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## Industrial Marketing Management



## Dark network tensions and illicit forbearance: Exploring paradox and instability in illegal cartels

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## ABSTRACT

In this case study investigating illegal cartels, we contribute to our understanding of the dark side of business relationships in three different areas. First, we expand upon the dark side of business relationships theme, by investigating the nature of opportunism in price-fixing cartels and the role of illicit forbearance. Due to their illicit nature, cartels are forced to operate outside legally binding contractual frameworks requiring other ways to facilitate agreements to avoid opportunistic behaviour. Second, our investigation contributes to our understanding of tensions in business relationship settings. Our findings indicate that network tensions are made significantly worse by the illicit nature of cartels, resulting in inherently unstable relationships. Third, in addition to cartels, we argue for a broadening of the scope of the 'dark side of business relationships towards one that recognises the importance of illicit practices undertaken by marketing managers. This is significant because illicit relationships are often archetypal examples of opportunistic behaviour, which are likely to result in different types of conflict in a business relationship/network context. In the case of cartels, this opportunistic behaviour influences cartel participants, customers, suppliers (not privy to the cartel agreement) and the wider public. Theoretical and practical implications are provided.

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### 1. Introduction: expanding the horizons of dark business relationships – the dark side of business networks

As long as there has been an interest in relationships in marketing scholarship there has been the recognition of a potentially 'dark side' to their development and existence (Tadajewski, 2010; Tadajewski & Saren, 2009), evidenced in early supply channels literature (Gaski, 1984; John, 1984). Much of the initial research on the dark side of business relationships focussed on negative relationship constructs such as opportunism and conflict (e.g. Gaski, 1984; John, 1984). In addition, significant contributions have been made in investigating the dark side of personal relationships, such as relationships between sales and marketing functions, and marketing and production (Villena, Revilla, & Choi, 2011). More recently, calls have been made to expand the scope of the dark side of business relationships, perhaps most notably by this special issue, which includes examining tensions and uncertainty as relevant areas of investigation.

In this study we contribute to our understanding of the dark side of business relationships in three different ways based on our investigation of illicit price-fixing cartels. First, we expand upon the most

traditional dark side of relationships theme by investigating the nature of opportunism (and ways to manage this) in price-fixing cartels. Opportunism is a central problem in cartel relationships as their illicit nature prohibits the use of legally binding contracts. Second, we expand upon our previous understanding of the dark side of business relationships by investigating the nature of tensions in illegal cartel relationships. Our findings indicate that network tensions are made significantly worse by the illicit nature of cartels, further strengthening the problems associated with opportunistic behaviour. Here we can build upon past research where the dark side of relationships has been viewed as tensions resulting from imbalances in various business phenomena (Fang, Chang, & Peng, 2011) that give rise to negative consequences such as instability, destructive conflict or other forms of dysfunction that may arise in business relationships. This issue has attracted a modest stream of scholarly interest in recent decades (see, for example, Anderson & Jap, 2005; Barnes, 2005; Blois, 1997; Grayson & Ambler, 1999; Hibbard, Brunel, Dant, & Iacobucci, 2001; Moorman, Zaltman, & Deshpande, 1992; Pressey & Tzokas, 2004; Villena et al., 2011), as well as in specific areas such as relationship dissolution (Pressey & Mathews, 2003). Third, in this study we argue for the importance of expanding the scope of dark relationships to also include illicit business relationships, which have largely remained an unexplored area. This is important because illicit relationships are often archetypal examples of opportunistic behaviour, for example, cartels are an

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extreme example of opportunism adversely influencing customers, competitors and wider society. In addition, cartels can be seen as economically one of the most significant manifestations of 'dark relationships', estimated to influence global sales by approximately \$17 trillion (Connor, 2008). In addition, due to their adverse qualities, illicit relationships are likely to manifest various different types of conflict, which is often the reason for them being illegal in the first instance. Yet past marketing research has largely omitted the impact of illegal activities that marketing managers may engage in. If we are to achieve a candid and accurate study of our discipline, then it is important that we recognise the less socially desirable activities that marketing managers may face in practice, even if this means studying deviance and criminality. A small number of studies have argued that there may be instances where marketing managers are placed in positions of vulnerability. For example, Wilkie and Moore (1999) acknowledged that the boundary-spanning position of marketing managers has the potential to compromise them in certain illegal activities such as collusion between companies. Similarly, LeClair, Ferrell, and Ferrell (1997) consider the role of marketing managers engaged in international marketing initiatives (particularly their often close relationships with government agencies, customers and even competitors), concluding that the role they adopt may at times make them vulnerable to certain illegal activities such as bribery, fraud and price-fixing.

To elaborate, as illegal manifestations of dark networks cartel management is often troubled by various internal tensions. This is in part related to well-documented network paradoxes found in all business networks. However, we maintain that these network tensions are magnified owing to the illicit nature of cartels, and the inherent imbalances are also exaggerated. As a result, we maintain that the illicit networks formed by cartels can acquire unique qualities, which are not found in ordinary business relationship networks. These imbalances are characteristically a cause of instability, which can ultimately result in the unravelling of cartels. Due to the severity of these tensions, cartels have even been described as 'born to fail' relationships. Accordingly, the ways in which these network imbalances are managed may also acquire companies to adopt unique management practices, which is the main emphasis of this study. More specifically, we will focus on psychological, behavioural and structural elements of illicit price fixing networks.

In this paper, we will provide an analysis of three price-fixing networks and the paradoxical tensions they faced, thus providing us with an understanding of these illegal and little understood practices. Accordingly, we theorise a conceptual framework of five network tensions that dark networks may face. In so doing, we respond to recent calls in the industrial marketing literature for greater research on network tensions in inter-firm relationships (e.g. Bengtsson, Eriksson, & Wincent, 2010; Bengtsson & Kock, 2000, 2003, 2014; Fang et al., 2011; Fernandez, Le Roy, & Gnyawali, 2014; Raza-Ullah, Bengtsson, & Kock, 2014; Tidström, 2014; Wilhelm, 2011; Yami & Neme, 2014).

The present study examines the role of marketing managers in international price-fixing cartels by drawing on data derived from past investigations by the European Union (EU) regulator for competition (the Directorate General for Competition). We also draw on the literatures related to paradox and dialectics as a theoretical base (the so-called 'contradiction-based' paradigm), which has been a subject of much attention in the social sciences for some time (see, for example, Astley & Van de Ven, 1983; Das & Teng, 2000; Ford & Ford, 1994; Kuhn, 1977; Lourenco & Glidewell, 1975; Poole & Van de Ven, 1989).

This paper is organised in the following way. Following this introduction, we examine the literature on paradox and develop a framework of dark network tensions. Next, we outline the research methods and data collection procedures adopted. The remainder of the study reports on the findings of the three price-fixing networks and the tensions actors faced in their activities. We conclude with a consideration of implications and areas that merit future investigation in the area of dark networks.

## 2. Towards a dialectic understanding of network paradoxes in dark cartel networks

### 2.1. Illicit forbearance

With regards to opportunistic behaviour in business relationships there are considerable differences between the management of legal and illicit endeavours. To begin with, the very existence of illegal business relationships is often in itself an opportunistic act, such as the case with illicit price-fixing cartels. Price-fixing cartels are by their very nature opportunistic conspiracies, which seek to generate higher prices through breaking the law via secret agreements with competitors. Thus, price-fixing cartels are a form of opportunistic behaviour against customers, competitors (not privy to the cartel agreement) and the wider public.

Cartel management, however, is also affected by high levels of opportunistic behaviour among the cartel participants, because cartel participants may have an incentive to cheat on each other. Most typically, cartels agree to reduce aggregate output in order to facilitate higher product prices. As a result, it can be in firms' short-term interests to opportunistically produce more than the agreed quota. Furthermore, as cartels are illegal conspiracies, cartel agreements cannot be enforced by legally binding contracts. This, we argue, presents a central difficulty to avoiding opportunistic behaviour by other cartel participants as companies have no legal means to enforce their agreements. Consequently, for a cartel to succeed it must find other ways to reduce the threat of short-termism and opportunistic behaviour by actors. We will call this kind of mutual restraint and reduction in opportunistic behaviour in illicit business relationships as 'illicit forbearance'. Accordingly, we see illicit forbearance as the central pre-condition and cornerstone of well-functioning cartel conspiracies. Also, we maintain that in the absence of illicit forbearance cartel conspiracies will fail and/or unravel.

With the concept of illicit forbearance we are drawing upon past economic research investigating legitimate multi-market competition, where firms are simultaneously competing against each other in several markets. In such circumstances, companies may tacitly reduce their level of rivalry in fear of retaliatory action by competitors in other markets. This kind of legitimate multi-market behaviour is called 'mutual forbearance', which Lieberman and Asaba (2006, p. 5) describe as the following situation:

When firms compete with each other in many markets, they can more easily sustain collusion, because deviations in one market can be met by aggressive responses in many places. This is the idea of 'mutual forbearance'.

In contrast, with 'illicit forbearance' we are specifically referring to illegal conspiracies. Illicit forbearance is hence exclusively a characteristic of dark network relationships. Also, unlike mutual forbearance, illicit forbearance is not necessarily related to multi-market competition situations. Accordingly we propose that:

**Proposition 1.** *The success of illicit cartels is positively related to the cartel's structure and practices that facilitate 'illicit forbearance'.*

### 2.2. Network tensions

In the following sections we will examine illicit forbearance in relation to various network tensions, and in addition we will also recognise the importance of network tensions. We maintain that the illicit nature of cartel relationships magnifies and further complicates network tensions, in comparison to legitimate business relationships. Particularly, in relation to illicit forbearance, illicit network relationships acquire unique characteristics, which are in-part or entirely absent from legitimate networks. These illicit characteristics can further complicate the task of managing dark networks. Having said this, various forms of network tensions can also be found in legitimate network structures, which

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