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CONTRIBUTIONS AND CHALLENGES OF MARKETING TO ANTITRUST

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Interest in the contributions of other disciplines for informing and furthering the development of antitrust has recently emerged.[1] This inquiry focuses on the potential contributions of, among other areas, the business disciplines including marketing and raises several key issues regarding marketing's potential contribution to antitrust: (1) marketing's relationship to antitrust, (2) the nature of contributions that marketing may provide, and (3) the challenges that are likely to result from integrating marketing thought into antitrust. These questions are being explored as a part of the American Antitrust Institute's (AAI) ongoing "Business School Project."[2] Preliminary observations and findings are reported here.

For understanding marketing's potential contributions to antitrust, it is useful to characterize both areas in terms of their *subject matter, role in society, underlying processes, informing foundations,* and

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1. David T. Scheffman, *Antitrust, Economics, and "Reality"*, *in* THE ECONOMICS OF THE ANTITRUST PROCESS 240 (1996) recommends "bringing into economics much more of the reality of actual firms and tapping what is useful in the disciplines of marketing, accounting, and business strategy." Similarly, Albert A. Foer, *The Third Leg of the Antitrust School,* 22 J. PUB. POL'Y & MKTG. 227 likens antitrust policy to a wobbly two-legged stool. "The two legs. . .are law and neo-classical economics. . .The disciplines of marketing and strategic management can be the third leg that gives the antitrust stool stability." *See* Gregory T. Gundlach, *Marketing and Modern Antitrust Thought, in* HANDBOOK OF MARKETING AND SOCIETY (Paul N. Bloom & Gregory T. Gundlach eds., 2001).

2. The objective of AAI's Business School Project is to determine what is taught and what is thought in the nation's business schools with respect to competition, in order to make suggestions as to (a) how this learning might be used to improve antitrust analysis and (b) how the business school curriculum might be improved to give future managers a better understanding of the meaning and justifications of antitrust. AAI co-sponsored a Research Workshop on Marketing, Competitive Conduct, and Antitrust Policy at the University of Notre Dame's Mendoza Business School on May 3 & 4 (May 23, 2002), *available at* http://www.antitrust.org/recent2/184.cfm (last visited Nov. 8, 2002).

principal methodologies. By examining and comparing both marketing and antitrust across these five domains, we can reach a better understanding of how marketing might contribute to the antitrust process, and identify the challenges of integrating the many differing perspectives of these related and complementary disciplines.

FOUNDATIONS OF ANTITRUST

Subject Matter: Competition

The primary subject matter of antitrust is competition. Sullivan reports that antitrust deals with both competition and the industrial structure and circumstances that stimulate competition.[3] Considered the engine of free enterprise,[4] a more expansive conception of competition emphasizes both *market structure,* or the circumstances that stimulate competition, as well as *conduct,* or the dynamic process of rivalry that occurs when two or more parties strive with or against one another to secure an exchange with another party.[5]

Role in Society: To protect and preserve the competitive process in exchange

From an antitrust perspective, insuring competition is viewed as the best way to achieve a well-functioning and prosperous economic system and to promote consumer welfare.[6] More specifically, since competition enhances consumer welfare, antitrust's role in society is to protect and preserve the competitive exchange process. A market economy functions best when numerous sellers, vying for customers, must produce goods and services of sufficient

3. Lawrence A. Sullivan, *Economics and More Humanistic Disciplines: What are the Sources of Wisdom for Antitrust?*, 125 U. PA. L. REV. 1214, 1214-43 (1977).

4. JOHN H. SHENEFIELD & IRWIN M. STELZER, THE ANTITRUST LAWS: A PRIMER 2 (2001).

5. F.M. SCHERER, INDUSTRIAL MARKET STRUCTURE AND ECONOMIC PERFORMANCE 9-10 (2d ed. Houghton-Mifflin 1980).

6. Currently at the core of both marketing and antitrust is the concept of consumer welfare. In antitrust, allocative efficiency is employed as the key concept for understanding consumer welfare. Allocative efficiency is defined as the production and distribution of currently available goods and services to enhance consumer welfare and/or the assignment of resources to their highest and best use.

quality and at acceptable prices or be driven from the field.[7] Competition is considered to be the best means of eliminating excess profits; of allocating resources to their most efficient use; of forcing firms to produce goods of the highest quality at the lowest costs; in amounts consumers want; and of stimulating the generation and introduction of innovations. These activities enhance consumer welfare while effectively promoting economic growth, prosperity, and the distribution of income in rough proportion to the value of individual contributions to the economy.[8]

As a general public policy goal, the law of antitrust endeavors to promote consumer welfare through encouraging competitive conduct and protecting the process of competition in exchange.[9] In this respect, the antitrust laws are the set of rules meant to preserve the competitive process.[10]

Underlying Process: A basis for assessing and protecting competition

The antitrust process provides the basis for assessing and protecting competition in exchange. The process begins by first defining the relevant market,[11] or the arena in which effective competition occurs, and then attempting to understand the implications of exchange conduct for consumer welfare by identifying the threshold conditions necessary to reduce competition and the nature of firm conduct observed in the market.[12]

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7. SHENEFIELD & STELZER, *supra* note 4, at 7.

8. *Id.*

9. Gregory T. Gundlach, *Marketing and Modern Antitrust Thought*, *in* HANDBOOK OF MARKETING AND SOCIETY 35 (Sage Publications 2001); LAWRENCE A. SULLIVAN, ANTITRUST (West 1983).

10. JOHN H. SHENEFIELD & IRWIN M. STELZER, The Antitrust Laws: A Primer 1 (AEI Press 2001). SHENEFIELD ET AL., *supra* note 4, at 1.

11. A relevant market "consists of all buyers and sellers of all products that are actual or potential competitors with one another. The objective of defining a relevant market is to determine the boundaries within which effective competition occurs, or, conversely, market power is exercised." *Id.* at 30.

12. Shaenefield and Stelzer outline an analytical framework that begins with defining the relevant (product and geographic) market. *Id.* at 30-35. Next the firms competing in the defined market are identified. The final step is to determine whether the conduct in question is carried out by a firm or a group of firms with market power.

Informing Foundations: Law and economics

For applying the antitrust process, beyond law, antitrust has historically relied upon the discipline of economics to inform its understanding. Although the Supreme Court has not fully endorsed a purely economic interpretation of consumer welfare, at present a largely economic approach to antitrust has been adopted by the federal administrative agencies and many courts. Debate in antitrust currently centers on which of two schools of economic thought antitrust should rely upon.

On one hand is the "Chicago School"[13] which holds to the core belief that markets by nature tend toward efficiency and that market imperfections generally are transitory in nature and for the most part self-correcting.[14] Working from these and other microeconomic assumptions based in price theory, conspiracies are generally considered inherently unstable, monopoly markets self-correcting, and entry barriers inadequate to undermine the efficiency of the market. The implication of the Chicago School for antitrust is at once its rationalization and its clarity. Through defining consumer welfare in efficiency terms and behavior in terms of output and price, enforcement authorities and the courts are viewed to be equipped with straightforward and objective tests for determining the effect of marketplace conduct on consumer welfare. Expanded output and lower prices enhance consumer welfare, restraint of output and higher prices do not.

On the other hand, proponents of the post-Chicago School believe markets are largely imperfect and that market failures are not necessarily self-correcting.[15] Much of the post-Chicago thinking re-

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13. *See* Richard A. Posner, *The Chicago School of Antitrust Analysis*, 127 U. PA. L. REV. 925, 925-52 (1979); The Chicago School was inspired by the work of University of Chicago law and economics scholars Director, Bowman, Bork, McGee, and Telser.

14. *See id.* (for a historical overview of the Chicago School).

15. Jonathan B. Baker, *Recent Developments in Economics that Challenge Chicago School Views*, 58 ANTITRUST L. J. 645, 654-55 (1989) provides several economic illustrations that challenge traditional Chicago School assumptions. *See also* Herbert Hovenkamp, *Antitrust Policy After Chicago*, 84 MICH. L. REV. 213, 213-84 (1985) for additional examples. In addition, both authors criticize the Chicago School model of antitrust and describe the emerging influence of post-Chicago economics on this area. Hovenkamp concludes that "The Chicago School of antitrust analysis has made an important and lasting contribution to antitrust policy. At the same time, however, the Chicago School's approach to antitrust is defective for two important reasons. First of all, the notion that

flects progressive changes in the field of economics itself.[16] During the 1980s, Industrial Organization theory in economics shifted from inquiry of industry structure, conduct, and performance to the strategic behavior of firms within imperfectly competitive markets.[17] Informing this thinking was a host of new approaches and perspectives, beyond price theory, for explaining and understanding firm behavior.[18] The implication of the post-Chicago thinking for antitrust is to at once increase its explanatory power, but also its complexity.[19] Under the post-Chicago School market imperfections (particularly information asymmetries) are viewed as a pervasive and durable phenomena that rather than dissolving under the pressures of the market, tends to corrode its efficiencies over time.[20] Strategizing firms are thought to accentuate, perpetuate, and exploit market imperfections hampering competitive balance in the process.[21] Such a complicated view of the market warrants a more probing enforcement policy and complex methodology.

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public policymaking should be guided exclusively by a notion of efficiency based on the neoclassical market efficiency model is naive. . . Second, the neoclassical market efficiency model is itself too simple to account for or to predict business firm behavior in the real world." *Id.* at 213-23.

16. *See* Michael S. Jacobs, *An Essay on the Normative Foundations of Antitrust Economics*, 74 N.C. L. REV. 225 (1995) for a historical overview of the emergence of the Chicago and post-Chicago Schools of thought. He notes that "post-Chicagoans have shown that the neoclassical price model is not the only method for analyzing the efficiency questions central to antitrust. They have demonstrated that economists equally loyal to the goal of consumer welfare can disagree markedly with price theorists about the means most conducive to allocative efficiency."

17. *See* Robert H. Porter, *A Review Essay on Handbook of Industrial Organization,* 29 J. ECON. LIT. 553, 553-72 (1991) (for a review summarizing these developments).

18. Janusz A. Ordover & Garth Saloner, *Predation, Monopolization, and Antitrust, in* HANDBOOK OF INDUSTRIAL ORGANIZATION (1989).

19. Herbert Hovenkamp, *Post-Chicago Antitrust: A Review and Critique,* 2001 COLUM. BUS. L. REV. 257, 268 (2001) notes that the "real value of post-Chicago economics is its renewed recognition of the fact that markets are much more varied and complex than Chicago theorists were willing to admit." In contrast, he also notes that "the major shortcoming of post-Chicago antitrust analysis is its failure to take seriously problems of judicial or agency administration" *Id.* at 269.

20. Louis Kaplow, *Extension of Monopoly Power through Leverage,* 85 COLUM. L. REV. 515, 515-56 (1985) and Hovenkamp, *supra* note 19, at 268, conclude that "The Chicago School gave antitrust an elegant and simple set of economic models. . .but. . . ."

21. Baker, *supra* note 15, at 654-55.

Methodology: Deductive to inductive

The differing economic perspectives of the Chicago and post-Chicago Schools also result in different methodologies for antitrust.[22] Under the Chicago School the purpose and effect of competitive conduct are assumed to be generally determinable, in terms of methodology, through deduction from the analytic generalizations of neoclassical price theory. Under the more recent post-Chicago approach to antitrust a more inductive and empirical approach is suggested and relied upon. In this respect, the purpose and effect of competitively ambiguous conduct is viewed as best determined through reliance on the facts and empirical inquiry and analysis. Theory, still critically important, provides merely a framework and pathway through which to analyze competitive conduct and its welfare implications.

FOUNDATIONS OF MARKETING

Subject Matter: Exchange

Exchange has long been considered the subject matter of marketing.[23] Indeed, the nexus of marketing has always been the concept of exchange, with exchange being defined generally as an act of simultaneous giving and receiving. As the scope of marketing expanded beyond economics, exchange has always been at the

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22. *See* Thomas C. Arthur, *The Costly Quest for Perfect Competition: Kodak and Nonstructural Market Power*, 69 N.Y.U. L. REV. 1, 1-61 (1994) (for a discussion of the Supreme Court's *Kodak* decision).

23. Going back to 1929, ROLAND S. VAILE & PETER L. SLAGSVOLD, MARKETING: AN INTRODUCTORY COURSE 35 (1929), *cited in* Robert A. Peterson, *Marketing is. . .a Body of Knowledge*, *in* ESSAYS BY DISTINGUISHED MARKETING SCHOLORS OF THE SOCIETY FOR MARKETING ADVANCES 139-167 (A.G. Woodside & E.M. Moore, eds., JAI Press 2002), state that "the basic function performed by marketing was exchange." Subsequent work has considered marketing to be "the agency whereby the exchange of goods and services is accomplished." RALPH F. BREYER, THE MARKETING INSTITUTION 4 (1934), and "the exchange which takes place between consuming groups and supplying groups." WROE ALDERSON, MARKETING BEHAVIOR AND EXECUTIVE ACTION: A FUNCTIONALIST APPROACH TO MARKETING THEORY 15 (1957). Richard D. Irwin, likewise, Richard P. Bagozzi, in *Marketing as Exchange*, 39 J. MKTG. 37 (1975), note that "the processes involved in the creation and resolution of exchange relationships constitute the subject matter of marketing" and that "the exchange paradigm has emerged as a framework useful for conceptualizing marketing behavior."

foundation since it is exchange itself that leads to the concept of a market and a marketplace.[24]

Marketing has been defined as the societal process by which individuals and groups obtain what they need and want through creating, offering, and freely exchanging products and services of value with others.[25] From a marketing perspective, analyzing, creating, delivering, and communicating superior customer value through exchange is viewed as the principal means by which firms compete against one another. Therefore, the idea of exchange is central to the meaning of marketing, and many marketing scholars generally consider exchange to be the fundamental phenomenon to be explained, predicted, and controlled in the marketplace.[26]

The "marketing concept" is perhaps the most famous axiom in marketing history. At its core, the marketing concept holds that the key to providing superior exchanges of customer value is being more effective than competitors at creating, delivering, and communicating customer value.[27] Since its inception in marketing thought the marketing concept has served as an important organizing principle for modern marketing practice as it initiated a shift away from a product-centered orientation to a customer-centered orientation.[28] That is, analyzing, creating, delivering, and commu-

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24. Franklin S. Houston & Jule B. Gassenheimer, *Marketing and Exchange,* 51 J. MKTG. 3, 3-18 (1987). Also, in their more comprehensive work on exchange, FRANKLIN S. HOUSTON ET AL., MARKETING EXCHANGE TRANSACTIONS AND RELATIONSHIPS 5 (1987) note that "While the definition of economics focuses on 'resource allocation,' the definition of marketing focuses on the process of exchanges that underlies that reallocation."

25. PHILIP KOTLER, MARKETING MANAGEMENT 9 (11th ed. Prentice Hall 2003).

26. Richard P. Bagozzi, *Toward a Formal Theory of Marketing Exchange, in* AMERICAN MARKETING ASSOCIATION, MARKETING THEORY: CLASSICAL AND CONTEMPORARY READING 791-805 (South-Western 1986).

27. KOTLER, *supra* note 25, at 19.

28. JAGDISH N. SHETH ET AL., MARKETING THEORY: EVOLUTION AND EVALUATION (1988); Robert J. Keith, *The Marketing Revolution,* 24 J. MKTG. 35, 35-38 (1960), on the marketing concept is one of the earliest and most frequently cited. Keith, a senior executive for Pillsbury, states that "no longer is the company at the center of the business universe. Today the customer is at the center." In addition, he suggests that businesses have "shifted from problems of production to problems of marketing, from the product we *can* make to the product the customer *wants* us to make, from the company itself to the marketplace." Finally, Keith concludes that "as more and more business men grasp the concept, and put it to work, our economy will become truly marketing oriented." *Id.* at 35; *see also* John B. McKitterick, *What is the Marketing Management Concept, in* THE FRONTIERS OF MARKETING THOUGHT AND ACTION 71-82 (1957).

nicating superior customer value is a marketer's basis of competition.[29]

Role in Society: Delivering a higher standard of living through superior value in exchange

As noted above, marketers compete by creating exchanges of superior customer value. It is through these market exchanges that consumers obtain what they need and want. More simply, marketing delivers a higher standard of living to society through exchanges of superior customer value.[30] In marketing terms, value is the ratio of benefits (i.e., what the customer gets) to costs (i.e., what the customer gives up). Marketers consider a full range of benefits and costs in relation to value. Benefits include both functional and nonfunctional benefits obtained in the exchange while costs include the monetary, time, energy, and psychic costs associated with exchange.[31]

To enhance the value that is offered for exchange marketers often employ strategies that directly address both the benefits and the costs of exchange. These include: (1) raising benefits, (2) reducing costs, or (3) a combination of changes to the benefits and costs of an exchange including (a) raising benefits and reducing costs, (b) raising benefits by more than costs are raised, and (c) lowering benefits by less than the reduction in costs.[32]

Given marketing's broad view of benefits and costs, it strives to enhance the overall value of the exchange through the implementation of both price and nonprice strategies. Indeed, both price and nonprice strategies are important and in many instances, nonprice strategies are considered the most effective strategy of choice.[33]

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29. GEORGE S. DAY, MARKET DRIVEN STRATEGY: PROCESSES FOR CREATING VALUE 29 (1990).

30. KOTLER, *supra* note 25, at 8.

31. *Id.* at 11. In addition to the functional benefits derived from the product consumers frequently derive many nonfunctional, or emotional, benefits from their purchase as well. Therefore, Value = Benefits/Costs = (Functional+Nonfunctional Benefits) / (Monetary+Time+Energy+Psychic Costs).

32. *Id.*

33. DAY, *supra* note 29, at 29 (notes that "superior value is created when the benefits these customers derive from this superior performance are worth more than the price premium they have to pay.").

Underlying Process: Marketing management process

Although marketing is both macro and micro in its perspective, modern marketing management has emphasized the micro-level process of managing the firm's marketing effort. In fact, the American Marketing Association's own definition of marketing is the process of planning and executing the conception, pricing, promotion, and distribution of ideas, goods, and services to create exchanges that satisfy individual and organizational goals.[34]

Common to the managerial approach is the view of marketing as a process that begins with the analysis of conditions or circumstances facing a firm.[35] The results of this situational analysis are often suggestive of certain marketing decisions which if implemented are thought to lead to the achievement of superior exchanges of value for the firm. In more specific terms, marketing management strives for understanding and effective decision-making based on a four-stage process of analysis, planning, implementation, and control. The *analysis* includes an assessment of consumers, competitors, the overall market, and the internal and external environments including an in-depth understanding of those factors likely to bear upon the firm's attempt to create, facilitate, and maximize its exchanges of value. The *planning* stage involves the identification of a sustainable competitive advantage in the form of selecting core competencies in resources and skills; segmenting and targeting customers based on commonalities in needs, behaviors, and other attributes; and choosing a competitive position within a defined target market or arena of competition.[36] Once the sustainable competitive advantage is identified specific market strategies and product, place, price, and promotion tactics are developed and put into place. It is in this *implementation* stage that strategies and tactics are converted from intentions to action

34. PETER D. BENNETT, DICTIONARY OF MARKETING TERMS 166 (2d ed. 1995).

35. "The marketing process consists of analyzing marketing opportunities; researching and selecting target markets; designing marketing strategies; planning marketing programs; and organizing, implementing, and controlling the marketing effort." KOTLER, *supra* note 25, at 112.

36. A firm's sustainable competitive advantage is a function of its competitor selection, product-market selection, assets and competencies, and its product, positioning, manufacturing, and distribution strategies. DAVID A. AAKER, STRATEGIC MARKETING MANAGEMENT 134-35 (John Wiley & Sons eds., 6th ed. 2001).

and are the means by which a firm achieves its superior exchanges of value. The final stage requires ongoing monitoring to *control* and correct for deviations and dynamic changes to the environment, industry, competitors, and customer segments.

It is not coincidental that the marketing management process of analysis, planning, implementation, and control closely resembles other strategic planning models.[37] Although the frameworks are similar, the outcome of the process is dependent upon the level of analysis that, like a funnel, ranges from macro to micro in perspective. That is, the frameworks are used to make strategic decisions at the industry, market, segment, and even niche levels of analysis. The insights gleaned from marketing's micro-level analysis add a richness to our understanding of the competitive exchange process at its most basic level. Therefore, it is the fine-grained richness in understanding of exchange that results directly from the marketing management process that makes marketing's contributions to antitrust particularly unique from the contributions of strategic management and economics.

Informing Foundations: Understanding the process of exchange from a variety of perspectives

For understanding the societal process of exchange marketing relies on a variety of theoretical perspectives. Interestingly, marketing's foundations have origins in economics.[38] Prior to 1900, mar-

37. *See, e.g.*, MICHAEL A. HITT ET AL., STRATEGIC MANAGEMENT: COMPETITIVENESS AND GLOBALIZATION 23 (2002). The presentation of industrial/organizational model of strategic planning: (1) Study the external environment, (2) Locate an industry with high potential, (3) Identify the appropriate strategy, (4) Develop or acquire assets skills needed to implement the strategy, (5) Implement the strategy.

38. Going back to 1912, Arch Shaw wrote that "economic conditions have put the emphasis on production. . . but the market of the product has received little attention. A.W. Shaw, *Some Problems in Market Distribution,* Q. J. ECON., Aug. 1912, at 704-05. Others have also noted that marketing is "an outgrowth of the formal study of economics." *See, e.g.,* STANLEY C. HOLLANDER & KATHLEEN M. RASSULI, THE INTERNATIONAL LIBRARY OF CRITICAL WRITINGS IN BUSINESS HISTORY: MARKETING I at xxi (1993). "[T]hat growth [*in marketing*] was motivated by economics' lack of interest in the detail of the exchange process." Frank HOUSTON ET AL., MARKETING EXCHANGE TRANSACTIONS AND RELATIONSHIPS 129 (1992). *See also* Dave Bussière, *Evidence of a Marketing Periodic Literature within the American Economic Association: 1895-1936,* 20(2) J. MACROMARKETING 137-43 (2000) for a review of the early articles on marketing in the economics periodic literature.

ket behavior was explained chiefly through macroeconomic theory. As social and economic conditions departed from economic assumptions, new interpretations of economic activity were needed and these nurtured the discovery of marketing.[39]

In addition to economics, marketing draws heavily from other disciplines. As a multi-disciplinary science, marketing casts its net broadly in an attempt to explain how consumers and marketers behave in exchange.[40] Borrowing from a multitude of more basic disciplines, beyond economic interpretations of exchange, marketing incorporates the added understanding of the other sciences. These include sociology, psychology, anthropology, biology, and law among others. Viewing marketers and consumers through its own theories and those of other more basic disciplines, marketing attempts to interpret marketplace behavior and to understand exchange conduct.

Methodology

While some areas of marketing adopt a normative approach in the sense of prescribing what marketers should do, knowledge, generation and understanding in marketing are steeped in a tradition of induction and empirical methodology.[41] Marketing relies on an extensive array of methodologies for understanding exchange behavior including extensive use of primary and secondary data; laboratory, simulation and field settings; experimental, quasi-experimental, and survey research designs; and a variety of analytic techniques ranging from econometric modeling to interpretative forms of analysis.[42]

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39. Robert Bartels, *Development of Marketing Thought: A Brief History* (1965) *reprinted in* MARKETING THEORY: CLASSIC AND CONTEMPORARY READINGS 190 (1986).

40. Rohit Deshpandé, *Paradigms Lost: On Theory and Method in Research in Marketing,* 47 J. MKTG. 101, 101-10 (1983); Gregory T. Gundlach, *Marketing and Modern Antitrust Thought, in* HANDBOOK OF MARKETING AND SOCIETY (Paul N. Bloom & Gregory T. Gundlach eds., 2001).

41. SHELBY D. HUNT, MODERN MARKETING THEORY: CRITICAL ISSUES IN THE PHILOSOPHY OF MARKETING SCIENCE (1991).

42. *See also* SHELBY D. HUNT, FOUNDATIONS OF MARKETING THEORY: TOWARD A GENERAL THEORY OF MARKETING (2002); GILBERT A. CHURCHILL & DAWN IACOBUCCI, MARKETING RESEARCH METHODOLOGICAL FOUNDATIONS (8th ed. 2002) for a comprehensive overview of marketing research techniques. for a comprehensive overview of marketing research techniques.

RELATING MARKETING TO ANTITRUST

At a basic level, comparing and contrasting the subject matter, role in society, underlying processes, informing foundations, and methodologies of antitrust and marketing provides a helpful basis for understanding how marketing can contribute to antitrust.

Subject Matter

Whereas the subject matter of antitrust is competition and the kinds of market structure and processes that stimulate competition, the subject matter of marketing is exchange and more particularly the process of analyzing, creating, communicating, and delivering superior value through exchange. However, because marketing contemplates the key to providing superior exchanges of customer value is being more effective than competitors, it views competition as a very important aspect of exchange. As a result, both antitrust and marketing appear to have much in common in terms of their subject matter. At minimum, these commonalities suggest that the subject matter of marketing has relevance and may be helpful to antitrust.

Role in Society

The role of antitrust is to protect and preserve the process of competition in exchange. Competition is viewed as the primary way to achieve a well functioning and prosperous economic system of exchange and to promote the welfare of its consumers. Relatedly, marketing's role in society has been suggested to provide for a higher standard of living through providing superior value in exchange. In this respect, marketing can be said to provide the means through which competition in exchange takes place in society. Of course, not all of the means of exchange offered by marketers contribute to consumer welfare in the sense of a higher standard of living for society. Some exchanges, unfortunately, are offered by some marketers in order to elevate their own interests and in ways that jeopardize consumer welfare. Such exchanges are those that are of interest to antitrust.

Underlying Processes

The antitrust process provides an organized and helpful process for understanding competitive conduct and the consequences of such conduct for competition and consumer welfare. Alternately, the marketing management process provides marketing managers with a useful framework for analyzing, planning, and executing a firm's marketing effort and for how to compete against other marketers. Due to the particular needs of the users, the marketing management and the antitrust processes are necessarily different. However, given that understanding competitive conduct in exchange is an important outcome of the antitrust process, the marketing management process would seem to be particularly useful in enhancing that outcome. Indeed, the marketing management process provides a "roadmap" for such understanding as it captures and reflects the particular motivations, processes, logic, and mechanisms that underlie a marketer's approach to competition. Understanding this process can only further understanding of competition and antitrust.

Informing Foundations

Beyond the law itself, antitrust has relied heavily on the theory and insights of economics to inform its thinking. Few other disciplines provide an approach for assessing the aggregate effects of competition in the marketplace. Marketing on the other hand, though having roots in economics, has evolved to be more pluralistic in its reliance on theory, often incorporating the understanding of more basic disciplines in its pursuit of understanding exchange. Reliance on these more basic disciplines has provided marketing with a useful basis for understanding exchange and competition at a disaggregate level.

It is in this fashion that marketing may further understanding in antitrust. More particularly, the disaggregate and multi-disciplinary understanding of exchange and competition found in marketing would seem capable of providing a complementary foundation to the aggregate understanding that economics provides, furthering antitrust in the process.

Methodology

Antitrust is evolving in its methodologies from the more abstract, static, deductive, and norm-based approach of the Chicago School, to the more specific, dynamic, inductive, and empirical approach of the post-Chicago School. Marketing methodologies, although including deductive generalizations and normative prescriptions for marketing practice, is generally more inductive and empirically rich in its approach to describe, explain, predict, and understand the marketing activities, processes, and phenomena that occur in exchange. In this way, it would seem that marketing follows more closely and may be more helpful to the methodologies of the post-Chicago School. Although realizing that some of the empirical methodologies employed in marketing may have limitations within the antitrust process, inquiry into the utility of these methodologies would seem to have much to offer antitrust. Interestingly, economics and marketing have come closer to one another over the years in their methodologies with each relying at times on similar approaches for their understanding.

In addition to the potential of different empirical methodologies, antitrust's heavy reliance on price data would seem to benefit from marketing's contributions given that the source of these data is often marketing. For this reason, an ,understanding of these price data from the perspective of those that generate and use it would yield further understanding of its nature and utility in the antitrust process.

Challenges

Although marketing can be said to: (1) share a common subject matter with antitrust in competition and exchange, (2) involve the means through which competition takes place in society, (3) possess an organized basis for understanding the process of competition, (4) be complementary to economics in its disaggregate unit of analysis and in its plurality of informing theory, and (5) rely on methodologies and data that have utility for understanding competition, including those found in economics, important challenges also attend its potential contributions to antitrust. These challenges may be described in relation to the nature of theory, approach, and likely outcomes for the practice of antitrust that accompany integrating marketing into antitrust.

Theory: General Theories vs. Possibility Theorems

Perhaps the single most important contribution of economics to antitrust is the provision of a general theory for understanding the implications of competitive conduct for consumer welfare. Few, if any, other disciplines or theories provide such an understanding as does neoclassical price theory as applied by the Chicago School. A criticism of marketing, and as well the emerging post-Chicago School, is that neither provides such a general explanation in relation to aggregate competitive phenomena and consumer welfare.

Related to the above, the post-Chicago School is often criticized for providing what can be best described as "possibility theorems." Though providing utility and understanding, possibility theories are not general theory in that they only specify what "can" occur versus what "will" occur relative to, for example, the welfare implications of competitive conduct. Marketing, though possessing theories of a more general nature in some areas, also has many theories of a "possibility" nature.

Methodology: Implementation Complexity

The careful definitions, simple principles, and logical structure of economic theory and specifically the Chicago School of antitrust, yield a parsimonious and coherent approach for understanding and assessing the implications of competitive conduct for consumer welfare. A criticism of both marketing and the post-Chicago School, is that, although providing greater explanatory power and generalizability for understanding competition, their interpretive approaches yields a more complicated and potentially less coherent approach for antitrust. Adding the complex insights of marketing into the mix may compound this criticism. The generally simple principles of neoclassical price theory as applied deductively by the Chicago School provides a set of explanations for many forms of business conduct that can be easily applied by the courts and in a cost-efficient fashion. A criticism of the post-Chicago school is that the more complicated and comprehensive explanations of competitive conduct offered by the newer thinking in economics demands a more complex methodology and costly approach for antitrust. This criticism would seem to also apply to antitrust's adoption of marketing insights and methodologies.

CONCLUSION

Sharing a common subject matter and related in many ways, marketing has much to offer antitrust that has the potential to complement and extend extant understanding. AAI's Business School Project is intended to begin to develop the linkages of marketing to antitrust in ways that carefully and thoughtfully delineate marketing's potential contributions and challenges. The foregoing represents a modest contribution to this effort. Further work is needed. Those in antitrust and marketing are encouraged to embrace this effort with the ultimate goal of enhancing antitrust's role and contribution.