



Republicans kill Obama's awful 'Operation Choke Point'

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Finally, and good riddance: The U.S. Department of Justice is officially putting an end to Operation Choke Point, the Obama-era effort to cut off from access to banking services a long list of lawful-but-disfavored businesses including gun dealers and makers of small loans. That welcome news comes after a long campaign by Republican members of Congress including Rep. Blaine Luetkemeyer, R-Mo. and Sen. Ted Cruz, R-Texas.

But the issues Choke Point raised are not going away.

The news came in an Aug. 16 letter from Assistant Attorney General Stephen Boyd to House Judiciary chair Bob Goodlatte, R-Va. and other congressional leaders, calling the program "a misguided initiative." "We share your view that law abiding businesses should not be targeted simply for operating in an industry that a particular administration might disfavor," Boyd wrote.

When it got its start in 2013, with help from a presidential task force working with several banking agencies, Choke Point wasn't announced to the public or its intended targets.

Among the first to notice something amiss were porn actresses and payday lenders whose banks announced the sudden closing of their longstanding accounts without explanation.

Asking their bank why this had happened, even though they had caused no overdrafts or other problems, they got either no clear answer or vague talk about being "high risk."

More reports began coming in of account closures — from the firearms business, in particular.

The Obama administration denied that anything was up, much as it denied that the IRS's slow-walking of tax exemption for right-of-center groups was anything more than bureaucratic bumbling.

Eventually, a list of 30 disfavored businesses surfaced. They included online gambling, fireworks dealers, "Home-Based Charities," "As Seen on TV" sales lines, and online sellers of tobacco and pharmaceuticals. Maybe some of these categories are especially likely to skip town or default and leave bank lenders holding the bag.

But others, such as many firearms dealers and pawn shops, are stable local businesses that rely on community reputation. Do they really carry a risk of large losses when banks lend to support their inventories or cash flow?

Yet the Federal Deposit Insurance Corporation, one of the banking agencies involved in the crackdown, had warned banks of "unsatisfactory Community Reinvestment Act ratings, compliance rating downgrades, restitution to consumers, and the pursuit of civil money penalties" if they ignored relevant guidelines.

Banks got the message, scurrying en masse to avoid a risk that seemed more political than based on probability of financial blowups.

Even if some lines of business are riskier than others, isn't the point of private bank lending to find ways of serving a range of risks, perhaps by charging higher interest or demanding more collateral from the dicier ones?

Nor did the list of 30 businesses seem randomly chosen.

Payday lending was under heavy political fire from liberal groups, though Congress had not banned the practice. Likewise with the gun trade. Online gambling, drugstore, and tobacco businesses, along with sex-related businesses, were all disfavored by policy at one or another level of government.

Conspicuously absent from the list were business lines that might make for risky lending for banks because they relied on outmoded technology or retail models, but had done nothing to offend authorities.

The fate of Choke Point should serve as a warning that it's dangerous to allow those in power to flag legal-but-suspect domestic businesses for shaming and commercial ostracism — especially if the process is covert, and especially if the result is to cut off the outcasts from access to the basics of economic life.

At the same time, it's significant that the answer to Choke Point was **not** to pass some new law compelling banks to do business with payday lenders, fireworks stands, or X-rated studios.

Part of a free society is that we shouldn't force commercial relationships on private actors. Businesses — and that includes providers of credit and payments services — should legally be free to follow their conscience.

That leaves real, knotty problems — such as, for example, when public campaigns seek to pressure business gatekeepers in the Internet and electronic payments system to cut off "bad" clients, which can mean ideologically despised ones.

Aside from making sure its own legal architecture has not given businesses a position as monopoly gatekeeper, government should stay out of such decisions.

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