

Politics and Principles – 1: Politics Without Principles

Moral principles and theories play an important part in politics. As an example, consider the antitrust case in which the US government recently forced Samsung to cough up \$330 million for **'price fixing'**.

How did Samsung come to owe Uncle Sam a third of a billion dollars?

Samsung's top competitor, Seoul-based Hynix, agreed earlier this year to plead guilty to price fixing and pay a \$185 million fine. Last September, rival Infineon Technologies AG of Germany agreed to a \$160 million fine. Another competitor, Micron Technology Inc. of Boise, Idaho, has been cooperating with prosecutors and was not expected to face charges.

The government accused the companies of conspiring in e-mails, telephone calls and face-to-face meetings to fix prices of memory chips between April 1999 and June 2002.

So employees of Samsung and other companies met to discuss similar decisions they all faced about the prices of commodities that they sell. There is a name for this sort of behaviour: it is called "business". Antitrust law prohibits people from making decisions that might (according to someone's gut feeling) lead to them have a large share of the market in a commodity. It also prohibits companies from raising or dropping their prices too much. The government's thugs in suits said that Samsung and the others were raising prices "unfairly" because of their combined large market share.

However, every company in the world can raise prices unfairly by this definition, since every company offers some good or services that other companies do not. No one in the world sells Macintosh computers except Apple, and so they often cost a little more than other computers. Therefore, under this theory, Apple Computer owes the difference to the Government. In the Samsung case some memory chip companies got together to make a deal with one another about prices. The government has a gut feeling that consumers suffered, compared with what would have happened if

there had been no such deal. But in the real world the government

doesn't know what would have happened. Samsung might have put money into research for a new and better generation of memory chips as a result of their increased funds, to the benefit of all humankind. No computer company was forced to buy these memory chips, they could have made their own – and sold them, for that matter. They chose instead to buy the chips because they preferred doing so to that and to every other option.

Antitrust law is little more than an excuse to shake down rich companies. In reality, no employee of a company can tell whether any given action he might take will lead to his company having “too large a share” of the market. Nor can he tell in advance whether the government will deem him to be guilty of “price fixing” for making a particular business deal. So antitrust law violates the principle of the rule of law.

Antitrust law also prohibits businessmen from speaking and associating to coordinate certain peaceful activities and so it curtails freedom of speech and association. Since the government uses antitrust law to punish businessmen for trading under certain terms it also violates the principle of freedom of trade.

Political principles can help politicians to select or reject policies. Principles can suggest analogies, which make particular policies tenable or untenable. In accordance with the principles we've referred to, we conclude that antitrust law unjustly criminalises people for innocuous business activities.

This might also suggest an analogy between drug laws and antitrust laws, since they violate all of the same principles. Anyone who favours antitrust laws but not drug laws, or vice versa, ought to consider this.

Mon, 10/24/2005 - 11:43 | [digg](#) | [del.icio.us](#) | [permalink](#)

What government knows

But in the real world the government doesn't know what would have happened.

That's right. If they did know, why bother with antitrust laws? Why shouldn't the government just buy shares in those companies that benefit from the price fixing, and distribute the profits to those consumers who were harmed?

Because they don't know, is the answer. All they know is how to take.

by a reader on Mon, 10/24/2005 - 12:06 | [reply](#)

Anti-trust Law

The writer seems to forget the entire history of antitrust legislation in the United States. Robber baron is not a term lightly used, now company as 'person' as shield from free market dealing to subvert free market principles. Remember law does not not mean

conviction, that takes a court case with evidence supporting violation of the law.

As to drug companies, it is true that the FDA has stymied competition, but that is a whole other subject. More than that the FDA has ruined as well as favored companies that have developed pharmaceuticals. That works against a free market.

I say abide by antitrust law and an honest competitive company has nothing to fear. There are names for the sort of illegal behavior which brought Samsung to court. Price fixing is not an example of a free market principle.

by a reader on Mon, 10/24/2005 - 15:28 | [reply](#)

be careful

offtopic, but ...

All the principles we have mentioned lead us to conclude that

I object to this sentence fragment. It isn't the case that *principles lead people* to conclusions. Principles don't lead to conclusions innately either. It should say that you interpret the principles as support for your conclusion.

Also, how often do all the principles someone chooses to mention *not* support his conclusion? This is a fairly silly thing to say.

-- Elliot Temple

<http://www.curi.us/>

Editor's reply: Thanks for the comment. The text has been changed.

by [Elliot Temple](#) on Mon, 10/24/2005 - 18:25 | [reply](#)

Excellent

Great Post.

Here's an excerpt from a [nice little poem](#):

"Now, let me state the present rules,"
The lawyer then went on,
"These very simple guidelines
You can rely upon"

"You're gouging on your prices if
You charge more than the rest.
But it's unfair competition
If you think you can charge less."

"A second point that we would make
To help avoid confusion:

Don't try to charge the same amount:

That would be collusion!"

Gil

by **Gil** on Mon, 10/24/2005 - 18:39 | [reply](#)

Re: Anti-trust Law

The writer seems to forget the entire history of antitrust legislation in the United States.

No, we haven't forgotten it. We're objecting to it.

Robber baron is not a term lightly used

That's true. Since there were already laws against robbery, and since the rich people in question enjoyed no aristocratic privileges in law, the term may well have been carefully chosen to bring the opprobrium due to robbers and aristocrats down upon people who were neither. That socialist economic theory justifies this is not a good argument.

by **Editor** on Mon, 10/24/2005 - 18:50 | [reply](#)

Good Robber Barons

As part of a balanced argument I will note that Andrew Carnegie, the Vanderbilts, the Rockefellers were all painted with the broad brush of "robber baron". No matter how ruthless they were portrayed in the business sense they also are vindicated by history. They gave back to the communities that served them and which helped make them wealthy men. One could argue that we can thank our lucky stars for such robber barons. Not all robber barons would seem to deserve the same posthumous praise, but certainly Carnegie and a few others do.

Can the same be said for Samsung? Does Samsung give back to the world by cornering the market and how might a vertical monopoly or limited chip competition serve this purpose? Only time will tell, but the public good is not likely to be served by the gentlemen's agreement which limits competition, practice of price-fixing, call it what you will. This is not a social argument. It is a practical one. When should the free market be limited by corporate collusion?

Three corporate "persons-as-entity" decide together to fix the price of the key components of their products, disregarding the illegality of the practice. In a market where the competition is already limited by scale of production to a very few competitors, how will this "here's my price, what's yours?" serve the public good? Does Samsung make this argument, fixing prices across key competitors will serve the principles of free market economies and free trade?

Until we have a better answer, I'll take Mr. Andrew Carnegie, noble robber baron, self made man, philanthropist extraordinaire any day

over corporate "person-as-entity" Sam Sung and his world-wide

chip buddies.

by a reader on Mon, 10/24/2005 - 20:23 | [reply](#)

Which robber-barons are "good"?

I gather from the previous comment that the "good" robber barons are those not guilty of the heinous crime of making a profit while Jewish Japanese.

by a reader on Mon, 10/24/2005 - 21:13 | [reply](#)

Ethnic Robber Barons?

Is Sam Sung or Hy Nix or Infi Neon or Mike Chron Jewish or Japanese? Or North American, perhaps by place of business? No. Last I checked companies do not have ethnicity, tho they do choose their business markets and who they hire and who would object to that, nor does ethnicity have anything to do with the argument as far as I know. (Personally I prefer Son Ni (sony) and Ap Pul (apple), but that's another story.)

Price-fixing, company as legal 'person' and how price collusion serves the free market, free trade is the subject.

by a reader on Tue, 10/25/2005 - 15:14 | [reply](#)

In a free society, people don

In a free society, people don't have to answer to you how their action serves you, or serves society, or whatever, before they can do it.

-- Elliot Temple
<http://www.curi.us/>

by [Elliot Temple](#) on Tue, 10/25/2005 - 15:26 | [reply](#)

True

Before they can do it, is the operative phrase.

Let me give an example however of the effect of after. Let's say there is an island. There are three builders on the island, all capable builders. I want to choose a builder in this free island society to build my house. Its a free society so I can choose.

However, the three builders own all the trees on the island and the rest of the island is sand. The three builders converse among themselves and agree that the price of lumber is a pesky variable. The agree that the price of lumber should be 40 conch shells per square foot.

The conversation has just changed the free market choice for building my house. The three builders are no longer in competition for my business. No matter that on other islands lumber is between

2 and 6 conch shells per foot, if I have no wooden boat to row there.

Price-fixing limits the free market. Here it is only a much larger scale, more conch shells apparently.

by a reader on Tue, 10/25/2005 - 17:07 | [reply](#)

Anti trust is pro competition

When powerful companies seek to stifle competition by means not related to improving the value of their product or service, they are being anti-capitalistic and this is bad isn't it? It diminishes other companies' ability to provide better products or services to consumers with the effect being detrimental to society.

In a free society, people do have to answer to you how their action hurts you or hurts society.

by Bob W on Tue, 10/25/2005 - 17:25 | [reply](#)

If I must answer to you to li

If I must answer to you to live my life, associating freely with those I wish, then I'm clearly not free.

-- Elliot Temple

<http://www.curi.us/>

by [Elliot Temple](#) on Tue, 10/25/2005 - 19:19 | [reply](#)

Of course you are not free to

Of course you are not free to violate my rights, to hurt me in certain ways and to hurt society in certain ways, without the involved party's consent. You think it should be different?

by Bob W on Wed, 10/26/2005 - 02:08 | [reply](#)

Offering to sell things at a

Offering to sell things at a price you don't want to buy them at, is not doing something to you, anymore than not selling anything at all is.

-- Elliot Temple

<http://www.curi.us/>

by [Elliot Temple](#) on Wed, 10/26/2005 - 04:35 | [reply](#)

Conspiring to control a marke

Conspiring to control a market at the expense of free competition is doing something to me. It's hindering the most important engine of my society: The competition of ideas. You don't think this hurts me?

by Bob W on Wed, 10/26/2005 - 05:16 | [reply](#)

What about if I'm a preacher,

What about if I'm a preacher, and preach high prices for patio furniture? And i'm successful, and convince all patio furniture companies to raise their prices. do you see any critical difference between that and me being a business man who persuades other businesses to raise prices?

i won't say this isn't unfortunate for you. i will say i should be free to do it.

one problem with a law against raising prices, is it can't tell which price raisings are good or bad ideas. there is no mechanical rule for this. and we can't just leave it up to someone's judgement either. a law against price raising that Elliot deems bad ... would be a horrible law.

-- Elliot Temple
<http://www.curi.us/>

by **Elliot Temple** on Wed, 10/26/2005 - 05:42 | [reply](#)

Persuading companies to raise

Persuading companies to raise their prices isn't necessarily anti-competitive. Conspiring with companies to fix prices for the purpose of driving companies with better products out of business is anti-competitive. **The World** says there should be no such thing as anti-trust laws. It sure seems this would often hurt competition and the promotion of better ideas rather than help it. We can't think of a perfect way to stop this so we shouldn't do it at all?

by Bob W on Wed, 10/26/2005 - 06:00 | [reply](#)

How is "conspiring with" othe

How is "conspiring with" other companies different from persuading those companies to follow a certain strategy? What kind of magical rites do the heads of companies engage in when they gather to "conspire with each other"?

by AIS on Wed, 10/26/2005 - 07:47 | [reply](#)

A Comment

When workers get together to form a voluntary organisation in an attempt to raise the price they can charge for their services on the free market, leftists call this organisation a trade union and they praise it.

When employers get together to form a voluntary organisation in an attempt to raise the price they can charge for their services on the free market, leftists call this a cartel and they condemn it.

Banning trade unions and cartels would simply be the same as

banning a certain sort of idea, namely that people sometimes can and should act together to secure higher prices for the services they provide. And of course, nobody is safe from antitrust law in principle, including trades unions.

by [Alan Forrester](#) on Wed, 10/26/2005 - 15:15 | [reply](#)

oversimplification

Alan, your comparison of cartels (and I'm assuming trusts as well, from the context) to unions misses the point. We leftists don't criticize trusts or cartels because they are working together. We criticize them for doing so at the expense of the public good. It is, on one level, a matter of power. A single worker has essentially zero leverage in the marketplace; corporations, in comparison, have practically unlimited resources and influence. Unions are fighting on a very basic level for a decent wage. Corporations are fighting for their survival as well, sure, but though people may be unemployed, if the economy is healthy, the death of a corporation is not a problem --in fact it is a natural part of the *why we embrace market economy*: efficiency and survival of the fittest.

You will likely be quick to counter that unions are also pro-inefficiency, and you would be correct. You might even go out on a limb (or at least, it's a limb to me, it might not be a limb to you) and say that unions hurt society as a whole. I don't deny that a union might (and probably has in the past) try and secure their welfare at the expense of others. BUT. The difference between unions and cartels is that unions secure basic rights for human beings. Without unions (or any form of power based in organization) among workers, the working class would be screwed beyond your wildest dreams. (...and often is, make no mistake about it.) Without 'unions' among businesses, on the other hand, the marketplace functions smoothly, which tends to be in the best interest of society.

Let me take a shot at oversimplifying things instead: If group (A) has five people out of a hundred that have all the power, and group (B) has a hundred people who share power equally, the latter group with is probably going to have a higher survival rate. It may get less done, but you're not going to end up with 95% of the group in abject poverty.

by leftist on Thu, 10/27/2005 - 00:36 | [reply](#)

there is a difference between

there is a difference between A) what is good to do (both unions and cartels can be crappy decisions) B) what should be illegal (there is no way to make a law against only crappy decisions, and a law against all agreements of any kind regarding prices of goods would be absurd. having courts decide who made bad decisions is a horrible idea. people need to be able to know if something is legal

or not, without knowing if it's the ideal action which they can't be

expected to always know)

-- Elliot Temple
<http://www.curi.us/>

by **Elliot Temple** on Thu, 10/27/2005 - 01:35 | [reply](#)

the other thing is we need to

the other thing is we need to acknowledge our view of which cartels are good may change in time, and we shouldn't just make laws to enforce the current fad. error correction is critical.

-- Elliot Temple
<http://www.curi.us/>

by **Elliot Temple** on Thu, 10/27/2005 - 01:37 | [reply](#)

It's not conspiring we should

It's not conspiring we should oppose, it's conspiring or any other action that is anti-competitive and significantly hampers the competition of ideas and prevents economic access to the best ideas. These actions are the enemies of a free society. They should be illegal. If the laws punishing such actions are bad they can be changed.

by Bob W on Thu, 10/27/2005 - 14:41 | [reply](#)

What should the law be change

What should the law be changed to say, precisely?

-- Elliot Temple
<http://www.curi.us/>

by **Elliot Temple** on Thu, 10/27/2005 - 19:04 | [reply](#)

It Depends

If it is likely that the markets for the goods produced by the companies will, in the reasonable long-term, become competitive, then it doesn't make too much sense to use the law to regulate these markets.

When collusion occurs that raises prices, other companies will see the elevated prices and be even more likely to enter the market to get a piece of the action. In short, collusion creates the incentives that destroy it. This ultimately may benefit the public.

On the other hand, in a market not prone to long-term competition, such collusion amounts to restricting trade and should probably be regulated. The law should prevent price-fixing just as we regulate the prices of goods produced by "natural" monopolies.

Obviously, the difference between a "long-term" effect and a "short-

term" effect is somewhat subjective.

Michael

by M Golding on Thu, 10/27/2005 - 23:35 | [reply](#)

"somewhat subjective" laws ma

"somewhat subjective" laws make a mess, because people won't know if an action breaks them or not.

so what law do you recommend?

-- Elliot Temple

<http://www.curi.us/>

by [Elliot Temple](#) on Fri, 10/28/2005 - 00:09 | [reply](#)

You're Right

I think in general I would not regulate prices for most goods, even if collusion could be demonstrated. The market usually takes care of this kind of thing, especially if it is a market where technology is being produced and research changes things rapidly. So although I do not know the case discussed well, I could agree with the conclusions of the editors.

Firms should be presumed innocent unless a particular good, like a road, has a priori been determined to have substantial public good implications and then the law should reflect that.

If a good is later determined to have substantial public good implications (by courts and the political process), then the firms should not be penalized for previously colluding, but then should not be allowed to do so and should be potentially subjected to regulation.

For example if there are two firms producing the only particular type of an antibiotic and they are colluding in determining prices, one would expect strong incentives for other firms to create competing antibiotics and thus break the cartel within a year or two. If the government became involved, its own inefficiency and the cost of regulation may very well be greater than the public good benefit of breaking the cartel.

On the other hand, if an epidemic then grips a nation before other antibiotics are developed, the antibiotic then becomes much more of a "public good." In such cases colluding firms should not be punished, but should be subject to regulation if they do not voluntarily take into account the public good implications of their production of antibiotics. Yes the government will predictably cause waste in regulating these firms. But monopoly pricing for antibiotics may harm the public good more than the inevitable waste associated with government spending on needed regulation. During

an epidemic, one cannot wait a year for competing firms to produce

alternative antibiotics.

I do think price fixing restricts trade and is in general bad, but in most cases, government intervention is worse unless there are substantial public good implications associated with the production of a good. The production of certain goods are properly regulated by the government (for example, the production of roads and other paths connecting businesses and homes.)

by M Golding on Fri, 10/28/2005 - 01:17 | [reply](#)

Competitors will join a field

Competitors will join a field/industry if they believe there is profit to be had, for example because the present companies are all charging more than necessary, or have angered the public by how they set prices. Sometimes the competitors will be wrong, and will discover the profit margins were not huge and bloated and it's difficult to do better. In such cases, the new competitor may fail, or may just do OK. Basically, if a private person judges there is a problem with the price, he can do something about it; but if he's wrong, he pays the consequences.

Government also has to make a judgment about when price fixing exists, when profit margins are too high for the risk involved, etc.. It is no better able to do this than a private individual. So, either a private individual will intervene (so government need not), or if none do, then if the government does intervene, we must say the government is **disagreeing** with a wide variety of experts. Further, if the government is wrong the cost of the mistake is paid by the tax payers; the lack of incentives and consequences in the right places hurts error correction.

We'll never know if the government was wrong, because we can't compare to what would have happened if it did nothing; when a private individual creates a rival company, we **do** find out if he was right or not, by his success or failure; so government intervention precludes learning who was right, and thus the government policy, even if it's frequently wrong, will never be corrected.

Another point is if a rival company intervenes by creating lower price goods, society benefits because now there are low priced goods available. If government intervenes it has options like:

- 1) destroy some companies; now nothing is available
- 2) start deciding what prices companies should charge, despite having no better knowledge of proper prices than anyone else has
- 3) tell companies to lower their prices an amount the government guesses might make sense, then don't let them raise them again until they have some excuse, like the cost of a natural resource goes up
- 4) stick the CEO in jail and put in a new one whom the government believes will play nice

None of these options are very impressive.

-- Elliot Temple
<http://www.curi.us/>

by **Elliot Temple** on Fri, 10/28/2005 - 11:02 | [reply](#)

Other than

the U.N. Oil for Food Program, can you name some examples in Antitrust legislation where the four government options described above have been impractically applied?

(Given that the Oil for Food Program was not Antitrust or U.S. applied but rather a practical example of codified worldwide pro business/pro dictator collusion for political and personal gain.)

by a reader on Fri, 10/28/2005 - 15:36 | [reply](#)

I meant to illustrate it isn'

I meant to illustrate it isn't simple to think of a useful way for government to interfere. I could find an example, but we'd both agree government makes mistakes sometimes, so there is no point. How about you think of one alternative (has been done, or not) way for government to intervene that doesn't suck?

-- Elliot Temple
<http://www.curi.us/>

by **Elliot Temple** on Fri, 10/28/2005 - 15:49 | [reply](#)

The government breaking up th

The government breaking up the telephone monopoly of ATT seems to have caused an explosion of telephone company options for Americans across the board.

by a reader on Fri, 10/28/2005 - 19:17 | [reply](#)

You misunderstand. I want yo

You misunderstand. I want you to tell me a reasonable law we could have. It must say in what circumstances it takes effect, and the specific consequences that will happen. It cannot say "if there is a (telephone) company that seems too big, break it up in some manner, so options seem better" because laws cannot be vague in that way. You must detail how a company should be broken up, how we know it's too big, etc

-- Elliot Temple
<http://www.curi.us/>

by **Elliot Temple** on Fri, 10/28/2005 - 21:03 | [reply](#)

Antitrust

My main problem with antitrust law is the claim that a monopoly

can exist where there is no legal barrier to entering a market. A good example of this was the recent Microsoft case, where the government ignored the legal right of others to enter the market and compete with Microsoft, and virtually ignored the realities of the fluid technology market and its history, to reach the dubious conclusion that anyone other than Microsoft's less effective competitors were injured. Perhaps it is somewhat easier to develop a rationale for a degree of regulation where the situation (often first created by government action -- but not always), has resulted in a genuine (natural or unnatural) monopoly. For example, where there is only one set of railroad tracks and no more can or will be constructed anytime soon (or ever) for a variety of other reasons. Perhaps regulation could take the form of bidding out the use of the tracks from time to time, or perhaps something else even more or less desirable. In any event, it seems to me that these types situations are few and far between. The history of antitrust law shows that these laws almost always draw the government into a role of supervising markets and prescribing outcomes through consent decrees, rather than protecting free markets, free competition, and individual rights.

by [Michael Bacon](#) on Fri, 10/28/2005 - 21:22 | [reply](#)

The law that broke up the tel

The law that broke up the telephone monopoly was the reasonable law. It takes effect in similar circumstances for similar reasons, and is arbitrated in similar ways.

by a reader on Fri, 10/28/2005 - 22:50 | [reply](#)

Ahem - Bell was in effect a state-enforced monopoly.

The law that "broke up the telephone monopoly" was simply the law that loosened the Federal regulatory framework which had, in effect, excluded competitors from the telephone market.

http://en.wikipedia.org/wiki/Kingsbury_Commitment

by a reader on Fri, 10/28/2005 - 23:08 | [reply](#)

Re: Ahem...

According the link you provided, the Kingsbury Commitment was a law to regulate AT&T, which was considered a natural monopoly.

The government initiated an [antitrust lawsuit](#) against AT&T in 1974. The settlement of this lawsuit broke AT&T up in 1984. This quickly lead to increased long-distance service competition, which caused a drop in long distance rates which continues to this day.

by a reader on Sat, 10/29/2005 - 04:24 | [reply](#)

AT&T;

[Here](#) is some history of how regulation hindered AT&T's

competition.

Gil

by **Gil** on Sat, 10/29/2005 - 05:40 | [reply](#)

Is it possible?

Is it possible that regulation is bad for competition whereas antitrust law is by default a safeguard against overregulation? Does regulation tend to institutionalize controls and tend to become its own monopoly, albeit a government one, whereas law is simply law, where the court decides the merit of charges? Regulation is not needed where companies operate freely within the general rule of law where corporate innocence is presumed until proven otherwise.

Court requires an extensive body of evidence presented by plaintiffs to show that a law has been violated. Regulation is ongoing, precludes free market compliance, and requires only a regulatory body outside the role of court, usually but not always governmental. Regulation is intrusive and assumes universal noncompliance. Courts on the other hand require a search for the truth.

by a reader on Sun, 10/30/2005 - 18:49 | [reply](#)

Re: Competitors Will Join a Field

One policy option is to force government to do a cost-benefit analysis prior to intervening, say in an antitrust case. This could be accomplished out of an Office of Management and Budget, and supervised by the head of a Presidents Council of Economic Advisors.

Obviously there is much room for bias but econometricians do this kind of analysis regularly. But forcing some type of numerical accountability would be a good first step in providing information to the public, even though many would argue about the numbers.

By the way, there were attempts to implement this policy during the Reagan administration when Murray Weidenbaum was the head of the Presidents Council on Economic Advisors, but suffice to say Dr. Weidenbaum did not last too long in that post.

An honest broker/academic economist would likely experience enormous pressure.

Michael

by M Golding on Mon, 10/31/2005 - 00:59 | [reply](#)

Robbers, Barons, Billionaires & Politics

The following paper is amusing and loosely related to the argument.
http://econ161.berkeley.edu/Econ_Articles/carnegie/DeLong_Moscow_paper2.html

by a reader on Tue, 11/01/2005 - 01:48 | [reply](#)

Patents

"No computer company was forced to buy these memory chips, they could have made their own – and sold them, for that matter."

This is probably not true, although I suppose it might be in this case. Generally speaking, intellectual property legislation (particularly patents) raises barriers which prevent most people from entering any high-tech market with the same efficiency as the incumbents, who literally act as monopolists.

I have heard it argued that in these matters, governments are simply ensuring that the monopolies they have granted (for the greater good, of course...) do not get abused.

What is **The World's** position on patents and other intellectual property legislation?

by a reader on Wed, 12/27/2006 - 00:50 | [reply](#)
