

R-A THEORY AS A POST-CHICAGO ARGUMENT FOR LEGAL COOPETITION

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Prosecution of cooperative business arrangements in the United States has relied less on neoclassical economics, and more on the ideology of elected officials and regulatory bodies. Recently, the U.S. Supreme Court accepted a view of competition that acknowledges imperfect information and attaches significance to the deadweight loss on society. This change signals the Court's openness to alternative theories for guidance when evaluating antitrust behavior. Resource-advantage theory is presented as an alternative framework to neoclassical economic thought, because it allows for the formation of alliances, even among competitors, that are not inherently detrimental to society.

INTRODUCTION

The marketing and management literatures have embraced the concept that firms enter into alliances not only to compete against other alliances, but also to share resources to create positions of competitive advantages that lead to superior financial returns (Hamel, Doz and Prahalad 1989; Hunt 2000; Lambe, Spekman and Hunt 2002; Williams 2005). These positions of competitive advantage are gained through lower costs to alliance members, higher value to customers, or both (Hunt and Morgan 1995, 1996, 1997; Hunt 2000). Tournois (2004) calls for further study of customer value creation and suggests that firm resources may be instrumental in this process. Firms that do not have all of the necessary resources often fail to capitalize on market opportunities, such as those created by innovation (Teece 1988). By joining with other firms who have the necessary complementary resources, marketers may be better able to create customer value and take advantage of market opportunities (Teece 1988).

The concept of alliances can extend beyond buyer-seller dyads, or the wholesaler-retailer-consumer chain to include four forms of relationships: supplier, lateral, buyer, and

internal (Morgan and Hunt 1994). This paper's focus is the lateral relationship, specifically alliances formed by competing firms such as those found in the agriculture, technology and airline industries. As markets become more complex due to globalization, technological innovations, customer sophistication, and competitive volatility, more firms are coming together, either through mergers and acquisitions or joint venture alliances (Cushman and Dyer 1995). The alliance of competing firms to facilitate sharing of resources by members has been described as "coopetition" (Nalebuff and Brandenburger 1997).

Neoclassical economics would likely view these alliances as instances of anti-competitive collusion and potential violations of the Sherman Antitrust Act. This perspective would suggest that when competitors share information it is collusion by definition, and a violation of the Sherman Antitrust Act. During the last decades of the Twentieth Century, the United States Supreme Court relied heavily on the teachings of what has become known as the "Chicago School," a branch of neoclassical economics. Built on the works of Nobel laureates George Stigler and Milton Friedman and their colleagues, the Chicago School advocates free markets in striving for its idealized goal of perfect competition. Using neoclassical price theory, this school of thought

focuses on the potential harm to the market and the actual harm to consumers resulting from anti-competitive behavior. Recently, the Court has found sufficient issues with the Chicago School that it has moved beyond Chicago's market restraint criteria to decide antitrust cases (Lande 1993; Schleicher 1997). This indicates the Court's willingness to consider alternative paradigms to analyze antitrust cases.

In addition to discussing cooperation within a legal context, this paper continues to explore marketing's role in antitrust policy matters (Gundlach and Phillips 2002; Gundlach, Phillips and Desrochers 2002; Sheffman 2002; Sullivan 2002). Researchers have looked at specific, marketing-related activities and their relations to antitrust policy, including the use of signaling (Heil and Langvardt 1994), consumer choice (Guiltinan 2002), and business strategy (Peritz 2002; Sullivan 2002). Yet, Foer (2002) and Hawker (2002) contend that strategic management is missing from the discussion of antitrust. By ignoring how firms manage resources to create products and how consumers respond to these changes in product, antitrust analysis is being underserved. This "third leg of the antitrust stool" (Foer, p. 227) supports Hunt and Arnett's (2001) view that competition is an evolutionary process that should be a part of antitrust. This paper builds on this discussion by extending the concept of dynamic competition to cooperation and potential collusionary behavior.

To recognize this shift of competition from firm versus firm to network versus network, a theory is needed that explains the disequilibrium nature of competition while accepting that competing firms can and do form alliances and share information, without conspiring to limit competition. In light of the obvious limitations of the Chicago School, resource-advantage theory (hereafter referred to as R-A theory) may be a better tool for analyzing competition. R-A theory differs from the Chicago School of economics on several points, especially the way that each treats competitive markets and resources (See Table 1). This paper argues for

the adoption of the R-A theory by marketing researchers, practitioners, and public policy makers because it assumes that competition is not necessarily perfect and it is inherently disequilibrating. This reflects the reality of the market, not the ideological simplifications of textbooks. R-A theory treats resources like information as both heterogeneous and imperfectly mobile. Like neoclassical economics, R-A theory can explain perfect competition, which R-A theory treats as a special case of competition. Unlike neoclassical economics, R-A theory views competition as dynamic, such that competitor actions never allow markets to settle into permanent equilibrium. Furthermore, R-A theory can explain why competing firms might ally and cooperate to compete, cooperation, and why such alliances do not inherently signify "naked restraints" of trade. If an alliance of the type commonly found in business today were to constitute a *per se* antitrust violation, it would likely be classified as an "ancillary restraint" (Cartensen and Roth 2000, p. 355). Unintended restraints like these should be analyzed under the Rule of Reason created by the Supreme Court.

Enforcement of Antitrust

Peritz (2002) and Schlericher (1997) develop a history of the Supreme Court's enforcement of antitrust laws that falls into three views that are referred to as pre-Chicago (before the late 1970s), pure-Chicago (late 1970s to early 1990s), and post-Chicago. Until the late 1970s, the Supreme Court ruled against alliances when the members of the proposed alliance would have too much power within the market allowing them to control access to the market (Fox 1981). Beginning with *Continental T.V., Inc. v. GTE Sylvania Inc.* (1977), the Supreme Court accepted the Chicago School view of antitrust. Collusionary behavior was interpreted as attempts by an alliance of firms that fixed prices in a market or divided a market into territory for each firm, or horizontal mergers that created a monopoly in a particular market (Spivack and Ellis 1993). In *Eastman Kodak*

TABLE 1
Comparison of the Chicago School of Economics and Resource Advantage Theory

Issue	Chicago School	Resource Advantage
Competition	Perfect	Can be perfect (special case)
Markets	Equilibrating	Disequilibrating
Resources	Homogenous and perfectly mobile	Heterogeneous and imperfectly mobile
Information	Universally held	Resource
Information Sharing	Limits competition	Enables competition
Competitor Cooperation	Inherently collusionary	Coopetition, allows for non-Collusionary cooperation

Co. v. Image Technical Services (1992; hereafter referred to as *Kodak*), the Court accepted the post-Chicago view, which allows for imperfections in the market. Information is no longer assumed to be free, nor perfectly available and universally possessed, i.e., it is imperfect (Schleicher 1997, p. 311). Hunt and Arnett (2001, p. 20) advocate the view that antitrust enforcement has little to do with economic theories and more to with “the ideology of elected presidents and appointed regulators and judges, in conjunction with the rhetorical skills of lawyers and expert witnesses.”

The dynamic nature of competition described in R-A theory (Hunt 2000) presents challenges for antitrust analysis. Asch and Seneca (1976) found that collusionary behavior and profitability were negatively related. However, their work suffered from an admitted sample bias as they could observe only firms found guilty of colluding, and not colluding firms that remained undetected or uninvestigated. Because of issues related to empirical evidence (Asch and Seneca 1976; Jacobs 1995) and selective enforcement by the U.S. government (Shughart and Tollison 1998), antitrust enforcement is left to the interpretations of jurists and administrative policy makers. Armentano (1982) argues that this lack of empirical evidence and the reliance of interpretations have led all parties far from the initial policy aims of antitrust enforcement. Next, we will present the simplifying

assumptions used by the Chicago School and discuss how the resulting application has led to inconsistent public policy.

Perfect Competition and Imperfect Markets

Neoclassical economics relies on several assumptions to argue for perfect competition. First, barriers to entry into and exit from the market do not exist. Thus, firms can freely and frictionlessly enter and leave the market. Second, in the short run, firms attempt to maximize profitability, but in the long run, economic rents (*supernormal profits*) for all firms equal zero. Third, the product supplied in a market is homogenous. Fourth, competing firms can match any change in the product by a competing firm because all firms have perfect information. Fifth, firms face homogenous consumer demand. Thus, the supply and demand curves are homogenous for a *broadly* defined market.

Anything other than perfect competition is considered a market failure and therefore, undesirable. Models that discuss imperfect competition include monopolies, monopolistic competition, oligopolies, and cartels. In these models, the assumptions of perfect competition are violated. For example, information is freely and universally available in perfect competition, but it is costly and difficult to obtain in imperfect competition.

When two or more firms work together to control the market, it is often considered as collusion. Neoclassical economics argues against collusion because colluding firms inefficiently allocate resources, limit production, raise prices, and otherwise harm society (Armentano 1982). The colluding firms attempt to acquire cartel rents that represent profit in excess of what would be earned in a perfectly competitive market. The more the cartel price deviates from the price possible under by perfect competition, the greater the deadweight loss to society.

Consistent with the focus on the likelihood to collude, Bain (1954, 1968) developed the structure-conduct-performance model. This model suggests that mergers proposed in industries with a four-firm market share concentration ratio in excess of 75 percent should be rejected, and a government-led restructuring of the industry should be considered. Furthermore, a four-firm market share concentration ratio less than 50 percent does not warrant government-led intervention because it is "close enough" to perfect competition (Friedman 1953). How should a four-firm concentration with a ratio between 50 and 75 percent be treated? Bain's model recommends that the government should take an active interest in that industry to ensure that market power does not become too concentrated because this could lead to collusionary behavior. However, public policy has not always followed these standards of industry concentration.

For example, the U.S. government did not charge the U.S. automobile industry with anti-competitive behavior during the late 1950s, 1960s, and most of the 1970s, when four firms controlled over 75 percent of the industry. At one point during that period, almost one out of every two cars on American highways was a built by General Motors. American Motors Corporation president George Romney even requested a government-ordered break up of General Motors to combat GM's market power, but no such action was taken (Mann 1989). Other industries have even higher market share

concentrations than the automobile industry. For example, in 1995, Kellogg, General Mills, Post and Quaker Oats served 86.4 percent of the ready to eat breakfast cereal market, and in 2003, two companies, Coca-Cola and Pepsi had combined market shares of 75 percent of the U.S. soft drink market. Despite the high concentrations in these industries, the government has not challenged them.

This lack of action in concentrated industries seems to support Armentano's (1982) and Hunt and Arnett's (2001) assertion that antitrust enforcement has more to do with public policy than economic theory. Contrary to Romney's complaint regarding the automobile industry's structure, no evidence has been presented that shows the major manufacturers were engaged in collusion, despite the concentration ratio in excess of 75 percent. In fact, the U.S. government allowed Chrysler Corporation to purchase American Motors Corporation, merging two of the four automobile manufacturers, in the late 1980s despite a concentration ratio in excess of 50 percent. Prior to the merger, these two firms cooperated as American Motors built a compact car line for Chrysler.

This lack of government intervention in highly concentrated industries may be appropriate if these industries do not illegally limit competition. Does a four firm industry concentration in excess of 75 percent necessarily mean that the competitors have perfect knowledge of each other, their customers, suppliers, and distributors? We argue that it does not, and that it is virtually impossible for any firm to understand all of the knowledge held by each of its competitors, especially the tacit knowledge. Information is imperfect for consumers, as was held in *Kodak*, and it likely that information is imperfect for the competitors in an industry. In fact, many economists (e.g., Hayek 1945; Nelson and Winter 1982) emphatically state that this is indeed the case. Unique and tacit knowledge may in fact sustain a firm's competitive advantage as competitors are not able to understand and imitate the firm's success (Reed

and DiFillippi 1990). When two or more firms, even competitors, agree to cooperate, they must share a certain amount of information, but such information is generally limited to that which is pertinent to the cooperative venture. In other words, cooperation is not necessarily collusion. Firms can work together in a venture without forming a cartel or similar anti-competitive arrangements.

Ironically, it is often the lack of perfect information that allows the cartel to collapse. Cartel members typically agree to manage supply by establishing production levels, and this in turn raises or maintains prices. However, the resulting higher prices create incentives for individual cartel members to exceed their negotiated production limits, enhancing their interests at the expense of the remaining members of the cartel (Nicholson 2004). Neoclassical economics' assumption of perfect information implies that each member of the cartel knows actual production levels for all members, making violations subject to reaction and control. If the members do not have perfect information concerning their colleagues' levels of output, there are limited safeguards against violations of production quotas. Because of such opportunistic behavior, and even the threat of such behavior, cartel members may not be able to trust each other nor commit to their relationship (Morgan and Hunt 1994). This threatens the long term success of such relationships. Thus, it is challenging at the very least for a collusionary relationship among competitors, such as a cartel, to be successful in the long term.

If even colluding firms in a cartel do not have perfect information about each other, then why do economists assume it exists at all? One reason for the assumption of perfect information is neoclassical economics' reliance on systems of econometric equations to determine a variety of equilibriums such as Bertrand, Cournot, and Nash. These equations use measures of various factors of production such as land, labor, and capital. Computing the value of intangible resources, like the value of information, is very difficult at best (Hunt

2000). In order to simplify the econometric models to the point that they can be useful, economists often exclude these important, but unmeasurable factors.

Criticisms of the antitrust laws point toward three, larger critiques of antitrust enforcement, collusionary behavior, and neoclassical economics. One, the courts, policy makers, and scholars should not accept the dominant language that frames the interpretation, and, ultimately, the adjudication of antitrust acts. Two, marketing researchers and practitioners should take a greater interest in public policy matters and their impact on the marketplace. Three, if the dominant language is not to be accepted, then marketing researchers and practitioners, along with public policy makers, need a theory that can better explain the phenomenon of competitors cooperating in a non-collusive manner (Armentano 1982; Dickson and Wells 2001; Hunt 2000; Hutt, Mokwa and Shapiro 1986). We propose that R-A theory may offer a better framework to analyze competition as it is a theory of *competition*, not of *economics*.

R-A Theory

Hunt (2001, p. 527) defines R-A theory "as an evolutionary, disequilibrium-provoking process theory of competition, in which innovation and organizational learning are endogenous, firms and consumers have imperfect information, and in which institutions and public policy affect economic performance." R-A theory builds on various assumptions that include: intra-industry production and market resources are heterogeneous; competition is a process that emphasizes sustainable competitive advantage in marketplace positions; organizational learning occurs through competition; competitive processes are disequilibrating and evolutionary; entrepreneurs and societal institutions are important; innovation is endogenous; and consumer and firm information alike is imperfect (Hunt 2001).

According to R-A theory, firms deploy both tangible and intangible resources to produce

more efficiently offerings that heterogeneous market segment(s) value. Resources extend beyond the neoclassical economics definition of land, labor, capital and management to include “financial, legal, human, organizational, informational, and relational” resources (Hunt 2001, p. 529-530). A firm that deploys its resources more efficiently and/or effectively than its competitors should achieve a position of competitive advantage. Note that a position of competitive advantage is not anti-competitive. In fact, without continuous effort, this position is vulnerable to competitor actions. The competitors’ constant striving for their own positions of competitive advantage is the basis of dynamic competition, that which is actually observed in the market.

Lambe et al. (2002, p. 141) defined an alliance as “collaborative efforts between two or more firms in which the firms pool their *resources* in an effort to achieve mutually compatible goals that they not achieve easily alone.” Information is one resource that allied firms share. The extent to which firms would share information depends, in part, on their commitment to the alliance, and the trust between the members (Morgan and Hunt 1994; Williams 2005). Madhok and Tallman (1998) note the lack of the trust between firms in alliance and the resulting reluctance to share information as contributing factors in the breakdown of an alliance. Alliances with high levels of commitment and trust should have a greater willingness among members to exchange information to facilitate the cooperative venture.

If neoclassical economics is unable or unwilling to address the concept of the non-collusive coopetition that is common in business alliance arrangements, it falls upon other disciplines to do so. Sheth and Sisodia (1999) argue for marketing’s continued research into this concept of coopetition, where competing firms form an alliance to achieve a mutually desirable outcome. Sheth and Sisodia (1999, p. 81) note such alliances “...involve mutual dependence and a degree of shared decision making between separate firms.” Thus, coopetition

becomes consistent with the Lambe et al. (2002) and Williams (2005) definition of alliances. Given this interest in alliances comprised of competitors, it is surprising how infrequently the alliance literature discusses antitrust implications (Fontenot and Hyman 2004).

R-A theory takes a view of resources consistent with the resource-based view of the firm (e.g., Das and Teng, 2000). If a firm has a lower level of a resource, then it should seek an alliance with a firm or firms with higher levels of this resource. For example, one firm may have a strong brand name (e.g., Starbucks), a legal resource, and license that brand to another firm that has a strong distributional network (e.g., Coca-Cola), a relational resource. Alliances are formed because they can help the members to achieve performance levels that would otherwise be impossible. Falkenberg (1996) found that firms with higher levels of relational resources had higher levels of wealth creation. Xie and Johnston (2004) found that alliances, which would include those comprised of competing firms, reported an average 17 percent return on investment that marked a 50 percent improvement compared to firms not engaged in alliances.

R-A vs Neoclassical Economics in Evaluating Antitrust

The Department of Justice’s Antitrust Division Manual (1998) lists a number of industries that have immunities from antitrust enforcement. Many of these immunities effectively allow for the creation of competitor alliances in which members share information related to the marketing mix. For example, in the agricultural industry, co-operatives comprised of growers are allowed to exchange information concerning pricing and promotional strategies. The cooperative of cranberry growers that owns Ocean Spray, the orange growers that own Sunkist, and the apple growers that comprise the Washington State Apple Growers’ Association all share information as part of their competitive effort in the market place. This information may address methods to

produce more effectively and efficiently, output levels, market prices, scheduling, coordinated distribution, and integrated marketing communication. Such detailed coordination of explicit and tacit information can alleviate the causal ambiguity that enables one organization to sustain a competitive advantage, but that can prevent allies from successful cooperation (Reed and DeFillippi 1990). By allowing competing firms to form alliances, public policy permits these entities to combine resources and capabilities in order to lower their cost of production, possibly resulting in lower prices to consumers. Clearly, these are reasonable exceptions to the antitrust laws. However, immunities such as these are inconsistent with the free market stance favored by the Chicago School.

The Chicago School of economics treats these immunities as exemptions – aberrations that have been granted artificially and, therefore, can be removed. R-A theory, however, would allow for these court-granted immunities as natural exceptions because these firms cooperate in order to compete, not collude. That is, competing firms share information regarding elements of the marketing mix as part of the competitive process so that they may be more efficient, more effective, or both, without necessarily harming consumers. Indeed, consumers may benefit from the alliances through higher valued market offerings or lower prices. Customer value may be created through a wider variety of choices or better quality market offerings. Prices may drop if there is fuller utilization of resources and less redundancy in production. For example, cotton farmers might jointly own a large cotton gin, so that each producer does not have to own one.

R-A theory recognizes that competing firms enter into alliances with other firms to achieve superior financial rewards, without limiting competition. Note that R-A theory does not condone cooperation that becomes collusion, an inherently harmful behavior that results in detriment to consumers, generally in the form of higher prices. A strict prohibition on alliances by governmental agencies and public

policy makers could result in higher prices, and fewer, poorer choices, both negative outcomes for consumers. Firms can work together to satisfy the market's heterogeneous demand more efficiently or effectively than they can by working independently.

R-A theory acknowledges that cooperation between competing firms does not necessarily lead to cartel rents. For example, the airline industry has been held as an example of firms as engaging in some form of collusionary behavior (Varian 2003) or at least as having the incentive to collude (Shughart and Tollison 1998). Given the state of the U.S. airline industry in the past decade, where major carriers have filed for bankruptcy and others no longer exist, while a handful of discount airlines continue to thrive, it is doubtful that academic researchers, practitioners or public policy makers would detect the presence of cartel rents (Wessel 2005). It also is arguable whether airlines create a deadweight loss to society. In R-A theory, the airlines represent another industry attempting to allocate tangible and intangible resources in order to achieve superior financial returns. Specifically, the airlines could be emblematic of Sheth and Sisodia's (1998) discussion of cooptation.

Alliances such as OneWorld and Star allow partner airlines to share route codes and promotional efforts. A traveler could fly from airport A to airport C with a layover at airport B, flying one airline from A to B, and a second airline from B to C. These airlines might well be competitors on other routes, but because the airlines are members of an alliance, the traveler needs only to purchase one ticket for this particular trip. Such an arrangement may enable two airlines to compete with a third that flies from A to C, but it also provides the traveler with another purchase option. Rather than anticompetitive collusion that hurts consumers, this competition-enhancing cooperation likely provides benefits to consumers in terms of choice and pricing as the increased competition for the traveler's business would likely lower prices on the A to C route. Neoclassical economists (e.g., Shughart and Tollison 1998)

would likely view this relationship as inherently collusionary, while proponents of alliances of competing firms (e.g., Sheth and Sisodia 1999) would view this relationship as recognition of a dynamic, competitive market. Competing firms share information to benefit the end-consumer as well as the members of the alliances without performing malicious acts.

Distinction Between Coopetition and Collusion

Coopetition has gained interest in the marketing literature (e.g., Sheth and Sisodia 1999). The concept of coopetition describes the cooperation among competing firms. These forms of alliances are becoming more common, and neoclassical economics cannot accept the phenomenon because of the view that all cooperation is collusionary in nature. Therefore, a distinction must be made between coopetition and collusion.

In *United States v. Socony-Vacuum Oil Co., Inc. et al.* (1940; hereafter referred to as *Madison Oil*), the defendants were charged with conspiring to fix wholesale gasoline prices in the Midwest. A conspiracy to commit a tort should be not viewed in the same light as an alliance of competing firms that attempt to combine tangible and intangible resources in order to lower cost or produce a product of superior value. In the airline industry, firms must create alliances in order to produce to a differentiated service to differentiated end consumers. It is doubtful that adherents of R-A theory would agree that a collection of competing firms should attempt to set prices or production quotas. That form of collusion is illegal and would constitute a per se violation of the Sherman Act, as the Supreme Court ruled in *Madison Oil*. In a per se violation, an accused firm is found liable without detailed investigation of the alleged effects on competition.

In a review of antitrust cases that allege per se violations, Carstensen and Roth (2000, p. 350) conclude that “cartelistic behavior is absolutely (per se) illegal, except when it is not.” In

developing a unified theory for determining per se violations, Carstensen and Roth divided per se into two, non-mutually exclusive forms of restraint: naked and ancillary. Naked per se is defined as (Carstensen and Roth 2000, p. 355) “restraints (that) exist to limit the freedom of economic action of a party to such an agreement.” A naked restraint would include a contract between two firms that agree not to compete in each other’s markets or agree to set prices. Ancillary per se is defined as (Carstensen and Roth 2000, p. 355) “functionally incidental to some other legitimate, productive transaction or venture involving the parties.” This is similar but not the same as the Rule of Reason. Carstensen and Roth find the Court consistently accepting ancillary per se arguments and rejecting naked per se arguments. As such, the Court considers input factors such as contracts, but also considers the consequences of these agreements.

Information is intangible and therefore difficult to quantify and measure. As such, it is inherently problematic for the courts to determine collusion strictly on the basis of input, i.e., the sharing of information among competitors. The courts must look at each case individually, considering both process and outcome, in order to determine if such cooperation is collusionary. That is, the courts must judge each case on its merits in terms of the types of resource shared, the extent of that sharing, and the resulting impact on society, including markets, competitors, and consumers.

Palmer (2001, p. 762) argues, relationship marketing’s “basic tenets would appear to be contrary to the philosophy of freely competitive markets which have simultaneously become a dominant political ideology.” The use of the term “freely competitive markets” is more in line with the neoclassical economics view of perfect competition, and inconsistent with the concept of alliances. Indeed, alliances promote competition, although they change the focus of competition from firm versus firm to network versus network. Adherents of this view would agree with Palmer that the goal of maintaining

freely competitive markets should be the dominant political ideology (Hunt 2000). However, in order to improve their competitive positions within the market, firms should be allowed to form relationships including those with competitors and exchange information to facilitate that relationship. R-A theory treats information as a resource that can be exchanged within the alliance.

Further, knowledge is gained through competition. As alliances engage in higher levels of competition, the alliances gain more knowledge from comparison of financial metrics such as net income, return on investment, and gross margins among others. To improve these financial returns, members of the alliance would need to improve the availability and value of information. By accepting that information is imperfect, the Court recognizes a reality that most practitioners long ago knew. This is a reality that R-A theory recognizes but the Chicago School rejects.

Discussion

Since the passage of the Sherman Act, the Supreme Court has used a variety of economic theories to adjudicate cases involving business arrangements, including cartels. Following the *Kodak* decision, the Court accepts that information is imperfect. This acknowledgement means the Court is moving away from the Chicago School, which held that information is symmetrical. Because information is recognized as imperfect, competing firms can share information as part of an alliance without colluding to stifle competition. These alliances should not be viewed as naked per se violators of the antitrust laws because, although the sharing improves each firm's competitiveness, the improved competitiveness does not come at the expense of the end consumer. In fact, that consumer often benefits from the alliance as the alliances create customer value either through improved market offerings or lower prices. Under R-A theory, alliances attempt to improve their members' competitive position, not hamper

competition. Thus, courts should apply the Rule of Reason to alliances.

Using R-A theory to interpret collusionary behaviors creates two, important implications for public policy. One, public policy makers would need to accept that firms can cooperate while competing, and not collude to hamper competition. This acceptance would need to extend beyond the current immunities. Furthermore, alliances that include lateral relationships can be good for markets. By increasing competition, they can be good for buyers, who receive the products they demand at prices they are willing to pay. They can be good for suppliers, who will produce required products at a price they are willing to sell for. They can be good for lateral members, who will more effectively use tangible and intangible resources. Finally, they can be good for internal members, who will be confident in their long-term employment prospect.

Two, regulators would need to become more vigilant in enforcement of per se violations of antitrust regulations. R-A theory recognizes that competing firms can form alliances without harming the end consumer. Investigators would not need to spend time constructing a case that shows how collusionary behaviors harmed the competitive environment or the end consumer. Courts would not need to deliberate the merits of such a case. Instead, investigators would examine naked and ancillary per se violations, which should require less effort by courts.

By accepting the analysis of this paper, and by extension, the adoption of R-A theory, public policy makers would have a theoretical basis to set policies that recognize how markets function, not how they ought to function. Marketing researchers would be able to contribute towards policy decisions that affect greatly the practitioner. Finally, managers would have policies that reflect how they engage in business.

REFERENCES

- Armentano, Dominick, T. (1982), *Antitrust and Monopoly: Anatomy of a Policy Failure*. New York: John Wiley & Sons.
- Asch, Peter and Joseph Seneca (1976), "Is Collusion Profitable?," *Review of Economics and Statistics*, 58(1), 1-13.
- Bain, Joe S. (1954), "Conditions of Entry and the Emergence of Monopoly," in *Monopoly and Competition and Their Regulation*, Edward Chamberlin, ed. London: Macmillan.
- _____(1968), *Industrial Organization*, 2nd ed. New York: John Wiley.
- Carstensen, Peter C. and Bette Roth (2000), "The Per Se Legality of Some Naked Restraints: A [Re] Conceptualization of the Antitrust Analysis of Cartelistic Organizations," *Antitrust Bulletin*, 45(2), 349-435.
- Continental T.V., Inc. v. GTE Sylvania Inc.* (1977), 433 U.S. 36.3.
- Cushman, Linda M. and Carl L. Dyer (1995), "Cooperative Strategies in Retailing: A Premonitory Assessment," *The Journal of Marketing Management*, 5(1), 55-63.
- Das, T. K., and Bing-Sheng Teng (2000), "A Resource-Based Theory of Strategic Alliances," *Journal of Management*, 26(1), 31-61.
- Department of Justice (1998), *Antitrust Division Manual*, 3rd ed. Washington D.C.: U.S. Government Printing Office.
- Dickson, Peter R. and Philippa K. Wells (2001), "The Dubious Origins of the Sherman Antitrust Act: The Mouse That Roared," *Journal of Public Policy & Marketing*, 20(1), 3-14.
- Eastman Kodak Co. v. GTE Sylvania Inc.* (1977), 504 U.S. 451.
- Falkenberg, Andreas W. (1996), "Marketing and the Wealth of Firms," *Journal of Macromarketing*, 16(Spring), 4-24.
- Foer, Albert A. (2002), "The Third Leg of the Antitrust Stool," *The Journal of Public Policy & Marketing*, 21(2), 227-231.
- Fontenot, Renee J. and Michael R. Hyman (2004), "The Antitrust Implications of Relationship Marketing," *Journal of Business Research*, 57, 1211-1221.
- Fox, Eleanor M. (1981), "Modernization of Antitrust: A New Equilibrium," *Cornell Law Review*, 66, 1142-1155.
- Friedman, Milton (1953), *Essays in Positive Economics*. Chicago: University of Chicago Press.
- Guiltinan, Joseph P. (2002), "Choice and Variety in Antitrust Law: A Marketing Perspective," *Journal of Public Policy & Marketing*, 21(2), 260-267.
- Gundlach, Gregory T. and Joan M. Phillips (2002), "Marketing in Antitrust: Contributions and Challenges," *Journal of Public Policy & Marketing*, 21(2), 250-253.
- _____, _____ and Debra M. Desrochers (2002), "Antitrust and Marketing: A Primer and Call to Research," *Journal of Public Policy & Marketing*, 21(2), 232-236.
- Hamel, Gary, Yves L. Doz and C.K. Prahalad (1989), "Collaborate with Your Competitors – and Win," *Harvard Business Review*, 67 (January/February), 133-139.
- Hawker, Norman W. (2002), "The Public Policy of Antitrust and Strategy: An Overview," *Journal of Public Policy & Marketing*, 21(2), 257-259.
- Hayek, Fredrick A. (1945), "The Use of Knowledge in Society," *American Economic Review*, 35(4), 519-30.
- Heil, Oliver P. and Arlen W. Langvardt (1994), "The Interface Between Competitive Marketing Signaling and Antitrust Law," *Journal of Marketing*, 58(July), 81-96.
- Hunt, Shelby D. (2000), *A General Theory of Competition*. Thousands Oaks, CA: Sage.
- _____(2001), "A General Theory of Competition: Issues, Answers, and an Invitation," *European Journal of Marketing*, 35(5/6), 524-548.
- _____, _____ and Dennis B. Arnett (2001), "Competition as an Evolutionary Process and Antitrust Policy," *Journal of Public Policy & Marketing*, 20(1), 15-26.
- _____, _____ and Robert M. Morgan (1995), "The Comparative Advantage Theory of Competition," *Journal of Marketing*, 59(April), 1-15.

- _____ and _____ (1996), "The Resource-Advantage Theory of Competition: Dynamics, Path Dependencies, and Evolutionary Dimensions", *Journal of Marketing*, 60(October), 107-114.
- _____ and _____ (1997), "Resource-Advantage Theory: A Snake Swallowing Its Tail or a General Theory of Competition?" *Journal of Marketing*, 61(October), 74-82.
- Hutt, Michael D., Michael P. Mokwa and Stanley J. Shapiro (1986), "The Politics of Marketing: Analyzing the Parallel Political Marketplace," *Journal of Marketing*, 50(January), 40-51.
- Jacobs, Michael S. (1995), "An Essay on the Normative Foundations of Antitrust Economics," *North Carolina Law Review*, 71(1), 219-266.
- Lambe, C. Jay, Robert E. Spekman and Shelby D. Hunt (2002), "Alliance Competence, Resources, and Alliance Success: Conceptualization, Measurement, and Initial Test," *Journal of the Academy of Marketing Science*, 30(2), 141-159.
- Lande, Robert II. (1993), "Chicago Takes It on the Chin: Imperfect Information Could Play a Crucial Role in the Post-Kodak World," *Antitrust law Journal*, 62(1), 193-201.
- Madhok, Anoop and Stephen B. Tallman (1998), "Resources, Transactions and Rents: Managing Value Through Interfirm Collaborative Relationships," *Organization Science*, 9(3), 326-339.
- Mann, Jim (1989), *Beijing Jeep: The Short, Unhappy Romance of American Business in China*, New York: Simon Schuster.
- Morgan, Robert M. and Shelby D. Hunt (1994), "The Commitment-Trust Theory of Relationship Marketing," *Journal of Marketing*, 58(July), 20-38.
- Nalebuff, Barry J. and Adam M. Brandenburger (1997), "Co-opetition: Competitive and Cooperative Business Strategies for the Digital Economy," *Strategy & Leadership*, 25(6), 28-35.
- Nelson, Richard R. and Sidney G. Winter (1982), *An Evolutionary Theory of Economic Change*, Cambridge, MA: Belknap Press of Harvard University Press.
- Nicholson, Walter (2004), *Intermediate Microeconomics and Its Application*, 9th ed. Mason, Ohio: South-Western
- Palmer, Adrian (2001), "Co-operation and Collusion: Making the Distinction in Marketing Relationships," *Journal of Marketing Management*, 17, 761-784.
- Peritz, Rudolph J.R. (2002), "Antitrust Policy and Aggressive Business Strategy: A Historical Perspective on Understanding Commercial Purposes and Effects," *Journal of Public Policy & Marketing*, 21(2), 237-242.
- Reed, Richard and Robert J. DeFillippi (1990), "Causal Ambiguity, Barriers to Imitation, and Sustainable Competitive Advantage," *Academy of Management Review*, 15(1), 88-102.
- Schleicher, Tara J. (1997), "The U.S. Supreme Court's Use of Post-Chicago Antitrust Theory in *Eastman Kodak v. Image Technical Services*: Implications for Marketing Practice," *Journal of Public Policy & Marketing*, 16(2), 310-318.
- Sheffman, David T. (2002), "Antitrust Economics and Marketing," *Journal of Public Policy & Marketing*, 21(2), 243-246.
- Sheth, Jagdish N. and Rajendra S. Sisodia (1999), "Revisiting Marketing's Lawlike Generalizations," *Journal of the Academy of Marketing Science*, 27(1), 71-87.
- Shughart, William F. II and Robert D. Tollison (1998), "Collusion, Profits, and Rational Antitrust," *Antitrust Bulletin*, 43(2), 365-374.
- Spivack, Gordon B. and Carolyn T. Ellis (1993), "Kodak: Enlightened Antitrust Analysis and Traditional Tying Law," *Antitrust Law Journal*, 62(Summer), 203-216.
- Sullivan, Mary W. (2002), "The Role of Marketing in Antitrust," *Journal of Public Policy & Marketing*, 21(2), 247-249.
- Teece, David J. (1988), "Capturing Value from Technology Innovation: Integration, Strategic Partnering, and Licensing Decisions," *Interfaces*, 18(3), 46-61.
- Thorelli, Hans B. (1955), *The Federal Antitrust Policy*. Baltimore, MD: Johns Hopkins University Press.

- Tournois, Laurent (2004), "Creating Customer Value: Bridging Theory and Practice," *The Marketing Management Journal*, 14(2), 13-23.
- United States Code. Title 15. Commerce and Trade, 15 USCS, Chapter 1. Monopolies and Combinations in Restraint of Trade, 2005 [available at http://uscode.house.gov/download/title_15.php].
- United States v. Socony-Vacuum Oil Co., Inc. et al.* (1940), 310 U.S. 150.
- Varian, Hal R. (2003), *Intermediate Microeconomics: A Modern Approach*, 6th ed. New York: W.W. Norton.
- Wessel, David (2005), "Airlines May Have to Fly Without Lifeline," *The Wall Street Journal*, 245(107), A2.
- Williams, Trevor (2005), "Cooperation by Design: Structure and Cooperation in Interorganizational Networks," *Journal of Business Research*, 58, 223-231.
- Xie, Frank Tian and Wesley J. Johnston (2004), "Strategic Alliances, Incorporating the Impact of e-business Technological Innovations," *Journal of Business & Industrial Marketing*, 19(3), 208-222.