Lessons From Halacha
About Competition and Teaching

by Dennis W. Carlton and Avi Weiss

Economics has taught how competition among rival firms generally benefits consumers. Restrictions on firms, such as various forms of entry requirements or government prohibitions on competition, often wind up benefiting the lucky firms who obtain the protection from competition. Studies of regulated industries in the United States and elsewhere have shown time and time again how the regulations typically benefit the regulated industry (including the workers in that industry) and harm consumers through elevated pricing and reduced product variety. The lesson from these studies is that, although some government laws and regulations are essential for a well functioning competitive economy, one must be wary of falling prey to pleas, no matter how well meaning, to "protect" consumers from competition.

The notion that competition is desirable is one that is relatively recent in Western thought and one that is still contested, especially by powerful interest groups that have much to lose from competition. Those interest groups include both the direct beneficiaries of the restrictions as well as those who have the power to impose restrictions, e.g., regulators and legislators. We can learn a lot about the timely topic of what attitude to take towards competition from a study of the halacha. Indeed, there is a striking contrast between halacha and historic economic policy especially in Israel.

By and large, Jewish law has looked favorably upon entry and competition from rivals. We do not mean that there have never been restrictions on competition but that, taken as a whole, Jewish law is quite compatible with competition. And, as we discuss later, even the major anomaly to the principle of open competition, the cherem hayishuv, carries with it an important recognition of the importance of competition.

The starting point for the halacha on entry begins with the discussion of hasagat g'vul in the Talmud (e.g., see Bava Batra 21b). At issue is whether a retail merchant can prevent another retail merchant from setting up shop nearby. The majority opinion finds that, as long as the entrant is a tax paying member of the community, entry nearby is allowed. But how nearby? The majority allows entry within the same general area but leaves undecided whether entry on the same alley is allowed. The minority view is that an established merchant can prevent entry even in the same general area. But both the minority and majority agree that teachers of Torah are allowed to enter anywhere. Although one can perhaps provide economic rationales to protect merchants from rivals locating too close by (e.g., if an incumbent must spend years investing to develop a reputation to attract buyers to a particular location, then, in the absence of some protection, the firm might not undertake this investment and consumers could be harmed), the clear thrust of the halacha is to protect consumers through competition and not sacrifice consumer welfare by allowing merchants to protect themselves from competition. While there is also a (disputed) view that, if financial ruin of the incumbent would result, entry can be prevented, even in this view, teachers are exempt from entry restrictions.

Probably the greatest departure from rules promoting free entry occurred in medieval Jewish communities throughout Europe in the form of the cherem hayishuv. The cherem hayishuv was a mechanism by which retail merchants could prevent entry of outsiders into their community. The cherem hayishuv never appeared in Spain or Moslem countries and was strongest in those European Jewish communities in which the guild system imposed similar restrictions on Christians. The use of the cherem hayishuv is therefore an example of a case where Judaism was greatly influenced by the surrounding culture. Although recognized as being inconsistent with the talmudic majority opinion regarding entry of competitors, the medieval Jewish merchants (who often faced dire economic conditions) succeeded in protecting themselves from entry. (However, there are special circumstances where it would not be appropriate to apply the majority view. For

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example, if the entrance of Jews into a city would provoke violence from non-Jews, there would be good reason to enforce an entry restriction.) Although the cherem hayishuv was, like the European guild system, a blow to competition, certain exceptions to the cherem hayishuv, which as far as we know did not apply to Christian guilds, are noteworthy.

The cherem hayishuv, in general, did not apply to either political refugees or teachers. The first is understandable in light of Judaism’s emphasis on redemption of captives. The second is noteworthy because it reveals two underlying Jewish viewpoints. First is the recognition that competition among rivals produces a desirable outcome ("jealousy among scholars increases wisdom" Bava Batra 21 b). Second, even when succumbing to the (ill conceived) economic reasoning of the guild system, the proponents of the cherem hayishuv must have recognized, as did their forebears, that Judaism’s survival depends on Torah education. Maybe it was futile to resist the ability of self-serving merchants to impose entry restrictions to benefit themselves at the expense of consumers, but no such self-serving interest among teachers could succeed in justifying interference with the efficiency of the key to Judaism’s success and survival, teaching Torah.

What insights does the rabbinic tradition on competition provide us with for today? There are many, but we will stick to three. First, competition, not its prevention, should be trusted to protect consumers. The dismantling of the burdensome government interference in the Israeli economy, a by-product of socialist ideology, should proceed with haste. Second, the creation of a class of regulators who can prevent competition, whether Rabbis or government regulators, poses the danger of creating inefficiencies and corruption as the regulators and regulated enter into an unholy alliance at the expense of consumers. For example, any attempts by Kishrut authorities to use their powers to protect existing establishments from competition should be exposed and eliminated. Third, the teaching of Torah remains the key to Jewish success and survival. Attempts by any one group to prevent others from teaching Torah should not be tolerated.

References for readers interested in the above article include:

- D. Carlton and A. Weiss, "Inferring Values from Jewish Attitudes toward Competition," (1999).

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