

# Preface

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At the end of one of the most notorious cartel cases in recent years the chairman of an internationally famous company received the unremitting scorn of the business press when he claimed to have had no knowledge of the illegal activities of his subordinates over a period of ten years. Apart from revealing the incompetence or worse of the chairman, the case also highlighted the point that well-organised cartels were still prevalent in the international economy. For a time after the Second World War it was thought that the era of cartels had passed, following the recovery and growth of the major trading nations. The case mentioned and many others which have since emerged indicate that this assessment was premature. As a result, there has been renewed interest in collusion both at a theoretical and practical level.

The economics of collusion is well known and is discussed, with some recent refinements, in Chapter 1. In contrast, the case for collusion is less well rehearsed although at times, especially in Europe, it has received distinguished support and policy backing. The case is made in Chapter 2 before we embark, in the following chapter, on a brief review of the prevalence of collusion throughout the 20th century. In Europe, there had been widespread support for cartels in the inter-war period during the Great Depression, which was dramatically reversed from the 1950s onwards, as the European Union (EU) progressed and as former members of the Soviet Union embraced a fully fledged market system.

The greater exposure of corporate conspiracies revealed by antitrust proceedings has allowed researchers for the first time to estimate the damage and losses they impose. These are reviewed in Chapter 4. As the second half of the 20th century progressed and the scope of many cartels became known there was a noticeable toughening in the response of anti-trust authorities both in the US and EU, a trend which gathered pace as the century drew to a close. Along the way the authorities had to deal with the complex question of tacit collusion, the apparent coordination of competing firms' prices through market experience but without any direct agreement or evident contact. The history of antitrust is littered with attempts by the authorities to get to grips with this problem, with rather mixed results. The development of cartel policy in the US and the EU is sketched in Chapter 5.

Given the prevalence of international conspiracies and the size of their impact on the affected economies, a question which has exercised antitrust authorities, lawyers and economists is the form of sanctions that should be imposed on the offending companies and their officers. Although in some ways the policies of the US and the EU have been converging, important differences remain as far as the treatment of offenders is concerned. In the US a wide range of punishments, including personal and corporate fines, civil damages and imprisonment, can be imposed. In contrast, in the EU at present, corporate fines are the only punishment. The controversy surrounding the most effective remedies for antitrust violations is discussed in Chapter 6. A more recent development has been the attempt by the authorities to destabilise cartels by offering generous immunity or leniency terms to those firms which spill the beans on their restrictive arrangements. The first firm to do so can be given complete immunity, and even the most tardy can have their fines reduced. The sensitive issues raised by such programmes are discussed in Chapter 7.

As the subtitle indicates, our concern in the book is with conspiracies between companies. A consideration of one of the most powerful, if not the most powerful cartel, namely OPEC, therefore, lies outside the scope of the book. The economic and political implications of OPEC are far reaching and deserve a full-length treatment of their own. As a US trade union found to their cost in the wake of the fourfold increase in oil prices in 1973–74, members of OPEC are effectively sovereign states and their cartel activities therefore lie beyond the reach of antitrust authorities.

The continued discovery of international corporate cartels has highlighted three characteristics: the range of industries involved; the prominence of the companies ready to flout the law; and the extent to which a sizeable minority of those companies reoffend. The extremely difficult trading conditions brought about by the financial crisis puts great pressure on the authorities to relax or even reverse their stand against collusion. Whether they will continue to resist such pressure as the effects on the real economy worsen remains an open question.

