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The President's Health Care Plan

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Roger Pilon

Vice President for Legal Affairs, Cato Institute :

Just where does President Obama think Congress finds the power to authorize the HHS secretary "to review, and to block, premium increases by private insurers, potentially superseding state insurance regulators"? My colleague David Boaz addresses the politics of this unseemly proposal just below. And elsewhere our colleague Michael Cannon offers a devastating economic critique of the proposal, citing White House economic advisor Larry Summers, no less, on the folly of it all. But the constitutional question is what concerns me.

No doubt Obama, a former lecturer in constitutional law, believes that the power of Congress to regulate interstate commerce suffices to allow it to set private health insurance premiums. After all, once delegated to him, that same power allowed him, he believes, to take over auto companies, to fire corporate executives, to set their salaries, and to do, well, pretty much what he wanted in so many other areas. That's the modern executive state -- the president as CEO of America, Inc. The irony, however, is that the commerce power was given to Congress for precisely the opposite reason -- to ensure economic liberty, not to restrict it.

Facing state impediments to free interstate commerce, which had arisen under the Articles of Confederation, the Framers empowered Congress to check such restraints and to do the few other things needed to ensure a free national market. In fact, a Hamiltonian proposal that Congress undertake a national industrial policy -- ObamaCare is a stark example of such a

policy -- was rejected outright by the Congress as beyond its authority. Obama's proposal speaks directly to how thoroughly we've turned the Constitution on its head. And as recent elections give evidence, the American people are coming increasingly to understand that. This proposal, I predict, will go nowhere.

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