Iron Triangles

The term *iron triangle* has been used both by scholars and by muckraking popular writers to refer to the alignment of interests and actions among three key actors in public policy making in the United States: regulated industry or other special interests, the oversight committees in the legislature, and the regulatory agency or other bureaucracy. The typical outcome of this alignment is the production of both specific regulatory decisions and regulatory policies, including the regulations themselves, that tend to protect and promote the regulated industry. For example, in recent years, critics of the U.S. Food and Drug Administration have argued that pharmaceutical companies, with the support of Congress, have had undue influence in the decisions of the FDA, resulting in the marketing of drugs whose sometimes dangerous side-effects have not been tracked by the FDA or reported in a timely way by the companies.

Sometimes the role of the regulatory agency is played by a public bureaucracy that has the ability to make decisions and/or resource allocations that are important to the industry. For example, the so-called *military-industrial complex* may be seen as an iron triangle among oversight committees in Congress, the Defense Department or particular branches of the military, and components of the defense industry. The term “military-industrial complex” was introduced in President Dwight Eisenhower’s Farewell Radio and Television Address to the American People on January 17, 1961. The speech was written by the political scientist Malcolm Moos. In the speech, Eisenhower warned that “In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.”

Concern over the ill effects of the undue influence of private power was not new at the time of Eisenhower’s speech. This theme was common, for example, in Populist complaints in the nineteenth century, New Deal era criticisms of business, and the work of critical economists and political scientists of the mid-twentieth century such as Horace Gray and Grant McConnell. Political scientists of that era, such as Merle Fainsod, Samuel Huntington, and Marver Bernstein, and, later, scholars such as Edwin Epstein, began to develop models linking the efforts of interest groups with the institutional structures in government that they sought to influence.

Bernstein's life cycle model is perhaps the best known. In it he argued that a regulatory agency follows a path of maturation, from aggressive regulation supported by the activist interest groups instrumental in the agency's creation as a response to a social or economic problem, to an old age in which those groups no longer provide active support, and are replaced by the regulated industry. Over time, via repeated interactions in which the agency adjusts to the positive and negative pressures coming from the industry, the industry "captures" the regulatory process. Congress either gives little attention to the agency, or provides oversight that responds to the industry's interests.

Core Logic of the Iron Triangle

The classic iron triangle is structured by the incentives that flow among its actors, as well as the opportunities provided by the institutions that populate the system. The same basic logic applies at any level of government, with appropriate adaptations of the argument. The core logic is described by Roger Noll and by Barry Mitnick, among others: The regulated industry is a significant economic actor in the constituencies of a set of legislators. Because the legislators desire to be reelected, and because they need the votes of constituents as well as funds to pay campaign expenses, they are sensitive to the requests of the industry. The industry can influence votes via its own employees and the dependence of the constituency on the economic success of the industry. In addition, either via its political action committee(s), or via allies, the industry can steer important resources to the elected politicians to aid in their campaigns. As a service to their district, and to promote their reelection, legislators seek to serve on committees of oversight that handle the most significant industries in their districts. Thus, legislators on such committees are predisposed to listen to the policy communications that come from such industry in their districts. The legislators are able to originate legislation that promotes the industry (and to stop legislation that is hostile to it); they are gatekeepers for the industry. Although they may not have a direct role in appropriations, they may be able to influence the funds that go to support activities in the industry, whether through authorizations or through quid-pro-quos (e.g., vote trades) with legislators who do serve on appropriations committees.

FIGURE: IRON TRIANGLES & JELLY HEXAGONS ABOUT HERE

The regulatory agency receives a budget from the legislature. The size of that budget is influenced by perceptions of the agency's performance, holding the existence of any pending social or economic problems in the area constant. Poorly performing agencies are likely to receive less. For example, criticisms of the Interstate Commerce Commission's performance made Congress reluctant to appropriate funds for it in the years before its termination and replacement by the Surface Transportation Board, a smaller agency. The actual performance of an agency is difficult to measure, and perceptions of its performance are influenced by reports of the media and, especially, by complaints from the regulated industry that go to the legislators on the oversight committees. Thus, the agency is motivated to defend its budget by reducing complaints in the media and from the industry.

Oversight hearings in regulation do not attract much attention unless they deal with a pressing social or economic issue, and are often perfunctory in character. Officials in the agency also prefer them to be this way because it is usually only poor performance, such as a social or economic issue that the agency has failed to deal with adequately, generating wide popular discontent, that produces more elaborated, media-rich hearings. Agency officials who testify at such hearings are invariably held up for scorn in the media, and sharply criticized by legislators responding to constituent complaints. This threatens their existing jobs, as well as making their prospects of a remunerative position after government service less likely. Thus, agency officials are led to anticipate the desires of the legislators on the oversight committee, consulting with them on an informal basis, and adjusting the actions of the agency to be responsive to them. Agency officials also know that they will be responsible for implementing new legislation that is assigned to their agency, and may have to write regulations to fill in the areas of discretion that the usually vague laws leave for them. They will want to do this in a way that satisfies the legislators.

Most areas of regulation deal with arcane, highly-technical issues specific to the industries being regulated. Regulators must become familiar with these issues, and must acquire the professional expertise on which regulation in the area is based. To satisfy the demands of the administrative process, which in the United States Federal Government is based in the Administrative Procedures Act of 1946 and its amending legislation, there is a high demand for submission of what is termed “substantial evidence” to create a record that allegedly supports the decision-making process in the regulatory agency. Often, the best and easiest source of such information is the regulated industry. Because the industry often controls the supply of information essential to the regulatory process, regulators become dependent on it. Of course, they see information that is structured to make the industry’s case. In addition, personal relationships grow around the many contacts necessary to conduct the regulation. Regulators come to see executives in the industry as people with the same issues as anyone else trying to make it in business, rather than as adversaries trying to dupe them into granting favorable rules and decisions. Because few others than the industry itself actively follow the regulatory process, regulators find that they receive continual respect and even prestige from the industry in their roles as industry regulators. No one else seems to care.

Appointments to the top positions in the agencies are often determined by Presidential staff members (or, at other levels of government, by the staffs of the chief executive at that level); the President may not even meet the appointees. There is little public attention to the appointments, though the industry pays close attention and seeks to influence appointments. Usually, regulatory appointments are people who are at least not hostile to the industry, and for whom confirmation by the U.S. Senate is likely because legislators perceive that their constituencies will take no issue with the appointments. Legislators from districts/states where the industry is important are likely to put holds on nominations of prospective regulators opposed by industry in their constituencies. Thus, new top regulators are usually not committed to regulating against the fundamental interests of the industry they regulate.

Finally, after making a personal investment in knowledge of the industry and its areas of professional expertise, regulators look for ways to cash in this knowledge and expertise once they leave the agency. The data show that top regulators, such as independent regulatory commissioners, and top administrators in single-headed bodies, do not on average stay their entire terms of appointment, nor do they even stay for an entire Presidential administration, if the setting is the U.S. Government. Thus, these regulators are frequently looking for their next job. The one place that is sure to have an interest in employing them, as long as they have not acquired a reputation for poor personal performance as a result of adverse public hearings, is the regulated industry. The regulated industry will even hire regulators who have been more aggressive in dealing with them, because of their expertise both in the industry and in the conduct of such regulation.

In their classic 1970 muckraking study of the Interstate Commerce Commission, Robert Fellmeth and associates found that nine of the last eleven commissioners to have left the Commission at the time of the study had gone to work in the regulated industry or as lawyers representing it. The other two commissioners simply retired. The traffic between government and the private sector and back again has even acquired the name "the revolving door." It is not uncommon for all three actors in the triangle to take part in this, with top Congressional staff members, often attorneys, appointed to top regulatory positions as a reward for service to Congressional leaders, and to see them later rotate out to industry or to Washington law and lobbying firms that represent the industry. Often, regulators have held other jobs in government, and rotate to the regulatory body from or to a government job. Of the five members of the Federal Communications Commission in 2006, three were attorneys; two were former Congressional staff members; one was an industry lobbyist whose duties involved advocacy to Congress; four of the five had had jobs elsewhere in government before their appointments to the FCC, and the fifth had extensive experience in politics.

Especially in past decades, the most common profession of a top Federal regulator was the law. This is a highly fungible profession, of course, but what it allows regulators to do is to move to Washington law firms or, sometimes, lobbying firms, after their service, and provide legal services to the industry they lately regulated. Conflict-of-interest laws are not difficult to end run in this regard. As long as the former regulator is not the attorney of record in representations before the agency, s/he can still provide consulting services to industry clients during the period of exclusion under these laws, and to his or her own law firm colleagues at any time. Having relied on the industry for information, received respect and prestige from the industry, gotten to know people in the industry as reasonable, credible folks, and seeing the opportunity of future employment in or dealing with the industry, regulators in this iron triangle find that, over time, their decisions as regulators tend to favor the industry.

Thus, going around the triangle, we end up with legislators who take actions in the industry's interests, as well as regulators who do the same. The industry gets what benefits it.

The structure of the triangle is remarkably stable, as long as the incentives stay the same, and no new actors enter to confuse the flow of such incentives.

This rational choice model of the iron triangle assumes that regulators are often self-interested, or become so after being exposed to the incentive system in which they are embedded. Yet the model itself is overly simplistic. It is not hard to find cases of regulators, both historical and of more recent service, who viewed their roles as being stewards for the public interest, and/or of arbitrators of how the public interest should be pursued in the area being regulated. In addition, regulators who are civil servants, i.e., below the appointed levels, are often highly professional in orientation, especially in areas requiring technical expertise. They see their roles more as implementers and problem-solvers, rather than as de facto servants of the industry. In some historical contexts, belief in the desirability of a regulation that in practice protected the industry has been joined with dedicated service to the public. One example is Joseph Eastman, the long-time chairman of the Interstate Commerce Commission in the 1920s and 1930s. For him, any suggestion that his selfless dedication to the goals of transportation regulation represented protection of the modes in that industry (railroad, trucks, barges) against competition with one another – a conclusion reached by modern economists -- would have seemed insulting.

Yet one cannot dispute that iron triangles were and are real, and are actively maintained and defended by the industry, political, and bureaucratic actors who run them. Iron triangles were very common in U.S. regulation before the last decades of the 20th century, and remain active in a number of regulated areas today. For example, those in agriculture, such as navel oranges, are particularly protective of the industry.

Beginning in the early 1970s, however, the public interest movement began to supply counter pressures that often cracked and even rusted the triangles away completely in some issue areas. For example, muckraking work by Fellmeth and associates revealed an Interstate Commerce Commission whose rate-setting policies protected each of three modes of transportation, railroads, trucking, and barges, against competition. Such citizen groups, often founded in the early years as a result of the entrepreneurship of Ralph Nader, provided an alternative source of information about the industry, both to the legislature and to the regulatory agencies.

In addition, beginning in the late 1960s, the operative standards for judicial review changed, with appeals courts in the U.S. much more willing to provide reviews of the substance of agency decisions – whether, for example, the substantial evidence collected by the agency actually supported the decisions made by the agency -- rather than of only whether they followed their procedures. Finally, in a few high-profile cases, the President actually became involved, either in agency decisions or in agency appointments as a result of notable agency failures (e.g., the bribery case at the EPA during President Reagan's administration). All these things raise doubts as to whether the triangle will function as described above, with guaranteed benefits to the industry.

With three additional actors (courts, public interest groups, the appointing executive), the iron triangle becomes a hexagon. Mitnick terms this a "jelly hexagon," because the outcome – benefit to the regulated industry – is no longer certain. Indeed, the common structure of policy making today among many such interest areas has been termed an "issue network" by Hugh Heclo; it is also called a "policy subgovernment." In such a system of policy making, the set of people participating is often remarkably stable – they are often leaders of interest groups, industry lobbyists, and legislators who are reelected almost indefinitely, together with their key staff members. Hence policy making takes on the character of an iterated game, in which actors stake out positions in policy space, look for allies, and seek to build support. The outcomes can rotate as now one, and now another,r of the interests emerge triumphant on any given issue. Interest groups in such systems often act in concert, creating what Paul Sabatier calls “advocacy coalitions.” Indeed, as early as the mid-1970s, Jeffrey Berry in his classic study of public interest groups found extensive use of coalitions in advocacy.

Critics of policy making in federal and state governments raise questions about the ethical character of any government that seems to exist only to steer benefits to an industry, without some general debate about whether such benefits truly serve the public interest. Even governance by a policy subgovernment, that in effect negotiates the terms of new laws and regulations, constitutes an essentially undemocratic system. Here we see that the agents who act as representatives of different interests, both those of industry and those of assertively “public” character, and who thus determine the content of our laws, are only partly those agents who are elected by the people. In such a government, critics see the claim of democracy as little more than a convenient myth that brings stability and helps establish the institutional rules within which the actual work of interest representation and of regulation occurs.

Barry M. Mitnick

See also Administrative Procedures Act, Corporate Political Advocacy, Interest Groups, Interstate Commerce Commission, Rational Choice Theory, Regulation and Regulatory Agencies, Revolving Door, Trade Associations.

Further Readings and References

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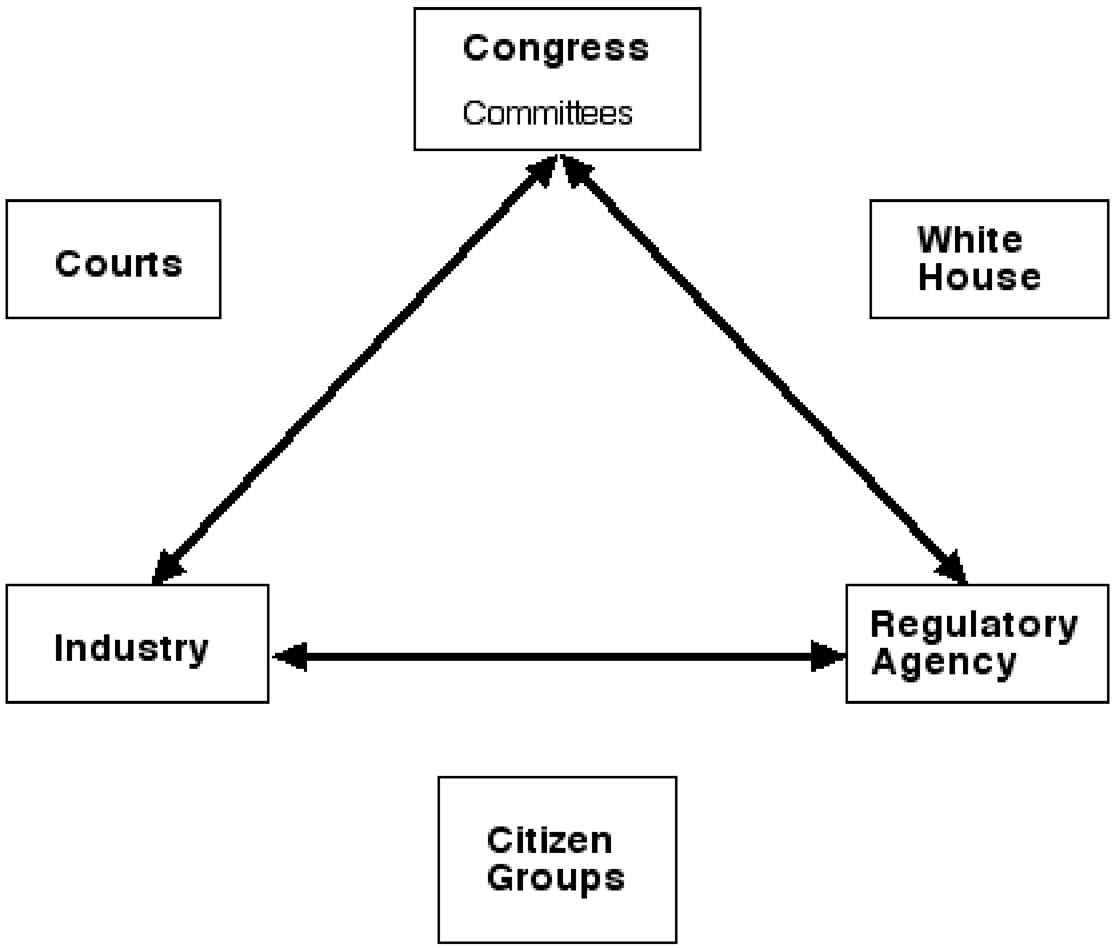
IRON TRIANGLES
& Jelly Hexagons



A description of the relationships within the triangle, as well as the relationships among the six actors in the policy subgovernment -- the "jelly hexagon" -- appears in the entry for Iron Triangles.