

Occupational Licensing and the Internet: Issues for Policy Makers *

For the Federal Trade Commission Hearings on “Possible
Anticompetitive Efforts to Restrict Competition on the Internet”

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Introduction

During the past 60 years there has been a significant increase in the number of occupations that are licensed and in the percentage of the workforce that requires a license. Now in the U.S. there are more than 500 occupations that are licensed in at least one state and more than 18 percent of the workforce requires a license in order to legally do certain types of work. To illustrate the importance of the issue, a higher percentage of workers are licensed than belong to a union or are directly impacted by the federal minimum wage (Kleiner, 2000). Occupational licensing is defined as a process where entry into an occupation requires the permission of the government, and the state requires some demonstration of a minimum degree of competency (Kleiner, 2000). Generally, members of the occupation dominate the licensing boards. The agency usually is self-supporting through the collection of fees and registration charges from persons in the licensed occupations. In many states, provisions are established that require that a licensed practitioner be present when a service is provided or when a product is dispensed. For example, in some states, opticians must be present when contact lenses are dispensed (Atkinson and Wilhelm, 2001). Other states prohibit electronic prescription transmission (Atkinson and Wilhelm, 2001).

In contrast, certification permits any person to perform the relevant tasks, but the government agency administers an examination and certifies those who have passed and the level of skill or knowledge (Rottenberg, 1980). Consumers of the product or service can then choose whether to hire a certified worker. For example, travel agents and mechanics are generally certified, but not licensed. In the case of occupational licensing, it is illegal for anyone without a license to perform the task.

What Does Licensing Do?

The table shows findings from mostly academic studies on the economic costs and benefits of licensing on consumers and on the impact of licensing on the individuals in the occupations. The upper portions of the table show the costs of licensing to consumers of various regulatory practices associated with licensing. For example, the average cost of an eye exam and eyeglass prescription is 35 percent higher in cities with restrictive commercial practices for optometrists (Bond, Kwoka, Phelan and Whitten, 1980). Also, 11 of 12 common dental procedures are more expensive in states with more restrictive licensing (Shepard, 1978). For persons in the regulated occupations, mobility among states is significantly reduced in states with tougher standards (Kleiner, Gay, Greene, 1982). However, for many other occupations, like barbers and cosmetologists, the economic effects of licensing are negligible.

The bottom section of the table shows estimates of the potential benefits of occupational regulation to consumers and practitioners. One study, completed in the 1960s, on dentistry shows that tougher restrictions improve the quality of care (Holen, 1968). Other studies on the state licensing of

public school teachers suggest that there is no adverse impact of tougher licensing laws on the test scores of public school students (Kleiner and Petree, 1988).

Several studies show that the impact of licensing on the earnings of licensed individuals is positive. Although some of the estimates show no impact of occupational regulation on earnings, most show either a modest effect or in one case an impact greater than 10 percent (Tenn, 2000). The impact of the state regulation of occupations is greater among more educated and higher income occupations. For example, the impact on earnings of relatively tougher state statutes for lawyers and dentists is greater than for low wage occupations such as cosmetologists (Kleiner, 2000). Further, if an occupation, like physicians, is able to limit the number of competitors, like alternative medicine providers, they are able to increase their earnings (Anderson, Halcoussis, Johnston and Lowenberg, 2000). In occupations where there is greater political or economic power by the members of the profession in a state, they are able to obtain licensing provisions for their members and eventually economic rents (Wheelen, 1998).

The Internet and Occupational Licensing

The economic advantages of the internet are known and have been well documented (Gordon, 2000, Brown and Goolsbee, 2002). The ability of the internet to reduce search costs for products and services has led to the growth of new firms and the expansion of existing firms into the internet. In addition, the ability to gather information on prices and quality is easier through the internet than through traditional sources. This leads to more efficient transactions. Moreover, conducting business on the internet reduces transactions costs. Rather than having intermediaries, consumers and suppliers can interact directly. Occupational licensing may have a particular impact on this second advantage, which is unique to the internet.

For example, individuals who purchase insurance through the internet have up to a 5 percent reduction in their prices (Brown and Goolsbee, 2002). Selling homes on the internet can reduce the fees of licensed agent commissions by more than half (Atkinson and Wilhelm, 2001). Although there are not a huge number of studies documenting the impact of internet transactions, they generally show some savings to consumers. Overall, the internet substantially reduces both search costs and transactions costs and makes product and service markets more economically efficient.

Provisions in state licensing laws may restrict many of the benefits to commerce provided by the internet. For example, obtaining contact lenses in Connecticut requires the supervision of “a licensed optician and in a registered optical establishment, office, or store.”(FTC, March 27, 2002). These state licensing provisions limit the ability of consumers to take advantage of the economic benefits of internet transactions. To the extent that other services such as dentistry, medical devices and pharmacy-related products have similar state occupational licensing-related restrictions, this may limit the ability of consumers to purchase products which have the lowest cost relative to quality.

Questions a Policy Maker Should Ask

The benefits to public health and safety and service quality provided by occupational licensing needs to be weighed against the costs that licensing imposes on consumers through impeded internet transactions. For policy makers several key questions may help in deciding which state laws provide greater protections and benefits from regulation relative to their costs. Policy makers at the FTC and state regulators should ask themselves and advocates for the occupations certain questions about the impact that state occupational regulation may have on consumers and practitioners.

Some of the questions policy makers should ask regarding the licensing and the internet are focused on the potential costs and benefits of the laws and practices. These include the following:

Are the state occupational licensing laws reducing the price and quality benefits of internet transactions?

Do these restrictions benefit consumers by protecting product quality?

Is the competency of the service enhanced through licensing? Do low income individuals lose relative to higher income ones?

Are there unintended consequences to others such as the spread of disease of unrestricted internet commerce relative to the protections offered by licensing?

Are the Federal requirements usurping what states view as the optimal amount of regulation in their jurisdictions?

How should different or competing state statutes that impact the internet be treated?

What is the enforcement mechanism to monitor and to impose the appropriate costs to individuals who choose to potentially violate the state statutes governing occupational licensing requirements?

In summary, although these questions do not deal with all the legal or economic questions posed by the technology and commerce value of the internet, it should help focus on both the commercial and public safety aspects of the use of internet commerce.

TABLE
Studies on Costs and Benefits of Licensing

<i>COSTS</i>			
	<i>Study</i>	<i>Profession</i>	<i>Finding</i>
Consumers	Shepard (1978)	Dentists	11 of 12 common procedures are more expensive in states with more restrictive licensing.
	Bond, Kwoka, Phelan, and Whitten (1980)	Optometrists	Average eye exam and eyeglass prescription is 35 percent more expensive in cities with restrictive commercial practices for optometrists.
	Carroll and Gaston (1981)	7 Licensed Occupations	Although licensing increases the quality of individual practitioners, it lowers the quality of services received by lowering the total stock of practitioners.
	FTC Declaratory Ruling Concerning the Sale of Contact Lenses (2002)	Opticians	The average price of a six-lens multipack purchased via mail order was 19 percent less than the average price for lenses purchased from ophthalmologists, optometrists, and optical chains.
Practitioners	Pashigian (1980)	Licensed Occupations	The most pronounced effect of licensing is the reduced interstate mobility of members in licensed occupations. Restrictions on the use of reciprocity reduce interstate mobility still more.
	Kleiner, Gay and Greene (1982)	14 Licensed Occupations	Licensing acts as a barrier to mobility, causing a misallocation of labor resources across states. A system of universal endorsement would increase gross immigration of the identified practitioners by over 60 percent.
<i>BENEFITS</i>			
	<i>Study</i>	<i>Profession</i>	<i>Finding</i>
Consumers	Holen (1978)	Dentists	Licensing reduces the likelihood of adverse outcomes, and increases the quality of care.
	Shapiro (1986)	Licensed Occupations	Licensing benefits the segment of consumers that values quality highly.
	Kleiner and Petree (1988)	Teachers	Licensing has no impact on teacher pay and uncertain effects on student achievement scores.
	Kleiner and Kudrle (2000)	Dentists	Tougher licensing has no effect on quality of outputs.
Practitioners	Thornton (1979)	Barbers	Licensing of barbers has little impact on the number of individuals entering the trade.
	Anderson, Halcoussis, Johnston, and Lowenberg (2000)	Physicians and alternative medicine practitioners	Physicians in states with stricter regulations on alternative medicine earn significantly higher incomes.
	Kleiner (2000)	4 Licensed Occupations	Earnings are higher for licensed occupations that require more education and training relative to comparable unlicensed occupations.
	Kleiner and Kudrle (2000)	Dentists	Practitioners in the most regulated states earn 12% more than those in the least regulated states.
	Tenn (2000)	Lawyers	Low rates of interstate immigration and outmigration, a common effect of licensing, is associated with high wages.

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