood movie.

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## Q & A with Paul Reiter:

### A Leading Physicist on What His Research Tells Us About Long-Term Climate Change, and the Environmental Establishment's Reaction to His Findings

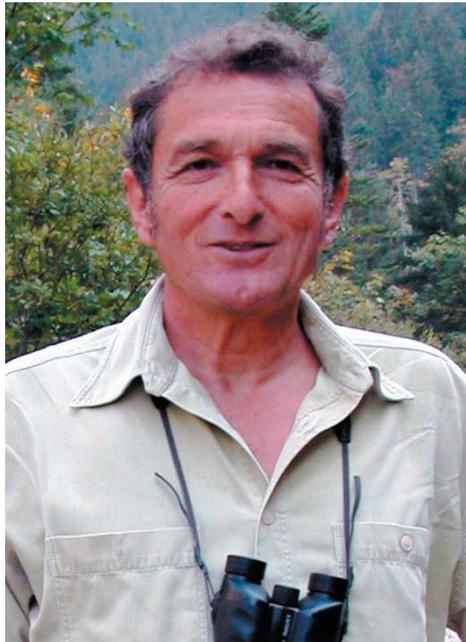
*CEI recently spoke with Dr. Paul Reiter, one of the world's leading authorities on mosquitoes and mosquito-borne diseases, on his field of research and on the relationship between climate and the incidence of malaria and other vector-borne diseases. Dr. Reiter is Visiting Researcher at the Harvard School of Public Health and Head of Insects and Infectious Diseases at the Pasteur Institute in Paris. He worked for 22 years as a medical entomologist for the Division of Vector-Borne Diseases of the Centers for Disease Control and Prevention.*

**CEI:** Most people are unfamiliar with your specialty. What is medical entomology and how did you first get involved in it?

**Reiter:** I graduated in biochemistry, but by a curious series of events I found myself in the tropics. That's where I became interested in the transmission of diseases by mosquitoes. I have spent more than 30 years studying the natural history, biology, and behavior of mosquitoes and the ways that these affect the transmission of diseases. In a nutshell, that's what medical entomology is all about. The diseases that I have worked on most are dengue, St. Louis encephalitis, West Nile fever, yellow fever, malaria, river blindness, and elephantiasis. I am fascinated by mosquitoes. They are my passion!

**CEI:** With rising concerns about global warming, many climatologists, doctors, and others have suggested that warmer temperatures will bring about an increase in mosquito-borne diseases. As an expert in your field, what does your experience tell you about this possibility?

**Reiter:** You are absolutely right—in the past 10 years or so, there have been all kinds of people making such predictions. However, most of them know little or nothing about my field,



and many of their "predictions" border on the absurd.

Let me start by citing the American malariologist L.W. Hackett, who worked in Europe before World War II:

Everything about malaria is so molded and altered by local conditions that it becomes a thousand different diseases and epidemiological puzzles. Like chess, it is played with a few pieces, but is capable of an infinite variety of situations.

Hackett acknowledged that temperature is one of those pieces, but he pointed out that there are many others that are much more important. The people you refer to have become fixated on temperature and are unable—or unwilling—to consider the bigger picture. Incidentally, Hackett published his classic book *Malaria in Europe* in 1937. At the time, scientists had been trying to understand why malaria had died out in much of Europe. They considered climate, but ruled it out because some of the most stubbornly malarious areas were in the North. Why, they asked, had the disease died out in the south of France, but continued as a problem in the north of Germany? The answer was a multiple package

of factors including speciation, host preference, and diapause (dormancy between periods of activity)—nothing to do with climate.

**CEI:** Recently, many people—including World Health Organization (WHO) officials—have expressed concern about the emergence of malaria and other tropical diseases in Europe and North America and an increase of these diseases in the developing world. What are your thoughts on this problem and efforts to address it through climate change policies?

**Reiter:** I can't answer for the World Health Organization, but I know the WHO entomologists. In fact, I have even published an article with one of them on this debate in the journal *Science*. I am sure that the officials you refer to are not among them.

Also, you need to be careful about what you call "tropical." For example, most people think of malaria as a "tropical" disease. They don't realize that not long ago malaria was widespread in much of Europe and North America. In many places it died out in the second part of the 19th century, as many ecological factors changed and standards of living improved. But in some of the poorer regions it remained a serious public health problem until the advent of DDT. That was after World War II. Not many people know that the Centers for Disease Control and Prevention (CDC) headquarters are in Atlanta because the organization was originally set up to eliminate malaria from the United States. At the time, most of the malaria was in the South. But before the turn of the 20th century it extended into Canada. And not many people in Europe know that one of the last malarious countries on the continent was Holland—not exactly tropical nor poor! The malaria specialists in the World Health Organization finally declared Holland to be malaria-free in 1970!



**CEI:** What can history teach us about mosquito-borne diseases and climate change?

**Reiter:** As I mentioned, there was a time when the mosquito-borne diseases that we now associate with the tropics were major killers in temperate regions—and that included times when the climate was considerably colder than it is now! For example, climatologists refer to a period from the middle 16th century to the early 18th century as the “Little Ice Age.” It was so cold that the King of England held festivals on the frozen river Thames each winter, the Viking colonies died out in Iceland and Greenland, and the pack-ice came so far south that Inuit were landing in their kayaks in Scotland. Yet, despite the cold, malaria persisted in England and much of continental Europe. In fact, the first really effective therapy for the disease, based on quinine, was developed in the coldest years of that period, by a pharmacist who tested his remedy on people living along the Thames estuary, near London. His name was Robert Talbor, his patent medicine became known as the “English Remedy,” and he became rich and famous because he traveled all over Europe curing royalty and the aristocracy of malaria.

Global warming alarmists often warn us of other “tropical” diseases. They ignore that in the 18th and 19th centuries, when the climate had already started to warm—but was still considerably cooler than today—several mosquito-borne viral diseases caused carnage in Europe and the United States. The first epidemic of dengue ever recorded was in Philadelphia in 1780, and many followed, even after World War II. Yellow fever epidemics repeatedly ravaged large areas of the United States until the beginning of the 20th century. I can show you a mound in a cemetery in Memphis where 6,000 bodies were buried in a mass grave during a terrible epidemic in 1878. Nineteen-thousand five hundred cases were recorded in the city, perhaps 100,000 throughout the country. Memphis lost its city charter, and there was a movement to persuade the Federal government to demolish the whole city, to wipe it off the map. Fortunately the movement failed, but

Memphis never regained its position as capital of the South. You can chalk that up as two reasons why the CDC is based in Atlanta!

All these details are readily available in any good library. The frustrating thing is that the global warmers still insist these diseases can't exist where winters are cold. If you look on the Internet you can see statements like “malaria cannot exist where winters are colder than 15° Celsius”—or 59° Fahrenheit. That's simply balderdash! One of the most

though they were experts. I was shocked by the number of special interest groups that poured fuel onto the political fire. And most of all, I was shocked to realize what an immense bandwagon this has really become. It's a huge industry, and people are making a good living out of it. Global warming is snowballing like crazy!

The most unsettling part was the seriousness with which people were using the “big talk” of science to deal with issues that were plainly out of

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devastating epidemics of malaria on record occurred in the Soviet Union in the 1920s, with 600,000 dead, and tens of thousands of cases as far north as the Arctic Circle. The truth is that malaria only requires summer temperatures to be above 59° Fahrenheit—not exactly tropical.

Or, to give you another example, some have claimed that warm winters enabled West Nile virus to survive in the Northeast in 1999, even after we pointed out that a much more devastating outbreak occurred in the same year in Volgograd (once called Stalingrad), Russia, where winter temperatures of zero Fahrenheit are the norm.

**CEI:** How would you assess the current state of the global warming debate? More specifically, what impressions did you take away from the United Nations Framework Convention on Climate Change Ninth Conference of the Parties in Milan in December 2003?

**Reiter:** Frankly, I was shocked. I was shocked by the immensity and expense of the conference. I was shocked by the self-importance of delegations from everywhere except Greater Gondwanaland who made statements about the perils of global warming as

their field. I repeatedly heard talk of a “consensus” of 2,500 scientists, but there was no critical debate and no attempt to assess the existing evidence. In a session on health, I tried to make a few serious points. The reaction from the audience was downright hostile. How dare I question the mathematical models produced by “experts?” How dare I question statements of “fact?” One person even asked me contemptuously how I had managed to get into the conference!

These people speak in the guise of science, but don't seem to understand that science doesn't proceed by consensus. Science works by observation, by hypothesis, by experiments to test hypothesis, by evidence, and, above all, by discussion and debate. Anyone can produce a mathematical model and claim to “predict” the future. But mathematical models are not meant to make predictions. They are developed to explore complex systems. They can help project possible future scenarios, but their output depends on their input. So it is absurd to talk of a “consensus” based on models. Consensus is not the premise of scientists, it's the stuff of politics. Until honest science returns to this debate, the public will continue to be hoodwinked.



# The Oracles of Antitrust

Prophecy or Heresy?

by Braden Cox

Antitrust law attempts to predict the effect of mergers on competition and consumer choice—a prediction that requires a vision of how specific markets work, not just now but in the future. Fast-paced, innovative industries are complicating the basic inquiry of merger analysis: Does the merger give consumers new or more choices or restrict consumer choices on balance? Unfortunately, antitrust regulators, as mere mortals, cannot predict the future—so their judgments often create

difficult to quantify than the efficiencies from the merger itself. But market innovation is the key to understanding a merger's effects on competition and consumers in the digital economy.

### Legal Intervention

Many government attempts to block corporate mergers are based on economic analyses that exclude market innovation. The rules are stacked against companies desiring to merge without the prior blessing of antitrust

probable effects on competition within the market. It is at this point in the analysis that evidence of market innovation would be most helpful to a corporate defendant.

### Market Reality

As two of America's leading legal theorists, Robert Bork and Richard Posner, point out, the dangers of mergers are almost always overstated. Efficiency gains benefit consumers, who are often better served by a merged

Many government attempts to block corporate mergers are based on economic analyses that exclude market innovation. The rules are stacked against companies desiring to merge without the prior blessing of antitrust enforcers.

more harm than good, especially when applied to dynamic industries.

### Divine Information

The mantra of the digital economy is that "information wants to be free." Rapidly changing technologies and industry structures make it easy for data to escape economic forecasts based on static models. Antitrust regulators compensate for their lack of information by creating an economic "Polaroid moment," a low-tech snapshot model of the market based on theoretical assumptions like "perfect information" or "zero transaction costs"—conditions that exist only in models and never in the real world.

Innovations that derive from responses from the market—customers and competitors—rarely make it into the antitrust regulators' picture. Because they involve many parties—including potential market participants—the gains from such market innovations are more

enforcers.

Section 7 of the Clayton Act prohibits the acquiring of a company where the effect "may be substantially to lessen competition, or to tend to create a monopoly." Courts have interpreted this statute to mean that the government need not prove that a merger will cause higher prices, merely that the merger creates an "appreciable danger" of doing so.

As in other kinds of lawsuits, the burden of proof in an antitrust merger case rests with the plaintiff. However, the government's initial burden of producing evidence is low because courts apply a burden-shifting approach. If the government shows that a merger will lead to "undue concentration" in a market, it establishes a presumption that the merger will substantially lessen competition and thus be unlawful. The defendant then must show that a market-share analysis does not provide a complete picture of the merger's

company. This law and economics analysis has had a healthy influence in checking overzealous antitrust regulators. For instance, the Justice Department's and Federal Trade Commission's (FTC) merger guidelines acknowledge that "information is *often incomplete* and...historical evidence may provide an *incomplete answer* to the forward-looking inquiry of the Guidelines." [Emphases added.] But federal antitrust guidelines still ignore the costs of forsaking innovation.

The anticipated price effect of a merger is one the quantifiable pieces of information available to antitrust regulators. But a merger's effect on price embodies only part of the story. A merger can increase consumer welfare through better product selection and improved quality in addition to lower prices. However, antitrust regulators give more weight to short-term efficiencies that

*Continued on next page*



immediately affect prices by reductions in marginal costs than to long-term cost-cutting efficiencies. In many industries, particularly those that require large amounts of research and development, a merger may keep prices constant or even increase prices. Killing the deal might keep consumer prices low in the short term, but will harm future innovations that benefit society. This is especially relevant in health care and the pharmaceutical industry.

**The Oracle – PeopleSoft Merger**

Today, a growing body of work seeks to improve antitrust regulators’ ability to predict merger effects on a dynamic economy. In one approach, economists have performed empirical research of bidding auctions to determine the unilateral effects of a merger on each customer.

As applied to the enterprise application software market, Oracle and PeopleSoft, in addition to market leader SAP, Lawson, and other firms, respond to request for proposals from individual customers. These customers may select the lowest bid, or, more likely, select the company with the best balance of product quality and price. Because of this auction-like quality, some antitrust experts believe that the market should be defined from the perspective of each customer. But this is a subjective test that varies based on customer preferences. It is not a measurable way for antitrust regulators to define a market or for a court of law to apply an objective legal test.

Efficiency and innovation are the hallmarks of the high tech world, yet antitrust law does a poor job at valuing these significant life-enhancing characteristics. At a recent merger workshop jointly held by Justice and the FTC, many participants questioned how to consider a merger’s positive efficiency and innovation gains. There are still no good answers from the regulators—and there is no antitrust oracle that can prophesy merger effects in a dynamic digital economy.

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**To Panic or Not to Panic?**

*Continued from page 3*

seem inconsistent with environmental concerns. Aquaculture is an especially efficient way to meet the world’s growing demand for high-quality protein while relieving pressure on threatened wild stocks. It generates 3.5 to 4 kilograms of edible fish for each kilogram of ocean fish used in fish meal, with efficiency steadily improving. Each kilogram of wild salmon, in contrast, needs 10 kg of forage fish, plus another 6 kg of fish added to the equation to account for by-catch values, according to the World Aquaculture Society. Environmental groups have raised fears of pollutants, antibiotic contamination, and escapes threatening native salmon. But multiple studies—from the Ocean Trust, Nature Conservancy, National Aquaculture



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Association, National Fisheries Institute, and FDA—and decades of scientific evidence have concluded such concerns are unfounded. So why the opposition?

An ulterior motive may be at work. As a less expensive, more tender, and less fishy-tasting product with year-round availability, farmed salmon has superseded demand for wild salmon. Worldwide, 97 percent of salmon customers purchase or prefer farmed salmon, according to the International Salmon Marketers Association. Facing competition from aquaculture, the wild salmon industries of California, British Columbia, and Alaska have allied themselves with environmental groups to promote wild salmon as the healthier and environmentally-friendly choice.

For several years, the Marine Stewardship Council (MSC), Whole Foods Markets, World Wildlife Fund (WWF), Chefs Collaborative, and Alaska Seafood Marketing Institute—all Fenton clients—have jointly promoted wild salmon. Sen. Ted Stevens (R-AK)



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secured federal funding for wild salmon marketing that largely went to MSC, founded by WWF and Unilever. MSC in turn granted Alaska’s entire wild salmon industry a blanket certification with its new eco-label.

This Pew-funded study, in calling for stricter consumer labeling, assists these groups’ efforts to push through Country of Origin Labeling (COOL), a little-known component of the 2002 Farm Bill, which would require seafood to be labeled “farmed” or “wild”—something the wild salmon industry believes will give it a marketing edge among environmentally-conscious customers. USDA estimates compliance will cost the food industry billions to institute and half a billion dollars annually thereafter.

These costs will be passed onto consumers, while offering no additional measures of safety or reasoned choice. Like this misleading study, its primary purpose is to deter consumers from farmed salmon. Any time you hear frantic claims so perfectly crafted you feel afraid of your food, you can bet something fishy is behind it all.

*Sandy Szwarc, a registered nurse and culinary professional, is a food and nutrition writer, editor, and cookbook author.*



# The Good, the Bad, AND THE UGLY

## The Good: Britain Approves GM Corn

On March 9, British Environment Secretary Margaret Beckett announced that British farmers could legally grow genetically modified maize. Although the government did not sanction the production of the two other GM crops under review, the approval strikes a blow against the precautionary principle.

For years, European regulators, have been reluctant to allow the production of GM products. The British government put each crop through four years of tests to determine whether they and their associated weed killers would injure insects, wild flowers, and birds. The tests concluded that GM maize is actually less harmful than its conventionally grown counterpart.

While Britain could have gone farther in its approval of biotech crops, the government's recognition of the potential benefits of GM maize is definitely a step in the right direction. Still, many of Britain's fellow EU nations are reluctant to follow its lead, adhering to the misguided precautionary principle, which is predicated on the notion that no new technologies should be introduced until they are proven safe—a recipe for stagnation, since nothing is risk-free. "How much caution is appropriate?" Ask CEI Director of Food Safety Policy Gregory Conko and CEI Adjunct Scholar Henry Miller "The answer involves weighing the risks and benefits of moving into the future against the risks and benefits of forgoing the new technology—not pointing to hypothetical risks and saying no."



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## The Bad: European Antitrust Enforcers Sic the Dogs on Microsoft

On March 24, the European Commission (EC) announced that it would punish Microsoft for the "crime" of including its Media Player audio and video software in its Windows operating system. The Commission's ruling imposes a record fine of \$613 million; requires the software giant to sell two versions of Windows in Europe, one without Media Player; and orders Microsoft to provide competitors a portion of Windows code so they can design network server software for Windows.



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European regulators hailed this decision as a victory for competition and consumers, but, in reality, it stifles innovation by discouraging Microsoft from improving its operating system and by compelling it to share proprietary information.

The Commission's sanction stems from complaints by Microsoft rivals Sun Microsystems and RealNetworks. Sun alleged that Microsoft, by protecting its Windows code, refused to provide the resources necessary for competitors to make products compatible with Windows. RealNetworks claimed that Microsoft was trying to corner competitors out of the audio/video player market by bundling Media Player with Windows, the dominant operating system. The Commission agreed, ruling that Microsoft's actions reduce consumer choice—ignoring the fact

that it is consumer choice that made Windows dominant in the first place.

In addition to stifling future innovation, the decision could damage U.S.-EU trade relations, cause rifts in international antitrust enforcement, violate world intellectual property treaties, and cause widespread computer compatibility problems. As CEI Technology Counsel Braden Cox points out, this case is an example of antitrust enforcement run amok: "Usually, antitrust law states that there is anti-competitive behavior resulting in consumer harm, but it hard to show that providing more products to consumers in a single package, such as the suite that Microsoft offers, is harmful."

## THE UGLY: SIERRA CLUB NOT MALTHUSIAN ENOUGH FOR FACTION

Since 1892, the Sierra Club has long been an influential voice in environmental politics. (Today has 750,000 members and a \$83 million annual budget.) However, if a faction within the organization win a majority of board seats in the 2004 elections—due to conclude in late April—the group could expand its agenda to include lobbying for immigration restrictions.

The hotly contested race to fill five positions on the 15-member board of directors could divide the organization. The anti-immigration insurgents, known as Sierrans for U.S. Population Stabilization (SUSPS), claim to be concerned with the "impact of mass immigration on the environment and quality of life for future generations."

Leading the anti-immigrant charge is former Colorado Governor Richard Lamm (D), who, has talked about the elderly's "duty to die." Many long-time Sierra Club members bitterly oppose the SUSPS takeover, and would do right to defeat it, but it's hard not to say that they invited it by adopting the same core belief that drives the anti-immigrationists: That people are the problem. The Sierra Club has long backed limits on population growth, though its members have voted down anti-immigration measures. As Warren Brookes Fellow Neil Hrab explains, population control is advocated by people who see innovation at a dead-end, and do "not think that mankind could produce the sort of scientific and technological progress, such as devising more efficient ways to grow food, that would give it an escape route from the perils of overpopulation."



**Adjunct Scholar Henry I. Miller examines the talents needed from a new FDA commissioner:**

The departure of FDA Commissioner Mark McClellan leaves a high-level opening in the Bush administration for the right candidate. It's a hard job, but a potentially rewarding one, offering the opportunity to influence policies and decisions that affect the profitability and viability of products worth more than \$1 trillion annually.

Those with an independent streak or industrial experience need not apply. The Bush Administration will require that the new commissioner toe the party line on reproductive issues, therapeutic cloning, and re-importation of drugs to the United States from abroad, while Sen. Ted Kennedy, D-Mass., the ranking member of the Senate Health, Education, Labor and Pensions Committee, will reject any candidate with past ties of any kind to regulated industry.

- Scripps Howard News Service, April 6

**Director of Air Quality Policy Ben Lieberman explains what is keeping gas prices at such high levels:**

In recent years, Washington has imposed a bewildering variety of regulations, mostly designed to make gasoline cleaner burning. Each adds to the cost of producing gasoline. Further, federal and state regulators now mandate numerous unique gasoline recipes for different parts of the country, turning what was once an efficient national market into a patchwork of many smaller ones. The logistical burden of separately refining and distributing all these distinct blends strains the nation's already struggling motor fuel infrastructure, and adds another layer to the costs. This is particularly true in California and the upper Midwest, where the number and complexity of motor fuel requirements are the worst in the nation.

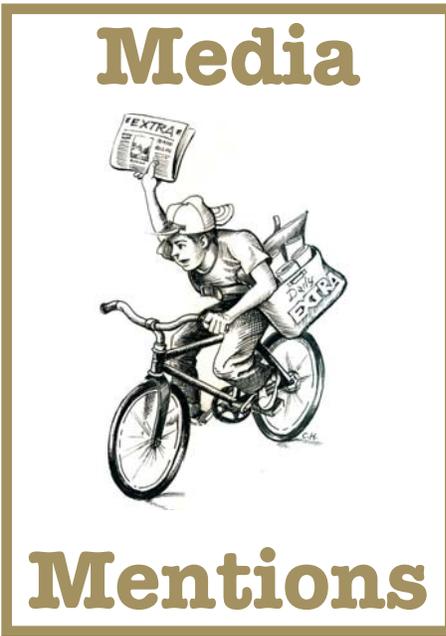
- Chicago Sun-Times, March 29

**Director of Risk and Environmental Policy Angela Logomasini reviews the latest attack on modern technology:**

Mark Jerome Walters's book *Six Modern Plagues: and How We Are Causing Them* is relatively new, but its ideas are far from original. Instead, the book more closely resembles an age-old religious pronouncement—and a misguided one at that.

Like many modern-day greens, Walters expounds a Romantic view of nature reminiscent of Jean Jacques Rousseau's *Discourse on the Sciences and the Arts* in which the philosopher deemed civilization the source of society's perils. Both authors reject the traditional Judeo-Christian view in which sinning against God leads to the eviction of mankind from Eden, thereby leaving human survival hinged on a battle against nature.

Walters's version reads more like a pagan myth in which



mankind is punished for a sin against a different deity: Mother Nature. In the name of "efficiency and profit," "the financial gain of the few," or "progress," mankind has assaulted nature with such sins as globalization, urban sprawl, hunting, and modern agriculture.

- National Review Online, March 25

**Senior Fellow Iain Murray makes the case for sound science both here and across the Atlantic:**

In the United Kingdom, Sir John Krebs, Chairman of the Food Standards Agency (FSA), has just announced that the agency will take steps to combat the growing menace of advertising promoting unhealthy diets to children. The trouble is that the FSA itself has admitted there is no evidence of a problem. It

seems that in the UK, politics drives science.

Sir John Krebs said on 11 March, "Children are bombarded with messages that promote food high in fat, salt, and sugar. The evidence shows that these messages do influence children." ...Yet less than two months ago, one of Sir John's chief Deputies gave the UK House of Commons Health Committee completely the opposite assessment of the state of the science. Mrs. Rosemary Hignett, Head of the FSA's Food Labeling Standards Division, told the MPs, "Most of the work that has been done has been around TV advertising. We did ask the reviewers to look at the issue of the size of the influence of TV advertising as against other influences, both other promotional activities and also other influences on behavior. The conclusion which the researchers drew was that the evidence is not there to draw any conclusions on the magnitude of the effect."

- Tech Central Station, March 24

**Warren Brookes Fellow Neil Hrab takes on the growing movement towards cultural protectionism:**

America annually exports \$90 billion worth of movies, TV shows, sound recordings and other products created by U.S. "copyright industries." Foreign consumers are outsourcing their popular culture demands to this country, creating jobs for Americans.

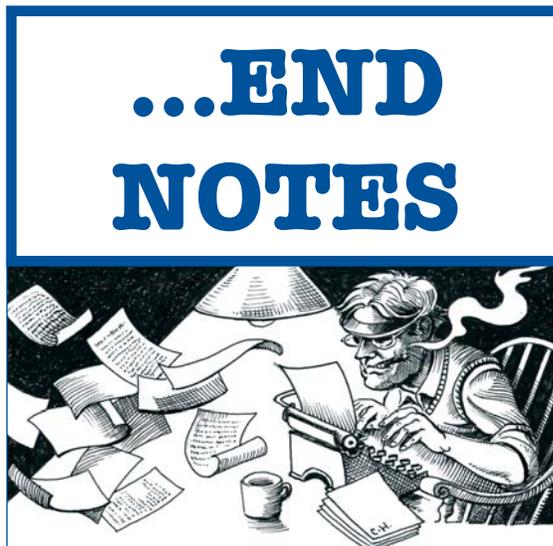
But not everyone likes this form of outsourcing. Indeed, for six years, some foreign governments, through an organization called the International Network on Cultural Policy (INCP), have been considering how to "do something about it." About 60 governments—from Latin America to Europe, Asia, and Africa—participate in INCP's gatherings. INCP members argue that freer trade in cultural products hurts "local and national cultures," and take a zero-sum view of trade in cultural items: The greater the influx of foreign (read: American) products into a given country, the less "space [there is available] for [its] domestic cultural expression."

- The American Enterprise Online, March 18



**Update from the Fat Wars**

Some nutritionists are taking on that grave threat to the public's health: Homer Simpson. A Rutgers University research team recently watched 63 episodes of "The Simpsons"—without ever getting the joke of Homer's bad eating habits being part of his overall fat, dumb, oafish persona. In fact, the Rutgers team's report is unintentionally funny in its clinical humorlessness. "Fats, sweets, and alcohol, particularly beer, doughnuts and salty/fatty/snacks accounted for 52 percent of all foods eaten in this program," it reads. "Homer was also portrayed eating food more often (he alone accounted for 21 percent of all actions showing food being eaten) and ate greater quantities than other characters."



**Update from the Smoking Wars**

Recently, a University of California, San Francisco research team viewed 775 American movies to determine that over two thirds of PG-13 and about half of G and PG-rated movies depict smoking. To address this shocking problem, the study's authors endorse slapping movies that depict smoking with an R rating. "No one is saying there should never be any smoking in the movies," said Stanton Glantz, a co-author of the study. "What we're simply asking for is that smoking be treated by Hollywood as seriously as it treats offensive language." Also in California, some coastal cities are banning smoking on the beach.

**Outdoor Sports in Europe, RIP?**

In the European Union, mountain climbers and hikers face the prospect of warning signs and having to swap ropes for scaffolding, if Brussels enacts safety regulations for workers such as window cleaners and bridge builders without necessary exemptions for sporting activities. Attempts to enact such exemptions so far have failed. Mountaineer Sir Chris Bonington, chairman of the UK's Outward Bound sports association, described the proposed regulations as a case of "the nanny state gone mad." "They are trying to apply rules to two totally separate activities whose only connection is that they are carried out at height," he said. "The whole point of the outdoor industry is that there is an element of risk. It is all about learning how to manage that."

**PETA's Unfunny Follies**

People for the Ethical Treatment of Animals (PETA) recently endorsed a constitutional amendment whereby "all mammals, birds, and fish will, henceforth, be defined as 'persons' in the eyes of the law." In March, PETA held a dignified anti-fur protest in New York's Times Square in which activists wearing fur coats pretended to engage in animal-like behavior—including drinking from a toilet. And in February, PETA asked the town administrator of Slaughterville, Oklahoma—named after early 20th-Century grocer James Slaughter—to change the town's name to "Veggieville." PETA's Bruce Friedrich, who once lived in Slaughterville, acknowledged this was a publicity stunt. "People find our requests amusing, and they chuckle. But when they're laughing, they have the opportunity to consider the animal abuse it brings up." So we can probably expect more fourth-grade-level humor from PETA.



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