

costs it has to incur in setting up an altogether new distribution network.⁹⁴ In this scenario, if RPM is not *per se* illegal, more potential entrants will be willing to challenge the incumbents and, overall, one could expect to see more competition over time.

Vertical Restraints and Multinationals

In a knowledge-based economy, the production of new knowledge does not necessarily follow a neat linear pattern. Leading the pack of frontier-level knowledge producers are the firms who put together specialized parts, produced with precision and specific skills. One such knowledge-based producer depends on the others for customized components. In this context, cooperative vertical contracts between suppliers and buyers facilitate the flow of information about the needs and requirements of the parties involved. This is particularly relevant in the exchange of information that is proprietary.

In the international context, when parties located in different countries and dealing with each other at arm's length cannot put beneficial exclusionary restrictions on each others' behaviour, they will have incentives to integrate those activities within one corporate structure. In other words, illegality of vertical restraints would, partly, encourage firms to transfer information internally and go multinational. Rather than providing the rule of reason treatment to beneficial inter-firm vertical restraints, countries first welcome multinational enterprises (MNEs) for their advantages and then try to control the less welcome aspects of MNEs. By withdrawing the remaining *per se* illegality aspects of vertical restraints law, countries would encourage many transactions to be subject to market discipline rather than slithering under the cover of MNEs.

Positive Investment Environment and Spillovers

Not only are some vertical restraints a bait to elicit additional investment in R&D and product innovations, such activities themselves are the source of beneficial externalities that fan out in the rest of the economy. If vertical restraints facilitate R&D and product innovation activities, they should not be *per se* illegal.

⁹⁴ Moreover, for manufacturers who face quotas and voluntary export restraints (VERs) for their products in the West and *per se* illegality of RPM, the quota charge they receive on their sales in the West can be likened to a fat retail margin. In other words, exporters from quota-restrained countries are able to offer their retailers a margin that they could not legally provide through the use of RPM. It is well known that quota-restrained exporters often move up the value-added chain in their export markets by providing useful pre- and after-sale product services.