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'If we had it to do over again, we would have barred Genentech'

by R.J. LEHMANN on OCTOBER 10, 2011



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[Genentech Inc.](#), now a subsidiary of Swiss drug-maker Hoffmann-La Roche, is widely viewed as the founder of the biotech industry. Among the company's notable achievements over the past three decades are formulating the cancer drug Avastin and developing groundbreaking treatments for diabetes, blood clots, cystic fibrosis, asthma and Alzheimer's disease.

But back in 1980, 28 years before Roche [completed](#) its \$46.8 billion buyout of the the firm, state securities regulators were bemoaning Genentech's roller coaster debut as a publicly traded stock. The above quotation, sourced to an anonymous Massachusetts securities division official, appeared in a Page 5 story in the Dec. 12, 1980 edition of the *The Wall Street Journal* that explained the commonwealth's decision to bar trading in the IPO of another technology start-up that regulators viewed as just simply too darn risky: [Apple Computer](#).

Under the Massachusetts ruling, the Apple stock falls short of several provisions aimed at weeding out highfliers that don't have solid earnings foundations. Unless the state later decides otherwise, stockbrokers in Massachusetts won't be able to trade the stock and Massachusetts residents won't be able to buy it.

Massachusetts residents weren't the only ones locked out by regulators from the initial offering of what is, today, the [largest publicly traded company](#) in the world. Though Apple registered its offering in 27 states, it didn't even bother trying in Illinois, Wisconsin, Texas, Michigan, Alabama and Oklahoma, states that were known at the time for particularly activist securities regulation, and the article noted that Ohio regulators closely scrutinized the Apple offering before ultimately allowing it to proceed.

Thankfully, state enforcement of these sorts of offering rules — part of the body of state securities regulation known as '[Blue Sky laws](#)' — were largely preempted by 1996's [National Securities Markets Improvement Act](#).



Nonetheless, the examples of Apple and Genentech should offer a warning to regulators who would erect barriers between innovators and the capital markets in the name of "investor protection." Hard as it might be to believe, there are limits to your powers of precognition.

Apple and Genentech have been two of the most important, most innovative and most profitable corporations of our times. And yet, three decades ago, there were regulators who not only wanted to bar regular investors from sharing in the fruits of their productivity, but who might very well have strangled the nascent industries of

biotech and personal computers when they were still in the cradle.



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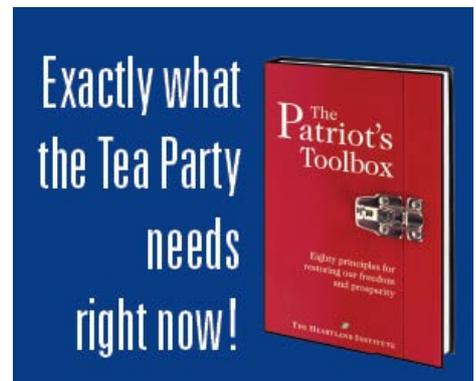
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