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Restraint of Trade by the Supreme Court: The Utah Pie Case

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The Supreme Court shows a growing determination in its antitrust decisions to convert laws designed to promote competition into laws which regulate or hamper the competitive process.[1] Succeeding interpretations of the Clayton[2] and Robinson-Patman[3] Acts—and, by infectious contamination, the Sherman Act[4]—demonstrate an increasingly apparent disregard for the central purpose of antitrust, the promotion of consumer welfare through the promotion of a competitive market process. Now, in *Utah Pie Co. v. Continental Baking Co.*,[5] the Supreme Court has used section 2(a) of the Robinson-Patman Act[6] to strike directly at price competition itself.

For more than 30 years there has been, except to a small but increasing number of skeptics, an ambiguity whether the Robinson-Patman Act is a law in favor of or opposed to competition. The statute, although phrased in terms of a "lessening of competition" or "tendency toward monopoly," also includes, and in the alternative, a more ambiguous clause: "or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination . . . ."[7] All of these phrases, but especially the last, have been interpreted to protect competitors at the expense of the competitive process.

Such restrictive interpretations have eliminated in some measure the ambiguity of the Robinson-Patman Act, although the clarity produced is scarcely a happy one. But the residue of confusion which remains continues to trouble practitioners, commentators and lower courts, if not the present majorities of the Federal Trade Commission and the Supreme Court. Does, or should, the first clause of section 2(a), which refers to anticompetitive effect in general—language which the

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1. *See generally* Bork & Bowman, *The Crisis in Antitrust*, FORTUNE, Dec. 1963, at 138, expanded and revised in 65 COLUM. L. REV. 363 (1965).
2. 15 U.S.C. §§ 12-27, 44 (1964).
3. *Id.* §§ 13, 13a-b, 21a.
4. *Id.* §§ 1-7.
5. 386 U.S. 685 (1967).
6. 15 U.S.C. § 13a (1964).
7. *Id.*

Robinson-Patman Act shares with sections 3 and 7 of the Clayton Act[8] —complement or conflict with the language referring to the more specific competition "with any person"?

The Supreme Court decision in *Utah Pie* resolves the competitor-competition dilemma, and with a vengeance, against competition. The case arose from a claim for treble damages by the Utah Pie Company against three respondents—the Pet Milk Company, the Carnation Milk Company and the Continental Baking Company—which had allegedly injured the plaintiff's competitive position by selling frozen fruit pies at discriminatory prices in the Salt Lake City market, thereby violating section 2(a). The facts showed that the Utah Pie Company, a local baker, entered the frozen-pie business in late 1957 and built a new plant in 1958. The Salt Lake City frozen-pie market was a rapidly expanding one, growing from about 57,000 dozen pies in 1958 to almost 267,000 dozen pies in 1961. Before the entry of Utah Pie, it was served principally by branches of national food companies with plants outside Utah. The Utah Pie Company, with local production advantages, adopted an aggressive market campaign based on low prices. During its first full year of business, 1958, Utah Pie was thereby able to garner two-thirds of the frozen fruit pie market in Salt Lake City. The three respondents, faced with new and vigorous price competition, chose not to watch idly while their customers were being lost. Instead they sought to retain or expand their sales by lowering their prices in Utah. As a consequence, although Utah Pie's sales and profits continued to expand, its share of the market dropped from 66.5 per cent in 1958 to 34.3 per cent in 1959, then rose to 45.5 and 45.3 per cent in 1960 and 1961. (See chart 1.)

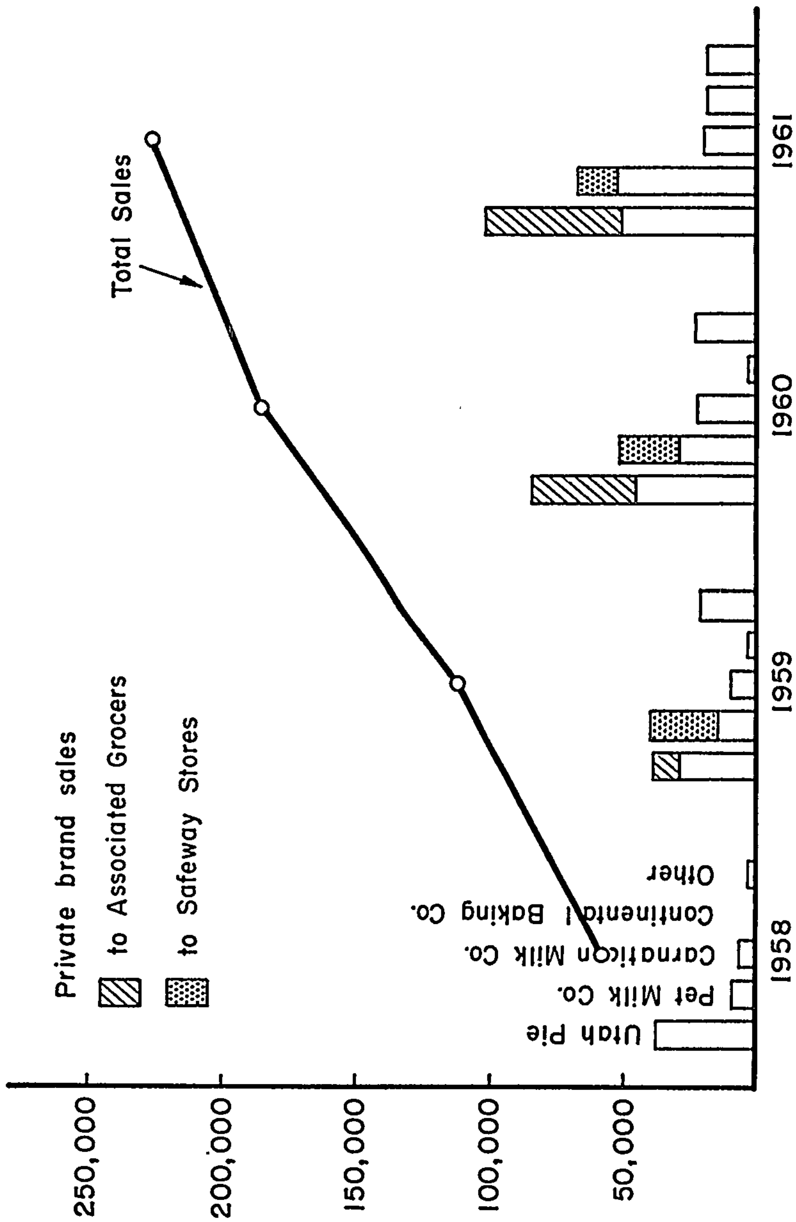
The response by Pet, Carnation and Consolidated to the price reductions by Utah Pie on occasion made their prices in Salt Lake City lower than in other markets. And at times, depending upon relative price conditions in the various markets, higher prices prevailed near the respondents' bakeries than in the more distant Utah market. Although the jury rejected the allegation of a conspiracy, it found that the respondents had individually violated section 2(a) by this "area price discrimination."

The court of appeals overturned the verdict.[9] In its view the central issue was whether the evidence against the allegedly price-discriminating competitors was sufficient to support a finding of probable injury

8. *Id.* §§ 14, 18.
9. Continental Baking Co. v. Utah Pie Co., 349 F.2d 122 (10th Cir. 1965).

CHART 1

FROZEN PIE SALES IN SALT LAKE CITY MARKET



to competition. The court held that there was not such evidence of an adverse effect on competition.

The Supreme Court in reversing spoke of this "single issue" to which the court of appeals addressed itself and then went on to decide that the lower court's finding of no probable adverse effect on *competition* was overcome by the decline in the share of the market held by the plaintiff, Utah Pie. Thus, an adverse effect on a *competitor*, even on one in a quasi-monopoly position, whose sales and profits continue to expand, and whose only injury is the loss of market dominance as a result of price competition which he himself engenders, is enough for the Supreme Court.

But that is not all. The Court found evidence that the Robinson-Patman Act was violated in the working of the competitive process itself, since the price level in Utah was eroded as a result[10]—and eroded to the benefit of consumers without evidence that either the purpose or the effect of the competition was to further an eventual monopoly.

Mr. Justice White, as clearly and unambiguously as anyone could, used the very evidence of competition which convinced the court of appeals that no violation existed to decide that there was an antitrust violation. The core of the Supreme Court holding is contained in the following sentences of the opinion:

> The major competitive weapon in the Utah market was price. The location of petitioner's plant gave it natural advantages in the Salt Lake City marketing area and it entered the market at a price below the then going prices for the respondents' comparable pies. For most of the period involved here [1958-1961] its prices were the lowest in the Salt Lake City market. It was, however, challenged by each of the respondents at one time or another and for varying periods. There was ample evidence to show that *each of the respondents contributed to what proved to be a deteriorating price structure over the period covered by this suit,* and each of the respondents *in the course of the ongoing price competition* sold frozen pies in the Salt Lake market at

10. Respondents had relied upon Anheuser-Busch, Inc. v. FTC, 289 F.2d 835 (7th Cir. 1961), and Borden Co. v. FTC, 339 F.2d 953 (7th Cir. 1964), in arguing in support of the opinion of Judge Phillips in the court of appeals, namely, that "no primary line injury to competition was found." 386 U.S. at 703 n.15. Mr. Justice White finds these cases "readily distinguishable" because in these cases, unlike *Utah Pie*, "there was no general decline in the price structure attributable to defendant's price discrimination . . . ." *Id.* at 704 n.15. Instead, White cites with approval an FTC decision in Maryland Baking Co., 52 F.T.C. 1679 (1956), *aff'd*, 243 F.2d 716 (4th Cir. 1957), which held that creating competition in an almost completely monopolized local market could not nullify a finding of price discrimination.

> prices lower than it sold pies of like grade and quality in other markets considerably closer to their plants.[11]

The case involved injury to "competition" in the sellers' market. The court of appeals, as Mr. Justice White acknowledged, had "placed heavy emphasis on the fact that Utah Pie constantly increased its sales volume and continued to make a profit."[12] But White views the Robinson-Patman Act as more concerned with "ground rules of the game"[13] than with probable competitive effects. He finds no need for a showing that discriminatory prices for pies of like grade and quality "consistently undercut"[14] other competitors. Nor is there a need for a showing of "blatant [or non-blatant] predatory price discriminations employed with the hope of immediate [or eventual] destruction of a particular competitor."[15] The court of appeals found no evidence of predatory intent. Mr. Justice White said there was "some" but did not specify the evidence, nor relate it to either the elimination of competition or even its possible effect on the Utah Pie Company. He acknowledged, "It might be argued that the respondents' conduct displayed only fierce competitive instincts."[16] But, implicitly acknowledging the flimsiness of the intent evidence, he then said that not only does "actual intent to injure" call for exclusion from this "competitive" category, but so also "when viewed in the context of the Robinson-Patman Act, do persistent sales below cost and radical price cuts themselves discriminatory."[17] Thus, with no evidence of any effect except an increase in competition, and with no showing of intent or of persistent sales below cost, non-uniform price cuts alone must create the violation. What there is about nonuniform price cuts that is more injurious to competition—or for that matter even to competitors—than across-the-board price cuts the opinion never explains.

Neither does it establish any rational guidelines for acceptable competitive behavior. The White opinion, by so belaboring the fact that the respondents occasionally sold their pies in Salt Lake City more cheaply than in markets closer to their manufacturing plants, seems to insist upon a rigid standard of uniform delivered prices. But the same

11. 386 U.S. at 690 (emphasis added).
12. *Id.* at 702.
13. *Id.*
14. *Id.* The record shows that only occasionally were respondents' prices lower than in markets nearer their California plants. *See* charts 2 & 3, pp. 80-81 *infra*, for lowest prices by months.
15. *Id.*
16. *Id.* at 702 n.14.
17. *Id.*

logic might suggest that transportation costs must be fully reflected in higher prices in markets farther from the factory—*i.e.*, that uniform mill net pricing should be the test.

The decision itself has not, of course, eliminated the technically available defense of proving a good faith "meeting" (as opposed to "beating") of a competitor's price. But now price-matching of the sort that cartels promote is encouraged if not all but compelled by the Robinson-Patman Act without diminishing at all the risks of a charge of price collusion under the Sherman Act; the dilemma may be particularly acute where the competing sellers in a market are few, as in *Utah Pie*.[18]

Neither does this decision provide any predictable "cost justification" escape for competitors caught in the Act's net. Private-label sales were made by respondent Pet Milk Company and by petitioner Utah Pie Company to Safeway Stores at prices below those of equivalent frozen pies sold to others under regular brands. Utah Pie also sold even larger quantities of private-label pies (Frost 'N' Flame) at special prices to another account in 1960 and 1961.[19] In its sale to Safeway, Pet Milk made a contract in accordance with Safeway's established practice of requiring its suppliers to cost-justify their sales. The Supreme Court indicated little sympathy for anything but detailed and complete cost justification. Pet admitted that its cost justification figures were drawn from past performances. "[E]ven crediting the data accompanying the 1960 contract regarding cost differences," wrote Mr. Justice White, "Pet's additional evidence would bring under the justification umbrella only 1959 sales. Thus, at the least, the jury was free to consider the 1960 Safeway sales as inadequately cost justified. These sales accounted for 12.3 per cent of the entire Salt Lake City market in that year."[20] The next sentence of the opinion then restresses the dominant theme of the whole case: "In the context of this case, the sales to Safeway are particularly relevant since there was evidence that private-label sales influenced the general market, in this case *depressing overall market prices*."[21] Perhaps the Pet Milk Company was not as meticulous as it should have been in detailing a cost defense since the absence of competitive injury to Utah Pie seemed so apparent. In any event, the

18. Chart 1, p. 72 *supra*, which was compiled from the court of appeals opinion, indicates that in the Utah market four firms sold over 90 per cent of the frozen pies in 1961. The petitioner, Utah Pie Co., sold 45.3 per cent, and the three respondents, Pet Milk, Carnation, and Continental Baking, sold respectively 29.4, 8.8 and 8.3 per cent.

19. *See* chart 1, p. 72 *supra*.

20. 386 U.S. at 695 n.10.

21. *Id.* (emphasis added).

Utah Pie decision provides no clarification of the cost justification defense. Confusion still reigns. As Professor Adelman has stressed, "[T]he lengthy and confusing rigmarole prescribed by Robinson-Patman has nothing to do with costs as they exist in the real world and influence business conduct."[22] The operative costs as far as producers are concerned, under competition or under monopoly, are the incremental costs of making particular sales. And these costs, properly conceived, are opportunity costs—that is, the income foregone from the next best alternative use of the resources committed to the enterprise to produce the goods in question. Under this analysis, historical costs in the conventional sense have no rational relevancy to pricing policy. In the *Utah Pie* case the respondents incurred transportation costs on Utah sales. The magnitude of the cost advantage this afforded Utah Pie as a local producer is not revealed. But Pet, Carnation and Consolidated did lower prices in Utah rather than withdraw from the market. In economic terms this simply demonstrates that the companies decided their returns in Salt Lake City after this pricing action would still be higher than the alternative of not selling in Utah or selling more elsewhere. Since the Robinson-Patman Act ignores this economic reality, it should not be surprising that the "cost justification" defense turns out to be a mirage.

"In no field of the law is the danger of petrified opinion and casuistic reasoning greater than in antitrust."[23] And nowhere, it might be added, has this danger been substantiated more clearly than by the havoc wrought on the competitive process in Robinson-Patman cases. Regardless of the motives or intentions of the framers of the Act to make life more secure for independent business units competing with the chains, the Act itself has as its stated aim the preservation of competition and the prevention of monopoly. Whether or not it was seriously urged in the legislature that the Act should have as its ultimate purpose the protection of particular competitors at the expense of competition, the legislature found it expedient to phrase the statute in terms of competition.

This is not to say that this Act, or indeed the Clayton Act which it was designed to shore up, was not concerned with the fate of competitors, the elimination of whom would create a market structure inimical to a competitive system. But in measuring the concern of the Robinson-

22. Adelman, Book Review, 30 U. CHI. L. REV. 791, 792 (1963).
23. Elman, *"Petrified Opinions" and Competitive Realities*, 66 COLUM. L. REV. 625 (1966).

Patman Act for competitors, the Act should be read as a statutory embodiment of an economic hypothesis about the means by which competition might be restricted or monopoly created through acts of aggression against particular competitors to drive them out or keep them out of markets—markets which, it must be emphasized, could be expected in the absence of such long-run effects to provide consumers more of what they wanted at lower costs.

The Robinson-Patman Act rests upon a presumption that price discrimination can or might be used as a monopolizing technique. This, as more recent economic literature confirms, is at best a highly dubious presumption. But even if it were not, the fact that price discrimination *may* tend toward monopoly scarcely deserves ballooning into the proposition that, absent positive evidence to the contrary, it can be *expected* to have the result of eliminating competition by killing off or disciplining rivals.

A "kill-the-rival" theory of price discrimination is only one of three competing theories of why price discrimination might be practiced.[24] The other two, unlike the first, are theoretically plausible and have empirical support. In addition to (1) the incipient monopoly achieved by killing rivals (or barring them from the market) are (2) price discrimination for the purpose of maximizing revenue from a monopoly position already held,[25] and (3) price discrimination practiced for the purpose and with the effect of *creating* rather than eliminating competition, either defensively to protect or build market acceptance, or offensively as a means of eroding an existing monopoly, quasi-monopoly or cartel.[26]

The second of the three price-discrimination theories—maximizing the revenue from a monopoly position by segregating noncompeting customers and charging them different prices related to their differing elasticities of demand—was not at issue in the *Utah Pie* case. Large buyers, particularly Safeway and Associated Grocers, did receive lower prices for their private-brand pies, the former from Pet, the latter from Utah Pie. But no adverse effect on competing customers was alleged in this case. Here the question presented to the Court involved

24. *See generally* Machlup, *Characteristics and Types of Price Discrimination*, in BUSINESS CONCENTRATION AND PRICE POLICY 397 (Nat'l Bureau of Econ. Research 1955). For comments on the "kill-the-rival" theory, see *id.* 423-27. But for critical analysis of this latter concept, see McGee, *Predatory Price Cutting: The Standard Oil (N.J.) Case*, 1 J. LAW & ECON. 137 (1958).

25. *See, e.g.*, G. STIGLER, THE THEORY OF PRICE 210-18 (3d ed. 1966).

26. *See* Elman, *The Robinson-Patman Act and Antitrust Policy: A Time for Reappraisal*, 42 U. WASH. L. REV. 1, 13 (1966).

the alleged use of price discrimination by Pet, Carnation and Consolidated as a device by which the plaintiff Utah Pie was or might be foreclosed from the Utah frozen-fruit-pie market in such manner as to violate section 2(a) of the Act.

The issue, then, as the court of appeals saw it, involved deciding whether the "kill-the-rival" face of price discrimination was either intended or foreseeable. Was there any evidence that the Utah Pie Company would be eliminated, or even cowed into following the price leadership of the national firms that had entered the Salt Lake City market? If so, was it likely that competition would be lessened in the market, in the short or long run? Conceptually, the questions could be considered discretely. If competition was in fact to be considered the ultimate aim of the Robinson-Patman Act, the court of appeals could have considered the death or disciplining of the Utah Pie Company irrelevant to the purposes of the Act if it concluded that the remaining firms would among themselves provide a competitive market. But even if the preservation of the Utah Pie Company as an active competitor was considered the final goal, the court of appeals might well have found from the robust good health and continued price competition of that firm that the Act was not violated. The court of appeals in overturning the jury verdict and holding for the respondents did not clearly indicate whether its decision was based on the health of competition in the market or the health of Utah Pie as a competitor. The Supreme Court opinion, because of its slight of hand in submerging the "effect-on-competition" issue, did not answer either question.

The White opinion could slide by the crucial question—whether competitive effect is irrelevant, since only competitors count, or conclusively presumed to follow from the adverse effect of price discrimination on rivals—only because the majority completely rejects the third theory of price discrimination: use to promote competition by undermining local cartels or monopolies.

This procompetitive use of price discrimination has been widely recognized in the economic literature, even by strong believers in the "kill-the-rival" theory. Careful assessment is correspondingly acknowledged to be a prerequisite to a determination whether competition is, proximately and ultimately, promoted or inhibited by discrimination. This approach, unlike the Supreme Court opinion in *Utah Pie,* focuses on the central purpose of antitrust law, competitive market effect. Friends as well as foes of an anti-price-discrimination law, for example, have expressed grave doubts about the appropriateness of an automatic rule regarding sporadic or selective area price discrimination of the type involved in *Utah Pie*. Commissioner Elman, for example, has commented in a recent article:

> In a local market dominated by few firms, the entry of a national seller prepared to lower its price in order to secure a foothold in a market may be the only cure for a rigid price structure characteristic of oligopoly. Such a national seller may be unwilling to lower its price in such a local market if it is required to make the same price reduction in all the markets in which it does business. Selective price cutting may also be the necessary first step in a general lowering of prices. . . . In general, a lack of uniformity in the prices of a national seller, competing in many geographic markets, may simply reflect the seller's flexibility in adjusting price to meet different competitive conditions in different markets. Insistence on price uniformity in such situations could lead to high rigid prices and thereby hurt competition seriously.[27]

The Commissioner might have had the facts of the *Utah Pie* case before him as he wrote this, as charts 1 through 4[28] clearly indicate. Chart 1 shows the oligopolistic nature of the Salt Lake City market and, in addition, indicates the importance of two large customers—Safeway Stores and Associated Grocers. The prime factor in Pet's mushrooming sales in 1959 was its contract for Safeway's private-brand business. The emergence of Associated Grocers as an even larger account for Utah Pie in 1960 allowed the latter to increase its sales and partially recoup the market share lost to Pet in 1959. Notable also in chart 1 is the decline in Pet's private-brand sales to Safeway in 1960 and 1961 while Utah Pie's business with Associated Grocers continued to rise. It is also apparent that except for 1961 Continental was a minor factor in the market. One conclusion is eminently clear: if any rival was being killed, it was not Utah Pie.

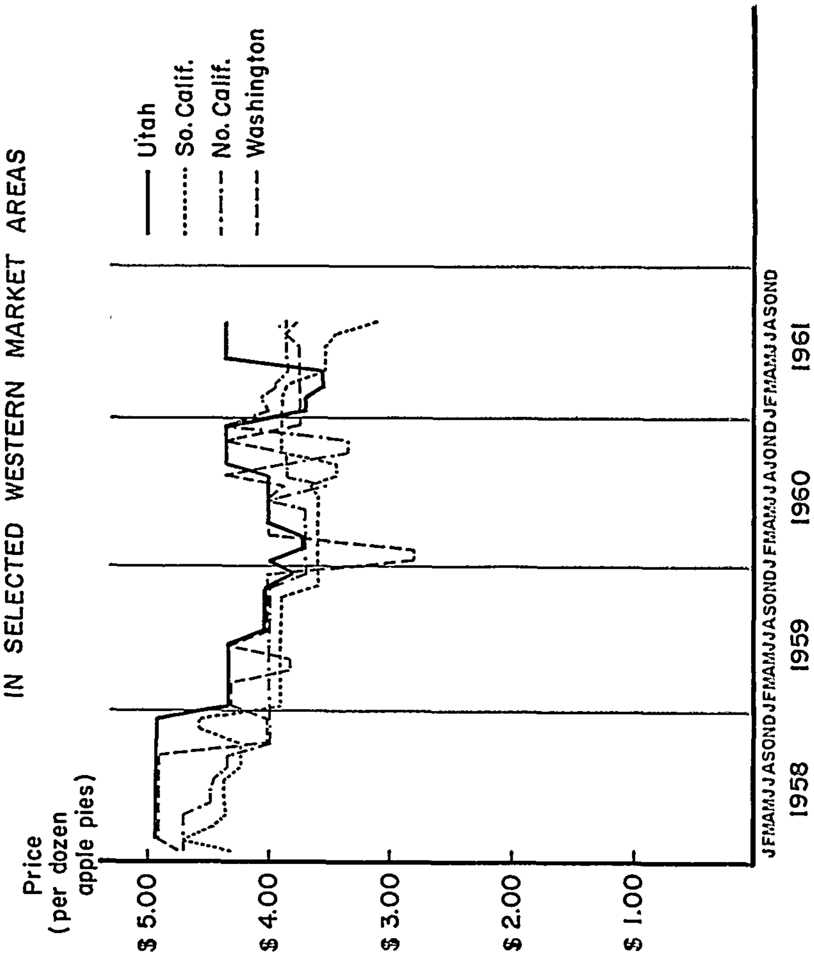
Charts 2 and 3 compare the lowest prices charged by Pet and Carnation month by month in several Western markets. There was clearly no consistent pattern; indeed, prices were lower in Utah than in other areas for either company only in several exceptional months of the 44 months reported. This sort of sporadic, unsystematic hodgepodge of price differences is precisely what Elman has described as "seller's flexibility in adjusting price to meet different competitive conditions in different markets."

Chart 4 depicts the lowest price offers month by month of the three

27. *Id.*
28. *See* pp. 72 *supra* and 80-82 *infra*. The charts are compiled from data contained in the Supreme Court and appellate court opinions.

CHART 2

LOWEST PET-RITZ PRICES IN SELECTED WESTERN MARKET AREAS



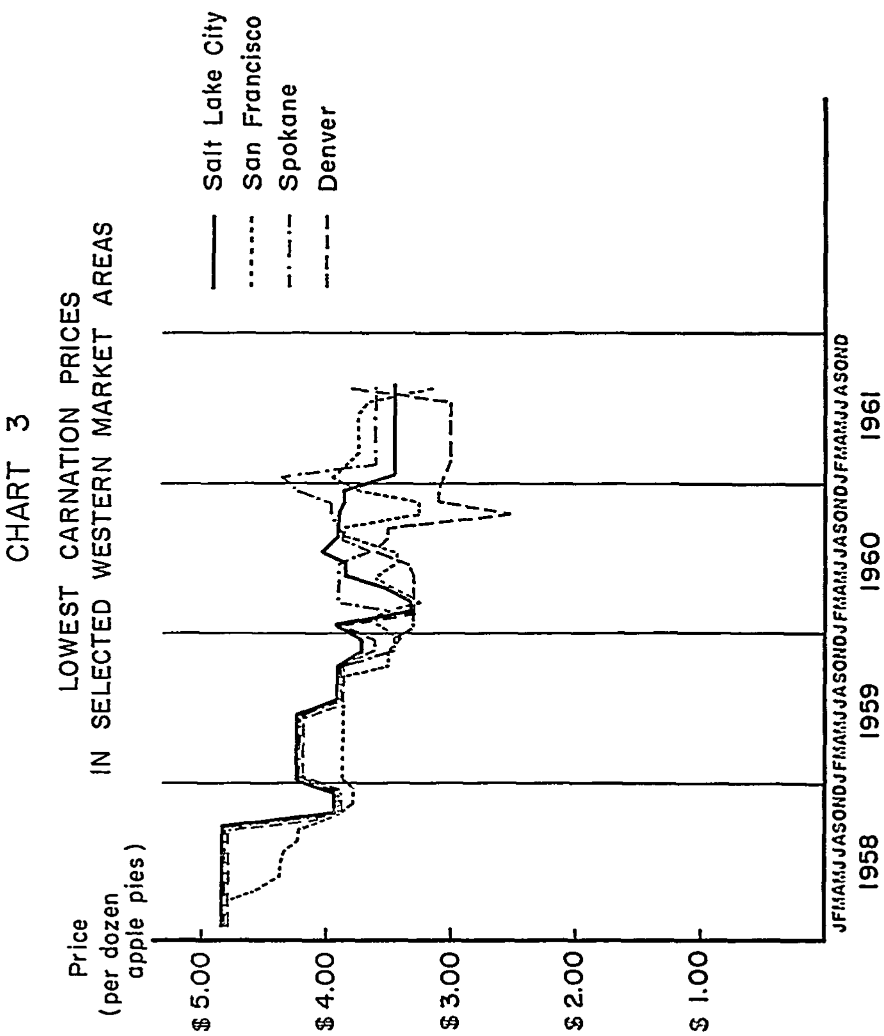
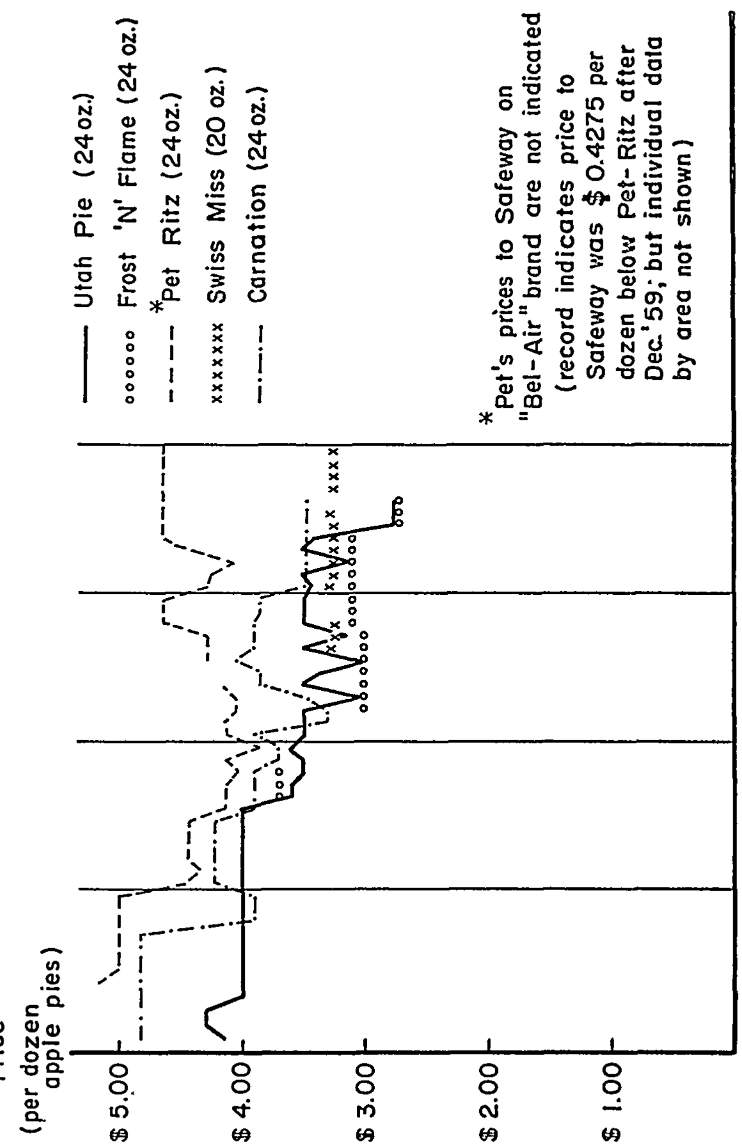


CHART 3
LOWEST CARNATION PRICES
IN SELECTED WESTERN MARKET AREAS
Price
(per dozen
apple pies)
$ 5.00
$ 4.00
$ 3.00
$ 2.00
$ 1.00
Salt Lake City
San Francisco
Spokane
Denver
1958
1959
1960
1961

CHART 4

LOWEST PRICES IN SALT LAKE CITY MARKET BY BRAND



major competitors in the Salt Lake City market. The downward trend of prices is apparent. The generally lower prices of the Utah Pie Company indicate the market conditions faced by its competitors. The comparison of prices surely does not show Pet or Carnation as price aggressors, much less potential "rival killers."

A reappraisal of standards for competitive injury is urgently needed, as Elman argues. "It should be clear," he wrote, "that a simple test of whether a price reduction results in a diversion of business cannot suffice for determining injury to competition among sellers."[29] The Federal Trade Commission seems to have begun to move away from any such per se approach to area price discrimination, according to Elman.[30] Mr. Justice White has apparently stopped this movement in its tracks.

Commissioner Elman is, however, equally concerned that national firms selling in multiple markets may use price discrimination as a "weapon for the destruction of competition."[31] The weakness of this "weapon theory," however, reemphasizes the importance of recognizing the procompetitive aspects of price discrimination. There just is no credible theory of predation explaining how price discrimination can be an effective "weapon" in killing rivals. Such a theory would expose how the predator could use price discrimination as a means of imposing higher costs upon his victim than himself. Instead this condemnation of price discrimination relies upon what may be called a "deep-pocket" mythology. If a deep pocket filled with loot from selling "goods of the same quality" in another market is to be viewed as providing funds for waging warfare, why do not gains from unrelated sales do the job as well? And what about a windfall from a wealthy relative? Indeed, why is not any departure from dead-level equality of wealth an equally good weapon with which to kill rivals? Could it not be argued as plausibly that all price competition should be banned because substantial equality of financial resources is beyond reach?

Outlawing price discrimination because it might transfer funds to kill or harass competitors deserves about as much support as outlawing income itself because it might be spent on burglars' tools. The procompetitive aspects of price discrimination, in contrast, are manifest. But one need not conclude that price discrimination is no more anticompetitive than other forms of aggressive prices, financed from un-

29. Elman, *supra* note 26, at 13-14.
30. *Id.* 14.
31. *Id.* 8.

related sources, to deplore the *Utah Pie* decision. In the first place, the evidence that respondents Continental and Pet did in fact transfer funds earned elsewhere to finance price discrimination in the Salt Lake City market is at best shaky. Pet was sustaining accounting losses in its frozen-pie operations during the greater part of the period in question. To suggest, as Mr. Justice White seems to have, that the greater losses in the Salt Lake City market were in some sense made possible by smaller losses elsewhere defies logic. Respondent Continental sold below average total cost, but not below marginal cost. To claim that an entrepreneur meeting marginal costs and making some contribution toward overhead is not behaving in good businesslike fashion ignores elementary economics. And if entrepreneurs do in fact set prices by the sort of opportunity-cost analysis discussed earlier in conjunction with the "cost justification" defense, the very concept of sales "below (historical) cost" becomes irrelevant.

In the second place, the task is not completed even if it can be concluded that (1) the respondents in *Utah Pie* transferred funds to the Salt Lake City market in some conceptualistic sense, and (2) the antitrust law should regard such "loot" earned by a firm bent on expanding its empire, and with the marketing savvy to do so, as more "dangerous" than an untainted windfall to an untutored heir. A theory of predatory pricing, discriminatory or nondiscriminatory, must assume that the aggressor expects his temporary losses to be overbalanced by higher prices after his "victim" has been eliminated. This in turn requires the further assumption that neither the victim nor anyone else will reenter the market and eliminate the new monopoly when prices are raised. For this to be true there must be an effective barrier to entry or reentry. Much has been written—most of it more confusing than clarifying—about entry barriers arising from the unequal availability of funds to large and small firms, or from the advantages of internal profits as contrasted with the financial markets as a source of funds. But the actual existence of such barriers remains a conundrum. In any event, these problems were never reached in *Utah Pie* because the plaintiff-petitioner was prospering.

The Supreme Court ignored these basic issues properly raised by a charge that price discrimination has or is likely to injure primary-line competition. In doing so it ignored its role of providing reasoned decision. The result is not very serious to pie-eaters in Utah. They can eat cake. But it is indeed serious that the antitrust law has been turned into a law against price competition. *Utah Pie* must rank as the most anticompetitive antitrust decision of the decade. This is no mean achievement in view of strong competition from such decisions as *Brown Shoe*,[32] *Von's Grocery*,[33] *Clorox*[34] and *Consolidated Foods*.[35] The protection of competitors is characteristic of each of these cases. The decisions there, however, although muddled in their economic analysis and blind to important consumer-benefitting efficiencies, did not strike direct blows at competitive pricing. Prior to *Utah Pie* the Supreme Court never unequivocally required a restraint of trade.

32. Brown Shoe Co. v. United States, 370 U.S. 294 (1962).
33. United States v. Von's Grocery Co., 384 U.S. 270 (1966).
34. FTC v. Procter & Gamble Co., 386 U.S. 568 (1967).
35. FTC v. Consolidated Foods Corp., 380 U.S. 592 (1965).

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