# Regulatory and academic capture

By Will Baude, Washington Post | May 18, 2014

One of the great insights of University of Chicago economist George Stigler was the phenomenon of "regulatory capture," which predicted that under certain circumstances, government agencies designed to regulate a particular industry would be likely to end up serving that industry's interests at the expense of the public.

Much has been written about it since, but I recently came across this interesting article by another UChicago economist, Luigi Zingales, arguing that the phenomenon may apply to academics, too:

*When economists talk about regulatory capture, they do not imply that regulators are corrupt or lack integrity. In fact, if regulatory capture was just due to illegal behavior, it would be easier to fight. Regulatory capture is so pervasive precisely because it is driven by standard economic incentives, which push even the most well-intentioned regulators to cater to the interest of the regulated. These incentives are built in their positions. Regulators depend upon the regulated for much of the information they need to do their job properly. This dependency creates a need to cater to the information providers. The regulated are also the only real audience of the regulators, since taxpayers have all the incentives to remain ignorant. Hence, the regulators' on the job performance will be naturally defined with the regulated in mind, pushing the regulators to cater to the interest of the regulated. Finally, career incentives play a big role. The regulators human capital is highly industry specific and the best job for people holding that specific human capital are with the regulated. Hence, the desire to preserve future career options makes it difficult for the regulator not to cater to the regulated.*

*If these are the reasons why regulators are captured, it is not clear why economists are not captured as well. While not all data economists use are proprietary, access to proprietary data provides a unique advantage in a highly competitive academic market. To obtain those data academic economists have to develop a reputation to treat their sources nicely. Hence, their incentives to cater to industry or to the political authority that controls the data are similar to those of the regulators. Second, outside of academia the natural audience of their work is either business people or the government officials applying some of that knowledge. The popularity and support among business people or the government gives credibility to a piece of research and the person who did it. Even if no researcher purposefully caters to business or the government, this selection will ensure that the most popular and successful researchers will be those who cater to business or the government. Finally, academic human capital is highly specific. Opportunities in consulting and careers outside of academia are not equally distributed. Economists who cater to business interests clearly have a larger set of opportunities.*

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*In sum, economists face a pressure very similar to regulators, why shouldn't they be equally captured?*

I don't know whether the argument is actually correct, but it is at a minimum thought-provoking.

A related question is how much the same phenomenon may apply in legal academia. One of Zingales's complaints about capture in economics is the nature of the single-submission peer-review process, and he specifically says that publishing in legal academia appears to be less captured. But some of the other mechanisms do seem to apply to law professors, too, such as the desire to make money consulting and witnessing, the desire to ascend to government office, or the fact that conclusions that are congenial to the powerful are more likely to implemented by the government or other powerful entities.

Of course, for those who complain that legal scholarship is too disconnected from the real world, perhaps those incentives are good things, not bad things. And maybe in practice this simply doesn't happen, I don't know. Just a thought.