

OPINION

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OTHER VIEW | LOS ANGELES TIMES

'84 ruling made TiVo possible

Friday night at 9, millions of Americans sat in front of their televisions and watch the tropical police drama "Hawaii Five-0" on their local CBS station. And over the next week, roughly 3 million more will watch the show on their own schedule. That's an unremarkable statistic today, considering that half of American homes have a digital video recorder. But until Jan. 17, 1984, it was an open question whether consumer electronics companies would even be allowed to sell such devices.

On that day 30 years ago, a divided Supreme Court overruled the U.S. 9th Circuit Court of Appeals and declared that Sony could continue to sell its Betamax videocassette recorder despite the objections of two large Hollywood studios, Universal and Disney. It's an anniversary worth celebrating by consumers and copyright owners alike, because it helped clear the way for a multitude of new technologies that have increased the demand for creative works. Yet it hardly ended the decades-long fight between the entertainment and tech industries.

Justice John Paul Stevens' majority opinion in *Sony Corp. of America v. Universal* laid down at least two important principles for future innovators. First, even if people copied an entire show, it wasn't an infringement if they were doing so to watch the program later. And second, if a product had a substantial legitimate use (such as time-shifting shows that are broadcast free over the air),

it could be sold even if some buyers put it to illegitimate use (such as making copies of shows to rent or sell). But just as important, Stevens declined to expand copyright law to restrict new capabilities Congress hadn't contemplated when it wrote the copyright statute.

Betamax eventually lost the format war to VHS recorders, but its courtroom triumph helped all such devices proliferate. Recorders soon became the foundation for the home video business, which turned into Hollywood's largest cash cow. Meanwhile, the ruling opened the door for TiVo and other digital gadgetry in the home, then helped defend an assortment of Web-based services with both infringing and non-infringing uses, such as YouTube and other user-generated content sites and Dropbox and other online storage services.

As new technologies emerge, however, so do legal questions that Stevens' opinion doesn't answer - at least not to the satisfaction of copyright holders or, in some cases, the courts. Last week, the Supreme Court agreed to hear a case brought by the major broadcast networks against Aereo, a company that erects an array of tiny TV antennas on its property that subscribers use to tune in broadcasts on their computers, tablets and smartphones. We'll have more to say about the case later; for now, it's enough to note that it could prove as important to cloud-based services as the Betamax case was to new devices in the home.

LETTER TO THE EDITOR

Young donors big help at SPCA

If the young people we meet at the Chemung County Humane Society and SPCA shelter are any indication, our future world is in good hands.

Several times a week, kids bring donations of items on our wish list to the shelter. Many of them ask for gifts for the animals rather than themselves when they have birthday parties.

Over the holidays, a group of girls went caroling and collected donations for us. A boy saved from his allowance for over a year and donated over \$100.

Another girl made some paintings, had an art sale in her neighborhood and brought us the proceeds. A teenager organized a 5K and brought us the \$660 she raised. Another group of girls sold Rainbow Bracelets that they made

and used their earnings to buy treats and supplies for the animals. Others have made homemade treats for the dogs.

School classes have also held fundraisers and donation drives for us and one classroom nominated us for a Community Foundation grant. Recently a Girl Scout troop came in with donations and stayed for a tour.

We are so grateful for these gifts and so impressed with both the generosity and creativity of all the young people who have worked on our behalf. Kudos to their parents and teachers, who have planted the seeds of philanthropy. The empathy and compassion that our young friends show makes us proud to know them - and hopeful for our community.

Louise Richardson
 Communications and Marketing Manager,
 Chemung County Humane Society and SPCA

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COMMENTARY | STATE SEN. TOM O'MARA

Regulations hurt upstate economy

Some of you may remember a State Senate hearing in Corning last fall where leading Southern Tier manufacturers and other economic development officials delivered the following message: New York State's overtaxed, overregulated and too expensive.

We've opened this year's legislative session emphasizing the high taxes part of that equation. Last week, the Senate turned the spotlight on overregulation.

Our hearing in Corning last October focused on state mandates, rules and regulations that extinguish any spark for upstate manufacturing growth and job creation. The hearing was one of 10 public forums we held statewide that focused on agriculture, construction, small business, tourism and other key sectors of New York's economy. It's all part of an ongoing effort to address a challenge repeatedly highlighted by groups like the Tax Foundation: New York State's business climate is one of the very worst in the nation, and overregulation is a major reason why.

Last week, we issued our final report. We hope it will help set the stage for one of New York's largest-ever regulatory reform initiatives this year. You can find the report on my Senate

website, www.omara.nysenate.gov (click on the "Cutting Red Tape to Create Jobs" icon). Our original goal was to identify 1,000 regulations for revision or outright elimination. The final report points to more than 2,000 specific rules, regulations and practices that put New York's businesses and manufacturers, large and small, at a competitive disadvantage.

Of course it's one thing to keep talking about it and quite another leap to turn the talk into action. So we need to pay attention to the politics of regulatory reform this year too.

In his State of the State message last week, Governor Andrew Cuomo called for the establishment of a joint commission to jumpstart a comprehensive, statewide regulatory reform initiative, stating, "After years of discussion in state government with no action, the Governor will work with the Legislature to create a joint commission to identify ways to eliminate regulatory barriers that make it difficult to do business in New York State and hinder economic growth."

But we have to guard against a commission that's created just to keep discussing regulatory reform, but delaying action on it. I believe the Senate's comprehensive report, the product

of a detailed, bipartisan public hearing process, already provides the necessary groundwork and can serve as a detailed blueprint for quickly joining the governor to move forward on the agreed-upon goal of reducing the regulatory burden for employers and entrepreneurs. In other words, it should let us move quickly beyond a fact-finding stage and directly into a decision-making phase.

In Corning, we heard testimony from representatives of several prominent Southern Tier manufacturers, including Corning Incorporated, Dresser-Rand, Nucor and F.M. Howell & Company, as well as leading economic development agencies including Southern Tier Economic Growth (STEG) and the Steuben County Industrial Development Agency. Their testimony reaffirmed the absolute importance of revitalizing the manufacturing sector as the key to turning around the upstate economy. We received straightforward input on why New York State continues to be overregulated, overtaxed and a tough place to do business, and specific steps to begin changing it. These recommendations have been incorporated into our proposed action plan (see pages 89-95 of the Senate report).

All told, we've highlighted 2,219 specific regulatory burdens that New York State businesses are forced to contend with. It's difficult to put an exact price tag on the total economic cost of New York's more than 750,000 regulations. But other recent studies have gauged the negative economic impact of government overregulation.

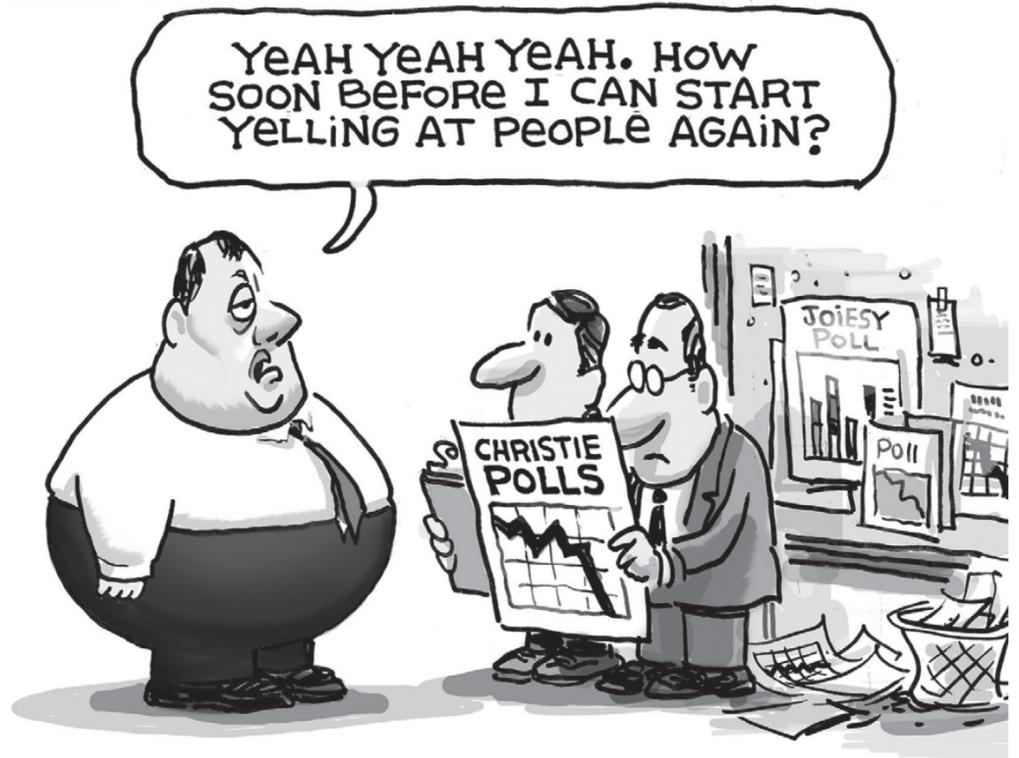
For example, a 2009 study directly comparable to New York found that regulations in California—a state with a similarly burdensome regulatory structure—cost the Golden State's economy \$493 billion annually, resulting in a loss of 3.8 million jobs and reducing business tax receipts by over \$16 billion.

So let's stay focused on the most important job at hand, and that's turning around the upstate economy. We know that we need to cut state taxes and, as I've noted recently in this column, we're working on that. But we also know that upstate manufacturers, small businesses, farmers and industries across the board are overburdened with far too many unnecessary state regulations.

It's time to get rid of the costly red tape that keeps the upstate economy going nowhere and makes New York's businesses climate one of the worst in America.

ANOTHER VIEW

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READER VIEW | GARY MCCASLIN

Despite deniers, climate change real

Whenever there is a cold snap in winter, it is only a matter of time before the climate change deniers start laughing at the findings of the United Nations' International Panel on Climate Change (IPCC). Add a brand new term like "polar vortex" to the description on the bitter cold days and the deniers become downright euphoric.

Consider Mike Morrongiello's first sentence of his opinion piece in the *Corning Leader* 8 January 2014: "Rejoice - humanity is safe from global warming!" With these words, Mr. Morrongiello is doing a great disservice to his readers. In his celebration of a research paper by Judith Curry and Marcia Watt, he neglected to note a sentence in the conclusion of the

paper where the authors stated their research "does not support or refute global warming but seeks to explain the natural component of climate variability." [1] Curry and Watt were simply offering a possible explanation why some years are colder or warmer than others.

While Judith Curry is indeed a skeptic of the scientific methods of the United Nations International Panel on Climate Change, [2] her article with Marcia Watt is not a proclamation that anthropogenic global warming (AGW - global warming caused by humans) is wrong. Global warming is certainly a very real threat.

Mr. Morrongiello also failed to note that from November 2012 through December 2013 there were

2,258 articles, written by a total of 9,136 authors. In this thirteen-month period, only one article, by a single author in the "Herald of the Russian Academy of Sciences," rejected global warming. The Curry/Watt research paper was not included in the "deniers total" because their work does not deny the reality of global warming.

Unfortunately, Mr. Morrongiello's true purpose in sharing his opinion with readers of the *Corning Leader* comes to light in the second half of his writing. His efforts to proclaim the end of a global warming "hoax" are little more than a veiled attempt to encourage more production of coal and offer an invitation to Governor Cuomo to lift restrictions on hydraulic fracturing.

It would be hard to imagine any other issue facing humanity which is more perplexing than global warming: In a thirteen month period, 9136 scientists offer evidence for a change of thinking, one scientist says the evidence should be denied and, in response, a significant number of people rally around the single scientist. Climate deniers and the media who give them voice are a tremendous threat to our children's future.

If the 9136 scientists could somehow become a single voice, I believe these are the first words we would hear: "Ladies and Gentlemen of Planet Earth, this is your Captain. It is time to wake up!"

Gary McCaslin is a retired American Baptist minister and resident of Corning, NY