DAVIES AND MCCARL: How big business benefits from regulation

In the end consumers hit hardest

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When government enacts policies to micromanage our decision-making, it erodes our personal freedom. Yet that's not the whole story. It turns out that big business often loves regulation, because the regulations frequently end up applying only to small or disfavored businesses. Ultimately, more regulations simply mean more ways for big business to manipulate the law to shut out competition.

Consider transportation. At the behest of local taxi cartels, cities across the country have tried to regulate upstart Uber—a new, electronic car-hailing service—out of their markets. Uber's sin is to offer transportation that many customers consider superior to that of the existing cab industry. Chicago claims the company violates pricing disclosure and safety regulations. San Francisco claims the company violates insurance regulations. Boston and New York have issued cease-and-desist orders. Never mind that Uber's customers like the service so much that they willingly pay more to use Uber than to use city-sanctioned taxis.

New York City's sugary drink ban — originally set to go into effect Tuesday, but held up by state Supreme Court(/topics/supreme-court/) Justice Milton Tingling Jr.(/topics/milton-tingling-jr/) — offers another example. Mayor Bloomberg insists the ban will help to reduce obesity. That's not why large retailers love it, though. It turns out that the ban is good for big business. While it's illegal for the person running a hotdog cart to sell you a large Coke, the 7-11 next door can sell you a Big Gulp. Starbucks gets special treatment too, as the ban arbitrarily exempts certain drinks containing "milk and milk substitutes." Yet, the coffee chain's 20-oz peppermint white chocolate mocha (legal) contains almost 50 percent more sugar than a 20-oz Coke (illegal).

In the case of regulatory attacks against Uber, taxi cartels endure less competition while consumers face reduced transportation options. In the case of sugary drink prohibition, big chain retailers endure less competition while consumers face restrictions on where they can purchase soft drinks. This is crony regulation—using the law to protect favored industries from competition, usually at the consumer's expense.

Examples of crony regulation abound. Michigan bans smoking in all bars and restaurants, but exempts certain casinos. California prohibits small traditional farmers from weeding by hand, but gives organic farmers a free pass. The "Affordable Care Act" provides waivers to big corporations like Wal-Mart and McDonald's, who—unlike their smaller rivals—can afford to keep squadrons of lobbyists in Washington to suggest favorable tweaks to the law.

Regulations are written by the powerful—those with wealth, voice and access—in the back rooms of politics. Unfortunately, it is easier to communicate the goals of a law than it is to communicate what the law actually says, how it will actually work or whom it will actually affect. When we're told that the purpose of a certain regulation is to protect consumers, we tend to welcome the regulation. What regulatory proponents rarely tell us is who actually stands to benefit from the regulation.

So the next time some government official suggests a new regulation to "protect consumers," follow the money to see who really stands to benefit. Chances are it isn't the consumer.

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