

Opening Statement of Senator Mary L. Landrieu
U.S. Senate Committee on Homeland Security and Government Affairs
Hearing: “Federal Regulation: A Review of Legislative Proposals”
June 22, 2011

Good morning. I’d like to briefly thank the Chairman, Senator Lieberman, as well as the Committee’s Ranking Member, Senator Collins, for holding today’s hearing on legislative proposals to reform the federal regulatory process. I’d also like to thank the other Senators that have joined us here today to present their proposals, as well as Cass Sunstein, the Administrator of the Office of Interagency Regulatory Affairs (OIRA), who will testify on the second panel. I think this a very important topic that merits detailed examination and I look forward to hearing everyone’s testimony.

I want to begin by saying that I strongly support efforts to streamline and reform the regulatory process. As Chair of the Senate Committee on Small Business and Entrepreneurship, I have heard repeatedly from the small business community about the disproportionate burden that regulations can place on our small businesses. Although I believe that the current regulatory process is well-intentioned and contains a number of protections for our small businesses, it is certainly not a perfect system. Unfortunately, when this process fails and Federal government regulations do not take into account the unique challenges faced by our nation’s nearly 28 million entrepreneurs and small business owners, the misguided regulations that emerge from this process can stunt small business growth, or worse, put small firms out of business completely. At a time when we need to be creating more jobs, we cannot afford to be creating unnecessary barriers that prevent our small businesses—who are our nation’s chief job creators—from expanding, innovating, and putting people to work.

In my capacity as Chair of the Small Business Committee, I have worked closely with my colleague, Senator Snowe—the Committee’s Ranking Member—who has been a strong proponent for regulatory reform. We have held several hearings about the impact of federal regulations on small businesses. I even worked with her to include several of her provisions on regulatory relief in the *Small Business Jobs Act of 2010*, landmark, bipartisan small business legislation that was signed into law by the President almost nine months ago today. Thanks to these efforts, the SBA’s Office of Advocacy—which plays a critical role in protecting the small business community from burdensome regulations—now has an independent line item in the SBA’s budget, allowing it to play a stronger role in protecting our small businesses for years to come.

I’d like to take a moment to briefly comment on one of the proposals being considered by the Committee today. S. 1030, the FREEDOM Act, seeks to amend the *Regulatory Flexibility Act of 1980* and the *Small Business Regulatory Enforcement Act of 1996*, in an effort to improve the regulatory process for our small businesses. This legislation has come before the Senate in

the form of an amendment to unrelated legislation twice in the last six months. Although I appreciate the intent of the legislation and actually agree with many of its provisions, I opposed this legislation primarily due to the process by which it was forcefully brought to the floor, without first going through the Committee process for appropriate. Regretfully, due to these actions, it derailed an unrelated and critical piece of small business job creation legislation, S. 493, the *SBIR-STTR Reauthorization Act of 2011*, which has widespread, bi-partisan in both the Senate and the small business community.

However, I also have substantive concerns with the legislation that I hope we can explore today:

- Section 4 of the legislation would allow for judicial review of proposed rules. I am deeply concerned that this provision would undermine the fundamental role of the notice and comment period of the rulemaking process, which is to gather public feedback and to fix any flaws or deficiencies in a proposed rule. Opening up the rulemaking process to judicial review this early would be burdensome to the judiciary and extremely disruptive to the ability of agencies to carry out congressionally directed initiatives.
- Section 6 of the legislation would require at least nine federal agencies to establish small business review panels, also known as SBREFA panels. Although I appreciate the intent of this provision, I believe it would be extremely costly to the taxpayer, requiring the agencies to divert critical resources away from other programs and unnecessarily prolong the regulatory process.

Again, while I appreciate the intent behind these provisions and others in the FREEDOM Act, I am concerned about the potential for unintended consequences. I look forward to working with my colleagues on both the Homeland Security and Small Business Committees to fashion an effective legislative response that will ease the regulatory burden on our businesses. I thank the Chairman and Ranking Member for holding today's hearing, and I look forward to the testimony from our witnesses.