Competition and Antitrust Issues

Background

- Large firms threatened by over-production.
- Solution: mergers and concentration.
  - Trusts and cartels in late 19th century.
- US and Cdn law – two shifting concerns:
  - Execessive business power.
  - Economic efficiency and innovation.

Antitrust Law: some aspects

- Sanctions against anti-competitive behavior
- Reasons and objectives:
  - Protecting consumers.
  - Fairness in the market.
  - Economic: Innovation, efficiency and welfare enhancement

Purpose of Canada's 'Competition Act'

- "maintain and encourage competition in Canada in order to promote the efficiency and adaptability of the Canadian economy

Competition Issues

- Competition Act of Canada – Competition bureau of Canada, tribunal
- anti-trust and competition law:
- - **Criminal**: anti-competitive agreements, bid-rigging, price discrimination, predatory pricing, promotional allowances, deceptive marketing practices, conspiracies, pyramid selling
- - **Non-Criminal**: mergers, joint ventures, abuse of dominant position, exclusive dealing, tied selling, refusal to supply

Pre-1986 Competition Act

- Regulations and criminal provisions restraining excessive market power and competition-thwarting behavior.
- "dominance" : ability to raise price w/o losing market share.
- competition significantly impaired
- Focus on market share
- Abuse of market power

1986 Act (and new case law in U.S.)

- Efficiency defense of mergers, and large market share.or dominance.
- Need to prove harm or injury, not merely power or restriction per se.

Why do we want to enforce competition?

- Good side-effects – encourage innovation, optimal allocation of resources.
- Price system and efficient allocation.
  - Monopolies can mean too little is produced or prices too high.
- Rewards efficient uses, punish inefficient uses of resources.
- Don't protect inefficient firms.

Why and when is monopoly bad?

- favors established or high-income groups over aspiring or low-income) groups
- allows non-price competition – brand names, advertising not product innovation and efficiency
- prevents efficient resource allocation
- no threat of for'n competition.
- no cross-elasticities of demand
- dominance, barriers to entry become long-term
- Limit for'n competition, protectionism, hurts exports.

What to do about 'bad' monopolies?

- Review proposed mergers.
- break-up big guys: Standard Oil, AT&T
- Regulate prices and operations: AT&T, Bell Canada, Railroads
  - Maybe 'compulsory licensing'.
- Public ownership (Crown Corporations): Public utilities
- Doctors and lawyers?

Size doesn't mean ***excessive*** dominance or ***abusive*** market power

- Too much pricing power?
- Threat of potential entrants.
- Even small firms can be 'dominant' – technology, geography, etc.

Why Economists prefer flexible competition policies and laws

- Cdn firms small by world standards
  - Int'l competition (Cdn banks)
- Don't punish success unless necessary.
- Is market dominance long- or short-run?
  - Interpreting barriers to entry.
- Ability to raise prices depends on substitutes, not only mkt share
  - Cross elasticities of demand (cellophane vs. wax paper)

Why large firms exist.
Efficiencies

- Firms grow to solve market failure.
- Make or buy? Transaction costs of markets:
  - Agreements, contracts, avoiding opportunism of arms-length relationships.
  - Coordination, monitoring, planning.
- Economies of scale – increasing returns to scale

Natural Monopolies

- Single large supplier more efficient.
- Telephone or transit network, electrical power grid, computer operating system.
- Industries with: High up-front costs, low marginal costs.
  - Spread fixed costs over high volume output.

Network effects

- Social efficiency of settled, widely used standard.
- Advantages of compatibility and transferable skills, interoperability
- Each additional user of MS Office → more value, convenience to next potential customer.
- Law of increasing returns!!
- Goods and bads of lock-in.

Convenience vs. choice

- Windows ‘standard’ (monopoly).
- Freedom of choice?
- Efficiency / innovation trade-off.
- Questions:
  - Does MS restrict competition?
  - Should its practices be illegal, regulated?
  - Fairness of penalizing winners.
  - Are consumers being harmes?

Details of MS anti-trust case

- Bundling IE into Windows 98.
  - Predatory pricing IE vs. Netscape
- Windows discriminates against MS’s competitors – Word vs. Wordperfect.
  - Strategic incompatibility
- Stifling innovation?
  - How to prove?

  - Rivals w/ innovative alternatives can't enter market

Microsoft Cases

- US:
  - MS required to share some technical info
  - No exclusive dealing
  - Board appointed to oversee
  - No break-up
- EU
  - MS must un-bundle IE and WM.
  - MS must share all relevant technical info needed for Windows compatibility with competitors.

Theories

- Adam Smith – static competition
- Josef Schumpeter – dynamic competition.
  - Monopoly necessary incentive for innovation.
  - Capitalism progresses by series of temporary monopolies.
  - Competition between new and old forms of business and technology.

New Technologies & Knowledge Economy

- See article: 'Knowledge is power'
- Some industries will see more concentration
  - Increasing returns to scale.
  - Network effects
  - Lock-in (high switching costs)
- Other industries – smaller scale.
  - Easier, cheaper information (no longer need mainframe).
  - Level playing field.