

Preventing Regulatory Capture

Special Interest Influence and How to Limit It

Edited by

DANIEL CARPENTER

Harvard University

DAVID A. MOSS

Harvard University



CAMBRIDGE
UNIVERSITY PRESS

Contents

<i>List of Figures</i>	<i>page</i> vii
<i>List of Tables</i>	ix
<i>Editors</i>	xi
<i>Contributors</i>	xiii
<i>Preface</i>	xxiii
<i>Acknowledgments</i>	xxvii
Introduction	1
<i>Daniel Carpenter and David A. Moss</i>	
SECTION I: FAILURES OF CAPTURE SCHOLARSHIP	23
1 A Revisionist History of Regulatory Capture	25
<i>William J. Novak</i>	
2 The Concept of Regulatory Capture: A Short, Inglorious History	49
<i>Richard A. Posner</i>	
3 Detecting and Measuring Capture	57
<i>Daniel Carpenter</i>	
SECTION II: NEW CONCEPTIONS OF CAPTURE – MECHANISMS AND OUTCOMES	69
4 Cultural Capture and the Financial Crisis	71
<i>James Kwak</i>	
5 Complexity, Capacity, and Capture	99
<i>Nolan McCarty</i>	
6 Preventing Economists' Capture	124
<i>Luigi Zingales</i>	

7	Corrosive Capture? The Dueling Forces of Autonomy and Industry Influence in FDA Pharmaceutical Regulation <i>Daniel Carpenter</i>	152
	SECTION III: REGULATORY CASE STUDIES	173
8	Capturing History: The Case of the Federal Radio Commission in 1927 <i>David A. Moss and Jonathan B. L. Decker</i>	176
9	Conditional Forbearance as an Alternative to Capture: Evidence From Coal Mine Safety Regulation <i>Sanford C. Gordon and Catherine Hafer</i>	208
10	Captured by Disaster? Reinterpreting Regulatory Behavior in the Shadow of the Gulf Oil Spill <i>Christopher Carrigan</i>	239
11	Reconsidering Agency Capture During Regulatory Policymaking <i>Susan Webb Yackee</i>	292
12	Coalitions, Autonomy, and Regulatory Bargains in Public Health Law <i>Mariano-Florentino Cuéllar</i>	326
	SECTION IV: THE POSSIBILITY OF PREVENTING CAPTURE	363
13	Preventing Capture Through Consumer Empowerment Programs: Some Evidence from Insurance Regulation <i>Daniel Schwarcz</i>	365
14	Courts and Regulatory Capture <i>M. Elizabeth Magill</i>	397
15	Can Executive Review Help Prevent Capture? <i>Michael A. Livermore and Richard L. Revesz</i>	420
	Conclusion: A Focus on Evidence and Prevention <i>David A. Moss and Daniel Carpenter</i>	451
	Afterword <i>Senator Sheldon Whitehouse and Jim Leach</i>	467
	Index	475