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Michael J. Sandel, What Money Can't Buy: The Moral Limits of Markets

Maurice Stucke

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tightly written. This work will be useful not only to academics and students but also to practitioners. Doubtless, a new edition will soon be required.

Despoina Mantzari
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Michael J. Sandel, *What Money Can't Buy: The Moral Limits of Markets* (Farrar, Straus and Giroux, 2012), ISBN: 978-18461-144714, 244 pp.

Are there some things that we should not buy or sell?

Competition, among antitrust lawyers, economists and scholars, often takes on a religious quality. We adhere not only to certain methodologies to analyse antitrust issues, but also to certain fundamental beliefs. Competition and a competitive market economy are often seen as good things. Market competition is often assumed as the problem's cure, rather than its cause. Utilitarian considerations, while not pervasive, often underlie our beliefs. Given our faith in allocative efficiency, we generally are not alarmed when buyers and sellers voluntarily transact in market exchanges. So if competitive markets often increase total or consumer welfare, should anything be off limits to markets? As markets extend beyond household goods and services to new products (such as death bonds, where one financially profits when others die quickly) or things considered taboo to sell (such as organs), what, if anything, should be the limits of market competition and market values? Should we allow the sale of infants? Should lobbyists be able to pay the homeless to wait in line for them for an important legislative hearing? Should we offer drug-addicted women financial incentives to be sterilized? Should we pay children to get good grades or to read books?

Professor Sandel, whose Justice class at Harvard University is an online hit (<http://www.justiceharvard.org/>), tackles these issue in his latest book. He examines several risks and concerns of treating an item as a commodity that can be freely exchanged. One concern is blurring one's ability to pay with one's willingness to pay. Another concern is how market values can erode or corrode non-market ethical, social, and moral values. Markets, Sandel argues, reflect and promote certain norms and beliefs that can crowd out non-market norms.

One of Sandel's many examples is if selective universities scrapped their current admissions process and simply admitted those students whose families are both willing and capable of paying more. Rather than rely on indirect payments (such as hefty contributions to the new library) that may not always guarantee admittance, what would happen if universities simply auctioned seats?

Sandel identifies two likely objections. The first involves fairness concerns. Auctioning admittance to the highest bidders would expose the prevailing income inequality, create unfair bargaining conditions (where poorer university applicants may cherish the opportunity more than wealthier applicants, but are unable to afford it), and further reduce lower-income families' opportunities. The second objection is corruption. If a good or service is commodified, the item's character can change for the worse. Auctioning admissions will corrupt the institutional integrity of the university and its ideals. Citizens, including those in countries without significant wealth inequality, would object when market norms degrade the item and crowd out more important non-market norms.

An antitrust technocrat might respond, 'Yes—but what does this book say about current antitrust hot topics, such as enforcers using an Upward Price Pressure Screen for horizontal mergers?' Seemingly nothing, but ultimately everything. One can quibble with some of Sandel's many examples. But the book returns to first principles of why we desire market competition and how we define citizen welfare. There is an important distinction between a society *having* a market economy and a market economy defining the society; important civic and moral virtues can be lost in that transition. As Sandel notes, 'making markets more efficient is no virtue in itself. The real question is whether introducing this or that market mechanism will improve or impair the good of the game'.

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Mihail Danov, *Jurisdiction and Judgments in Relation to EU Competition Law Claims* (Oxford: Hart Publishing, 2011), ISBN: 978-18411-36592, GBP 63, xxxviii + 331 pp.

The interaction between EU private international law and EU competition law is a topic that has recently attracted the attention of competition law scholars with a number of publications appearing or forthcoming in the next couple of months. Mihail Danov's fine monograph is an updated version of a PhD thesis submitted at the University of Aberdeen, and includes all important developments in this area up to 1 January 2010. The book provides an excellent critical analysis of the important challenges to which judges, practitioners and business decision-makers are confronted, with regard to concurrent proceedings in EU competition law and the attempt to solve them through the application of private international law principles. The first chapter of the book introduces the fundamentals of