Regulating the press [1]

Written by **Whig** [2] | Wednesday 20 March 2013

Libertarian regulation theory [3] shows us how state power, apparently used for benign purposes, ultimately results in the exploitation of consumers and the misallocation of resources. Of the two great threats to our economic progress and liberty - state spending and regulation - I would argue that it is regulation that is the greater threat.

State spending is often contested and its results are at least clear to see (although the fact that state spending in the UK is vast and growing should not be forgotten). Regulation, on the other hand, is a far more subtle threat and seems to gain approval across the political and public spectrum. The corporatist pseudo-markets created by regulation in banking, energy, rail and so on are decried as evidence of the failure of capitalism when they are anything but.

As we have a current example of new regulation, it is interesting to apply the theory and see what might be the result. Regulation* is often introduced when there is assumed to be a case of 'market failure'. Broadly, the impact of regulation is to create barriers to entry which protects existing market players and tends to promote consolidation within the industry. Small and more innovative firms, which would otherwise enter a market where large profits are to be made, are thus excluded. Existing players are thus able to dominate the market and drive up prices or prevent innovation. 'Government failure' is thus ignored but it is the consumer and the society at large which suffers.

In the case of Press regulation, many of these features may occur. We cannot call the print media a 'free market' but it is freer than, say, the broadcast media which is dominated by the BBC and bound by tight regulation on objectivity [4]. An instance of perceived 'market failure' in the form of phone hacking was used to justify regulation, ignoring the fact that phone hacking was illegal under existing laws. We can already see how regulation might drive out small players who are currently undermining the profits and market share of the established Press.

The position of small internet bloggers and innovative media news outlets is jeopardised - will the Pin Factory blog be forced to sign up to the press regulator? What influence would we have there? What if the new regulator imposed punitive fines on us?

In many markets, it is the large occupants who welcome regulation and - in fact - connive at its introduction. While they have to sacrifice some control to regulators, they are guaranteed a protected market share and healthy profits whilst avoiding the trouble of innovating against and out-competing small rivals. Further, large firms often have a 'revolving door' to regulators and are able to undertake expensive lobbying to further protect their positions.

Some portions of the Press are opposed to the new regulation, a condition which probably stems from an ideological position unique to this industry. However, it is clear that, under the system of state regulation, it is the large, extant players who would dominate the regulator and be in a position to use this power against potential rivals. In many industries, the emergence of corporatism would be unfortunate. In the case of the Press it threatens to be fatal to liberty.

**We must take care to distinguish 'regulation' from 'law'. Regulation is intervention designed to control the size and shape of a market, prices and quality. Law is (or ought to be) solely concerned with property rights.*

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