

BOOKS AND ARTICLES NOTED

Myron Gordon and David Fowler, The Drug Industry: A Case Study in Foreign Control, James Lorimer & Company in association with Canadian Institute for Economic Policy, Toronto, 1981 (paperback).

The study focuses on changes in the performance of the Canadian industry relative to that of the U.S. industry between 1968 and 1976. The year 1968 was chosen because it was just prior to the introduction of various measures by the federal and provincial governments to reduce drug prices by stimulating generic drug competition (compulsory licensing, Parcost in Ontario, etc.).

The authors conclude that the performance of the industry during the period was disappointing. Prices of drugs with generic competition fell sharply relative to those in the U.S. but the average of all drugs only fell slightly. The dependence upon imports increased, and R. & D. as a percentage of sales did not increase. While the authors point to international factors as possible causes of the high imports and lack of growth in R. & D. they accept the industry position that the competition policy initiatives were a factor.

They make a number of recommendations including the following:

- Withhold the grant of compulsory licenses until five years after the patent grant.
- Levy a seven per cent wholesale sales tax on drugs and make rebates according to the percentage of a drug company's sales which it spends on R. & D. A company spending seven per cent or more would get a full rebate.
- Change the basis upon which income tax is collected in order to counter transfer of profits abroad through transfer pricing. "The government should calculate the worldwide income of a multinational as a percentage of its worldwide sales and then make the taxable income of its Canadian subsidiary the same percentage of the Canadian sales".

Earle Gray, The Great Uranium Cartel, McLelland and Stewart Limited, Toronto (forthcoming). An excerpt is published in Canadian Business, March 1982, and the book is described as the most complete account of the cartel yet published. The excerpt emphasizes the role of the Canadian government in fostering the cartel, the Gulf Minerals Canada Ltd. is presented as a reluctant participant.

G.B. Reschenthaler and W.T. Stanbury, Recent Conspiracy Decisions in Canada; New Legislation Needed, The Antitrust Bulletin, Winter, 1981, Vol. XXvi, No. 4.

Annual Report, Director of Investigation and Research, Combines Investigation Act, for the year ended March 31, 1981.

The Role of Competition Policy in a Period of Economic Recession With Special Reference to Crisis Cartels, Organization for Economic Cooperation and Development, Paris, 1981. This study surveys the laws and policies of Member countries in respect of co-called crisis cartels. It calls upon Member countries to resist the temptation to weaken their competition laws during times of recession and concludes that they should:

"- strengthen their competition legislation by prohibiting or controlling more strictly:

price fixing, production quota and market-sharing agreements, mergers and rationalization agreements which unduly restrict competition

- limit government subsidies and other forms of intervention which favour firms or industries in difficulty where such aids are liable to delay the process of adjustment

- ensure that exemption from competition laws for crisis cartels or other forms of agreement or mergers in sectors affected by the recession are subject to the following conditions:

authorization should be restricted to exceptional cases and limited periods

there should be a precise program for restructuring the sector

there should be continued surveillance of the sector to ensure that the restrictions do not operate against the public interest, especially that of consumers

there should be cooperation between countries in order to avoid or mitigate the unfavourable effects on international trade of measures to cartelise or restructure sectors in difficulty".

Annual Report 1981 on Legislative and Other Developments in Developed and Developing Countries in the Control of Restrictive Business Practices, prepared by the Secretariat of the United Nations Conference on Trade and

Development, Geneva, 1981, TD/B/RBP/9. The fourth in a series, this report is now issued pursuant to a provision in the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices which was adopted by a resolution of the United Nations General Assembly in December, 1980. Using both press reports and information supplied by governments and international agencies, the report surveys legislative developments and enforcement activity throughout the world. While noting legislative improvements in some countries as well as enforcement activity, the report states:

"...there have been continued and growing pressures in developed countries - to which governments have often responded - for the use of restrictive business practices to strengthen the position of their enterprises in domestic markets facing structural difficulties as a result, inter alia, of increased import competition, as well as in export markets facing increased competition because of the slow growth rates of world trade".

Marketing and Distribution Arrangements in Respect of Export and Import Transactions: Structure of International Trading Channels, study by the Secretariat of the United Nations Conference on Trade and Development, Geneva, 1981, UNCTAD/ST/MD/25. The study is pursuant to a resolution by the fifth UNCTAD Conference which called for studies in the field of restrictive business practices. It deals mainly with the structures of international trading channels, largely transnational production companies, transnational trading companies, state trading enterprises or agencies, and large retailers. Arrangements in developed market economies, developing countries and socialist countries are considered separately, and there is a chapter on the process of concentration. The following are among the concluding comments of the study:

"(xvii) In short, marketing and distribution channels in international trade are characterized more and more by oligopolistic structures for nearly all products, and a comparatively small number of enterprises handle the bulk of world trade. The importance of particular agents varies from product to product, but it is increasingly difficult to draw a distinction on a product basis because of the diversified activities of the trading agents. In some cases, the principal trading agents are the transnational corporations engaged in agricultural, mining and/or manufacturing activities, including those organized on a vertically integrated basis. In other cases they are transnational trading companies, State trading enterprises or large retailers. In all instances they wield dominant buying and/or selling power through their importance as buyers or sellers of commodities or services. Frequently, the formal or informal interlinkages that exist between enterprises are the determining factor in a transaction.

(xviii) In view of the fact that possibly 30-40 per cent of all international trade is on an intra-firm or related-party basis, that another 30 per cent is likely to constitute State trading, that a further share of international trade is captive in nature as a result of sub-contracting and long-term and medium-term contractual arrangements, and in the light of the vast array of other formal and informal links between the major trading agents, it is apparent that the concept of a freely competitive international trading market is illusory. It also seems to emerge from this study that, despite the attempts being made by developing countries, whether individually (by creating or promoting national trading enterprises - State owned or otherwise) or in cooperation with each other (through joint marketing agreements, creation of multinational trading enterprises, etc.), the barriers to new entrants in the international market are formidable and could well be growing greater, especially as a result of concentration of market power through mergers, takeovers, joint ventures and other formal or informal arrangements."

COMING EVENTS

Conference on the Impact of Regulatory Reform in Canada and the United States, May 20-21, 1982, The Prince Hotel, Toronto, sponsored by The Institute for Research on Public Policy, Ottawa; The American Enterprise Institute for Public Policy Research, Washington, D.C.; and the Economic Council of Canada. One of the sessions on May 20 will be "After Deregulation; The Role of Antitrust or Competition Policy", with Mr. Lawson Hunter, Director of Investigation and Research under the Combines Investigation Act and James C. Miller III, Chairman, Federal Trade Commission.