

# Comments on “Price Discrimination, Competition and Antitrust”

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The Pros and Cons of Price Discrimination

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# The Basic Conclusion is Sound

- The vast majority of economists agree that price discrimination should not be condemned as a general matter or even viewed with suspicion.
- The vast majority of U.S. economists base their views on the current understanding of the impact of price discrimination on economic welfare and do not consider “fairness.”

# Limited Existing Statutory Bans

- Some Article 82 cases have treated price discrimination essentially as per se illegal, but Article 82 applies only to dominant firms.
- The price discrimination law in the U.S. (the Robinson Patman Act) applies only to sales of *goods* to competing *resellers*, and it has a meeting competition defense.

# Relevant Older Economic Analysis

Spatial competition with price discrimination was usefully analyzed in some old economic literature.

- Edgar M. Hoover, Jr., Spatial Price Discrimination, *Review of Economic Studies*, 4, 182-91 (1937).
- A.P. Lerner and H.W. Singer, Some Notes on Duopoly and Spatial Competition, *Journal of Political Economy*, 45, 145-86 (1937).
- Carl Kaysen, Basing Point Pricing and Public Policy, *Quarterly Journal of Economics*, 43, 289-314 (1949).

# Relevant Recent Economic Analysis

Spatial competition with price discrimination was also usefully analyzed in recent economic literature.

- Jacques-Francois Thisse and Xavier Vives, On the Strategic Choice of Spatial Price Policy, *American Economic Review*, 78, 122-37 (1988).
- Kenneth S. Corts, Third-Degree Price Discrimination in Oligopoly: All-Out Competition and Strategic Commitment, *RAND Journal of Economics*, 29, 306-23 (1998).
- James C. Cooper, Luke Froeb, Daniel P. O'Brien, and Steven Tschantz, Does Price Discrimination Intensify Competition? Implications for Antitrust, *Antitrust Law Journal*, 72, 327-73 (2005).

# Robustness of Conclusions

- Price discrimination lowers average price if there is *best response asymmetry*, in that one competitor wants to lower prices where the other wants to raise them.
- Some models exhibit *best response symmetry*, so price discrimination harms consumers. This may be most likely the discrimination is across countries.

# Long Run Considerations

- If price discrimination lowers average price, it results in fewer competitors in long run equilibrium.
- The net effect of price discrimination remains very slightly beneficial unless fixed costs are high.

Benjamin F. Hobbs, Mill Pricing vs. Spatial Price Discrimination under Bertrand and Cournot Spatial Competition, *Journal of Industrial Economics*, 35, 173-91 (1986).

# Issues with Dominant Firms

- Price discrimination can greatly reduce the cost of predation by allowing a dominant incumbent to reduce price only to customers targeted by an entrant.
- Discriminatory bundled discounts by a dominant firm can exclude efficient smaller rivals.
- Price discrimination by a dominant firm in the sale of complements is likely to harm consumers.

# Detecting Collusion

- Systematic analysis of pricing data, applying the insights of economic theory, is rarely used to detect collusion.
- Casual observation, especially of unusual parallel price increases, is relevant in detecting collusion, and price discrimination does not make it any less useful.