

**Assessment of the Honest and Open New EPA Science Treatment Act of 2017  
or the HONEST Act**

Testimony before the Senate Committee on Environment and Public Works

Professor Robert Hahn\*

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## **Assessment of the Honest and Open New EPA Science Treatment Act of 2017 or the HONEST Act**

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October 3, 2018

Good afternoon. My name is Robert Hahn. It is my pleasure to testify before the Senate Committee on Environment and Public Works on the HONEST Act.

I am a visiting professor at the Oxford University's Smith School and a senior policy scholar at the Georgetown University Center for Business and Public Policy. I have served on the faculties of Harvard University and Carnegie Mellon University and also held senior positions at AEI and Brookings. My bio is attached along with selected references that may be of interest to the Committee.

I wish to make three points and conclude with a plea for breaking the political logjam in this important area of policy. Here are the three points in a nutshell.

First, the HONEST Act addresses an important public policy issue in a constructive way. The use of sound science in a transparent manner in regulatory decision-making is critical for improving the welfare of Americans and consumers more generally.

Second, the issue of using sound and transparent science is one that is germane to many government agencies, and some of the ideas in this act could be usefully extended to other government agencies.

Third, there is a more fundamental issue of how to promote better evidence-based decision making in government. I will offer some ideas on that as well.

### *1. The HONEST Act addresses an important public policy concern*

Having access to models and data are keys to being able to reproduce and extend results, which is important. I recall a research project I did with Ted Gayer on the regulation of mercury emissions from power plants. In that research, we reviewed EPA documents. It was challenging to replicate the findings of that analysis; and even though there was supposed to be a clear benefit-cost analysis, it was difficult to connect the dots. Once we connected the dots, we found that the regulation would not likely pass a benefit-cost test based on the government's data. It would have been very helpful in undertaking this research if we had easier access to the scientific models and data underlying that analysis.

A second strand of my research reinforced this finding. In work with Patrick Dudley, I found that environmental regulatory assessments for major regulations done by the U.S. Environmental Protection Agency were not always of high quality. For example, the agency often did not consider alternatives adequately, or consider a range of benefits and costs. In fairness, my understanding is that EPA has done much to improve the quality of their analysis since that study, but my understanding is that there are still significant issues with modelling and transparency.

Recently, I reviewed an EPA proposed rule on “Strengthening Transparency in Regulatory Science” (RIN 2080–AA14), which appears to have a similar goal to the HONEST Act. I published an editorial reflecting my views in the *Washington Post*. While many scientists argued that this proposal would likely stifle science in administrative rulemaking, I came to the opposite view.

Critics typically argued that the proposed regulation would suppress research that contains confidential records. A careful reading of the rule suggests that it would:

require the EPA to identify studies that are used in making regulatory decisions; ... encourage studies to be made publicly available “to the extent practicable”... and it would direct the EPA to clearly state and document assumptions made in regulatory analyses.

Here's what the EPA's rule wouldn't do: nullify existing environmental regulations, disregard existing research, violate confidentiality protections, jeopardize privacy or undermine the peer-review process.”<sup>1</sup>

The EPA regulations likely have costs and benefits in the billions in the aggregate (using OMB's estimates). It is for that reason that I argued that its proposed rule was worth considering, and that it should be evaluated on an ongoing basis.

*2. Congress should consider something like the Honest Act for other government agencies.*

Greater transparency and accountability for decision making are critical not just for the EPA, but for virtually all government agencies that use models and data to design programs and regulations. Thus, I believe something like the HONEST Act should be considered for most other government agencies -- especially those involved with designing and evaluating programs, policies and regulations.

*3. Congress should promote better evidence-based decision making in government.*

“Taking steps to increase access to data, with strong privacy protections, is how society will continue to make scientific and economic progress and ensure that evidence in rule-making is sound.” The EPA's proposed rule and the HONEST Act follow principles laid out in 2017 by the bipartisan Commission on Evidence-Based Policymaking — humility, transparency, privacy, capacity and rigor — and moves us toward providing greater access to scientific data while protecting individual privacy. Congress should consider adopting the recommendations in this report that would improve the basis for making informed government decisions.

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<sup>1</sup> Quotations are taken from my Washington Post oped referenced at the end of the testimony.

In addition, Congress should consider legislation that requires all agencies to develop programs and regulations that are likely to pass a broadly defined benefit-cost test. This legislation could be patterned after executive orders that all presidents have used since President Ronald Reagan (e.g., Executive Order 12291). In addition, Congress should provide funding to evaluate and improve programs and regulations on an *ongoing* basis.

#### 4. *The Political Opportunity*

We may be at the dawn of a new era in terms of acquiring and using data more intelligently to improve decisions in government and in the private sector. For government decision making, I believe there is an opportunity to move things forward by promoting “evidence-based policy”. This is something that I believe all elected representatives should support, regardless of their ideological preferences or party affiliation.

The HONEST Act represents a modest, albeit important, step in the direction of trying to improve evidence-based policy. I would urge legislators to move swiftly to consider this effort and other efforts that could vastly improve the quality of decision making in government, and thus improve the welfare of American citizens.

### **Appendix: Selected References and Bio for Robert Hahn**

#### **Selected References**

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## **Bio for Professor Robert Hahn**

Robert Hahn is a visiting professor and former director of economics at the Smith School of Enterprise and the Environment, Oxford University, and a senior policy scholar at the Georgetown University Center for Business and Public Policy. He is also co-founder of The Behavioralist and Signal, two companies that use behavioral economics and evidence-based policy making to promote the social good. Bob has served on the faculties of Harvard and Carnegie Mellon, and has also had senior appointments at AEI and Brookings. Bob co-founded and directed the AEI-Brookings Joint Center for Regulatory Studies, a leader in policy research in law and economics, regulation, and antitrust. Previously, he worked for the U.S. President's Council of Economic Advisers and was the chief economist on the White House drafting team for the 1990 Clean Air Act Amendments. His responsibilities included helping to design the innovative cap-and-trade system for limiting smokestack sulfur emissions.

Bob is currently conducting several economics experiments aimed at improving productivity, and promoting growth and sustainability. He also continues to do research on government regulation, competition policy, energy policy, Internet policy, environmental policy, and understanding the benefits of breakthrough innovations. He served as a commissioner on the U.S. Commission on Evidence-Based Policymaking and is currently working with key decision makers on ways to promote evidence-based policy.