FTC Activity and Presidential Effects Revisited

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Abstract

Economist and former FTC Executive Director Bruce Yandle uses research by Stewart and Cromartie published previously in Presidential Studies Quarterly *as a springboard for further analysis of the political economy of the FTC. He provides new data and suggests that perhaps the "party in power" model's attempt to explain regulatory politics should yield to congressional and special interest models. Reconsiderations of both studies clarify the meanings of the findings and suggest paths for future research on this topic. It is also suggested that it is probably premature to dispose of Presidential partisanship as a variable for analysis in future studies.*

FTC Activity and Presidential Effects Revisted

An article by Yandle in this journal[1] uses our earlier analysis of FTC enforcement activity in the area of deceptive practices over time (1938–1974)[2] as a springboard for further research. We are gratified that our work has been deemed worthy of comment or citation by Yandle and by others.[3] As Yandle notes, we focus on only one category of FTC activity, and he proposes to extend the analysis by (1) adding antitrust cases to the analysis so that "all commission final actions" are taken into account "when seeking to explain the agency's widely varying law enforcement activities;" (2) considering the FTC's "capability" to take enforcement action "since the resources appropriated for the agency varied significantly across its history;" and, (3) adding data for the period 1916–1939 to the 1938–1974 time-frame we use. In addition, Yandle provides data on the "political composition of each commission and the party identification of each FTC chairman" over the entire time period.[4]

Using annual "final actions"[5] and "final actions" per employee (the latter being Yandle's means of accounting for capability) as dependent variables and using a difference of means test, Yandle finds no significant difference between levels of these variables in Democratic and Republican Presidential administrations.[6] He also finds (1) no partisan differences in "the occurrence of chairman and [a majority of the] commissioners with the same party identification" and (2) a high "coincidence of common party affiliation for chairmen and presidents."[7] Yandle suggests that his findings should redirect the foci of researchers away from party in power and life cycle-incrementalism models of regulatory influence and toward "the special interest theories, combined with congressional influence."[8]

While, as Yandle notes, his "findings do not deny the relationship reported by Stewart and Cromartie,"[9] the implications of the studies are sufficiently divergent to command closer examination. We reexamine both analyses to clarify the meanings of the findings and to suggest paths for future research on this topic.

Our Data, Yandle's Method

One source of the apparently divergent implications may lie in the methods used. What results obtain if the deceptive practices data used in our original analysis are analyzed in the manner used by Yandle? Table 1 presents the results and shows that the results are similar to Yandle's Table 4.[10] The average level of deceptive practices complaints issued is higher in years when a Democrat occupies the White House than in GOP years, but the difference is not significant.

Does this analysis contradict our earlier work? Our answer is "no." We did not mean to imply in our earlier work that the *absolute levels* of deceptive practices regulation are higher during Democratic administrations. Such an implication would ignore *timing* as an important influence on such activities, and we note that there has been a slight decrease in official deceptive practices complaints issued over time.[11] Thus, we plead both guilty and innocent to the allegation that we assume "that actions are homogeneous through time."[12] Like Yandle, we assume that an official complaint issued during Franklin Roosevelt's presidency is equivalent, as a unit of analysis, to a complaint issued during Lyndon Johnson's tenure. We simply know of no way to proceed with the analysis of this important issue without making this assumption.

We *do not* assume that the *level of activity* during the Wilson administration (or any Democratic administration) should be more similar to that of the Johnson administration five decades later (or any other Democratic administration) than it is to the level of activity during the succeeding Harding administration (or any other Republican administration). Only Yandle's approach requires such an assumption; it is examined empirically in our analysis. We find clear similarities in the *trends* in the issuance of official deceptive practices complaints within partisan administrations and clear differences in the *trends* between partisan administrations. Regardless of the absolute levels, our original conclusion holds. The trends in the issuance of official deceptive practices complaints by the FTC decline during Democratic administrations and

TABLE 1
Official Deceptive Practices Complaints Issued by the FTC by Party in the White House, 1938–1974

Party	*N*	*Mean*	*Std. Deviation*
Democratic	23	125.1	91.8
Republican	14	109.1	37.2

F = 0.38; significance level = .54.

rise during Republican administrations from 1938–1974. The wave-like pattern would lead us to anticipate Yandle's finding of no difference, as a downswing would be followed by an upswing (and vice versa) after a partisan Presidential transition. Further evidence of the fact that the mean level of complaints masks important variations in our finding that a model including the partisan Presidential transitions increases our ability to explain variance by 53 percentage points over a simple model that does not include such transitions.[13]

Looking at the Forest, Missing the Trees

Another reason for reaching different conclusions may lie in the fact that Yandle includes a wider range of phenomena over a broader span of time than do we. While more expansive analyses are usually to be applauded, they can also become overly inclusive, blurring the nature of the object of analysis.

Yandle notes that the FTC's activities are "widely varying,"[14] so why should we combine diverse phenomena and expect similar patterns of influence? The major addition Yandle makes is in the form of anti-trust complaints. Do we really expect the same political actors to be concerned with or to influence deceptive practices regulation *and* anti-trust regulation?

While a direct answer to this question is beyond the scope of this study, we can offer some suggestive, secondary evidence. Mahaney and Tschoegl[15] analyze FTC anti-trust activity from 1917–1980 and argue that FTC complaint issuance in that area is most strongly affected by "the percentage of Democrats in the Senate, the rate of growth of real GNP, and the early and recent years of FTC existence."[16] Their findings in conjunction with our earlier work on deceptive practices suggest that Presidential partisanship is the major determinant of trends in deceptive practices enforcement, while Senate partisanship is the major determinant of anti-trust activity. If different forces, whatever they might be, are useful in explaining the separate activities of the FTC, we would not necessarily expect to be able to explain overall patterns of the FTC's behavior as well as we could explain the component parts.[17]

Certainly none of the studies cited here, including our own, are adequate to test these hypotheses.[18] But, the findings are consistent with an argument that by following Yandle's cell to examine the influences on the FTC in general, we may miss the influences on the specific parts. Just as "one should not consider regulatory policy or regulatory commissions as one homogeneous type,"[19] it appears that even within commissions general analyses may miss important variations. Put another way, if we pose the question "Why do we have this forest?" we may not be able to answer the question "Why do we have these specific kinds of trees in the forest?" Both are obviously questions worthy of study. But, we suspect that the latter is more susceptible to successful resolution, which should guide research on the former.

A Brief Analysis of Yandle's Data, Our Method

Despite our serious misgivings about combining all FTC complaints for analysis, we go through the exercise of subjecting Yandle's data to a multiple interrupted time series (MITS) analysis, the method we use in our original analysis.[20] While the patterns found by examining Yandle's dependent variables do not lead to the same conclusions as when we examine only deceptive practices complaints, we are not quite as ready as Yandle to discard presidential effects as an explanation for regulatory patterns. First, modeling partisan Presidential transitions enhances our ability to explain levels of "final actions" and "final actions" per employee over simpler, incremental models. Bivariate regression of "final actions" over time explains only 12 percent of the variance as opposed to 49 percent with our MITS analysis; for "final actions" per employee, the comparable figures are 8 percent and 42 percent.

Second, in each partisan Presidential era, with the exception of the truncated Nixon-Ford years, significant changes occur in either the short-term or in the trend. Using Yandle's dependent variables, the data show clear differences between partisan Presidential eras. The difference between this conclusion and the conclusion of our previous work is that the directions of partisan Presidential effects are not consistently different between parties. FTC activities rise during the Wilson Democratic era and the Eisenhower Republican years; the trend lines are negative during the Harding-Coolidge-Hoover Republican years and during the Kennedy-Johnson Democratic years. Furthermore, the inauguration of Democrat Roosevelt presages a jump in FTC activity, and Kennedy's swearing in marks a sharp decline in "final actions" per employee. In sum, in explaining overall FTC activity from 1916–1974, whether measured in raw output ("final actions") or in efficiency ("final actions" per employee) terms, partisan Presidential effects are not consistent, but Presidential transitions do make a difference.

Yandle also provides data on the party affiliations of the Chairpersons of the FTC and the majority of Commissioners, but he does not analyze them extensively. He does not directly address the possibilities that the partisanship of the FTC Chairperson or majority might have independent effects on the FTC's activities. To address these possibilities, partisanship of the FTC Chairperson and of the FTC majority are added to the MITS equation, separately and together.[21] For "final actions," the addition of neither variable, individually nor together, enhances the analysis. For "final actions" per employee, the partisanship of the Chairperson by itself has a significant positive effect, but this is mitigated by the addition of the partisanship of the FTC's majority as a variable. In short, the partisanship of the FTC's Chair and majority do not seem to have a major impact independent of the party controlling the White House.

Conclusions

We are happy that Yandle has chosen to take up our call for further research on the politics of the FTC. Given the combination of his academic expertise and his former position as Executive Director of the FTC, his thoughts provide a valuable service to those of us who research such important institutions from afar (the "view from the sticks" as one of Stewart's former colleagues has so aptly put it). His work offers further insights on this important organization and has prompted us to think more systematically about our own work. Although Yandle and we, as is all too common in research, talk past each other to a certain extent, there are clear conclusions that can be reached by appropriately combining our findings.

Yandle makes the important point that we cannot merely rely on Presidential partisanship to predict the absolute levels of activity of the FTC over time. To the extent that we implied that or that readers inferred that from our previous work, we apologize for not being pellucid. Our point is that the trends in FTC deceptive practices complaint issuance through 1974 are interestingly different between Democratic and Republican administrations.

But, we appear to differ with Yandle on two points. First, we suspect that focusing on overall FTC activity as opposed to focusing on patterns within its widely varied areas of responsibility may obscure as much as it reveals about the political economy of the FTC. The broader focus is consistent with the efforts of both political scientists and economists to develop "general theories" of regulation. But, as Yandle duly notes with his outline of five of these theories,[22] each has its blinders. We would suggest that an inductive approach drawing on the insights of various theories and focused on delineating the crucial political and economic factors in the various sub-areas of regulation (e.g. deceptive practices, anti-trust) may be more appropriate. This approach offers the promise of building empirical theories which may sensitize us to critical conditional relationships which have thwarted our effectiveness in developing valid general theories.

In addition, such research should consciously consider change over time. It is not clear why we should expect the influences crucial to the FTC in one era to necessarily be the major variables explaining activity at another time.

The second point with which we would disagree with Yandle is on the appropriate foci of research in seeking to explain variations in FTC activity. While he may well be correct in suggesting that "the special interest theories, combined with congressional influence."[23] will prove to be most valid, we are not yet ready to eliminate from consideration partisan Presidential influence as a significant predictor. Our research is not alone in finding Presidential effects,[24] so we would urge more explicit testing of Presidency-related variables in conjunction with other possible influences before they are ignored.

Finally, we join with Yandle in calling for more research using "richer models."[25] We concur with Moe that "simple popular models of regulation are likely to give anemic explanations, if not highly distorted accounts of why agencies behave as they do."[26]

Notes

1. Bruce Yandle, "FTC Activity and Presidential Effects," *Presidential Studies Quarterly*, Vol. XV, Winter, 1985, pp. 128–135.
2. Joseph Stewart, Jr. and Jane S. Cromartie, "Partisan Presidential Change and Regulatory Policy: The Case of the FTC and Deceptive Practices Enforcement, 1938–1974," *Presidential Studies Quarterly*, Vol. XII, Fall, 1982, pp. 568–573.
3. Joseph P. McKerns, Alfred N. Delahaye, and Ronald E. Ostman, eds., "Articles on Mass Communication in U.S. and Foreign Journals," *Journalism Quarterly*, Vol. 60, Spring, 1983, p. 187; Steven A. Shull, "The Literature on the Presidency and Public Policy," *Policy Studies Journal*, Vol. 12, June, 1984, pp. 774–776; Jeffrey E. Cohen, "Presidential Control of Independent Regulatory Commissions Through Appointment: The Case of the ICC," *Administration & Society*, Vol. 17, May, 1985, pp. 61–70; and Leonard Bierman, "Reflections on the Problem of Labor Board Instability," *Denver University Law Review*, Vol. 62, No. 2, 1985, pp. 551–569.

4. Yandle, *op. cit.*, p. 128.
5. We see a problem with Yandle's use of the term "final actions." We infer from that term (and we suspect we are not alone) that Yandle is presenting data on a case that is totally resolved. In fact, Yandle is analyzing data which we would dub "total complaints" across all areas of the FTC's responsibilities. A "complaint" is a case that has been placed on the docket. Once docketed, each matter goes into the decision queue for some action by the Commission. A complaint may be dropped or closed, may result in a consent decree, or may result in the Commission's strongest action, the issuance of a cease and desist order. These orders, not the complaints, are the "final actions" available to the FTC. Since historically as many as fourteen years have passed between the issuance of a complaint and the issuance of a cease and desist order, calling complaints "final actions" for analysis in which time may be important, such as our multiple interrupted time series analysis, or when efficiency in terms of "actions per employee" is analyzed, as does Yandle, may cause problems. Calling such actions "final" particularly when assessing "capability" in terms of number of employees risks crediting efficiency to the FTC in one year for effort expended in another year. This does not cause a great problem for Yandle's analyses because he does not consider timing of actions in his analyses. But, as we argue, our approach, which includes a consideration of timing, offers at least a different insight on the FTC's activities. Thus, we would prefer use of the term "total complaints" to avoid misleading readers. However, since we are using Yandle's data, we continue to use Yandle's terminology to avoid confusion as to which data we are analyzing.
6. Yandle, *op. cit.*, p. 133.
7. *Ibid.*, p. 129.
8. *Ibid.*, p. 133.
9. *Ibid.*
10. *Ibid.*
11. Stewart and Cromartie, *op. cit.*, p. 573, note 15.
12. Yandle, *op. cit.*, p. 133, note 5.
13. See, Stewart and Cromartie, *op. cit.*, p. 573, notes 15, 16.
14. Yandle, *op. cit.*, p. 128.
15. Mary Claire Mahaney and Adrian E. Tschoegl, "The Determinants of FTC Antitrust Activity," *Administrative Law Review*, Vol. 35, Winter, 1983, pp. 1–32.
16. *Ibid.*, p. 29.
17. At least one bit of evidence to support the argument that deceptive practices enforcement and other FTC activities are separable is that the bivariate correlation between deceptive practices complaints issues and other FTC final actions (computed as the difference between Yandle's reported final actions and our count of deceptive practices complaints issued) is .09.
18. Our own earlier study fails to consider variables other than Presidential partisanship over time. Yandle's study directly considers only Presidential partisanship, although in it he suggests other possibly fruitful avenues. Mahaney and Tschoegl's study includes a larger range of variables, but, from our perspective deals inadequately with the differences in trends within partisan eras.
19. Cohen, *op. cit.*, p. 68.
20. The equations are available from the authors.
21. The presence of a Progressive Party-affiliated Chairperson and seven Commissions with "split" majorities complicates the analysis. In each of these cases, these variables are coded in a position one-half way between Democrats and Republicans. This scheme assures that neither party receives "credit" for "influence" in these instances, while, at the same time, it does not eliminate these cases from the analysis.

   The correlation matrix for these variables and for party of the President is:

	President	Chair	Commission Majority
President	1.0		
Chair	.44	1.0	
Comm. Majority	.84	.51	1.0

22. Yandle, *op. cit.*, p. 130.
23. *Ibid.*, p. 133.
24. For examples, Terry M. Moe, "Regulatory Performance and Presidential Administration," *American Journal of Political Science*, Vol. 26, May, 1982, pp. 197–2 Joseph Stewart, Jr., James E. Anderson and Zona Taylor, "Presidential and Congressional Support for 'Independent' Regulatory Commissions: Implications of the Budgetary Process," *Western Political Quarterly*, Vol. 35, September, 1982, pp. 318–326; a Terry M. Moe, "Control and Feedback in Economic Regulation: The Case of the NLRB," *American Political Science Review*, Vol. 79, December, 1985, pp. 1094–1116.
25. Yandle, *op. cit.*
26. Moe, "Control and Feedback in Economic Regulation," *op. cit.*, p. 1094.