

A LETTER FROM THE PRESIDENT

I would like to wish everyone a very “Happy New Year,” especially to all who help make our work here at PRI possible. For 30 years, PRI has championed freedom, opportunity, and personal responsibility for all individuals. With this in mind, I am pleased to report on our exciting news and impact for the month of December, the culmination of a very good year for PRI.

So far, the success of my latest book, *The Top Ten Myths of American Health Care: A Citizen’s Guide*, has been remarkable, with many radio and television appearances, speeches, debates, and book reviews. Since sales have been very brisk, we are going into a second printing. As we begin 2009, PRI looks forward to continuing our extensive national marketing tour. We were fortunate to conclude 2008 with my *Wall Street Journal* op-ed, “Obama Will Ration Your Health Care.”

In Business and Economic Studies, PRI’s Lawrence McQuillan defended federal pre-emption in the case of *Wyeth v. Levine* through a series of op-eds and letters to the editor. Lawrence concludes there is no doubt that Phenergan was wrongly administered to Levine, but as he argued in *Forbes* and the *Washington Times*, a decision overturning federal pre-emption would unleash a torrent of frivolous state lawsuits against manufacturers of life-saving drugs and treatments. The Supreme Court’s decision is expected in early 2009.

In Environmental Studies, PRI released *Go with the Flow: Why water markets can solve California’s water crisis* by policy fellow Amy Kaleita, which analyzes California’s water resources and offers key policy solutions such as the need for more accurate water pricing to encourage conservation, the facilitation of water transfers by removing bureaucratic red tape, and the enactment of legislation to enable the creation of fully functional statewide or regional water markets.

Also in December, PRI held one of its school-board training sessions in San Diego attended by board members from around the state. Moderated by PRI’s senior director of Education Studies, Lance Izumi, the workshops were conducted on topics ranging from improving student behavior to aligning teaching between K–12 and higher education to understanding how to measure true school performance.

Finally, in Technology Studies, Daniel Ballon explained in the *San Jose Mercury News* how regulation threatens a promising new scientific field called synthetic biology that could potentially “transform modern medicine, generate clean, renewable biofuels, and create millions of green collar jobs.”

As we begin the new year, PRI is poised to aggressively pursue the principles that best preserve the essence of America—its entrepreneurial spirit, belief in the dignity and responsibility of individuals, and vigilant defense of liberty. With your help, we look forward to making 2009 the best of our 30-year history.



Sally C. Pipes
President & CEO
Pacific Research Institute

BUSINESS AND ECONOMIC STUDIES

key issue >> PRI Weighs In on Key U.S. Supreme Court Case

POLICY BRIEFING

The core issue in *Wyeth v. Levine*, now before the U.S. Supreme Court, is the principle of federal pre-emption derived from “the supremacy clause” of the U.S. Constitution. Federal pre-emption holds that federal law pre-empts state law when the two conflict. If pre-emption is upheld, plaintiff Diane Levine, who in 2000 was given Wyeth Pharmaceutical’s anti-nausea drug Phenergan, would be barred from suing Wyeth for failing to provide sufficient warning about the drug’s potentially devastating effects, such as gangrene, if administered improperly.

Levine’s product-liability lawsuit, brought in Vermont, argues that the FDA-approved label failed to provide sufficient warning about the drug’s potentially devastating effects. The plaintiff’s lawyers argue that the warning should have been stronger. They claim the FDA-approved label did not meet Vermont’s requirements—putting the state directly at odds with the FDA. A jury agreed and awarded Levine \$7.4 million in damages, upheld on appeal by the Vermont Supreme Court.

PRI PERSPECTIVE

In a series of op-eds and letters to the editor, PRI’s director of business and economic studies Lawrence J. McQuillan has vigorously defended federal pre-emption in the Wyeth case. There is no doubt that Phenergan was wrongly administered to Levine, who lost part of her right arm as a result, but Lawrence argued in *Forbes* and the *Washington Times* that a decision overturning federal pre-emption would unleash a torrent of frivolous state lawsuits against manufacturers of life-saving drugs and treatments. Resources would be diverted to legal defense rather than research and development, reducing the availability of medicines and increasing consumer prices.

If Levine wins, Lawrence notes, label requirements will be determined by the whims of local judges, juries, and personal-injury lawyers, not the 8,000 expert FDA scientists. Faced with trying to comply with 50 ever-changing state labeling requirements, some companies would be forced to scale back operations, resulting in higher prices and dwindling innovation.

PRI IMPACT:

- Lawrence also wrote letters to the editor in support of pre-emption that were published in the *Boston Herald*, *Los Angeles Times*, *San Diego Union-Tribune*, *San Francisco Examiner*, *Austin American-Statesman* (TX), *North County Times* (CA), *Easley Progress* (SC), *Cherry Creek News* (CO), *Red Latina* (MO), and *Mahogany Revue* (FL).
- PRI’s senior fellow in Business and Economic Studies, Robert P. Murphy, continued his opposition to bailouts in “Welfare Is Bad for Automobile Companies, Too” (*Buffalo News*; December 5).
- Lawrence’s op-ed “Tort Reform Would Spark Lagging Local Economy” was cited in the American Tort Reform Association’s *Judicial Hellholes 2008/2009*, released on December 16.
- PRI’s *U.S. Economic Freedom Index* was cited in a December 17 *Sacramento Bee* op-ed by Margaret A. Bengs, “Growth is the Only Solution to State’s Crisis.”
- Lawrence and PRI’s John R. Graham co-authored a series of op-eds on how tort reform can help ease the state’s financial crisis. They were published in the *New Jersey Herald* on December 12, *Delaware Daily Times* on December 20, and *Sacramento Union* on December 30.



EDUCATION STUDIES

key issue >> Training School Board Members

POLICY BRIEFING

While the education laws and policies coming out of Washington and Sacramento are important, many key decisions that impact student learning are made at the local level by school board members. It is, therefore, critical that these local board members have the most reliable information as to what improves learning in the classroom.

PRI PERSPECTIVE

One of PRI's most successful programs is its school-board training sessions. In these sessions PRI assembles the best education experts available to teach school board members how to improve the performance of their schools. In December, PRI held a training session in San Diego that was attended by board members from around the state. Workshops were conducted on topics ranging from improving student behavior to aligning teaching between K-12 and higher education to understanding how to measure true school performance. The training session was moderated by PRI senior director of education studies Lance Izumi and included experts from business, the legislature, higher education, and charter schools. The session received high praise from attendees, with one school board member saying, "The PRI session was by far the most informative and educational of all the sessions I attended."

PRI IMPACT:

- On December 2, Vicki Murray, senior policy fellow in Education Studies, was interviewed by American Family Radio about federal Blue Ribbon Schools. Vicki was also interviewed on KINF-AM (Santa Maria, CA) about the No Child Left Behind Act and federal Blue Ribbon Schools on December 5.
- In December, the Heartland Institute and the Friedman Foundation published research associate Evelyn Stacey's op-ed "Jewish Groups Lobby for School Choice Bill."
- On December 9, the *Arizona Daily Star* published Vicki's op-ed "Special Students Deserve Grant Program."
- *FlashReport.org* published Evelyn's op-ed "Sacramento Students Need Choices," on December 9, as well as Vicki's op-ed "Eyes on Arizona," on December 12.



ENVIRONMENTAL STUDIES

key issue >> ***Go with the Flow: Why water markets can solve California's water crisis***

POLICY BRIEFING

Agriculture has always played an integral part in the California economy. As the state demographic continues to change, the challenge for California is to move water from areas with abundance to areas with high demand, and to do so in the most efficient manner.

PRI PERSPECTIVE

On December 2, PRI released ***Go with the Flow: Why water markets can solve California's water crisis***, which analyzes California's water resources and offers key policy solutions such as the need for more accurate water pricing to encourage conservation, the facilitation of water transfers by removing bureaucratic red tape, and the enactment of legislation to enable the creation of fully functional statewide or regional water markets. Dr. Amy Kaleita, PRI Environmental Studies policy fellow and author of the study, believes that there are more cost-effective strategies for providing water for Californians than continued centralized management and investment in massive infrastructure. ***Go with the Flow*** concludes that the water problem in California is not insufficient supply but uneven distribution and convoluted management.

PRI IMPACT:

- PRI published Amy Kaleita's *Environmental Notes* column, "Will the EPA Have a Cow?" which describes a controversial measure by the EPA to regulate methane—a greenhouse gas—from agricultural and livestock operations. According to the EPA, "livestock enteric fermentation," represents 21 percent of methane emissions in the United States.
- Tom Tanton, policy fellow in Environmental Studies, authored an op-ed in the *Sacramento Bee*, "Air Board's analysis holds many flaws," which criticized the California Air Resources Board's plan to implement the Global Warming Solutions Act. Tom also addressed this issue in the *Sacramento Union* and on *FlashReport.org*.
- On December 17, PRI published editorial director K. Lloyd Billingsley's *Capital Ideas* column, "Why Water Markets Should be Part of the 'Vision' for the Delta, and All of California," which discussed the Delta Vision Committee's plan to restore the Sacramento-San Joaquin Delta, a prime source of drinking water and irrigation for two-thirds of Californians. In the article, Lloyd cites Amy's new study, ***Go with the Flow***, and urges the adoption of water markets as an integral part of their vision for California's future. This piece later appeared as a *Sacramento Union* op-ed, "Wishy-Washy Wrangling over Water Works," on December 23.



HEALTH CARE STUDIES

key issue >> President-elect Obama nominated former Senator Thomas Daschle as secretary of Health and Human Services, and director of the new White House Office of Health Reform. He also announced Jeanne Lambrew of the Center for American Progress as his deputy director. Both are veterans of the Clinton administration's attempt to impose total government control of health care, and their nominations signal a clear and present danger to Americans' ability to preserve what little freedom remains in their choice of health care.

POLICY BRIEFING

Sally C. Pipes, President and CEO, continues to educate Americans about health policy and has been promoting her recent book, *The Top Ten Myths of American Health Care: A Citizen's Guide*. Through op-eds, speeches, radio and television interviews, Sally has reached a wide audience. She concluded 2008 with an op-ed "Obama Will Ration Your Health Care," published in the *Wall Street Journal* on December 30.

PRI PERSPECTIVE

Americans remain largely unaware that their frustration with the status quo is due to government interference in health care. President-elect Obama aims to take advantage of various myths still in circulation. Among the top ten myths we debunk are: that 46 million Americans do not get health care, that government-dictated "prevention" programs reduce costs, and that government-monopoly health care is cheaper and more "efficient."

PRI IMPACT:

- Sally continues to market *The Top Ten Myths*, which we launched in October. On December 14, Sally wrote an op-ed on the *The Top Ten Myths* for the *D.C. Examiner*, "Don't Fall Prey to Five Common Healthcare Myths," later published in more than a dozen newspapers, including the *Clearwater Gazette*, *Pasadena Journal-News*, *San Bernardino Sun*, and *Delaware Daily Times*, and quoted in the *San Francisco Examiner*. The book was also reviewed in the *Indianapolis Star*. Sally also wrote an op-ed for the *New Jersey Herald* on FDA pre-emption of states' product liability laws. Sally appeared on a variety of radio shows to promote her book, including *The Mike Rosen Show*, 850 KOA (Denver, CO).
- John R. Graham, Director of Health Care Studies, wrote a *Capital Ideas* article criticizing ballot initiatives to increase taxes for spending on government health programs of questionable merit, the health care "blob." John blogged on changes in Canadian health care, such as the increasing number of families without primary-care doctors and the high-profile marketing of insurance policies to protect individuals from medical bankruptcy.
- Adam Frey, public policy fellow, wrote a *Health Policy Prescription* analyzing Gov. Bobby Jindal's proposal to reform Medicaid in Louisiana. While generally supportive of the reform, Adam criticized the expansion of people eligible for government dependency. *National Review's* blog, "the Corner," cited Adam's piece as intellectual ammunition from the nation's leading think tanks.

TECHNOLOGY STUDIES

key issue >> Net Neutrality

POLICY BRIEFING

After a three-month lull, the debate over “net neutrality” legislation resurfaced in December following a front-page report in the *Wall Street Journal* that key proponents had abandoned the cause. Proposals to impose a “net neutrality” regime would force Internet service providers (ISPs), such as Comcast and AT&T, to give equal priority to all content that flows over their network. Among the strongest supporters of “net neutrality,” Google hopes to prevent business arrangements that could give its competitors faster delivery speeds on the network. According to the *Journal*, however, Google has itself initiated business agreements with ISPs to ensure faster delivery of its own services. The company quickly issued a rebuttal, arguing that these arrangements do not “require (or encourage) that Google traffic be treated with higher priority than other traffic” and affirming that “our commitment to the principle of net neutrality remains as strong as ever.”

PRI PERSPECTIVE

The concept of “net neutrality” continues to lack a clear, enforceable definition. This ambiguity enables lobbyists to propose a diverse array of regulations that best suit the strategies of special interests. While Google contends that its business arrangements do not violate the company’s definition of net neutrality, its new strategy diverges strongly from the nondiscriminatory level playing field envisioned by many “open Internet” activists. Using government regulation as a weapon against competitors poses many risks, and Google’s net neutrality gambit could quickly backfire. Congress appears poised to enact legislation based on the rhetoric of self-interested corporations, giving

unelected regulators unlimited authority to interpret net neutrality’s vague mandates. This approach will only breed corruption, distort markets, and impede innovation as companies open their wallets to influence the Obama administration’s FCC.

PRI IMPACT:

- In the *San Jose Mercury News*, policy fellow Daniel Ballon explains how regulation threatens a promising new scientific field called synthetic biology that could potentially “transform modern medicine, generate clean, renewable biofuels and create millions of green collar jobs.”
- With lawmakers eager to invest in green technologies, Daniel published an op-ed in the *San Francisco Business Times* cautioning against sabotaging a competitive market by picking winning technologies.
- In *TechNewsWorld*, Sonia Arrison argues for decreasing the authority of regulators at the FCC and increasing transparency. According to Sonia, “the results of political decision-making, as opposed to market demand-based decisions, often yield disastrous results.”