EducationNext

Trains, Planes, and ESAs

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November 3, 2016

On May 10, 1869, rail workers drove a golden spike into the ground of Promontory Point, Utah. They were celebrating the joining of the Union Pacific and Central Pacific lines, which created America's first transcontinental railroad.

Soon after, there were four transcontinental lines, and by 1890, over 125,000 miles of track, and more than 1,000 different railroads blanketed the United States, transporting passengers to even the most remote towns, from coast to coast. No other country in the world was as connected with as many miles of track. Competition was fierce, and as a result, ticket prices for passengers were cheap and freight rates were low.

Yet, as Nobel Prize-winning economist Milton Friedman and Rose Friedman explained in *Free to Choose*, "the railroads were the major enterprises of the day. Highly visible, highly competitive, linked with Wall Street and the financial East, they were a steady source of stories of financial manipulation and skullduggery in high places."

They were targeted by farmers, populists, and those who believed they had too much political influence. These groups urged regulation of the sector.

As a result, the Interstate Commerce Commission (ICC) was established in 1887 ostensibly in order to regulate the rail industry in a manner that protected consumers. And notably, the railroad industry itself supported regulating the railroads.

"As the campaign against the railroads mounted, some farsighted railroad men recognized that they could turn it to their advantage, that they could use the federal government to enforce their price-fixing and market-sharing agreements and to protect themselves from state and local governments," the Friedman's note.

The Commission's power grew over the years, as did its micromanagement of the railroad industry. But the ICC largely stayed on good terms with the railroad industry, as ICC bureaucrats who hoped to have high paying future careers with the railroads remained cozy. Regulatory capture set in. Rail executives leveraged ICC regulations to grow their power over the sector and to squash competition.

Yet as the saying goes, the market always finds a way. Despite the rail industry's efforts to prevent new entrants into the market, 1920 ushered-in a major challenge to rail's hegemony. Trucks that could haul freight long distances emerged on the scene. As the Friedmans explain:

"The artificially high freight rates maintained by the ICC for railroads enabled the trucking industry to grow by leaps and bounds. It was unregulated and highly competitive. Anybody with enough capital to buy a truck could go into the business. The principle argument used against the railroads in the campaign for government regulation – that they were monopolies that had to be controlled to keep them from exploiting the public – had no validity whatsoever for trucking."

The ICC then got jurisdiction over trucking, "to protect the railroads, not the consumer." This cycle – repeated in other industries throughout the 20th century – is what the Friedmans called "the natural history of government intervention."

"A real or fancied evil leads to demands to do something about it…In the end, the effects are precisely the opposite of the objections of the reformers and generally do not even achieve the objections of the special interests."

For the rail industry, this cycle of regulation, along with government policies that provided subsidies to other modes of transportation, ultimately stifled innovation. Americans went from having access to more than 1,000 passenger railroads in 1890 to just one *inter-city*, national rail system – Amtrak (National Railroad Passenger Corporation) – a system limited in scope and expensive for both riders and taxpayers.

It's a regulatory cycle that affects many industries, education being no exception.

An industry is regulated to protect consumers from some perceived ill. Regulatory capture sets in and is leveraged by the regulated to hedge against new market entrants. The bureaucracy eventually becomes overly burdensome, even for those who can navigate the system. Innovation is stifled.

As with rail, the history of public education in the United States has followed a similar path, from a diverse network of academies to a highly regulated system of government-run schools.

Common Schools – The "Rail Industry" of K-12 Education

For roughly the first two centuries of the American experiment, education was a quintessentially local endeavor. The Colonial Act of 1647, also known as the Old Deluder Satan law, mandated that every town with more than fifty households would hire a teacher, and once a town had more than 100 families, a grammar school would have to be established. In this case, formalized schools served to ensure a shared mission and to act as stabilizers, conserving and maintaining order in the budding community. Academies quickly spread throughout New England in the years following the American Revolution. If the goal of education in the colonies was preservation, the goal of education in the New World was to solidify a common culture and social order.

Like the rail industry, elementary education in the United States in the 1800s was diverse and largely privately provided. Churches and voluntary associations taught reading and dealt with education matters geared toward assimilation. Increasingly, however, advocates of greater state provision and direction of education became more vocal in their opinion that "popular education could not be left to chance to voluntary associations." In 1837 the Massachusetts legislature established the state Board of Education "to give state direction to popular education."

Changes to the nature of work from agrarian to factory during the mid-19th century, combined with westward expansion, further encouraged a fragmented system of academies to give way to widespread public schooling. Formalized education grew increasingly sophisticated throughout the 19th century with the growth of the Common Schools movement—proto-public schools—designed to teach all children in the same "common" schoolhouse.

As with rail, what began as an effort to regulate and make universal elementary education through the Common School movement eventually translated into the Common School leaders leveraging the system to block competitors to the government funded model, in this case, Parochial schools. During the 1880s until 1890, James G. Blaine, a U. S. Senator from Maine, would launch a concerted effort against funding for Catholic schools. Stocking fear over Catholic immigration to the U.S., and seeking a presidential nomination, Blaine worked to amend the U.S. Constitution barring any such funding for religious schools – notwithstanding the fact that the Common Schools had a distinctly Protestant ethic themselves. The measure failed to secure the two-thirds support it needed in the Senate to pass, and failed to be codified as a constitutional amendment. By 1890, however, 29 states would have language mirroring what became known as "Blaine amendment" language in their state constitutions, preventing "public" funding of religious institutions, including schools.

The Common School Era eventually gave way to the Progressive Era, and what would be recognized today as a system of public schools. The Progressive school era included the introduction of compulsory education laws, with every state compelling students to attend school from either age five, six, or seven until they are 16, 17, or 18, depending on the state.

The public education system today is one in which schools are publicly funded, students are largely assigned to them based on their parents' Zip code, and they are compelled to attend. Most states employ residential assignment policies that dictate where a child attends school based on geographic boundary. Public funding then flow to those institutions based on student counts and other factors. Moreover, public education and the bureaucracy that insulates it from competition uses existing regulations to block new entrants into the market:

• Parents who would prefer private options must pay twice because public funding automatically flows to government run institutions, instead of to families.

• Assignment by Zip-code policies relegate students to the nearest public school, regardless of students' needs or the quality of the school.

• Organized labor, such as teachers' union leadership, often actively works to oppose school choice efforts, seeing choice as an existential threat to their power.

What's more, public schools are the established product, enjoying a 150-year-old normative idea of schooling. When school choice programs are created, regulations are too often imposed that mimic the existing public education system, limiting diversity of school and provider supply (consider state testing mandates, teacher certification requirements, and so on).

But despite attempts to over-regulate, choice is beginning to flourish. Just as the Friedmans explained of the freight trucking industry, that it was "highly competitive" and that "anybody with enough capital to buy a truck could go into the business," public K-12 education now faces a similar disruption, thanks in large part to nearly universal access to the internet and the introduction of parent-centered, publicly funded education savings accounts (ESAs).

Any parent with access to an ESA can pay for private school tuition, hire a private tutor, purchase online courses and other education products. It's a level of education customization that we would have once been considered the option of only to the most wealthy. Yet today, in states like Arizona, Florida, and Mississippi (with two others, Tennessee and Nevada moving toward implementation and funding strategies) families are able to access exactly that type of tailor-made education for their children. Not only is that great for families, but it holds the potential to usher-in much needed innovation in education.

Anyone who has followed the introduction and ascendency of Uber – or, better yet, experienced their services – likely understands the impact the ridesharing service has had on the taxi industry. As the Cato Institute's Jason Bedrick and I have written:

Before the advent of Uber (and similar upstarts like Lyft), competition between taxi companies occurred only within the rigid structure of bureaucratic taxi fiefdoms. Uber brought competition of a new kind: competition on the delivery model of transportation services, enabling riders to match drivers effortlessly, and allowing drivers to decide whether to return the favor by picking up a prospective rider.

ESAs create competition on the delivery model of education services in the same way Uber has brought competition on the delivery model of transportation services. However, in order to achieve long-term success, policymakers and advocates of education reform must avoid the cycle of regulation, identified by the Friedmans, that has stifled so many industries, including education. From limitations on who can participate to state testing mandates, regulations restrict supply and narrow the choices available to families.

Separate, as Friedman argued, the financing of education from the delivery of services. And do so through ESAs – the operationalization of Friedman's "partial voucher" idea he put forward in an Education*Next* interview in 2003. Empower parents with the most granular level of choice, enabling them to choose the treatment that works best for their children, and empowering them with the ability to choose something else – *immediately*– if a provider isn't meeting their needs. And then sit back, relax, and watch a long-overdue, nimble, and responsive market develop that brings education up to speed with the 21st century.