

How the Chicago School Overshot the Mark: The Effect of Conservative Economic Analysis on U.S. Antitrust (Robert Pitofsky ed. Oxford University Press 2008)

Sometimes the title of a book tells it all. This volume was edited by Robert Pitofsky, the former chair of the Federal Trade Commission and former dean of Georgetown University Law Center. Pitofsky has assembled an all-star array of authors of every possible political, legal, and economic perspective to examine the value, and discuss the excesses, of reorienting United States towards a more exclusive focus on consumer welfare defined in increasingly narrow ways.

The contributors to this volume are Richard Schmalense, Irwin Stelzer, F.M. Scherer, Thomas E. Kauper, Daniel L. Rubinfeld, Eleanor M. Fox, John Kirkwood, Robert Lande, Herbert Hovenkamp, Harvey Goldschmid, Steven Salop, Stephen Calkins, Warren S. Grimes, Maina Lao, Jonathan Baker, and Carl Shapiro.

The volume is organized into six sections on conservative economic analysis and its effects; whether efficiency is all that matters; the Chicago school and dominant firm behavior; economic analysis of exclusionary vertical conduct; whether the free rider explanation has been unrealistically expanded; and reinvigorating merger enforcement. The essays are short, pithy, and always of great interest whether the reader agrees with all the points being made. Pitofsky adds his own introduction and observations at the beginning of each section.

Taken as a whole, the book makes a forceful argument that the many positive contributions of the Chicago school have been overshadowed by an increasingly conservative laissez faire view of antitrust in the federal agencies and the courts. The results of this change have been an emphasis of theory over empirical evidence and a deliberate choice among conflicting economic theories and evidence, rather than a consensus about that theory and evidence. For me this was the best and most provocative antitrust book of 2008.

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