

# **Better regulation of the professions:**

## **The cases of notaries & pharmacies**

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- Reforms Needed
- Which kind of reform?
  - ◆ Transformation more than regulation
- Two Cases:
  - ◆ Notaries
  - ◆ Pharmacies

# 1. Data

# Buying real estate

(World Bank, *Doing Business 2005*)

	<i><b>EU 25</b></i>	<i><b>USA</b></i>
<b>Procedures</b>	<b>4.9</b>	<b>4</b>
<b>Days</b>	<b>61.1</b>	<b>12</b>
<b>Cost (% GDPpc)</b>	<b>5.5</b>	<b>0.5</b>

# Starting to operate a company

(World Bank, *Doing Business 2005*)

	<i><b>EU 25</b></i>	<i><b>USA</b></i>
<b>Procedures</b>	<b>7.3</b>	<b>5</b>
<b>Days</b>	<b>34.2</b>	<b>5</b>
<b>Cost (% GDPpc)</b>	<b>10.7</b>	<b>0.6</b>

## 2. Which kind of reform?

# Regulating professions is insufficient: We need to *transform* them

- We are not in a steady state
- Tinkering often backfires

# No a steady state

- *Artisan* professions:
  - ◆ External effects
    - e.g., notaries avoiding lawsuits when registers ineffective
  - ◆ Information asymmetries:
    - notaries as impartial lawyers, pharmacies producing drugs
- But traditional role disappearing b/c of *industrialization of services*
  - ◆ Industrial “Manufacturing of drugs ... or property rights
  - ◆ Firms → reputation → no role in info asymmetry
  - ◆ Technical change
    - Electronic notarization
    - Online pharmacies



# Are professions still useful?

- Safeguard info asymmetries
  - ◆ Unnecessary b/c of firms
- Potentially useful to produce externalities
  - ◆ Given difficulties to provide public services:
    - Failure of Modern Public Management
    - Failure of registers increases demand of notaries
  - ◆ Breaks link b/w competition & “quality”

# Doubts on observed policies

- Liberalization often maintains trivial mandatory interventions
  - ◆ Freeing entry with fixed prices: pharmacies
  - ◆ Freeing prices keeping entry barriers: notaries
  - ◆ Freeing price & entry but keeping unnecessary intervention: both pharmacies and notaries
- Inconsistencies
  - ◆ Requiring external effects to providers in competition (auditing)
  - ◆ Increasing monopoly: electronic signature

# 3. Two Cases

# Notaries: Shrinking demand

- Changes in parties and transactions
  - ◆ Parties: large, reputed → info asymmetry irrelevant
  - ◆ Transactions: standard, mandated → no contract design
- Evolution of titling systems
  - ◆ Privacy: search, guarantees, depositories, authentication
  - ◆ Recording: search, guarantees, depositories, authent.
  - ◆ Registration: search, guarantees, depositories authentication (until info tech)
  - ◆ Notaries reaction: capture & minimize the register: important lessons for the East & Portugal

- ARRUÑADA, B. 2003. "Property Enforcement as Organized Consent," 19 *Journal of Law, Econ., & Organization* 401-44.

# Vicious circle

- More substantial rents from
  - ◆ Lower costs
  - ◆ Mandatory intervention
- Less desire to renovate
- More capture and resistance to change
- Dubious movements:
  - ◆ Price reductions → hidden increases (pages, complements)
  - ◆ Free price & entry with mandatory intervention (Netherlands)
  - ◆ Moves against the register (Spain, Portugal?)
  - ◆ Monopoly extended to electronic docs (Netherlands, Spain)
  - ◆ Privatization instead of liberalization (Portugal)

# Pharmacies

- Middle Ages: regulated to assure quality
- Now assurance supplied by doctors &:
  - Institutions: Regulation of new drugs
  - Market: Reputation of pharmaceutical firms
- Alternative services
  - ◆ Prescription control: Is it necessary? Is it real?
  - ◆ Economic gatekeeping: requires incentives not pharmacists
  - ◆ Geographic availability: just an excuse
    - Proof: prohibition on online pharmacies

ARRUÑADA, B. "Quality Safeguards & Regulation of Online Pharmacies," *Health Economics*, 13(4), 2004, 329-44.

# New technologies show the cost of not updating the professions

- No electronic filing in public registers
  - ◆ *Instead of electronic notarization, notaries monopoly has been extended to electronic documents (Netherlands, Spain,...)*
- No e-pharmacies
  - ◆ Provide good service with no mobility, privacy, etc.
  - ◆ Nonexistence of reliable online pharmacies increases EU demand from “rogue” sites, e.g. for privacy reasons

## 4. How to update the professions?



# Institutional Engineering Needed

- Restructuring (i.e., suppressing mandatory interventions), not mere liberalization (pricing, entry)
  - ◆ Danger of free entry under mandatory intervention (notaries) or fixed prices (pharmacies): rent dissipation of rents in trivial activities
    - Financial auditing also goes this way (Arruñada, “Audit Failure & the Crisis of Auditing,” *Eur. Bus. Org. Law Review*, 2004, 5(4)).
- .... Unless new roles (and mandatory intervention) granted to the profession, considering high cost of public provision of services

# Example: Notaries under voluntary intervention

- Short term
  - ◆ Would keep good part of the market but doing legal work not collecting tolls for useless services
- Long term
  - ◆ Development based on their strength: impartial lawyering: “Voluntary jurisdiction”
  - ◆ Vertical integration of related services: insurance, real estate agency, one-shop administrative windows
- Assumption: effective registers—imperative in any case

# Difficulties

- Shared responsibilities and bad collocation of knowledge and decision rights
  - ◆ Finance Ministry knows economics, not technology
  - ◆ Other ministries know the technology—But often financial or intellectually “captured”
  - ◆ Professionals know better
    - Interested in preserving rents
    - And mistrust short-sighted politicians
- The “industry” is not only the professionals
  - ◆ Notaries: register
  - ◆ Pharmacies: drugs cos., doctors and NHS

# Two practical proposals

- Industry-wide regulators
  - ◆ Industries greater than professions
  - ◆ Professional monopoly often grounded on impeding industrial development
    - registers & notaries
    - healthcare & pharmacies
- Benchmarking exercises
  - ◆ Disarm excuses on how changes damage quality
  - ◆ Better grounded than *Doing Business*: catalog of alternative regulations