Eroding the Rule of Law: Regulation as Cooperative Bargaining at the FCC

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Capture Theory

Command and Control
Clearing the Decks

Regulatory Shakedown

Pay the Vig

Extortion

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What’s the nature of the problem?

Why might it happen?

What are the consequences?
Capture Theory

Command and Control

Cooperative Bargaining
If regulator is interested in more than just profits (non-linear payoffs), then issue bundling increases its payoff across multiple issues.
Weakens if not destroys precedence, which is vital for agency credibility.

Allows regulator to operate outside its statutory authority.