

[Beware of protectionism in regulation's clothing](#) [1]

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Ed Milliband's cheap soundbites on the banking crisis could prove very expensive for British taxpayers as wealth from London shifts to the US. Not only is the US the most litigious nation on earth but one has the impression that they see it as economic warfare. We cannot be sure but it is at least possible that US firms losing out in the competitive marketplace immediately, but confidentially, cry 'foul'. We should be alert to the dangers of firms using regulation as a form of protectionism.

Of course bribing the Saudis to sell warplanes (British Aerospace) and US doctors to sell drugs (GlaxoSmithKlein) is wrong, but ask yourself why, in highly competitive markets, they should be indulging in those expensive practices if their (US) competitors are not. Is there a possibility that the US suppliers were simply out-bribed? Bear it mind that they have to be a lot more careful as their boards loaded with lawyers as ours are not.

Following the BP catastrophe in the Gulf of Mexico, President Obama stoked up the compensation claims by stressing the word British in BP. He apologised later but the damage was done. So the US taxpayer makes up on fining foreigners what they lose in the marketplace.

Law-breaking individuals should certainly be prosecuted and penalised. At the same time it is clear that Barclays and the other banks involved were not corrupt as corporations. Even if senior executives knew of malpractice, the Boards certainly did not, still less the vast majority of employees.

Three quarters of the fines already levied on Barclays were by US regulators. There is a tsunami of other fines and damages in the course of being claimed by US regulators, state and city governments, e.g. Baltimore, and private individuals.

Fining by UK regulators is one thing. There is less of an incentive for the government to collude with firms to keep out certain groups of competitors. Penalties and fines transferring to the US is quite another matter and it needs to be balanced. And where are the British lawsuits against US interests? Would we even be allowed to hold such suits in British law courts as Pax Americana has tended to be weighted in their direction? Should corporations foot the bill for what a tiny minority of employees have done? Should actions be limited to those employees?

Politicians should be careful what they wish for. Yes, justice should prevail but it should be speedy and well balanced. We do not need a judicial enquiry because the consequence could well be the handing over of the UK's last successful sector, financial services, to the US and its lawyers, through protectionism under the guise of regulation.

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