

Regulation Kills Innovation, So These Entrepreneurs Didn't Ask for Permission

America has so many regulations that today, often the only way to do something new, to create something great, to *prosper* is to ignore rules.

Minutes before SpaceX launched a rocket, the government told the company that the launch would violate its license.

SpaceX launched anyway.

CEO Elon Musk says that the Federal Aviation Administration has “a broken regulatory structure” and that “there is simply no way that humanity can become a spacefaring civilization without major regulatory reform.”

But reform isn't likely.

While businesses must constantly adjust to survive, once bureaucrats create regulations, they have no incentive to repeal them, ever. Instead, they add hundreds of new ones every year.

Musk complains that government “can over-regulate industries to the point where innovation becomes very difficult. The auto industry used to be a great hotbed of innovation...but now there's so many regulations that are intended to protect consumers....Regulation for cars could fill this room.”

So, Musk broke rules to make Tesla the success it is. He knew he couldn't innovate if he obeyed all of them. He's flaunted the rules of the U.S. Securities and Exchange Commission, even tweeting that SEC stands for “Suck Elon's...”

So far, he's gotten away with it.

So have a few others.

In my latest video, Adam Thierer, author of “Evasive Entrepreneurs and the Future of Governance,” explains why rule breakers are the best hope for innovation.

“When 23andMe came out with genetic testing by mail,” he says, “they didn't get a permission slip from the Food and Drug Administration. They just started providing that service.”

Once the bureaucrats noticed, they ordered 23andMe to stop offering health insights based on genes.

"The product was off the market for over a year. That stopped genetic testing by other companies, too," says Thierer. "Smaller players saw what the government did and said, 'I don't want that to happen to me.'" This delayed innovation for years.

"Maybe the only way to succeed today is to break the rules," I suggest.

"Yes," says Thierer. "Just to go out and try doing it."

A group of parents whose children have diabetes did that. They developed software that helps people track blood sugar levels.

"Their hashtag is, '#WeAreNotWaiting,'" says Thierer. "What are they not waiting for? For the Food and Drug Administration to approve new insulin monitoring devices. Instead, they built them themselves. These devices were better than regulatory approved devices."

But it only happened because they had the courage to do it without permission.

"Innovations come out of nowhere," Thierer points out. "The problem is law sometimes blocks all of that and says, thou shall not until you get a permission slip. That's the death of entrepreneurialism."

Ride-sharing companies such as Uber and Lyft prospered only because they didn't ask for permission; they just created ride-sharing apps. By the time sleepy bureaucrats noticed and took steps to regulate Uber and Lyft to death, the company had so many satisfied customers that politicians were afraid to crush them.

Some regulation is useful. The alternative isn't zero rules. "If a product is dangerous," says Thierer, "it can be recalled. You can be sued. But don't treat innovators as guilty until proven innocent."

It's easier to see how absurd regulators can be when you look at old regulations.

In 1982, after Sony's Walkman came out, a New Jersey town banned wearing them while walking. "You couldn't wear headphones because they would be a danger to yourself!" laughs Thierer. "Sometimes, laws stop making sense. Governments need to adapt."

COVID-19 persuaded some governments.

Suddenly, it was OK if private companies made virus tests, if nurses and doctors practiced in other states, if doctors used telemedicine without obsessing about stupid privacy rules, if liquor companies made hand sanitizer, etc.

"All sorts of people started doing really interesting entrepreneurial things to try to just help each other out," says Thierer.

“Those laws needed to change,” Thierer concludes, “but most changed only because people evaded the system.”