

A Response to Cato's Tim Lee on "Private" Turnpikes

by MARC SCRIBNER on MARCH 30, 2012

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Cato Institute adjunct scholar Tim Lee has an [article](#) up on *The Atlantic's* website, entitled "The Mirage of Free-Market Roads." In it, he lays out his concerns regarding the private provision of roads, particularly privately financed and operated turnpikes. While he raises several valid points, such as the importance of preventing private parties from abusing eminent domain authority, his analysis overlooks some important issues.

First, while I and many libertarians would love to see true road privatization, that reality is unlikely to be realized anytime soon. I surveyed several surface transportation public-private partnership (PPP) projects in a [CEI report](#); I generally favor them. If structured properly (which has not always happened), concessions — which are long-term leases of government infrastructure to private concessionaires — save taxpayers money while providing services superior to those that governmental authorities would otherwise supply. The real question, which Tim does not adequately address, is *Can private concessionaires build, operate, and maintain turnpikes more affordably and effectively than governments?* It is not *Do existing concession agreements resemble anything a market anarchist would support?*

Second, Tim complains about non-compete clauses in concession agreements that, as he puts it, "restrict[] the creation of competing freeways nearby." But he then writes, "[i]t's much

easier to turn a profit when would-be competitors are barred from entering the market.” While I agree that these are undesirable protectionist measures, they are not protectionist in the way that Tim seems to think.

In reality, protection zones are designed to prohibit *government agencies*, not potential private market entrants, from competing with concession projects. For instance, the SR-91 concession agreement (which has since ended) mentioned in the GAO report that Tim cites prohibited the California Department of Transportation (Caltrans) from making any capital improvements in a 3-mile area adjacent to SR-91... in exchange for capping the concessionaire’s rate of return at 23 percent. Obviously, this isn’t the ideal free-market outcome, but implying that this protectionist measure was aimed to keep potential rivals out of the turnpike market is highly misleading.

Third, other than his brief mention of non-compete clauses, Tim does not discuss how PPP turnpikes actually compare with government turnpikes *in reality*. Fortunately, those data exist, so we can compare public and private operators in terms of efficiency. Arguably, the best facility efficiency measure is the “cost-take” — the percentage of toll revenues that cover operating and maintenance costs. Bob Poole and Peter Samuel surveyed various turnpikes, both public and private, for [a 2008 Reason Foundation report](#). With a cost-take of 79 percent, the publicly owned and operated Massachusetts turnpike finished dead last, with second to last West Virginia coming in at 64.5 percent and the national average for public turnpikes being 42.6 percent. In contrast, the average cost-take of private toll road concessionaires was 27.6 percent. In case after case, we see private operators blowing their public counterparts out of the water.

Overall, Tim’s arguments and framing of the issue are sound. He does note at the end of his piece that “private road operators should be viewed as providing a service to the government, rather than operating an ordinary private business.” That’s more or less correct; concessions are actually long-term leases of government property to private parties, not transfers of infrastructure ownership.

He also correctly identifies a problem I have also noticed — that some of our fellow libertarians have a tendency to equate PPPs with true privatization, and then take the rhetoric too far when hyping them. Turnpike concessions should be sold to the public for what they are, rather than labeling these arrangements as some radical privatization effort. That is not only false, but it helps support some of the paranoid anti-privatization “arguments” used by opponents of PPPs. That said, Tim’s discussion misses his own mark by raising concerns, both real and imaginary, without highlighting the very clear and documented successes of turnpike concessions.