

## Non-standard economics and competition law: reading Michael Porter *Unique value*

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## The book



Charles D. Weller (ed.), Unique Value: Competition Based on Innovation Creating Unique Value, © Charles D. Weller, 2004



## An innovative theory of innovation

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A theory of productivity

 Presented as revolutionary / "economic departments economics"

"First, put aside any and all familiar theories of economics. The theory is as different from analysing the motion of planets from the sun, rather than from the earth; and of understanding that light is both a particle and a wave, rather than one or the other" (Ch. D. Weller, p. 4)

#### Key elements



- Productivity not efficiency is the central focus
- Long-term consumer welfare is the goal
- Resources (knowledge) are unlimited Positive-sum competition ≠ Zero-sum
- competition Implications for antitrust:

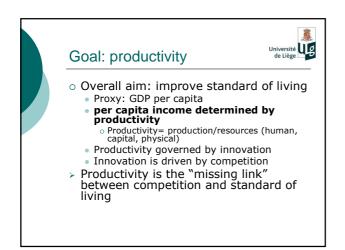
  - Profits are not an indication of likely violation of the law
  - Not useful to define the relevant market

## What does Porter say to competition lawyers?

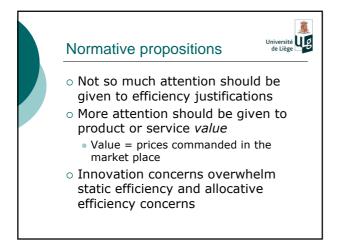


• Goal should be productivity growth • Tools need to include

- "five forces analysis" to evaluate industry competition
- "diamond" to evaluate health of local competition
- Justifications of competition law enforcement: it's good for the economy and for companies



	Hierarchy of goals	Université de Liège
	Traditional view	Alternative view
	Allocative efficiency	Innovation
	Static efficiency	Static productivity
	Innovation	Allocative efficiency



### In plain English



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- > Distinctly pro-business stance
- Capacity to command high market prices should not be seen as a bad thing
  - > Is "unique value" another name for market power?
  - > How does one control for consumer value?
- Distinctly reminds of Bork
  - > distributive issue is set aside

## From Goals to Tools for competition law enforcement

- Productivity should be the core criterion in assessment of firms behaviour
  - $\circ$  E.g. merger enhancing productivity should be cleared
  - New legal test
- > Methodological question: how should goals be translated into the law?
- > Practical question: How can future productivity be assessed?

## Analytical tools



- o The Five Forces Model
- o The Diamond framework
  - > Legal sub-tests
- Typology of competition
  - > Presumptions

### The Five Forces Model



- o Threat of entry
- $\ensuremath{\circ}$  Threat of substitution
- $\circ$  Bargaining power of buyers
- $\circ$  Bargaining power of suppliers
- $\circ$  Rivalry among current competitors

## How revolutionary is this framework of analysis?



- Relevant market is not defined
  Analysis considers the whole industry
  Concentration ratio is not central
- Concentration ratio is not central
- Prices and quantities are not the key indicators of consumer welfare
- Same factors as in the Merger guidelines are relevant but
  - » Different weights
  - > Different analytical structure

## The Diamond



- Analytical tool for local competition and externality
- Relevant for assessing the link between innovation and productivity
  - Context for firm strategy and rivalry
  - Factors (input) conditions
  - Demand conditions
  - Related and supporting industries

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- Again, discrete factors are familiar o Difference with traditional analysis lies in the question orienting the analysis (productivity) and the overall structure of reasoning
- Whatever the legal test, presumptions are useful

#### Université de Liège Two types of competition Positive sum competition Based on strategic rivalry Zero-sum competition Based on imitation and price discounting Homogeneous products/services at low Multiple different values propositions: features, services, processes, price prices levels Imitate best practices Different approach to design, marketing, etc. Incremental cost Potential for fundamental improvements process improvements Lots of consumer choice Little true consumer choice Expanded market

