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Towards a typology of collusive industrial networks: Dark and shadow networks

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ABSTRACT

The prevailing understanding of collusive B2B networks is primarily based on the theories of industrial economists and organizational criminologists. 'Successful' collusive industrial networks (such as price-fixing cartels) have been seen to endure due to formal managerial structures of coordination and control. In this paper, we seek to transcend and challenge the understanding of these illegal forms of co-opetition by drawing on evidence from an in-depth examination of four price-fixing cartels that were facilitated chiefly by marketers. Our contribution introduces the notion of 'shadow networks' (networks where although attempts are made to ensure secrecy, multilateral modes of network structure dominate akin to 'normal' managerial endeavours such as joint ventures) and 'dark networks' (networks which appear more opaque and secretive through the adoption of bilateral modes of network structure and limited bureaucracy) to illustrate the types of collusive network forms that may exist. In addition, this allows us to build a deeper understanding of collusive network forms and related inter-firm interaction for an industrial marketing audience. We provide implications for marketing practice, theory, and policy. Specifically, we outline how organizations and the marketing function can perform self-administered antitrust audits in order to help avoid breaches of antitrust. Further, we consider the importance of the two forms of collusive inter-firm networks uncovered where marketers have attempted to render these secret from antitrust agencies, introducing a relatively new line of inquiry to the industrial marketing literature.
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1. Introduction

Samsung Electronics Co. Ltd. and Samsung Semiconductor Inc. (US) agree to plead guilty and pay fines of $300 million as ordered by the US Department of Justice (DoJ), for an international price-fixing conspiracy in the dynamic random access memory market (DRAM) in 2005.

In 2004, German memory chip maker Infineon Technologies is fined $160 million by the US DoJ for breaching the US antitrust law by secretly engaging in price-fixing in its DRAM chip market through colluding with other manufacturers in the industry.

B2B price-fixing cartel networks have been documented to operate across diverse markets, affecting inter-firm relationships and interaction in a broad range of industries (Connor, 2008; Levenstein & Suslow, 2006). Past regulatory investigations have documented illegal price-fixing cartels in metals, vitamins, chemicals, air transportation, textiles, graphite electrodes (used in the manufacture of steel), synthetic rubber and semiconductor industries, among others. Since 1990 there have been approximately 495 formal investigations of suspected cartels by antitrust agencies around the world, implicating some of the largest industrial corporations (Connor, 2008). At least 373 individual and named executives were penalised — hundreds more were found guilty but received immunity, while thousands more were found guilty but not prosecuted. Cartels have been thought to have affected sales globally by $16.6 trillion.

Previously, B2B marketing research has predominantly focused on vertical relationships between supplier and customer (e.g. Ford, Gadde, Håkansson, & Snehota, 2003), while horizontal relationships between competitors have received considerably less research attention. Nevertheless, collaborative endeavours between competitors such as joint ventures, alliances, shared technology and R&D investment, and joint distribution and marketing efforts (such as cobranding), have considerable lineage as research topics. In addition, the phenomenon of co-opetition (simultaneous co-operation and competition between firms) has received increasing research attention (Bengtsson & Kock, 2000; Brandenburger & Nalebuff, 1996; Luo, 2004; Ritala, 2014; Rusko, 2011; Walley, 2007). The significance of collusive horizontal business relationships, such as illicit price-fixing in B2B networks, however, has been largely overlooked by marketing scholarship. This is somewhat surprising owing to the demonstrable economic significance and prevalence of collusion (Connor, 2008), and its relevance to understanding all forms of relationships between firms, not just legitimate ones.

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This understanding, it seems, has not just theoretical relevance to industrial marketing but also practical importance, particularly as "… antitrust decisions can affect future marketing practices and alternative strategies" (Shocker, 2007: 95). As a consequence, there is a need to gain a greater comprehension of all forms of criminal behaviour that marketing personnel may be party to in order to help educate practitioners. If marketing scholars fail to engage with issues of antitrust and horizontal collusion in a substantive manner "… which arguably it does not at present" then we can speculate "that we have not heard the last of collusive interfirm relationships" (Tadajewski, 2010). This could be costly to our disciplinary standing and understanding of all aspects of industrial marketing phenomena. We can identify strong theoretical linkages between collusive B2B practices and B2B marketing. For one, we maintain that 'successful' collusive B2B practices, such as cartels, tend to require long-term collaboration and trust between competitors. This combination of relationship longevity and mutual trust has been a central theme in industrial marketing research (e.g. Axelsson & Easton, 1992; Ford et al., 2003; Håkansson, 1982). Second, activities concerning pricing have been traditionally recognized as a core component of the marketing mix (Borden, 1964), and we will highlight the role of marketing managers in price-fixing in our findings and discussion sections. Third, price-fixing cartels are a collusive attempt to influence (and undermine) vertical buyer–seller relationships and the nature of exchange between cartel members and their customers. Price-fixing cartels hence seek to systematically shape the characteristics of industrial networks, which is another central area of interest in industrial marketing research (e.g. Axelsson & Easton, 1992; Ford et al., 2003). Overall, this indicates that collusive B2B practices, such as the price-fixing cartels, have a considerable theoretical overlap with the research domain of B2B marketing.

Yet industrial marketing research has made only tentative steps in addressing the 'dark' (or illicit) side of marketing management. This lack of realism can be seen as an inherent bias in our contemporary knowledge of industrial marketing. To provide an accurate description of our subject matter, we need to recognize the more problematic social realities faced by real-life marketing managers and their organizations, even if this concerns prevailing social taboos and even criminality. Failure to address these issues would not be "… an accurate memory of our discipline" (Keen, 1992). This implies a need for an open-minded exploration and analysis of the 'dark side' of real life marketing practices (Tonks, 2002). In addition, there are powerful methodological reasons for the lack of price-fixing studies in B2B marketing research; as most contemporary B2B cartels are illegal conspiracies, it can be exceedingly difficult for researchers to obtain information about cartels, as is frequently the case with instances of corporate misconduct (Linstead, Marchal, & Griffin, 2014), where information given to researchers may incriminate managers and companies in question. Also, such elusive, illegal, and secretive conduct renders B2B cartels largely invisible to most company employees, customers, and regulatory authorities (and also researchers). Consequently, standard industrial marketing research methods (such as surveys and interviews) are by-and-large ineffective in investigating price fixing cartels. More importantly, while the study of vertical relationships is well established in the literature (see, for example, Håkansson, 1982; Håkansson & Ford, 2002; Ford et al., 2003), based on the research in the present study examining secretive horizontal relationships, however, these same theories and explanations do not hold and lack theoretical adequacy in explaining such phenomena. Similarly, the co-opetition literature has overlooked many crucial questions related to our theoretical understanding of horizontal relationships, including *how* relationships between competitors are maintained, *where* they exist at different points in the supply chain and the various *types* of co-opetition — whether these are legal or illegal modes of co-opetition.

In this paper, we can thus explain how such horizontal relationships collude in terms of their structure and related mechanisms of control (which expands on previous attempts to do so by industrial economists, corporate criminologists, and sociologists — such as Levenstein and Suslow (2006), Baker and Faulkner (1993) and Geis (1967)), and why B2B cartels have eluded industrial marketing researchers, despite what must amount to many millions of hours researchers collectively spend in the investigation of B2B marketing. In sum, we wish to expand upon and contribute to our current theoretical understanding of not just horizontal relationships conducted in a spirit of co-opetition, but also the illegal and secretive ones; thus also affording us the opportunity to forward theory for subsequent testing.

The broad aim of this paper therefore is in establishing B2B cartels as a new line of inquiry in industrial marketing management research. We seek to accomplish this by using key tenets of industrial marketing theory to illuminate our investigation of cartel collusion. More specifically our research objective is to uncover and contrast different types of horizontal collusion between competing firms. In addition, we seek to provide a rich qualitative description of how some types of cartels may be more *effective* in the protection of B2B cartel conspiracies. By doing so we introduce the concepts of 'dark' and 'shadow' networks — a form of analogical comparison employed to illustrate two broad types of structuring in horizontal price-fixing networks, and a useful device that promotes theory building (cf. Linstead et al., 2014). This contribution helps facilitate our broader understanding of industrial relationships and networks.

The paper is structured the following way. We first consider the literature related to co-opetition, as such studies attempt to explain horizontal relationships between competitors. Next, we examine the literature related to collusion in industrial markets. After this we outline the methodology underpinning our investigation of industrial cartels. The remainder of the study examines the practices and structure of the four industrial cartels studied. We conclude by providing implications for marketing theory and practice.

2. Literature review

2.1. Co-opetition in business networks

There is a considerable amount of research describing collaborative endeavours between competitors such as joint distribution and marketing efforts (such as cobranding), joint ventures, alliances, and shared technology and R&D investment. The concept of co-opetition, however, was introduced to highlight the *simultaneous* co-operation and competition between firms popularised by Raymond Noorda (see Luo, 2007) and Brandenburger and Nalebuff (1996) – where mutually dependent inter-firm relationships are preferred between competitors in some supply chain activities, while competition is favoured in others – and is a response to the blurring of traditional roles between competitors (Hamel, Doz, & Prahalad, 1989; Sheth & Parvatiyar, 1992). Hence the co-opetition concept recognizes the concurrent 'co-operate–compete' relationship inherent between the traditional paradigms of competition and co-operation (Padula & Dagnino, 2007). The nascent literature on co-opetition has attracted studies on several topics including:

i. 'Why' co-opetition: Attempts to expand markets through joint value creation initiatives such as new product development, new market entry, or technology transfer (Brandenburger & Nalebuff, 1996; Luo, 2004; Walley, 2007);
ii. 'Where' co-opetition: Competitors co-operate predominantly in upstream activities at a distance to the customer (input activities such as product development) while competing in downstream activities (output activities such as distribution) (Bengtsson & Kock, 2000; Walley, 2007), although co-operation and competition may occur in upstream, midstream, and downstream activities in the supply chain (Rusko, 2011); and
iii. 'What' co-opetition: Or, what factors (external forces) influence co-opetition within an industry. For example, Rusko (2011) found that the 'centre of gravity' in co-opetition — the decision to co-operate or compete, can be motivated by industry traditions, regulators and government interventions, and market forces.

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