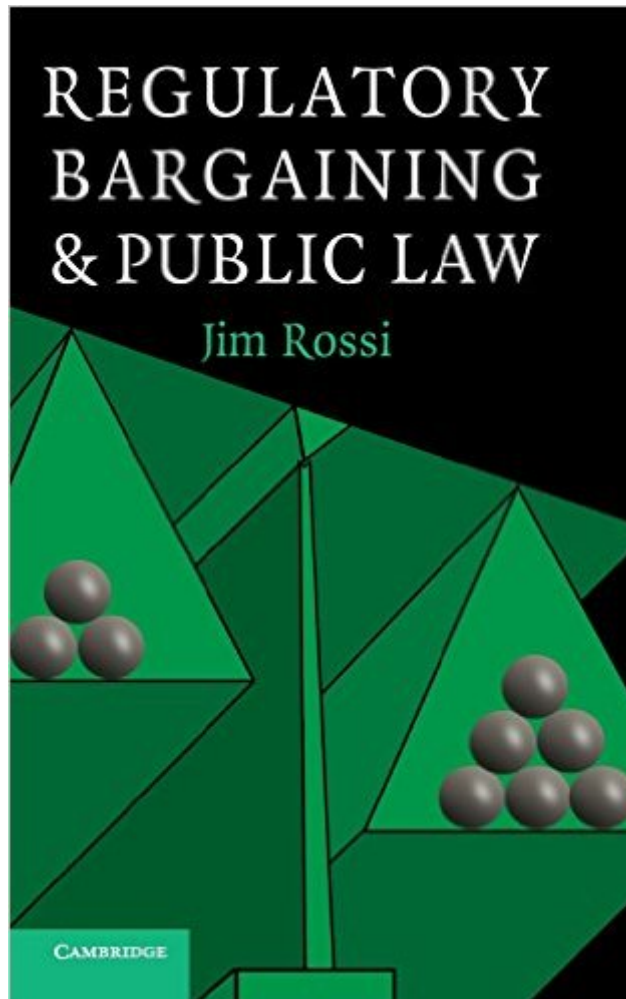


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Regulatory Bargaining And Public Law



Synopsis

This text explores the implications of a bargaining perspective for institutional governance and public law in deregulated industries such as electric power and telecommunications. Leading media accounts blame deregulated markets for failures in competitive restructuring policies. However, the author argues that governmental institutions, often influenced by private stakeholders, share blame for the defects in deregulated markets. The first part of the book explores the minimal role that judicial intervention played for much of the twentieth century in public utility industries and how deregulation presents fresh opportunities and challenges for public law. The second part of the book explores the role of public law in a deregulatory environment, focusing on the positive and negative incentives it creates for the behavior of private stakeholders and public institutions in a bargaining-focused political process.

Book Information

Hardcover: 290 pages

Publisher: Cambridge University Press (June 6, 2005)

Language: English

ISBN-10: 0521838924

ISBN-13: 978-0521838924

Product Dimensions: 6 x 0.8 x 9 inches

Shipping Weight: 12 ounces (View shipping rates and policies)

Average Customer Review: 5.0 out of 5 stars [See all reviews](#) (1 customer review)

Best Sellers Rank: #5,734,246 in Books (See Top 100 in Books) #92 in [Books > Law >](#)

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Customer Reviews

Rossi is one of the leading legal scholars writing on regulated industries in the U.S. His account of deregulation turns the conventional wisdom on its head. Rather than blame markets for harming consumers, Rossi places some blame with government and, in particular, with 'public law' (legislators and courts). His main suggestion is that courts need to pay attention to how deregulation fundamentally changes the bargaining conditions under which regulation is formed. This has implications for legal doctrines such as the filed rate doctrine, federalism, constitutional takings, etc. Rossi thoroughly surveys how a bargaining perspective calls into question the operation of many of these doctrines under "deregulation" conditions, which also has implications for regulatory change

more generally. Rossi's approach is refreshing. It blends a contract approach with institutional analysis, which may have implications for law as well as economics and political science analysis of regulation. I am not convinced by all of his proposals (for instance, letting states take the lead in implementing deregulation in the U.S. seems odd to me), but Rossi has reasons to support all of them and an interesting conceptual way of shedding light on a new set of issues. Rossi is not an economist, but this book raises many questions which could be studied in a much more rigorous manner by those who have the tools, and I would recommend it especially for those looking for new and interesting questions in regulated industries. The book also may be of interest to courts and policy makers.

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