

From the War Industries Board to the National Industrial Recovery Act: The rise and fall of a US model of regulated competition?

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Overview

Structural trend, 1890-1940:

- industrial concentration valued
- free competition rejected
- antitrust not relevant

But: No consensus around what a managed competition model should be

- Associationalism (Hoover, Brandeis) vs planning (Tugwell, Means)
- Managed competition:
 - thought Fair trade/associationalism (voluntarism) vs planning and government control

Before 1917 (1)

- Distrust with free competition seen as ruinous competition
- Two main orientations towards a managed competition
 - Trade associations
 - Fair Trade Leagues
- However, a brief episode of antitrust consolidation with the Clayton Act and the FTC Act promulgated in 1914 (President Wilson)

Before 1917 (2)

a) Trade associations

- Tolerance toward inter-firm coordination on price and production
- Courts' hostility as the trade associations are seen as anticompetitive
- Echo the progressive shift towards the model of an intelligent handling of competition through statistics bureaus

b) Fair Trade League

- Open price associations model
- Benefiting small- and medium-sized firms with no market power
- Accounting standardization
- Virtues of transparency

1916-1918 - War Economy

1916 Council of National Defense

1917 WIB

Two stages in the WIB administrative history

- a) Organ within the CND, no legal means. Based on existing trade associations
- b) Executive agency (Presidential Decree March 4, 1918).

Missions:

1. Coordination of output and coordination of investments, price-fixing....
2. Cooperation between firms and between firms and the federal government
3. Popularization of notions, such as intelligent handling, business commonwealth, or managed competition and, beyond them, a project of rationalization and scientific management of the economy based on Taylorian principles

1918-1919 - After the War

- WIB President Baruch advocates for continuing the board:
 - Fear of excessive production and of deflation risks in the post-war period.
 - Necessity to restructure the US economy in a smooth way
 - Not only a prolongation of the WIB mission, but also a consolidation of trade associations and a reform of antitrust laws
- President Wilson, however, was hostile to Baruch's proposals.
- Although the WIB disappeared, its underlying logic remained as a benchmark of what to do during all the 1920s for ensuring a rational management of the US economy

1920-1929 - A managed competition model: Trade Associations

- A model advocated by Herbert Hoover: Associationalist State
- Trade associations
 - Voluntary cooperation between firms
 - A request to be protected by antitrust immunity and to benefit from governmental support
 - A model based on a hypothesis of far-minded business and intelligent self-interest
 - Cooperation / managerialism / business ethics

1920-1929 - A managed competition model: Hoover's associationalism

Tensions between the Supreme Court and the promoters (notably Hoover, initially as Secretary of Commerce and later as President) of the trade association model

- Before 1925 (Cement manufacturing, Maple flooring): The Supreme Court was hostile to trade associations
 - Anticompetitive effects of information exchanges
 - A shift towards a more permissive approach after 1925

1920-1932 - A managed competition model: Hoover's associationalism

- Hoover's policy as Secretary of Commerce
 - Statistics provided by the Department of Commerce's bureaus
 - Favoring open price associations and diffusing information about costs instead of prices
- Hoover's policy as President
 - However, no antitrust law reforms and a refusal to adopt an interventionist approach during the 1929 crisis
 - Opposed to the Swope Plan

Swope Plan (1931)

- A managerialist view of the economy:
 - from the invisible hand to the intelligent handling of the engineers
- According to President Herbert Hoover, the plan was “plainly fascistic, monopolistic, and anti-capitalist in tendency” (McQuaid, 1977)

At odds with Hoover’s vision:

- coercion vs voluntary commitment
- government control vs government as a facilitator

1933-1935 - The First New Deal

- The First New Deal: An implicit adoption of the Swope Plan?
- FDR Advisers: planners vs associationalists
- NIRA & NRA as a triumph of planners (Tugwell, Means...) against associationalists, such as Brandeis

1937-1941 - The Second New Deal

- The Supreme Court rejection of the NIRA: Schechter ruling (1935)
 - The administrative state remains
 - Hesitations between fair and free competition models
 - Robinson Patman Act (1936)
 - An increasing weight of antitrust revival partisans (see the 1932 Fetter petition for instance)
- A new vigor of antitrust enforcement with Jackson (1937) and Arnold (1938)
- Roosevelt's "Curbing Monopolies" speech (1938)

Conclusion

Future research

Comparisons with corporatism in Europe (France, Italy): theories and policies