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Scandinavian Economic History Review

ISSN: (Print) (Online) Journal homepage: https://www.tandfonline.com/loi/sehr20

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SCANDINAVIAN ECONOMIC HISTORY REVIEW
2020, VOL. 68, NO. 3, 195–203
https://doi.org/10.1080/03585522.2020.1820902

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Beyond the market: broader perspectives in cartel research

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ARTICLE HISTORY Received 7 July 2020; Accepted 24 July 2020
KEYWORDS Competition policy; cartels; restrictive practices; history

Introduction

Market-based economies face the continual problem of balancing the benefits created by free markets with the need to protect individuals, and minimise the misuse of economic power. Competition policy and the network of regulations designed to balance competing interests regularly need to shift position as new market opportunities, consumer expectations and social norms change. After the golden age of the post-war boom, and for the last two decades of the twentieth century, there emerged an international trend towards criminalising serious cartel conduct. In the 1980s, revolutions in communication and computing technologies facilitated new products and services and saw the emergence of new markets dominated, in some cases by powerful monopolistic and oligopolistic structures. Today, additional 'disruptive' industries continue to emerge as technologies and forms of work change, further unbalancing the previous equilibrium between market opportunity and consumer sovereignty. These recent transformations have proved a challenge to national and international policy makers, whose regulations are sometimes 50 years behind the transformations wrought by rapid technological and social change. For example, current antitrust legislation in the US seems unable to promote competitive markets and consumer sovereignty in the face of giant firms which are exploiting new capabilities in rapidly emerging industries (for recent works, see Philippon, 2019; Stoller, 2019).

Historical analysis – a broader perspective

By contrast, history is replete with examples of periods of rapid change and how governments restored a balance between the new forms of market power and the individuals and communities impacted by these. The revolutionary changes in manufacturing processes in the late nineteenth and early twentieth century, and the transportation revolutions of the nineteenth century were followed by legislation designed to regulate market excess and protect workers from exploitation. The new markets created by, industrially produced food, consumer goods, oil production and electricity were accompanied by regulatory changes to constrain emergent monopolies and cartels and to protect consumers and competitors. These historical events also provide examples from which to learn.[1] How did previously unconstrained markets cause unintended problems? How did some monopolies and cartels manipulate not just their own markets, but those of others? How did they shape policies, influence development and impact on the economic and social environment in which they operated? How did firms' behaviour change over time and what new strategies did they use when large

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[1]For a recent example where firms have been urged to learn from history, see Argyres et al. (2020).

transformations occurred? How did governments and firms reach a new equilibrium in balancing the interests of the cartel and the interests of the citizen? The papers in this issue provide case studies of several of these interactions in the twentieth century.

The paradox of a global convergence towards criminalising serious cartel conduct, and the emergence of new monopolies and anti-competitive associations in new sectors has been accompanied by a revival in historical research on cartels and competition policy during the last decade (Barjot & Schröter, 2013; Bertilorenzi, 2016; Christophers, 2016; Phillips Sawyer, 2018; Tworek, 2019). Today, there is increasing awareness that the history of anti-competitive regulation follows different pathways in different countries and there is no endpoint to this process (Fellman & Shanahan, 2016; 2018). Competition policy is heavily embedded in the local institutional, legal and political context, while its outcomes and effectiveness are a result of its interconnectedness with other legislation. Individual cartels and firms adapt to changes in the regulatory environment, to political decisions, and internal and external pressures. Firms are not only reactive but also proactive. Strong cartels have been able to influence both domestic and international policies – a factor which was increasingly recognised in the interwar period and led to the first international attempts to monitor and regulate their activities. Powerful cartels were also present in key industries and considered important by many governments as necessary to help generate economic progress. As a result, national policies often tolerated both extensive collaboration and allowed some industries' exemptions from overall bans. In practice, firms and industries both tried to influence legislation and policy and were influenced by it. Analogous patterns of market development and regulatory response are evident again today, although recently the balance appears to have shifted away from consumers and towards greater market freedom for technological firms.

Although historically oriented competition policy and cartel research has seen a revival, historical studies of the dynamics and interplay between, on the one hand, firms and cartels and political decision-makers and government authorities on the other, are still scarce. One goal of the research presented here is to add to this field and address questions concerning the connections between the legal/regulatory environment and company and/or cartel behaviour.

Cartels also have reach beyond the boundaries of a single nation. Either through individual influence or in broader international networks, cartels can influence markets, prices, trade and international regulations, and more broadly, diplomatic and political relations. Despite this they are frequently overlooked. Indeed, in many accounts of long run trade, international cartels are barely mentioned (Findlay & O'Rourke, 2007; O'Rourke & Williamson, 2000).

Both internal and external factors may be important to explain cartel formation. For example, technological change, and first mover advantage, such as standard setting, were important for the emergence of some cartels. While these links are under-researched, so too is the role of finance and cartels' connections with banks, something observers in the interwar period had already noted (Mond, 1927; Notz,1919).

Historically, cartels have emerged via a number of different routes. Some (such as the Scandinavian cartels, which appeared in the interwar period) began in regions with similar products or existing business networks, while others (such as some mineral cartels) were linked by the location of ore bodies, or political regimes (such as the British empire). While some international cartels were an outgrowth of national cartels, others became international cartels by the break-up of empires (see for example, Liefmann, 1927). This, however, is a topic that should be investigated in more detail.

Cartels, especially international and export cartels, affected trade and international political relations. Some international raw material cartels appear to have connections to colonial economies and may influence their international trade patterns. Colonial trade patterns have a high degree of persistency (Battarcherja, 2004a). Their role in changing countries' terms of trade has also been considered significant (LeClaire, 2000). In the international business history literature, the role of multinationals and their position in colonial markets has been the focus of extensive research. The legacy of international cartels, especially in raw materials has to date, received far less attention.[2] We suggest

[2]See e.g. Fitzgerald (2015, pp. 228–229), for connections between changing trade patterns and cartels in the interwar period.

that overall, international cartels have played a large role in the development of trade patterns over time, but that this broader perspective has been neglected in favour of studies of their influence in specific markets. Nonetheless, the distorting effects from international combines were often a core issue in international trade negotiations and trade agreements. The international and global impact from these combines has been one factor behind the persistent idea of a global competition policy (Gerber, 2010; Scherer, 1994).

Export cartels have been more the rule than the exception, but they have received little attention in historical cartel studies (Bhattacharjea, 2004b). They were used by both large nations (such as the US through the well-known Webb-Pomerene Act of 1918) and by much smaller countries. In the Scandinavian countries, export cartels were prominent. Researchers have tended to see the cartel strategy as a 'necessity' for small countries in the early phases of industrialisation. Such small countries, it was argued, could not affect world product prices or otherwise distort the market. They often, however, confronted large international or national cartels, which could 'crush' them unless they organised collectively (Jensen-Eriksen, 2013; Schröter, 2012). The argument for export cartels has parallels with that for the protection of infant industries and for small countries on the verge of industrialisation; they are a way to compete on world markets. Schröter (2012) however, argues that Scandinavian firms in particular, were not always small players; their economic size varied from industry to industry. It is clear that export cartels do have a negative effect on the welfare of importing countries. Such issues are worthy of further research in their own right.

Also under-researched are the effects of cartels beyond their own product markets, and in the markets of related goods and services. Considerable effort has been given to examining the dynamics within a cartel (Harrington, 2006; Levenstein & Suslow, 2006; 2011) and the impact of a cartel on prices or market share (Bolotova, Connor, & Miller, 2008). Far less attention has been given to their influence outside their own market or membership. Also underexamined are the transformations that occur as cartels respond to their external environment and as they change that environment. While it is well known, for example, that mergers and acquisitions are one response to increased regulatory pressure, less studied are the responses where cartels 'push-back' (via lobbying, standard setting, or through international connections) to deflect regulatory pressure. Similarly, while some studies examine cartels' response to change, fewer examine their creation of change to advance their own security and longevity. Nor have cartels' first-mover advantage through technology or innovation been studied much past the influence this gives to manipulate the market or prices, when in fact, such advantage can mean locking in technology and standards for decades into the future (Cantwell & Barrera, 1995).

We suggest that historical analysis offers the opportunity for a more nuanced study of the emergence and reemergence of cartels and other forms of anti-competitive behaviour. The interplay of economic, political and social forces and changes in the organisational or legal forms that are labelled a cartel, imply that the 'explanation' for their rise and fall goes beyond mere economic factors. There are numerous examples. For instance, simple economic factors are not always the main reason for a cartel to occur in situations: where the state actively promotes cartels; or where the finance or insurance sector 'prefers' to deal with cartelised industries; or where customers want the security of long-term stability offered by reduced levels of competition, or where other (smaller) industry members seek political or economic protection from larger cartelised firms. History demonstrates situations (as occurred in Finland in the forestry sector) where the cartel members were reluctant participants pressured by government and external influences to create a national cartel (Kuorelahti, 2018). In other situations, acceptance into an international cartel is seen as demonstrating the quality of a firm's products and taken as a badge of honour (Hidvegi, 2015).

The historical record also highlights the variation in economic motivations behind cartels. While profit maximisation is the motivation attributed to cartel members in the standard economic model, in practice motivations can include maximising market share, protecting the status quo, reducing uncertainty, minimising price or product disruptions or as a response to crisis. Cartel formation can be assertive or defensive in impulse. Cartel disintegration can be caused by more than members' opportunism; external economic or political pressure; changes in the international status quo; loss of support from other sectors in the economy may also trigger change. These issues were some of the many raised by Harm Schröter in 2013, when he called for new investigations in cartel research. In particular, he challenged researchers to address problems such as: why do some business organisations prefer cartels over some other form? Why do cartels appear when and where they do? What is this type of business growth model preferred over another? He too sought answers to questions like: what is the role of finance, or politics in cartel success? How important are particular individuals to cartels (both inside and outside the business organisation)? Is there a link between the level of trust in an organisation (or society) and the tendency toward, or away from cartelisation? Are there 'varieties of cartels' and are some of these related to cultural and national traits? These and other questions broaden the research field and support the argument that cartels should be studied *in situ* rather than removed and analysed ahistorically.

Beyond the product market – politics, trust and rhetoric.

The six papers in this special issue provide fascinating case studies that go beyond examining simple markets, to take a broader perspective on the role of cartels in society and the international economy. Each study, for example, reveals important (and differing) interactions between national government authorities and the cartels in their jurisdictions. In some cases (as in Sandvik and Storli's description of Standard Oil) governments felt threatened by the coming of an international cartel. At the other end of the spectrum, in twentieth century Spain, (Rosado-Cubero and Martínez-Soto) the sugar and cement cartels worked hand-in-hand with the regime to deliver mutually beneficial outcomes. Espeli too reveals how both the government and private companies found that the stability associated with cartels working with government benefited both the private sector entity, the government and in the specific case of insurance, the consumer. Karlsson, in contrast describes the fine tightrope walked by the Swedish paper cartel, as its national arrangements with the Swedish authorities ran counter to the European Community's expectations and rules. Declercq's depiction of the international copper cartel reveals how several governments found alignment between their domestic interests in stability, employment and protection – but that these relationships changed over time. His work also makes it clear that while the governments in the US and UK benefited from mutual cooperation with the cartel, governments and citizens in several African countries were disadvantaged. Dahlström, although not focusing on the direct relationship between government and cartels, reveals how Nordic policy makers were responsive to the needs of the cement industry and its potential contributions to exports.

While the link between governments and cartels is one element that extends beyond simple market considerations, another is the issue of trust. Studies of cartel stability frequently reference trust between the group members as a critical factor, but a further dimension is the role of trust outside the group. For example, an important argument for the governmental support given to the Swedish life and fire insurance cartels was the absolute need for consumers to trust in the stability and longevity of insurance companies. Dahlström too argues that external trust was important for the formation of the international cement cartel. It emerged in part, because it was founded in a society where personal and industry trust levels were high and that these external trust networks set the expectations within the group.

Political positioning, and rhetorical argument may also affect the formation and behaviour of a cartel. Karlsson's close study of the discussions between the EEC and the existing Swedish paper cartel reveals the importance of not taking the declared position of negotiators at face value. Her work highlights the apparent contradiction between, for example, the UK paper producers' weak economic position and their expressed concern to ensure competitive markets (ie their main motivation was to weaken the Swedish cartel, not to necessarily promote competition). From the Swedish perspective, the cartel members viewed their profits as a function of natural and competitive advantage and did not wish to lose their margins under the pressure of rhetorical argument. Declercq's paper on the international impact of the copper cartel not only revealed its links to government support, but from a wider perspective, how developed countries used private sector organisations to their own advantage; and at the cost of inhibiting development in poorer African countries.

Apart from these overlapping aspects of government-cartel relations, the importance of trust, and the influence of political rhetoric, the specific focus of each individual paper reveals other aspects that extend beyond the simple market analysis of the international cartel.

Case studies that extend beyond the market

The paper by Robrecht Declercq describes how international copper cartels simultaneously influenced employment and resource security in several countries both positively and negatively, while always protecting their own interests. Created to control prices and prevent disruption from new entrants, US and European governments initially welcomed or at least, tolerated the Copper Exporters Inc (CEI) cartel and International Copper Cartel (ICC). The actions of these organisations enhanced domestic employment and social stability in the US and European economies, prior to the early 1930s. They also offset the need for protectionist policies to safeguard local firms.[3] Over time, however, the cartels took advantage of the national governments' forbearance, and behaved with less restraint. For US and European producers a major benefit of the international cartels' quota system was that it enabled them a degree of protection that was only achieved later through direct political intervention and protectionist legislation. By contrast, the cartels operated against the interests of African nations as cartel agreements cut output, which meant export earnings and employment were below the levels these countries' governments were seeking. The cartel also shaped how copper was brought to market, by disrupting the vertical supply chains sought by US companies and instituting a more horizontal (and competitive) supply system. Finally, the cartels also influenced national perceptions of resource security (their access to copper) and arguably shaped strategic policies towards stockpiling 'scarce' resources.

Malin Dahlström' s case study of the Nordic cement cartels reveals the close link between a cooperative culture and the evolution of this social attitude into more formal business arrangements. Starting with close personal connections between directors, her research reveals how the forms of cooperation changed, sometimes becoming institutionalised in an unintended form. A strong inclination to cooperate, however, meant that in times of economic or planning crisis, so-called 'competitors' might assist each other, even across national boundaries. Unlike national cartels in some other industries, cement exports were an important area of co-operation. This Nordic regional collaboration was influential beyond its original national participants. The cement industry is infamous for its tendency to become concentrated.[4] It would seem clear that a major influence of the establishment of European cement cartel, Cembureau in 1947, was the cooperation and trust that had developed at the Nordic level in the preceding four decades.

In contrast to the development of this internationally broad cartel, Ana Rosado-Cubero and Angel Martínez-Soto relate the close links between Spain's economic isolation under Franco and the mutual inter-dependence that developed between the government and industry. Using both the sugar and cement industries as her case studies, the long-standing Spanish cartels in these two sectors, although differing in form, were both intimately linked to government policies of domestic economic self-reliance. The General Association of Sugar Manufacturers (*Sociedad General Azucarera, SGA*), while not including all the sugar producers within Spain, dominated the market under a tariff umbrella and prices set in conjunction with government. The more cohesive cement cartel was dominated by six large producers who shared production, attended to the regime's building requirements and benefited from price and production controls that ensured their longevity. The

[3]For an estimate of the cartels' net positive contribution to national welfare, see Guzman (2018);
[4]Fear (2008); For the case of the Swedish domestic situation in more detail, see Dahlström (2015)

full cost of both cartels on the Spanish economy has not been fully estimated, but the distortions to other sectors has taken years to overcome. These examples also reveal the potential long-ranging effects cartels can have on the markets beyond the common questions of higher prices and monopoly profits.

Harald Espeli's paper on Norwegian cartels in life insurance and fire insurance clearly shows why motivations other than simple profit maximisation may lead to cartel formation. In both cases, the government and industry understood the need to guarantee the long-term viability of the insurance companies and thus ensure customers received their entitlements irrespective of the time elapsed between paying their premium and the event insured against. Around the world cartels cooperating to set premiums and policy terms are relatively common in these sectors but are still relatively under-researched.[5] Even less examined was the almost symbiotic relationship between insurance regulations and the needs of the industry; to the point where differentiating the interests of the industry from the legislative arrangements that 'controlled' it was difficult. The events described in the paper provide a prime example of regulatory capture. Even when state interests finally diverged from those of the cartel, the 'collapse' of the cartel was in reality just a change in form; from a cartel to a merged entity.

Birgit Karlssons' research into the 'clash of ideas' between the EEC and Sweden regarding paper cartels is revealing. She clearly demonstrates that the purported difference between total prohibition of cartels verses constraining cartels only when they abused their market power, was not as great as might appear at first glance. While the Swedish attitude towards cartels was more tolerant – as they argued price stability and certainty helped maximise social welfare – their market dominance also meant that the EEC's belief that fierce competition maximised total welfare was not well-founded in market reality. Politically, however, the Swedes were at a disadvantage. When the two approaches clashed, the final compromise, was a testament to both astute negotiating and the need for paper products to be supplied to industries at consistent and predictable prices. Ultimately, the application of an extreme competitive market solution was sidelined. Her paper provides detailed insights into the negotiations that occurred between regulators and cartel members over several rounds of discussion. The EC considered the Swedish producers had an 'unfair' advantage, due to their competitive advantage of abundant forest resources and because the pulp producers had a monopoly position. The results, they argued were excessively high prices. The Swedes rejected these arguments, believing they were based, in part, on misunderstandings of the market situation and in part because they suspected that EEC wanted access to Swedish raw materials, and paper. The Swedes emphasised that their national industry was simply more competitive and efficient than others and that collaboration in Scandinavia had improved product development and productivity. The EEC could allow exemptions for cartels if collaborations were considered beneficial overall; but only then. For the EEC, its internal market was the focus of attention, while in the Swedish case their emphasis was on global free trade. An agreement was reached, and a temporary tariff imposed on Swedish products, which was gradually removed. Over time the Swedish Government and industry adapted to EEC regulations.

Päl Sandvik's and Espen Storli's paper outlines the influence of one of the world's most well-known monopolies (Standard Oil) on several Scandinavian markets. Their work highlights the variation in interactions that can occur between a private sector monopoly and the state, depending on the attitudes and actions of the national government. They compare the three markets in Denmark, Sweden and Norway, and Standard Oil's strategies in each. They find the company used its Danish subsidiary in all three markets to reach agreements and gain market dominance. The article highlights the changing approaches that Standard Oil adopted and in particular, how it changed when other firms entered the market. During and after WWI the governments' approaches also changed. Initially Standard Oil used aggressive takeover and pricing policies to keep others out; a tactic it also used in other European countries. As competition slowly increased in the interwar period, Standard

[5]For exceptions, see Borscheid & Haueter (2012)

Oil became more predisposed to engaging in collaborative agreements with others. Different approaches by each national government appear to have influenced the average price and level of competition in each nation's fuel market. The Danish authorities, for example, followed a reasonably laissez-faire approach, while the Swedes and Norwegians were more interventionist. Sandvik and Storli's paper reveals a multitude of strategies one monopoly used to gain market power and how these changed in the face of changing market conditions and government policies.

Conclusions

What are the lessons to be learned from these historical examples? The first must be, that our concern with, and analysis of, cartels must go beyond the studies of internal stability and product and market manipulation that are the focus of much cartel research. These things are important, but they only explain part of the phenomenon that is cartels. The factors that influence how and why cartels form, their ability to influence market outcomes, their persistence and acceptance, and their impact in the community go well beyond issues of price, quantity and internal coherence. Case studies such as these demonstrate that, on occasions, cartels have used and are themselves used by governments to further political as well as economic interests, sometimes with the cost being the prioritising one nation's citizens ahead of another.

Cartels as institutional forms embody different dimensions of trust; ranging from trust between the members to the social compacts made with consumers and groups in other nations. The historical record also demonstrates that care must be taken in assessing the behaviour and motivation of cartels. There are often multiple (sometime conflicting) reasons for cartels to be established, supported or opposed; many of these are not well explained by simple economic models.

Perhaps the most important reason for the historical study of cartels is that this can also illuminate the present. In a recent Special Issue 'New Perspectives in Regulatory History' in the journal Business History Review in 2019, a series of articles discussed how attitudes to the regulation of market behaviour have changed over time. This sentiment is echoed here, particularly when it is recalled that government policies against anti-competitive behaviour and their actions against cartels and trusts are only part of a broader range of regulation. Today's debate on the apparent shortcomings and limitations of competition policy and anti-trust legislation has much to learn from historical investigations. This is particularly illustrated in the BHR paper by Crane (2019) examining contemporary US debates on the weakness of their antitrust legislation. He argues that the current narrow focus on consumer welfare and strict technical reasoning (attributed to the influence of the Chicago school) rather than a broader focus on the problems of market concentration (which dominated the earlier antitrust movement) explains a significant part of the weakening of contemporary antitrust policies, particularly in the US. Similarly, the apparent dichotomy between the lawyers' rules-based approach versus the economists' effect-based reasoning is not one of opposites, but rather a matter of degree, albeit with varying emphasis in different periods. In most countries antitrust/competition polices in practice have been the outcome of deliberations between the arguments of various levels of governance (administrators, courts and politicians) and business and consumer interests. To understand the shifts in balance, historical insight plays a critical role. By revealing the shifts in position over time, the swings and roundabouts of political success, or the importance of singular events or technological change, and the nuances of argument, detailed historical investigations are invaluable – even indispensable. Not only do they improve present debates on the optimum equilibrium between market competition, and market power, they can help us avoid the mistakes of the past.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

This work was supported by the Torsten Söderbergs Stiftelse [grant number Projekt E16/15].

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