



Regulatory Robbery: Dentists lobby to stop beauticians from whitening customers' teeth

By Timothy P. Carney
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Regulation is a tool incumbent businesses use to stifle competition. George Leef has a good story at Forbes:

Among the many cosmetic services Americans enjoy is teeth whitening. Do-it-yourself kits can be purchased for home use, but some people prefer having the whitening done by beauticians. Who do you suppose finds that unacceptable?

Smile and say, “dentists.”

Not all dentists, of course, but the North Carolina Board of Dental Examiners decided to act on behalf of those who do. Since 2003, the Board has been issuing cease and desist orders to beauty shops or any other business that offered teeth whitening services. The legal basis for such orders is that the “practice of dentistry” is restricted to licensed dentists and the Board decided that teeth whitening falls within that practice. Unless you’re a licensed dentist, you must stop.

Complaints against the unlicensed teeth whiteners came, of course, entirely from dentists, not from customers who paid for the “unauthorized” services.

The happy part of the story: The Federal Trade Commission has intervened in the case, pegging the regulators' efforts as anti-competitive. In the case of *North Carolina Board of Dental Examiners v. FTC*, the Pacific Legal Foundation and the libertarian Cato Institute have jointly filed an amicus curiae brief.

This is the best passage:

the state’s sovereign power is an essential tool by which private actors restrain trade. Existing firms only invest time and resources in obtaining and enforcing barriers to entry because they stand to recoup those costs through above-market prices that are made possible only by government’s power to prohibit new firms from competing against them. Without that power to exclude, new firms could enter the market whenever existing firms fixed prices, reduced quality, or tried to limit consumer choices

If PLF and Cato win at the court, it could be a victory not only for North Carolina beauticians, but also for hair-braiders, florists, food-truck drivers, Uber drivers, and small entrepreneurs everywhere.