Is a Market for Values a Value in Markets?

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Go into the London Stock Exchange—a more respectable place than many a court—and you will see representatives of all nations gathered there for the service of mankind. There the Jew, the Mohammedan, and the Christian deal with each other as if they were of the same religion, and give the name of the infidel only to those who go bankrupt. There the Presbyterian trusts the Anabaptist, and the Anglican accepts the Quaker's promise. . . . If there were just one religion in England, despotism would threaten; if there were two religions, they would cut each other's throats; but there are thirty religions, and they live together peacefully and happily.

—Voltaire (*Letters on England*, Letter 6)

"I can be bought. If they paid me enough, I'd work for the Klan."

—Former NBA star and Basketball Hall of Famer Charles Barkley[1]

1. Introduction

To exist, a commercial culture needs the institutions championed by classical liberals: free markets, limited government, and the rule of law. To survive and flourish, however, a commercial culture must be populated in significant part by individuals possessing the virtues, habits, and dispositions that complement classically liberal institutions. Call persons possessing these virtues, habits, and dispositions *fit participants in commercial culture*. This essay addresses one of the dispositions fit participants in commercial culture possess. Thus, this essay is not about the *rights* or the *duties* of participants in a commercial culture—what actions they or their fellows are morally free to perform or are duty-bound morally to perform or refrain from performing—but about an aspect of the *character* one must cultivate in order to be a fit participant in and a supporter of commercial culture. Cultivating that character may involve refraining from actions that one has a right to perform, even

[1] David Shields, "Charles Barkley's Head Fake: He's Just Pretending to Be Outrageous," *Slate*, Friday, November 22, 2002, accessed online at: http://www.slate.com/?id=2074459.

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when one desires to perform them and even when doing so violates no one's rights. This essay is about a form of activity that, as a matter of cultivating the character appropriate to a fit participant in commercial culture, one ought to be disposed to avoid even though one has the right to engage in it and doing so violates no one's rights.

2. The Market for Morality

Business ethicists and corporate social responsibility (CSR) theorists have both heralded and celebrated the emergence of a *market for morality*.[2] Although not a precisely defined concept, the increasing prominence of so-called socially responsible investing (SRI), corporate mission statements emphasizing social performance, "green" consumerism, firms adopting "fair trade" initiatives, and myriad other commercial undertakings intended to respond to consumers' or others' sense of what is or what promotes the common good are all said to exemplify this market for morality. More interesting than the market for morality's exact contours or the degree to which it has flowered, however, is the evaluative response of business ethicists and CSR theorists to its emergence. For it is almost invariably treated by them as an unalloyed good, evidence of personal and moral growth transcending the impoverished sociability of *homo economicus*, the injection of an overt ethical sensibility into a commercial practice thought wrongly to be marked by amoralism.[3]

There is a significant moral downside to at least one facet of the market for morality. Call it the *market for values*. The market for values is manifested by the practice of conditioning one's willingness to transact with others on those others sharing one's moral, religious, political, or (to use a regrettably vague but commonly invoked term) social values. To enter the market for values is to say that price, product, and commercial integrity (i.e., making good on promises made) are not enough to consummate a mutually beneficial transaction; one's trading partner must also share one's values. Although this practice (usually) violates no one's legal or moral rights, I argue that it cultivates in its practitioners dispositions inconsistent with the character of a fit participant in commercial culture. To the extent that the market for values and its corresponding dispositions become widespread, they threaten to undermine commercial society and the cornerstone of the liberal political and

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[2] See, e.g., Thomas W. Dunfee, "Corporate Governance in a Market With Morality," *Law and Contemporary Problems* 62 (Summer 1999), pp. 129-57; David Vogel, *The Market for Virtue: The Potential and Limits of Corporate Social Responsibility* (Washington, DC: Brookings Institution Press, 2005).

[3] See, e.g., Richard T. DeGeorge, *Business Ethics*, 4th ed. (Englewood Cliffs, NJ: Prentice Hall, 1994), pp. 5-7.

social order it supports, namely, liberal toleration. Encouraging the market for values's growth is encouraging the fracture and factionalization of the market. Consequently, participation in the market for values is something fit participants in commercial culture are properly disposed both to resist for themselves (because it is imprudent) and discourage in others (because in the aggregate it is socially divisive).

3. The Market for Values

People have always had to make buying and selling decisions in order to pursue their values. For example, committed environmentalists buy "green" products, moral vegetarians avoid purchasing meat, and abortion opponents avoid seeking (or providing) abortions—the failure to do these things being also the failure to practice the values they profess. However, several recent, high-profile efforts have focused on making the willingness to transact with another contingent on that other sharing one's values. That is, rather than seeking (or avoiding) *products* that express (or undermine) their values, these efforts encourage seeking (or avoiding) *trading partners* who share (or oppose) their values.

For example, in the wake of the 2004 U.S. presidential election, the website BuyBlue.org was launched to encourage "progressive" Americans to buy from firms whose officers and affiliated political action committees support Democratic candidates and to shun firms supporting Republicans.[4] Historically, similar efforts have been launched to punish commercially specific firms or individuals for supporting political causes odious to the organizers. For example, Coors Brewing Company[5] and Domino's Pizza[6] have at different times been boycotted for their support of right wing views and causes, their efforts to resist workforce unionization (in the case of Coors), and so forth. However, unlike traditional boycotts, which are usually aimed at a particular person or firm for a particular grievance or complaint, these newer efforts have been undertaken to punish (or reward) wide swathes of the business community for their failure (or willingness) to support a wide array of favored views, candidates, parties, or causes. Lest this trend be thought the exclusive province of the political left, recall that in protest of the

[4] See, e.g., the Wikipedia entry "BuyBlue.org," accessed online at: http://en.wikipedia.org/wiki/BuyBlue.org.

[5] See, e.g., "Union at Coors May Be Broken But It Hasn't Halted Its Boycott," *New York Times*, May 28, 1979, p. A7.

[6] See, e.g., Bill Shapiro and Vince Bielski, "Domino's Pizza," *Mother Jones*, March/April 1994, accessed online at: http://www.motherjones.com/politics/1994/03/dominos-pizza.

U.S. Supreme Court's 2005 *Kelo* decision,[7] BB&T Bank announced that it would not lend to private development projects involving the use of properties secured via eminent domain. In other words, doing business with BB&T demands holding or acting consistently with views about property rights similar to those of its CEO, John Allison. These examples and others[8] evidence the flowering of the market for values.

In the market for values, *like-mindedness* is a precondition to contracting. From the standpoint of getting the product one seeks at an agreeable price, this like-mindedness is gratuitous and, therefore, in a participant in commercial culture, imprudent. In the aggregate, insistence upon this gratuitous like-mindedness tears at the fabric of commercial society. To see why this is so, we must consider the market as a venue for, and the exchange transaction as an example of, social cooperation.

4. The Market as a Venue for Social Cooperation

The market is a venue for social cooperation. This has been denied by communitarians and other critics of commercial society, who decry the "naked cash nexus" between buyer and seller as a bond too weak to merit the adjective "social." It has been denied by Marxists and others who hold a zero-sum, objective-value view of market exchange, under which the give and take of bargaining and exchange is all and only the attempt to gain at another's cost. In other words, in the zero-sum view of market exchange bargaining and negotiation are not preludes to social cooperation, but acts of duplicitous aggression.

Market exchange is social cooperation in *atomic* form. It is cooperation that can be achieved by the minimum number of people necessary to engage in a cooperative venture (two), over matters as small as the participants care to cooperate, and with the minimum amount of agreement between them necessary to effectuate their cooperation. Where the communitarian despairs at the lack of social solidarity, another observer marvels at the way cooperation is achieved by people of disparate aims, views, and values, millions of times a day, without anyone being compelled to forswear his aims, views, or values. That is, people achieve often complex and far-reaching forms of cooperation with a minimum of like-mindedness between them.

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[7] *Kelo v. City of New London,* 545 U.S. 469 (2005).

[8] Efforts by homosexual marriage advocates to punish commercially those who contributed to California's successful Proposition 8 referendum to define marriage constitutionally as a relationship between a man and a woman may be another example.

Like-mindedness is a barrier to social cooperation. Where free people deal with other free people, the more they *have* to agree on in order to cooperate the less likely they are *to* cooperate. Free people who intend to remain free people deal with one another commercially more often than politically because it allows them to cooperate where their values and interests overlap without trampling on one party's values and interests where they don't.

Like-mindedness is similarly the enemy of trade. This may seem counterintuitive, as we characterize contract proverbially (if not wholly accurately) as a "meeting of the minds." However, in the canonical market exchange buyer and seller need only agree on a *product* and a *price*. If one wants to buy what the other is selling (or sell what the other is buying), they negotiate in order to discover whether a bargaining range (i.e., a set of prices at which they can transact in a mutually beneficial way) exists and, if one does, to settle on *one* price within the bargaining range at which they will transact. As with other forms of social cooperation, the more we must agree on in order to transact the less likely we are to transact. Consequently, savvy participants in market exchange don't go looking for like-mindedness where it is unnecessary to achieving their transactional ends. Like the London Stock Exchange traders of whom Voltaire was a keen observer, as buyers they are concerned only to get what they pay for; as sellers they are concerned only to get paid. This is illustrated in remarks from perhaps the unlikeliest source of support for the commercial ethos, British musician, Labour party activist, and committed socialist Billy Bragg. In a recent interview, Bragg says:

> People do say to me, 'I love your songs, but I just can't stand your politics.' And I say, 'Well, Republicans are always welcome. Come on over!' I would hate to stand at the door, saying to people, 'Do you agree with these positions? If not, you can't come in.'[9]

5. Bargaining and Negotiation

If savvy participants in market exchange don't go looking for gratuitous like-mindedness, it is perhaps unsurprising that the evolved norms of bargaining and negotiation tend to discourage the pursuit of gratuitous like-mindedness over at least one matter likely to elicit profound disagreement between bargaining parties: distributive justice. Through the practice of reservation price deception (i.e., passively or actively misleading the other party about the least beneficial deal one will accept), the parties to a bargain

[9] Bullz Eye interview with Billy Bragg, October 20, 2008, accessed online at: http://www.bullz-eye.com/music/interviews/2008/billy_bragg.htm.

keep one another focused on the question, "How much is enough for me—too much to risk losing by making a counteroffer and perhaps convincing the other party that there is no mutually beneficial exchange to be had?" This question encapsulates the approach to market participation that the early twentieth-century economist and theologian Philip Wicksteed calls *nontuism*.[10] For Wicksteed, the market depends for its efficacy not upon the *selfishness* of its participants (as many have claimed), but instead upon their unconcern, in the context of the bargain they pursue, with the well-being of those with whom they are bargaining.

Many regard nontuism with an unmerited suspicion because they contrast it with altruism or other forms of fellow-feeling. The problem is not that altruism or fellow-feeling cannot be contrasted with nontuism, but that altruism and fellow-feeling are not the only—and not the most worrisome—of tuistic preferences. That one is altruistic entails that one is tuistic, but that one is tuistic does not entail that one is altruistic. Differently put, tuism is consistent with altruism, but it doesn't entail it. Similarly, nontuism is consistent with the destructive forms of egoism, but it doesn't entail them.

Commonly, we think of other-regarding attitudes as being laudatory and the lack of other-regarding intentions as malevolent. However, a moment's reflection reminds us that other-regarding intentions can be vicious (like Hitler's intentions toward Jews). It reminds us also that a lack of other-regarding intentions to another (say, one's trading partner) need not mean a lack of other-regarding intentions generally. Indeed, in most commercial contexts, participants in bargaining and negotiation do so on *another's* account—as *agents* for others. Thus, even as they disregard the interests of those with whom they bargain (and, by extension, those on whose behalf those others bargain) in the matter over which they bargain, they do this in furtherance of another's interests. In other words, their nontuistic bargaining is not an expression of a general lack of fellow-feeling, but of loyal service to those they are duty-bound as agents to serve.[11]

Of course, the critic of nontuism can acknowledge that *logically* it doesn't entail selfishness while still maintaining that bargaining relations are better if the parties are other-regarding, in a way that seeks to promote the other's interests. However, it is not the *content* of other-regarding preferences that poses a problem for bargaining, but the presence of other-regarding

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[10] Philip Wicksteed, *The Common Sense of Political Economy: Including a Study of the Human Basis of Economic Law* (London: Macmillan, 1910).

[11] Indeed, Wicksteed uses the example of trustees to make the same basic point; see ibid., p. 175.

preferences (and the information necessary to act on them) themselves.[12] Whether bargainers are self-seekers or other-regarding altruists, preferences over what or how much the other party gets out of the bargain add a layer of like-mindedness as a further hurdle to the bargain.

To see why, recall that in order to transact, buyers and sellers must overcome two obstacles. First, they must discover whether a bargaining range exists (i.e., the highest price the buyer is willing to pay is equal to or higher than the lowest price the seller is willing to accept). Second, having discovered that a bargaining range exists (if it does), they must settle on *one* price within the range at which to transact. The bargaining range offers a menu of mutually beneficial prices; the larger the bargaining range, the larger the menu of prices. The parties are better off transacting at *any* of those prices than they are failing to transact. However, some of those prices are more advantageous to the buyer, others are more advantageous to the seller, and while both have a reason to transact at *some* price in the bargaining range rather than failing to transact, they have no reason *mutually* to prefer one price to another—for any price in the bargaining range, moving to another price is more advantageous for one of the parties. Moreover, this is true whether "advantageous" here means "gives me more" (selfishness) or "gives you more" (altruism)—for any price in the bargaining range, moving to another price is more advantageous for at least one of the parties.

Our evolved norms of bargaining ameliorate this problem, perhaps counterintuitively, by *limiting* the information of the parties. Rather than declaring their reservation prices at the outset, discovering the full contours of the bargaining range (overcoming the first obstacle), and then having it out over which of the prices they will settle on (trying to overcome the second obstacle), the processes of bargaining-range discovery and the proposal of prospective settlement prices are conducted simultaneously. Each proposal advanced by the bargainers has the potential to reveal to the other party that a bargaining range exists (by being within the range acceptable to that other party) and to reveal part of that range to the other. Through the fog of negotiation, each comes to see part of the bargaining range, but not the same part.

Consider an example: Boris (buyer) wishes to buy a house; Svetlana (seller) is selling her house. Upon inspecting her house and satisfying himself that it meets his requirements, Boris concludes that he is willing to pay up to \$300,000 for it. Boris's reservation price is \$300,000. At or below that price he counts himself better off buying the house than not buying it. Above that

[12] See, e.g., Kay Mathiesen, "Game Theory in Business Ethics: Bad Ideology or Bad Press?" *Business Ethics Quarterly* 9, no. 1 (1999), pp. 37-45, who argues that prisoners' dilemmas pose the same problems for altruists as they do for egoists.

price, he counts himself better off keeping his money and looking elsewhere for a house. Upon satisfying herself that Boris has the means to pay her and seems unlikely to go litigation-happy on her after the closing, Svetlana concludes that she is a willing to accept as little as $280,000 for her house. At or above that price she counts herself better off selling the house than keeping it. Below that price, she counts herself better off keeping her house and looking elsewhere for a buyer. Thus, as Boris and Svetlana begin negotiations, there exists a bargaining range. At any price between $280,000 and $300,000, both Boris and Svetlana are better off transacting than not. However, as they enter negotiations, neither of them knows this. Each has only *conditional* knowledge about the bargaining range. Boris knows that, *if* there is a bargaining range, $300,000 is its ceiling. But Boris doesn't know if there is a bargaining range. For all he knows at the outset, Svetlana's reservation price may be $350,000. If so, no bargain is possible between them. Svetlana knows that, *if* there is a bargaining range, $280,000 is its floor. But Svetlana doesn't know if there is a bargaining range. For all she knows at the outset, Boris's reservation price may be $230,000. If so, no bargain is possible between them.

Boris and Svetlana go about discovering whether a bargaining range exists by proposing prices at which to transact. Because Boris hopes to get a low price, his initial proposal will be low and subsequent proposals (if he makes subsequent proposals) will go up from there. That is, his proposals will approach the bargaining range (if there is a bargaining range) from the end about which he lacks even conditional knowledge. Boris knows the ceiling of a hypothetical bargaining range, but not its floor. Because Svetlana hopes to get a high price, her initial proposal will be high and subsequent proposals (if she makes subsequent proposals) will go down from there. That is, her proposals will approach the bargaining range (if there is a bargaining range) from the end about which she lacks even conditional knowledge. Svetlana knows the floor of a hypothetical bargaining range, but not its ceiling.

Suppose that after each makes a proposal outside the bargaining range and thus not of interest to the other (Boris proposed $270,000; Svetlana countered, proposing $320,000), Boris offers $285,000—a price within the bargaining range. Although Boris does not know that his offer is within the bargaining range (because he knows the possible bargaining range's ceiling, but not its floor), Svetlana now knows that a bargaining range exists. She does not know its full contours, but she knows it extends at least from her reservation price, $280,000 up to Boris's offer, $285,000.

It may look like Svetlana has an advantage—she knows that there is a bargaining range and Boris does not. But Svetlana doesn't know that Boris doesn't know—because Svetlana doesn't know that her previous proposal has failed to penetrate the bargaining range. Moreover, Svetlana is now aware that she has something to *lose* by making a counterproposal and running the risk of convincing Boris that there is no bargaining range (even though there is).

Svetlana's next decision is actually a difficult one. Should she lock-up the producer surplus she will enjoy by accepting Boris's offer of $285,000, or should she press on with a counterproposal that may yield more producer surplus, but that may also be above Boris's reservation price and may convince him that further negotiations are a waste of time?

Suppose Svetlana resolves to seek a still more attractive price and proposes $295,000, which turns out to be in the bargaining range. Now, the same analysis applies—but to Boris. He discovers, for the first time, that there is a bargaining range and it extends at least—and perhaps at most—from his reservation price, $300,000, down to Svetlana's proposal, $295,000. Like Svetlana before, Boris has to weigh the benefits of pressing on for a more attractive price against the risk that further proposals may scare off Svetlana and leave each with no gain.

Beneath this pedantic retelling of the negotiation process lies a point: Under reservation price deception, mutually practiced, Boris and Svetlana each come to see only *part* of the bargaining range—and not the *same* part. Uncertain about how far the bargaining range extends beyond the part each sees, but certain about the benefits accruing to him or her by accepting an offered price within that range (and, consequently, certain about the benefits forgone should negotiations break down), Boris and Svetlana are forced, finally, to answer the question: How much transactional surplus (consumer in the case of Boris, producer in the case of Svetlana) is enough for me? Although Boris and Svetlana each may have *preferences* about how much transactional surplus the other ought to get (imagine Boris is a committed egalitarian; Svetlana believes herself deserving of the lion's share), each also lacks the information necessary to make the *satisfaction* of those other-regarding preferences (which may be and often are mutually incompatible[13]) a condition of transacting. Consequently, they are more likely to transact. This means that people need not, as a matter of psychological or attitudinal fact, *be* nontuistic. They need only act *as if* they are nontuistic and reservation price deception, mutually practiced, induces participants in bargaining to act as if they are nontuistic by depriving them of the information they need to make their other-regarding preferences a condition of transacting. Differently put, bargainers need not be *affectively* nontuistic, but only *effectively* so;

[13] In his excellent book, *The Art and Science of Negotiation* (Cambridge, MA: Belknap Press, 1982), Howard Raiffa tells of negotiation experiments conducted at the Harvard Business School wherein each party knows the other's reservation price and each knows that the other knows it (i.e., both parties know the full contours of the bargaining range and know that the other knows it). Despite this, in a not inconsiderable proportion of cases, experiment participants were unable to reach an agreement. In other words, they had divergent preferences over how much of the transactional surplus the other party should get.

reservation price deception, mutually practiced, makes them effectively nontuistic—whatever their other-regarding preferences or attitudes.

6. Fit Participants in Commercial Culture

While our evolved practices of bargaining and negotiation work to *synthesize* nontuism of one kind, with respect to one kind of other-regarding preference in market exchange, nontuism in market exchange is an attitude worth *cultivating* in its own right. In its absence, it is harder to trade with people and harder to live a flourishing life in a culture in which commerce is the principal means by which we acquire the things we use to make our lives. In a commercial culture, it is imprudent to be like Trollope's Mrs. Proudie, who "had been staunch to her own party, preferring bad tea from a low-church grocer, to good tea from a grocer who went to the ritualistic church or to no church at all."[14] Far better to be like former NBA great Charles Barkley, who said notoriously, "I can be bought. If they paid me enough, I'd work for the Klan."

For many critics of the commercial ethos, to align it with Barkley's sentiment is proof positive of the psychopathy induced by, or rewarded by, the market. But what, exactly, is psychopathic about Barkley's sentiment? He has said, in effect, that he can coexist in a society with people whose views and values are utterly divergent from—indeed antithetical to—his own. What is more, he can imagine projects over which he can cooperate with them if their aims and interests touch his at a point. These are the archetypal sentiments of *liberal toleration*—a constellation of dispositions that even many of liberalism's critics concede to be virtuous. That Barkley imagines the projects over which he cooperates with those holding divergent views are *commercial* projects illustrates something important. With respect to potential commercial partners, Barkley must be nontuistic. Nontuism then, far from a commercial form of psychopathy, appears instead to be liberal toleration *in its commercial guise*. Nontuism is the way liberally tolerant people deal commercially with others in order to maintain their tolerance and the tolerance that characterizes their society.

If the foregoing is correct, then entering or encouraging the market for values is not just individually imprudent, but also collectively destructive of a liberal social order. The market for values undermines and displaces toleration in the most important venue for social cooperation in a commercial society—the market. It fractures and factionalizes the social institution that best facilitates social cooperation between people of divergent views and values by fostering cooperation on minimal terms. What is more, a culture

[14] Anthony Trollope, *Barchester Towers* (1857), accessed online at: http://www.gutenberg.org/etext/3409.

characterized by people with the disposition to enter the market for values will not long remain a commercial culture. If people are characteristically disadvantaged by their dispositions owing to the prevailing institutional arrangement, they will not long acquiesce in that institutional arrangement. Fit participants in commercial culture, consequently, will be ill-disposed to enter the market for values and will be disposed to discourage others from entering it. Although they have the right to do so and doing so violates no one's rights, entering the market for values is often imprudent and reinforces dispositions foreign to a commercial society. That is because the market for values is more at home in a society where one's prospects for economic success turn on who you are affiliated with politically ("us" rather than "them") and as much or more effort is expended diminishing the prospects of those who are *not* affiliated with you as is expended advancing the prospects of those who are. (Anyone who has participated in a tenure decision knows *exactly* what I'm talking about.) That is not a description of an entrepreneurial, commercial society—or at least one that is likely long to remain one. It is a description of many other social orders (e.g., Soviet socialism) that the denizens of commercial societies have been fortunate to escape and that classical liberals hope those less fortunate will someday escape. Consequently, the flowering of the market for values is not evidence of commercial society's moral progress, but of the indulgence of retrograde tendencies opponents of commercial culture (like most university academics) are understandably eager to encourage.