

## REVIEW & OUTLOOK

### Competition Is Auto-matic

It's generally a good idea to be suspicious when people start asking government to protect them from the evils of big, bad corporations. And so it is with this week's complaint from the European Consumers Organization that customers are being "ripped off" because car manufacturers are "exempt" from normal competition rules.

Actually, the misleadingly labeled "block exemption"—which allows manufacturers to control the distribution of their products through their own dealerships—isn't much of an exemption at all. Lots of companies in lots of businesses, from fashion to fast food, do the same without much complaint from the so-called consumer advocates.

Most of us, we'd imagine, wouldn't be too sympathetic to demands for government intervention because consumers felt they were being "ripped off" by the exclusive availability of McDonald's hamburgers at McDonald's franchises. The obvious answer, for anyone who feels that way, is don't eat there.

Is the car industry really so different? Sure, there are fewer automakers than food sellers. But there's still enough healthy competition around to keep their profit margins thin, thus driving the ongoing consolidation in the industry. And should these behemoths successfully collude to the detriment of would-be buyers, there's always the used-car market. For most rational people a nearly new vehicle is a good substitute for an entirely new one.

These observations are worth making because excessive focus on the car makers themselves only distracts attention from the real cause of excessively high car prices in Europe—those folks in government who are supposed to save us. Value-added and registration taxes can add as much as 200% (in Denmark) to the price of a new car in some EU countries, and continuing to apply some of these taxes to every sale of the vehicle thereafter hinders the development of the kind of resale market that would normally preclude manufacturers from gouging customers in specific countries or locations.

In short, if there are flaws in Europe's single market for cars, they're

generally caused by government, not industry. Unlike the sales taxes on virtually every other good sold in the EU, the VAT is payable in the country of registration, not purchase. Why? Because governments like the revenue and they're afraid of a little healthy tax competition in this area. If the VAT system were normalized, moreover, the apparent price disparities in European markets would shrink. Britons, for example, wouldn't be so envious of the lower sticker prices the Danes get to pay if they too had to add 200% to the cost before putting their cars on the road.

If European authorities were really serious about ensuring competition in auto sales, they wouldn't think so much about applying antitrust rules. They'd forgo a little revenue, and allow the market to do what markets do—deliver the goods.

At face value, stories of manufacturers pressuring dealers to refuse sales to foreign customers certainly do sound malevolent. But the contracts manufacturers often design to prevent their dealers poaching customers from one another will likely become a thing of the past as the price transparency created by the euro allows aggressive dealers to more easily appeal to comparison shoppers, and as the Internet allows them to spread the word far and wide. Already Ford dealers in Belgium are using the new technology to persuade Brits to come buy their cars (yes, right-hand drive) on the Continent. If manufacturers were currently able to abuse their dealer networks to the detriment of consumers on a widespread basis, one would presume they'd be making big profits. They are not.

To be sure, critics do have a point when they complain that manufacturers are sometimes able to gouge customers set on buying a particular model. But the role of competition authorities isn't really to stamp out all less-than-noble intentions on the part of businesses, but to ensure there is choice available to the consumer. On the whole, choice seems pretty reasonable now, and there is every reason to believe that, if market forces are allowed to work, things will improve a lot in the near future.

### After Iowa

Whatever else, the results from the in fact it's taxes, he loses

### Blair's New NHS Money Is Not Enough

By FRANK FIELD

Every silver lining has a cloud. When it comes to Prime Minister Tony Blair's commitment to raise the British National Health Service expenditure up to the European average over five years, that cloud is the prospect of continual damage to the government's standing as the health service struggles to cope with ordinary day-to-day demands. If the government did not know before, it has now learned that health is the live wire in British politics.

It was an article in the New Statesman magazine by a government supporter, Lord Winston, that ignited the present debate. But it was what this distinguished doctor neglected to acknowledge that is the most salient fact, one which explains why more money alone will not solve the problem.

Lord Winston claimed that the NHS had been starved of funds under the previous Tory government. But NHS funding under Tory stewardship actually grew on average by over 3% annually in real terms. Even increases of this size were inadequate to meet public hopes and expectations. The increase in the number of people needing significant amounts of care, particularly the old, a higher-than-average rate of inflation in health-care costs, and the rapid proliferation of new and expensive medical technology made this real increase in the budget inadequate.

Thus while the prime minister's announcement on long-term funding may have bought some respite from voters' anger, that will only last until the next crisis engulfs the service. The government must use this short breathing space to lay the foundations for a successful long-term reform of NHS financing.

Before the elections brought in the new government—of which I became a part—I asked the government actuary to cost a whole program of welfare reform that included the introduction of a national insurance health contribution. Surveys show that voters are willing to pay more for their health care. But few are in favor of general increases in taxes once they are inside the polling booths. So how can the government square this apparent circle?

First, work should begin on introducing a national insurance health scheme based on specific, earmarked contributions. Second, local hospitals should be denationalized and given back to voters who owned many of them prior to the founding of the NHS in 1948.

Labour has fought—and been defeated in—too many elections on a tax-raising program for it to believe that voters are now telling the whole truth over welcoming tax rises, or at least foregoing tax cuts. What Labour now has to do is devise the means by which the voters' clear wish to pay more for health can be translated into action

By STEVEN BECHWAR

When is competition unfair?

The answer to this question, like many things in life, is relative. In our case, it's relative to the country in which you conduct business. In the village of Mettlach in the southwestern corner of Germany, close to the French and Luxembourg borders, is a middle-sized firm called Lands' End GmbH. The company sells high-quality, classically inspired clothing via catalog and the Internet. It is a wholly owned subsidiary of Lands' End Inc., the United States' 12th largest catalog company overall and the largest apparel catalog and online firm in terms of sales revenue.

Lands' End Germany set out with one basic mission: to deliver the same excellent service and products to the German consumer that it delivers to those in the U.S., U.K. and Japanese markets. Having decided that Lands' End service should be uniform worldwide, it set out to uphold the same eight "Principles of Doing Business" that had worked so well for its parent company and other subsidiaries throughout the world. Among these principles is an unconditional guarantee, described as follows: We accept any return for any reason, at any time. Our products are guaranteed. No fine print. No arguments. We mean exactly what we say: Guaranteed. Period.

#### Key to Success

To many this seemed an unbelievable offer. To Lands' End, it was the "handshake" at the start of a long-term relationship between the customer and Lands' End. The company learned a long time ago that the key to success in any of its businesses depends upon satisfied customers, and that it was a lot harder to find a new customer than it was to keep an existing one happy. The guarantee was the logical result of this devotion to maintaining customer satisfaction. What we thought was good business is considered unfair competition in Germany.

In January 1997, we received a letter from the Association for Combatting Unfair Competition in Germany (a group of lawyers representing businesses and trade associations—not consumers), stating that Lands' End's guarantee was a violation of the Bonus Gift Act of 1932 (known in Germany as the *Zugabeverordnung*). The lawyers demanded we discontinue advertising of the guarantee or face court proceedings.

The basic intent of this law was to prohibit the granting of an additional product—a "gift"—in conjunction with the main product. The case revolved around two basic questions: Did the guarantee constitute an ancillary "gift" under the law; and

## Fairness for Germany

was this guarantee customary in trade, or at least a reasonable development in trade?

Lands' End prevailed in October 1997 at the lower court level, only to have that ruling overturned by a regional court in October 1998. An attempt was made to appeal to the Supreme Court, but the case was refused, at which point the regional court ruling of 1998 became final. In that ruling, Lands' End was forbidden to advertise its guarantee, but was not barred from honoring it. So the company continues to provide this ser-

*Our products are guaranteed. But what we thought was good business is considered unfair competition in Germany.*

vice but may not advertise it as such to the public.

But what good is a service that you can't tell your customers about? And, if no new service ideas are allowed, then how can any service or idea ever become "customary in trade"? And, most importantly, who actually benefits from this decision? Certainly not the consumer, whom the law was intended to protect. Rather, the beneficiaries are the businesses that the Association represents (and against which Lands' End competes directly or indirectly).

One of the arguments brought forward by the opposition was that abuse of the guarantee would lead to costs that no firm could bear and/or that these costs would be passed on to the consumers. A review of Lands' End's world-wide finances tells a different story. Increasing sales and steady profits over the years clearly disprove this claim, and show that long-term customer satisfaction is not only good for the consumer, but for the company as well. As for the costs to the customer, isn't that something the consumer should decide? If Lands' End is not competitive in the market, consumers will take their business elsewhere. Lastly, since Lands' End still

honors the guarantee and incurs its costs while continuing to grow and become more profitable, doesn't this demonstrate that the offering of such a guarantee is indeed a reasonable business development and economically feasible? Our German business, which began with 40 well-trained and friendly employees back in 1996, has since grown to 140.

How can Lands' End afford to offer this guarantee? The answer is quite simple. Every day we put ourselves under pressure to develop the highest quality product available in the market and offer that product at a reasonable price. We strive for perfection in the development of the products that we sell. Stringent quality standards must be met in order for a product to bear the Lands' End label, and when it does Lands' End backs that product 100% with its unconditional guarantee. If this were not the case we would be inundated with returns, lose customers and eventually go out of business.

#### No Fine Print

It's disappointing that a German law dating back to a time before TV, before the calculator, before the computer and before the Internet could still be in force today despite the clear evidence it has outlived its usefulness. The law presumes that consumers are unable to make an intelligent purchase decision

on their own. Perhaps that was the case back in the 1930s when information was more difficult to come by. But in the age of computers and mass media, where Inter-

net search sites can go out and compare products offered and return with a list of the best prices available, this is clearly not the case now. One thing is for certain: The Lands' End guarantee is one of the shortest, simplest and easiest to understand guarantees a consumer can find anywhere. No fine print. No exceptions.

Lands' End continues to consider its legal options at a European level so that it may not only offer its guarantee, but actually tell the consumer about it. Seems like a pretty basic principle. Only time will tell if logic will prevail for this business in Germany.

Mr. Bechwar is managing director of Lands' End, Germany.



## French Employers Draw a Line