



Behavioural Economics and Its Meaning for Antitrust Agency Decisionmaking

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Joint Workshop
Durban, 10 November 2015

Behavioural Economics (BE)



- BE Defined
 - Psychology meets economics and law
- Some Older Origins
 - Information economics
 - Studies of advertising
- Modern Refinements



Common Focal Points

- Soundness of Rationality Assumption
- Distortions in Behaviour of
 - Consumers
 - Business operators



Policy Implications

- Rationality Assumptions Challenged
- Basis for More Intervention
- Policy Implications: Examples
 - Assumptions about entry
 - Treatment of bundling



Today's Theme: Implications of BE for Agency Behaviour

- Biases and Agency Decisionmaking
- Better Understanding of
 - Why agencies do what they do
 - Possible antidotes for distortions
- Caveat: Personal Views Only



Joint Work with James Cooper and David Hyman

- Cooper/Kovacic, Behavioral Economics & Its Meaning for Antitrust Agency Decisionmaking, 8 J. Law, Economics & Policy 779 (2012)
- Cooper/Kovacic, Behavioral Economics: Implications for Regulatory Agency Behavior, 41 J. Regulatory Economics 41 (2012)
- Hyman/Kovacic, Consume or Invest: What Do/Should Agency Leaders Maximize? (2015)



BE: Some Major Phenomena

- Confirmation Bias
- Hyperbolic Discounting
- Reaction to Recent, Salient Events



Confirmation Bias

- Tunnel Vision in Evaluation of Evidence
- Resistance to Reassessment
- Consequences: Failure to Adjust
 - Program selection
 - Policies
 - Procedures



Hyperbolic Discounting

- Agency Leaders May Be Induced to
 - Emphasize personal credit-claiming
 - Cater excessively to political overseers
- Consequences
 - Outputs elevated above outcomes
 - Commitments outrun capabilities
 - Inadequate investments in “infrastructure”



Excessive Significance Given to Recent Salient Events

- Serious Setbacks Can
 - Cause agencies to lose needed perspective
 - Induce extreme risk aversion
- Consequences
 - Important endeavors are abandoned
 - Deeper causes of failure are overlooked



Possible Antidotes

- Norms to Promote Needed Investment
- Greater Historical Awareness
- Pooling and Collaboration
- Better Project Approval Procedures
- Evaluation



Pro-Investment Norms

- Correct Balance: Consume or Invest?
- Annual Investment Accounts
 - Human capital, agency knowledge base, administrative and technical infrastructure
- Focal Point for Assessment
- For Newer Agencies: Institution-Building



Greater Historical Awareness

- Understand Causes of Success, Failure
- See Current Events in Larger Context
- Anticipate Challenges
 - Criminalization, disruptive technologies, merger review
- Study/Benchmark Agency Lifecycles
 - Especially: new agency development



Pooling and Collaboration

- Medical Science Model
- Information Sharing
- Joint Investments
- Vital for Small, Badly Funded Agencies
- Role for International Bodies
 - Higher priority for “retailing”



Better Project Approval Process: Seven Questions

- What Are the Anticipated Benefits?
- What Are the Risks?
- Who Will Do It?
- What Will It Cost?
- How Long Will It Take?
- How Will It Affect the Portfolio?
- How Will We Know It's Working?



Evaluation

- Necessary Form of Investment
- Seeing What Works, What Doesn't
- Refocus: From Outputs to Outcomes
- Encourage Short-Term Appointees to Account for Long-Term Considerations