



The Mirage of Free-Market Roads

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If you're driving through certain West African countries, you'll be [stopped every few miles](#) by armed men--often in police uniforms--who will demand payment in exchange for letting you pass.

I have a somewhat similar experience every time I drive from my home in Philadelphia to Washington, DC. As I'm driving up Interstate 95, I'll periodically be stopped by people in uniforms (thankfully not armed) who will demand money in exchange for letting me through.

Obviously, there are important differences between these cases. In Africa, the roadblocks are mostly illegal and the payments are generally described as "bribes." In the United States, the practice is known as "collecting tolls" and is government-sanctioned. While no single payment in Africa is prohibitively expensive, the accumulation of charges over a long trip sometimes exceeds the value of the cargo being transported, stifling the flow of goods across Africa. In contrast, tolls in the US are mostly low enough to avoid significantly hampering trade.

These two stories illustrate two different ways to think about tolls. One way is as a "user fee" to cover the cost of constructing the road. The other is as a tax on mobility. There's no clear line between the two, but as tolls go up, they begin to look less like a user fee and more like a tax.

The dual character of tolls has important implications for the current debate over road privatization. A variety of metropolitan areas have undertaken ambitious projects to allow private firms to build and/or operate either entire roads or individual lanes, charging motorists tolls to use the land. This trend has been particularly cheered on by libertarians, who see it as a step toward a more general free market in roads.

While I'm generally sympathetic to the idea of privately-managed roads, I've become convinced that the broader vision of "free-market roads" is a conceptual confusion. In the abstract, the idea of competing, privately-owned roads has a lot of appeal. But the more I think about it, the less sense it makes. Roads are deeply intertwined with governments. They always have been and as far as I can see they always will be. This means that they'll never be truly private in the sense that other private companies like restaurants or shoe factors can be.

Assembling the land needed for a long-distance road is prohibitively expensive without government assistance. Unsurprisingly, private roads almost never come into existence without extensive government assistance. And that means that the profitability of a "private" road depends crucially on how many competing roads the government allows to exist.

It's unsurprising, then, that real-world privatization schemes are often explicitly protectionist. A 2004 GAO survey [found](#) that four of the five privately-funded toll road projects started or completed in the preceding 15 years included non-compete clauses that restricted the creation of competing freeways nearby. It's much easier to turn a profit when would-be competitors are barred from entering the market.

Supporters of free-market roads point to the experience of the United States and Great Britain in the 18th and 19th centuries as the golden age of private roads, but those roads were only private in a limited sense. This history is detailed in [Street Smart](#), an edited collection published by the libertarian Independent Institute. Daniel Klein and John Majewski write that in the United States, "turnpikes were encouraged by government, sometimes by granting of existing trails or public roadbeds to turnpikes, sometimes guarantees against new parallel routes, and typically the granting of eminent domain powers." They write that they "cannot say" whether these privileges were important to the success of these turnpikes.

The basic pattern seems to have been the same for British toll roads. Most toll roads replaced previously-existing public roads; the book doesn't say if the new roads were built with eminent domain or other government privileges. Indeed, after thumbing through the entire 500-page book, I didn't find a single example of a country, now or in the past, where most roads were built using ordinary market transactions. The vast majority of "private" roads, around the world and throughout history, came into existence thanks to direct government assistance.

When a formerly-public road is privatized, the public loses the freedom to travel along a particular route that it previously enjoyed. This is true even when new roads are assembled using eminent domain. The Fifth Amendment specifies that property taken by eminent domain must be put to a "public use." So the public has a greater stake in even most privately-constructed roads than they would for an ordinary private structure. That means that even when they're collected by a nominally private company, tolls are partly a tax on freedom of movement.

To be clear, this isn't to say libertarians should oppose road privatization. To the contrary, private road management can be an excellent way to bring private capital and technical expertise to the provision of a public service. But it is to say that private road operators should be viewed as providing a service to the government, rather than operating an ordinary private business. The public has a right to freedom of movement along public roads, and this right can't be extinguished by transferring physical control of the road to a private firm. And libertarians should demand that private operators of public roads follow the same basic principles--non-discrimination, tolls not greatly exceeding the cost of building and operating the roads--that we'd apply if the government were operating those roads itself.