TESTIMONY ON THE COST OF REGULATION
IN THE RETAIL EYEGlass INDUSTRY

PRESENTED BEFORE THE
MONOPOLY SUBCOMMITTEE OF THE
SENATE SMALL BUSINESS COMMITTEE

BY
LEE BENHAM

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CSAB
CENTER FOR THE STUDY OF AMERICAN BUSINESS
WASHINGTON UNIVERSITY ST. LOUIS, MISSOURI
Statement By:

Lee Benham
Associate Professor of Economics
Washington University
St. Louis, Missouri 63130

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Over 200 years ago Adam Smith proffered the following advice:

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices... though the law cannot hinder people of the same trade from sometimes assembling together, it ought to do nothing to facilitate such assemblies, much less to render them necessary."

We in the United States have not followed this advice. To the contrary, our regulatory policy in the service sector greatly facilitates restraint in trade. As a consequence, consumers pay substantially more than necessary for many products and services. In my view, the costs associated with these restraints are likely to dwarf the costs of monopoly in the manufacturing sector.

A good illustration of these restrictions on competition and their consequences is provided by the retail eyeglass industry. The restrictions in this industry generally take the form of limitations on the individuals providing service, in this case opthalmologists, optometrists and opticians. I will discuss the optometrists because in this market they are the principal providers.

These restrictions take many forms: excessive entry requirements, limitations on geographical mobility and location of practice, restrictions
on employment contracts, limitations on specialization of tasks, and severe restraints on the extent to which consumers can be informed about their options—that is, restrictions on advertising. The regulations are enforced by state boards of optometry which have considerable discretion concerning the specific content of the regulations and those against whom they are to be enforced.

It is not surprising that these boards often reflect the views of state professional associations, since in many states the board members are selected from a list provided by the professional association. In essence the authority of the state has been turned over to the state professional association. That authority is exercised accordingly against activity which tends to promote competition.

Alexandra Benham and I have investigated some of the consequences of these regulations in the market for eyeglasses. Our study published in the October 1975 issue of the *Journal of Law and Economics* examined the prices paid for eyeglasses and the frequency of obtaining eyeglasses across states in the United States as a function of the extent of restrictiveness (which we describe as "professional control") of the eyeglass market in those states.* Some states are much more restrictive than others. Using data on the prices for eyeglasses actually paid by consumers and the proportion of individuals obtaining eyeglasses during a given year, we estimated the relationship between three measures of professional control and a variety of consequences.

Prices paid by individuals were found to be about 25% to 40% higher in the states with greater professional control. Our estimates indicate that as a consequence of the higher prices approximately 25% to 40% fewer

* An earlier study in the same journal (October 1972) examined the relation between advertising restrictions and prices of eyeglasses.
fewer individuals in the more restrictive states obtained eyeglasses during a given year. Furthermore, the less educated individuals in the sample appeared to be more adversely affected by the restrictions: the impact on the prices they paid appeared to be greater.

These results are not the ones generally promised by the professions. Indeed, eye care professionals have asserted that the actual utilization of eye care in the U. S. is approximately half the optimal rate. The impact of professional restrictions in this market is moving the public away from these espoused goals.

In our view, one of the most important components of these restrictions is the limitation on information flow, in particular advertising. Restrictions on advertising make it difficult for consumers to know the range of available alternatives. These restrictions also work to the detriment of those providers who are more efficient, more innovative, or willing to furnish their services at lower prices, since they have difficulty informing a large body of potential clients of the advantage of coming to them.

Advertising restrictions are only one of a variety of restraints in trade, but surely one of the more important. In addition to our own studies, the recent experience of Florida provides direct evidence on this issue. The Florida law changed last year to permit retail price advertising of eyeglasses. There are indications from several sources that eyeglass prices there have subsequently fallen and that more individuals are now obtaining eyeglasses.

What is to be done at the Federal level about such restrictions? For several reasons I am not sanguine about the benefits of Federal
intervention. Federal action, at least until recently, would probably have resulted in uniformly stringent restrictions and associated increased cost for everyone. After all, states which introduced these restrictions early were considered to be progressive while those which lagged behind were considered recalcitrant. There are safeguards in having a diversity of approaches taken by the various states as long as we are able to compare the results of their experiences. Furthermore, I see no reason to believe that the professional associations would be less successful at co-opting the regulatory process at the federal level than they have been at the state level.

Our view is that a key to enhancing individual sovereignty lies in the development of stable independent sources of information for the public. If the Federal Government has a comparative advantage, it is surely in the area of collecting and disseminating such information. Many states are currently considering changing their regulation of the eyeglass market. Much discussion concerns questions like, "What are our citizens paying as compared with those of other states?" or "What are our current restrictions costing us?". Independent sources of information concerning the costs and benefits have been rare. Better information can strengthen the defense mechanisms of consumers and voters against efforts to impose restrictions costly to them.

What kinds of information are we proposing? Statistics on the prices paid by consumers, levels of use, and on costs associated with restrictions of various sorts, including cross state comparisons should be collected and made public on a continuing basis. This task will not be easy. We are well aware of the difficulties associated with measuring the distortions introduced by regulation. But we can improve
on what is currently available, and the costs of such undertakings would be miniscule compared with the costs associated with the restrictions. Such regularly published indicators and estimates would provide at least one way of attracting general attention to the consequences of these restrictions.

A large and growing sector of the economy is characterized by problems like those discussed here. Appropriate public policy requires a better understanding of the costs imposed by such restrictions. We should not be dependent upon the providers of service for evaluating the relative costs and benefits of these restrictions.