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Joblessness and Regulation: The "Mass Layoff" Fallacy

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Do regulations kill jobs? Not according to Senate Majority Leader Harry Reid (D–NV). In a floor speech November 15, Reid argued that the idea that regulations cost jobs was a "myth," claiming that according to the Labor Department, "only a tiny fraction of layoffs have anything at all to do with tighter regulation." In fact, he said, "last year, only three-tenths of 1 percent of people who lost their jobs were let go principally because of government regulation or intervention."[1]

Reid is not the only one to cite these numbers. They have been widely cited in media outlets ranging from *The New York Times* and *The Washington Post* to Mother Jones as proof that regulation is not a contributing cause of America's stubbornly high jobless rate.[2] However, the statistics are of doubtful accuracy and have little to do with the primary cause of joblessness in the U.S. economy today: the lack of job creation.

Tracking Mass Layoffs. The numbers are from the Labor Department's Bureau of Labor Statistics (BLS), which, in cooperation with state authorities, tracks "mass layoffs," defined as layoffs of 50 or more workers for a duration of 31 days or more.[3] In each case in which such a mass layoff is identified, state authorities interview the employers involved, asking them (among other things) the reason for the layoffs. For the third quarter (not "the past year" as Reid stated), BLS reported that 0.3 percent of respondents listed "governmental regulations/intervention" as the reason. The most common reason given for layoffs was "Slack work/insufficient demand/non-seasonal business slowdown."[4]

This might appear to be a straightforward process, but it is actually quite tricky. The first problem is that economic hardship does not come with labels. Employers know if their costs are rising, but not necessarily whether it is due to new burdens imposed on their suppliers or other factors. They may know that they did not obtain the capital they needed, but not whether it was because investors had better opportunities or because of government financial rules. They will know if demand has slumped, but it is not so clear whether it was because their product is valued less by the marketplace or because government rules choked off demand from customers. Despite the orderly and specific categories provided by the BLS, the real-world causes are likely to be mixed, rather than fit neatly into one column or another.

Incomplete Picture. The BLS figures are also incomplete, including only mass layoffs of 50 workers or more at a time. Those are the layoffs

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that make headlines, but such mass layoffs are only a small part of the job-loss picture. Many, if not most, layoffs affect fewer than 50 workers at a time. Most small businesses, in fact, do not even have 50 employees in total.

But where Reid and others really miss the mark is in assuming that job *losses* are the problem, rather than a lack of job *creation.* As The Heritage Foundation's James Sherk has written, layoffs spiked early in the recession, but then fell sharply.[5] Since late 2009, gross job losses in the economy have actually been below their pre-recession levels. In fact, according to figures just released by the BLS, in the first quarter of 2011, there were fewer gross job losses than any time since the government began tracking these figures in 1992. Unemployment, however, has remained high, because job creation has been extremely low. In the first quarter of the year, only 6.3 million new jobs were created—about 10 percent less than the previous quarter and far below the 7.6 million being created each quarter before the recession.[6]

What Did Not Happen? None of this is reflected in the BLS's mass layoff reports. Employers are asked why they let employees go, not why they did not expand. No one asks would-be entrepreneurs why they did not start an enterprise last month or inventors why they did not invent a product.

But when employers are asked about their concerns, they increasingly cite regulation. In a survey of small businessmen conducted last month by Gallup, for example, government regulation topped their list of concerns, cited by 22 percent of respondents. Consumer confidence was a distant second at 15 percent, followed by "lack of consumer demand" at 12 percent.[7]

Of course, no one argues that the drop in job creation is due solely to regulation. But regulation is certainly a big part of the problem—placing a burden on anything will decrease the amount of it that is produced, and regulatory burdens have increased at record rates in the past few years. Reducing these regulatory costs should be part of the jobs solution.

Next Steps. Rather than denying that there is a problem, Congress should move to reduce regulatory costs. Reforms should include taking responsibility for regulatory burdens by requiring explicit congressional approval of major new rules. Congress should establish firm "sunset" dates for regulations already in place to ensure that they do not continue in force unless they are proven necessary. Such reforms would provide a good first step toward getting American workers on the job again.

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3. See U.S. Bureau of Labor Statistics, Mass Layoff Statistics, at *http://www.bls.gov/mls/* (November 21, 2011).
4. Press release, "Extended Mass Layoffs—First Quarter 2011," Bureau of Labor Statistics, November 9, 2011, at *http://www.bls.gov/news.release/mslo.nr0.htm* (November 21, 2011).
5. James Sherk, "How Congress Can Support, Not Hinder, Labor Market Recovery," Heritage Foundation *Backgrounder* No. 2602, September 1, 2011, at *http://www.heritage.org/Research/Reports/2011/09/How-Congress-Can-Support-Not-Hinder-Labor-Market-Recovery*.
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