



What The Bankruptcy of Sears Should Tell Us About Antitrust Laws

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October 17, 2018

Sears Roebuck & Co. became the most fabled retailer in American history as the pioneer of catalogue merchandising, an innovation that revolutionized small-town life. Its then-visionary management followed up with stand-alone stores that long served as landmarks in their communities, developing brands and business lines notable in their own right such as Craftsman, Kenmore, Discover Card, and Allstate Insurance, most of which are now independent.

In the first half of the 20th century a whole generation of antitrust and competition laws attempted to restrain the rise of chain stores, with their perceived advantages in negotiating with suppliers. “One of the dumbest laws,” as Cato senior fellow Doug Bandow has called it, was the Robinson-Patman Act, amending the Clayton Antitrust Act in 1936, which (employing vague, opaque language) criminalized many arrangements in which chain stores like Sears obtained quantity discounts from manufacturers. Per one reference work, Robinson-Patman was meant to respond to “the growth of chain stores such as A&P and Sears, Roebuck,” in service of the interests of independent retailers and wholesalers. “The United States Wholesale Grocers Association drafted the original bill,” notes another source.

None of which succeeded in holding back the logic of marketplace competition: under the Reagan administration’s leadership of the U.S. Department of Justice’s Antitrust Division, Robinson-Patman fell into disuse and the discount revolution gathered force. This morning, following a long decline, Sears filed for bankruptcy. (A&P, once demonized as a business juggernaut destined to swallow up grocery retailing, went out of business in 2015 after closing its remaining stores).

In a column worth reading through, Joe Nocera at Bloomberg draws a lesson for policymakers about capitalism’s ferment of creative destruction. “The next time you hear somebody say that the dominance of Walmart or Amazon or Facebook can never end, think about Sears. It can — and it probably will.”

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