



...with Elisa Mariscal & Beatriz Yemail

In this edition of CPI Talks we have the pleasure of speaking with Elisa Mariscal & Beatriz Yemail. Elisa Mariscal is a Director with Global Economics Group, Mexico City and Beatriz Yemail is a Director with Global Economics Group, Colombia.

Thank you, Elisa & Beatriz, for taking this time to talk to CPI. The topic of this Chronicle concerns Joan Robinson's contribution to competition law and economics, and specifically the notion of "imperfect competition."

1. To what extent do you think Robinson's analysis has influenced today's competition policy and how could it influence future policy? Are there further lessons to be learned from "The Economics of Imperfect Competition"?

Robinson's work is certainly seminal. Yet, on another level, it simply reflects the hard truths of markets as they exist in reality. For hypothetical "perfect competition" to exist under classical economic theory, a number of assumptions must hold, but they rarely reflect reality. For instance, companies must sell identical products with no product differentiation possible, and they must be able to enter or exit the market without incurring any costs. Markets must contain a sufficiently large number of buyers and sellers so that no company can influence the price it charges. Consumers can set prices (through a perfectly elastic demand) and incur no costs when switching among an infinite number of suppliers. At the other extreme is pure monopoly, where a single producer can set market conditions by capturing a market share such that consumers have to accept the price, quality and, in general, all product conditions that the monopolist offers.

It almost goes without saying that any of such idealized conditions and market outcomes rarely exist in the real world. Robinson's main achievement was to contrast these idealized concepts with the way in which markets actually function, and to contribute to the development of various aspects of law and policy, including, of course, antitrust and competition law thinking. She sought to do so in a pragmatic manner that reflects real-world conditions. In this respect, her work has had an enduring legacy and offers valuable lessons to antitrust policymakers long into the future.

For instance, real world market outcomes do not move from perfect competition to pure monopoly. In fact, both constructs are extremes and the 'truth' usually lies somewhere in between. Robinson found that imperfect market conditions lead to imperfections in factor markets, which in turn imply reductions in productive and allocative efficiency. This result is a central principle that underpins modern competition policy, as it aims to fix inefficiencies arising from imperfect competition.

Robinson certainly went beyond observing the real world and used analytical tools such as differential and integral calculus, and simultaneous algebraic equations to understand and address imperfect market structures. Mixing profound real-world observations with economic theory and adequate analytical tools sets a standard that policymakers and antitrust economists and lawyers should follow today to analyze complex competition issues. Such an approach allows being rigorous about the technical and methodical about the legal, while remaining connected with market realities. We think that this mix should be reflected into the policy implications of what we do.

Finally, and going back to our initial point, we think that is fair to say that Robinson's core interests are no less relevant today than in the past. Current theories explore exploitative conduct by so-called "tech giants" that possess market power in the form of data accumulation and other factors that would perhaps not have been contemplated in Robinson's time. Yet the same principles remain applicable. Products offered by tech companies are highly differentiated, the "price" paid (in terms of user time and attention) is increasingly hard to quantify, transaction costs are increasingly non-transparent, and barriers to entry and exit are similarly becoming stronger and more opaque.

As such, Robinson's critique of classical economics is, if anything, becoming more and more relevant as the world evolves into an increasingly digital future.

2. "Imperfect" competition raises its head in various markets, but some are more obvious than others. What are some of the doctrinal and administrative challenges that antitrust enforcers face in tackling, for example, imperfect labor market competition? How could enforcement be improved?

This is a very interesting question.

Robinson concluded that, when competition is not perfect, production factors end up receiving less than their marginal value in terms of physical products. This leads to allocative inefficiency and has become relevant to analyze labor markets, particularly wage setting under imperfect market conditions.

Indeed, one of Robinson's most enduring contributions is coining the term "monopsony," which, simply put, reflects the buyer flip side of a seller monopoly: if there is only one buyer of a good, she can set her price—as well as other product conditions. The concept of "monopsony" is commonly applied to buyers of labor, particularly where an employer has wage setting power that allows it to exercise so-called "Pigouvian exploitation." Insightfully, and perhaps prophetically, Robinson used the term "monopsony" to describe in particular the wage gap between male and female workers of equal productivity: a theme that continues to rear its head into today's world.

We think that Robinson's extension of such Pigouvian theories of labor exploitation remains of great relevance today. This is despite the fact that competition and labor law have not traditionally been bedfellows. Labor regulation concerns, in essence, collective bargaining which has traditionally been viewed as a way of independently enhancing workers' economic outcomes. However, non-compete clauses, intellectual property that cannot be shared with the employee but only through employers, among other contracts and interactions in the labor market, are changing our assumptions of bargaining power among the different parties to a labor contract. In addition, there is an increasing interest in using competition economics methodologies (e.g. those related to market definition and measuring concentration) to explore whether and how concentration of both sales and labor, can lead to a reduction of wages.

On the other hand, and going back to antitrust, combatting so-called monopsony power remains one of the stated goals of antitrust, as expressed in rules, case law, and guidelines throughout the world.

In the end, we think that enforcers in general can well learn from Robinson's contributions as it its principles are applied to ever more novel situations.

3. What are some of Robinson's impacts on twentieth-century economics? Her most prominent work was published in 1933, but has her influence persisted into contemporary times?

As should be clear from the above, Robinson's work remains of great salience to contemporary enforcement practice. Her work is rarely cited explicitly, but its influence looms large. Enforcers, whether they wish to (or can) admit it, exist in a real-world economic scenario where her critique of classical economics reveals its obvious set of pragmatic truths.

By introducing the notion of imperfect competition, Robinson put on the table debates regarding several themes that persist into contemporary antitrust law. For instance, her attention to the distribution of resources, price setting, and market conditions persists into current debates. In order to analyze these elements, Robinson considered several aspects, including the elasticity of each good, marginal productivity theory, and price-setting under imperfect competition. The use of such analytical tools became widespread during the twentieth century and continues to be used today.

In addition, we think that the remedies offered by companies and accepted by regulators and courts implicitly accept trade-offs between perfect and imperfect competition. The bottom line is that those remedies reflect an acceptance (albeit implicit) that perfect, idealized competition rarely exists. Rather, they reflect the reality that enforcement has its limits, competition has its limits, and the perfect can often be the enemy of the good. This is sound enforcement practice and can trace its lineage to the contributions of Robinson and her contemporaries in the so-called "Cambridge School" of economics.

In addition, Robinson introduced reflections of moral character in order to propose which outcomes were socially desirable. Even though this discussion may deviate from the construct of a “scientifically rigorous world,” we think that it highlights the importance of introducing ethical debates into social sciences — and sciences in general. She upheld the validity and the consequences that moral discussions entail; we only need consider the Covid-19 pandemic, the environmental crises, and other crucial debates, to understand how the ethical dimension of economic decisions has been put in the spotlight.

Last, adherents of the Borkian thesis that has held sway since the 1970s may balk at the reality that competition enforcement has limits, but it is nonetheless true. Under a Robinsonian analysis, antitrust is not a “policy at war with itself,” but rather a pragmatic reflection of market realities and the imperfectness of competition as a matter of fact. As such, her line of thought has, at least under the surface, long influenced antitrust law and practice for decades, and will continue to do so long into the future.

4. In your view, do enforcers (specifically competition authorities and bodies such as the European Commission and the U.S. FTC/DOJ) take a sufficiently pragmatic approach to the “imperfectness” of competition in certain markets? Do they have something to learn from Joan Robinson in today’s economy?

Enforcement trends waver and sway with the times. Yet there is nonetheless a pragmatic undercurrent to them all, as reflected in outcomes seen in cases brought by different enforcers over time.

Such a pragmatic approach is clearly reflected in the European Commission’s Better Regulation Toolbox, which recognizes as one of its main objectives to deliver high-quality legislation “designed to facilitate its transposition and practical application.” In practice, the Commission and the Member States are using various analytical methods to compare the performance of existing policies and the potential impact of different policy options under particular market conditions. These tools are therefore allowing regulators to assess the costs and benefits that different policy options have on economic, social, and environmental dimensions, to name only a few, before choosing a certain path.

The pragmatic approach of the FTC and DOJ is also evident. This is backed up by their expertise in particular industries and markets, such as healthcare, pharmaceuticals, professional services, food and energy, and, increasingly, digital markets. Their knowledge regarding each industry, combined with their theoretical and empirical expertise, seeks to correct antitrust violations borne by the “imperfectness” of competition in several markets.

However, there is still a lot of ground to cover. Whether or not enforcers wish to take explicit counsel from Robinson or her contemporaries is, in the end, an individual choice. But what is clear to us is that the “imperfectness” of competition in each market should deeply inform the analysis undertaken by any authority. To state otherwise would be to deny reality. In that sense, enforcers, courts, and practitioners still have plenty to learn from the critique that Robinson presciently provided nine decades ago.

5. Finally, Elisa and Beatriz, do you agree with the major premise of Robinson’s thesis: namely that most industries are neither perfectly competitive nor complete monopolies? How should competition enforcers adapt this insight to regulating competition in the 21st century, particularly as the economy tilts more towards so-called “digital” businesses?

Like most economists, we concur with Robinson’s thesis by which most industries are neither perfectly competitive nor complete monopolies. As we mentioned at the beginning of our chat, the presence of perfectly competitive industries is unlikely because of the assumptions that perfect competition lies upon. Competition agencies throughout the world seek to foster competition and prevent a single producer from dominating markets. Regulators continue to strive to influence or directly design market conditions in such a way that competition can thrive where competition is possible.

In this sense, we think that returning to the major premise of Robinson’s argument seems almost intuitive. As the economy evolves and diversifies (particularly through the adoption of “digital” modes of business), competition will become more and more “imperfect” in a Robinsonian sense.

Ideally, policy interventions should preserve competition where competition can be preserved and sustained, while keeping elements that have inherent imperfections (externalities, natural monopoly, informational asymmetries, among others) under the watchful eye of a regulator who no longer performs the duty of setting prices or profits but who, in many cases, has multiple purposes and tools in its toolkit.

Among those purposes is, for instance, the need to establish a framework that fosters innovation, while avoiding its harmful potential effects on competition. Mistakes and policy changes are bound to happen, as this wave of innovations is unique in its speed, scalability, and interconnectedness. Disruptive innovations can quickly come to dominate a market or create new markets, making market boundaries unclear and posing further challenges to authorities. One example is Brazil's Pix payment platform, which didn't exist one year ago and now has about 110 million users. The rapid adoption through the country exemplifies the quick, scalable, and interconnected nature of current innovations.

Perhaps, Robinson's lasting legacy is that facts matter. We think that competition is rarely perfect nor inherently flawed. Market realities are constantly evolving. The trick is perhaps to stay connected to these changes and discover the middle ground where the law can stand and consumers, and the public at large, can benefit.



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