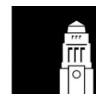

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Dymski, GA (2016) Reclaiming the analysis of market power and competition in crisis-prone capitalism: Reflections on The Great Leveler. Environment and Planning A, 48 (12). pp. 2532-2537. ISSN 0308-518X

https://doi.org/10.1177/0308518X16664093

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Reclaiming the analysis of market power and competition in crisis-prone capitalism: Reflections on The Great Leveler

15 May 2016

1. Introduction

Sustaining capitalist social relations of production requires both means of resolving whatever crises may arise in the short run, and of maintaining a stable ratio of profits to capital over the long run. The attention of scholars and policy-makers in the post-crisis period has centred, understandably, on the first condition. Brett Christopher's The Great Leveler directs attention to the second. He argues that strategic shifts in the law governing competition and monopoly, orchestrated both through legislation and judicial decisions, is a key determinant of the relative stability – and thus longer-run viability – of US and UK capitalism.

The logic of his argument runs as follows. A stable profit-to-capital ratio requires relatively equal growth rates in both profit and capital, which in turn means forces that can equilibrate aggregate demand and supply. Maintaining balance between competition and monopoly in markets is crucial in maintaining stable and adequate levels of aggregate demand and supply: for too much monopoly leads to high prices and declining wage share, starving demand; while too little leads to falling prices and declining profits, starving profits and disincentivizing investment.

National laws regulating national levels of monopoly (anti-trust) and intellectual property (IP) govern the competition/monopoly balance. Changes in law affecting monopoly power and IP rights can dramatically alter the balance between the incomes earned by those who own capital and capital assets, and by the wage earners employed to work with that capital. As the author puts it, "stabilizing capitalism is thus in no small part a question, ultimately, of stabilizing profitability" (p. 10). So competition law plays a functionalist role within the logic of capital; it is a key to explaining shifts between periods of stable growth and periods of instability or stagnation, as both the Regulation School and social-structure-of-accumulation approaches postulate.

The neoliberal era, in Christophers' rendering, have seen a systematic rebalancing in favor of more legal protections for returns to capital. This led to declining real wages in the US and UK, but then went too far: by 2005-06, years of declining real wages and rising house prices left many workers with debt obligations exceeding their capacity to repay; and once housing-price growth slowed in 2007-08, refinancing became infeasible and financial crisis emerged and spread. So the subprime crisis is a direct consequence of the resolution of the crisis at the dawn of the neoliberal era, some 30 years before. Consequently a legal swing to more competition and less protection of monopolies and of IP is now underway.

Methodologically, this volume uses generous slices of economic theory and legal findings and decisions to illuminate and compare US and UK historical experience. The author puts into comparative perspective the insights of Keynesian, institutionalist, Austrian, and Chicago-School authors on competition and monopoly. At the same time, his argument about competition and monopoly turns on the insights derived from the classical political economy of Smith and Marx. Christophers recalls Smith's warnings about combinations among firms, and about the need for competition in a dynamic capitalism. This leads him to the insight of the Marxian thinkers Baran

and Sweezy (1966): the unchecked power of what they termed Monopoly Capital would lead capitalism to a stagnationist dead-end. Since that prediction has not come to pass, he turns instead to David Harvey's evolving corpus of writings, which highlight the seemingly infinite flexibility of capitalism in overcoming the systemic contradictions that have confronted it in the post-war era.

2. Reclaiming economic turf: the problem of market power reimagined

The central achievement of this volume is its integrated discussion of how monopoly power and profits in markets are affected by (and affect) anti-trust and IP law and policy. This reclaims intellectual turf, now neglected, that was once the established domain of economists working in the field of industrial organization (IO). Research in that field focused on two aspects of firm behavior which could adversely affect market performance: monopoly or oligopoly, wherein firms could extract rents from consumers and and reduce volumes sold; and excesses of corporate power, due either to unchecked managerial control or to the capture of corporate boards by self-serving elites. Joe S. Bain (1956, 1959) developed a "structure-conduct-performance" method to test for the former condition; Berle and Means (1932) posed the latter problematic, leading to the engagement of sociologists, lawyers, and economists in measurements of corporate power (Mizruchi 2004).

But economists largely ceased their investigations of market power and its consequences in the early 1980s, due to two developments reflecting the growth of Chicago-School influence. The first was the notion of "contestable markets," wherein the empirical existence of monopoly position did not in itself imply non-competitive pricing, as long as new competitors could easily enter if established firms extracted excess profits (Baumol, Panzar, and Willig 1982, Brock 1983). This opened the way for the second development – the re-invention of IO as a branch of applied game theory (Tirole 1988). Structure-conduct-performance studies were superceded by a game-theoretic principal-agent model of the firm (Jensen and Meckling 1972). When combined with efficient market theory, these models implied that firm managers are merely vehicles for expressing the risk-return preferences of the firm's owners (Fama 1980). If these arguments are granted, then the best way to protect consumers from excess market power is to eliminate excessive regulation and anti-trust enforcement, which only make market entry more costly. It follows that economic disasters, including the subprime crisis (Calomiris and Haber 2015), can be attributed to government interference with market processes.

Whereas most contemporary writings in geography and even in the economics of industrial strategy (Spulber 2007) view multinational corporations primarily as nodes in global networks, Christophers' reclamation project emphasizes these firms' interconnections and positional power in domestic and regional markets. Phenomena that are global in scope impact the interplay of structural forces in localized markets, and vice versa. The steady spread of economic goods and processes across space, after all, continually reshapes market power, which alters who gets what – feeding back in turn on the spaces of consumption and production.

In using theoretical constructs to inform spatially extensive analyses of real-world phenomena – rather than substituting the former for the latter, as has become common in contemporary economics, this volume embodies the strengths of economic geography. Economists once wrote books such as American Capitalism – The Concept of Countervailing Power (Galbraith 1952) and The New Industrial State (1967) that fluidly intermixed economic theory with historical and institutional analysis. Now, with rare exceptions, they no longer do. Stating any conclusion of

economic theory in a manner that all fellow economists will accept requires a careful enumeration of the transaction-cost and informational conditions under which it holds. Economists publishing historical or institutional investigations aimed in part at other economists now carefully circumscribe these studies' links to economic theory per se.

Consider three recent examples. In Why Nations Fail (2013), which contrasts the fate of nations ruled by 'extractive' and non-'inclusive' elites with the benchmark case of an idealized meritocratic Schumpeterian democracy, Acemoglu and Robinson are careful to describe their approach as meta-theoretic and trans-historical. Reinhart and Rogoff's This Time is Different (2009) uses historical evidence, in a pointedly atheoretical analysis, to demonstrate that the causes of financial bubbles and financial crises are independent of time and place (Dymski and Shabani 2016). Leading macroeconomist Robert Gordon's The Rise and Fall of American Growth (2016), in turn, attributes this "rise and fall" in the period from the Civil War to the present entirely to technological change. The importance of monopoly power, and of macroeconomic and industrial policy, are mentioned only in a postscript. Whether intended or not, this is a concession to mainstream macroeconomic growth theory, which privileges technology (the 'Solow residual') and has no role for industrial or fiscal policy. As an economic geographer, Christopher is free of such self-imposed constraints.

3. What can guarantee the resilience of crisis-prone capitalism?

What does Christophers do with this revitalization of IO and of the analysis of market power? He explores an epochal question outside the scope of IO per se – whether legal shifts moderating tendencies toward excessive monopoly power or excessively competitive markets have contributed to the long-run viability of crisis-prone capitalism. Further, the title of his volume suggests that no other such force plays a parallel role in safeguarding capitalism from its own excesses.

How then does this great leveler work? Here, Christophers navigates somewhat unsteadily between conjunctural and functionalist explanations. In the former, the legal and policy shifts that have pulled capitalist firms first toward more monopoly and IP protection, and then toward more competitive and less protected markets – thus, on each occasion, permitting the continued dominance of capitalism in guiding economic development – can be explained by one or more contingent forces. What contingencies might have generated a vector of forces on competition and IP law pushing one way in the 1890s and 1970s, and then pushing another way in the 1930s and 2010s, quickly leads to imponderables. For example, if the pressure of unemployed workers led to laws reining in monopoly power in the 1930s Depression, why did this pressure not produce similar legal shifts in the late 19th Century?

But while Christophers' argument does wrestle with the angels of historical contingency, it relies at critical junctures on a functionalist approach linked to David Harvey's analysis of capitalism. Indeed, Christophers writes (p. 11) that his book can be seen as an explanation of how (quoting Harvey (2015, pp. 144-5) "capital has organically arrived at a way to balance and rebalance the tendencies toward a monopolistic centralization and decentralized competition through the crises that arise out of its imbalances." Such functionalism requires the premise that there is a guiding ghost in the machine. If that is the case, then any shifts in competition or IP law should be viewed from the perspective of whether and how they permit the continued existence of capitalist relations of production. If this is granted, then what other criteria could there be for evaluating the impact of, say, austerity fiscal policies, quantitative-easing monetary policies, and so on. Christophers ends his

text by noting that "time alone will tell" (p. 282) whether his view of monopoly and capitalist development, or that of Lenin and of Baran and Sweezy (1966) are right. This conclusion implies that Harvey's vision of capitalism, combined with the author's view of how capitalism re-equilibrates, have captured the essential logic of capitalism's unfolding.

However, Christophers' core functionalist assertion – that modulations in national law are sufficient to maintain the long-run stability of capitalism by reining in excesses of monopoly or competition – is too strong. Three aspects of capitalist development that undercut this logic can be readily seen.

First, multinational and bilateral agreements now delimit the realm of applicability of national law. Indeed, Christophers' increasing emphasis on cross-border IP agreements highlights this changing global context. Cross-border treaties on IP and competition law affect the interests – and indeed, the level and growth rate of profits and of prices – in the varying rosters of countries involved therein. These treaties' outcomes could not possibly be calibrated to guarantee the optimal long-run ratio of profits to capital for this shifting mix of countries.

Second, changes in anti-trust law/IP protection are not decisive in shifting capitalism from crisis to prosperous, stable growth paths. The impact of short-run developments is not made irrelevant by legal policy nudges that restore capitalism to an optimal (if doomed) long-term path. To say this differently, shifts in the level of aggregate demand can shift macroeconomic dynamics just as surel as can developments on the supply side. The overall "logic" of capitalism is embodied in macro-level dynamics and micro behaviors which move independently, with no guarantees that imbalances – once created – will be restored.

The balance between competition and monopoly itself depends not only on national law, but also on the changing complexion of cross-border trade, on rules regarding the movement of capital, on the flows of people across borders, and on the levels of financial regulation, financial speculation, and aggregate demand. Even China, arguably the paradigm case of a nation-state with vice-like control over domestic economic activity, is losing its grip. The European Union provides the contrasting extreme: there, no national nor European court can achieve a mutually agreeable balance for all member nations. But more to the point, dealing with the spatial dimensions of the profit/capital ratio, properly scaled to a globalized economy, requires attention both to macroeconomic as well as microeconomic dimensions.

Third, Christophers' inattention to financial capital, on the basis that the global crisis its excesses provoked were fore-ordained, is plausible only given the premise that the financial system itself serves a functionalist role within capitalism (Dymski 2016). But finance, having been deregulated over the course of 30 years, cannot accurately be described as functional for non-financial capital. It has, to the contrary, undercut the conditions needed for the stability of non-financial capital accumulation. Further, the power accrued by deregulating sectors within finance, banks and non-banks alike, have generated recurrent financial crises since the early 1980s; these have compromised national law, generated costs for other economic units, and created conflicts of law that undercut national law's regulating function (Chiong, Dymski and Hernandez 2014).

As financial sectors have globalized, larger banks grew into megabanks and hyper-leveraged, and developed new extractive practices. The global financial crisis that began in 2007 is a product of these financial excesses, as it is of disjunctures including falling wages and shifting market power –

without being reducible to any one prior cause. It defies belief that post-crisis shifts in competition law can unpick cross-border divergences in financial regulation so adroitly that financial crises will cease. Treating the escape of finance from any symbiotic role with non-financial capital as an irrelevance for the continuing logic of capitalism makes sense only if it is conceded that 'capitalism' meant one thing in 1980 and another thing today.

4. Conclusion

The Great Leveler's focus on the adverse consequences of excessive monopoly and competition should revive scholarly and policy debate in a field of economic inquiry abandoned by economists at the dawn of – indeed, as a signal of the arrival of – the neoliberal era. The game-theoretic IO that replaced it, subsequently joined by an equally formalistic economics of strategy, left a vaccuum. By pointing out a long-ignored empirical regularity – the profit-capital ratio – that has been hiding in plain sight, this book promises to renew investigation into what might be termed institutional industrial organization. There is a certain parallel with Piketty's (2014) celebrated tome: in both cases, the author builds a set of controversial propositions around an overlooked stylized empirical fact.

Piketty's book fed contemporary debate and research on inequality. This volume poses a different question: how does unequal market power affect innovation, investment, and the distribution of income? Christophers' answer in this text takes a functionalist approach to competition and IP law, as well as a supply-side approach to capitalist crisis. But this is the beginning, not the end, of the conversation. Investigations of these issues need not focus on how they affect the long-term prospects of what Harvey (2015) has reminded us is a very adaptable global capitalism. Instead, many urgent intermediate questions – whether market outcomes are more unjust, rents and margins are increasingly excessive, how "competition" in domestic markets affects "competitiveness" globally, and so on – can come to the fore. Financial markets and processes will offer especially rich grounds for a renewed institutional IO, in part as an offset to investigations of financialization that – as Christophers himself (2015) has argued – often lack specific content. Brett Christophers' book gives us much to admire: it should also provide the groundwork for much fruitful debate and future research on law, competition, and power in capitalism.

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