This book began with an analysis of the sources of regulation and of the rise of the regulatory society. The tendency of more and more areas of life, especially economic and business life, to be regulated was identified as characteristic, so pre-empting one obvious point about the future of regulation: it is likely to extend further. That prompts the question: surely it cannot go on extending forever? Would that not be a form of authoritarianism, if not totalitarianism? The only grounded answer one can give to such alarmism is that there are no signs of the process stopping yet, and recent history suggests quite the contrary. It is hard to think of an area of life in which, once regulation has been imposed, it has been abandoned. The vogue term of the 1980s, deregulation, which has been commented upon at several points in the earlier part of this book, was not in practice taken to mean a complete absence of regulation. Rather it referred to a combination of less stringent regulation, which in practice meant that it could be ignored, and a greater measure of self-regulation, which in practice was an invitation to the regulated to seek capture of the regulatory process. Deregulation failed as a political movement. Like the attempt to ‘roll back the state’ of which it was a part, it adopted a populist rhetoric of liberation from unnecessary restraint and cost, but rapidly came up against well-established popular expectations of security in all respects, with the state to act as the final guarantor. Deregulation also produced some spectacular disasters, notably in the financial sector.

New right regimes have been succeeded by social democratic ones in Europe and America. For them regulation poses quite different problems. Its advantage is that it is the successor to the welfare state, whose expansion can no longer be funded. Public security can be achieved in a plethora of detailed ways by regulation without huge cost to the state.
and hence the taxpayer, though there are quite bitter arguments, especially in America, about the cost of regulation and of value for money (Pildes and Sunstein 1995). The difficulties lie in maintaining effective and appropriate regulation, matters that have been a central concern of this book. It is not easy to achieve agreement among all parties on what degree of protection is needed and on what are the necessary means to achieve it. The regulated, and particularly business, are likely to resist, and the public and particularly consumer groups, to demand.

The problem for business lies in accepting that regulation will continue to extend, and that its formal autonomy will be compromised. Nor can an expressed willingness to embrace regulation be a cover for a determination to subvert it. Genuine engagement, and acceptance that other stakeholders have rights (even if not necessarily as extensive as they would like to claim) are essential to breaking out of the cycle of regulation by crisis and scandal, where business denies the problem for years, only for the reality of the problems and abuses to build up, with serious consequent damage to the industries involved. We saw this on a short cycle with the pensions mis-selling scandal in Britain and the Savings and Loan scandal in America. It has been serious in respect of asbestos, whose dangers were known by the 1930s, and whose costs contributed to the near-destruction of Lloyds insurance market in the 1990s. The same can be said of nuclear power, whose virtues were touted from the 1950s to the 1970s, when the evidence of leaks and contamination began to emerge; in the 1980s the key question was posed: what about decommissioning? Pesticides have progressed through the cycle twice with DDT, Aldrin and Dieldrin widely used from the 1940s to the 1960s, until the dangers of accumulation in fatty tissues and the collapse of the bird population led to their being banned (Carson 1965). They were succeeded by a new generation of pesticides, a number of them organophosphates, which are also used in the manufacture of nerve gases. Their dangers are now becoming recognised and they are being controlled in the light of chronic and acute damage to farm workers' nervous systems. Cars have been through a series of such cycles, beginning with safety from the 1940s to the 1960s, with resistance to it as an issue by manufacturers despite the benefits of air-bags and seat-belts and with roadworthiness being subordinated to comfort, elegance and image (Nader 1965). Further campaigns were waged over leaded petrol, said to be essential, and exhaust control emissions (catalytic converters) said to be grossly expensive, ineffective and unnecessary (Wilson 1983). Tobacco is perhaps the greatest example of all, with the international producers committed to