

OPINION

Deregulation and product safety

Malcolm R Barrow

The concept of deregulation has intuitive appeal because it suggests a lessening of state interference in private affairs. In the UK, deregulation has also become closely associated with the need to reduce burdens on business. Yet regulation and deregulation are not clear cut issues. Regulation has many aims, including responding to public expectations about matters including safety, meeting European Community commitments, and striking a balance between different societal interests. Regulatory regimes are complex in themselves, and interact with each other. Thus, deregulation is rarely a simple option that exists apart from other considerations.

Adults often assume that the state has reduced the level of involuntary risk to which they are exposed, while still allowing freedom to take voluntary risks in controlled situations, that is where products and environments can be regarded as reasonably safe. So an element of regulation is regarded as appropriate and is accepted even though in the area of product safety it may involve increasing cost, or impaired performance, function, or aesthetics.

The freedom to take risks is one of the benefits of adult life, despite the fact that some may lead to serious or fatal injury. Such risks are accepted in many everyday activities, including travel, recreation, entertainment, and maintaining the home. In each of these areas adults voluntarily expose themselves to significant hazards because of the benefits the activities confer, and risk taking may even be viewed positively, if often unconsciously.

By contrast, during childhood risks are initially controlled by others, for example parents, with control gradually passing to the child during growth to maturity. There is a tension between the need to protect the growing child from harm by preventing unnecessary exposure to risk on the one hand, and the need to allow the child to learn by experience about hazard in order to be able to manage risks effectively in adult life on the other.

In fact, above the child there are two tiers of risk control — parental control and state regulations. Parental control of child safety can also be seen as a self contained model of the state's control of adult safety: in each case, a superior authority sets the framework within which risks can be taken. The outcome is benefits gained or damage suffered. My view is that as children advance toward adulthood they need to learn about risk, and there has to be a phase when adults allow children to take controlled risks to learn and grow. In other words, adults must strike a balance between risk of

injury and the benefits of child development when considering the regulated environment.

In the field of consumer safety, the UK has a strong tradition of regulation based on sound scientific evidence usually involving thorough risk assessment. If the level of safety is set on the basis of the most rigorous cost-benefit analysis, it is difficult to argue for change without reviewing these basic assumptions. In fact, product safety regulation has been hugely successful in preventing accidental injury over recent years, particularly in the last decade, and safety would appear to have been a considerable beneficiary from the regulatory approach. Success stories are found, for example in the fields of nursery equipment, prams and pushchairs, toys, and child resistant closures on medicines. In all these areas regulation has been demonstrably effective in reducing the risk and incidence of injury. In these instances deregulation has generally taken the form of simplification and streamlining with a brake on further expansion, rather than the wholesale dismantling seen elsewhere.

While it may appear difficult to argue against more of what is so evidently a good thing, the question that remains is — at what stage should the state impose further regulatory control, effectively telling parents that they are exposing their children to unacceptable risk, and when should the state back off? Children learn by experience, and parents want them to develop rapidly. But are some parents now taking an excessively relaxed attitude to the developmental benefits of risk taking than the regulatory bodies, or the safety and injury prevention experts who advise them? It is surely right that the regulatory framework should represent a dynamic environment, moving with the times. But to what extent should further encroachment on the freedom to take risks be allowed?

Among all the research into child safety in recent years little work has been done on the extent to which parents see benefits in child development of allowing controlled risk taking. The use of baby walkers is a good example. These products are regarded in a dim light by many injury prevention professionals, but many parents, often through long hours of observation, do see beneficial aspects. Acquiring effective mobility, the pivotal moment of human development, unlocks the world to the individual's will. Some parents feel very positive about accelerating this phase, even if an element of significant risk is involved. They thus welcome the opportunity to allow children to develop through taking limited risks. In the

Consumer Safety
Unit, 10–18 Victoria
Street, London
SW1H 0NN, UK

Correspondence to:
Mr Barrow.

area of transport and mobility, cycling and horse riding are two further high risk activities that many children indulge in, with the active support of their parents. Again, risks are accepted because benefits are perceived.

Because the concepts of risk and safety are difficult, care must be taken not to concentrate unduly on options such as regulation, where preventive activity can be readily translated into action. Regulation may become an intrusion into an adult's right to judge the balance between benefit and risk for a child. Child

injury statistics are always tragic, but they do not tell the story of developmental benefits gained. Might adults have fewer accidents if they had had more experience of risk taking as children? Hazards are real enough, and the undesirable outcomes of exposure to hazards — accidents and injuries — can readily be observed, but these arise from allowing people the freedom to manage their risks. Prevention is not synonymous with prohibition, the risk taking needs to be seen in a positive as well as negative light.

DISSENT

Regulating risk to children

Stephen P Teret

The comments of Malcolm R Barrow suggest that children need to be exposed to certain risks in order that they may learn to manage risk effectively in their adult lives. The comments further suggest that the regulation of risk by government may therefore confer a disadvantage in that the child could lose the opportunity to learn from exposure to existing risks.

For years, members of the injury prevention community have wrestled with the issue of regulating risk. The debate, which has occurred among individuals but also within some individuals' internal value systems, is whether we ought to impose our injury prevention will on the decision making capacity of others through the legislative or regulatory process. This is somewhat different from asking whether our law allows us to regulate (for example, asking whether, in the US, it would be constitutional to pass a law requiring the use of motorcycle helmets), or whether regulations would be effective in reducing the incidence or severity of injury. It is possible to answer both of these questions in the affirmative (that is, that a specific regulation like mandated motorcycle helmet use would be both constitutional and effective), and still be left with the issue of whether we as a society *ought* to be regulating the particular behavior or product.

But most of the time, the debate involves the regulation of adults' behaviors or products. With regard to children's behaviors or products, we traditionally have been more willing to accept a higher level of regulation. The argument that government is being too paternalistic has not been persuasive when dealing with children; children need paternalism.

Now, however, the argument is raised as to whether government ought to provide that paternalism. Is protection of the child only within the province of the parent? Ought the government to keep its hand away from the relationship between parent and child by refraining from regulating children's behaviors

and products? Do children, as suggested by Malcolm Barrow's commentary, need exposure to risk in order to develop properly?

I am not aware of any study that compares children who are exposed to injury risk to those who are not, and that follows these children into adulthood, measuring their adult injury rates. Thus supportive evidence that a reduction in childhood exposure to risk increases adulthood injuries is, to my knowledge, missing.

There is, however, a convincing argument why we must regulate children's products and behaviors. Many children do not have the luxury of being born to parents who have the inclination or skill to titrate their child's risk exposure and to intervene at the exact point when risk begins to overtake benefit. For example, the risk-benefits ratio of a very young child being able to ambulate with the help of a baby walker begins to change drastically as the child approaches a downward flight of stairs. An ever vigilant parent can monitor the change in this ratio, and intervene before a tragedy occurs. But the child born to a less watchful parent should not be sentenced to a life of disability after a fall down a flight of stairs. Society can protect against this potential disability by trying to train all parents to be superb at their job, or by regulating the product so that the very young child is not given the artificial ability to approach the stairs. Generally, the latter has proved to be a far more effective method of injury prevention than the former.

But perhaps this appeal to protect the at risk child through regulation does not adequately respond to Barrow's argument that children might need to learn safety by being exposed to risks. Assuming for the moment that this argument has validity, is there any reason to believe that the risk has to be real? Might it be possible, in this age of incredible technology, to create virtual reality risks to which the child can

The Johns Hopkins Center for Gun Policy and Research, Johns Hopkins School of Public Health, Hampton House, 5th Floor, 624 N Broadway, Baltimore, MD 21205, USA

Correspondence to: Professor Teret.