



REGULATORY AND LEGAL REFORM: Reducing Barriers to Economic Growth

Smart regulation is critical to protecting worker safety, public health and our environment, and overregulation will hold back our country's economic potential. Similarly, speculative litigation continues to cause backlogs in the courts and cost manufacturers millions, even when the claims are baseless. A more competitive economy demands reforming the nation's broken legal and regulatory systems. While both require different sets of reforms, our regulatory and tort systems have become barriers to economic growth collectively, hindering innovation and slowing productivity.

Lawmakers should focus on addressing the structural and fundamental problems inherent in our dated regulatory system. The annual regulatory cost burden for an average U.S. firm represents 21% of its payroll, and manufacturers, particularly small entities, bear a disproportionate share of the regulatory burden. Meanwhile, our legal system is more than twice as expensive as the systems of our major competitors, such as Japan, France, Canada and the United Kingdom. Regulations, frivolous and excessive tort and consumer protection claims and related litigation costs divert resources away from investments in the workforce, new equipment and other opportunities for manufacturers to grow and compete.

Manufacturers are committed to commonsense legal and regulatory reforms that ensure public health and safety. Smart regulations are those that achieve their intended goal without unnecessarily harming the competitiveness of our sector or setting price controls. When struck, that balance can achieve both important social goals and widespread growth for manufacturers in the United States.

“ A predictable regulatory system based upon sound science and facts—with flexibility for innovation—and a fair legal system are critical components to ensuring a bright future for manufacturing in America. Our industry recognizes our responsibility to safeguard our workplaces and our environment, and when the system is clear and consistent while providing for innovation and when the rule of law is respected, we can deliver on our commitments.”

—Kellye Walker, Executive Vice President and Chief Legal Officer, Eastman Chemical Company

A Regulatory and Legal Reform Agenda for the Future Must:

- Approach regulations with a focus on outcomes and relying on best-available science.
- Improve the quality of regulatory analysis to better inform regulators and agency leaders.
- Deliver a reformed regulatory system that efficiently meets regulatory objectives while minimizing unnecessary burdens.
- Facilitate thorough industry outreach with relevant parties and small business entities so that all facets of the regulatory objective can be reasonably achieved.
- Preserve the ability of companies to grow without arbitrary and punitive limits on mergers, acquisitions and capital investment.
- Seek proven strategies to reduce the abuse of our legal system.
- Restore rationality in our tort law system.
- Ensure that America's regulatory regime can address the rising tide of counterfeit products.

ACTIONS FOR LEADERS TO TAKE:

- ✓ Strengthen, streamline and codify the regulatory system to improve regulatory outcomes, increase accountability through meaningful retrospective reviews and sunset outdated and ineffective regulations.
- ✓ Resist calls for punitive changes to the review process for mergers, acquisitions and significant capital investments that could undercut the consumer welfare standard and harm America's economic competitiveness.
- ✓ Set and enforce responsible regulatory budgets, conduct rigorous oversight and hold independent regulatory agencies accountable for discretionary regulations, improved transparency and the quality of the rules they issue.
- ✓ Maintain and support legislation that guarantees unified and predictable federal preemption for federally approved and regulated products and services in national commerce and limits state law tort lawsuits that unacceptably interfere with federal regulatory regimes.
- ✓ Reinstate mandatory penalties for lawyers who file frivolous lawsuits and prevent abuses of the class action and mass torts systems, as well as the public nuisance doctrine.
- ✓ Oppose legislation that incentivizes and subsidizes litigation against manufacturers.
- ✓ Promote the efficient, cost-effective resolution of litigation, including through alternative dispute resolution.
- ✓ Oppose efforts to prohibit binding arbitration clauses in employment, consumer and commercial contracts when arbitration programs meet a high standard for due process and protect the rights of all parties involved.
- ✓ Support clear standards for liability and the rigorous application of procedural rules, including statutes of limitations and relevance and proportionality requirements in discovery, as well as limits on punitive damages and case consolidation.
- ✓ Support legislation that reduces the availability of counterfeits on e-commerce platforms, acts against IP infringement, provides up-to-date enforcement capability and improves government collaboration to fight fake goods.