

# Chapter 18: Competition, Not Capture

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

— **Adam Smith**, *The Wealth of Nations* (1776)

In the political taxonomy of our time, there is a presumed conflict between "the government" and "business." The left demands more regulation to tame corporate power; the right demands less to unleash it. The public watches this wrestling match and assumes that if the government is fighting business, the public interest is being served.<sup>68</sup>

This is a dangerous illusion. It ignores the oldest and most sophisticated strategy in the history of commerce: the use of state power to outlaw competition.

The greatest enemy of a wealthy incumbent is not a regulator. Regulators can be lobbied, hired, or waited out. The greatest enemy of a wealthy incumbent is a hungry challenger. The challenger ignores the "way things are done." The challenger undercuts prices. The challenger innovates the product until the old version looks obsolete. The challenger destroys the steady, predictable profits of the status quo.

Therefore, the smartest play for a dominant corporation is not to fight the government, but to capture it. It is to welcome regulation—provided that the regulation is complex enough, expensive enough, and specific enough to make life impossible for the challenger.<sup>69</sup>

This chapter argues that we have confused being "pro-business" with being "pro-market." They are opposites.

To be pro-business is to support the profitability of existing firms. This often leads to subsidies, protectionism, bailouts, and barriers to entry.

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<sup>68</sup> **Smith (1776)**, *The Wealth of Nations*. The epigraph and foundational insight. Smith warned that business owners naturally seek to cartelize and raise prices, and that the role of the state is to prevent these "conspiracies," not to facilitate them through guild protections.

<sup>69</sup> **Stigler (1971)**, "The Theory of Economic Regulation." The Nobel Prize-winning paper establishing that regulation is often "acquired" by the industry and is designed and operated for its benefit. Stigler showed that firms lobby for regulation (subsidies, control of entry) to protect themselves from competition.

To be pro-market is to support the mechanism of competition. This often leads to the bankruptcy of existing firms, the disruption of profits, and the terrifying insecurity of having to earn one's customer every single day.

A society that protects its businesses from the market is a society that has chosen stagnation. And a politics that claims to be "anti-rich" while multiplying the regulations that only the rich can afford is not fighting inequality. It is cementing it.

## **I. The Rent-Seeking Reflex**

In economics, "rent-seeking" does not mean collecting rent on a building. It means expending resources to gain wealth without creating wealth—usually by manipulating the political environment to transfer money from others to oneself.

If a company invents a better mousetrap and gets rich, that is profit. The society has better pest control; the company has money.

If a company lobbies the government to ban all foreign mousetraps, and then raises its prices, that is rent-seeking. The society has worse pest control and higher prices; the company has money.

The modern economy is riddled with rent-seeking. It hides in the dull language of "standards," "licensing," "compliance," and "zoning."

Every time a trade group argues that a new competitor is "unsafe," "unfair," or "unregulated," you are likely witnessing a rent-seeking reflex. They are not asking for a referee. They are asking the referee to trip the other runner.

## **II. The Guilds Return: Occupational Licensing**

The most visible barrier to the poor is not the tax rate. It is the license.

In the 1950s, about 5% of the US workforce required a license to work. Today, it is nearly 30%.<sup>70</sup>

We are told this is for safety. We do not want unlicensed brain surgeons or airline pilots. But the licensing regime has expanded into trades where "public safety" is a transparent fiction used to enforce a cartel.

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<sup>70</sup> **Kleiner (2015)**, *Reforming Occupational Licensing Policies*. Documented the explosion of licensing requirements in the US. Found that licensing acts as a barrier to entry that raises wages for incumbents by ~15% while reducing employment and increasing prices for consumers, effectively functioning as a regressive tax on the poor who want to work.

In many jurisdictions, one needs a state license to be a florist, a hair braider, an interior designer, a casket seller, or a tree trimmer.

Consider the hair braider. In some states, a woman who wishes to braid hair for money must attend cosmetology school for 1,500 hours, costing thousands of dollars, to learn how to handle chemicals she will never use. Why? Because the cosmetology lobby wrote the rules. They do not want competition from independent braiders. They want to force them into the cartel or drive them underground.

This is a war on the ladder. The poor possess labour and skill but lack capital. Licensing demands capital (tuition, fees, time out of the workforce) before one is allowed to sell labour.

When we set up these barriers, we are not protecting the consumer. We are protecting the incumbent practitioner from the threat of a new entrant. We are rigging the game against the outsider.

### **III. Regulatory Capture: The Moat of Complexity**

At the corporate level, rent-seeking takes the form of complexity.

There is a widespread belief that big corporations hate regulation. In public, they might complain. In private, they often help write it.

Why? Because regulation is a fixed cost.

If the government mandates a complex compliance regime—say, a requirement to track every component in a supply chain, or to employ a dedicated data-privacy officer, or to undergo annual environmental audits—the cost is substantial.

For a giant corporation with \$100 billion in revenue, a \$1 million compliance cost is a rounding error. They have a department for that.<sup>71</sup>

For a startup with \$5 million in revenue, a \$1 million compliance cost is death.

By demanding ever-stricter and more complex rules, incumbents build a "regulatory moat." They raise the floor of doing business so high that two guys in a garage cannot possibly climb over it.

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<sup>71</sup> **Crain & Crain (2014)**, *The Cost of Federal Regulation to the U.S. Economy*. Estimated that the cost of federal regulation per employee is significantly higher for small firms than large firms. This confirms that complex compliance regimes function as a "regressive tax" on new entrants, protecting large incumbents from disruption.

This explains the paradox of the modern "woke corporation" that eagerly embraces every new government mandate. They are not being virtuous. They are being strategic. They know that complexity is a filter that catches the minnows while the whales swim through.

The result is an economy of giants, protected not by their excellence, but by their overhead.

#### **IV. The "Anti-Rich" Policies That Protect the Rich**

This dynamic reveals the hollowness of much populist "anti-rich" rhetoric.

When politicians threaten to "crack down" on an industry with heavy regulation, the stock price of the market leader often rises. The market knows that the crackdown will wipe out the smaller, messier competitors, leaving the giant with a monopoly.

Similarly, high taxes on income and transactions often protect "Old Money" against "New Money."

If you have already accumulated \$100 million, you don't need a high income. You need asset preservation. You can live on low-interest loans against your portfolio (avoiding income tax) and pay capital gains only when you sell.

But the person trying to become rich—the doctor, the engineer, the small business owner—relies on high income to build wealth. When you tax income at punitive rates, you are not hurting the established dynast. You are hurting the climber. You are pulling up the ladder after the elite have already climbed it.

A ossified class structure is often the result of a tax and regulatory code that makes it hard to keep what you earn, but easy to keep what you inherited.

#### **V. Intellectual Property as a Forever Monopoly**

Patents and copyrights were designed as a bargain: the state grants a temporary monopoly to incentivise creation, after which the idea enters the public domain.

That bargain has been broken.

Through lobbying, the terms of copyright have been extended repeatedly (often jokingly called the "Mickey Mouse Protection Act") to ensure that lucrative assets never enter the public domain.

In the pharmaceutical and tech sectors, "patent thickets"—clusters of overlapping patents designed to confuse and deter competitors—are used to extend monopolies long after the core invention should be generic.

This is not property rights. This is using the state to prevent the natural deflationary pressure of the market. It forces the public to pay monopoly prices forever, transferring wealth from the consumer to the holder of the 50-year-old IP.

## **VI. The Solution: Open Access**

The alternative to capture is not "deregulation" in the sense of anarchy. It is "open access."

Open access means:

- **Permissionless Innovation:** The default rule is that you do not need a permit to try a new idea.
- **Sunset Clauses:** Regulations should expire unless re-authorised, preventing the accumulation of obsolete rules.
- **License Portability and Reduction:** Breaking the guild power by recognising that most service jobs do not require state permission.
- **Simple Rules:** Regulations should be simple enough that a business can comply without hiring a lobbyist or a specialised law firm.

The goal is to lower the cost of entry. When entry is cheap, incumbents must behave. If they gouge customers, a competitor appears. If they become lazy, a disruptor appears.

Competition does the work that regulators claim to do, but it does it faster, cheaper, and without the risk of capture.

## **VII. Conclusion: The Dangerous Life of the Open Market**

Adam Smith was right. The conspiracy against the public is real. But it is not a conspiracy of shadowy figures in a back room. It is a conspiracy of mundane hearings, zoning boards, licensing committees, and compliance officers. It is the conspiracy of the status quo against the disruption of the new.

To support the poor, the outsider, and the climber, one must be willing to tolerate the destruction of the established. We must stop protecting "jobs" (which often means protecting obsolete firms) and start protecting "work" (the right of anyone to offer value).

A pro-market system is hard on the rich because it forces them to compete. A pro-business system is kind to the rich because it lets them rest.

We have to choose which one we want.

### **The Lesson Line**

A system that confuses "pro-business" with "pro-market" ends up building moats for incumbents rather than ladders for the poor.

## **Chapter 18 Notes:**

