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Antitrust Law: An Economic Perspective



Synopsis

"A creative, informative, and highly readable narrative....The book consists of four sections dealing in turn with (1) the law and economics of antitrust policy; (2) the problem of collusion; (3) the question of exclusionary practices; and (4) the difficulties of enforcement.....This is a provocative work that judiciously raises pertinent questions about our antitrust policy." - Robert J. Steamer, Perspective This searching critique of existing antitrust law also provides a blueprint for its overhaul. Richard Posner argues that the promotion of economic competition is thinly defensible rationale of antitrust law, this work demonstrates the revisions in conventional thinking about antitrust policy that are necessary if the economic purposes of that policy are to be taken seriously. Posner supports theory with fact as he summarizes the major developments in legal doctrine and in enforcement since the Sherman Act of 1890. He then examines a wide range of specific policy questions, including price fixing, mergers, concentrated industries, and others, showing in detail how the courts have erred in their analyses of business economics by their neglect of economic principles. Posner also considers how the remedies and procedures of antitrust law can be made more effective.

Book Information

Paperback: 272 pages

Publisher: University of Chicago Press (February 1978)

Language: English

ISBN-10: 0226675580

ISBN-13: 978-0226675589

Product Dimensions: 8.5 x 5.6 x 0.6 inches

Shipping Weight: 15.2 ounces

Average Customer Review: 5.0 out of 5 stars 1 customer review

Best Sellers Rank: #935,189 in Books (See Top 100 in Books) #69 in [Books > Law >](#)

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Richard A. Posner is Chief Judge of the U.S. Seventh Circuit Court of Appeals and a professor at the University of Chicago Law School. In addition to being one of the most cited judges in U.S. legal history and one of the founders of the Law and Economics school of legal theory, Judge Posner is also one of the fathers of modern antitrust theory. This book is somewhat dated, but this is primarily due to the fact that it has been so widely read (and its policies so widely adopted) by other American judges. Up until the late 1970s, U.S. antitrust law was characterized by the pursuit of two (sometimes conflicting) goals: protecting consumers from monopolies and price fixing, and protecting "small dealers and worthy men" from larger competitors. Posner's book and a similar volume by Judge Robert Bork (*The Antitrust Paradox*) laid the theoretical groundwork for a seminal shift in antitrust thinking--one focusing primarily on consumer welfare. In *Antitrust Economics*, Posner describes in easy-to-understand terms why monopolies are bad from an economic point of view, and the shape of current antitrust law. He then lays out why some types of economic behavior that up until then had been considered anticompetitive (mergers between competitors, some types of exclusive supplier arrangements) can actually be pro-competitive or, at the least, pro-consumer. For example, while retail behemoths such as WalMart or mergers like that between Daimler-Benz and Chrysler may be devastating to smaller competitors, they may benefit consumers by generating economies of scale and lower prices. Regardless of whether one agrees with Posner's theories or the economic concentration in many industries that followed the adoption of his ideas, "Antitrust Economics" is essential reading if one wants to understand how we got to where we are and the theory behind modern antitrust law.

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