

Gary L. Reback, *Free the Market! Why Only the Government Can Keep the Marketplace Competitive* (Portfolio Books 2009).

There are only a handful of really good books about antitrust law aimed at a more general audience. This is one of them. Prominent antitrust lawyer Gary Reback has written a one of a kind book. It is equal parts history, memoir, polemic, and policy prescriptions for antitrust law and enforcement, particularly as it applies to the technology sector.

Reback makes his argument through the lens of the many high profile cases that he has been involved in over the years. While much of the book is brutally harsh on the Chicago School and the real world effects of its laissez faire approach, he nonetheless argues for a rule of reason approach for resale price maintenance. He uses the example of the early days of Apple computers and its need to limit discount mail order sales in order to build its own dealer network to convince a skeptical public of the benefits of the early personal computers and to better compete with IBM.

Free the Market is as much about the over-expansion of intellectual property law as it is the undue contraction of antitrust law. There are compelling stories of how patent and copyright law is used and abused to deter, rather than promote, innovation in the computer software and hardware industries. Reback's experiences in Silicon Valley form the core of the book, as does the saga of Microsoft, where he represented Netscape and other high tech companies urging the FTC, then the Justice Department, and finally the courts to take quicker and more decisive action.

Reback concludes with two compelling stories about mergers. He uses his personal role in both the Thomson/West merger and the Oracle/Peoplesoft merger to argue that past administrations were too lenient in the first transaction and the courts too insensitive in the latter.

In an anecdotal and entertaining way, Reback manages to cover almost the full history of competition law in the United States and the full range of antitrust and intellectual property issues that define modern antitrust. He pulls no punches throughout and concludes:

The nation faces unprecedented economic challenges. To maintain the country's high standard of living in the coming decades, antitrust policy must renew its commitment to competition, the font of economic growth. Competition engenders innovation, and innovation will keep our country ahead in world markets. On that point there are grounds for optimism. It is increasingly obvious to important people that the Chicago School approach is not working well. The consequences of laissez faire are no longer blithely accepted. The time has come to move past Chicago.

This is an excellent and entertaining book most appropriate for our times as the new Administration begins the long process of renewed faith in antitrust and other tools, and not just in the magic of the unfettered market.

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