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How FDR Promoted Price-Gouging

by Jim Powell

During the Great Depression of the 1930s, Americans desperately needed bargains. But President Franklin Delano Roosevelt signed laws that forced businesses to charge above-market prices for *everything*. He made discounting a crime!

FDR did this even though antitrust laws provided penalties for private individuals who acted in restraint of trade and charged above-market prices. These laws were passed by “progressives” — his ideological brethren.

First came FDR’s National Industrial Recovery Act, considered the flagship of the New Deal. FDR signed that in June 1933, climaxing his heroic Hundred Days of legislative mania. Back then, the economic situation was considered so urgent that members of Congress didn’t have time to seriously debate FDR’s proposals. The members probably didn’t have time to read the bills, either, before the voting began. Possibly, the Hundred Days began the American tradition of having members of Congress vote on bills they haven’t read. In any case, The National Industrial Recovery Act authorized the president to establish cartels via executive orders. He established some 500 cartels, and one of the things they did was fix prices above market levels.

The Agricultural Adjustment Act (1933), another triumph of the Hundred Days, aimed to raise prices of agricultural commodities above market levels, in an effort to raise farm incomes. Apparently the authors of the Agricultural Adjustment Act weren’t particularly concerned about the three-quarters of the U.S. population who weren’t farmers and had to pay more for food.

The Robinson-Patman Act, amending the Clayton Antitrust Act in 1936, aimed to protect small grocery stores from price competition offered by A&P, King Kullen (“World’s Greatest Price Wrecker”), and other chain stores. Because they bought goods in large volume, they obtained quantity discounts and passed savings to consumers. Less efficient small stores wanted to maintain high prices. Accordingly, the Grocery Manufacturers Association lobbied for and did much of the work drafting Robinson-Patman. Often referred to as the Anti-Chain-Store Act, it benefited wholesalers as well as small retailers, because wholesalers didn’t want chain stores buying directly from manufacturers. The bottom line was that the law made it illegal for big stores

to cut prices. If private stores had conspired among themselves to maintain high prices, they would have invited prosecution under the antitrust laws.

The Miller-Tydings Retail Price Maintenance Act (August 17, 1937) was a related effort to protect small businesses from competition with larger, more efficient firms. Small business lobbyists had successfully persuaded most state legislatures to enact “fair trade” laws which authorized price fixing, but the Supreme Court struck these down as violating the Sherman Antitrust Act. Congress passed, and FDR signed, Miller-Tydings which amended the Sherman Act to let manufacturers fix above-market retail prices of branded merchandise and thereby stop chain stores from offering consumers great discount prices. Apparently consumers counted for nothing during the New Deal.

On June 23, 1938, FDR signed into law the Civil Aeronautics Act which established the Civil Aeronautics Authority — this later became the Civil Aeronautics Board. It enforced a cartel, protecting existing airlines from new competition. Without a CAB certificate of “public convenience and necessity,” an airline couldn’t fly an interstate route. The CAB made clear its intent to suppress competition when it declared, “In the absence of particular circumstances presenting an affirmative reason for a new carrier, there appears to be no inherent desirability of increasing the present number of carriers merely for the purpose of numerically enlarging the industry.” During the next 40 years, until airlines were deregulated in 1978, the CAB didn’t issue a license for a single new interstate airline.

The CAB also had the power to fix prices and determine which airlines flew to which cities. “All passenger, cargo, and mail rates,” explained economist Sam Peltzman, “while initially set by the airlines, required approval by the CAB.” It maintained high fares. Non-scheduled carriers, initially exempted from CAB regulation, operated without published schedules and provided flights to whatever destinations were under-served, and they offered lower fares. The CAB-regulated airlines responded with lower-priced coach service, but they lobbied the CAB to gain jurisdiction over the “non-scheds,” and it denied more and more applications to provide nonscheduled service, until that source of competition was virtually eliminated.

In addition to outlawing discounting, FDR indirectly forced prices above market levels by signing the National Labor Relations Act (1935). When it was upheld by the Supreme Court two years later, labor union monopolies developed in mass production industries. In 1937 — a depression year, remember — average labor costs surged 11 percent. Naturally, this put strong upward pressure on the prices of things made with union labor, until the labor cost surge helped trigger a recession that undermined demand.

FDR did what private businesses cannot do by themselves, namely use the law to enforce above-market prices. As long as businesses are free to enter any market, somebody who charges above-market prices is likely to attract competitors who will drive prices down. Competitors could be start-up businesses or established businesses entering a new market, and such

competitors could come from within the country or overseas. The most famous private “monopoly,” John D. Rockefeller’s Standard Oil, lost market share despite having cut the price of its principal product 90 percent, because it wasn’t backed by the force of government. Perhaps the most intriguing question is why “progressives” continue to view FDR as savior, giving him a free pass as a price-gouger.

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